



PROCEDURAL JUSTICE-INFORMED
ALTERNATIVES TO CONTEMPT

PROJECT BRIEF
MARCH 2020

Using Principles of Procedural Justice to Engage Disconnected Parents

by Yana Kusayeva

The Procedural Justice-Informed Alternatives to Contempt (PJAC) demonstration project integrates principles of procedural justice into enforcement practices in six child support agencies across the United States. Procedural justice is fairness in processes that resolve disputes and result in decisions. Research has shown 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.¹

Child support agencies aim to secure payments from noncustodial parents to support the well-being of their children.² The target population for the PJAC demonstration project is noncustodial parents at the point of being referred to the legal system for civil contempt of court because they have not met their child support obligations, yet have been determined to have the ability to pay. The PJAC demonstration project aims to address parents' reasons for nonpayment, improve the consistency of their payments, and promote their positive engagement with the child support agency and the other parent.

The PJAC demonstration was developed by the federal Office of Child Support Enforcement, which is within the Administration for Children and Families in the Department of Health and Human Services. MDRC is leading a random assignment study of the model's effectiveness in collaboration with research partners at MEF Associates and the

Center for Court Innovation. Parents are assigned at random to either a program group offered PJAC services or to a control group not eligible to receive PJAC services; instead, the control group proceeds with the standard contempt process. Oversight of the evaluation is provided by the Georgia Division of Child Support Services. For an overview of the PJAC demonstration, see "A New Response to Child Support Noncompliance: Introducing the Procedural Justice-Informed Alternatives to Contempt Project."³

This brief is the second in a series developed primarily for child support practitioners and administrators that shares lessons learned as the six child support agencies implement the PJAC model. It describes the outreach and engagement strategies employed by PJAC project staff members in their work with both noncustodial and custodial parents.

¹ Swaner et al. (2018).

² The noncustodial parent is the parent who has been ordered to pay child support, and is generally the parent who does not live with the child. The other parent is referred to as the custodial parent.

³ Mage, Baird, and Miller (2019).



BACKGROUND

The primary goal of child support programs is to improve children's well-being by making sure both parents take part in providing for them. Some families receive child support payments from noncustodial parents regularly. For other families, payments may be sporadic, partial, or nonexistent. A noncustodial parent who has been determined to have the ability to pay child support may have reasons for not making consistent payments, for example, conflict with the other parent, lack of visitation with children, distrust of the child support system, lack of knowledge concerning where and how to pay, and difficulties maintaining employment.⁴

Some of these same reasons can make it challenging to engage parents. Previous experiences may have left them distrustful of the child support program, for example. A noncustodial parent may have been subject to some type of enforcement action, such as a driver's license suspension, without receiving clear communication about why the action was taken. A custodial parent may feel that the child support program has been ineffective in obtaining child support payments in the past, and as a result may be disillusioned and hesitant to respond. The custodial parent may worry that the time and emotional investment of a response to the child support staff will not result in the desired action.

Over 90 percent of noncustodial parents in the PJAC study are male and they owed, on average, about \$28,000 in child support debt at the time they were enrolled in the study. Roughly one-third had previously experienced contempt filings for failure to meet their child support obligations. Correspondingly, the custodial parents in these cases are mostly women who have not received child support payments for long stretches of time.

BUSINESS-AS-USUAL OUTREACH AND ENGAGEMENT

Child support agencies commonly rely on automated, mailed letters to reach out to both noncustodial and custodial parents. In the case of noncompliant noncustodial parents, these automated communications usually document missed payments or warn of impending driver's and professional license suspensions, liens, or bank levies.⁵ Automated letters sent to custodial parents may include generic notifications that the noncustodial parents are headed to court, for example, or that their cases are eligible for modification reviews (in which child support payment amounts may be modified in response to changes in parents' circumstances).

There are times when case managers will call parents on the telephone, yet they are not able to do so consistently. These case managers have very large caseloads, often in the thousands, so they can have only limited personal interaction with parents. Furthermore, typical outreach activities are designed to meet program or legal regulations rather than to promote parents' understanding of or their engagement with the child support program. As a result, parents may perceive communications to be directive, punitive, or rigid, and may be less likely to want to engage with the child support agency after they receive them.

OUTREACH AND ENGAGEMENT IN THE PJAC DEMONSTRATION PROJECT

Outreach and engagement activities informed by principles of procedural justice center on the perspectives and interests of parents. The five main elements of procedural justice — respect, understanding, voice, neutrality, and helpfulness — are intended to guide interactions between case managers and parents. Through interactions informed by procedural justice, case managers aim to strengthen communication, build trust, improve parents'

⁴Determinations of ability to pay are made at the discretion of the child support agency using child support guidelines, and are based on the available information.

⁵A child support agency may place a hold, or lien, on a property such as a house or vehicle for an amount owed. This information is publicly available, and it prevents the sale of the property until the amount owed is paid. An agency may also place a bank levy on a parent's account for the amount owed, garnishing the debt owed directly from the bank.

PROCEDURAL JUSTICE

The five key elements of procedural justice as applied 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 processes 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.
-

perceptions of fairness, and gain their cooperation with the child support agency. Laying this foundation will allow them to better address parents' reasons for nonpayment. The ultimate goal of PJAC services is to achieve regular child support payments that provide consistent financial support for families, without the use of civil contempt.

While procedural justice is a thread that runs through all aspects of the PJAC service delivery model, it is particularly essential that it be woven into initial outreach efforts that attempt to build rapport with parents and gain their trust. In most instances, parents will have had limited direct contact with anyone in the child support agency before hearing from a PJAC case manager. In other instances, there may have been direct contact some time ago but none recently, apart from automated letters. PJAC outreach activities are meant to engage or re-engage these parents whose previous interactions with the child support agency may not have felt responsive to their situations or interests.

Before an initial contact attempt, a PJAC case manager thoroughly reviews a parent's case history. This in-depth review helps case managers identify reasons for nonpayment and past case actions or requests that may have gone unaddressed. It also alerts them to previously expressed concerns, possible frustrations, and sensitive issues such as parenting time conflicts, a history of domestic violence, or mental health or other health concerns. These insights help case managers direct their outreach

efforts. Based on the knowledge they gain from the case reviews, case managers can tailor their communication and demonstrate they understand each case history. Using the case review to inform outreach efforts illustrates the procedural justice elements of voice and helpfulness.

PJAC case managers generally rely on phone calls for their first contact attempts, so they can introduce the PJAC services, a task most easily accomplished through a conversation. The initial outreach calls to parents are informed by scripts that incorporate elements of procedural justice; case managers modify the scripts for individual parents. Below are sample introductory scripts for outreach to custodial parents and noncustodial parents; these samples are composites of those used by several PJAC study agencies. As per the PJAC service-delivery model, a PJAC case manager calls the custodial parent first to determine whether there are any safety concerns or parenting issues, then reaches out to the noncustodial parent. This model helps case managers obtain an initial understanding of the relationship between parents, the custodial parent's concerns related to the case, and his or her perspective on why the noncustodial parent has not been making payments. When the case manager then calls the noncustodial parent, he or she comes to understand that parent's perspective on these same issues. (One of these scripts also mentions a meeting involving both parents, known as a "case conference." This element of the PJAC model will be discussed in detail in a future brief.)

WITH CUSTODIAL PARENTS IN PJAC

Good morning/afternoon. May I please speak to [name of custodial parent]?

This is [name of case manager] calling from [name of program and child support agency]. Do you have a few moments to discuss your case?

Verify that you are speaking to the correct person, explaining that you need to confirm the person's identity so that you can discuss personal information. Then explain the goals of the program.

The goal of [name of program] is to help get your family the support it needs while making sure that your case is being handled fairly.

If the parent is unable to talk, schedule a time for a return phone call.

Let the parent know that you are familiar with the case but would like to learn more from him or her, including the status of his or her relationship with the noncustodial parent, and any obstacles the noncustodial parent might be facing in meeting his or her obligations.

I reviewed your case and see that you haven't received child support in ___ months/years. Do you know why [NCP name] has struggled to make payments?

Take note of the reasons the parent believes the noncustodial parent is not meeting his or her obligations. Be aware of any indications of a tense relationship between the parents or any signs of domestic violence.

Reiterate the goals of the program and assess if the custodial parent would be willing to negotiate with the noncustodial parent.

Our goal is to help remove barriers to [NCP name] paying support so that he/she can find a job/consistently pay their monthly child support obligation. Is there anything that we should know about [NCP name] that might make this challenging?*

Respect, understanding

Understanding

Voice

Voice

Respect, voice

Respect, voice

Helpfulness

Helpfulness

Understanding

Voice

WITH NONCUSTODIAL PARENTS IN PJAC

Good morning/afternoon. May I please speak to [name of noncustodial parent]?

This is [name of case manager] calling from [name of program and child support agency]. Do you have a few moments to discuss your case?

Verify that you are speaking to the correct person, explaining that you need to confirm the person's identity so that you can discuss personal information. Then explain the goals of the program.

The goal of [name of program] is to help get your family the support it needs while making sure that your case is being handled fairly.

If the parent is unable to talk, schedule a time for a return phone call.

It's really important that we meet soon so I can review your case for possible monthly payment reduction and arrears forgiveness. I don't want you to miss out on sharing your input on your case.

Let the parent know that you are familiar with the case but open to learning more.

I reviewed your case and see that you haven't been able to make a payment in ___ months. What has gotten in the way of you making payments? Our goal in the [name of program] is to make sure your case is [handled] appropriate[ly], and that you have a voice in your case. We'll also help remove barriers to paying your monthly child support obligation.

Screen for evidence of a history of domestic violence and assess if a joint meeting with the other parent is appropriate. Discuss available domestic violence services.

(continued)

WITH CUSTODIAL PARENTS IN PJAC

Do you have contact information for [NCP name] or his/her family?

Does your child see his father/mother very often?*

Would you have any concerns if [NCP name] wanted to see the child more frequently? * If yes, what are the concerns?*

(An * indicates a potential to share domestic violence information. Listen for disclosure.)

Refer to additional screening guidance if safety concerns are identified.

Make sure that you are finding a time and location that will be accessible for the parent.

Explain what will happen at the meeting. Conclude by asking what questions the parent has and provide your contact information.

Voice, helpfulness, understanding, neutrality

Helpfulness, voice, respect

Understanding

WITH NONCUSTODIAL PARENTS IN PJAC

One of the first things we need to do is schedule a case conference to look at all the aspects of your case and see what we can do to get your case back on track. **We normally do this with the other parent there too. Do you have any issue meeting with us and the other parent?** Do you have any concerns about your safety or your child's safety, during or after this meeting?

Refer to additional screening guidance.

Make sure that you are finding a time and location that will be accessible for the parent.

Explain what will happen at the meeting. Conclude by asking what questions the parent has and provide your contact information.

After the initial contact attempt, PJAC case managers reach out to their clients in a variety of ways, including phone calls, text messages, letters, emails, and, less commonly, social media messages. Case managers provide parents with their direct phone lines and, practicing the procedural justice principles of neutrality and helpfulness, stress that they are available to assist both parents and can offer more extensive support than previous case managers. Case managers are flexible about calling back at convenient times when asked to do so. Some case managers find texting to be a helpful mode of communication. Table 1 presents these and other strategies used by PJAC case managers, along with the principles of procedural justice that the strategies demonstrate.

Early data show that roughly 28 percent of case managers' attempts to reach noncustodial parents

have resulted in successful contact, along with about 39 percent of attempts to reach custodial parents. Overall, about 65 percent of noncustodial parents and about 55 percent of custodial parents are ultimately reached at least once.⁶ Among those who are successfully reached, it takes around three attempts to make contact with a noncustodial parent and around two attempts to do so with a custodial parent, on average.⁷

Because PJAC caseloads are smaller than business-as-usual caseloads, case managers can have more personal interactions with parents. One staff member noted that the way she approaches her work in the PJAC project differs greatly from the way she approached enforcement previously. She can take the time to understand the individual circumstances of particular cases and work more closely with parents to address their challenges.

⁶ Many noncustodial parents in the PJAC study sample have multiple child support cases, each with a different custodial parent. For 78 percent of noncustodial parents, case managers made contact with at least one of the custodial parents.

⁷ These figures were calculated using cases enrolled into the study between February 1, 2018 and November 30, 2018, allowing for a one-year follow-up period. Successful contacts are those in which the case manager was able to communicate with the parent, or in which the parent completed an action in response to the outreach effort.

Table 1: Outreach and Engagement Strategies Informed by Procedural Justice

STRATEGY	RESPECT	UNDERSTANDING	VOICE	NEUTRALITY	HELPFULNESS
Personalize communications to include parents' names and handwrite notes when possible	X				
Include case managers' names and direct phone numbers in communications	X				X
Use knowledge from case reviews to tailor communications to specific histories and needs				X	X
Return messages within 24 hours or as soon as possible	X		X		X
Provide clear outlines of next steps and expectations orally and in writing		X		X	X
Call at times when parents are likely to be available	X		X		X
Ask if parents understand next steps or have concerns or questions	X	X	X		X
Ask parents to repeat back the next steps discussed to ensure understanding		X			X
Give parents time to understand what is asked of them, following up with them if necessary	X	X	X		
Make meeting locations convenient for parents or hold meetings by phone if in-person meetings are not possible	X		X		X
Hold meetings during flexible work hours	X		X	X	X
Use scripts that are easy to understand (sixth-grade reading level or below — use computer programs to confirm)		X			X
Show that case managers are not taking sides when custodial or noncustodial parents describe their perspectives	X		X	X	
Attend relevant court hearings where parents are likely to be present	X		X		X

Procedural Justice Principles in Action

RESPECT

I think just dealing with the parents as people is the main thing, and not just the person who is supposed to pay and the person who is supposed to get the money. Just dealing with them as people.

– PJAC case manager

PJAC case managers serve as parents' primary contact for continuing engagement. Underlying this approach is the idea that parents will be more likely to stay involved if they have a single point of contact who knows about their cases. Many parents become confused about their cases or do not understand the next steps they should be taking. In all their interactions with parents, PJAC case managers strive to address parents' questions and make sure that they understand the services available to them. In addition, case managers try to convey that they are interested in giving both parents a say in how their case is handled.

Procedural Justice Principles in Action

HELPFULNESS

You said you've been trying to find a job, but your criminal record is preventing you. Okay, let's talk about that, because I have some great resources for you.

– PJAC case manager

CONCLUSION

It is challenging to engage parents — custodial or noncustodial — who are disconnected from the child support program. These challenges are exacerbated when one or both parents lack trust in the program and its services due to a past experience or lack of understanding. Outreach and engagement strategies informed by principles of procedural justice can help address these challenges, offering new ways to provide parents with assistance and gain their cooperation in obtaining financial support for their children.

REFERENCES

Mage, Caroline, Peter Baird, and Cynthia Miller. 2019. "A New Response to Child Support Noncompliance: Introducing the Procedural Justice- Informed Alternatives to Contempt Project." New York: MDRC.

Swaner, Rachel, Cassandra Ramdath, Andrew Martinez, Josephine Hahn, and Sienna Walker. 2018. *What Do Defendants Really Think? Procedural Justice and Legitimacy in the Criminal Justice System*. New York: Center for Court Innovation.

NEW YORK

200 Vesey Street, 23rd Fl.
New York, NY 10281
Tel: 212 532 3200

OAKLAND

475 14th Street, Suite 750
Oakland, CA 94612
Tel: 510 663 6372

WASHINGTON, DC

1990 M Street, NW
Suite 340
Washington, DC 20036

LOS ANGELES

11965 Venice Boulevard
Suite 402
Los Angeles, CA 90066

www.mdrc.org

