



ERICSA

2022

**Jazzin' It Up
for Children
and Families**

New Orleans

May 22 – 26, 2022

**59TH ANNUAL
TRAINING CONFERENCE
& EXPOSITION**

Role of Investigations In Child Support

Ethan C. McKinney, Child Support Director, DPA
St. Joseph County In, Prosecuting Attorney's Office



Goals for Today

- Present our Proactive Felony Non-Support Project
- Discuss how we methodically and objectively review cases.
- Explain the process for considering felony charges.
- Share how we realized to do this well we needed our own IV-D Investigator and how they've become an integral part of our program.



Ind. Code § 35-46-1-5

Nonsupport of a Dependent Child

- Sec. 5. (a) A person who knowingly or intentionally fails to provide support to the person's dependent child commits nonsupport of a child, a Level 6 felony. However, the offense is a Level 5 felony if the person has a previous conviction under this section.
- (b) It is a defense that the child had abandoned the home of the child's family without the consent of the child's parent or on the order of a court, but it is not a defense that the child had abandoned the home of the child's family if the cause of the child's leaving was the fault of the child's parent.
- (c) It is a defense that the accused person, in the legitimate practice of the person's religious belief, provided treatment by spiritual means through prayer, in lieu of medical care, to the person's dependent child.
- (d) It is a defense that the accused person was unable to provide support.



Historical Use of Felony Non-Support

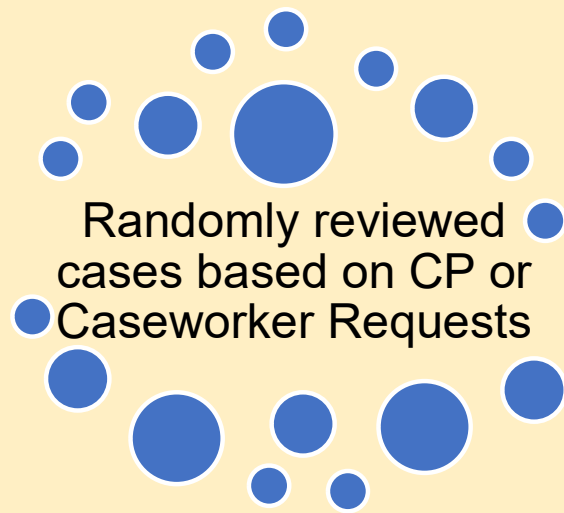
- Felonies Filed based on Custodial Parent request.
- Typically only filed 10-15 per year.
- No objective measure for reviewing other cases.
- Felonies handled either by IV-D Deputies along with other duties or reassigned to a Criminal Division DPA.



Our New Elected Official Wanted a Change

- He respected how well we do to enforce our cases through civil enforcement and our admin tools.
- He wanted to make sure we were considering felony when appropriate.
 - Wanted all cases objectively reviewed.
 - Did not want CP to have to request it to know we considered it.
 - Non-Custodial parents held accountable.
 - An increased amount of Felonies.
 - Review all cases – later revised to all cases over \$10,000 in arrears.





Old Way



What we
Wanted



Inspiration - 2016 NCSEA Award Winner

Milwaukee County DA's Office Criminal Child Support Project

- Screen out those who can't pay.
- Expose Assets and Resources
- Law Enforcement Team Dedicated to CSUP Cases
- Collections of \$273,000 from their project over the 5 year period.



Nonsupport Felony Report

- Interstate Case Type = INIT and NA.
 - Don't want to file on RESP cases.
- Voluntary payment posted in the last 90 days = No.
 - Don't want to consider felony for those NCPs who are least trying to pay something
- NCP Date of Death = No.
- CP Date of Death = No.
- Case has arrears balance of \$1,000+ = Yes.



Data Fields to Include

Include these fields in your report

- Case Number
- NCP Last Name
- NCP First Name
- Age of Youngest Child
- Interstate Case Type
- Last Payment Date
- Balance of All Subaccounts
- Cause Number
- NCP Address



© Can Stock Photo - csp5172726

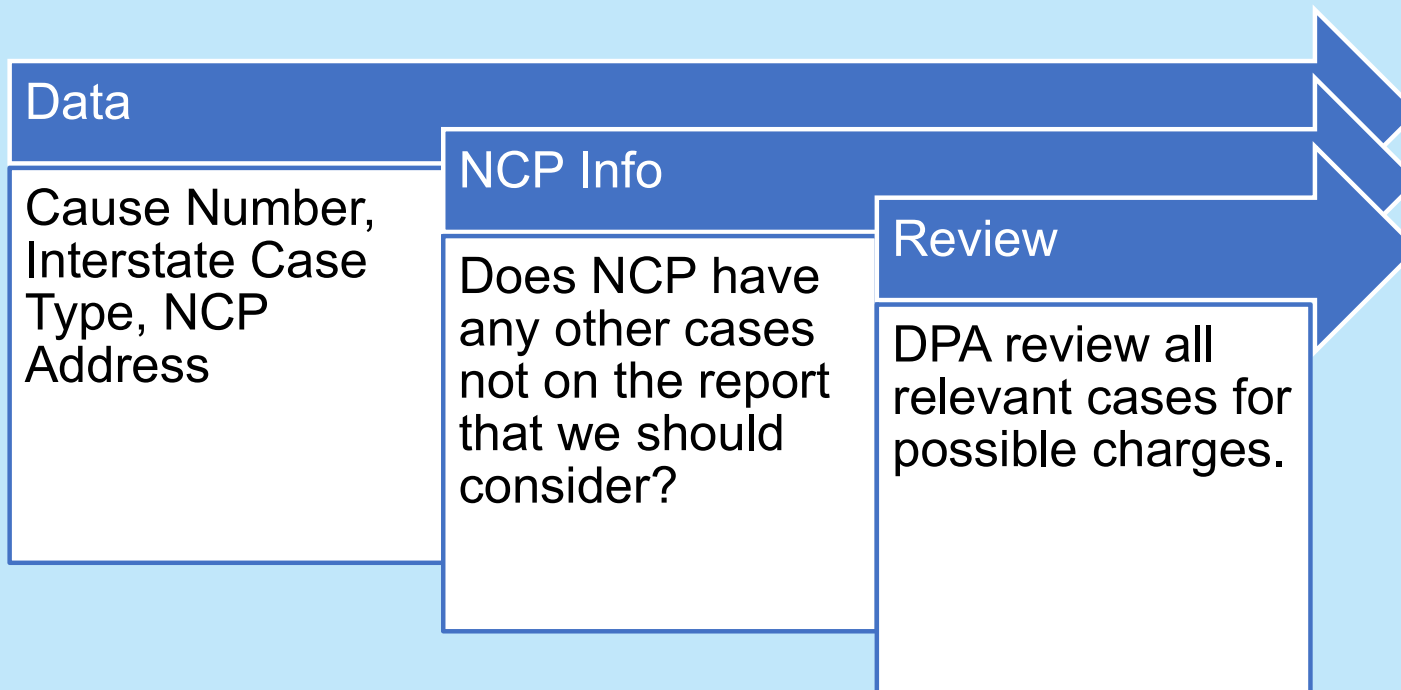


Threshold and Statute of Limitations

- Sort by balance of all subaccounts, then delete cases lower than your threshold.
- If you know your threshold ahead of time, you could just select that in the Case Has Arrears Balance of filter now.
- Lastly, sort by Age of Youngest Child field, then delete all cases higher than 23.
 - IN SOL for Nonsupport Felony is 5 years past the age of 18.



Objective Individual Review



Criteria to Review

- History of Non-Payment
 - What is their pattern of non-payment.
- Enforcement History
 - What have we done to make sure felony is our last resort.
- Incarceration History
 - If they've been incarcerated the whole charging period we aren't filing.
- Evidence of Ability to Work
 - Court notes, caseworker notes, employment verifications
- Evidence of Disability
 - Court notes, SSD information, caseworker notes
- Evidence of Assets or Income
 - Do they have any other way we could get them to pay.



Initial Review

Used this as a Legal Intern Project

- Gave them some basic criteria to eliminate some possible cases.
- Created a spreadsheet and review protocol.
- **Evaluation of nearly 1500 cases down to 300 possible felony cases.**

Case Number	NCP Last Name	NCP First Name	Age of Youngest Child	Last Payment Date	Balances of All Subaccounts	Month to Date Owed for the Case	Paid 75% of Ordered Amount Over Last 12 Weeks	Date of Last RTSC	Proof of Employment	AP Has Other Cases	Recommendation	Date Entered	Making Payments
0003345101	WALSH	KATHY	21	09/03/2014	\$12,034.73	\$0.00	N	8/03/2017	N	N	Refer to Court	5/16/2015	N



Family Violence Indicator

- If the case is coded FVI or we've coded it DV victim or witness internally, then reach out to CP before moving forward.
- Notify them that this is a step we are considering but we will not move forward with that review if she worries that this could put her in any danger.
- You could add this as fields to display in your report when you pull it.



Initial Case Review

- Deputy Prosecutors to Review all 300 cases of this initial batch on our criteria before we consider if a felony is appropriate.
- Creation of a Warning Letter as a last-ditch effort to get increased compliance in lieu of felony.
 - We always prefer collections over felony filing
 - Waited 30 days after letter sent before moving forward.
- Partnership with the Court to accept increased filings.





Child Support Division
County-City Building
227 West Jefferson Blvd., 6th Floor
South Bend, Indiana 46601
(574) 235-9786 FAX (574) 235-9097



KENNETH P. COTTER
Prosecuting Attorney
60th Judicial Circuit
St. Joseph County, Indiana

Matthew R. Raper
Deputy Prosecuting Attorney

March 21, 2018

Name
Address

Dear [Insert name]:

Under Indiana law, a person who knowingly or intentionally fails to provide support to his or her dependent child(ren) commits the felony offense of Nonsupport of a Dependent Child. Ind. Code § 35-46-1-5. The same offense may be enhanced based on the amount of arrears owed or whether the person has been convicted previously of the offense of Nonsupport of a Dependent Child.

This letter is to inform you that, according to records maintained by the State of Indiana and accessible to this office, you are delinquent in your child support obligation. Our office is undertaking a review of those individuals who are in arrears on their child support obligation and has identified your case as one that may be subject to felony prosecution.

Upon receipt of this letter, please contact the Child Support Division of the Prosecutor's Office at (574) 235-9786 to speak to your individual caseworker. When you call your caseworker, please be prepared to provide your most current address, income, and employment information. Please note that your cooperation from this point forward will be considered by this office in its determination as to whether or not criminal charges will be filed against you; however, no promises will be made as to whether or not charges will ultimately be filed.

Should you decline to cooperate with the Prosecutor's Office upon receipt of this letter, your failure to cooperate will be considered in determining if criminal charges will be filed against you.

Thank you for your prompt attention to this matter.

Sincerely,

Matthew R. Raper
Deputy Prosecuting Attorney

Felony Warning Letter

- This letter was sent to the last known address of all NCPs not in LOCATE/NIVD/Deceased.
- Advises of review for possible felony charges.
- Requests NCP to contact caseworker to provide updated information.
- Important – We made no promises of avoiding prosecution by contacting us.
- Letter was integrated into Letter Genie (Indiana's document generator).



Felony Review Packet

- Collection of documents that will be helpful to review for charging.
- Necessities:
 - Order Establishing Paternity/Support
 - Orders modifying support or determining arrearage
 - Payment History / pay history detail
 - PHD through 18th Birthday if child is over 18
 - PHD through current as of the date of the charging period.
- Preferred:
 - Contempt Citations
 - Employment Verifications
 - Relevant Communications with NCP



FELONY SCREENING CHECKLIST

NCP:

ISETS Case #	
Cause #	
Quest #	

Felony Requested By:	
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CP's Name			
Child(ren) (under the age of 23)	Name	DOB	Age

Order and Payment Info	Amount	Type	Date
Latest Support Order			
Prior Order(s)			
Arrears a/o 18th birthday		as of	
Arrears over \$15K by 6/30/14?		as of	6/30/2014
Last Payment			
Date of Last IWO Payment			

Court Info			
Dates of BAs			
Dates of Contempt			
Sentence (days/purge)			
Sentence IE or Sentence Susp			
Dates of Bond/Purge Paid			
Amount (if paid)			

Court Info Cont.			
Dates of BAs			
Dates of Contempt			
Sentence (days/purge)			
Sentence IE or Sentence Susp			
Dates of Bond/Purge Paid			
Amount (if paid)			

Felony Packet Front Page

Some of the things the DPAs are looking for:

- How many times have we done contempt?
- Does this person pay their purge bonds?
- Is there at least one child under 23 for statute of limitations issues.



Charging Decision

- No Police Report like other crimes. This is all based on our internal documentation.
- Review Court Notes, employment verifications, medical records indications of disability.
- Establish consistent objective guidelines.
- Only use felony after all other enforcement tools have failed and the obligor has the ability to pay.
- What if we need more information?



Prosecutor's Office Investigators

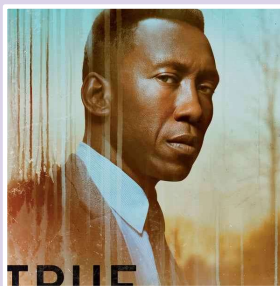
- Chief Investigator – reports to the elected, handles specialty cases for our elected, supervises a few other investigators.
 - Media Interest cases, cases for other jurisdictions, etc..
- Deputy Investigators – serve papers and assist the Chief Investigator.
- Homicide Investigators – review and prep homicide cases.
- SVU Investigators – trained and skilled at working with DV victims and child victims.
- FACT Investigator – Fatal and Serious Bodily injury crashes where drug or alcohol impairment was a factor.
- White Collar Crimes Investigator – Fraud Cases and other highly documentary crimes.
- But no IV-D Child Support Investigator.





We need an investigator to assist with these cases.

These investigations can take on a broad path.



Need an experienced detective who can focus on our cases.



Child Support Investigator

- Assist with Felony Case Review.
 - Locate and talk to witnesses we may want to call.
 - Talk to custodial parent.
 - Locate the defendant if he's missing.
 - Testify at trial as needed.
- Civil Investigations
 - Caseworker needs more info on a lead they located.
 - CP calls with info that we otherwise couldn't track down or verify.
 - NCP is missing and we have no other way to locate them.
- Assist with Service of Process for IV-D Cases
- Bench Warrant Locate and Arrest.



Contact Information

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574-235-5023 (Direct line)



ROLE OF INVESTIGATORS IN CHILD SUPPORT

Presenter: Chief Investigator David Newton

ROLE OF INVESTIGATORS IN CHILD SUPPORT

In 2016 Prosecutor Kenneth Cotter in conjunction with Chief Deputy Prosecutor Ethan McKinney who is head of the Child Support Division to establish a program for Felony Child Support enforcement.



ROLE OF INVESTIGATORS IN CHILD SUPPORT

Origins:

Program Structure:

Functionality:

Implementation:

Results:

Evolutionary Development:



ROLE OF INVESTIGATORS IN CHILD SUPPORT (FUNCTION)

Deputy Prosecutor (DP) assigned to select Cases that meet the monetary qualifications for prosecution.

Each selected case will be assigned to a spread sheet.

Caseworkers who are responsible for those cases then create a Non-Custodial Parent (NCP) work packet.

NCP Work Packet contains: all personal Information, photo, warrants, arrest profile, Custodian Parent(CP) info,

Investigator then takes all the information, locates, contact and apprehend the NCP.

Note: Employment info. NCP Work Packet is essential in this process



FELONY CHILD SUPPORT ENFORCEMENT PROGRAM (IMPLEMENTATION)

Accumulative Intel is needed to locate NCP:

Intel Sources:

NCP Work packet

NCP

CLEAR

FUSION CENTER

PAST Law Enforcement interactions

Government Benefit info

Past contact info



ROLE OF INVESTIGATORS IN CHILD SUPPORT (IMPLEMENTATION)

Make contact with NCP:

Visit resident

Call NCP

Go to NCP Job

Visit NCP Family and acquaintance

Visit places NCP frequents



ROLE OF INVESTIGATORS IN CHILD SUPPORT (IMPLEMENTATION)

<https://www.youtube.com/watch?v=1Y72LctHYec>

Several thin, white, parallel diagonal lines are positioned in the bottom right corner of the slide, extending from the right edge towards the center.

ROLE OF INVESTIGATORS IN CHILD SUPPORT (IMPLEMENTATION)

Contact of NCP:

Self Surrender

Soft Contact

Hard Contact

Once NCP has been contacted, they are apprehended and booked on the outstanding Child Support Warrant.



ROLE OF INVESTIGATORS IN CHILD SUPPORT (IMPLEMENTATION)

After the NCP is in custody there may be follow up with employers or the CP for more information to prosecute the case.

- ▶ Follow up of asset verification can be needed to adjudicate the case.

- ▶ Pros:
- ▶ Felony Investigator is assigned cases from all Child Support DP.
- ▶ Excellent working relationship with Child Support staff.
- ▶ Perceived as a needed asset to adjudicate the Felony and other child support cases.
- ▶ Our Community is aware and appreciates the efforts of our Felony DP and Investigator.
- ▶ NCP are aware we that there is an Investigator who actively hunts them.

ROLE OF INVESTIGATORS IN CHILD SUPPORT(PROGRAM EVOLUTION)

- ▶ Cons:
- ▶ NCP know there is an active Investigator hunting them.
- ▶ Investigator Safety issues.
- ▶ Need more personnel

ROLE OF INVESTIGATORS IN CHILD SUPPORT (PROGRAM EVOLUTION)

Manually Tracking our Success

Case Number	Associated Case Number	NCP Last Name	NCP First Name	Paid 2014-2015	Last Payment Before 9/1/16	Response to Felony Warning Letter?	Voluntary Payments Since 9/1/16?	Paid 9/1/16 - 5/17/17	Paid 9/1/16 - 8/10/17	Paid 9/1/16 - 12/15/17	Paid 9/1/16 - 5/15/18	Paid 9/1/16 - 9/30/18	Paid 9/1/16 - 7/18/19	Paid 9/1/16 - 2/28/22
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We mailed the first Felony Warning Letters on 9/1/16. At that point those cases had made total payments of \$175,723.82 during 2014-2015.

Total collected on identified felony cases:
9/1/16 – 2/28/22: \$1,451,249.90.

This program would not exist without our Deputy Prosecutor's hard work and without the dedication of our IV-D Investigator and oversight and assistance by our Chief Investigator.



- ▶ Contact Information:
- ▶ David A. Newton
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- ▶ Phone: 574-876-6765

ROLE OF INVESTIGATORS IN CHILD SUPPORT