

A Comparison of Approaches Informed by Procedural Justice and Traditional Enforcement in the Procedural Justice-Informed Alternatives to Contempt Demonstration

Executive Summary

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OVERVIEW

When a child does not live with both parents, the parent with whom the child does not live is known as the “noncustodial parent.” The noncustodial parent may be responsible for a share of the costs associated with raising the child. Parents who do not make their child support payments can be subject to enforcement measures such as license suspensions or interceptions of tax refunds. If these measures do not yield sufficient payment, child support programs can refer parents to the legal system for civil contempt of court. Civil contempt proceedings require noncustodial parents to attend hearings and may lead to arrest or jailing.

In recent years, some child support policymakers and researchers have questioned the fairness and effectiveness of pursuing civil contempt to secure child support payments, particularly for parents with low incomes. Civil contempt proceedings are costly, burdensome, and often counterproductive to the goals of the child support program. They can impede employment, increase child support debt, alienate noncustodial parents from their children, and decrease parents’ cooperation with the program.

The Procedural Justice-Informed Alternatives to Contempt (PJAC) demonstration project tested a different approach to improving child support payments. Developed by the Office of Child Support Enforcement, it integrated principles of procedural justice (the idea of fairness in processes) into enforcement practices in six child support agencies across the United States as an alternative to standard contempt proceedings. PJAC services aimed to address noncustodial parents’ reasons for nonpayment, improve the consistency of their payments, and promote their positive engagement with the child support program and the other parent.

The PJAC demonstration used a random assignment research design. Parents who had reached the point of a contempt referral were assigned either to a PJAC services group, which had access to child support services informed by procedural justice, delivered by a specially trained PJAC case manager, or to the business-as-usual group, which proceeded to the standard contempt process. This report compares the service and enforcement experiences of parents in these two groups. Findings include:

- PJAC case managers conducted in-depth case reviews, outreach and engagement with both parents, and case-planning activities to address underlying reasons for nonpayment and connect parents to support and services. The principles of procedural justice underpinned this intensive casework. Though some elements of the PJAC model were present in business-as-usual services, they were ad hoc and not applied systematically by regular enforcement workers.
- Compared with business as usual, PJAC services generated modest increases in parents’ receipt of child support services such as order reviews, license reinstatements, and child support debt forgiveness, and a modest reduction in license suspensions, an enforcement action.
- PJAC services led to a nearly 60 percentage point reduction in civil contempt filings, which in turn decreased the proportion of parents in the PJAC services group who experienced ensuing aspects of contempt proceedings.

Taken together, these results suggest a meaningful contrast between the experiences of parents in the PJAC services and business-as-usual groups. This contrast will allow the research team to determine whether PJAC services achieved the intervention's goal of improving payment outcomes. Those findings will be the subject of a future report.



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This report would not have been possible without the support of many individuals and organizations. In particular, the report and the research upon which it is based are funded by the U.S. Department of Health and Human Services, Administration for Children and Families (ACF), Office of Child Support Enforcement (OCSE). The Procedural Justice-Informed Alternatives to Contempt (PJAC) evaluation grant is overseen by the Georgia Department of Human Services. Review of study design and analysis was conducted by ACF's Office of Planning, Research, and Evaluation (OPRE). We are grateful to many people in these offices for their helpful comments on previous drafts, including Michael Hayes, Tanya Johnson, Melody Morales, and Kimberly Curtis within OCSE, and Megan Reid with OPRE.

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The authors sincerely appreciate the dedicated case managers, supervisors, attorneys, and other staff members at the child support agencies—and their partner organizations—participating in the PJAC demonstration: the Arizona Division of Child Support Services, Maricopa County; the California Department of Child Support Services, Riverside and San Bernardino Counties; the Ohio Office of Child Support, Franklin and Stark Counties; the Michigan Office of Child Support, Muskegon County; and the Virginia Division of Child Support Enforcement, Newport News and Richmond District Offices.

We accessed and interpreted child support administrative records with the help of each site's PJAC manager and data providers. In particular, the following people tirelessly and patiently answered our many questions, ensuring we used their data correctly: Jonell Sullivan, Vanessa Taylor, and Roseanne Silva in Arizona; Will Williamson, Nathan Hartel, and Jaclyn Neal in California; Caitlin Campbell and Christy Nichols in Franklin County; Amy Rebideaux and Brian Weeden in Michigan; Ann Durkin, Jenna Waterhouse, and Carolyn Rehfus in Stark County; Traci Lambert with the state of Ohio (covering both Franklin and Stark County data); and Michelle Franco and Kevin Butler in Virginia.

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The Authors

EXECUTIVE SUMMARY

When a child does not live with both parents, the parent with whom the child does not live is known as the “noncustodial parent.” The noncustodial parent may be responsible for a share of the costs associated with raising the child. The primary goal of child support programs is to improve children’s well-being by emphasizing the roles of both parents in providing for them.

Some families receive child support from noncustodial parents regularly. For other families, however, payments may be sporadic, partial, or nonexistent. Parents who do not make their child support payments can be subject to enforcement measures such as license suspensions, interception of tax refunds, or seizure of bank accounts.¹ If these measures do not yield sufficient payment, child support programs can refer nonpaying parents to the legal system for civil contempt of court. Civil contempt proceedings require noncustodial parents to attend hearings and may lead to arrest or jailing if they fail to appear in court or continue not to meet their child support obligations.

In recent years, some child support policymakers and researchers have questioned the fairness and effectiveness of pursuing civil contempt to secure child support payments, particularly for parents with low incomes. Civil contempt proceedings are costly, burdensome, and often counterproductive to the goals of the child support program. They can impede employment, increase child support debt, alienate noncustodial parents from their children, and decrease parents’ future cooperation with the program.²

¹ Enforcement measures are actions taken by child support agencies with the intention of collecting past-due child support and securing current and future payments.

² Elizabeth Patterson, “Civil Contempt and the Indigent Child Support Obligor: The Silent Return of Debtor’s Prison,” *Cornell Journal of Law and Public Policy* 18 (2008): 95-142; Rebecca May and Marguerite Roulet, *A Look at Arrests of Low-Income Fathers for Child Support Non-payment: Enforcement, Court and Program Practices* (Madison, WI: Center for Family Policy and Practice, 2005).

The Procedural Justice-Informed Alternatives to Contempt (PJAC) demonstration project tested a different approach to improving child support payments. Developed by the federal Office of Child Support Enforcement (OCSE), it integrated principles of procedural justice (as described in Box ES.1) into enforcement practices in six child support agencies across the United States as an alternative to standard contempt proceedings. Procedural justice, sometimes referred to as “procedural fairness,” is the idea that “how individuals regard the justice system is tied more to the perceived fairness of the *process* and how they were treated rather than to the perceived fairness of the *outcome*.”³ Research suggests that if people perceive a process to be fair, they will be more likely to comply with the outcome of that process, whether or not the outcome was favorable to them.⁴ With oversight from the Georgia Division of Child Support Services, MDRC leads a random assignment evaluation of the model’s effectiveness in collaboration with MEF Associates and the Center for Court Innovation.

PJAC services aimed to address noncustodial parents’ reasons for nonpayment, improve the consistency of their payments, and promote their positive engagement with the child support program and the other parent. Between 2018 and 2020, eligible parents were randomly assigned either to a group offered PJAC services or to a business-as-usual group sent through standard contempt proceedings. The research team is comparing the outcomes of these two groups over time.

This is the second major report in the PJAC evaluation. An earlier report provides a detailed description of the PJAC service model and assesses its implementation.⁵ Building on those findings, the present report compares the overall service and enforcement experiences of parents in the PJAC services group with those of parents in the business-as-usual group in the year following their enrollment into the study. This comparison draws on child support administrative records, PJAC management

BOX ES.1 THE FIVE KEY ELEMENTS OF PROCEDURAL JUSTICE AS AP- PLIED TO THE CHILD SUPPORT CONTEXT

- **Respect:** Parents should believe they were treated with dignity and respect and their concerns were taken seriously.
- **Understanding:** Parents should understand the child support process and have their questions answered.
- **Voice:** Parents should have a chance to be heard by sharing their perspectives and expressing their concerns.
- **Neutrality:** Parents should perceive the decision-making process to be impartial.
- **Helpfulness:** Parents should feel that the child support agency was helpful and interested in addressing their situations.

³ Emily Gold, “The Case for Procedural Justice: Fairness as a Crime Prevention Tool,” *Community Policing Dispatch* (https://cops.usdoj.gov/html/dispatch/09-2013/fairness_as_a_crime_prevention_tool.asp, 2013).

⁴ Rachel Swaner, Cassandra Ramdath, Andrew Martinez, Josephine Hahn, and Sienna Walker, *What Do Defendants Really Think? Procedural Justice and Legitimacy in the Criminal Justice System* (New York: Center for Court Innovation, 2018); Tom R. Tyler, “Procedural Justice and the Courts,” *Court Review* 44, 1 (2007): 26–31.

⁵ Louisa Treskon, Douglas Phillips, Jacqueline Groskaufmanis, and Melanie Skemer, *Procedural Justice in Child Support Enforcement: Lessons from an Implementation Study of PJAC* (New York: MDRC, 2022).



information system data, interviews with staff members at child support agencies and partner organizations, court observations, staff survey data, and parent interviews.⁶ It sets the stage for a future publication focused on PJAC's effects on outcomes such as overall compliance with child support obligations and regularity of payments. If there is not a meaningful contrast between the two research groups' service and enforcement experiences, it is unlikely that the evaluation will be able to determine whether PJAC services have effects on payment outcomes.

Characteristics of Parents in the PJAC Demonstration

The target population for the PJAC demonstration project was noncustodial parents who were at the point of being referred for contempt because they had not met their child support obligations, yet had been determined by child support agency staff members to have the ability to pay. They owed an average of \$26,000 in child support debt when they enrolled in PJAC and had been in the child support program for an average of 10 years.

Most child support debt is owed by fathers with low incomes and fathers of color.⁷ While the evaluation does not have complete income information for parents in the PJAC study sample, their gender and racial/ethnic backgrounds align with this reality: 90 percent were identified as male, and 62 percent were identified as Black or Hispanic. The demographics of noncustodial parents in PJAC have important implications for thinking about their prior experiences with the child support program, employment, and law enforcement. Men of color, who make up the majority of noncustodial parents in PJAC, face higher rates of discrimination in the labor market and criminal legal system (issues that reinforce one another).⁸

An Overview of Service and Enforcement Differences Between PJAC and Business-as-Usual Services

Figure ES.1 provides an overview of the differing services received and enforcement experienced by parents who reached the point of a civil contempt referral and were then randomly assigned either to the PJAC services group or the business-as-usual group.

⁶ Administrative records are data collected in the normal course of administering a program. A management information system is a database used to capture information about program participants and the activities they engage in with the program's staff.

⁷ Elaine Sorenson, Heather Koball, Kate Pomper, and Chava Zibman, *Examining Child Support Arrears in California: The Collectibility Study* (Washington, DC: The Urban Institute, 2003); Tonya Brito, David Pate, Jr., and Jia-Hui Wong, "Negotiating Race and Racial Inequality in Family Court" *The Institute for Research on Poverty Focus* 36, 4 (2020): 3-11.

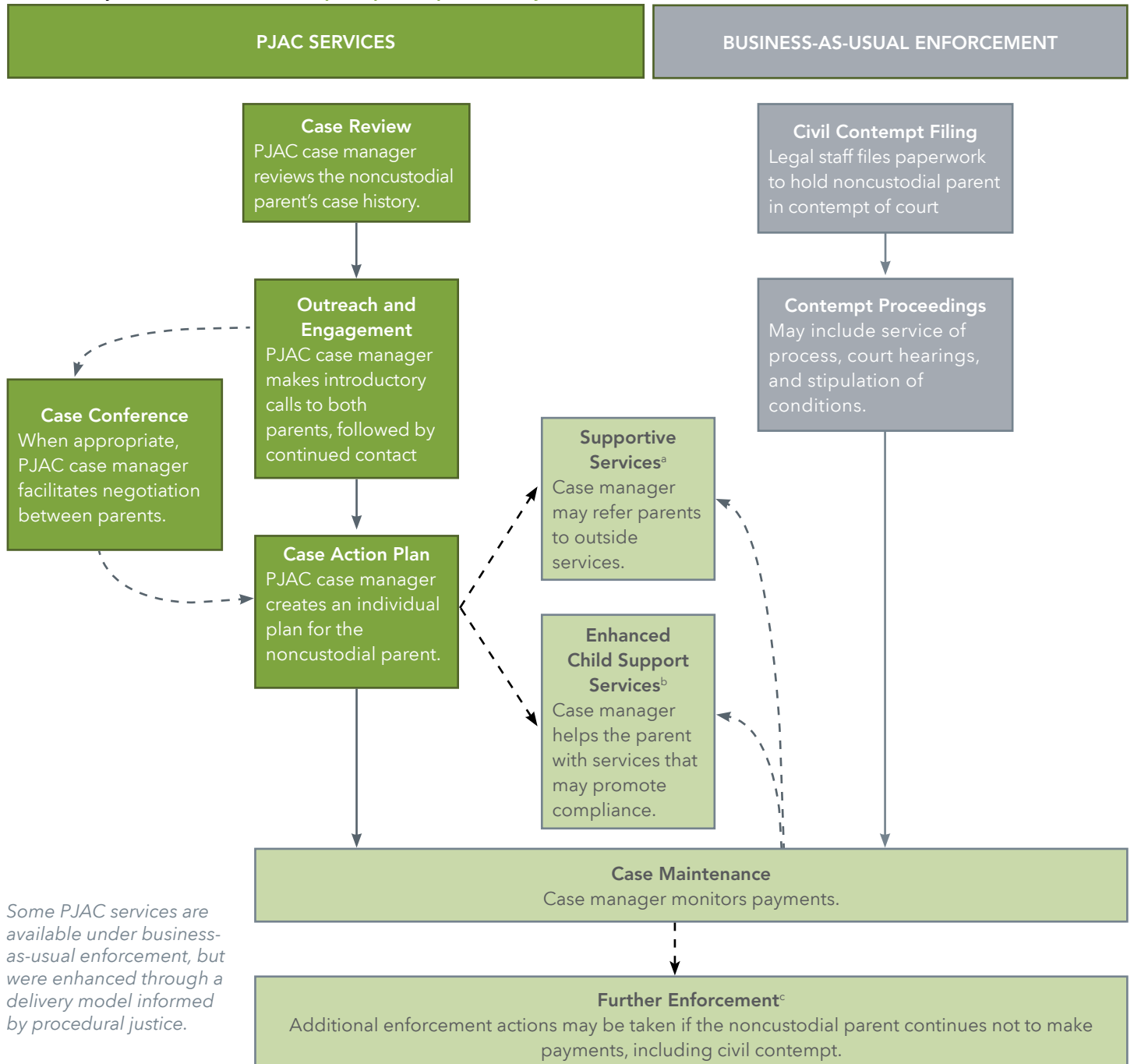
⁸ The Sentencing Project, *Report to the United Nations on Racial Disparities in the U.S. Criminal Justice System* (Washington, DC: The Sentencing Project, 2018); Christian Weller, "African Americans Face Systemic Obstacles to Getting Good Jobs" (Washington, DC: Center for American Progress, 2019); Tonya Brito, David Pate, Jr., and Jia-Hui Wong, "Negotiating Race and Racial Inequality in Family Court," *The Institute for Research on Poverty Focus* 36, 4 (2020): 3-11.



FIGURE ES.1. PJAC Services and Business-As-Usual Enforcement in the PJAC Demonstration

Noncustodial parents who have reached the point of a civil contempt filing are randomly assigned either to the **PJAC services** group, which is offered an array of services **infused with principles of procedural justice**...

...or to a **business-as-usual** group, which instead proceeds with the **standard contempt process**, followed by a return to typical child support enforcement.



NOTES: Dashed lines indicate services or steps that do not necessarily occur for all parents, but instead are determined based on specific circumstances.

^aExamples of supportive services include employment services, legal support, substance use services, and mental health services.

^bExamples of child support services include order modifications, debt forgiveness, and license reinstatements.

^cEnforcement actions are those taken by child support agencies with the intention of collecting past-due child support and securing current and future payments, for example license suspensions or asset seizures.

A parent assigned to the PJAC services group was diverted from contempt and assigned to a PJAC case manager trained in the principles of procedural justice; this case manager was the parent's main point of contact at the child support agency. The PJAC case manager—incorporating the elements of procedural justice throughout—first completed a case review, conducted outreach and engagement to both parents, facilitated a case conference to negotiate between parents if appropriate, and completed a case action plan with the noncustodial parent. Depending on the parent's needs and interests, the PJAC case manager included supportive service referrals or specific enhanced child support services as part of the case action plan. After those steps were completed and if the parent started making payments, the case maintenance phase began, in which the PJAC case manager monitored payments and checked in on the parent regularly. If PJAC services group members refused to engage in PJAC services or comply with their case action plans and continued not to make child support payments, they could be subject to enforcement actions, including contempt.

The business-as-usual group proceeded to the contempt process following random assignment. This process involved filing contempt motions, serving parents with notices to attend court hearings, and holding hearings. Parents who failed to appear in court could have bench warrants issued.⁹ If the parent was found in contempt, the court issued a stipulation of conditions that the parent must meet to avoid jail time—often including a purge payment. The length of the contempt process varied but could take several months to conclude; in some circumstances, contempt proceedings remained open for years. Once the contempt process was resolved, parents returned to regular child support enforcement. While the contempt process was largely handled by legal staff members from child support and the court, the resumption of regular enforcement meant a business-as-usual enforcement worker monitored payments on the case. The enforcement worker might have referred the parent to supportive services or completed a child support service (for example, an order modification because the contempt process revealed that the parent's support obligation was set too high given a recent change in employment). **Though some elements of the PJAC model were present in business-as-usual services, they were ad hoc and not applied systematically by enforcement workers serving business-as-usual parents.** As illustrated in Figure ES.1, if business-as-usual parents failed to comply with their child support obligations, they could be subject to additional enforcement, including additional contempt filings.

While data limitations prevent direct quantitative comparison, evidence suggests that a far greater proportion of parents in the PJAC services group than in the business-as-usual group received core PJAC services such as case reviews, outreach and engagement, case conferences, and case action plans. **PJAC parents' greater receipt of core PJAC services constitutes a significant portion of the overall contrast in experiences between the two research groups.**

⁹ A bench warrant is a legal document issued by a judge that authorizes an individual's arrest.

Contrasts in Civil Contempt Proceedings

A goal of the PJAC demonstration was to reduce the *ineffective* use of contempt, characterized by costly court hearings that, at best, result in one-time payments rather than regular, reliable payments custodial families can count on, and at worst, can lead to the jailing of noncustodial parents without yielding any financial support for their children. Instead, PJAC services offer an alternate approach informed by procedural justice, designed to improve child support compliance in a fairer way that addresses parents' underlying reasons for nonpayment and that is less burdensome to noncustodial and custodial parents, the child support program, and the courts.

Administrative child support data show that PJAC services led to a statistically significant, 59 percentage point reduction in civil contempt filings. This large reduction in filings—the first step in the contempt process—resulted in large reductions in later aspects of the process: being served with notice to appear in court, having a bench warrant issued, and attending court hearings. This difference in contempt filings was expected given the study design. However, PJAC's designers could not know ahead of time how large the difference would be since PJAC case managers could, at their discretion, refer PJAC services group members for contempt. Case managers might do so if they never successfully engaged parents, or if parents did not comply with PJAC services and continued not to meet their child support obligations.

Overall, by decreasing civil contempt filings, PJAC services lessened PJAC parents' exposure to legal actions and court proceedings that many experience as punitive and disruptive. While there was variation among the sites in the size of their reductions in civil contempt filings and ensuing aspects of the process, large decreases were observed at all six of the PJAC study sites.

Contrasts in Receipt of Child Support Services

Child support agencies can offer services—such as order modifications, debt forgiveness, license reinstatements, suppression of enforcement actions, assistance with parenting-time agreements, and case closures—to encourage parents to comply and to better align their obligations with their financial and family circumstances. These services were available to all parents, as depicted in Figure ES.1, though parents often had to fulfill various requirements to receive them. However, parents in the PJAC services group received “enhanced” services—including the removal or easing of some of these requirements—relative to what was provided to business-as-usual parents, and PJAC case managers made a point of offering those services.

To assess whether parents in the PJAC services group were more likely to receive child support services than parents in the business-as-usual group, the research team analyzed administrative records provided by the six participating agencies. Overall, relatively few parents in either group received child support services: Fewer than 10 percent of parents received most types of services. This pattern can be explained by the criteria required to qualify for certain services (order modifications and case closures, in particular), which most parents were unlikely to meet. Additionally, services such as li-



cense reinstatement could only be offered to parents who met certain obvious preconditions (such as having their licenses suspended at the time), restricting their frequency. **Nevertheless, parents in the PJAC services group were modestly more likely to receive multiple child support services, including order reviews, license reinstatements, and debt compromises.** All of these effects ranged from 2 percentage points to 5 percentage points in size. Among the six sites, PJAC appeared to have the strongest effects on child support service receipt in Franklin and Stark Counties.

Contrasts in the Use of Enforcement Actions

Typically, parents eligible for the PJAC study had already experienced multiple enforcement actions before their enrollment into the evaluation, actions such as license suspensions, interceptions of tax refunds, and seizures of bank accounts, among others. At all sites, parents in the PJAC services group who were not engaging in PJAC services and remained noncompliant with their child support orders after case managers' repeated efforts were subject to further enforcement actions. Parents in the business-as-usual group were subject to continued enforcement actions if they remained noncompliant following the conclusion of civil contempt proceedings.

Most enforcement actions are automated in child support systems based on levels of debt or months of nonpayment and therefore were not within case managers' control. However, at several PJAC study sites, case managers had authority over the use of some enforcement actions, which they could exercise at their discretion. The research team analyzed contrasts in the use of these enforcement actions and found that PJAC services led to a statistically significant reduction in license suspensions of 2 percentage points. The research team did not find a significant difference between research groups in the use of financial institution data matches (the first step in pursuing asset seizures, liens, etc.). Enforcement actions that are triggered automatically and could not be altered were experienced by the vast majority of parents in both research groups.

Implications of Contrast Findings for the Final Impact Results and Next Steps

Taken together, the implementation of core PJAC service components, substantial reductions in contempt filings, and effects on the receipt of child support services and enforcement actions (though these effects are generally modest) constitute a meaningful service contrast between parents in the PJAC services and business-as-usual groups. This contrast will allow the research team to determine whether PJAC services achieved the intervention's goal of improving payment outcomes in the final impact analysis.

Future reports will address two of the PJAC demonstration's overarching research questions: (1) Did PJAC improve payment outcomes? and (2) how do the costs and benefits of PJAC services compare with those of business-as-usual services?



