

Testimony of Vicki Turetsky  
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before the  
Subcommittee on Human Resources,  
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Chairwoman Johnson and Members of the Subcommittee:

Thank you for this opportunity to testify today on ways to encourage poor mothers and fathers to work together to support and raise their children. I am a Senior Staff Attorney at the Center for Law and Social Policy. CLASP is a nonpartisan, nonprofit organization engaged in analysis, technical assistance and advocacy on issues affecting low-income families. We do not receive any federal funding. My focus at CLASP is child support. Before working at CLASP, I was employed by Manpower Demonstration Research Corporation (MDRC), and helped implement the Parents' Fair Share pilot project.

Many poor fathers and mothers are capable of building workable partnerships to help each other support and raise their children. However, in study after study, poor mothers and fathers of children receiving TANF say there is a fundamental contradiction in the child support system that undermines their ability to work together to support their children. The contradiction is that when a TANF father contributes financial support to his children, the money must be turned over to the state and may not be used to support the children. Because TANF fathers know that their child support payments are kept by the state and do not benefit their children, they are discouraged from participating in programs like Parents' Fair Share.

My testimony today will specifically address the negative impact of current child support assignment and distribution policies on the ability and willingness of poor mothers and fathers to work together on behalf of their children. New public investments in fatherhood programs may be met with only limited success unless we begin to treat child support as part of the family's own resources, rather than as an offset to public welfare costs. Many researchers, state administrators, and advocates for poor mothers and poor fathers agree that the child support program needs to be realigned with TANF self-sufficiency and family formation goals.

To bring the program into better alignment with TANF, PRWORA "family first" distribution rules should be expanded. In addition, states should be given the option to distribute all support paid by fathers for their children, regardless of welfare status.

### **The Child Support System Emphasizes Welfare Cost Recovery**

When the child support program was established, it mainly functioned as an AFDC cost-recovery mechanism. The AFDC bargain was that the state would guarantee public support for poor families until their children reached the age of majority. In exchange, a mother needing AFDC would be required to assign (turn over) to the state any rights to private support owed by the father. The assignment applied to child support owed before the family went on welfare, as well as support owed while the family received welfare. The state then would attempt to collect the child support from the father. Support collected from the father would be kept by the state and shared with the federal government as partial reimbursement for AFDC costs.

The TANF bargain is supposed to be quite different. TANF evinces a clear public policy preference that poor families rely on private resources before public resources. Under TANF, mothers are expected to work and to support their children from their own resources whenever they can. This expectation that mothers will develop their capacity for self-support is backed by

time limits. Fathers, too, are told they must help support their children. The expectation that fathers will help support their children is backed by strengthened paternity establishment and child support enforcement procedures enacted under PRWORA.

The “families first” child support distribution policies adopted under PRWORA was an important first step in allowing families leaving TANF to treat child support as a family resource. The new distribution policy gives priority to child support payments owed to former welfare families over payments owed to the state. The new distribution policy also allows families to keep some of the child support owed before the family went on assistance. However, the basic rule remains the same under TANF as it did under AFDC: child support owed or collected while a family receives TANF belongs to the state, not the family.

The child support program is undergoing dramatic structural changes due in part to TANF caseload declines. In 1978, more than 75 percent of the child support caseload involved current AFDC families. By 2000, less than 20 percent of the child support caseload will be current TANF families. The vast majority of cases will involve low-income working families who have left or stayed off of TANF. The child support program’s mission is evolving toward helping low-income families reduce welfare receipt and sustain low-wage employment. Child support distribution policies should support, not undercut, these TANF goals.

Instead, the program’s reimbursement-driven distribution policies have interfered with states’ ability to implement policies supportive of family self-sufficiency. The recent changes in TANF, combined with long-term trends in the child support caseload, have resulted in a misalignment between the program’s ability to deliver effective services to families and a program structure that emphasizes cost-recovery. The child support program, like other human services programs, must be brought into realignment with TANF goals and the realities of time-limited welfare.

### **Child Support Distribution Policies Work Against Poor Fathers and Mothers**

Current child support distribution rules make no sense to poor mothers and fathers. Parents want to be able to use their own money to support their children. When poor mothers look at their budget, they would prefer to keep their own money -- their paycheck and child support -- even if it means reduced public benefits. Poor fathers want to know that their money is contributing directly to their children’s support. Yet poor mothers and fathers both know that unless the father can pay enough keep their children off of TANF, his support payments will be kept by the state and will not directly benefit their children.<sup>1</sup>

For the most part, poor mothers and fathers want to do right by their children. Most fathers know they should take responsibility for their children. The research indicates that many poor fathers see their children on a regular basis, particularly when their children are small. Child support payments may increase the frequency of contact between fathers and children and fathers’ involvement in their children’s upbringing. Many mothers report that they encourage their children’s emotional relationship with their father and his family, and try to keep the father involved in the children’s lives when feasible.

Many mothers and fathers are aware of each other’s economic circumstances, and repeatedly re-

negotiate their financial arrangements. Sometimes she holds back on child support enforcement. Sometimes, he pays informal financial support for the children. Sometimes, he does not pay regular support, but makes irregular in-kind contributions, such as diapers, school clothes, and Christmas gifts. Sometimes, he pays out of both pockets -- he pays off the state a little and he pays her a little. Sometimes she settles for non-financial support. Sometimes, they fight about the money. Sometimes, he walks away.

We have created an untenable situation for poor fathers and mothers who want to improve their children's lives, but can not fully support their children without some public help. When TANF fathers pay through the formal child support system, their payments usually do not go back to their children. If the father has \$50 in his pocket, he may rightly perceive his choice as one between paying back the state and buying shoes for his child.

Yet no one is well served when parents agree to under-the-table payments and avoid the formal child support system. If a TANF mother accepts informal support from the father, she is vulnerable to a welfare fraud prosecution. In addition, informal payments are made at the discretion of the father. Informal payments may be smaller and less regular, and there may be more disputes about the amounts paid. They are likely to decrease as the child gets older and the parents' relationship changes. If a TANF father pays the mother informal support, his payment will not be credited through the formal system, and he will be liable for full payment.

We tell poor mothers and fathers that we want them to work together to support and raise their children. We tell them that we want them to rely on their own resources before seeking public help. However, our child support distribution policies send a contradictory message: child support payments are off-limits for families seeking to budget and plan for their children's support.

### **Welfare Arrears Often Create Unmanageable Debt**

Poor fathers often complain about child support arrears. The arrears problem is part and parcel of a child support system that is based on welfare cost recovery. If a poor father's children are on welfare, his support order often is not based solely on his ability to pay. Instead, the order may be "front-loaded" with unreimbursed state debt, such as pre-order welfare benefits or Medicaid expenditures paid for the child. Childbirth costs may be added to the initial order. This can amount to tens of thousands of dollars when a child is born prematurely or with other health problems. Paternity testing costs, litigation costs, and interest may be added to the support order. "Front-loading" the order with costs that are unrelated to the poor father's ability to pay can create an unmanageable debt right from the beginning. As a practical matter, they often create a debt that will never be paid.

In many states, the state attempts to collect support from fathers even when they are living with their children in a two-parent family. Sometimes, they do not tell the welfare agency that they are living together because of policies basing welfare eligibility on father absence. Sometimes, they do tell the agency, but it does not operate to suspend the child support order and "state debt." In addition, the state may attempt to collect when the parents' financial circumstances change. For example, the father may lose his job after the order was entered.

State child support programs need to deal with the problem of arrears owed by parents that will never be paid off. The best approach is to begin treating child support as money owed to the family, not to the state. Much of the arrears on the books stem from state practices that use the child support system to recoup welfare and Medicaid costs. Public policies affecting the treatment of arrears should reflect child support program goals of increasing family self-sufficiency and supporting family formation, not cost recovery.

In addition, state child support programs should implement review and modification procedures that (1) make it easy for parents to request a review of the child support order and accumulated arrears, (2) respond quickly and flexibly to mothers' and fathers' requests for review of the order and adjust the order upward or downward according to the parents' financial and family circumstances, and (3) allow for a review and modification of accumulated arrears.

The cure for welfare debt is not to repeal the Bradley amendment. The Bradley amendment, enacted as a part of the Omnibus Reconciliation Act of 1986,<sup>2</sup> requires that child support payments owed under a support order be treated just as seriously as any other state court judgment. However, as with any other judgment, child support orders may be compromised or settled by agreement of the parties according to state law.

If I fall behind on my credit card payments, the credit card company can take me to court and obtain a judgment against me. A court can not undo that judgment at the request of one party if it was properly entered. However, I can sit down with the credit card company and tell them that I can not afford to repay the debt. The credit card company can work out a settlement with me and waive enforcement of the judgment. Similarly, if I can not afford to pay my child support order, the state child support agency and/or custodial parent can suspend, compromise, or forgive arrears owed to the agency or parent. The U.S. Department of Health and Human Services recently reissued a policy statement clearly stating that states have the authority to compromise TANF arrears owed to the government.<sup>3</sup>

### **Current Distribution Rules Work Against Families Leaving TANF**

Distribution changes enacted in PRWORA are intended to move states in a "family-first" direction that gets more money in the hands of post-TANF families. However, they are extremely complicated and costly to administer in practice. They are the uneasy result of legislative compromise between contradictory program goals of helping families become and remain self-sufficient and recovering welfare costs. When fully implemented, the new law will require states to maintain ten accounting "buckets."

The sheer complexity of PRWORA distribution rules will aggravate a problem that already exists for many states: accurate and timely payment of child support to former TANF families. Although current support is supposed to be paid to families as soon as they leave TANF, the child support agency sometimes continues to retain current support for months after welfare exits. Instead of stabilizing the family's child support income before the family leaves TANF,

child support is interrupted right at the point of exit and for some months thereafter.

The complexity of new distribution rules is also costly for the states and federal government. Problems with automating complicated distribution rules have been cited by many federal and state administrators as a contributing cause of systems delays and costs. The new rules require disproportionate training and staff time devoted to administering the rules, correcting errors, and explaining hard-to-understand decisions to parents. Because the new policy is so difficult to explain and administer, it will further erode confidence in the program's fairness and accuracy. Bluntly put, the administrative costs and costs related to program credibility of maintaining an overly complex distribution policy squanders limited program resources.

Under PRWORA, states have the option to distribute the state share of child support to families, but they must return the federal share to the federal government. This is a change from previous policy, when states were required to pass through and disregard \$50 to AFDC families "off the top" of collections, that is, before the federal and state shares of collections were calculated. Almost half of states continue to pass through some amount of child support from the state share. However, under current distribution rules, the state's decision to pass through part of the state share to families actually increases the complexity of distribution by adding another distribution "pot."

### **Child Support Has the Potential to Reinforce TANF Goals**

TANF evinces a clear public policy preference that low-income families rely on private resources before public resources. The stated purposes of TANF are to: (1) provide assistance to needy families; (2) end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage; (3) prevent and reduce the incidence of out-of-wedlock pregnancies; and (4) encourage the formation and maintenance of two-parent families. The research indicates that effective child support enforcement supports TANF goals, perhaps better than any other public policy approach:

- Emerging research suggests that stronger child support enforcement will reduce non-marital births, divorce, and marital disruption. States with higher rates of paternity establishment and effective child support collection systems have lower rates of nonmarital births. A \$136 increase in IV-D expenditures per female-headed family leads to a 2.3 percent lower nonmarital birth rate. By contrast, a \$1,253 decrease in annual welfare benefits is only associated with a 0.063 percent decrease in nonmarital fertility. Child support enforcement not only deters births more effectively than welfare cuts, but it increases the income of children already born.
- The number of studies documenting that child support reduces poverty and welfare dependence is now quite large. States with effective child support collection systems have significantly lower welfare caseloads. Child support is playing a moderate to large (and unrecognized) role in declining welfare caseloads. Enforcing child support is more efficient than lowering welfare benefits in moving families out of caseloads and preventing them from entering caseloads. While cuts in welfare benefits reduces the economic well-being of single-mother families, enforcing child support increases it.

- Cost avoidance research from Washington State indicates a synergic effect between child support and earnings once the family leaves assistance and begins receiving distributed collections. Compared to welfare, child support is more complementary to work because child support payments do not decline like welfare benefits when the mother's earnings increase.
- There is growing evidence that child support enforcement has improved collections, especially among fathers whose children are likely to be on welfare. From 1980 to 1996, the proportion of unmarried mothers who were on welfare and had a child support collection nearly tripled. However, the significant increase in child support receipt rates has been masked, because the caseload composition has shifted away from divorced families to non-marital families. Strikingly, welfare collections remained stable or even increased in some states for the first four years after TANF caseloads began to decline.

### **Simplify Distribution and Give States the Option to Pass through All Support To Families**

Senator Kohl intends to reintroduce a version of his bill last session that would allow states to pass through all support to TANF and former TANF families. CLASP strongly supports this direction. States should be given the option to distribute all child support, including federal and state shares, to families. CLASP also recommends that current distribution rules should be simplified across-the-board in order to put more child support in the hands of families.

By allowing states the option to distribute all support to families, Congress would give states the flexibility to bring their child support program into better alignment with TANF goals. States would be better able to use child support as part of a strategy to help families reduce their dependence on TANF, help poor fathers improve their earnings capacity, help poor and low-income mothers and fathers to combine their earnings to support and raise their children, and promote family formation goals:

- Distributing child support to the TANF family increases the likelihood that child support payments will be in place and will continue uninterrupted when a family leaves TANF.
- It also gives the mother with earnings an accurate sense of the amount and regularity of child support payments available to combine with her earnings.
- It allows the father to use his money to help support his children.
- It gives both parents a greater incentive to cooperate with formal collection efforts.

A state option to disregard some or all of the support in determining TANF eligibility and benefits is an important component to the proposal. Parents have a greater incentive to cooperate when child support distributed to the family actually increases their children's financial well-being. When child support improves family income, it boosts both parents' work effort and may help the family leave TANF sooner. States need the flexibility to set child support disregard policies in a way that best fits their TANF program.

Three states currently have waivers to distribute all current support and to disregard some or all of the support for TANF purposes. Wisconsin passes through and disregards all support, while Connecticut passes through all support and disregards \$100, and Vermont passes through all support and disregards \$50. Evaluation efforts are underway, and while it is too early to assess the impact of these policies, Wisconsin and Vermont have reported early results:

- Early results in Wisconsin indicate that families receiving the full pass-through and disregard who were initially assigned to a lower W-2 tier were more likely to leave welfare by the fifth quarter than control-group families. In addition, while the state retained less child support, net government costs were not significantly different.
- Early results in Vermont suggest that the state's pass-through policy increased the average child support payment and the proportion of families receiving child support.

In summary, child support distribution rules should be changed to allow states to pass through all support for TANF and former TANF families. In a post-TANF world, it is more important than ever that child support distribution rules satisfy several principles. First, the rules should help, rather than undermine, the efforts of poor mothers and fathers to work together to support their children. Second, child support should be treated as a family resource, not recouped public debt. Third, the distribution rules should make sense to families and be simple to administer and explain. The job of the child support program should be to establish paternity, collect support, and get the support to the family. The job of the TANF program should be to set policies related to child support income that encourage poor fathers to help support their children and that help families who are exiting TANF.

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<sup>1</sup> Since most custodial parents are mothers and most noncustodial parents are fathers, this testimony uses the term mother to refer to custodial parents and father to refer to noncustodial parents. Obviously, the situation can be, and sometimes is, reversed.

<sup>2</sup> 42 U.S.C. 666(a)(9).

<sup>3</sup> HHS/OCSE, "Compromise of Child Support Arrearages," PIQ-99-03 (March 22, 1999).