

Enforcing child support a continuing struggle

By EVAN SCHUMAN
Staff Writer

NEWTON — As much as Sandy pleaded with her son, it was something Danny would just not sit still for. But, after all, Danny is only 5 years old.

Why, he asks, did men from the department store come and take the washing machine away? Why are people saying it's because daddy moved away? Sandy shakes her head.

"He's too young to remember," she says, as she hugs her son to quiet him.

Danny's 8-year-old brother also has questions. Why are people so concerned, he asks, about daddy pulling several \$100 bills out of his wallet when he was with me last weekend?

SANDY — not her real name — says it's just as well that her two sons don't really remember a lot about her divorce three years ago. "I just wish I understood what was going on now," she says.

Shortly after Sandy's divorce, the 31-year-old Sparta receptionist received a court order telling her self-employed ex-husband to pay \$150 a week for alimony and child support plus medical and related expenses. As of late February, according to court documents, her ex-husband — also a Sussex County resident — owed her more than \$13,000 in child support payments.

Sandy's experience is far from unique. And, in many cases, there is little anyone can do about it — not even the Probation Department, which — among its other duties — is responsible for collecting child support ordered paid by the court for some 2,000 Sussex County residents.

A MONTH-LONG investigation by the Herald found that the Sussex County Probation Department as recently as a year ago was considered one of the most ineffective departments in the state.

In a 1980 statewide ranking, it was last among the state's 21 departments in the percentage of local child support collections.

And early last year, Harry Wiggins, then chief of the state's Bureau of Child Support and Paternity Programs, sent an internal memo to probation's statewide overseer, the Administrative Office of the Courts, describing it as "unorganized," and charging that it had "hundreds of cases which have not been touched in years."

The memo also said the department prematurely closed cases, resulting in an "apparent loss of substantial child support revenue to Sussex County."

LOCAL probation officials contend that most of the problems cited in that memo were a result of the department being one of the last in the state to computerize. And state and county officials say that the performance of the department has improved dramatically since last year, when computers were installed.

But the Herald investigation — which included the review of more than 120 child support cases selected at random — found that major problems remain:

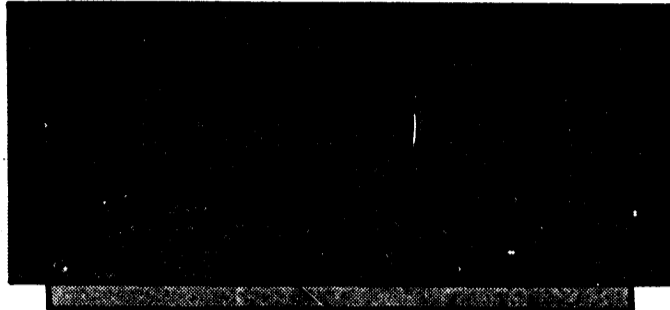
- Seventy to 80 percent of all people ordered to pay child support in Sussex County either do not pay on time or they pay less than ordered.

- It is not uncommon in Sussex County for a person ordered to pay child support to run up debts of more than \$10,000 before he is brought into court, with some debts exceeding \$40,000.

- In those instances when child support cases are brought to court, defendants frequently do not show up. While the judge then has the option of issuing a bench warrant for the defendant's immediate arrest, it usually takes at least a month — and sometimes considerably longer — before that arrest order winds its way through the clerk's office and probation to the sheriff's office, where it then must be processed.

- When defendants are threatened with jail until they pay a percentage of what they owe, the vast majority pay rather than risk incarceration. But defendants are likely to be released in two weeks even if they

See PROBATION, Page C3



Inside today's Focus Section:

- Jail for delinquent fathers
- Group fights for men's rights
- New law tries to fill loopholes

They know how to beat system

John Enright calls them the schemers and the plotters.

They know the Probation Department's rules and regulations inside out and they use the loopholes to beat the system.

"They know how the system works. And they know they're going to have two or three months in between before someone nabs them," says Enright, who runs the probation departments in Sussex and Morris counties. "And just before they go into court, they'll pay \$500 and they do this to punish their wives. They do it purposely. People are always looking to beat the system."

And when that system is the Probation Department system, Enright's schemers and plotters need not look very far.

MANY CHILD support court orders are written requiring that the defendant be brought into court if he misses a certain number of payments.

What happens frequently, though, is that the defendants will underpay instead of not paying anything. That way, it takes considerably longer before they are brought into court.

One of the most frequently used methods of enforcement on a child support case is taking money directly from the defendant's employer.

Many companies are hesitant to cooperate since a wage execution can seriously hurt a credit rating.

Also, if the company the defendant works for is not licensed to

See SYSTEM, Page C3

System

do business in New Jersey, it does not have to honor the court order.

WHILE FEDERAL regulations due to take effect in October are supposed to remedy this problem, many states — such as Tennessee — virtually act as havens for child support refugees with backing from their state legislatures.

Probation Departments also often have problems with obtaining back child support payments from military employees, although the Pentagon officially says it cooperates.

Another common method of avoiding the intent of a child support court order is to give a false social security number to employers, thereby hiding the income from probation investigators.

Probation investigators even tell of defendants who get daring and give their ex-wife's social security number to employers so that she will have tax problems on money he's earning.

There is a California publisher who publishes books on how to obtain false social security numbers (including checking death and birth records) and how to outwit the probation department.

ANOTHER method sometimes used is when the father tries to pay his ex-wife money directly.

This is expressly forbidden by court regulations since there is no record of the transaction.

If the ex-wife accepts the cash frequently enough, the court may lift the child support order against her ex-husband on the grounds that she violated the order.

"We can't enforce the child support if he is actually paying her directly," says Mrs. Reed. "We'd have to motion to dismiss the case."

Occasionally, however, the court will rule that any direct payments made are considered gifts and do not count against the child support debt.

— EVAN SCHUMAN

Probation

pay nothing, according to probation officials and court records.

Despite state guidelines and state law to the contrary, the Probation Department — which decides more than 70 percent of all child support amounts — does not take the income of the mother into consideration, encouraging, critics say, non-compliance with child support orders.

While state guidelines say that probation department investigators should handle a maximum of 500 cases, Sussex County Probation investigators have an average caseload of at least 600, while it often goes up to 900 cases. One senior probation officer said there have been times when the entire 2,000-case workload was being handled by one investigator.

Sussex County has the youngest and least experienced staff of investigators of any county in New Jersey. Of the county's 16 probation officers, only two have been with the department more than two years — compared to the average New Jersey probation officer with nearly eight years experience — while 10 have yet to be state certified and are classified as temporaries.

...

Sandy dropped out of college to marry her high school sweetheart, Jim. Soon after, they had a child. A few years later, they had another.

But the marriage eventually soured and Sandy filed for divorce in 1981.

In April 1983, she found herself in the waiting room of the Probation Department.

The case was brought before state Superior Court Judge Ronald Graves, who ordered Jim to pay \$150 a week in child support, a figure he had already agreed to with Sandy.

But the money never came, at least not regularly.

"I never knew when it was coming. I never knew if I could pay the rent," she said.

AFTER CONSIDERABLE prodding by Sandy, county probation department officials resorted to one of the most frequently used tactics of collecting child support — taking money directly from the defendant's employer, a method known as salary garnishment or wage execution.

But with Jim, an independent contractor, it simply didn't work.

Jim is what Probation Vicinage Chief John Enright, who oversees

in the beginning, he is going to continue to be a good payer. That's the philosophy," said Mrs. Reed.

"Most of the people who come into us are rather hostile," she said. "They've come in from a divorce with bad feelings. They don't understand the system. The tendency is to ignore the situation" and not pay, but "if we can get the man into the habit in the very beginning of paying, he usually proves to be a good payer."

BUT PROBATION'S problems go beyond attitude.

Only about 20 to 30 percent of all child support cases in the Sussex County Probation department pay regularly and completely, according to state and county probation officials.

Enright defends those figures, pointing out that most people who are paying child support work outside probation and pay their spouses directly.

"The only reason they pay (through probation) in the first place is that some judge figures they're not going to pay," he says.

Not only do most Sussex County child support payers not pay, but the amounts they do not pay can be startling.

It is not uncommon in Sussex County for a person ordered to pay child support to run up debts of more than \$10,000 before being brought into court. There were several child support defendants brought to court on one day last month who owed more than \$13,000, including a man who owed \$42,055 and another who owed \$23,000.

ONE OF the most effective tools used by probation to force payment is the threat of incarceration.

Every other month, Superior Court Assignment Judge Robert Muir, Jr. comes into Sussex County and — in one day — hears about 180 cases of child support and alimony cases. The cases are almost exclusively child support; alimony cases represent only about one-half of 1 percent of Sussex County Probation cases.

When Muir visited Sussex County last month, more than \$24,000 was collected from people who went before him, while the county probation department collected more than \$18,000 the day before his court hearing.

Probation officials say those last-minute payments were from people who were trying to get out of having to appear before Muir and risking jail.

Three men who appeared before Muir explained that they were trying to get the money together, but didn't

Sussex County PROBATION DEPARTMENT A Special Herald report

average support order in Sussex County is the highest in the state.

The last available figures, from 1982, show that the average order statewide was \$19.22 per child per week. In Sussex County, the figure was \$27.37.

State probation officials maintain, however, that child support orders here are still the highest in the state.

Seventy percent of all child support orders in Sussex County are determined directly by a probation officer after discussions with both parties and a review of the finances of the spouse who will not be caring for the children, usually the father. The remaining 30 percent are determined by court order.

CONTRARY to state law and state guidelines, however, the Sussex County Probation Department does not take the mother's income into consideration when determining how much child support she is to receive.

Mrs. Reed defended the county's high child support orders.

"I think it's just our philosophy. We want to get away from these \$5 or \$10 orders," she said.

She said comparisons with other counties were not valid because of differences in demographics and cost of living.

Both Judge Graves and probation officer Kathy Hartong — who sets child support figures for the county — refused to be interviewed.

SOMEWHAT IRONICALLY, the county probation department often orders weekly child support figures that rival the salaries of its own investigators.

The Sussex County Probation Department is a county department operating on a county budget. The starting salary for a probation investigator, who must either have a college degree or at least two years of field or investigative experience, is about \$11,000 — considerably less than many similar positions in state and federal government.

Of the three family investigators currently employed in Sussex County, two of them have a bachelor's degree.

"There are plenty of places that they could find a job making a heck of a lot more than that with a four-year degree," said a four-year veteran probation officer who — as did all probation officers and investigators interviewed for this story — spoke on the grounds that she not be identified. "Eleven thousand dollars with a four-year degree? It's ridiculous."

Many investigators are recent college graduates who are interested in the field, but are finding it difficult getting work without field experience.

"There was a time when an investigator made more on unemployment than working here," said Mrs. Reed.

THE SALARIES are low, but they are lower in several other counties. Warren and Hudson counties, for example, each start their probation investigators at \$9,500 a year, while Monmouth County pays \$8,200 a year. The highest starting salary in the state is in Union County — \$13,867.

Predictably, probation is finding it difficult to hold on to good people. Sussex County has the youngest and least experienced staff of investigators of any county in New Jersey.

Of the county's 16 probation officers, only two have been with the department more than two years — compared to the average New Jersey probation officer with nearly eight years experience — while 10 have yet to be state certified and are classified as temporaries.

As a county agency, the Probation Department, in effect, is often used as a training ground for state agencies with similar responsibilities — such as Welfare or Youth and Family Services — but that pay far more.

"When Welfare makes one of their hiring sweeps on a probation department, you might as well kiss your investigators good-bye," said Maren Sorenson, assistant chief of Child Support Enforcement Services for the Administrative Office of the Courts in Trenton.

IN 1982, Mrs. Reed said she left on maternity leave to find that state agencies had cleaned out the entire office. "I was on maternity leave for nine months and there was 100 percent turnover in the investigators. I came back to a completely different staff."

In an effort to combat this, there is a court-reform bill currently before the Assembly which would — among other judicial changes — place all New Jersey probation departments directly under state jurisdiction and on a state budget.

One of the goals of the bill, according to legislative aides, is to put

SUSSEX COUNTY has reduced one area that causes problems for other New Jersey counties. Other counties get tremendous backlogs of probation cases because criminal matters are given an unconditional priority.

But in Sussex County, the Sheriff's Office has officers who are specifically assigned to handle civil matters such as child support.

Years ago, probation officers were authorized to make arrests themselves, points out Enright, but today they must spend the vast majority of their time in their office doing paperwork.

"But I must say, in fairness to the total system, rather than having two men riding around in a car trying to find 'Jack Jones,' they can now do the paperwork to bring 25 men into court," says Enright. "So there is some method to the madness."

ASIDE from the internal problems, forcing child support payments out of uncooperative independent contractors, the self-employed and those who work for unions on a job-to-job basis remains the most severe problem facing probation departments, according to officials.

But help is on the way. Federal regulations to go into effect in October will facilitate carrying out enforcement orders against the self-employed by authorizing liens against property including bank accounts and requiring that all states abide by court orders from any other state.

The new regulations will also authorize the seizure of income tax rebates.

Sandy says she has doubts about whether the new regulations will actually help her.

"They may change some laws and allow probation people to do more things to get at these guys," Sandy said, "but that's not going to put food on my table or get new clothes for my kids."

Sandy said she thinks she'll get by, but she says she's worried about other single mothers who might not be able to get a job.

"All I would like is for those people in Washington and Trenton to keep their eyes on the problem," she said.

"They get so caught up in trying to catch the 'bad guy' — the ex-husband who doesn't pay — that they forget all about the kids. That's what it's all supposed to be about, isn't it?"

Roukema bill fills gaps in support enforcement

WASHINGTON — With backing from the White House, Rep. Marge Roukema, R-5, led a congressional battle which succeeded in giving probation departments across the country the teeth needed to combat non-payment of child support by independent contractors and self-employed persons.

"This is a vast improvement over what we've had," said Roukema in a recent interview, referring to the bill which will take effect on Oct. 1. "It's an infinitely better enforcement system."

The legislation will require all states to accept child support court orders from other states, specifically where the court orders wages to be turned over to the Probation Department, said Roukema, whose district includes most of Sussex County.

ONE OF the problems with enforcement today is that a New Jersey court may order that a defendant's income be garnished, but if the defendant works for an out-of-state company it does not have to honor the New Jersey court order.

After Oct. 1, all companies will have to honor such orders.

The bill also provides for liens against personal property including bank accounts, a section written specifically with the independent contractor in mind.

The bill also enables the government to intercept tax rebates on federal and state taxes and

on a Homestead Rebate.

The idea for the bill actually originated with President Reagan, according to Roukema legislative aide Kim Denardo.

IN REAGAN'S 1983 State of the Union speech, Ms. Denardo says he referred to gender gap problems and asked for increased money for child support.

After several months of research, Ms. Denardo reported to Roukema that there were wide discrepancies between the states and very little enforcement.

One of the most startling figures in the research, according to Ms. Denardo, was that the U.S. Census Bureau reported that there was \$9.9 billion due in child support payments nationally in 1981, with only \$6.1 billion collected.

THERE WERE three other similar pieces of legislation introduced in 1983 and the final product was a compromise version which most closely resembled Roukema's bill.

Asked if she thought the legislation would solve the major problems probation departments across the country have in obtaining child support payments, Roukema said, "If it's not 100 percent effective, this will come as close to it as one can imagine."

SCHUMAN

"He (Judge Muir) is not in there for a lot of sob stories. The probation records show you haven't paid this and this, and he asks, 'Where is it and what are you going to do?' It's beautiful. They collect money and, I tell you, it's great. And the word gets around. That's why they call it 'Pay or Stay.' When the word gets out that some of these men are going to jail, the money comes in a lot quicker. Believe me."

— John Enright, probation vicinage chief

the probation departments in both Sussex and Morris counties, calls a problem case.

"There are some independent contractors out there who are fine men," he said. "But when they choose not to pay, there are still a lot of tricks they can use that make it very difficult for the probation department and the courts.

"And, of course, we're the ones who are going to get criticized in the end. 'Why aren't you doing your job?' We tell them that we're trying," he said.

"It's almost impossible to (garnish) a union employee because they subcontract," says Debora Reed, the county's senior probation officer in charge of the family division. "The local doesn't collect the money or pay the person, so by the time you get the wage execution, he's no longer with this development company or that contractor."

ENRIGHT says probation workers have a difficult time tracking down those who are truly determined to avoid the authorities; the circumstances that bring people to probation offices in the first place — often bitter divorces — make matters worse.

"Let's face it. The only people we're dealing with, by and large, are the ones who are disgruntled — and they should be," said Enright. "I mean if I was a wife with two or three kids and my husband wasn't paying and the only place I could go was probation and then they tell me they can't find him or they tell me that they're not going to have a court date until six weeks from now, yeah, (these people) are annoyed and they should be," he says.

PROBATION now assigns one of its officers to specifically handle people who have just been assigned to pay child support, hoping to get them into good paying habits early.

"If the payer is given attention for the first three months of his order and we can make him a good payer

have it yet. All three spent that night and the next 14 days and nights in Newton's Keogh-Dwyer Correctional Facility.

"He's not in there for a lot of sob stories," said Enright. "The probation records show you haven't paid this and this, and he asks, 'where is it and what are you going to do?' It's beautiful. They collect money and, I tell you, it's great. And the word gets around. That's why they call it 'Pay or Stay.' When the word gets out that some of these men are going to jail, the money comes in a lot quicker. Believe me."

THOSE who question the harshness of Muir's "Pay or Stay Day" ask how the defendants will be able to raise the money they owe if they are locked up.

Defenders of the program point to the money turned in to probation the day before Muir arrives. And they argue that incarcerating one individual will send a message out to others that will bring in thousands of dollars.

"If they're in jail, how can they pay? What you have to look at is how much we collected from people who didn't want to go to jail," said a county probation officer.

AS AN employee of an enforcement arm of the court, the probation officer or investigator must look into cases where the court's order appears to have been disobeyed.

But since the probation department's role is to bring these cases to the court's attention, it cannot represent child support recipients in the court the way an attorney could.

"We're not in court to represent these women. From our perspective, it's black and white. Either he owes money or he doesn't," Mrs. Reed says, adding that it is up to the court to determine if his situation has changed enough to merit a change in how much he should pay.

ONE OF the reasons the amounts owed in Sussex County are so high, probation officials say, is that the

Group promotes fathers' initiative

While most fathers' initiatives have had minimal support, the initiative identified before congressional passage of child support legislation has been a success.

ROUKEMA CITES A 1980 report that 43 percent of non-paying fathers preferred to pay child support through the courts rather than through the probation department.

The group who had the initiative was the National Council on Public Child Support Enforcement.

The group who had the initiative was the National Council on Public Child Support Enforcement.

They stay but still can't pay

Jailed fathers criticize policy

By EVAN SCHUMAN
Staff Writer

NEWTON — By his own description, Larry is not the model father or husband.

But he says he thinks he is still getting the short end of the stick.

When his divorce was finalized in 1972, the court ordered him to pay \$85 a week in child support for his 6-year-old daughter and his 7-year-old son.

HE STARTED drinking heavily and began traveling from job to job, he recalls.

In 1976, he stopped paying his child support altogether, he says, and made a living going across the country working on plumbing and heating projects, but more frequently as a musician.

At times, he says, he made as much as \$40,000 a year.

Sussex County
PROBATION DEPARTMENT
Special Herald report

"Of course, I was a partyer and I blew it all," Larry said, explaining where the money went.

"My wife and kids were on welfare for awhile. I'm not proud of it, but that's the way it is," he says.

That's how Larry, now 44, lived for nine years until he walked into state Superior Court Judge Robert Muir's courtroom four weeks ago.

Faced with a child support debt of \$42,055, Muir ordered Larry to either pay a percentage of it or go to jail.

Larry slept that night in the Keogh-Dwyer Correctional Facility.

"I was a basket case when I went in," he said.

CARLOS Rodriguez, 31, was sent to Keogh-Dwyer the same day as Larry.

Rodriguez, trained in accounting at Rutgers Univer-



(Dick Poole photo)

CAN'T PAY — Carlos Rodriguez looks out at corrections officer from a holding room at the Keogh-Dwyer

Facility in Newton where he was incarcerated recently for failure to pay child support. City, was scheduled to start a new job on March 27 when he walked into that same courtroom to answer why he owed \$1,000 in back child support payments.

Although he tried explaining that he had been on unemployment and that he was then about to start a new job, he was sent to jail along with Larry.

"I told the judge that I was supposed to start a new job that day making over \$8.50 an hour as an accounts payable analyst. The very same day, I was also to start a job delivering newspapers that would have brought me \$120 plus tips a week. So I was on my way to start generating income," he said during an interview inside the jail.

Correctional Facility in Newton where he was incarcerated recently for failure to pay child support.

"I TOLD that to the judge and he didn't want to hear any of it. They gave me no chance to go out and look for the money. I have no family in this country," he said.

Rodriguez was born in Spain and has been in this country since 1970.

Court and prison officials told both men that they would have to pay a court-determined percentage of what they owed before they could be released.

But exactly two weeks later, even though neither had paid anything to the court or the probation department, both men were released.

"What a corrections officer told us is that they're trying to intimidate us," Larry said.

See JAILED, Page C5

Jailed

Larry said he felt the whole system was set up to make examples of the few to help the many.

"I just don't think that's fair," he said. "I'm worse off now than I was on March 27. Now I've lost both jobs. I cannot give them what I do not have. And in the meantime, they've committed an injustice."

WHEN HE was in court, Larry said that he tried explaining to the judge how little money he had and that he couldn't afford to pay the child support. "But they (judges) don't want to hear that because they're up there, making \$70,000 to \$80,000 giving orders.

"In a sense I feel I lucked out today because I got out today," Larry said. "But I do have some resentment towards the judge who threw me in there."

While state law and legal precedents are ambiguous about how long someone can be incarcerated on a child support debt, standard procedure in Sussex County is that

the defendant will be given a review hearing after two weeks.

As long as the person agrees to try to gather a percentage of what he owes within a set period of time, the defendant is virtually always freed.

OFFICIALLY, however, state law leaves it up to the judge to determine how long to incarcerate the defendant.

Since both men were charged with disobeying the court's order and not with any other specific crime, they did not have the use of the Public Defender's office nor did they receive any financial compensation for the days they served in jail.

"What did they gain by putting me in jail? If I was a different person, I would come out of here with revenge and with the wrong attitude," Rodriguez said.