

Judicial Council of California  
ADMINISTRATIVE OFFICE OF THE COURTS

<http://www.courtinfo.ca.gov/programs/cfcc/programs/description/1058study2001.htm>

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# California Child Support Guideline Review 2001

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# California Child Support Guideline Review 2001

## EXECUTIVE SUMMARY

In June 2000, the Judicial Council of California contracted with Policy Studies Inc. (PSI) to conduct a review of California's child support guideline. This review was conducted in compliance with federal and state law. Federal law (45 CFR 302.56) requires states to examine case data at least every four years to ensure that application of the guideline results in appropriate child support awards. State law (Fam. Code, § 4054(a)) also requires the Judicial Council to periodically review the statewide guideline and recommend appropriate revisions to the Legislature.

The review conducted in 2000 included the following activities:

- The collection and analysis of child support order information from case files;
- A review of the provisions that other states' guidelines make for selected issues, in particular issues related to low-income obligors, additional dependents, and the use of gross or net income to calculate the support obligation;
- An analysis of the costs of raising children based on the most recent economic evidence about those costs;
- The administration of a survey to people who use the guideline (for example, judges, family law attorneys, and advocates for parents and/or children) to establish and modify support orders; and
- Focus groups and interviews with parents (both custodial and noncustodial) who have experience using the guideline.

The Judicial Council requested that the study activities particularly address three key issues of special interest to the Legislature: (1) the treatment of low-income obligors, (2) the use of gross income versus net income as a base to use in establishing child support, and (3) the treatment of additional dependents.

## REVIEW OF CASE FILES

The key purpose of the case file review was to determine how the provisions of the guideline are being applied and how frequently and for what reasons courts are deviating from the guideline in establishing child support orders. The review, conducted in nine counties, consisted of a random sample of established or modified child support orders filed during calendar year 1999. The sampling methodology and case review procedures mimicked the methodology and procedures the Judicial Council used for its review of case files in 1998.

### Results From the Analysis of Case Files

The most significant findings from the case file review are highlighted below.

- Most cases follow the child support guideline.
- Deviations are less likely in orders established or modified by district attorney's offices.
- The most common reason for deviation was agreement between the parents.
- Permissible adjustments for hardship, additional dependents, and spousal support were infrequently noted.
- The low-income adjustment was seldom applied in cases that qualified for that adjustment.
- Additional support was ordered in some but not all cases.
- The father owed the mother support in most of the orders examined.
- Income information was frequently missing, especially in default and stipulated orders.
- Income was imputed or presumed in many orders established by the district attorney's office.
- Most orders entered through the district attorney's office were by default, whereas most orders entered outside the district attorney's office were by stipulation.
- Most parents were not represented by an attorney.
- Most orders involved one child.

## REVIEW OF PROVISIONS IN OTHER STATES' GUIDELINES

California state law requires the guideline review to include an analysis of guidelines and studies from other states. An analysis of all the provisions in every state's guideline was beyond the scope of the current study. Thus, this study focused on the three main issues of legislative interest: how other states deal with low-income obligors and additional dependents and whether they use net or gross income as the base from which to compute a support obligation.

### Adjustments for Low-Income Obligor

Low-income adjustments in other states generally take two forms:

- Minimum order amounts for income above a state-specified threshold; and
- Additional adjustments above the income threshold when the minimum order is applied.

### Use of Gross Income Versus Net Income as a Base to Use in Establishing Child Support

Most states—28 states and the District of Columbia—base their guidelines on gross income. California and 21 other states base their guidelines on net income. A handful of net income states have a standardized method for arriving at net income from gross income.

# California Child Support Guideline Review 2001

## Treatment of Additional Dependents

Only five states do not address the issue of additional dependents; they do not take into account children from prior or subsequent relationships (additional dependents) in calculating a child support order. In 21 states, including California, additional dependents are grounds for a deviation. In the remaining 24 states and the District of Columbia, a formulaic adjustment for additional dependents is presumptive. The most common formula to adjust for additional dependents subtracts a "dummy order" from the eligible parent's income prior to the calculation of the support order amount. The dummy order is what the eligible parent would theoretically owe in child support for the additional dependents if the guideline was applied.

## ANALYSIS OF CHILD-REARING COSTS

In developing child support guidelines, states inevitably confront the question: How much does it cost to raise a child? Although this question is seemingly simple, it has complex ramifications, both for courts trying to determine child support in individual cases and for economists seeking to estimate the average costs of child rearing across population groups. The difficulty in determining the costs of a child arises because many costs are shared with other household members. Indeed, the largest categories of household expenditures (food, housing, transportation, and household furnishings) are made on behalf of all family members. It is therefore not possible to observe directly the portion of the total household budget that is spent on any individual, in particular that portion spent on a given child who is the subject of a child support action.

This study examined three approaches to estimating the proportion of family spending on children: (1) the approach used by the U.S. Department of Agriculture (USDA), (2) the Engel approach, and (3) the Rothbarth approach. The estimates of child-rearing costs using these approaches are developed from national data on consumption patterns of households with and without children. These data are collected by the Bureau of Labor Statistics (BLS) in its Consumer Expenditure Survey (CEX). The CEX is an exhaustive list of expenditures by item and by household size for a nationally representative sample of American families. No state collects expenditure data that are as exhaustive or that are collected on such a large sample size. As a result, the CEX is the only available survey suited for estimating household spending patterns.

### USDA Approach

The USDA approach to the problem of how to allocate costs between parents and children is to determine whether the adults or the children are the primary beneficiaries of the goods. The USDA excludes goods that are exclusively adult goods (adult clothing, tobacco and alcohol purchases, personal insurance, and miscellaneous expenditures) from any allocation to the children. On average, these goods account for 6–7 percent of a household's budget. Then the USDA identifies goods that are exclusively consumed by the children, which on average account for about 5 percent of the household's budget. For the remaining 88 percent of the budget, the portion allocated to the children must rely either on information from other studies or on the use of a per capita allocation. Data from other national studies are used to allocate about 38 percent of household expenditures, and the remaining costs are allocated on a per capita basis.

While the approach taken by the USDA is straightforward and relatively easy to understand, its main weakness is the rather arbitrary manner in which it allocates roughly one-half of the family's spending. The use of a per capita allocation brings the whole methodology into question and can lead to overstating how much parents truly spend on their children.

### Engel and Rothbarth Approaches

An alternative approach to the allocation problem is to focus on how parents reallocate consumption within the household in order to make room for their children's consumption. By comparing the consumption decisions of parents with children and married couples without children, the economic costs of the children can be indirectly observed from the differences in consumption patterns. This comparison between households with and without children requires that the standard of living—or the family's well-being—be held constant across the two households, which the Engel and Rothbarth approaches do using different measures of well-being.

The Engel approach uses expenditures on food at home as a proxy for household well-being. This approach assumes that (1) as total spending increases, the budget share devoted to food at home should decline, leaving room for expenditures on other goods, and (2) the food share of the budget should increase when family size (number of children) increases. Data on household expenditures show both of these conditions to be true.

The Rothbarth approach uses expenditures on adult clothing as a proxy for household well-being. This approach assumes that (1) adults will spend more on their clothing as total spending increases and (2) as household size increases, adults will reduce their spending on adult clothing. Expenditure data support these assumptions.

Under both the Engel and Rothbarth approaches, the expenditures allocated to children can be derived by measuring the households' allocation of expenditures on food and adult clothing, respectively, for different household sizes and different levels of spending. The mathematics involved in calculating these estimates are detailed in the report.

### Estimates of Parental Spending on Children

The estimates of parental spending on children using CEX data from 1996–1997 are shown in the table below for the three approaches to estimation and for different numbers of children. For comparison purposes, the table also displays the proportional spending on children using a purely per capita approach to allocating household expenditures. The estimates assume both parents are in the household.

Proportion of Household Expenditures Allocated to Children			
Approach	Number of Children		
	One	Two	Three
Per capita (CEX data)	33.3%	50.0%	60.0%
USDA	30.3%	44.9%	53.5%
Engel	30.1%	43.9%	52.0%
Rothbarth	25.6%	35.9%	41.6%

## SURVEY OF GUIDELINE USERS

The primary purpose of the guideline users' survey was to learn stakeholders' views about (1) what they believe is working well and not so well with the existing guideline, (2) what they see as the guideline's strengths and weaknesses, and (3) what features of the guideline they believe could be improved. In addition to capturing information about the three key issues that were the main focus of the study, the survey asked questions about a wide range of other issues, including how to deal with high-income cases, shared parenting, and "add-ons" to the basic support obligation (for example, for child care or extraordinary medical expenses for the children who are the subject of the support order).

### The Guideline's Strengths and Weaknesses

Overall, respondents rated the guideline as mostly unfair to the noncustodial parent and the parents' children from other relationships and mostly fair to the custodial parent. The fairness rating they gave to the children for whom support was established was in the middle of the fairness scale, thus neither fair nor unfair. The general perceived lack of fairness was further evidenced in what respondents believed about the level of support orders—whether they are too high, about right, or too low. A majority of respondents (60 percent) believed the support orders established using the guideline were too high. About a quarter of all respondents (28 percent) believed they were about right, and only 4 percent believed they were too low.

In reporting about the guideline's strengths, respondents most frequently mentioned that the guideline (1) is consistent, uniform, and objective (22 percent); (2) yields predictable results (11 percent); (3) is fair to children (7 percent); and (4) yields reasonable support amounts (5 percent). Respondents also cited the guideline for its ease of use (7 percent), its use of net income (9 percent), its consideration of each parent's time with the children (10 percent), and the judicial discretion the guideline allows to deal appropriately with each family's unique circumstances (6 percent). Respondents mainly faulted the guideline for yielding support orders they believed were too high (19 percent) and for being too rigid and inflexible (13 percent). They also mentioned special factors about the guideline they did not like, such as the timesharing adjustment (13 percent), which many believed encourages conflict between the parents; the additions for child care and medical costs (11 percent), which they believe are unfair; and the low-income adjustment (7 percent), which they believe is inadequate. Yet, they also were disappointed that the guideline does not address other special factors, such as rent, transportation, and excessive visitation costs.

## FOCUS GROUPS OF PARENTS

Parents play an important role in any review of the child support guideline because they are directly affected by how the guideline is applied by the court to calculate a child support order in their case(s). This study made a special effort to capture parents' thoughts about the guideline, especially in how the guideline's provisions are applied and what impact that application has had on their particular situations. The approach the study used to gather data also asked parents what recommendations they had for changing the guideline that would make it easier to use, be more equitable in its outcomes, and yield support orders that were in the best interest of the children.

The focus group discussions and interviews yielded a rich set of parental perspectives about the child support guideline as a tool for calculating a support obligation and for defining an approach to complete that process. They also provided some insight into problems parents have using the guideline provisions to meet their specific circumstances and ideas for effecting changes that would make the guideline more useful to them.

Many of the issues parents raised in the focus groups were similar to the comments made in the guideline users' survey. In particular, this included (1) comments about the guideline resulting in levels of support that are too high, (2) a preference for using net income as a base to calculate the obligation, and (3) indications that the time-sharing factor in the guideline has merits and limitations. Also like guideline users, parents had few recommendations for changing the current guideline adjustment for low-income obligors or the provisions for additional dependents.

## RECOMMENDATIONS

The study recommendations focused on changes needed regarding treatment of low income obligors, the use of gross income versus net income as a base to use in calculating child support, and treatment of additional dependents.

# California Child Support Guideline Review 2001

## Treatment of Low-Income Obligators

### *Income Threshold*

If California intends to include an income threshold in the child support guideline for application of the low-income adjustment, then the threshold now used to determine the obligor's eligibility—\$1,000 net income per month—should be reviewed. It is higher than that of most states, but close to the amount in high-income states (for example, Connecticut and New York). Also, it exceeds the federal poverty standards for a single person. Nevertheless, the variability in the cost of living among California counties that survey respondents highlighted is appreciated. In addition, as the obligor's income approaches \$1,000 per month, the amount of the adjustment becomes increasingly small. Under California's new minimum-wage law, many fulltime minimum-wage earners will be ineligible for the adjustment or receive only a nominal adjustment.

One difficulty with establishing a fixed threshold is that anyone whose income is even slightly above the threshold may not qualify for a low-income adjustment. Another approach, which could be used either instead of the low-income adjustment or in addition to it, is to incorporate a self-support reserve directly into the guideline to ensure that the obligor has enough income after payment of the support obligation that he or she can maintain at least a minimum standard of living. A discussion of how a self-support reserve could be incorporated into the existing guideline is provided below.

### *Adjustment Formula*

As previously illustrated, there are situations under the existing guideline where payment of the guideline-determined amount would leave the obligor with income below the poverty level for one person. The Legislature should consider the following options as potential approaches to addressing this situation, but these approaches could be considered in combination with other adjustments mentioned in this section:

- Replace Family Code section 4055(b)(7) with an adjustment based on a selfsupport reserve or adopt a self-support reserve in addition to the low-income adjustment. There are two methods of applying a self-support reserve.
- One method is to compute the low-income-adjusted order as a proportion of the difference between obligor net income and the self-support reserve. The proportion could be on a sliding scale that increases with the number of children (for example, 90 percent for one child, 91 percent for two children, 92 percent for three children and so forth).
- To illustrate how this would work, assume an obligor has three children and the obligor's net income is \$1,100 per month. The obligor's income available for child support would be \$384 (\$1,100 – \$716, which is the federal poverty level for one person). Under the low-income adjustment, the support order for three children would be 92 percent of this amount, or \$353 per month. This amount would be compared to the guideline-determined amount, and the lower of the two amounts would become the support order.
- The other approach is to merely calculate guideline support using all of the obligor's actual income. The guideline support is then subtracted from net income and if the amount remaining is less than the self-support reserve, the guideline support is adjusted downward until the self-support reserve amount is reached. This is similar to the method adopted by the former Agnos Child Support Standards Act of 1984.
- To illustrate how this would work, an obligor with \$1,100 net monthly income and three children would pay \$528 per month in child support by the current guideline. The obligor would be left with \$572 per month after support. If a federal poverty level self-support reserve of \$716 was used, the child support would have to be reduced by \$144 to leave the obligor with the necessary selfsupport reserve. The resulting child support order would be \$384 per month.

No specific recommendation is made regarding the appropriate amount of any selfsupport reserve. Comments received during the comment period clearly indicate that a careful balance must be reached between the need to leave obligors with sufficient income to meet their most basic needs and the need to provide as adequately as possible for children.

### *Other Logistics of the Proposed Formula*

The proposed low-income adjustment is an easy formula to program into an automated guideline calculation. It could also be easily incorporated into a guideline worksheet. An example of such a worksheet is provided in Exhibit [4-05](#)(p83). Applying the low-income adjustment after additions for other child-related expenditures are added on (for example, for child care, health-care costs, education, and special needs) can be problematic. Add-ons are often not set at a dollar amount (they are typically set at 50 percent of actual costs), which would make it difficult to calculate the low-income adjustment after the consideration of additional costs. In the case of uninsured health-care costs, the most frequently applied add-on, this may vary substantially from year to year.

### *Discretionary Adjustment*

If California decides to adopt a self-support reserve or maintain some form of the current low-income adjustment or use a combination of both approaches, these adjustments should be made presumptive to ensure that they will be applied. The intent of enacting a low-income adjustment or self-support reserve is to benefit those who meet the threshold criteria. The current law requires a finding as to why the low-income adjustment is being applied, which may discourage its application. Further, child support orders entered by default will rarely have the low-income adjustment unless it is made presumptive. This situation creates an additional administrative burden on the courts when these orders must be set aside or subsequently modified. The Legislature should consider adopting or amending current law to make application of these adjustments presumptive subject to proof that the adjustment is not appropriate in a particular case. The current low-income adjustment allows the court to adjust the support within a specified range, which gives the court greater flexibility to consider the overall circumstances of a particular case. However, if this adjustment is made presumptive, the Legislature should consider providing that in default cases or proposed judgments under Family Code section 17400 the low-income adjustment should be set at the maximum amount allowable in order to provide even results on similar facts statewide.



# California Child Support Guideline Review 2001

## ***Presumed Income***

Application of California's presumed income results in order amounts that are significantly higher than those ordered in the rest of the nation. Among other states, [135](#) of them base the presumed order on the assumption that the obligor is employed full time at minimum wage. This contrasts with the current California approach, which presumes a monthly income of \$1,966 (for fiscal year 1999–2000) when calculating support for one child. The Legislature should review the current presumed income approach to determine if alternatives would yield a more appropriate child support order. If a lower presumed income was adopted, provisions could be considered for allowing either parent to be able to set aside the judgment, within a clearly circumscribed time period, and recalculate support based upon information subsequently provided.

It is also recommended that the results from the Urban Institute's study on child support debt be considered when released. It may provide further insights on the ability to pay in these presumed income cases.

## **Recommendations Regarding Use of Gross Income Versus Net Income**

The California child support guideline should continue to rely on disposable net income as the base used to compute a support obligation amount. Disposable net income bases support on the actual amount of money that is reasonably available for support. Net income excludes mandatory deductions such as retirement or union dues. Net income also accounts for the differences in tax consequences based on such factors as the availability of dependency exemptions. This approach takes into account that people who are similarly situated with regard to gross income may have quite different levels of net income based on the nature of their deductions and their individual life circumstances.

The Legislature should, however, review the issue of how to allocate the tax consequences between a remarried party and his or her new spouse for the purposes of determining the net disposable income of that remarried party. In resolving this issue, the Legislature should carefully review the various alternatives to determine the most equitable statutory solution (see discussion in Chapter Four). The current gap in guidance in this area can result in a lack of uniform application of the guideline statewide.

## **Recommendations Regarding Additional Dependents**

The California child support guideline's two existing provisions regarding additional dependents appears to adequately address the issue of additional dependents. The guideline should continue to allow a mandatory deduction for child support actually being paid for a child other than the child or children for whom support is being established. The guideline should also continue to allow a hardship deduction for other children (and/or parents) who the party is legally obligated to support and who reside in the home of that party. It should be noted, however, that the latter deduction is discretionary with the court. The court may disallow consideration of the deduction for other dependents completely or allow a deduction in any amount up to the maximum allowable. This discretion allows the court to take into consideration the wide range of circumstances where other dependents are involved.

For example, the court can differentiate the amount of deduction for another dependent not the subject of the order who is solely supported by one parent or supported by two parents.

The Legislature should consider correcting a minor mathematical error that occurs if the hardship deduction exceeds the parent's net income, which results in a negative net disposable income for the eligible parent. This can be easily corrected by limiting the minimum amount of net disposable income to \$0. In other words, a parent's net disposable income used in a guideline calculation can never be less than \$0. Similar provisions exist in other states.



# California Child Support Guideline Review 2001

## CHAPTER 1

### INTRODUCTION

In June 2000, the Judicial Council of California contracted with Policy Studies Inc. (PSI) to conduct a review of California's child support guideline. This review was conducted in compliance with federal and state law. Federal law (45 CFR 302.56) requires states to examine case data at least every four years to ensure that deviations from guidelines in the amount of child support ordered are limited. State law (Fam. Code, § 4054(a)) also requires the Judicial Council to periodically review the statewide guideline and recommend appropriate revisions to the Legislature. The review conducted in 2000 included the following activities:

- The collection and analysis of child support order information from case files;
- A review of provisions other states' guidelines make for selected issues, including issues related to low-income obligors, second families, and the use of gross or net income to calculate the support obligation;
- An analysis of the costs of raising children based on the most recent economic evidence;
- The administration of a survey of people who use the guideline (for example, judges, family law attorneys, and advocates for parents and/or children) to establish and modify support orders; and
- Focus groups and interviews with parents who have experience with the guideline.

The Judicial Council requested that the study activities particularly address three key issues of special interest to the Legislature: (1) the low-income adjustment provisions in the guideline, (2) the income base the guideline formula uses to calculate a support obligation, and (3) adjustments the guideline allows for additional dependents.

### REVIEW OF CASE FILES

The case file review consisted of a random sample of child support orders that were established or modified in calendar year 1999. The review adopted the same approach the Judicial Council used in its last review of support orders, but it selected fewer cases for review.

[11](#) That approach included the following features:

- **Selection of sample counties.** The review was conducted in the same counties the Judicial Council sampled in its 1996 study. The counties represented a good cross section of sociodemographic variables that reflect underlying family conditions in California. These variables include county population, regional density (that is, rural, urban, suburban), geographic location in the state, relative wealth (for example, mean household income), and total number of child support cases.
- **Sample frame.** The sample frame included all child support orders filed in calendar year 1999. In order to ensure that the study reviewed orders established by the district attorney's office and orders established privately, an assumption was made that the ratio of orders made through district attorney's offices to those made outside district attorney's offices was 0.50. This was the ratio used to draw the case file sample in 1996 and, since there are no data about the existing ratio, it seemed reasonable to make the same assumption for the 2000 study.
- **Sample size.** A major purpose of the study was to estimate how frequently actual child support order amounts differ from the amounts that would have been established if the guideline formula had been used. A sample size of 1,000 orders was selected as adequate to make that estimate. [12](#) The sample was stratified by county based on the number of child support orders established by the district attorney's office in each county. Thus, if the number of district attorney's office orders established in Los Angeles is twice the number established in San Diego, then for every one case reviewed in San Diego, two cases would be reviewed in Los Angeles. The study team established a weighting mechanism so that the number of cases reviewed in each county reflected the proportional distribution of district attorney's office orders across counties in the sample.
- **Sampling algorithm.** Since there is no exact count of how many child support orders are established or modified in a single year, the case file review selected every sixth family case file for review. If there was no child support order, the next case was selected for review. This selection process continued until the sample size for each county was reached.

The case file review captured a great deal of information about the child support order in addition to whether the order amount matched the amount that would have been established if the guideline formula had been used. For example, the review captured the reasons judges recorded for deviating from the guideline amount, the incomes of the parents (where available), the number of children covered by the support order, the presence of add-on support for such items as child care or medical expenses, and whether the parents were represented by a private attorney.

### REVIEW OF PROVISIONS IN OTHER STATES' GUIDELINES

California state law requires the guideline review to include an analysis of guidelines and studies from other states. An analysis of all the provisions in every state's guideline was beyond the scope of the current study. Thus, this study focused on the three main issues of legislative interest: how other states deal with low-income obligors and additional dependents and whether they use net or gross income as the base from which to compute a support obligation. The study first reviewed the provisions in the California guideline that deal with these issues and any relevant case law. It then examined how other states deal with the same issues, even including examples to illustrate how the provisions in other states' guidelines are applied. Finally, the review included a summary of the issues that have been of greatest concern to other states in their more recent guideline reviews.

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## ANALYSIS OF CHILD-REARING COSTS

Estimates of child-rearing costs are developed from national data on consumption patterns of households with and without children. These data are collected by the Bureau of Labor Statistics in its Consumer Expenditure Survey (CEX). The CEX is an exhaustive list of expenditures by item and by household size for a nationally representative sample of American families. No state collects expenditure data that are as exhaustive or that are collected on such a large sample size. As a result, the CEX is the only available survey suited for estimating household spending patterns. Disentangling the consumption costs of children from those of parents in a household is not straightforward because many costs in a household (for example, housing, furnishings, and food) are shared among all the household members. It is therefore not possible to observe directly the portion of household expenditures attributable to a child. For this reason, there are contending approaches to estimating the costs of raising children. Each has advantages and disadvantages, and there is no ideal approach. Studies from the early 1980s have been replicated using more current expenditure data; the estimates using these more current data are presented in this report.

## SURVEY OF GUIDELINE USERS

The primary purpose of the guideline users' survey was to learn stakeholders' views about (1) what they believe is working well and not so well with the existing guideline, (2) what they see as the guideline's strengths and weaknesses, and (3) what features of the guideline they believe could be improved. In addition to capturing information about the three key issues that were the main focus of the study, the survey asked questions about a wide range of other issues, including how to deal with high-income cases, shared parenting, and "add-ons" to the basic support obligation (for example, for child care or extraordinary medical expenses for the children who are the subject of the support order).

The survey, which was designed jointly by PSI staff and the Judicial Council, was administered to people who use the guideline to establish and modify child support orders. This included judges, family law facilitators, public and private attorneys who deal with family law matters, advocates for parents and children, child support specialists, and others (for example, academics) who work on child support issues and who bring a broad perspective to the application of the guideline. The survey was not designed for parents because most parents do not have experience using the guideline to establish orders beyond their own case. Nevertheless, some parents learned about the survey and responded. Their answers and recommendations are included in the discussion of survey findings.

No target sample size was set for the number of respondents. Rather, the survey and the survey administration procedures were designed to capture input from as many guideline users as wanted to submit responses. The surveys were self-administered. Respondents had the option of returning a hard copy survey instrument or using the Web-based survey to record their answers and opinions. About half of the total respondents used each approach.

## FOCUS GROUPS OF PARENTS

Obviously, parents play an important role in any review of the child support guideline because they are directly affected by how the guideline is applied by the court to calculate a child support order in their case(s). Thus, the PSI study team made a special effort to capture parents' thoughts about the guideline, especially in how the guideline's provisions are applied and what impact that application has had on their particular situations. The approach the study used to gather data also asked parents what recommendations they had for changing the guideline that would make it easier to use, be more equitable in its outcomes, and yield support orders that were in the best interest of the children.

In order to capture this information, the PSI study team conducted several focus groups in San Diego and the San Francisco Bay Area and conducted interviews with parents either in person or by telephone. The qualitative information from this effort was meant to supplement the more quantitative information captured from the survey of guideline users.

## ORGANIZATION OF THIS REPORT

In addition to this Introduction, there are seven chapters in the report. Chapter Two provides a brief overview of the California child support guideline and some of its basic provisions. In particular, the chapter examines the provisions for the three issues of primary focus in this study: the adjustments for low-income obligors and for parents with additional dependents and the income base used to calculate support.

Chapter Three presents findings from the review of case files. The purpose of this review was to understand better how the guideline is applied by judicial officers around the state and to identify reasons those officers may have entered a different support order amount than would have been calculated using the guideline. The chapter presents statistics on how frequently child support orders deviate from the guideline amount and the reasons for those deviations, as well as how frequently adjustments are made for such factors as additional dependents, the low income of the obligor parent, child care, and extraordinary medical expenses.

Chapter Four compares California's guideline to the guidelines used in other states. In particular, the chapter examines the issues of (1) low income and how other states establish child support orders for obligors with low income, (2) what other states use as their base for computing a support obligation, and (3) how other states' guidelines deal with additional dependents.

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Chapter Five presents estimates on the costs of raising children using the most recent economic evidence about those costs. These findings, which build on previous research conducted by Dr. David Betson, use the most current economic data from the Consumer Expenditure Survey administered by the Bureau of Labor Statistics. The child-rearing cost estimates are shown as a proportion of total household expenditures in intact families. The chapter discusses the advantages and disadvantages of three alternative approaches to estimation and presents childrearing cost estimates for each approach.

Chapters Six and Seven present the findings from a survey of guideline users and discussions with parents, respectively. Together, the chapters (1) discuss some of the strengths and weaknesses of the guideline, (2) examine some of the problems users and parents report having with the guideline as a tool for establishing support obligations, and (3) offer ideas for improvements to make the guideline more useful. Chapter Eight, the final chapter, presents the recommendations of the PSI study team for changing provisions in the guideline that deal with (1) low income, (2) net disposable income as a base for calculating a support obligation amount, and (3) additional dependents.

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## CHAPTER 2

### CALIFORNIA CHILD SUPPORT GUIDELINE

The discussion of the California child support guideline in this report presumes some understanding of provisions in the guideline. These provisions are described at length in past legislation (Fam. Code, Article 2, §§ 4050–4076) and several reports.

For example, the Judicial Council of California's report titled *Review of Statewide Uniform Child Support Guideline 1998* provides a detailed description of the guideline and some of its special provisions. [13](#) This report excerpts some background information about the guideline from the 1998 Judicial Council report. In particular, it discusses three issues that were the focus of this study:

- Gross versus net income as a base from which to compute a support obligation;
- Low-income adjustments; and
- Adjustments for additional dependents.

### THE CHILD SUPPORT GUIDELINE FORMULA

The guideline formula appears to be fairly simple:  $CS = K[HN - (H\%)(TN)]$  where

CS = the monthly child support obligation for one child. For more than one child, CS is multiplied by an additional factor ranging from 1.6 for two children to 2.86 for 10 children.

K = the percentage of total net income allocated to child support. This percentage varies depending on the proportion of time the noncustodial parent spends with the child and the total net income of the parents.

HN = the net income of the higher earner of the parents.

H% = the proportion of time the child spends with the higher earner.

TN = the parents' combined net income.

Thus, the child support obligation depends on three factors: (1) the net income of the two parents, (2) the proportion of time the child spends with each parent, and (3) the number of children for whom support is being sought. As discussed below, however, there are several complexities that are not evident from the formula alone. For example, the computation of the K factor is complex because it varies depending on the parents' net income and the proportion of time the children spend with the higher earner. As explained in Article 2 of the Family Code, section 4055(b)(3):

K equals one plus H% (if H% is less than or equal to 50 percent) or two minus H% (if H% is greater than 50 percent) times the following fraction:

Total Net Disposable Income per Month	K
\$0–\$800	$0.20 + TN/16,000$
\$801–\$6,666	0.25
\$6,667–\$10,000	$0.10 + 1,000/TN$
Over \$10,000	$0.12 + 800/TN$

Thus, if H% equals 20 percent and the total monthly net disposable income of the parents is \$1,000,  $K = (1 + 0.20) \times 0.25 = 0.30$ . And if H% equals 80 percent and the total monthly net disposable income of the parents is \$1,000,  $K = (2 - 0.80) \times 0.25 = 0.30$ .

An example will help illustrate how child support is calculated using the formula.

Assume the following:

- One parent has monthly net disposable income of \$4,000 and the other parent has \$1,000. The higher earner's net disposable income (HN in the formula) is therefore \$4,000.
- The parents' total combined net disposable income (TN in the formula) is \$5,000.
- The higher earner has physical custody of the child 20 percent of the time (i.e., H% in the formula = 0.20).
- There is one child being supported.

The K factor, as computed from the above table and explanation, is  $(1 + 0.20) (.25) = 0.30$

$CS = K[HN - (H\%)(TN)]$

$CS = .30 [4,000 - (.20)(5,000)]$

$CS = .30 [4,000 - 1,000]$

$CS = \$900$

The basic monthly child support amount that the higher earner will pay the lower earner is \$900. The final support amount will be greater than this if there are childcare costs and/or monthly health-care costs for the child not covered by health insurance. In addition, the court may consider increasing the basic support amount for costs related to the child's education or for other special needs of the child.

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The final support obligation amount established by the guideline formula is presumed to be the correct amount of child support to be ordered. If the obligation amount differs from what would have been established by the formula, the court is required to provide—in writing or on the record—the following information (Fam. Code, § 4056(a)):

- The amount of support that would have been ordered under the guideline formula;
- The reasons the amount of support ordered differs from the guideline formula amount; and
- The reasons the amount of support ordered is consistent with the best interest of the children.

If the support ordered is different from what the guideline formula calculated, either parent may request that the court document the following information in writing or on the record (Fam. Code, § 4056(b)):

- The net monthly disposable income of both parents;
- The actual federal income tax filing status of each parent and the number of exemptions;
- The deductions allowed from gross income for each parent; and
- The percentage of time each parent spends with the children.

Together, these provisions allow the Judicial Council to determine in its quadrennial review whether support orders are fair and adequate and whether they are consistent with the provisions of the guideline.

### LOW-INCOME ADJUSTMENT

The child support guideline allows a low-income adjustment for obligors whose net disposable income is less than \$1,000 per month. There are three provisions in the existing guideline of most relevance to low-income obligors.

#### Whether a Low-Income Adjustment Shall Be Made

The court must rule on whether a low-income adjustment shall be made if the obligor's net disposable income is less than \$1,000 per month. If the court rules in favor of the adjustment, it may reduce the formula-determined order amount by the percentage difference between the obligor's net monthly income and \$1,000 (Fam. Code, § 4055(b)(7)).

For example, if the obligor's monthly net disposable income is \$500 and CS calculated using the formula is \$150, the maximum low-income adjustment amount is:

Adjustment = CS [(1,000 – NI)/1,000] where

CS = child support order

NI = obligor net income

Adjustment = 150 [(1,000 - 500)/1,000]

Adjustment = 150 [0.50]

Adjustment = \$75

The court would have discretion to order the obligor to pay as little as \$75 (\$150 – adjustment = \$75) or as much as \$150 or any amount between \$75 and \$150.

If a low-income adjustment is granted, the court shall “state the reasons supporting the adjustment in writing or on the record and shall document the amount of the adjustment and the underlying factors and circumstances” (Fam. Code, § 4055(c)).

#### Automation of the Low-Income Adjustment

A provision in the automated version of the guideline first asks the user whether or not to apply the low-income adjustment. If the user answers “yes,” the computer program will calculate the range of the adjustment permitted (Fam. Code § 4055(b)(8)).

#### Presumed Income

The state Welfare and Institutions Code addresses the situation where the obligor's income is unknown and the order is being established by a local child support agency (Welf. and Inst. Code, § 11475.1(c)). If the obligor's income or income history is unknown to the local child support agency, income shall be presumed to be an amount that results in a court order equal to the minimum basic standard of adequate care for the supported child or children (Fam. Code, § 17400(d)(2)). A schedule of support order amounts is published annually that links presumed income and respective presumed order amounts. In fiscal year 1999–2000, for example, the presumed income for an obligor with one child to be supported was \$1,966 per month. The child support order amount for that income level was \$390 per month.

### INCOME BASE OF GUIDELINE

California, like 18 other states, uses net income as the base from which to compute a child support obligation. Furthermore, it sums both parents' net income in applying the formula to establish the support obligation.

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Under Family Code section 4059, the guideline defines what is meant by net disposable income and specifies the types of deductions that are allowed in computing net from gross income. Nevertheless, the judicial officer has some discretion in determining what income is included in a parent's gross income (for example, employee benefits, overtime pay, bonuses) and what deductions to gross income are acceptable (for example, job-related expenses). Further, the judicial officer may impute income to one or both parties based on the parent's earning capacity if that is in the best interest of the child or children being supported.

### **ADDITIONAL DEPENDENTS**

There are two provisions in the existing guideline of most relevance to additional dependents.

- Family Code section 4059 applies to support being paid for an additional dependent who does not reside with the parent. It simply subtracts the amount paid from the eligible parent's income.
- Family Code section 4071 (the hardship deduction) applies to additional dependents living with the parent. A hardship deduction can be subtracted from the income of the parent of the additional dependent prior to calculating child support. The amount of the hardship deduction cannot exceed the child support allocated per child subject to the order.

# California Child Support Guideline Review 2001

## CHAPTER 3

### GUIDELINE APPLICATION: A REVIEW OF THE CASE FILES

#### OVERVIEW

In this chapter, the findings from a case file review of recently established or modified child support orders are analyzed. In the first section, the methodology used to conduct the case file review is summarized. (Appendix A provides a more detailed description of the methodology.) The next section analyzes the results of the review. It considers the following subtopics:

- Deviations from the guideline and reasons for deviating from the guideline;
- Application of permissible adjustments within the guideline calculation (for example, hardship deduction, add-on for child care);
- Gender and income of the parent obligated to pay support (the obligor) and the parent to receive support (the obligee);
- Presumption and imputation of income;
- Method used to obtain order (stipulation, default, or contested);
- Use of attorneys; and
- Number of children subject to order and order amounts.

#### METHODOLOGY

The case file review consisted of a random sample of established or modified orders filed in calendar year 1999. [14](#) This included orders established or modified by the child support enforcement program through the local district attorney's office (DA orders) and orders established or modified outside the district attorney's office (non-DA orders). [15](#)

Conducted in October and November 2000, the case file review was limited to orders subject to the California child support guideline. The review excluded interstate cases, which are not subject to the guideline. It also excluded cases in which an order had not yet been established and orders where the child support was included as part of a larger family support order and could not be separated from the larger order. The research design of the case file review mimics that of the case file review conducted for the *Review of Statewide Uniform Child Support Guideline 1998* Descriptions of the sampling algorithm, data collection tool, and other sampling and data collection details can be found in Appendix A.

Both this review and the 1998 review (which examined support orders established or modified between July 1, 1995, and June 30, 1996) included orders established and modified by district attorney's offices under Welfare and Institutions Code section 11350.1 (now Fam. Code, § 17404), as well as orders not established and modified by district attorney's offices. Because there are no current data about the distribution of DA and non-DA orders, cases for the sample were selected and stratified by county assuming a 50-50 split between DA and non-DA orders. The earlier case file review also assumed a 50-50 split, based on data available at that time but not updated for this study. For future California reviews, the actual distribution of orders should be available from new sources. For example, data from the newly created California Family Support Registry could eventually be used to better estimate the split between DA and non-DA orders. [16](#) Information from the registry could not be used for this study because not all counties were reporting to it when this study was conducted.

#### Sampled Counties

This case file review targeted the same 11 counties for sampling that were subject to the 1998 review. Those counties were selected because they represent a cross section of sociodemographic factors that reflect underlying family conditions in California. These factors included the county's population, regional density (urban, suburban, or rural), geographic location, relative wealth, and total number of child support cases.

Future reviews should revisit the county selection based on more recent information from the 2000 census data (for example, population, household incomes) and child support enforcement data (that is, total caseload, percent of cases under order) from the state's automated system. The data were not available for the current study but will be available by the time of the next quadrennial review.

The last case file review targeted a random sample of over 3,000 orders and obtained complete file information from 2,987 orders. For this study, a random sample of 1,000 cases was targeted—one-third the sample of the earlier study—which is more than adequate to detect significant differences between the findings of the two case file reviews. Sufficient information was obtained from 991 orders for the current sample.

In Exhibit [3-01](#) (p73), the number of orders examined for both reviews by county is displayed. For most counties, the current study sample is about one-third that of the last sample. [17](#)

#### FINDINGS FROM THE CASE FILE REVIEW

##### Deviations

Exhibit [3-02](#) (p73) shows that a deviation is noted in 9.7 percent of the reviewed cases. The comparable proportion in the last review is 9.9 percent. Among the remaining 90.3 percent of the reviewed cases, the order amount is equivalent to the guideline amount or the guideline amount is unstated. It is presumed that if the guideline amount is unstated, it is in compliance with Family Code section 4065 or the correct child support amount is ordered as set forth in the guideline pursuant to Family Code section 4057.



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A national study examining case files in 11 states conducted in 1995 found that child support guidelines were deviated from in 17 percent of the orders. [18](#) A similar case file review recently conducted in Arizona for its quadrennial review found a deviation rate of 16 percent. [19](#) Other recent studies in Iowa and Colorado indicated lower rates, but the reviews in those states were limited to IV-D cases and to what was reported on automated systems. The deviation rate in Colorado is 3 percent. [10](#) The deviation rate in Iowa is 1.2 percent. [11](#)

In California, the deviation rate was found to vary between DA orders and non-DA orders. As shown in Exhibit [3-03](#) (p74), the deviation rate among DA orders is 7.5 percent, whereas the deviation rate is 12 percent among non-DA orders. The current deviation rate for DA orders (7.5 percent) is considerably higher than the comparable rate from the 1998 study (1.8 percent). Conversely, the current deviation rate for non-DA orders (12 percent) is somewhat lower than the comparable previous rate (18.5 percent).

Exhibit [3-04](#) (p74) shows reasons for deviation. Over half (56.3 percent) of the orders with deviations involve a stipulation. Family Code section 4057 specifies that a deviation is permissible if one or more of the following factors exists.

- The parties have stipulated to a different amount.
- The sale of the family residence is deferred, and the rental value of the residence of the children exceeds the mortgage payments, homeowner's insurance, and property tax of the family residence.
- The obligor has extraordinarily high income and the formula results in amounts that exceed the child's needs.
- One of the parties is not contributing to the children's needs at a level commensurate with the party's shared parenting time.
- Application of the formula would be unjust or inappropriate due to:
  - Different shared parenting time arrangements for different children;
  - Almost equal shared parenting time, but one parent spends a disproportionate share of his or her income on housing relative to the other parent; or
  - Children's medical or other special needs.

Aside from stipulation of the parties, none of the other reasons listed above contributes to more than 5 percent of the deviations where the reason was stated. A fair number of the orders with deviations, 16.7 percent, do not specify a reason.

"Other" reasons, which are given for 20.8 percent of the orders with deviations, vary. For example, one reason states that the obligor just turned 18 years of age and very recently started working. Another reason, given in two of the cases with deviations, is incarceration of the obligor.

In 19.8 percent of the cases where a deviation from the guideline is noted, the support amount is reserved for determination at a later date. However, not all reserved orders are considered deviations in the case file. In all, 195 reserved orders are included in the case file review (19.7 percent of the cases reviewed). This is somewhat more than in the last case file review (14.7 percent). Although not captured on the data collection forms, the data reviewers noted several different circumstances in which an order is reserved. Among DA cases, many of the reserved orders include a medical support order, so the applicant may have been seeking medical assistance only, rather than a cash grant through CalWORKS. Among some non-DA cases, the support order is reserved but specifications of shared parenting time are ordered. In addition, there are some unusual circumstances. For example, in one case, the obligor suffers from mental illness and has been institutionalized several times due to her illness.

### ***Direction and Amount of the Deviations***

The direction of the deviation could be determined in 54 percent of the cases. Among those, 67 percent were downward deviations and 33 percent were upward deviations. The amount of the deviation averaged 48 percent and 51 percent of the guideline amount in downward and upward deviations, respectively.

### **Application of Permissible Adjustments Within the Guideline**

#### ***Hardship Deductions***

A deduction from the parent's income for financial hardship is permissible under the guideline (Fam. Code, § 4070). The following circumstances evidencing hardship are specified in the guideline:

- Extraordinary health expenses for which the parent is financially responsible and uninsured catastrophic losses; and
- The minimum basic living expenses of either parent's additional dependents (natural and adopted children) who reside with that parent (Fam. Code, § 4071).

Hardship deductions were noted for only 27 parents: 15 fathers and 12 mothers. This represents only 2.5 percent of the files that were reviewed and is less than the comparable proportion (6.8 percent) from the 1998 case file review. [12](#) The proportion estimated for this study may be underestimated because a hardship deduction is only discernible if a printout from an automated guideline calculation is available in the case file or if the deduction is specifically noted in the order. Not all files have printouts of the automated guideline calculation, however, and even fewer files report the reason for the hardship deduction in the order. (The reason is not provided on the printout.)

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## ***Additional Dependents and Spousal Support***

Another adjustment is permissible under Family Code section 4059(e) for additional dependents who the parent is responsible for supporting but who are not living in that parent's home. The adjustment also applies to any court-ordered spousal support that is paid. This deduction was noted for 2.4 percent of the fathers and less than 1 percent of the mothers in the sample that was reviewed. For reasons identical to that of the hardship deduction, these proportions may be underestimated because they are only detectable if a guideline printout is attached to the case file or the deduction is specifically mentioned in the order.

## ***Low-Income Adjustment***

Family Code section 4055(b)(7) permits a low-income adjustment if the obligor's net income is below \$1,000 per month. Excluding orders where the obligor's income is not known, 13 percent of the obligors in the reviewed cases were eligible for the adjustment. However, a low-income adjustment was applied in only 6.2 percent of those cases. As is the situation with other permissible adjustments, the proportion of cases with a low-income adjustment may have been underestimated because it is only apparent in the case file if there is a printout of the automated guideline calculation or if the adjustment is mentioned in the order.

## ***Additional Support***

Support in addition to the amount determined by the guideline formula is to be added for the following factors (Fam. Code, § 4062):

- Employment-related child-care expenses;
- Reasonable uninsured health-care costs for the children; and
- Costs related to the educational needs or other special needs of the children.

Exhibit [3-05](#) (p74) displays the frequency of additional support by reason and by which parent owes the additional support. For example, employment-related child-care expenses are ordered to:

- Both parents in 6.7 percent of the cases reviewed (each parent is responsible for half);
- 3.7 percent of the fathers; and
- 0.2 percent of the mothers.

In sum, 10.6 percent of the reviewed orders cover employment-related child-care costs. The comparable proportion from the last review is 11.2 percent.

In Exhibit [3-05](#) (p74), additional support for the following is also displayed.

- *Uninsured medical expenses.* Almost a third (31.5 percent) of the orders cover insured medical expenses. The comparable proportion in the last review is 35.2 percent.
- *Education or special needs.* A small proportion (3.8 percent) of the orders cover education and special needs. These categories were separated in the last review, but the total was 8.7 percent of reviewed cases, which is higher than the current proportion. The lower amount may be partially explained by the inclusion of an "other" category for this review.
- *Visitation travel expenses.* Few orders in this review (0.2 percent of cases) or in the last review (0.9 percent of cases) included adjustments for visitation travel expenses.
- *Other expenses.* 2.9 percent of the reviewed orders cover other expenses, such as sports or music lessons.

## **Most of the additional support is divided equally between the parents.**

Gender and Income of the Parents Which parent is the obligor in California is a function of relative income between the parents and shared parenting time. The California guideline formula may result in the parent with the higher income being the obligor even if that parent is the primary custodian of the children. Conversely, the parent with the lower income could be the obligor even if he or she has a smaller proportion of shared parenting time. In short, who is the obligor under the California guideline formula cannot be predicted based on which parent is the higher earner alone, nor can it be predicted solely on which parent has the higher proportion of shared parenting time. Both factors must be considered in determining which parent is the obligor.

Exhibit [3-06](#) (p74) shows that in most cases (81.4 percent) the fathers are the obligors. The mothers are the obligors in 13 percent of the reviewed orders, and neither parent is specified as the obligor in 5.6 percent of the reviewed orders. Most of the orders in this last group are reserved or set at \$0. Yet, there are a few unusual circumstances. For example, in one case, the parents stipulated to an agreement that each would track his or her child-rearing expenditures separately and then reimburse one another if the expenditures were unequal.

## ***Income***

Income information is available for 39.9 percent of the obligors and 40 percent of the obligees. (As discussed in greater detail later, in most of the orders where income information is missing, the order is determined through a stipulated agreement or default. Parents may agree to an order without providing income information to the court.) For somewhat smaller proportions of obligors and obligees (29.8 percent and 31.6 percent, respectively), income information is available in both gross and net terms.

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As evident in Exhibit [3-07](#) (p75), gross monthly incomes average \$3,037 and \$1,733 for obligors and obligees, respectively. Net monthly incomes average \$2,170 and \$1,424 for obligors and obligees, respectively. Imputed and assumed incomes are not considered in these averages. Exhibit [3-07](#) (p75) also displays the median obligor monthly income; that is, the income level at which 50 percent of the obligors have incomes below that level and 50 percent have incomes above that level. Median amounts are also displayed for obligees. Median obligor income is \$2,310 per month gross and \$1,655 per month net. The median obligee income amounts are \$1,566 per month gross and \$1,393 per month net.

In Exhibit [3-08](#) (p75) the parents' income is examined further. It only considers the income ranges for those cases where income information is available for both parents. This amounts to less than a third of all the cases we reviewed. As a result, the total columns and rows for obligor and obligee income ranges do not include cases where income information is only available for one parent. [113](#)

Exhibit [3-08](#) (p75) shows that both parents have gross incomes less than \$1,000 per month in 6.2 percent of the cases where income information is available from both parents. For net incomes less than \$1,000 per month, the comparable proportion is 8.3 percent.

In general, a wide range of income disparities between the parents, particularly for gross income, is displayed in Exhibit [3-08](#) (p75). There are only three possible income combinations that comprise more than 10 percent of the cases where gross income information is available for both parents:

- 10.7 percent of the cases involve obligees with gross incomes of \$1,001–\$2,000 per month and obligors with gross incomes less than \$1,000 per month;
- 12.7 percent of the cases involve obligees with gross incomes of \$1,001–\$2,000 per month and obligors with gross incomes of \$1,001–\$2,000 per month; and
- 10.0 percent of the cases involve obligees with gross incomes of \$2,001–\$3,000 per month and obligors with gross incomes of \$1,001–\$2,000 per month.

The pattern among net incomes is somewhat similar with one notable exception: almost a quarter (22.3 percent) of the cases where both parents' incomes are known involve cases where the obligor's net income is \$1,001–\$2,000 per month and the obligee's net income is \$1,001–\$2,000 per month.

Although not shown in Exhibit [3-08](#) (p75), obligee gross income as a proportion of obligor gross income averages 54.2 percent. The comparable proportion in net terms is 65.6 percent. It is likely that the higher proportion in net terms results from the different tax consequences of the parents.

## Imputed and Presumed Income

The California child support guideline allows the court, at its discretion, to consider the earning capacity of a parent in lieu of the parent's income, consistent with the best interest of the children (Fam. Code, § 4058(b)). Historically, courts considered earning capacity (instead of actual income) in cases in which it was demonstrated that the obligor was deliberately avoiding his or her support obligation by refusing to get a job or by depressing his or her income. However, the guideline simply states that the use of the earning capacity standard must be "consistent with the best interests of the child," and does not otherwise specify or limit the circumstances under which earning capacity may be used. So long as the obligor has a measurable earning capacity and the current ability and opportunity to earn, the court may use its discretion in determining whether income should be *imputed* to an unemployed or underemployed parent.

If the support amount is being established by a local child support agency under Welfare and Institutions Code section 11475.1(c) and the obligor's income or income history is unknown, income shall be *presumed* to be an amount that results in a court order equal to the minimum basic standard of adequate care (Fam. Code, § 17400(d)(2)). [114](#)

As shown in Exhibit [3-09](#) (p75) obligor income is *imputed* in 10 percent and *presumed* in 15.2 percent of all orders that were examined. As can be deduced from Exhibit [3-09](#) (p75), most income imputations and presumptions are made in cases where the child support order is established or modified by the district attorney's office. In fact, income is imputed in 18.8 percent of all DA orders and it is presumed in 28.5 percent of all DA orders. Combined income is imputed or presumed in 47.3 percent of all DA orders. When income is imputed to the obligor, it is typically imputed at minimum wage.

Obligee income is imputed infrequently: 6.9 percent of the obligees have income imputed to them. The proportion is higher among DA cases (10.5 percent) than it is among non-DA cases (3.3 percent). In a few cases, obligee income is imputed when the obligor provided income information and initiated the child support order. In these cases, obligee income is imputed at minimum wage. No other patterns as to when obligee income is imputed are noted.

## How Was the Order Established?

Child support orders may be modified or established through three methods:

- Stipulated agreement between the parties;
- A default order may be entered, provided notification of due process is given; or
- The order may be contested and resolved by a court of law.

As shown in Exhibit [3-10](#) (p76), almost half (44.5 percent) of the orders are entered through default; about another half (45.9 percent) are entered as stipulated agreements; and the remaining 9.6 percent are contested and heard in court. The comparable proportions from the last review are 51.9 percent default, 39 percent stipulations, and 9.1 percent contested.

# California Child Support Guideline Review 2001

As evident in Exhibit [3-10](#) (p76), the method used to enter the order varies significantly by whether it is a DA or non-DA order. The majority of district attorney's office orders (68.2 percent) are entered through default, whereas the majority of orders established outside the district attorney's office (70.1 percent) are stipulations. Yet, the use of default orders has decreased somewhat among DA orders since the last review (74.7 percent of the DA orders are default orders in the last review compared to 68.2 percent in this review). More DA orders are contested in this review (4.3 percent in the last review compared to 9.1 percent in this review).

More non-DA orders are entered through stipulation in this review than the last review (70.1 percent in this review compared to 57.7 percent in the last review).

Fewer non-DA orders are entered through default (19.8 percent in this review and 28.1 percent in the last review). It is unclear what the exact cause of this change is, but one notable difference between the two periods is the introduction of child support commissioners and family law facilitators as mandated in 1996 by Assembly Bill 1058 (Speier). A recent evaluation of the new child support commission system found that it has improved families' access to the child support process and has reduced conflict between the parents by better educating them on the child support process. [15](#) In turn, this may have led to more stipulated agreements.

## Use of Attorneys

This analysis also captured information about whether parents are represented by attorneys in their child support issues. For clarification, it must be noted that the data capture attorney representation for the financial support issue only, not for other family law issues such as custody. For further clarification, it also must be noted that district attorneys do not represent the custodial parent (or the noncustodial parent) in establishing an order.

Exhibit [3-11](#) (p76) shows that in the majority of cases (75 percent) both parents are unrepresented by attorneys. This is more than what was noted in the last review (both parents were unrepresented in 63.4 percent of the previously reviewed cases).

The increase in the proportion of unrepresented parents is not surprising due to the recent implementation of the child support commissioner system, which in part was designed to help unrepresented litigants navigate through the family law court system. The proportions where both parents are unrepresented have increased for both DA and non-DA orders. Both parents are unrepresented in almost all (96.2 percent) of DA orders in this review; the comparable proportion in the last review is 79.2 percent. The proportion of non-DA cases where both parents are unrepresented has increased from 46.8 percent to 52.8 percent.

Attorney representation appears to have no bearing on whether the guideline is followed. Both parents are unrepresented in most (75.3 percent) of the orders that follow the guideline as well as those (77.1 percent) that did not follow the guideline. Both parents are represented in 10.9 percent of the orders that follow the guideline and in 12 percent of the orders that did not follow the guideline. Only one parent is represented in 13.9 percent of the orders that follow the guideline and in 10.8 percent of the orders that do not follow the guideline.

## Number of Children

The number of children subject to the child support order in this review is very similar to that of the last review. For example, 60.2 percent of the currently reviewed orders concern one child, whereas 60.1 percent of the previously reviewed orders concern one child. Similarly, 28.4 percent of currently reviewed orders concern two children, whereas 27.7 percent of the previously reviewed orders concern two children. The number of children subject to the order in the current review is shown in Exhibit [3-12](#) (p76).

## Amount of the Child Support Order

In Exhibit [3-13](#) (p76), the average and median order amounts for one, two, and three or more children are displayed. Monthly order amounts average \$369 for one child, \$662 for two children, and \$921 for three or more children. Median order amounts represent the point at which half of the orders are more and half of the orders are less. For one child, the median order differs little from the average order amount.

However, the situations are not similar for two and three or more children. In these situations, median order amounts are less than the averages. This suggests that some high order amounts are dragging the average up.

The amounts of the orders average 22.7 percent of obligor net income for one child, 35.5 percent of obligor net income for two children, and 45.3 percent of obligor net income for three children.

## LIMITATIONS OF THE DATA AND ANALYSIS

The case file data contain several limitations, most of which were also present in the last review. The major limitation is seemingly incomplete information (for example, income information is frequently missing, and the guideline amount is not always specified). The frequency with which information was missing is also provided in Appendix A. To add to the complexity of this problem, there is no one form required in order establishments and modifications that contains all of the information sought for this study. In other states (such as Vermont and Arizona), all of the information would be available from one form, the guideline worksheet that is required in every case file. In California, however, the guideline amount is usually calculated from automated software. As a result, information was obtained from multiple forms (for example, income statements, order, summons, and judgments), yet some forms (for example, income statements) were not always provided to the courts so they did not exist in the case file.

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Only written records were examined. Some of the missing information may be due to written records containing less information than may be available in the full court transcripts. Also, as pointed out in the last review, information is more likely to be missing or incomplete in default and stipulated orders. Default orders are more likely to have missing income information because the obligor is not present.

Stipulated agreements also were less likely to have income information or specify the guideline amount. The case file reviewers encountered numerous stipulated agreements with missing information, in spite of the fact that Family Code section 4056(a)(1) requires the court to state in writing or on the record the amount of support that would have been ordered under the guideline if the support amount differs from the guideline. Nevertheless, the files did include signed declarations of the parties indicating compliance with Family Code section 4065 (shown in Exhibit 3-14).

Another limitation of the data shared by this case file review and the last review concerns county-specific data. Neither study was designed to detect statistical differences between counties. Further, information had not been reported at the county level to ensure anonymity.

A couple of limitations unique to the current case file review also exist. First, timesharing arrangements in the current case file review appear inaccurate. In some of the printouts of automated guideline calculations, the time-sharing percentage would appear as zero for both parents, even though other information in the case file suggests that one parent is the custodian. Information on time sharing could have also been obtained from the parents' financial statements, but the case reviewers noticed that parents were not always in agreement on the proportion of time spent with each parent. Due to these data problems, time-sharing arrangements were not analyzed as part of this case file review.

Another problem in the current case file review concerns the availability of income information. Availability of income ranges from:

- Both gross and net income being noted in the case file;
- Either gross or net income being noted in the case file, but not both; to
- Neither being noted in the case file.

The variation results from income information coming from three different sources that may or may not list both gross and the net income equivalent. Income may be stated in the order; on the printout of the automated guideline calculation, provided that it is in the file; or on the parent's financial statement, provided that it is in the file. To compensate for not having income information always available in net and gross form, analysis of income is done by both gross and net income.

Finally, it was not always possible to discern whether a parent was currently on CalWORKS or whether the parent was a former CalWORKS or Aid to Families with Dependent Children (AFDC) recipient. Most of the forms available in the case files did not make this distinction.

## CHAPTER 4

### SELECTED SPECIAL FACTORS AND OTHER STATES

#### BACKGROUND

In this chapter, the following selected factors in child support guidelines are discussed:

- Adjustments for low-income obligors;
- Additional dependents (children from prior or subsequent relationships); and
- Use of net income over gross income.

Each discussion includes (1) an overview of California's current approach; (2) recent case law, if relevant; (3) a discussion of how other states address the factor; and (4) some of the specific challenges. [116](#) This chapter concludes with a discussion of some of the more common issues faced today in the quadrennial reviews of states' child support guidelines. [117](#)

#### TREATMENT OF LOW-INCOME OBLIGORS

Issues relating to low-income nonresidential parents, including child support guidelines, have recently received more federal and state attention. In this section, the topic is first introduced by reviewing some of the recent research on low-income obligors, particularly the child support enforcement policy factors that affect how much is owed by low-income obligors. Next, the factors that are addressed in the California child support guideline are identified. If they are addressed, how they are addressed is described and any recent case law that is applicable to the issue is discussed. Specific comparisons of the treatment of low-income obligors in state child support guidelines follow the review.

##### Recent Research on Low-Income Obligor

Recent research based on national data reveals that almost one-fourth of nonresident fathers are impoverished. [118](#) As a consequence, poor fathers do not have the ability to pay child support—or, as their advocates put it, “They are dead-broke, not deadbeat.” Additional research corroborates this finding from another angle. Specifically, it finds that 16–32 percent of young nonresidential fathers not paying support are impoverished. [119](#) Comparable figures for California are unavailable, but a current study in progress could possibly lead to some California-specific research relating child support arrears to obligor income. This California Department of Child Support Services study is identifying the current amount of uncollected child support arrearages statewide and will estimate the amount that realistically can be collected.

Two reports analyzing child support establishment policies that affect low-income nonresident parents were recently released by the Federal Department of Health and Human Services Office of Inspector General (OIG). [120](#) Several factors were examined by the OIG in the establishment of orders that may contribute to order and arrears amounts that exceed a low-income nonresidential parent's ability to pay. A comparison of state policies is found in its first report. In its second report, case data in 10 randomly selected states are analyzed. (California was not one of the states.)

Another study for the state of Colorado on arrears accumulation identified additional establishment factors that may contribute to order and arrears amounts that exceed a low-income father's ability to pay. [121](#)

The factors identified in these studies consist of the following.

- *Establishment of retroactive support* Most states charge the nonresidential parents for prior child support that would have offset payment of public assistance had a child support order been in place when the children received public assistance. The Colorado study found that 15 percent of its total child support arrears accumulated from the establishment of retroactive support.
- *Routine fees and interest.* The first OIG report found that most states charge ongoing fees for income withholding and over half of the states have the ability to assess interest.
- *Income imputation.* Income may be imputed to the obligor if
  - The obligor did not provide required income information;
  - The obligor is unemployed, underemployed, or voluntarily unemployed; or
  - A combination of these and other factors as determined by the state.

The majority (73 percent) of the 48 states that impute income to the obligor calculate income based on what would be earned from full-time employment at minimum wage. The OIG's case file review found that orders established with imputed income were four times more likely to have zero payments than those where income was not imputed (45 percent of the orders with imputed income had zero payments and 11 percent of the orders where income was not imputed had zero payments).

- *Minimum order amounts.* As discussed in greater detail later in this section, over half of the states' child support guidelines apply minimum order amounts if obligor income is below the state-specified threshold. (The income threshold is below the poverty level and full-time earnings at minimum wage in most of these states.) The OIG found that in 13 percent of the cases it reviewed orders were established at minimum order amounts (with a median amount of \$55 per month), and 20 percent of those cases had zero payments.
- *Incarceration of obligor.* Nationally, about a quarter of the poor fathers who do not pay child support are incarcerated. [122](#) (It is unknown whether any research exists that publishes a California-specific percentage.) Although not addressed by the OIG, in the Colorado study it was estimated that if orders were modified downward to the Colorado child support guideline's minimum order amount (\$20 per month), its total child support arrears would have been reduced by 5 percent.



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- *Default orders.* A default order may be entered if the obligor does not appear for the hearing. According to the second OIG report, default orders are the most frequent reason for imputing income (31.5 percent of the examined orders with imputed income were defaults). The Colorado study found that 10 percent of its total child support arrears are from administrative default orders.

### Treatment of Low-Income Obligor in California Guideline and Case Law

The existing California child support guideline is silent on some of the factors concerning low-income obligors listed above, but addresses others. While the guideline, like guidelines in many states, is silent on retroactive support, Family Code sections 3653 and 4009 limit the retroactivity of the commencement of the support order. The guideline also is silent on the issue of determining the support obligation of incarcerated obligors. However, under California case law, it is an error to impute income to an incarcerated parent based on prior employment and the expectation of future (postincarceration) employment. [123](#) Imputed income has to be based on the current circumstances of an incarcerated parent.

Factors affecting low-income obligors that are addressed in the California child support guideline include:

- *Income imputation.* The California child support guideline allows the court, at its discretion, to consider the earning capacity of a parent in lieu of the parent's income, consistent with the best interest of the children (Fam. Code, § 4058(b)).
- *Low-income adjustment.* If the obligor's net income is less than \$1,000 per month, the court is to rule on whether a low-income adjustment shall be made. The court exercises its discretion in making this determination, based on the facts of each case, the principles set forth in Family Code section 4053 (see Exhibit [4-01](#) p77), as well as the impact of the potential adjustment on the net incomes of the obligor and obligee. If the court determines that a low-income adjustment should be given, "the child support amount . . . shall be reduced by an amount that is no greater than the amount calculated by multiplying the child support amount . . . by a fraction, the numerator of which is 1,000 minus the obligor's net disposable income per month, and the denominator of which is 1,000" (Fam. Code, § 4055(b)(7)). Under these circumstances, the court has discretion to adjust support at any level up to the maximum low-income adjustment.
- *Default orders.* In calculating the order amount, the amount of time the child is presumed to be with the obligor is 0 percent (Fam. Code, § 4055(b)(6)).

Although not addressed in the guideline, other California state codes permit the following.

- *Presumed income.* Presumed income is somewhat similar to imputed income. As discussed above, the California child support guideline allows income imputation, but the state welfare codes specifically address the situation when obligor income is unknown and the order is being established by a local child support agency (Welf. and Inst. Code, § 11475.1(c)). If the obligor's income or the obligor's income history is unknown to the local child support agency, income shall be presumed to be an amount that results in a court order equal to the minimum basic standard of adequate care (Fam. Code, § 17400(d)(2)). A schedule of support order amounts based on presumed income and respective presumed order amounts is published annually. For example, in fiscal year 1999–2000, for one child the presumed income is \$1,966 per month and the order amount is \$390 per month.
- *Interest on child support arrears.* Interest accrues at the rate of 10 percent per annum (Code of Civ. Proc., § 685.010–685.110). Furthermore, Family Code sections 4500–4508 permit a judgment for child, family, or spousal support, including all lawful interest and penalties computed thereon.

### Recent Case Law

In *City and County of San Francisco v. Miller* (1996) 49 CA4th 866, 56 CR2d 887, the obligor's monthly disposable income, after paying rent and child support, would have been \$14 for food and other expenses. Refusing to deprive the obligor of the "minimum amount of income necessary to support life," the court entered a zero child-support order. The Court of Appeal, First Appellate District, affirmed on appeal. The appellate court held that given the father's financial circumstances, the lower court had not abused its discretion in reducing the support order to \$0.

### Treatment of Low-Income Obligor in Other States

The OIG report discusses minimum order amounts. Many states establish minimum orders for obligors without known income with the expectation that all parents, regardless of income, should make some financial contribution to their child. Clearly, California does not have a minimum order amount, as zero or no ability orders are routinely issued where a parent has no income (due to incarceration, unemployment, disability, etc.). As shown in Exhibit [4-02](#) (p78), 34 states specify a minimum order amount. The most common minimum order amount is \$50 per month. The lowest minimum order amount is \$1 per week (or \$4.33 per month), and the highest minimum order amount is \$100 per month. A few states specify a formula. Four states leave the minimum order amount at the discretion of the court. There are 12 states that do not address minimum order amounts, but in 5 of these states, discretion is implicit because their child support schedule does not start at \$0. Arizona is a case in point; its schedule starts at \$720 per month. Although silent in its guideline, the intent of the Arizona authors was for discretion to be exercised below the lowest income considered in the schedule.

Exhibit [4-02](#) (p78), also shows that the income thresholds for applying minimum order amounts vary among states. The average among states using gross income is \$619 per month and ranges between \$50 and \$800. The average among states using net income is \$617 per month and ranges between \$43 and \$1,000. Generally, these amounts relate to the federal poverty level at the time the state developed or last revised its schedule or formula. The current (2001) federal poverty level for one person is \$716 per month. This is below what would be earned from full-time employment at minimum wage (\$892 per month gross or approximately \$770 per month net).



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As evident in Exhibits [4-02](#) (p78), and [4-03](#) (p80) 36 states also apply an additional adjustment for low incomes above the threshold for the minimum order amount. These additional adjustments take several different forms and must consider the guideline's model and schedule or formula structure. Most rely on a "self-support reserve"; that is, enough income after payment of taxes and child support for the obligor to maintain a subsistence standard of living. The amount of the self-support reserve is at the discretion of the state, but most states relate it to the federal poverty level for one person at the time the guideline was developed or last revised. For many states, the self-support reserve is also equivalent to the income threshold for applying the minimum support order amount. As displayed in Exhibit [4-03](#) (p80), the average selfsupport reserve is \$641 per month net.

The more common methods for adjusting for low income are summarized below.

- *Reduction in percentage applied to support order.* This method is used more frequently in states where the guideline's model only considers the obligor's income in establishing a support amount. It simply applies a smaller percentage to child support at lower incomes. Iowa, Minnesota, and Massachusetts apply this approach.
- *Difference between the selfsupport reserve and obligor net monthly income.* This is the most common approach taken in income shares states and Melson formula states. It takes three different forms.
  - *Melson states.* A self-support reserve is subtracted from both parents' net monthly income before the child support order amount is calculated in all three states using the Melson formula (Delaware, Hawaii, and Montana). The adjusted income amounts are used to apportion the child's primary support between the parents. If the obligor has income after subtracting the self-support reserve and his or her share of the child's primary support, an additional percentage is applied to that remaining income for child support.
  - *Self-support reserve incorporated into income shares schedules.* Most (21) states with an additional low-income adjustment use this method. Typically invisible to the user, a self-support reserve is incorporated into the schedule. An example of this is shown in Exhibit [4-04](#) (p82). The amounts that appear in the schedule are the differences between the self-support reserve and net incomes. In gross income guidelines, the net equivalents are calculated before arriving at the differences. Most states reduce the difference by 5–10 percent so the obligor pays only 90–95 percent of each additional dollar in increased income to child support.

Some states "shade" the area that the self-support reserve is applied. If obligor income falls into the shaded area, two child support calculations are made.

The first calculates the child support order using both parents' incomes. The second calculates it based on the obligor's income only and assumes that the obligee income is zero. The lower of these two amounts is used. This additional calculation is necessary because in some circumstances (for example, when the obligor has extraordinarily low income and the obligee has extraordinarily high income), the order amount would be less than the difference between the obligor's net income and the self-support reserve.

The self-support reserve is phased out of the schedule when child-rearing expenditures are less than the adjusted difference between obligor net monthly income and the self-support reserve. Although these amounts vary depending on the level of the self-support reserve, the adjustment is usually phased out when monthly gross income reaches \$1,150 per month for one child and \$1,350 per month for two children.

- *Self-support reserve adjustment made in the worksheet.* A few states (Arizona, New Jersey, Vermont, and West Virginia) compare
  - The difference between the self-support reserve and obligor income; and
  - The proposed order amount including add-ons for child care, the child's extraordinary medical expenses, and other permissible add-ons.

The lower amount becomes the order amount. An example of this adjustment is displayed in Exhibit [4-05](#) (p83).

## Addressing Low Income in States' Guideline Reviews

One of the most common and frequently discussed issues among states that recently reviewed their guideline concerns low-income obligors. Some of the specific concerns that were heard from guideline committee members are:

- Considering the obligor's ability to pay;
- Not adding to the burgeoning amount of child support arrears owed in the state;
- Providing adequate support for the children;
- Not setting orders so high that the obligor becomes alienated from his or her child; and
- Understanding that there was not enough income to adequately support the family before, let alone to adequately provide for two households now.

In short, the issue is an extremely difficult one, but guidelines are limited by the incomes of the parents. If both parents have incomes below the poverty level, it is impossible to leave both households with income above the poverty level after payment or receipt of child support.

Most states that have recently revised their schedule typically decrease the amounts for low incomes somewhat. To PSI's knowledge, no state has increased them, and no state has radically lowered the amounts.

# California Child Support Guideline Review 2001

In addition to requiring some difficult policy decisions when it comes to low-income adjustments, there are some technical issues in applying the adjustment.

- *Imputation of income.* Imputation of income may push the obligor's income outside the range of where the low-income adjustment would be applied. For example, in South Dakota, income is imputed at what would be earned working full-time at a minimum wage for either parent if income information is unavailable or the parent is not working (assuming the parent does not have disabilities). Although the South Dakota schedule incorporates a self-support reserve equivalent to 150 percent of the poverty level, imputation of income to both parents results in incomes that exceed the area of the schedule where the self-support reserve is applied, rendering the self-support reserve ineffective. Aware of this, the 2000 South Dakota Guidelines Review Commission has proposed changes to correct this.
- *Two calculations when support is prorated.* Two calculations may be required because the prorated support of the child may be less in cases where the obligor income is extremely low and the obligee income is extremely high than if the low-income adjustment was only applied to obligor income. To illustrate this, consider a case where obligor income is \$500 per month, obligee income is \$9,500 per month, and the basic support for the child is \$400 per month. If the child's basic support is prorated between the parents, the obligor's share would only be 5 percent (\$20), which may be less than the low-income adjusted order.
- *Interaction with other factors.* More states are addressing how low-income adjustments interact with adjustments for other factors, such as shared parenting time adjustments and additional dependents. In some states (for example, New Jersey), this also extends to the low income of the custodial parent household. Specifically, New Jersey does not allow a shared parenting adjustment if the custodial parent household income is below 200 percent of the poverty level.
- *Interaction with add-ons.* Several states provide add-ons to the basic obligation for work-related child care, extraordinary medical expenses, education expenses, and other expenses. The question is whether the low-income adjustment should be made before or after these add-ons. In states with both a low-income adjustment and add-ons, most states make the low-income adjustment before the add-ons are applied.

## GROSS VERSUS NET INCOME

This section begins with a basic comparison of arguments for and against the use of gross and net income in child support guidelines. What other states do and what recent challenges they have faced regarding the treatment of income in guidelines are then discussed. Issues specific to California are addressed last.

### Use of Income in Other States

States have grappled with whether to base their child support guidelines on gross or net income since guidelines were first developed. The fact that most child-rearing expenditures are made from spendable (after-tax) income provides an argument favoring the use of net income. Net income also excludes mandatory deductions such as retirement or union dues. [124](#) A factor important to many states that consider both parents' incomes in calculating support obligations is that net income accounts for the differences in tax consequences due to one parent claiming the children and the other parent not claiming them. [125](#)

The simplicity of applying gross income, which does not require knowledge of the tax consequences of the parent(s), provides a strong argument favoring the use of gross income. Another benefit of using gross income involves equity issues. Order amounts based on a gross income schedule are unaffected by a change in the tax consequences of the obligor (and the obligee in guidelines where both parents' incomes are considered). Thus, for example, two obligors with identical circumstances except that one is remarried and one is not would be treated the same using gross income. However, if net incomes were used, their tax consequences would differ; in turn, this would cause differences in their child support order amounts.

Exhibit [4-06](#) (p83) indicates which states base their child support guidelines on gross income (29 states) and net income (22 states). It also shows the use of a subcategory, standardized net income. These four states have child support schedules based on net income, but have a standardized method for converting gross to net income. For example, Tennessee guidelines, a percentage of obligor income model, converts gross to net income assuming that the obligor is a taxpayer filing as a single individual with no dependents.

The standardized net income method allows the guidelines to gain some of the advantages of simplicity and equity realized from a gross income schedule, but the differences in tax consequences between the custodial and noncustodial parent that result from claiming the children in guidelines that consider both parents' incomes can also be recognized. Vermont is another example of a state that uses a guideline based on standardized net income. The different tax consequences between the obligor and obligee due to claiming the children as exemptions are considered. The Vermont guideline includes two tables that convert gross to net income for the obligor and the obligee; one converts gross to net income in sole custody circumstances, and the other converts gross to net income in shared custody circumstances. In Exhibit [4-07](#) (p84), a portion of the Vermont gross to net income conversion table for sole-custody situations is displayed.

One obvious disadvantage to the Vermont approach is that it adds two tables to the guideline and makes it more complex.

# California Child Support Guideline Review 2001

## Experiences of Guideline Review Committees

In reviewing their guidelines, most states do not consider a complete switch from net to gross income or vice versa. With regard to income, most guideline review committees focus on refining existing definitions and whether and how to include recent changes in federal tax code that favor the obligee (such as increases in the earned income tax credit and the child tax credit). Recent refinements to income definitions involve the treatment of income from a second job, the treatment of voluntary and involuntary pretax contributions to pension funds, and other refinements or technical changes. The issue concerning the federal tax codes pertains only to guidelines based on gross income. These states generally dismiss the alternative of gross-to-net conversion tables similar to those used in Vermont because they would make the guidelines more cumbersome. Instead, most use tax assumptions that favor the obligor when converting child-rearing expenditures that are estimated as a proportion of net income to those relating to gross income. This method makes the tax assumptions invisible to the guideline user but results in an easy-to-use child support schedule.

## Use of Net Income in California

The California child support guideline is based on net disposable income. It specifically excludes state and federal income tax liability resulting from the parties' taxable income. It further states that tax liability should be based on the parents' actual filing status (single, married, married filing separately, or head of household) and on the actual number of dependents claimed. As discussed above, several states have recently used their quadrennial guideline reviews to refine and make technical changes in defining income. Below, similar refinements and technical changes recommended by George Norton, the author of the California child support guideline, are listed. [126](#) Where appropriate, recent case law is discussed.

- *Definition of net disposable income can result in negative amounts* Norton reports that the definition of net disposable income in California Family Code section 4059 can result in a negative amount. Norton suggests a simple solution: limiting the remainder from subtracting deductions from gross income so that it can never be a negative number.
- *Application of tax changes due to new spouse income.* There have been several recent court cases addressing the change in tax consequences due to the income of a new spouse. *In re Marriage of Carlsen* (1996) 50 CA4th 212, 57 CR2d 630, the obligee's share of the tax liability of herself and her new spouse was determined by apportioning it according to her share of their combined gross income. Effectively, this increased the amount of the obligee's tax liability; in turn, this decreased the amount of her net disposable income available for child support. [127](#) The obligor objected to the calculation pursuant to Family Code section 4057.5, which precludes the consideration of spousal income in the support order calculation. The appellate court affirmed the lower court's decision to consider the new spouse's income in order to determine the appropriate tax rate of the obligee. In *County of Tulare v. Campbell* (1996) 50 CA4th 847, 57 CR2d 902, the trial court refused to consider new spouse income in a modification action. The appellate court reversed and remanded on the basis that section 4057.5 does not preclude the consideration of new spouse income for the limited purpose of determining actual tax liability. In both cases, it was ruled that the purpose of section 4057.5 is to protect the new spouse's income from child support liability when the new spouse has no legal responsibility for the children, and that in order to compute net disposable income under section 4059, new spouse income may be considered to determine the actual tax liability of the parties.

Norton argues that one of the underlying problems is how the obligee/obligor's share of the tax liability of the obligee/obligor and his or her new spouse should be calculated. Norton compares several possible formulas for determining the obligee/obligor's share of the tax liability, including comparing the difference between:

- The sum of the obligee/obligor's tax liability if he or she had filed separately and the obligee/obligor's new spouse's tax liability if he or she had filed separately; and
- The tax liability of the obligee/obligor and his or her new spouse if they filed jointly.

This difference, in turn, would be prorated to the obligee/obligor. The prorated difference would then be added (or subtracted if it was a negative amount) to the obligee/obligor's tax liability if he or she had filed separately.

Norton also suggests another method that would simply assume that the obligee/obligor has not remarried but allocates the exemptions and deductions of the obligee/obligor and his or her new spouse equitably in the calculation of the obligee/obligor's tax liability.

Although not suggested by Norton, another alternative would be the New Jersey approach, "If a joint income tax return includes income of a person other than one of the parties involved in the support proceeding (e.g., current spouse), the taxpayer or that person's attorney shall be responsible for the redaction of the tax return." [128](#)

- *Potential distortions to net income* Norton suggests that federal and state tax codes provide several opportunities to distort income (for example, depreciation deductions, which can decrease the amount of money available to pay support; and inordinate mortgage interest deductions, which can increase the amount of money available to pay support). A simple solution, as suggested by Norton, is to allow the court to consider the tax liability assuming the party used the standard deduction if it provides a more equitable amount of child support.
- *Voluntary and involuntary tax-deferred retirement contributions.* California excludes involuntary retirement contributions from income used to compute child support but includes voluntary contributions. Norton suggests this is inequitable treatment and provides suggestions for rectifying it.

# California Child Support Guideline Review 2001

## ADDITIONAL DEPENDENTS

In this section, the treatment of children from prior or subsequent relationships (additional dependents) is examined. First, how the California child support guideline deals with this issue and any case law surrounding the issue are reviewed, then how additional dependents are treated in other states and some of the issues they have faced while addressing additional dependents are reviewed.

### Treatment of Additional Dependents in California

An adjustment for additional dependents is provided under two sections of the California child support guideline. First, a deduction for additional dependents can be made from the parent's annual income to arrive at the net disposable income used in the guideline calculation (Fam. Code, § 4059).

Any child or spousal support actually being paid by the parent pursuant to a court order, to or for the benefit of any person who is not a subject of the order to be established by the court. In the absence of a court order, any child support actually being paid, not to exceed the amount established by the guideline, for natural or adopted children of the parent not residing in that parent's home, who are not the subject of the order to be established by the court, and of whom the parent has a duty of support. Unless the parent proves payment of the support, no deduction shall be allowed under this subdivision (Fam. Code, § 4059(e)).

Additional dependents are also a circumstance evidencing hardship, which allows the court to take a deduction from income (Fam. Code, § 4071).

The minimum basic living expenses of either parent's natural or adopted children for whom the parent has the obligation to support from other marriages or relationships who reside with the parent. The court, on its own motion or on the request of a party, may allow these income deductions as necessary to accommodate these expenses after making the deductions allowable under paragraph (1) Fam. Code, § 4071(a)(2)).

The maximum hardship deduction under paragraph (2) of subdivision (a) for each child who resides with the parent may be equal to, but shall not exceed, the support allocated each child subject to the order. For purpose of calculating this deduction, the amount of support per child established by the statewide uniform guideline shall be the total amount ordered divided by the number of children and not the amount established under paragraph (8) or subdivision (b) of Section 4055 (Fam. Code, § 4071(b)).

The major difference between the two sections is that Family Code section 4059(e) does not apply to additional dependents residing with the parent, whereas the hardship deduction does.

### Criticisms of Family Code Section 4071(b)

A recent article by George Norton, author of the California child support guideline, suggests that the hardship deduction for additional dependents is mathematically flawed. [129](#) Namely, he takes two issues with Family Code section 4071(b).

- The amount subtracted for an additional dependent cannot exceed the support per child under the guideline for the children who are the subject of the order; and
- It allows the amount subtracted for an additional dependent to be equivalent to the support per child under the guideline for the children who are the subject of the order.

He illustrates the first flaw by using an example where the parents have equal income and equal time with their child; therefore a zero order. If either parent has an additional dependent, then Family Code section 4071(b) limits the amount that can be subtracted to \$0, the guideline amount for their common child. Effectively, no adjustment for additional dependents can be made in this case.

The second flaw is illustrated by considering a case where

- The obligor has extraordinarily high income;
- The obligee has extraordinarily low income;
- There is one common child; and
- The obligee has an additional dependent.

In this situation, it is possible that the guideline amount for the one common child (for example, \$1,100 per month) could exceed the net income of the obligee (for example, \$1,000 per month) because the adjustment can equal that of the guideline amount for the common child. Hence, the obligee's net disposable income after subtracting for the additional dependent would be less than zero.

### Case Law

*In re Marriage of Paulin* (1996) 46 CA4th 1378, 54 CR2d 314, the trial court allowed a hardship deduction under Family Code section 4071(a)(2) for subsequent born twins of the obligor. In this case, the court calculated the hardship deduction and then cut it in half to reflect the shared responsibility of the obligor and his new wife for the twins. The obligation for the two prior born children was reduced from \$1,511 per month to \$1,338 per month. The appellate court affirmed this decision, stating that the hardship deduction should not be a foregone conclusion any time an obligor has subsequent children, but that in this case the lower court had properly considered the necessary expenses for food, clothing, shelter, and child care of the subsequent born children.

# California Child Support Guideline Review 2001

## Treatment of Additional Dependents in Other States

As shown in Exhibit [4-08](#) (p85) below, only 5 states do not address the issue of additional dependents. Most states treat it as a deviation criterion, yet 4 of these 21 states specify a formula for it. The most commonly used formula is subtracting a “dummy order” from the parent’s income. The dummy order is the guideline-determined amount for the additional dependents. South Carolina weights the dummy order by 75 percent to equalize support between the two sets of children. (The 75 percent weight was determined through simulation of a wide range of possible scenarios.) On the other hand, North Carolina weights the dummy order by 50 percent. Presumably this splits the responsibility of the additional dependents between the parent eligible for the adjustment and the other parent of the additional dependent.

New Jersey and North Dakota specify that the dummy order should be calculated considering the income of the other parent of the additional dependent. Florida excludes consideration of the income of the other parent of the additional dependent. Clearly, the advantage of including the income of the other parent is that it more precisely reflects the costs of the additional dependent to the parent subject to the support order, but the disadvantage is that it requires additional information and makes the calculation of the dummy order more cumbersome.

Although dummy orders are the most common method of adjusting for additional dependents, states use a variety of other methods. For instance, Iowa uses 150 percent of the amount of the Temporary Assistance for Needy Families (TANF) grants and Ohio uses a formula based on the federal tax exemption.

With the exception of Delaware, the adjustments are made to the eligible parent’s income before the calculation of the support amount for the common children. Delaware is the only state where the adjustment is made after the calculation of support. No other state has a specification similar to that of California.

Other issues pertaining to additional dependents include:

- Whether one set of children should have priority based on birth order; and
- How the additional dependent adjustment is applied to modifications.

*Birth order.* A few states limit the additional dependent adjustment to children born prior to the children subject to the child support order. The rationale behind this is that first families have priority. The Colorado guideline is a case in point; however, its guideline review commission currently is proposing to expand the adjustment to all additional dependents, regardless of birth order. [130](#) The reconsideration is partially due to testimony concerning a divorce case where the only child—a son—became the custody of the father, who did not seek child support. Subsequently, the father remarried and had four additional children with his new spouse. Seven years later, the first son decided to live with his mother, who then sought child support. An additional dependent adjustment for the four subsequent children cannot be applied, however, because of the limitation in the Colorado guideline. Another situation where the adjustment would not apply is if the obligor had a nonmarital birth that he did not know about until after he married and had additional children.

*Order modification.* Some states (for example, Vermont) exclude the use of the additional dependent adjustment in modifications if it lowers the previous support order amount. Utah specifies that it can be applied in modifications to lessen an increase in the support amount, but it cannot be used to justify a decrease in the support amount.

## OTHER ISSUES FACED BY STATES

Adjustments for low-income obligors and additional dependents are frequently discussed in quadrennial reviews of child support guidelines. The use of net and gross income is less frequently debated. Other frequently discussed issues are:

- Shared parenting time adjustments; and
- Child-rearing costs.

### Shared Parenting Time Adjustments

Working with guideline review committees, shared parenting time adjustments are typically found to be a more divisive issue in states that have never had any form of a shared parenting adjustment other than allowing it to be a deviation criterion. In those states, the bigger issues concern (1) what the formula should look like and (2) what happens when shared parenting time is not exercised at the amount used to calculate the support order.

With the exception of Arizona, issues and changes to the shared parenting time adjustments in states have been relatively minor in the past few years. West Virginia and Oklahoma made small increases in the time-sharing threshold for applying the shared parenting time adjustment a year after they adopted the original adjustment. In both states it was done so that the adjustment would apply to cases where the time-sharing arrangements of the parents exceeded that of a standard visitation order.



## California Child Support Guideline Review 2001

The story of Arizona is as unique as its shared parenting adjustment. It is one of four states—the other states are California, New Jersey, and Missouri—that allow an adjustment for inordinately small amounts of time sharing with the nonresident parent (for example, one overnight per year). In contrast, most states with a shared parenting time adjustment do not apply the adjustment until the nonresident parent's time with the child exceeds the state-determined threshold, which ranges from 25 to 50 percent of the child's time. The original Arizona adjustment resulted in some "cliff effects" in the order amounts when increasing the child's time with the nonresident parent (for example, there was a significant cliff effect when moving from 18 to 25 percent of the child's time being spent with the nonresident parent). While attempting to alleviate the cliff effects, the entire Arizona adjustment became open to debate. The revision now presumes that when there are over 142 overnights per year (39 percent), the noncustodial parent bears most of the costs of the child, rather than the custodial parent. If the child spends less than 142 overnights per year with the noncustodial parent, the custodial parent bears most of the costs of the child. The revisions will not be effective until 2001.

### ***Literature on Shared Parenting Adjustments***

Several recent articles demonstrate the importance of shared parenting time adjustments in child support obligations. For example, one paper by a law professor argues that since children who know their fathers have better emotional and social outcomes (with higher education achievements and fewer crimes committed) than children with absent parents, child support obligations should be designed to encourage the father's presence in the child's life. [131](#) The paper also praises the California child support guideline for providing such an adjustment.

A recent paper that examines case file data from Arizona, another state that has a shared parenting adjustment, found that 91 percent of child support due was paid in cases where both a shared parenting time adjustment was applied and the obligor attended mandatory parenting education class. [132](#) The comparable percent paid was 57 percent in cases where the obligor attended parenting education but did not receive the shared parenting time adjustment.

### **Child-Rearing Costs**

States are required to review recent economic studies on child-rearing costs as part of their quadrennial review (45 CFR 302.56). Most states consider the USDA and Betson estimates of child-rearing costs along with federal poverty levels. (These estimates are discussed more thoroughly in Chapter Five of this report as well as in the previous guideline review report.) Most states that have updated their schedules use the Betson estimates. Montana and Washington have recently received federal Office of Child Support Enforcement (OCSE) grants to improve the economic estimates used in their guidelines. Montana, which has a Melson formula, will focus on developing a Montana-specific estimate of the child's primary support.

## CHAPTER 5

### PARENTAL EXPENDITURES ON CHILDREN

#### BACKGROUND

Since parental spending on children is viewed as an important determinant of fertility decisions as well as the basis of welfare comparisons across families with different numbers of children and adults, there has been considerable academic interest in the estimates of the costs of raising children. Interest in this topic has not been solely academic, however. For example, to create child support policy that would attempt to maintain the same level of parental spending on children after the divorce or separation of the biological parents as before, knowledge of child spending patterns during the time when both parents lived with the children would be required.

Determining how parents devote expenditures to their children would seem to be a rather simple and straightforward exercise. First, parents would have to be asked to keep track of their expenditures. Then, parents would be asked to determine how much of each expenditure was made on behalf of their children. It is at this latter stage that problems arise because making that allocation can be difficult. In the case of some goods, the allocation of the consumption could be done with some confidence, since the purchase was made for a specific individual. The cost of a pair of shoes, for example, could be allocated to the person for whom the shoes were purchased. In the case of other goods, the spending could be allocated on the basis of a reasonable assumption or based upon information gathered in other surveys. Here, food consumption is a good example. While purchases at the grocery store are not made for individual members, it could be possible to observe the actual consumption of the meal and then allocate the cost of the meal to the individual members based upon their consumption. Or, alternatively, the allocation of the food bill could be done in proportion to the nutritional requirements of the various family members. If one member requires twice as much nutrition as another member, then it could be assumed that the first individual had consumed twice as much food.

But how should spending that is made on behalf of the whole family and not one individual be allocated? For example, how should expenditures on shelter and utilities be allocated to the children? What is a reasonable assumption to make in this situation? One approach would be to average the spending on housing and other "publicly consumed" goods across all family members. The USDA takes this direct approach in its annual estimates of parental spending.

Allocating jointly consumed goods on a per capita basis has always been controversial. Many fathers' rights groups have taken the position that child support guidelines based upon the "average cost" of the child will overstate the "true" cost of the child to the parents. Instead of focusing on the average, these advocates suggest that a more appropriate division between the parents and the children should be based on the "marginal cost" of the children. The amount of housing or any other jointly consumed good to be attributed to the children should be the *additional* amount of housing that the parents purchase because of the presence of the children. If there are economies of scale in housing consumption, then the average cost of housing should fall with increasing family size. But, if the average cost of housing is falling, then the marginal cost associated with each additional family member should be less than the average cost.

How can the marginal housing costs of the children be estimated? One approach would be to attribute the difference in housing expenditures of parents with children and the housing expenses of childless couples with the same amount of total spending as equal to the marginal housing cost of the children. While this commonsense approach may seem appealing, economists warn that it will not capture the true marginal cost of housing due to the children. If children represent an economic cost to their parents, then the childless couple, even though they have the same total spending, will be wealthier than the parents with the children. Ignoring the effect of the increased standard of living of the childless couple on their housing expenditures will understate the true marginal housing costs attributable to the children.

If consumption is to be correctly allocated to individual family members, then both childless couples and parents with children will have to share the same economic standard of living. In other words, this question will need to be answered: "At what level of total spending is a childless couple as equally well off as a couple with one child and \$30,000 of total spending?" If it is assumed that the equivalent level of total spending for the childless couple is \$22,500, then the total cost of the child is \$7,500 or 25 percent of the family's total spending ( $\$7,500/\$30,000 = .25$ ). To allocate individual commodity categories such as housing to the children, the difference in housing expenditures of couples with a child and \$30,000 of total spending would be attributed to childless couples with \$22,500 of total spending. Given that purchases of individual commodities will need to add up to total spending, using this procedure for each commodity category should yield a total spending on a child equal to \$7,500, the difference between the total spending of families with children and childless couples who have the same standard of living.

But what is the best way to determine when families of differing composition are equally well off? The two leading contenders for making this determination are the Engel and Rothbarth approaches. These approaches differ from the USDA approach in two major respects. First, they both attempt to estimate the *marginal* economic costs of the children to their parents as opposed to the *average* cost approach of the USDA. Second, and more importantly, these two approaches directly estimate the total cost of the children and define that cost as the amount of spending made on behalf of the children. Once the total level of spending has been determined, only then can the composition of that spending to individual commodity types be determined. By contrast, the USDA approach represents a bottom-up approach. The total spending on the child is determined only *after* the child's spending on each commodity is first determined.

This report presents alternative estimates of how much is spent on children in families where both parents are present. The differences in the estimates will reflect differences in the three approaches contrasted in this report: the USDA, Engel, and Rothbarth methodologies.



# California Child Support Guideline Review 2001

The questions addressed in this report are:

- Are the estimates of child-rearing costs robust with respect to the method and assumptions used to produce them?
- How do expenditures on children increase with the number of children in the family?
- Are parents today spending the same amounts on their children as parents in the 1980s?
- How do parents increase their spending on children as total spending of the family increases?
- How do expenditures on children vary with the age of the child?

## DATA AND EXPENDITURE CATEGORIES

The data used in this study are drawn from the Consumer Expenditure Survey (CEX) administered by the Bureau of Labor Statistics (BLS). The survey is based upon quarterly interviews of roughly 5,500 consumer units (families). The data are used for the periodic revisions of the Consumer Price Index as well as for other economic research and analysis of the spending patterns of American families. The CEX is the only nationally representative sample of American families that collects detailed information on the spending habits of families. As such, it is the only available survey suited for estimating parental spending patterns.

### CEX Sample Selection Criteria

The data used in this study are from the interview component of the CEX beginning in the first quarter of 1996 through the first quarter of 1998. Consumer units are interviewed for five quarters; however, only data from the second through fifth quarterly interviews are reported on the public use files. While the BLS treats each quarterly response as an independent observation, this report constructs an analysis file based upon annual data and does not treat the quarterly interviews as independent. While any unit can have up to four quarterly interviews, some households cannot be located or interviewed and hence have less than four interviews. For this study, only units with at least three completed interviews were included in the final analysis sample.

This study was intended to focus on the spending patterns on children in families where both parents were present. Consequently, the following sample restrictions were made:

- The unit must include a married couple between the ages of 18 and 60 years old; and
- The unit could not include any other adults (individuals 18 years of age or older) in the unit, even if those adults were the children of the couple.

These restrictions yielded a sample of 2,294 consumer units, where 761 observations were childless married couples and 1,533 were married couples with children. Exhibit [5-01](#) (p86) presents the distribution of units by the number of children (individuals less than 18 years of age) in the unit.

### Definition of Total Expenditures

The concept of total expenditures used in this study is the total value of the family's current consumption. While the BLS has adopted a specific definition of total expenditures, this study does not conform to that concept in three instances.

- First, the BLS has defined total expenditures to include the value of cash contributions made to members outside the unit. Since this expenditure represents consumption of non-family members, it is excluded.
- Second, the BLS definition includes the contributions that family members have made to social security and private pension plans. These expenditures correspond to the family's savings and hence are excluded.
- Finally, the BLS includes the unit's net outlay for vehicles purchased during the interview period, as well as current finance charges for the vehicles. Apart from the potential double counting, the inclusion of the net purchase price is an inappropriate way to measure the consumption value of the vehicle. This report excludes the net purchase price of the vehicles in constructing a definition of total family expenditures. (An even more appropriate approach would have been to construct a measure of the flow of consumption derived from the family's vehicles. This was not possible, however, for this study.)

### Distribution of Total Expenditures

One of the major questions this study sought to examine is the extent to which the level of total spending by the family affects the proportion of spending devoted to the children. Hence, it is important to examine the distribution of total family spending by the composition of the family. Exhibit [5-02](#) (p87) displays this information.

These statistics suggest that total family spending is skewed but surprisingly similar across all family compositions. These results also suggest that the sample limits ability to predict how parents devote family resources to their children. For the purposes of this study, the conclusions that are drawn pertain to families with total levels of spending between roughly \$15,000 and \$70,000 of annual total expenditures in 1997 dollars.

# California Child Support Guideline Review 2001

## Spending by Expenditure Categories

Adopting the BLS major commodity groupings, total family expenditures are the sum of the following categories:

- **Food:** food prepared and consumed at home and food purchased and consumed away from home;
- **Housing:** mortgage interest paid, property taxes, maintenance and repair, rent paid, home insurance, utilities, personal services including child care, housekeeping supplies, and household furnishings and equipment;
- **Apparel:** clothing, footwear, cleaning services, and supplies;
- **Transportation:** vehicle finance charges, leases, gas and oil, maintenance and repair, insurance, licenses and other charges, and public transportation;
- **Entertainment:** fees and admission, entertainment equipment, toys, and pets;
- **Health Care:** health insurance; nonreimbursed expenses for medical services, drugs, and supplies;
- **Tobacco and Alcohol;**
- **Personal Care:** personal care products and services;
- **Reading;**
- **Education:** tuition, fees, and supplies for education from grade school to college;
- **Personal Insurance:** life and other personal insurance premiums; and
- **Miscellaneous:** funeral expenses and plots, checking charges, legal and accounting fees, and interest paid on lines of credit, home equity loans, and credit cards.

Exhibit [5-03](#) (p87) reports the sample mean of total family expenditures by the number of children in the family as well as the budget share devoted to each of the 12 consumption categories.

Total family spending in the sample increases with the number of children. However, this pattern reflects not only differences in disposable (after-tax) income but differences in the proportion of disposable income spent by families with children. Examining only consumer units with complete income reports, the average disposable income of childless couples was \$5,000 higher than the average disposable income of families with two children, yet their total spending was roughly \$1,000 less. Clearly, children decrease the amount of savings by families. However, this effect of children will not be part of the estimates of the cost of children reported in this report.

The presence and number of children clearly increases the proportion of the family's budget devoted to food and apparel purchases. Children reduce the share of the family's budget devoted to transportation, health care, tobacco and alcohol, personal care, and reading purchases. For all other categories, the number of children has no clear effect on the family's spending patterns.

The effect of children on housing purchases is probably most surprising. While the presence of children does appear to increase housing expenditures for the first and second children in the family, the third child appears to reduce the relative size of the housing budget. In part, this is an artifact of the way the BLS defines housing purchases to include household operations that will include the cost of babysitting and child-care services. If these expenditures are omitted from this category, then families with one, two, and three children will devote 39.1 percent, 38.8 percent, and 39.2 percent to housing. Compared to the 39.1 percent of a childless couple's budget devoted to these items, neither the presence nor number of children significantly affect the proportion of the total budget devoted to what is normally considered housing expenditures.

## METHODOLOGIES FOR ALLOCATING FAMILY EXPENDITURES TO CHILDREN

Three methodologies were used in this study to allocate total family spending to the children: the USDA, Engel, and Rothbarth methodologies. Some of the information about these methodologies is by necessity technical. However, the narrative discussion is intended to be nontechnical, so the equations may be skipped without loss of the general understanding of each approach. A more formal, technical critique of the Engel and Rothbarth methodologies is presented in Appendix C.

### Direct Estimates of Spending on Children—The USDA Methodology

When the question of how much parents spend on their children is first confronted, an initial reaction might be that this should be a relatively simple, straightforward exercise. What is needed appears simple: first, an inquiry as to who consumed each item the family purchased; then, addition of the purchases by each family member. For goods whose consumption can in principle be restricted to a single individual or to similar individuals, such as children or adults, this procedure could be used to allocate the family's purchases. But how can goods that are shared among family members, such as housing, be allocated?

The USDA approach to this problem is to determine whether the adults or the children would be the primary beneficiaries of the goods. Goods that are exclusively adult goods are excluded from any allocation to the children. The USDA has designated adult clothing, tobacco and alcohol, personal insurance, and miscellaneous expenditures as adult goods. [133](#) On average, these goods account for 6–7 percent of a family's budget.

The next step is to identify goods that are exclusively consumed by the children in the family. These goods include children's clothing, babysitting and child care, and education expenses. [134](#) On average, families devote about 5 percent of their family's budgets to these items. Thus, the combined total of goods that can be designated either as adult or children's goods is roughly 12 percent of the family's budget. For the remaining 88 percent of the budget, the portion allocated to the children must rely either on information from other studies or on the use of a per capita allocation.

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The second largest budget category for families with children is food. The USDA allocates the food bill based upon the nutritional needs of the individual family members as defined by the USDA 1994 food plans. Because the exact food plans used by the USDA weren't available, the relative food budgets in the 1998 Moderate-Cost Food Plan were used for the purposes of this report. First, the acceptable food budget for a child of a given age, relative to the food budget for an adult, was calculated. Then, the food scales shown in Exhibit [5-04](#) (p88) were used for each of the five age categories of children.

These food scales were then used by first taking the sum of the product of each food scale times the number of children of that age. This sum represents the number of children in the family expressed in terms of the number of food equivalent adults. For example, if a 4-person family had an 8-year-old child and a 16-year-old child, the two children would be equivalent to 1.771 adults in terms of their nutritional needs. If food was allocated in relation to nutritional needs, then the children would have received 47 percent of the food ( $1.771/(2 + 1.771) = 0.47$ ), which is only slightly less than a per capita allocation (50 percent). This method of food allocation will depart even further from a per capita allocation depending upon the ages of the children in the family. For example, if the second child was 5 years old instead of 16 years old, then 41 percent ( $1.372/(2+1.372) = 0.41$ ) of the food budget would be allocated to children.

The USDA uses information from the 1987 National Medical Care Expenditure Survey to allocate the family's out-of-pocket medical expenses. Using this survey, health-care scales were developed that are similar to the above food scales, but that relate the average spending on children to that of adults. For children less than 6 years old, the health care-scale was .696. For children 6 years old and older, the scale was .786. These scales were used in exactly the same manner as food scales. For example, for the family with children who are 8 and 16 years old, 44 percent ( $1.572/(2+1.572) = 0.44$ ) of the health-care expenses would be allocated to the two children.

Transportation is the final commodity singled out for special treatment. The USDA argues that work-related expenses should not be allocated to the children, but all other transportation expenses should be allocated on a per capita basis. Based on a 1990 U.S. Department of Transportation study, 40 percent of transportation expenses were for work-related travel if the youngest child in the family was less than 6 years old. When the youngest child was 6 years old or older, the share fell to 38 percent. To illustrate this allocation procedure, it will be assumed that the family spends 15 percent of its budget on transportation and has two children both over 6 years old. Then the family would be assumed to spend 4.65 percent of the total family budget on transportation for the two children.

$$(1 - .38) \times \frac{2}{4} \times 15\% = 4.65\%$$

This method departs significantly from a pure per capita allocation, especially compared to the food and health-care allocations. Per capita allocation would have attributed 50 percent of the transportation budget to the children. By excluding roughly 38 percent of the transportation budget to be allocated to the children, the USDA methodology reduces the children's allocation to 31 percent of the transportation budget.

After these allocations have been made, still roughly one-half of the family's budget remains to be allocated. The USDA approach then employs a per capita allocation (number of children/family size) to allocate the remaining expenditure categories to the children.

As the USDA methodology has been described, the spending of each family can be allocated to the children when there is information available about the family's spending patterns and the ages and number of children in the family are known. In the results presented in the next chapter, that is exactly what was done. However, before examining the results based on allocations done at the family level, the USDA approach should be applied to the average spending patterns of families.

To formalize the USDA methodology, the following notation will be adopted.

$E$  = the budget share of adult or excluded goods—adult clothing, tobacco and alcohol, personal insurance, and miscellaneous expenditures; [135](#)

$C$  = the budget share of children's goods—child clothing, child care, and education;

$F$  = the budget share of food;

$H$  = the budget share for out-of-pocket health-care expenditures;

$T$  = the budget share for transportation;

$r$  = per capita allocation = number of children/family size;

$f$  = the relative food needs of children relative to the family's food needs;

$h$  = the average spending of the children relative to the average family spending on health care; and

$w$  = the proportion of transportation expenses that are work related.

Using this notation, the USDA methodology would indicate that the proportion of the family's total spending devoted to the children would be equal to

$$C + \phi F + \eta H + (1 - \omega) \rho T + \rho(100 - E - C - F - H - T) \quad (1)$$

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Assuming that the average age of a child is between 6 and 12 years, the values for the four allocation factors are shown in Exhibit [5-05](#) (p88)

Note that this report uses the BLS's definition of commodities that composed the miscellaneous category.

Exhibit [5-06](#) (p89) reports average values for  $C$ ,  $F$ ,  $H$ ,  $T$ , and  $E$  for families with one, two, and three children. Using these average values and equation 1, the average proportion of total family spending devoted to the children would be equal to 31.2 percent, 45.6 percent, and 57.7 percent for one, two, and three children respectively. These estimates suggest that the USDA approach can be expected to yield allocations to children that are slightly less than a per capita allocation (33, 50, and 60 percent).

Let  $S$  denote the level of total family spending, then the change in the share of the family's budget devoted to the children with respect to changes in  $S$  is equal to

$$(1 - \rho) \frac{\partial C}{\partial S} + (\phi - \rho) \frac{\partial F}{\partial S} + (\eta - \rho) \frac{\partial H}{\partial S} - \omega \rho \frac{\partial T}{\partial S} - \rho \frac{\partial E}{\partial S}. \quad (2)$$

The direction of the total impact of a change in the level of the family's total spending on the proportion that is devoted to the children cannot be determined theoretically.

If food, health care, and transportation expenses are necessities, and goods exclusively devoted to children are luxuries, then the proportion of total family spending devoted to the children can be expected to increase with total spending. However, if goods that are explicitly excluded from being allocated to children increase with total spending, then the total impact of increases in total spending cannot be determined.

To evaluate whether or not parents can be expected to devote larger or smaller shares of the family's total spending to their children, the budget share of various consumption categories will be compared with total spending. Using the analysis sample, the budget share of  $C$ ,  $F$ ,  $H$ ,  $T$ , and  $E$  were regressed on the family's total spending for one-, two-, and three-children families separately. The regression results are presented in Exhibit [5-07](#) (p90). The asterisk indicates that the effect of total spending on the budget share was significant at a 5 percent level.

For all numbers of children, the budget share of those goods excluded from allocation,  $E$ , rose with total spending. However only in the case of families with one and two children is this effect significant. Employing these estimates and the assumptions about the parameters,  $r$ ,  $f$ ,  $h$ , and  $w$ , equation 2 predicts that spending on children should be expected to increase with total spending. The primary factor that creates this result is the relatively large estimated income share elasticity of food.

What has been described as the USDA methodology is not precisely how the USDA proceeds, but it is in the spirit of its approach. Specifically, the USDA has adopted seven categories: (1) food, (2) housing minus child care expenses, (3) transportation (including the net outlays for new and used vehicles), (4) children's clothing, (5) health care, (6) combined child care and education expenses, and (7) an "other" category that combines personal care, entertainment, and reading material. The USDA allocates the consumption in each of the seven categories to each child using the above-described allocation methods. It then conducts a multivariate analysis of the expenditures for the youngest child in each of the seven categories, controlling for the number of children, age of the younger child in the two-child family, and the family's before-tax income (not total spending). Then, using the sample of families with two children, a similar analysis is completed for the older child, controlling for his or her age as well as income. This analysis shows that after controlling for any differences in children's ages, the family's expenditures on the older child are roughly equal to the amount of spending on the younger child. [136](#)

Finally, the USDA estimates an adjustment for the number of children to reflect economies of scale in family consumption by conducting a third multivariate analysis of the seven consumption categories. The results of this analysis suggest that families with one child spend 24 percent more on the single child than a family with two children does on each of their children separately. Families with three or more children spend 23 percent less per child than does a family with two children.

To estimate the expenditures on a child, the USDA computes for each child in the family the expected expenditures on each of the seven commodity categories given the child's age and the family's income. The economies-of-scale adjustment is then applied to the sum of the expected consumption for all children in the family to arrive at the final estimate of parental spending on children.

The difference between the actual procedures used by the USDA and this study is where and when the averaging of the estimates of spending on children is performed. In this study, the averaging is done at the final stage when estimates of the proportion of total spending devoted to the children are averaged across similar families. In the USDA approach, the averaging is done at the first step when the multivariate analysis of the seven separate commodity categories is performed. It is at this stage where the differences between families are eliminated in the USDA procedure. Only if zero values for the individual consumption categories significantly affect the averaging procedure in the USDA approach should these two different procedures be expected to produce different results.

## Indirect Estimates—Engel and Rothbarth Methodologies

While the approach taken by the USDA is straightforward and relatively easy to understand, its main weakness is the rather arbitrary manner in which it allocates roughly one-half of the family's spending. The use of a per capita allocation brings the whole methodology into question. The use of this untestable assumption may be considered wholly unreasonable and can lead to overstating how much parents truly spend on their children. But without any other additional information about how individual members consume or utilize the specific consumption items, what alternative assumptions can be made?

One alternative approach to the allocation problem would be to focus on how parents reallocate consumption within the household in order to make room for their children's consumption. By comparing the consumption decisions of parents with children and married couples without children, the economic costs of the children can be indirectly observed from the differences in consumption patterns. When undertaking this comparison between families with and without children, everything else would be held constant in the comparison to make sure that any remaining differences could reasonably be attributed to the presence of the children. While the characteristics of the adults and the market prices that they face should be held constant, the standard of living—or the family's well-being—should also be held constant across the two families.

The difficulty with this approach is that it trades one problem for another. Now, the economic well-being of the family needs to be held constant, but this cannot be done directly. Faced with this dilemma, the next best step is to find an observable proxy for the family's standard of living that can be measured and hence held constant.

The search for an economic proxy for the family's standard of living has been difficult and not wholly successful. The use of income or even total expenditures in the family would be unacceptable measures of a family's well-being. Also, families that both have the same total expenditures or income, but one has children and the other does not have children, could not possibly be equally well off, since, at a minimum, the family with children would have more mouths to feed and more bodies to clothe and shelter than the family without children.

A concept that could in principle be measured for all families is needed when searching for a proxy for the family's standard of living. This would restrict a search to goods that were necessities—goods that are "needed" and hence purchased by all families. Of goods that are necessities, food is an example, and it was this consumption item that Engel focused on over 100 years ago as an appropriate proxy for a family's standard of living. [137](#)

Just because food is purchased by all families, however, does not make it a sufficient proxy for family well-being. At a minimum, the proxy should move in the same direction with known changes in the family's standard of living. Engel observed that food consumption did indeed meet this additional necessary condition. It can reasonably be assumed that if the number of family members is held constant, an increase in the family's total expenditures should make the family better off. What Engel observed was that when total spending increased, the family spent more on food, but the share of food in the family's budget fell. This is what should be expected if food is a necessity, and it is also what was found in Exhibit [5-03](#) (p87). This indicates that food shares are potentially an inverse proxy for the family's standard of living; that is, they move in opposite directions.

Comparing families with different numbers of members but that have the same level of total spending should also create differences in well-being across the families. Here, it would be expected that as the number of family members increases, the family would be worse off. Thus, if food shares are truly an inverse proxy for the family's standard of living, it would be expected that food's share of the family budget should rise with the number of children if the level of total spending is held constant. While the total level of spending was not exactly held constant, Exhibit [5-03](#) (p87) shows that the number of children does increase the share of the family budget devoted to food.

These observations led Engel and many other researchers such as Espenshade [138](#) to adopt food shares as a (inverse) proxy for the family's standard of living. When food shares are used as the proxy, this approach is denoted as the Engel methodology. But food is just one component of the bundle of goods that are believed to be necessities. Housing, clothing, and medical care would fit the economic definition of a necessity where the share of the budget devoted to this group of goods falls with increased total spending of the family. Watts proposed well-being proxies based upon this wider set of consumption items, including food. [139](#) This approach, denoted as the Iso- Prop method, is not empirically examined in this report.

To illustrate how Engel estimates are arrived at, it is assumed that the budget share is a linear function of (1) a set of characteristics of the adults in the family ( $g(X)$ ), (2) the proportion of the family that is in different age groups ( $a(K)$ ), (3) the log of the family size, and (4) the log of per capita total spending. This functional form is based on the work of Working [140](#) and more recently by Deaton and axson, [141](#) all of whom found it to fit the data quite well. Assuming that the sample has been restricted to two adults and where  $K$  is the number of children in the family, the proposed equation for the food budget share ( $F$ ) would be equal to [142](#)

$$\ln(F[K, S, X]) = \gamma(X) + \alpha(K) + \delta \ln(2 + K) + \beta \ln\left(\frac{S}{2 + K}\right) \quad (3)$$



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If food is a necessity, then  $b$  should be negative. If the food share is to increase with the number of children (family size)—assuming total spending ( $S$ ) is held constant—then

$$(\alpha(K) - \alpha(0)) + (\delta - \beta) \ln\left(\frac{2+K}{2}\right) > 0$$

This functional form was chosen because it separates the various effects that differences in families can have on the proportion of spending devoted to food consumption. Holding per capita total spending constant, including the log of family size, accounts for an additional effect of the size of the family on food consumption and is intended to capture the effect of economies of scale. Children also will enter the model by altering the age composition of the family. This effect is captured in the model notation by the term,  $a(K)$ . Specifically, the age composition of the family will be captured by a series of variables representing the proportion of the family whose ages fall into a given interval. These variables should reflect differences in the age composition and not the size of the family. The final term,  $g(X)$ , captures the effect of other differences in families that are not directly related to the size of the family or its age composition. Examples of these factors could include the education and race of the parents.

Engel assumes that if the food share equation meets these restrictions, then it will be a good proxy for the family's standard of living. The next step in the Engel methodology is to ask at what level of total spending,  $S_0$ , would a married couple with no children be equally as well off as a married couple with  $K$  children and  $S_K$  amount of total expenditures. The following equation is necessary when computing this level of spending: equate the food shares equation and solve for  $S_0$

$$F[0, S_0, X] = F[K, S_K, X]$$

$$\gamma(X) + \alpha(0) + \delta \ln(2) + \beta \ln\left(\frac{S_0}{2}\right) = \gamma(X) + \alpha(K) + \delta \ln(2 + K) + \beta \ln\left(\frac{S_K}{2 + K}\right)$$

$$S_0 = S_K \times \frac{2}{2 + K} \times \exp\left[\frac{(\alpha(K) - \alpha(0)) + \delta \ln\left(\frac{2+K}{2}\right)}{\beta}\right] = S_K \times \frac{2}{2 + K} \times \exp[\Psi].$$

Attributing the difference  $S_K - S_0$  as the expenditures made on behalf of the  $K$  children, then the proportion of total spending devoted to the children would be equal to

$$\frac{S_K - S_0}{S_K} = 1 - \frac{2}{2 + K} \exp[\Psi]. \quad (4)$$

Compared to the allocation of consumption within the family based on the children's relative representation in the family ( $K/(2+K)$ ), equation 4 implies that if

- $\Psi > 0$  then children receive less than their relative representation in the family; or
- $\Psi = 0$  then per capita allocation is appropriate; or
- $\Psi < 0$  then children receive more than their relative representation in the family.

While this suggests that the data will determine the appropriate allocation of consumption to the children and not the model, the maintained hypothesis is that the children's share of total spending is less than their relative representation in the family, and hence it would be expected that

$$(\alpha(K) - \alpha(0)) + \delta \ln\left(\frac{2+K}{2}\right) < 0.$$

In other words, adding children to the family should reduce the share of the budget devoted to food when per capita family total spending is held constant. In the absence of any significant effects of the age composition on the family's food consumption,  $d$  would then be expected to be negative.

Gorman demonstrated that the Engel approach was consistent with traditional consumer theory under the assumption that the economies of scale in food consumption were the same as for all other goods. [143](#) While this assumption can be used to justify this approach, it can conversely be used to cast doubt upon the entire endeavor. Deaton and Paxson observed that the scale economies in food consumption were quite different from other goods. For example, the relative degree to which families share housing implies that the scale economies of housing are most likely larger than the scale economies for food. Deaton and Paxson reasoned that the differential scale effect would have the same impact on the family's consumption decisions as a change in the relative price of food. The only assumption that would rationalize the Engel approach would be that the family does not respond to this change in relative prices. However, if this were true, then the impact of adding a child to the family—holding per capita total spending constant—would be to increase the budget share of food. This would imply that the share of the family spending devoted to the children is more than their relative representation in the family. On the other hand, a negative effect of children would imply that the family did in fact respond to the differential scale economies. But then the Engel approach cannot identify the amount of compensation required to equate the standard of living of families with children to those without children. [144](#)

Deaton and Paxson present the following dilemma. The Engel method will produce biased estimates of how much parents spend on their children, but it will not be known whether the bias serves to allocate more or less to the children. Given this potential state of affairs, it makes sense to question whether relying on the Engel method to inform policy is wise.

A second indirect alternative to the allocation problem is the Rothbarth method. This approach is based on the following observation: without any additional resources to the family, parents must make room for the consumption of their children by reducing purchases they make for themselves. Adult clothing can be considered as a proxy for all adult spending. If Rothbarth is correct, then spending on adult clothing would be expected to fall as the number of children increases. On average, couples without children spend \$1,150 on adult clothing, while parents with one, two, and three or more children spend \$909, \$757, and \$638 respectively. Rothbarth suggested that by examining how adult goods varied by family type and total spending one could infer how much total spending would be required to make families with and without children equally well off. [145](#)

The same functional form as food consumption will be used to describe the spending patterns of families on adult clothing. In particular, it will be assumed that

$$\ln(A[K, S, X]) = \mu(X) + \phi(K) + \tau \ln(2 + K) + \lambda \ln\left(\frac{S}{2 + K}\right) \quad (5)$$

where  $A$  denotes the dollar purchases of adult clothing and all other variables  $(X, K, S)$  are defined the same as they are above. For adult goods to be a proxy for the family's well-being, increases in total spending should increase spending on adult goods ( $\lambda > 0$ ). Also, as more children are added to the family while holding total spending constant, adult spending (well-being) should decline. This latter condition requires that

$$(\phi(K) - \phi(0)) + (\tau - \lambda) \ln(2 + k) < 0.$$

Ignoring the impact that the relative age composition has on adult clothing purchases, this restriction will be met if  $t$  is less than  $l$ . This condition does not require  $t$  to be negative as was required for the effect of the log of family size on food consumption holding per capita spending constant.

The first step in the Rothbarth method is to calculate the level of total spending a childless couple would require so that they would spend the same amount on clothing as the parents with  $K$  children and  $S_K$  amount of total spending. For the above functional form, this level of total spending would be equal to

$$S_o = S_K \times \frac{2}{2 + K} \times \exp\left[\frac{(\phi(K) - \phi(0)) + \tau \ln(2 + K)}{\lambda}\right] = S_K \times \frac{2}{2 + K} \times \exp[\Phi].$$

Attributing the difference in total spending as the amount of spending the parents make on their children, then the share of total spending that was devoted to the children would be equal to

$$\frac{S_K - S_o}{S_K} = 1 - \frac{2}{2 + K} \exp[\Phi]. \quad (6)$$

If  $F$  is positive, then the imputed share of spending devoted to the children will be less than their relative representation in the family.



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Appendix C demonstrates that for the Rothbarth approach to be consistent with consumer theory, two conditions must be met. The first condition is that when per capita total spending is held constant, additional children will increase spending on adult clothing.

$$(\phi(K) - \phi(0)) + \tau \ln\left(\frac{2+K}{2}\right) > 0$$

Ignoring the effect of the change in the age composition of the family, this condition will be met as long as  $t$  is positive. This restriction can be met by the Rothbarth method since the only restriction placed by this approach is that  $(t-l)$  is negative. If this restriction is met, then  $F$  will be positive and children will be allocated a share of family spending less than a per capita share.

The second condition is that the purchases of adult clothing must be unresponsive to changes in relative prices. This condition is unlikely to be met. However, it can be determined that the bias in the procedure will result in an understatement of the share of total spending devoted to the children.

To empirically implement both the Engel and Rothbarth approaches, the following variables were used in the estimation of equations 3 and 5:

$g(X)$  and  $m(X)$  variables:

black = 1 if race of head is black;  
hs\_no\_hs = 1 if the education of the husband is less than a high school diploma;  
hs\_coll = 1 if the education of the husband is more than a high school diploma;  
sp\_no\_hs = 1 if the education of the wife is less than a high school diploma;  
sp\_coll = 1 if the education of the husband is more than a high school diploma;  
twoern = 1 if both the husband and wife work;  
w\_work = weeks worked by the wife;  
ftime = 1 if the usual work week of the wife was greater than 35 hours.

$a(K)$  and  $f(K)$  variables:

k02 = proportion of the family whose age is less than 3 years old;  
k35 = proportion of the family aged 3 to 5 years old;  
k612 = proportion of the family aged 6 to 12 years old;  
k1315 = proportion of the family aged 13 to 15 years old;  
k1617 = proportion of the family aged 16 and 17 years old;  
a1820 = proportion of the family aged 18 to 20 years old;  
a2130 = proportion of the family aged 21 to 30 years old;  
a4150\* = proportion of the family aged 41 to 50 years old;  
a5160 = proportion of the family aged 51 to 60 years old;

(Note that the omitted category was the proportion of the family aged 31 to 40 years old.)

lnfsiz = log of family size ( $2+K$ )  
lnpctx = the log of total expenditures divided by family size (in \$1,000)  
lnpctx2 = the square of lnpctx

The inclusion of the square of per capita total family expenditures allows the share of total spending devoted to the children to vary with the level of total spending. In the discussion, variables have been omitted in order to derive explicit equations for the share of total spending made on children (equations 4 and 6). Including this squared term requires numerical techniques to determine the amount of compensation needed to equate the well-being of families with and without children.

Expenditures for food made at home were used as the measure of food consumption in the Engel method. The dependent variable was then expressed as the log of the budget share for food purchased for home consumption. Purchases of men's and women's clothing were used in the Rothbarth method. Since equation 5 is expressed in terms of the log of adult clothing purchases, 86 observations were excluded from the analysis sample in the estimation of the Rothbarth model. The OLS estimates of equations 3 and 5 appear in Exhibits [5-08](#) (p91) and [5-09](#) (p92) on the following pages.

The explanatory power of both the Engel and Rothbarth models is quite high for cross-sectional data. The specification of the Engel model captures 50 percent of the variation in the family's budget devoted to food at home, while the specification of the Rothbarth model captures 40 percent of the variation in purchases of adult clothing.

Variables such as the race, education, and work experience of the parents can affect budget decisions of the family. For example, blacks spend less on food but more on adult clothing compared to nonblacks, and families where both parents are working spend less of their budget on food but more on adult clothing than families with only one parent working. But these variables are assumed to be invariant to the presence of children. Given this assumption, these variables will not affect the estimates of the cost of children and consequently the percentage of the family's budget devoted to the children.

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The Engel estimates confirm that food at home is a necessity. As total spending rises, the budget share devoted to food at home declines at a declining rate. While this satisfies the first of the Engel restrictions, the Engel method also requires that while holding total spending constant the food share should increase when family size (number of children) rises. To verify that this second condition is met by the estimates, the expected shares devoted to food at home by childless couples (Kid0) and families with one, two, and three children have been plotted. [146](#) Figure [5-01](#) (p95) displays these plots as a function of total expenditures and shows that the food share rises as more children are added to the family.

The Rothbarth approach requires that adults spend more on their clothing as total spending increases. The estimated model indicates that adults will increase spending on adult clothing; however, the rate of increased spending on clothing does decline with increased total spending. The Rothbarth method also requires that as the family size increases, the adults will reduce their spending on adult clothing. Figure [5-02](#) (p96) displays the expected amount of spending on adult clothing for childless couples and families with children. [147](#) As required by the Rothbarth approach, spending does fall as the number of children increases.

### ESTIMATES OF PARENTAL SPENDING ON CHILDREN

The estimates of the proportion of family spending that is devoted to children as derived from the three alternative methodologies described above—the USDA, Engel, and Rothbarth approaches—are presented here. First, the estimates for one, two, and three children averaged over all levels of spending and ages of children are presented. Then, these estimates are compared with the Engel and Rothbarth estimates from Dr. David Betson's earlier study using data from the 1980 to 1986 CEX. [148](#) Finally, the variation of the current estimates with the level of total spending and ages of the children is presented.

#### Average USDA Estimates

Implementation of the USDA method used directly computes the proportion of total spending that is devoted to the children for each family. Figures [5-03](#) (p97) and [5-04](#) (p98) plot the share of family spending devoted to the children as a function of total family expenditures (log of total spending). In both figures, the percentage of total expenditures that would have been devoted to the children if the allocation were done on a strictly per capita basis is also drawn. While there is considerable variation in the share of family spending devoted to the children, the majority of the observations are estimated to provide less than a per capita allocation to the children.

Averaging across all levels of total spending and ages of the children, 30.4 percent, 44.9 percent, and 53.5 percent are the average shares of family expenditures devoted to one, two, and three children respectively. The standard deviation of the children's share of family spending is 3.7, 3.4, and 3.3 percentage points respectively. Given the level of precision of these estimates, the hypothesis at a 10 percent significance level that the USDA estimates differ from a per capita allocation for one and two children cannot be rejected. [149](#) However, for three children a significant difference is not found.

As has been noted, implementation of the USDA approach in this study differs from the USDA's actual procedures. In its annual reports, a table is included (Table 11) that reports estimates of the share of family total expenditures devoted to children by several alternative approaches. In the 1999 Annual Report, for example, estimates are presented of 26 percent, 42 percent, and 48 percent for one, two, and three children respectively. While those estimates are consistently lower than the estimates presented in this report, there exist some important differences in the studies that should be taken into account before judging the differences in estimates.

While the USDA report is for 1999, in reality the data for that report are based on the 1990–1992 CEX and indexed for inflation. [150](#) Differences in samples can have an effect on the estimates as well as on differences in spending patterns. If the standard errors are roughly equal in the two years, however, then these differences are not statistically different.

But other differences could also affect the comparison. For example, the USDA has decided to use quarterly observations instead of the annual approach that was taken in this study. (The impact of this choice is unknown and will be examined at a future date.) A more important factor affecting the two estimates is the definition of total expenditures. The USDA uses a much-wider definition of spending than does this study, and that could be the primary reason for these differences.

#### Average Engel and Rothbarth Estimates

Using the regression estimates of food share (Exhibit [5-08](#) p91) and adult clothing equations (Exhibit [5-09](#) p92), an estimate of the share of family spending devoted to the children can be computed for different numbers and ages of children as well as for specific levels of total spending. Using the average values of these variables, the Engel and Rothbarth allocations to the children can be computed. To compute the level of variation in these estimates due to sampling variability, a bootstrap technique was used. The exact procedure and explanation of the bootstrap is contained in Betson's report. [151](#)

The Engel method yielded estimates of 30.1 percent, 43.9 percent, and 52 percent for the share of family spending devoted to one, two, and three children respectively. The standard errors of the estimates were 3, 3.1, and 3 percentage points. The null hypothesis that the Engel estimate is different from a per capita allocation for one child cannot be rejected. However, for two and three children, the null hypothesis of equality between the Engel and the per capita allocation approach can be rejected.

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The Rothbarth method yielded 25.6 percent, 35.9 percent, and 41.6 percent as estimates of the average share of spending devoted to one, two, and three children. The standard errors of the estimates were 3.7, 3.8, and 3.7 percentage points. While the precision of the Rothbarth estimates was smaller than for the Engel estimates, one can reject the null hypothesis of equality between per capita and Rothbarth estimates for all numbers of children.

The Engel estimates are consistently lower than the USDA estimates; however, they are not statistically different. The Rothbarth estimates are consistently smaller than either the Engel or the USDA estimates. While for one child the three estimates are not statistically different, for two and three children the Rothbarth estimates are statistically different from both the Engel and the USDA estimates.

### Comparing the Current Estimates to Estimates From the 1980s

In Dr. David Betson's 1990 study on the cost of raising children, he estimated identical Engel and Rothbarth models using CEX data from 1980 to 1986. This earlier analysis showed that the Engel approach was almost identical to a per capita allocation. Further, Betson found that the Rothbarth approach produced significantly lower estimates than the Engel approach. To hold real purchasing constant between the samples, Betson recomputed the average estimated share of family expenditures devoted to children at the same real total expenditures in 1983 dollars as was average total spending in the current sample. Exhibit [5-10](#) (p93) provides a direct comparison of the current estimates with the previous estimates along with their respective standard errors.

A comparison of the point estimates suggests that the Engel estimates are lower today than they were in the 1980s, while the Rothbarth estimates have become larger. However, these differences could be the result of differences in the sample and not differences in parental spending patterns. Taking into account the standard error of the estimates due to sampling variability, it is evident that only in the case of the Engel method for three children has there been any significant change in the share of spending devoted to children. In all other cases, the shift is not statistically significant.

Another perspective from which to examine the robustness of the estimates is to ask how much additional spending will the family make if additional children are added to the family. For example, if a per capita allocation is used, then 33 percent of the family's spending would be devoted to the children if only one child was present. But if two children were present, then 50 percent of the family's spending would be devoted to the children. It can be inferred that the family would spend 50 percent more on their children due to the presence of the second child ( $100 \times (50 - 33.3) / 33.3 = 50.2$ ). If a third child is added, then 60 percent of the family's spending would be allocated to all three children and the marginal impact of the third child would be an additional 20 percent more in spending. Exhibit [5-11](#) (p93) presents the marginal costs of the second and third child for the various estimates.

The USDA and Engel estimates from the 1980s are very similar to what is implied by a per capita allocation of spending to individual family members. While the more recent Engel estimates imply smaller marginal costs, they are still close to per capita allocations. Only the Rothbarth method produces estimates that imply a substantially lower cost of each additional child.

### Effect of Total Spending

Figures [5-05](#) (p99) through [5-07](#) (p101) depict how the share of family expenditures devoted to children varies with the level of total family spending. The USDA (Figure [5-05](#) p99) and the Engel (Figure [5-06](#) p100) methods both produce estimates of parental sharing that increase with total spending. It should be noted that neither increase is statistically significant.

In the previous chapter, an explanation was provided for why the USDA approach produced these results. It was found that the allocation to children would rise because of the relatively large income share elasticity of food. The reason the Engel method has yielded the same outcome may also be the result of this relatively large elasticity. However, that is only a hypothesis at this time. It should be noted that in Betson's 1990 study, the Engel estimates were constant over the relevant ranges of total spending.

Figure [5-07](#) (p101) shows the results from the Rothbarth approach, which produces estimates that steadily decline with total spending. This finding is consistent with the earlier study, which found a constant reduction in the share of total spending that was devoted to the children as total family spending increased.

### Effect of the Age of the Child

As a child ages, it might be expected that the consumption needs of the child would increase. Given the increase in needs, the parents will have to devote larger proportions of their spending to their children. To directly compare estimates from different methods and different data sets, childhood was divided into three equal time periods: 0–5 years, 6–11 years, and 12–17 years. Then, drawing upon various studies that were relatively comparable, the estimated child expenditures for each age group were expressed as a percentage of the costs of a middle-age child (6–11 years old). A number less than 100 implies that, relative to a middle-age child, less is spent on that child. Conversely, a number over 100 implies that relatively more is spent. These calculations are presented in Exhibit [5-12](#) (p94).

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The USDA and Engel approaches produce the anticipated age gradient. However, the age gradient may not be as steep as would be expected in the USDA estimates. Older children from the USDA's 1999 Annual Report are estimated to cost 10 percent more than the youngest child, while the USDA estimates from this study imply that older children are only 5 percent more costly. The Engel estimates consistently suggest a steeper age gradient—older children costing 47 percent, 41 percent, or 52 percent more than the youngest child. An interesting comparison is with the relative food needs of children implicit in the Moderate-Cost Food Plans of the USDA. While the Engel estimates create very similar age cost profiles, the food plan suggests a much steeper gradient. Here, older children are 72 percent more expensive than the youngest child.

While the present Engel study produces the steepest increases in cost with age, some caution must be given to this finding. The present study has produced the steepest gradient due to the relatively low costs of young children. Testing the equality of the estimated coefficients on the variables reflecting the age composition of the children (K02, K35, K612, K1315, and K1617), it is found that only the effect of the very youngest children (K02) is statistically different from the other age groups. It can be inferred from this test that in the Engel estimates the costs of older children are not statistically different than the costs of middle-age children and that the relative cost of young children is overstated.

The Rothbarth approach does not produce the anticipated increase of child costs with the age of the child. This is a result of a problem in the CEX public use data. While the BLS assigns to individual family members the purchase of clothing, the public use file only records whether the item was purchased for an individual who was under or over 16 years old. The regression results presented in Exhibit 5-09 (p92) show that the coefficient reflecting the proportion of children 16 and 17 years old is opposite in sign to all of the other coefficients on children age categories. Testing the equality of the coefficients on the variables reflecting the age composition, it is found that only the coefficient on the very oldest category (K1617) is statistically different from the others. This suggests that the Rothbarth age profile is not statistically different from a constant cost for all ages.

### Other Recent Studies

Most of the empirical research has not focused on the economic cost of raising children, but rather on the closely related topic of equivalence scales. Equivalence scales relate the differential costs to families of different compositions to maintain the same level of well-being as some reference family type. Usually the reference family is the single individual. However, it should be understood that the concept of equivalence scales is central to indirect approaches such as the Engel and Rothbarth methods. If equivalence scales could be determined for families of all different compositions, then these scales could be used to allocate expenditures to children as well as to adults. Unfortunately, all of the recent work on equivalence scales fails to differentiate children from adults. Hence, it is impossible for these studies to be informative about how to allocate family spending to the children unless the needs of children are to be counted as equivalent to those of adults.

A study that explicitly examined the cost of raising children is a report prepared by James Shockey for the Judicial Council of Arizona. [152](#) The purpose of his study was to analyze the CEX data from 1991 (the most recent data available at the time of his study) and to closely examine Betson's earlier work. Shockey only estimated the Engel method. His estimates for one, two, and three children were 33 percent, 49 percent, and 57 percent. These estimates differ only slightly from Betson's 1980–1986 estimates for three children (59 percent). For one and two children, the two sets of estimates are identical.

Shockey also provides a valuable test of the stability of the Engel estimates. Instead of pooling the data across the years, he estimated the Engel model for each of the odd years between 1981 and 1991. His annual estimates for two children are 48 percent, 51 percent, 52 percent, 50 percent, 49 percent, and 49 percent. Although he does not compute standard errors for the estimates, it does appear that the pooling of data across the years does not affect the empirical estimates.

Although the paper by Conniffe [153](#) is not empirical, it does present a strong theoretical argument for equivalence scales to decline as total spending (income) rises. This argument would suggest that the constancy of the USDA and Engel costs of children with respect to changes in total spending should be viewed with suspicion and provides another positive argument for the Rothbarth estimates.

### CONCLUSIONS

This chapter has examined three alternative methods of determining the amount of parental spending on children. Each method has its strengths and its weaknesses. The USDA approach is direct and hence more transparent than either the Engel or Rothbarth methods. However, with simplicity comes a reliance on assumptions that are certain to be wrong. The Engel and Rothbarth methods require other assumptions to identify how much more or less spending families of different compositions need to maintain a given standard of living. Some have used the results of Deaton and Muellbauer [154](#) to justify the use of both the Engel and Rothbarth estimates as upper and lower bounds for the estimates. However, Deaton and Paxson have shown that the assumptions needed by the Engel method are most certainly wrong and are contradicted by the data.

What does this mean? It can be argued that of all the approaches examined in this research the Rothbarth method is the least objectionable. While the assumptions needed to identify this approach are strong, there is no empirical evidence that they are wrong. Some people might object to whether adult clothing, which constitutes less than 5 percent of a family's total spending, provides a reliable basis to estimate the cost of raising children. But given the precision with which estimations can be made on how family size, composition, and total spending affect the family's decision of how much clothing to purchase, the cost of children can be estimated with a degree of precision comparable to other methods. The only significant problem with this approach lies not with the method, but with the data. The BLS should be encouraged to allocate adult clothing purchases based on an age of 18 years and not 16 years as is the current practice.

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The findings presented in this report suggest that parental spending on children has not significantly risen or declined since the 1980s. While the Rothbarth estimates have shown a slight increase, these differences could be attributed to sampling variability as well as to true changes in spending patterns. The tests that were performed in this research cannot rule out the possibility that differences in samples have created the observed differences in parental spending.

A natural question to ask is whether we should continue to use the estimates from Betson's earlier study or to move toward the estimates from the current research. One clear argument in favor of adopting the present estimates is that they reflect more recent economic data. However, given that the possibility cannot be ruled out that any differences in estimates are the result of sampling variability, it is not possible to be convinced that these recent estimates are better. The much-higher level of precision that the earlier estimates have relative to the more current ones should be pointed out. Given that the changes are not significant, people should use the older estimates until the precision of the current estimates can be improved.

Tests for statistical significance of differences depend upon the sample size. The current study, by employing only two years of CEX data, contains roughly one-third of the number of observations available in the previous study. In the next phase of work, two more years of data will be added to the sample. This increase in sample size should reduce the standard errors of the estimates of the cost of children and permit a sounder test of whether spending patterns have indeed changed from the 1980s. The results of this work, as well as the analysis of the spending in singleparent families, will be included in the final version of the report.



## CHAPTER 6

### GUIDELINE USERS SURVEY

#### BACKGROUND

The primary purpose of the guideline users' survey was to learn stakeholders' views about (1) what they believe is working well and not so well with the existing guideline, (2) what they see as the guideline's strengths and weaknesses, and (3) what features of the guideline could be improved. In particular, the survey addressed the three key issues that were the main focus of the study:

- *Low income.* Does the guideline make an adequate adjustment for low-income cases? What ideas do stakeholders have for improving the low-income provisions in the guideline?
- *Gross versus net income.* What income base should be used to calculate child support orders? Are there other options the Legislature should consider using?
- *Additional dependents.* Does the existing guideline deal adequately with cases in which there are additional dependents?

In addition, the survey captured information on a wide range of other issues of secondary interest to the Judicial Council, including how to deal with high-income cases, shared parenting, and add-ons to the basic support obligation (for example, for child care or extraordinary medical expenses of the children who are the subject of the support order).

#### Methodology

The Judicial Council, with assistance from Policy Studies Inc. (PSI), designed a questionnaire to administer to people who use the guideline to establish and modify child support orders. This included (1) judicial officers and others who work in the court environment (such as family law facilitators), (2) public and private attorneys who deal with family law matters, (3) child support specialists and others who work on child support issues, and (4) advocates for custodial and noncustodial parents and children.

The survey was specifically designed to capture the opinions and ideas of people who use the guideline frequently to establish and modify child support orders. From their multiple experiences, the strengths and weaknesses of the guideline and the problems the guideline creates in establishing orders could be determined so that the Judicial Council could better understand where refinements should be made. An assumption was made that parents could not bring the perspective that users have when applying the guideline in multiple family situations. Yet, there was still value in parents' opinions. Therefore, a decision was made to capture parents' views in a series of focus groups instead of through a survey. However, as parents learned about the survey, they wanted to respond, which was allowed. As one parent wrote:

As I reached the end of the survey, I realized that it was geared to the professional in the field. But I hope that my answers and those of other noncustodial parents are taken into consideration in your survey.

Since not all respondents identified themselves as parents or guideline users, the ability to discriminate between the responses of users and parents could not always be tabulated. Where possible and useful to the analysis, however, the answers of different respondent groups in this report were examined.

The survey was administered between September and October 2000. (A copy of the survey instrument is attached in Appendix D.) Multiple approaches to distributing it were used, including direct mail, in-person distribution, and e-mail. Word-of-mouth was also an important means of announcing the survey and was the method by which most parents learned about it. Surveys were mailed directly to those people whose opinions were definitely desired and who otherwise might not know about the survey. This included people known to Judicial Council staff who were working on the study and people, particularly academic, who PSI team members knew had conducted work on the guideline. Surveys were also distributed to attorneys at a California Bar Association conference in San Diego. The majority of potential respondents were notified electronically by e-mail. The e-mail message included a short overview of the survey's purpose and invited respondents to complete the survey online at a Web site that PSI programmed for this purpose. The e-mail also included a hard copy of the survey as an attachment that respondents could print and mail directly to PSI offices in Denver.

Once the surveys were submitted or returned, staff at PSI key-entered the data and tabulated and analyzed the findings from them.

#### General Analytic Considerations

The principal advantage of an electronic and mail survey over other survey options (for example, by telephone) is the cost. Electronic surveys are by far the most cost efficient of any alternative, and they are more convenient to respondents than traditional survey methods. This convenience, however, also brings limitations. The biggest limitation is that the group administering the survey has no control over the response rate, either the survey return rate or the response rate to individual items on the survey instrument. This lack of control, which is also a limitation of mail surveys, frequently results in high nonresponse rates, and that was true with the users' survey that was administered for this study.

The inability to control the response rate is also a disadvantage if it is important to generalize the survey findings to the larger population. For example, in this study the attitudes of child support staff who responded cannot be generalized to the entire population of child support staff in California, because it cannot be guaranteed that they represent a random sample of all staff. <sup>155</sup> On the other hand, making that generalization was not the primary purpose of the survey. Rather, the Judicial Council was looking for ideas to address potential problems with the existing guideline in order to refine the guideline so that it better meets the needs of families and the people who use it to establish and modify child support orders. That purpose is accomplished by the survey returns, and the following sections of this report provide numerous ideas for where improvements are needed.



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Before discussing the responses to individual questions, it is useful to identify an approach to examining the survey data since what is learned from the data depends on the kinds of questions asked. Sometimes what is learned is defined by the design of the survey instrument; for example, forced-choice questions allow for an examination of different issues and perspectives than open-ended questions. Yet, there is a small set of basic evaluation questions that can be asked of every survey item. These questions are listed in the following box. It is not possible and often not useful to evaluate each survey item against the complete list of questions in the box. However, readers will find answers to the questions either in the graphics or in the narrative discussion.

## ASKING BASIC QUESTIONS ABOUT THE DATA

- How many respondents gave positive answers to the questions (that is, besides “don’t know” or “no response”)?
- Of those who gave positive answers, how many answers (on average) did they give? That is, if the question was open-ended, did respondents provide more than a single answer?
- What was the range of responses? For example, when respondents were asked what they saw as the strengths of the guideline, did they list a few or many features?
- How frequently was any single response given, and are there response patterns that can be highlighted?
- Can issues, features, or problems that are more important than others to the respondents be isolated?
- How do opinions and attitudes differ based on selected respondent characteristics (for example, position or years working with the guideline)?

## Respondent Characteristics

Survey findings ultimately reflect the characteristics of the respondents. These characteristics often help researchers explain and interpret attitudes and opinions evidenced in the respondents’ answers to survey questions. For example, private family law attorneys may have different attitudes about the fairness of the child support guideline than child support staff because of the different case types they primarily serve. For this reason, it is useful to examine the characteristics of respondents. This is done in Exhibit [6-01](#) (p102).

The survey captured very little background information about respondents, just their position, years working with the child support guideline, and the counties in which they primarily work. For the purposes of displaying the data, the responses about position were regrouped into six categories: (1) court personnel (judicial officers and family law facilitators), (2) private family law attorneys, (3) child support enforcement staff (IV-D attorneys, specialists, supervisors, administrators, and any other respondents who identified themselves as part of the IV-D office), (4) advocates for children and parents, (5) parents, and (6) all other respondents (for example, academics, legal aid representatives, and respondents who did not identify themselves). A parent category was not included on the survey instrument since parents were not expected to respond. Thus, a new code for parents was created, which included any respondents who identified themselves as parents in the “other” category on the survey. It was not always possible to know from their responses whether the parents were custodial or noncustodial parents.

Exhibit [6-01](#) (p102) shows the number of respondents in each of the six groups. The “other” group includes respondents who identified their position but whose numbers were too small to merit creating a separate group; to include them as part of another group was not desirable. For example, a separate category for academics was not created since only seven respondents identified themselves as academics, and it was believed inappropriate to include their opinions with the opinions of any other separately identified group. The “other” group also includes respondents who did not identify their position at all. In fact, this is what most of the “other” group includes. Since this group cannot really be classified, the statistics for this group are presented in the accompanying exhibits, but they are ignored in the narrative discussion.

On average, respondents reported having worked with the child support guideline for 7 years. This average varied by respondent group from a low of 6 years for advocates to a high of 8.8 years for private family law attorneys. Regardless of this difference, however, it is clear that most respondents have considerable experience using the guideline. This observation includes parents, more than half of whom (54 percent) listed some experience. The average number of years this group reported having used the guideline was 6.9 years. Although it seems hard to believe that parents have had this much experience using the guideline, there is no basis for challenging this statistic and one can only guess at what experience they were citing.

The question that asked respondents to identify the county in which they work was also recoded. The question was included partly to ensure that there was some representation from every county in California, which did occur. The counties were regrouped into small, medium-size, and large counties based on their January 2000 population as reported on the California government Web site. Based upon population statistics from January 2000, small, medium-size, and large counties—as defined by this study—constituted 2.5, 22.5, and 75.1 percent of the total California population. The survey population indicates higher proportional input from respondents from small and medium-size counties and lower proportional input from large counties.

## FAIRNESS AND ADEQUACY OF THE GUIDELINE

In order to understand how adequate the guideline is in setting support obligations, the survey asked several questions about the fairness of the guideline to parents and children, the strengths and weaknesses of the guideline, how adequately the guideline addresses specific circumstances that arise frequently in establishing and modifying support orders, and which families are helped and which are disadvantaged by the guideline. This section reports the findings from these questions.

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## Support Order Levels

The survey asked respondents for their opinions about (1) the fairness of the California child support guideline to the parents, to the children for whom support is sought, and to the parents' children from other relationships; and (2) whether the guideline results in support orders that are too high, about right, or too low. This information is displayed below in Exhibits [6-02](#) (p102) and [6-03](#) (p103), respectively.

The data shown in Exhibit [6-02](#) (p102) are average (mean) ratings computed using a fourpoint scale where 1=very unfair, 2=unfair, 3=fair, and 4=very fair. Thus, the *higher* the average rating, the *more fair* respondents viewed the impact of the guideline on parents and children. Conversely, the *lower* the average rating, the *less fair* respondents viewed the impact. A rating of 2.5 would suggest that respondents did not see the impact as either fair or unfair.

Overall, respondents gave an unfair rating on average (that is, ratings averaging close to 2) to the guideline's impact on the noncustodial parent/payor and the parents' children from other relationships. They gave a neutral rating for the impact on the children for whom support is awarded, and they gave a fair rating for the impact of the guideline on the custodial parent/payee. Thus, while respondents generally believed that the guideline results in awards that are fair to the payee and somewhat fair to children (average=2.57), they viewed the guideline as mostly unfair to the payor (average=2.11) and to the parents' children from other relationships (average=2.08).

What is clear from a further examination of the data in Exhibit [6-02](#) (p102) is that the overall averages mask distinctions among respondent groups. On one side are the views of parents and advocates, who without exception have the lowest average ratings for fairness of all groups and are very similar in all four of their ratings. Another point of view is seen in the ratings from judicial officers and private family law attorneys. They rate the guideline as more fair to parents and children than do parents and advocates. A third view is seen in the ratings given by IV-D child support respondents. They give the highest fairness ratings of any group to the impact of the guideline on noncustodial parents and the children from other relationships, but they are not the highest on the other ratings.

One advantage of using mean ratings rather than proportional response rates is that differences in average ratings can more easily be statistically observed. [156](#) The average ratings of respondents were compared based upon their position (the first five groups in Exhibit [6-02](#) p102), the number of years they reported having worked with the California child support guideline (less than 5 years, 5–10 years, or 10 years or more), and the size of the county they represented (small, medium-sized, or large). There are no statistical differences in the average ratings based upon the county size. There are differences based on respondents' position and years of experience with the guideline, as listed below.

- **Fairness of the guideline to noncustodial parents**

*Position:* Both advocates and parents gave a statistically lower average fairness rating to the guideline's impact on noncustodial parents compared to the other three groups. There are no statistical differences between parents and advocates in their average fairness ratings. There also are no differences between respondents representing the court, private attorneys, or the child support office.

*Years of Experience:* There are no statistical differences by years of experience.

- **Fairness of the guideline to custodial parents**

*Position:* The average fairness ratings of all five position groupings are statistically the same.

*Years of Experience:* Respondents who had worked with the guideline 5 years or less gave a statistically higher average fairness rating than did respondents who had worked with the guideline between 5 and 10 years.

- **Fairness of the guideline to children for whom support is awarded**

*Position:* Advocates and parents gave a statistically lower average fairness rating to the guideline's impact on children for whom support is awarded compared to the other groups. There are no statistical differences between parents and advocates in the average fairness ratings. There also are no differences between respondents representing the court, private attorneys, or the child support office.

*Years of Experience:* Respondents who had worked with the guideline 10 years or more gave a statistically higher average fairness rating than did respondents who had worked with the guideline between 5 and 10 years.

- **Fairness of the guideline to parents' children from other relationships**

*Position:* Advocates gave a statistically lower average fairness rating than respondents from the child support office. There were no other statistical differences by position.

*Years of Experience:* Respondents who had worked with the guideline 5 years or less gave a statistically higher average fairness rating than did respondents who had worked with the guideline between 5 and 10 years.

Exhibit [6-03](#) (p103) looks at a somewhat different issue; namely, whether the guideline results in orders that are too low, too high, or about right. A majority (60 percent) answered that they believe order amounts are too high. Somewhat more than a quarter of all respondents (28 percent) thought the guideline results in orders that are about right, and only 4 percent believed the order amounts using the guideline are too low. Some 8 percent of respondents did not answer the question or said they did not know.

As the lower half of Exhibit [6-03](#) (p103) illustrates, the opinions about order levels were not widely shared by all respondent groups. Thus, while 87 and 92 percent of advocates and parents respectively said the guideline results in orders that are too high, only about half of the respondents in the other three groups seemed to agree. The differences are statistically significant. That is, the proportion of advocates and parents who said the guideline results in orders that are too high was significantly different from the similar proportions reported by the other three groups. Conversely, the proportion of advocates and parents who said the guideline results in order levels that are about right was significantly less than the comparable proportions among the other three groups. Very few respondents in any group believed the guideline results in orders that are too low.

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## Strengths and Weaknesses

Exhibits [6-04](#) (p104) and [6-05](#) (p104) respectively look at what respondents saw as the strengths and weaknesses of the child support guideline. These were presented as open-ended questions; thus, respondents were allowed to mention as many issues as they wanted. Somewhat more than a third of all respondents (37 percent) did not list a strength of the guideline, and a slightly smaller proportion (31 percent) did not list a weakness. In some cases respondents did not answer either question, which may reflect an unwillingness to answer open-ended questions generally. However, further examination of the data show that nonresponse to one question did not predict nonresponse to the other question. Thus, not much is known about the reasons for not responding.

### Strengths

From the nonresponse rates, it appears that it was more difficult to identify strengths than it was to identify weaknesses. For example, in addition to the 37 percent of all respondents who did not list a strength of the guideline, another 8 percent stated there were no strengths. There were no respondents who said "none" in answer to the question about weaknesses. Thus, about 15 percent more respondents listed a weakness than listed a strength.

Usually, the list of strengths and weaknesses is best presented in a single exhibit, because often what some respondents see as strengths, others see as weaknesses, and the lists are very similar. This was not true for respondents' comments in this survey; the list of strengths was very different from the list of weaknesses.

As shown in Exhibit [6-04](#) (p104), 22 percent of all respondents thought consistency, uniformity, or objectivity were the biggest strengths of the guidelines. Other strengths were mentioned much less frequently, but there were many of them. The display in the exhibit was limited to those strengths that were mentioned by at least 5 percent of all respondents, but there were a large number of other strengths listed by smaller proportions of respondents. One way of looking at the list in Exhibit [6-04](#) (p104) is to group the strengths into broader categories. The strengths are organized into the following four categories.

- *Having a guideline.* Respondents saw the existence of a guideline as a strength because (1) it provides consistency, uniformity, and objectivity to the calculation of support obligations (22 percent); and (2) it yields predictable results (11 percent). A third of all respondents mentioned these two aspects as strengths. Surveys of users in other states also find these to be the most frequently mentioned strengths of guidelines.

Among the comments users made were, "Formula driven; it takes away the arguments between the parents over need," "It promotes uniformity in the determination of child support," and "It provides a method to obtain a child support order without knowledge of the noncustodial parent's income based upon an acceptable standard of adequate care."

- *Specific factors included in the guideline.* This includes comments about (1) the timeshare adjustment in the guideline (10 percent of respondents cited this as a strength) and (2) the guideline's use of net income (9 percent).

Users' comments included, "It is based on disposable income after tax obligations," "It takes account of the income of both parents, and it is adjusted for the time share of each parent," and "I like it that all biological children are taken into consideration, that there is a credit allowance for other support received and paid, and that there are health insurance allowances for both parties."

- *Application of the guideline.* This category covers the mechanics involved in using the guideline to calculate support. Thus, respondents thought the guideline was (1) easy to use and simple to explain (7 percent of respondents cited this as a strength) and (2) allows judicial discretion (6 percent).

Users made the following comments: "It is easy enough to use that parents can do the paperwork on their own," "There is still discretion in the court to enter a different order," and "It is simple to explain to parents how child support is calculated."

- *Outcomes from using the guideline.* This category refers to (1) support amounts are fair to children (7 percent mentioned this as a strength), and (2) the guideline yields reasonable support amounts (5 percent). Thus, even though a majority of respondents believe the support orders are too high and relatively unfair to parents, some respondents see the order levels as about right when it comes to supporting children.

Among the users' comments were, "It provides well for children from middle- and upper-income families," "It attempts to maintain the standard of living for the children," and "It helps to make reasonable orders that are calculated the same for all parents."

### Weaknesses

By applying the four categories of strengths to the list of weaknesses displayed in Exhibit [6-05](#) (p104), it can be seen that most of the weaknesses respondents mentioned deal principally with the *factors the guideline includes*. This included comments about the (1) time-share adjustment (13 percent of respondents mentioned this as a weakness because they believe it encourages parental conflict), (2) the guideline's inability to address special factors such as housing costs of the noncustodial parent (12 percent), (3) the additions to the basic support obligation for child care and medical expenses (11 percent), and (4) the low-income adjustment, which many saw as inadequate given the cost of living in California (7 percent).

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The most frequently mentioned weakness dealt with the *outcomes that result from application of the guideline*: 19 percent of respondents said that the support amounts calculated using the guidelines are too high. Finally, 13 percent of respondents complained about *how the guideline is applied*; namely, that it is too rigid and inflexible. This group of respondents wanted the guideline to allow more discretion to judicial officers so that they could consider the special needs of the parents and the children for whom support was sought.

Below are some comments from users that reflect their thoughts about weaknesses. As some of the comments illustrate, what for some respondents was a strength, for others was a weakness.

- *Specific factors included in the guideline.* “Time-share rules create harsh results sometimes and invite child custody/visitation litigation,” “Tax status, the deductibility of items, and the adjustments to reach net are cumbersome and misunderstood by many,” and “Choose one and only one method for accounting for medical and child care; either it’s in the K-factor or it isn’t. Now it’s in the Kfactor, but double-billed after the fact.”
- *Application of the guideline.* “It is very complicated to calculate without a computer program or to explain to a layperson,” “Inconsistency in imputing income and in the application of hardships and low-income adjustment gives very disparate results in similar cases,” and “There is not enough flexibility, especially in interstate cases where the obligor lives in California and the obligee lives in another state. The code specifically says that our guideline is artificially high because of California’s cost of living.”
- *Outcomes from using the guideline.* “The guidelines yield an unrealistically high amount for low-income earners,” “Payors are being impacted severely at times by too-high child support orders. This results in rebellion against the custodial parent and strained relations with all parties (which negatively affects the children and both families),” and “There is no way to assure that the children receive the monies due to them.”

Some respondents believed the guideline should include (1) enforcement mechanisms to monitor how the custodial parent uses the child support (for example, “I see way too many cases where custodial parents use the child support monies so that they don’t have to work—or work below their capabilities—rather than use the money to improve their children’s lives.”), (2) more consideration of second families (for example, “The guideline is not fair to children not covered by the support order but who are dependent on the income of the noncustodial parent.”), and (3) an adjustment to ensure a subsistence level of income to the noncustodial parent (for example, “The guideline does not take into consideration a subsistence level of income for low-income obligors.”).

### Adequacy of the Guideline in Dealing With Specific Issues

While open-ended questions are useful in capturing a wide *range* of issues that the guideline handles well or not so well and the importance of those issues to respondents (based on the frequency each issue is mentioned), they do not allow a comparison of the *relative* importance of those issues or show in a quantitative sense how adequately or inadequately respondents believe the guideline is dealing with specific issues. For example, Exhibit 6-05 (p104) shows that 13 percent of respondents thought the guideline adjustment for time sharing was a weakness and that 7 percent of respondents believed the low-income adjustment provision is not in line with the cost of living. It is not possible from this information, however, to know how inadequate the adjustments are or how the adequacy of those adjustments compares to other adjustments.

In order to understand better how well the guideline is addressing specific issues and whether it is addressing some issues better than others, the survey included a set of questions that asked respondents to rate how adequately or inadequately the guideline addresses 11 issues. Ratings used a four-point scale where 1=very inadequate, 2=inadequate, 3=adequate, and 4=very adequate. The average (mean) scores from these ratings—excluding respondents who did not answer or who did not know how to rate a specific issue—are presented in Exhibit 6-06 (p105).

Since the average ratings exclude all respondents who did not provide a rating or who did not know how to rate the factor, it is useful to consider the elements of nonresponse. For all the 11 factors, the proportion of respondents who did not answer the question was consistently about 5–6 percent. While there was modest nonresponse from every group, the groups with the highest proportion of respondents who did not answer the questions were private attorneys and judicial officers.

The “don’t know” response rate was relatively high (that is, above 10 percent of the respondents who answered the question) for 6 of the 11 questions. The precise reasons why many respondents did not rate these issues are not known, although it is possible that the issues do not appear frequently enough in applying the guideline for respondents to know how to rate them. For example, the highest “don’t know” response rates were to the following issues (1) adjustments for spousal support (25 percent of respondents), (2) cases in which the income of the noncustodial parent is unknown (19 percent), (3) work- or education-related child-care costs for children from other relationships (17 percent), and (4) high-income cases (14 percent). Further support for the belief that lack of familiarity may explain most of the “don’t know” responses comes from looking at response rates for individual groups. Parents and advocates had very high “don’t know” response rates for all these issues, while the comparable rates for other respondent groups were low (generally 5 percent or less). The one exception was that 31 percent of IV-D child support staff said they did not know how to rate the issue of spousal support adjustments, which does not seem surprising given their client population.

An average score of 2.5 in Exhibit 6-06 (p105) would suggest that respondents believed the guideline is neither adequate nor inadequate in dealing with the issue. Averages less than 2.5 suggest that respondents believed the guideline is *inadequate* in dealing with the issue, while ratings above 2.5 suggest respondents saw the guideline as *adequate*.



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The overall ratings indicate that respondents believed the guideline deals:

- *Somewhat adequately* with two issues (average ratings between 2.50 and 2.60): (1) work- or education-related child-care costs for the children who are the subject of the support being ordered (average=2.59) and (2) health-insurance expenses (average=2.58).
- *Somewhat inadequately* with two issues (ratings between 2.40 and 2.50): (1) provisions for calculating the net income of both parents (average=2.45) and (2) adjustments for additional natural or adopted children living in the mother's or father's home (average=2.41).
- *Inadequately* with the remaining seven issues (averages below 2.40). For one of these seven issues—the adequacy of the guideline in dealing with low-income cases—the average rating was between inadequate and very inadequate.

An examination of ratings by the five major respondent groups in Exhibit [6-06](#) (p105) suggests that respondents' opinions about the existing guideline were not widely shared. Similar to the fairness ratings in Exhibit [6-02](#) (p102), parents and advocates gave consistently lower average adequacy ratings to all the issues than did other groups. But there are other differences in the table that are not as obvious. Thus, in the table below, the statistical differences for each issue are identified as a guide to policy makers as they consider refinements to the guideline.

Further, although there are no statistically significant differences in the average ratings based on the respondents' years of experience using the guideline, there are a few differences based on the county size.

- For three issues—adjustments for spousal support, adjustments for sharing physical custody, and provisions for calculating the net income of both parents—respondents from large counties gave average ratings that were significantly lower than the average ratings given by respondents from medium-sized counties.
- For one issue—high-income cases—respondents from large counties gave a significantly lower average rating than did respondents from either small or medium-sized counties.

The detailed comments respondents made to other survey questions add insight to the ratings shown in Exhibit [6-06](#) (p105), particularly for those issues that respondents believed the guideline does not adequately address. Below, a few of the issues that received the lowest ratings are discussed; that is, those issues respondents believed the guideline addresses least adequately.

## ***Adjustments for Low Income***

Overall, this issue received the lowest adequacy rating of all the 11 issues respondents were asked to rate, despite the fact that the guideline permits deviations to the support amount when the obligor's net income is less than \$1,000 per month.

The objection most respondents raised to how the guideline deals with low-income obligors is that the income threshold at which the adjustment can be applied is too low. They argued that many parents whose income is above the threshold find it hard to maintain a minimal standard of living and pay their child support. The main suggestion they had was to establish a new, higher threshold. Others suggested not only increasing the threshold, but adding a sliding scale to accommodate low-income obligors whose income was close to the new threshold.

Finally, many respondents did not believe a single threshold was fair because the cost of living among California counties is so variable. They argued that the threshold at which an obligor would qualify for a low-income adjustment should be different in different counties.

## ***Cases When the Noncustodial Parent's Income Is Unknown***

This issue received the second lowest overall adequacy rating of the 11 issues. Based upon comments elsewhere in the survey, respondents seemed to be concerned about how to establish income when the noncustodial parent is self-employed, underemployed, works seasonally for cash wages that are not reported, or is chronically unemployed, incarcerated, or mentally ill. Respondents complained that it was impossible in these types of cases to establish income accurately, particularly for self-employed parents. Many respondents seemed to believe that these circumstances lead parents to "hide" income (to shift income or use creative accounting) or to deliberately underreport income.

Unlike some other issues, respondents did not seem to have a ready solution for resolving this difficulty.

## ***High-Income Cases***

Dealing with high-income cases was also problematic for respondents. This is reflected in the relatively low adequacy rating in Exhibit [6-06](#) (p105). Respondents appeared to be worried about the absence of any consistent mechanism for dealing with high income and the lack of guidance about what an appropriate mechanism might be. As one judge wrote: "I don't think guidelines can fairly handle all high-income cases. Judges need to have discretion in these cases."

## ***Spousal Support***

There was not a lot of comment about spousal support, and the survey did not ask a specific set of questions about this issue. Nevertheless, the inclusion of a question about how adequately the guideline deals with spousal support prompted comments, mostly negative, from a few people who saw that support as further impoverishing the noncustodial parent. The following comment seemed something worth reporting:

I don't believe that a fair appraisal of the guidelines for child support can be achieved without a similar look at the guidelines for spousal support. Spousal support takes money away from the children of both the first and second families. I truly believe that a state survey of spousal support would result in demand for time-limited spousal support or for complete elimination of spousal support if the standard of living of the children were in jeopardy.

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## For Which Families Is the Guideline Helpful or Difficult?

Respondents' ratings of how adequately the guideline deals with selected issues are reflected in their views about what types of families are helped by the guideline and what types of families find the guideline difficult. These views are displayed in Exhibit [6-07](#) (p108), but only for those respondents who gave an answer to one or both questions. Thus, it excludes the 40 percent of respondents who did not answer the question about what types of families the guideline helps and the 35 percent of respondents who did not answer the question about what family types find the guideline difficult.

It is easy to see in the exhibit that for the same family type some respondents thought the guideline was helpful and others thought it created difficulties. Thus, while 8 percent of respondents felt the guideline was helpful to every family or to most families, 9 percent said the guideline was difficult for every family or most families.

Most respondents generalized about the families they thought were helped or disadvantaged by the guideline based on the parents' income level; whether it was low, middle, or high. The families that a plurality of respondents (39 percent) believed were *most helped* by the guideline were middle-income households, followed by high-income households (21 percent) and low-income households (14 percent). The family types for which respondents felt the guideline is *most difficult* were in the reverse order. That is, respondents believed the guideline is most difficult for low-income households (47 percent), followed by high-income households (13 percent) and middle-income households (9 percent).

Smaller proportions of respondents mentioned specific family types that they believed are helped by the guideline. Among the family types most frequently reported were:

- Custodial parent families (7 percent); and
- Families that do not have responsibilities for supporting other families (7 percent); that is, families where neither parent has an existing child support order and neither parent is supporting other natural or adopted children who are living with them.

In the "other" category, special characteristics of families for which the guideline was seen as helpful included (1) families where the parents have attorneys, (2) families that do not have any special circumstances (for example, special medical needs for the supported children), or (3) families where both parents are employed and earn wages ("... standard wage earners whose family situation is relatively straightforward—not too many other children to support").

The characteristics of families that were viewed as most disadvantaged by the guideline were:

- Families in which one or both parents has another family to support (23 percent) ("The guidelines penalize obligors with children by different mothers."); and
- Families where one or both parents is self employed (12 percent) ("Establishing accurate and fair orders with self-employed custodial and noncustodial parents is difficult because establishing accurate incomes is challenging.").

With respect to second families, some respondents believed that the guideline is unfair because of how it treats additional dependents (for example, the guideline's preference for first-born over later-born children, second families with biological children of the noncustodial parent, families with stepchildren supported by the noncustodial parent). They argued that the guideline should be revised to accommodate these case types so that all later-born children do not get shortchanged or that parents can support children in new relationships even if they are not biologically their own.

Smaller proportions (in the "other" response category) mentioned families in which the parents are unrepresented, families with hardships (for example, due to high medical expenses), and families that live in high-cost areas of California as being most disadvantaged by the guideline. The last issue—the high cost of living and especially how the cost of living varies among California counties—was a theme throughout much of the survey. Several respondents thought the guideline should be revised to include (1) a county adjustment that factored in the relative cost of living in the county ("The guidelines fail to take into account the payor's basic living expenses, which vary depending on the residence location in the state."), (2) an interstate adjustment that lowered support obligations when the children being supported lived outside California, and (3) a residence adjustment that considered the county where each parent resided (for example, an obligor living in San Francisco County should not have to pay as much child support if the children being supported live in Mendocino County since Mendocino County has a lower cost of living).

## REASONS FOR DEVIATIONS AND IDEAS FOR IMPROVEMENT

This section examines what problems respondents said they encounter in using the guideline to establish or modify child support orders, what deviations they see being made to accommodate these problems, and what changes they believe are needed to improve the guideline and make it more useful to parents and to the children for whom support is established. This section pays particular attention to the three issues of primary interest to the Judicial Council: low-income adjustments, whether the guideline should use gross or net income to calculate support obligations, and accommodations for second families.



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## Deviations

The survey included a question asking respondents to list the reasons they believe courts deviate from the guideline. This was an open-ended question that allowed respondents to list as many reasons for deviations as they wanted. More than a third of the respondents (38 percent) did not answer the question. It is believed that a lot of the nonresponse reflects a lack of familiarity with support order establishment because the highest rates of nonresponse occurred among parents and advocates. Of those two groups, 62 percent did not name a reason that courts deviate. The comparable nonresponse rates for other groups were 21 percent of court respondents, 23 percent of IV-D staff, and 39 percent of private family law attorneys.

Defining what is a *deviation* from the guideline and what is an *adjustment* accommodated by the provisions within the guideline is not necessarily straightforward to some people. Thus, some respondents reported that the courts:

- Make *adjustments* to guideline amounts based on provisions in the guideline, but they do not deviate: "Courts don't technically deviate from the guideline, but 'hardship' deductions and 'necessary' job-related expenses are used to lower child support in inappropriate circumstances."
- Never or rarely deviate: "It is not in my experience to have courts deviate," and "After practicing for 30 years, I have in only one instance seen the court deviate from the guideline."

For others, deviations are necessary. As one respondent wrote, "The guideline deals with numbers and not needs. Common sense can occasionally come into play in the court and result in a deviation."

The principal reasons respondents said courts deviate from the guideline are displayed in Exhibit [6-08](#) (p108). The reasons are shown only as a proportion of respondents who answered the question; thus, it excludes 38 percent of the respondents. The reasons listed in Exhibit [6-08](#) (p108) do not appear too surprising given what respondents cited as the guideline's strengths and weaknesses and the families they believed are helped or disadvantaged by the guideline. Thus, for example, the issues of low income, other dependents of the parents, lack of income information, and time sharing/visitation are among the deviation reasons given.

The reason most frequently mentioned for deviation was low income of one or both parents (32 percent of the respondents mentioned this as a reason courts deviate), but primarily of the parent paying support. As discussed earlier, problems with the guideline in dealing with low-income parents was a theme throughout the survey; the guideline's low-income provision was viewed as a weakness, and low-income families were seen as disadvantaged by the guideline. Since this issue was also a central focus of the guideline study, it is addressed below in greater detail when respondents' recommendations for improving the low-income provisions are discussed. However, one comment that tends to summarize many respondents' feelings is worth citing here:

People who earn minimum wage and have too many children are at a disadvantage as there is no money left to live on and pay support. However, this is not really a guidelines problem, but a social problem. The guidelines should not be adjusted to correct social ills.

Some reasons for deviations that were not frequently mentioned in response to other survey questions included:

- Stipulation (12 percent of respondents who gave a reason): "No court ever seems to deviate from the guideline unless the parents stipulate to a different order amount."
- Extraordinary expenses of one or both parents (9 percent): "Cases in which the obligor must pay something toward substantial arrearages that are owed to the state/county." "To compensate for spousal support when it can no longer be ordered. In my case, the child support is so high that my ex-wife, her new husband, and one of his children can live off the support ordered by the court for my four children."
- Time-sharing/visitation expenses (9 percent): several respondents just mentioned that courts sometimes consider the costs of visitation, especially travel costs, but as one respondent wrote:

[The court deviates] when the noncustodial parent takes employment in another state and cannot afford to visit the children. By moving out of state to keep employed and to keep up with the support order, the visitation frequency goes down. When the visitation goes down, the amount of financial support goes up. When the already high financial support goes up, the less affordable it becomes to visit the children.

## Problems Using the Guideline

As with the question about the reasons that courts deviate from the guideline, the survey gave respondents an opportunity to list any problems they had using the guideline to establish or modify child support orders. The nonresponse rate to this question was about the same (34 percent) as to the question about the reasons that courts deviate, except that the proportional nonresponse rate was about the same for all groups. Thus, parents and advocates were just as likely to list a problem as child support staff and attorneys. Despite the fact that respondents were allowed to name as many problems as they wanted, only about a quarter of the respondents (26 percent) named more than one problem.

The major problems respondents said they have using the guideline are displayed in Exhibit [6-09](#) (p109). As in earlier graphs, the problems are displayed only as a proportion of respondents who listed at least one problem. The problem most frequently mentioned is that orders set using the guideline are too high (33 percent), a comment that reflects respondents' ratings to earlier survey questions about the fairness and level of child support orders. Many comments about the high level of support were directed at low-income payors. Although some respondents made general comments about the guideline being too high ("It [the guideline] is too high for most people."), others were more specific ("The guideline is too high in very-low-income situations and where the time share is 0-20 percent.").

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Many problems that respondents listed were grouped into a category called “gross income adjustments,” which was listed by 12 percent of respondents. This category included comments about problems:

- Defining income (for example, “It is unclear on how to measure income—how to deal with IRA withdrawals, tax refunds, rental losses—especially selfemployment income.”);
- Treating certain kinds of income (for example, “There is a problem with how the guideline treats income from overtime. Some courts include all overtime pay and some courts include a percentage of it.”);
- Dealing with special tax situations (for example, “There is an inability to zero out specific taxes, such as state or federal taxes for certain types of nontaxable income.”); or
- Accommodating income from another spouse (for example, “When you plug in the other spouse’s income, it skews the numbers.”).

Although the issue of additional dependents is discussed in greater detail below, it is useful here to cite a few quotes from respondents who reported problems using the guideline in cases where there are other dependents or where there are multiple orders for support.

Guideline support tends to be too high, especially in cases where the absent parent has other children in a subsequent relationship to care for . . . the hardship deductions are not adequate.

Determining the appropriate amount when there are multiple cases and/or children at home with a new relationship. Guidelines do not leave enough money to live on let alone pay for the new relationship’s expenses.

It is difficult to compute [a support order using the guideline] when the noncustodial parent is seeking to modify two orders simultaneously. The formula requires that the amount of the other child support order be considered, but that amount is not easily ascertainable because it will be modified.

Finally, among the “other” problems respondents mentioned, there were several mentions of the DissoMaster, the computer software program that computes support obligations. Some examples include the following comments: “Differential treatment of tax consequences of remarriage by SupporTax and DissoMaster,” “The computer software does not allow for unique situations,” “The DissoMaster used in our office does not have the low-income adjustment,” “DissoMaster and Norton SupporTax do not come out the same,” and “The computer models are complex, misused, and are sometimes not understood by the parties or the court.” Or finally:

Since courts use computer software programs to calculate support based on the guideline, the problems experienced are those inherent in the particular programs. The most commonly used program is DissoMaster and it does not permit calculation for 50/50 custody — that is the biggest problem in the use of the guideline.

### Dealing With Low-Income Obligors

Every state struggles with the issue of what level of support to establish in cases involving low-income obligors. The California guideline allows an adjustment to the support amount if the obligor’s net income is less than \$1,000 per month. Although California is not the only state that establishes a threshold income at which a parent is eligible for an adjustment, there are many other ways to accommodate low-income situations. For example, some states have built an adjustment directly into their guidelines, while others have a mechanism to ensure that the obligor is able to maintain a minimum standard of living even after paying support. The Judicial Council is interested in learning what changes respondents believed are needed to the existing low-income provision in the guideline. The answers given to this openended question are displayed in Exhibit [6-10](#) (p109).

Almost half of all respondents (49 percent) did not offer any suggestions for changes to the low-income adjustment provision. An additional 17 percent of respondents said that no changes were needed. (This proportion is shown in Exhibit [6-10](#) (p109) as 31 percent of respondents who answered the question.) Thus, almost two-thirds of all respondents (66 percent) were satisfied with the existing low-income adjustment mechanism or had no suggestions about what changes should be made to the adjustment to improve it.

A plurality of those who did offer a suggestion (30 percent) said that the threshold is too low and needs to be increased. Among respondents’ recommendations for changing the threshold were:

- Increase it to a specific higher amount (recommended increases ranged from \$1,500 to \$3,000 per month);
- Eliminate the threshold and establish a sliding scale so that parents who are near but not at the threshold can qualify for some adjustment to their support amount; and
- Use different, higher thresholds depending on the parents’ county of residence, since the standard of living is vastly different among California counties.

The only other recommendation mentioned by at least 10 percent of respondents who answered the question was that any change should consider what it costs to maintain a minimum standard of living (15 percent) and ensure that the obligor has at least that amount of income left after paying child support. Respondents had somewhat different opinions about how this standard should be determined and how an adjustment for this standard should be applied. Some respondent suggestions include: (1) “The obligor and obligee should be permitted to retain a minimum amount of earnings as ‘basic living expenses,’ which should be exempt before setting support,” (2) “People whose net disposable income is more than \$1,000 but who still cannot maintain their standard of living should have recourse to justice through downward adjustments in the amount they pay,” (3) “Allow all low-income parents—both custodial and noncustodial parents—an exemption equal to the minimum basic standard of adequate care to meet their own needs,” and (4) “I don’t think child support should hurt the noncustodial parent’s opportunity to spend time with the child. So, the adjustment should allow the noncustodial parent enough money to care for him/herself and still see the child.”

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Other ideas for the circumstances under which a low-income adjustment should be considered included the obligor's other children, the cost of rent in California, transportation expenses, mortgage payments, a sudden reduction in income (due to, for example, job loss or incarceration), and the obligor's medical needs (mental, physical).

A relatively small proportion of respondents were less sympathetic to low-income obligors than others. Thus, 5 percent of respondents suggested that the low-income adjustment be eliminated altogether. Among the "other" responses were suggestions that use of the low-income adjustment be conditional on the obligor participating in job training or seeking at least a minimum wage job. As one respondent stated:

If someone's net income is less than the minimum basic standard of living, child support should be reserved and the parent should be ordered to look for work and report back to the court.

A full-time minimum wage worker earns \$997 gross, \$855 net. The LIA [low-income adjustment] should be available if monthly net income is less than \$855 and should include an order to seek full-time employment since the LIA would only be available to part-time workers. Also, if a noncustodial parent has income below \$855, the subsequent spouse's income should be considered before the LIA is allowed.

Not reflected in Exhibit [6-10](#) (p109) about the changes that respondents recommended to the low-income adjustment were comments about the need to have a minimum support obligation; that even in low-income situations there needs to be a minimum support order entered by the court. As one respondent wrote, "There should be a flat bottom minimum nominal child support amount below which no one can go unless there is a court hearing." Others argued against any minimal support obligation and believed that in some cases a \$0 support order is justified.

In sum, respondents did not make a wide range of suggestions about how to change the low-income adjustment provision. Most want to see it increased and others recommend considering the cost of living in making that adjustment. What those costs are, however, differed in the suggestions of respondents, with some saying that the adjustment should (1) take account of "everyday living expenses" of the obligor, (2) be minimum wage income; (3) equal the federal poverty threshold for a single person or some percentage of that threshold, (4) allow a "quality" standard of living or a "reasonable" standard of living, (5) reflect "real life" economic conditions, or (6) not reduce the obligor's existing standard of living.

### Using Net or Gross Income to Calculate Support

A second issue of particular interest to the Judicial Council was whether users believed the guideline should calculate support based on the parents' gross or net income. The existing guideline uses net disposable income, and, as many respondents reported, there are problems with this approach because of how net income is calculated. Some respondents did not believe that the guideline's provisions adequately or accurately calculate net income (for example, taxes are incorrectly calculated). Other respondents cited difficulties dealing with complex tax situations, marital debt, mortgage payments, business expenses, and judges who sometimes disregard some income in calculating gross income. The survey therefore sought users' opinions about the use of net or gross income as a base for support calculations. Specifically, the survey asked respondents three questions: (1) whether it is *easier* to use gross or net income to calculate support, (2) whether it is *more equitable* to use gross or net income to calculate support, and (3) whether they believed the guideline *should use* net or gross income (or some other income) to calculate support. The answers are displayed in Exhibit [6-11](#) (p110) for all respondents. Then, Exhibit [6-12](#) (p111) displays the responses to two questions by respondent group (for example, parents, private attorneys).

The pie charts in Exhibit [6-11](#) (p110) clearly show that respondents prefer that the guideline use net income. A plurality (38 percent) believe that net income is easier to use than gross income, a majority (64 percent) believe that net income is more equitable to use than gross income, and a majority (58 percent) believe that the guideline should use net income rather than gross. Fairly sizable proportions of respondents said they did not know which was easier, more equitable, or what should be used. Many did not see the point of the question. The following remark reflects the comments of several respondents on this point.

I don't understand. We start from gross income in every case. The computer ends up calculating net income in every case. We don't calculate anything.

This perspective certainly was not shared by everyone since many people reported adjustments to gross income for different tax situations, business expenses, mortgage payments, and the like. As mentioned earlier, some respondents even said that judges make adjustments to what income is counted as gross. The remark does reflect some confusion about how the guideline works.

To the question about what income *should be used* to calculate support orders, 10 percent of all respondents said "other," although not all other suggestions were income driven. For example, some respondents believed that support should be based on the actual costs of raising a child, half of the federal poverty threshold for one child, or that each parent should pay the costs of child rearing when the children were with him or her. Of the suggestions that were based on parents' incomes, there were suggestions that net income be used, but adjusted for cost-of-living differences in California counties, mortgage/rent and transportation expenses, and individual family situations.

Exhibit [6-12](#) (p111) shows the opinions about the use of gross and net income by respondent group. The proportions for each group do not add up to 100 percent because the figures do not show the proportion of "don't know" responses, which in some cases was substantial, particularly to the question about whether gross or net income is more equitable to use in calculating support orders. For example, some 60 percent of parents did not know which is more equitable, compared to 18 percent of private attorneys and less than 10 percent of the other groups in the figure.

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From the exhibit, it is evident that the opinion among respondent groups was divided about whether gross or net income is easier to use. Parents and advocates were significantly more likely than other user groups to report that net income is easier to use to calculate support than gross income. Conversely, user groups were more likely than advocates and parents to report gross income as easier to use than net to calculate support. The proportions of respondents who thought that both are equally easy were about the same across all groups.

In terms of whether gross or net income is more equitable to use, respondent groups were in greater agreement. The majority of users (including parent and child advocates) believed net income is more equitable to use. Parents, on the other hand, were almost equally divided in their opinion about whether gross or net income is more equitable. But, since some 60 percent of parents did not or did not know how to answer, it is impossible to determine their true preferences. As indicated by some earlier comments, some parents believe income is the wrong base to use in calculating support in the first place.

## Second Families

A third issue the Judicial Council was particularly interested in having the survey address was second families; that is, children the obligor or obligee has a duty to support but who are not covered by a child support order. The survey asked respondents what changes they thought should be made to the guideline's existing provisions for two scenarios:

- *Scenario 1.* The obligor or obligee has a second family with children who are not living in that parent's household and that parent is paying voluntary (not courtordered) support for those children. The guideline currently provides for a deduction from income for any voluntary support actually being paid but not to exceed the amount established by the guideline.
- *Scenario 2.* The obligor or obligee has a subsequent intact family unit with children who are being directly supported by that parent while residing in that parent's household. The guideline currently provides for a maximum hardship deduction in this circumstance, but not to exceed the support allocated each child for whom support is being calculated.

The suggestions for dealing with these situations are displayed together in Exhibit 6- 13 since in many instances the suggestions were the same. As in earlier graphs, the proportional response rates are based only on the people who answered the question. Approximately 43 percent of the respondents did not answer one or both questions.

For both scenarios, a majority of the respondents believed that the provisions in the guideline are adequate or fair. Thus, 59 percent of the respondents believed the provisions for dealing with voluntary payments are all right, and 56 percent believed that the provisions for dealing with subsequent children in the parent's home are acceptable. At the other extreme, small proportions of respondents—proportions too small to be displayed individually in the exhibit—believed that the provisions should be eliminated.

## Scenario 1

With respect to the first scenario (that is, deductions from income for voluntary payments), the change that a plurality of respondents recommended was that the parent must show proof of payment (14 percent of the respondents made that suggestion). They recommended that the parent paying support should be required to show a record of continuous payment for six months or that the parent receiving support sign an affidavit that support is being paid. Even as they made this suggestion, however, they saw problems for some respondents. In the words of one respondent:

Change the documentation requirement to a sworn affidavit. The problem in this area comes from the documentation requirement. Many noncustodial parents have paid in cash or provided in-kind support which they can't document and therefore they won't get the deduction.

Another respondent worried that even with proof of payment there would be problems and suggested that a support order was needed for those children.

A person should be entitled to a deduction if the child support is courtordered. Without a court order, the obligor could stop paying the other child's support the day after he/she gets the deduction and the present custodial parent probably would not be aware of it or would have great difficulty paying it.

The second most frequently mentioned suggestion was that all children should be included in the support calculation. That is, instead of allowing a deduction for voluntary support paid, the parent's full income should be used to compute a support obligation that includes all the children. This could be done in two separate calculations, or a single obligation could be computed and then the obligation could be prorated based on the number of children being supported in each household. The following two comments reflect the thinking of respondents on this issue.

The second-family deduction should be computed at the guideline level to avoid subsequent modification of the established order if a formal order is ever sought for family number two. All the children should be treated equally for support purposes.

I think guidelines should disregard the amount actually being paid voluntarily and assume that a guideline order is already in place for the other case. This way only one extra modification hearing will be required. Otherwise, a modification in the other case would not result in guideline support in both cases.

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Among the other comments about the *amount* of the deduction were suggestions that it should consider the actual living expenses of the children for whom voluntary support was being paid and any income of the new spouse/partner. Other respondents suggested that the deduction be eliminated, be mandatory, be discretionary, or be dependent on which set of children were born first. Among those advocating to eliminate the deduction was one respondent who said, "Eliminate this hardship deduction. I've seen too many cases where the noncustodial parent claims this, but it ends up being for (1) payments that started after our cases did or (2) payments that have been very sporadic."

## Scenario 2

Scenario 2 met with many of the same comments as Scenario 1. Thus respondents suggested the following:

- All children should be considered in calculating the support obligation (10 percent of those who answered the question): "Children from both families should be treated equally in terms of providing money for each family's support. No preference should be given to 'which children were born first.'"
- The income of the new spouse/partner should be considered in establishing what the deduction amount should be for the subsequent family (8 percent): "Do not automatically give a maximum hardship deduction. The guideline should offer a sliding scale and take into account the income of the new spouse/partner/parent of the subsequent children."
- Consider the children's special needs in establishing an appropriate deduction amount (6 percent): "Include a provision for special needs children and actual child-care costs being paid for children in the second family," and "If NO special circumstances are involved (for example, medical, educational), then it should stand as it is. When there is a special circumstance, whenever it occurs, an immediate allowance should be put into place."
- Consider the actual living expenses of the children in the subsequent household (3 percent): "I believe the guideline needs to be more realistic as to the actual costs of supporting the subsequent intact family unit. The maximum hardship deduction is unrealistic and fails to consider the detrimental effect that the resulting support order may have on the obligor's/obligee's new family and children."

A few respondents, but not enough to be included in the graph, were outspoken in their opposition to any adjustment. In the words of one respondent, "Normally a parent chooses to have a subsequent family unit. If support is lowered due to that obligation, the obligee is, in effect, subsidizing the subsequent unit. That is generally unfair." Other respondents believed the hardship deduction should be reduced to the "minimum living expenses of the subsequent child." And finally, others thought the hardship deduction as stated in the guideline was not enough. "Children of noncustodial parents living with them deserve the same protection as children who benefit from a support order. There should be a much more significant hardship adjustment to income for children of a second spouse living with the noncustodial parent."

It appears from respondents' remarks that courts have made some adjustments to this guideline provision in calculating the hardship deduction. As one respondent stated, "Our court only gives a one-half hardship deduction for these types of children, reasoning that the other parent of that child is responsible for the other half of that child's care." Some respondents noted that because all families are unique, there should be considerably more latitude given to judges in setting the amount of the deduction.

## SUMMARY

This chapter has presented findings primarily from a survey of people in California who use the child support guideline to establish and modify support orders, although some parents also responded. The survey's purpose was to (1) assess whether these users believe the guideline results in orders that are fair and equitable, (2) learn what users believe are the strengths and weaknesses of the guideline, (3) understand what problems users have with the guideline in establishing support obligations, (4) identify what reasons users believe courts deviate from the guideline, and (5) identify changes needed to some of the provisions in the guideline dealing with low income, second families, and the use of gross or net income to calculate support obligations.

### The Guideline's Strengths and Weaknesses

Overall, respondents rated the guideline as mostly unfair to the noncustodial parent and the parents' children from other relationships and mostly fair to the custodial parent. The fairness rating they gave to the children for whom support was established was in the middle of the fairness scale, thus neither fair nor unfair. That is, on a four-point scale, the average fairness rating was considerably less than 2.5 for both parents and the children from other relationships and somewhat greater than 2.5 for the children for whom support was established. This perceived lack of fairness was further evidenced in what respondents believed about the level of support orders; whether they are too high, about right, or too low. A majority of respondents (60 percent) believed the support orders established using the guideline are too high. About a quarter of all respondents (28 percent) believed they are about right, and only 4 percent believed they are too low. Regardless of these opinions, however, most respondents had some positive things to say about the guideline, which are captured in the following remark:

The guidelines aren't perfect, but they have resulted in orders that are far more consistent than in past years and more in tune with reality in terms of the cost of providing support for children.

Indeed, in reporting about the guideline's strengths, respondents most frequently mentioned that the guideline (1) is consistent, uniform, and objective (22 percent); (2) yields predictable results (11 percent); (3) is fair to children (7 percent); and (4) yields reasonable support amounts (5 percent). Respondents also cited the guideline for its ease of use (7 percent), its use of net income (9 percent), its consideration of each parent's time with the children (10 percent), and the judicial discretion the guideline allows to deal appropriately with each family's unique circumstances (6 percent).

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Respondents mainly faulted the guideline for yielding support orders they believe are too high (19 percent) and for being too rigid and inflexible (13 percent). They also mentioned special factors about the guideline they did not like, such as the shared parenting time adjustment (13 percent), which many believed encourages conflict between the parents; the additions for child care and medical costs (11 percent), which they believe are unfair; and the low-income adjustment (7 percent), which they believe is inadequate. Yet, they also were disappointed that the guideline does not address other special factors of interest to them, such as rent, transportation, and excessive visitation costs.

It was difficult to make a direct link from what respondents saw as the guideline's strengths and weaknesses to what types of families they believed are helped or disadvantaged by the guideline because responses to the question about families were more general. Thus, instead of talking about the presence or absence of specific adjustments, respondents mentioned very general family types. Moreover, the types of families respondents believed are helped by the guideline were also the types they thought are disadvantaged. For example, 8 percent of respondents said the guideline helps all families, and 9 percent said the guideline is difficult for families. Similarly, respondents reported the guideline as helpful or difficult for low-income, middle-income, and high-income families, although not in the same proportions. Thus, while 47 percent of respondents said the guideline is difficult for low-income families, only 14 percent said the guideline is helpful to low-income families.

In general, respondents seemed to believe that the guideline is most helpful to middle-income families that do not have any special circumstances that need to be considered (for example, no second families, no unusual expenses). The guideline appears to be most difficult for low-income families and those who have special circumstances (for example, one or both parents is self-employed or there are hardships or multiple families to consider).

### Problems and Deviations

Among the problems respondents reported in using the guideline, the most frequently mentioned problem (33 percent of the respondents who listed a problem) was that the guideline yields support orders that respondents believed are too high. Respondents also cited problems with time-sharing arrangements (20 percent) and then several problems dealing with gross income (12 percent). In particular, respondents reported problems dealing with self-employment income, imputing income when income information is not known, and adjusting for income from overtime, bonuses, and another partner or spouse. A final set of problems mentioned dealt with special factors, such as low income, other dependents, multiple support orders, and children's special needs.

The reported problems using the guideline are reflected in the reasons respondents said courts deviate from the guideline in calculating child support orders. For example, the most frequently reported reason for deviations was low income (32 percent of the respondents who listed a deviation). Similarly, respondents reported deviations to accommodate the unusual needs of each family (for example, second families, parents' extraordinary expenses, time sharing/visitation expenses) and to deal with income issues (for example, absence of income information, under- and unemployed noncustodial parents).

### Adjustments for Special Factors

This study paid particular attention to three issues: (1) the low-income adjustment in the guideline, (2) the use of gross or net income to calculate support orders, and (3) adjustments for second-family situations (that is, children not covered by a child support order but who the obligor or obligee has a duty to support). The survey included questions that asked respondents for recommendations for how to incorporate adjustments for these factors into the guideline.

#### *Low-Income Adjustment*

One survey question asked respondents to rate the adequacy of the guideline's adjustments for 11 special factors. Of those factors, the adjustment for low income received the lowest adequacy rating. Also, when asked to list the family types for which the guideline is most difficult, the most frequently mentioned was low-income families. Yet, when asked what changes they would like to see made to the low-income adjustment, almost two-thirds of all respondents (66 percent) did not make a suggestion or said no changes are needed.

Among respondents who did submit suggestions, the changes they would most like to see dealt with the income threshold used to qualify parents for a low-income adjustment. Most respondents believed the existing threshold (\$1,000 per month net income) is too low and should be (1) increased to a higher amount, (2) changed to a sliding scale (for example, to accommodate different costs of living in different California counties), or (3) changed to consider the minimum costs to live, which had different meanings to different respondents (for example, federal poverty level, "reasonable" costs, existing standard of living). At the other extreme were respondents who suggested eliminating the adjustment altogether or making eligibility for the adjustment conditional on the obligor parent enrolling in a jobs training program or seeking work. Finally, a small proportion of respondents thought that the low-income issue could be resolved or handled better by allowing greater judicial discretion in setting the amount of the support order.

#### *Gross Versus Net Income*

The clear preference from all respondent groups was that the guideline should use net income to calculate support. A plurality of respondents (38 percent) said net income is easier than gross income to use in calculating support, a majority (64 percent) believed it is more fair to use net than gross income, and a majority (58 percent) believed that the guideline should use net income. While some respondents had other suggestions for calculating support obligations that were not based on income (for example, the actual costs of raising a child), most respondents appeared to like the guideline's use of net income.



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## ***Second-Family Adjustments***

The survey defined the second-family situation in two scenarios: (1) parents paying voluntary (not court-ordered) support for children not residing with them and (2) parents supporting children who live with them and who they have a duty to support. A majority of the respondents who answered the questions said that the existing provisions in the guideline for dealing with these situations are fair, acceptable, or adequate and that no changes are needed.

Specific suggestions for changing the provisions that deal with voluntary payments included (1) requiring that the parent show proof of payment, generally over a substantial period of time (for example, six continuous months), (2) establishing a court-ordered support obligation for all the children so that the needs of all the children would be addressed and prevent further litigation of the support issue, and (3) considering the actual living expenses of all the children.

The respondents' suggestions for dealing with the intact family situation were similar to the suggestions for handling voluntary payments. Thus, a plurality recommended including all the children needing support in the calculation of the support order. Other recommendations included (1) taking account of the new spouse/partner's income, (2) considering any special needs of the children needing support, and (3) considering the actual living expenses of the children in the second family.

## **Conclusions**

The survey uncovered many contrasting points of view. On the one hand, there were respondents who would like the guideline to be advisory so that judicial officers can deal with the unique needs of each family and differences in the cost of living in California counties. They would like to allow judicial officers greater discretion in making adjustments to support orders calculated using the guideline. The comments below at least partly reflect the opinions of some respondents in this group.

Family units are very complicated in nature. When divorce happens to a family, each case has unique circumstances. I have seen noncustodial parents taken to the cleaners (so to speak) and then I have seen custodial parents get very little support because the other parent is unemployed and manipulates the system. I suppose the system will never be perfect, but I feel that the needs of the children aren't always being met.

California has extremes; the best and worst, the richest and poorest. Creating one guideline that works for high wage earners in LA and also works for poor people in Siskiyou County is not an easy—or some would say possible—task.

Other respondents like the presumptive nature of the guideline (for example, greater objectivity, uniformity, consistency, predictability) and some of them seem to want even more structure and less judicial discretion in establishing support order levels.

Despite these contrasting points of view, a majority of respondents did not have major recommendations for improving the guideline. For example, a majority still believe the guideline should use parents' net income to calculate support, and majorities either had no suggestions for change or believed that the existing guideline provisions are acceptable for dealing with low-income families and secondfamily situations.

Regardless of what changes are made to the existing guideline, respondents all believe that parents have the right and responsibility to support their children. The challenge appears to be developing a guideline that deals evenhandedly with both parents and their children. Many respondents do not believe the existing guideline achieves that objective, and this survey has presented many ideas for improvements to deal with special circumstances.

## CHAPTER 7

### PARENTS OPINIONS ABOUT THE GUIDELINE

#### BACKGROUND

Parents play an important role in any review of the child support guideline because they are directly affected by how the guideline is applied by the court to calculate a child support order in their cases. Although it was realized that parents may not be conversant about all the guideline's provisions, it was important to learn what problems they had using the guideline to establish a support order, what issues they faced paying or receiving support, and what recommendations they had for changing the guideline that would make it easier to use, be more equitable in its outcomes, and yield support orders that are in the best interest of the children.

In order to capture this information, the study team conducted several focus groups and personal interviews with parents, either in person or by telephone. This chapter presents findings from these data-gathering activities. The qualitative information from this effort was meant to supplement the more quantitative information captured from the survey of guideline users. Findings from that survey are presented in Chapter Six of this report.

#### Methodology

The purpose of the discussions with parents was to gather a broad range of opinions about the guideline and ideas for change and to explore those opinions and ideas in sufficient detail to understand them. In short, this was not an effort to collect information from a representative sample of parents with support orders. It was instead an effort to gather detailed qualitative information about selected guideline issues.

Focus groups are ideal for capturing this kind of information. Their primary strength is that, more than any other method, they can elicit unanticipated responses, allow the investigator to probe or follow up on responses for clarification or depth, and help group members shape and refine their thinking as they talk with others about a shared concern. For parents who were not able to attend the focus groups, personal interviews were conducted with those who could be reached. Like focus groups, personal interviews allowed for the exploration of concerns and ideas in greater depth than through the survey that was administered to guideline users. However, personal interviews have a disadvantage relative to focus groups in that they do not provide an opportunity to share the individual's ideas with a larger group or to explore some of the underlying issues and detail that a group setting can provide.

Three focus groups of parents were conducted, one in the San Francisco Bay Area and two in San Diego. The groups were somewhat different in the strategies used to recruit parents, the size of the groups, and the backgrounds of the parents who participated. The approach that was used in each site to recruit parents for the groups and the characteristics of the parents who participated are described below.

#### *San Francisco Bay Area*

The original plan was to conduct four to six discussion groups of about six people each; half would be composed of obligors, and the other groups would be composed of obligees. Ideally, the discussions would occur in places already familiar to many of the participants: facilities housing the family support divisions of the local district attorney's offices or the family law facilitators.

In general, the questions for the focus groups were designed to learn:

- How well informed parents are about the child support guideline;
- How fair they consider the guideline to be;
- How familiar they are with potential sources of help around child support issues;
- How important they think representation by private counsel is in support matters;
- What experiences they have had in establishing support orders without court involvement; and
- The extent to which they think support orders conform to the guideline.

The first step in recruiting people for the focus groups was to introduce the project and investigator to the district attorneys and family law facilitators in six San Francisco Bay Area counties (Alameda, Contra Costa, Marin, San Francisco, San Mateo, and Santa Clara) and request their assistance. Specifically, they were asked to distribute some material the project prepared to English-speaking parents who, within the preceding year or two, had been involved in establishing a child support order.

About 95 recruitment envelopes were sent to the offices of the four facilitators and two district attorneys who agreed to help in the recruitment process. Another 8 to 10 recruitment packets were sent to a retired family law attorney recommended to the evaluator by the chairperson of the Family Law Section of the Alameda County Bar Association. Efforts to locate and contact advocacy groups or individual advocates were not productive.

Each recruitment envelope contained (1) a letter from the evaluator describing the project and what participation would entail, as well as assurances of confidentiality; (2) a response form; and (3) a self-addressed, stamped envelope for return of the response form if the recipient wanted to participate or wanted more information. The 100+ recruitment packets yielded responses from 16 people: 5 women, 10 men, and 1 person whose name did not indicate gender. Eight of the 16 and another person referred to the evaluator through the Judicial Council participated in the evaluation. Because these few people included both obligors and obligees and they were residents of four different counties, it was not feasible to limit the data collection to focus groups. Thus, some people were interviewed individually, either by telephone or in person.

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It was not possible to determine a response rate to the recruitment effort because it is not known how many recruitment packets reached potential participants. The fact that more men than women responded and participated was unusual in that women typically are more likely to respond positively to invitations to participate in research. The gender distribution here may reflect the fact that more facilitators (whose clients are disproportionately obligors) than district attorneys (who have more contact with obligees) agreed to help recruit. It also may be that the child support guideline is of greater concern to men than women.

### ***San Diego***

The Judicial Council and a local parent advocate organization, the Coalition of Parent Support (COPS), assisted in recruiting parents to participate in the group. COPS sent letters to and called parents in its membership database to recruit participants. Two people who could not attend the focus groups asked if they could share their opinions in a telephone interview and they were accommodated. Altogether, 28 people attended the focus groups, and telephone interviews were held with 2 people.

The following protocol was used to conduct the focus groups:

- Each group lasted from two to two and one-half hours.
- The groups included a mix of men and women. Most of the participants were noncustodial parents. However, there were also a few custodial parents; wives, friends, and parents of noncustodial parents; family counselors; and others.
- A short survey was administered to people who attended the focus groups to capture some background information. Responses were voluntary, and not everyone completed a survey.
- The information that was provided to the participants included (1) some background information about the study, (2) the objectives for the focus groups, (3) the confidentiality of answers, and (4) ground rules for the discussion (for example, respect each other's opinions, limit your time to allow everyone to talk, be honest and candid).
- A list of questions was available to address with every group, but each group was somewhat different and no group discussed every issue on the list.

In the first focus group, it was clear that not all the participants had a clear understanding of the guideline and the factors the guideline uses to establish a support order. Thus, at the second focus group, the discussion began with a brief overview of the guideline. Some case examples that one parent had prepared to illustrate the impact of the guideline on the income transfer between the parents were distributed.

### **Background of Participants**

#### ***San Francisco Bay Area***

Two of the participants were women, obligees, and custodial parents of children whose fathers play little or no role in their lives. Both are women of color and stably employed in lower-middle-class jobs. One was interviewed in her home, and the other was interviewed in the evaluator's office.

Of the seven men who participated in the evaluation, five were obligors, one was an obligee, and the other was both an obligor and obligee. Their involvement in the lives of their children ranged from infrequent visits with children who are out of state to full-time custody. Six of the men are stably employed, and the seventh works seasonally when able. Their occupations range from unskilled work to professional positions, and all are Euro-American. Three of the men participated in a focus group that met in the local district attorney's facilities. A telephone interview was conducted with one man who was not interested in participating in a focus group but wanted to contribute his opinions about the guideline. Three face-to-face interviews were conducted in a conference room at one man's place of employment, in another man's office, and in a conference room in a county law library.

#### ***San Diego***

Participants were overwhelmingly noncustodial parents, which had an impact on their comments and the recommendations they made for improving the guideline. A profile of the participants, based on their majority responses to certain survey questions, showed the following:

- A majority of participants (56 percent) said the amount of their support order was more than they expected.
- Only a simple majority (50 percent) believed the judge hearing their case followed the guideline in establishing the support order.
- A majority (56 percent) did not believe the other parent reported his or her income correctly at the time the support order was established.
- Almost 90 percent of the participants believed the support amount was very unfair to them, but a majority believed it was somewhat or very fair to the other parent.
- In addition to the basic support amount, a majority of participants (69 percent) said they also were paying for medical insurance and/or child care.
- Somewhat more than a third of the participants (36 percent) reported seeing their children at least once a week. The few respondents who were not seeing their children at all typically attributed this to the custodial parent's denial of access.
- Three-fourths of the participants (75 percent) said they had private attorneys help them establish their support order.

Although not asked as part of the survey, several parents volunteered that, as a result of paying child support, they have had to declare bankruptcy. They believed this was a common phenomenon among noncustodial parents and encouraged the Judicial Council to fund a study to examine how frequently it occurs.

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## Major Themes

Given the background and experiences of the participants, it was not surprising that they were not strong supporters of the guideline and had some negative things to say about the system used to establish a support obligation. Yet, they offered constructive advice about changes they believed would help achieve the goals of keeping both parents involved in the child's life and meeting the best interest of the child emotionally and financially.

Several common themes emerged from the focus group discussions. Some were process issues, and some were specific to provisions in the guideline that have created problems.

### ***Process Issues Raised by Focus Group Participants***

- Participants complained that the guideline only deals with the financial side of child support. It does not, in their opinion, consider the emotional side of child support and what it would take for both parents to provide that support. Participants suggested that the time-sharing arrangement should be decided by the parents first, before any financial information is exchanged. Only after the time sharing was negotiated would the parents begin looking at the financial arrangement for child support.
- Participants did not like the adversarial nature of the support hearing, but they were not certain about how to improve the process. Some did and others did not have much trust in the family law facilitators whose role as intermediaries could help remove or at least soften that adversarial approach.
- Court-appointed psychologists and attorneys were seen by participants as exacerbating conflict between the parents rather than helping to minimize it.
- Almost without exception, participants believed there is a bias in the system toward mothers. They cited numerous examples to illustrate this belief.
- Some participants believed that judges are not using the guideline appropriately. Some people insisted that judges were using gross instead of net income to set the support order amount. Others cited examples of how an individual county's guideline could result in different order amounts.
- In the view of participants, there are tremendous barriers (for example, the costs of pursuing an adjustment in court, the time involved by the parties, calendar time to get a hearing) to getting support orders adjusted when things change (such as a change in time sharing, loss of a job or other reduction in income, the end of the need for child care).

### ***Guideline Issues Raised by Focus Group Participants***

- *Shared parenting time consideration.* This was viewed both positively and negatively by participants. On the one hand, some participants liked the time-sharing factor because it recognized the importance of having both parents involved in the lives of their children and gave credit for whatever time share each parent had. On the other hand, some participants believed that the time-sharing credit led to arguments between the parents, who would each try to maximize his or her time with the child to get the most advantageous support order.
- *Net versus gross income.* Participants preferred that the guideline use net income rather than gross income to establish support awards because the parents' actual tax situations are considered.
- *Second families—hardship adjustment.* Some participants found it unfair that support orders could increase because of the other parent's decision to have additional children.
- *Add-ons for child care and medical needs.* Participants believed these should be handled on an as-needed basis and that their inclusion in the support order was unfair because they may only be needed for a short time and once they were in the support order it was difficult to get them eliminated. For example, when child care is no longer needed, why should the support order include an add-on for that expense?
- *Adjustment for visitation expenses.* Participants believed there was not enough credit given for visitation expenses and that the credit should be made mandatory, especially if the judge orders certain levels and types of visitation (for example, long-distance telephone contact or one parent required to do all the driving for visitation).

## **FINDINGS FROM THE SAN FRANCISCO BAY AREA**

The discussions and interviews with parents in the San Francisco Bay Area were designed to cover the following general issues:

- How well informed parents are about the child support guideline;
- How fair parents consider the guideline to be;
- How familiar parents are with potential sources of help to deal with child support issues;
- How important parents think representation by private counsel is in support matters;
- What experiences parents have had in establishing support orders without court involvement; and
- The extent to which parents think child support orders conform to the guideline.

### **Parents' Knowledge About the Child Support Guideline**

Participants' knowledge level about the child support guideline ranged from being totally uninformed to knowing not only what factors are used in determining a support order but also knowing about the legislation that created the child support system. Some of the participants expressed uncertainty about their knowledge level; they could describe information elicited from them by attorneys or the software used to generate a support figure, but they thought there might be provisions in the guideline not revealed to them. As one participant put it, "I never got beyond that superficial understanding of what I was dealing with."

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This and other questions elicited comments reflecting the need for more information or more readily understood information. Two of the participants attributed early trouble they had with the courts to their inability to understand what was expected of them. One ignored correspondence from the district attorney's office not only because he had no money, but also because he could not understand the documents. Even when he got to a point where he could and wanted to assume his responsibilities, he was discouraged by all the paperwork: "They'd ask me a question on this paperwork, and I wasn't sure what it meant because I'm not familiar, and that's what discouraged me." The other participant expressed the same reaction: "It just beats you down; it's been hell."

Although one of the custodial parents was able to complete and file the papers for a support order on her own, it was a lot of work and she found the task daunting. More importantly, she did not know what to expect as she began this process and would like to have been better informed. Her sentiments were echoed by other participants. A noncustodial parent in the focus group provided an example of the dilemma the parents sometimes are in because of their ignorance: income was imputed to him from his retirement account when he was forced to cut back to parttime work. He was concerned that if he resumes full-time work as he would like, the new income will be *added on top of* the imputation rather than *replacing* it. Thinking back to the time of his marital dissolution, he said, "I really would like to have had a handbook to tell me what the two- and three-letter phrases mean beyond which space is for a number, and to understand how that equation works beyond that onepage bombshell [the form that elicits information for the support order]." He referred to the process as "Russian roulette."

Asserting that most people do not understand the guideline, another noncustodial parent suggested:

If we all had better knowledge, we could plan accordingly and accommodate our responsibilities for child support. It would serve all concerned to be better prepared, to plan for it as we do for taxes and everything else we do.

### **Fairness of the Guideline**

In general, obligees viewed the guideline as fairer than did the obligors, a couple of whom had done considerable analysis of it. Thus, their responses to the question about fairness ranged from somewhat complicated critiques to more spontaneous and pointed responses.

### ***Custody Versus Support***

One of the participating obligors argued—and produced supporting evidence—that the guideline needs to be rethought in a very fundamental way because it increases the likelihood that children will suffer the loss of a parent in the dissolution of the relationship between the parents. This is because, "The financial incentives for custodial and noncustodial parents are completely different and completely contradictory." He pointed out that the major cost of caring for a child is housing, and that a noncustodial parent has to be able to provide a room for a child in order to get a court to order custody, even for the traditional every-other-weekend custody. He estimated the difference in rent between a one-bedroom and a two-bedroom apartment as \$800–1,000. Thus, "A guy who wants to be in his kid's life at all has to make an incredible financial outlay to have him be there a day a week." However, "There's no incentive to do that in the support guideline." The reduction in support an obligor pays is minimal if the child is in his or her custody only one day a week.

For the custodial parent, however, the guideline provides an incentive to *limit* the noncustodial parent's time with the offspring to one or two days a week. Referring to analyses he had run on the relationship between the noncustodial parent's time share and the amount of support paid to the obligee, the participant pointed out that it generally is when the child is spending three or four days a week with the noncustodial parent that a major reduction occurs in the support amount, even though the expenses involved in caring for the child change minimally after one or two days a week. Thus, there is a disincentive for noncustodial parents to have any role in the lives of their children, which is matched by a disincentive for custodial parents to agree to anything approaching equally shared responsibility for children. Acknowledging that many people are able to share custody in spite of the disincentives, the participant asserted that, "An economist would take a look at this and say, 'You've set up a guideline that's designed to encourage fighting, that encourages warfare over custody.' You've put the kid, with these guidelines, right in the middle of a battlefield."

An obligee who strongly wished that her daughter had a relationship with her father also proposed a financial incentive for people to participate in their children's lives. She, however, took a different approach, suggesting that obligors who are not involved with their children should pay an additional fee that would enable the district attorney's office to fund programs designed to educate parents about how important they are to their child's development.

### ***Income of the Two Parties***

Another obligor described ways in which he sees the calculation of support as unfair. After explaining that the incomes of the two parents are aggregated and "split by the amount of time the child spends with each parent," he challenged the reasonableness of the fact that if he and his former wife shared custody of the children 50–50, "I still pay her; go figure!" Also, if she gets a salary increase and therefore needs less support, "my child support goes up; go figure!"

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## Other Recommendations

Other thoughts about how the guideline should be changed focused on specific factors:

- *Cost of living in the Bay Area.* The cost of living in the Bay Area was mentioned by virtually all the participants. One custodial and one noncustodial parent felt specifically that the cost of local housing should be reflected in support levels. The noncustodial parent asserted that after paying his support he was not left with enough money to pay his basic living expenses and was unable to visit his children, who live out of state.
- *Child-care costs.* One of the noncustodial parents who raised this issue asserted that he was paying twice for child care; it was one of the factors used in setting the support order initially and in a subsequent revision he was ordered to pay separately for child care. Another noncustodial parent referred to accommodations parents may have to make to care for children that result in reductions in income. His hypothetical case was a salesman who, because of child-care responsibilities, has less time to devote to making contacts and meeting with potential buyers.
- *Other spouse's income.* Noncustodial parents in the focus group split on whether a new spouse's income should be considered in establishing a support obligation. One parent said that it has the undesirable effect of discouraging the establishment of new families, and another argued that the improved economic status of parents should be reflected in support for their children. He also pointed out that support orders are revised only when there is a *significant* change in circumstances. A custodial parent who did not know if this was a factor said that if it is not, it should be.
- *Support limits.* One participant asserted that there should be a ceiling as well as a floor for support amounts. He felt he should not be paying more than was required to feed, clothe, and house his children.
- *Distribution of support.* An interviewee said that when the older of his two children reaches the age to be excluded from the support order, his support obligation will only be reduced by one-third rather than the half that he considers more appropriate and fair.

## Resources to Assist Parents

### District Attorney's Office

Two custodial parents had been assisted by staff in district attorney's offices. One found the staff helpful—they sent a packet of materials to her that she was able to complete by herself, and they helped her file the papers for a support order—and she felt lucky to have the office available to her. The staff there were always willing to talk on the phone without judging her, “even when I expressed anger, or concern, or whatever.” The other custodial parent enlisted the aid of the district attorney's office when the father of her child defaulted on the support order and the result was garnishment of the obligor's wages. She said she did not receive advice or other assistance from the office, which she described as not advising or representing either party. She described it as “basically a way for us [the father and her] to communicate without talking to each other.”

Most of the noncustodial parents had had direct experiences with district attorney's offices, but few mentioned them as sources of help. The one exception was a focus group participant who referred to a specific individual who returns calls from obligors and attempts to answer their questions.

Only one noncustodial parent described ways in which he feels he was treated with disrespect by the district attorney's staff (“They smirk at you.”). The others tended to speak of ways in which, as part of a system, these offices are problems. They understand that many of the problems are related to enormous workloads but pointed out that the consequences for obligors can be serious.

Neither of the two male custodial parents had yet received support from the mothers of their children. One of them said the district attorney's office had not been able to find the mother, although they have her social security number and he felt certain she was working.

Two of the focus group participants described problems communicating with staff in the district attorney's office. Referring to “one of the procedures under rule 6” that requires “the parties to exchange financial information back and forth so it can be reviewed prior to the court appearance,” one participant told of receiving the other party's financial information only one and one-half hours before he was due in court. He pointed out how little time was allowed for support hearings, which makes it especially important for the parties to be prepared. Thus, in his opinion, the exchange of information should occur well in advance of the hearing.

Another participant described how a member of the district attorney's office staff did not elicit relevant income information from him in making decisions but, instead, imputed income to him. He described the office as having “a don't ask, don't tell policy” that, in this instance, resulted in a support order for about \$190 more than it should have been. “To correct it cost me \$2,000 in attorney's fees.” Both of these participants agreed that because “the district attorney's office carries the power of the numbers,” meaning that the court usually will rely on the district attorney's office numbers in establishing an order, the difficulty obligors face in giving information to or getting it from that office presents potentially serious problems. As one participant stated:

There is a strong partiality and leaning toward the district attorney for information, for calculations, for what's considered to be acceptable, and what's not acceptable, and what's going to play into the [decision] and what's not.



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Although few of the noncustodial parents described feeling persecuted by staff in the district attorney's office, it was common to hear them describe, in one way or another, how they are put in an adversarial role by them. One of the group members described the adversarial feeling as leading to obligors becoming "on the other side." In what he felt was an overreaction to the focus by some politicians on "deadbeat dads," he said, "We all begin to feel we are part of this net enterprise to gather up the criminal element in society that is irresponsible—that we're on the other side of the right part of society." Acknowledging that there are some people who shirk their responsibilities and avoid their obligations, he argued that "99.9 percent of all parents are responsible to their kids by nature. We don't need the courts to tell us that we have to be responsible for our kids."

In the adversarial relationship described above, some of the obligors saw the district attorney's office as representing the obligee and spoke of how threatened they felt sitting alone in court while the obligee sat at the other table with an assistant district attorney (or more than one). I would feel much more comfortable if I thought the DA was representing all parties concerned. At least from the standpoint of fairness in the court, if all parties were equally represented, I think it would be much more effective.

### ***Family Law Facilitator***

The custodial parents were not aware of family law facilitators, but most of the noncustodial parents had had some contact with them. Generally, they described the facilitators as helping them complete forms, but a couple of them added other ways they were helped by a facilitator. One described the facilitator for his county as very helpful and knowledgeable and these characteristics "put you at ease about doing it yourself." The other, a man who has struggled for two years to turn his life around, described the facilitator as being indispensable to him. He said, "I needed help, and I still don't believe that I could actually get things done" without her help. When asked specifically what she did for him, he replied:

She lets me know what my rights are, what's going on, what needs to be done . . . like the questions on the papers. Sometimes I get to thinking they are trick questions, but they're not, it's just a matter of knowing how to read them and she's been a big help with that.

He added that he always feels good when he leaves the facilitator's office.

### ***Child Support Commissioner***

The only participant who had anything to say about this role spoke of the local commissioner's tolerance and flexibility and how this is part of the court's response to the fact that people are trying to gain access.

### ***Private Attorney***

Two noncustodial parents who had engaged the services of private attorneys to help with child support issues described them as not helpful and they ended up representing themselves. One seemed to feel he was managing well, while the other's summary of his experiences was, "I did very badly with an attorney and very badly without." Other participants said they could not afford attorneys or had no need for them.

The participants, even those whose experiences with attorneys had not been positive, said that people should be represented if they can afford it or under some conditions. Three people said this would ensure balance or equality of justice. Among the others, one had not felt the need for an attorney because there was no dispute. However, she said, "If he starts to get crazy on me, then definitely yes." Another participant who had been fairly successful handling his own case said that if he felt he were at risk of losing his children—he has them two-thirds of the time—he would want an attorney.

### ***Community Agency***

Almost everyone was aware of community law services, which they described as providing representation or other assistance at low cost or free of charge to people who meet the income criteria. None of the participants was helped by such agencies. The only person who contacted one did not qualify for the services because of his income.

### ***Private Agreements***

Two participants had agreements that subsequently had to be revised with the assistance of the court. One participant had an informal agreement with her former boyfriend to share the costs of caring for their child. He became unreliable in providing the assistance, and the participant filed for a support order. One participant said his original order was established amicably, but when he fell into arrears with payments his former wife sought help from the court. Another participant and the mother of one of his children recently agreed to ignore their support order. He buys clothing and other things the child needs and the mother acknowledges these expenditures in writing.

### ***Imputed Income***

Generally, participants expressed confidence that commissioners follow the guideline, but the issue of imputed income raised issues of accuracy and fairness for some of the obligors. "Whether one is represented by counsel or is pro per [selfrepresented], there are a lot of questions about what numbers come into play and how they come into play." For instance, a participant whose business involves distribution of products said the district attorney's office did not allow him to deduct his travel and auto expenses as part of the formula. These expenses became part of imputed income, resulting in a much higher support order than would otherwise have been the case. He described imputing income as "the tricky part of the court."

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Another obligor told of seeking a reduction in his support order when his level of employment was reduced to three days a week. "In response, the court said, 'well, you have a retirement account; if you take that early, you would have an additional \$900 a month income,' and they imputed it to me." By drawing out that money, he incurs a penalty for early withdrawal, as well as the lifetime impact of "losing several hundred dollars a month for the rest of my life." It also was pointed out that such funds often are invested in the stock market and that the imputed amount is not influenced by market fluctuations and the resulting shifts in the value of the fund.

Examples of what participants considered excessively aggressive attempts to impute income include:

- Rent that a district attorney's office assumed two sons in college were paying the participant with whom they were living; and
- Money that had been loaned to an obligor by his parents because he could not pay his rent.

One of the participants added that while the court imputed income to *him*, he had been totally unsuccessful in getting the district attorney's office or the court to impute income to his former wife based on resources he claimed she did not report. For instance, she lives in the house in which they built an in-law unit that draws \$1,000 a month in rent, but the district attorney's office would not "raise a finger" to verify that income.

### Other Issues

In the course of the discussions, parents raised issues not directly related to the main study questions. Nevertheless, some of these issues are important and should be considered in a review of the guideline.

### *Modifying the Support Order*

Several obligors described seeking revisions as a "tricky business" that can backfire on an individual. An example of this was provided by a focus group participant who filed for a reduction in his order. The district attorney's office accepted two of the three sets of documentation supporting his assertions about his wife's income, but the judge disallowed them, saying the issue already had been decided, calling it a frivolous motion, threatening him with sanctions, and charging him \$2,000.

Another participant, who was seeking a revision on the basis of improperly imputed income, focused on the length of time it takes to get a hearing. In the meantime, the support order was in place, but he was not paying. The result is that his credit rating is declining, making it harder for him to get the loans he needs for his business.

### *The State's Interest*

The most embittered of the participants characterized himself several times as victimized by the state, which benefits financially from the support he pays. The crux of his argument was that the IV-D program gets incentive payments that are determined by how much support money the program collects from obligors. Asserting that "the state makes money hand over fist," he sees no reason to expect any change in the child support system even though

The best interest of the child is hurt by the statute. The child is left with a broken home that leaves him or her more likely to drop out of school, be imprisoned for a felony conviction, and be visited with the same social ills that characterize children in single-parent families.

### *Franchise Tax Board (FTB) Problems*

In a discussion of the ways in which the child support system creates extra work and cost for everyone involved, members of the discussion group turned their focus to the speed with which the FTB moves to attach assets. According to one of them, if a payment was late or posted to the wrong account, "all of a sudden you're not in compliance and that triggers all sorts of responses and when that happens it means trouble for us." As an example, he referred to inaccurate reports to credit agencies, which the individual is unable to hange. "You just wither away. Your ability to provide becomes less as time goes on."

Another member of the group said that at one point he was paying more than 50 percent of his income and was assured that the FTB would not attach his assets or wages. When he got a second job, the FTB immediately took what was in his bank account, causing checks to bounce—even though he was not in arrears. In addition, he could not get the loan he needed to get him through the lean period because there was an FTB hold on his account. His characterization of the situation was, "They shot themselves in the foot and me in the back."

## FINDINGS FROM SAN DIEGO

Much of the discussion at the focus groups held in San Diego and in the personal interviews centered around problems parents had experienced with the guideline, mostly in their application, and on recommendations for changes to the guideline that the parents believed would address those problems. Although the discussions did touch on the three issues of specific interest to the Judicial Council—the use of net versus gross income as the base from which to establish an order and changes needed to the low-income adjustment and the adjustment for second families—most participants were not familiar with the low-income and second-family provisions, and they had very few comments about the income base except that it should not be changed to gross.

This section first identifies the problems parents have with the guideline. It then moves to recommendations they made for improvements. This includes the major issues that were the focus of this study as well as other issues parents would like to see changed.

# California Child Support Guideline Review 2001

## Support Order Levels

An almost universal opinion among participants was that the child support guideline yields support amounts that are too high. Time and time again, parents complained that the child support guideline calculation yields order amounts that leave noncustodial parents impoverished. [157](#) As a result, they are not able to have the same quality of access they would like to have. For example, parents believed they should be left with sufficient income after child support to house the children properly when they come to visit and to pay for variable expenses associated with access, like food, transportation, and entertainment. In their opinion, if it is important to have both parents meaningfully involved in the child's life (for example, to the child's mental and emotional health and educational achievements), then both parents need to have sufficient resources to make that happen. They see the child support system as structured to give undue advantage to the custodial parent.

The survey that was administered prior to the group discussions asked participants for their opinions about the fairness of the California child support obligation amount to them, to the other parent, and to their children. This information, as well as information from some parents who participated in the San Francisco Bay Area focus groups, is displayed below in Exhibit [7-01](#) (p112).

For the data shown in Exhibit [7-01](#) (p112), the *higher* the average rating, the *more fair* parents believed the child support amount was to them and their children. Conversely, the *lower* the average rating, the *less fair* parents believed the support amount to be. A rating of 2.5 would suggest that parents did not see the support amount as either fair or unfair.

Overall, parents gave an unfair average rating (that is, ratings averaging less than 2) of the child support amount to them and their children. They gave a somewhat fair average rating for the child support amount to the other parent. Thus, while parents generally believed that the guideline results in awards that are somewhat fair to the other parent (average rating = 3.16), they believed the support amounts are mostly unfair to them (average rating = 1.27) and their children (average rating = 1.72). These ratings are not unexpected, given that the vast majority of participants who completed the surveys were noncustodial parents and believed that the support amounts are much too high.

The major reasons parents believed the guideline is unfair are:

- *Add-ons.* Parents believed that economic data on the cost of raising children includes the costs of medical care, child care, and other expenses (such as education expenses). Yet, these are add-ons to the basic support calculated from the guideline formula. Parents perceive they are being double-billed.
- *Visitation expenses.* Although parents recognized that the guideline allows an adjustment to the support amount to accommodate the costs of visitation, they claimed that judges do not make those adjustments. They also argued that the adjustment should include other costs, such as the costs for housing (for example, even with modest visitation, the noncustodial parent must have bedrooms for the children), for long-distance telephone calls, and for variable expenses associated with visitation (such as food and entertainment). Some parents claimed that judges would order a certain level of visitation and make one parent responsible for all the travel and then not adjust the order to reflect the costs associated with that travel.
- *Cost of living.* Parents mentioned that the cost of living varies tremendously among California counties. In particular, they cited the high cost of housing in major urban areas (for example, San Diego and San Francisco), which is the major expense item in a household budget. They believed the guideline needs an adjustment mechanism that recognizes cost-of-living differentials among counties.

## Shared Parenting Time

The most frequently mentioned complaint about the guideline and the one that seemed to create the most problems for parents was the consideration for shared parenting time. Parents liked the fact that support order amounts decrease as time sharing with the noncustodial parent increases. They did not, however, like that they have to fight for equal time sharing. They complained that judges look at 20 percent time sharing with the noncustodial parent as the norm and anything above that as exceptional. They believed the shared parenting time norm should be 50–50 and that parents should make adjustments from that base considering what is in the best interest of the child.

A few parents asked about the age-adjusted, time-sharing guidelines that are specific to certain California counties. At least two counties were cited as having their own time-sharing guideline—a parent provided a copy of the Orange County guideline—that allows very little time sharing when the child is young and more as the child ages. Parents viewed these time-sharing guidelines as discriminatory and reflective of a gender bias that they believe is endemic throughout the court, from the family law facilitator to the judge making a final decision about the amount of support.

Another shared parenting time issue for parents was denial of access by the custodial parent. Many participants complained that custodial parents did not live up to the time-sharing agreement assumed by the support order. Parents shared some stories about being denied access when they went to pick up the child, the custodial parent kidnapping the child, the custodial parent moving out of state with the child, and custodial parents filing allegations of child abuse (all unfounded) to restrict access even more. Parents also reported that when they went back to court to enforce access, the courts did not sanction the custodial parent and did not put additional restrictions on the custodial parent to help enforce the time sharing. Noncustodial parents expressed an interest in having some mechanism or options to enforce the time-sharing arrangements (for example, fines, jail time, reduction in the custodial parent's time share, temporary reduction in child support). The following quote from one parent captures the views of many others.

Child support is a ransom for the right to visit the child. But, because there is no enforcement of that right, the noncustodial parent often is left paying the ransom without getting the reward.

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## Net Versus Gross Income

Parents overwhelmingly favored leaving net income as the base that the guideline uses to compute a support order. Like respondents to the guideline users' survey, parents believed this is a fairness issue; that the situation of each individual must be looked at and a support obligation cannot be computed without taking the tax consequences and parent's expenses into account. Parents appreciated how gross income might be easier for judges to use as an income base, but they argued that simplicity and fairness do not always go together when dealing with money issues.

A more important issue to parents than whether the income base for the guideline formula should be net or gross income was what the court counted as part of gross income. Among the income that parents believed *should not be counted* (but apparently was counted in their situations) was:

- One-time bonuses (that is, those that cannot be counted on to occur at some regular interval);
- Overtime income where the overtime was not guaranteed and did not occur on a regular basis;
- Income from a second job, especially when the only reason for taking the second job was to pay child support and make ends meet;
- Stock options that have not been exercised and where there is no receipt of income; and
- Income from a prior, higher-paying job; that is, imputing a higher income to noncustodial parents than they are currently earning.

Income parents felt *should be counted*, but was not, included:

- Welfare payments to the custodial parent;
- Income from a new spouse or partner where that income is the reason that the custodial parent does not work;
- Income from gifts or inheritances (for example, gifts from parents that occur regularly); and
- Child support.

In short, parents realized that if someone is salaried, what is counted as income is fairly straightforward. It is the self-employed worker and nonsalary income that is problematic.

## Recommendations for Change

The changes parents recommended making to the guideline are listed in Exhibit [7-02](#) (p113) below. They directly reflect the problems and issues parents expressed about the guideline based on their experiences. Not all the recommendations relate directly to the guideline, however. Some parents asked for changes to the entire system by which child support orders are established and enforced. These recommendations included the following ideas:

- *Judicial discretion.* Some parents said they *never* see judges deviating from the guideline, and others said they saw it *frequently*. The consensus was not that discretion should be increased or decreased, but that judges should be required to document their findings so that parents know the basis of the ruling. Some parents said they had returned to court to look at their case file only to find many documents missing and no explanation of why the judge made certain decisions.
- *Parent feedback about support orders and the court experience.* Parents recommended that the Judicial Council get systematic feedback from parents about the support order *after* the process was complete and the order had been entered. They suggested that a short paper survey be included with the court order that parents could return. A second option mentioned was to have the court order include a reference to a Web site where parents could complete a survey or simply relay their comments. Parents further recommended that all comments be sent to an independent third party for analysis rather than back to the court.
- *Review of case files.* Parents recommended that the Judicial Council routinely review case files to ensure that judges are following the guideline and, if they are not, that they list clearly the reasons they did not follow it.
- *False allegation law.* Several parents had experiences where the custodial parent made false statements or allegations that negatively affected the noncustodial parent. Among others, this included child abuse allegations that were unfounded and claims of add-on expenses (for example, for child care) that were never incurred. Parents believed there should be consequences associated with these false allegations and that some statement in the guideline about the penalties for making false allegations might prevent these allegations from occurring in the future.
- *Custodial parent accountability.* Although parents want to support their children, they believe that custodial parents are using child support money inappropriately to take vacations or support new partners. Parents want some way to hold the custodial parent accountable for how they spend child support.
- *Accounting for child support payments.* National studies report statistics on compliance and noncompliance with child support payments based on interviews with custodial parents, both custodial mothers and fathers. Focus group participants believed these statistics create a misimpression about noncustodial parents, who they believe have much higher compliance rates than the national statistics suggest. They recommended that the Legislature include a line on the state income tax form that asks parents to report the child support they have paid in the previous year. [158](#) They believed this would have a powerful impact on changing the perception about "deadbeat" dads.
- *Time sharing and child support.* Parents recommended that the issue of time sharing be resolved first, before discussing the financial issues. They believed this would reduce some of the conflict between the parents that now occurs because each parent seeks to maximize shared parenting time to his or her monetary advantage.

Parents also requested that the state establish a visitation enforcement office where noncustodial parents could get some satisfaction when they are denied visitation.

- *DissoMaster.* A couple of parents expressed frustration that the DissoMaster computer program does not print an itemized list of deductions that were included in the calculation of net income. They asserted that their own calculations of net income were very different, but they had no way of challenging the DissoMaster calculations because they could not tell what was included or excluded in the calculation.

# California Child Support Guideline Review 2001

## SUMMARY

The focus group discussions and interviews yielded a rich set of parental perspectives about the child support guideline as a tool for calculating a support obligation and for defining an approach to complete that process. They also provided some insight into problems parents have using the guideline provisions to meet their specific circumstances and ideas for effecting changes that would make the guideline more useful to them. This section summarizes some of the key findings from the discussions and interviews. The findings have been organized into the following three broad categories:

- Level of support orders;
- Effect of support order structure on shared parenting time; and
- Adversarial nature of the system.

### Level of Support Orders

National studies that include parental opinions about the level of child support orders routinely indicate that, in general, obligees believe the support amounts are too low and obligors believe they are too high. Given this information, it would be easy to dismiss the almost universal complaint expressed by parents in the focus groups and interviews that support levels are too high because the vast majority of the participants were obligors. Nevertheless, there are several reasons why this issue should be seriously considered. One is that a majority of guideline users (60 percent) who were surveyed believed that support orders are too high and are unfair to both parents. Another is the charge from focus group participants that men paying child support are at high risk for bankruptcy. If obligors cannot pay the support obligation because they lack the means to do so, they may stop paying altogether and withdraw from the lives of their children. These outcomes do not benefit anyone. Thus, this issue deserves greater attention than has been given to it in the past.

Many of the focus group participants attributed the excessive support levels to specific provisions included (or not included) in the guideline and/or how those provisions are implemented. Some specific areas for further investigation recommended by the findings here include:

- *Cost of living.* Should there be a factor built into the guideline formula for variation across the state in the cost of living so that the support required for a child living in a low-cost rural area would be less than that required for a child living in a high-cost urban area?
- *Income base used to calculate support.* Using the past two years' income plus current salary is a reasonable income base to use in most cases. However, how should unusual income streams (for example, year-end bonuses or overtime pay) be counted? And if that income is counted, should the guideline not also consider reversals of fortune, such as income loss through layoffs, seasonal employment, or a reduction in the amount of overtime? The testimony from obligors in the focus groups was that while unusually high income in a year was incorporated into the child support calculation, unusual reductions in income were not. In fact, they claim that people who use the guideline to establish a support order impute income to parents that have an unusual reduction in income.
- *Imputed income.* The imputation of income appears not only to be a potential source of abuse, but of error. The need for a policy that allows decision makers to impute income in certain situations is clear, but perhaps it should be accompanied by (1) a procedural rule stating that where income figures include imputation a hearing may not take place until the parties have had each other's figures in their possession long enough to document any dispute and (2) instruction that income be imputed equally to obligees and obligors.
- *Double billing.* Obligor believe the guideline formula is based on economic data that includes *all* the costs of raising a child. They therefore believe that add-ons to the basic support amount for such items as child-care costs constitute double billing. If this perception is not true, then the guideline should perhaps include a discussion about this issue. If it is true, perhaps some adjustment to the support formula is warranted.

### Support Order Amounts and Shared Parenting Time

There was almost universal agreement that a child should have access to both parents, and that both parents should be actively involved in the child's life. This assumes that access is feasible and there are no indications that access would be harmful (for example, fear of abuse). Many of the men who participated in the focus groups described how difficult it is to get access, either because the other parent denies or interferes with access or because the child support order restricts access.

Some factors parents mentioned that limit access include:

- *Time sharing and child support.* The support order calculation is dependent on the incomes of the parents and the time each parent spends with the child. All else being equal, the support amount declines as the parents approach equal time with the child. As a result, obligors interested in minimizing their support obligation may seek to increase their share of time with the child. Obligees interested in maximizing the support obligation may seek to minimize the obligor's share of time with the child. Focus group participants saw this as creating inherent conflict between the parents. They suggested that before any income information is exchanged, parents should agree on the time-sharing arrangement. Only then should income information be introduced and the guideline formula be used to establish a support obligation.
- *Preference for women as custodial parents.* Focus group participants believed there is a bias in the system toward awarding women primary physical custody of the children. As an example of this bias, they claimed that some counties have special guidelines that limit the male noncustodial parent's access to the child based on the child's age.
- *Access enforcement.* Noncustodial parents complained that there is a lack of interest on the part of family law courts in enforcing access arrangements. They argued that the courts are quick to enforce support order agreements but do nothing to enforce access. They recommended that courts be given the authority and the tools (such as fines or jail time) to enforce access. They believe that if the courts sanction custodial parents who deny or interfere with access the incidence of such interference will decline.

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## Adversarial Nature of the System

A third major theme running throughout these discussions was the adversarial nature of the system. Termination of an intimate relationship is likely to occur because the partners already are engaged with each other as adversaries and, as several participants pointed out, the adversity gets played out in and exacerbated by support order levels and custody. In the focus groups and interviews, participants talked about how the structure of the family law court system enhances the adversarial nature of the dissolution of families. As a support enforcement agency, the district attorney's office has a lot of experience with obligors who are not responsible and who do not comply with court orders. Thus, the staff members in these offices are likely to have a skewed set of expectations about the character or intention of obligors, as a class, that gets reflected in their interactions with them (for example, not being responsive to obligors seeking information). More importantly, when they are helping potential obligees prepare documents to establish, modify, or enforce support orders, those expectations may be reflected in zealous imputation of income to and assumption of a protective stance toward obligees.

Assistant district attorneys appear in court with many obligees and respond to commissioners' questions or requests for information. It is easy to see why obligors, particularly those who represent themselves in court, tend to see the assistant district attorneys as *representing* the obligees and view the system as biased against them. This may especially be true among obligors who are not well educated and not confident of their own abilities to understand the guideline and the child support system. Facilitators, who generally have been of great help to indigent obligors, are not seen as very helpful to those who are better situated and informed but still not able to afford the cost of private attorneys.

## Additional Issues

Seeking an adjustment to the support order was reported by participants as costly in terms of (1) the money involved, (2) the personal time required to pursue the adjustment, and (3) the calendar time required to get a hearing. Furthermore, participants reported that reopening the case was risky because it gives the other parent an opportunity to counter the request for downward adjustment with one for upward adjustment or an opportunity for a commissioner to alter the order in some other way. Participants argued for a more streamlined adjustment process so that support orders could be revised when circumstances change (for example, an obligor loses his or her job or there is no more need to pay for child care).

The need for more information about the guideline and support process was a theme in the Bay Area. Participants there were not members of advocacy groups and most had not "studied" the guideline. Their focus was less on the specifics of the guideline factors, which they seemed aware of and comfortable with, than on the process used to establish a support order. A couple of the participants recommended that someone prepare a guide to the process to help parents understand how the system works.

Finally, the aggressiveness of the Franchise Tax Board was viewed as burdensome to the system as a whole as well as to obligors. The charges that this agency frequently creates situations that require time and effort in multiple agencies to correct probably could be documented or dismissed with an independent audit at reasonable cost.



## CHAPTER 8

### RECOMMENDATIONS

In June 2000, the Judicial Council of California contracted with Policy Studies Inc. to conduct a review of the state's child support guideline. That review included the following activities:

- The collection and analysis of child support order information from case files;
- A review of the provisions that other states' guidelines make for selected issues, in particular low-income obligors, second families, and the use of gross or net income to calculate the support obligation;
- Administration of a survey of people who use the guideline (for example, judges, family law attorneys, and advocates for parents and children) to establish and modify support orders;
- An analysis of the costs of raising children; and
- Focus groups and interviews with parents who have experience with the guideline.

The summary of findings from these activities is included in the preceding sections of this report. In this section, recommendations are provided for three key guideline issues that were the primary focus of the review. Those issues include:

- Treatment of low-income obligors;
- Use of gross or net income as a base to use in calculating the child support obligation; and
- Treatment of additional dependents.

These recommendations to the Legislature indicate those areas where the existing statutory scheme appears to be functioning adequately, those areas where specific changes should be considered in the interest of the administration of justice, and those areas where the existing statutory scheme appears to need modification based upon the Legislature's review of various remedial options.

### TREATMENT OF LOW-INCOME OBLIGORS

#### Background

There are three provisions in the existing guideline of most relevance to low-income obligors.

#### *Low-Income Adjustment*

The court must rule on whether a low-income adjustment shall be made if the obligor's net income is less than \$1,000 per month. If the court rules in favor of the adjustment, it shall reduce the formula-determined support amount by an amount that is no greater than the formula-determined amount multiplied by a fraction, the numerator of which is 1,000 minus the obligor's net monthly income and the denominator of which is 1,000 (Fam. Code, § 4055(b)(7)). The court then has the discretion of ordering an amount anywhere within the range of the formula amount and the result of the above calculation. The court must justify the allowance of the low-income adjustment by indicating on the record or in writing the reasons for the adjustment and the supporting underlying facts.

#### *Automation of the Low-Income Adjustment*

The California Family Code provides that if the court uses a computer to calculate the child support order, the computer program shall not automatically default affirmatively or negatively on whether a low-income adjustment is to be applied. If the low-income adjustment is applied, the computer program shall not provide the amount of the low-income adjustment. Instead the computer program shall ask the user whether or not to apply the low-income adjustment, and, if answered affirmatively, the computer program shall provide the range of the permitted adjustment (Fam. Code, § 4055 (c)).

#### *Presumed Income*

The Family Code addresses the situation where the obligor's income is unknown and the order is being established by a local child support agency. If the obligor's income or income history is unknown to the local child support agency, income shall be presumed to be an amount that results in a court order equal to the minimum basic standard of adequate care for the supported child or children (Fam. Code, § 17400(d)(2)). A schedule of support order amounts is published annually that links presumed income and respective presumed order amounts. In state fiscal year 1999–2000, for example, the presumed income for an obligor with one child to be supported was \$1,966 per month. The child support order amount for that income level was \$390 per month.

### Overview of the Low-Income Issue

There are four questions the Judicial Council must address in reviewing how the guideline treats low-income obligors.

- Is the threshold the guideline uses to determine eligibility for a low-income adjustment to the support order adequate?
- Is the method used to adjust the support order appropriate?
- Should the adjustment threshold and adjustment amount be presumptive or advisory on the court?
- What income should be presumed when the obligor's income is unknown and the support order is being established by the local child support agency?

# California Child Support Guideline Review 2001

## ***Low-Income Threshold***

A common theme in the responses to the survey of guideline users was that the threshold of \$1,000 net income per month for application of the low-income adjustment is too low. When asked what changes the individuals being surveyed would recommend to the low-income adjustment, the highest income threshold recommended was \$3,000 net income per month. Other respondents recommended that the guideline include a threshold range that took into account differences in the cost of living among California's counties. In their opinion, the threshold of \$1,000 may work in some counties, but not in others.

A comment by the California Department of Child Support Services noted that the low-income adjustment threshold may need to be revised considering California's new minimum wage, effective January 1, 2002. A full-time minimum-wage worker may be either ineligible for a low-income adjustment or the adjustment will be a very small amount.

Although each state is unique, it should be noted that the existing obligor threshold of \$1,000 net income per month is on the high end relative to other states. As displayed in Chapter Four, the income threshold many states use before they establish minimum order amounts is \$617 per month net income. This is equivalent to the federal poverty level for one person in 1998. In high-income states (such as New York and Connecticut), the threshold is higher. In New York, for example, the low-income adjustment formula is 135 percent of the federal poverty level for one person, which for 2001 puts it at \$966 net income per month. In Connecticut, the income threshold used for applying the low-income adjustment varies depending upon the number of children for whom support is being awarded. For obligors with one child, the threshold is \$953 net income per month, while for six children the threshold is \$1,689 per month.

## ***Self-Support Reserve***

Most states allow the obligor a self-support reserve; that is, enough income after the payment of child support and taxes to maintain at least a subsistence level of living. Typically, this amount is related to the federal poverty guideline for one person. (The 2001 poverty guideline for one person is \$716 net income per month.) The support order is set at the difference (or a proportion of the difference) between the obligor's net income and the self-support reserve (see Exhibit [4-03](#) p80 for a state-by-state summary). Another approach is demonstrated by the now-repealed Agnos Child Support Standards Act of 1984, in which California provided a self-support reserve for the paying parent based upon the minimum basic standards of adequate care (MBSAC). MBSAC is a figure calculated to take into account the amount of money needed to meet a person's basic needs as determined by the California State Department of Social Services (see Welf. and Inst. Code, § 11452). This figure is adjusted each year and is currently \$402 per month.

The current California guideline does not allow a self-support reserve for the obligor. Therefore, it is feasible for an obligor with net income above \$1,000 per month—hence, ineligible for the low-income adjustment under the California guideline—to be left with income below the poverty level. This is particularly true for cases with three or more children or for cases with additional child-related expenditures (for example, for child care or extraordinary medical expenses). The following scenario is a good example: the parents have three children, their incomes are equal (\$1,100 per month net), and the paying parent has primary physical responsibility for the children 20 percent of the time. Using the guideline formula, the monthly child support obligation would be \$396. After payment of the child support order, the obligor would have available income of \$704, which puts him or her below the 2001 federal poverty level for one person.

Another issue, and one that other states' guidelines address, is whether the self-support reserve should be made before or after add-ons (such as for child care, extraordinary medical expenses, and other additional child-related expenses). Most states that incorporate a self-support reserve and low-income adjustment apply them before the add-ons are applied. However, in some situations, where the self-support reserve is applied before adding the add-ons to the base support, the paying parent may actually be left with income substantially below the self-support reserve. For instance, this could be the case using the above example of the paying parent with three children if there was a child-care add-on of \$300. The paying parent has net monthly income of \$1,100 per month and a base child support obligation of \$396 for three children. This obligation would leave the paying parent with \$704 per month. If the federal poverty guideline was used as the self-support reserve (\$716 for one person), the base child support would be reduced to \$384 in order to allow the parent a self-support reserve equal to the poverty level. However, if there was an order for the parties to share an additional \$600 per month in child care (\$300 paid by each parent), the paying parent would then be left with \$416 per month, which is well below the poverty level.

## ***Discretionary Application***

As evident from the case file review findings, the low-income adjustment is applied infrequently (that is, in 6 percent of the eligible cases). It is not certain why the frequency is so low. One possible explanation is that the low-income adjustment formula is too complex to compute manually, although no one mentioned that problem in the responses to the guideline users' survey. The user of the automated guideline computer program must affirm that the low-income adjustment is to be applied before the support order is calculated. This, in itself, may be a problem, since the person using the automated guideline calculator may not be the judge or commissioner signing the order. A clerk or attorney may use the automated worksheet and then provide the printout to the judge or commissioner. An indicator for low-income adjustment applied or not applied was not observed on any of the computer printouts of guideline calculations that were reviewed in the case files.

The large number of support orders entered by default may also contribute to the infrequent application of the low-income adjustment. The party seeking support may be unlikely to propose an order with the adjustment that would result in a lower support amount.

Further, observations over the years of how states apply their guidelines suggest that judges and commissioners either consistently apply a discretionary adjustment or consistently do not apply a discretionary adjustment.

# California Child Support Guideline Review 2001

## ***Presumed Income***

Based on information compiled by the federal Office of the Inspector General (discussed in Chapter Four), 48 states impute income when income is unknown. Among those states, 35 of them base it on the presumption that the obligor is employed at a full-time, minimum-wage job. This results in a presumed gross monthly income of \$892 per month (\$784 per month net income in California). This is far lower than the income presumed under Family Code section 17400(d)(2), which was \$1,966 per month for one child and higher amounts for more children in fiscal year 1999–2000. The California presumption results in order amounts significantly higher than those ordered in the rest of the nation.

For all other states, the median monthly order amounts—assuming that the obligor is employed full time at minimum wage and the obligee's income is \$0—would be \$152 for one child and \$205 for two children. The range is \$25 to \$223 per month for one child, and \$25 to \$281 per month for two children. In short, when the obligor's income is unknown, California sets order amounts that are much higher than order amounts in other states.

Regardless of this fact, there are no standards to follow. Indeed, the issue of entering default orders and imputing income when income is unknown has become a national concern. It is frequently a topic at national child support conferences and is a topic the National Child Support Enforcement Association has recommended for further study. The historical premise was that notification of a default order would motivate the noncustodial parent to provide accurate financial information to the courts. Currently, there is no known research to prove or disprove this premise, but several states desire research on the issue.

California applies presumed income in cases being established by the local child support agencies where the obligor's income or income history is unknown to that agency. According to the federal Office of the Inspector General, this is typically in situations where the obligor fails to appear or provide documentation of his or her income. Even in these circumstances, agency caseworkers typically search automated state databases and tax records for income information. If no income or income history is found, a proposed judgment is prepared based upon presumed income (currently \$1,966 per month for one child). If the obligor does not file an answer, a default judgment is automatically entered based upon this presumed amount. The historical premise was that the setting of default orders at high levels would result in noncustodial parents coming forward to provide accurate financial information to the courts. While there is a statutory period for the setting aside of these defaults (see Code Civ. Proc. § 473 and Fam. Code § 17432), obligors who fail to timely set aside the default may be saddled with large arrearages that were never based upon their actual ability to pay support. The Department of Child Support Services' "Collectibility Study" by the Urban Institute, due to be published in December 2001, may provide important empirical data regarding the impact and validity of the current approach to presumed income.

## **Recommendations Regarding Treatment of Low-Income Obligors**

### ***Income Threshold***

If California intends to include an income threshold in the child support guideline for application of the low-income adjustment, then the threshold now used to determine the obligor's eligibility—\$1,000 net income per month—should be reviewed. It is higher than that of most states, but close to the amount in high-income states (for example, Connecticut and New York). Also, it exceeds the federal poverty standards for a single person. Nevertheless, the variability in the cost of living among California counties that survey respondents highlighted is appreciated. In addition, as the obligor's income approaches \$1,000 per month, the amount of the adjustment becomes increasingly small. Under California's new minimum-wage law, many full-time minimum-wage earners will be ineligible for the adjustment or receive only a nominal adjustment.

One difficulty with establishing a fixed threshold is that anyone whose income is even slightly above the threshold may not qualify for a low-income adjustment. Another approach, which could be used either instead of the low-income adjustment or in addition to it, is to incorporate a self-support reserve directly into the guideline to ensure that the obligor has enough income after payment of the support obligation that he or she can maintain at least a minimum standard of living. A discussion of how a self-support reserve could be incorporated into the existing guideline is provided below.

### ***Adjustment Formula***

As previously illustrated, there are situations under the existing guideline where payment of the guideline-determined amount would leave the obligor with income below the poverty level for one person. The Legislature should consider the following options as potential approaches to addressing this situation, but these approaches could be considered in combination with other adjustments mentioned in this section:

- Replace Family Code section 4055(b)(7) with an adjustment based on a self-support reserve or adopt a self-support reserve in addition to the low-income adjustment. There are two methods of applying a self-support reserve.

One method is to compute the low-income-adjusted order as a proportion of the difference between obligor net income and the self-support reserve. The proportion could be on a sliding scale that increases with the number of children (for example, 90 percent for one child, 91 percent for two children, 92 percent for three children and so forth).

To illustrate how this would work, assume an obligor has three children and the obligor's net income is \$1,100 per month. The obligor's income available for child support would be \$384 (\$1,100 – \$716, which is the federal poverty level for one person). Under the low-income adjustment, the support order for three children would be 92 percent of this amount, or \$353 per month. This amount would be compared to the guideline-determined amount, and the lower of the two amounts would become the support order.

## California Child Support Guideline Review 2001

The other approach is to merely calculate guideline support using all of the obligor's actual income. The guideline support is then subtracted from net income and if the amount remaining is less than the self-support reserve, the guideline support is adjusted downward until the self-support reserve amount is reached. This is similar to the method adopted by the former Agnos support guideline.

To illustrate how this would work, an obligor with \$1,100 net monthly income and three children would pay \$528 per month in child support by the current guideline. The obligor would be left with \$572 per month after support. If a federal poverty level self-support reserve of \$716 was used, the child support would have to be reduced by \$144 to leave the obligor with the necessary self-support reserve. The resulting child support order would be \$384 per month.

No specific recommendation is made regarding the appropriate amount of any self-support reserve. Comments received during the comment period clearly indicate that a careful balance must be reached between the need to leave obligors with sufficient income to meet their most basic needs and the need to provide as adequately as possible for children.

### ***Other Logistics of the Proposed Formula***

The proposed low-income adjustment is an easy formula to program into an automated guideline calculation. It could also be easily incorporated into a guideline worksheet. An example of such a worksheet is provided in Exhibit [4-05](#) (p83).

Applying the low-income adjustment after additions for other child-related expenditures are added on (for example, for child care, health-care costs, education, and special needs) can be problematic. Add-ons are often not set at a dollar amount (they are typically set at 50 percent of actual costs), which would make it difficult to calculate the low-income adjustment after the consideration of additional costs. In the case of uninsured health-care costs, the most frequently applied add-on, this may vary substantially from year to year.

### ***Discretionary Adjustment***

If California decides to adopt a self-support reserve or maintain some form of the current low-income adjustment or use a combination of both approaches, these adjustments should be made presumptive to ensure that they will be applied. The intent of enacting a low-income adjustment or self-support reserve is to benefit those who meet the threshold criteria. The current law requires a finding as to why the low-income adjustment is being applied, which may discourage its application. Further, child support orders entered by default will rarely have the low-income adjustment unless it is made presumptive. This situation creates an additional administrative burden on the courts when these orders must be set aside or subsequently modified. The Legislature should consider adopting or amending current law to make application of these adjustments presumptive subject to proof that the adjustment is not appropriate in a particular case. The current low-income adjustment allows the court to adjust the support within a specified range, which gives the court greater flexibility to consider the overall circumstances of a particular case. However, if this adjustment is made presumptive, the Legislature should consider providing that in default cases or proposed judgments under Family Code section 17400 the low-income adjustment should be set at the maximum amount allowable in order to provide even results on similar facts statewide.

### ***Presumed Income***

Application of California's presumed income results in order amounts that are significantly higher than those ordered in the rest of the nation. Among other states, 35 of them base the presumed order on the assumption that the obligor is employed full time at minimum wage. This contrasts with the current California approach, which presumes a monthly income of \$1,966 (for fiscal year 1999–2000) when calculating support for one child. The Legislature should review the current presumed income approach to determine if alternatives would yield a more appropriate child support order. If a lower presumed income was adopted, provisions could be considered for allowing either parent to be able to set aside the judgment, within a clearly circumscribed time period, and recalculate support based upon information subsequently provided.

It is also recommended that the results from the Urban Institute's study on child support debt be considered when released. It may provide further insights in the ability to pay in these presumed income cases.

## **USE OF GROSS INCOME VERSUS NET INCOME AS A BASE FOR CALCULATING CHILD SUPPORT**

### **Background**

California, like 18 other states, uses net income as the base from which to compute a child support obligation. Furthermore, it sums both parents' net income in applying the formula to establish the support obligation.

Under Family Code section 4059, the guideline defines what is meant by net disposable income and specifies the types of deductions that are allowed in computing net from gross income.

### **Overview of the Income-Base Issue**

States have struggled with what income to use as the base for calculating a support obligation ever since child support guidelines were first developed. There are arguments in favor of all the different approaches that states are currently using (see Chapter Four), and the choice of one approach over another appears to be a compromise among many interests within a state.

# California Child Support Guideline Review 2001

In California, there are two questions about the income base that need to be addressed:

- Should the income base be gross income or net income?
- If the guideline continues to use net income, what, if any, changes are needed to the computation of net income from gross?

In response to the first question, it appears from the guideline users' survey that there is a strong preference for continuing to use net income as the base. In answer to a targeted set of questions about the use of gross or net income, respondents' opinions were (see Chapter Six):

- A plurality believed that net income is *easier to use* than gross income;
- A majority believed that net income is *more equitable to use* than gross income; and
- A majority believed that the guideline *should use* net income rather than gross income to compute support obligations.

As several respondents noted in their narrative remarks, they see the gross versus net income issue as one of fairness, not ease of use. While gross income may be easier or simpler to use, it is not necessarily fair. Respondents liked the fact that the guideline takes account of each individual's tax situation. Moreover, once agreement is reached about what will and will not be counted in gross income, the automated guideline software computes the net income so there is little room for error.

The Family Code and its legislative history provide little in the way of guidance in determining how to equitably allocate tax benefits and liabilities between a remarried party and his or her new spouse to determine net disposable income for child support purposes. Family Code section 4059 is unequivocal in requiring that net disposable income shall be computed by deducting from annual gross income the actual amounts attributable to the state and federal income tax liability. Case law does resolve the apparent conflict between Family Code section 4057.5, which generally prohibits consideration of new mate income in calculating child support, and the mandate of Family Code section 4059, which requires the court to take into consideration the parties' actual tax consequences in determining net disposable income. Case law provides that Family Code section 4057.5 does not prohibit the court from considering the new mate's income in allocating the tax liability or benefit between the new mate and the remarried partner (*County of Tulare v. Campbell* (1996) 50 Cal.App.4th 847, 57 Cal.Rptr.2d 902). To illustrate why this is an issue, consider an obligee with gross income of \$1,000 per month who has a child support order for her one child. Prior to remarriage, the obligee filed as a head of household claiming herself and the one child. She marries a man whose gross income is \$10,000 per month. They now file taxes jointly and also claim the child subject to the support order as a dependent. Obviously, her tax consequences have changed. If the child support order is modified, California Family Code section 4059(a) states that the personal income tax deductions shall bear an accurate relationship to the tax status of the parties; hence, consider the tax consequences associated with her joint return with her new spouse.

## Recommendations Regarding Use of Gross Income Versus Net Income

The California child support guideline should continue to rely on disposable net income as the base used to compute a support obligation amount. Disposable net income bases support on the actual amount of money that is reasonably available for support. Net income excludes mandatory deductions such as retirement or union dues. Net income also accounts for the differences in tax consequences based on such factors as the availability of dependency exemptions. This approach takes into account that people who are similarly situated with regard to gross income may have quite different levels of net income based on the nature of their deductions and their individual life circumstances.

The Legislature should, however, review the issue of how to allocate the tax consequences between a remarried party and his or her new spouse for the purposes of determining the net disposable income of that remarried party. In resolving this issue, the Legislature should carefully review the various alternatives to determine the most equitable statutory solution (see discussion in Chapter Four). The current gap in guidance in this area can result in a lack of uniform application of the guideline statewide.

## ADDITIONAL DEPENDENTS

### Background

There are two provisions in the existing guideline of most relevance to additional dependents.

- Family Code section 4059(e) applies to any child support actually being paid for an additional dependent who does not reside with the parent. It simply subtracts the amount paid from the eligible parent's income.
- Family Code section 4071 (the hardship deduction) applies to additional dependents living with the parent. A hardship deduction can be subtracted from the income of the parent of the additional dependent, prior to calculating child support for the prior-born children. The amount of the hardship deduction cannot exceed the support allocated per child subject to the order.

### Overview of the Additional Dependents Adjustment

In the guideline users' survey, respondents generally believed that the guideline treats the issue of additional dependents adequately. However, this opinion differed by the identity of the respondent, with respondents from the IV-D child support community rating the adjustment as more adequate and parents rating it as less adequate. The ratings from judges and family law attorneys were in between the ratings of the other groups.

Regardless of these findings, George Norton, a preeminent family law expert, finds a mathematical flaw with the additional dependent adjustment covered under the hardship provision.

- The dollar amount for the hardship deduction could exceed the net income of the eligible parent. Thus, once the deduction is subtracted, the parent with the additional dependent could be left with a negative net income.

# California Child Support Guideline Review 2001

## Recommendations Regarding Additional Dependents

The California child support guideline's two existing provisions regarding additional dependents appears to adequately address the issue of additional dependents. The guideline should continue to allow a mandatory deduction for child support actually being paid for a child other than the child or children for whom support is being established. The guideline should also continue to allow a hardship deduction for other children (and/or parents) who the party is legally obligated to support and who reside in the home of that party. It should be noted, however, that the latter deduction is discretionary with the court. The court may disallow consideration of the deduction for other dependents completely or allow a deduction in any amount up to the maximum allowable. This discretion allows the court to take into consideration the wide range of circumstances where other dependents are involved. For example, the court can differentiate the amount of deduction for another dependent not the subject of the order who is solely supported by one parent or supported by two parents.

The case file review indicates that this hardship was only given in 2.5 percent of the total files reviewed and this represents a decline from 6.8 percent in the 1998 review. The present study did not determine in what percentage of cases eligible for this hardship that the hardship was given. While the majority of respondents in the users' survey indicated satisfaction with how the guideline deals with additional dependents, a substantial minority (23 percent) indicated some concern that the current guideline is difficult for those in a multifamily situation (see Exhibit [6-07](#) p108). Further future study of how this discretionary hardship is being applied may be warranted.

The Legislature should consider correcting a minor mathematical error that occurs if the hardship deduction exceeds the parent's net income, which results in a negative net disposable income for the eligible parent. This can be easily corrected by limiting the minimum amount of net disposable income to \$0. In other words, a parent's net disposable income used in a guideline calculation can never be less than \$0. Similar provisions exist in other states.

## THE NEED FOR FURTHER STUDY

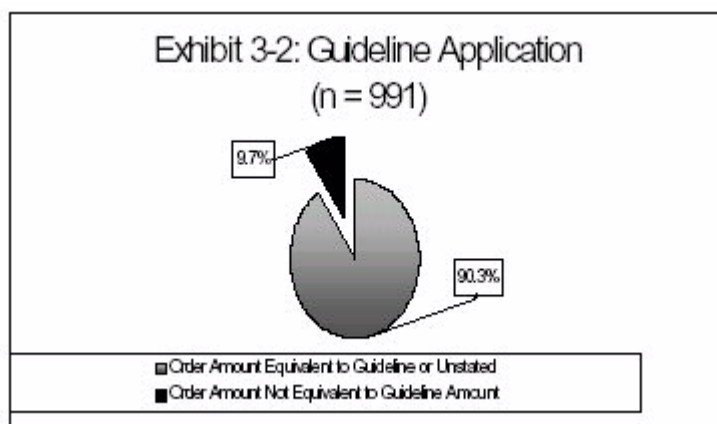
The purpose of this review of California's child support guideline is to provide information and recommendations to the Legislature regarding the current status of implementation and operation of the child support guideline in the courts. While this study has provided substantial additional information, there is a clear need for further study both on specific areas not touched on in this review and more detailed study of the topics included in this review.

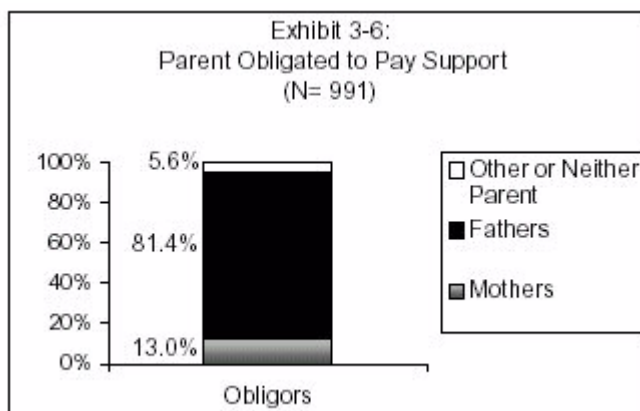
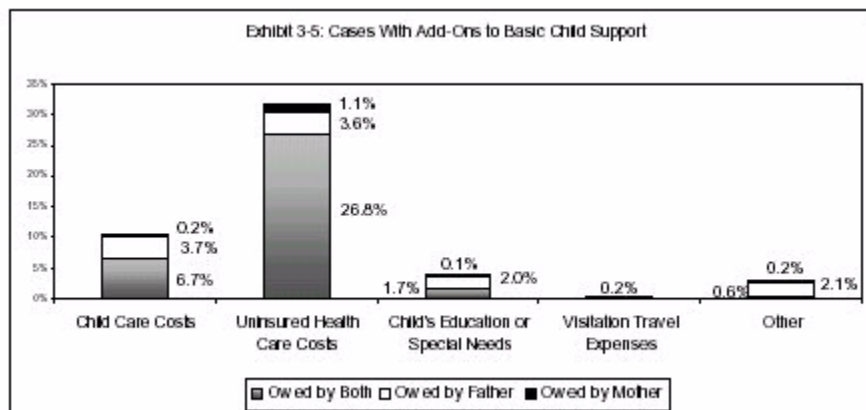
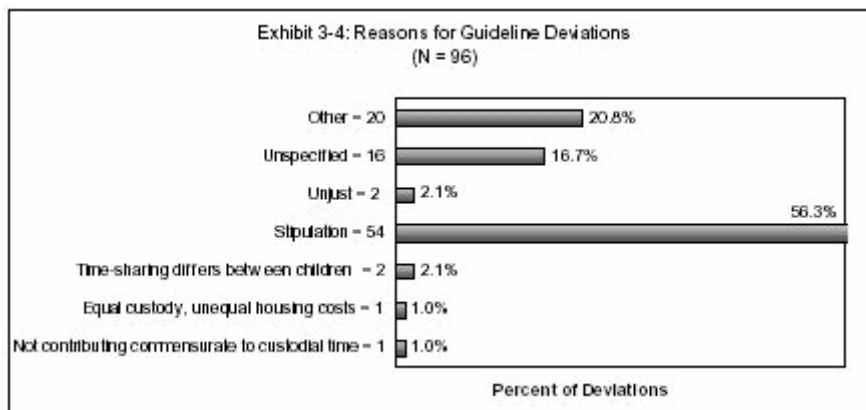
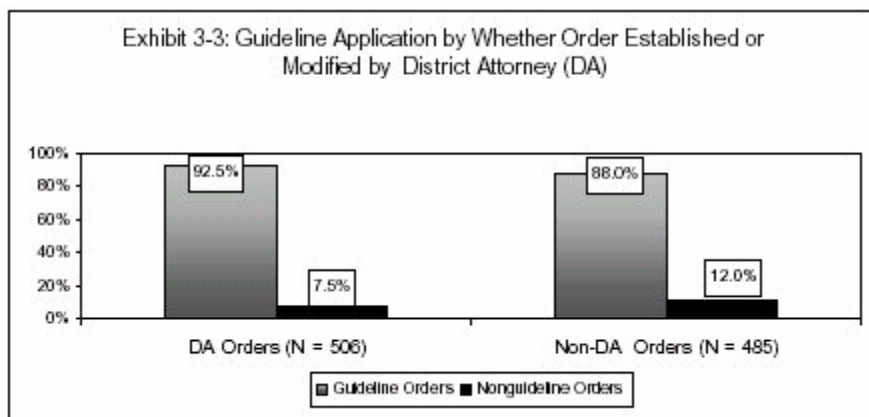
Child support has an impact on and is impacted by many other social and legal issues. A greater understanding of this complex interplay is needed to inform the public policy decision-making process that has such a great impact on the families of California.

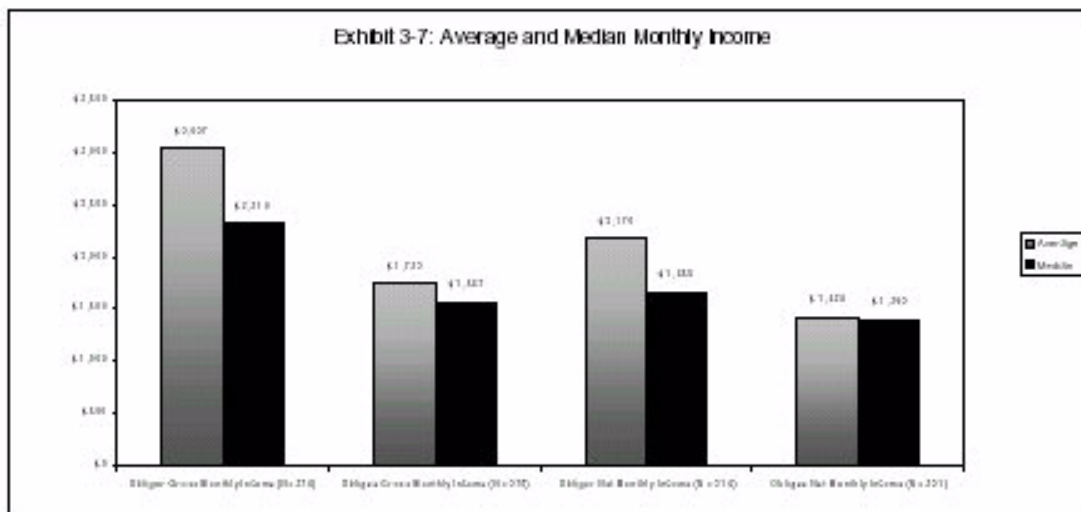
These topics include, to name just a few, the interplay between active participation by a parent through custody and/or visitation and compliance with support orders, the basis of the high rate of default support orders in California, and the impact on the ability to pay support of various social services and other resources currently being offered parents as part of the governmental processing of child support cases.



Exhibit 3-1 County's Contribution to Sample				
County	Previous Sample		Current Study Sample	
	Number of Orders Examined	Percent of Total	Number of Orders Examined	Percent of Total
Alameda	190	6.4%	66	6.7%
Amador	8	0.3%	0	0.0%
Fresno	468	15.7%	153	15.4%
Los Angeles	835	27.9%	303	30.6%
San Diego	453	15.2%	150	15.1%
San Luis Obispo	60	2.0%	20	2.0%
Santa Clara	369	12.3%	108	10.9%
Siskiyou	55	1.8%	18	1.8%
Solano	133	4.5%	44	4.4%
Tehama	26	0.9%	0	0.0%
Tulare	390	13.0%	129	13.0%
TOTAL	2,987	100.0%	991	100.0%





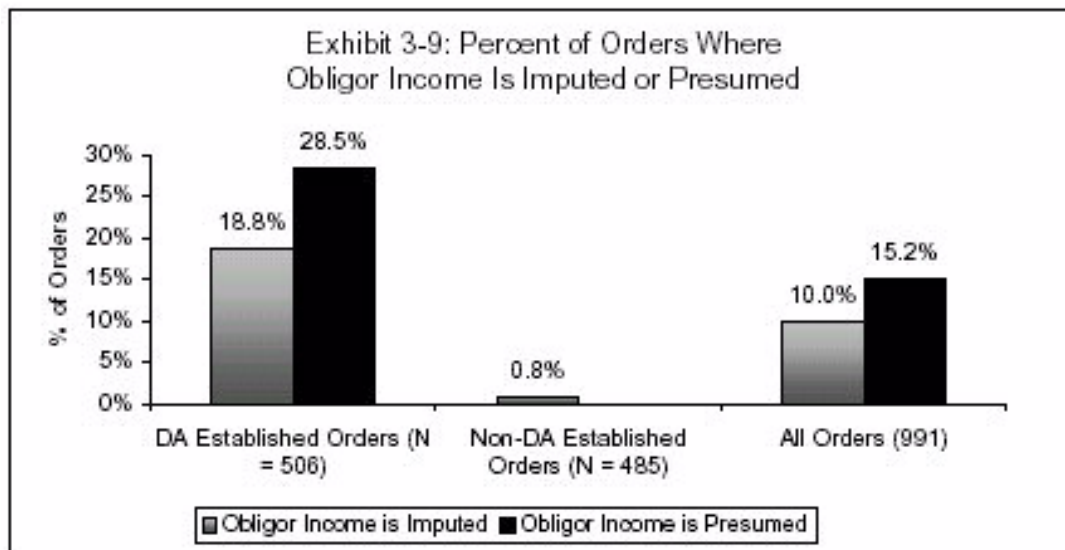


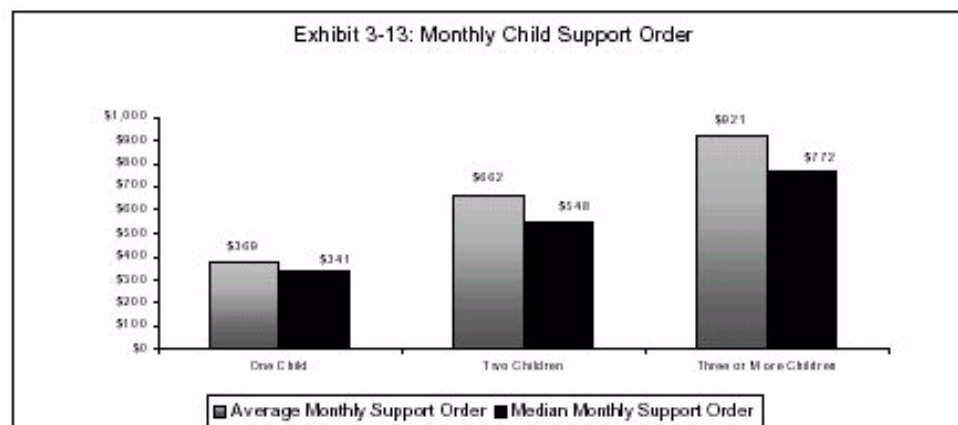
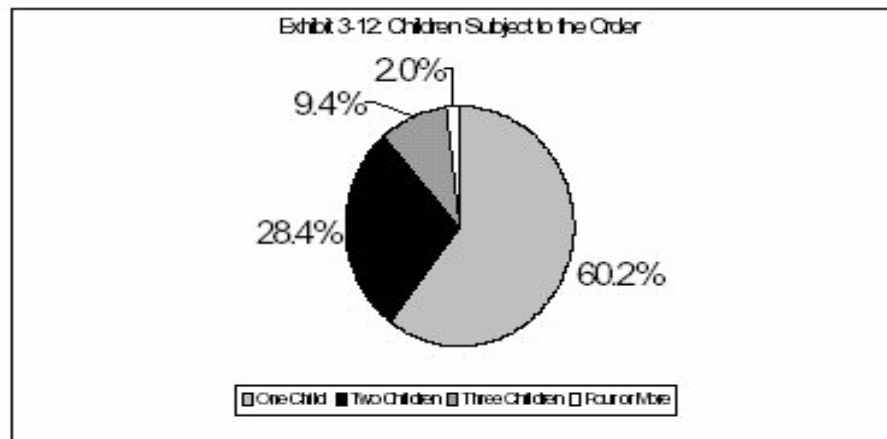
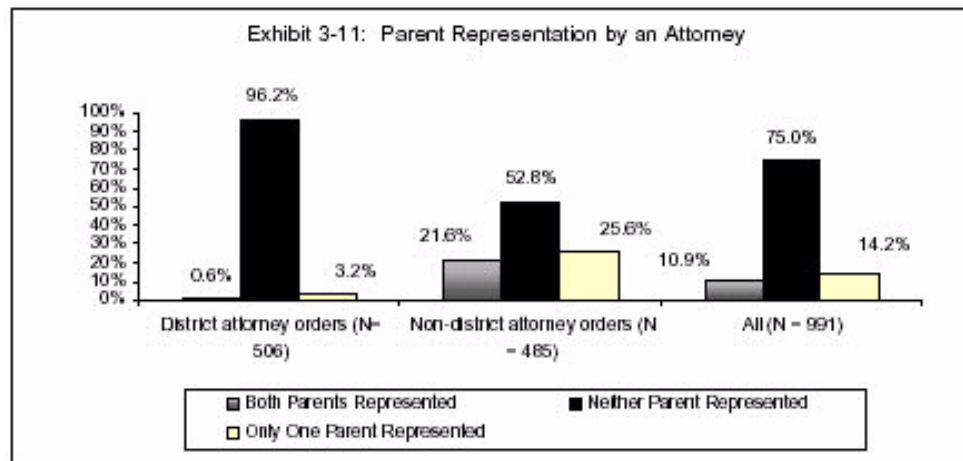
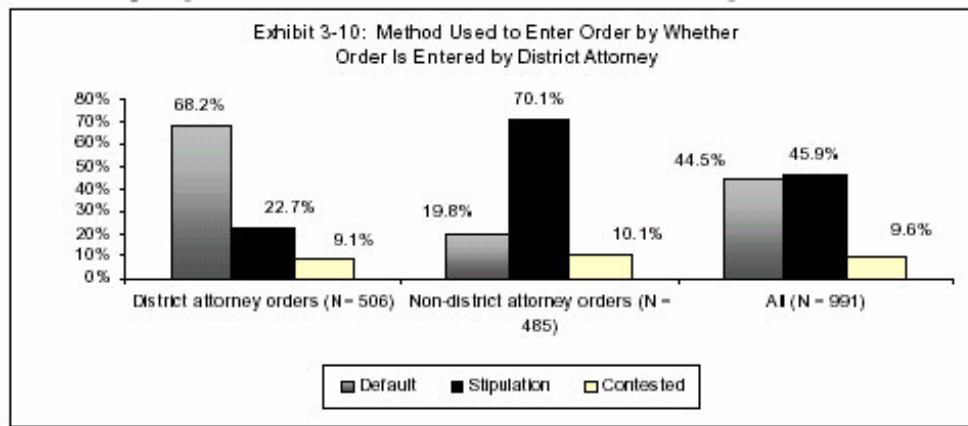
**Exhibit 3-8**  
**Monthly Income Ranges**  
(gross income available for both parents in 290 cases)  
(net income available for both parents in 242 cases)

		Obligor Gross Income				Total (Obligees)
		Less than \$1,000	\$1,001-\$2,000	\$2,001-\$3,000	\$3,001 or more	
Obligatee Gross Income	Less than \$1,000	6.2%	2.1%	1.4%	1.4%	11.0%
	\$1,001-\$2,000	10.7%	12.7%	4.8%	2.1%	30.3%
	\$2,001-\$3,000	5.2%	10.0%	5.9%	3.4%	24.5%
	\$3,001 or more	7.9%	7.2%	9.3%	9.7%	34.1%
Total (Obligors)		30.0%	32.1%	21.4%	16.6%	100.0%

		Obligor Net Income				Total (Obligees)
		Less than \$1,000	\$1,001-\$2,000	\$2,001-\$3,000	\$3,001 or more	
Obligatee Net Income	Less than \$1,000	8.3%	5.8%	2.9%	1.2%	25.4%
	\$1,001-\$2,000	12.4%	22.3%	5.0%	2.5%	39.1%
	\$2,001-\$3,000	5.4%	12.8%	5.0%	1.7%	22.7%
	\$3,001 or more	4.5%	4.1%	2.9%	3.3%	12.7%
Total (Obligors)		30.6%	45.0%	15.7%	8.7%	100.0%





**Exhibit 4-1**  
**Family Code section 4053.**

In implementing the statewide uniform guideline, the courts shall adhere to the following principles:

- (a) A parent's first and principal obligation is to support his or her minor children according to the parent's circumstances and station in life.
- (b) Both parents are mutually responsible for the support of their children.
- (c) The guideline takes into account each parent's actual income and level of responsibility for the children.
- (d) Each parent should pay for the support of the children according to his or her ability.
- (e) The guideline seeks to place the interests of children as the state's top priority.
- (f) Children should share in the standard of living of both parents. Child support may therefore appropriately improve the standard of living of the custodial household to improve the lives of the children.
- (g) Child support orders in cases in which both parents have high levels of responsibility for the children should reflect the increased costs of raising the children in two homes and should minimize significant disparities in the children's living standards in the two homes.
- (h) The financial needs of the children should be met through private financial resources as much as possible.
- (i) It is presumed that a parent having primary physical responsibility for the children contributes a significant portion of available resources for the support of the children.
- (j) The guideline seeks to encourage fair and efficient settlements of conflicts between parents and seeks to minimize the need for litigation.
- (k) The guideline is intended to be presumptively correct in all cases, and only under special circumstances should child support orders fall below the child support mandated by the guideline formula.
- (l) Child support orders must ensure that children actually receive fair, timely, and sufficient support reflecting the state's high standard of living and high costs of raising children compared to other states.



### Exhibit 4-2 Monthly<sup>a</sup> Minimum Support Amounts and Low-Income Threshold

STATE	Minimum Order Amount <sup>b</sup>	Income Threshold for Applying Minimum Order Amount <sup>c</sup>	Adjustment for Incomes Above Threshold Used for Minimum Order Amounts
Alabama	Not addressed	\$550 gross	Yes
Alaska	\$50	Federal poverty level	No
Arizona	Not addressed	\$720 gross	Yes
Arkansas	Not addressed	Not addressed	No
California	Not addressed	Not addressed	No
Colorado	\$20–\$50	\$400 gross	Yes
Connecticut	\$4.33	\$43 net	Yes
Delaware	Varies with the number of children, starts at \$65	\$750 net	Yes
District of Columbia	\$50	\$625 gross	No
Florida	Discretion	\$650 net	Yes
Georgia	Not addressed	Not addressed	No
Hawaii	\$50	\$743 net	Yes
Idaho	\$50 per child	\$800 gross	No
Illinois	Not addressed	Not addressed	No
Indiana	Discretion	\$433 gross	Yes
Iowa	Varies with the number of children	\$500 net	Yes
Kansas	Not addressed	\$50 gross	Yes
Kentucky	\$60	\$100 net	Yes
Louisiana	Not addressed	\$600 gross	Yes
Maine	10% of gross income per child	Poverty level	Yes
Maryland	\$20–\$50	\$600 gross	Yes
Massachusetts	\$50	\$541 gross	Yes
Michigan	Formula starting with 10% of net income	\$645 net	Yes
Minnesota	Discretion	\$550 net	Yes
Mississippi	Discretion	\$417 gross	No
Missouri	\$20–\$50	\$800 gross	Yes
Montana	Formula	130% of federal poverty level	Yes
Nebraska	\$50	\$650 net	Yes
Nevada	Not addressed	Not addressed	No
New Hampshire	\$50	\$658 gross	Yes
New Jersey	\$22	105% poverty level	Yes
New Mexico	Varies with the number of children, starts at \$100	\$800 gross	Yes
New York	\$50	135% poverty level	Yes
North Carolina	\$50	\$800 gross	Yes
North Dakota	Varies with the number of children, starts at \$14	\$100 net	No
Ohio	Not addressed	\$500 gross	Yes
Oklahoma	\$50	\$650 gross	Yes
Oregon	\$50	\$850 gross	Yes
Pennsylvania	Varies with the number of children, starts at \$50	\$550 net	Yes
Rhode Island	\$20–\$50	\$600 gross	Yes



### Exhibit 4-2 Monthly<sup>a</sup> Minimum Support Amounts and Low-Income Threshold

STATE	Minimum Order Amount <sup>b</sup>	Income Threshold for Applying Minimum Order Amount <sup>c</sup>	Adjustment for Incomes Above Threshold Used for Minimum Order Amounts
South Carolina	\$50	\$600 gross	Yes
South Dakota	\$50	\$1000 net	Yes
Tennessee	Not addressed	Not addressed	No
Texas	Not addressed	Not addressed	No
Utah	\$20	\$650 gross	Yes
Vermont	\$50	\$816 net	Yes
Virginia	\$65	\$600 gross	Yes
Washington	\$25 per child	\$600 net	No
West Virginia	\$50	\$550 gross	Yes
Wisconsin	Not addressed	Not addressed	No
Wyoming	\$50	\$732 net	No
TOTAL NUMBER OF STATES	Dollar or formula amt = 34 Not addressed = 13 Discretion = 4	Threshold identified = 43 No threshold = 8 Average gross = \$619 Average net = \$617	Yes = 36 No = 15

<sup>a</sup>Child support schedules based on weekly amounts are converted to monthly amounts assuming 4.33 weeks in a month.

<sup>b</sup>Several of the state child support guidelines include a table that does not start at \$0 income. In this situation, the lowest amount appearing in the schedule is used as the income threshold. The state may specify an amount below these thresholds, say it is discretionary, or not address it. For some states (for example, Arizona) where the schedule does not start at zero, incomes less than the lowest amount considered in the schedule are not addressed, but the intent is that the court has discretion.

<sup>c</sup>A few states did not specify the income threshold but did specify the obligor's self-support reserve amount. Implicitly, the sum of the minimum order amount and the self-support reserve would be the income threshold for minimum order amounts.

**Exhibit 4-3****Low-Income Adjustments Above Incomes Where Minimum Support Orders Would Be Applied**

STATE	Adjustment for Incomes Above Threshold for Minimum Order Amounts	Adjustment Method	Monthly Self-Support Reserve (SSR)	Guideline's Model/Formula
Alabama	Yes	SSR incorporated into schedule	\$447 net	Income shares table
Alaska	No			Percentage of obligor income
Arizona	Yes	Ability to calculation in worksheet	\$710 gross	Income shares table
Arkansas	No			Percentage of obligor income
California	No			Income shares formula
Colorado	Yes	SSR incorporated into schedule	\$447 net	Income shares table
Connecticut	Yes	SSR incorporated into shaded schedule	\$645 net	Income shares table
Delaware	Yes	SSR subtracted from income	\$750 net	Melson formula
District of Columbia	No			Hybrid <sup>a</sup>
Florida	Yes	SSR incorporated into schedule	\$568 net	Income shares table
Georgia	No			Percentage of obligor income
Hawaii	Yes	SSR subtracted from income	\$743 net	Melson formula
Idaho	No			Income shares formula
Illinois	No			Percentage of obligor income
Indiana	Yes	Lowered amounts in schedule	Unknown <sup>b</sup>	Income shares table
Iowa	Yes	Lowered percentages applied to lower incomes	Not applicable <sup>c</sup>	Income shares table
Kansas	Yes	SSR incorporated into schedule	Unknown	Income shares table
Kentucky	Yes	SSR incorporated into schedule	\$447 net	Income shares table
Louisiana	Yes	SSR incorporated into schedule	\$552 net	Income shares table
Maine	Yes	SSR incorporated into schedule	\$596 net	Income shares table
Maryland	Yes	SSR incorporated into schedule	\$447 net	Income shares table
Massachusetts	Yes	Lowered Percentages applied to lower incomes	Not applicable	Hybrid <sup>a</sup>
Michigan	Yes	Formula	\$645 net	Income shares formula
Minnesota	Yes	Lowered Percentages applied to lower incomes	Not applicable	Percentage of obligor income
Mississippi	No			Percentage of obligor income
Missouri	Yes	SSR incorporated into schedule	\$658 net	Income shares table
Montana	Yes	SSR subtracted from income	\$892 net	Melson
Nebraska	Yes	SSR incorporated into schedule	\$696 net	Income shares table
Nevada	No			Percentage of obligor income
New Hampshire	Yes	Difference between SSR and net income	\$658 net	Percentage of obligor income
New Jersey	Yes	SSR adjustment made in worksheet	105% of poverty	Income shares table
New Mexico	Yes	SSR incorporated into schedule	\$613 net	Income shares table
New York	Yes	Difference between SSR and net income	135% of poverty	Percentage of obligor income
North Carolina	Yes	SSR incorporated into shaded schedule	\$658 net	Income shares table
North Dakota	No			Percentage of obligor income
Ohio	Yes	SSR incorporated into schedule	\$568 net	Income Shares Table
Oklahoma	Yes	SSR incorporated into schedule	Varies	Income shares table
Oregon	Yes	SSR incorporated into schedule	\$658 net	Income shares table
Pennsylvania	Yes	SSR incorporated into shaded schedule	\$550 net	Income shares table
Rhode Island	Yes	SSR incorporated into schedule	\$658 net	Income shares table



<b>Exhibit 4-3</b>				
<b>Low-Income Adjustments Above Incomes Where Minimum Support Orders Would Be Applied</b>				
<b>STATE</b>	<b>Adjustment for Incomes Above Threshold for Minimum Order Amounts</b>	<b>Adjustment Method</b>	<b>Monthly Self-Support Reserve (SSR)</b>	<b>Guideline's Model/Formula</b>
South Carolina		SSR incorporated into shaded schedule	\$500 net	Income shares schedule
South Dakota	Yes	SSR incorporated into schedule	150% of poverty	Income shares schedule
Tennessee	No			Percentage of obligor income
Texas	No			Percentage of obligor income
Utah	Yes	Additional table for low income	Approx. \$625 gross	Income shares schedule
Vermont	Yes	SSR adjustment in worksheet	\$816 net	Income shares schedule
Virginia	Yes	SSR incorporated into shaded schedule	\$458 net	Income shares schedule
Washington	No			Income shares schedule
West Virginia	Yes	SSR adjustment in worksheet	\$550 net	Income shares schedule
Wisconsin	No			Percentage of obligor income
Wyoming	No			Income shares formula
<b>TOTAL NUMBER OF STATES</b>	Yes = 36 No = 15	SSR incorporated into schedule = 17 SSR in shaded schedule = 4 SSR in worksheet = 4 Lowered % = 3 Income – SSR = 3 Other = 3	Avg. = \$641	Income shares = 33 states % of obligor income = 13 states Melson formula = 3 states

<sup>a</sup> In hybrid states, a percentage of obligor income is applied when obligee income is low. For higher levels of obligee income, an income shares approach is used.

<sup>b</sup> It is unclear whether Indiana used a self-support reserve to adjust the low-income portion of its schedule, but it is evident some adjustment was made because order amounts in some instances don't vary with the number of children at the lowest incomes.

<sup>c</sup> The amounts were lowered in the Iowa schedule to allow for a lower amount when obligor income is less than \$720 per month.

**Exhibit 4-4****Example of a Low-Income Adjustment With Self-Support Reserve Incorporated Into Schedule**

COMBINED NET MONTHLY INCOME	Use noncustodial parent income only for the darker shaded areas of the schedule on the first page; combined parent income for the remainder of the schedule.					
	1 Child	2 Children	3 Children	4 Children	5 Children	6 Children
0-700	50	50	50	50	50	50
750	50	50	50	50	51	51
800	94	95	96	97	98	99
850	139	140	142	143	145	146
900	184	186	188	190	192	194
950	229	231	234	236	239	241
1,000	244	277	280	283	286	289
1,050	256	322	326	329	333	336
1,100	268	368	372	376	380	384

COMBINED NET MONTHLY INCOME	Use noncustodial parent income only for the darker shaded areas of the schedule on the first page; combined parent income for the remainder of the schedule.					
	1 Child	2 Children	3 Children	4 Children	5 Children	6 Children
1,150	280	409	418	422	427	431
1,200	291	425	464	469	474	479
1,250	302	440	510	515	521	526
1,300	313	456	540	562	568	574
1,350	324	472	559	608	615	621
1,400	336	488	577	638	662	669
1,450	347	503	596	658	709	716
1,500	358	519	614	679	736	764
1,550	369	535	633	699	758	811

## Exhibit 4-5

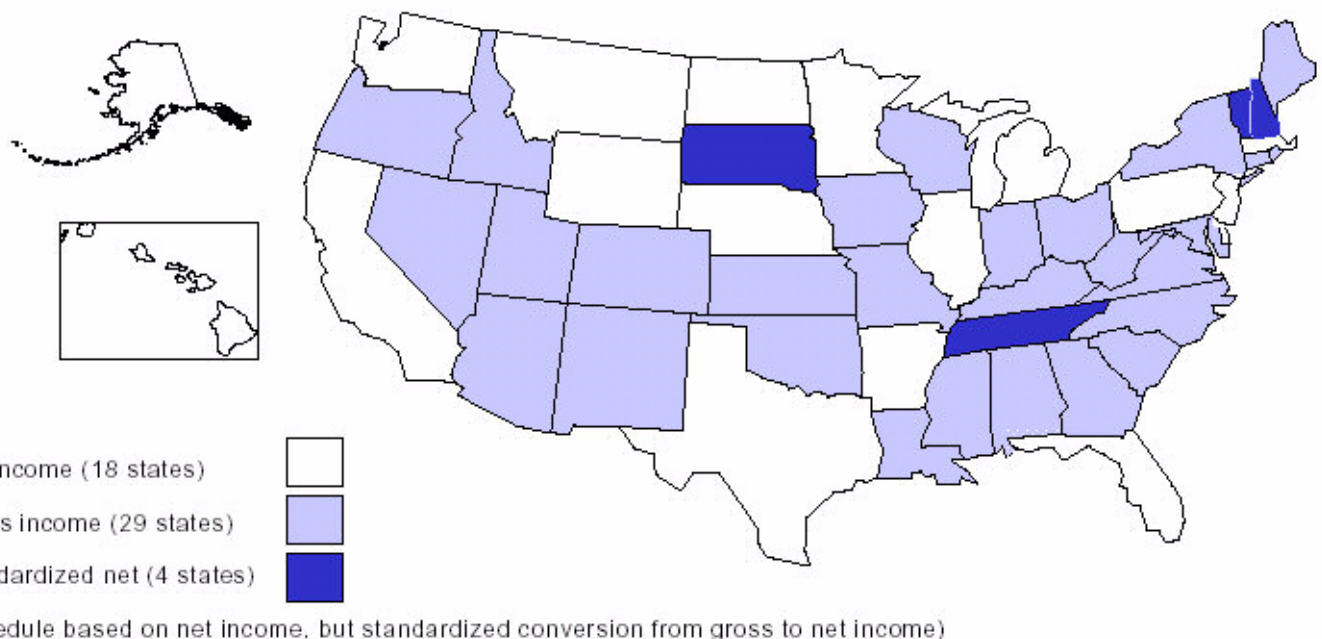
## Example of a Low-Income Adjustment Incorporated Into a Worksheet

CHILD SUPPORT WORKSHEET: SOLE CUSTODY Number of Children = 2, mother is custodial parent			
	Mother	Father	Combined
<b>I. CALCULATION OF SUPPORT</b>			
1. Net Monthly Income	\$793	\$793	\$1,586
2. Proportional Share of Income	50%	50%	100%
3. Child Support Guideline Amount			\$460
4. Each Parent's Obligation (Multiply Line 3 by Line 2 for each parent)	\$230	\$230	
<b>II. ABILITY TO PAY CALCULATION</b>			
5. Obligor's Net Monthly Income	\$793		
6. Self-Support Reserve	\$696		
7. Income Available for Support (Line 5 – Line 6). If less than \$50, enter \$50.	\$ 97		
8. Support Order (whichever amount is less: obligor's Line 4 or Line 7)	\$ 97		

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## Exhibit 4-6

## Income Base of State Child Support





### Exhibit 4-7 Example of How Vermont Standardizes Gross Income

Monthly Adjusted Gross Income Range			Custodial Parent After-Tax Income						Noncustodial Parent After- Tax Income
			(Sole or Split Custody)						
			One Child	Two Children	Three Children	Four Children	Five Children	Six Children	
575.00	-	624.99	789	853	853	853	853	853	574
625.00	-	674.99	835	924	924	924	924	924	606
675.00	-	724.99	881	995	995	995	995	995	638
725.00	-	774.99	927	1066	1066	1066	1066	1066	670
775.00	-	824.99	973	1127	1127	1127	1127	1127	702
825.00	-	874.99	1020	1173	1173	1173	1173	1173	736
875.00	-	924.99	1066	1219	1219	1219	1219	1219	773
925.00	-	974.99	1112	1265	1265	1265	1265	1265	810
975.00	-	1024.99	1158	1312	1312	1312	1312	1312	847
1025.00	-	1074.99	1196	1350	1350	1350	1350	1350	884
1075.00	-	1124.99	1231	1383	1383	1383	1383	1383	921

Assumes noncustodial parent files as a single tax payer (that is, two withholding allowances for employer withholding to simulate one exemption and the standard deduction) and custodial parent files as a head of household and claims the children as dependents. Considers federal and state personal income tax and FICA. Federal tax considers earned income tax credit and child tax credit.



### Exhibit 4-8 Treatment of Additional Dependents in Child Support Guidelines<sup>a</sup>

STATE	SPECIFICATION
Alabama	Deviation, dummy order
Alaska	Deviation, no formula specified
Arizona	Dummy order
Arkansas	Deviation, no formula specified
California	Deviation, may equal but not exceed per child guideline amount for children subject to order
Colorado	Dummy order
Connecticut	Deviation, dummy order
Delaware	% Adjustment-credit to order amount
District of Columbia	Dummy order
Florida	Deviation, no formula specified
Georgia	Deviation
Hawaii	Deviation
Idaho	Dummy order
Illinois	Dummy order
Indiana	Reasonable amount necessary to support additional dependents
Iowa	150% of TANF standard of need
Kansas	Prorated basic support
Kentucky	Dummy order
Louisiana	Deviation, no formula specified
Maine	Dummy order
Maryland	Deviation
Massachusetts	Deviation
Michigan	% Reduction to income
Minnesota	Deviation
Mississippi	Deviation
Missouri	Dummy order
Montana	50% of primary support
Nebraska	Deviation
Nevada	Deviation
New Hampshire	Not addressed
New Jersey	Dummy order (based on income of the other parent to the additional dependent also)
New Mexico	Dummy order
New York	Deviation
North Carolina	50% of the dummy order
North Dakota	Dummy order (considers income of the other parent to the additional dependent also)
Ohio	Formula-federal tax exemption
Oklahoma	Not addressed
Oregon	Prorated basic support
Pennsylvania	Deviation, permissible only if the sum of dummy order and support order are more than 50% of the obligor's net income
Rhode Island	Not addressed
South Carolina	Deviation, 75% of dummy order

### Exhibit 4-8 Treatment of Additional Dependents in Child Support Guidelines<sup>a</sup>

STATE	SPECIFICATION
South Dakota	Deviation, no formula specified
Tennessee	Not addressed
Texas	Prorated basic support
Utah	Dummy order
Vermont	Dummy order
Virginia	Deviation, no formula specified
Washington	Deviation, no formula specified
West Virginia	Not addressed
Wisconsin	Dummy order
Wyoming	Deviation, no formula specified
TOTAL NUMBER OF STATES	Not addressed = 5 states Deviation, with formula = 4 states Deviation, no formula specified = 17 states Subtract dummy order = 14 states Subtract other amount/other method = 11 states

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### Exhibit 5-1 Sample Observations by Number of Children

Number of Children	0	1	2	3	4	5 or More
Number of Observations	761	496	637	286	87	27

Source: calculations by author

**Exhibit 5-2**  
**Distribution of Total Spending by Family Composition**

	Childless Couple	One Child	Two Children	Three or More Children
Average Total Expenditures	\$33,500	\$34,115	\$34,442	\$34,697
Total Expenditures at:				
5th percentile	\$13,988	\$13,188	\$14,330	\$13,661
10th percentile	15,930	17,135	17,045	16,424
20th percentile	19,568	20,811	20,675	20,837
40th percentile	25,893	27,529	27,570	26,929
50th percentile (median)	29,163	30,921	30,509	30,255
60th percentile	32,981	35,272	34,935	34,538
80th percentile	44,048	44,768	45,601	47,315
90th percentile	53,421	53,596	57,247	55,306
95th percentile	64,344	69,334	66,587	70,186

Source: calculations by author

**Exhibit 5-3**  
**Average Spending by Family Composition**

	Childless Couple	One Child	Two Children	Three or More Children
Total Expenditures	\$33,500	\$34,115	\$34,442	\$34,697
Budget Share (% of Total Expenditures)				
Food	18.4	18.7	20.5	21.8
Housing	39.1	41.2	41.2	40.8
Apparel	4.9	5.5	5.5	5.5
Transportation	15.7	14.8	13.9	13.4
Entertainment	6.9	6.2	6.6	6.2
Health care	5.8	5.6	5.3	5.3
Tobacco and alcohol	2.4	1.9	1.8	1.7
Personal care	1.2	1.0	1.0	1.0
Reading	.7	.6	.5	.4
Education	1.5	1.5	1.2	1.2
Personal insurance	1.8	1.4	1.6	1.3
Miscellaneous	1.6	1.4	1.0	1.4

Source: calculations by author

**Exhibit 5-4**  
**Relative Food Needs of Children\***

Age of Child	0–2	3–5	6–12	13–15	16–17
Food Scales	.511	.570	.802	.943	.969

\* While the food plan distinguishes between the food needs of males and females, no distinction was made in this study.

**Exhibit 5-5**  
**Parameter Assumptions**

Number of Children:	1	2	3
$\rho$	.333	.500	.667
$\phi$	.286	.445	.546
$\eta$	.282	.440	.541
$(1-\omega)\rho$	.207	.310	.414



**Exhibit 5-6**  
**Allocation of Spending by Family Composition**  
**(Percentage of Total Expenditures)**

	One Child	Two Children	Three or More Children
Exclusions			
Adult clothing	2.4	2.0	1.6
Tobacco and alcohol	1.9	1.8	1.7
Personal insurance	1.4	1.6	1.3
Miscellaneous	1.4	1.0	1.4
<b>Total Exclusions</b>	<b>7.1</b>	<b>6.4</b>	<b>6.0</b>
Child Goods			
Child clothing	1.4	2.0	2.4
Babysitting and child care	2.1	2.4	1.6
Education	1.5	1.2	1.2
<b>Total Child Goods</b>	<b>5.0</b>	<b>5.6</b>	<b>5.2</b>
Allocations Based Upon Other Studies			
Food	18.7	20.5	21.8
Transportation	14.8	13.9	13.4
Health care	5.6	5.3	5.3
Per capita Allocation:			
Housing – child care	39.1	38.8	39.2
Apparel – clothing	1.7	1.5	1.5
Entertainment	6.2	6.6	6.2
Personal care	1.0	1.0	1.0
Reading	.6	.5	.4
<b>Total Per Capita Allocation</b>	<b>48.6</b>	<b>48.4</b>	<b>48.3</b>

Source: calculations by author

## Exhibit 5-7

## The Effect of an Increase of \$1,000 of Total Family Spending on Budget Shares

Number of Children:	One	Two	Three or More
<i>C</i>	.007	.023*	-.010
<i>F</i>	-.182*	-.206*	-.197*
<i>H</i>	.005	-.026*	.015
<i>T</i>	-.018	-.033*	-.014
<i>E</i>	.031*	.032*	.020
Net Effect on Child Spending	.005	.015	.009



**Exhibit 5-8**  
**Engel Model Results**  
**Dependent Variable: Log of the Budget Share of Food at Home**

Source	ss	df	MS	Number of obs = 2294		
				F ( 20, 2273) = 116.97		
Model	262.423643	20	13.1211821	Prob > F = 0.0000		
Residual	254.981091	2273	.112178218	R-squared = 0.5072		
				Adj R-squared = 0.5029		
Total	517.404734	2293	.225645326	Root MSE = .33493		
lnfhmshr	Coef.	Std. Err.	t	P> t	[95% Conf. Interval]	
black	-.1303913	.0289638	-4502	0.000	-.1871895	-.0735931
hd_no_hs	-.0164093	.0278909	-0.588	0.556	-.0711036	.0382849
hd_coll	-.0204064	.0176268	-1.158	0.247	-.0549727	.0141599
sp_no_hs	.0746043	.0292843	2.548	0.011	.0171775	.1320311
sp_coll	-.0162038	.017565	-0.923	0.356	-.0506489	.0182413
twoern	-.074092	.0257289	-2.880	0.004	-.1245466	-.0236374
w_work	-.0192493	.0300475	-0.641	0.522	-.0781726	.0396741
ftime	.001057	.0212988	0.050	0.960	-.0407101	.042824
k02	-.1127346	.2146943	-0.525	0.600	-.533752	.3082827
k35	.2080836	.2217175	0.939	0.348	-.2267063	.6428735
k612	.2554816	.2233016	1.144	0.253	-.1824146	.6933778
k1315	.3564215	.222189	1.604	0.109	-.079293	.7921359
k1617	.283794	.2210097	1.284	0.199	-.1496078	.7171957
a1820	.0574208	.1504435	0.382	0.703	-.2376	.3524417
a2130	-.1481026	.0358385	-4.133	0.000	-.2183822	-.0778231
a4150	.1060456	.0325171	3.261	0.001	.0422793	.1698119
a5160	.1188946	.0331527	3.586	0.000	.0538818	.1839073
lnfsize	-.2983857	.1406219	-2.122	0.034	-.5741464	-.0226251
lnpctx	-.4110296	.0698041	-5.888	0.000	-.5479159	-.2741433
lnpctx2	-.0401895	.0144223	-2.787	0.005	-.0684718	-.0119072
_cons	-.5068736	.1465667	-3.458	0.001	-.7942921	-.2194552

**Exhibit 5-9**  
**Rothbarth Model Results**  
**Dependent Variable: Log of Adult Clothing Expenditures**

Source	ss	df	MS	Number of obs = 2208		
				F ( 20, 2187) = 76.00		
Model	1317.20814	20	65.8604069	Prob > F = 0.0000		
Residual	1895.13175	2187	.866544008	R-squared = 0.4100		
				Adj R-squared = 0.4047		
Total	3212.33988	2207	1.45552328	Root MSE = .93088		
Inacloth	Coef.	Std. Err.	t	P>  t	[95% Conf. Interval]	
black	.2176068	.0834155	2.609	0.009	.0540249	.3811887
hd_no_hs	-.0163035	.0809508	-0.201	0.840	-.1750519	.142445
hd_coll	.1315272	.0499255	2.634	0.008	.0336208	.2294336
sp_no_hs	-.0509391	.0851648	-0.598	0.550	-.2179514	.1160732
sp_coll	.0132366	.0497763	0.266	0.790	-.0843773	.1108504
twoern	.1454715	.0730987	1.990	0.047	.0021214	.2888217
w_work	-.1301874	.0853245	-1.526	0.127	-.2975128	.0371381
ftime	.0381694	.0602771	0.633	0.527	-.0800369	.1563757
k02	-1.332306	.6134629	-2.172	0.030	-2.535337	-.1292756
k35	-1.562365	.6326407	-2.470	0.014	-2.803004	-.3217251
k612	-1.522851	.6393154	-2.382	0.017	-2.77658	-.2691219
k1315	-1.280312	.6343217	-2.018	0.044	-2.524248	-.036376
k1617	.7547665	.630721	1.197	0.232	-.4821084	1.991641
a1820	-.8621443	.4231457	-2.037	0.042	-1.691954	-.0323348
a2130	.2654914	.1012077	2.623	0.009	.0670181	.4639646
a4150	-.1350928	.0916283	-1.474	.0141	-.3147803	.0445948
a5160	-.0406891	.0933374	-0.436	0.663	-.2237284	.1423502
lnfsiz	1.603558	.4034592	3.975	0.000	.8123545	2.394761
lnpctx	2.105921	.2077846	10.135	0.000	1.698445	2.513397
lnpctx2	-.1445273	.0424108	-3.408	0.001	-.227697	-.0613577
_cons	.652167	.4258366	1.531	0.126	-.1829196	1.487254

**Exhibit 5-10**  
**Estimates of the Allocation of Spending on Children**  
 (Standard errors are in parentheses.)

	Number of Children					
	1		2		3	
Per Capita	33.3%	(0.0)	50.0%	(0.0)	60.0%	(0.0)
1996–1997 CEX						
USDA	30.3%	(3.7)	44.9%	(3.4)	53.5%	(3.3)
Engel	30.1%	(3.0)	43.9%	(3.1)	52.0%	(3.0)
Rothbarth	25.6%	(3.7)	35.9%	(3.8)	41.6%	(3.7)
1980–1986 CEX						
Engel	33.0%	(1.4)	49.1%	(1.4)	59.3%	(1.2)
Rothbarth	24.2%	(1.7)	34.2%	(1.8)	39.2%	(1.9)

**Exhibit 5-11**  
**Additional Costs of the Second and Third Children**

	Increase in Child Spending Due to:	
	Second Child	Third Child
Per Capita	50%	20%
1996–1997 CEX		
USDA	48%	19%
Engel	46%	18%
Rothbarth	40%	16%
1980–1986 CEX		
Engel	49%	21%
Rothbarth	41%	13%

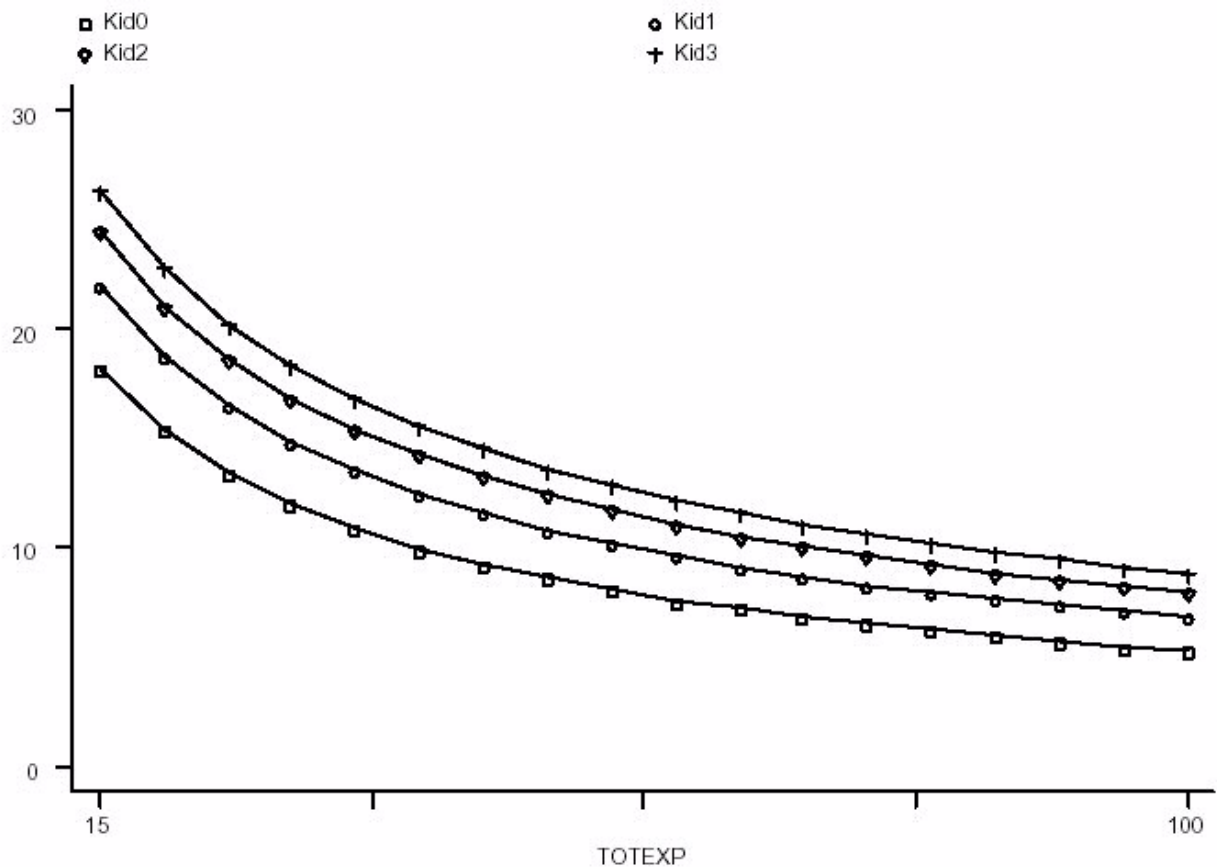


### Exhibit 5-12 Relative Costs of Younger and Older Children

	Costs Relative to a Child 6 to 11 Years Old			Older Child
	Young Child (0–5)	Middle Child (6–11)	Old Child (12–17)	Costs Relative to Youngest Child
USDA Method				
1999 Annual Report	99	100	109	110
1996–1997 CEX Data (Betson)	98	100	103	105
Engel				
1972–1973 CEX (Espenshade)	72	100	106	147
1980–1986 CEX (Betson)	82	100	116	141
1996–1997 CEX (Betson)	71	100	108	152
Relative Food Needs				
Moderate-Cost Food Plan	67	100	116	172
Rothbarth				
1980–1986 CEX (Betson)	97	100	95	98
1996–1997 CEX (Betson)	95	100	87	92

Source: calculations by author

**Figure 5-1**  
**Predicted Food Budget Share as a Function of Total Expenditures**  
**for Childless Couples and Families with Children**  
**(in \$1,000)**



**Figure 5-2**  
**Predicted Expenditures on Adult Clothing as a Function of Total Expenditures**  
**for Childless Couples and Families with Children**  
**(in \$1,000)**

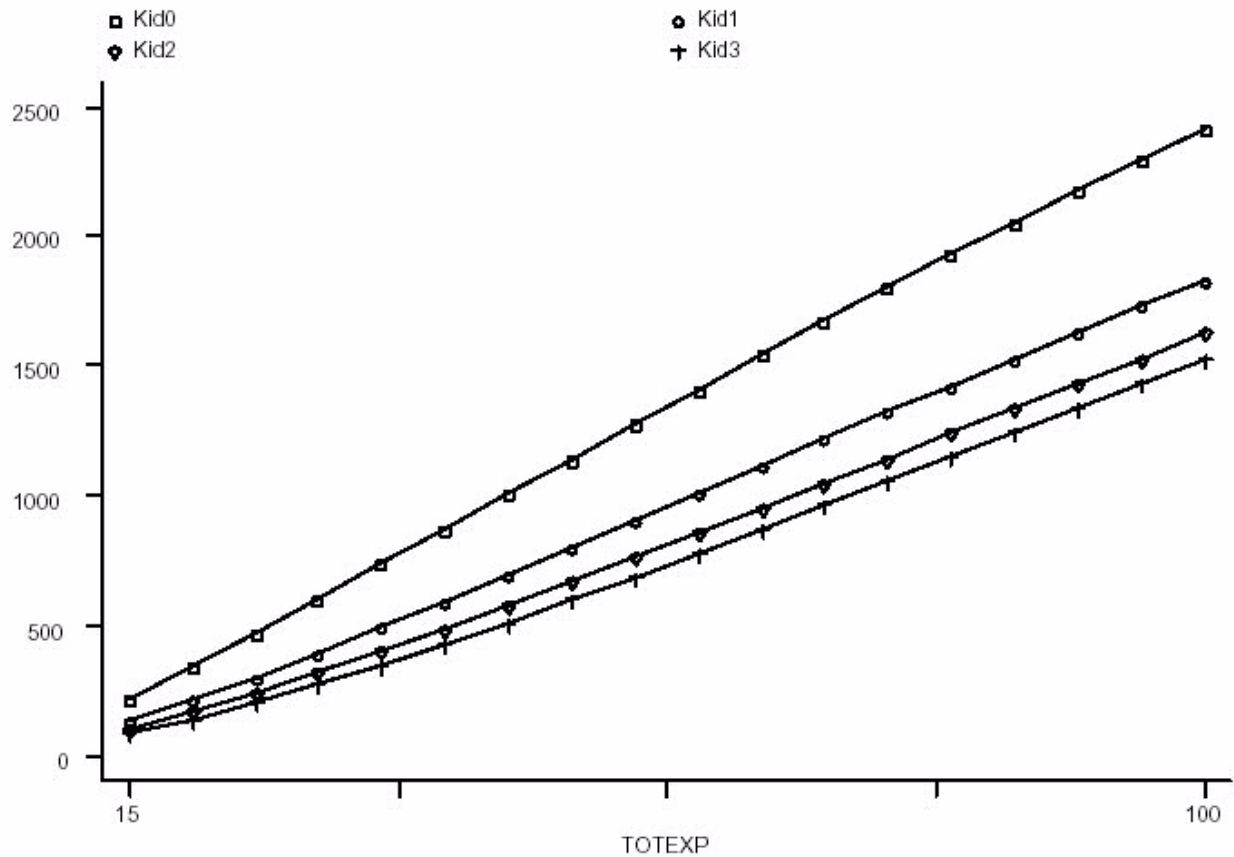




Figure 5-3  
USDA Estimates of the Percentage of Total Spending Devoted to One Child

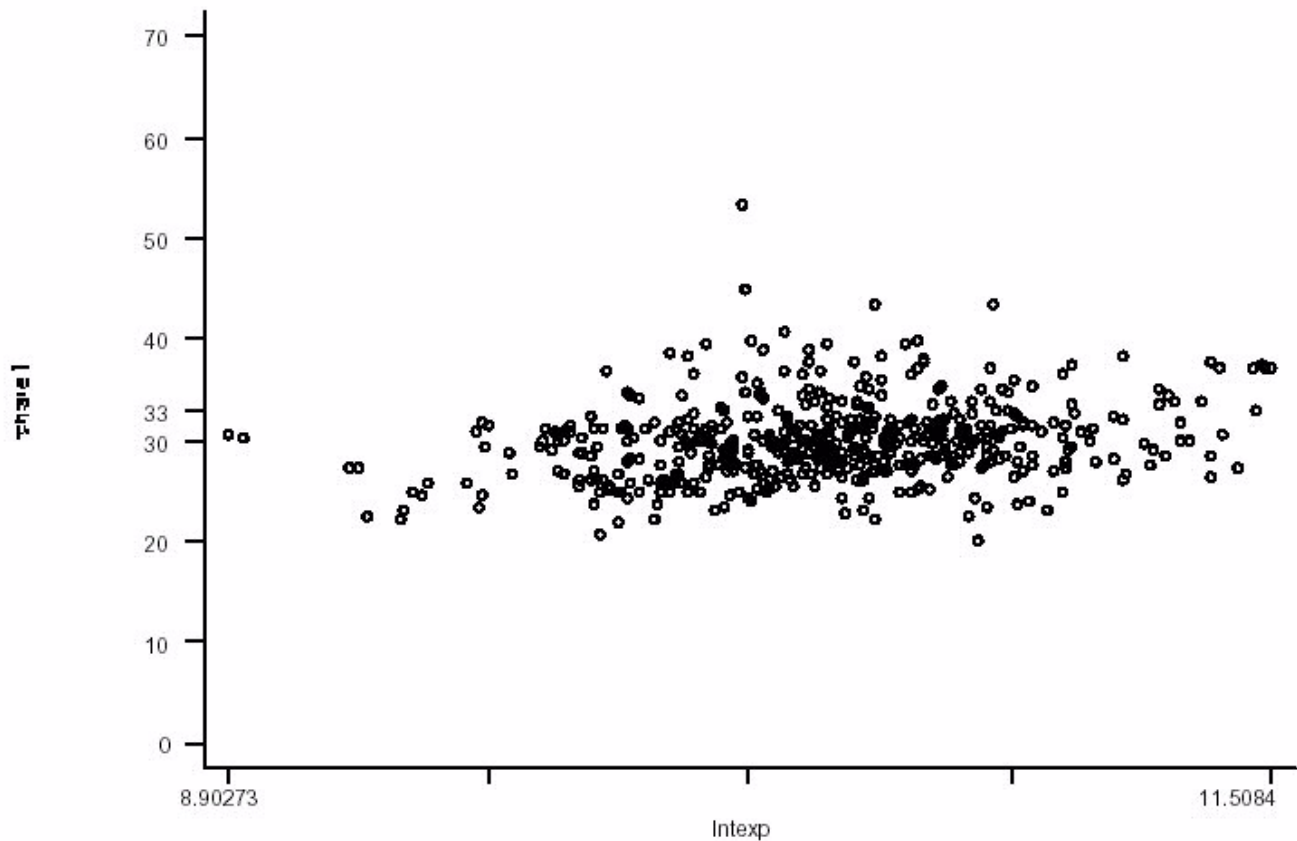
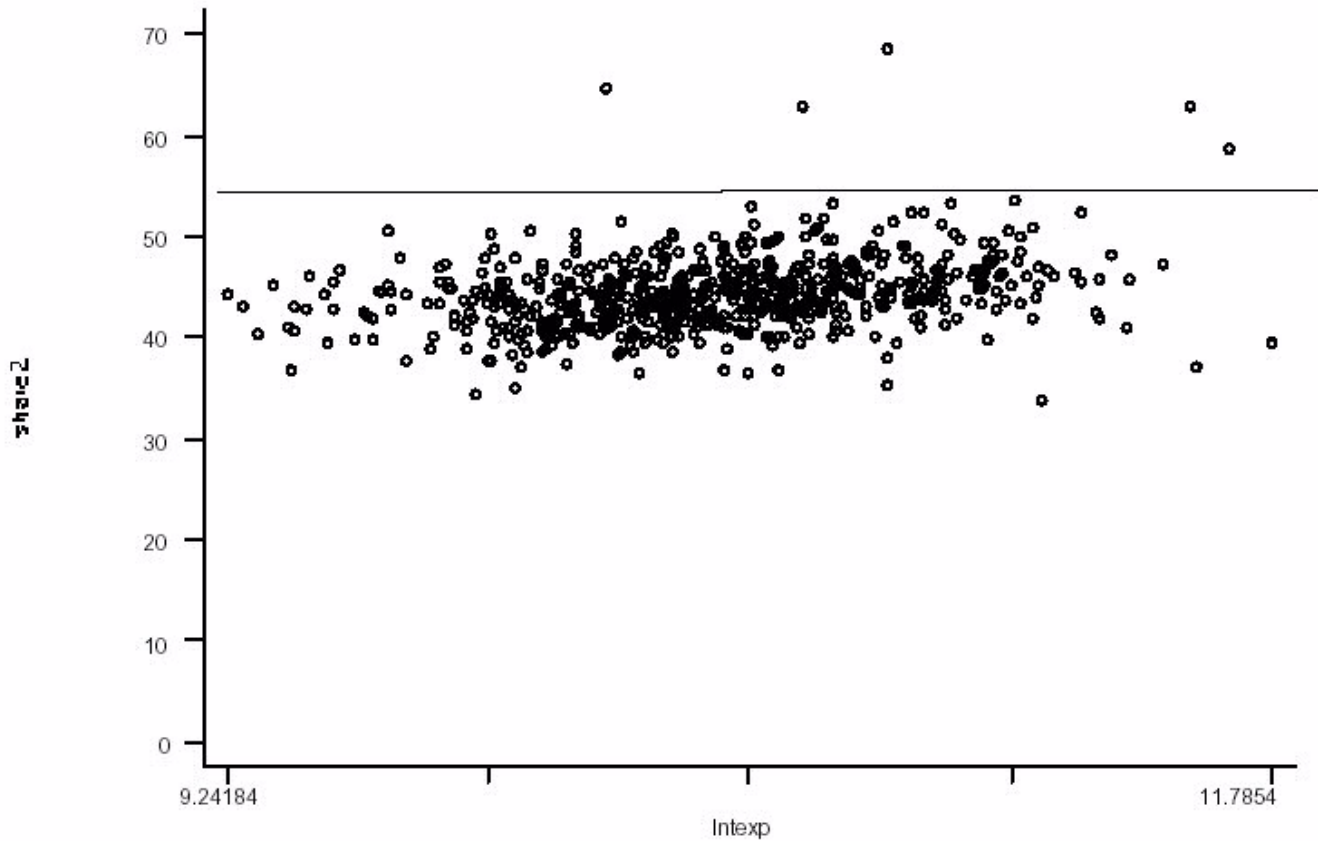


Figure 5-4

## USDA ESTIMATES OF THE PERCENTAGE OF TOTAL SPENDING DEVOTED TO TWO CHILDREN



**Figure 5-5**  
**USDA Estimates of Parental Sharing by Total Expenditures**  
**for One, Two, and Three Children**  
**(in \$1,000)**

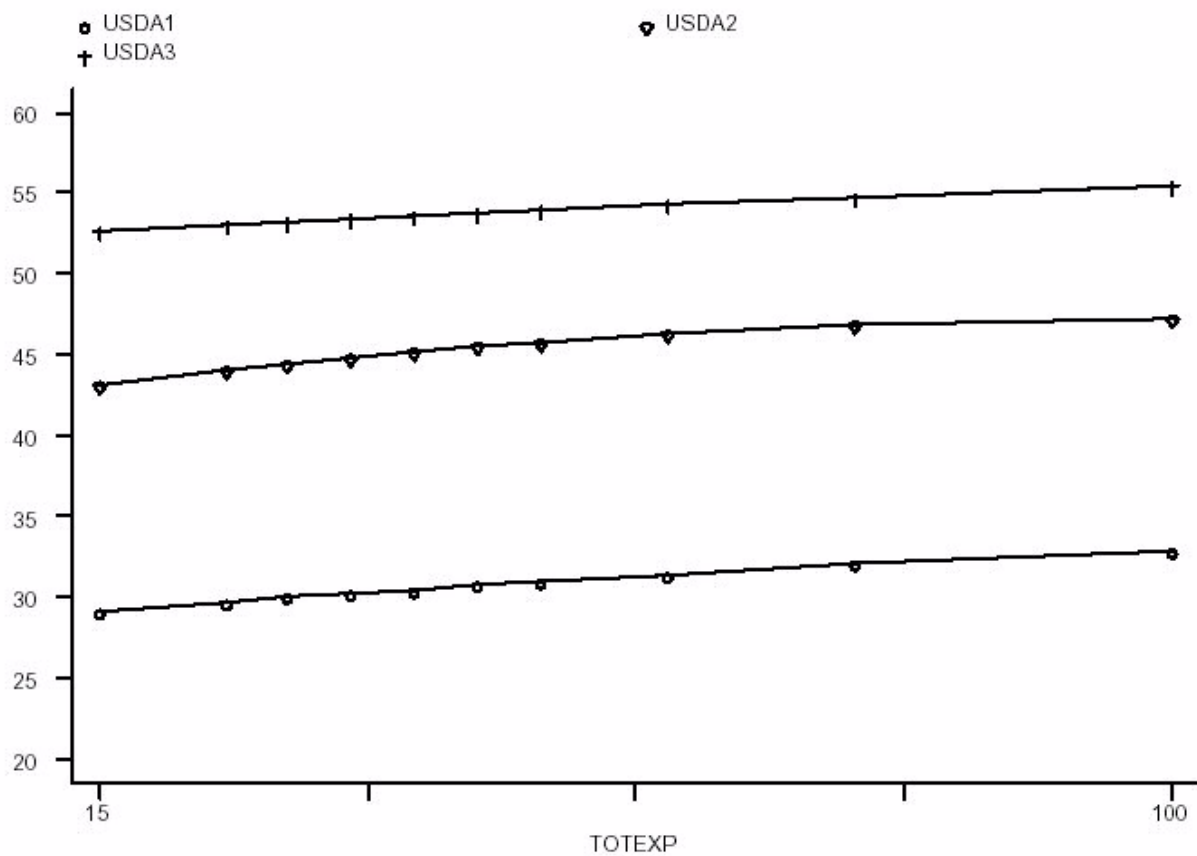
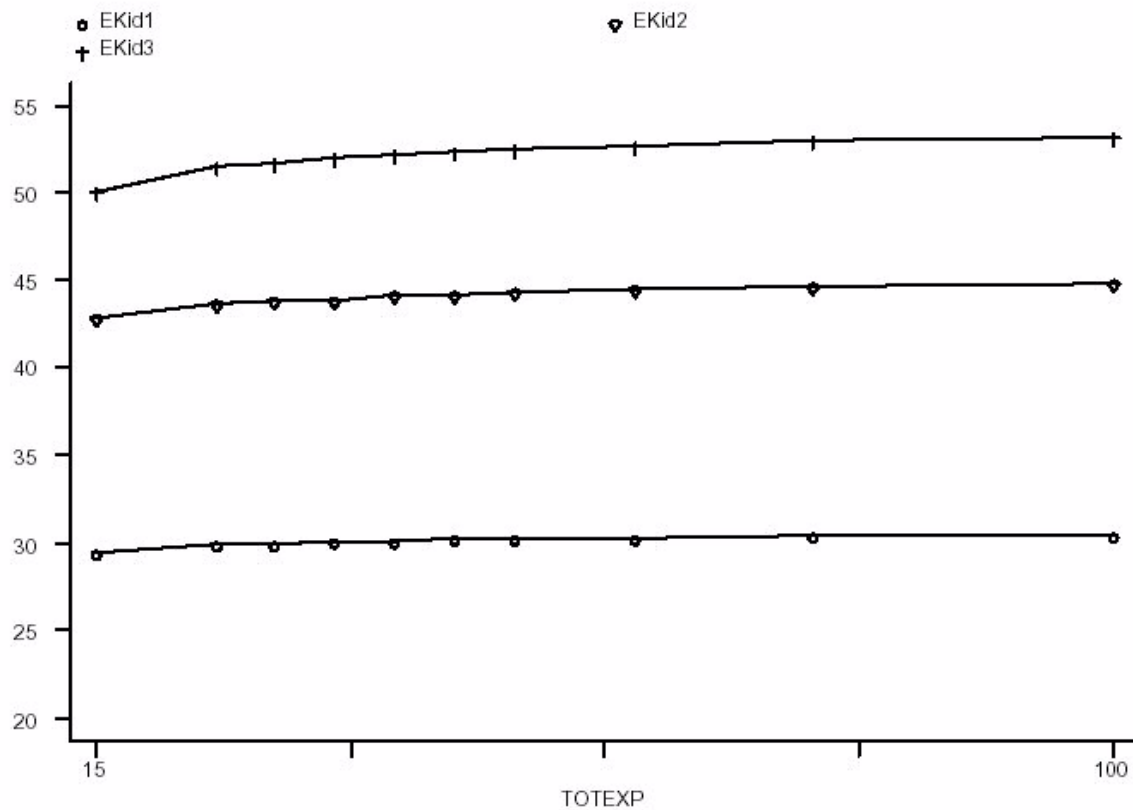
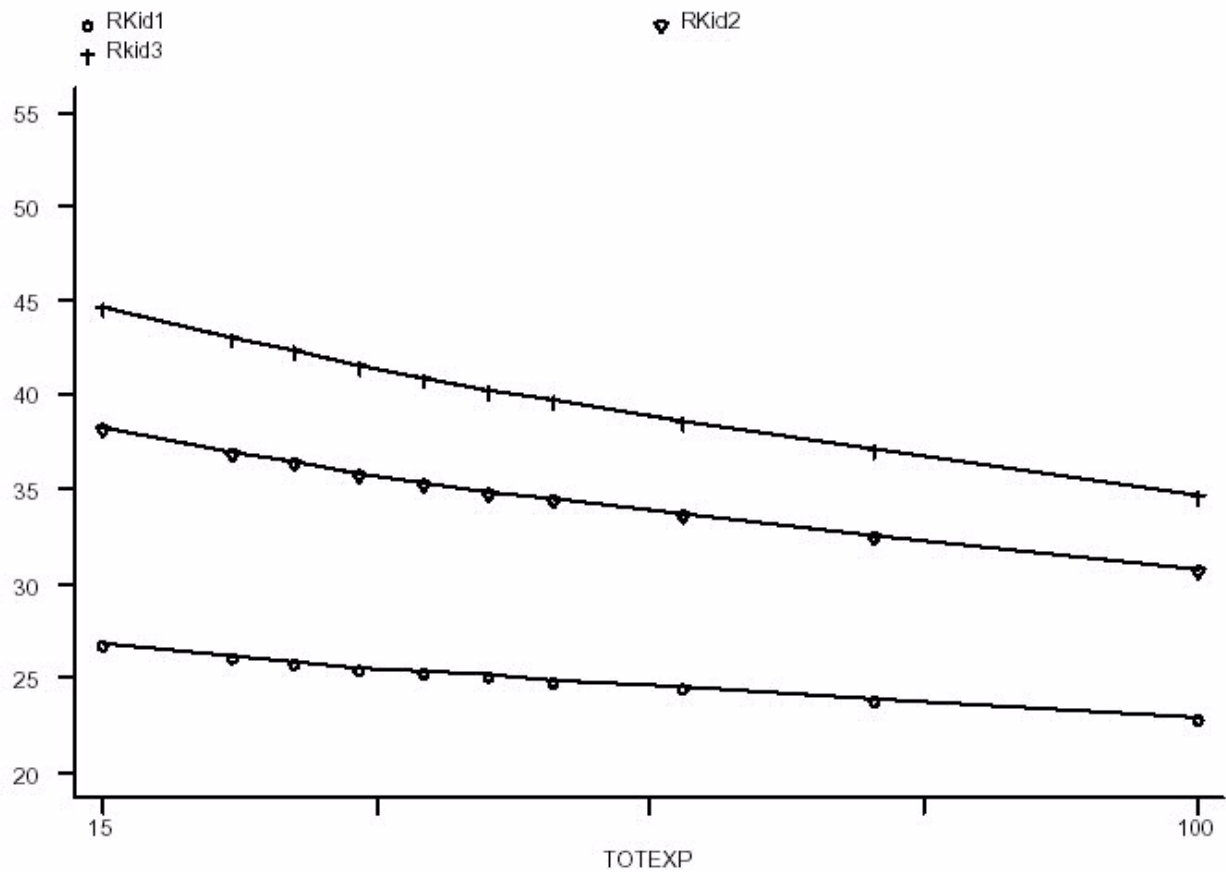


Figure 5-6  
Engel Estimates of Parental Sharing by Total Expenditures  
for One, Two, and Three Children  
(in \$1,000)



**Figure 5-7**  
**Rothbarth Estimates of Parental Sharing by Total Expenditures**  
**for One, Two, and Three Children**  
**(in \$1,000)**



<b>Exhibit 6-1</b> <b>Characteristics of Respondents</b> <b>(Percent of respondents)</b>							
Characteristic	Respondent's Job/Area of Work						TOTAL (n=616)
	Judicial Officers/ Family Law Facilitators (n=117)	Private Family Law Attorneys (n=59)	IV-D Child Support (n=200)	Parent/Child Advocates (n=97)	Parents (n=52)	Other <sup>1</sup> (n=91)	
Years worked with cases needing child support orders established or modified							
• 2 years or less	9.4%	1.7%	13.5%	10.3%	5.8%	9.3%	9.9%
• > 2 but < 5 years	13.7%	10.2%	19.5%	23.7%	9.6%	7.0%	15.6%
• > 5 but < 10 years	20.5%	15.3%	34.0%	30.9%	21.2%	8.1%	24.7%
• 10 years or more	55.6%	71.2%	32.5%	15.5%	17.3%	10.5%	33.3%
• Don't know/no response	0.9%	1.7%	0.5%	19.6%	46.2%	58.1%	16.6%
(Mean years) <sup>2</sup>	(7.7 years)	(8.8 years)	(6.7 years)	(6.0 years)	(6.9 years)	(5.7 years)	(7.0 years)
County Size <sup>3</sup>							
• Small (< 100,000)	12.0%	3.4%	12.5%	3.1%	1.9%	7.0%	8.3%
• Medium-size (100,000-750,000)	39.3%	20.3%	22.4%	14.4%	17.3%	14.0%	30.0%
• Large (> 750,000)	43.6%	72.9%	39.0%	70.1%	50.0%	22.1%	46.4%
• No response	5.1%	3.4%	4.5%	12.4%	30.8%	57.0%	15.3%
TOTAL (n=616)	19.0%	9.6%	32.5%	15.7%	8.3%	14.8%	

<sup>1</sup> Other includes academics, legal aid representatives, private child support specialists (non-attorneys), and others (for example, taxpayer, layperson, law student). It also includes all respondents who did not identify their position.

<sup>2</sup> Mean years are computed using the midpoint of each response range.

<sup>3</sup> Counties were classified as small, medium-size or large based on January 2000 population statistics taken from the California government Web site.

<b>Exhibit 6-2</b> <b>Perceived Fairness of the Child Support Guideline</b> <b>(Average Rating)<sup>1</sup></b>							
How fair do you believe the child support guideline is to the...	Respondent's Job/Area of Work						TOTAL (n=616)
	Judicial Officers/Family Law Facilitators (n=117)	Private Family Law Attorneys (n=59)	IV-D Child Support (n=200)	Parent/Child Advocates (n=97)	Parents (n=52)	Other <sup>2</sup> (n=91)	
Noncustodial parent/payor?	2.31	2.17	2.69	1.32	1.24	1.87	2.11
Custodial parent/payee?	3.12	3.17	3.01	2.60	2.75	3.03	3.01
Children for whom the support is awarded?	3.01	2.84	2.99	1.70	1.70	2.41	2.56
Children from other relationships?	2.16	2.16	2.66	1.28	1.34	1.77	2.08



Exhibit 6-3: Opinions About the Level of Child Support Orders  
(Percent of Respondents)

All respondents (n = 616)

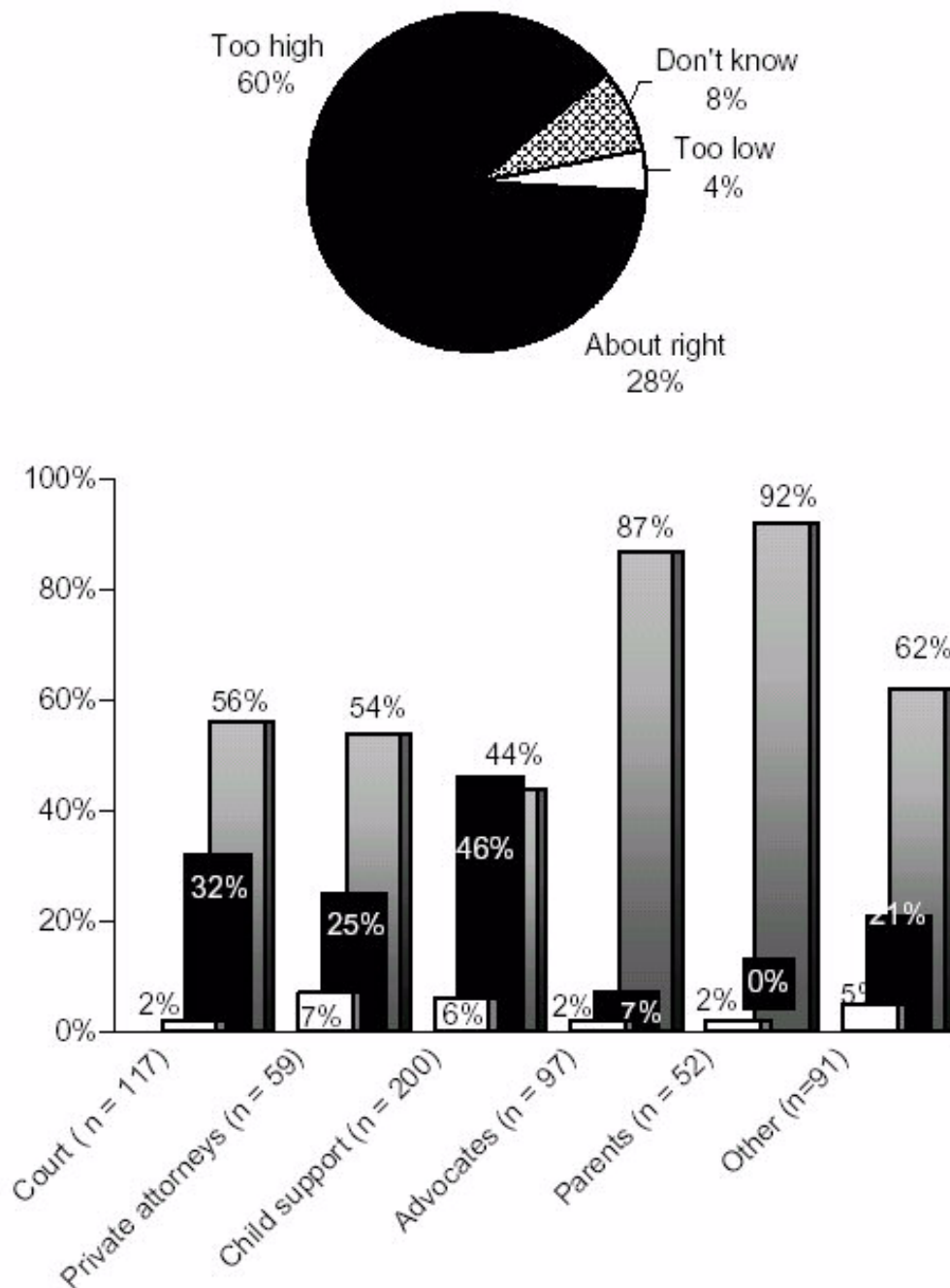
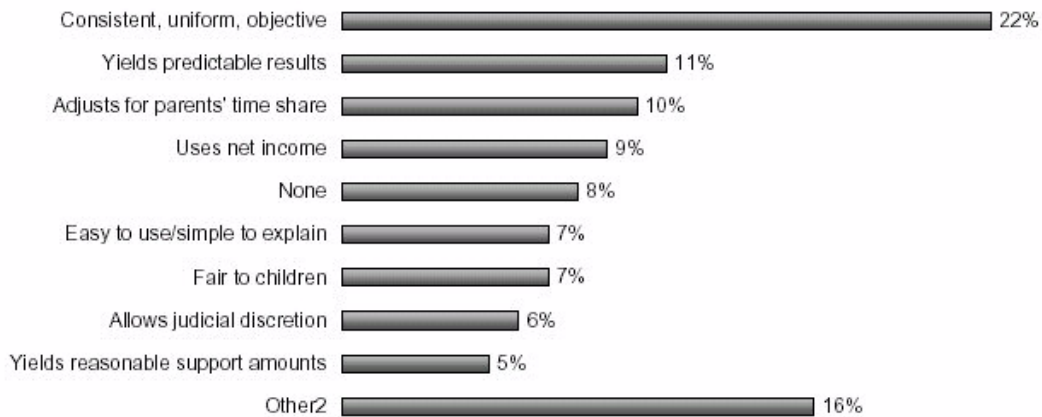


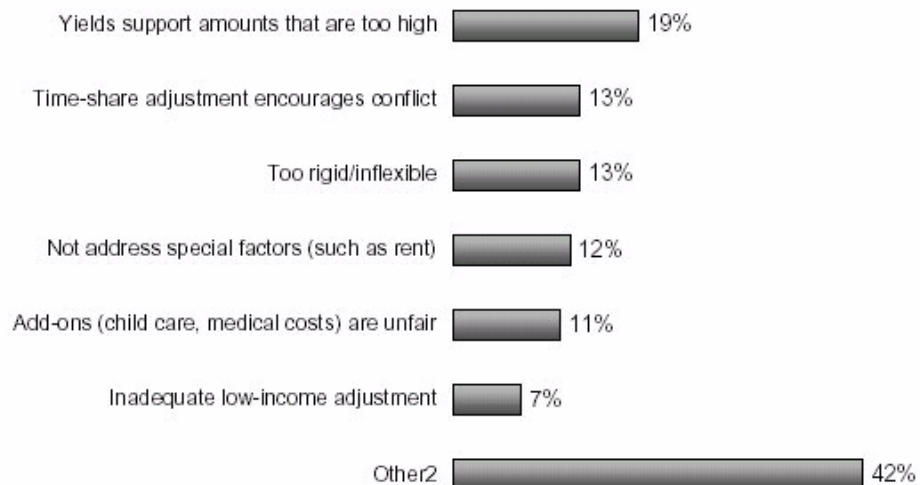
Exhibit 6-4: Perceived Strengths of the Guideline  
(Percent of Respondents)<sup>1</sup>  
(n = 616)



<sup>1</sup>Multiple Response question, thus proportions may exceed 100%. Only answers mentioned by at least 5% of all respondents are shown individually in the figure. To compute the number of respondents who mentioned each strength, multiply the percentage by 616. Thus, 22% x 616 = 136 respondents saw the consistency, uniformity, and objectivity of the guideline as a strength.

<sup>2</sup>Other: good settlement tool, adjusts for second families, reduces parental conflict, mandatory.

Exhibit 6-5: Perceived Weaknesses of the Guideline  
(Percent of Respondents)<sup>1</sup>  
(n = 616)



<sup>1</sup>Multiple Response question, thus proportions may exceed 100%. Only answers mentioned by at least 5% of all respondents are shown individually in the figure. To compute the number of respondents who mentioned each weakness, multiply the percentage by 616. Thus, 19% x 616 = 117 respondents said a weakness of the guideline is that it yields support amounts that are too high.

<sup>2</sup>Other: too complex, ignore direct expenses on the child, not fair, do not require verification of how child support is spent, hard to explain.

**Exhibit 6-6**  
**Respondents' Ratings About How Adequately Guideline Deals With Selected issues**  
**(Average Rating)<sup>1</sup>**

How adequately does the guideline deal with...	Respondent's Job/Area of Work						TOTAL (n=616)	Rank <sup>3</sup>
	Judicial Officers/ Family Law Facilitators (n=117)	Private Family Law Attorneys (n=59)	IV-D Child Support (n=200)	Parent/ Child Advocates (n=97)	Parents (n=52)	Other <sup>2</sup> (n=91)		
Work- or education-related child-care costs for children who are the subject of the support being ordered?	2.61	2.62	2.89	2.01	2.18	1.88	2.59	1
Health-insurance expenses?	2.76	2.66	2.79	2.13	2.27	2.43	2.58	2
Provisions for calculating the net income of both parents?	2.88	2.54	2.87	1.80	1.61	2.07	2.45	3
Adjustments for additional natural or adopted children living in the mother's or father's home?	2.53	2.26	2.91	1.62	1.50	2.19	2.41	4
Cases in which the mother or father has a support order for children from a prior or subsequent relationship?	2.49	2.43	2.83	1.63	1.50	2.02	2.39	5
Adjustments for spousal support?	2.67	2.41	2.78	1.69	1.42	2.12	2.36	6
Adjustments for sharing physical custody?	2.58	2.23	2.84	1.50	1.48	1.93	2.28	7



**Exhibit 6-6**  
**Respondents' Ratings About How Adequately Guideline Deals With Selected issues**  
**(Average Rating)<sup>1</sup>**

How adequately does the guideline deal with...	Respondent's Job/Area of Work						TOTAL (n=616)	Rank <sup>3</sup>
	Judicial Officers/ Family Law Facilitators (n=117)	Private Family Law Attorneys (n=59)	IV-D Child Support (n=200)	Parent/Child Advocates (n=97)	Parents (n=52)	Other <sup>2</sup> (n=91)		
High-income cases?	2.52	2.06	2.73	1.49	1.31	1.92	2.24	8
Work- or education-related child-care costs for children from other relationships?	2.10	1.85	2.40	1.67	1.39	2.39	2.07	9
Cases in which the income of the noncustodial parent is unknown?	2.29	1.96	2.23	1.58	1.54	1.82	2.06	10
Low-income cases?	1.76	2.12	2.40	1.53	1.34	1.79	1.98	11

<sup>1</sup> Average (mean) ratings are calculated using a four-point scale where 4=very adequate, 3=adequate, 2=inadequate, and 1=very inadequate. Thus, the higher the average rating, the more adequately respondents believe the guideline deals with that issue. Averages exclude respondents who did not answer or who did not know how to rate the issue.

<sup>2</sup> Other includes academics, legal aid representatives, private child support specialists (non-attorneys), and others (for example, taxpayer, layperson, law student). It also includes all respondents who did not identify themselves.

<sup>3</sup> Rank is based on the average rating given by all respondents.

**Exhibit 6-6a**

**Statistical Differences in Average Adequacy Ratings for Selected Issues  
by Respondents' Position/Job**

Work- or education-related child-care costs for children who are the subject of the support being ordered.	<ul style="list-style-type: none"> <li>The average rating for advocates is significantly lower than the average for all other groups except parents.</li> <li>The average rating for child support staff is significantly higher than the average rating for parents.</li> </ul>
Health-insurance expenses	<ul style="list-style-type: none"> <li>The average rating for advocates and parents is significantly lower than the average for judicial respondents and child support staff.</li> </ul>
Provision for calculating the net income of both parents	<ul style="list-style-type: none"> <li>The average rating for advocates and parents is significantly lower than the average for all other groups.</li> </ul>
Adjustments for additional natural or adopted children living in the mother's or father's home	<ul style="list-style-type: none"> <li>The average rating for advocates and parents is significantly lower than the average for all other groups.</li> <li>The average rating for child support staff is significantly higher than the rating for judicial respondents and private attorneys.</li> </ul>
Cases in which the mother or father has a support order for children from a prior or subsequent relationship	<ul style="list-style-type: none"> <li>The average rating for advocates and parents is significantly lower than the average for all other groups.</li> <li>The average rating for child support staff is significantly higher than the rating for judicial respondents and private attorneys.</li> </ul>
Adjustments for spousal support	<ul style="list-style-type: none"> <li>The average rating for advocates and parents is significantly lower than the average for all other groups.</li> </ul>
Adjustments for sharing physical custody	<ul style="list-style-type: none"> <li>The average rating for advocates and parents is significantly lower than the average for all other groups.</li> </ul>

Exhibit 6-6a

<b>Statistical Differences in Average Adequacy Ratings for Selected Issues by Respondents' Position/Job</b>	
	<ul style="list-style-type: none"> <li>The average rating for child support staff is significantly higher than the rating for private attorneys.</li> </ul>
High-income cases	<ul style="list-style-type: none"> <li>The average rating for advocates and parents is significantly lower than the average for all other groups.</li> <li>The average rating for child support staff is significantly higher than the rating for judicial respondents and private attorneys.</li> </ul>
Work- or education-related child-care costs for children from other relationships	<ul style="list-style-type: none"> <li>The average rating for advocates and parents is significantly lower than the average for all other groups.</li> <li>The average rating for child support staff is significantly higher than the rating for judicial respondents.</li> </ul>
Cases in which the income of the noncustodial parent is unknown	<ul style="list-style-type: none"> <li>The average rating for advocates and parents is significantly lower than the average for judicial respondents and child support staff.</li> </ul>
Low-income cases	<ul style="list-style-type: none"> <li>The average rating for advocates and parents is significantly lower than the average for private attorneys and child support staff.</li> <li>The average rating for child support staff is significantly higher than the rating for judicial respondents.</li> </ul>

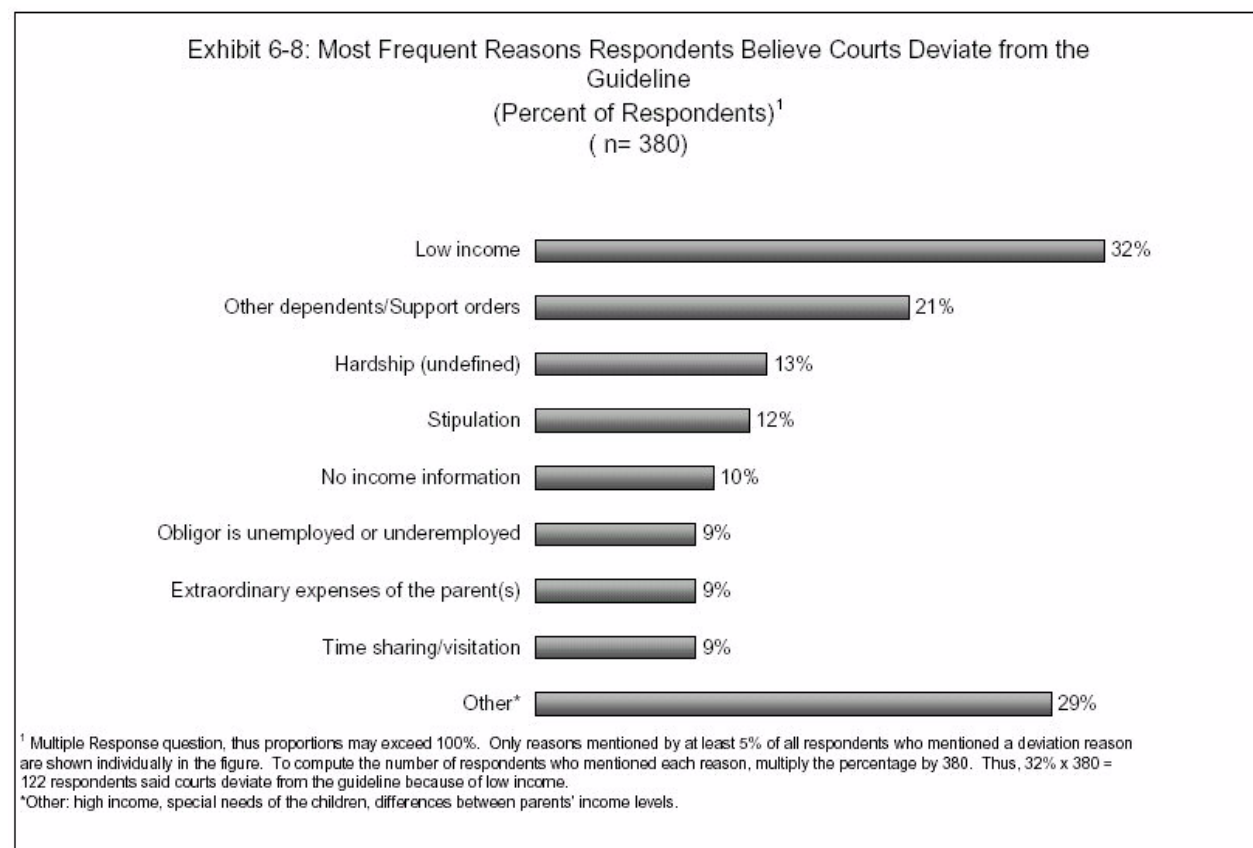
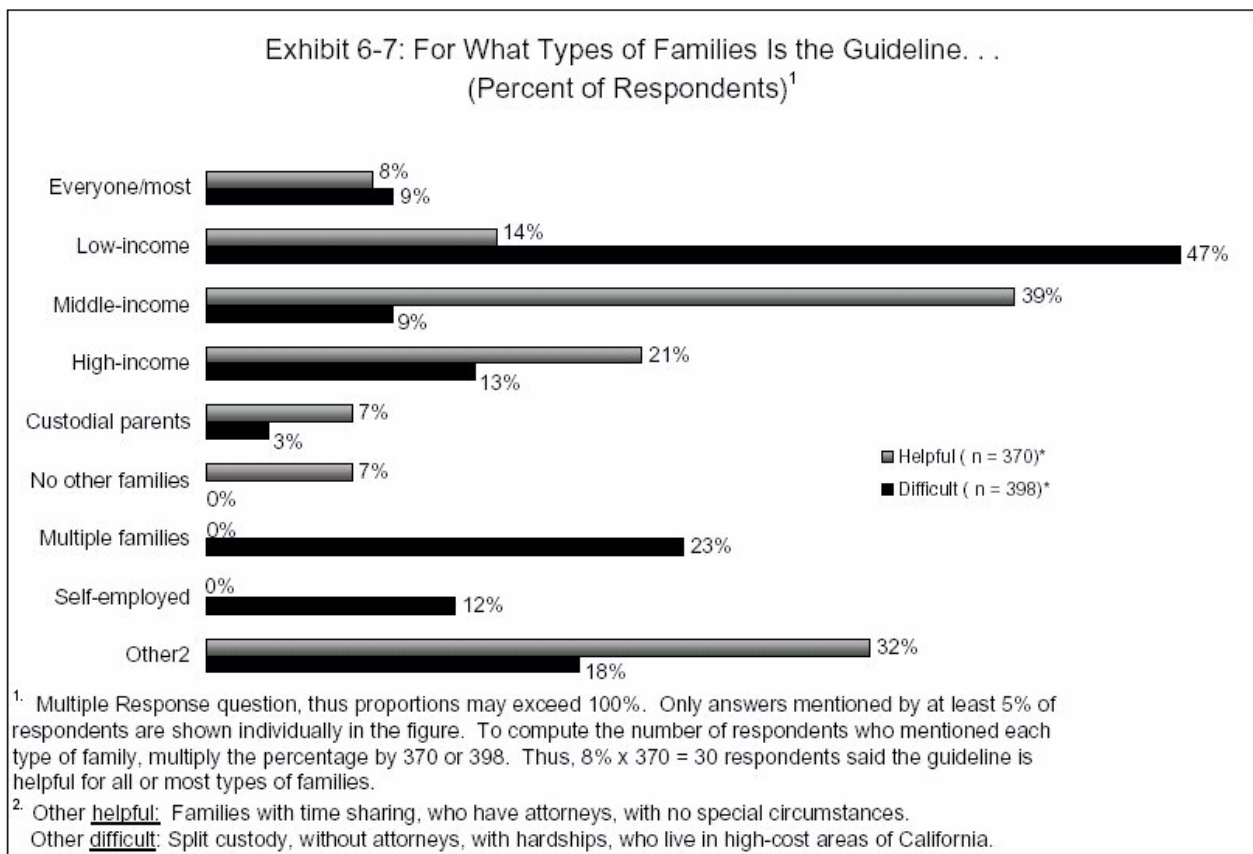
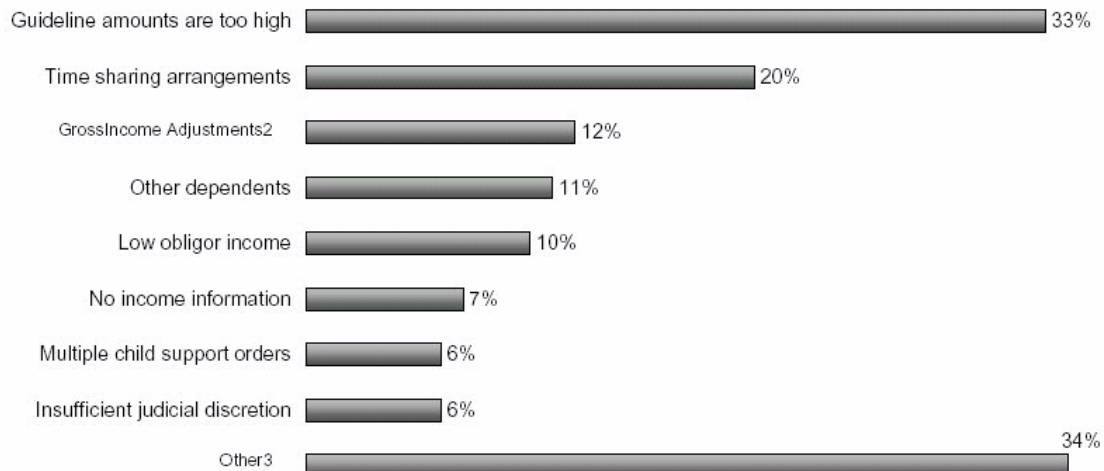




Exhibit 6-9: Problems Respondents Report Having Experienced Using  
the Guideline  
(Percent of Respondents)<sup>1</sup>  
(n = 404)

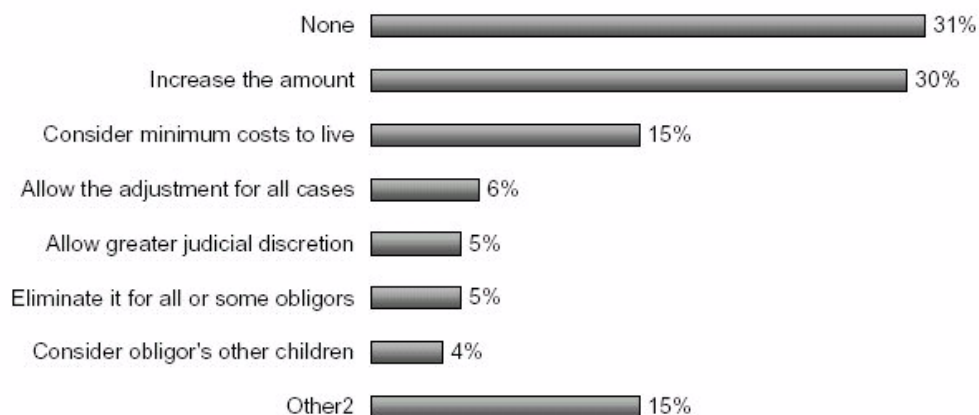


<sup>1</sup> Multiple Response question, thus proportions may exceed 100%. Only problems mentioned by at least 5% of all respondents who answered the question are shown individually in the figure. To compute the number of respondents who mentioned each problem, multiply the percentage by 404. Thus, 33% x 404 = 133 respondents said their problem with the guideline is that support amounts are too high.

<sup>2</sup> Adjustments included problems imputing income and dealing with self-employment income, stepparent and new spouse income, income from overtime and bonuses.

<sup>3</sup> Other: not enough adjustments, special needs of the children, guidelines too complex.

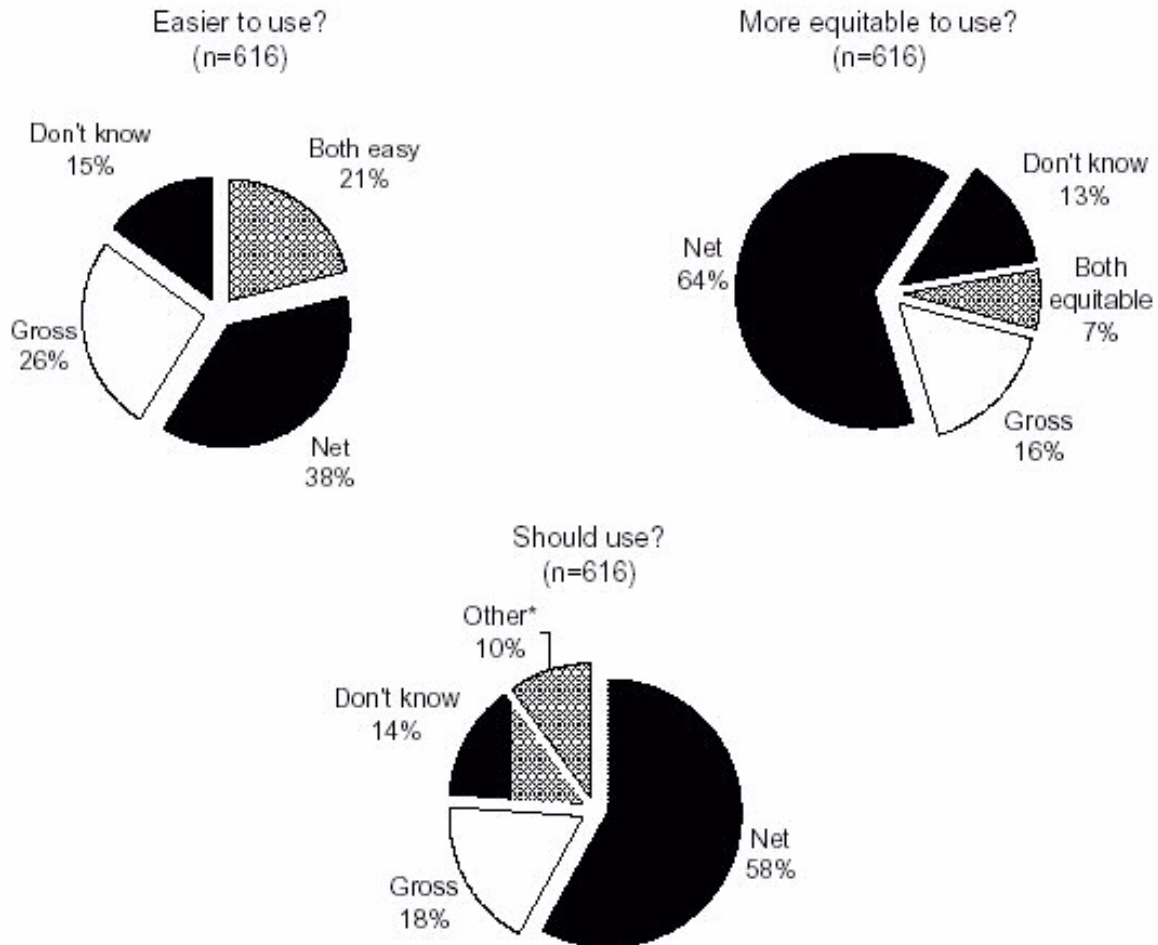
Exhibit 6-10: Changes Respondents Would like to See Made  
to the Low-Income Adjustment Provision  
(Percent of Respondents)<sup>1</sup>  
(n = 351)



<sup>1</sup> Multiple Response question, thus proportions may exceed 100%. Only comments mentioned by at least 4% of respondents who answered the question are shown in the figure. Percentages exclude respondents who did not answer the question. To compute the number of respondents who mentioned each change, multiply the percentage by 351. Thus, 30% x 351 = 105 respondents would like to see the low-income adjustment amount increased.

<sup>2</sup> Other: Disregard some income to make people eligible; allow stipulations to a lower amount; decrease the adjustment amount.

Exhibit 6-11: Preference for Use of Gross or Net Income to Compute Child Support Orders  
(Percent of Respondents)



\*Other included actual cost of raising a child; none, each parent should have 50% physical custody and pay child's costs when with them; net, less home mortgage or rental expenses of payor; half of poverty threshold for a child; individual family situations based on the cost of living in the county in which the family lives.

Exhibit 6-12: Opinions About Whether Gross or Net Income Is Easier/More Equitable to Use to Calculate Support (Percent of Respondents)

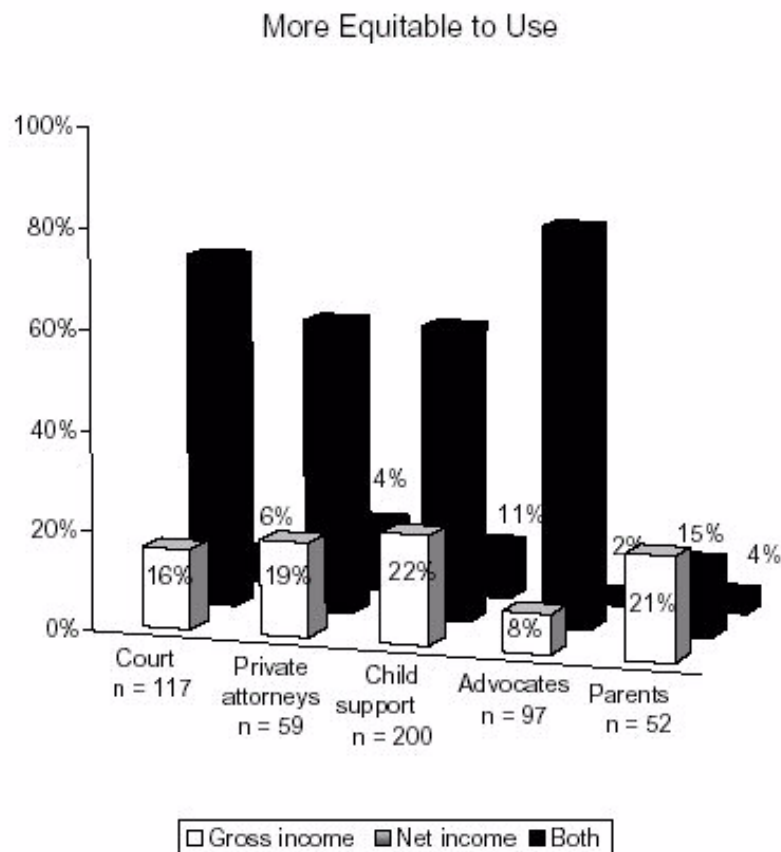
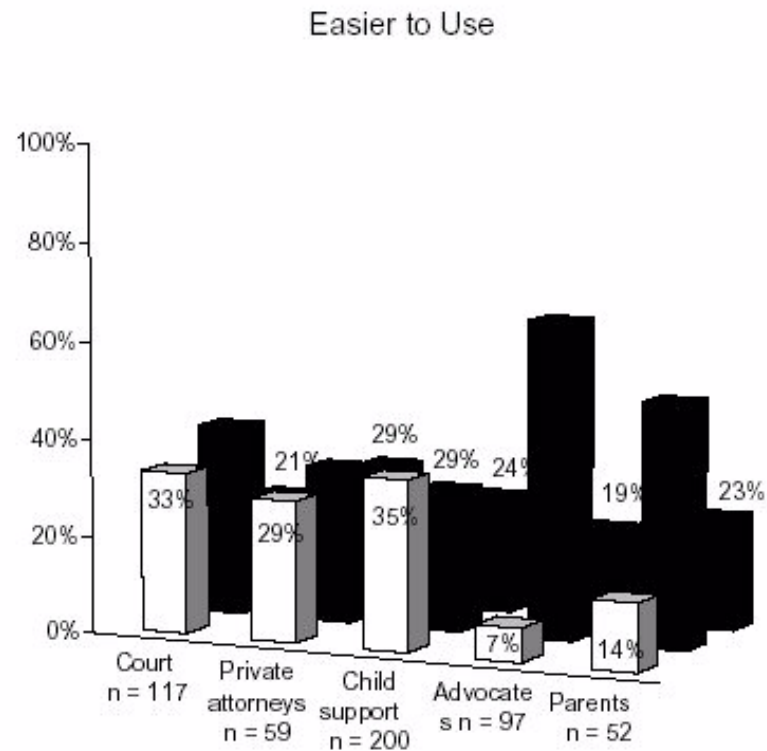
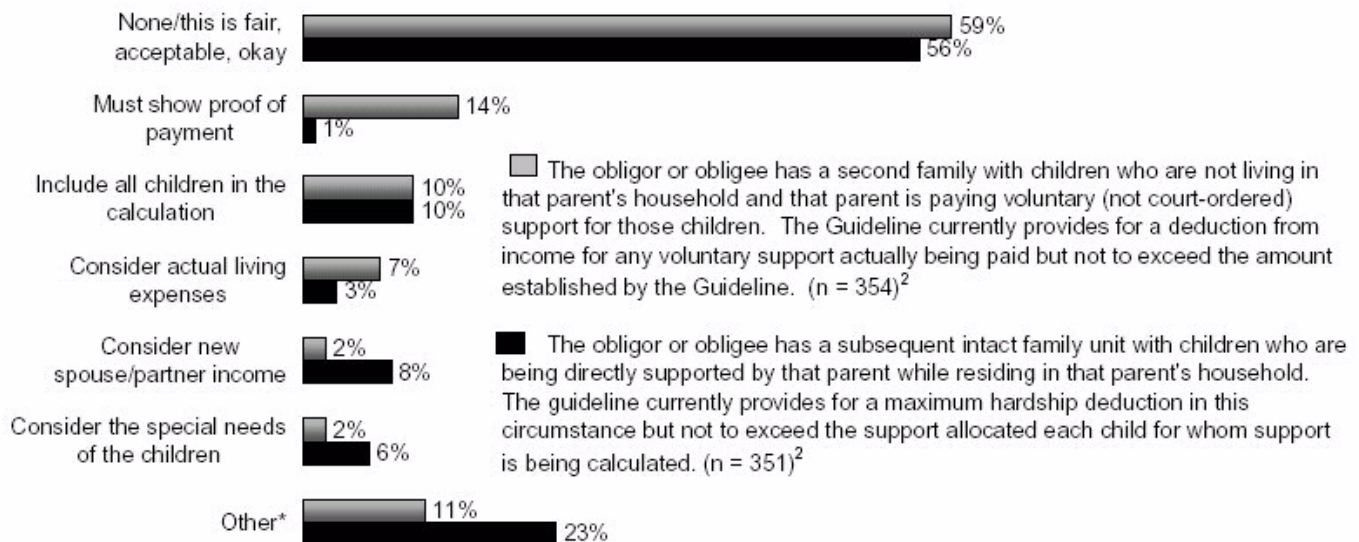


Exhibit 6-13: What Changes to the Guideline Do You Suggest for Dealing With the Following Second-Family Situations?  
(Percent of respondents)<sup>1</sup>



<sup>1</sup> Multiple Response question, thus proportions may exceed 100%. Only suggestions made by at least 4% of respondents are shown

supporting but who are outside the home and do not have a court order for support are okay/acceptable.

<sup>2</sup> Proportions are computed only for respondents who answered the question.

\* Other: the deduction should be discretionary, the deduction should be mandatory, eliminate it, consider the children's ages.

Exhibit 7-1  
Perceived Fairness of the Child Support Guideline  
(Average Rating)<sup>1</sup>

How fair or unfair do you believe the child support amount is . . .	Focus Group Location		TOTAL (n=22)
	San Diego (n=16)	San Francisco Bay Area (n=6)	
To you?	1.25	1.60	1.27
To the other parent?	2.90	3.70	3.16
To your children?	1.92	1.20	1.72



**Exhibit 7-2**  
**Parents' Recommendations for Changes to the**  
**California Child Support Guideline**

Issue	Recommendation for Change
Net versus gross income	<ul style="list-style-type: none"> <li>• Leave net income as the base for computing a support obligation.</li> <li>• Review what is counted in gross income and eliminate income from bonuses, overtime, and second jobs.</li> <li>• Stop imputing higher income to noncustodial parents than they have available based on their current circumstances.</li> <li>• Count child support as income to the custodial parent.</li> <li>• Allow more expenses (for example, the cost of housing or rent) to be deducted from income.</li> </ul>
Child support is too high.	<ul style="list-style-type: none"> <li>• Reduce the "K" factor in the guideline to some more reasonable level (it was lower in the past than it is now).</li> <li>• Put a cap on the amount of child support a noncustodial parent has to pay, especially in high-income cases.</li> </ul>
Time sharing	<ul style="list-style-type: none"> <li>• Have a presumption of 50–50 time sharing between the parents, unless there are extraordinary circumstances that mandate a different arrangement.</li> <li>• Include a time-sharing enforcement provision in the guideline (for example, specify sanction options for visitation denial).</li> <li>• Make the adjustment for visitation expenses mandatory and be more liberal in what is counted as visitation expenses (for example, travel, long-distance telephone calls, meals, clothing, entertainment), especially if the judge mandates them.</li> </ul>
Add-ons	<ul style="list-style-type: none"> <li>• Split the cost of all add-ons 50–50 between the parents.</li> <li>• Require both parents to submit verification of the costs for add-ons.</li> <li>• Set up a child trust account where costs for add-ons would be reimbursed based on actual expenses.</li> <li>• Review the guideline to ensure that child care, medical, education, and other add-on costs are not already included in the basic calculation of child support.</li> </ul>
Second families	<ul style="list-style-type: none"> <li>• The goal should be to treat all children equally. The children in a second family deserve to be treated the same as prior-born children.</li> <li>• Increase the hardship deduction amount and make it easier to get.</li> <li>• A hardship deduction should not result in increasing the support obligation of the noncustodial parent.</li> </ul>
Cost of living	<ul style="list-style-type: none"> <li>• Include an adjustment for cost-of-living differentials among California counties, especially for housing.</li> </ul>
Adjustment process	<ul style="list-style-type: none"> <li>• Establish an easier, less costly, faster process for changing the support order when necessary (for example, due to loss of job or disability).</li> <li>• Allow more flexibility to change the order amount when circumstances change (for example, change in time sharing).</li> </ul>

# California Child Support Guideline Review 2001

## Citations

- 11 Judicial Council of California, *Review of Statewide Uniform Child Support Guideline 1998*. The review examined 2,987 child support orders filed between July 1, 1995, and June 30, 1996.
- 12 At a 95 percent level of confidence, a sample size of 1,000 orders will yield estimates of the deviation rate that are within a maximum 1 percent, plus or minus, of the observed rate. Since the 1996 deviation rate was 9.9 percent and since the 2000 rate was not expected to differ substantially from the 1996 rate, the precision of the estimate with a sample size of 1,000 cases is even greater: within plus or minus 1.9 percent of the observed rate.
- 13 Judicial Council of California (1998).
- 14 The date of filing was used rather than the date that the order was entered to conform with the file organization used by the clerks of the courts, which numbers files sequentially by the filing date.
- 15 The 1999 time period for the review only covers orders filed prior to the creation of the California Department of Child Support IV-D services. Before January 1, 2000, district attorney's offices operated child support services in all of California's 58 counties. Title IV-D of the Social Security Act provides federal matching funds to states to establish paternity orders, establish and enforce child support orders, and collect child support payments. Barring good cause, public assistance recipients are required to cooperate with the IV-D program. These services are also available to individuals who are not public assistance recipients.
- 16 The Personal Responsibility and Work Opportunity Act (PRWORA) of 1996 requires all states to maintain a State Case Registry (SCR) on all IV-D cases and non-IV-D orders established or modified in their respective state. In turn, the information is submitted to the Federal Office of Child Support Enforcement to construct a national registry.
- 17 Small differences between each county's contribution to the previous total and its contribution to the current total result from (1) excluding Amador and Tehama Counties from the current study sample because clerk of the court staff were not available during the study period, (2) falling 15 cases short of the targeted sample size in Santa Clara County due to difficulties obtaining files while the office was being remodeled, and (3) oversampling Los Angeles County to account for its numerous offices. Sending project staff to Amador and Tehama Counties to collect the data was considered, but the expenses seemed excessive given the small number of cases being reviewed from those counties: 3 cases in Amador County and 7 cases in Tehama County.
- 18 CSR, Incorporated with American Bar Association, *Evaluation of Child Support Guidelines: Volume 1: Findings and Conclusions*, Report to the Federal Office of Child Support Enforcement, Washington, D.C. (March 1996).
- 19 Jane Venohr, *Arizona Child Support Guidelines: Findings From a Case File Review* Report to State of Arizona Supreme Court, Administrative Office of the Courts, Phoenix, Arizona (October 1999).
- 110 Colorado Division of Child Support Enforcement, *Issue Paper: Guideline Deviation*, Paper for the Colorado Child Support Guidelines Review Commission (November 16, 2000).
- 111 Iowa Bureau of Collections, *Guideline Deviation Comparisons: Judicial Districts*, Child Support Recovery Unit, Des Moines, Iowa (July 1999).
- 112 In two cases, both the mother and the father received a hardship deduction.
- 113 In fact, obligor income tends to be lower in cases where income information is available for both parents than when it is only available for the obligor. The converse is true among obligees; that is, obligee incomes tend to be higher in cases where income information is available for both parents than when it is only available for the obligee.
- 114 Welfare and Institutions Code section 11452 contains the definition of minimum basic standard of adequate care, which states in part: "The standards are determined on the basis of the schedule set forth in this section, as adjusted for the cost-of-living increases or decreases pursuant to [Welfare and Institutions Code] § 11453, which schedule is designed to ensure: (A) Safe, healthful housing. (B) Minimum clothing for health and decency. (C) Low-cost adequate food budget meeting recommended dietary allowances of the National Research Council. (D) Utilities. (E) Other items including household operations, education and incidentals, recreation, personal needs, and insurance. (F) Allowance for essential medical, dental, or other remedial care to the extent not otherwise provided at public expense."
- 115 Judicial Council of California, Administrative Office of the Courts, *California's Child Support Commissioner System: An Evaluation of the First Two Years of the Program* (May 2000).
- 116 Many of the challenges are drawn from what PSI has learned through consulting other states on child support guidelines or from the questions PSI receives after presentations that staff have given on guidelines throughout the country and from personnel who contact PSI directly because of PSI's international reputation as a leader in child support research. PSI has consulted over 40 states with child support guidelines in the past 15 years.
- 117 States that are conducting or have conducted their quadrennial guidelines review in the last few years include Alabama, Arizona, Arkansas, Colorado, Connecticut, Florida, Georgia, Idaho, Iowa, Kentucky, Maine, Missouri, New Mexico, North Carolina, Ohio, Oklahoma, South Dakota, Vermont, and others.
- 118 Elaine Sorensen and Chava Zibman, "A Look at Poor Dads Who Don't Pay Child Support," *Assessing the New Federalism*, Paper 00-07, Urban Institute, Washington, D.C. (October 2000).
- 119 Ronald B. Mincy and Elaine Sorensen, "Deadbeats and Turnip in Child Support Reform" (1998) 17 *Journal of Policy Analysis and Management* 875-899.
- 120 Federal Department of Health and Human Services, Office of Inspector General, *The Establishment of Child Support Orders for Low Income Non-custodial Parents*, OEI-05-99-00390, Chicago Regional Office (July 2000) and Federal Department of Health and Human Services, Office of Inspector General, *State Policies Used to Establish Child Support Orders for Low Income Noncustodial Parents*, OEI-05-99-00391, Chicago Regional Office (July 2000).
- 121 Jessica Pearson, *A Presentation on New Approaches to Child Support Arrears* Presentation to the National Center for Strategic Nonprofit Planning and Community Leadership Peer Learning College, Boston, Massachusetts (January 8, 2000), Center for Policy Research, Denver, Colorado.
- 122 Sorensen and Zibman.
- 123 *State of Oregon v. Vargas* (1999) 70 Cal.App.4th 1123, 83 Cal.Rptr.2d 229.



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- 124 Lynne Gold-Bikin and Linda An Hammond, "Determination of Income" in *Child Support Guidelines: The Next Generation*, ed. by Margaret Campbell Haynes, U.S. Department of Health and Human Services, Administration for Families, Office of Child Support Enforcement (April 1994).
- 125 Differences in tax consequences are explored further by R. Mark Rogers, "Wisconsin-Style and Income Shares Child Support Guidelines: Excessive Burdens and Flawed Economic Foundation" (Spring 1999) 33(1) *Family Law Quarterly*. Rogers graphs out the after-tax, after-child support incomes of the custodial and noncustodial parent as a proportion of their respective poverty level.
- 126 George Norton, *Legislative Changes—Family Code Child Support Guidelines* (unpublished). Paper submitted to the Judicial Council of California (October 2000).
- 127 Norton points out that this will not always result in a decrease in net disposable income; it depends on the relative income of the parent and the new spouse.
- 128 *New Jersey Child Support Guidelines: Court Rule 5:6a and Appendix IX* (May 13, 1997).
- 129 George Norton, "The Hardship Deduction Error: Politics and the Random Disparate Treatment of Children," *Family Law News* (official publication of the State Bar of California Family Law Section), San Francisco, California.
- 130 Diane Young, *First in Time, First in Line*, Issue Paper, Colorado Child Support Guidelines Commission, Denver, Colorado (November 16, 2000).
- 131 Geoffrey P. Miller, *Being There: The Importance of the Present Father in the Design of Child Support Obligations* New York University Law School, Public Law Research Paper No. 22 (July 2000).
- 132 Jane C. Venohr, *Arizona Child Support Guidelines: Findings From a Case File Review* Paper to the Supreme Court, State of Arizona, Administrative Office of the Courts, Phoenix, Arizona (October 1999).
- 133 The designation of personal insurance—life and disability insurance—as an adult good is questionable, since often a principal reason to purchase this type of insurance is to protect the income flows of the parents for the benefit of the children. However, this study will follow the USDA's designation of personal insurance as an adult good.
- 134 The choice of education is problematic since childless couples are also observed to incur educational expenses. To the extent that these expenses are truly made for the adults in the family, then part of the observed educational expenses in families with children could also be devoted to the parents and not the children.
- 135 The USDA in its reports defines the miscellaneous category as including personal care, entertainment, and reading expenditures.
- 136 Given the method by which the expenditures are allocated to the individual children, this result should not be too surprising. In the public use file, none of the goods can be assigned directly to any specific child in the family but just to all children. However, some differences could arise when one uses the internal BLS files because child clothing can be assigned to the specific child for whom it was purchased.
- 137 Ernst Engel, "Die Lebenskosten Belgischer Arbeiter-Familien Früher und Jetzt" (1895) 9(1) *International Statistical Bulletin* 1–124.
- 138 Thomas Espenshade, *Investing in Children: New Estimates of Parental Expenditures* (Washington, D.C.: The Urban Institute Press, 1984).
- 139 Harold Watts, "The Iso-Prop Index: An Approach to the Determination of Differential Poverty Income Thresholds," in *Improving Economic Measures of Well-Being*, ed. by Moon and Smolensky (New York: Academic Press, 1977).
- 140 Hollbrook Working, "Statistical Laws of Family Expenditure (1943) 38 *Journal of the American Statistical Association* 43–56.
- 141 Angus Deaton and Christina Paxson, "Economies of Scale, Household Size, and the Demand for Food" (1998) 106(5) *Journal of Political Economy* 897–930.
- 142 This report will show that the choice of linearity of the food share equation with regard to the family's total spending implies that the share of spending devoted to the children is independent of the level of total family spending. This is, of course, not a desirable feature and to construct an estimation model that would allow for the share of spending devoted to the children to be dependent upon total family spending, the square of the log of total family spending was added to equation 3.
- 143 William Gorman, "Tricks with Utility Functions," in *Essays in Economic Analysis*, ed. by Artis and Nobay (Cambridge, England: Cambridge University Press, 1976).
- 144 For a more detailed explanation, see Appendix C.
- 145 A more formal justification for the Rothbarth approach is given in Appendix C.
- 146 The plots are for a couple where both parents are between 31 and 40 years of age and both have a high school education. The plots also assume that only the husband works. The children are assumed to be between the ages of 6 and 12 years old.
- 147 The same assumptions about the characteristics of the family were made for this graph as were made for the Engel food shares in Figure 5-01 (p95).
- 148 David Betson, "Alternative Estimates of the Cost of Children From the 1980–1986 Consumer Expenditure Survey," Institute for Research on Poverty Special Report Series, Madison, Wisconsin (1990).
- 149 The remainder of this report will consistently use a 10 percent level of significance for all hypothesis tests.
- 150 The role that inflation plays in the USDA updates is quite perplexing. In the 1995 Annual Report, estimates are much lower than in the 1999 Annual Report. For example, for one child in 1995 the estimate is that 22 percent of family spending is devoted to the child—four percentage points lower than in the 1999 Annual Report. The only difference between the two reports is inflation, since both reports use the same 1990–1992 CEX data. The share of spending to the child could rise if the price of child goods rose faster than general inflation, but this difference is hard to believe.
- 151 Betson (1990).
- 152 James Shockey, "Determining the Cost of Raising Children in Nonintact Arizona Households," final report to the Judicial Council of Arizona, Phoenix, Arizona (1995).
- 153 Denis Conniffe, "The Non-Constancy of Equivalence Scales" (1992) 38(4) *Review of Income and Wealth* 429–443.
- 154 Angus Deaton and John Muellbauer, "On Measuring Child Costs" (1986) 94(2) *Journal of Political Economy* 720–744.
- 155 Furthermore, several IV-D offices submitted group responses, so their opinions are underrepresented in the overall statistics.
- 156 Differences are only reported when the difference in means is statistically significant at the 95 percent level of confidence or higher. That is, the likelihood that this difference occurred by chance alone is less than 5 percent.
- 157 Several parents had been through bankruptcy proceedings, which they claimed was a direct result of the high child support payments they had to make and an order-adjustment process that was too long and too costly. They suggested that the Judicial

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Council fund a study of noncustodial parents and the frequency with which they declare bankruptcy. They believed that noncustodial parents experience bankruptcy at higher rates than the general population because of child support payments.

158 Some parents reported that the Legislature considered requesting this information on the state income tax form but did not pass the bill that would have required it. They would like to see the Legislature reconsider this issue.