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COMMONWEALTH OF PENNSYLVANIA
HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

RYAN OFFICE BUILDING
ROOM 205
HARRISBURG, PENNSYLVANIA

MONDAY, MAY 5, 2014
10:06 A.M.

PUBLIC HEARING
RESTITUTION IN PENNSYLVANIA TASK FORCE REPORT

BEFORE: HONORABLE RONALD MARSICO, MAJORITY CHAIRMAN
HONORABLE BRYAN CUTLER
HONORABLE SHERYL M. DELOZIER
HONORABLE JOSEPH T. HACKETT
HONORABLE MARK KELLER
HONORABLE MIKE REGAN
HONORABLE RICK SACCONI
HONORABLE TODD STEPHENS
HONORABLE MARCY TOEPEL
HONORABLE TARA TOOHIL
HONORABLE THOMAS CALTAGIRONE, MINORITY CHAIRMAN
HONORABLE BRYAN BARBIN
HONORABLE MADELEINE DEAN

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COMMITTEE STAFF PRESENT:
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P R O C E E D I N G S

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2 -----
3 CHAIRMAN MARSICO: Good morning, everyone. Welcome
4 to the Judiciary hearing, public hearing on Restitution in
5 Pennsylvania Task Force testimony. I am pleased to be able to
6 convene the meeting today to receive testimony, like I said,
7 from members of the Restitution in Pennsylvania Task Force.

8 Before we begin, the meeting is being recorded, and
9 I'd ask members and guests to silence your cell phones. In
10 fact, I better do the same.

11 Okay. If I can ask members to introduce themselves,
12 starting on my far right, Representative Saccone.

13 REPRESENTATIVE SACCONI: Good morning. I'm Rick
14 Saccone, from the 39th District, out in Allegheny and
15 Washington Counties.

16 REPRESENTATIVE DEAN: Good morning. I'm Madeleine
17 Dean, from the 153rd, Montgomery County.

18 REPRESENTATIVE BARBIN: I'm Bryan Barbin. I'm from
19 Johnstown.

20 REPRESENTATIVE TOOHL: Good morning. Tarah Toohil,
21 116th District, southern Luzerne County.

22 MR. VITALE: Dave Vitale, Executive Director for
23 Representative Caltagirone.

24 CHAIRMAN CALTAGIRONE: Rep Caltagirone, Berks
25 County, 127th.

1 CHAIRMAN MARSICO: Ron Marsico, Dauphin County, 105.

2 MR. DYMEK: Tom Dymek, Executive Director for the
3 committee.

4 REPRESENTATIVE STEPHENS: Todd Stephens, 151st
5 District, in Montgomery County.

6 REPRESENTATIVE TOEPEL: Good morning, Marcy Toepel,
7 the 147th District, western Montgomery County.

8 REPRESENTATIVE KELLER: Good morning. Mark Keller,
9 the 86th District, which is Perry and Franklin County.

10 CHAIRMAN MARSICO: Well, once again, thank you for
11 being here. Thank the members for being here. I want to give
12 a special thanks also to the working group from this committee,
13 Representative Todd Stephens, Representative Marcy Toepel,
14 Representative Sheryl Delozier, Representative Dom Costa and
15 Representative Deb Kula, for your work, once again, on this
16 issue.

17 This committee has long been sensitive to the
18 treatment of crime victims in our criminal justice system.
19 Restitution is an important part of the criminal justice system
20 for a few reasons. Not only is restitution intended to make
21 crime victims financially whole, but it is also a way of
22 showing those who commit crimes the financial consequences of
23 their wrongful acts. During my tenure here and the Chairman's
24 tenure, we have seen members of the Committee and members of
25 the House work hard in finding ways to maximize the restitution

1 that crime victims are supposed to receive. The Restitution
2 Task Force now has some ideas on that very topic to share with
3 us today.

4 The Restitution Task Force was convened by the
5 Pennsylvania Office of the Victim Advocate in collaboration
6 with the Center for Schools and Communities. The Task Force
7 brought together key stakeholders, agencies and organizations
8 from across all the stages of victim restitution work. The
9 Task Force conducted a thorough review of restitution processes
10 at the state and local level in order to identify gaps and
11 develop recommendations to maximize the justice system's
12 effectiveness.

13 The Task Force set forth its recommendations in a
14 final report. We have provided a copy of that report to all
15 the members here today and also to the public. The report
16 includes 47 recommendations, which I understand are intended to
17 form a comprehensive approach to improving restitution
18 practices at both the county and state levels. Many of these
19 recommendations are optional practices and practice, so don't
20 require legislative action. But others do appear to require
21 legislation for their implementation.

22 We look forward to the testimony today. The
23 Committee is interested in learning more about how the
24 restitution process in Pennsylvania works today, as well as
25 hearing your recommendations how to improve that process

1 legislatively.

2 We're joined by a group of experts in this field,
3 led by Jennifer Storm, who is the official Victim Advocate for
4 Pennsylvania. And Jennifer, could I ask you to please
5 introduce members of the Task Force and your colleagues who are
6 here with us today?

7 MS. STORM: Absolutely. Thank you very much to the
8 Chairmen for convening this very important hearing. And I'm
9 very proud to be representing the Restitution in PA Task Force.
10 With me I have Carla Kringer, who is going to speak with you in
11 a moment; Susan Blackburn-Wright, from the Center for Juvenile
12 Justice Training and Research; Bryan Kline, from the
13 Westmoreland County Clerk of Courts; Don O'Shell, from the York
14 County Clerk of Courts; David Price, legal counsel for the
15 Supreme Court of Pennsylvania; Michael Piecuch, Snyder County's
16 District Attorney; and John Tuttle, Pennsylvania Parole Board
17 member.

18 We felt it most important to begin today's hearing
19 to provide you a voice of a crime survivor. As obviously this
20 is the issue that hits home with them the most, we felt it was
21 the best way to start. So I would love to introduce with you
22 --- to you Carla Kringer, who is a survivor and who has a lot
23 of very important information to share with you today about her
24 experience with restitution. She has also authored a book,
25 which she has with her today, and it's titled It's a Wonderful,

1 Unfinished Life, and she's here to give you her experience on
2 behalf of what she went through with her father.

3 MS. KRINGER: I'd like to offer members of the
4 Committee a free ebook edition. If you would take a card,
5 there's a code on the back. I'm glad that you acknowledge that
6 there are problems in the system, the criminal justice system,
7 and the impacts on victims. I am not a victim of crime. I'm a
8 secondary victim of crime. My father was the victim of crime.
9 His name was Jo Jo Gigliotti. And that's why I'm here today,
10 to talk and be his voice.

11 I want to thank you for the opportunity to present
12 this testimony to the importance of restitution collection and
13 enforcement in Pennsylvania. First, I'd like to provide you
14 with how my family became involved with the system that we call
15 the justice system.

16 April 24th, 2008 is a day that will forever be
17 burned in my memory and in my heart. For most of you in this
18 room, you don't have any reason to remember that particular
19 day, over six years ago. It was a day when record-breaking
20 temperatures were being called for across the State of
21 Pennsylvania. After this year's long winter, we can all
22 appreciate looking forward to those temperatures coming our way
23 again.

24 On that sunshiny day not so long ago, I jumped out
25 of bed hearing the birds chirping, as the first rays of

1 sunshine made their way through my bedroom window. It would be
2 a stretch of the imagination if I had to admit that I was a
3 morning person. It took the alarm to go off a few times this
4 morning to get out of bed.

5 I was excited that day for a few reasons. I had
6 finished my Master's degree earlier that year, and I was
7 waiting to hear if I would be a candidate selected for a job I
8 had applied for. I would be learning the outcome of that on
9 April 28th. Second, I love the heat, so I was looking forward
10 to the record-breaking temperatures. And last and most
11 important, but not the least of the reasons I was excited, it
12 was my mom's 63rd birthday. And I had planned a birthday
13 celebration at my house with my mom and my dad and my sister
14 and my then 18-month-old niece to come and celebrate my mom's
15 birthday.

16 My husband and I went to work that day, and we came
17 home immediately. And I'm Italian by background, so we were
18 preparing a salad and baked ziti for --- which was on the
19 dinner menu. And about 4:10 my telephone rang, and thanks to
20 modern technology, we can decide if we want to take those calls
21 or not, and it showed that it was my sister calling. So I
22 picked up the phone, and she said she was leaving. She lives
23 about a 30-minute drive from me, and that she was leaving and
24 she was on her way with my niece and did I need anything. And
25 I said, no, be careful, told her I loved her and would see her

1 in a few minutes.

2 A few minutes later, my daughter called from the
3 upstairs bathroom, said she was getting in the shower to get
4 ready for dinner, and I heard the bathroom door close and the
5 shower go on. A few minutes later, the phone rang again, and
6 this time Caller ID indicated that it was my mom calling. When
7 I picked up the phone, I expected to hear my mom's voice.
8 Instead, a male police officer was on the other end of the
9 phone, and he asked for me by name. And I said, you are
10 speaking to her. And he said, ma'am, there's been an
11 emergency, you need to get your mom's --- to your mom's. And I
12 remember the first question I asked was is this a joke. And
13 the officer said, no, ma'am. And then I said, what type of
14 emergency? And he said, ma'am, I can't tell you that. You
15 need to get to your mother's as soon as possible. And I guess
16 my mind went into automatic denial. I continued to make
17 dinner. And my husband having heard only part of the
18 conversation said, who was that? And I told him the nature of
19 the call, and I remember him taking me by the hand and saying,
20 honey, we have to go.

21 I remember going to walk out my kitchen door,
22 knowing that when I walked out that door I was never going to
23 be the same. I tried to be calm. I tried to dial my sister's
24 number and reroute her to my mother's without putting her in
25 the same amount of alarm that I was in, knowing that she had to

1 drive herself. And so I called, and I could hear the panic in
2 her voice, asking the same questions, what kind of emergency,
3 has anyone talked to dad? And all I could do was tell her to
4 drive carefully, that I would see her when I got at our mom's.
5 We left the house in a panic, knocking on the bathroom door,
6 telling my daughter that there was an emergency, that we needed
7 to get to her grandmother's.

8 On the way --- on route there, my husband drove, and
9 on route I dialed my mom's number back and was greeted by the
10 same police officer as we made our way there. And I asked him
11 again --- told him that we were on our way and could he please
12 give me more details. And he said, no, ma'am, just please get
13 here as soon as possible. And I guess my next question must
14 have caught him off guard because I asked him, was my father
15 killed in a car accident? And his voice grew solemn, and he
16 said, yes, ma'am, I'm very sorry.

17 Within 48 hours, we learned that my dad's vehicle
18 was struck by Kevin Prussock, who was 25 years old, about six
19 weeks shy --- I'm sorry. He was 24 years old, about six weeks
20 shy of his 25th birthday, that he was suspected of drunk
21 driving. So I learned within 48 hours it was no accident.

22 I can't say what it's like to be the victim of drunk
23 driving. My father was the victim, and his voice was forever
24 silenced that day. I can only tell my story from a secondary
25 victim's perspective. If you have never been a victim or a

1 secondary victim of crime, you can't really understand what
2 it's like to walk in our shoes, yet you are here today asking
3 for testimony from someone who has been traumatized by crime.
4 I am here to convince you about the importance of restitution
5 and collection and enforcement. I am not looking for pity,
6 only for justice and accountability. I am hopeful my story
7 will provide you with what you need to move forward to make
8 legislative changes that will improve the collection of
9 restitution for all victims and secondary victims of crime.

10 My dad was working part time as a courier for FNCB
11 Bank en route from one stop to another that sunny day, April
12 24th, 2008, at approximately 1:30 p.m., completely unaware that
13 his life was danger. At the point of impact, his life was
14 taken and my family's life was shattered.

15 Neither my father, Jo Jo, nor my family asked to be
16 involved with the criminal justice system. We were vulnerable,
17 weak and grieving, and we were dumped into the middle of the
18 criminal justice system that is often not kind to victims.
19 Have you ever experienced an event or a situation where you
20 were in complete despair? Who did you turn to? How did you
21 get through it?

22 On December 22nd, 2008, Kevin Prussock pled guilty
23 to a variety of charges. The highest charge that he admitted
24 guilt to was homicide by DUI. Now, you may think that Kevin
25 Prussock did the right thing by making this plea, but please

1 don't be misguided. His admission of guilt came at a high
2 emotional price to my family. Kevin only did so after multiple
3 court hearings and after exhausting all legal tactics he and
4 his defense attorney could muster to have evidence, such as the
5 blood alcohol, suppressed. When all legal tactics to attempt
6 to shelter him from the consequences of his actions failed,
7 only then did Mr. Prussock make the guilty plea, forcing him to
8 take ownership of his destructive actions. It is my opinion
9 his plea was an attempt to manipulate the court and an attempt
10 to have the court show mercy and leniency when it came to the
11 sentencing phase.

12 My family wanted accountability. Mr. Prussock and
13 his attorney sought loopholes. During that same court hearing,
14 he was court ordered to pay restitution in the amount of
15 \$14,094.36 to my mother for funeral and related expenses.

16 Kevin Prussock was sentenced for the crime against
17 my father, Jo Jo Gigliotti, on February 2nd, 2009. At the
18 beginning of the sentencing there was a discussion between the
19 defense attorney, Mr. Bott, and the prosecuting attorney, Mike
20 Vough, and Judge Peter Paul Olszewski, regarding the amount of
21 restitution owed to my mom. The information that I'm going to
22 relay now is quoted directly from the court transcript. His
23 attorney, Mr. Bott, Your Honor, one preliminary matter. The
24 original plea agreement indicated the Defendant was to pay
25 \$14,094.36 in restitution to the victim's family for funeral

1 and related expenses. Now, that was subject to my receipts of
2 copies of bills for those items. And the Commonwealth has
3 provided me with certain bills. One or two were duplicates.
4 There is now a revised figure with an additional caveat. It is
5 clear from the civil attorney for the victim's family they have
6 received a \$3,000 funeral benefit, which came off of the
7 funeral bill, to which Kevin is supposed to pay restitution.
8 However, we also acknowledge that that may be recoverable by
9 the insurance company. And in the event that there is a proof
10 of payment by the family, he would pay that back, and that it
11 should be added back into the restitution. The Court, was the
12 benefit paid by the Crime Victims Compensation Fund? The
13 prosecuting attorney, Mr. Vough, no, Judge, it was paid by
14 Workers' Compensation carrier. There is a right to subrogation
15 by the carrier against the family of any civil settlement, and
16 the family at that point would be responsible to pay the \$3,000
17 back to the Workmen's Comp carrier. Our position is, if they
18 are responsible to pay that \$3,000, we want the Defendant to
19 reimburse the family for that \$3,000 figure. The Court, okay,
20 so absent repayment of the \$3,000, what is the restitution
21 figure? Mr. Bott, the restitution figure, including some bills
22 that were given us today, should be ---? Mr. Vough, \$7,788.20.
23 The Court, the restitution is increased by \$3,000. Then,
24 obviously, the figure would be \$10,000. End of --- this is the
25 end of information directly from the courts.

1 The final figure the Court determined since our
2 family paid by the Workmen's Compensation carrier the \$3,000
3 for funeral expenses was \$10,788.20. We did this by choice
4 because we wanted Kevin Prussock to be held accountable for the
5 entire amount.

6 I want to clarify for the Task Force, for all the
7 House Committee members here today, and to --- and/or to those
8 who will read my testimony in the future that at no time in the
9 past, present or in the future has my family's focus or desire
10 been to obtain money. There is no money that would alleviate
11 the loss of the victim, my father, Jo Jo Gigliotti. His life,
12 along with the lives of other innocent victims, is priceless.
13 My family, I --- and I in the past, present and in the future
14 stand by our belief that Kevin Prussock, the criminal, be held
15 financially accountable for court-ordered restitution caused by
16 his destructive actions.

17 Mr. Prussock alone is to be held responsible and
18 accountable for the restitution the court deemed him
19 responsible to pay. I also believe there needs to be an agency
20 or a party within the complicated criminal justice system
21 responsible for assuring all court-ordered restitution is paid
22 by the offender.

23 My family was told after the sentencing hearing that
24 restitution would begin while the Defendant, Kevin Prussock,
25 was incarcerated. We were told that 20 percent of any money

1 that Kevin's family sent him, along with any money he earned
2 while in prison, would be sent toward fulfilling his
3 restitution debt. Kevin Prussock was finally cuffed and hauled
4 off to jail to begin serving his court-ordered sentence on
5 February 2nd, 2009.

6 The pursuit of justice for my father --- on my
7 father's behalf had many consequences on all members of my
8 family. This was a battle, and believe me, it was an uphill
9 battle. If I can be so bold as to suggest to this committee
10 that I am open --- if you were open to permitting me to testify
11 at a future hearing on Motivational Boot Camp and its impacts,
12 I would be overjoyed and welcomed --- welcome that opportunity.
13 But for today, I will remain focused on restitution.

14 We left the courtroom on February 2nd, 2009,
15 believing we achieved a victory in securing justice. Little
16 did we know that being court ordered to pay restitution and
17 actually receiving it is another battle. So we left the
18 courtroom thinking there was a system in place for restitution
19 to be paid to my mom. I was not really surprised that the
20 system was not really a good functioning one. As Kevin
21 Prussock and his attorney appealed the sentence, we began the
22 painful journey of healing. My energy was depleted from all
23 the court proceedings. I felt as though I went to battle.
24 When anyone returns from battle, there are wounds. The
25 emotional scars, although hidden from the eye, ran deep enough

1 to impact my soul.

2 During that time, I bore witness to my mom's sorrow
3 when she lost her husband and best friend. The consequences of
4 the loss on her were physical, psychological, emotional and
5 financial. She incurred debt to pay for his funeral expenses.
6 Looking back now, I see more clearly my own weaknesses. But
7 even now, I can't believe how little my mom recalls from that
8 time.

9 The DA told us it would take a few months for Kevin
10 to be processed into the prison system, but that my mom would
11 begin receiving restitution in about three months following his
12 incarceration. I can't give you the exact date when I made a
13 call to the Luzerne County DA's Office regarding the
14 restitution. That is where the never-ending cycle or runaround
15 began. The DA's Office said they don't have anything to do
16 with restitution collection. I was then referred to what I
17 believe was the Clerk of Courts, who touted the same message.
18 And they referred me to the Luzerne County Probation Office.
19 The Probation Office then told me they are only involved after
20 the Defendant is placed on parole. So round and round I went,
21 trying to find out who was responsible for assuring restitution
22 would be paid while he was incarcerated.

23 I want to make clear to those present today that my
24 family and I were still trying to recover from the loss and
25 trying to regain emotional footing from the debilitating,

1 emotional impacts of all the civil and criminal proceedings.
2 Lack of accountability in a system which is already complicated
3 and confusing becomes an overwhelming, insurmountable obstacle
4 for the traumatized, grief-ridden survivors. We were all weak.
5 But as the oldest, I felt it was my responsibility to see Mr.
6 Prussock fulfill his financial obligation to my mom.

7 My mom was 63 years old and was completely
8 devastated. Imagine the state of your own mother in a similar
9 situation. What would she do? In reality, I see this money as
10 blood money. However, Mr. Prussock was court ordered to pay
11 the restitution, and I expected that to happen. I expected the
12 system to hold him accountable. I began to think during this
13 time this bureaucratic system works for the guilty.

14 As I tell my story, I want you to think of the
15 countless victims and secondary victims who may not have the
16 strength to continue the fight, those who may be alone, who may
17 not have someone to help them fight. I want you to think about
18 all the physical and psychological impacts of crime and how it
19 leaves victims and secondary victims feeling powerless.

20 I was so frustrated and angry with the system that
21 we call the justice system. It was that anger and frustration
22 that fueled my drive to find someone to help make sure Prussock
23 would be held accountable for paying the restitution. What
24 about those who allow the system to beat them down?

25 Trying to get off this crazy merry-go-round, I made

1 my first call regarding restitution to the Office of the Victim
2 Advocate on 3/2/2009. I have a timeline of calls. In all,
3 there were 20 calls made. The last call regarding restitution
4 while Prussock was incarcerated occurred August 17th, 2011, and
5 that's when I notified the OVA my mom finally received her
6 first restitution payment of \$63.95. Twenty (20) calls to the
7 OVA during that time frame. I believe I also made some calls
8 to the DOC as well. I heard many excuses and reasons why my
9 mom was not receiving the restitution payments. Do you have
10 time in your schedules and personal work commitments to make
11 this many calls? Would you become frustrated? Would you give
12 up?

13 There was a gap of two years, six months and 14 days
14 from when Kevin Prussock began serving his sentence on February
15 2nd, 2009, to when my mom received the restitution payment on
16 August 17th, 2011. Are there some victims who never receive a
17 single penny of restitution?

18 Below are the dates and the amounts of the
19 restitution payments she received to date. I want to note, so
20 you will have an understanding, that it is not the money that
21 is of importance here. As to date, my mom has received
22 \$2,276.23 towards the \$10,788.20 owed. And she has not spent a
23 single penny of that money.

24 I want to note that Kevin Prussock was released on
25 parole on January 16th, 2013. Since it took two years, six

1 months and 14 days for her to begin receiving restitution while
2 Prussock was incarcerated, I was concerned that, once he was
3 paroled, who would be the responsible party to assuring the
4 payments would continue, and now that he should be working,
5 which was a condition of his parole, seeing the payments
6 increase. I again used the services of the OVA. They provided
7 me with the name and contact information of his parole officer.
8 I made multiple calls, left multiple messages and sent multiple
9 emails with no response from the parole officer. I thought,
10 here we go again, the merry-go-round begins again. Once again,
11 I contacted the OVA, and it was only with their assistance that
12 the parole officer finally returned my call. I was skeptical
13 of his only reassurance that Prussock was told he needs to make
14 arrangements for restitution payments. Who would make sure
15 that he followed through? Mr. Prussock has made consistent
16 restitution payments since his release, but I know this does
17 not happen in all cases. What happens in those cases? What
18 protects --- what system protects those victims? What steps
19 are put into place to guarantee that the perpetrators are held
20 accountable to pay all the restitution? What happens when the
21 perpetrators of a crime refuse to get a job to pay their debt
22 to the victims, to the courts? What happens if Prussock still
23 owes restitution when he is off parole and probation? With
24 modern technology, why can't wage garnishments be put in place
25 to secure payments for victims or secondary victims? What

1 legislative changes can you help bring about to put in place to
2 help victims receive their restitution?

3 The Task Force acknowledges that there are flaws
4 with the collection of court-ordered restitution. Proposed
5 legislative changes are necessary to ensure that victims and/or
6 secondary victims, both past victims and future victims of
7 crime, receive court-ordered restitution. I'm here to speak
8 for all victims and secondary victims of crime whose lives have
9 been touched by horrific tragedies. My educated mind can't
10 understand why a society driven by technology can't come up
11 with a solution such as automated withdrawals of restitution
12 payments. Can't the government withhold a percentage of tax
13 refunds to secure these debts are paid? What about
14 consequences such as being placed back in prison if a released
15 perpetrator fails to follow through with their financial
16 commitment? There is an old adage that says, don't do the
17 crime if you can't do the time. Maybe the adage needs ---
18 deserves to be updated, don't do the crime if you can't pay the
19 fine.

20 I am unsure of what legislative intervention the
21 Task Force is proposing, but I support any recommended
22 legislative interventions that hold the perpetrators
23 accountable while easing the burden on the victims. Wouldn't
24 you agree they've suffered and endured enough?

25 I am respectfully asking the Task Force and the

1 House Judiciary Committee members to consider the testimony
2 provided here today. I ask you to make legislative changes to
3 ease the burden on victims and the secondary victims in
4 receiving court-ordered restitution. The victims and secondary
5 victims carry scars that you will never understand unless you
6 become one of them. Victims and secondary victims face
7 challenges with as much courage and humility as they can.
8 Please consider their plight as you use this democratic,
9 bureaucratic process to help them regain trust in a system that
10 is not always kind to victims.

11 I also welcome the opportunity to provide testimony
12 to this Task Force and the House of Representatives about
13 Motivational Boot Camp at a future hearing. Thank you for the
14 opportunity to share my story. I hope that you'll take the
15 opportunity to read the book that I provided so that you can
16 have the lens of a crime from the inside out instead of the
17 outside in. It's really hard for you to understand. I didn't
18 understand until I've gone through it. I would never have
19 dreamed or thought that the process was as complicated as it
20 is. And that was my purpose in writing the book, because it is
21 complicated. And it's complicated for people who are educated.
22 I can't imagine being someone that has no understanding or
23 maybe limited educational background or someone that is
24 completely feeling powerless to be able to survive the system.
25 And I hope that you'll take an opportunity to read the book so

1 that you can get a view of what it's like to walk in the shoes
2 of a victim and take that into consideration when you're making
3 not only today's --- consideration for today's legislative
4 changes but any legislative changes that can impact victims.
5 Thank you.

6 CHAIRMAN MARSICO: Just, Carla, on behalf of the
7 Committee, we want to say we're sorry for your loss.

8 MS. KRINGER: Thank you.

9 CHAIRMAN MARSICO: And we certainly admire your
10 strength and your courage being here today and what you're
11 doing for victims.

12 I want to acknowledge the other members that are
13 here, Representative Delozier, Representative Regan,
14 Representative Cutler and Representative Hackett. We're going
15 to go to questions now, if that's okay, then we'll go down the
16 line. Is that okay, Jennifer?

17 MS. STORM: Uh-huh (yes). Absolutely.

18 CHAIRMAN MARSICO: Any questions?

19 CHAIRMAN CALTAGIRONE: Yeah, I have one.

20 CHAIRMAN MARSICO: Chairman Caltagirone?

21 CHAIRMAN CALTAGIRONE: Not for her, just for the
22 panel. Legal counsel from the leadership had asked,
23 Recommendation 41 and the recommended cap of 25 percent, there
24 was a suggestion as to, since Recommendation 41 deals with
25 voluntary wage assessment, why a defendant couldn't voluntarily

1 agree to an amount larger than 25 percent if they wanted to do
2 so. If any one of you want to just answer that for the record.
3 Because I think that's the intent, that if somebody wants to
4 pay forward, that they certainly would be eligible to do that.

5 CHAIRMAN MARSICO: Mr. Chairman, if it's okay, can
6 we just --- if you want to look at that research a little bit,
7 and then we'll ---

8 CHAIRMAN CALTAGIRONE: Uh-huh (yes).

9 CHAIRMAN MARSICO: --- continue the questions for
10 Carla. Is that okay? Representative Toohil?

11 MS. STORM: And you're talking specifically about
12 wage attachment; correct? Yeah.

13 CHAIRMAN MARSICO: Do you want to go ahead now?

14 MR. O'SHELL: I can ---

15 CHAIRMAN MARSICO: Okay.

16 MR. O'SHELL: --- in a cursory way address
17 Representative Caltagirone's question. That came up during our
18 subcommittee, the Collections, Enforcement and Disbursement
19 Subcommittee discussions. We have two issues with wage
20 attachments. One, they're voluntary. So, unless --- and
21 that's the way our --- we read the law. So, unless the
22 defendant agrees to enter into a wage attachment, the court has
23 no ability to mandate a wage attachment. And as you just heard
24 from the testimony here, that's a major hurdle for us. So if
25 the law can be changed to allow courts to mandate on the

1 defendant, the minimum --- or the maximum of 25 percent for a
2 mandatory wage attachment. And then, if the defendant's
3 willing, why not allow for a higher threshold beyond 25
4 percent.

5 CHAIRMAN MARSICO: Okay.

6 MR. O'SHELL: So that's where the discussion went in
7 that regard.

8 MS. STORM: One of the --- and I address this in my
9 remarks as well. One area of wage attachment that we were
10 requesting consideration for is to actually move restitution.
11 Restitution is currently allowable under wage attachment, but
12 it's dead last on the list. So one of the recommendations that
13 we would ask is that you raise it to put it third, which would
14 put it beneath divorce and support, and then right above room
15 and board, landlord judgments, income taxes, et cetera.

16 CHAIRMAN MARSICO: Okay. Questions for Carla.
17 Representative Toohil?

18 REPRESENTATIVE TOOHL: Thank you, Mr. Chairman. I
19 just wanted to comment to both Chairman, thank you for having
20 this hearing. This is such an important issue, and I think
21 that when cases are said and done and somebody gets sentenced
22 and the defendant gets thrown away in prison, that we, as a
23 general public, feel like, oh, goodness, that's over with and
24 everything's been taken care of and you have them off of the
25 street, and that people don't realize what victims are going

1 through. And I did want to comment, Mr. Chairman, that Carla
2 Kringer is my constituent, and her --- they're real people and
3 they're good people. Her husband is here, and he's my
4 daughter's seventh-grade science teacher. So they are real
5 people. And I just wanted to comment to you, Carla, to thank
6 you for being a voice for victims, because certainly we have
7 plenty of victims, and they cannot put things into words and
8 stick up for themselves. And you've done so in this book, so
9 I'm glad to see you here at the table.

10 CHAIRMAN MARSICO: Representative Barbin?

11 MR. BARBIN: Thank you, Mr. Chairman. And thank
12 you, Ms. --- Carla, for being here. I had a question, though,
13 because in later testimony Westmoreland has entered an order
14 --- Westmoreland County Court has entered an order that allows
15 for monies to be deducted from inmate accounts. And it seemed
16 clear from your testimony that, while he was in prison, it took
17 almost two years before any amount of restitution was being
18 paid. And I'm totaling up these numbers that you have for the
19 period where restitution payments were made, and what I see is
20 it looks like after he's out of prison he starts making \$100 or
21 \$125 payment. The payments, though, up to 2013, like March of
22 2013, are all --- all over the board. Why is that? Why didn't
23 they have restitution earlier and why did the amounts for over
24 13 months come in just all over the map?

25 MS. KRINGER: I was given a lot of excuses over the

1 time. And I want to compliment --- I don't know that you
2 realize how powerful the Office of the Victim Advocate. I
3 can't speak their praises enough. And it's not because I'm
4 here with them today, it's because, if it wasn't for them, I
5 would have had no one to turn to, because it was door after
6 door you'd go through and jump through hoops. And keep in
7 mind, I work in a school system, so my calls --- you know, I
8 had free time in the summer, but you know, I'd come home from
9 work and three o'clock is when I'd start making my calls. And
10 my mom was completely ---. She's still recovering. We're all
11 still recovering, honestly.

12 I guess my fire was fueled by my anger at the system
13 because I heard all kinds of excuses. I heard the DOC just got
14 a new computer system. I heard that he got moved within 60
15 days. And when he got moved, it created a backlash in the
16 system and that wasn't updated. I got all kinds of excuses,
17 all kinds of excuses, and frustrating, that I can remember,
18 thank God the women and men that work at the, you know, Office
19 of the Victim Advocate. They took the brunt of my fury,
20 because I had many shouting matches, not at them but anger over
21 the system. So I can't answer that question because no one can
22 answer that question for me.

23 REPRESENTATIVE BARBIN: So you don't know why on a
24 particular date you got \$12.95 ---?

25 MS. KRINGER: It's my understanding --- when they're

1 incarcerated, it's my understanding again of the system and
2 whether this is fact or reality, my understanding is the DOC
3 can voluntarily opt to withhold 20 percent of any income that
4 the perpetrator that's in prison receives. So in other words,
5 if his mother or father sent him a \$100 check, 20 percent of
6 that should have gone to my mom. Or if he earned money in
7 prison, 20 percent of whatever his earnings were. That's why
8 the amounts are so small during the time when he was
9 incarcerated.

10 And I can say that, in our particular case, since
11 he's been released, Mr. Prussock has been making regular
12 restitution payments. But I also remember seeing on the news,
13 and I want to say it was Channel 22 or Channel 28, one of the
14 local news stations where they have like --- there's a media
15 person that, if you call them, they try to help you with
16 something. And I remember seeing a man on the news who was
17 trying to get restitution. And I believe his son was killed
18 somehow, some way, and he sought out help through the news
19 station because it was years and he hadn't received a penny of
20 restitution. So it's laughable, and I don't mean this in any
21 disrespect --- it's a piece of paper that says he owes that.
22 To us, it's a piece of paper that says he owes the court fines,
23 but no one holds him accountable. And I think the District ---
24 I don't even think the District Attorney's Offices realize it,
25 because I remember the District Attorney, Mike Vough, saying

1 they're going to just write you a check and give you that
2 money. The family is going to write you a check. And we're
3 like, okay, that's fine. That would be wonderful if they could
4 --- you know, we could have that. There was no check. There
5 was no money that ever came that way. We had to fight for
6 everything we had. And I can't say we. I did. My mom was
7 very, very --- as I said, even now, when she read the book ---
8 when I wrote the book, she didn't remember half of the things
9 that went on. She wasn't --- she was in such a distraught
10 emotional state. Myself, I was in that state, but it was my
11 --- the anger and my frustration with the system that helped me
12 get through it and through the OVA and their assistance. And I
13 think that that's the problem, is that there's no one that
14 holds it accountable. Even no one seemed to know who the
15 system was that was responsible for that. Like I said, I just
16 kept getting the run-around. The District Attorney's Office
17 sent me to the Clerk of Courts. The Clerk of Courts sent me to
18 Probation. Probation sends me to --- says, we don't do any of
19 this. We don't do this until they come out. So it was like
20 who's on first? No one knew what was going on, so that's ---.

21 REPRESENTATIVE BARBIN: Well, I'd just say thank you
22 for testifying. I think, at the very least, that we should be
23 able to get the system to work. From the very first day
24 they're serving their sentence, they should be making at least
25 a 20-percent payment from whatever they are receiving while

1 they're in prison. And thank you for testifying today.

2 MS. KRINGER: Thank you. Thanks for the
3 opportunity.

4 CHAIRMAN MARSICO: Representative Stephens, a
5 question?

6 REPRESENTATIVE STEPHENS: Thank you. Thank you, Mr.
7 Chairman. And thank you, Mrs. Kringer for being here with us
8 today and sharing your experiences. I was a prosecutor for ten
9 years and I prosecuted several homicide by vehicle cases, and I
10 certainly have spoken with a lot of folks in your shoes. You
11 present the facts very eloquently and reasonably, and I
12 certainly appreciate your sincerity in this. What was the
13 sentence that Mr. Prussock received?

14 MS. KRINGER: He was given three years, three to six
15 years.

16 REPRESENTATIVE STEPHENS: The mandatory minimum?

17 MS. KRINGER: That's why I asked if at a future
18 hearing I could speak about Motivational Boot Camp. Because,
19 again, what's put in writing --- he could have been out --- he
20 could have been out in 18 months, the way Motivational Boot
21 Camp is, because he fell within that age category. So that was
22 an uphill fight to get the judge, the sentencing judge, to rule
23 him not eligible for Motivational Boot Camp.

24 REPRESENTATIVE STEPHENS: Uh-huh (yes).

25 MS. KRINGER: And then pre-release, which the laws

1 changed since our particular case. There is no longer
2 pre-release. So we had a lot --- even though he was sentenced
3 --- he was sentenced three to six years in prison, and then
4 there was a vehicle in front of my father with two men in it
5 that had to drive off of the road to avoid impact. He got two
6 --- it's concurrent because it's after his parole is up. He
7 got two 12-month of additional probation once he served.

8 REPRESENTATIVE STEPHENS: Okay.

9 MS. KRINGER: So he'll be --- he will be on parole
10 until February 2nd, 2016, and then on probation until February
11 2nd, 2018.

12 REPRESENTATIVE STEPHENS: Okay. Do you have a sense
13 --- and I don't know if you or anyone on the panel can help
14 with this. Wages and inmate accounts are treated differently
15 in terms of restitution or are they treated the same? Does
16 anyone know, in terms of ---? I know that some inmates earn
17 wages while they're in prison. I know it's a small amount, but
18 do we know if DOC takes 20 percent of the wages, also, or
19 whether it's something else?

20 MS. KRINGER: Yeah. My understanding is any deposit
21 made into an inmate's account, 20 percent of that deposit,
22 whether it's coming from wages, whether it's coming from
23 family, friends, is taken and then applied to the restitution.

24 REPRESENTATIVE STEPHENS: All right. Was DOC asked
25 to participate? Because I feel like a number of us have

1 questions that DOC probably would be better equipped to answer,
2 and I hate to put you on the spot. Were they asked to
3 participate today?

4 MS. STORM: I did put a call out to the entire
5 Restitution Task Force Committee to request a small group that
6 could come together, and these were the individuals that were
7 able to be here today to provide testimony.

8 REPRESENTATIVE STEPHENS: So they were a part of the
9 task force, though, that looked at this issue?

10 MS. STORM: Oh, absolutely. Yes. Uh-huh (yes).

11 REPRESENTATIVE STEPHENS: Okay. Is the amount ---
12 the 25 percent that the Task Force is recommending in terms of
13 wages, how did you arrive at that figure, if anyone can help me
14 understand that? Was there a ---?

15 MR. O'SHELL: The 25 percent you're referring to I
16 believe is the statutory maximum that the courts can agree to a
17 wage attachment with a defendant. So even if the defendant
18 wants to pay more, they can't allocate more. And it's all
19 voluntary on behalf of the court and on the defendant. Once
20 the wage attachment is entered into, then the order or
21 mandate's on the employer to collect that. That's the only
22 time the court order is in effect.

23 REPRESENTATIVE STEPHENS: Okay. So maybe I'm
24 misunderstanding this. Is --- so currently the court may
25 attach up to 25 percent if the defendant agrees?

1 MR. O'SHELL: Correct.

2 MS. KRINGER: Yes.

3 REPRESENTATIVE STEPHENS: Okay. And the Task Force
4 is looking to make that mandatory rather than voluntary?

5 MR. O'SHELL: We would like the courts to have the
6 authority to impose a mandatory wage attachment, yes.

7 MS. KRINGER: Yes.

8 MR. O'SHELL: And we're saying the maximum for a
9 mandatory likely should be 25 percent. But if they want to
10 voluntarily give beyond that, that's between the court and the
11 defendant.

12 REPRESENTATIVE STEPHENS: So where did you come up
13 with the 25 --- did you just stick with the current level?

14 MR. O'SHELL: Currently in statute. Correct.

15 MS. KRINGER: Current, yeah.

16 MR. O'SHELL: It's the current statute.

17 REPRESENTATIVE STEPHENS: One of the --- well, I get
18 it --- I get it that it's a statute, but everything we're doing
19 is about changing statute. So if we're going to change it, I
20 just wonder --- I think --- I was just doing some research last
21 week --- our staff was doing some research last week on this
22 issue, and I think in terms of child support, if I'm not
23 mistaken, it's 50 percent or even as high as 65 percent in some
24 instances.

25 MS. STORM: Yeah. Well, and I think that's where we

1 were sticking with the 25 percent, because you're going to get
2 to a point where you're going to go over the defendant's
3 ability to pay. You'll get into a position where you're asking
4 for 100, 110, 120 percent of their overall income, and that
5 isn't realistic.

6 REPRESENTATIVE STEPHENS: Well, isn't there a way to
7 draft the statute that you're not? Because there are inmates
8 that don't have children or are not paying child support, and
9 therefore, why shouldn't they have to pay the same amount in
10 terms of restitution to a victim, you know, rather than ---
11 since they're not paying it to a child that they have to
12 support?

13 MR. O'SHELL: There's a lot of different percentages
14 being discussed right now. The inmate account deduction is a
15 --- is a voluntary amount that DOC imposes by policy of 20
16 percent. Or if they owed victim, witness or a crime against
17 compensation, it's 30 percent. Once those two assessments are
18 paid off, it drops to 20 percent, from my understanding. Of
19 that 20 percent, when it's sent to the counties, 50 percent
20 minimally must be applied towards restitution, unless the court
21 has entered a specific order on that case, raising it to a
22 higher threshold of a hundred percent or whatever. So that's
23 kind of how the money flows. Twenty (20) percent out of the
24 inmate account goes to the county. And half of that is going
25 to be applied minimally to the crime victim.

1 REPRESENTATIVE STEPHENS: I just wonder if the 25
2 percent --- it sounds very low to me. And I've shared this in
3 the past. The 20 percent from DOC I think is absurd. And I'm
4 disappointed that there's no one here from DOC to help us
5 understand the rationale for that a little bit better, you
6 know. And my understanding is some of the counties take as
7 high as 75 percent from an inmate's account. You know, I just
8 read about an inmate in a prison that actually sued the
9 Department of Corrections because his cable bill of \$16.50
10 continued to accrue while he was serving time in Jersey. And
11 he was upset that, when he came back --- you know, it's kind of
12 like if you go on vacation for a month, you forget to shut off
13 your cable. You know, he was upset because he still had a bill
14 to pay. Now, I checked the records in Delaware County. He has
15 not paid a penny towards the \$200 in restitution he owes the
16 victim, yet he owes \$178 in cable bills. I mean, that, to me,
17 is unconscionable. So, I mean, I certainly hear you that there
18 are percentages that are flying all over the place, and I just
19 --- I'm concerned that if we set the bar at 25 percent on the
20 wage attachment, we're coming in too low, and I just wondered
21 if there was a rationale other than that's where we are
22 currently to that number.

23 MS. STORM: I think you could potentially craft
24 language that would stipulate if there are no divorce or
25 support payments, that you could increase that. I would

1 caution you, though, in instances where there are divorce and
2 support. Or, to be very honest, if you don't move restitution
3 up, there could be ten things above, including PHEAA student
4 loans, judgments from residential leases, health insurance
5 premiums, union dues, that would come before the restitution.
6 So, again, ---

7 REPRESENTATIVE STEPHENS: Certainly.

8 MS. STORM: --- you could end up maxing out an
9 individual's salary. But you certainly could craft something
10 unique to those that don't have these, and then, obviously,
11 maybe move the restitution up on the wage attachment list.

12 REPRESENTATIVE STEPHENS: Got it. Thank you. And
13 again, thank you again for being with us today.

14 CHAIRMAN MARSICO: Representative Toepel, question?

15 REPRESENTATIVE TOEPEL: Thank you very much. And
16 thank you all for being here. Ms. Kringer, in your testimony
17 you referenced the voluntary deductions by the DOC. And that
18 --- is that in the statute that it's voluntary; do you know?

19 MR. O'SHELL: It's ---.

20 MS. STORM: It's a DOC policy.

21 MR. O'SHELL: It's a DOC policy. Act 84 of 1998
22 authorizes it, but there's no mandate that they do it.

23 REPRESENTATIVE TOEPEL: So number one, I do believe
24 it should be a mandatory deduction, that I think we should
25 change that.

1 Number two, in the testimony they've also referenced
2 that there was some issues not only with the deduction but also
3 that the DOC was claiming as that they didn't receive the
4 proper paperwork on what was owed. Is that a Clerk of Courts
5 issue, that some courts are not sending the paperwork or --- I
6 mean, do we have a problem on both ends that we need to tighten
7 up?

8 MR. O'SHELL: It may be a Clerk of Courts issue, but
9 I'll talk to our experience. In York County, all of our
10 inmates on the male side go to Camp Hill, and so all of our
11 commitment paperwork and its paper goes to Camp Hill. And then
12 they're reassigned to the SCI that they're going to spend the
13 majority of their sentence. And we often have gaps between
14 Camp Hill and the receiving SCI. They claim at the receiving
15 SCI they never got the commitment paperwork, so we then resend
16 it electronically and by mail yet again to the DOC at that
17 location. And we find that to be a frequent happenstance. And
18 I wish personally that the DOC would invest in some kind of
19 imaging system or electronic transfer of this data from both
20 the Common Pleas case management system that AOPC maintains, as
21 well as pdf images from the Clerks of Court so that they have
22 it electronically, so that it's not paper being sent from A to
23 B. We should really make that electronic so that DOCs have
24 access across the board to the same paperwork.

25 REPRESENTATIVE TOEPEL: As full disclosure, I used

1 to work in the Clerk of Courts, so I understand you get blamed
2 for everything. But I am also disappointed the DOC isn't here
3 to answer some of those questions because if they're saying
4 they're not getting the paperwork --- I mean, we really need to
5 delve into it a little bit further.

6 MS. STORM: And I can speak a little bit to that
7 because oftentimes the Office of the Victim Advocate is the
8 conduit between, you know, the victim and then checking into
9 those restitution payments. And I can say that the Department
10 of Corrections does consistently withhold that 20 percent, but
11 they are reliant upon the paperwork that we receive. So
12 oftentimes my staff are spending hours upon hours calling Clerk
13 of Courts offices, calling the sentencing courts, and trying to
14 get accurate, reflective sentencing orders.

15 The imaging would actually be really important. We
16 actually had a meeting about this last week, that even if the
17 AOPOC system had the ability to upload attachments and upload
18 sentencing orders, how much easier it would be for us to be
19 able to kind of tap into that, pull that order, and then get
20 that to the right SCI. So we definitely could utilize some
21 additional technology assets.

22 REPRESENTATIVE TOEPEL: As a follow-up, I see Mr.
23 Price is here. We worked together way back when. And at that
24 time I was the advocate for including the imaging system with
25 the unified judicial system. Are there plans to do that?

1 ATTORNEY PRICE: The imaging system, there is plans
2 to do that at some point in the future. But I would just say,
3 right now, AOPC can electronically send all the sentencing
4 information to DOC. DOC currently requires the transmission to
5 be in paper form. So there is no problem from AOPC's
6 standpoint to transmit all the sentencing information they
7 would need via an electronic file, much like we transmit to
8 PennDOT. Whenever someone's convicted of a Title 75 offense,
9 that's transmitted electronically. So I don't think there's a
10 technological barrier from AOPC's standpoint. And some
11 counties already pick up that file and use it for --- with the
12 prisoners who are in their county facilities.

13 REPRESENTATIVE TOEPEL: Okay. So we have the
14 capability to do this now. We just have to make sure it's all
15 working seamlessly.

16 MR. KLINE: I would agree with Don. You know, being
17 the Clerk of Courts in Westmoreland County, the paperwork is
18 always lost. You know, we receive numerous calls from the DOC
19 requesting this paperwork. You know, once the prisoner is
20 taken by the Sheriff's Office, the paperwork goes with him.
21 And I'm sure it's passed through many hands upon the arrival of
22 the prisoner.

23 REPRESENTATIVE TOEPEL: Thank you very much.

24 CHAIRMAN MARSICO: Okay. Here's what we're going to
25 do. We're going to ask the other members to hold your

1 questions. And Jennifer, do you want to give your statement
2 and the other panel members can give --- summarize your
3 statements as well.

4 MS. STORM: Sure.

5 CHAIRMAN MARSICO: Go ahead.

6 MS. STORM: I think we all have roughly about two to
7 five minutes of testimony. I'll try to cut mine short, as
8 we've discussed some of the items that I have.

9 But again, I want to thank you very much for
10 providing us the opportunity to hear our individual and
11 collective thoughts on the importance of restitution for crime
12 victims and again thank Carla for bringing her voice to the
13 table, because so often it's easy to hear from those of us who
14 work in the system, but the individuals on the receiving end of
15 this or sometimes the lack of receiving end of this is really
16 why we're here today.

17 As you are aware, the Restitution in Pennsylvania
18 Task Force released the final report in 2013. The report
19 contained 47 recommendations developed, debated and ultimately
20 accepted by the membership during the 13-month period which
21 began in October of 2011. These recommendations were made to
22 the Governor's administration, to the legislature and to the
23 judiciary, as well as to many county and state-level entities,
24 which through their policies, practice and procedures, have an
25 impact upon restitution ordering, collection and disbursement.

1 The overall goal of these recommendations was to enhance the
2 criminal and juvenile justice system's effectiveness regarding
3 restitution. I would like to note that there are copies of the
4 Restitution Task Force and they can also be found at
5 www.pa-restitutiontaskforce.info.

6 The Task Force was created to bring together
7 relevant county and state-level stakeholders and experts,
8 including individuals, agencies and organizations engaged in
9 victim restitution work, as well as representatives from the
10 judicial, legislative and administrative branches of
11 government. During our deliberation, the Task Force served as
12 a forum for enhancing interagency coordination, increasing
13 communication and identifying solutions to increase the quality
14 of restitution services at the state and county levels.

15 The 47 recommendations were categorized into four
16 areas and are detailed in the final report, including rationale
17 next steps, as well as any dissenting opinions. While not all
18 the recommendations received a unanimous approval vote, each
19 was supported by a majority vote. The four categories of
20 recommendations are uniformity of policy and practice,
21 strengthening accountability, coordination of information and
22 expansion of authority. I'm very pleased to report that many
23 of our recommendations have been completed and are in the
24 process of being implemented. It was determined through the
25 work of the subcommittees that many of the recommendations

1 could be fulfilled by collaborative partnerships and through
2 policy changes. To that end, there are several actions in
3 process to achieve these goals, including the development of a
4 restitution bench book and other resources for Juvenile and
5 Criminal Court, training of judges and staff on best practices,
6 the development of a victim's guide to restitution in the
7 juvenile justice system, the development of a standardized
8 restitution court order. The Pennsylvania Board of Probation
9 and Parole is now sending dunning letters to all parolees when
10 --- who are not making their restitution payments. The Board
11 has also established a committee of agents on the collection of
12 restitution to increase --- to create fact sheets and share
13 best practices. The Office of the Victim Advocate has brought
14 victims and survivors into both the Parole Board and the DOC to
15 discuss the importance of restitution collection. Many
16 counties have begun using contempt courts.

17 The Criminal Rules Committee has proposed a rule
18 change to allow DAs to ask the court, after the defendant is
19 convicted, to apply any bail payments to the amount of
20 restitution, fines and costs. The Pennsylvania Commission on
21 Crime and Delinquency has included restitution as a fundable
22 category under this year's JAG announcement, and also showcased
23 cost contempt courts at their annual CJAB Conference.

24 Some of the legislative recommendations that we have
25 for you today have already --- some of them have already been

1 discussed, but I'll go through them --- would have to do with
2 Recommendation 9 and 37, which request that the General
3 Assembly should consider amending Title 42, Section 9728(b)(5),
4 to establish a mandated minimum percentage threshold, no less
5 than 20 percent, for deductions from inmate personal accounts
6 for both county correctional facilities and the DOC. Senate
7 Bill 1029 is currently in the judiciary and would be supported
8 by the Task Force members if the minimum threshold was set at
9 20 percent.

10 One of the things I do want to note is we're talking
11 a lot about the Department of Corrections. And I can say that,
12 as a matter of policy, the DOC does collect this 20 percent on
13 every deposit. The same cannot be said at all for county
14 correctional facilities, which is why we want them included on
15 that.

16 Oftentimes defendants are sitting in county
17 correctional facilities, awaiting trial, waiting for the
18 sentencing, waiting to be moved to SCI-Camp Hill, and there are
19 deposits being put into those accounts that could be going
20 towards restitution fines and costs.

21 Recommendation 41, 43 and 44 are regarding wage
22 attachment, which we discussed here. Well, currently the law
23 allows for wage attachment for restitution, it is not given the
24 priority that we feel it should be. Currently, restitution
25 falls at 11th or dead last on the priority list for wage

1 attachment. It would be beneficial to have restitution moved
2 into a priority position three. And again, I've listed out the
3 positions.

4 The General Assembly also should consider amending
5 Title 42, Section 90(c)(30), adding Section (a)(1) to clarify
6 the authority of the court to assign the wages of a defendant
7 who agrees to an assignment of income of no more than 25
8 percent of the defendant's gross salary, wages or earnings to
9 the court for payment of any restitution fines or costs. This
10 amendment should also impose obligations on employers in this
11 regard. This would be consistent with what employers are
12 permitted under current child support statutes that govern wage
13 attachments and/or garnishments.

14 The General Assembly should consider authorizing
15 courts to order wage attachments for defendants who have been
16 found in contempt for non-payment of restitution costs and
17 fines. The General Assembly should consider authorizing courts
18 to order wage attachment for defendants who have the ability to
19 pay their restitution fines and costs.

20 Recommendation 46 suggests that the General Assembly
21 should consider enacting or amending a statute to require the
22 Department of Corrections --- or I'm sorry, to require the
23 Department of Revenue and the Pennsylvania Lottery to pay any
24 state judicial debt to include overdue restitution costs and/or
25 fines from any state income tax funds and/or lottery winnings.

1 Currently, there are House bills that are addressing this.
2 House Bill 1483 and Senate Bills 1016 and 1017 address this
3 issue, and the Task Force was involved in amending this
4 language to be fully inclusive of our support of these bills.

5 Lastly, the Office of the Victim Advocate fully
6 supports House Bill 2134, an act amending the act of November
7 24, 1998, known as the Crime Victims' Act. In financial
8 matters, further providing for costs. This bill is germane to
9 this discussion as it helps to fund the victim advocates who
10 educate victims about restitution, as you heard from Carla.
11 And it also funds the Crime Victimization --- Crime Victims ---
12 Crime Victims Compensation Fund, which is oftentimes the
13 primary source of financial relief for crime victims.
14 Oftentimes, advocates and victims turn to this fund to ensure
15 that they receive compensation, and then what we do is we have
16 the court order restitution back to that fund. Those amounts
17 have not been altered since, I believe, 2002. We're requesting
18 that they be increased to be \$110. So we're not asking for
19 outrageous amounts of money.

20 Several representatives of the Task Force Committee
21 are here today and will provide information on the focus of
22 their work, as they highlight specific recommendations that
23 have been implemented and where additional work is needed.

24 The Office of the Victim Advocate is fully committed
25 to continuing the work of the Restitution Task Force, and we

1 will work with your --- with you and any other legislature ---
2 individual in the legislature to educate and inform your
3 members on the absolute importance of restitution collection
4 for crime victims. Thank you very much. I think at this time,
5 Susan.

6 MS. BLACKBURN: Good morning. I'm Susan Blackburn,
7 the Balanced and Restorative Just --- I'm sorry. Ah, very
8 good. Thank you. Susan Blackburn, the Balanced and
9 Restorative Justice Specialist with the Juvenile Court Judges'
10 Commission. I served with James Anderson, the former Executive
11 Director of the JCJC as a co-chair of the Juvenile Justice
12 Subcommittee.

13 My testimony today is based on the work of the
14 subcommittee and reflects their opinions and recommendations.
15 We're grateful to the Chairmen and members of the Committee for
16 allowing us to briefly present our work and ongoing efforts.

17 Act 33 of Special Session Number One of 1995
18 dramatically altered and strengthened the juvenile justice
19 system in Pennsylvania by redefining the mission of the system
20 to reflect a balanced and restorative justice approach. This
21 mission led to the expansion of the clients that we serve to
22 include crime victims, communities and offenders by ensuring
23 that we address the goals of community protection, development
24 of youth competencies and holding youth accountable for their
25 behavior.

1 The juvenile justice system's mission is premised on
2 the concept of restorative justice, which gives priority to
3 repairing the harm done to crime victims and communities. It
4 defines offender accountability in terms of the offenders
5 assuming responsibility and taking action to repair harm.

6 It was agreed by the subcommittee members that the
7 juvenile justice system has developed many very positive
8 practices around restitution, particularly since our mission
9 has been advanced. Our Juvenile Court Judges' Commission
10 Outcome Measures Report collects various data from all 67
11 counties, including restitution outcomes. This report has
12 consistently reflected positive results. Since 2004, we can
13 report that, of the juveniles with a closed case who were
14 ordered restitution, on average, 84 percent of those juveniles
15 paid their restitution in full, resulting in approximately 2.4
16 million per year paid to crime victims. Additionally, 88
17 percent of juveniles who were ordered to pay under the Crime
18 Victims Compensation Fund did so.

19 Our positive outcomes were enhanced through the
20 enactment of Act 217 of 2004, when local juvenile courts were
21 granted authority to establish county restitution funds. This
22 was critical in shaping our practice regarding the need to
23 prioritize the ability of young offenders to pay their
24 restitution while providing community service as well.

25 So while we're effective in many areas, the

1 subcommittee's in-depth review of practice revealed several
2 areas for improvement. We found there's a great need to
3 enhance the understanding of all justice system stakeholders in
4 the laws, policies and practices regarding restitution.
5 Currently, information is fragmented. It's located in various
6 documents, in publications. Therefore, a bench book which
7 would provide focus on restitution to assist in bringing
8 statutory mandates and best practices into one comprehensive
9 publication could provide such a resource.

10 Additionally, the Juvenile Justice Subcommittee
11 encountered many policies and practices which are inconsistent
12 throughout the 67 counties. The development of a toolkit which
13 would clarify policy and practice around restitution issues to
14 identify best practices such as restorative preferencing,
15 clarify enforcement tools available, provide helpful articles,
16 frequently-asked questions, fact sheets, brochures, would be of
17 great benefit, very important to get us to a consistent
18 implementation of ordering, collecting and disbursing
19 restitution. We are truly grateful for the opportunity to be
20 able to work with the AOPC to develop these important
21 publications.

22 The members of the Juvenile Justice Subcommittee
23 explained that a critical challenge for us is our difficulty in
24 collecting restitution from older youth, primarily those
25 between the ages of 18 and 21, which are the upper limits of

1 our jurisdiction. Act 217 of 2004 did provide juvenile courts
2 with the authority to retain jurisdiction over a juvenile until
3 they attained 21 years of age if there has been --- not been
4 full compliance with an Order of Restitution and the authority
5 to continue collection after the juvenile obtains 21 years of
6 age under Section 9728. However, the Subcommittee determined
7 that clarification and guidance on best practices for enforcing
8 this statute, as well as the development of additional means
9 for compelling these youth to comply with their court-ordered
10 monetary responsibilities is needed. The Subcommittee
11 concluded that the ability of the courts to effectively assign
12 wage attachments, access lottery winnings and tax returns,
13 suspend driver's license and other state-issued licenses for
14 overt non-compliance will provide additional tools which would
15 improve our success in increasing the collection of these
16 monies for crime victims. The key stakeholders in
17 Pennsylvania's juvenile justice system have committed to
18 continued examination of the report of the Task Force and a
19 partnering with other groups to continue to develop a process
20 to enhance the work that we do for crime victims. Thank you.

21 CHAIRMAN CALTAGIRONE: Chairman Marsico asked me to
22 take over just temporarily until he gets back. Go right ahead.

23 MR. KLINE: Mr. Chairman and members of the
24 Committee, thank you for your time this morning. My name is
25 Bryan Kline, and I was elected as Westmoreland County Clerk of

1 Courts in 2009, and was re-elected last year. Since being
2 elected in 2009, I have made one of my priorities protecting
3 the rights of crime victims and ensuring that they are
4 receiving restitution payments.

5 When I was first elected, I quickly realized we had
6 a problem with the collections. A lot of money was owed to the
7 county, the Commonwealth and to the victims of crime. I
8 decided to tackle this problem. I formed a Collections
9 Committee through the Criminal Justice Advisory Board and got
10 everyone on the same page. I then developed an administrative
11 cost hearing process that has been very successful. I have
12 presided over thousands of these hearings and hold them
13 monthly. The criteria for these hearings is the defendant is
14 no longer on probation and has not made a payment in 180 days.
15 A lot of payments received for these hearings are individuals
16 paying their case balance off or bringing their payment plan
17 current. I have helped implement the administrative cost
18 hearing program in Montgomery County and have been contacted by
19 other Clerk of Courts in order to help them establish this
20 program.

21 In 2013, from the administrative cost hearings we
22 collected \$146,635.55. After modifying this program in 2014,
23 we have collected \$71,719.25 so far this year. At these
24 hearings in February, we collected over \$19,000 in just one
25 day. These are monies that were deemed uncollectible in the

1 past.

2 Through the Criminal Justice Advisory Board, we also
3 established a Collections Court that is held once a month. The
4 Collections Court that was established collected almost \$50,000
5 in 2013 and \$20,500 so far in 2014. Through these programs we
6 have collected monies that were owed from cases dated as far
7 back as 1976.

8 Based on Recommendation 14 by the Restitution Task
9 Force, I met with the County Prison Board and obtained and
10 administrative Court Order from the President Judge which
11 mandates county-sentenced inmates to pay 20 percent out of
12 their inmates' accounts towards costs, court costs, fines and
13 restitution. We started these deductions in July of 2013 and
14 collected \$48,642.39 that year. So far, we have collected
15 \$25,834.46. We receive a check from the county prison every
16 month ranging between \$8,000 and \$10,000. Westmoreland County
17 is a third-class county, and we average 440 inmates monthly.
18 This is a procedure that the Department of Corrections uses.
19 We received roughly \$6,170 from the Department of Corrections
20 monthly last year. Attached to my testimony is a copy of the
21 administrative Court Order that allows the county deductions.

22 I've also taken the burden of collecting fees off of
23 taxpayers by assessing the \$11.50 administrative fee on every
24 case that is processed in my office. The taxpayers have
25 nothing to do with these crimes committed and should not be

1 subsidizing the collection of these fines.

2 The Clerk of Courts has the authority to suspend a
3 driver's license for nonpayment of court costs, fines or
4 restitution if a Title 75 offense is committed, such as a DUI
5 or any other driving-related offense. I found this to be a
6 very effective tool. I started to suspend driver's license in
7 2011 and have suspended over 500 to date.

8 Every time that a crime victim is sent a restitution
9 check from my office we include a change of address postcard
10 which may be returned if the victim has moved. It's little
11 procedures like this that help us keep an up-to-date address on
12 the crime victim.

13 In 2009, prior to me taking office, \$4.5 million was
14 collected. Last year we collected \$5.8 million. This year I
15 anticipate collecting over \$6 million. All these programs I
16 have discussed can be implemented by all the Clerk of Courts in
17 the Commonwealth. More importantly, these programs give the
18 crime victims the justice that they deserve.

19 In closing, I will read a thank you note I received
20 from a victim of crime. Dear Mr. Kline, I wanted to send you a
21 huge thank you for all of your hard work in getting defendants
22 to pay restitution. I have been following the articles in the
23 Tribune Review about what you are doing to get money to victims
24 of crime. I was a crime victim in 2006 and I have received
25 restitution payments for the past three months after receiving

1 nothings for years. I am sure I can speak for the many victims
2 of crime and how grateful we are for all that you have done in
3 such a short amount of time. Many thanks. Once again, I'd
4 like to thank you for your time on this very important matter
5 this morning. Thank you.

6 MR. O'SHELL: Good morning. We'll keep this moving
7 forward. Don O'Shell, the York County Clerk of Courts. I
8 chaired the subcommittee that focused on collections and
9 enforcement, as well as disbursement of the monies received.
10 York County has really implemented a lot of the best practices
11 included in the Task Force report, and we've seen that
12 beneficially being an impact to our county. We went from \$4.2
13 million collected in 2004 to last year, in 2013, to about \$10.5
14 million collected. And about a third of what we collect is
15 toward restitution.

16 We also identified on the subcommittee barriers to
17 collections and where Pennsylvania courts would benefit from
18 additional authority from the General Assembly to effect
19 collections on behalf of crime victims and the taxpayers. And
20 I would like to highlight three of the many recommendations
21 that came out of the subcommittee and out of the Task Force
22 generally.

23 The first is kind of controversial, and that is to
24 expand the authority via PennDOT to suspend a defendant's
25 driving privilege for failure to pay cost, fines and

1 restitution on any offense. Not just vehicle-related offenses
2 but on any offense. A lot of states already allow for this.
3 And some states even allow for civil judgments. Florida for
4 one. Iowa, Montana, Nevada, New Hampshire, New Jersey,
5 Virginia and West Virginia all authorize a much broader
6 suspension of driving privilege for failure to pay courts. And
7 I seek that authority for our courts through the General
8 Assembly.

9 Last year we collected \$381,000 plus on license
10 suspensions, basically meaning that they paid balloon payments,
11 they caught up to date with their costs, fines, restitution
12 payments, and so we know it's an effective tool. Year to date
13 so far we collected in excess of \$176,000 in those payments.
14 So we're suspending roughly 1,500 licenses a year, and we're
15 restoring about 700, 800 a year for when they come into
16 compliance. So we know that's an effective tool for us.

17 The second would be to make Act 84 deductions of
18 inmate accounts mandatory. For 15 years, since the legislation
19 authorized it, the York County Prison Board did not elect to do
20 so. And it was after about two years of my pressure and then
21 the public's pressure that finally convinced the Prison Board
22 to make that change. And so we're going to kind of implement
23 what Lancaster County does, which is the first \$25 they put
24 into their account, we take it. They can't spend anything in
25 the commissary or on phones until they pay that first \$25. We

1 expect to receive about \$200,000 annually from our inmate
2 population, which is roughly averaging 1,600 to 1,800 inmates
3 on any given day. So we're hopeful that that will be a benefit
4 to crime victims.

5 Pike County that you mentioned, we talked about
6 percentages earlier, they assessed 60 percent. And they have a
7 smaller prison population, about 200 inmates, but they go after
8 60 percent. And they're averaging roughly between \$5,000 and
9 \$10,000 each month in collections. So those are just some of
10 the areas that I would emphasize, DL suspensions and mandatory
11 Act 84 deductions across the Commonwealth, at the DOC level, as
12 well as county facility level.

13 ATTORNEY PRICE: Good morning, everyone. My name's
14 David Price. I'm a staff attorney with the Administrative
15 Office of the Pennsylvania Courts. The Pennsylvania judiciary
16 system partnered with the former State Advocate, Carol Lavery,
17 and others in 2011, when her office convened a broad-based Task
18 Force to study how restitution might be more effectively
19 collected. The judiciary's commitment to that goal remains now
20 working with the current Victim Advocate, Jennifer Storm.

21 Ultimately, the Task Force contained 47
22 recommendations for further review or action. Of those, 25
23 relate to the judiciary system directly or in tantamount with
24 other stakeholders. Following the publication of the report,
25 AOPC, PCCD, JCJC and the former Victim Advocate informally met

1 on several occasions to identify recommendations in our
2 respective areas on which immediate action could be taken to
3 ensure forward momentum. Accompanying this statement is a list
4 of those recommendations that were commonly viewed as related
5 to the judicial system, along with a synopsis of their
6 progress.

7 Candidly, it was possible for the judiciary to move
8 forward in many of the report's relevant areas because AOPC and
9 the Judicial Computer System Department had already made
10 effective collection of imposed financial penalties a priority.
11 For instance, the first statewide JCS project, a case and
12 financial management system for the magisterial district judges
13 completed in 2000 --- or in 1992 provided electronic tools for
14 MDJs and staff to collect assessments, payments and
15 delinquencies. Since then, these tools have been upgraded and
16 expanded to all of Pennsylvania criminal courts and training in
17 this area by JCS staff for County Court employees is routine.

18 One especially promising tool, PAePay, allows
19 payment of court-ordered penalties online by credit or debit
20 card. More than \$163 million has been collected via PAePay
21 since 2010.

22 In 2011, AOPC began releasing annual collection data
23 in both aggregate on a county-by-county basis. While many
24 factors influence the collection process, including the ability
25 of defendants to make payments and the variety of local

1 government participants in the process, some may be appointed,
2 some may be elected, the AOPC's intent in releasing such data
3 is to provide facts that can help drive greater collection
4 success. In the very near future, AOPC will be supplementing
5 this aggregated collection data with one of a number of
6 web-based dashboards that will provide additional public
7 information on court collections.

8 It is important to know that the judicial system
9 emphasizes collections of all court-assessed penalties, fines,
10 fees, costs and restitution. Effectively collecting
11 restitution is an important key component of restorative
12 justice for victims. Restorative justice also means that a
13 sentence earned is a sentence served, which is also important,
14 since the public's confidence in the justice system rests, in
15 part, on that premise.

16 Finally, effective collection of fines, restitution
17 costs is problematically important because contemporary public
18 policy utilizes those funds to fund public services from road
19 construction to emergency medical services, to local
20 governments and to the judiciary itself. And one last note I
21 would make is --- and I know Don will not be surprised to hear
22 this --- the Wage Attachment Statute is Title 42, Section 8127.
23 AOPC's view is there is nothing voluntary about this. The
24 Court has authority to put a wage attachment on a defendant
25 without the defendant agreeing to the wage attachment at any

1 time. And I would also note that the statute provides that
2 there are seven categories in which a wage attachment can be
3 imposed. The statute specifically provides that support is
4 given priority over the other six. But after that, there is no
5 priorities schedule. Thank you.

6 ATTORNEY PIECUCH: Good morning. My name is Mike
7 Piecuch. I'm District Attorney for Snyder County. I was a
8 member of the Task Force. And I'm a proud former House
9 Judiciary member, so I have a deep appreciation for the work
10 that you do. And it's good to see Mr. Chairman and Mr.
11 Chairman.

12 I'm going to go off script, if I may. You have my
13 written comments. But I'd also just like to emphasize from the
14 perspective of a prosecutor, our mission is to seek justice for
15 crime victims. And a big part of that is economic justice. We
16 do so within the framework of a restorative justice model.
17 That includes punishment, community protection and the
18 restoration of crime victims. And we partner with our Victim
19 Advocates to do that. We can't turn back time. Until the
20 Committee figures out how to create a time machine to go back
21 before that crime was committed, the best we can do again are
22 those three prongs of the restorative justice model.

23 Many times when we talk to our victims a phrase that
24 we hear often is --- what do you want to see from the
25 perpetrator in terms of accountability? I want them to pay. I

1 want them to pay for their crime. And we can see that on
2 several different levels. One, again, is the punishment and
3 community protection prongs, but the restoration prong as well,
4 again, restitution being critical to the economic justice for
5 our crime victims.

6 A prosecutor's job, in fact, our statutory duty is
7 to identify and request restitution in every appropriate case
8 for crime victims. But the ordering part's the easy part. And
9 I'll compliment the Pennsylvania Criminal Rules Committee.
10 They recently released proposals that would clarify the
11 procedures that judges must use. Too often it's been an ad hoc
12 procedure. It's been an afterthought. It's been a, well,
13 we'll let probation figure it out later. Through case law and
14 now through these proposed rules, we're going to have very
15 solid procedures to honor the commitment that we have to crime
16 victims to get them that number and get that restitution at the
17 time of sentencing. And in our view, that's part of truth in
18 sentencing, is to have that restitution established clearly at
19 the time of sentencing. The provisions, the flexibility to
20 revisit the matter is in the statute in Section 1106 to allow
21 modification if circumstances change, but to have those numbers
22 established at sentencing is critical. But again, that's the
23 easy part. The hard part's the collections. And too often we
24 hear, well, you can't get blood from a stone. Well, that's not
25 good enough. We got to try to get blood from a stone. And two

1 aspects I'd like to highlight --- and I'd echo what the other
2 panel members have said --- are, one, to mandate those
3 deductions. If they're incarcerated and they have money in
4 their commissary account, then the victims are entitled to a
5 piece of it. Whatever percentage number we come up, the big
6 picture is the crime victims are entitled to that. They
7 shouldn't be paying for magazines or cable bills or, you know,
8 their commissary items without making a contribution, however
9 token or nominal. The worst part for crime victims is getting
10 nothing. And we see the zeros after the name when we go down
11 to the clerk's office and say, hey, we got a call from the
12 victim. They haven't seen any money. What's going on? And
13 they check the computer system and print out month by month
14 zero, zero, zero. That's unacceptable. If they're
15 incarcerated and they have money in their account, we need to
16 be taking a piece of it.

17 And the second part is either to --- well, to
18 clarify judges have authority to mandate those wage
19 garnishments, those wage attachments. We need to compliment
20 the offenders who are going out and getting jobs, because,
21 frankly, there's too many of them who don't bother. But the
22 ones who do, they have obligations, and even the ones who
23 don't, and we have to handle that through the court's contempt
24 powers. And we have to do a better job of holding their feet
25 to the fire when they don't bother, whether it's mandated job

1 searches or whatnot. But those are two very concrete ways that
2 we can help our other partners in the collections of
3 restitution. So I want to compliment the Committee. I want to
4 compliment are other partners in the criminal justice system.
5 But there's more work to do. And I compliment the Committee
6 for taking on that challenge. Thank you.

7 MR. TUTTLE: Good morning. My name's John Tuttle.
8 I'm last but probably would be the most brief of all. I've
9 been passionately involved with these issues at the county
10 level in York for 22 years and 14 years now with the Parole
11 Board, a Task Force member, working mainly with Don's
12 committee, and he did an outstanding job. I just wanted to
13 tell you that at the Parole Board we're taking this very
14 seriously. Carla's case is not unusual. In fact, I've heard
15 cases even worse than Carla's, if you can believe that. Some
16 are better. Some are worse. Some can pay. Some can't pay.
17 But certainly all can pay over time is my feeling.

18 We're establishing performance standards and goals
19 because I believe if you don't look at things and actually
20 measure them and hold people accountable that work for you,
21 that things won't improve as much as you would like them to.
22 Just to give you an example, when I started 14 years ago at the
23 Parole Board, we collected \$25,000 a month in supervision fees.
24 And until we started measuring and holding people accountable
25 to that, we're now collecting \$300,000 a month. So you can see

1 what the difference can be. So we have an internal task force
2 taking a look at recommendations. We have individual agent
3 audits and unit audits and district audits to make sure that
4 cases are being scrutinized, that people are being --- having
5 conferences if, in fact, payments need to be addressed. We're
6 establishing better working relationships with the county
7 collection offices. We're encouraging any and every victim, if
8 you have problems in any particular case, if you have problems
9 getting a hold of your agent --- and believe me, our workloads
10 are high --- if you have problems getting a hold of your agent,
11 contact the OVA and Jennifer's office. They will interface
12 with us. And I can guarantee you we will get you results. As
13 you can see, she's starting to see better results than she was
14 years ago. But again, there's a lot of improvements that can
15 be made across the board in the system. So I thank the members
16 --- the Chairmen and members of the Committee for this
17 important hearing. And I'm open for questions if you have any.
18 Thank you.

19 MS. STORM: I think that concludes our formal
20 testimony. Again, I just want to thank you. As you can tell,
21 I inherited an amazing, very passionate, intelligent group of
22 individuals who are committed to this work. A lot of what
23 we're trying to do and what we've accomplished we've done
24 through best practices and policy changes. But we are a
25 Commonwealth with 67 counties, and not every county is doing it

1 the same way, so this is where we need your assistance. So we
2 thank you very much for hearing us.

3 CHAIRMAN MARSICO: Once again, we'll go to
4 questions. But just thought of this. Have you been able to
5 provide testimony to the Senate at all yet?

6 MS. STORM: We have not yet to date.

7 MR. O'SHELL: Correct. April 30th of last year, the
8 Senate Judiciary Committee had the Task Force members and then
9 Victim Advocate, Carol Lavery, address that committee. So it's
10 been about a year since then.

11 CHAIRMAN MARSICO: Well, but since then, have you
12 --- yeah, with your final recommendations, have you been able
13 to provide those to the Senate?

14 MR. O'SHELL: Yes, sir. We went through all of the
15 same testimony ---

16 CHAIRMAN MARSICO: You went through all of this,
17 okay.

18 MR. O'SHELL: --- with them last year we did today.

19 CHAIRMAN MARSICO: And there's been any --- I think
20 there's been a few bills you said that were introduced by the
21 Senate; right?

22 MS. STORM: Yes, we have --- let me get back to
23 them. We have Senate Bill --- currently, we have Senate Bill
24 1029, which would be regarding the threshold in terms of
25 deductions from DOC and Corrections. However, it doesn't

1 stipulate a threshold. So we would advocate that the minimum
2 be 20 percent on that.

3 CHAIRMAN MARSICO: Okay.

4 MS. STORM: There is also Senate bills regarding the
5 lottery intercept --- Senate Bills 1016 and 1017 that address
6 the issue of tax refunds and lottery intercept.

7 MR. O'SHELL: And those last two bills have come out
8 of Committee, but they have been re-referred to appropriations
9 now twice on the Senate side.

10 CHAIRMAN MARSICO: Well, like I said at the
11 beginning, we have a working group within this committee and a
12 smart, aggressive group of members of this committee that will
13 certainly look at those recommendations and those Senate bills
14 as well. So Chairman Caltagirone?

15 CHAIRMAN CALTAGIRONE: Yes. I want to thank you for
16 your testimony, and my thoughts and prayers are with you and
17 the family. I want to thank the Task Force and old times here
18 with seeing you here, many good years we spent together, but I
19 honestly believe that we're going to face this issue. My sons
20 have been victims and very little and absolutely no restitution
21 involving cars in an accident. So you know, when it hits you
22 personally, you think where's the system? You know, well, Dad,
23 you're Chairman of Judiciary. Yeah, right, you know. That and
24 a dollar will get you a cup of coffee maybe. But no, I
25 appreciate your testimony. And I do --- I was saying to

1 counsel that I do think there's some House bills about
2 garnishment and some of the issues that we were talking about.
3 I do believe there might be some other legislation floating
4 around here that we may want to take a look at. I'm not sure
5 if we have something in our committee dealing with a couple of
6 those issues, but I think you highlighted where we need to go,
7 and I think we need to upgrade it. But you know, listening to
8 what is being done, it makes me feel good that we're starting
9 to get what is really due the victims. And I want to thank you
10 all for a good job and thank you, Mr. Chairman.

11 CHAIRMAN MARSICO: Representative Dean, I believe
12 you had a question.

13 REPRESENTATIVE DEAN: Thank you, Mr. Chairman. And
14 thank you for all the panelists. In particular, Mrs. Kringer,
15 thank you for your powerful testimony. My family, 25 years
16 ago, lost my sister-in-law to a drunk driver. And it doesn't
17 go away. It's family changing forever. And so for my in-laws
18 in particular, it's --- as they say, they look through a
19 different window now. But thank you for your testimony.

20 A couple things I was wondering about, I saw among
21 the recommendations a guide for collection within the ---
22 victims' guide for access to collection within the juvenile
23 justice system. Is there also anticipated a guide --- because
24 it seems to me there are at least two levels of the difficulty
25 that you enumerated. Number one is navigating the system.

1 Number two is collecting the money. So is there a guide that
2 is an attempt to do a universal streamlining of information to
3 the victim so that they don't have to do this chain of calls?

4 MS. STORM: We are currently, through the committee
5 that we have set up, through the Pennsylvania Board of
6 Probation and Parole, developing a forum similar to that for
7 victims and also for offenders, to help not only educate the
8 offenders about the importance of restitution collection but
9 also a guide for victims to help navigate through the system
10 and for where they need to go.

11 REPRESENTATIVE DEAN: And I congratulate all of you
12 on the great progress and passion that you have for this. And
13 as we're heading into budget season, I'm wondering
14 particularly, Jennifer, for you, have you taken a look at, have
15 you made recommendations to us in terms of your appropriation?
16 Is your appropriation sufficient? What more do you need?

17 CHAIRMAN MARSICO: Never enough. That's an
18 open-ended question.

19 REPRESENTATIVE DEAN: It's budget season.

20 MS. STORM: Our budget actually goes through the
21 Board of Probation and Parole. We had originally requested two
22 additional positions to handle the increased workload from Act
23 14 and Act 122, and I believe one of those positions was put
24 forward.

25 REPRESENTATIVE DEAN: Okay. Thank you. Thanks,

1 again.

2 CHAIRMAN MARSICO: Representative Toepel?

3 REPRESENTATIVE TOEPEL: Thank you. Just a question
4 about the defendants that are on probation or parole. I mean,
5 some of this, they'd be on county probation. It seems to me
6 you'd have the biggest hammer while they still are on probation
7 or parole or the easiest way to deal with non-payment. What
8 are the protocols? I mean, how is this working or are we just
9 assuming these other steps we're taking are going to take care
10 of the cases that are removed from Probation and Parole, still
11 owing costs?

12 MR. TUTTLE: You'll see recommendations in there
13 that talk about contempt courts, when people are off probation
14 and parole. Those seem to be helpful, but again, are not done
15 across the board or standardize across the state.

16 I would also talk about the uniform deduction or
17 mandatory percentage of payment. It isn't, again, all across
18 the board, all across the state. So if you could help us with
19 recommendations like, for instance, at least 25 percent or
20 more, that would be helpful, because that really needs
21 addressed.

22 REPRESENTATIVE TOEPEL: But I realize the caseload
23 is always a problem with probation officers and parole
24 officers, and it seems to me there's a push to get them off
25 probation, even though it's --- my experience has been, and

1 maybe it's different now, that they're not looking at the costs
2 always as a deterrent of keeping them on probation. So they
3 have that more intensive supervision of keeping them current on
4 their costs. I don't know what the solution to that is other
5 than we're going to find a lot of other ways to deal with them
6 after they're off probation and parole. Is that what I'm
7 sensing?

8 MR. KLINE: If I could? And that's where I took the
9 initiative and developed an administrative cost hearing process
10 in the collections court. Those people are no longer on
11 probation. So I took the initiative to get that ball rolling
12 in Westmoreland County.

13 REPRESENTATIVE TOEPEL: And that is really a great
14 process you have there.

15 CHAIRMAN MARSICO: Representative Toohil?

16 REPRESENTATIVE TOOHL: Thank you, Mr. Chairman. My
17 question was for the District Attorney. I have been thinking
18 kind of the same thing that you were talking about when ---
19 that it's a little bit ad hoc at the end, at the very end, that
20 the judge usually says and this amount is due in restitution.
21 Did you need us as a legislature to put more wording into law
22 that helps the judge through that process or you felt that now
23 that's going to be helped --- that's changed procedurally just
24 through the rules of criminal procedure that ---?

25 ATTORNEY PIECUCH: That's a great question. As you

1 know, there's always attention with the courts about regulating
2 the courts' activities through statute. I will compliment,
3 though, the Rules --- the Criminal Rules Committee has really
4 taken on this challenge and has several proposals, one being
5 the bail proposal, being allowed to take bail money and apply
6 it towards court-ordered obligations, fines, costs and
7 restitution is key. And then also their efforts to --- their
8 proposals to unify the procedures and reinforce the obligations
9 that judges have, I think that part is being addressed
10 adequately through the Rules Committee.

11 I think where this committee can really help is with
12 the statutory authority for judges to do the wage garnishments,
13 the wage attachments and the statutory authority or mandate for
14 DOC and our county corrections facilities, because even if they
15 have the ability, a lot of county corrections facilities are
16 not doing this. And so too often --- I'm sure in Mrs.
17 Klinger's case --- Kringer's case, that defendant sat in county
18 prison for probably a year before going to state. So that's
19 time that money could have been deducted. The issue of
20 pretrial deductions may be one that you might have to struggle
21 with, but at least the post-conviction inmates, we should be
22 taking them wherever they reside, whether it's county or state.
23 This shouldn't be an issue for crime victims of, oh, lucky for
24 you, your guy's going to state, where you get deductions, and
25 county you don't.

1 REPRESENTATIVE TOOHL: Okay. Thank you for the
2 clarification. And then I just wanted to add, Mr. Chairman, if
3 I may, to Mr. Kline, I think you're doing a phenomenal job. I
4 was really excited to hear about the progress you've made. And
5 I didn't know if you wanted to state for the record your
6 information that we can get in touch with you so that we can
7 have this in our county. Because I would love to have this in
8 Luzerne County and try to do that immediately and spread the
9 word on what you're doing.

10 MR. KLINE: Absolutely.

11 REPRESENTATIVE TOOHL: Please.

12 MR. KLINE: My phone number is (724)830-3118. And
13 my email address is bkline@co.westmoreland.pa.us.

14 REPRESENTATIVE TOOHL: Thank you so much.

15 MS. KRINGER: I just would like to make one comment.
16 And I appreciate all the work that's done individually in each
17 of the counties, and I commend all the progressive efforts that
18 are made, but this needs to be a statewide commitment. We
19 can't rely on individual counties because, as you can see, we
20 are the individuals that live in these counties. And if
21 Luzerne County doesn't opt a program like his, that means I
22 lose out because my county's not as progressive. And I think
23 that that's the message that needs to be here today. It needs
24 to be centralized. It can't be up ---. And I think they're
25 doing great work, and I would love to see that model across the

1 state, but you can't rely on the individual counties. This has
2 to be a legislative initiative, because that's the only way
3 it's going to affect victims across the state. And I think
4 that that's an important message. So as much as I'd love to
5 see it in Luzerne County, I don't want to rely just on Luzerne
6 County because that means maybe my counterparts in Cumberland
7 County aren't going to have that same advantage as I have
8 because I live at ---.

9 You know, one of the things that impacted me --- and
10 if you read my book, I was very disheartened because someone
11 told me that I was very fortunate that my father died in
12 Luzerne County, and I was taken aback by that. And you want to
13 know why they said that? They said because Luzerne County is
14 one of the counties that prosecute DUIs to the highest level.
15 That's sad. It shouldn't matter if I'm from Luzerne County or
16 Cumberland County or Carbon County. These laws should be ---
17 reach every citizen in the state.

18 CHAIRMAN MARSICO: That's a great suggestion. And
19 Bryan, you may want to suggest that the Clerk of Courts
20 Association --- you may want to recommend --- send your
21 recommendations or what you're doing there to them, as well as
22 the County Commissioners Association.

23 MR. KLINE: Yes.

24 CHAIRMAN MARSICO: Who else? Representative Barbin?

25 REPRESENTATIVE BARBIN: Thank you, Mr. Chairman. I

1 want to thank everybody that's provided testimony today. I
2 agree with the last speaker's comment, though. If we're going
3 to go somewhere, it has to be uniform for the state. And I had
4 --- I listened to the testimony of Ms. Blackburn very closely,
5 and it appears that because the courts are still involved with
6 a delinquent from 18 to 21, that ability to stay over top ---
7 to make sure restitution is paid has contributed to an 88
8 percent payment of restitution. Okay.

9 And I also --- I'd ask this question, if each of you
10 have maybe a strong feeling one way or the other, I also ---
11 the part that seems to be the problem with the adult situation
12 is we got a separate county system and a separate state system,
13 including DOC. From my perspective, listening to all this
14 testimony, I would like to pursue a legislative pitch that
15 says, even if your crime isn't a Title 75, where you have an
16 alcohol problem or a DUI, but if you have any problem, why
17 should we be --- as a state, be allowing people to have
18 anything other than a limited, you know, right to drive to work
19 license until your restitution is paid? And why should we
20 allow anyone to have any other state-paid privilege until your
21 restitution's paid? I don't care if it's lottery. I don't
22 care if it's a fishing license or, you know, a hunter's license
23 or anything that we look at as a privilege, why should we allow
24 that to happen while restitution is out ---?

25 And one last thing. Just if anybody has a comment,

1 I don't understand why the priority should be number three for
2 a crime victim above divorce and support. People that have
3 divorce and support problems have them all their life. The
4 person who's the victim is not the person in the family. He's
5 the person that got injured --- that is now the reason the
6 person's in jail. Not the reason he's not paying support, the
7 reason that he's in jail. So I don't know what the thinking is
8 as to why it's not number one, but if anyone wants to comment
9 on those three items, I would like to move forward with the
10 Committee to draft legislation that's statewide.

11 MR. O'SHELL: There has been legislation. I believe
12 Senator Stack --- I'm not sure if it is this session or last,
13 that would have PennDOT and the Administrative Office of
14 Pennsylvania Courts confer with each others' databases. And if
15 there is a judicial debt owed, particularly restitution owed,
16 you could not renew your motor-vehicle registration and you
17 could not renew your license. I'm not sure if that's been
18 reintroduced or what the status of that legislation is. That's
19 --- again, that would happen across the state. It would be a
20 global solution versus the county by county.

21 REPRESENTATIVE BARBIN: That's why the limited
22 license ---.

23 MR. O'SHELL: And that could be an amendment to that
24 concept as well. So that's one way to kind of take it out of
25 the counties' hands and put it into state-level hands, using

1 the databases of those respective departments to confer with
2 each other. And Dave could probably address that better than
3 I.

4 ATTORNEY PRICE: Address? I'm sorry, Don. Address
5 what?

6 MR. O'SHELL: Having your CPCMS and PennDOT confer
7 in terms of who owes what amounts and then not allowing the
8 renewal of the driver licenses or ---.

9 ATTORNEY PRICE: Yeah, it would be an expansion of
10 Title 75, Section 1533. I mean, today, if I owe money in a
11 Title 75 case, as Don and Bryan has already said, that they can
12 alert PennDOT through the appropriate PennDOT forum, and the
13 license is suspended until Don or Bryan's office tells PennDOT
14 that the person's now current with their payments. So you
15 could clearly extend that out to be any other charges.

16 All we would need to do with PennDOT is make sure
17 that the police officers are collecting all the important
18 driver record information in non-Title 75 cases. So for
19 instance, if I'm charged with murder, typically the police
20 officer probably isn't going to collect my driver's license
21 number because it's really not relevant to the case. But as
22 long as the police officer collects all the relevant driver's
23 information, then the CPCMS system would have it so if Don's
24 office needed to suspend or request a suspension of a license
25 for a non-payment, that we could then provide that information

1 to PennDOT. But the essential framework is there.

2 MR. O'SHELL: And David touched on one aspect, which
3 is a common identifier across state agencies as to who these
4 folks are. We, in our systems, AOPC systems, have Social
5 Security numbers. PennDOT may or may not have that
6 information. And one of the solutions that we kicked around at
7 the very tail end of the Task Force was private vendors like
8 LexisNexis, they developed IDs for all of us based upon
9 patterns with your credit cards, utilities, what they have
10 access to in government databases, and they give you a number,
11 a LexisNexis ID number, that's pretty valid. And so, even if
12 we don't create a state number for our residents, there are
13 third-party vendors out there who have numbers for us that
14 could allow state agencies to confer this is probably likely
15 Ron Marsico, and he likely has this offense and needs to pay
16 this. So that's kind of the way it could work, but that's,
17 again, something that the legislature would need to pursue with
18 the administration as to whether that's something that we
19 should do in Pennsylvania.

20 MR. KLINE: I would ask, furthermore, if you were to
21 consider that, to include court fees, fines and restitution.

22 CHAIRMAN MARSICO: Anything --- any other ---? Go
23 ahead.

24 REPRESENTATIVE BARBIN: It seems like if you tried
25 --- if you would try to do that, what you'd do is make sure the

1 bill didn't pass. I mean, as much as I think court fees, fines
2 are important, they're not anywhere close to a crime victim who
3 hasn't received a recovery. What we're talking about today
4 with the hearing is how do we change the fact that a person
5 who's gone through the emotional problem or the actual crime
6 has had a second problem heaped on him, which isn't day-to-day
7 government business. Court fees and costs are day-to-day
8 government business, but a crime victim's restitution for a
9 funeral bill is completely different. So I would --- I don't
10 think that's appropriate.

11 MS. STORM: The only advocacy I would give to the
12 fines and costs is that part of that is the Victim Services
13 Fund. And part of that fund goes to fund the Victim Advocates
14 in the communities that do this work every day. But more
15 importantly, a big chunk of that fund is the Crime Victims'
16 Compensation Fund, which is actually the --- most often than
17 not, the first payor to the victim, and then restitution is
18 oftentimes ordered to replenish that fund. So there is a level
19 of importance in some of the costs there, at least within the
20 Victim Services Fund and the fee.

21 ATTORNEY PIECUCH: If I could address briefly,
22 Representative, the idea of using the licensing sanctions as a
23 motivation or punishment. And I'd encourage you if you look at
24 it and when you look at it to look at it on the back end. If
25 you do it on the front end, I think you commented on what you

1 do is you prevent people from getting to work until ---
2 especially in ---.

3 REPRESENTATIVE BARBIN: Like Ms. Blackburn said, 18
4 to 21 is when you have the most leverage. They want to get out
5 of juvenile jurisdiction.

6 ATTORNEY PIECUCH: Right. And they have parents who
7 can help them do that. And that's, unfortunately, too often
8 their way out, is other people, third parties. But I would
9 encourage, if you want to explore that path, to give judges the
10 authority, upon a determination of default in their
11 court-ordered financial obligations, that tool, a suspension.
12 Right now we have some mandatory license suspension that are
13 just implemented without any discretion, but that could be a
14 discretionary sanction for default?

15 MS. BLACKBURN: We would concur with that as well,
16 that it be judicial discretion, and it be those offenders who
17 are basically thumbing their nose at the system, saying there's
18 nothing you can do because you're not going to put us in
19 placement at \$500 a day or put us in detention at \$500 a day.
20 So that's the age of issue for us, because they're very
21 difficult to provide consequences. Thank you.

22 CHAIRMAN MARSICO: Representative Stephens?

23 REPRESENTATIVE STEPHENS: Thank you. Does anyone
24 have a list of all the counties, the percentage that they take
25 from the inmates' accounts and maybe the amount of restitution

1 that they are collecting, either as a percentage or as a raw
2 number? Or is that something that AOPC could develop if ---?

3 MR. O'SHELL: It would be coming from AOPC. That
4 kind of level of detail as to what is owed in the counties,
5 what restitution, and then if they're incarcerated, what the
6 amounts are that are being applied from DOC through the
7 counties to that defendant's cases.

8 REPRESENTATIVE STEPHENS: Well, I mean --- well, I
9 mean from the local jail even. Like ---.

10 MR. TUTTLE: Are you focusing on just what the local
11 jails are collecting, Representative, and how much ---?

12 REPRESENTATIVE STEPHENS: Yeah.

13 MR. TUTTLE: I don't have that data, but I can
14 certainly go back and see if we can pull that data, focusing on
15 just the collection from the county, the local incarceration.

16 REPRESENTATIVE STEPHENS: I just didn't know if
17 there was any data out there that took a look at, you know, the
18 percentage that was taken from the inmates' account and the
19 amount --- the success rate of collection in a particular
20 county. I mean, we have 67 counties, so we should have some
21 substantial data there.

22 And I guess as a quick follow-up, and I will presume
23 you don't have this then, is a comparison nationwide of what
24 other states are doing in terms of inmate accounts from their
25 DOCs, does anyone have that?

1 MR. O'SHELL: From my recollection, the 20 percent
2 that the state arrived at or DOC, through policy, arrived at
3 was modeling California's 20-percent rate. That's where that
4 number came from.

5 REPRESENTATIVE STEPHENS: But in terms of the other
6 48 states, does anyone --- did the Task Force take a look at
7 that at all in terms of ---?

8 MR. O'SHELL: We didn't do a comprehensive study,
9 no.

10 REPRESENTATIVE STEPHENS: Okay. I mean, we can
11 certainly take a look at that. But I just didn't want to do it
12 again if you already did it. So you know, before we send out
13 letters to 67 counties in 50 states --- all right. Thank you.

14 CHAIRMAN MARSICO: Well, I think this is going to
15 conclude our hearing. Just by the way, we'll receive written
16 testimony. We'll leave it open for the Committee for written
17 testimony, if anyone wants to provide that.

18 Just a few things. Obviously, the Committee has a
19 lot of work to do here based on what your recommendations are,
20 what you've given us. Like I said before, we have a very good
21 working committee within the Committee that I'm sure will soon
22 draft legislation in consultation with counsel and with you as
23 well.

24 I just wanted to thank each of you for your time,
25 your energy, your expertise and your passion for the victims of

1 Pennsylvania and their families. So thank you very much again.
2 Chairman?

3 CHAIRMAN CALTAGIRONE: I express the same feelings.
4 Thank you all.

5 CHAIRMAN MARSICO: Okay. This concludes the
6 hearing. Thank you.

7 * * * * *

8 HEARING ADJOURNED

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