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| LOCAL COMMISSIONERS MEMORANDUM |
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Transmittal No: 90 LCM-82

Date: June 7, 1990

Division: Operations

TO: Local District Commissioners

SUBJECT: Family Court Warrants
Erie County "Lock-Up" Project

ATTACHMENTS: A. Instructions for Handling Family Court Warrants
B. Alternative to Obtaining Warrants

(Attachments are Available On-line.)

A common problem affecting the child support enforcement program is the number of outstanding family court warrants which have resulted from respondents failing to appear for hearings to establish paternity or establish, modify or enforce child support. The following information concerning Erie County's "Lock-Up" Project provides a paradigm of what can be done by districts to address the problem of outstanding warrants and obtain disposition from the courts on child support matters. Essential to the Erie County project was the cooperation obtained from the Sheriff's Department. Also provided, as Attachment A, are suggestions developed by OCSE to reduce the number of warrants, prospectively, through alternative court procedures (i.e. obtaining orders by default).

Erie County "Lock-Up" Project

As a result of a cooperative agreement between the Erie County Office of Child Support Enforcement and Sheriff's Department, nearly seventy (70) individuals were apprehended in a county-wide sweep by Sheriff's deputies between March 1 and March 30, 1990. Twenty-four men were arrested on March 1, the first day of the operation. The warrants, issued by Erie County Family Court, were a result of the respondent's failure to obey a summons to appear in court to answer a child support petition. Those netted in the round-up were arraigned in Family Court at which time the petition was presented to the court for disposition. The arrests are a first step by Erie County officials to increase the number of child support orders while, at the same time, reduce the volume of outstanding Family Court warrants.

Erie County child support staff reported that, as a result of the initial arrests, eleven new support orders were obtained in addition to monetary judgments totaling approximately \$20,000. The level of cash support payments has increased while the number of non-appearance situations has markedly declined, which Erie County staff attributes to the publicity surrounding the Sheriff's Department activity.

The procedures followed by the Erie County Office of Child Support Enforcement and Sheriff's Department to accomplish this particular objective are as follows:

1. The Sheriff's Department prepared a list of outstanding arrest warrants. The listing included the name, address, date of birth of the respondent, as well as type of warrant (Family Court), warrant certificate number, date the warrant was issued and date the certificate expires [NOTE: As a matter of law, warrants expire ninety days from the date of issue, but may be renewed from time to time by the clerk of the court (see Family Court Act Section 428(c))].
2. The list was submitted to the Erie County Office of Child Support Enforcement whose responsibility it was to:
 - a. determine the validity of the warrant (identify certificates of warrant which had expired and not renewed by the clerk of the court or cases in which the matter was properly disposed of by Family Court but the warrant was not withdrawn); and
 - b. indicate on the listing verified respondent home address and employer information or investigative leads; and
 - c. review the appropriateness of the petition and amend petition if necessary (i.e. specific add-ons, request for money judgment, etc.); and
3. Return the updated, prioritized listing to the Sheriff's Department whose responsibility was to execute the arrest warrants.

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The Erie County sweep proved to be an effective means by which the child support program, in that jurisdiction, was able to move closer to attaining the locally determined objective, namely reducing the number of outstanding Family Court warrants. I would encourage you to review the status of family court warrants in your district and assess the feasibility of implementing a "Lock-Up" project. In addition, please give consideration to the attached instructions pertaining to handling your existing warrant list and reducing, if not eliminating, the need for obtaining warrants in prospective child support matters.

Please share this LCM with your child support staff.

Donald J. Faden
Deputy Commissioner for Operations

INSTRUCTIONS FOR HANDLING FAMILY COURT WARRANTS

The following information is provided as suggested procedures for managing existing warrants.

- 1) Obtain a list of outstanding warrants pertaining to child support from Family Court and from the Sheriff's Department.
- 2) Review the lists for discrepancies and for the status of each warrant (i.e. active or expired). Notify Family Court if any warrant needs to be renewed or if the Sheriff's Department needs to be notified of any warrants.
- 3) Review CSMS case file and compare to information about the respondent appearing on the warrant list. Reconcile any discrepancies (e.g. address or employer information). Notify Family Court or the Sheriff as appropriate.
- 4) Assess CSMS case file for status of information on the respondent (e.g. presence of SSN, verified address and or employer information). Initiate PCL or CWR to verify any leads and notify Family Court or the Sheriff as appropriate.
- 5) Review CSMS and ensure that a status E 205 has been entered on IVDJSI. IVDAGE should age E 205 90 days from the entry date of the warrant by the court. In so doing, the warrants may be monitored as they will be reported on the CSMS Status Change Report and appear on the Weekly Aging Report.
- 6) Effectuating warrants is the responsibility of the Sheriff's Department. CSEU personnel should provide the Sheriff Department as much information as is known about the respondent including:

physical description of the respondent (e.g. photograph if available);

copy of affidavit of personal service;

copies of CWR's and PCL's confirming respondent's employer and address;
and

addresses of friends, relatives, or other known whereabouts.
- 7) CSEU should establish a priority for the Sheriff based on the probability of successfully acting on the warrant (i.e. the amount of information known about the respondent).
- 8) CSEU should also attempt to contact the respondent by phone and request a voluntary appearance before the court on the warrant.

ALTERNATIVE TO OBTAINING WARRANTS
DEFAULT JUDGMENTS

As all districts are aware, to properly commence paternity and support proceedings it is necessary to file a petition. If the respondent does not appear following mail service, the court typically directs personal service of the summons and petition be made on the respondent. If, after personal service is made, the respondent fails to appear, the court has two options, it may:

- 1) require a warrant for the respondent or;
- 2) the court could proceed with a hearing by default. The Family Court Act provides that default judgments may be obtained in paternity and support proceedings. (See FCA Sections 427, 435, 525). In fact, FCA 435(b) expressly provides "the hearing examiner shall enter an order of support on default if the respondent fails to answer or appear after having been properly served." (emphasis added) The number of paternities adjudicated and support orders established, modified and enforced will increase by proceeding with default hearings (also called hearings by inquest.) The potential for collections will increase as well because the orders are subject to all enforcement remedies including income execution.

OCSE suggests that districts review with legal staff appropriate procedures for proceeding with default hearings which are provided for in Civil Practice Law and Rules (See Sections 308 and 3215).