



PROCEDURAL JUSTICE-INFORMED  
ALTERNATIVES TO CONTEMPT

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## Who Is at Risk of Contempt of Court for Child Support Noncompliance?

### CHARACTERISTICS OF PARENTS ENROLLED IN THE PROCEDURAL JUSTICE-INFORMED ALTERNATIVES TO CONTEMPT DEMONSTRATION

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The Procedural Justice-Informed Alternatives to Contempt (PJAC) demonstration project integrates principles of procedural justice into enforcement practices in six child support agencies across the United States. Procedural justice is fairness in processes that resolve disputes and result in decisions. Research has shown that if people perceive a process to be fair, they will be more likely to comply with the outcome of that process, whether or not the outcome was favorable to them.<sup>1</sup>

Child support agencies aim to secure payments from noncustodial parents to support the well-being of their children.<sup>2</sup> The target population for the PJAC demonstration project is noncustodial parents at the point of being referred to the legal system for civil contempt of court because they have not met their child support obligations, yet have been determined to have the ability to pay. The PJAC demonstration project aims to address parents' reasons for nonpayment, improve the consistency of their payments, and promote their positive engagement with the child support agency and the other parent.

The PJAC demonstration was developed by the federal Office of Child Support Enforcement within the Administration for Children and Families at the Department of Health and Human Services. MDRC is leading a random assignment study of the model's effectiveness in collaboration with research partners at MEF Associates and the Center for Court Innovation. Parents 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 proceeds with the standard contempt process. Oversight of the evaluation is provided by the Georgia Division of Child Support Services. For an overview of the PJAC demonstration, see "[A New Response to Child Support Noncompliance: Introducing the Procedural Justice-Informed Alternatives to Contempt Project](#)."<sup>3</sup>

This brief is the third in a series developed primarily for child support practitioners and administrators that shares lessons learned as the six participating child support agencies implement the PJAC model. It describes the characteristics of the noncustodial parents in the PJAC study sample and what case managers believe led them to the point of contempt. The brief uses data from the PJAC management information system and child support administrative records for noncustodial parents enrolled through July 31, 2019, and qualitative data from interviews

<sup>1</sup>Swaner et al. (2018).

<sup>2</sup>The noncustodial parent is the parent who has been ordered to pay child support and is generally a parent who does not live with a child. The other parent is referred to as the custodial parent.

<sup>3</sup>Mage, Baird, and Miller (2019).

conducted with child support and court staff members in the spring of 2019.<sup>4</sup>

### Box 1: Child Support Agencies Participating in the PJAC Demonstration

- ▶ Arizona Division of Child Support Services (Maricopa County)
- ▶ California Department of Child Support Services (Riverside and San Bernardino Counties)
- ▶ Michigan Office of Child Support (Muskegon County)
- ▶ Stark County Job and Family Services, Division of Child Support Enforcement (Ohio)
- ▶ Franklin County Child Support Enforcement Agency (Ohio)
- ▶ Virginia Division of Child Support Enforcement (Cities of Richmond and Newport News)

## BACKGROUND

The PJAC demonstration project was designed to serve noncustodial parents who are eligible for contempt. Six child support agencies are participating in PJAC, and each has its own eligibility criteria for sending a noncustodial parent to the contempt process. However, the common thread for this determination is that the noncustodial parent must be seriously delinquent in making child support payments and must have been determined to have the ability

to make those payments.<sup>5</sup> PJAC's target population differs from those of previous federal child support demonstration projects; those projects' intended service populations were unemployed or underemployed noncustodial parents who rarely had the ability to make their child support payments.<sup>6</sup>

In the months before assigning a noncustodial parent to the PJAC sample, an agency will have attempted, unsuccessfully, to collect support from that parent using actions such as income-withholding orders to employers, tax-refund intercepts, driver's license suspensions, and bank levies. In addition, an enforcement worker at the agency will have verified that the noncustodial parent has at least some ability to pay his or her child support obligations. Having exhausted available collection actions and verified the noncustodial parent's ability to pay, an enforcement worker will, as a last resort, file a case for contempt of court.<sup>7</sup>

Because this group of noncustodial parents is the target population for the PJAC demonstration, individuals enrolled in the study may be particularly difficult to reach and to serve, compared with the typical noncustodial parent on a child support case. For example, an unwillingness to pay may be rooted in many things, including a poor relationship with the other parent, distrust of or a poor experience with the child support program, or a general feeling that a child support order is unfair. In general, noncustodial parents who are seriously delinquent in making payments tend to be disengaged from the child support agency and are often actively avoiding contact with child support workers. Further, the child support agency may have outdated contact information for these noncustodial parents, making them even more difficult to reach and serve.

<sup>4</sup>A management information system is a database that holds information on program operations and that can produce reports on a program's administration.

<sup>5</sup>Although the process used to determine the ability to make payments varies among the PJAC agencies, individuals who are incarcerated, receive Supplemental Security Income (SSI), or have pending applications for SSI are considered unable to pay.

<sup>6</sup>Noyes, Vogel, and Howard (2018); Miller and Knox (2001); Barden et al. (2018).

<sup>7</sup>Generally, cases reaching the point of contempt are eligible for the study, but there are a few, limited circumstances in which cases that are eligible for contempt are not eligible for the evaluation: those where the parents already have active, ongoing contempt processes open against them; those where the cases are out of state and the parents have no eligible in-state cases; and those where the parents are under 18.

Depending on the jurisdiction, each child may have his or her own case. A noncustodial parent may have multiple cases that also include other custodial parents.

## WHO ARE THE NONCUSTODIAL PARENTS IN THE PJAC STUDY?

This section describes the demographic and case characteristics of the noncustodial parents in the PJAC study, examines similarities and differences among the noncustodial parents served by the participating child support agencies (called “sites”), and reflects on how some of these characteristics may affect noncustodial parents’ willingness to pay child support.

### Demographic Characteristics

Table 1 presents a selection of characteristics of PJAC sample members at study enrollment, among those enrolled during the first 18 months of the enrollment period.<sup>8</sup> About 91 percent of PJAC sample members are male, and the Virginia and Stark County, Ohio, sites have slightly more female noncustodial parents on their caseloads than other sites. Sample members are on average around 38 years old. There is quite a bit of racial and ethnic diversity in the overall sample and a lot of variation in racial and ethnic composition by site. For example, over 80 percent of Virginia’s sample is Black, while almost 60 percent of California’s sample is Hispanic or Latino. The vast majority (97 percent) of the sample’s primary language is English, with slightly lower proportions in California and Arizona. The California and Arizona sites accommodate their larger Spanish-speaking populations’ language needs by employing Spanish-speaking case managers.

Finally, about 9 percent of noncustodial parents are also custodial parents with separate child support cases, yet this measure varies substantially by site, ranging from only 2 percent of noncustodial parents in Arizona to 16 percent in Michigan. This circumstance may influence noncustodial parents’ payment behavior, as they have children in their households whom they also need to support.

### Case Characteristics

In the PJAC study, a child support case refers to a particular child support order, or legal obligation to pay child support. The people involved in a child support case are the noncustodial parent, the custodial parent, and the child or children for whom the obligation is due. In PJAC, the case that made the noncustodial parent eligible for contempt and for the PJAC project is called the primary case, but many parents have additional cases — noncustodial parents average between one and two cases. On average, the noncustodial parent’s primary case was about nine years old when it entered the study, with between one and two children involved; had a monthly order amount of \$318 and nearly \$20,000 in child support debt; and had not seen a payment in almost five months. These figures vary across sites, particularly the amount of debt per case, with average amounts ranging from around \$8,300 in Stark County, Ohio, to \$40,100 in Arizona.<sup>9</sup> About a third of noncustodial parents had been referred to contempt proceedings at least once before study enrollment, ranging from just under 7 percent in California to 57 percent in Michigan. Additional case characteristics include:

- ▶ About 11 percent of the custodial parents in primary cases were receiving cash assistance from Temporary Assistance for Needy Families (TANF) at the time of study enrollment, ranging from about 2 percent in Arizona to 24 percent in California. Generally in such cases a portion of every child support payment is reclaimed by the state for its support of the child.
- ▶ Almost 20 percent of primary cases did not have ongoing monthly child support obligations at the time of enrollment but remained open because of child support debt owed to the custodial parent or the state. These cases are called “debt only.”

<sup>8</sup>The PJAC study sample includes those randomly assigned to both the program group and the control group.

<sup>9</sup>Debt interest rates, which affect how rapidly debt balances increase, vary among the sites. California and Arizona charge 10 percent interest per year on debts while Virginia charges 6 percent; in Ohio and Michigan, courts determine interest rates.

**Table 1: Baseline Characteristics Among Sample Members Enrolled Between 02/01/2018 and 07/31/2019**

CHARACTERISTIC	ARIZONA	CALIFORNIA	MICHIGAN	FRANKLIN, OHIO	STARK, OHIO	VIRGINIA	ALL PJAC SITES
<b>NONCUSTODIAL PARENT CHARACTERISTICS</b>							
Male (%)	92.7	92.4	89.9	92.8	87.8	86.2	90.5
Age (years)	39.6	37.1	36.0	37.4	38.8	39.1	38.0
Race/ethnicity (%)							
Black, non-Hispanic	17.2	16.9	46.9	59.9	34.2	83.7	41.2
White, non-Hispanic	35.2	20.4	48.2	37.1	64.2	15.2	35.4
Hispanic	43.5	59.0	1.7	1.7	1.1	1.0	21.1
Other	4.0	3.7	3.2	1.2	0.5	0.1	2.3
Primary language							
English	96.3	90.4	100.00	99.6	99.9	99.8	97.3
Spanish	3.5	9.6	0.0	0.2	0.1	0.2	2.7
Other	0.2	0.1	0.0	0.2	0.0	0.0	0.1
Custodial parent on another case (%)	1.9	13.0	16.3	5.8	9.3	5.8	8.7
<b>PRIMARY CASE CHARACTERISTICS</b>							
Years since the order was established	9.5	7.2	8.3	7.9	9.2	10.4	8.7
Debt-only case (%)	27.0	12.5	10.4	11.7	18.3	30.0	18.5
Number of children on the case	1.5	1.4	1.5	1.5	1.3	1.3	1.4
Custodial parent and child(ren) receiving TANF (%)	1.6	23.5	4.7	4.3	10.3	15.8	10.6
Monthly amount due (\$)	362	461	180	381	214	253	318
Total debt due (\$)	40,051	28,302	8,785	12,590	8,279	13,493	19,343

continued

**Table 1: Baseline Characteristics Among Sample Members Enrolled Between 02/01/2018 and 07/31/2019**

CHARACTERISTIC	ARIZONA	CALIFORNIA	MICHIGAN	FRANKLIN, OHIO	STARK, OHIO	VIRGINIA	ALL PJAC SITES
<b>CHARACTERISTICS OF ALL OF A NONCUSTODIAL PARENT'S CASES</b>							
Number of cases	1.3	1.3	2.3	1.8	2.2	1.8	1.7
Interstate case (%)	3.9	2.5	3.1	1.3	5.3	3.3	3.2
Monthly amount due (\$)	421	505	258	532	351	404	418
Total debt due (\$)	49,675	34,648	16,886	19,618	17,178	22,038	27,357
Months since last payment, among those who made a payment in the year before random assignment	5.0	5.5	5.2	4.5	5.1	5.5	5.1
Ever referred for contempt before random assignment (%)	27.9	6.7	57.3	39.5	30.5	53.5	34.0
Family violence indicated <sup>a</sup> (%)	6.4	10.0	46.3	6.8	4.3	30.2	18.4
<b>Sample size</b>	1,149	1,444	1,044	1,089	1,120	1,019	6,865

SOURCES: MDRC calculations based on child support administrative records and PJAC random assignment data.

NOTES: Sample sizes may vary because of missing values and gaps and delays in data.

<sup>a</sup>This measure indicates family violence for either the noncustodial or the custodial parent on a noncustodial parent's cases except for Arizona, which only includes instances where the noncustodial parent is indicated as the victim of family violence.

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- ▶ Nearly 20 percent of noncustodial parents have family violence indicated on their own or one of their custodial parents' cases. These relationships between parents are likely to be particularly challenging and sensitive, which may make it more difficult for case managers to work with parents together and could make noncustodial parents less willing to pay child support.

### **Case Study: Case Review Information from Michigan, Virginia, and Stark County, Ohio**

As a first step in dealing with a case, a PJAC case manager reviews all of a noncustodial parent's cases to learn the history of each case and that parent's history with the child support agency. PJAC case managers at three PJAC sites — Michigan, Virginia, and Stark County, Ohio — provided information in the PJAC management information system about what they learned from case reviews in the first 18 months of the study for over 2,000 noncustodial parents receiving PJAC services.

On average, these noncustodial parents were enrolled into the PJAC project about two years after their last contact with their local child support agencies, with a range from just under a year and a half since last contact in Virginia to nearly three years in Michigan. Discussions during those last contacts with noncustodial parents often revolved around the reasons for the noncustodial parents' lack of payment. The associated custodial parents tended to have been in touch with the child support agency more recently, just over a year and a half before noncustodial parents were enrolled in the study. The last conversations with those custodial parents also often centered on the noncustodial parent's reasons for nonpayment, and enforcement actions were commonly discussed.

The most recent child support payments on these cases were received just over a year and a half before noncustodial parents were enrolled in PJAC. Nearly 50 percent of those payments were received through income withholding. A third were made through individual, direct payments to the custodial parent, while an additional 8 percent were made

through enforcement actions, such as tax intercepts or bank levies.

In most cases, enforcement staff members had used several tools to obtain payment, the most common of which were income withholding (87 percent), payment-demand letters (78 percent), and credit bureau reporting (72 percent).

### **WHAT LED NONCUSTODIAL PARENTS TO BECOME ELIGIBLE FOR CONTEMPT REFERRALS?**

Child support programs can use several methods to obtain payment. If these tools are ineffective, programs can consider referring nonpaying parents to the legal system for contempt. This section offers reflections from child support and court staff members on why noncustodial parents had not been paying when they entered the study. The evaluation team gathered this information during interviews conducted in the spring of 2019.

According to child support staff members, the reasons noncustodial parents were behind on their child support payments generally fell into three categories, listed here in order of prevalence: a lack of consistent employment or employability, an unwillingness to pay, and a lack of understanding about some aspects of their child support obligations. Each is discussed below.

#### **Lack of Consistent Employment or Employability**

Most PJAC case managers described inconsistent, low-wage employment and real or perceived unemployment as key factors behind child support nonpayment. These factors most affected parents who had criminal histories (making it difficult for them to get hired) or who had cycled in and out of jail or prison for an extended period (making it difficult to sustain employment if they did get hired).

The prevalence of employment instability may seem inconsistent with the ability-to-pay contempt criterion described above; however, the enforcement staff members who determine noncustodial parents' ability to pay described a subjective as-



assessment process. A staff member might determine ability to pay by checking state and national employment databases for evidence of employment in recent quarters, or by checking social media accounts for evidence of having recently spent money. This latter process is one technique enforcement staff members use to detect informal employment not captured by employment databases. One staff member said that in some cases, the absence of clear criteria for making this determination leads staff to assess “the absence of *inability* to pay,” which means, in practice, that the noncustodial parent is “not incarcerated, not disabled, and not otherwise [un]able to work.” These broad criteria and improvisational assessment methods result in, for example, people with untreated mental health issues and substance use disorders being determined to have the ability to pay, even though they could not maintain steady employment in the absence of treatment.

### Unwillingness to Pay

Case managers reported that there were noncustodial parents on their caseloads who were earning income — or who could earn income — but chose not to pay child support. These are the parents PJAC services were designed to target. They may be unwilling to pay for various reasons. For example, they may believe they should not have to pay child support if they are not allowed to visit their children or do not have joint or full custody. PJAC case managers said many parents believe that their money is going toward the custodial parent rather than the child, particularly in cases where there is a poor relationship between the parents or in debt-only cases in which the child is now grown. Others distrust or feel antipathy toward the child support system, which discourages them from making payments.

Case managers noted that some noncustodial parents would go to great lengths to avoid their child support obligations because they were unwilling to pay — for example, quitting their formal employment and working “under-the-table” jobs that are not reported to state and federal employment databases.

### Lack of Understanding

A few PJAC case managers said noncustodial parents did not pay because they did not understand certain aspects of the child support process. For example, some noncustodial parents did not understand that they could request order modifications if their cases’ order amounts did not reflect their actual ability to pay. Other parents believed that because they could not make their full child support payments, they should not pay any portion. Finally, several PJAC case managers described instances where noncustodial parents claimed that they had provided money, services, or items directly to custodial parents and expected that these contributions to count toward their child support payments, but they were not credited for these direct payments. This situation can happen for several reasons; for example, some states do not allow child support workers to give noncustodial parents credit for direct payments, but a noncustodial parent may not know that before sending money to the custodial parent.

### CONCLUSION

In summary, while the PJAC demonstration project includes a diverse group of families, several themes have emerged across the families participating in the project to date. PJAC noncustodial parents had cases that were opened an average of nine years before they entered the study, and they tended to have high debt balances. These parents often had histories of limited communication and poor relationships with child support agencies. These factors may have affected PJAC case managers’ ability to serve families in the sample to varying degrees and in various ways across sites. PJAC case managers have been equipped with tools informed by procedural justice to engage and serve noncustodial parents. Early findings presented in the brief “[Using Principles of Procedural Justice to Engage Disconnected Parents](#)” suggest that these tools are helping PJAC case managers engage families.<sup>10</sup> Future briefs will explore how PJAC case managers deliver services to meet these families’ unique needs.

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<sup>10</sup>Kusayeva (2020).

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