

A Decade of Progress: Best Practices in Support Recovery

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Introduction

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- The child support program began in 1975 in the United States as a way to recoup welfare benefits paid to impoverished single parent families
- In 1996, the United States Congress enacted welfare reform laws emphasizing automation and technology to help children receive more financial support from their parents
- Today, the best practices in support recovery balance aggressive, automatic collection methods with family centered policies

Child Support Core Mission

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- Locating absent parents
- Establishing parentage
- Establishing and enforcing fair support orders
- Increasing health care coverage for children
- Removing barriers to payment
 - Employment services
 - Healthy co-parenting relationships
 - Responsible fatherhood
 - Reducing family violence

Program Caseload Fiscal Year 2011

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U.S. Child Support Program	In Millions:	Percentage
Total Program Participants	15.8	
Parents Currently Receiving Financial Assistance	2.0	13%
Former Assistance Cases	6.8	43%
Parents Who Have Never Received Assistance	7.0	44%

Performance Measurements

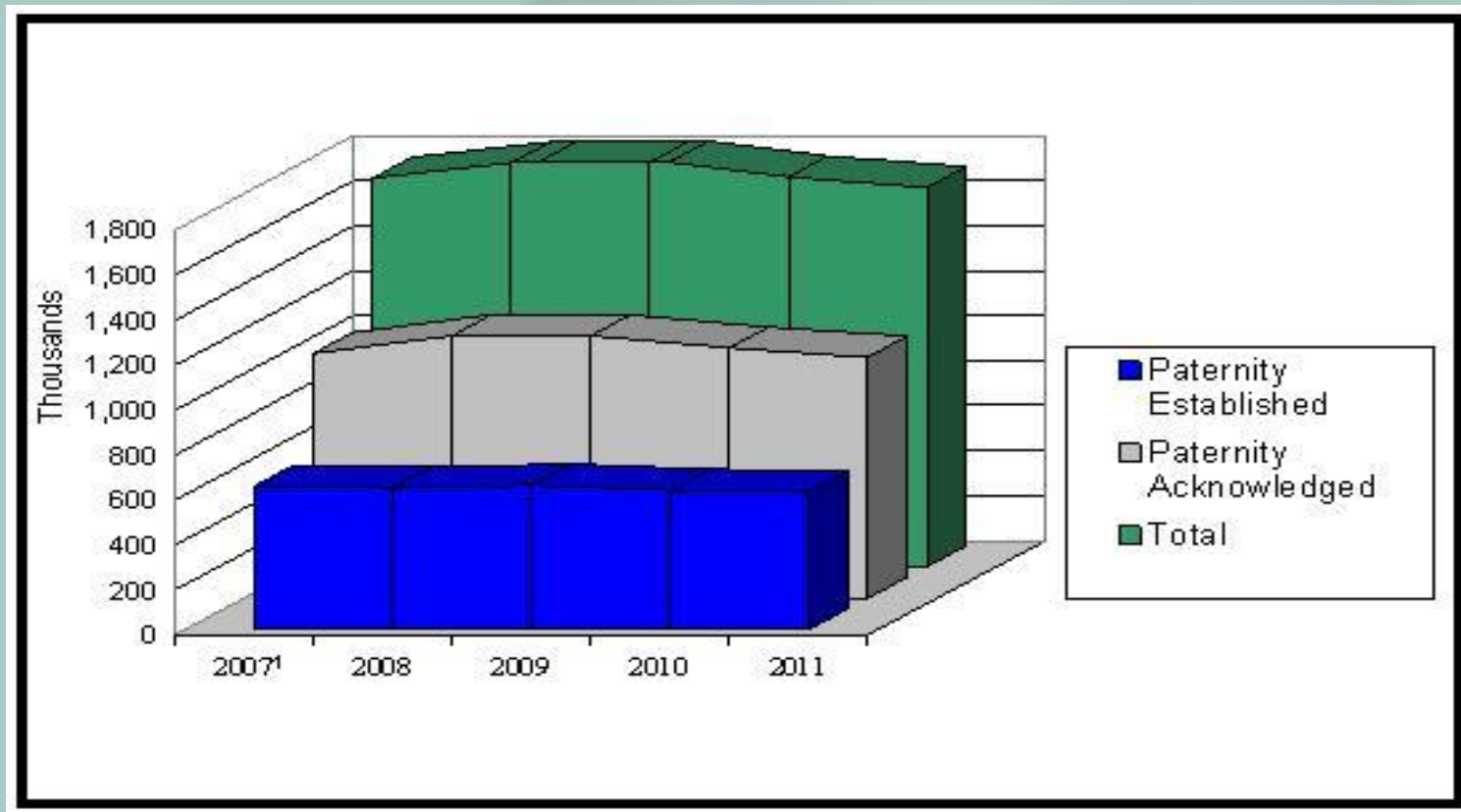
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- Percentage of caseload with support orders
- Percentage of caseload with paternity established
- Cases with payment on current support
- Cases with payment on past due support
- Overall cost effectiveness
 - Collection \$\$ compared to cost \$\$

Parentage

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- Marital presumption of parentage
- Judicial and administrative orders
 - Genetic testing
- Voluntary acknowledgement of parentage
 - Simple process for unmarried parents to legally establish parentage
 - Normally done in the hospital after the child is born



Five Year Review

Paternity Establishments in the USA

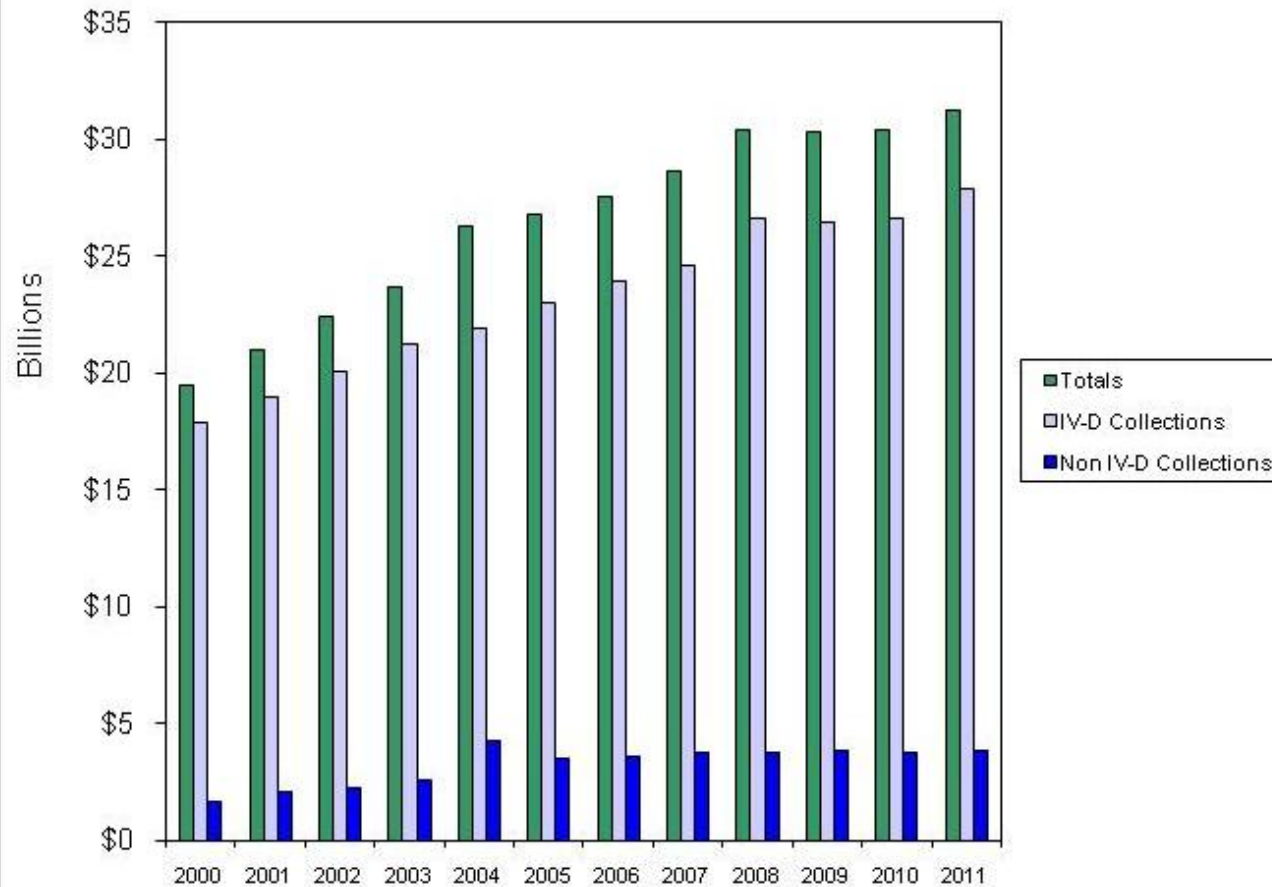
Data from the OCSE FY 2011 Preliminary Report

Total Support Collections 2007-2011

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	2007	2008	2009	2010	2011
	In Billions of Dollars				
Total	\$28.6	\$30.4	\$30.3	\$30.4	\$31.2
IV-D Collections	\$24.9	\$26.6	\$26.4	\$26.6	\$27.3
Non IV-D Collections	\$3.8	\$3.8	\$3.9	\$3.8	\$3.9

Data from the OCSE FY 2011 Preliminary Report



Total Distributed Child Support Collections 2011

Data from the OCSE FY 2011 Preliminary Report

Automation

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- Income withholding
- State Disbursement Units
- Real and personal property liens
- Intercepting Federal and State tax refunds
- Reporting arrearages to credit bureaus
- Suspending licenses: driving, professional, recreational (hunting, fishing) & passports
- Financial institution data matches

Family Centered Policies

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- Balancing automation with family centered practices
- Urban Institute
 - Story Behind the Numbers
- PAID: Project to Avoid Increased Delinquencies



Family Centered Policies

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- Emphasis on “right-sized” support orders
- Expedited review and modification of orders
- Working with individual parents on appropriate repayment plans
- Early intervention strategies
- Forgiveness of State debt
- Parenting time

Fundamental Fairness

Legal Changes in the United States Following *Turner v. Rogers*

Fundamental Fairness

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- In the United States, court proceedings must be “fundamentally fair”
 - Due Process Clause of the 14th Amendment
 - Flexible and fact dependent



Contempt

- “Contempt of court” is a procedure used against a party for interfering with the orderly administration of justice
- Civil contempt
 - Coercive
 - Many states appoint counsel, some do not
- Criminal contempt
 - Punishment
 - Right to counsel

Turner v. Rogers

- In *Turner v. Rogers*, 131 S.Ct. 2507 (2011), the United States Supreme Court examined the use of civil contempt and incarceration for non-payment of child support
- After a brief hearing without an attorney, the trial court found Michael Turner in contempt
 - Sentenced to 1 year in jail
 - Turner could be released sooner if he paid a purge of the total amount of overdue support, almost \$6,000

Turner v. Rogers

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- Turner remained incarcerated for the entire year
- The Supreme Court of South Carolina affirmed
 - Turner did not have a constitutional right to counsel for the civil contempt proceeding

Turner v. Rogers

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- The United States Supreme Court vacated the lower court decisions
- Turner's constitutional right to due process had been violated because the court procedures were not fundamental fair

Turner v. Rogers

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- If a party faces jail, the court procedures for contempt must assure:
 - **A fundamentally fair proceeding**
 - **An accurate determination on whether the defendant has the income or assets to comply with the support order**
 - 1) Adequate notice
 - 2) Financial forms
 - 3) Opportunity to respond to questions
 - 4) Express finding on ability to pay

OCSE's Guidance

Post-Turner

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- The United States Office of Child Support Enforcement (OCSE) issued an Action Transmittal (AT) in June 2012
 - 1 year after the *Turner v. Rogers* decision
- <http://www.acf.hhs.gov/programs/css/resource/turner-v-rogers-guidance>

OCSE's Guidance *Post-Turner*

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- In the AT, OCSE explained:
 - State programs must ensure that parents receive due process protections
 - Constitutional principles in *Turner* must be carried out
 - Child support case outcomes should be just, and comport with due process
 - Enforcement proceedings should be cost-effective and in the best interest of children

OCSE's Guidance *Post-Turner*

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- OCSE also recognized that:
 - States have latitude in determining procedural safeguards
 - When there is a IV-D attorney participating in the civil contempt proceeding, even the procedural safeguards identified in *Turner* may not be sufficient

OCSE's Guidance *Post-Turner*

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- OCSE urged State programs to:
 - Consult their attorneys on their practices
 - Consider whether their practices are fundamentally fair
 - Implement additional procedural safeguards if there is a risk of wrongful incarceration

OCSE's Guidance *Post-Turner*

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- Dividing line between criminal and civil contempt is parent's ability to pay support
- Parent “must hold the key to the jailhouse door” when
 - Court sets a purge payment
 - Requires participation in employment or substance abuse programs

OCSE's Guidance

Post-Turner

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- The IV-D agency should:
 - Screen all cases
 - Provide notice to the parent on “Ability to Pay”
 - Ensure that parent has an opportunity to be heard
 - Ask the court to make express findings
 - Consider alternatives to incarceration
- “Civil contempt that leads to incarceration is not, nor should it be, standard or routine child support practice.”

Contact Information

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