

PROCEDURAL JUSTICE-INFORMED
ALTERNATIVES TO CONTEMPT

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A New Response to Child Support Noncompliance

INTRODUCING THE PROCEDURAL JUSTICE-INFORMED ALTERNATIVES TO CONTEMPT PROJECT

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When a child does not live with both parents, the parent who does not live with the child, called the noncustodial parent, may be responsible for a share of the costs associated with raising the child. Child support agencies help families obtain this support by locating parents, establishing paternity, setting financial obligations, and enforcing those obligations.

These child support programs have a broad reach: In 2017, they served 15 million children, or roughly one in five children in the United States, and collected over \$32 billion.¹ The federal Office of Child Support Enforcement (OCSE) helps states, territories, and tribes develop, manage, and operate these programs. The primary goal of child support programs is to improve children's well-being by emphasizing the roles of both parents in providing for them.

Some families receive child support from noncustodial parents regularly. For other families, payments may be sporadic, partial, or not received at all. Nationally, among all families owed child support payments, including those not receiving agency services, 26 percent received a partial amount and 31 percent received no payment at all during the year.² Parents who do not make their child support payments can be subject to enforcement measures, including civil contempt actions requiring them to

attend court hearings. Parents may face arrest if they fail to appear in court or fail to pay their share.

This study brief describes an alternative to the civil contempt process intended to increase engagement and consistent and reliable payments among non-compliant noncustodial parents. The Procedural Justice-Informed Alternatives to Contempt (PJAC) demonstration project was developed by OCSE to adapt and apply principles of procedural justice to child support compliance efforts. Procedural justice is also referred to as procedural fairness. It is “the idea that how individuals regard the justice system is tied more to the perceived fairness of the *process* and how they were treated rather than to the perceived fairness of the *outcome*.”³ This approach has produced notable increases in compliance and long-term rule-following behavior in criminal justice and judicial settings.⁴

¹ Office of Child Support Enforcement (2018).

² Grall (2018). Note that this 2015 statistic is based on all families owed child support, not just those receiving services from the child support system.

³ Gold (2013).

⁴ Berman and Gold (2012).



The underlying premise of the PJAC demonstration is that similar outcomes could be achieved in child support settings. Five grantees across the country are operating this demonstration, emphasizing respect, transparency, and helpfulness in child support programs' delivery of services to parents who are at the point of being referred to the contempt process for nonpayment. The goal of the PJAC demonstration is to increase reliable child support payments by improving both parents' perceptions of fairness in the child support program.

MDRC is leading a random assignment evaluation of the model's effectiveness in collaboration with research partners at MEF Associates and the Center for Court Innovation. Oversight of the evaluation is provided by the Georgia Division of Child Support Services. The study will examine whether using principles of procedural justice is more effective than the current costly, court-driven contempt process.

THE CURRENT ENFORCEMENT PROCESS

Child support programs have several methods to obtain payment, such as issuing income withholding orders, intercepting tax refunds, placing liens on assets, or seizing bank accounts. If these tools are ineffective, programs can consider referring nonpaying parents to the legal system for civil or criminal contempt. Although there is variation across programs, there are several steps in the contempt process that are consistent. The first step involves locating parents who are behind on child support and serving them with a "show cause" order that requires them to attend court. Given challenges in locating such parents, programs do not succeed in serving the order with many of them. For those who are served, the next step is to appear in court. Yet many nonpaying parents do not attend the scheduled hearing and thus never reach this second step. Noncustodial parents who do appear in court may experience one or more of several outcomes. For example, the parent may make a one-time "purge" payment; the parent may be given a period of time to make additional payments with a follow-up hearing scheduled

to confirm compliance; the parent may receive a referral to services to help him or her find a job. For all parents, regardless of whether they appear in court, continued noncompliance could lead to a warrant for their arrest, possibly resulting in jail time.

The contempt process can be time-consuming, and it is difficult to measure the extent to which it leads to increased, consistent child support payments.

THE PROMISE OF PROCEDURAL JUSTICE

Perceptions of the justice system are often related to specific experiences individuals have with officials in that system, such as police, prosecutors, and judges. Research in this area suggests that people in court settings who have been treated according to procedural justice principles are more likely to be satisfied with the outcome, whether positive or negative, and to comply with it.⁵ As Figure 1 shows, procedural justice suggests that a person's perception of a system or process depends on five key elements: respect, individuals' understanding of the process, the helpfulness of those in authority, neutrality on the part of decision-makers, and individuals' ability to have a voice in the process.⁶

Similar to other contexts in which procedural justice has proven beneficial, child support enforcement is a complicated legal process that can have long-term consequences for families. Child support enforcement actions are often automated, legalistic, and impersonal, rather than inviting input and engagement by one or both parents. For example, when an authority notifies a noncustodial parent of an impending enforcement action, the parent may not be given an opportunity to explain the reasons for nonpayment or given a *voice* to tell his or her side of the story. The process may also suggest a lack of *respect* for parents, because the agency may appear to be focused on collecting debts without assuming that parents want to support their children. Child support programs may also struggle to convey their *neutrality*; they are often put in the middle of emotionally fraught family relationships, and a noncustodial parent may feel that the program is working

⁵ Berman and Gold (2012).

⁶ Swaner et al. (2018).

FIGURE 1
The Five Key Elements of Procedural Justice



solely on behalf of the custodial parent. Due to limited resources and time, child support programs may not always be sufficiently *helpful* to parents who may need additional questions answered or assistance with paperwork, for example. Finally, the complex content of the notices delivered to both parents may inhibit their *understanding* of the process. The legal forms they receive do not typically spell out the steps they can take to remedy the situation or the consequences of not doing so. As a result, parents may feel disempowered and not know how they can participate in the process of establishing and meeting child support obligations.

By incorporating procedural justice principles into child support enforcement efforts through the PJAC model, child support programs have the potential to reframe their work with families as a respectful, problem-solving endeavor focused on how to engage with the entire family and increase the likelihood that children receive financial and emotional support.

THE PJAC DEMONSTRATION

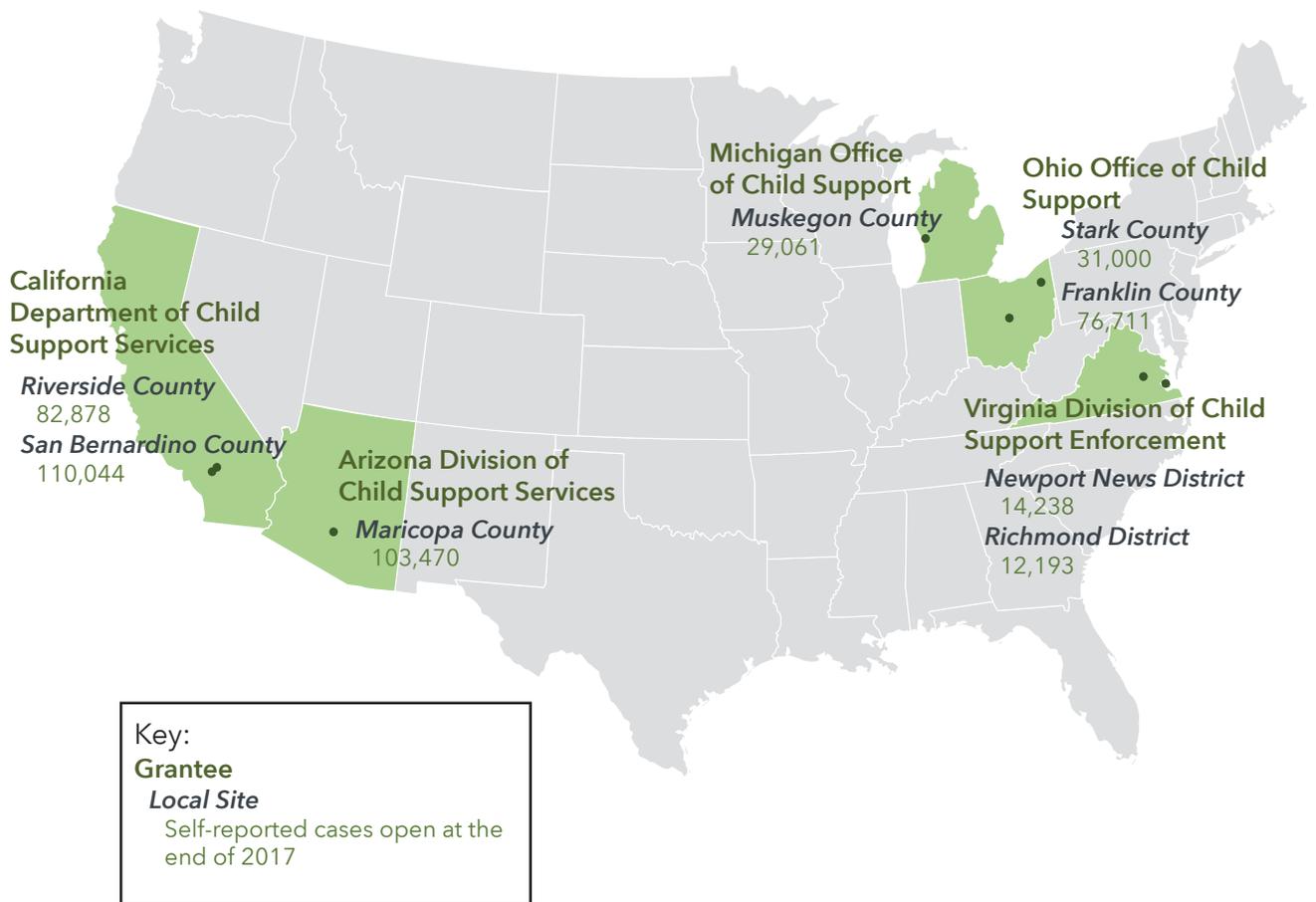
In 2016, OCSE awarded PJAC grants to five child support programs through a competitive process.

These programs are the Arizona Division of Child Support Services, the California Department of Child Support Services, the Michigan Office of Child Support, the Ohio Office of Child Support, and the Virginia Division of Child Support Enforcement. Figure 2 shows the site locations and total caseload sizes at each. In Ohio, Franklin and Stark counties implement PJAC independently, whereas Virginia and California each operate as one site with two locations.

Each participating child support program identified a PJAC director who oversees the implementation of services, as well as three to five caseworkers whose time is dedicated to the PJAC demonstration, most with previous experience as enforcement officers. PJAC caseworkers have been trained on a variety of core topics, including procedural justice, domestic violence, and dispute resolution techniques.

In addition to developing the PJAC model, OCSE provides technical assistance and implementation support through biweekly case management calls with each agency, biweekly program administration calls with agency directors, facilitation of monthly peer learning community calls, and review and feedback on program implementation and study enrollment.

FIGURE 2
PJAC Sites and Caseloads



The PJAC Demonstration Study

MDRC is leading the PJAC demonstration study, which uses a random assignment research design. The target population for the study is noncustodial parents who are able, but unwilling, to pay their child support obligation. Noncustodial parents who are about to enter the contempt process are assigned at random to either a program group offered PJAC services or to a control group not eligible to receive PJAC services; instead, the control group will proceed with the standard contempt process. MDRC will follow both groups over time to assess the project's effects on service receipt, enforcement and contempt actions, judicial system involvement, experiences with and perceptions of the child support program and courts, and child support pay-

ments and debt. The evaluation will also gather information to assess whether offering PJAC services is more cost effective than traditional contempt practices. Each child support program is required to enroll 2,300 noncustodial parents over three years — 1,500 assigned to the program group and 800 assigned to the control group.⁷

Child support programs participating in the PJAC demonstration use a web-based management information system (MIS) developed specifically for the project. The MIS serves as a tool for PJAC managers and caseworkers to manage their caseloads, and for OCSE to monitor implementation and identify technical assistance needs. The MIS also gathers data for the evaluation by quantifying parents' receipt of PJAC services.

⁷ Franklin and Stark Counties in Ohio are each required to enroll 2,300 individuals. Virginia and California are each required to enroll 2,300 across their local sites.

The evaluation has three components:

- ▶ **Implementation study.** The implementation study will describe, for each of the six sites, how the PJAC project was implemented, including the services provided and differences between the PJAC approach and the usual child support enforcement business process.
- ▶ **Impact study.** The impact study will measure the effects of PJAC on key outcomes, including service receipt, enforcement and contempt actions, judicial system involvement, and child support payments and debt.
- ▶ **Benefit-cost study.** The benefit-cost study will measure the monetary cost of the PJAC project relative to the cost of usual child support enforcement contempt practices. These net costs will then be weighed against the monetary benefits generated by PJAC, which may include reduced court and contempt processing costs and increased child support payments.

The PJAC Model

The PJAC demonstration model offers an alternative to a process that may feel impersonal, difficult to understand, and lacking in human engagement. At the point when a noncustodial parent is on the verge of referral to the contempt process, a trained PJAC caseworker begins working jointly with both the noncustodial parent and the custodial parent. This relationship between the caseworker and both parents is infused with principles of procedural justice and is the common thread that runs through all aspects of service delivery.

The PJAC treatment is meant to be a short-term service aimed at increasing compliance and engagement. If noncustodial parents assigned to the program group are unwilling to engage with the child support agency and participate in PJAC services, their treatment may include eventually being referred to the regular contempt process. Figure 3 illustrates the four components of the PJAC model.

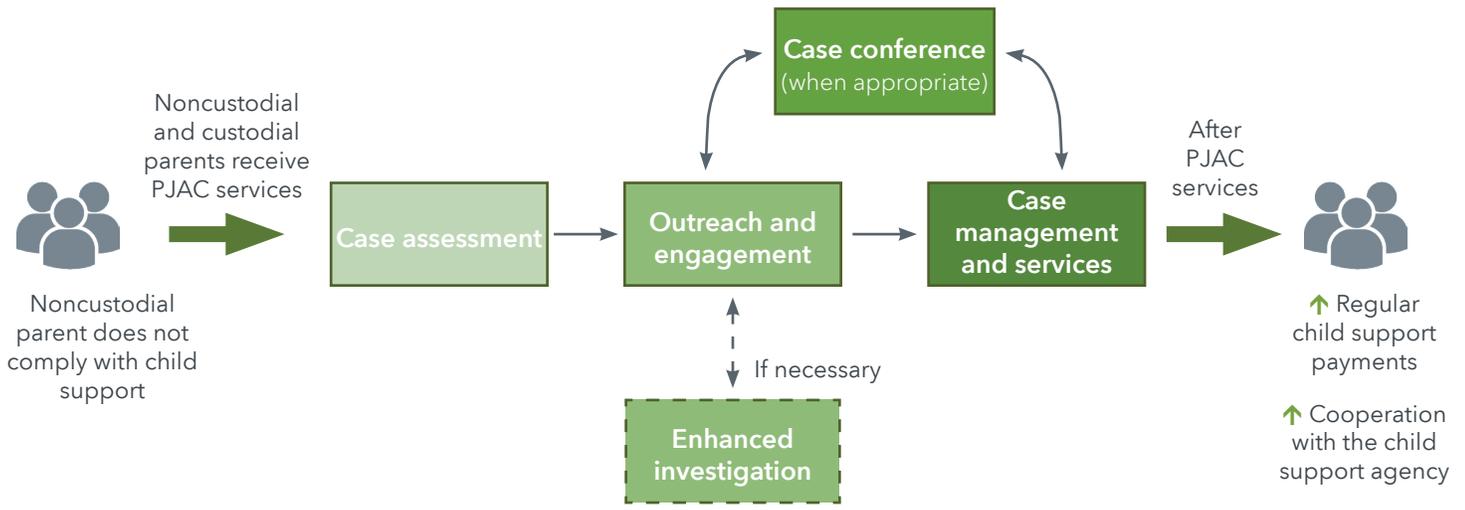
1. **Case assessment.** The initial phase of PJAC involves a thorough review of the case, including payment history and previous enforcement actions, as well as a review of avail-

able data, such as employment and criminal justice records and parents' activity on social media, to help caseworkers gather relevant details such as location or employment information. Through the procedural justice lens, the case assessment focuses on both parents, examining areas where one or both may have perceived the previous process to be biased. This review allows the caseworker to gain an understanding of the parents' history with the child support program and learn of circumstances such as unemployment or existing domestic violence indicators that will be important factors in working effectively with them. This background knowledge is intended to enhance the caseworker's ability to communicate with the parents and tailor services to their situation. After documenting key information about where either parent may have misunderstandings about the case, outreach to the parents begins.

2. **Outreach and engagement.** The PJAC caseworker conducts initial outreach to both custodial and noncustodial parents using language informed by procedural justice (see Figure 1). The first contact attempt is made to the custodial parent. In these preliminary conversations the PJAC caseworker strives to gain an understanding of the parent's concerns, relationship with the noncustodial parent (including safety and parenting issues), and insight into reasons for the noncustodial parent's noncompliance. The caseworker then contacts the noncustodial parent to discuss reasons for nonpayment, clear up misunderstandings, and identify any previously undisclosed employment or disability. Exchanges with both parents during this phase focus on further explaining services available to the noncustodial parent under PJAC and may include development of a case action plan. Outreach methods could include phone calls, texts, social media messages, and letters.

If a parent cannot be located at any point in the PJAC process, the caseworker will attempt **enhanced investigation**, or more in-depth efforts to find the noncustodial parent (such as contacts with extended family, use of

FIGURE 3
The PJAC Model



fee-based location services, and social media searches). A noncustodial parent may be referred to the standard contempt process at any point if it is determined that the parent is evading contact attempts.

3. **Case conference.** If both parents are located, they are invited to participate in a case conference, when appropriate; these conferences may be repeated as necessary, depending on the needs of the case. A case conference is intended to identify obstacles to regular payment and begin a conversation about potential solutions with all parties in direct communication, building on knowledge already gained during case assessment and outreach. Case conferences may be held in person, or with one or both parents on the phone or on a video call. Alternatively, if one or both parents are not amenable to participating in a joint conference or if scheduling proves difficult, the caseworker may conduct a “shuttle” case conference, in which the caseworker facilitates negotiations by going back and forth between parents.
4. **Case management and services.** Based on information gathered through the case assessment and engagement with the parents, the caseworker works with the parents to develop a case action plan. The case action plan

includes agreed-upon next steps to address barriers and determine a path to reliable payment. Next steps could include tailored services such as parenting time agreements, modifications of child support orders to better fit current economic circumstances, compromise on child support debt, and referrals to partners that provide employment training or parenting support services. The case management and services phase of the PJAC model focuses on delivering the services agreed to in the case action plan and monitoring the noncustodial parent’s progress toward the goal of making regular child support payments. Case action plans may be adjusted over time as necessary.

Box 1 describes the way the process may play out in a PJAC caseworker’s daily routine.

LOOKING FORWARD

The evaluation team will release evaluation findings and implementation lessons for practitioners through two sets of briefs. The first set, the study briefs described below, will focus on results from the evaluation:

- **Implementation lessons (2020).** This brief will describe the PJAC services provided at

BOX 1

What Does a PJAC Caseworker Do Each Day?

Many child support caseworkers now dedicated to the PJAC demonstration previously worked as enforcement officers, handling large caseloads, tracking automated enforcement actions, responding to system alerts, and reacting to complaints from parents. PJAC has meant a change to more proactive and comprehensive case management. One PJAC caseworker shared her approach to structuring her workdays, providing an example of how the PJAC model is implemented in practice:

Lucy begins each day by checking for new alerts and responding to voicemail messages from custodial or noncustodial parents. To optimize time, Lucy then alternates days spent completing case assessments and days conducting outreach to parents. On a Monday, for example, she might spend the bulk of her time working on assessments for new cases, reviewing the history of the noncustodial parents' interactions with the child support program and assessing their strengths or challenges in terms of potential for making regular payments. Then on Tuesday, she will spend much of the day making phone calls or sending messages to both noncustodial and custodial parents about their cases — for example, sending text reminders to make payments. For most of her case conferences, Lucy must communicate between parties by phone in shuttle fashion, rather than through a joint conversation. As the parents and caseworker reach agreement, Lucy types up the case action plan outlining the terms of the agreement and mails it to both parents.

Some activities occur on an as-needed basis. For example, on some days Lucy goes to the courthouse to attend contempt hearings for noncustodial parents who were nonresponsive to PJAC services and therefore referred back to the standard contempt process. Lucy also reviews her entire caseload every one or two weeks to check for new information and confirm that payments are still being made. If Lucy's review uncovers any new issues, she will call the parents to revisit the case action plan and address whatever problems have arisen.

Compared with her previous work as an enforcement officer, Lucy finds that PJAC allows her more time to devote to each noncustodial parent and to provide additional resources. For example, though she was able to refer parents to resources in the community in her former role, she now knows of more supportive-service partners where she can regularly send referrals. Much of her time as a regular enforcement caseworker was spent addressing crises, usually in response to calls from custodial parents, rather than listening to both parents and seeking solutions.

each site and how they were implemented. To accomplish this, the evaluation team will conduct interviews with child support staff members and study participants (both custodial and noncustodial parents), conduct a staff survey, and observe program activities. Data from the PJAC MIS will also provide detailed information regarding the services parents receive. This information will provide important context for understanding

any effects of PJAC services found in the impact analysis.

- **Service contrast (2021).** Another study brief will explore the differences between the PJAC services (the program group experience) and the business-as-usual child support enforcement contempt practices (the control group experience). This assessment of service contrast will rely on both the implementation data sources described above and child sup-



port administrative data regarding delivery of child support services and enforcement actions among both program and control group members.

- ▶ **Impact analysis (2022).** This brief will describe the impact of the PJAC model on key outcomes, including child support payments and debt and judicial system involvement. Outcomes will be measured using child support administrative data and, in some instances, jail records.
- ▶ **Benefit-cost analysis (2022).** This brief will define the monetary cost of the PJAC interventions relative to the cost of usual child support enforcement contempt practices. The analysis will compare the staffing and service costs of the PJAC model for those in the program group with the costs of the standard contempt process for those in the control group. A variety of data sources will contribute to the calculations. Some sources, such as child support agency expenditure reports, will show costs incurred. Others will describe staff effort and activities: For example, a time use study will show the proportion of enforcement caseworker time spent on different activities. Costs will then be weighed against any monetary benefits generated by PJAC services, which may include reduced court and contempt processing costs and increased child support payments.

A second set of briefs, the project briefs, will be released two times per year through 2022. These shorter briefs will share lessons learned in practice about service delivery and will aim to guide child support professionals who are interested in learning more about specific elements of PJAC services. Topics will include the following, with additional briefs to be determined over the course of the project:

- ▶ PJAC staff training
- ▶ Engagement and outreach strategies

- ▶ Characteristics of noncustodial parents
- ▶ Engagement with custodial parents
- ▶ The case conference process
- ▶ Profiles of families

CONCLUSION

The PJAC demonstration provides an opportunity to build rigorous evidence about an innovative approach to engaging with parents who are noncompliant with their child support obligations and who may also have avoided engagement with the child support program and possibly with their children. The goal of the PJAC model is to increase reliable, regular child support payments. The evaluation will provide evidence on the implementation, impacts, and cost-effectiveness of the PJAC model that may guide child support policy in years to come. ◀

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