

DEPARTMENT OF BENEFIT PAYMENTS



July 9, 1974

ALL-COUNTY LETTER NO. 74-121

TO: ALL DISTRICT ATTORNEYS

SUBJECT: OBTAINING INFORMATION REGARDING ABSENT PARENTS

REFERENCE:

It is the responsibility of the Department of Benefit Payments to insure that welfare assistance is provided as required by law; and that duty extends, of course, to observance of the restrictions imposed by the Doe and Taylor judgments which require that cooperation cannot be considered a requirement for eligibility. It is not the policy of this Department, however, to allow the noncooperation of some welfare applicants and recipients to create a situation which fosters disrespect for family responsibilities or adds unnecessarily to the welfare rolls. This Department is committed to the idea that the support of minor children should rest with their natural parents and not be shifted to the taxpayer, and we have always encouraged law enforcement officials to make use of all legally proper remedies to enforce support obligations.

While the Doe and Taylor orders provide that welfare eligibility cannot be conditioned on the cooperation of the applicant or recipient, nothing in those orders relieves district attorneys or welfare departments from the duties statutorily imposed on them by Welfare and Institutions Code §§ 11350 and 11476. These duties include securing child support payments and taking affirmative action to locate absent parents - and these duties must be fulfilled whether the applicant is cooperative or not.

Several counties have brought to our attention new and innovative ideas that are being employed in cases of noncooperation. These counties report an increase in their ability to elicit information in these cases. Since the first step in the enforcement of support obligations is obtaining the necessary information on which to proceed, I am passing on to you a couple of these

OBSOLETE

GEN 654 (2/74)

Superseded by ACL # 77-15Issued 3-17-77

ALL DISTRICT ATTORNEYS

June 25, 1974

Page Two

ideas that I think would be beneficial for you to consider.

We have recently approved a proposal submitted by Los Angeles County to vary the intake procedure slightly and allow welfare applicants to be referred to the district attorney staff at the beginning of the application process, rather than after the application for welfare is completed. District attorney personnel will now have the duty of informing applicants of their rights pursuant to Doe and Taylor, as well as securing absent parent information. After the necessary information is secured by the district attorney staff the applicant will return to the welfare department to complete the application procedure.

It is expected that placing the applicant in contact with district attorney personnel at this time will impress on the applicant the fact that securing child support is a necessary law enforcement function. This should emphasize the necessity for enforcing the support obligation and underscore the fact that cooperation is expected from the applicant.

A second idea which has the support of this Department is the use of a form letter which can be sent to applicants or recipients who indicate they will not supply information regarding the absent parent or who refuse to come into the district attorney's office for an interview. This letter should explain the necessity for cooperation with law enforcement officials and should make the recipient aware of the legal sanctions that may be imposed if information is not given. A few counties already use a letter like this, and all report a significant degree of success.

I am attaching a copy of the form letter presently being used by the Family Support Division in Orange County. I feel this letter is particularly good since it conveys its message in a definite manner but without coercion, and meets all legal requirements. The Orange County Family Support Division reports a success rate of 40 percent in cases where this letter is used, and there is no doubt that it could allow all counties to realize a significant increase in the results of their child support efforts. I strongly urge all law enforcement and welfare officials to consider adoption of this type of program in their respective counties.

ALL DISTRICT ATTORNEYS

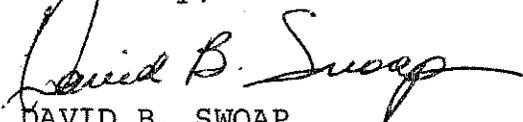
June 25, 1974

Page Three

The second paragraph of this form letter refers to the authority of the district attorney to subpoena the applicant or recipient as a witness to give testimony in a court of law or at a deposition. In these cases, an action is brought pursuant to Welfare and Institutions Code § 11476 to establish paternity. Ancillary to that action a Petition of Guardian ad litem for the child or children is filed. At the paternity hearing the mother is subpoenaed as a witness and is questioned under penalty of contempt regarding the identity of the absent parent, and if an answer is not given the witness may be held in contempt of court until such time as the information is received. The use of this civil contempt remedy as a means of obtaining information has been used successfully in several counties. I encourage law enforcement officials to consider § 2034 of the California Code of Civil Procedure, and to evaluate its potential for use in their respective counties.

Noncooperation does not mean that the case is closed or that enforcement activities are to cease. It simply means that more ingenuity and greater effort will be required to obtain necessary information and to get the job done. Enforcement of support obligations is a matter of great importance to us all, and the first step in effective enforcement is obtaining the necessary information on which to proceed. I hope all county agencies will attempt to increase the results of their child support efforts by making use of available resources to the maximum extent possible.

Sincerely,



DAVID B. SWOAP
Director

Attachment

cc: All County Welfare Directors
CWDA