

March 2002

CHILD SUPPORT ENFORCEMENT

Clear Guidance Would Help Ensure Proper Access to Information and Use of Wage Withholding by Private Firms



GAO

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Abbreviations

CSE	child support enforcement
FPLS	Federal Parent Locator Service
HHS	Department of Health and Human Services
NDNH	National Directory of New Hires
OCSE	Office of Child Support Enforcement
OMB	Office of Management and Budget
PRWORA	Personal Responsibility and Work Opportunity Reconciliation Act
TANF	Temporary Assistance for Needy Families



United States General Accounting Office
Washington, DC 20548

March 26, 2002

The Honorable Lloyd Doggett
House of Representatives

Dear Mr. Doggett:

Collection of child support by private firms is a growing business, largely because of the billions of dollars owed in child support to millions of custodial parents. To help increase child support collections, Congress has considered proposals to expand private firms' access to information and tools for locating noncustodial parents and enforcing payment of child support. However, little is known about these firms.

To assist Congress in its future deliberations about the role of private child support collection firms, you asked us to study the practices of private child support collection firms and state child support enforcement (CSE) agencies.¹ Specifically, our objectives were to (1) obtain information on the amount of child support owed and how it has changed in recent years; (2) identify the number and kinds of entities that can collect child support and compare the characteristics of private child support collection firms with those of state agencies; (3) compare the private firms' and state agencies' collection experiences, information sources, and collection practices; (4) compare the enforcement tools available to private firms and state agencies; and (5) determine whether state agencies provide information requested by private firms.

In fulfilling these diverse objectives, we pursued a multifaceted methodology. We obtained information from the Office of Child Support Enforcement (OCSE) in the Department of Health and Human Services (HHS) that allowed us to compute the amount of child support owed. The OCSE data was from its database of child support information reported by state agencies. To identify the number and kinds of entities that can collect child support, we reviewed relevant laws and regulations; talked to officials in OCSE, state agencies, private child support firms and other

¹State CSE agencies are established in all 50 states, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands, by Title IV-D of the Social Security Act as amended. We will refer to these as state agencies

child support experts; and searched the Internet, relevant trade association membership lists, and telephone directories. To determine the characteristics, collection experiences, information sources, collection practices, and enforcement tools of private firms and state agencies, we visited four private firms and two state agencies and talked with managers, reviewed written operating policies and procedures, observed operating practices, and examined a purposefully selected sample of case files. We also conducted structured telephone interviews with responsible officials of all the state agencies and 24 of the 38 private firms that we had identified as regularly collecting child support. In addition, we used information obtained through the site visits and telephone interviews to determine whether state agencies provide information requested by private firms.

We compared the caseload characteristics, collection experiences, collection practices, and information sources of private firms with those of state agencies. However, because of the vast differences in the characteristics of their cases, we did not compare the average time that it took for private firms and state agencies to collect child support. Further, we could not determine whether greater access to information and enforcement tools would increase the amounts of child support that private firms collect or improve the effectiveness of their efforts, because there are many factors involved in child support cases and these factors can vary with each case. We performed our work between April 2001 and January 2002 in accordance with generally accepted government auditing standards. Appendix II contains details about our scope and methodology.

Results in Brief

At the end of fiscal year 2000, data from OCSE indicated that the amount of child support owed but unpaid was at least \$89 billion. This represents an accumulated amount uncollected since the program began in 1975 and a 96 percent increase over the amount owed at the end of fiscal year 1996. Although total collections increased by almost 50 percent during this 4-year period and the total number of cases for which a collection was made increased by 83 percent, collections as a percentage of the total amount of child support due decreased from 21 to 17 percent. The OCSE data, however, do not represent all child support owed because (1) it includes only amounts associated with cases that state agencies handled and (2) it does not include unpaid child support associated with closed cases. Increases in the amount owed were in part due to a 9 percent increase in the number of child support orders established. Additionally, because the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) required state agencies to establish paternities for

90 percent of their cases and simplified the process for review and adjustment of support orders, the amount of child support owed could further increase.

Thousands of private and public sector entities, including private firms and state agencies, can collect child support, and the private firms and state agencies that we examined differed significantly.² The 38 private firms that we identified as regularly collecting child support are based in 16 states. The 24 private firms that participated in our structured telephone interviews estimated that they handled, in total, 30,000 child support cases. These private firms differed from one another in many respects, such as years in business and number of cases handled. Parents applying to one private firm said that they sought the services of private firms primarily because state agencies failed to get results. The private firms' caseloads differed significantly from those of the state agencies, primarily because private firms exercise discretion when accepting cases. For example, the median number of cases handled by private firms was 350 while the median number for state agencies was more than 200,000, and the average amount of child support owed for the private cases was about seven times greater than that owed for the state agency cases. Furthermore, all 24 private firms charged all of their client's fees that averaged 29 percent of the child support collected, and half of the private firms charged additional fees. State agencies provided services free to all clients who receive cash assistance, Medicaid coverage, or foster care payments. For other clients, 18 state agencies either did not charge an application fee or charged less than \$1, and the other 36 agencies charged an application fee ranging from \$5 to \$25, charged varying amounts for services, or charged both application and service fees.

Private firms and state agencies reported similar collection experiences, but their information sources and collection practices differed. Both private firms and state agencies reported collections from about 60 percent of their cases. Twenty-two of the 24 private firms that we surveyed reported that they relied on private information vendors—commercial firms that sell information such as addresses, telephone numbers, and social security numbers—as their primary information

²In the private sector, any of thousands of attorneys and collection agencies can collect child support. The focus of this report is on collection agencies that regularly collect child support as a business venture. We refer to them as "private firms." In the public sector, in addition to the state agencies, about 100 other government agencies and thousands of court-appointed guardians can collect child support.

source, whereas about one-third of the state agencies reported using this source. State agencies, on the other hand, reported relying heavily on state and federal automated databases to locate noncustodial parents and their assets. Additionally, the private firms that we visited and the state agencies that we contacted reported calling noncustodial parents to collect child support. However, only the private firms called third parties, such as relatives and neighbors of noncustodial parents, to persuade them to prevail upon the noncustodial parent to make payments.

Generally, the same enforcement tools are available to private firms and state agencies, but the processes that they follow in using these tools often differ. Various laws govern access to these tools, but private firms must generally petition the courts for authority to use them. Some state agencies have administrative authority to use some tools without petitioning the courts. Private firms, unlike state agencies, do not have direct access to federal tax refunds. In our structured interviews, officials from both private firms and state agencies reported that the tool they most often used was wage withholding. OCSE considers wage withholding to be the most effective enforcement tool. However, the form and related guidance developed by OCSE for use in wage withholding make it difficult for employers to determine whether it is proper to begin withholding wages. We found instances in which employees' wages were inappropriately withheld as a result. We are recommending that the form and related guidance be changed.

Most state agencies provided nonconfidential information requested by private firms but did not provide confidential information. Thirty-six of the 54 state agencies provided payment history information, which nearly all private firms asked for to verify the amount of child support owed. However, most of the state agencies—49 of the 54—had not provided information on noncustodial parents' location or assets from the Federal Parent Locator Service (FPLS). About one-third of the private firm officials with whom we talked said that they had requested such information, and 1 of the 4 firms we visited stated that they wanted greater access to the FPLS. Private firm officials who told us that they did not request FPLS information stated that state agencies would not provide it, better information was available elsewhere, and that the information was not timely. State agencies' practices regarding sharing FPLS data with private firms were affected by differences in interpretation of whether federal law permits or requires state agencies to share FPLS data. We are recommending that the secretary of HHS direct the commissioner of OCSE to determine whether private firms have access to FPLS data and to develop a policy that explicitly addresses access by private firms.

The Department of Health and Human Services provided written comments on a draft of this report. In commenting on the draft, the department generally agreed with our findings and discussed the actions that it plans to take to address our recommendations. The department's comments are discussed in this report and are reprinted in appendix III.

Background

The Child Support Enforcement (CSE) program, established in 1975 under Title IV-D of the Social Security Act, established federal standards for state CSE programs to ensure that parents provide support to their children.³ Services provided through the CSE program include locating absent noncustodial parents, establishing paternity and support orders, and collecting and distributing child support payments. All 50 states, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands operate CSE programs. However, because family law, which governs many aspects of child support, is generally under the purview of the state rather than the federal government, each of the 54 CSE programs is governed by some unique state laws and procedures.

Although the states administer the child support program, the federal government plays a major role through OCSE within the Administration for Children and Families of the Department of Health and Human Services. This includes funding most of the program, establishing enforcement policies and guidance, providing technical assistance, and overseeing and monitoring state programs. As part of its oversight role, OCSE reviews state plans for each of the state programs. These plans describe the nature and scope of a state's child support program and specify the procedures and policies adopted by each state to ensure that its program complies with all federal requirements. OCSE's approval is a condition for federal funding of state programs.

PRWORA⁴ strengthened the CSE program by requiring, among other things, that states (1) establish an integrated, automated network linking all states to information about the location and assets of parents, (2) increase the percentage of fathers identified, and (3) implement more enforcement techniques for collection of child support from noncustodial parents.

³42 U.S.C. §651-669b.

⁴Pub L. No. 104-193 (Aug. 22, 1996).

Additionally, PRWORA changed federal welfare policy, eliminating eligible families' legal entitlement to cash assistance and creating Temporary Assistance for Needy Families (TANF). TANF emphasizes the importance of work and personal responsibility rather than dependence on government benefits. After 2 years of assistance, or sooner if the state determines that the recipient is ready, TANF adults are generally required to be engaged in work or work-related activities. A lifetime limit of 60 months (or less, at the state's option) is placed on adults' receipt of cash benefits. Families receiving TANF benefits or benefits under the federally assisted foster care program or the Medicaid program automatically receive CSE services free of charge. Under PRWORA, TANF recipients generally must assign their rights to child support payments to the state.

The CSE program provides services to anyone requesting them, regardless of income. In fiscal year 2000, the program managed more than 17 million cases, 35 percent of which included clients who never received assistance. Faced with growing caseloads in an environment of resource constraints and increasing federal requirements, some states contracted with private firms to provide some or all services. Generally, these firms are authorized to operate as agents of the state agencies and have access to most information usually available only to state agencies. Their employees are subject to the same penalties or other actions as state agency employees if they misuse the information.

Unlike firms under contract with state agencies, other private firms are involved in collecting child support as independent business ventures. These firms contract with custodial parents and concentrate on locating absent noncustodial parents and collecting child support payments. These firms are the focus of this report.

Available Data Indicate That the Amount of Child Support Owed Has Increased in Recent Years

Data show that the amount of child support that was legally owed but unpaid almost doubled during the 4-year period from fiscal year 1996 to fiscal year 2000, even with increases in total collections. However, the amount owed is understated as a result of data limitations. The increase in the amount of child support owed could reflect, in part, a rise in the number of support orders established or adjustments in the amount owed on previously established support orders.

Data Show Increase in Child Support Owed and Total Collected

Available data show that during the 4-year period from fiscal year 1996 to 2000, the amount of child support that was legally owed but unpaid grew from at least \$45 billion in fiscal year 1996 to at least \$89 billion in fiscal year 2000 (see table 1). This amount represents all support uncollected since the program was established in 1975. Although total state agency collections increased during this period from \$12 billion to \$18 billion and the total number of cases for which a collection was made increased by 83 percent, collections have been less than the amount that became due during the period. Also, collections, as a percentage of the amount due, dropped. In fiscal year 1996, collections represented 21 percent of the total amount due but dropped to 17 percent of the total due in fiscal year 2000. As a result, the amount owed at the end of the period is greater than the amount owed at the beginning of the period.

Table 1: Child Support Owed and Collected In Fiscal Years (FY) 1996 and 2000

Dollars in billions				
	FY 1996	FY 2000	Difference	Percentage change
Amount unpaid from prior years ^a	\$40	\$84	\$44	110
Plus support coming due during the year	17	23	6	35
Total due during the year	57	107	50	88
Less amount collected	12	18	6	50
Amount unpaid at end of the year	\$45	\$89	\$43	96

^aIncludes unpaid child support and interest added by some states.

Source: Office of Child Support Enforcement.

OCSE Data Do Not Represent All Child Support Owed

OCSE data do not represent the total amount of child support owed because the data reflect only amounts associated with cases that are handled by, and distributed through, the state agencies. The data do not include cases in which child support is paid voluntarily through agreements between parents or in which custodial parents hire private attorneys or collection firms without involving the state agency. In addition, OCSE data do not include unpaid child support associated with closed cases. State agencies can close cases under certain circumstances after a support order has been established, even when child support is still owed. For example, state agencies can close a case if the noncustodial parent's location is unknown and the state has made diligent efforts to

locate the absent parent; or if the noncustodial parent cannot pay support⁵ because the parent has been institutionalized in a psychiatric facility, is incarcerated with no chance for parole, or has a medically-verified total and permanent disability with no evidence of support potential.

Increases in the Number of, or Adjustments to, Child Support Orders Could Affect the Amount of Child Support Owed

The increases in the amount of child support owed in spite of increased collections could be due, in part, to the rise in the number of support orders established or the rise in adjustments of individual support orders.⁶ From fiscal year 1996 to fiscal year 2000, the number of support orders established by OCSE increased by 9 percent, from 1.08 million to 1.17 million. Furthermore, provisions in PRWORA may lead to further increases in the number of support orders and the amount of child support owed. PRWORA requires that paternity be established for 90 percent of the state agency cases. OCSE reports that child support paternity was established for about 1.6 million children in fiscal year 2000, an increase of 46 percent over the 1.1 million paternities established in fiscal year 1996. Paternity must be established before child support orders can be issued. PRWORA also provided a simplified process for review and adjustment of all child support orders every 3 years. These reviews determine whether the amount of child support previously ordered is reasonable given the circumstances of both the noncustodial and the custodial parent. If these reviews result in more dollar increases than decreases in the amount owed, these reviews could further increase the future amount of child support owed.

Thousands of Private and Public Entities Can Collect Child Support, and Private Firms Differ from State Agencies

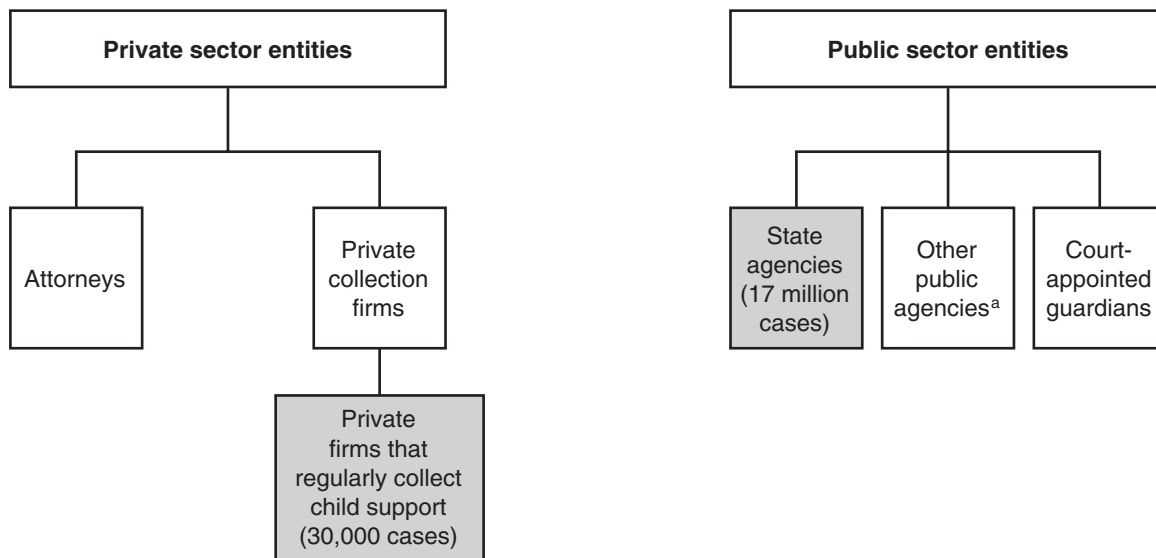
Thousands of private and public sector entities, including private firms and state agencies, can collect child support, and private firms differ among themselves and from state agencies. Specifically, two types of private sector entities—private firms and attorneys—and three types of public sector entities—state agencies, other public agencies, and court-appointed guardians—can collect child support (see fig. 1). The private firms differ among themselves with respect to such characteristics as location, client base, and years in business. Further, the private firms differ significantly from the state agencies in that private firms exercise

⁵The state must also determine that no income or assets are available to the noncustodial parent that could be levied or attached for support.

⁶Child support is not legally owed unless the parents of the child are legally identified and a child support order is issued.

greater discretion when accepting cases, have smaller caseloads, and charge higher fees for their services.

Figure 1: Types of Entities Collecting Child Support



Note: Shaded boxes represent the entities discussed in this report.

^aIncludes county-level agencies, not federal agencies.

Source: Interviews with federal and state agency officials.

Thousands of Private and Public Sector Entities Can Collect Child Support

Private attorneys make up the largest group of private entities. The Bureau of Labor Statistics estimates that there are about 500,000 lawyers employed nationally. Representatives of the American Bar Association told us that approximately 8,000 attorneys are members of the Family Law Division and that nearly every family law attorney has worked on a child support enforcement case at one time or another. They also said that although family law attorneys are the most likely to work on a child support enforcement case, other attorneys who do not specialize in family law, such as corporate attorneys, may also collect child support.

In addition to attorneys, private collection firms, including the private firms that are the focus of this report, can also collect child support. A

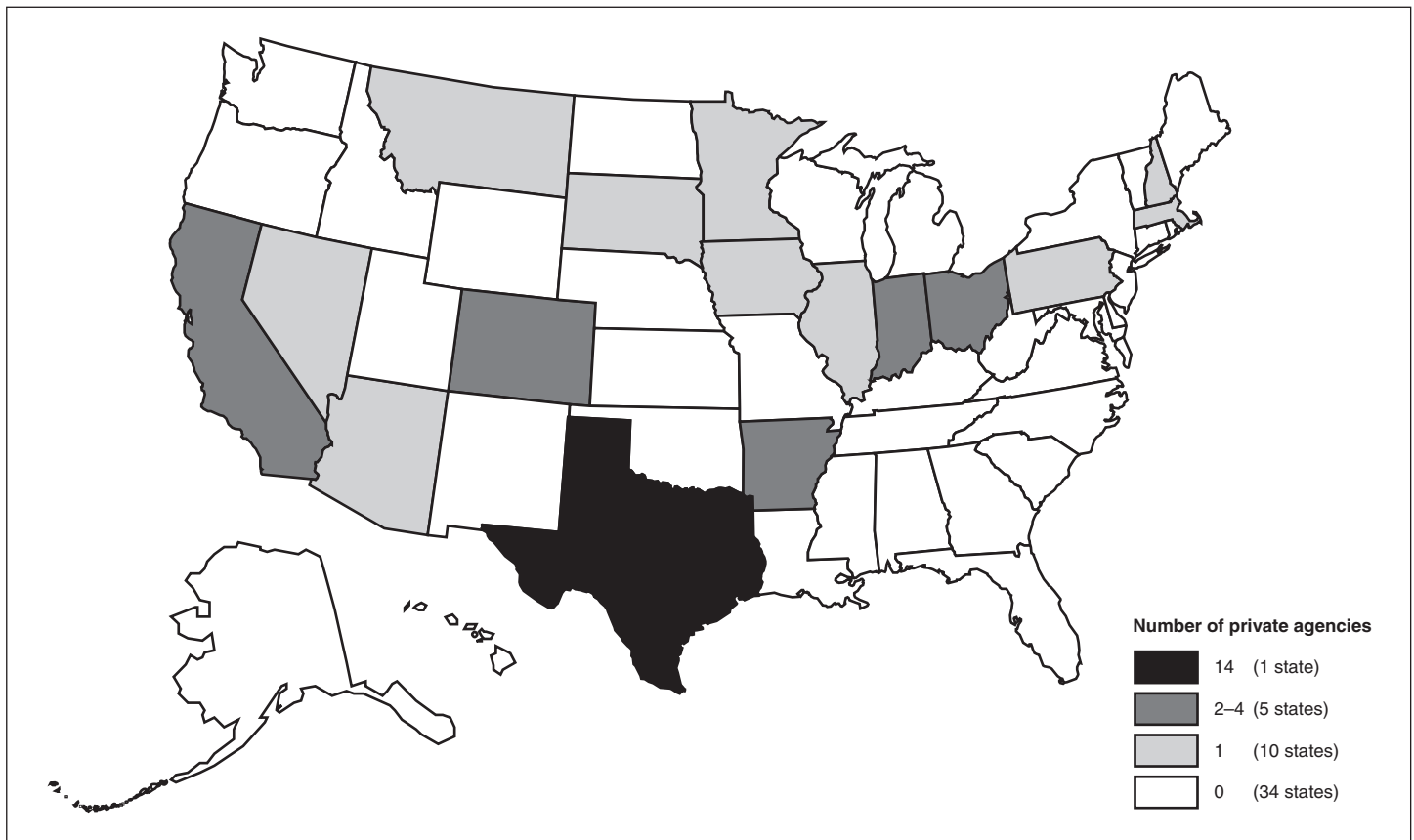
representative of the American Collectors Association, a trade organization of credit and collection professionals, told us he estimated that there are approximately 8,000 private collection firms operating in the United States and that about one-third of these firms have worked on a child support enforcement case at some time.

Three kinds of public sector entities collect child support—state child support enforcement agencies (state agencies), other government agencies, and court-appointed guardians. There are 54 state agencies, one in each state, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands. About 100 other government agencies can collect child support. According to state agency directors, seven states—Arizona, Florida, Kansas, Minnesota, Missouri, North Dakota, and Texas—have county-operated agencies collecting child support that are not part of the federal child support enforcement program. For example, in Florida, the Broward County Support Enforcement Division collects child support payments but accepts only non-TANF clients, cases in which both parents live in Florida and, more specifically, one parent must live in Broward County. In addition to state and other public agencies, court-appointed guardians can collect child support. These guardians can be individuals, government organizations, or nonprofit groups that are appointed by the court as a guardian of a minor and are entitled to collect child support from an absent parent.

Private Firms That Collect Child Support Have Varying Characteristics

Private firms differed from one another in a number of respects, including location, client base, time in business, caseload size, and the proportion of business devoted to child support activities. The 38 private firms that we identified through various search efforts as collectors of child support are based in 16 states, as shown in figure 2. Texas had the highest number of firms—14, or 37 percent of the total number. In 15 other states, the number of firms ranged from as few as 1 to as many as 4. We did not identify any private firms based in the remaining 34 states.

Figure 2: Locations of Private Child Support Collection Firms



Source: Internet searches and interviews with experts, advocates, public firms, and state agencies.

Responses from the 24 private firms that participated in our structured telephone interviews indicated that these private firms handled, in total, an estimated 30,000 cases. Most reported having clients from all states. However, 16 private firm officials told us that because of new state laws

that restrict their operations, they would not accept clients who live in particular states. Examples of such restrictions include requiring private firms to obtain a license, requiring firms to be bonded, or limiting the percentage of fees that firms can charge. Table 2 summarizes four characteristics of the 24 firms that participated in our structured telephone interviews.

Table 2: Characteristics of 24 Private Firms

Characteristic	Number of firms
Client base	
National	14
National and international	5
Only one state	5 ^a
Years in business	
1–5	5
6–8	12
>8	7
Caseload^b	
10–100 cases	4
101–500 cases	12
>500 cases	8
Child support as percentage of business	
1–49%	4
50–99%	3
100%	17

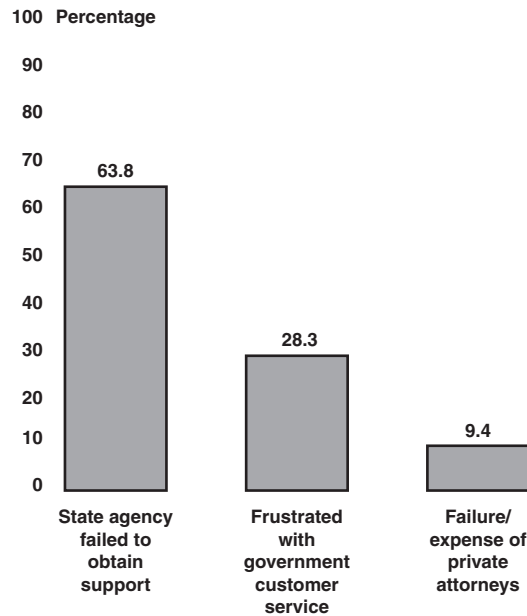
^aOne private firm reported that although the majority of its cases are within the state, some cases are from surrounding states.

^bCaseload at the time of our structured telephone interviews.

Source: Structured telephone interviews.

Parents stated that they most often sought the services of private firms because the state agency had failed to collect their child support. We reviewed 138 randomly selected applications at one private firm and analyzed the answers to the question, “Why seek the services of a private firm?” Almost two-thirds of the applicants responded that they did so because the state or local child support enforcement agency was unable to obtain their child support. Other reasons were also cited by these applicants and are summarized in figure 3.

Figure 3: Reasons for Seeking the Services of a Private Firm



Note: The total exceeds 100% because some applicants gave multiple responses.

Source: Randomly selected applications from a private firm.

Private Firms Differ Significantly from State Agencies

Private firms, unlike state agencies, exercise discretion when accepting child support cases. A representative of one private firm that we visited explained that the criteria for accepting, refusing, or even closing cases are not fixed. Private firms consider the costs and resources required for a case before they accept it or continue to work on it. Another private firm official stated that “it is strictly a business decision” whether to accept or decline a case. Officials of the 24 firms that participated in our structured telephone interviews reported that their firms required a legally enforceable child support order before opening a case. Furthermore, all 24 private firms accepted cases in which the children were no longer minors and therefore considered emancipated. Federal and state laws largely mandate the kinds of cases that state agencies must accept and when cases can be closed. State agencies generally accept all clients whether or not a support order has been established and regardless of the amount of child support owed. However, half of the state agencies will not accept cases in which the children are emancipated. Furthermore, all state agencies accept current and former TANF recipients. (See table 3.)

Table 3: Factors Private Firms and State Agencies Consider Before Opening a Child Support Case

Case factors	Private firms will open a case if...(N=24)	State agencies will open a case if...(N=54)
Child support order was not established	No	Yes
Emancipated children are involved	Yes	Yes (32) No (22)
Client is receiving TANF	No (18) Yes (6)	Yes
Amount of child support owed is minimal	No (14) Yes (10)	Yes

Source: Structured telephone interviews.

As a result of the differences in case acceptance criteria, private firm and state agency caseloads differed in characteristics such as size, average arrearage owed, and percentage of TANF clients. Responses from our structured telephone interviews indicated, as shown in table 4, that the median caseload for private firms is significantly lower than that for state agencies, while the average arrearage balance is significantly higher. Although most private firms we interviewed do not accept TANF clients, almost a fifth of the total state agency cases involved a TANF client.

Table 4: Child Support Caseload Differences between Private Firms and State Agencies

Entity	Median number of cases	Average arrearage^a owed	Percentage who are TANF clients
Private firms	350	\$21,600	0 ^b
State agencies	224,000	\$3,000	19

^aArrearage includes unpaid child support as well as interest added by some states.

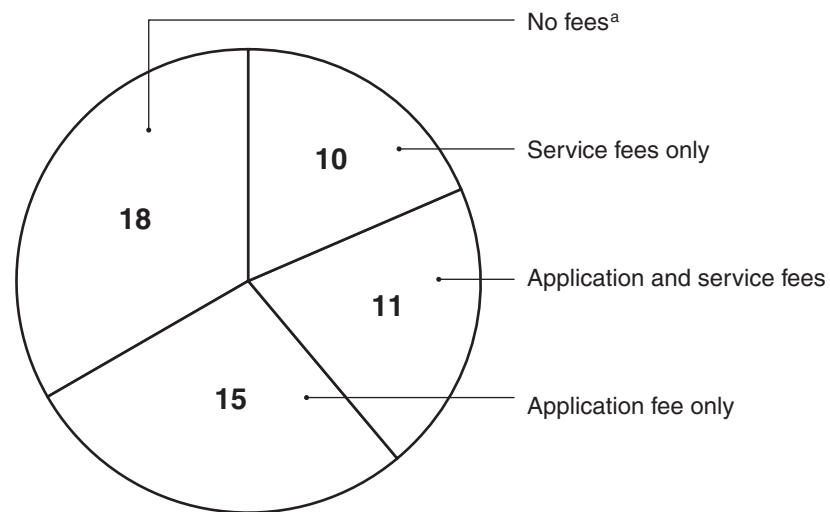
^bAlthough 6 of the firms said that they accepted TANF clients, only 2 of the 24 had current cases with TANF clients. One firm reported less than 5 percent of its caseload consisted of TANF clients, while the other reported 6 percent.

Source: Structured telephone interviews and Office of Child Support Enforcement.

All of the private firms that we interviewed charged all of their clients a fee based on a percentage of the collections. Information obtained from our structured telephone interviews indicated that the average fee charged was 29 percent. Additionally, half of those firms charged clients an application fee, averaging \$95, and about half charged clients other costs or fees, including attorney costs or fees for specific enforcement actions such as filing a lien against personal property. Generally, the private firms that we visited collect their fees by having the custodial parent change his

or her address in the state agency system to direct all payments to the private firm. The firm then deducts its fees from the payments received and sends the remaining amount to the custodial parent. State agencies provide services to families receiving TANF, Medicaid, or foster care payments free of charge. Other families must apply for services, and state agencies must charge an application fee not to exceed \$25.⁷ Eighteen state agencies absorb the application fee or charge up to \$1. The other 36 states charge application fees, service fees, or both. Fifteen state agencies charge application fees ranging from \$5 to \$25, and 10 state agencies charge various service fees such as a \$25 annual case maintenance fee or a \$250 fee to establish a support order. Eleven state agencies charge various service fees as well as application fees. Figure 4 summarizes the types of fees charged by state agencies.

Figure 4: Number of State Agencies and Types of Fees Charged



^aWe included states under "no fees" if they charged only a penny or a dollar.

Source: Structured telephone interviews.

⁷42 U.S.C. §654(6)(B).

Private Firms and State Agencies Reported Similar Collection Experiences Using Different Information Sources and Collection Practices

Private firms and state agencies reported similar collection experiences, but their information sources and collection practices differed. Both private firms and state agencies reported collecting amounts from about 60 percent of their cases. While private firms reported that they relied heavily on information vendors to locate noncustodial parents and their assets, state agencies reported that they primarily relied on state and federal databases for the same information. The collection practices of private firms and state agencies also differed in that private firms reported relying on personal phone contacts with noncustodial parents and third parties, such as relatives, neighbors, and friends, whereas state agencies did not contact third parties for payment.

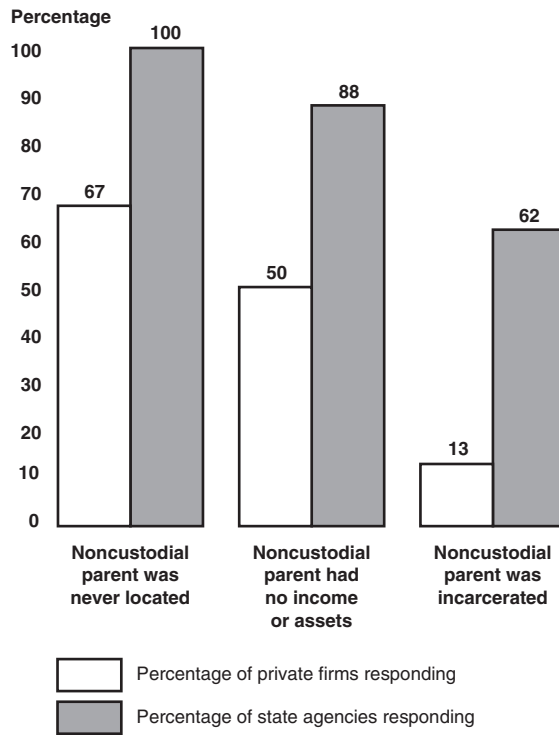
Private Firms and State Agencies Reported Similar Collection Experiences

Both private firms and state agencies that participated in our structured telephone interviews estimated that they collected amounts from about 60 percent of their cases, on average⁸. The similarities in reported collection experiences may reflect a similarity in difficulty of cases in spite of differences in the characteristics of the cases handled by private firms and state agencies. For example, private firms reported twice the percentage of interstate cases that state agencies reported, and OCSE describes interstate cases as some of the most difficult to pursue. Private firms reported that, on average, 57 percent of their cases are interstate, while state agencies reported an average of 24 percent. On the other hand, state agencies reported having more cases in which the noncustodial parent had no income or assets than the private firms reported.

Reasons cited most often by private firms and state agency officials for not being able to collect child support were the same: failure to locate the noncustodial parent, the noncustodial parent had no income or assets, or the noncustodial parent was incarcerated. However, as shown in figure 5, state agency officials cited these reasons more often than did officials of private firms.

⁸OCSE data show that in FY 2000 state agencies collected child support from 68% of their cases with support orders established.

Figure 5: Reasons Cited Most Often for Inability to Collect



Source: Structured telephone interviews.

Private Firms Primarily Used Information Vendors, While State Agencies Relied on State and Federal Databases

Twenty-two of the 24 private firms that participated in our structured telephone interviews used information vendors as their primary source for locating noncustodial parents and their assets. Information vendors are private businesses with extensive search capabilities enabling them to obtain large amounts of private information about individuals, such as addresses and telephone numbers, drivers' license numbers, location of property and other assets, social security numbers, and information from court records. Information vendors sell this information to private firms or any other interested parties. Ninety-two percent of the private firms, compared with 35 percent of state agencies, reported that they used information vendors.

State agencies relied heavily on automated interfaces with federal and state databases to locate absent parents and obtain asset information. A primary source of data for state agencies is the FPLS, an automated

database containing information from state parent locator databases, employer reports of new hires, and the federal case registry of support orders. FPLS data include information such as individuals' home addresses, asset information, social security numbers, and employers' names and addresses. The FPLS system interfaces with a number of federal agencies including the Internal Revenue Service, Social Security Administration, and the Department of Defense. State agency systems also automatically request location information from other state agencies such as departments of human services, comptrollers for state taxes, motor vehicle departments, unemployment offices, law enforcement agencies, and phone and utility companies.

Private Firms and State Agencies Called Noncustodial Parents, but Private Firms Also Called Third Parties

Both private firms and state agencies called noncustodial parents to collect child support, but only private firms called third parties to collect child support. Thirty-seven state agencies that participated in our structured telephone interview said that they called the noncustodial parent to collect child support payments. Our review of the case file notes from the private firms that we visited showed that they repeatedly called noncustodial parents to collect child support payments. In many cases, the case file notes showed that these calls included reminding the noncustodial parent that they could go to jail if they did not pay what was owed. Private firms also called third parties, such as friends, relatives, and neighbors, to locate noncustodial parents and to persuade the third party to prevail upon the noncustodial parent to make payments. In at least two instances, a private firm that we visited was successful in persuading the mothers of the noncustodial parents to make the child support payments. In contrast, no state agency that we surveyed said that they encouraged noncustodial parents' relatives to make payments.

Most Enforcement Tools Are Available to Private Firms and State Agencies, but Processes Differ

Generally, the same enforcement tools are available to private firms and state agencies, but depending on federal and state law, the processes that they must follow to use them often differ. Private firms must petition a government agency or the court to use many enforcement tools that some state agencies can implement independently through administrative processes. Our structured telephone interviews indicate that some enforcement tools were used more than others. One of the most widely used and effective enforcement tools, wage withholding, has been used improperly by private firms, in part because the form that OCSE developed for wage withholding is ambiguous and the related guidance makes including certain information optional, thereby inhibiting an

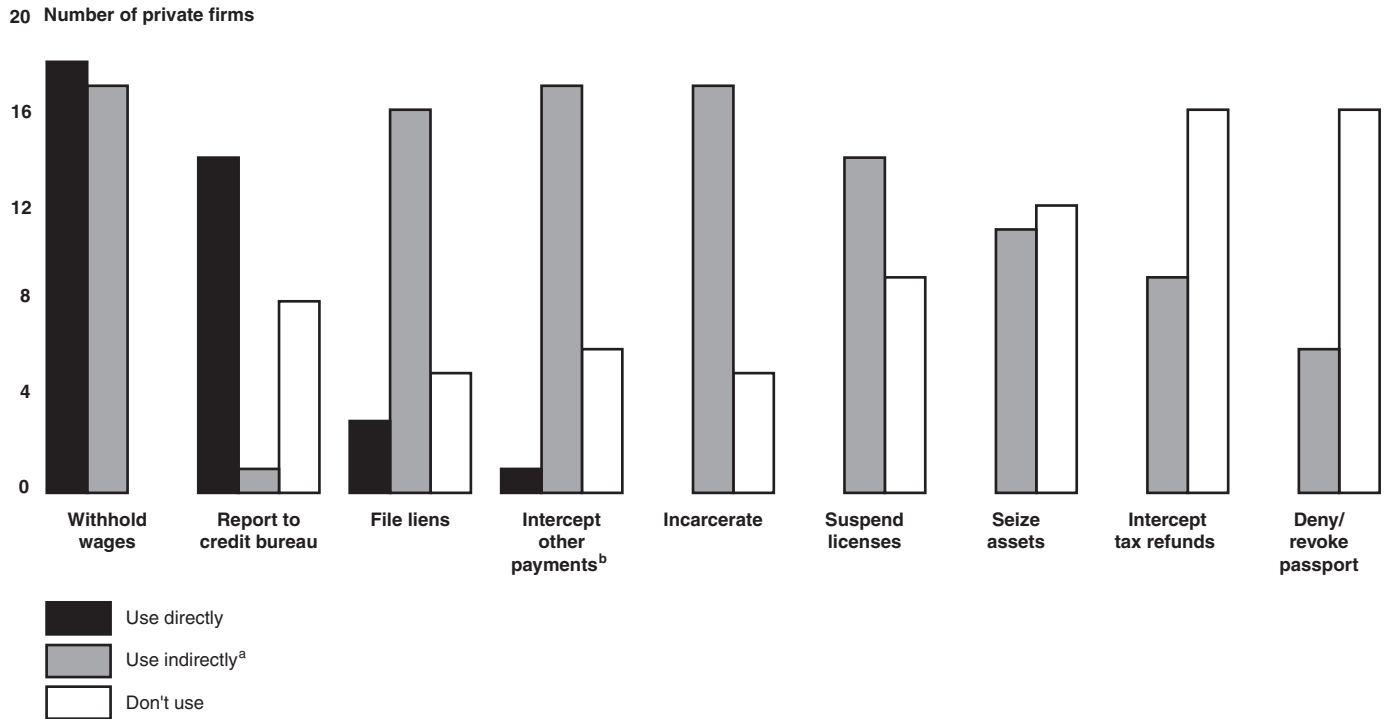
employer's ability to ensure that wage withholding has been properly ordered.

Many Enforcement Tools Are Available to, and Used by, Both Private Firms and State Agencies, but Processes Differ

A complex mix of federal, state, and local law governs access to enforcement tools by private firms and state agencies. Private firms must either petition the court or work with a state agency to access many of the enforcement tools. Private firms, unlike state agencies, cannot intercept federal tax refunds.⁹ Only the courts or a state agency may authorize wage withholding. As a result, when wage withholding has not been previously authorized, private firms must ask a state agency or the court to issue a wage withholding order. At one private firm we visited, we found that the firm had prepared a wage withholding order, provided it to a state agency, and the state agency then issued the order. On the other hand, when the court or a state agency has already authorized wage withholding, a private firm may send a notice of wage withholding directly to the employer. Figure 6 indicates how the 24 private firms that participated in our structured telephone interviews were able to use different enforcement tools.

⁹Under some circumstances, the secretary of the treasury may collect past due child support by intercepting federal tax refunds and some other types of federal payments. According to Treasury financial management system reports, over \$1 billion in child support was collected by intercepting federal tax refunds during calendar years 1999, 2000, and 2001.

Figure 6: Private Firms' Use of Enforcement Tools



Note: The total may exceed 24, because private firm officials gave multiple responses.

^aA private firm must petition the court or ask the state agency to apply the tool.

^bIncludes any form of periodic or lump sum payments, such as commissions, bonuses, worker's compensation, disability payments, pension or retirement income, interest, judgments, settlements, and lotteries.

Source: Structured telephone interviews.

State agency access to the enforcement tools depends on the tool and the state. Some state agencies have administrative authority to use some of the enforcement tools without petitioning the court. For example, state agencies in New York and South Carolina can administratively place liens on property, while state agencies in North Carolina and Maryland must petition the courts to take this action. However, the state agency in Illinois may administratively place some liens but must petition the court to place liens on real estate. State agencies in Idaho and Wisconsin have administrative authority to seize property, whereas the agencies in Michigan and Wyoming must petition the court.

Both private firms and state agency officials indicated that the tool they used most frequently was wage withholding. In our structured telephone interviews, private firm officials said that they most frequently used, when applicable, (1) wage withholding, (2) liens on real estate or other assets, and (3) credit bureau reporting. State agency officials indicated that they most frequently used (1) wage withholding, (2) federal tax refund intercept, and (3) credit bureau reporting.

OCSE's Wage Withholding Form and Guidance Hinder Proper Use

Wage withholding is a procedure by which an employer automatically deducts amounts from an employee's wages or income to pay a debt or a child support obligation. OCSE considers it the most effective enforcement tool for collecting child support, reporting that it is responsible for approximately 62 percent of successful collections.¹⁰ The process for withholding wages differs among the states, depending on the law of the particular state. However, in all states, an approved "tribunal" must authorize wage withholding.¹¹ Private firms cannot issue wage withholding orders or otherwise authorize wage withholding. They can request that the appropriate tribunal authorize wage withholding, or they can notify an employer, in a specific case, that wage withholding has been authorized. All states have an administrative process whereby state agencies can issue orders to withhold child support payments from a noncustodial parent's paycheck without going through the courts.

Wage withholding for child support may be authorized by one of three documents: (1) divorce decree, (2) child support order,¹² or (3) wage withholding order. Thus, there may be circumstances where a separate and specific "wage withholding order" must be issued, because wage withholding has not been authorized in a divorce decree or child support order.

¹⁰Department of Health and Human Services, Administration for Children and Families, Office of Child Support Enforcement, Division of Planning Research and Evaluation, *Child Support Enforcement FY 2000, Data Preview Report July 2001* (Washington, D.C.: 2001), 60.

¹¹An approved tribunal means a court, administrative agency, or quasijudicial agency authorized to establish support orders.

¹²42 U.S.C. §666(a)(8)(B) requires that all support orders issued after January 1, 1994, contain provisions for wage withholding, except when there is good cause not to require it or an alternative arrangement is reached by both parties.

Before an employer can begin withholding wages from the noncustodial parent's pay for child support, the employer must receive either an authorized wage withholding order or a notice that wage withholding has been authorized. There is no distinction between how an employer must respond to a wage withholding order or a notice. Upon receipt of an order or notice, if it appears to be valid, an employer is required by law to provide a copy to the employee and begin withholding child support from the employee's wages.¹³ If an employer fails to withhold income as the order or notice directs, the employer is liable both for the accumulated amount that should have been withheld from the employee's income and for any other penalties set by state law (see app. I, item e). Furthermore, the law protects an employer from civil liability to an individual or agency if the form is in error.¹⁴ The employee may contest the validity of the wage withholding or the amount withheld as a result of a mistake of fact.

As required by law, OCSE developed a standard form (OMB 0970-0154) that everyone must use and issued guidance for wage withholding.¹⁵ As the form's title indicates, "Order/Notice to Withhold Child Support" (see app. I, item a), the form is used both as an order and as a notice, which makes it difficult for employers to tell whether the form was sent by a state agency or a private firm. Moreover, OCSE's guidance makes it difficult for employers to ensure the validity of a wage withholding notice when sent by a private firm. Because private firms cannot authorize wage withholding, when employers receive a notice from a private firm without the underlying legal support, they do not know if wage withholding has been authorized by an appropriate authority. While the form provides a space for the sender to provide information about the underlying order and the issuing state (see app. I, items b and c), the guidance does not require the sender to provide the date of the underlying order or a copy. In

¹³ 42 U.S.C. §666(b)(6)(A)(i), 42 U.S.C. §666(b)(4).

¹⁴ 42 U.S.C. §666(b)(6)(A)(i) states that "[a]n employer who complies with an income withholding notice that is regular on its face shall not be subject to civil liability to any individual or agency for conduct in compliance with the notice."

¹⁵ Pursuant to 42 U.S.C. §666(a)(8)(B)(iii), states are required to have in effect procedures under which all non-IV-D child support orders issued on or after January 1, 1994, include certain requirements, where applicable. Among these requirements is the one specified in 42 U.S.C. §666(b)(6)(A)(ii) that an income withholding notice given to an employer be in a standard format prescribed by the secretary of HHS. Thus, it appears that a wage withholding notice sent in a non-IV-D case must be on the standard OCSE form. There is nothing in statute to indicate that private child support collection firms are exempt from this statutory requirement.

fact, OCSE guidance states that the employer may not request a copy of the underlying order. OCSE officials explained that this prohibition was intended to reduce the burden placed on state agencies that issue several thousand wage withholding orders per year. Furthermore, the guidance does not specify who should sign the form as the authorizing official, although the form includes a place to indicate the name, title, and signature of the authorizing official (see app. I, item d). We found that an official at one private firm was signing forms as the authorizing official. Finally, the form provides space for contact information in case the employer has any doubts about the validity of the order or notice (see app. I, item f); however, we found that on forms sent by private firms, frequently the contact named is an employee of the firm and not an authorizing official who would be in a better position to verify the validity of the notice.

Because of the difficulty of determining the validity of forms sent by private firms and the requirement that an employer begin withholding wages upon receipt of an order or notice, we found instances in which employers improperly withheld wages from a noncustodial parent's paycheck on the basis of information from a private firm. In one case, the employer was properly withholding about \$900 per month on the basis of a court order issued in October 2000. In March 2001, when the employer received a wage withholding notice from a private firm indicating that about \$550 per month should be deducted from the employee's income, the employer began withholding that amount as well. The employee's attorney determined that the March 2001 wage withholding notice was based on a temporary order that expired in April 1999. On the basis of this information, the employer stopped withholding the amount specified in the wage withholding notice. By that time, however, more than \$2,000 had been improperly withheld from the employee's wages. The employer eventually reimbursed the employee for the amount inappropriately withheld.

In another case, a state agency was asked to investigate whether an employer, on the basis of a notice from a private firm, was improperly withholding wages. The state agency researched the matter but could not determine the basis for the wage withholding notice. Additionally, the state agency determined that the noncustodial parent did not owe any current child support and that any past-due support owed would have been minimal. As a result of the review, the private firm terminated the wage withholding notice.

State Agencies Provided Private Firms Some of the Information That They Requested

Most state agencies provided payment history information requested by private firms, but few provided confidential information on the location of noncustodial parents or their assets. Whereas most state agencies provided payment history information, which nearly all private firms requested, officials from 12 state agencies told us that they never shared payment history information with private firms. Few state agencies provided private firms confidential information from the FPLS. State agencies that did not provide this information, as well as state agencies that did, cited federal law as the basis for their decision. This inconsistency is due, in part, to the ambiguity in the law as it applies to private agencies and to lack of specificity in federal regulation of, and guidance on, private firms' access to this information.

Most Firms Requested and Received Payment History Information from State Agencies

Twenty-two of 24 private firms that participated in our structured telephone interviews told us that they requested payment history information from state agencies to verify the amount of child support owed. Thirty-six of 54 state agency officials told us that they provided payment history information to private firms 11 said that they always provided it upon request and 25 said that they sometimes provided it. However, 12 state agency officials said that they never provided this information to private firms. Of the 25 that said they sometimes provided it, 22 said that they provided it only with consent from the custodial parent. The question was not relevant for the remaining 6 state agencies because either the agency was not the one that was responsible for maintaining payment history information or the agency had never received a request for the information from a private firm.

Few Firms Requested Location Information, but When It Was Requested, Few State Agencies Provided It

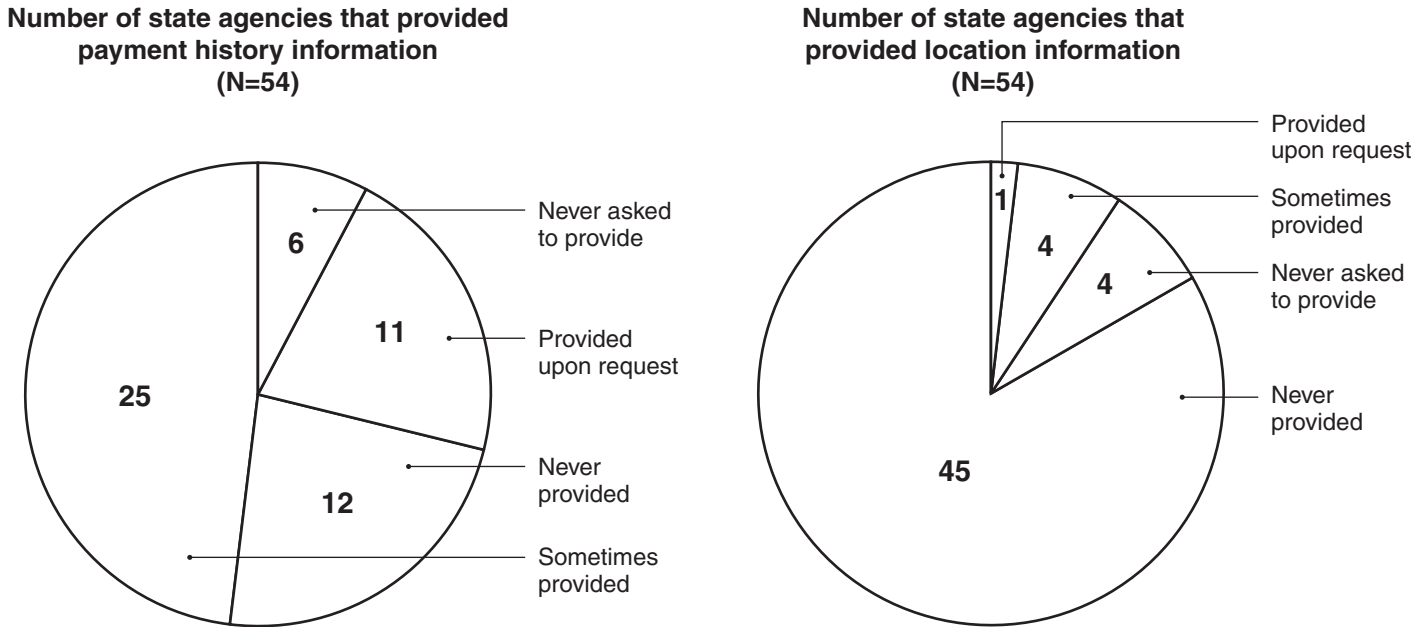
Few private firms reported requesting information on the location and assets of noncustodial parents, but when this information was requested, most states did not provide it. Such information is available through the FPLS, a federal database containing personal information on individuals nationwide. All state agencies have access to data on individuals in the FPLS, whether or not the individuals are residents of the agency's state.

Two-thirds of the private firms that participated in our structured telephone interviews told us that within the last year, they had not requested information from state agencies regarding the location or assets of noncustodial parents. The reasons that they cited most often for not requesting this information were that (1) state agencies will not provide the information, (2) there are better information sources, or (3) the information is not timely.

Officials at the private firms that we visited gave similar reasons for not requesting location information from state agencies. For example, one private firm official told us that he did not ask for this information because the information was old and because it was unlikely that the state would have information not available from the other sources that he used. Furthermore, he stated that “for noncustodial parents who really do not want to be found, the National Directory of New Hires (NDNH), a key part of the FPLS, will not help because these parents change jobs frequently, are self-employed, or work [for cash].” Another private firm official stated that the NDNH was not useful because of (1) the transience of many noncustodial parents, (2) better ways of getting employment information, and (3) the high number of self-employed noncustodial parents that the database does not capture. Additionally, the official stated that he did not use FPLS data even for cases that he handled under a contract with a state agency, which gives him full access to FPLS data. Officials of the firm agreed that private information vendors provided more accurate information more quickly and more efficiently. When asked which state information sources would be helpful, another firm official responded that apart from the quicker access to drivers’ records, private information vendors provided information more quickly than state sources, although the amount of information is limited.

One state agency official who participated in our structured telephone interviews said that the state agency provided location information to private firms. Four state agency officials stated that sometimes they provided location information, but 45 state agency officials told us that they never did. Because state agencies can access the FPLS, state agencies can obtain data on individuals nationwide. A state agency that provides data to private firms can provide information on individuals residing in other states, including information that originated in another state. In our review of case files from private firms, we found instances where location data obtained from the FPLS were provided when the custodial parent and children lived in state A, the noncustodial parent lived in state B, and state C provided the data. Figure 7 summarizes the number of states that have provided payment history and location information to private firms.

Figure 7: Number of State Agencies That Provided Information to Private Firms



Source: Structured telephone interviews.

Differing Interpretations of Law, Lack of CSE Guidance, and Agency Officials' Concerns Influence Private Firms' Access to FPLS Data

State agencies' practices regarding the sharing of FPLS data with private firms were affected by differences in interpretation of whether federal law permits or requires state agencies to share FPLS data, the absence of guidance from OCSE, and state agency officials' concerns about whether private firms would protect confidential data. To prevent disclosure of personal information to unauthorized persons or for unauthorized purposes, the law strictly limits access to, and use of, FPLS data. The state official who provided FPLS data stated that they were required by federal law to provide FPLS data, whereas some who did not provide such information said that federal law prevented them from releasing the data.

Determining whether or not state agencies would be permitted or required to provide private firms access to FPLS data rests on the extent to which private firms are considered authorized persons under the pertinent provisions of the Social Security Act. The act defines an authorized person

to include “the resident parent, legal guardian, attorney, or agent of a child. . . as determined by regulations prescribed by the Secretary [of Health and Human Services].”¹⁶ Furthermore, it mandates that the FPLS shall, among other things, transmit to an authorized person information on the location of an individual who owes child support, including the individual’s social security number and address. Additionally, the FPLS must transmit information on an individual’s employer, wages, and assets.¹⁷

OCSE officials from the office of policy stated that current regulations and guidance do not explicitly address whether private firms have access to this data. They also stated that they were studying the issue and planned to issue clarifying guidance and that in the absence of OCSE guidance, it is up to each state agency to decide whether or not to provide FPLS data to private firms.

Furthermore, state agency officials who refused to provide FPLS data to private firms stated that they were concerned about protecting the data. They said that they were not comfortable with sharing such confidential information with private firms and feared that the private firms might misuse the data.

Conclusion

Private firms use many enforcement tools and information sources to collect child support. While OCSE considers wage withholding to be the most effective enforcement tool, the wage withholding form and the related guidance make it difficult for employers to determine the validity of wage withholding notices that they receive from private firms. As a result, noncustodial parents’ wages have been improperly withheld. In addition, some private firms are requesting and receiving confidential FPLS data. It is not clear, however, whether these firms are authorized to receive the data. A determination by OCSE would ensure that all firms and their clients were treated the same.

Given the growth in the amount of child support owed, it is possible that more private firms will enter the business or that those in the business will acquire more clients. Therefore, it is important to clarify as soon as possible the areas in which there is ambiguity. Without guidance that takes

¹⁶42 U.S.C. §653(c).

¹⁷42 U.S.C. §653(a)(2).

into account the role of private firms in collecting child support and that clearly addresses issues relevant to them, private firms, state agencies, and third parties may take inappropriate actions in their efforts to collect child support.

Recommendations for Executive Action

To improve the wage withholding process, we recommend that the secretary of HHS direct the commissioner of OCSE to make changes to the wage withholding guidance and form. Specifically, OCSE should modify the guidance to (1) require that all parties, except state agencies, send a copy of the wage withholding order or other document authorizing wage withholding when sending a notice to employers, (2) allow employers to request the document(s) authorizing wage withholding when forms are not sent by state agencies, and (3) specify who should sign the form as the authorizing official. Additionally, OCSE should revise the form to clearly distinguish when the form is being sent by a state agency from when it is being sent as a notice by private firms or others.

To ensure consistent and fair treatment of private firms and their clients, we recommend that the secretary of HHS direct the commissioner of OCSE to determine whether private firms should have access to FPLS data and issue explicit guidance addressing this issue.

Agency Comments

We received written comments on a draft of this report from the Department of Health and Human Services. These comments are reprinted in appendix III. The department generally agreed with our findings and said that it plans to address our recommendations. Specifically, the department plans to clarify the income withholding form and instructions and address through regulation, or other appropriate means, whether private firms have access, through state agencies, to certain data in the FPLS.

The department agreed with our finding that OCSE's data understates the amount of child support owed, but the department was concerned that the reader may attribute this finding to OCSE negligence and said that it would be better if we reported that OCSE data do not represent all child support owed; we did this. The department also stated that it is misleading for GAO to focus on unpaid child support accumulated since the program was established 27 years ago. In addition, the department stated that, for a number of reasons, some of the accumulated child support can never be collected. We noted in the body of the report that the total child support owed includes amounts unpaid since the inception of the program. We did

not change the report to address the statement concerning the large amounts of child support that can never be collected, because the report cites the reasons that private firm and state agency officials gave us for not being able to collect some child support.

Additionally, the department stated that we partially identified the reasons for the continued increase in uncollected child support. The department noted that other reasons include interest on unpaid child support, more accurate reporting, and child support awards that low-income fathers are unable to pay. We noted in the report that the amount of unpaid child support includes interest added by some states. We did not change the report to address the statement about data accuracy, because we did not determine whether the reliability of OCSE's data has improved. Furthermore, we did not change the report to address whether amounts have been awarded that low-income fathers are unable to pay, because we did not examine this issue. However, we reported that the lack of income or assets by noncustodial parents was a primary reason cited by private firm and state agency officials for being unable to collect child support.

The department provided technical comments, which have been incorporated in the report as appropriate.

As agreed with your office, we will make no further distribution of this report until 30 days after its issue date, unless you publicly release the contents earlier. At that time, we will send copies of this report to appropriate congressional committees, the secretary of HHS, and other interested parties. We will make copies available to others upon request. The report will also be available on GAO's home page at www.gao.gov. If you or your staff have questions concerning this report, please call me on 202-512-8403. Key contributors are listed in appendix IV.



Cornelia M. Ashby
Director, Education, Workforce,
and Income Security Issues

Appendix I: Wage Withholding Form

FRONT

A ORDER/NOTICE TO WITHHOLD INCOME FOR CHILD SUPPORT

Original Amended Termination

State _____

B Co./City/Dist. of _____
Tribunal/Case Number _____

Employer's/Withholder's Name

Employer's/Withholder's Address

Employer/Withholder's Federal EIN Number (if known)

Child(ren)'s Name(s): **DOB**

RE: _____
Employee's/Obligor's Name (Last, First, MI)

Employee's/Obligor's Social Security Number

Employee's/Obligor's Case Identifier

Obligee Name (Last, First, MI)

If checked, you are required to enroll the child(ren) identified above in any health insurance coverage available to the employee's/obligor's through his/her employment.

C ORDER INFORMATION: This Order/Notice is based on the support order from _____.

You are required by law to deduct these amounts from the employee's/obligor's income until further notice.

\$ _____ Per _____ current child support
 \$ _____ Per _____ past-due child support - Arrears 12 weeks or greater? yes no
 \$ _____ Per _____ current medical support
 \$ _____ Per _____ past-due medical support
 \$ _____ Per _____ spousal support
 \$ _____ Per _____ other (specify) _____

for a total of \$ _____ per _____ to be forwarded to the payee below.

You do not have to vary your pay cycle to be in compliance with the support order. If your pay cycle does not match the ordered payment cycle, withhold one of the following amounts:

\$ _____ per weekly pay period. \$ _____ per semimonthly pay period (twice a month).
 \$ _____ per biweekly pay period (every two weeks). \$ _____ per monthly pay period.

REMITTANCE INFORMATION: When remitting payment, provide the pay date/date of withholding and the case identifier. If the employee's/obligor's principal place of employment is _____, begin withholding no later than the first pay period occurring _____ days after the date of _____. Send payment within _____ working days of the pay date/date of withholding. The total withheld amount, including your fee, cannot exceed _____ % of the employee's/obligor's aggregate disposable weekly earnings.

If the employee's/obligor's principal place of employment is not _____, for limitations on withholding, applicable time requirements, and any allowable employer fees, follow the laws and procedures of the employee's/obligor's principal place of employment (see#4 and #10, ADDITIONAL INFORMATION TO EMPLOYERS AND OTHER WITHHOLDERS).

If remitting payment by EFT/EDI, call _____ before first submission. Use this FIPS code: _____:

Bank routing code: _____ Bank account number: _____

Make check payable to: _____ Send check to: _____

Payee and Case identifier _____ Date: _____

Authorized by _____ Date: _____

D Print Name and Title _____
Of Authorized Official(s) _____

IMPORTANT: The person completing this form is advised that the information on this form may be shared with the obligor.

Appendix I: Wage Withholding Form

BACK

ADDITIONAL INFORMATION TO EMPLOYERS AND OTHER WITHHOLDERS

If checked, you are required to provide a copy of this form to your employee. If your employee works in a state that is different from the state that issued this order, a copy must be provided to your employee even if the box is not checked.

- 1. We appreciate the voluntary compliance of Federally recognized Indian tribes, tribally-owned businesses, and Indian-owned businesses located on a reservation that choose to withhold in accordance with this notice.
2. Priority: Withholding under this Order/Notice has priority over any other legal process under State law against the same income. Federal tax levies in effect before receipt of this order have priority. If there are Federal tax levies in effect, please contact the State Child Support Enforcement Agency or party listed in number 12 below.
3. Combining Payments: You can combine withheld amounts from more than one employee's/obligor's income in a single payment to each agency/party requesting withholding. You must, however, separately identify the portion of the single payment that is attributable to each employee/obligor.
4. Reporting the Paydate/Date of Withholding: You must report the paydate/date of withholding when sending the payment. The paydate/date of withholding is the date on which the amount was withheld from the employee's wages. You must comply with the law of the state of employee's/obligor's principal place of employment with respect to the time periods within which you must implement the withholding order and forward the support payments.
5. Employee/Obligor with Multiple Support Withholdings: If there is more than one Order/Notice to Withhold Income for Child Support against this employee/obligor and you are unable to honor all support Order/Notices due to Federal or State withholding limits, you must follow the law of the state of employee's/obligor's principal place of employment. You must honor all Order/Notices to the greatest extent possible. (See #10 below.)
6. Termination Notification: You must promptly notify the Child Support Enforcement Agency or payee when the employee/obligor no longer works for you. Please provide the information requested and return a complete copy of this order/notice to the Child Support Enforcement Agency or payee.
EMPLOYEE'S/OBLIGOR'S NAME: _____ CASE IDENTIFIER: _____
DATE OF SEPARATION FROM EMPLOYMENT: _____
LAST KNOWN HOME ADDRESS: _____
NEW EMPLOYER/ADDRESS: _____

- 7. Lump Sum Payments: You may be required to report and withhold from lump sum payments such as bonuses, commissions, or severance pay. If you have any questions about lump sum payments, contact the person or authority below.

- E 8. Liability: If you have any doubts about the validity of the Order/Notice, contact the agency or person listed below. If you fail to withhold income as the Order/Notice directs, you are liable for both the accumulated amount you should have withheld from the employee's/obligor's income and any other penalties set by State law.

- 9. Anti-discrimination: You are subject to a fine determined under State law for discharging an employee/obligor from employment, refusing to employ, or taking disciplinary action against any employee/obligor because of a child support withholding.

- 10. Withholding Limits: You may not withhold more than the lesser of: 1) the amounts allowed by the Federal Consumer Credit Protection Act (15 U.S.C. § 1673(b)); or 2) the amounts allowed by the State of the employee's/obligor's principal place of employment. The Federal limit applies to the aggregate disposable weekly earnings (ADWE). ADWE is the net income left after making mandatory deductions such as: State, Federal, local taxes, Social Security taxes, statutory pension contributions, and Medicare taxes.
Additional Information: _____

- 11. Submitted by _____

- F 12. If you or your employee/obligor have any questions, contact: _____
by telephone at _____ or by FAX at _____
or by Internet at _____

OMB: 0970-0154

Appendix II: Objectives, Scope, and Methodology

To assist Congress in its deliberations about child support collection, Representative Doggett asked GAO to provide information about several issues. Specifically, our objectives were to (1) obtain information on the amount of child support owed and how it has changed in recent years; (2) identify the number and kinds of entities that can collect child support and compare the characteristics of private child support collection firms with those of state agencies; (3) compare the private firms' and state agencies' collection experiences, information sources, and collection practices; (4) compare the enforcement tools available to private firms and state agencies; and (5) determine whether state agencies provide information requested by private firms. To accomplish these objectives, we reviewed related federal and state laws. We interviewed responsible federal officials as well as officials from groups that represent the interests of custodial parents, noncustodial parents, and children. We conducted structured telephone interviews with managers of the 54 state child support enforcement agencies and managers from 24 private firms to identify similarities and differences in their practices. We also visited 4 private firms and 2 state agencies, where we interviewed managers, reviewed operating policies and practices, and obtained case file data.

To develop information about the amount of child support owed, we obtained data from the administrative information systems of the Office of Child Support Enforcement (OCSE) in the Department of Health and Human Services. The OCSE data come from reports submitted by the state agencies and include amounts owed and collections processed through the state agencies. The data include the amount of arrears outstanding from prior years, the amount of child support due to be paid in the current calendar year, and the amount of child support actually collected during the current year. To compute the total amount of child support owed, we added the prior years' arrears and the current year's amount due and subtracted the amount collected in the current year. However, OCSE's data do not represent the total amount of child support owed because the data reflect only amounts associated with cases that are handled by, and distributed through, the state agencies. The data neither includes amounts owed or paid voluntarily through agreements between parents nor amounts collected by private firms or attorneys. In addition, the OCSE data do not include unpaid child support associated with closed cases.

To develop information about the number and characteristics of entities that collect child support, we reviewed relevant laws and regulations and interviewed both government and private sector officials and experts. For the purposes of our detailed analysis, we focused on two of the five types of entities that can collect child support—state child support enforcement

agencies operating under Section IV-D of the Social Security Act and private firms that concentrate all or part of their business on collecting child support.

We used the OCSE directory of state agencies to find officials to participate in structured telephone interviews about state agency activity, and we used multiple methods to find private child support collection firms to participate in similar structured telephone interviews about private firm activity. From March through September 2001, we identified private child support collection firms by searching the Internet, asking people whom we interviewed to identify any private firms that they were aware of, reviewing various documents (such as the National Child Support Enforcement Association membership list), and verifying telephone listings.

Specifically, for the Internet search, we used several search engines, including Netscape, Ask Jeeves, Go To, LookSmart, Lycos, NBCi, and Google, entering the key words “child support” and “collections.” Of the firms that we identified, we counted all that listed child support collection as one of their services but we excluded those that were private law firms. While some of the organizations that we included were founded or staffed by attorneys, they were not operated as law firms. We updated our list of private firms monthly.

The limitations of using Internet searches to identify child support collection firms include

- the capacity and capriciousness of search engines,
- the exclusion of companies that do not conduct business or advertise on the Internet,
- the fact that firms that include child support collection as only one of many services are less likely to be found by traditional Internet searches, and
- changes in names by child support collection firms.

We identified about 60 private child support collection firms during this 7-month period, located in about 20 states in all regions of the country. We followed up with telephone calls to the firms. Some firms provided a telephone contact on their Web site. For those that did not, we obtained the telephone number from experts, from other firms, or through company search information on the Internet. Some of the firms that advertised on the Internet told us when we called them that they had never collected, or were no longer collecting, child support. In addition to finding firms

through Internet searches, we also found some firms through lists provided by knowledgeable people and through telephone listings.

Experts, advocates for noncustodial parents and custodial parents, and industry representatives informed us that many private firms operated for very limited periods of time or changed company names or structure. In fact, we identified several companies that had had at least one name change or structural change. As firms have increased their use of the Internet, some have used their Internet address as a business name for some or all of their business. Interviewees provided the names of eight companies that could not be verified either on the Internet or in telephone listings. We did not include these firms, assuming that they were no longer in business. In September, we could not verify, either through an Internet search or by telephone, the existence of two companies that had appeared in earlier lists.

To develop information about the characteristics, collection experiences, information sources, collection practices, and enforcement tools of state agencies and of private child support collection firms, we used two separate, though similar, structured interview guides. We used information gathered during site visits to develop the interview guides and then used the guides to conduct structured telephone interviews with each of the state agencies and most of the private firms on our lists. Both at the state agencies and at the private firms, we discussed our topics with the head of the agency or another official designated to speak for the head of the agency. Because state agencies are larger, more complex organizations than private firms, we transmitted a copy of the questions in advance to state agencies, as our pretesting had shown that this practice greatly facilitated state officials' ability to respond to the questions.

At the time of our structured telephone interviews, we were able to confirm the existence of 38 firms that engaged in child support collection. We attempted to conduct structured telephone interviews with these firms. We either talked with firm employees or left messages explaining our work and asking the firms to participate in our study. Twenty-four of the private child support collection firms (63 percent) responded to our requests for interviews. We also used the two structured telephone interviews to develop information about whether state agencies provided information requested by private child support collection firms.

After gathering and analyzing the data obtained from our structured telephone interviews and visits, we compared the caseload characteristics, collection experiences, collection practices, and information sources of

private firms with those of state agencies. Because of the vast differences in the characteristics of their cases, however, we did not compare the average time that it took for private firms and state agencies to collect child support. Further, we could not determine whether greater access to information and enforcement tools would increase private firms' collections or improve their effectiveness because there are many factors involved in child support cases, and these factors can vary with each case.

In addition, we visited four private firms and two state agencies, where we interviewed managers, reviewed operating policies and practices, and obtained case file data. These firms were included in the structured telephone interviews as well. We randomly selected cases to review from among all those that were begun during calendar year 2000, reasoning that this would allow enough time for activity in the cases by the time of our review in July and August 2001. We attempted to review 30 cases in each location, assuming that this would be sufficient to allow us to understand the basic collection processes and information sources; however, these samples were not sufficient to project our findings to the agencies' caseloads. These site visits provided additional information about agency characteristics, collection experiences, information sources, collection practices, and enforcement tools.

Our choices of states to visit were based on location and overall child support collections. We chose states that were among the top ten in child support collections. We visited Texas because a disproportionate number of private child support collection firms (14) are located there. We visited Ohio because it is in a different region from Texas and it is also one of the top states in total collections. In each of the places we visited, the state agencies and private firms cooperated fully with our research efforts, making staff available for interviews and allowing us to review case files.

Appendix III: Comments from the Department of Health and Human Services



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of Inspector General

Washington, D.C. 20201

MAR 20 2002

Ms. Cornelia M. Ashby
Director, Education, Workforce,
and Income Security Issues
United States General
Accounting Office
Washington, D.C. 20548

Dear Ms. Ashby:

Enclosed are the Department's comments on your draft report, "Child Support Enforcement: Clear Guidance Would Help Ensure Proper Access To Information and Use of Wage Withholding by Private Firms." The comments represent the tentative position of the Department and are subject to reevaluation when the final version of this report is received.

The Department also provided several technical comments directly to your staff.

The Department appreciates the opportunity to comment on this draft report before its publication.

Sincerely,

Michael Mangano
for Janet Rehnquist
Inspector General

Enclosure

The Office of Inspector General (OIG) is transmitting the Department's response to this draft report in our capacity as the Department's designated focal point and coordinator for General Accounting Office reports. The OIG has not conducted an independent assessment of these comments and therefore expresses no opinion on them.

COMMENTS ON THE GENERAL ACCOUNTING OFFICE'S DRAFT REPORT:
CHILD SUPPORT ENFORCEMENT: "CLEAR GUIDANCE WOULD HELP ENSURE
PROPER ACCESS TO INFORMATION AND USE OF WAGE WITHHOLDING BY
PRIVATE FIRMS"

General Comments

The Department of Health and Human Services (HHS) appreciates the opportunity to comment on this draft report, which addresses an important topic. The Office of Child Support Enforcement (OCSE) in the Administration for Children and Families has reviewed this report and agrees, in general, with the findings.

GAO Analysis of Child Support Debt Owed

The GAO portrays OCSE data as understating the amount of child support owed. The GAO report also does not reflect a number of important reasons why the amount of unpaid child support is increasing at the same time overall collections have dramatically increased.

Agency Comment

It is true that OCSE data on the amount of child support owed do not reflect all child support owed to custodial parents and children. The primary reason for this is that many child support-eligible families never request services from a state child support enforcement (CSE) program; their awards, collections, and arrears are not reflected in the data. We believe that this is the factual statement GAO is trying to make in its conclusion that OCSE data understate the amount of child support owed. However, the way this conclusion is stated in the executive summary (p. 2) and as the section heading in the text of the report (p.7), could lead the casual reader to mistakenly believe that this is the result of some negligence on OCSE's part. What is important for the reader to understand is that it is not possible for OCSE or anyone else to provide an accurate national estimate of the total amount of unpaid child support owed to custodial parents. Except for mandatory participation by TANF clients and some Medicaid and foster care clients, use of state-provided child support services is voluntary on the part of custodial parents. While a growing number of custodial parents have chosen to apply for IV-D services, many other parents voluntarily remain outside the state system. A more appropriate conclusion would be to say that "OCSE data do not represent all child support owed."

It is also true that OCSE data do not reflect child support collections still owed at the time of case closure. However, it is misleading to consider as potentially collectable child support debt accumulated over the entire length of the 27-year old program. Unpaid support at the time of case closure clearly includes large amounts of debt that can never be collected due to death or permanent disability of the noncustodial parent, children reaching the age of emancipation, and other circumstances. Some of this debt may

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remain collectable, but only through private civil actions, not through the actions of the state CSE agency.

There are many reasons why the amount of unpaid child support continues to increase, despite the significant increase in the amount collected and the increase in the number of cases with collections. GAO partially identifies these reasons. However, in addition to the increase in the number of support orders established and adjustments made to established orders, there are other important reasons for the increase in the amount of unpaid support. For example, due to interest charges (in those states that charge interest) the amount of unpaid support increases over time, even if no additional unpaid support is added to the total. Second, because of OCSE's data reliability audits, the data states are reporting to OCSE are now improving; the large increases in the amounts owed for prior year support might be a result of this more accurate reporting. Lastly, a recent OIG report pointed out that some state policies, such as establishing retroactive support back to the date of birth of a child or using imputed rather than actual earnings, often result in awards that low-income fathers are unable to pay. To the extent that CSE agencies are establishing more awards for children with low-income fathers, these awards can contribute to the rise in the aggregate amount of unpaid support.

GAO Recommendation

We recommend that to improve the wage withholding process, OCSE should make changes to the wage withholding guidance and the form. Specifically, OCSE should modify the guidance to (1) require that all parties, except state agencies, send a copy of the wage withholding order or other document authorizing wage withholding when sending a notice to employers, (2) allow employers to request documents authorizing wage withholding when forms are not sent by state agencies, and (3) specify who should sign the form as the authorizing official. Additionally, OCSE should revise the form to clearly distinguish when the form is being sent by a state agency from when it is being sent by private firms or others.

Agency Comments

OCSE, in conjunction with state CSE agencies and representatives from the American Payroll Association, the American Society for Payroll Management, and employers, established a work group to develop and, in 2000, to revise the income-withholding form. During the last year, OCSE has been working with the Department of Defense and selected states to transmit information and payments electronically to improve enforcement. In addition, OCSE has designated staff to work with employers to assist them with concerns about processing and complying with income-withholding orders. We plan to clarify the income-withholding form and instructions to address the concerns raised by GAO.

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GAO Recommendation

To ensure consistent and fair treatment of private firms and their clients, OCSE should determine whether private firms should have access to FPLS data and issue explicit guidance addressing this issue.

Agency Comments

We are planning to address, through regulation or other appropriate means, the issue of whether private collection agencies have access, through state IV-D agencies, to certain data in the FPLS, as “authorized persons” in accordance with section 453(c)(3) of the Social Security Act.

Appendix IV: GAO Contacts and Staff Acknowledgments

GAO Contacts

Carolyn M. Taylor, assistant director (202) 512-2974
Lise L. Levie, analyst-in-charge (202) 512-7030
Susan Y. Higgins, senior analyst (202) 512-6830

Staff Acknowledgments

In addition to those named above, the following individuals made important contributions to this report: Rebecca A. Ackley, Barbara W. Alsip, Richard P. Burkard, Kopp F. Michelotti, James M. Rebbe, N. Kim Scotten, John G. Smale, Jr., and James P. Wright.

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