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# **LAW ENFORCEMENT TOOLS**

## **Final Report and Evaluation**

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Division of Child Support Enforcement  
Virginia Department of Social Services  
June 2003

**LAW ENFORCEMENT TOOLS:  
FINAL REPORT AND EVALUATION**

**ADDENDUM**

1. "Project Sites," page 2. After paragraph 2, insert the following:

"Unlike the paired sites listed above, the Alexandria Police Department was not paired with a CSE District Office. Their representative participated in all project meetings nevertheless, contributing valuable advice on structuring practical collaborations to work child support cases jointly (see Appendix A for write-ups). We would also note that the Chesterfield Sheriff's Office was active initially and, like the Alexandria Police Department, was not paired with a CSE District Office. Chesterfield had to drop its participation after December 2001, however, because of a reorganization and resulting staff shortage. Their representatives' enthusiasm and suggestions for improving this collaboration, however, never waned."

2. "II. City of Chesapeake, Recommendations," page 9, Bullet 3. At the end of the paragraph, add:

"NOTE: Warrants in VCIN are felony warrants, while child support capias warrants are misdemeanors. The utility of entering child support capias into VCIN, however, remains – to connect outstanding child support/civil capias warrants with outstanding felony warrants on the same person."

3. "SUMMARY," page 14. Add paragraph 4, as follows:

"The primary barriers to L.E. – CSE collaboration encountered in this demonstration include at least three: (1) a general reluctance by DCSE as an agency to share data with L.E. on joint cases, within defined limits; clearly, some District Offices prove the exception to this reluctance, as demonstrated in this project; (2) the necessity to establish known, primary contacts at each L.E. and CSE District Office site; and (3) DCSE insistence on mandatory data audits of L.E. records when such audits might not be necessary or there might be other ways to verify the security and confidentiality of the shared data."

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# **LAW ENFORCEMENT TOOLS:**

## **Shared Partnership with Law Enforcement Agencies: Increasing Effectiveness Locating NCPs and Assets with On-Line Tools**

### **FINAL REPORT AND EVALUATION**

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June 2003

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## Acknowledgments

This collaboration was unique. It brought together a lot of professionals who otherwise would not have gathered in the same place, to wrestle with a common problem for Child Support and the law enforcement community. The problem? How best to work together on some of the toughest Child Support cases, those requiring personal service of process, or even arrest, to locate, establish paternity and/or an obligation, or enforce a case when the noncustodial parent refuses to cooperate.

Our partners were local and state police, lawyers and others who could address issues of data confidentiality and security among Child Support offices and partner agencies, and our own Child Support professionals, who know the problems all too well from one side of the street.

We are grateful to the following for their lead participation and generous contributions in this joint venture:

- (1) Law enforcement agencies -- Alexandria Police Department (Lt. Brett Hoover), Bedford County Sheriff's Office (Lt. Kevin Adams), Chesapeake Sheriff's Office (Sgt. Jim O'Sullivan), Virginia Beach Police Department (Sgts. Chip Condon and Sam Thomson), and Virginia State Police (Sgt. Angelo Woodhouse, Dave Johnson);
- (2) Child support offices -- Chesapeake (Gerald Berry, Diane Jordan), Lynchburg (Chuck Ingerson), and Virginia Beach (Ellis Malabad, Bev Pohlmann);
- (3) Technical assistance -- Center for the Support of Families (Susan Paikin, Vernon Drew), Office of the Attorney General (Craig Burshem, Bob Cousins), and Division of Information Systems (Terry Cole, Connie White); and
- (4) Central Office, Child Support Enforcement -- Sharon Vaughan, for her practical knowledge and assistance throughout the project, and, especially, Joseph Crane, Assistant Director, without whose early involvement in the federal PSOC (Project Save Our Children) project this grant would not have been proposed.

The Division of Child Enforcement thanks you sincerely and gratefully for the time you devoted to make this project constructive and help it bear fruit for future such collaborations. We know now what it takes, what some of our institutional constraints are, and how best to proceed, given our collective experience in this demonstration.

Todd W. Areson  
Project Manager

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# **EXECUTIVE SUMMARY**

## **LAW ENFORCEMENT TOOLS:**

### **Shared Partnership with Law Enforcement Agencies: Increasing Effectiveness Locating NCPs and Assets with On-Line Tools**

#### **Purpose of the Project**

Collaboration between Child Support Enforcement (CSE) and law enforcement agencies (LE) is necessary when personal service of process, or even arrest, is needed on a case for locate, establishment, or enforcement purposes -- typically the most difficult cases in the caseload. The intent of this project was to promote more active participation by LE in the apprehension of noncustodial (NCP) parents, using innovative, collaborative approaches, and to explore means by which LE could be encouraged to participate. Stated goals were:

- (1) To apply innovative ideas from Project Save Our Children (PSOC) law enforcement agencies (e.g., state police, sheriff's offices, police departments) in order to expand mutually successful child support enforcement casework, and
- (2) To increase the number and types of productive working relationships between agencies in the law enforcement community and the Virginia Division of Child Support Enforcement, strengthening both Project Save Our Children and the Virginia Division of Child Support Enforcement.

#### **Project Sites and Collaboration**

Three pairs of CSE and LE sites participated in the project:

- (1) Chesapeake District Office and Chesapeake Sheriff's Office
- (2) Virginia Beach District Office and Virginia Beach Police Department
- (3) Lynchburg District Office and Bedford County Sheriff's Office.

Resources provided to LE included access to a high-powered, on-line investigative tool (i.e., Accurint) and a lump sum amount of cash earmarked for personnel labor costs (regular and/or overtime). Participating LE signed a Memorandum of Understanding with the Virginia Department of Social Services setting forth each agency's role and responsibilities. Meetings of grant partners and other stakeholders were held periodically so that attendees could share ideas, information, and progress reports throughout the grant.

To promote experimentation, each site structured its collaboration a little differently from the others; project timelines differed also. Table 1, *Site Collaboration – An Overview*, captures the differences in collaboration (p. ix).

Each site sought to find and take enforcement action against noncustodial parents by targeting new and outstanding capiases. A capias (warrant) is issued if an NCP fails to appear in court pursuant to a Show Cause motion. Note: A Show Cause can be placed on the court docket but must be personally served on the NCP, usually, to become effective.

The “street work” needed to apprehend an NCP depends in large part on the accuracy of the initial information provided about an NCP’s whereabouts. Many of the NCPs sought by LE are transient and deliberately avoid contact with LE personnel; plus, their friends and families often collude to protect them. LE officials repeatedly said that the on-line investigative tool proved especially helpful to LE because it yielded rich, targeted “associate” data (i.e., detailed information on friends, neighbors, family, and colleagues – “associates”).

### **Accurint: On-Line Investigative Tool**

Accurint is a highly effective locate tool, user friendly and cost-effective, requires minimal training, and was most useful for working “lost cause” and “invisible” cases, where the CP provides little information about the NCP or the NCP is self-employed or working “under the table.” Accurint’s customer and technical support were described as helpful, prompt and courteous.

Accurint currently offers the following search categories, although not necessarily in all 50 states. New search features and geographic areas are added from time to time:

- Driver’s license
- Property assessments
- Criminal convictions
- Motor vehicle registrations
- Person search (includes nickname and phonetic search)
- Bankruptcies
- Corporate affiliations
- Boats
- Boat trailers
- Merchant vessels
- Professional licenses
- Tax liens or judgments
- UCC
- FAA
- Neighborhood profile.

**TABLE 1: SITE COLLABORATION – AN OVERVIEW**

Site	How CSE Cases Referred to LE	Frequency of Contact	Personal Service	Use of Accurint	Notes
Chesapeake Sheriff's Office/Chesapeake CSE	No referrals; all court actions are personally served by the Sheriff's Office CSE Unit	Seldom	On all child support actions, processed through the Chesapeake Juvenile & Domestic Relations (J&DR) Court	CSE (grant activity limited to use of Accurint) and LE  LE used for approx. 1½ years	Sheriff's Office received 2 <sup>nd</sup> grant for additional resources, dedicated to child support – created a special CSE Unit in Sheriff's Office. CSE Office prepares motions, sends them to Clerk's Office; docketing is done at court by "court liaison" (also funded by 2 <sup>nd</sup> grant) for child support actions.
Bedford County Sheriff's Office/Lynchburg CSE	Fax or telephone	Almost daily	On Show Causes, capias warrants, special requests from Commonwealth's Attorney	CSE and LE  LE used approx. 6 months	With grant, LE created Fugitive Apprehension Team that worked on both searching for and apprehending delinquent NCPs.
Virginia Beach Police Dept./Virginia Beach CSE	Primarily fax (designed special referral form); also telephone	At least weekly	On all actions requested by CSE	CSE and LE  LE used approx. 4 months	Detective Unit officers worked on grant on off-duty days, in overtime capacity only.

The best search features offered by Accurint are:

- the targeted search selection (searches can be limited to a very narrow scope – such as residential property addresses for a specified time period, or two levels of relatives -- or broadened to include all information available in all categories)
- address and name only
- SSN and name only
- name “sounds like” capability
- reverse address search
- sliding scale cost, depending on scope of search requested (from 25¢ to \$1.00; from \$21.50 to \$44.00 to search state criminal history databases; charges do not apply for searches resulting in no records returned)
- ability to perform searches via batch processing.

### **Issues Developed in Periodic Meetings**

#### ▪ February 7, 2001

1. DCSE should review outstanding capiases and ask individual agencies to enter them into VCIN, the Virginia Criminal Information Network, operated by the State Police for criminal justice agencies. Might start with register of VCIN agencies to determine which ones do not now enter their capiases, through form letter. Work out terms to bring these agencies on board, to enter their non-support capiases. DCSE might pay clerks overtime to enter these warrants into VCIN.

2. Notification: DCSE will need to notify Clerks of the Court (J & DR, Circuit, and General) AND local L.E. agencies it wants to be notified when a noncustodial parent is picked up and must establish procedures for notification. With noncustodial parent appearing before magistrate the next day, this notification of DCSE would provide time for DCSE lawyers to appear in court, too. DCSE might pay sheriff's offices overtime to develop working partnerships among clerks' offices, Commonwealth's Attorney offices, and the District Offices.

3. Currently, there's a large communications gap between clerks' offices and DCSE around the state. DCSE needs to educate clerks' offices re non-support warrants and our intent to have these parents extradited, to pursue the child support debt.

4. DCSE might also want to develop procedures (legislative?) to stipulate that no performance bond be granted till after the noncustodial parent's appearance before a magistrate. In the interim, DCSE could arrange with Chief Judges, Circuit Court (only Circuit?) to adopt this practice.

5. Extradition: Educate the Offices of Commonwealth's Attorney about need to extradite when, for example, the child support owed is more than \$\_\_\_\_\_. That

is, tie Extradition to Amount of Support Owed. The latter may require a change in law. Yet, the issue with extradition is procedural, not financial, and involves the Commonwealth's Attorney office. [BRING COMMONWEALTH'S ATTORNEYS INTO PROJECT.]

6. Other Suggestions:

- a) How widely and how often does DCSE publicize the existence of delinquent parents? Provide Most Wanted Lists to L.E. agencies, training academies around the state for posting. Publicize regularly on TV stations (e.g., spotlight 5 NCPs per week).
- b) How many L.E. agencies are well informed about CSE in Virginia? There's room for education, by their peers.
- c) Use state police monthly, The Validator, to inform the state L.E. community about CSE, specific efforts and programs, Most Wanted Delinquents, etc.
- d) Add names of delinquents to DSS/DCSE web site.
- e) Match tapes of CSE delinquents (e.g., quarterly FIDM list, semiannual IRS match list) to L.E. agency warrants and to VCIN registry.
- f) Establish a L.E. liaison to DCSE to increase understanding in L.E. community about DCSE and also restrictions that might be misunderstood-- for example, stringent IRS regs. involving access to DCSE automated system. Perhaps, develop a regional Council of L.E. Liaisons?
- g) Work with the affiliated associations -- VA Sheriffs Association, VA Chiefs of Police, State Police. Profit from advice from peers in these communities on how and where to present info.

▪ December 13, 2001:

1. There is a willingness to share data among the grant partners, law enforcement and child support.
2. We need to define the legality of which data may be shared and under what circumstances.
3. Stipulate the rules under which "sharable" data may be shared, including appropriate security safeguards.
4. Determine the formats in which these data will be shared.
5. Define prospective areas of shared data that will likely require legislation.

▪ May 16, 2002

1. Should DCSE initiate legislation to mandate that child support data be entered into VCIN, or could DCSE pay local agencies for data entry of these “non-mandated” add-ons (through task monies, grants, federal initiatives)? Could DCSE get an Attorney General’s opinion that sanctions payment for data entry as “non-mandated” under Virginia statute? (The existing limitation on payment for CSE-related law enforcement activities is from Virginia statute and is not a federal limitation.) Could DCSE place contract employees into local and/or state law enforcement offices to perform the data entry into VCIN? Will the federal Office of Child Support Enforcement allow federal matching funds (non-grant monies or FFP) to “test” the success of collaboration among DCSE and law enforcement agencies? If no monies are forthcoming to continue the work begun in this collaboration, can DCSE work with the local agencies in other ways, to convince them of the importance of conducting joint child support casework?
2. Can DCSE fund smaller projects at this time (e.g., providing wireless Palm Pilots for law enforcement field staff) in order to locate noncustodial parents in their attempts to serve process or execute a capias)?
3. Can research be performed to determine the consequences/outcomes of child support cases in those localities that enter child support warrants into VCIN versus those that do not? Can a control group be set up to study these effects? *Example:* Are child support warrants and capiases currently entered into CRIMES (i.e., the automated system linking local governments and LE agencies in the Hampton Roads area)?
4. How will the presence of the Family Violence Indicator on a child support case affect data-sharing?
5. How will DCSE perform data audits as required in the Memoranda of Understanding? If DCSE develops relationships with more law enforcement partners, it may become increasingly difficult to monitor shared data.
6. Can the UIFSA be used for extradition purposes? ... to meet the extradition requirement to place data on NLETS?
7. *Ongoing:* How are law enforcement partners to obtain information from DCSE? Will a primary contact be established in the district offices to whom questions can be directed?
8. *Ongoing:* How can DCSE and the various law enforcement offices quickly identify mutual cases to initiate collaborative work?

## Summary:

DCSE can share information such as name, SSN, address, and employer for the intention of locating and establishing/modifying or enforcing a child support order with law enforcement. Once law enforcement has acted upon, and thus verified the information (while working the child support case), the information is theirs to pursue the noncustodial parent for other legitimate purposes. The mechanics of promptly identifying mutual cases and of sharing data still need to be defined and best practices determined. One point that all partners agree upon is that child support warrant information should be entered into VCIN immediately. Doing so will lay the groundwork for future collaboration since law enforcement and child support offices share numerous common “clienteles.”

## **SUMMARY**

Participants at all sites overwhelmingly voiced their desire to continue the collaboration among child support enforcement and law enforcement. All expressed the dire need to continue using Accurint. Law enforcement, in particular, stressed the need for additional funding to cover officials’ labor time, devoted to working these joint cases.

While the child support offices clearly benefited from the dedicated efforts of law enforcement, law enforcement officials have to be convinced of the benefits before they will participate in similar projects.

## **Impact of Collaboration**

All of the LE officials interviewed acknowledged the fact that LE is required by law to work with CSE in apprehending NCPs with outstanding warrants and in serving the parties with court-ordered paperwork. They were quick to note, however, that without additional resources dedicated to these tasks, CSE is usually given the lowest priority.

- LE officials who participated in this project should present the benefits of a CSE-LE collaboration to other LE agencies.
- CSE should consider working through the Virginia Sheriffs Association if the project is to move forward on a statewide or, even, regional basis.

## **Recommendations**

### **o Replication Issues:**

Successful collaboration among CSE and LE can be encouraged by:

- Marketing the benefits of such a project to the law enforcement community

- Offering incentives to law enforcement
- Providing law enforcement resources dedicated to CSE casework.

**o Data Security and Privacy:**

A review of the Graham-Leach-Bliley Act should be undertaken to determine what limitations might apply to on-line searches for CSE and for LE.

- Negotiate with Accurint for a statewide contract that includes specific security requirements (i.e., entry of an APECS case number to initiate a search; allowing “permissible purpose” searches only; periodic reports of use at each District Office, by user, to managers), and a favorable pricing structure.

Use of an on-line investigative tool such as Accurint would have to be carefully monitored to prevent misuse. Related issues include: Who can be allowed access to the on-line tool? How would their searches be monitored? What protections against misuse can and should be instituted? For example, a requirement for entry of an APECS case number prior to searching could prevent unauthorized, non-child support-related searches.

- Develop specific procedures for the use of the on-line investigative tool adopted.

**o Technology:**

LE officials were interested in taking the use of an on-line investigative tool one step further – by bringing the search capability directly to the officer on the street, through laptops, Palm Pilots, or similar technology. Being able to run searches “on the street” would save a lot of travel time and enable officers to build immediately on information gained by talking to family and colleagues.

- Investigate the cost and feasibility of extending this technology to allow LE immediate access to on-line investigative tools such as Accurint.

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# FINAL REPORT AND EVALUATION

## Shared Partnership with Law Enforcement Agencies: Increasing Effectiveness Locating NCPs and Assets with On-Line Tools

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### INTRODUCTION

The “Shared Partnership with Law Enforcement Agencies: Increasing Effectiveness Locating NCPs and Assets with On-Line Tools” project, commonly referred to as the “Law Enforcement Tools grant,” explored the effectiveness of locate activities pursued through interagency collaboration between the Virginia Division of Child Support Enforcement (CSE) and law enforcement agencies (LE) in the Commonwealth of Virginia. This work was funded by a grant from the federal Office of Child Support Enforcement (OCSE).

### Purpose of the Project

Collaboration between CSE and LE is necessary when personal service of process, or even arrest, is needed on a case for locate, establishment or enforcement purposes. The cases involving LE are among the most hard-to-work -- when the noncustodial parent (NCP) refuses to cooperate with CSE. The importance of LE’s role in physically working a case through face-to-face intervention or arrest cannot be underestimated. This project sought to empower and support LE’s role in working with CSE on what are typically the most difficult cases in the program.

Since welfare reform enacted in 1996, the power of the Child Support Enforcement Program’s enforcement remedies has expanded considerably. But that power is limited to “hands-off” action; for an NCP to be physically apprehended, the Program must rely on its law enforcement partner. If that law enforcement partner is unable to help, due to lack of manpower or accurate locate information, then the Child Support Enforcement Program’s ability to collect money on behalf of children is cut short.

The overall intent of the Law Enforcement Tools grant project was to promote more active participation by LE in the apprehension of noncustodial parents using innovative collaborative approaches. The project explored viable means by which LE could be encouraged to participate. The stated goals are as follows:

- (1) To apply innovative ideas from Project Save Our Children (PSOC) law enforcement agencies (e.g., state police, sheriff’s offices, police departments), in order to expand mutually successful child support enforcement casework, and
- (2) To increase the number and types of productive working relationships between agencies in the law enforcement community and the Virginia Division

(2) (*cont.*) of Child Support Enforcement, strengthening both Project Save Our Children and the Virginia Division of Child Support Enforcement.

At the outset of the project, it was recognized that incentives, in the form of additional resources, would be used to encourage more effective LE services. The resources provided to LE included access to a high-powered, on-line investigative tool and a lump sum amount of cash earmarked for personnel labor costs (regular and/or overtime). Participating LE signed a Memorandum of Understanding with the Virginia Department of Social Services setting forth each agency's role and responsibilities (see example in Appendix D). Meetings of grant partners and other stakeholders were held periodically so that attendees could share ideas, information, and progress reports throughout the grant period (see summaries compiled in Appendix A).

The project sought to forge stronger relationships between CSE and LE by giving LE the means to work the most-wanted child support cases.

### **Project Sites**

Three pairs of CSE and LE sites participated in the project:

- (1) Chesapeake District Office and Chesapeake Sheriff's Office
- (2) Virginia Beach District Office and Virginia Beach Police Department
- (3) Lynchburg District Office and Bedford County Sheriff's Office.

A fourth site, the City of Alexandria Sheriff's Office, wanted to participate but was unable to due to a delay and misunderstanding in the processing of the Memorandum of Understanding. The project's intent was fully supported by the Sheriff, and any future participation in similar projects would be welcomed.

To promote experimentation, each site structured its collaboration a little differently from the others, and the project timeline also differed from site to site. The differences are captured in Table 1, *Site Collaboration – An Overview* (page 12).

The project sought to find and take enforcement action against noncustodial parents by targeting new and outstanding capias. A capias (warrant) is issued if an NCP fails to appear in court pursuant to a Show Cause motion. Note: A Show Cause can be placed on the court docket but must be personally served on the NCP, usually, to become effective. It was hoped that use of an on-line investigative tool would expedite personal service of process by helping locate the NCP accurately, more quickly.

### **General Description**

Preliminary meetings were held with potential project partners and other interested parties to discuss the nature of the project and associated issues. Each of the three project sites began its full-fledged participation in the project at different times.

Once the participants were determined, and a Memorandum of Understanding executed between VDSS and the LE agency (see Appendix D), the LE agency was provided with a lump-sum amount of grant money, and/or subscription access to the on-line investigative tool. Ongoing usage of the tool was then paid for directly by the participating agency on a fee-per-search basis (see Appendix E for the on-line tool used and its pricing structure). The idea was that both the CSE agency and the LE agency would benefit from use of the on-line locate tool, and the LE agency would be able to work on outstanding capiases, and work more quickly on new capiases and handling personal service on new actions. Not only would the LE agency gain more accurate locate information from the on-line tool, the grant money provided would pay for dedicated labor time needed to make use of the locate information.

The so-called “street work” needed to apprehend an NCP depends in large part on the accuracy of the initial information provided about an NCP’s whereabouts. Many of the NCPs sought by LE are transient and deliberately avoiding contact with LE personnel; their friends and families often collude to protect them, making it even more difficult. LE officials repeatedly said that the on-line investigative tool proved especially helpful to LE because it yielded rich and targeted “associate” data (i.e., detailed information on friends, neighbors, family, and colleagues – “associates”).

Each District Office (DO) found its own way of communicating and working with LE officials. The Chesapeake Sheriff’s Office participated in a second DCSE grant that greatly expanded its opportunity to serve CSE. True to this project’s spirit of experimentation, each site arrived at different recommendations for future efforts.

The resoundingly positive assessment of the on-line investigative tool, Accurint, was unanimous. Most, if not all, participants have decided to pay for continued use of the tool after the project ends. Overall, participants deemed the project a great success and want to pursue a continuation of collaborative efforts.

### **Description of On-Line Investigative Tool**

One site (i.e., Bedford County Sheriff’s Office) began the project using a different tool from the other sites (AutoTrack), but eventually all three sites used the same tool, Accurint (see [www accurint.com](http://www accurint.com) for additional information).

All participants stated that Accurint is a highly effective locate tool; everyone interviewed rated it #1. The tool is user friendly and cost-effective, requires minimal training, and was most useful for working on “lost cause” and “invisible” cases, where the CP provides little information about the NCP, or the NCP is self-employed or working “under the table.” The customer and technical support offered for Accurint was described as being helpful, prompt and courteous (unlike that provided by AutoTrack).

Accurint currently offers the following search categories, although not necessarily in all 50 states, and new search features and geographic areas are added from time to time (see Appendix E for a complete Accurint search and pricing list):

- Driver's license
- Property assessments
- Criminal convictions
- Motor vehicle registrations
- Person search (includes nickname and phonetic search)
- Bankruptcies
- Corporate affiliations
- Boats
- Boat trailers
- Merchant vessels
- Professional licenses
- Tax liens or judgments
- UCC
- FAA
- Neighborhood profile.

The best search features offered by the tool are:

- the targeted search selection (searches can be limited to a very narrow scope – such as residential property addresses for a specified time period, or two levels of relatives -- or broadened to include all information available in all categories)
- address and name only
- SSN and name only
- name “sounds like” capability
- reverse address search
- sliding scale cost, depending on scope of search requested (from 25¢ to \$1.00; from \$21.50 to \$44.00 to search state criminal history databases; charges do not apply for searches resulting in no records returned)
- ability to perform searches via batch processing.

## **PROJECT SITES: EXPERIENCES**

### **I. Bedford County Sheriff's Office / Lynchburg District Office**

The collaboration between CSE and LE worked very well at this site, and enthusiasm and support for the project ran high in both agencies.

The Lynchburg District Office has 10 localities that it works with (caseload about 17,500). Even though the Bedford Sheriff's Office is ready and willing to take on a lot

more work from the DO, Lynchburg simply does not have the resources to send more to them, since they are working with nine other localities. Some 2,000 cases are scheduled for court appearance in the next three to six months.

### Process

Initially, the Lynchburg District Office provided the Sheriff's Office with a list of open cases with NCP names and most recent addresses. This list was cross-checked against the LE list of NCPs with outstanding warrants. The cross-check and list compilation was time-consuming at the beginning, but it was worthwhile.

The Sheriff wanted the initial emphasis to be given to old CSE capias, then to the CSE list, and, finally, to updates that Lynchburg CSE sent periodically.

AutoTrack was the search tool used at the beginning of the grant but was soon rejected. AutoTrack was too costly (a monthly base fee of \$300 was charged, whether or not any searches were conducted, and the per-search fees were high) and could not provide targeted searches (i.e., offering an "all or nothing" approach). Aside from the cost, a major complaint about AutoTrack was the breadth of the search data. AutoTrack often provided too much information, sending pages and pages of search reports that, then, took extensive time to review in order to find the essential pieces of information needed (e.g., identifying an earlier owner of a house that an NCP once lived in was useless information). AutoTrack sales representatives were reportedly difficult to deal with.

When LE looked for an alternate on-line tool, Lynchburg CSE helped them find Accurint. LE was very pleased with Accurint and reported that there was no comparison between Accurint and AutoTrack. The Bedford County Sheriff's Office used Accurint as its on-line locate tool for about six months. Accurint is an excellent tool. The LE will continue to use it even after the grant, at its own expense, since it has proven to be so useful.

The Sheriff, Lt. (i.e., Road Captain), his officers (the LE "apprehension team" members) and the project administrator all had access to Accurint in the office; however, it was not available to the officers on Palm Pilots or laptops in their squad vehicles.

The efforts involved on this project were "time-consuming" and "labor intensive," for both the research undertaken and the manpower needed on the street to apprehend NCPs. The Sheriff's Office began by creating two teams of officers who would work "undercover" – posing as high school friends, for example, in order to ask around and find people. In a county as small as Bedford, everyone knows everyone else, and since the NCP is usually living with someone who covers for him, every search lead had to be followed to find him. The "people" search feature on Accurint provided rich information that allowed the apprehension teams to find leads through friends, family and colleagues.

In Bedford County, they published an article in the local weekly paper describing the Sheriff's Office special task force, its mission, and the fact that the Sheriff's Office was not only fighting crime but also helping children. They received a highly positive response from the public (and were, in fact, surprised at the large volume of responses), praising the efforts of their "Fugitive Apprehension Team" and asking for help or giving information on specific cases. They even received calls from out-of-county callers requesting assistance in finding ex-husbands.

The Lynchburg DO has been using Accurint for about one year; only two individuals were authorized to use it (the District Manager and the Locate Specialist). The Accurint password will operate correctly only if used on a state computer; the tool is inaccessible from a home computer. Early in the project, the Lynchburg DO reported a 90% success rate on over 375 searches conducted at a minimal cost of \$322. Overall collections have increased 10% in the past year, and according to the DO, this is in large part thanks to Accurint.

Before Accurint, the most effective locate tool available to the CSE agency was Credit Bureau investigation, but the hidden costs make it expensive. There is a \$100 set-up fee, a \$15 monthly charge, a 15¢ per transaction cost, and a separate modem card that must be installed on each computer accessing Credit Bureau data. The user is charged for every search, even if no information is found (unlike Accurint, which only charges for "hits"). Accurint provides all the information the Credit Bureau can, plus much more.

The Sheriff's Office officials thought that the collaboration between CSE and LE is a good idea that needs promoting. If CSE and LE work together as a team to get the job done, the result is a "win-win" situation.

### Concerns

A small percentage of cases did not receive approval from the Commonwealth's Attorney. (In Bedford County, the Commonwealth's Attorney must sign all extradition papers). An approval policy was not fully formulated between the Sheriff's Office and the Commonwealth's Attorney prior to starting the project. As a result, in some cases, there were different interpretations on how to proceed.

### Recommendations

- Determine Commonwealth's Attorney approval procedures for execution of capiases.

If the Commonwealth's Attorney approval process exists in a county, the first step should be for the Sheriff's Office and the CSE office to meet with the Commonwealth's Attorney and discuss what the expectations are for the grant and how the approval process will work (e.g., what cases will be rejected by the Commonwealth's Attorney).

- Provide critical incentives to law enforcement.

Due to the time and effort needed to work these cases, it is recommended that a search tool (e.g., Accurint) and additional funding be provided to the Sheriff's Offices to bolster resources to the necessary level.

- The Sheriff should continue to promote the collaboration between CSE and LE through press releases and local media.
- Continue to promote the collaboration between CSE and LE through press releases and local media.

## **II. City of Chesapeake**

The Chesapeake District Office processes cases through the court only if they cannot process them administratively (i.e., the NCP does not show up, as instructed). The Chesapeake DO was not "referring" cases to the Chesapeake Sheriff's Office because the Sheriff's Office opted to do personal service on all paperwork processed through the courts. This includes Show Causes (for non-appearance or non-compliance), motions to modify the amount of a child support obligation, and actions to establish paternity or establish child support orders.

The Chesapeake Sheriff's Office received two grants – the first grant was for the Law Enforcement Tools (i.e., Accurint), and the second was to run a full-functioning child support unit for two years. The second grant covered Sgt. Jim O'Sullivan, two investigators, and one part-time and one full-time juvenile court liaison. The second grant started in January 2003 (on a full-time basis) and will run through September 30, 2005, with an extension. The dual grants have strong support from top management.

When the Sheriff's Office does make personal service, the deputies explain to the NCP the importance of showing up in court. With the second grant, which establishes a dedicated child support unit, personal service is done for everything. Then, if the NCP is a no-show in court, the capias warrant can be issued and the NCP arrested.

### Process

At the Chesapeake DO, participation in the LE Tools grant has been limited to use of Accurint only – and they "live and die by it." Using Accurint, they have found many people whom they were unable to locate previously.

The Sheriff's Office has used AutoTrack and ChoicePoint, but the searches were \$25 versus 25¢ apiece. Not only is Accurint less expensive (quite a bit of information is provided if only the name or other partial information is entered), but also it is especially

good on searches with the SSN. They have been using Accurint for 1 ½ years, and it is “incredibly valuable.” Sgt. O’Sullivan said it is so easy to use, very “user friendly.”

The goal of this office is to “get them on the front end.” By doing personal service on all actions (within one month after the CP’s initial application is made), the Sheriff’s Office ensures that any subsequent non-compliance will be automatically subject to court action. The Sheriff personally serves both the CP and the NCP with any child support papers, including income-withholding orders. The CP is personally served to prevent the possibility of fraudulent welfare applications (e.g., in instances where the information given by the CP to CSE and the court differs so that the CP can apply for public assistance).

At the Sheriff’s Office, the clerical and administrative staff operate Accurint. A lot of investigative work can be handled administratively, simply by following up on neighbor/colleague information found by Accurint – and calls to neighbors are made that yield valuable leads. This is very important in saving man-hours. Since they personally serve NCPs anywhere in the Hampton Roads region, lots of time can be wasted by driving all the way to Williamsburg, only to find that the NCP has moved to Virginia Beach. Using Accurint and having the administrative staff follow through on leads gained from Accurint searches means that LE time is efficient for personal service.

Prior to this grant, the CP could file with DCSE, but no action was taken unless paternity establishment was needed or nothing had been collected on the income-withholding order. The income-withholding order could be two to three years in arrears before personal service was made on the NCP. Now, the Sheriff’s Office will make personal service on an administrative child support order. Note: The judge will not issue a capias unless personal service has been made on the NCP. Now that personal service is being made on all child support actions, the judge can automatically issue a capias if there is any problem with non-payment on an order. Cases are being moved a lot more quickly.

Initially, they were just working the so-called “dead files.” Now, however, they are leaving the “dead files” until last, thinking that by doing personal service on the new, “live” cases, they will get greater returns and reinforce timely payment of the obligation.

### Concerns

Additional funding for labor time is essential if LE is going to act on the search results received from Accurint. The Sheriff’s Office in Chesapeake does not limit its activity to Chesapeake. If they find information on an NCP who is located anywhere in the Hampton Roads area -- the region in Southeastern Virginia comprised of 17 cities and communities with a population of over 1.5 million -- they will try to apprehend him.

The biggest frustration for the Sheriff’s Office, however, is not being able to cross state lines (e.g., into North Carolina) to arrest known NCPs with outstanding capiases.

## Recommendations

- Combine on-line investigative tools (Accurint) with a special LE unit dedicated to child support. This ensures that child support remains a priority for the law enforcement officials.
- To convince other law enforcement officials to become active in child support, fellow LE officer should explain its importance and the crucial role that law enforcement can play in furthering the program at conferences and workshops sponsored by state and local organizations including the Virginia Sheriffs Association, Lions Club or other fraternal organizations, and local Chambers of Commerce.
- Enter all capias warrants into the Virginia Criminal Information Network (VCIN) – an automated database the State Police use to provide operational support to the entire criminal justice community – so that when a state trooper stops a driver for a traffic infraction and runs the driver’s license through VCIN, he/she will learn if there are other outstanding actions (e.g., a child support capias) involving the driver. VCIN is linked to various state and national databases.
- If a state trooper discovers that a driver is wanted in Chesapeake by CSE, the trooper will call Chesapeake to confirm this, then take the driver into custody in his locality. Chesapeake then faxes a warrant that is served on the NCP immediately. The local magistrate cannot bond him out; the Chesapeake Sheriff’s Office must pick up the NCP in the other locality. Additional labor time must be funded, however, to enable the Chesapeake Sheriff’s Office to act on its warrant.

[Note: Data entry into VCIN is labor intensive – it takes on average of 25 minutes since the entire criminal history must be entered and, if one error is made, the entire record is kicked out and all data entry started over.]

- Accurint should be offered to LE for its own non-child support use (e.g., fraud cases, looking for a witness in a criminal case, even pre-employment checks.)
- Address current legal restrictions on LE’s capacity to pick up out-of-state NCPs on civil capias. This might mean legislative changes to convert the status of a civil child support capias to a felony capias. This is quite a problem for the Chesapeake Sheriff’s Office, which has a large share of NCPs in North Carolina.

### **III. City of Virginia Beach**

The most promising outcomes of the project at the Virginia Beach (VB) site are the communication and spirit of cooperation that have developed between VBPD and CSE. Before the pilot, the two agencies rarely spoke. At the outset, the Police Department was as interested in the project as CSE.

The evolution of Accurint use at the Virginia Beach office went from little usage, to one search at a time, then to batch processing, with impressive yields. Batch processing was also done on behalf of other area District Offices because it was so successful.

### Process

At the start of the project, Central Office in Richmond ran a query for capiases, which was given to enforcement case workers in VB CSE, who were asked to look for cases they wanted LE to pursue. Case workers had lists of NCPs with income-withholding orders where the capias was still outstanding and no money had been collected.

From those capiases selected by case workers, the DO made a fax referral form (hard copy available) with the DMV license picture, for easier visual identification, and sent it to the VBPD. Prior to this cooperation, the VBPD Warrant Squad had been getting the capiases directly from the local Juvenile & Domestic Relations Court.

The initial DO tracking reports showed that of the first 138 capiases referred, 32 were apprehended (23%). The DO considered this a high percentage and was quite impressed with the results. In May 2003, the police announced the arrests of 23 non-custodial parents who owed more than \$450,000 collectively.

The VBPD received \$10,000 to cover overtime labor spent on working child support warrants and \$10,000 to use for Accurint searches. The Warrant Squad working on the project worked on off-duty days, usually weekends. The Department had already tried Accurint, along with ChoicePoint and AutoTrack, and found its pricing structure to be favorable (cheaper, and charged only when there was a "hit"). ChoicePoint and AutoTrack were approximately ten times more expensive. Accurint searches yielded more information and found information the other tools did not.

Accurint provided information on more than just the NCP – it gave details about neighbors, family members, and colleagues. In some cases, the Warrant Squad was able to work leads simply by calling someone close to the NCP, gathering information from them, and finding the NCP. The VBPD Warrant Squad officers covered all of Hampton Roads for the project, including Norfolk, Portsmouth, Suffolk, Hampton, and Newport News.

As of late April 2003, the VBPD had not found many criminal warrants among the child support warrants referred by CSE, as they had hoped they would. In May, the local news channel ran a story highlighting the project and its low-cost success: "State and local agencies have teamed up to bring deadbeat parents to justice in Virginia Beach."

The DO wants to maintain its connection with the Police Dept. They were in contact on an almost daily basis. The case workers now call the Warrant Squad directly and ask them to pick up an NCP or check to see if an NCP on a faxed referral has been found.

Likewise, the VBPD were very interested in continuing the partnership with CSE and point out that the project had only been underway a short time, so the potential effectiveness of the project was difficult to determine.

### Concerns

The Police Department encountered delays in getting the project started due to its internal grant-approval process, delays in DCSE signing and approving the Memorandum of Understanding during the transition to a new Commissioner of Social Services, and a need to convince top LE management of the project's value. Start-up began in late January 2003 as a result.

The VBPD had originally hoped to clear its misdemeanor warrant backlog by running a data match between their outstanding criminal warrant database and the DO's child support case database (or otherwise "mesh" the databases). The idea was that CSE might have helpful information it could offer the PD on such criminals. For reasons of data confidentiality, however, if a criminal is not delinquent in child support payments, CSE cannot provide case information to the PD. Stated another way, unless CSE and the PD are jointly working a case, data sharing is impermissible according to federal and state data-sharing restrictions.

### Recommendations

- Require that all users receive the Accurint training – it's short, easy, and helpful.
- Develop specific procedures to address privacy and security issues.
- LE must be offered a "carrot" to ensure its cooperation. The VBPD admitted that there is not widespread support within the department to assign resources to child support enforcement unless there is a clear benefit in return to the PD.
- Explore alternate pricing format, such as a flat fee monthly rate for unlimited searches.

### **IV. Other Considerations**

The City of Richmond District Child Support Office, which did not participate in the project, enjoys an ongoing collaboration with the Richmond Sheriff's Department without offering any incentives. The long-standing relationship between the two agencies is based on mutual understanding of each agency's mission. The agencies' officials are familiar with each other and have worked closely together over the years. The Sheriff's deputies (five men) serve as bailiffs in the courtroom in the mornings and provide personal service in the afternoons. The child support enforcement Specialists know them by name and face. Regular meetings are held to discuss court-related issues, and the representatives from the Sheriff's Department always attend. Each agency feels

free to call the other to request assistance, as necessary. For example, the deputies may call the District Office to ask for an address verification. One possible reason for the healthy cooperation may be that the Richmond District Office has only one local sheriff's office to work with and can focus on it exclusively.

**TABLE 1: SITE COLLABORATION – AN OVERVIEW**

Site	How CSE Cases Referred to LE	Frequency of Contact	Personal Service	Use of Accurint	Notes
Chesapeake Sheriff's Office/Chesapeake CSE	No referrals; all court actions are personally served by the Sheriff's Office CSE Unit	Seldom	On all child support actions, processed through the Chesapeake Juvenile & Domestic Relations (J&DR) Court	CSE (grant activity limited to use of Accurint) and LE  LE used for approx. 1½ years	Sheriff's Office received 2 <sup>nd</sup> grant for additional resources, dedicated to child support – created a special CSE Unit in Sheriff's Office. CSE Office prepares motions, sends them to Clerk's Office; docketing is done at court by "court liaison" (also funded by 2 <sup>nd</sup> grant) for child support actions.
Bedford County Sheriff's Office/Lynchburg CSE	Fax or telephone	Almost daily	On Show Causes, capias warrants, special requests from Commonwealth's Attorney	CSE and LE  LE used approx. 6 months	With grant, LE created Fugitive Apprehension Team that worked on both searching for and apprehending delinquent NCPs.
Virginia Beach Police Dept./Virginia Beach CSE	Primarily fax (designed special referral form); also telephone	At least weekly	On all actions requested by CSE	CSE and LE  LE used approx. 4 months	Detective Unit officers worked on grant on off-duty days, in overtime capacity only.

## **SUMMARY**

The project participants at all sites overwhelmingly voiced their desire to continue the collaboration among child support enforcement and law enforcement. They all expressed the dire need to continue the use of the on-line investigative tool. Law enforcement, in particular, stressed the need for additional funding to cover officials' labor time devoted to working joint child support cases.

The child support offices clearly benefited from the dedicated efforts of law enforcement, but law enforcement officials have to be convinced of the benefits before they will participate in similar projects in the future.

All acknowledged the power of the on-line tool, but participants noted the need for strict usage guidelines to prevent the potential misuse of the search information.

### **Impact of Collaboration on Project Participants**

All of the LE officials interviewed acknowledged the fact that LE is required by law to work with CSE in apprehending NCPs with outstanding warrants and in serving the parties with court-ordered paperwork. They were quick to note, however, that without additional resources dedicated to these tasks, CSE is usually given the lowest priority. The benefits of any collaborative effort must be defined and "sold" to LE. Several sites noted the heavy backlog of child support cases waiting for attention from LE.

- LE officials who participated in this project should present the benefits of a CSE-LE collaboration to other LE agencies.
- CSE should consider working through the Virginia Sheriffs Association if the project were to move forward on a statewide or, even, regional basis.

### **Recommendations**

#### **o Replication Issues**

Successful collaboration among CSE and LE can be encouraged by:

- Marketing the benefits of such a project to the law enforcement community
- Offering incentives to law enforcement
- Providing law enforcement resources dedicated to CSE.

#### **o Data Security and Privacy**

A review of the Graham-Leach-Bliley Act should be undertaken to determine what limitations might apply to on-line searches for CSE and for LE.

- Negotiate with Accurint for a statewide contract that includes specific security requirements (i.e., entry of an APECS case number to initiate a search; allowing “permissible purpose” searches only; periodic reports of use at each District Office, by user, to managers), as well as a favorable pricing structure.

Use of an on-line investigative tool such as Accurint would have to be carefully monitored to prevent misuse. Related issues include: Who is to be allowed access to the on-line tool? How would their searches be monitored? What protections against misuse can and should be instituted? For example, a requirement for entry of an APECS case number prior to searching could prevent unauthorized, non-child support-related searches.

- Develop specific procedures for the use of the on-line investigative tool adopted.

### o **Technology**

LE officials were interested in taking the use of an on-line investigative tool one step further – by bringing the search capability directly to the officer on the street, through laptops, Palm Pilots, or similar technology. Being able to run searches “on the street” would save a lot of travel time and enable officers to build immediately on information gained by talking to family and colleagues. Immediate access would be an “invaluable time-saver” and make the best use of these nominal resources.

- Investigate the cost and feasibility of extended technology to allow immediate LE access to on-line investigative tools such as Accurint.

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## APPENDICES

## **Appendix A: Project Meetings and Write-Ups**

**February 7, 2001**  
**March 16, 2001**  
**December 13, 2001**  
**May 16, 2002**

## **DIVISION OF CHILD SUPPORT ENFORCEMENT**

DCSE LAW ENFORCEMENT TOOLS Grant  
Summary of Initial Meeting: February 7, 2001

State Police Training Academy  
Richmond

### Participants:

Sgt. Angelo Woodhouse, VA State Police	Robert Mitchell, Chesapeake CSE
Dave Johnson, VA State Police	Paulette Rainey, Henrico CSE
Lt. Brett Hoover, Alexandria Police Dept.	Chuck Ingerson, Lynchburg CSE
Sgt. Kevin Adams, Bedford Sheriff's Office	Martha Savage, DCSE, Systems
Sgt. Jim O'Sullivan, Chesapeake Sheriff's Office	Sharon Vaughan, DCSE, PSOC
Lou Ann Ivory, OAG (Va. Beach), Chesapeake Sheriff's	Bob Cousins, Office of AG
Lt. Don Newton, Chesterfield Sheriff's Office	Joseph Crane, DCSE, Proj. Dir.
Lt. Emmett Smith, Chesterfield Sheriff's Office	Todd Areson, DCSE

### **SUMMARY OF DISCUSSION AND ISSUES:**

- Service of Process - When DCSE provides bad address to sheriff's office, which then can't serve papers to noncustodial parent, many judges won't issue the capias. They require personal service, for due process.
- VCIN - VA Criminal Information Network: Information on the network goes to all local law enforcement (L.E.) agencies (sheriff's offices and police depts.). It can also be sent to other states and Canada, if arranged. Basic info. on VCIN = Name, SSN, Ht., Wt., last known address, reason for warrant, distinguishing marks, etc.

Many law enforcement agencies enter the capiases on noncustodial parents into VCIN themselves. In Richmond area, only City doesn't, using a city system instead.

- Posting of bonds: If it's a performance bond, we can get the \$\$ and apply it toward the CSE debt. If it's a PR (personal recognizance) bond and noncustodial parent pays, he "bonds out." Warrant process begins again!

- Extradition: Some L.E. agencies can't extradite because the Office of Comm's Attorney designates who's to be extradited. With nonsupport being a misdemeanor, nonsupport capiases aren't a priority for Comm's Attorneys offices.
- Dispatching: For some local L.E. agencies, dispatchers are not their employees (e.g., Bedford Sheriff's). Need to ensure collaboration among the local jurisdiction and law enforcement agency, in these instances.
- Warrants and Extradition:
  - Recommendation 1: With warrant from another jurisdiction, Fax or send teletype copy of warrant to "holding" jail, requesting they hold the nonsupport parent for extradition. The "warranting" jurisdiction arranges to pick up the parent.
  - BENEFIT: This takes the matter out of the magistrate's hands and avoids the ongoing situation where the parent is given a Personal Recognizance bond (which he pays) and then "walks," necessitating a recycling of the warranty process for same offense.
  - Question: *Should DCSE work with the Supreme Court to adopt this procedure statewide?* In the meantime, DCSE can work with Chief Judges, Circuit Court (only?) to adopt this practice.
  - Recommendation 2: Each morning, sheriff's office or P.D. faxes to area CSE district office a list of all those picked up on warrants the previous day. BENEFIT to DCSE: CSE office can review APECS to determine if any owe back support, and follow up with L.E. agency accordingly, in a timely manner.
- Work Release Program (works similarly for Probation & Parole) -- If parent owes child support, make the police/sheriff the custodian for amount owed. Stipulate person not be released till he's paid a certain amount OR until DCSE has placed a Wage Withholding on parent's employer. [NOTE: Both Chesterfield and Chesapeake Sheriff's Offices follow this practice.]

#### SUGGESTIONS:

(1) DCSE review outstanding capiases and ask individual agencies to enter them into VCIN. Might start with register of VCIN agencies to determine which ones do not now enter their capiases; through form letter. Work out terms to bring these agencies on board, to enter their nonsupport capiases. DCSE might pay clerks overtime to enter these warrants into VCIN.

(2) Notification: DCSE will need to notify Clerks of the court (J & DR, Circuit, General) AND local L.E. agencies it wants to be notified when a noncustodial parent is picked up and must establish procedures for notification. With noncustodial parent appearing before magistrate the next day, this notification of DCSE would provide time for DCSE lawyers to appear in court, too. DCSE might pay sheriff's offices overtime to develop working partnerships among clerks' offices, Comm's Atty offices, and themselves.

(3) Currently, there's a large communications gap between clerks' offices and DCSE around the state. DCSE needs to educate clerks' offices re nonsupport warrants and our intent to have these parents extradited, to pursue the child support debt.

(4) DCSE might also want to develop (legislative?) procedures to stipulate that no performance bond be granted till after the noncustodial parent's appearance before a magistrate. In the interim, DCSE could arrange with Chief Judges, Circuit Court (only Circuit?) to adopt this practice.

(5) Extradition: Educate the Offices of Commonwealth's Attorney about need to extradite when, for example, the child support owed is more than \$\_\_\_\_\_. That is, tie Extradition to Amount of Support Owed. The latter may require a change in law. Yet, the issue with extradition is procedural, not financial, and involves the Comm's Atty office. [BRING COMMONWEALTH'S ATTORNEYS INTO PROJECT.]

(6) Other Suggestions:

a.. How widely and how often does DCSE publicize the existence of delinquent parents? Provide Most Wanted Lists to L.E. agencies, training academies around the state for posting. Publicize regularly on TV stations (e.g., spotlight 5 per week).

b. How many L.E. agencies are well informed about CSE in Virginia? There's room for education, by their peers.

c. Use state police monthly, The Validator, to inform the state L.E. community about CSE, specific efforts and programs, Most Wanted Delinquents, etc.

d. Add names of delinquents to DSS/DCSE web site.

e. Match tapes of CSE delinquents (e.g., quarterly FIDM list, semiannual IRS match list) to L.E. agency warrants and to VCIN registry.

f. Establish a L.E. liaison to DCSE to increase understanding in L.E. community about DCSE and also restrictions that might be misunderstood-- for example, stringent IRS regs. involving access to DCSE automated system. Perhaps, develop a regional Council of L.E. Liaisons?

g. Work with the affiliated associations -- VA Sheriffs Association, VA Chiefs of Police, State Police. Profit from advice from peers in these communities on how and where to present info.

#### ACTION STEPS FOR PARTICIPANTS:

1. Todd -- Draft summary of meeting and distribute to participants for changes and additions (by phone, Fax).

2. DCSE: Communicate outlines of agency responsibilities in the partnership (e.g., funds available per L.E. agency and eligible activities; DCSE role and responsibilities)
3. DCSE: Arrange for DBT Online to present utility of Autotrack XP, ChoicePoint, and FAIR on-line systems, their similarities and differences, applications for our purposes, within next 2-3 weeks in Richmond.
4. Law Enforcement Partners: By Friday, Feb. 16, inform DCSE (Joe or Todd) how you propose to use the \$15,000 + per agency (e.g., for access to on-line investigative service such as Autotrack; overtime for staff to use Autotrack; supplement investigative field work to serve warrant papers; other pursuits).
5. State Police -- Provide DCSE a list of the 340 L.E. agencies using VCIN, so DCSE can determine which agencies do not currently enter their nonsupport capiases.
6. DCSE: Investigate option of federal waiver for access to APECS, the DCSE automated system, for this project OR access restricted to non-financial screens (WES?), in accord with federal regs.
7. DCSE: Design procedure for L.E. agencies to communicate with DCSE when they find nonsupport fugitives. Include procedures for extradition, arrangements with Comm's Atty offices, etc. Perhaps, a 1-800 # a la CPS?

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## DIVISION OF CHILD SUPPORT ENFORCEMENT

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# LOCATE

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Law Enforcement Tools Grant

# Law Enforcement Tools Grant

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7 February 2001      Meeting at State Police Academy

## Attendees:

VA State Police

Alexandria PD

Bedford County Sheriff's Office

Chesapeake County Sheriff's Office

Chesterfield County Sheriff's Office

OAG, Virginia Beach

DCSE Offices:

Chesapeake

Henrico

Lynchburg

Central Office

# Law Enforcement Tools Grant

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## Discussion Topics

Service of Process

Virginia Criminal Information Network (VCIN)

Name, SSN, Ht/Wt, Last known address, Outstanding warrants, etc.

Posting of Bonds

Performance vs. Personal Recognizance

Extradition

Non-support is only a misdemeanor; capiases are not a priority for Commonwealth's Attorneys

# Law Enforcement Tools Grant

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## Discussion Topics

### Warrants and Extradition

When NCP is arrested in another jurisdiction, fax copy of warrant to holding jail, requesting NCP be held for extradition. Takes issue of PR bond out of the hands of the Magistrate. Warranting jurisdiction picks up NCP.

### Question

Should DCSE work with the Supreme Court to adopt this procedure?

# Law Enforcement Tools Grant

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## Discussion Topics

### Recommendations

Each morning, Sheriff and PD fax local DCSE a listing of all individuals arrested on warrants the previous day. DCSE can review listing to determine if follow-up action with the law enforcement agency is needed, in order to serve individual with other documents.

### Work Release Program

If support is owed, make PD/Sheriff custodian for amount owed. Stipulate NCP will not be released until a set amount has been paid or DCSE has an MWE in place with the NCP's employer (Chesapeake and Chesterfield Sheriff's Office already follow this practice).

# Law Enforcement Tools Grant

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## Discussion Topics

### Suggestions

DCSE review outstanding capiases and ask local law enforcement agency to enter them into VCIN.

DCSE to work with law enforcement agencies that do not currently enter capiases into VCIN. Possibly use grant funding to pay for clerks' overtime.

DCSE to advise clerks of J&DR, General District, & Circuit Courts and local law enforcement that it wants to be notified when an NCP is picked up. This will allow DCSE time to have someone at court to represent the agency for the advisement. Procedures must be established for this notification.

# Law Enforcement Tools Grant

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## Discussion Topics

### Suggestions (cont.)

Educate court clerks' offices around the state that DCSE will extradite for non-support warrants.

DCSE develops legislative procedures to stipulate no bond is to be granted until after the NCP appears before the magistrate. In interim, DCSE coordinates with Supreme Court/Chief Judges to adopt this practice.

Bring Commonwealth's Attorneys into the project by tying the need to extradite to the amount of support owed. If support is more than X, then extradition is not an issue. (This may require a change in state statute.)

Add names of delinquent NCPs from each office to DCSE web site.

# Law Enforcement Tools Grant

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## Discussion Topics

### Suggestions (cont.)

Educate other law enforcement agencies in state about DCSE, using other members of law enforcement.

Use "The Validator" (State Police monthly publication) to inform state law enforcement agencies about DCSE actions, efforts, programs, Most Wanted, etc.

Match tapes of DCSE delinquents (FIDM, IRS) against local warrants and VCIN registry.

Establish a liaison between law enforcement and DCSE to dispel lack of knowledge/understanding about restrictions on the sharing of information under which DCSE has to work.

# Law Enforcement Tools Grant

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## Discussion Topics

### Suggestions (cont.)

Work with affiliated associations: VA Sheriffs Association, VA Chiefs of Police, State Police. Profit from the advice of peers in these communities on how, when and where to present information.

Develop procedures on how to notify DCSE when an NCP has been arrested. # 1 -800-CAL-NICK

# Law Enforcement Tools Grant

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## Action Items

### Database Demonstration

- ChoicePoint
- AutoTrack
- DBT Online
- Others

### Law Enforcement Partners

Determine how they will use their \$15,000 in grant funding.

### State Police

Provide DCSE a listing of all 340 law enforcement agencies in the state that are using VCIN, so DCSE can determine who is not currently entering non-support capiases.

# Law Enforcement Tools Grant

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## ACTION ITEMS

### **OCSE**

Investigate with OCSE option of a waiver for participating law enforcement partners to have access to APECS, at least access restricted to non-financial screens.

### **Next Meeting**

Follow-up meeting with partners - TBD

**COVER MEMORANDUM**

DATE: February 14, 2001

TO: Participants in the 2-7-01 Law Enforcement Tools Meeting, State Police Academy, Richmond

Sgt. Angelo Woodhouse, VA State Police	Robert Mitchell, Chesapeake CSE
Dave Johnson, VA State Police	Paulette Rainey, Henrico CSE
Lt. Brett Hoover, Alexandria Police Dept.	Chuck Ingerson, Lynchburg CSE
Sgt. Kevin Adams, Bedford Sheriff's Office	Martha Savage, DCSE, Systems
Sgt. Jim O'Sullivan, Chesapeake Sheriff's Office	Sharon Vaughan, DCSE, PSOC
Lou Ann Ivory, OAG (Va. Beach)	Bob Cousins, Office of AG
Lt. Don Newton, Chesterfield Sheriff's Office	Joseph Crane, DCSE, Proj. Dir.
Lt. Emmett Smith, Chesterfield Sheriff's Office	Todd Areson, DCSE

FROM: Joseph Crane and Todd Areson

SUBJECT: Draft Summary

Here's our draft of the kick-off discussion we had last Wednesday. Many thanks for your contributions and attendance. If you have comments, changes, or additions to make, please Fax (804-692-2410), call (804-692-1463) or e-mail Todd @ [txa900@dcse.dss.state.va.us](mailto:txa900@dcse.dss.state.va.us).

We're trying to arrange a time to have DBT Online, Inc. present what the major investigative tools -- Autotrack XP, ChoicePoint, and FAIR – offer, and how they differ. That should enable each of your agencies to select which one is of most interest to you for use (we subsidize the monthly cost) in the grant. We hope to set up the presentation during the next 2-3 weeks. Any bad times for you? Thanks.

Finally, do any of you have thoughts yet about how you want to apply your agency's \$15,000+ share of the grant funds? Or, is this decision tied directly to a preview of the major investigative tools (and knowing that subsidized cost)? If there is anything else to discuss, please let us know. Many thanks.

**FAX MEMORANDUM**

DATE: February 22, 2001

TO: Participants in the DCSE Law Enforcement Tools Grant

Sgt. Angelo Woodhouse, VA State Police	Robert Mitchell, Chesapeake CSE
Dave Johnson, VA State Police	Paulette Rainey, Henrico CSE
Lt. John Gephart, VA State Police	Chuck Ingerson, Lynchburg CSE
Lt. Brett Hoover, Alexandria Police Dept.	Ellis Malabad, Virginia Beach CSE
Sgt. Kevin Adams, Bedford Sheriff's Office	Terry Cole, DCSE, Systems
Sgt. Jim O'Sullivan, Chesapeake Sheriff's Office	Martha Savage, DCSE, Systems
Col. Dave Newby, Chesapeake Sheriff's Office	Sharon Vaughan, DCSE, PSOC
Lt. Don Newton, Chesterfield Sheriff's Office	Bob Cousins, Office of AG
Lt. Emmett Smith, Chesterfield Sheriff's Office	Joseph Crane, DCSE, Proj. Dir.
	Todd Areson, DCSE Research

FROM: Joseph Crane and Todd Areson

SUBJECT: Presentation of On-Line Investigative Services, Friday, March 16, Richmond

We have scheduled a presentation of the three (3) on-line investigative tools that DBT Online, Inc. offers -- Autotrack XP, ChoicePoint (now, Discover), and FAIR – for **FRIDAY, MARCH 16, from 10:30 a.m. till 2:30 p.m., in Richmond**. We'll be at the State Police Training Academy again, same room (#219). Noreen McSorley, the DBT representative, will provide an overview of DBT Online, then introduce three presenters, who will spend about an hour each on a tool, its highlights, advantages, etc.

Feel free to bring a systems specialist from your agency if that will facilitate your decision on which system makes the most sense to your agency for the grant period. If you have questions or suggestions in the meantime, please call Todd at (804) 692-1463 or e-mail him @ [txa900@dcse.dss.state.va.us](mailto:txa900@dcse.dss.state.va.us).

We have also attached a list of agency participants. If your information is incomplete or inaccurate, please let Todd know so he can make the changes before the meeting. Thanks. See you on the 16<sup>th</sup>!

**LAW ENFORCEMENT TOOLS**  
**A DCSE Grant**  
**December 13, 2001**

**Agenda**

1. Introductions

2. Overview, Purpose of Grant

Assumption: Both agencies are overloaded yet share some common cases.

QUESTION: *How to help each other on a more routine basis?*

3. Administrative Matters

- A. Grant period, extension
- B. Autotrack XP, Accurint
- C. MOUs – get out, signed (amended) through 2/03; \$10 K per partner for p-t, overtime, ...

4. Exploration / Discussion: Today, we begin building our communications network.

MAIN QUESTION: *How to capture selected data across agencies and automated systems?* (Caveat: Which data can be shared? “Need to know,” mutual casework)

- A. L.E. Agencies – C.S. Offices:
  - + what connections, procedures to use to work selected cases?
  - + thoughts of partners – Lynchburg, Bedford; others?
- B. Ideas: Virginia Beach P.D. & 6 Hampton Roads PDs
  - + CRIMES system – on-line dbs. w/ offense records, info. on wanted persons (Chip Condon, Fugitive Unit plus Templar reps.)
- C. Design some form of network communications among L.E. agencies and C.S. offices
  - + ATS and Pyramid, a web-based data-tracking tool  
(Bob Slaski, Henry Willett, Greg Phillips)

**Law Enforcement Tools Grant**  
**Summary of Meeting: December 13, 2001**

Participants:

Kevin Adams, Bedford Sheriff's  
Robert Seward & Vernon White, Chesapeake Sheriff's  
Diane Jordan & Gerald Berry, Chesapeake CSE  
Emmett Smith, Chesterfield Sheriff's  
Chuck Ingerson, Lynchburg CSE  
Ellis Malabad, Virginia Beach CSE  
Chip Condon, Alan Ball, & Doug Williams, Virginia Beach P.D.  
Dave Johnson & Marty Chapman, Virginia State Police  
DCSE: Terry Cole, Automated Systems  
Sharon Vaughan, Customer Service  
Todd Areson, Project Mgr.

Vendors

Templar (CRIMES System): Jennifer McQuilken, Rufus Weatherford  
ATS (Pyramid): Bob Slaski, Henry Willett, Greg Phillips

*Following the attached agenda:*

3. Administrative Matters

- A. We'll apply to extend the grant by one year (through Feb. 28, 2003), to provide the time to collaborate on Autotrack/Accurint, data-sharing arrangements and, perhaps, Pyramid.
- C. Unsigned MOUs (Memos of Understanding) as of 1-7-02: Alexandria P.D., Chesterfield Sheriff's, State Police, and Virginia Beach P.D.

4. Exploration / Discussion

- A. Which data to share? Let's start with cases where the non-custodial parent (in VA, 88% are dads) are at least \$10,000 in debt. Initial Pairs = Lynchburg CSE/Bedford Sheriff's; Chesapeake CSE/Chesapeake Sheriff's; Virginia Beach CSE/ Virginia Beach P.D.; and DCSE (Central Office)/Virginia State Police and Chesterfield Sheriff's
- Potential Data Matches (NOW) \*
  - 1. > \$10,000 CSE debt → VCIN
    - o search for outstanding Warrants on these CSE delinquents, to identify mutual cases to work

2. > \$10,000 CSE debt → VCIN and/or local L.E. Systems
  - o search using outstanding Capias warrants (obtained from J&DR courts) on CSE delinquents to identify other warrants on these delinquents – and, therefore, mutual cases to work
3. Run all CSE delinquents (better to try one CSE office, first) → VCIN
  - o search to see which delinquents have other non-CSE warrants out and, therefore, which are common to both L.E. and CSE agencies. Result, again – mutual cases to work
    - \* Virginia State Police – are willing to assign a worker to take CSE cases, attempt to locate the non-custodial parent and any assets, using their databases

- Issue to Investigate: What federal data can be shared (and how) with law enforcement agencies? [*Todd will investigate and get answers back to you.*]
  1. Can the CSE program share access to CSENet?
  2. Under what circumstances are L.E. agencies permitted access to which (e.g., FCR, FPLS, FIDM) federal data?
  3. What are the applicable federal laws that make non-support a felony?  
ANS. The 1992 Child Support Recovery Act and its 1998 amendment.  
[*Todd will get the terms of both Acts out, separately.*]

- During the Next 12 Months:

In this grant, it would be extremely useful to begin a dialogue among the partners to identify where we may need legislative support to be able to share official state and local data on a “need to know” basis. As things stand now, each agency has its own databases and confidential information that other agencies are proscribed from using or sharing – even for “official government business.” Rationale: Why continue to give Child Support delinquents and other fugitives from the law an unnecessary advantage, because of inaction on clarifying appropriate circumstances and safeguards under which specified data may be shared, to accomplish our respective missions?

During the next year, this discussion can be fleshed out, perhaps to a point where we begin identifying state legislators and committees with instrumental roles in the prospective legislative changes to be explored and addressed.

Note: The state Crime Commission, a *potential* resource, has been working on a major data-sharing project for most of the past decade.

B. Seven (7) Hampton Roads Cities & the CRIMES System (Templar consultants)

- + Chesapeake, Hampton, Newport News, Norfolk, Portsmouth, Suffolk, Virginia Beach
- + Began in 4/01, operational by 2/02
- + CRIMES uses NIJ standards; are load testing, now
- + Each city maintains its own access data control; access is provided to all patrolmen and desk clerks
- + Security feature: allows you to control the level of authorization to data that is provided various users
- + CRIMES has multiple records – sex, race, height, weight, offenses, old addresses, photos, vehicles used, state VCIN, etc.
- + CRIMES has the capability to integrate Accurint (or Autotrack) into a city's (CRIMES) database
- + Are working on adding DMV data, now, through VCIN.
- + Are working on an application that sends warrants to the local L.E. agency; this specific application is currently operating in Charleston, SC

C. Pyramid (ATS – Advanced Technology Systems) Demonstration

- + An already developed, in-use, network-secure, web-based tool to track data
- + Requires only a browser, no application program
- + With Pyramid, user decides which data sources to incorporate into the Pyramid database (akin to CRIMES)
- + Uses “xml” language to bridge PC languages (by standardizing and translating data into usable information); “xml” is an industry standard for web application development, endorsed by the state Dept. of Technology Planning.

➤ SUMMARY OF MEETING = Project agenda for the next 12 months:

1. There is a willingness to share data among the grant partners, law enforcement and child support.
2. We need to define the legality of which data may be shared and under what circumstances.
3. Stipulate the rules under which “sharable” data may be shared, including appropriate security safeguards.
4. Determine the formats in which these data will be shared.
5. Define prospective areas of shared data that will likely require legislation.

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-----Original Message-----

**From:** Todd Areson [<mailto:txa900@dcse.dss.state.va.us>]

**Sent:** Monday, June 10, 2002 10:04 AM

**To:** 'kadams12@co.bedford.va.us'; 'josullivan@sheriff.city.chesapeake.va.us'; 'Djordan@policy-studies.com'; 'SmithEm@co.chesterfield.va.us'; 'jri983@dcse.dss.state.va.us'; 'Ellis Malabad '; 'ccondon@city.virginia-beach.va.us'; 'awood1139@aol.com'; 'jgephart@vsp.state.va.us'; 'ssv900@dcse.dss.state.va.us'; 'Terry Cole '; 'Constance White '

**Cc:** 'spaikin@csfmail.org'; 'rcohen@accurint.com'; 'Joseph Crane '; 'Craig Burshem '

**Subject:** DCSE Law Enforcement Grant: May 16 SUMMARY OF MEETING

Partners: [Here's a Summary of the meeting, including issues discussed.](#) Comments are always welcome. Thanks.

Todd



L.E. Tools Mtg.,  
5-16-02.doc (...)

-----Original Message-----

**From:** Todd Areson [<mailto:txa900@dcse.dss.state.va.us>]

**Sent:** Wednesday, May 15, 2002 1:44 PM

**To:** 'kadams12@co.bedford.va.us'; 'josullivan@sheriff.city.chesapeake.va.us'; 'Djordan@policy-studies.com'; 'SmithEm@co.chesterfield.va.us'; 'jri983@dcse.dss.state.va.us'; 'Ellis Malabad '; 'ccondon@city.virginia-beach.va.us'; 'awood1139@aol.com'; 'jgephart@vsp.state.va.us'; 'ssv900@dcse.dss.state.va.us'; 'Terry Cole '; 'Constance White '

**Cc:** 'spaikin@csfmail.org'; 'rcohen@accurint.com'; 'Joseph Crane '; 'Craig Burshem '

**Subject:** DCSE Law Enforcement Grant: May 16 AGENDA

Colleagues: We're looking forward to a productive meeting tomorrow :

**Meeting at:** Department of Social Services [ NOTE: *We'll have coffee & bagels, to start.* ]  
8th and Broad Streets  
Richmond  
10:00 a.m. till 2:00 p.m.  
Training Room 3 (on Lower Level)

**Parking:** Garage at 7th & E. Marshall Sts.  
(entrance on 7th St., one-way)

**Agenda :**

10:00 A.M.	Accurint Contract, New MOUs (added Section III)	Todd Areson, Joe Crane
10:30 A.M.	Use, Sources, & Confidentiality of CSE Data	Susan Paikin, Connie White
11:30 A.M.	Accurint Demonstration	Victoria Montoya, Customer Support Bob Cohen, Sales Rep.

\*\* LUNCH \*\* [ *Box lunches* ]

1:00 P.M.      *Discussion/Updates :*

TIPS, VCIN  
Lynchburg - Bedford Sheriff's  
CRIMES  
Other?

Dave Johnson  
Chuck Ingerson, Kevin Adams  
Chip Condon

2:00 P.M.      Adjourn

Last minute suggestions? Thanks.

Todd

Project Manager  
Tel. # 804-692-1463  
FAX # 804-692-2410

# LAW ENFORCEMENT TOOLS GRANT

## Summary of Meeting: May 16, 2002

### Participants:

Kevin Adams, Bedford Sheriff's Office  
Chuck Ingerson, Lynchburg CSE  
Brett Hoover, Alexandria P.D.  
Jim O'Sullivan, Chesapeake Sheriff's Office  
Gerald Berry, Chesapeake CSE  
Diane Jordan, Chesapeake CSE  
Chip Condon, Virginia Beach P.D.  
Doug Williams, Virginia Beach P.D.  
Alan Ball, Virginia Beach P.D.  
Ellis Malabad, Virginia Beach CSE  
David Johnson, Virginia State Police  
Joseph Crane, PAS-DCSE  
Todd Areson, RCA-DCSE  
Sharon Vaughan, RCA-DCSE  
Terry Cole, DIS-DCSE  
Connie White, DIS-DCSE  
Anna DeMoss, MSU-DCSE  
Susan Paikin, Center for Support of Families

*Following the agenda:*

### 1. Administrative Issues

- a. Accurint - Access to be provided through DCSE contract (i.e., grant funds) for the Alexandria P.D., Chesterfield Co. Sheriff's Office, Chesapeake CSE, Lynchburg CSE, Virginia Beach CSE, Virginia Beach P.D. Bedford Co. Sheriff's Office uses Autotrack; the Chesapeake Sheriff's Office and Virginia State Police currently have separate contracts with Accurint that the grant covers.
- b. Amended Memoranda of Understanding (MOU), adding Section III on data confidentiality and security, were e-mailed to the law enforcement partners on May 13. At the meeting, signed MOUs were obtained from the Bedford Sheriff's Office, Chesapeake Sheriff's Office, and Alexandria P.D. ***DCSE is awaiting signed MOUs from the Chesterfield Sheriff's Office, Virginia Beach P.D., and Virginia State Police.***

### 2. Use, Sources and Confidentiality of CSE Data

Susan Paikin, project legal consultant, with the Center for the Support of Families, conducted a lively presentation about the history of confidentiality regulations pertaining to child support agencies. She also discussed the Federal Parent Locate Service (FPLS), who may request information and under what criteria, and provided an

OCSE handout entitled “Requests for Information from the FPLS.” For the purpose of locating and establishing/modifying or enforcing a (DCSE) child support case, data can be shared with law enforcement. Connie White, of DCSE, and Susan also advised of the federal legal requirements for access. These requirements include being an authorized person and having an authorized purpose. Requirements for safeguarding shared data include keeping the data separate within your agency, so that unauthorized persons do not have access to them. DCSE must also conduct data audits to insure compliance with the security and confidentiality requirements.

### **3. Accurint Demonstration**

A brief Internet training session was provided to lead participants through the steps to take for locating current and historical information on those for whom Locate is needed. After the training, the discussion produced some very positive comments. Virginia Beach P.D. has purchased some wireless palm pilots for their field staff, and the comment was made that Accurint would be a useful tool for those staff in attempting to serve process, etc., while in the field. David Johnson of the Virginia State Police informed participants that they had looked at various locate tools and had chosen Accurint. Their officers have made numerous compliments about the system. Diane Jordan, with the Chesapeake CSE managed by PSI, reported later that she was so impressed by the training demonstration she had signed several PSI-run offices up for Accurint.

### **4. Discussion/Updates**

- a. Chuck Ingerson of the Lynchburg CSE and Kevin Adams of the Bedford County Sheriff’s Office provided information about their collaboration. They started with 109 non-custodial parents owing more than \$10,000, with no payment in 90 days. Bedford County Sheriff’s department provided locate assistance using Autotrack and found thirty-six (36) non-custodial parents. Of those hard locates, CSE was able to prepare 16 Show Cause motions and 1 Uniform Interstate Family Support Act (UIFSA) petition. Of the locates, there are 19 possible non-support warrants, as well.

Chip Condon of the Virginia Beach P.D. discussed CRIMES. CRIMES is now up and running and includes seven (7) Hampton Roads localities thus far. This system pulls information from the various localities (like NLETS) and is easy to expand. Other localities are now exploring involvement with CRIMES. Brett Hoover of the Alexandria P.D. stated that his department is attempting to obtain federal monies to link Northern Virginia, D.C. and Baltimore. [Templar, the Alexandria, VA-based company that developed CRIMES, is now developing a similar system in Northern Virginia.] Susan Paikin questioned whether CRIMES could generate reports (Yes) and whether DCSE could benefit and receive information automatically. Virginia Beach is now going through a required validation of warrants process. This topic initiated discussion of maintaining/validating/clearing warrants.

David Johnson, of the Virginia State Police, discussed TIPS, VCIN and NLETS. TIPS is an intelligence database similar to CRIMES. The Virginia State Police recently contacted each law enforcement agency in the state to inquire whether it wants access. (They are offering the agencies free access/usage to TIPS through May 31.) VCIN (Virginia Criminal Information Network) is a system that every law enforcement agency in the state can access for information for traffic stops and such (although some agencies do not use this statewide system). VCIN does give NLETS (national) information (by name only) and includes DMV, vehicle registrations, wanted persons, etc. Agents must be certified to use VCIN every 2 years (DCSE now has Level B access). With VCIN and NLETS, inquiries can also be made using aliases. NLETS also allows the user to send messages.

## **5. Issues to Investigate**

Discussions were held freely among the grant partners throughout the meeting. Some issues had previously been debated and once again were brought to the table. A number of new suggestions and ideas were presented that need exploration.

Much deliberation was given to the fact that child support warrants and capias are not always entered into VCIN due to staffing shortages/budget constraints. There is also no legislative mandate for law enforcement agencies to enter them. They generally are not included in the NLETS system because they are misdemeanor offenses, not normally subject to extradition.

- a. Should DCSE initiate legislation to mandate that child support data be entered into VCIN, or could DCSE pay local agencies for data entry of these “non-mandated” add-ons (through task monies, grants, federal initiatives)? Could DCSE get an Attorney General’s opinion that sanctions payment for data entry as “non-mandated” under Virginia statute? (The existing limitation on payment for CSE-related law enforcement activities is from Virginia statute and not a federal limitation.) Could DCSE place contract employees into local and/or state law enforcement offices to perform the data entry into VCIN? Will the federal Office of Child Support Enforcement allow federal matching funds (non-grant monies or FFP) to “test” the success of collaboration among DCSE and law enforcement agencies? If no monies are forthcoming to continue the work begun in this collaboration, can DCSE work with the local agencies in other ways, to convince them of the importance of conducting joint child support casework?
- b. Can DCSE fund smaller projects at this time (e.g., providing wireless palm pilots for law enforcement field staff in order to locate non-custodial parents in their attempts to serve process or execute a capias)?

- c. Can research be performed to determine the consequences/outcomes of child support cases in those localities that enter child support warrants into VCIN versus those that do not? Can a control group be set up to study these effects? *Example:* Are child support warrants and capiases currently entered into CRIMES?
- d. How will the presence of the Family Violence Indicator on a child support case affect data sharing?
- e. How will DCSE perform data audits as required in the Memoranda of Understanding? If DCSE develops relationships with more law enforcement partners, it may become increasingly difficult to monitor shared data.
- f. Can the UIFSA be used for extradition purposes? ... to meet the extradition requirement to place data on NLETS?
- g. *Ongoing:* How are law enforcement partners to obtain information from DCSE? Will a primary contact be established in the district offices to whom questions can be directed?
- h. *Ongoing:* How can DCSE and the various law enforcement offices quickly identify mutual cases to initiate collaborative work?

## 6. Summary of Meeting

*DCSE can share information such as name, SSN, address, and employer for the intention of locating and establishing/modifying or enforcing a child support order with law enforcement. Once law enforcement has acted upon, and thus verified the information (while working the child support case), the information is theirs to pursue the non-custodial parent for other legitimate purposes. The mechanics of promptly identifying mutual cases and of sharing data still need to be defined and best practices determined. One point that all partners agree upon is, child support warrant information should be immediately entered into VCIN. Doing so will lay the groundwork for future collaboration since law enforcement and child support offices share numerous common "clientele." In the coming months, DCSE will explore other funding sources to ensure continuation of the cooperative efforts in which we have been involved.*

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## LAW ENFORCEMENT TOOLS GRANT

### ISSUES TO EXPLORE FROM MAY 16, 2002 MEETING

1. *Should DCSE initiate legislation to mandate that child support data be entered into VCIN, or could DCSE pay local agencies for data entry of these “non-mandated” add-ons (through task monies, grants, federal initiatives)? Could DCSE get an Attorney General’s opinion that sanctions payment for data entry as “non-mandated” under Virginia statute? (The existing limitation on payment for CSE-related law enforcement activities is from Virginia statute and not a federal limitation.) Could DCSE place contract employees into local and/or state law enforcement offices to perform the data entry into VCIN? Will the federal Office of Child Support Enforcement allow federal matching funds (non-grant monies or FFP) to “test” the success of collaboration among DCSE and law enforcement agencies? If no monies are forthcoming to continue the work begun in this collaboration, can DCSE work with the local agencies in other ways, to convince them of the importance of conducting joint child support casework?*

Initiating legislation to mandate entering child support data into VCIN seems like the most cost effective solution for DCSE, if not the most time efficient. It is not known, even if DCSE could obtain grants or initiatives, how long that funding would be provided, and should DCSE discontinue funding this function at the local level, the “service” provided would likely cease as well. In addition, should DCSE support any type of funding, the costs associated with maintaining staffing levels in all local law enforcement agencies for data entry would be well over \$2,500,000 per year (considering there are 125 sheriff localities, and that it would cost an estimated \$20,000 + per year for a data entry clerk). If DCSE offsets 66% FFP, that certainly limits expenses; however, if entry into VCIN is mandated, that is one expense that will not be incurred. If all localities were mandated to enter the child support warrants, it would also save DCSE the time in working with individual agencies to gather support for our program. All law enforcement localities should be on board, not just a select few.

Any monies from “other sources” could be used to “reward” local agencies in the form of incentives for working child support cases. Perhaps a certain dollar amount for each “pick-up”; the palm pilots that have been discussed; some type of recognition program, lunches, plaques, etc. If mandates are obtained, DCSE should also be prepared to present the benefits of sharing data to the law enforcement community-perhaps at some of their planned meetings/conferences.

2. *Can DCSE fund smaller projects at this time (e.g., providing wireless palm pilots for law enforcement field staff in order to locate non-custodial parents in their attempts to serve process or execute a capias)?*

See preceding question and answer. It is to DCSE’s advantage to provide inexpensive means or tools for the law enforcement partners to work child support cases. DCSE should certainly explore the possibility of providing palm pilots to the agencies that have been involved in this grant, and to provide these tools as soon as possible. If necessary, an easy, brief time/results study could be performed to show that the palm pilots, in correlation with Accurint or other on-line locate sources, are highly efficient tools used in attempts to serve warrants.

3. *Can research be performed to determine the consequences/outcomes of child support cases in those localities that enter child support warrants into VCIN versus those that do not? Can a control group be set up to study these effects? Example: Are child support warrants and capiases currently entered into CRIMES?*

These questions are debatable. In order to perform research to study these effects, DCSE would first need to survey the law enforcement community and ask they admit or deny that some are not entering all of the warrants received from the courts. While our colleagues active in the law enforcement grant have been forthright with such information, other agency staff may not wish to reveal such inner-workings (just as some DCSE staff would be hesitant to admit that all child support cases are not properly worked). Should DCSE determine those localities that do and do not enter child support warrants in VCIN, is it even feasible to make a comparison of those that are not able to perform this work (because of staff limitations or other issues that are now taking precedence—such as national security) with those agencies who are better staffed and have the means to perform the function? In addition, in order to effectively study consequences, DCSE would need to track outstanding warrants. At this time, this is not being done. Perhaps a study showing the effects on child support cases before and after a legislative mandate to enter related warrants into VCIN is more practical.

4. *How will the presence of the Family Violence Indicator on a child support case affect data sharing?*

DCSE has long dealt with confidentiality issues while working child support cases that have to be referred to court or to another state. In instances where DCSE refers an intrastate child support case to court where there is known family violence, the actual petition or motion is silent on address, SSN, telephone and employment information. A separate informational document from DCSE's APECS is generated along with the petition or motion that contains the confidential data and the statement, "This information should not be released without permission from the judge." Serving the actual petition or motion is made by utilizing the confidential data; however, the party for whom disclosure is prohibited does not receive document(s) containing this data. Virginia Sheriffs provide process service for the majority of DCSE's petitions and motions. DCSE and the courts of Virginia have long relied upon law enforcement agencies to keep certain data confidential. Since law enforcement personnel are well versed in family violence and often are involved with the initial action that eventually leads to DCSE's knowledge of the situation, that information will not be released from this particular source. In interstate cases where there is a Family Violence Indicator, the UIFSA petition is also generated without containing confidential information. In those cases, DCSE must rely upon the other state to maintain confidentiality.

In looking at relative laws and regulations, title IV-D of the Social Security Act specifies/clarifies the purposes for which information in the Federal Parent Locator Service (FPLS) can be requested and by whom. Authorized state agencies, courts and private parties are directed to request FPLS information through a State Parent Locator Service (SPLS) when seeking the data. Obviously, when working DCSE cases from an initiation of Virginia DCSE actions, law

enforcement agents are not required to place a written locate request through the State Parent Locator Service; however, in the instance of the unlawful taking or restraint of a child, or in the attempt to make or enforce a child custody or visitation determination, if there is no mutual basis upon which DCSE can provide information and the information obtained was solely from FPLS data, then a written request should be made.

§§453(b)(2)(A), (B) and 454(26)(D), (E) stipulates an exception to information release-that FPLS information may not be disclosed “if the state has notified the Secretary that it has reasonable evidence of domestic violence or child abuse and the disclosure of such information could be harmful to the parent or the child of such parent” and “information can only be disclosed to a court or an agent of a court upon further request.” If, upon receipt of the information from the Secretary, the court determines that disclosure to any other person of that information could be harmful to the parent or the child, the court and its agents shall not make any disclosure.”

*Code of Virginia §63.1-209 [Title 63.1, Welfare (Social Services)] states, “The local department of social services may disclose the contents of records and information learned during the course of a child-protective services investigation or during the provision of child-protective services to a family, without a court order and without the consent of the family, to a person having a legitimate interest when in the judgment of the local department of social services such disclosure is in the best interest of the child who is the subject of the records. Persons having a legitimate interest in child-protective services records of local departments of social services include, but are not limited to, (I) any person who is responsible for investigating a report of known or suspected abuse or neglect or for providing services to a child or family that is the subject of a report including multi-disciplinary teams and family assessment and planning teams referenced in subsection K of § 63.1-248.6, law-enforcement agencies and attorneys for the Commonwealth...” and “Whenever a local department of social services exercises its discretion to release otherwise confidential information to any person who meets one or more of these descriptions, the local department shall be presumed to have exercised its discretion in a reasonable and lawful manner.”*

First and foremost, we need to remember that neither DCSE, nor its law partners, have any intention of disclosing information that will be harmful. DCSE, the courts and law enforcement already have established, standard procedures for keeping confidential data-confidential. Thus, the presence of the Family Violence Indicator on a child support case should not affect data sharing with law enforcement in this state.

5. *How will DCSE perform data audits as required in the Memoranda of Understanding (MOU)? If DCSE develops relationships with more law enforcement partners, it may become increasingly difficult to monitor shared data.*

This certainly leads to a broader question. How are law enforcement agencies now being expected to provide security of data for DCSE documents and documentation, and is the provision contained in the MOU regarding audits of data really necessary? In expanding cooperative efforts

between DCSE and law enforcement, separate written agreements should not be necessary (unlike the present agreements which contain monetary provisions that must be addressed in writing). As previously stated, law enforcement agencies have long provided process service for DCSE and have been trusted thus far with maintaining confidentiality. A law enforcement officer is defined by the *Code of Virginia* §9.1-101 [Title 9.1, Commonwealth Public Safety] as, "Any full-time or part-time employee of a police department or sheriff's office which is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth....." Their Board and Department was charged under §9.1-102(23) to "Adopt regulations establishing guidelines and standards for the collection, storage, and dissemination of criminal history record information and correctional status information, and the privacy, confidentiality, and security thereof necessary to implement state and federal statutes, regulations, and court orders." Furthermore, Title 9.1 contains stipulations for the confidentiality of information, prevention of unauthorized disclosure, auditing and criminal penalties for violation of obtaining information under false pretenses and for divulging certain information (§§ 9.1-26, 9.1-130, 9.1-131, 9.1-136, 9.1-137).

Title 19.2, Criminal Procedure, stipulates to whom criminal history record information is to be disseminated (§ 19.2-389). Title 8.1, Civil Remedies and Procedures, stipulates who is to serve process, to whom process is to be directed, and where it is to be executed (§§ 8.01-293, 8.01-292, 8.01-294).

The process service is provided free to DCSE pursuant to the *Code of Virginia* §63.1-274.7 which states, "No filing or recording fees, court fees, or fees for service of process shall be required from the State Department of Social Services by any clerk, auditor, sheriff or other local officer for the filing of any actions or documents authorized by this chapter or, for the service of any summons or other process in any action or proceeding authorized for this chapter." [1988, c.906.] Also see §63.1-209.1, previously mentioned in discussion of the Family Violence Indicator. §63.1-57.1 directs that, "It shall be the duty of each local board to interest itself in all matters pertaining to the social welfare of the people of the county, city or other area served by it, to direct the activities of the superintendent of public welfare, where there is one and to cooperate with the juvenile and domestic relations courts and all other agencies operating for the social betterment of the community" and §63.1-67.5 stipulates that, "The local superintendent shall foster cooperation and intelligent division of work between all public and private charitable and social agencies in the county or city to the end that public resources may be conserved and the needs of the county or city be adequately cared for."

In the situation of "sharing data" with law enforcement to work child support cases, DCSE has long been doing so in cases referred to court or in serving child support documents. The concept of "sharing data" is not new if looked upon in this manner. DCSE employees provide new information to the Sheriff's office's warrant rooms when they request a "pick-up" if new information comes to light. It is the contact from law enforcement to DCSE, and the request for information that is the apparent barrier.

DCSE employees have been “conditioned” to “just say no” when inquiries (including those from law enforcement) into participants of a child support case are made. Perhaps some “re-conditioning” is now due with respect to law enforcement partners. If not with individual caseworkers, with those supervisors who could serve as contacts for law enforcement. When law enforcement agents contact DCSE, it should first be determined whether there is a child support case and whether child support warrants/capiases for the non-custodial parent are outstanding. If so, DCSE should have no qualms about providing any new information it has obtained so that the warrant/capias can be executed [IRS data must be verified first by DCSE before disclosing information received from this source]. In many cases, even though there are no outstanding child support arrest warrants, other establishment or enforcement measures may need to be taken on the child support case, and law enforcement can assist while also obtaining the information they desire (Examples: Serving driver’s license suspension notices, change in payee notices, notices of proposed actions, review and modification documents, orders for support, genetic testing orders and even summonses to appear at the district office). If there are no actions that can be taken on a child support case, thus resulting in no information to be provided, the law enforcement agent should be advised that a court can subpoena the pertinent data or that a written request may be made, if applicable. Many child support workers feel that providing information that may lead to incarceration defeats their efforts; however, if an individual is wanted for a crime or questioning, DCSE must realize that eventually they are going to be “caught,” with or without its assistance, and that community efforts must be made to bring criminals to justice.

Instead of continuing in practices that foster non-cooperative efforts and even now, looking for ways to impose unnecessary restrictions, DCSE and its law enforcement partners should realize they are under the same umbrella of laws and seek to work within these laws “for the social betterment of the community” and so that “the needs of the county or city be adequately cared for.” If necessary, data audits can be performed by sending a letter requesting the local sheriff or his/her designee to conduct said audit and provide the results to DCSE.

6. *Can the UIFSA be used for extradition purposes... to meet the extradition requirement to place data on NLETS?*

*Code of Virginia, Chapter 5.3, Article 11 of the Uniform Interstate Family Support Act 20-88.79 stipulates grounds for rendition. “B. The Governor of this Commonwealth may: 1. Demand that the governor of another state surrender an individual found in the other state who is charged criminally in this Commonwealth with having failed to provide for the support of an obligee; or, 2. On the demand by the governor of another state, surrender an individual found in this Commonwealth who is charged criminally in another state with having failed to provide for the support of an obligee, C. A provision for extradition of individuals not inconsistent with this chapter applied to the demand even if the individual whose surrender is demanded was not in the demanding state when the crime was allegedly committed and had fled therefrom. [Further examination of federal law and state practices are needed.]*

7. *Ongoing: How are law enforcement partners to obtain information from DCSE? Will a primary contact be established in the district offices to whom questions can be directed?*

It is suggested that one primary contact, with a back-up, be established in each district. The enforcement supervisor is a good choice as the primary contact, with the establishment supervisor as the back-up. Direct telephone numbers and fax numbers should be provided to the existing law enforcement partners, and to any subsequent local agencies. Since DCSE cases are worked in the locality in which the mother and child reside, it will be difficult for law enforcement personnel to determine which DCSE district office manages the case. An initial contact can be made to the DCSE office that services the locality in which the law enforcement agency is stationed. If child support case action is needed (in order to provide information) and another district manages the case, law enforcement can be directed to the supervisor in the proper district office.

Supervisor contacts and instruction should be established statewide, and this in itself will not be a rapid course. First, the DCSE staff involved in this partnership effort must win approval from the Director and field Assistant Directors. Once approval is obtained, DCSE can coordinate obtaining a contact list and ensuring that the contacts understand when and how information can be released to the law enforcement partners.

8. *Ongoing: How can DCSE and the various law enforcement offices quickly identify mutual cases to initiate collaborative work?*

Since there is no integration of systems and data confidentiality restrictions apply, there does not appear to be any immediate way that DCSE and law enforcement can “quickly” match mutual cases without utilizing some manual-intensive means. DCSE can certainly attempt to target cases whereas a warrant was issued in the past (by running a program that will identify those cases using a court disposition entered into the APECS Schedule Maintenance). However, there is no way to systematically determine whether the warrant/capias has been executed without reviewing the case events on APECS. Law Enforcement may have a similar method or use various ways of identifying cases they wish to prioritize for review. It is suggested that the existing child support and law enforcement partners continue to work together and develop best practices in their mutual efforts.

At least initially, DCSE can pull warrant/capias data needed, review the case and if outstanding warrants exist and new information has been received, then contact the appropriate law enforcement partner to supply the information. At that time, the law enforcement partner can act upon the new information to benefit DCSE and ultimately, its clientele, while reviewing its records to see if other warrants need to be executed.

Law enforcement personnel can determine from review and warrant records, its priority cases where DCSE may share “mutual interest” and contact DCSE in the manner previously described. If cooperative efforts are expanded beyond the localities now involved in this grant program, a primary contact, with a back-up, should be established in each law enforcement locality as well. //

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**Privacy and Security of IV-D Data**  
Virginia DCSE Law Enforcement Grant  
Project Meeting - May 16,2002  
Richmond, Virginia

*The following background material is excerpted from a 2001 article by Susan Paikin and Janet Atkinson*

**[2] Privacy and Security**

Congress and the federal Office of Child Support Enforcement (OCSE) recognize that security of Federal Parent Locator Service (FPLS) data is vital to the success of child support enforcement programs and essential to protect the privacy of United States citizens. Accordingly, access to FPLS data is strictly limited. Federal law requires state and federal agencies to establish strict safeguards for handling confidential information.<sup>1</sup> Furthermore, information is transmitted over secure and dedicated lines. The public does not have access to these lines, and no information is available over the Internet. FPLS databases are housed in the Social Security Administration's world class computer center, where they are protected from destruction, modification, disclosure, and misuse. The Office of Child Support Enforcement continually monitors and enhances its security systems.

**[3] Access**

Federal law limits disclosure of FPLS data to specified information, which may be released only to authorized persons for authorized purposes.<sup>2</sup> An agent or attorney of any state child support agency, a court with authority to issue or enforce a child support order, and the resident parent, legal guardian, attorney, or agent of a child who is not receiving public assistance are authorized to receive FPLS information in a case involving child support, in order to: (1) locate the non-custodial parent, obligee or putative father; (2) identify and locate the non-custodial parent's employer; (3) obtain information on the non-custodial parent's wages, other income from and benefits of employment; and (4) obtain information on the type, status, location and amount of any assets of or debts owed by or to

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<sup>1</sup> 42 U.S.C.S. §§ 453, 454, 454a; 5 U.S.C.S. 552a; 26 U.S.C.S. §§ 6103, 7213, 7431 (1998).

<sup>2</sup> 42 U.S.C.S. § 653(a) (1998). See Eileen M. Brooks and Sheila Hackney Bradley, "*Federal Parent Locator Service: Access and Privacy.*" 18 Delaware Lawyer 2, 16 (Summer 2000).

the non-custodial parent.<sup>3</sup>

An authorized person can obtain FPLS information by placing a written "locate request" through his/her local State Parent Locator Service, pursuant to 45 CFR 303.70 (1998).<sup>4</sup> Requests must contain the following information:

- (1) The non-custodial parent's name;
- (2) The non-custodial parent's social security number, if known;
- (3) Whether the individual is or has been a member of the armed services, if known;
- (4) Whether the individual is receiving or has received any Federal compensation or benefits, if known; and
- (5) Any other information required by OCSE or the state agency.<sup>5</sup>

When the FPLS receives a locate request, it searches its automated internal databases and external sources<sup>6</sup> and provides the requesting State Parent Locator Service with information appropriate to the purpose of the request, unless disclosure is prohibited due to a risk of domestic violence or presents a national security risk. [See §7.04[C][2][b] for a description of the Family Violence Indicator and the override process.] If disclosure is appropriate, the State Parent Locator Service forwards the information to the requesting party.

## **[B] State Parent Locator Services**

Federal law requires each state to maintain a State Parent Locator Service (SPLS) as part of its child support enforcement agency, as a precondition to receiving federal incentive payments.<sup>7</sup> Like their federal counterpart, State Parent Locator Services were created primarily for the purpose of establishing parentage, and establishing, setting the amount of, or enforcing child support obligations.<sup>8</sup> Each includes a Case Registry of Child

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<sup>3</sup> 42 U.S.C.S. § 653 (1998).

<sup>4</sup> Practitioners should contact their local child support agency for detailed instructions and application forms.

<sup>5</sup> *Id.*

<sup>6</sup> 42 U.S.C.S. § 653(e) (1998).

<sup>7</sup> 42 U.S.C.S. § 654(8) (1998); 45 C.F.R. § 302.35 (1998)

<sup>8</sup> *Id.*

Support Orders and a Directory of New Hires, and is required to utilize the Federal Parent Locator Service, as well as all sources of information and records available within the state.<sup>9</sup>

State child support agencies may access the following information maintained by state and local agencies, to find information needed to establish paternity or to establish, modify, or enforce a child support order, without obtaining an order from any judicial or administrative tribunal:<sup>10</sup>

- **Tax information:** Contained in state and local tax and revenue records, including residential addresses and information about employers, income and assets;
- **Employment security information:** Contained in records maintained by the state Employment Security Agency, such as unemployment, workers' compensation benefits, and wage information, reported by employers;
- **Public assistance information:** Maintained by state and local agencies administering public assistance programs;
- **Information in vital records:** Maintained by state and local vital statistics agencies, including marriage, birth and divorce records;
- **State correctional records;**
- **State motor vehicle records;**
- **Licensing boards:** Records maintained by state licensing agencies, including those responsible for issuing hunting and fishing licenses, and boards for professional and occupational licenses;
- **Property records:** Including information contained in real estate and titled personal property records;
- **Business ownership records:** Maintained in public records on the ownership and control of businesses including corporations, partnerships and other business entities.

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<sup>9</sup> *Id.*; 42 U.S.C.S. § 654(8) (1998).

<sup>10</sup> 45 C.F.R. § 303.3(b)(1) (1998).

The state child support enforcement agency can also access the following, without a judicial order:

- **Employment information:** From most employers within the state;
- **Customer information from customer records:** Names, addresses, and employers of individuals who owe or are owed support or against whom an obligation is sought, contained in customer records maintained by public utilities, including telephone and cable television companies;<sup>11</sup>
- **Financial information:** Financial and other information, including information on assets and liabilities, held by financial institutions on individual child support obligors and obligees.<sup>12</sup>

When a state receives a request for "locate" services in connection with a child support case, the child support agency must attempt to locate the non-custodial parent and all sources of income and/or assets.<sup>13</sup> The agency is required to use all available resources. When previous attempts to locate non-custodial parents or sources of income or assets have failed but adequate identifying information exists, the search must be repeated quarterly or upon receipt of new information which might assist in location.<sup>14</sup> State Parent Locator Services are comprehensive, low-cost tools that can help locate parents, their employers, and their assets in interstate child support cases. Custodial parents, guardians, agents, or attorneys representing a child not receiving public welfare benefits can request location services in each state that has a connection with the non-custodial parent. UIFSA provides additional interstate discovery tools.

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<sup>11</sup> 42 U.S.C.S. § 666(c)(1)(D) (1998)

<sup>12</sup> *Id.* 42 U.S.C.S. § 666(a)(17)(D)(ii) (1998).

<sup>13</sup> 45 C.F.R. § 303.3 (1998).

<sup>14</sup> *Id.*

2. *Sec. 653. Federal Parent Locator Service (excerpts)*

(a)(1) Establishment; purpose

The Secretary shall establish and conduct a Federal Parent Locator Service, under the direction of the designee of the Secretary referred to in section 652(a) of this title, which shall be used for the purposes specified in paragraphs (2) and (3).

- (2) For the purpose of establishing parentage, establishing, setting the amount of, modifying, or enforcing child support obligations, the Federal Parent Locator Service shall obtain and transmit to any authorized person specified in subsection (c) –
- (A) information on, or facilitating the discovery of, the location of any individual –
    - (i) who is under an obligation to pay child support;
    - (ii) against whom such an obligation is sought; or
    - (iii) to whom such an obligation is owed, including the individual's social security number (or numbers), most recent address, and the name, address, and employer identification number of the individual's employer;
  - (B) information on the individual's wages (or other income) from, and benefits of, employment (including rights to or enrollment in group health care coverage); and
  - (C) information on the type, status, location, and amount of any assets of, or debts owed by or to, any such individual.
- (3) For the purpose of enforcing any Federal or State law with respect to the unlawful taking or restraint of a child, or making or enforcing a child custody or visitation determination, as defined in section 663(d)(1), the Federal Parent Locator Service shall be used to obtain and transmit the information specified in section 663(c) to the authorized persons specified in section 663(d)(2).

(b)(1) Upon request, filed in accordance with subsection (d)

Of any authorized person, as defined in subsection (c) for the information described in subsection (a)(2), or of any authorized person, as defined in section 663(d)(2) for the information described in section 663(c), the Secretary shall, notwithstanding any other provision of law, provide through the Federal Parent Locator Service such information to such person, if such information –

- (A) is contained in any files or records maintained by the Secretary or by the Department of Health and Human Services: or
- (B) is not contained in such files or records, but can be obtained by the Secretary, under the authority conferred by subsection (e), from any other department, agency, or instrumentality of the United States or of any State, and is not prohibited from disclosure under paragraph (2).

(2) No information shall be disclosed to any person if the disclosure of such information would contravene the national policy or security interests of the United States or the confidentiality of census data. The Secretary shall give priority to requests made by any authorized person described in subsection (c)(1). No information shall be disclosed to any person if the State has notified the Secretary that the State has reasonable evidence of domestic violence or child abuse and the disclosure of such information could be harmful to the custodial parent or the child of such parent, provided that –

(A) in response to a request from an authorized person (as defined in subsection (c) of this section and section 663(d)(2)), the Secretary shall advise the authorized person that the Secretary has been notified that there is reasonable evidence of domestic violence or child abuse and that information can only be disclosed to a court or an agent of a court, pursuant to subparagraph (B); and

(B) information may be disclosed to a court or an agent of a court described in subsection (c)(2) of this section or section 663(d)(2)(B), if –

(i) upon receipt of information from the Secretary, the court determines whether disclosure to any other person of that information could be harmful to the parent or the child; and

(ii) if the court determines that disclosure of such information to any other person could be harmful, the court and its agents shall not make any such disclosure.

(3) Information received or transmitted pursuant to this section shall be subject to the safeguard provisions contained in section 654(26).

(c) "Authorized person" defined

As used in subsection (a) of this section, the term "authorized person" means –

- 1) any agent or attorney of any State having in effect a plan approved under this part, who has the duty or authority under such plans to seek to recover any amounts owed as child and spousal support (including, when authorized under the State plan, any official of a political subdivision);
- 2) the court which has authority to issue an order or to serve as the initiating court in an action to seek an order against a noncustodial parent for the support and maintenance of a child, or any agent of such court;
- 3) the resident parent, legal guardian, attorney, or agent of a child (other than a child receiving aid under part A (as determined by regulations prescribed by the Secretary) without regard to the existence of a court order against a non-custodial parent who has a duty to support and maintain any such child.

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(m) **INFORMATION INTEGRITY AND SECURITY.** The Secretary shall establish and implement safeguards with respect to the entities established under this section designed to –

- (1) ensure the accuracy and completeness of information in the Federal Parent Locator Service; and

(2) restrict access to confidential information in the Federal Parent Locator Service to authorized persons, and restrict use of such information to authorized purposes.

(n) **FEDERAL GOVERNMENT REPORTING.** Each department, agency, and instrumentality of the United States shall, on a quarterly basis, report to the Federal Parent Locator Service the name and social security number of each employee and the wages paid to the employee during the previous quarter, except that such a report shall not be filed with respect to an employee of a department, agency, or instrumentality performing intelligence or counterintelligence functions, if the head of such department, agency, or instrumentality has determined that filing such a report could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission.

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(h) **OTHER USES OF NEW HIRE INFORMATION.**

(1) **LOCATION OF CHILD SUPPORT OBLIGORS.** The agency administering the State plan approved under this part shall use information received pursuant to subsection (f)(2) to locate individuals for purposes of establishing paternity and establishing, modifying, and enforcing child support obligations, and may disclose such information to any agent of the agency that is under contract with the agency to carry out such purposes.

(2) **VERIFICATION OF ELIGIBILITY FOR CERTAIN PROGRAMS.** A State agency responsible for administering a program specified in section 1137(b) shall have access to information reported by employers pursuant to subsection (b) of this section for purposes of verifying eligibility for the program.

(3) **ADMINISTRATION OF EMPLOYMENT SECURITY AND WORKERS' COMPENSATION.** State agencies operating employment security and workers' compensation programs shall have access to information reported by employers, pursuant to subsection (b), for the purposes of administering such programs.

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§ 63.1-274.7 Department exempt from fees. [Now, § 63.2-1959]

No filing or recording fees, court fees, or fees for service of process shall be required from the State Department of Social Services by any clerk, auditor, sheriff or other local officer for the filing of any actions or documents authorized by this chapter, or for the service of any summons or other process in any action or proceeding authorized by this chapter.

(1988, c. 906)

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## § 63.1-249.1. Child support enforcement; private contracts.

- A. Pursuant to the authority granted in § 63.1-249, child support enforcement field work administrative functions and central office payment processing functions in the Commonwealth may be performed by private entities. The Department shall supervise the administration of the child support enforcement program, let and monitor all contracts with private entities and ensure compliance with applicable state and federal laws and regulations. The Department may also enter into contracts with private collection agencies and other entities to effect the collection of child support arrearages. Contracts entered into pursuant to this section shall be in accordance with the applicable laws and regulations governing public entities, pursuant to the Public Procurement Act (§ 2.2-4300 et seq.). Any contract to perform child support enforcement field work administrative functions and central office payment processing functions entered into by the Department shall contain a provision that the entity to whom the contract is awarded shall give employment preference to qualified persons whose employment with the Division of Child Support Enforcement is terminated as a result of the privatization of child support enforcement functions. Notwithstanding any other provision of law, when hiring to fill vacant positions within the Department, preference shall be given to qualified persons who are unable to obtain employment with an entity who is awarded a contract to perform child support enforcement field work administrative functions and central office payment processing functions pursuant to this section and whose employment with the Division of Child Support Enforcement is terminated as a result of the privatization of child support enforcement functions.
- B. The State Board shall establish guidelines to implement the Department's responsibilities under this section. Such guidelines shall specify procedures by which child support enforcement funding mechanisms authorized by state and federal law are allocated to fund central office and privatized child support enforcement functions.
- C. The Attorney General shall provide and supervise legal services to the Division of Child Support Enforcement in child support enforcement cases to establish, obligate, enforce and collect child support. In addition to other methods of providing legal services as may be authorized by law, the Attorney General may contract with private attorneys to provide such services as special counsel, pursuant to § 2.2-510, or to conduct programs to evaluate the costs and benefits of the privatization of such legal services. The compensation for such special and private counsel shall be paid out of funds received by the Division of Child Support Enforcement as provided by state and federal law and such reasonable attorney's fees as may be recovered. The Attorney General may also use collection agencies as may be necessary and cost-effective, to pursue fully the recovery of all costs and fees authorized by § 63.1-274.10 in proceedings to enforce child support obligations.

D. By July 1 of each year, the Department and the Office of the Attorney General shall each submit a written report to the Governor and General Assembly with a detailed summary and evaluation of the privatization of child support enforcement programs.

(1996, c. 1054; 1998, cc. 494, 499.)

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§ 63.1-274.6. Central unit for information and administration; cooperation enjoined; availability of records.

The Department of Social Services is authorized and directed to establish a central unit within the Department to administer the Title IV-D State Plan according to 45 C.F.R. 302.12. The central unit shall have the statewide jurisdiction and authority to:

1. Establish a registry for the receipt of information;
2. Answer interstate inquiries concerning responsible persons;
3. Coordinate and supervise departmental activities in relation to responsible persons to ensure effective cooperation with law enforcement agencies; and
4. Contract and enter into cooperative agreements with individuals and agencies, including law enforcement agencies, in order that they may assist the Department in its responsibilities.

The central unit within the Department shall supervise offices whose primary functions are:

1. Location of absent responsible persons;
2. Assessment of the ability of responsible persons to pay child or child and spousal support and to obtain health care coverage for dependent children;
3. Establishment, modification and enforcement of support obligations, including health care coverage for dependent children, through administrative action;
4. Preparation of individual cases for court action existing under all laws of the Commonwealth;
5. Ensuring on a consistent basis that support continues in all cases in which support is assessed administratively or ordered by the court; and
6. Provision of its services in establishing paternity and establishing and enforcing support obligations equally to public-assisted and nonpublic-assisted families.

To effectuate the purposes of this section, the Commissioner may request and shall receive from state, county and local agencies within and without the Commonwealth, including but not limited to such agencies and entities responsible for vital records; tax and revenue; real and titled personal property; authorizations to engage in a business, trade, profession or occupation; employment security; motor vehicle licensing and registration; public assistance programs and corrections, all information and assistance as authorized by this

chapter. Solely for the purposes of obtaining motor vehicle licensing and registration information from entities within and without the Commonwealth, the Division of Child Support Enforcement shall be deemed to be a criminal justice agency. With respect to individuals who owe child support or are alleged in a pending paternity proceeding to be a putative father, the Commissioner may request and shall receive the names and addresses of such individuals and the names and addresses of such individuals' employers as appearing in the customer records of public utilities, cable television companies and financial institutions. All state, county and city agencies, officers and, employees shall cooperate in the location of responsible persons who have abandoned or deserted, or are failing to support, children and their caretakers and shall on request supply the Department with all information on hand relative to the location, income, benefits and property of such responsible persons, notwithstanding any provision of law making such information confidential. A civil penalty not to exceed \$1,000 may be assessed by the Commissioner for a failure to respond to a request for information made in accordance with this section.

Any public or private person, partnership, firm, corporation or association, any financial institution and any political subdivision, department or other entity of the Commonwealth who in good faith and in the absence of gross negligence, willful misconduct or breach of an ethical duty, provide information requested pursuant to this section shall be immune from liability, civil or criminal, that might otherwise result from the release of such information to the Department.

Any records established pursuant to the provisions of this section shall be available only for the enforcement of support of children and their caretakers and to the Attorney General, prosecuting attorneys, law-enforcement agencies and courts of competent jurisdiction and agencies in other states engaged in the enforcement of support of children and their caretakers. Information pertaining to actions taken on behalf of recipients of child support services may be disclosed to the recipient and other parties pursuant to State Board regulations. The State Board shall promulgate regulations regarding the release of information to parties involved in administrative proceedings pursuant to this chapter, taking into account the health and safety of the parties to whom the information is related, and such releases of information shall be permitted, notwithstanding the provisions of the Government Data Collection and Dissemination Practices Act, Chapter 38 (§ 2.2-3800 et seq.) of Title 2.2. Information may also be disclosed to authorized persons, in accordance with 42 U.S.C. § 663, in cases of unlawful taking or restraint of a child.

The Division of Child Support Enforcement shall provide support payment arrearage information on responsible persons, as defined in § 63.1-250, to consumer credit bureaus and consumer credit reporting agencies. Advance notice shall be sent to the responsible person of the proposed release of arrearage information. The notice shall include information on the procedures available to the responsible person for contesting the accuracy of the arrearage information. (1988, c. 906; 1990, c. 836; 1991, cc. 545, 588; 1994, c. 665; 1997, cc. 796, 895; 2001, c. 573.)

## **Appendix B: Materials Prepared for or Used in Project**

- 1. “Federal Criminal Non-Support Prosecution: Overview of Case Law Under 18 U.S.C. Sec 228” (Draft: 12-5-00)**
- 2. “National Council of Child Support Directors (NCCSD): Resolution on Confidentiality of IRS Information” (Draft: April 4, 2002)**

# Federal Criminal Non-Support Prosecution

## Overview of Caselaw Under 18 U.S.C. § 228<sup>1</sup>

### 1 INTRODUCTION

The Child Support Recovery Act (CSRA) (18 U.S.C.A. § 228), was enacted by Congress in 1992 in an effort to address the problem of enforcing state child support orders when a parent who owes child support and the child on whose behalf the child support has been ordered live in different states. The Act made the willful failure to pay a past-due support obligation for a child who resides in another state a federal crime, if the obligation had remained unpaid for longer than one year or was greater than \$5,000. Under the CSRA, a first time offense constituted a misdemeanor, punishable by either a fine or imprisonment for not more than six months or both.

Not used a great deal, the validity of the CSRA had been challenged extensively. Initially, the federal district courts were split on the constitutionality of the statute. A number accepted the argument that the Supreme Court's decision in *U.S. v. Lopez*, 514 U.S. 549 (1995) required a finding that the CSRA exceeded the power of Congress under the Commerce Clause. However, until *U.S. v. Faasse*, 200 Fed App. 0337P (6<sup>th</sup> Cir.),<sup>2</sup> decided September 25, 2000, all Courts of Appeal that considered the issue have found the statute constitutional. See, e.g., *U.S. v. Crawford*, 115 F.3d 1397 (8<sup>th</sup> Cir. 1997) cert. denied, 118 S. Ct. 341 (U.S. 1997).

On June 24, 1998, the CSRA was amended by the Deadbeat Parents Punishment Act (DPPA). The amended statute incorporated new felony provisions, providing for a fine and up to two years' imprisonment, or both, for the willful failure to pay a child support obligation with respect to a child living in another state if the obligation had remained unpaid for over two years or was greater than \$10,000. It also added an additional misdemeanor basis grounded directly in interstate commerce. That is that the obligor:

"travels in interstate or foreign commerce with the intent to evade a support obligation, if such obligation has remained unpaid for a period longer than 1 year, or is greater than \$5,000."

This memo briefly sets out the case law on the validity, construction and application of this federal criminal non-support statute. The material is preliminary to a review of the procedures for referral to and prosecution by the various U.S. Attorney's

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<sup>1</sup> The Child Support Recovery Act of 1992, as amended by the Deadbeat Parents Punishment Act of 1998.

<sup>2</sup> This decision addressed the constitutionality of the 1992 statute, prior to amendment in 1998 by the DPPA.

offices throughout the country.

## 2 CONSTITUTIONALITY

### 2.1 COMMERCE CLAUSE

The challenge most frequently raised by defendants is that Congress exceeded its authority under the Commerce clause<sup>3</sup> of the U.S. Constitution when it enacted the Child Support Recovery Act. Over much of this century the Commerce Clause was viewed as authorizing Congress to regulate almost anything it found constituted commerce among the states. However, in 1995 the Supreme Court struck down the Gun-Free School Zones Act of 1990<sup>4</sup> based on a violation of the Commerce Clause. The Court found that Act had nothing to do with "commerce" or any economic enterprise, regardless how broadly that term was applied. The statute also did not contain a "jurisdictional element" showing the link between the regulated activity and interstate commerce. Finally, it was not supported by formal findings on the substantial burdens the regulated activity had on interstate commerce. Although this last element is not mandatory, the Court noted that such findings help explain Congress' rationale for the regulation.

*Lopez* signaled a marked change in direction by the Supreme Court. It is both a significant restriction on Congress' ability to enact laws that may infringe upon the historic jurisdiction of States and a refusal to give congressional legislative findings deference. For a recent example of this trend, see *U.S. v. Morrison*, 529 U.S. \_\_\_\_ (2000). In a 5-4 decision, the United States Supreme Court affirmed the decision of the Federal Court of Appeals for the Fourth Circuit that Congress exceeded its constitutional authority when it enacted section 13981 of the Violence Against Women Act (VAWA) of 1994.

Section 13981, also called the civil rights provision of VAWA, states that all persons in the U.S. have the right to be free from crimes of violence motivated by gender. The section defines these crimes as those committed because of gender or on the basis of gender and due, at least in part, to an animus based on the victim's gender. It gives a litigant a choice of forums, with Federal and State courts having concurrent jurisdiction over complaints brought pursuant to it.

Given the Supreme Court's newly restrictive view of Congress' authority under the Commerce Clause, a number of federal district courts accepted the argument that *Lopez* required a finding that the CSRA was unconstitutional. **However, until the very recent decision of the 6th Circuit in *Faasse*, all those decisions were reversed on**

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<sup>3</sup> U.S.C.A. Const. Art. 1, Sec. 8, c1.3.

<sup>4</sup> 18 U.S.C. § 922q(l)(A). This Act made it unlawful for any individual to knowingly possess a firearm at a place that the individual knows, or has reasonable cause to believe, is a school zone.

appeal.<sup>5</sup>

Those appellate decisions, as well as others where the constitutionality of the CSRA was originally upheld, found the Act to be a proper exercise of Congress' power under the Commerce Clause.<sup>6</sup> For example, in Virginia, see *U.S. v. Johnson*, 940 F. Supp. 911 (E.D. Va. 1996), aff'd, 114 F.3d 476 (4<sup>th</sup> Cir. 1999), cert. denied, 118 S. Ct. 258, 139 L. Ed. 2d 185 (U.S. 1997), the circuit court affirmed the lower court's decision that the CSRA was a valid exercise of congressional power under the Commerce Clause. It held that the statute involved an economic activity, the nonpayment of money due, or a debt. In a very real sense this is an economic activity because the parent who fails to make a support payment realizes an economic gain and the custodial parent and offspring often suffer a painful economic loss.

See also, e.g., *U.S. v. Bongiorno*, 106 F.3d 1027 (1<sup>st</sup> Cir. 1997), reh'g denied, 110 F.3d 132 (1<sup>st</sup> Cir. 1997), reh'g en banc denied, (Apr. 10, 1997) (rejecting father's argument that the obligation to pay child support is not "commerce" in any meaningful sense, the Court found the CSRA relates to economic transactions, and the enacting Congress made explicit, well-documented findings regarding the economic effect of unpaid child support upon interstate commerce); *U.S. v. Lewis*, 936 F. Supp. 1093 (D.R.I. 1996), (finding that the Act essentially penalized the failure to pay an interstate debt, an activity the First Circuit has held to involve interstate commerce directly); *U.S. v. Sage*, 92 F.3d 101 (2<sup>d</sup> Cir. 1996), cert. denied, 117 S. Ct. 784, 136 L. Ed. 2d 727 (U.S. 1997), (finding that the case involved matters plainly within the Supreme Court's definition of commerce among the several states); *U.S. v. Collins*, 921 F. Supp. 1028 (W.D.N.Y. 1996), (holding that because the aggregate of unpaid child support substantially affected interstate commerce, any individual unpaid support obligation within the scope of the Act was an economic matter of interstate concern subject to

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<sup>5</sup> *U.S. v. Parker*, 911 F. Supp. 830 (E.D. Pa. 1995), rev'd, 108 F.3d 28 (3<sup>d</sup> Cir. 1997), cert. denied, 118 S. Ct. 111, 139 L. Ed. 2d 64 (U.S. 1997); *U.S. v. Bailey*, 1995 WL 563284 (W.D. Tex. 1995), opinion issued, 902 F. Supp. 727 (W.D. Tex. 1995), rev'd, 115 F.3d 1222 (5<sup>th</sup> Cir. 1997), reh'g and suggestion for reh'g en banc denied, 127 F.3d 36 (5<sup>th</sup> Cir. 1997) and cert. denied, 118 S. Ct. 866 (U.S. 1998); *U.S. v. Mussari*, 894 F. Supp. 1360 (D. Ariz. 1995), reconsideration denied, 912 F. Supp. 1248 (D. Ariz. 1995), judgment rev'd, 95 F.3d 787 (9<sup>th</sup> Cir. 1996, cert denied, 117 S. Ct. 1567, 137 L. Ed. 2d 712 (U.S. 1997) and cert. denied, 117 S. Ct. 1567, 137 L. Ed. 2d 712 (U.S. 1997); and *U.S. v. Schroeder*, 894 F. Supp. 360 (D. Ariz. 1995), reconsideration denied, 912 F. Supp. 1240 (D. Ariz. 1995), judgment rev'd, 95 F.3d 787 (9<sup>th</sup> Cir. 1996), cert. denied, 117 S. Ct. 1567, 137 L. Ed. 2d 712 (U.S. 1997) and cert. denied, 117 S. Ct. 1567, 137 L. Ed. 2d 712 (U.S. 1997).

<sup>6</sup> In the following cases, the courts have upheld the constitutionality of the Child Support Recovery Act based on a finding that the Act was a proper exercise of congressional power under the Commerce Clause of the United States Constitution to regulate and protect instrumentalities of, or persons or things in, interstate commerce. *First Circuit-U.S. v. Bongiorno*, 106 F.3d 1027 (1<sup>st</sup> Cir. 1997), reh'g denied, 110 F.3d 132 (1<sup>st</sup> Cir. 1997), reh'g en banc denied, (Apr. 10, 1997). *Second Circuit-U.S. v. Sage*, 92 F.3d 101 (2<sup>d</sup> Cir. 1996), cert denied, 117 S. Ct. 784, 136 L. Ed. 2d 727 (U.S. 1997); *U.S. v. Collins*, 921 F. Supp. 1028 (W.D.N.Y. 1996). *Fourth Circuit-U.S. v. Johnson*, 114 F.3d 476 (4<sup>th</sup> Cir. 1997), cert. denied, 118 S. Ct. 258, 139 L. Ed. 2d 185 (U.S. 1997). *Seventh Circuit-U.S. v. Black* 125 F.3d 454 (7<sup>th</sup> Cir. 1997), reh'g and

regulation under the Commerce Clause); and *US. v. Ganapowski*, 930 F. Supp. 1076 (M.D. Pa. 1996), (payment of child support is an economic activity because it is the payment of a debt owed by one person to another, commerce is not limited to voluntary transactions and the fact that billions of dollars in child support goes unpaid annually is evidence of the economic nature of the activity regulated by the CSRA).

However, in the *Faasse* decision issued September 25, 2000, the 5th Circuit Court of Appeals held unconstitutional the 1992 version of the CSRA (before, among other things, Congress added a provision on travel in interstate commerce with the intent to evade a support obligation).<sup>7</sup>

"The legislative history surrounding the CSRA reveals two principal concerns on the part of the law's drafters. First, Congress evidently wished to prevent noncustodial parents from fleeing across state lines to avoid paying their child support obligations. Second, Congress desired to recover those support payments that had not been made. The law that actually emerged from the 102nd Congress, however, reaches far beyond these stated goals. The slippage between the CSRA's text and its drafters' design ultimately render the law constitutionally infirm."<sup>8</sup>

The Court of Appeals reviewed Michigan's child support enforcement scheme in which civil not criminal enforcement is used. The Court noted that the CSRA imposed a penalty for violation of a Michigan child support order different from that imposed in Michigan, solely because the residence of the obligor is different from that of the child.

"In this case, the CSRA's encroachment on these traditional preserves of state authority does considerable damage to Michigan's finely wrought scheme for regulating child support. In light of the traditional notions of federalism and in the wake of the watershed case of *United States v. Lopez*, 514 US. 549, 131 L. Ed. 2d 626, 115 S. Ct. 1624 (1995), we cannot conclude that the Commerce Clause countenances such damage."<sup>9</sup>

After an extensive analysis of the Commerce Clause in light of *Lopez*, the Court concluded:

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<sup>6</sup> (*cont.*) suggestion for reh'g en banc denied, (Nov. 13, 1997) and petition for cert. filed (U.S. Feb. 2, 1998). *Eighth Circuit-U.S. v. Crawford*, 115 F.3d 1397, 147 A.L.R. Fed 681 (8<sup>th</sup> Cir. 1997), cert. denied, 118 S. Ct. 341, 139 L. Ed. 2d 264 (U.S. 1997). *Ninth Circuit-U.S. v. Mussari*, 95 F.3d 787 (9<sup>th</sup> Cir. 1996), cert. denied, 117 S. Ct. 1567, 137 L. Ed. 2d 712 (U.S. 1997) and cert. denied. *Eleventh Circuit-U.S. v. Williams*, 121 F.3d 615 (11<sup>th</sup> Cir. 1997), reh'g and suggestion for reh'g en banc denied, 132 F. 3d 48 (11<sup>th</sup> Cir. 1997) and cert. denied, 1998 WL 99748 (U.S. 1998); *U.S. v. McHugh*, 967 F. Supp. 1279 (N.D. Ga. 1997).

<sup>7</sup> 18 U.S.C.A. § 228(a)(2)(2000).

<sup>8</sup> 2000 U.S. App. Lexis 23708; 2000 Fed App. 0337P (6<sup>th</sup> Cir.) at p. 3 (footnote omitted).

<sup>9</sup> *Id* at 4-5.

"In *United States v. Morrison*, decided this term, the Supreme Court warned against overly elastic conceptions of the Commerce Clause that would give Congress authority over "family law and other areas of traditional state regulation since the aggregate effect of marriage, divorce, and childrearing on the national economy is undoubtedly significant." *Morrison*, 120 S. Ct. at 1753. Mindful of this admonition, we hold today that the provisions of the Child Support Recovery Act of 1992 contained in 18 U.S.C. § 228 (1994) exceed Congress's authority under the Constitution. In so doing, we observe that this ruling does not prevent Congress from assisting the States in obtaining interstate enforcement of their courts' orders. Congress can do so (and has done so) pursuant to the Full Faith and Credit Clause. See Full Faith and Credit for Child Support Orders Act, Pub. L. No. 103-383, 108 Stat. 4064 (1994) (codified as amended at § 28 U.S.C. 1738B (1994)). But Congress may not, under the guise of the Commerce Power, criminalize the failure to obey a state court order when the State itself has declined to do so. Such legislation does considerable violence to state regulation by fragmenting the state courts' ability to announce judgments and their ability to determine the sanction that will attend disobedience of those judgments. Absent a stronger connection with the commercial concerns that are central to the Commerce Clause, this intrusion disrupts the federal balance that the Framers envisioned and that we are obliged to enforce."<sup>10</sup>

## 2.2 EX POST FACTO CLAUSE

In *U.S. v. Wilson*, 210 F.3d 230 (4<sup>th</sup> Cir. 2000), a father was indicted shortly after the CSRA was amended by the Deadbeat Parents Punishment Act for willfully failing to pay more than \$10,000 in past due support obligations. He moved to dismiss the indictment, alleging that it violated the Ex Post Facto Clause of the U.S. Constitution.<sup>11</sup> Father entered a conditional guilty plea subject to his right to appeal the constitutional issue.

The 4th Circuit Court of Appeals rejected father's arguments, holding that the conduct made criminal by the DPPA was willful failure to pay the child support obligation, not the accrual of the debt. Here the prosecution established that father had willfully failed to pay the debt of over \$10,000 after the DPPA became effective on June 24, 1998.

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<sup>10</sup> *Id* at 9 (footnotes omitted).

<sup>11</sup> "The Ex Post Facto Clause, U.S. Const. Art. I, Sec. 9, cl. 3, prohibits the application of laws that retroactively alter the definition of a crime or retroactively increase the punishment for criminal acts. Accordingly, a statute will violate the Ex Post Facto Clause if it: (1) retroactively imposes a punishment for an act that was not punishable at the time the act was committed, or (2) retroactively imposes a greater punishment for an offense than was prescribed by the law in existence at the time the offense was committed" *Wilson* at p.4 (citations omitted).

In reaching this decision, the Court noted its holding was consistent with that of the 8<sup>th</sup> Circuit in *United States v. Russell*, 186 F.3d 883 (8<sup>th</sup> Cir. 1999) (holding that the timing of the accrual is irrelevant for purposes of the Ex Post Facto Clause). Citing *Crawford*, 115 F.3d at 1402-03 (8<sup>th</sup> Cir. 1997), cert. denied, 118 S. Ct. 341, 139 L. Ed. 2d 264 (US. 1997), the court also rejected father's second claim, that the DPPA retroactively increases punishment for failure to pay child support.<sup>12</sup>

See, also, e.g., *U.S. v. Giuffrida*, 66 F. Supp. 2d 811 (S.D. W.Va. 1999) (Applying DPPA to defendant who was convicted and sentenced after the amendment's effective date would not have retroactive effect, though defendant's conviction was based on pre-amendment conduct. DPPA did not effect a substantive change in legal consequences for defendant's conduct and the amendments did not alter statutory requirements on a court considering a restitution order under the Act).

For related holdings in other jurisdictions, see, e.g., *U.S. v. Hampshire*, 95 F.3d 999 (10<sup>th</sup> Cir. 1996), cert. denied, 117 S. Ct. 753, 136 L. Ed. 2d 690 (US. 1997), (finding the restitution order did not implicate the Ex Post Facto Clause because it did not inflict punishment upon him but rather sought to compensate his child for his failure to pay his past due support obligation); *U.S. v. Black*; 125 F.3d 454 (7<sup>th</sup> Cir. 1997), reh'g and suggestion for reh'g en banc denied (Nov. 13, 1997) (holding the CSRA, as applied to a father convicted of violating CSRA with respect to child support obligations for his two sons and ordered to pay restitution of \$ 111,800, did not violate the Ex Post Facto Clause; CSRA did not eliminate defenses available under the law in effect at the time the offense was committed and the district court considered the father's emancipation argument) and *Varneke v. U.S.*, 2000 U.S. Dist. Lexis 8488; 13 Fla.. Law W. Fed D 306 (Dist. Ct. M.D. Fl. 2000) (holding application of the restitution provision of DPPA did not violate the Ex Post Facto Clause).

### 2.3 OTHER CONSTITUTIONAL CLAIMS

Constitutional challenges to the CSRA also have been made under the Tenth Amendment.<sup>13</sup> Cases rejecting this challenge include *U.S. v. Johnson*, 114 F.3d 476 (4<sup>th</sup> Cir. 1997), cert. denied, 118 S. Ct. 258 (US. 1997) (holding that the CSRA did neither impermissibly infringe upon state sovereignty nor infringe on traditional areas of state sovereignty, criminal law and family law); *U.S. v. Bongiorno*, 106 F.3d 1027 (1<sup>st</sup> Cir. 1997), reh'g denied, 110 F.3d 132 (1<sup>st</sup> Cir. 1997), reh'g en banc denied, (Apr. 10, 1997)

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<sup>12</sup> The court also distinguished *United States v. Mussari*, 152 F.3d 1156 (9<sup>th</sup> Cir. 1998). (In *Mussari*, the Ninth Circuit held a prosecution under the CSRA to be unconstitutional on ex post facto grounds. There, the indictment charged the defendant with failing to pay support obligations beginning November 1, 1988, and ending January 11, 1995, despite the fact that the CSRA did not go into effect until October 25, 1992. The Ninth Circuit held that only those acts committed after the effective date of the CSRA could be considered in determining whether the defendant violated the CSRA.)

<sup>13</sup> “Under the Tenth Amendment of the United States Constitution ..., powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the

(holding the CSRA strengthened but didn't replace the state child support enforcement efforts and therefore did not violate the 10<sup>th</sup> Amendment); and *U.S. v. Sage*, 92 F. 3d 101 (2d Cir. 1996), cert. denied, 117 S. Ct. 784, 136 L. Ed. 2d 727 (US. 1997), (rejecting father's claim that the CSRA attempts to regulate domestic relations and finding the CSRA accepts the validity of state court orders and merely implements state policies when the parent and the child live in different states and the judgment has been willfully violated).

Courts have similarly rejected challenges to the CSRA based on equal protection,<sup>14</sup> comity,<sup>15</sup> or vagueness.<sup>16</sup>

## 2.4 CONCLUSION

Although the *Faasse* court considered the impact of the Supreme Court's recent decision in *Morrison* and is therefore troubling to proponents of CSRA, two points should be emphasized. First, in the 4<sup>th</sup> Circuit (Virginia) (and all other circuits except the the 5<sup>th</sup>), the constitutionality of the CSRA has been upheld. Second, even the 5<sup>th</sup> Circuit does not address the status of the federal criminal non-support act after it was amended by the Deadbeat Parents Payment Act of 1998. The other claims that the CSRA is unconstitutional have been similarly rejected in Virginia, the 4<sup>th</sup> Circuit, and by the overwhelming majority of courts which have considered the issues. Given the current state of the law, referral and prosecution under the Act is appropriate.

## 3 CONSTRUCTION OF STATUTE: ELEMENTS OF THE OFFENSE

### 3.1 WILLFULNESS

According to the Act's legislative history, "willfulness" is used in the same manner and has the same meaning as in federal criminal tax cases: it refers to the

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<sup>13</sup> (*cont.*) people. Two questions are relevant in deciding a Tenth Amendment challenge of a statute: (1) whether the regulation it embodies is within an enumerated power of Congress and (2) even if so, whether the means of regulation employed impermissibly infringe upon state sovereignty." Kemper, K., *Validity, Construction, and Application of Child Support Recovery Act of 1992*, 147 A.L.R. Fed 1 (2000) (footnotes omitted).

<sup>14</sup> *U.S. v. Nichols*, 928 F. Supp. 302 (S.D.N.Y. 1996), aff'd on other grounds, 113 F.3d 1230 (2d Cir. 1997).

<sup>15</sup> *Id.*; *U.S. v. Johnson*, 940 F. Supp. 911 (E.D. Va. 1996), aff'd on other grounds, 114 F.3d 476 (4<sup>th</sup> Cir. 1997), cert. denied, 118 S. Ct. 258 (CIS. 1997) (holding that the principles of federalism and comity did not warrant a ruling that the CSRA is unconstitutional); *U.S. v. Ganaposki*, 930 F. Supp. 1076 (M.D. Pa. 1996). See also, *U.S. v. Bongiorno*, 106 F.3d 1027 (1<sup>st</sup> Cir. 1997), reh'g denied, 110 F.3d 132 (1<sup>st</sup> Cir. 1997), reh'g en banc denied, (Apr. 10, 1997); *U.S. v. Collins*, 921 F. Supp. 1028 (W.D..N.Y. 1996); *U.S. v. Hopper*, 899 F. Supp. 389 (S.D. Ind. 1995); *U.S. v. Mussari*, 95 F.3d 787 (9<sup>th</sup> Cir. 1996), cert. denied, 117 S. Ct. 1567, 137 L. Ed. 2d 712 (U.S. 1997); *U.S. v. Sims*, 936 F. Supp. 817 (N.D. Okla. 1996).

<sup>16</sup> *U.S. v. Sage*, 906 F. Supp. 84 (D. Conn. 1995), judgment aff'd on other grounds, 92 F.3d 101 (2d Cir. 1996), cert. denied, 117 S. Ct. 784, 136 L. Ed. 2d 727 (U.S. 1997); *U.S. v. Nickols*, 928 F. Supp. 302 (S.D.N.Y. 1996), aff'd without significant discussion, 113 F.3d 1230 (2d Cir. 1997).

knowing and intentional violation of a known legal duty. See, e.g., *U.S. v. Harrison*, 188 F.3d 985 (8<sup>th</sup> Cir. 1999). Willfulness can mean having the money and refusing to use it for child support, or not having the money because one has failed to take advantage of the available means of obtaining it. Obligor may not evade their parental obligations by refusing to accept gainful employment or take other lawful steps to obtain necessary funds. *U.S. v. Ballek*, 170 F.3d 871 (9<sup>th</sup> Cir. 1999), cert. denied, 120 S. Ct. 318 (U.S. 1999). To prove willful violation, prosecutors must prove that the law imposed duty on defendant, that defendant knew of this duty, and that defendant voluntarily and intentionally violated that duty. *U.S. v. Brand*, 163 F.3d 1268 (11<sup>th</sup> Cir. 1998).

For cases finding willfulness, see, e.g., *U.S. v. Lamb*, 23 F. Supp. 2d 457 (D. Vt. 1998); *U.S. v. Black*, 125 F.3d 454 (7<sup>th</sup> Cir. 1997), reh'g and suggestion for reh'g en banc denied, (Nov. 13, 1997) (evidence derived from tax returns showing income from borrowed money and mother's testimony that obligor has said he was moving to Texas to avoid child support); *U.S. v. Crawford*, 115 F.3d 1397, 147 A.L.R. Fed 681 (8<sup>th</sup> Cir. 1997), cert. denied, 118 S. Ct. 341, 139 L. Ed. 2d 264 (U.S. 1997); *U.S. v. Williams*, 121 F.3d 615 (11<sup>th</sup> Cir. 1997), reh'g and suggestion for reh'g en banc denied, 132 F.3d 48 (11<sup>th</sup> Cir. 1997) and cert. denied, 1998 WL 99748 (U.S. 1998), (father's inability to pay was due to purposeful acts taken specifically to deprive him of his ability to pay his child support obligations; father made numerous threats to quit his job as a pathologist and to live like a monk to avoid support); and *U.S. v. Crawford*, 115 F.3d 1397, 147 A.L.R. Fed. 681 (8<sup>th</sup> Cir. 1997), cert. denied, 118 S. Ct. 341, 139 L. Ed. 2d 264 (U.S. 1997), (father knew he had children, knew he was required to pay support under a state order and earned over \$230,000 over the relevant period).

The 1998 law toughened the Act by making the presumption of "willful failure" explicit and by creating a felony offense. "The existence of a support obligation that was in effect for the time period charged in the indictment or information creates a rebuttable presumption that the obligor has the ability to pay the support obligation for that time period." (18 U.S.C.A. § 228 (b)). However in *U.S. v. Grigsby*, 85 F. Supp. 2d 100 (D.R.I. 2000), the court found the presumption section of the DPPA unconstitutional. This section forced a defendant to rebut the presumption on an element of the criminal offense that the government had to prove. "The Due Process Clause of the Fifth Amendment, as it applies in this case, requires that the prosecution bear the burden of proving every essential element of the crime charged beyond a reasonable doubt. Any evidentiary presumption that has the effect of relieving the government of that burden is, therefore, unconstitutional." *Id* at p.103. Although the court struck down the presumption section, it also found it was severable from the remainder of the Act. Father's motion to dismiss the indictment was denied.

The issue of the constitutionality of the presumption in the DPPA is an important one to follow and evaluate, and the matter is taken up on appeal or in other jurisdictions.

### 3.2 EXISTENCE OF THE SUPPORT OBLIGATION

Most courts have held that a valid, authenticated record of a state judicial or administrative order is sufficient to show the existence of a child support obligation under the CSRA. For example, *U.S. v. Johnson*, 114 F.3d 476 (4<sup>th</sup> Cir. 1997), cert. denied, 118 S. Ct. 258, 139 L. Ed. 2d 185 (US. 1997), "recognized that the government must prove, as an aspect of the element of a past due support obligation, the existence of a state judicial or administrative order creating the requisite support obligation, proof which may consist, as in the present case, of a properly authenticated record of the order. However, the court decided, the government need not go beyond that to prove beyond a reasonable doubt the facts necessarily found as predicates for the support order, including the critical fact of parentage. Nor, the court continued, may a defendant raise parentage as a defense and require its re-litigation. While the authenticity of the record might be challenged and the prosecution would fail if such a challenge succeeded, the court concluded that, as the district court ruled, CSRA does not require or permit re-litigation of the issue of parentage in prosecutions under CSRA."<sup>17</sup>

But compare *U.S. v. Brand*, 163 F.3d 1268 (11<sup>th</sup> Cir. 1998) (holding that a collateral attack on state court order which is subject of prosecution under CSRA is not permitted; Act merely requires existence of "past due support obligation" and does not require that such obligation be valid) with the recent ruling in *Kramer v. Kramer*, 200 US App. Lexis 22477 (September 5, 2000), the court reversed the defendant's conviction and remanded the case to the district court finding it reversible error to fail to afford the defendant an opportunity to collaterally attack a default judgment that formed the basis of the federal criminal charge.

"When we scrutinize the entire legal landscape surrounding the CSRA, it is clear that this criminal provision is only a small component in a nation-wide effort to deal with the need to enforce support orders. In addressing this problem, it is clear that, as Congress legislated, it was well aware of the long-standing rule, both in federal and state jurisprudence, that a default judgment in a civil case is void if there is no personal jurisdiction over the defendant and that a judgment may be attacked collaterally on that basis. Additionally, in addressing the problem of non-payment of support orders, the Commission emphasized the importance of jurisdiction and service of process in procuring support obligations. Although the problem of enforcement of child support orders has been the focus of both national and state legislative efforts for well over a decade, there is no indication that the Commission or Congress ever intended to abrogate the traditional rule that a default judgment procured without personal jurisdiction is

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<sup>17</sup> Kemper, K, *Validity, Construction, and Application of Child Support Recovery Act of 1992*, 147 A.L.R. Fed 1 (2000) (footnotes omitted). Also see, *U.S. v. Collins*, 921 F. Supp. 1028 (W.D. N.Y. 1996); and *U.S. v. Brand* 163 F.3d 1268 (11<sup>th</sup> Cir. 1998).

a nullity. More precisely, the prevailing uniform act at the time of the CSRA's passage, URESA, allowed the defendant to attack collaterally the earlier state order on jurisdictional grounds. The new order of mutually supportive federal and state legislation continued the same adherence to traditional jurisdictional standards. Notably, the new uniform act, UIFSA, also allowed a defendant to attack collaterally the earlier state order on the limited ground that it was procured without jurisdiction. The related civil statutes that Congress enacted in the wake of the Commission's report accept the general rule that a defendant may attack collaterally the underlying support order because it was procured without jurisdiction over his person. *See, e.g., 28 U.S.C. § 1738B. "Id at pp.28-29.*

### **3.3 PROOF THAT OBLIGATION IS "PAST DUE"**

Consistent with the provisions of state and federal law that each past due child support payment is a non-modifiable judgment by operation of law, the prosecutor is not required to show that an arrearage has been determined by a state court or administrative body. *See, U.S. v. Collins, 921 F. Supp. 1028 (W.B.N.Y. 1996); U.S. v. Black 125 F.3d 454 (7<sup>th</sup> Cir. 1997), reh'g and suggestion for reh'g en banc denied, (Nov. 13, 1997) and petition for cert. filed (U.S. Feb. 2, 1998), (rejecting the contention that before a parent may be convicted of violating CSRA a state court must have entered an arrearage order memorializing the failure to pay child support and the exact amount owed).*

### **3.4 CHILD RESIDING IN ANOTHER STATE**

The CSRA does not require that the obligor's move out of state be motivated by a willful attempt to avoid child support. The Act merely requires that the nonpaying parent live in a different state from that where his/her child resides. *See U.S. v. Black, 125 F.3d 454 (7<sup>th</sup> Cir. 1997), reh'g and suggestion for reh'g en banc denied, (Nov. 13, 1997).*

### **3.5 MISCELLANEOUS**

Although the CSRA is available to non-IV-D cases, there is no private right of Action. *Salahuddin v. Alaji, 2000 U.S. App. Lexis 28525 (Ct. App. 2<sup>nd</sup> Cir. 11/9/00).*

Conviction under the CSRA's misdemeanor section was not an "offense" falling under the federal Speedy Trial Act. *Carreras v. U.S., 89 F. Supp. 2d 182 (Dist. Ct. P.R. 2000).*

**4 CHILD SUPPORT RECOVERY ACT AS AMENDED BY THE DEADBEAT PARENTS PUNISHMENT ACT, 18 U.S.C. § 228 (2000)**

§ 228. Failure to pay legal child support obligations

(a) Offense. Any person who —

(1) willfully fails to pay a support obligation with respect to a child who resides in another State, if such obligation has remained unpaid for a period longer than 1 year, or is greater than \$ 5,000;

(2) travels in interstate or foreign commerce with the intent to evade a support obligation, if such obligation has remained unpaid for a period longer than 1 year, or is greater than \$ 5,000; or

(3) willfully fails to pay a support obligation with respect to a child who resides in another State, if such obligation has remained unpaid for a period longer than 2 years, or is greater than \$10,000;

shall be punished as provided in subsection (c).

(b) Presumption. The existence of a support obligation that was in effect for the time period charged in the indictment or information creates a rebuttable presumption that the obligor has the ability to pay the support obligation for that time period.

(c) Punishment. The punishment for an offense under this section is —

(1) in the case of a first offense under subsection (a)(1), a fine under this title, imprisonment for not more than 6 months, or both; and

(2) in the case of an offense under paragraph (2) or (3) of subsection (a), or a second or subsequent offense under subsection (a)(1), a fine under this title, imprisonment for not more than 2 years, or both.

(d) Mandatory restitution. Upon a conviction under this section, the court shall order restitution under section 3663A in an amount equal to the total unpaid support obligation as it exists at the time of sentencing.

(e) Venue. With respect to an offense under this section, an action may be inquired of and prosecuted in a district court of the United States for —

(1) the district in which the child who is the subject of the support obligation involved resided during a period during which a person described in subsection (a) (referred to in this subsection as an "obligor") failed to meet that support obligation;

(2) the district in which the obligor resided during a period described in paragraph (1); or

(3) any other district with jurisdiction otherwise provided for by law.

(f) Definitions. As used in this section —

(1) the term "Indian tribe" has the meaning given that term in section 102 of the Federally Recognized Indian Tribe List Act of 1994 (*25 U.S.C. 479a*);

(2) the term "State" includes any State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States; and

(3) the term "support obligation" means any amount determined under a court order or an order of an administrative process pursuant to the law of a State or of an Indian tribe to be due from a person for the support and maintenance of a child or of a child and the parent with whom the child is living.

# **DRAFT**

## **National Council of Child Support Directors (NCCSD) Resolution on Confidentiality of IRS Information**

On this 4th day of April 2002, the National Council of Child Support Directors in its continuing mission to strengthen and improve the nation's child support enforcement program resolves that:

1. Congress amend Section 6103 of 26 U.S.C. and Sections 653, 663, and 664 42 U.S.C. to expand the definition of which agents of the Child Support Enforcement Agency are entitled to receive IRS information for purposes related to child support enforcement, as authorized under Title IV, Part D, of the Social Security Act and to allow such information to be re-disclosed to authorized agents for limited purposes necessary for the administration of the Title IV-D program.

Congress define these entities as those described in adopted State Plans of Operation for the Child Support Enforcement Agency. The agents of the Child Support Enforcement Agency may be defined as: local child support enforcement agencies, courts, Friends of the Court, clerks of the court, district attorneys, Indian tribes or tribal organizations under cooperative agreement with the state, and entities under contract with state or local IV-D agencies to provide services related to child support enforcement. The entities entitled to view the information should also include the State Management Information Services agency and its agents providing computer support and development services to the Child Support Enforcement Agency or its agents, as such services are required to administer the automated data. The role of these agents of the State Child Support Enforcement Agency are clearly defined in the State Plan of Operation and/or in cooperative agreements or contracts between the State and its agents.

2. Congress amend Section 6103 of 26 U.S.C. to clarify that income tax refund offset payments posted to a child support case by a State Child Support Enforcement Agency or a state disbursement unit operating under the provisions of Title IV-D of the Social Security Act, or IRS income, return & refund information associated with a child support case or contained in a case file is not considered IRS information subject to the confidentiality provisions of the Internal Revenue Code, but rather is child support information subject to the confidentiality provisions of Title IV, Part D, of the Social Security Act, 42 USC Sec. 654(26); and 654A(d) and (f).
3. Congress amend the Social Security Act, 42 USC Sec. 651 et. seq., to require that all agents of the State Child Support Enforcement Agency be subject to the same confidentiality and privacy protection safeguards as required of the State agency.

Agents and their employees under contract to a State Child Support Enforcement Agency who receive and use IRS tax information from the State Child Support Enforcement Agency must, as a condition of receipt of the information, be made subject to the same safeguarding requirements

## **Page 2      NCCSD Resolution on Confidentiality of IRS Information**

and penalty provisions under Sec. 6103 as the State Child Support Enforcement Agency. The State Child Support Enforcement Agency shall be responsible for monitoring compliance by their agents with the safeguarding requirements of Sec. 6103, and shall be held accountable for compliance with those safeguards.

### **Background**

Some of the most powerful tools granted to State Child Support Enforcement Agencies involve access to IRS information for obtaining collections through the IRS tax refund offset program and for locating obligors and their assets. Authority to use IRS information for these purposes is extended by Internal Revenue Code Section 6103, which allows disclosure of IRS information to Federal, State, and local Child Support Enforcement Agencies for the purposes of establishing and collecting child support.

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 permits disclosure of certain items of IRS information to state and local Child Support Enforcement Agencies and their "agents" under contract with the agency. These items of information are:

- Address of the non-custodial parent;
- Social Security account number of that individual; and
- Amount of any federal income tax refund that has been offset.

The IRS is charged with protecting the very sensitive wage and tax information entrusted to its care. Accordingly, the IRS code is written to prohibit access to IRS data to any entity not specifically authorized. The IRS does not support disclosure to or utilization of this information by any entity other than the State agency since Section 6103 does not specifically cite private contractors, tribal organizations or any other "agents of the State" as a "Child Support Enforcement Agency" providing IV-D services as delineated in their State Plan of Operations. The IRS interprets "federal, state, or local" agency as a traditional governmental IV-D agency. HHS and States maintain that Title IV-D permits States to continue operating through other agents of the State such as local Friends of the Court, clerks of the court, district attorneys, tribes or tribal organizations, and contractors with the state or local IV-D agencies. Accordingly, since the inception of the program, States have used a wide variety of governmental and non-governmental entities to provide child support enforcement services and consistently construed the definition of Child Support Enforcement Agency broadly.

State IV-D agencies are required under the Social Security Act to have safeguards to ensure the integrity of the use of personal data, to ensure access to, and use of, the data only to the extent necessary to carry out the purposes of the child support enforcement program, including specifying the data that may be used for the particular program purposes and the personnel permitted access to the data (42 USC Sec. 654A(d)). Systems controls to ensure strict adherence to these rules, routine monitoring of access to and use of automated data systems, and training of IV-D personnel and its contractors is also required, as well as penalties and other appropriate safeguards.

## **Page 3      NCCSD Resolution on Confidentiality of IRS Information**

In addition, State Child Support Enforcement Agencies operating under Title IV-D must accurately record all payments, including payments resulting from IRS income tax refund offsets, that are applied to the support obligations of noncustodial parents in order to maintain an accurate balance owed to determine enforcement actions required to be initiated under Title IV-D. Additionally, the Personal Responsibility and Work Opportunity Act of 1996 requires States to operate a State Disbursement Unit (SDU) for the collection and distribution of child support payments. The state IV-D agency, or the SDU, maintains the only official child support payment record on cases required to make payments through the Title IV-D agency and/or the SDU. IRS safeguard security reviews have cited that State Child Support Enforcement Agencies may not release income tax refund offset payment information to third parties, including custodial parents, prosecutors, courts, hearing officers, TANF or other eligibility determination agencies, or any other parties. The IRS contends that the income tax refund offset payment information posted to a child support payment record still maintains its identity as "IRS information." This interpretation severely affects State Child Support Enforcement Agencies' ability to efficiently and effectively operate Title IV-D programs.

These IRS policies significantly impair the IV-D program's ability to effectively carry out major functions including location, collection and distribution of support, and promoting family self-sufficiency. In limiting the ways in which Child Support Enforcement Agencies can use IRS data, the IRS may be, in effect, rendering the data less effective than it could be to serve the agreed purpose. For example, an obligor's reported taxable income can be of enormous benefit to a court in establishing or enforcing a child support obligation, especially in situations in which the obligor does not appear in court or refuses to cooperate with discovery. Although courts are permitted to attribute income to an obligor in setting a child support obligation, this must be based on some information about the individual's earning capacity. Where this information is readily available to the courts, through the IV-D agency, the judicial process can be streamlined and the court's authority to set and enforce obligations is greatly enhanced.

The IRS is apparently aware of the benefit of tax data to the IV-D program, and of the need to make the data more accessible. A new temporary regulation (26 CFR 301.6103(p)(2)(B)-1T Disclosure of Returns and Return Information by Other Agencies) permits entities authorized to receive data from the IRS, such as IV-D agencies, to obtain the data through other entities authorized to receive the data, rather than from the IRS directly. For example, a state IV-D agency may access federal tax information through the state tax agency, which already receives IRS data for tax purposes, rather than be required to access the information directly from the IRS. This is a bold move forward that indicates the IRS' willingness to make tax data more accessible for child support purposes. The proposed NCCSD resolution will provide state Child Support Enforcement Agencies the means to use the IRS data more effectively.

## **Appendix C: List of Project Partners and Their Representatives**

**DIVISION OF CHILD SUPPORT ENFORCEMENT**  
**DCSE Law Enforcement Tools Grant: Participants**

Alexandria Police Dept.

Lt. Brett Hoover  
Tel. # 703-838-4738  
Fax # 703-838-4604

Virginia State Police

Sgt. Angelo Woodhouse ([awood1139@aol.com](mailto:awood1139@aol.com))  
Tel. # 804-323-2011  
Fax # 804-323-2021

Bedford Sheriff's Office

Sgt. Kevin Adams ([kadams12@co.bedford.va.us](mailto:kadams12@co.bedford.va.us))  
Tel. # 540-586-7689  
Fax # 540-587-5418 (-9100)

Lt. John Gephart, Jr. ([jgephart@vsp.state.va.us](mailto:jgephart@vsp.state.va.us))

Tel. # 804-323-2010  
Fax # 804-323-2021

Chesapeake CSE Office

Diane Jordan, Gerald Berry  
Tel. # 757-548-7904 ([DJordan@Policy-Studies.com](mailto:DJordan@Policy-Studies.com))  
Fax # 757-548-1291

Dave Johnson (also, Marty Chapman)

Tel. # 804-323-2660  
Fax # 804-323-2021

Chesapeake Sheriff's Office

Sgt. Jim O'Sullivan ([josullivan@sheriff.city.chesapeake.va.us](mailto:josullivan@sheriff.city.chesapeake.va.us))  
Tel. # 757-382-8386 (also, Robt. Seward, Vernon White)  
Fax # 757-382-8943

Division of CSE – Central Office

Todd Areson ([txa900@dcse.dss.state.va.us](mailto:txa900@dcse.dss.state.va.us))  
Tel. # 804-692-1463

Terry Cole, Automated System (APECS)

Tel. # 804-692-1537 ([tec900@dcse.dss.state.va.us](mailto:tec900@dcse.dss.state.va.us))  
Fax # 804-786-0546

Chesterfield Sheriff's Office

Lt. Don Newton  
Tel. # 804-751-4416  
Fax # 804-748-5808  
Cell # 804-543-2370

Joseph Crane, Asst. Dir., *Proj. Dir.*

Tel. # 804-692-1401 ([jsc900@dcse.dss.state.va.us](mailto:jsc900@dcse.dss.state.va.us))  
Fax # 804-692-1405 or 692-2410

Sgt. Emmett Smith ([SmithEm@co.chesterfield.va.us](mailto:SmithEm@co.chesterfield.va.us)) Sharon Vaughan, Customer Services

Tel. # 804-717-6670  
Fax # 804-748-5808

Tel. # 804-692-1428 ([ssv900@dcse.dss.state.va.us](mailto:ssv900@dcse.dss.state.va.us))  
Fax # 804-692-1438

Lynchburg CSE Office

Chuck Ingerson ([jri983@dcse.dss.state.va.us](mailto:jri983@dcse.dss.state.va.us))  
Tel. # 434-386-2003  
Fax # 434-385-0860

Virginia Beach CSE Office

Ellis Malabad ([eem982@dcse.dss.state.va.us](mailto:eem982@dcse.dss.state.va.us))  
Tel. # 757-363-5243  
Fax # 757-552-1951

Office of Attorney General

Craig Burshem ([cmb981@dcse.dss.state.va.us](mailto:cmb981@dcse.dss.state.va.us))  
Tel. # 804-786-4362  
Fax # 804-371-8718

Virginia Beach Police Dept.

Sgt. Sam Thomson (also, Alan Ball,  
Tel. # 757-427-8133 Doug Williams ??)  
Fax # 757-427-4746

([sthomson@vbgov.com](mailto:sthomson@vbgov.com))

**Appendix D: Memorandum of Understanding (MOU) with Project Partners**

*(Sample: Virginia Beach Police Department)*

**COMMONWEALTH OF VIRGINIA  
MEMORANDUM OF UNDERSTANDING**

Between

**Virginia Department of Social Services (VDSS)**

Office of General Services

730 East Broad Street

Richmond, VA 23219-1849

and

**Virginia Beach Police Department**

Municipal Center, Building 11

Virginia Beach, VA 23456-9064

**PURPOSE:** The purpose of this agreement is to provide an award to the Virginia Beach Police Department (hereafter, “the Police Department”) to explore, develop, and suggest effective strategies to locate non-custodial parents and their assets, through interagency cooperation with the VDSS Division of Child Support Enforcement.

**PERIOD OF AGREEMENT:** This agreement shall be effective from May 1, 2002 and continue through May 31, 2003.

**SCOPE OF WORK and DELIVERABLES:**

- I. Selection of On-Line Investigative Service: The Virginia Division of Child Support Enforcement (DCSE) will provide the Virginia Beach Police Department with access to a major on-line investigative service (i.e., Accurint) and a one-time cash award to cover staff time, for the period of the agreement. The award may be used to defray regular or overtime expenses for personnel investigating selected DCSE cases on-line in, for example, Accurint, VCIN, or other non-DCSE automated systems. The choice of how to apply the award in order to accomplish the purpose of this agreement lies with the Police Department and its principal manager on this project.
  
- II. Investigating On-Line: Using non-Child Support Enforcement, on-line investigative and existing agency resources, the Police Department will work selected DCSE cases to locate non-custodial parents and their assets. These cases may be selected in conjunction with the Virginia Beach Juvenile and Domestic Relations court and/or the VDSS Division of Child Support Enforcement. The Virginia Beach Police Department will concur with the selected cases before working them. Its concurrence will be determined primarily by the resources it has available for this collaborative casework.

- III. Data Confidentiality and Security: Under this grant, the Division of Child Support Enforcement (DCSE) will share selected data (e.g., name, address, date of birth, Social Security number, employment, addresses of relatives/associates, and identifying characteristics such as height, weight, gender, race, hair and eye color) with the law enforcement partners as authorized users, for the authorized purpose of working designated DCSE cases jointly, by helping to locate non-custodial parents and their assets. Such collaboration will enable DCSE to establish paternity or a child support order; modify or enforce an existing child support obligation; or, otherwise, collect support from non-custodial parents on the selected DCSE case. Data sharing shall be by diskette or hard-copy summary. The Virginia Beach Police Department shall not have on-line access to the automated child support enforcement system under this grant.

All data that DCSE shares will remain confidential; only authorized persons shall be granted access to them, strictly for the authorized uses cited above (see also Code of Virginia, § 63.1-249 and § 63.1-274.6). In conjunction with DCSE, the Virginia Beach Police Department shall develop written procedures on how the confidentiality of the data shall be maintained. At a minimum, these procedures shall address what information may be added to the law enforcement partner's automated systems, how these data will be stored, what personnel will have access to them, and additional safeguards for handling cases with a Family Violence indicator. At least annually, DCSE shall conduct a data audit of the law enforcement partners participating in the grant, including the Virginia Beach Police Department. Data audits are a means to ensure that shared data have only been disclosed to and used by authorized users, for purposes authorized by federal regulations and Virginia statute.

- IV. Sharing Ideas: DCSE will call periodic meetings of the partners in this federal grant: Alexandria Police Department, Bedford Sheriff's Office, Chesapeake Sheriff's Office, Chesterfield Sheriff's Office, Virginia Beach Police Department, Virginia State Police, Chesapeake Child Support District Office, Lynchburg Child Support District Office, Virginia Beach Child Support District Office, the Office of the Attorney General, and one or more Division of Child Support Enforcement senior executives. The meetings are to foster discussion about the on-line investigative practices and procedures, their relative usefulness, and their adoption or application by other law enforcement-child support partners. DCSE will also seek suggestions about promising, related investigative practices and volunteer agencies to test them. These one-day sessions will provide a forum to review and critique ongoing grant-related initiatives and build on that knowledge collaboratively.
- V. Summary Report: Each grant partner shall be responsible for providing the DCSE project manager with a succinct summary that documents the investigative practices tested, their relative success, and the likelihood of successful

V. (cont.)

application by other law enforcement–child support partnerships. The summary will also include a section on suggestions for the future. Using the title, “What was learned? Suggestions for Law Enforcement-Child Support Partnerships,” this broad-ranging section may include everything from specific, successful on-line (e.g., Autotrack, Accurint, VCIN) investigative techniques to suggestions for developing and improving the working relationship among state and local law enforcement agencies, their respective state associations, and the Virginia DCSE. One section of this summary shall address issues raised either by the data confidentiality requirements, including any resources spent complying, or by specific questions that arose when handling cases with a Family Violence indicator. The format and other details of the Summary Report will be a topic for discussion at a meeting of grant partners in Fall 2002.

VI. Staffing: The Police Department shall appoint a principal manager/liaison, who shall be the Warrant and Fugitive Squad supervisor. Sgt. Sam Thomson currently holds this position and shall serve as the principal manager/liaison for the Police Department. He has full discretion, within the allotted budget and within Police Department guidelines and regulations, to accomplish the Scope of Work as defined in Sections I – V above.

VII. VDSS Responsibilities: VDSS shall be responsible for:

- A. Serving as a key resource to the law enforcement partners for grant-related activities, as they affect DCSE and enforcement of child support in Virginia;
- B. Convening periodic meetings of grant partners and others, fostering an atmosphere of experimentation and idea-sharing during the demonstration;
- C. Compiling and printing a Summary Report that includes an overview of the demonstration, the work and learning of each partner, and suggestions for future partnerships to improve on-line strategies and practices to locate non-custodial parents and their assets.

VDSS Project Director: Joseph S. Crane

Project Manager: Todd W. Areson

**COMPENSATION AND METHOD OF PAYMENT:** VDSS agrees to pay for Virginia Beach Police Department access to Accurint, an on-line locating service, through May 2003. In addition, VDSS will provide an additional total amount of \$10,000 in a lump-sum payment, to defray personnel costs, to be transmitted upon receipt of a signed Memorandum.

**TERMS AND CONDITIONS:**

Authorities: Nothing in this Agreement shall be construed as authority for either party to make commitments that will bind the other party beyond the Scope of Work contained herein.

Availability of Funds: It is understood and agreed between the parties herein that VDSS shall be bound hereunder only to the extent of the funds available for the purpose of this agreement.

Subcontracts: No portion of the work shall be subcontracted without prior written consent of VDSS. In the event that the Police Department desires to subcontract some part of the work specified herein, the Police Department shall furnish VDSS the names, qualifications and experience of their proposed subcontractor. The Police Department shall, however, remain fully liable and responsible for the work done by its subcontractor(s) and shall ensure compliance with all requirements of the Agreement.

Ownership of Materials and Documents: Ownership of all data, material, reports, studies, or other documents prepared by the Police Department in the performance of its obligations under this contract shall remain the property of VDSS and shall not be copyrighted by the Police Department. The Police Department shall not use, willingly allow, or cause to have used such materials for any purpose other than performance of its obligations under this contract, without the prior written consent of VDSS.

Modification of Agreement: VDSS may, upon mutual agreement with the Police Department, issue written modifications to this agreement, including Scope of Work, Budget, and Compensation. Any and all modifications to this agreement shall be in writing and signed by the parties, or their official designees, below.

**EXECUTION:** IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed, intending to be bound thereby.

**VIRGINIA BEACH POLICE  
DEPARTMENT**

**VIRGINIA DEPARTMENT OF  
SOCIAL SERVICES**

By: \_\_\_\_\_  
A. M. Jacocks, Jr.

By: \_\_\_\_\_  
Maurice A. Jones

Title: Chief

Title: Commissioner

Date: \_\_\_\_\_

Date: \_\_\_\_\_

## **Appendix E: Accurint Search and Pricing List**

[See attached 2-page PDF version, Accurint Pricing Schedule.]

## **Appendix F: Evaluation Plan and Interview Questions**

## **EVALUATION PLAN**

### **SHARED PARTNERSHIP WITH LAW ENFORCEMENT AGENCIES: INCREASING EFFECTIVENESS LOCATING NCPs AND ASSETS WITH ON-LINE TOOLS**

**03-10-03**

**Submitted to:**

**Todd Areson, Ph.D.  
Division of Child Support Enforcement  
Department of Social Services  
Commonwealth of Virginia**

**Submitted by:**

**Center for the Support of Families, Inc.  
1107 Spring Street, 2-C  
Silver Spring, MD 20910**

## Major Activities

### 1. Develop Data Collection Plan --- March 1 to March 14, 2003

- **Develop Interview Instruments**
- **Develop Interview Schedule including specific target information for each interview group**

During this phase of the project, the Center for the Support of Families staff will develop interview instruments and finalize a schedule for interviews of key Virginia officials involved in the project. While the interview instruments will need to be designed to accommodate the kind of interviewee, the level of involvement of each participant, and the specific information needed from each interviewee; we will make every attempt to ensure that consistent, valid information is obtained.

The final schedule will be presented to the project officer for approval and for his use in contacting the various participants to alert them of the interview plan.

### 2. Conduct Data Collection----- March 17 to April 15, 2003

- **Schedule and conduct interviews to determine the process, number of actions and results, effective practices, implementation issues (policy and operational), lessons learned, and suggestions for future work between DCSE and local police and sheriff departments**

#### **Bedford Sheriff's Office and Lynchburg DCSE**

**Lt. Kevin Adams**

**Chuck Ingerson**

#### **Chesapeake Sheriff's Office and DCSE**

**Sgt. Jim O'Sullivan**

**Diane Jordan and Gerald Berry**

#### **VA Beach Police Department and DCSE**

**Sgts. Thomson and Chip Condon**

**Ellis Malabad**

#### **DCSE Central Office Staff**

**Joseph Crane**

**Terry Cole**

**Todd Areson**

**Sharon Vaughn**

- **Schedule and conduct interviews to determine feature of VCIN applicable to CSE cases and possible future work between DCSE and law enforcement.**

**Virginia State Police**  
**Sgt. Angelo Woodhouse**  
**Lt. John Gephart, Jr.**  
**Dave Johnson**

**Alexandria Police Department**  
**Lt. Brett Hoover**

**Chesapeake Sheriff's Office**  
**Sgt. Jim O'Sullivan**

**DCSE Central Office Staff**  
**Joe Crane**  
**Terry Cole**  
**Todd Areson**  
**Sharon Vaughn**

**3. Analyze Data from Steps 2 and 3-----April 1 to April 25**

During this phase of the project, the Center for the Support of Families staff will analyze the information obtained in the prior phases and make preliminary findings on the impact of the project and the implications for future action by the Division and its partners in the law enforcement community.

**4. Submit Preliminary Findings-----April 25**

**5. Conduct Focus Group for  
 Consensus/Input/Comments -----May 10**

This focus group will be used to present findings to major project participants and obtain their feedback. A major goal will be to obtain consensus on the impact of the project and potential future activities.

**6. Finalize Evaluation Report-----May 10 to May 20**

**7. Brief Virginia Staff-----May 20**

## INTERVIEW QUESTIONS

**Note – Ask inverse questions if interviewing CSE staff (i.e., Describe your interaction with the local law enforcement office)**

### **Process**

Describe what you have been doing on this grant.

- start date
- interaction with CSE office

### **Effectiveness**

What practices were MOST effective?

What could be improved? How?

Do you have any Accurint usage /performance reports?

Do you have any data on:

- number of searches undertaken on Accurint (or AutoTrack)
- number of hits
- number of cases sent to you by CSE office within a given time period?
- number of processes served?
- number of warrants/capiases executed?

### **Overall Assessment**

How did this project benefit you and your office?

Are there any implementation issues that you would change if you had to do it all over again – lessons learned? Anything that worked particularly well?

How pleased are you with:

- the overall collaborative arrangement?
- Accurint (or AutoTrack)?
- interactions with the CSE office?
- resources provided to you on the project?

Is this a partnership that you would be interested in continuing?

Under same or new conditions? (If so, what new conditions?)

### **Moving Forward**

What would you like to see happen next (in terms of collaboration between law enforcement and child support enforcement)?

Since this project, how do you view the role of law enforcement in Virginia's child support enforcement program?

How do you think law enforcement and CSE can/will work together in the future (if at all)?

[Explore role of VCIN (Virginia Criminal Information Network) with Virginia State Police.]

## **Appendix G: List of Interviewees for Evaluation**

## LIST OF INTERVIEWEES FOR EVALUATION

### Alexandria Police Department

Lt. Brett Hoover, Project Supervisor

### Chesapeake CSE / Chesapeake Sheriff's Office

Gerald Berry, CSE District Manager [office run by Policy Studies Inc.]

Diane Jordan, CSE Regional Vice President

Sgt. Jim O'Sullivan, Supervisor, Sheriff's Office CSE Unit

### Lynchburg CSE / Bedford County Sheriff's Office

Lt. Kevin Adams, Project Supervisor, Sheriff's Office

Chuck Ingerson, CSE District Manager

Capt. Michael Miller, Project Manager, Sheriff's Office

Robin Sundquist-Smith, Administrator, Sheriff's Office

### Richmond CSE

Jim Farrell, Enforcement Supervisor

### Virginia Beach CSE / Virginia Beach Police Department

Sgt. Charles Condon, 1<sup>st</sup> Project Supervisor

Sgt. Samuel A. Thomson, 2<sup>nd</sup> Project Supervisor

Det. Ike Campbell, Project Investigator

Chris Hale, CSE District Manager

Ellis Malabad, CSE Enforcement Supervisor

Beverly Pohlmann, CSE Enforcement Specialist

### DCSE:

Todd Areson, Project Manager, Central Office

Sharon Vaughan, Project Staff, Central Office

Craig Burshem, Sr. Assistant Attorney General

Joseph Crane, Assistant Director, Central Office

