



COMMONWEALTH of VIRGINIA

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December 19, 2000

MEMORANDUM

TO: Delegate Vincent F. Callahan, Jr., Chairman

FROM: Philip A. Leone, 

SUBJECT: Special Inquiry: A Review of Child Support Enforcement and the Judicial Process

At the October 10th meeting of JLARC, staff briefed the Commission on a final report regarding child support enforcement to meet the requirements of HJR 553 from the 1999 Session. At the meeting, the Commission directed the staff to conduct an additional analysis to evaluate the current status and development of Division of Child Support Enforcement (DCSE) partnerships with local courts, local sheriffs' offices, and other entities in the collection of child support payments. Given that the final child support enforcement report recommended the need for additional resources, including staff, the Commission requested an additional review to determine whether additional partnerships could decrease caseloads, increase federal incentives, and reduce the amount of delinquent child support owed to children in Virginia.

As will be described later in this memorandum, the special inquiry focused on the primary partners in the collection of child support through the judicial process: DCSE, the courts, and the sheriffs. In addition, the inquiry focused on a private company, known as Restitution and Inmate Development or RAID, which provides one alternative to incarceration for noncustodial parents that are not meeting their child support obligations. There are five major conclusions that emerge from this evaluation.

- In Virginia, most child support actions can be performed administratively by DCSE without judicial intervention. When judicial action is required, DCSE appears to be referring the appropriate type of delinquent cases to court.

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- DCSE appears to have good working relationships with the local courts. Judges utilize a variety of methods to encourage delinquent parents to pay child support. They welcome alternatives to incarceration and the RAID program is one alternative. In addition, the judges do not feel that they should determine which cases are sent to court.
- The level of coordination between DCSE and sheriffs' offices seems to vary, and there may be an opportunity to increase the role of sheriffs through cooperative agreements with DCSE.
- The RAID program, a private for-profit company, has been implemented successfully in several localities and should be encouraged to expand in areas where the localities determine that they need such a program. However, the appropriate role for programs such as RAID is as an alternative to incarceration, not as a catalyst for determining which child support cases should be sent to court. In addition, it is inappropriate for State officials to endorse this program over others.
- Federal funds are available for additional partnerships, especially with sheriffs' offices, if these entities are providing enhanced child support services that are above and beyond their normal duties and prove to be cost-effective in the overall collection of child support.

Because DCSE appears to be utilizing partnerships with local courts, local sheriffs' offices, and other entities to an appropriate degree in the enforcement and collection of child support, **we do not recommend a continued review by JLARC staff at this time. In addition, it does not appear that the implementation of improvements suggested in this memorandum would require any legislative action.**

However, as discussed in JLARC's Final Report: Child Support Enforcement (House Document No. 15, 2001), additional resources, including staffing, are required to improve the collection of child support. DCSE is encouraged to maintain or establish partnerships with the local courts and sheriffs' offices where needed and to determine whether cooperative agreements with sheriffs' offices would improve the overall collection of child support.

The remainder of this memorandum discusses: (1) the mandate and background for the inquiry; (2) the scope of the inquiry; and (3) the JLARC staff findings and suggestions for improvements.

MANDATE AND BACKGROUND FOR THE REVIEW

This section of the memorandum describes the mandate for the review and provides a brief background on the child support program and the judicial process.

Mandate for the Review

House Joint Resolution 553 of the 1999 General Assembly Session directed JLARC to evaluate the State's child support enforcement activities. The study mandate allocated two years for the review. An interim report was completed in December 1999 and the final report was completed in October 2000. As requested by the study mandate, these reports provided recommendations as to "how the program can be improved to better meet the needs of our children" by focusing on caseload, management, employment, and workloads of the State and district offices. The major finding of these studies is that additional resources are needed, especially staff resources, in order to improve the State's ability to collect child support on behalf of Virginia's children.

Based on the continued legislative interest in improving child support enforcement services and collections, JLARC staff were asked to study the impact of DCSE court proceedings on the overall collection of child support, examine the RAID program, and consider the potential for more DCSE partnerships with sheriffs' offices.

Background

The Division of Child Support Enforcement (DCSE) in the Department of Social Services (DSS) is the "single and separate" organizational unit responsible for administering Virginia's child support enforcement program. DCSE is the largest division in DSS in terms of budget and staff. As of September 2000, DCSE had 398,847 cases in its caseload. DCSE's mission is to promote strong, self-reliant families by delivering child support enforcement services, as provided by law. This mission is carried out primarily by 22 district offices throughout the State, four of which are operated by two private companies.

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Child support is a crucial part of many families' financial viability. Currently, about 25 percent of children in Virginia receive child support enforcement services from the State. Child support has become an essential part of the State's human services system, particularly with the implementation of welfare reform and its focus on making families self-sufficient. Non-payment of child support, or payment in an untimely fashion, can cause hardships not only on the custodial parent, but also the children. When payments are not received, families must often turn to public assistance programs.

In FY 2000, DCSE collected \$391 million in child support, but more than \$1.7 billion is still owed to Virginia's children. Approximately 31 percent of all DCSE's cases do not have a support order and more than half of the cases involve noncustodial parents who are delinquent in paying child support. When discussing the large amount of money that is still owed, however, it is important to note that not all fathers (or mothers) are "deadbeat," or able but unwilling to pay the support. Many experience low wages, sporadic employment or unemployment, and have low levels of literacy, and therefore may be, at times, unable to pay the support. In addition, many may choose to pay support directly to the parent of their children to avoid the State keeping the money to pay off welfare debt, which results in the accumulation of very high arrearages. The federal government is interested in developing reasonable ways to address this growing debt. In Virginia, DCSE has contracted with Virginia Commonwealth University to examine the accumulated arrearages to determine what portion of the debt is truly collectable (the report is due for completion in the spring of 2001).

As stated in JLARC's previous child support enforcement reports, Virginia is an administrative state, which means that most child support enforcement actions, such as establishing paternity, establishing obligations, and withholding wages, can be performed without judicial intervention. (In states with a judicial process, all child support cases must go through the courts). Federal regulations (Social Security Act § 466) require states to have expedited administrative and/or judicial procedures for establishing, modifying, and enforcing child support obligations. In Virginia, the regulations for child support (22 VAC 40-880-260) state that "the department shall attempt to enforce current and delinquent child support payments through administrative means before petitioning the court for enforcement action."

According to DCSE, 72 percent of all child support actions are administratively obligated. This has been described as being a key advantage of Virginia's child support enforcement system because the administrative process

saves money through reduced court costs, DCSE staff time, and attorney fees. An administrative process is also more efficient. For example, support orders can be established more quickly because documents do not have to be filed with the court clerk, and problems associated with scheduling court time are eliminated.

However, when a noncustodial parent appeals an administrative decision or DCSE has exhausted all reasonable administrative enforcement actions, then the case requires judicial action. At that time, the three entities that must all work together are DCSE, the courts, and the sheriffs. In some areas of the State, a fourth group, RAID, has been involved in the judicial process by providing an alternative to incarceration for noncustodial parents.

SCOPE OF THE INQUIRY

This section of the memorandum describes the issue that is addressed by the special inquiry conducted by JLARC staff, and several associated research questions. It also identifies the research methods used, and references a list of individuals who were interviewed during this review.

Study Issue and Research Questions

The main issue of this special inquiry is to determine whether DCSE utilizes partnerships with local courts, local sheriffs' offices, and other entities to an appropriate degree in the enforcement and collection of child support. To address this issue, the following research questions have been developed:

1. Given the limited resources at DCSE, the Attorney General's office, and the courts, is DCSE sending the appropriate type of delinquent cases to court? Are there improvements that can be made?
2. What role do judges play in the collection of child support? Are there improvements that can be made?
3. What role do the local sheriffs' offices play in the collection of child support? Are there improvements that can be made?
4. What role does the RAID program play in the collection of child support? What is the appropriate role for RAID? Are there other similar alternatives to incarceration programs?

5. Can federal child support funds be utilized to reimburse courts, sheriffs' offices, or other entities for the judicial and enforcement services they provide? Can these funds be used to maintain or improve DCSE's current cost-effectiveness ratio?

Research Methods

The primary research activities the study team used in this special inquiry were structured interviews, site visits, data analysis, and a review of selected documents. JLARC staff conducted numerous in-person and telephone interviews with judges, court staff, sheriffs, DCSE staff, other State staff, RAID staff, federal child support enforcement staff, and others. (The schedule of interviews is presented in Attachment A of this memorandum). In addition, staff observed more than 50 child support enforcement arraignments and hearings at Juvenile and Domestic courts in Richmond, Henrico, and Rockingham. JLARC staff utilized DCSE data to analyze the types of cases sent to court and the total amount of arrearages owed by the noncustodial parents. JLARC staff also reviewed a wide range of documents and regulations relating to the judicial process, cooperative agreements, and the use of federal funds to finance court-related activities.

JLARC STAFF FINDINGS

This section provides the details of the JLARC staff findings based on the special inquiry. The findings are presented in a question and answer format. Within each answer, brief background information is provided, findings of the inquiry are listed, and suggested improvements are described. As discussed in the scope section, there are five questions concerning the relationship of DCSE and various entities involved with the judicial process. The findings contained in this section form the basis for the overall conclusions of the inquiry.

Question 1: Given the limited resources at DCSE, the Attorney General's office, and the courts, is DCSE sending the appropriate type of delinquent cases to court? Are there improvements that can be made?

Because Virginia is an "administrative state" for child support enforcement, judicial action is considered a last resort for enforcing a child support order. Prior to referring a case to court, DCSE staff are required to work the case administratively, and are supposed to exhaust all reasonable administrative remedies.

DCSE is solely responsible for deciding which child support cases are referred to court. DCSE's program manual provides some guidelines to caseworkers regarding when judicial action should be used. It states that judicial enforcement can be used when the administrative process to enforce a support obligation or medical support order has been unsuccessful, or a performance bond is being requested to enforce the collection of arrearage on a court order. More specifically, the manual directs caseworkers to take judicial action when administrative enforcement actions are unsuccessful and: (1) current support is ordered and the arrears are past due in an amount at least equal to 90 days support, and the arrearage total at least \$500, or (2) the arrearage is at least \$500 on a case and no current support is ordered.

According to RAID staff, DCSE is not making the best use of the courts' time because DCSE is referring too many cases with low arrearages to court. They indicated that these small dollar cases are clogging the dockets, and that DCSE should focus on referring cases with large arrearages (more than \$5,000 or \$10,000). In addition, they stated that, given the extra time and effort required to handle cases judicially, only cases with high arrearages should be sent to court in order to make best use of the court's valuable time. DCSE staff and several judges interviewed for this inquiry, however, stated that children who are owed smaller amounts are deserving of child support just as much as children who are owed larger amounts.

JLARC staff's analysis does not support the RAID contention and found that DCSE appears to be sending the appropriate type of cases to court because a substantial percentage of all hearings are for show cause hearings (those delinquent in paying support). In addition, when a show cause hearing is warranted, the cases tend to have high arrearage balances. The JLARC staff findings and a suggestion for improvement are presented below.

Findings

- There were 79,133 court hearings for child support enforcement in FY 2000. Forty-seven percent (or 36,816 hearings) were show cause hearings, which are hearings that are used to make noncustodial parents pay child support when they have been delinquent. The rest of the hearings dealt with issues such as paternity or order establishment.
- JLARC staff evaluated DCSE data for show cause cases for a three-month period in FY 2001 (July to September). Almost half (46 percent) of the 25,279 child support hearings that occurred during this period were show cause

hearings (Attachment B provides a summary of this information by district office and locality).

- The average arrearage for cases that were referred to court for show cause hearings during the period of July to September 2000 was \$8,868. In the district offices, the average arrearage for show cause cases ranges from \$6,033 (Lynchburg) to \$25,198 (Arlington). This demonstrates that, on average, the cases DCSE is referring to court are high-arrearage cases.
- In order to determine which delinquent cases with large arrearages could potentially qualify for judicial action, JLARC staff analyzed DCSE data as of September 30, 2000. The following table indicates that out of a current delinquent caseload of 216,645, approximately seven percent of the cases owe more than \$10,000 and twelve percent of the cases owe more than \$5,000 and have not made a payment in six months. However, based on the high arrearage balances of cases that are sent to court, it is likely that many of these cases have already been sent to court. In addition, some of these cases could be paying towards current support.

	Number of Cases with No Payment in the Last 90 Days	Number of Cases with No Payment in the Last Six Months
Owe \$5,000 or more	30,100	26,421
Owe \$10,000 or more	17,218	15,209

Note: Excludes interstate cases, locate cases, and cases with no address for the noncustodial parent.

- None of the judges interviewed for this study felt that the child support cases coming before them were inappropriate. One judge noted that the only problem with the cases in his court are that noncustodial parents often do not show up for their hearings, and that DCSE needs to make sure that they know where the noncustodial parent lives before referring the case to court.
- Although it is DCSE's policy that "all cases are supposed to be treated with equal vigor," DCSE does periodically prioritize and focus on certain types of cases. For example, DCSE periodically conducts "round-ups" of noncustodial parents who have large arrearages and who have not made a payment in a specified time period. These round-ups, in conjunction with an amnesty program that provides the non-paying parent with relief from enforcement techniques if appropriate payment plans are made, has collected over \$114.6 million from parents since 1997. In addition, one of the private offices indicated that they often prioritize cases that are referred to court. Their first

priority is to refer cases in which the noncustodial parent is self-employed or underemployed because these noncustodial parents are difficult to deal with administratively.

Suggested Improvement

- Although DCSE for the most part does appear to send cases to court that have high arrearages, DCSE should routinely review cases that have arrearages greater than \$5,000 and the noncustodial parent has not made a payment in six months to ensure that all actions (administrative or judicial) have been taken to enforce the support order.

Question 2: What role do judges play in the collection of child support? Are there improvements that could be made?

Judges play an important role in collecting child support once administrative means have been exhausted. They conduct hearings on unsuccessful paternity establishment and support orders, and use the force of the law to enforce child support orders.

When a child support enforcement case requires judicial action, it is heard in one of 122 Juvenile and Domestic Relations Courts across the Commonwealth. If a noncustodial parent appeals the decision of the Juvenile and Domestic Relations Court, the appeal is then heard in the Circuit Court. The number of courts with which a single district child support enforcement office must interact ranges from two to 32. All district offices have caseworkers that are assigned to work with the courts and there are specific days of the week that are designated for child support cases.

The process for judicial action involves all the primary partners (DCSE, the courts, and the sheriffs). DCSE staff file a petition with the court to hear the case, and the court puts the case on the docket. The court then notifies the sheriff, who serves the noncustodial parents with the summons. Once the case is scheduled, DCSE staff prepare the case by gathering information and the DCSE attorney reviews the case documentation. At the hearing, the DCSE staff present the facts of the case. A staff attorney from the Attorney General's office is present to address matters of law.

This inquiry focused on the appropriate role of judges because in recent months, a couple of judges (participating in the RAID program) contacted DCSE requesting information on cases with high arrearages in their jurisdictions

so that they can bring them back to court for prosecution and possible referral to the RAID program. The impetus for these requests was RAID's contention that inappropriate cases were being sent to court and that the judges have the authority to prosecute cases that already have a court-ordered support agreement.

Based on interviews with judges and the Executive Secretary of the Supreme Court, JLARC staff found that these types of specific data requests are not appropriate and circumvent the authority of DCSE to exhaust reasonable administrative remedies prior to seeking judicial action. The JLARC staff findings and suggestions for improvement are presented below.

Findings

- Judges encourage noncustodial parents to pay child support using several methods, including: (1) sentencing them to jail for up to 12 months; (2) sentencing them to jail, but allowing their immediate release once they meet a certain payment amount (known as purge clauses); (3) sentencing them to an alternative to incarceration, such as home electronic monitoring or work release; or (4) requiring them to find a job within a specified period of time.
- While the judges interviewed stated that they have no problem sentencing delinquent payers of child support to jail, they prefer to have available a variety of alternatives. In addition, they like to use a progression of methods, starting with less intrusive methods first.
- The variety of alternatives to incarceration vary among the localities. For example, judges in Roanoke City can sentence noncustodial parents to a Court Diversionary Incentive (CDI) program, which is for individuals with substance abuse or employment problems. Other judges have the option of sentencing noncustodial parents to a home electronic monitoring program with a strong employment component, such as the RAID program.
- During the JLARC staff review, several partnerships between DCSE and the courts were highlighted as best practices for improving the collection of child support:
 - In Fredericksburg, the local DCSE office and the Spotsylvania Juvenile and Domestic Relations Court are cooperating on the Barriers project, the goal of which is to increase the percentage of noncustodial parents paying child support. DCSE is evaluating the barriers to paying court-ordered

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- child support by noncustodial parents. The project provides the courts with a variety of work-oriented and community-based resources that lower the incidence of non-payment. DCSE stated that this program should help to increase the percentage of cases for which support is paid and develop a healthier, safer community by strengthening parent/child relationships and providing for both the financial and emotional needs of children.
- In Hampton, the district office partners with the Hampton and York County Juvenile and Domestic Relations courts, the Hampton University Care (HUCARE), and the Regional Job Support Network to provide job development and placement services for noncustodial parents. When the noncustodial parent is in court and states he is unable to pay due to lack of employment, the judge orders the noncustodial parent into these programs.
 - Other DCSE district offices have implemented arrangements that have helped to improve the relationship and efficiency of the courts. For example, in Virginia Beach, all parties involved in child support cases are summoned to the court by 8:30 a.m. so that DCSE staff and legal staff can interview parties in advance of hearing times. If support orders can be established and/or asset and income information secured for show cause cases, then DCSE presents findings and recommendations to the court. The court routinely accepts the recommendations and disposes of the case, which allows time on the docket for contested matters and allows DCSE to docket more cases.
 - Most of the judges interviewed for this review indicated that they had good working relationships with their local DCSE offices. Many of the judges meet regularly with DCSE staff to discuss child support issues. For example, in Portsmouth, the DCSE special counsel meets quarterly with the Juvenile and Domestic Relations judges to promote a quality work relationship. In addition, an association of juvenile court judges in Virginia also has a support committee, which meets periodically to address child support issues.
 - Most of the district offices stated that they had good working relationships with the judges with whom they work. However, during JLARC's two-year review of child support enforcement, some DCSE staff stated that some judges were too lenient on noncustodial parents.
 - All judges interviewed indicated that it was not within their authority to dictate what cases DCSE sends to court. The Executive Secretary of the Supreme Court indicated that if a judge was concerned about the kind of cases that

DCSE was sending to court, the judge should meet with DCSE and talk about cases in general and how they might work together to improve the process. A Richmond judge provided an example of how this would work. This judge indicated that he had a problem with DCSE sending too many cases to court where the noncustodial parent was already incarcerated. He met with the Richmond child support office staff and improvements in the process were made.

Suggested Improvements

- DCSE should ensure that all local district offices meet periodically with judges in their districts to address any issues of general application relating to the judicial enforcement of child support.
- Localities with high child support caseloads should ensure that judges are provided with a variety of alternatives to incarceration for child support evaders. The common goal of these alternatives should be stable employment for noncustodial parents to improve their ability to make consistent child support payments. The RAID program is a private company that provides home electronic monitoring with a strong employment component, but there are publicly-run alternatives also.

Question 3: What role do local sheriffs' offices play in the collection of child support? Are there improvements that can be made?

Virginia sheriffs are elected in each of Virginia's 95 counties and 29 major cities. There are three major duties of the sheriffs' offices: law enforcement, service to the courts, and jail administration. The key relationship between the sheriffs' offices and DCSE is their service to the court, which includes providing security, serving legal papers throughout their jurisdictions, summoning jurors and witnesses, and executing court judgements. In addition, some sheriffs' offices, through their jail system, provide alternatives to incarceration, such as work release programs or home electronic monitoring programs. These programs allow participants to leave the jail or their homes for employment only.

The Compensation Board determines the total number of staff and the funding for each sheriff's office. However, localities may use local dollars to increase the salaries of staff. The Compensation Board also provides funds and staff for sheriffs' offices to run alternatives to incarceration.

One of the concerns underlying this special inquiry was whether the collection of delinquent child support could be improved with increased partnerships with sheriffs' offices. However, during the interviews and site visits with child support enforcement offices during the two-year study period, the role of local sheriffs' offices was not mentioned as an issue in the collection of child support. It appears that the level of coordination between DCSE district offices and local sheriffs' offices seems to vary and that there may be an opportunity to increase the role of sheriffs through cooperative agreements with DCSE.

The JLARC staff findings and suggestions for improvement are presented below.

Findings

- According to the Virginia Sheriffs' Association, the resources of each of the 124 offices are stretched to their maximum limit. According to the DCSE director, in some areas of the State, non-payment of child support is not the most pressing crime. Therefore, providing assistance to DCSE may not be a priority for some sheriffs' offices.
- According to DCSE, when the sheriffs' offices are unable to successfully serve court papers, expediency is required, or the non-custodial parent lives out-of-state, the local district offices have utilized private process servers. In FY 2000, these costs ranged from \$50 (in the Chesapeake office) to \$9,000 (in the Abingdon office).
- Although few formal partnerships were identified by DCSE, several offices noted special arrangements or agreements that either streamlined the joint efforts or assisted the noncustodial parent to meet his child support obligation. During the JLARC staff review, two partnerships between DCSE and sheriffs' offices were highlighted as best practices for bringing delinquent offenders to court.
 - The Prince William Sheriff's office coordinates activities with the Manassas DCSE office on an on-going basis by serving court papers and warrants, participating in round-ups of delinquent payers, and locating noncustodial parents. In 1999, this office arrested 134 noncustodial parents who had a total arrearage of \$572,000. Recently, DCSE and the Prince William County sheriff's office coordinated a "round-up" of delinquent noncustodial parents

- in northern Virginia jurisdictions, which resulted in the arrest of 35 parents who owed more than \$500,000.
- The Chesapeake Sheriff's office launched an aggressive pursuit of delinquent noncustodial parents in August 1999. By concentrating resources on this effort, personal service on show causes increased by almost 40 percent and the arrest rate of noncustodial parents dramatically increased. From August 1999 to March 2000, this office arrested noncustodial parents owing a total of over one million dollars. This office indicated they could do more with additional funds and staff. They submitted a cooperative agreement to DCSE, which proposed establishing a new special child enforcement support unit in the office to improve their ability to provide service of process, warrants, and locate services. DCSE denied their proposal, stating that there were no funds available for such a program.
 - Several sheriffs' offices also operate alternatives to incarceration. These alternatives usually take the form of work release programs and home electronic monitoring programs. If the noncustodial parent is employed, his employment can continue. If the parent is not employed, the sheriff's office may attempt to find employment. Most of these programs are publicly-run programs. However, RAID, a private for-profit entity, has also set up a home electronic monitoring program with a strong employment component in ten sheriffs' offices across the State. (This program will be discussed in more detail in response to Question 4).
 - According to federal regulations (Section 454 (7) of the Social Security Act and the Code of Federal Regulations, Section 304), cooperative agreements with law enforcement agencies to help locate absent parents and increase child support collections are possible. Further, 66 percent of reasonable and necessary administrative expenses are reimbursable with federal funds (known as Federal Financial Participation, or FFP). There are three caveats, however. Under federal regulations, in order to receive FFP, services provided by the sheriffs' offices must be above and beyond what they are currently providing. In addition, it should be noted that because Virginia is an administrative state, the need for these partnerships is less than a judicial state. Also, in implementing this type of program, it is important that it be designed to be cost-effective. (This will be discussed in more detail in response to Question 5).

Suggested Improvements

- All local district child support offices should ensure that they have good working relationships with their sheriffs' offices, including having periodic meetings to discuss any issues concerning the location and delivery of court papers on noncustodial parents or alternative programs to ensure that noncustodial parents pay child support.
- DCSE should provide periodic presentations to the Board of Directors of the Virginia Sheriffs' Association to increase the awareness of child support enforcement issues.
- DCSE, in cooperation with the Compensation Board and the Virginia Sheriffs' Association, should submit a grant application to the federal government to pilot a program with selected sheriffs' offices to provide enhanced child support enforcement services. Enhanced services may include, but are not limited to, prioritization of child support cases, sheriffs' involvement in the location of noncustodial parents, and the personal delivery of child support court papers. If the pilot program is successful and cost effective, the next phase could expand the program to localities with high caseloads and could be funded with a combination of federal funds and local funds.

Question 4: What role does the RAID program play in the collection of child support? What is the appropriate role for RAID? Are there other similar alternatives to incarceration programs?

Restitution and Inmate Development (RAID) is a private, for-profit corporation that provides an alternative home incarceration program for non-violent offenders, including those that owe child support. According to its web site, RAID is "a program that generates revenue for Sheriffs' offices while holding inmates responsible to the victims for their crimes. The program secures employment for inmates, which allows them to pay child support, restitution, and court costs." RAID proposes a program called "Operation Zero Tolerance," which involves locating delinquent parents and personally serving them a summons to appear in court. Noncustodial parents are then given the option of paying the amount that they owe or entering the RAID electronic monitoring program.

The RAID program started in 1996 in Bedford County, but was replaced with a publicly-run home electronic monitoring program when a regional jail system was created in 1998. Currently, RAID is operational in

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nine jurisdictions and one regional authority: Wise, Rockingham, Brunswick, Lee, Bristol, Amherst, Warren, Rockbridge, Washington, and the New River Regional Jail. The program in Wise County started in 1997, and the remaining programs started in 1999 and 2000.

The primary reason for this special inquiry is RAID's opinion that DCSE could be more effective in utilizing the court in the collection of child support if they partnered with local sheriffs' offices, local courts, and private entities, such as RAID. However, they claim this partnership would only be successful if DCSE prioritized the cases they send to court, starting first with those cases that owe more than \$10,000. Based on the JLARC staff interviews and site visits, it appears that alternatives to incarceration, with an employment component if needed, are positive programs that should be available statewide. However, the RAID program is just one such program. Another concern is that by proposing the numbers and types of cases that are sent to court, RAID appears to be attempting to circumvent the administrative process that has been established by the State. In order for the RAID program to receive any future support from DCSE, it must limit its role to an alternative to incarceration and leave the prioritization of which cases are sent to court to DCSE. Finally, it is inappropriate for State officials to endorse this program over others.

The JLARC staff findings and suggestions for improvements are presented below.

Findings

- Since January 2000, there have been 325 inmates in the RAID programs; 103 have owed child support. Currently, there are 97 inmates in these programs (ranging from 0 in Washington County to 36 in Warren County). RAID was not able to provide information on the average length of stay in the program, reason for discharge from the program, average hourly salary of the noncustodial parents, or how much child support money has been paid.
- Funding for the RAID program comes from the Compensation Board and the program fees charged to the inmate. The Compensation Board pays the sheriffs' office \$8.00 per day per inmate and the inmate pays \$10.00 a day. RAID advertises that sheriffs' offices can earn, on an annual basis, \$65,640 for 10 offenders and \$196,920 for 30

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offenders. Out of this yearly income, however, the sheriffs must pay an average of \$5.00 per day per inmate and a percentage of the \$18.00 per diem rate to RAID for consulting and monitoring services.

- RAID claims that it provides the court system with an alternative to traditional incarceration and is an outlet for the collection of court costs, restitution, and child support. The judges in the areas where the RAID program is located found it to be a successful program because it found inmates good paying, stable employment, and these inmates usually do not return to court. However, judges in other areas of the State stated that while they welcome alternatives to incarceration, they are not sure that one program fits all—they need a variety of alternatives. In addition, several judges mentioned that the work release program or home electronic monitoring program in their area served the same purpose (these programs also recover court costs, ensure that child support is paid, and some help the inmate find employment).
- RAID claims that the participating sheriffs' offices and regional jails receive additional revenue from the program, increased staff, and frees jail space for violent offenders. However according to the Virginia Sheriffs' Association and several sheriffs interviewed, these benefits are available to all sheriffs' offices without RAID. With all alternatives to incarceration programs, the Compensation Board pays \$8.00 day per inmate and the inmate pays a \$10.00 per day program fee (in these cases, however, there is no RAID consulting fee). In addition, based on the Compensation Board's staffing standards, for every 16 inmates in the alternative program, the sheriffs' offices receive one additional staff position.
- RAID claims that in order for its program to be effective in collecting child support from the most egregious offenders, DCSE must prioritize which cases it sends to court. First, DCSE must send all cases that have arrearages over \$10,000, and then focus on those cases that owe more than \$5,000. RAID maintains that if this new effort is advertised, many nonpaying custodial parents will pay outstanding support without going to court and those owing less than \$5,000 could be handled by DCSE administratively. Based on state regulations, DCSE claims that this sort of prioritizing of cases is not appropriate because all administrative remedies need to be exhausted prior to seeking court action. In addition, DCSE and several judges interviewed

stated that cases that need paternity established or owe small child support amounts are as important as those that have large past-due balances.

- Initially, the RAID program had the support of the Virginia Sheriffs' Association, but the Association decided to take no position on the RAID program when they realized this program was a private company.
- Initially, DCSE management embraced the RAID program and thought this company would be an important partner in the collection of child support payments when judicial action was required. However, during the summer of 2000, this support was withdrawn. The main reason given for this change in support was that the RAID program, through some local judges and sheriffs' offices, tried to impact the number and kind of noncustodial parents that were sent to court in order to ensure a profit.

Suggested Improvements

- DCSE, not a private for-profit entity, should take the lead in the development of any partnerships with the courts or the sheriffs' offices, because it is the single State entity responsible for the administration of the child support enforcement program and has the sole authority, under State regulations, to determine which cases need judicial remedies.
- The RAID program, as a private entity, should be free to expand to other parts of the State where the local sheriffs' offices and courts want this particular alternative to incarceration program. However, the appropriate role of the RAID program is as an alternative to incarceration only. According to a number of sources, including the staff of the Attorney General's office, the Executive Secretary of the Supreme Court, and several judges, it is inappropriate for this program to try to impact the cases that DCSE sends to court or the judges' decisions on which cases should be referred to the program.
- Because RAID is only one alternative to incarceration and is a private for-profit company, it does not appear that it is appropriate for the Commonwealth of Virginia to endorse this program over others.

Question 5: Can federal child support funds be utilized to reimburse courts, sheriffs' offices, or other entities for the judicial and enforcement services they provide? Can these funds be used to maintain or improve DCSE's current cost-effectiveness ratio?

Virginia's child support program utilizes a variety of cooperative agreements (such as with the Office of Attorney General, Virginia Employment Commission, and Department of Accounts) and private contracts (such as Policy Studies, Inc., which provides child support services in two areas of the State and also provides new hire reporting services) in their administration of child support enforcement services. Sixty-six percent of reasonable and necessary administrative expenses are reimbursable with federal child support funds. In FY 2000, 98 percent of all DCSE's administrative costs were reimbursed with federal funds when all the available federal funding sources were combined. According to DCSE, for every administrative dollar spent, \$5.43 is collected in child support payments.

However, another concern underlying this special inquiry is whether federal child support funds could be utilized to increase the partnerships between DCSE and the courts, sheriffs' offices, or other entities to improve the cost effectiveness of how these funds are spent. This concern was a result of JLARC's final report on child support enforcement, which recommended that additional resources, including staff, are needed in order to improve overall performance. It appears that federal funds are available for additional partnerships if these entities are providing enhanced child support services and are cost-effective.

The JLARC staff findings and a suggested improvement are presented below.

Findings

- According to a former DCSE director, Virginia decided 25 years ago that the public policy would be that the child support agency would not pay fees to the courts and the sheriffs for activities related to judicial action. Therefore, the federal government's position is that if a state has historically provided a service for free, it is inappropriate to seek federal funds for these services now. Other states, such as Maryland, took a different approach and always sought federal funds for these services.
- In 1996, the General Assembly sought federal financial participation (FFP) for service of process fees (this would supplant \$792,000 in general funds for

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sheriffs' salaries paid by the Compensation Board). The federal government never made a final determination, but they indicated that the request may conflict with federal regulations at 45 CFR 304.21 for FFP in the costs of cooperative arrangements with courts and law enforcement officials, which provides that "FFP is not available in service of process and court filing unless the court or law enforcement agency would normally be required to pay the cost of fees."

- However, according to federal Office of Child Support Enforcement (OCSE) staff, cooperative agreements, including FFP participation, with courts and law enforcement officers are possible in Virginia if it can be demonstrated that the child support enforcement services that are provided are above and beyond what is currently provided. OCSE views ways to increase child support collections favorably and they are always looking for best practices. Further, OCSE staff agreed that a pilot program whereby selected sheriffs' offices go beyond their normal duties and give priority to child support enforcement services would be a good example of what FFP is available for. A pilot, using federal grant monies, is the way most states implement new programs before expanding statewide and utilizing the FFP of 66 percent.
- The Department of Social Services required DCSE to maintain its FY 2000 administrative budget of \$73 million for FY 2001. In order to meet this budget ceiling for the division, DCSE eliminated 74 of 94 contract staff positions. Therefore, before additional administrative costs could be added to the DCSE budget, the Governor and the General Assembly would have to be willing to increase the overall administrative costs of DCSE.
- In order to maintain the overall cost effectiveness of the child support program, any new administrative costs should ensure a return of at least \$5.43 for every dollar spent (DCSE's FY 2000 cost-effectiveness ratio).
- Obtaining FFP for court services seems less likely because the federal regulations specifically prohibit paying the salaries of judges, and most of their activities are already provided without charging the child support program.
- Obtaining FFP for private companies and their services has always been available if DCSE determines a need for the service. These contracts, however, must go through the competitive State procurement process.

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Suggested Improvement

- DCSE should investigate whether federal child support funds can be used to form cooperative agreements with selected sheriffs' offices in order to improve the collection of child support from those noncustodial parents that require judicial action (as described in Question 3), including a discussion of pilot programs.

Enclosures

cbj

Attachment A

JLARC staff conducted the following interviews during this special inquiry:

- On October 16, Ms. Nancy Hill, District Manager, Manassas Child Support Office
- On October 23, Joe Crane (Assistant Director), Bill Bromfield, Terry Gates, and J.D. Lewis, DCSE central office staff.
- On October 26, Connie White, DCSE central office staff
- On October 30, Judge Marvin Hillsman and Judy Richie, Court Clerk, Rockingham Juvenile and Domestic Court; Lt. Wes Jordan, Rockingham County Sheriff's Office; and Juetta Renalds, RAID
- On October 31, Robert Cousins and Walter Burton, Office of the Attorney General
- On November 2, Tom Elliott, Court Clerk, Henrico Juvenile and Domestic Court
- On November 7, Rob Baldwin, Executive Secretary of the Supreme Court.
- On November 8, Judge Phillip Wallace, Bedford Juvenile and Domestic Court.
- On November 8, Judge Richard Taylor, Richmond Juvenile and Domestic Court and Juetta Renalds, RAID.
- On November 9, Judge William W. Sharp, Juvenile and Domestic Courts in Warren, Page, Shenandoah, Front Royal, Rockingham, and Frederick counties.
- On November 9, Tom Dertinger, Chief Operating Officer, Richmond Juvenile and Domestic Court.
- On November 9, Sergeant Jim O'Sullivan, Chesapeake's Sheriff's Office.
- On November 9, Judge Baker, Juvenile and Domestic Courts in Wise and Lee County.
- On November 13, Judge Roy B. Willett, Roanoke County Circuit Court.
- On November 14, Judges William Boice, Dennis Solden, and Sharon Will, Henrico Juvenile and Domestic Court.
- On November 15, Sheriff Mike Brown, Bedford County Sheriff's Office.
- On November 15, Mike Henry, Senior Vice President with Policy Studies, Inc. and former Virginia DCSE director.
- On November 17, Alice Coe, Customer Services Manager, Virginia Compensation Board.
- On November 17, Karen Keesee, Director of Inmate Support Services, Blue Ridge Regional Jail.

- On November 20, Lt. Col. Alan Roehm, Richmond Sheriff's Department.
- On November 20, Captain Deanna Smith, Prince William County Sheriff's office.
- On November 21, Shirley Larson, Assistant Director of Administration, Child Support Enforcement and Administration, State of Maryland.
- On November 21, Judge Larry Holtz, Court Liaison Officer, Office of Child Support Enforcement (federal office).
- On November 21, Judge A. Ellen White, Campbell County Juvenile and Domestic Court.
- On November 27, John W. Jones, Executive Director, Virginia Sheriffs' Association.
- On November 27, Nick Young, Director of DCSE.

Attachment B

Child Support Enforcement Court Hearings and Arrearage Information by Locality

DATA AS OF SEPTEMBER 30, 2000			
Locality Name	Total Caseload	Total Cases w/ an Arrearage	Total Arrearages
ABINGDON DISTRICT OFFICE			
BLAND	223	121	\$866,206
BUCHANAN	1,691	755	\$6,937,618
DICKENSON	1,171	586	\$4,303,532
GILES	662	371	\$2,641,743
LEE	2,219	1,097	\$7,505,998
RUSSELL	1,531	824	\$5,885,991
SCOTT	1,285	644	\$5,088,894
SMYTH	1,803	1,035	\$6,922,845
TAZEWELL	2,787	1,423	\$11,095,215
WASHINGTON	2,340	1,361	\$11,021,781
WISE	3,296	1,596	\$11,872,796
BRISTOL	1,563	868	\$6,968,367
NORTON	398	189	\$1,653,288
	20,969	10,870	\$82,764,274
ALEXANDRIA DISTRICT OFFICE			
ALEXANDRIA	6,616	2,434	\$28,901,473
ARLINGTON DISTRICT OFFICE			
ARLINGTON	7,067	1,928	\$24,829,997
FALLS CHURCH	329	128	\$2,018,622
	7,396	2,056	\$26,848,618
CHARLOTTESVILLE DISTRICT OFFICE			
ALBEMARLE	1,891	1,070	\$6,820,240
CULPEPER	1,654	955	\$8,131,010
FLUVANNA	639	393	\$2,817,547
GOOCHLAND	413	256	\$1,989,880
GREENE	530	291	\$2,113,801
LOUISA	1,234	707	\$5,476,454
MADISON	389	227	\$1,530,627
ORANGE	1,123	671	\$5,198,854
CHARLOTTESVILLE	3,916	2,429	\$18,609,730
	11,789	6,999	\$52,688,143
CHESAPEAKE DISTRICT OFFICE			
CHESAPEAKE	14,093	7,099	\$59,872,303

DATA FROM JULY - SEPTEMBER 2000				
Total Court Hearings	Total Show Cause Hearings	Show Cause Hearings as % of Total Court Hearings	Show Cause Arrearages	Average Show Cause Arrearage
8	6	75%	\$24,438	\$4,073
81	40	49%	\$358,661	\$8,967
46	22	48%	\$172,318	\$7,833
37	19	51%	\$119,032	\$6,265
135	79	59%	\$465,467	\$5,892
108	67	62%	\$531,704	\$7,936
72	39	54%	\$370,167	\$9,491
193	84	44%	\$506,390	\$6,028
139	56	40%	\$442,150	\$7,896
169	107	63%	\$627,687	\$5,866
180	67	37%	\$753,203	\$11,242
88	35	40%	\$293,669	\$8,391
28	13	46%	\$361,592	\$27,815
1,284	634	49%	\$5,026,478	\$7,928
ALEXANDRIA DISTRICT OFFICE				
184	121	66%	\$1,468,994	\$12,140
ARLINGTON DISTRICT OFFICE				
20	16	80%	\$465,182	\$29,074
5	5	100%	\$63,135	\$12,627
25	21	84%	\$528,317	\$25,158
CHARLOTTESVILLE DISTRICT OFFICE				
176	76	43%	\$642,732	\$8,457
340	168	49%	\$1,344,219	\$8,001
81	38	47%	\$272,094	\$7,160
20	12	60%	\$81,983	\$6,832
63	20	32%	\$112,449	\$5,622
238	109	46%	\$1,082,455	\$9,931
60	27	45%	\$107,296	\$3,974
117	69	59%	\$562,448	\$8,151
444	213	48%	\$2,263,816	\$10,628
1,539	732	48%	\$6,469,492	\$8,838
CHESAPEAKE DISTRICT OFFICE				
616	198	32%	\$1,792,119	\$9,051

DATA AS OF SEPTEMBER 30, 2000			
Locality Name	Total Caseload	Total Cases w/ an Arrearage	Total Arrearages
DANVILLE DISTRICT OFFICE			
FRANKLIN	2,028	1,039	\$7,153,146
HALIFAX	3,195	1,547	\$9,760,308
HENRY	4,168	2,421	\$17,498,641
LUNENBURG	976	476	\$3,048,068
MECKLENBURG	2,750	1,348	\$8,935,395
PATRICK	907	466	\$3,000,242
PITTSYLVANIA	3,463	1,899	\$12,688,622
DANVILLE	7,306	4,210	\$30,230,925
MARTINSVILLE	2,293	1,401	\$10,634,769
SOUTH BOSTON	25	17	\$261,600
	27,111	14,824	\$103,211,718
FAIRFAX DISTRICT OFFICE			
FAIRFAX	25,081	9,919	\$123,907,873
FAIRFAX CITY	110	42	\$524,280
	25,191	9,961	\$124,432,153
FREDERICKSBURG DISTRICT OFFICE			
CAROLINE	1,330	749	\$6,014,826
ESSEX	563	301	\$2,162,924
KING GEORGE	763	419	\$3,523,576
LANCASTER	741	411	\$2,516,519
NORTHUMBERLAND	558	296	\$2,087,066
RICHMOND	376	206	\$1,473,378
SPOTSYLVANIA	3,066	1,754	\$14,332,465
STAFFORD	3,031	1,676	\$15,829,710
WESTMORELAND	1,143	651	\$4,796,112
FREDERICKSBURG	2,372	1,396	\$11,912,075
	13,943	7,859	\$64,648,650
HAMPTON DISTRICT OFFICE			
GLOUCESTER	1,554	845	\$6,486,392
MATHEWS	357	209	\$1,800,284
MIDDLESEX	465	266	\$1,723,891
YORK	1,516	832	\$7,216,901
HAMPTON	14,141	7,733	\$64,007,163
POQUOSON	232	125	\$1,604,564
	18,265	10,010	\$82,839,195
HENRICO DISTRICT OFFICE			
CHESTERFIELD	7,591	4,219	\$39,506,973
HANOVER	1,500	938	\$9,173,330
HENRICO	11,157	6,884	\$59,026,463
COLONIAL HEIGHTS	706	411	\$3,774,181
	20,954	12,452	\$111,480,946

DATA FROM JULY - SEPTEMBER 2000				
Total Court Hearings	Total Show Cause Hearings	Show Cause Hearings as % of Total Court Hearings	Show Cause Arrearages	Average Show Cause Arrearage
174	63	36%	\$528,207	\$8,384
369	185	50%	\$1,082,636	\$5,852
277	175	63%	\$1,482,881	\$8,474
102	66	65%	\$324,606	\$4,918
265	134	51%	\$831,224	\$6,203
76	55	72%	\$337,521	\$6,137
235	129	55%	\$1,174,589	\$9,105
432	234	54%	\$1,945,797	\$8,315
205	130	63%	\$1,026,895	\$7,899
11	4	36%	\$84,626	\$21,157
2,146	1,175	55%	\$8,818,982	\$7,506
FAIRFAX DISTRICT OFFICE				
786	362	46%	\$6,929,478	\$19,142
8	5	63%	\$61,575	\$12,315
794	367	46%	\$6,991,053	\$19,049
FREDERICKSBURG DISTRICT OFFICE				
122	75	61%	\$584,058	\$7,787
66	39	59%	\$383,589	\$9,836
75	51	68%	\$754,944	\$14,803
72	34	47%	\$243,981	\$7,176
38	26	68%	\$250,123	\$9,620
47	33	70%	\$212,555	\$6,441
413	224	54%	\$2,252,247	\$10,055
288	152	53%	\$1,534,198	\$10,093
94	45	48%	\$356,160	\$7,915
182	82	45%	\$725,186	\$8,844
1,397	761	54%	\$7,297,041	\$9,589
HAMPTON DISTRICT OFFICE				
75	19	25%	\$191,383	\$10,073
12	6	50%	\$9,076	\$1,513
16	7	44%	\$24,416	\$3,488
98	22	22%	\$180,077	\$8,185
717	246	34%	\$2,232,786	\$9,076
7	1	14%	\$5,404	\$5,404
925	301	33%	\$2,643,142	\$8,781
HENRICO DISTRICT OFFICE				
644	276	43%	\$3,591,700	\$13,013
79	37	47%	\$257,123	\$6,949
850	346	41%	\$3,368,725	\$9,736
50	19	38%	\$98,419	\$5,180
1,623	678	42%	\$7,315,967	\$10,791

DATA AS OF SEPTEMBER 30, 2000			
Locality Name	Total Caseload	Total Cases w/ an Arrearage	Total Arrearages
PETERSBURG DISTRICT OFFICE			
AMELIA	470	251	\$2,017,600
BRUNSWICK	1,450	660	\$4,464,777
DINWIDDIE	1,459	749	\$4,948,564
GREENSVILLE	750	356	\$2,437,759
NOTTOWAY	1,106	546	\$4,378,641
POWHATAN	437	253	\$2,043,482
PRINCE GEORGE	1,205	627	\$5,381,014
SURRY	569	288	\$1,874,754
SUSSEX	948	496	\$3,179,815
EMPORIA	846	440	\$3,068,162
HOPEWELL	2,841	1,326	\$9,159,776
PETERSBURG	5,945	3,119	\$21,740,696
	18,026	9,111	\$64,695,041
PORTSMOUTH DISTRICT OFFICE			
PORTSMOUTH	14,583	8,554	\$66,118,419
RICHMOND DISTRICT OFFICE			
RICHMOND	25,306	15,456	\$115,740,275
ROANOKE DISTRICT OFFICE			
ALLEGHANY	507	279	\$1,630,863
BATH	162	78	\$505,670
BOTETOURT	623	389	\$3,010,867
CARROLL	1,125	602	\$3,590,151
CRAIG	159	69	\$411,016
FLOYD	510	261	\$1,417,691
GRAYSON	760	397	\$2,306,007
MONTGOMERY	2,695	1,493	\$9,907,749
PULASKI	1,901	1,030	\$5,711,253
ROANOKE	2,301	1,358	\$8,354,647
WYTHE	1,592	816	\$4,365,703
CLIFTON FORGE	340	198	\$1,445,153
COVINGTON	544	313	\$1,958,761
GALAX	761	388	\$2,593,909
RADFORD	548	356	\$2,208,256
ROANOKE	11,724	7,430	\$45,711,546
SALEM	364	251	\$1,826,566
	26,616	15,708	\$96,955,809
SUFFOLK DISTRICT OFFICE			
ISLE OF WIGHT	1,597	1,111	\$7,101,055
SOUTHAMPTON	1,115	750	\$4,775,990
FRANKLIN	1,133	792	\$5,014,845
SUFFOLK	6,335	4,395	\$28,885,297
	10,180	7,048	\$45,777,187

DATA FROM JULY - SEPTEMBER 2000				
Total Court Hearings	Total Show Cause Hearings	Show Cause Hearings as % of Total Court Hearings	Show Cause Arrearages	Average Show Cause Arrearage
44	26	59%	\$124,344	\$4,782
178	94	53%	\$432,455	\$4,601
170	100	59%	\$818,261	\$8,183
30	19	63%	\$150,623	\$7,928
84	60	71%	\$456,504	\$7,608
49	26	53%	\$179,463	\$6,902
118	59	50%	\$566,563	\$9,603
66	42	64%	\$279,340	\$6,651
53	45	85%	\$368,890	\$8,198
54	34	63%	\$276,653	\$8,137
294	171	58%	\$1,244,562	\$7,278
514	238	46%	\$1,976,029	\$8,303
1,654	914	55%	\$6,873,687	\$7,520
PORTSMOUTH DISTRICT OFFICE				
1,373	793	58%	\$6,387,853	\$8,055
RICHMOND DISTRICT OFFICE				
1,343	669	50%	\$5,889,058	\$8,803
ROANOKE DISTRICT OFFICE				
21	0	0%		
3	0	0%		
58	4	7%	\$7,352	\$1,838
49	9	18%	\$34,037	\$3,782
9	0	0%		
18	2	11%	\$4,583	\$2,292
26	19	73%	\$162,723	\$8,564
60	37	62%	\$216,016	\$5,838
37	23	62%	\$74,220	\$3,227
155	33	21%	\$299,781	\$9,084
68	28	41%	\$317,733	\$11,348
8	0	0%		
26	2	8%	\$58,627	\$29,314
34	19	56%	\$42,677	\$2,246
23	10	43%	\$52,181	\$5,218
689	381	55%	\$2,379,623	\$6,246
16	10	63%	\$261,127	\$26,113
1,300	577	44%	\$3,910,680	\$6,778
SUFFOLK DISTRICT OFFICE				
219	98	45%	\$665,359	\$6,789
176	83	47%	\$549,477	\$6,620
201	121	60%	\$885,643	\$7,319
387	142	37%	\$1,129,208	\$7,952
983	444	45%	\$3,229,687	\$7,274

