

Good morning. I'm Don O'Shell, York County Clerk of Courts. I had the honor to serve as chairman of the Collections Enforcement and Disbursement subcommittee of the Task Force. Thank you for providing us with an opportunity to report on our efforts to date.

The subcommittee focused on identifying and promoting best practices and making the most of the current statutory authority and available tools to enhance collections of costs, fines and restitution. York County, for example, demonstrates the success of implementing best practices increasing collections from \$4.2 million in 2004 to \$10.5 million in 2013 – far outpacing the rate of inflation.

We also identified barriers to collections and where Pennsylvania courts would benefit from additional authority from the General Assembly to effect collections on behalf of crime victims and taxpayers. I'd like to highlight three of the ten recommendations for the legislature's consideration found in the report.

The first is to expand the authority via PennDOT to suspend a defendant's driving privilege for failure to pay costs, fines and restitution at the court's discretion - #38. Last session the General Assembly took a much needed step in that direction with the passage of Act 146 of 2012 that authorized the suspension of driver licenses for failure to pay driving offense related restitution.

Last year York County collected \$381,549.72 from the restoration of licenses suspended for failure to pay. Year-to-date we've collected \$176,582.55 in costs, fines and now restitution from driver related offenses – a third of York County's criminal caseload – alone.

If expanded to include all criminal offenses, specifically restitution owed, as Florida, Iowa, Montana, Nevada, New Hampshire, New Jersey, Virginia, West Virginia and other states authorize I'm confident we could more than double that amount to \$800,000 plus annually.

The second and third would be to make Act 84 of 1998 inmate account deductions mandatory for both state and county correctional facilities - # 9 & 37. Currently both are optional though by policy DOC makes deductions of 20% or 30% if the Crime Victims Compensation fund and Victim Witness Services assessments are owed. In 2012 DOC remitted to the counties \$3,046,091.21 of which \$851,799.64 was paid to the state Victims Compensation Fund.

Of the 67 counties surveyed 30 or 55% reported that their county prisons do make Act 84 deductions of inmate accounts while 25 or 45% do not. As of April 1st of this year York County, 15 years since the passage of Act 84, began to make inmate account deductions which we estimate will generate \$200,000 annually by requiring the first \$25 deposited into the inmate account must go toward any court obligations owed.

For further illustration Pike County deducts 60% from inmate accounts and has not experienced a decline in commissary or telephone sales the proceeds of which support inmate welfare and re-entry programs. From an average inmate population of 200 Pike County is collecting between \$5,000 and \$10,000 each month.

Again, these are just three of the ten recommendations the Task Force is asking the General Assembly to further consider. Thank you.

Restitution in Pennsylvania Task Force Final Report

February 2013



CENTER FOR SCHOOLS AND COMMUNITIES

Acknowledgements

The Restitution in Pennsylvania Task Force was convened by the Pennsylvania Office of the Victim Advocate in collaboration with the Center for Schools and Communities, and brought together key stakeholder individuals, agencies and organizations across all stages of victim restitution work. The Task Force conducted a thorough review of restitution processes at the state and local level in order to identify gaps and develop recommendations/solutions to maximize the justice systems' effectiveness.

Special thanks for the content contributions made to this report from Administrative Office of Pennsylvania Courts; Juvenile Court Judges' Commission; Pennsylvania Board of Probation and Parole; Pennsylvania Commission on Crime and Delinquency; and Pennsylvania Department of Corrections.

The project was funded by the Pennsylvania Commission on Crime and Delinquency.

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Collections and Disbursement

Juvenile Justice

Ordering

For a list of Subcommittee member names, please see the Appendix.

Special contributions by Pam Behr, Victim Assistance Coordinator, Office of the Victim Advocate, Ralph Hunsicker, Director of Special Projects, Administrative Office of Pennsylvania Courts and James Anderson, Executive Director, Juvenile Court Judges' Commission.

The Pennsylvania Office of the Victim Advocate is dedicated to representing, protecting and advancing the individual and collective rights and interests of crime victims.

The Center for Schools and Communities is committed to improving outcomes for children and families through training, technical assistance, program evaluation, research and resource development.



**OFFICE OF THE VICTIM ADVOCATE
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February 2013

“You can’t get blood from a stone.” Rarely does a conversation about restitution occur without this particular statement being made. Usually the statement is meant to convey that offenders convicted and ordered to pay fines, costs and restitution, are unable to do so if they are incarcerated, not employed, or considered unemployable. It also is meant to convey that the total fines, costs and restitution imposed as the result of the crime may be well beyond the average wage earner’s income. Or, possibly, that there is not much more that can be done.

However, for crime victims and offenders caught in systems that significantly impact their financial futures, we know that the concept and the reality of restitution is much more complex than any offender’s ability, or even willingness, to pay.

This complexity brought the members of the Restitution in Pennsylvania Task Force together. Restitution is a restorative justice concept that impacts victims, offenders and the community. Restitution holds an offender accountable, which is a key component of Restorative Justice. As such, this effort has received enthusiastic support from all corners of the juvenile and criminal justice systems, government, and helping agencies. The word “stakeholders” does not do justice to the group of individuals who actively and passionately participated in this yearlong study of restitution law, policy and practice.

The result of that work is contained within this Restitution in Pennsylvania Task Force Report. On behalf of the Task Force, I submit these 47 recommendations to the Governor, the Legislature and the Judiciary, as well as to all of those agencies and individuals who are engaged in the work and may benefit from the combined wisdom of the Task Force. While all of the 47 recommendations are not fully supported by each and every Task Force member, all have majority support.

Of course, this is not the end of the journey. Many of the Task Force and subcommittee members have committed to continuing this work: to further study the issue; develop trainings and protocols; provide technical assistance; and ensure that the issue of restitution for victims, for offenders, and for the community continues to improve and evolve. To that end, we are hopeful that an ongoing home for this project will be identified to ensure that the dialogue continues and coordinated change occurs.

We eagerly anticipate the continuing discussion and debate that will come from this report, as well as the implementation of many of the propositions. The recommendations, as well as the wealth of background material gathered to fulfill this study, can serve as critical tools in moving Pennsylvania forward in improving the entire process: the ordering, collection and disbursement of restitution on behalf of victims, offenders and the community.

Sincerely,

A handwritten signature in cursive script that reads "Carol L. Lavery".

Carol L. Lavery
Victim Advocate
Commonwealth of Pennsylvania

Executive Summary

In October 2011, the Office of the Victim Advocate convened the Restitution in Pennsylvania Task Force. This Task Force served as a forum for enhancing interagency coordination, increasing communication, and identifying solutions to increase the quality of restitution services at the state and county levels. The Task Force brought together relevant county and state level stakeholders and experts including individuals, agencies and organizations engaged in victim restitution work, as well as representatives of the judicial, legislative and administrative branches of government.

Seeking to maximize the reimbursement of financial losses to crime victims, the Task Force worked within the context of restorative justice theory and practice: balancing the needs of victims, the community and offenders. The Task Force was charged with crafting recommendations which would enhance the criminal and juvenile justice systems' effectiveness through possible standardization of policies and protocols concerning the ordering, collection and disbursement of restitution. To this end, the Task Force was able to complete the following:

1. Examined restitution laws, rules, and policy in the criminal and juvenile systems across the Commonwealth.
2. Examined research, white papers and scholarly articles relative to victim restitution which identify national best practices and promising programs.
3. Examined existing restitution processes currently in place in the commonwealth to identify best practices and promising programs.
4. Created Subcommittees to explore underlying issues in greater depth, which reported their findings/recommendations to the Task Force.
5. Compiled recommendations into a final report for submission to the courts, the legislature and the Governor's administration.

The Task Force brought together relevant county and state level stakeholders and experts including individuals, agencies and organizations engaged in victim restitution work, as well as representatives of the judicial, legislative and administrative branches of government.

Summary of Recommendations from the Restitution in Pennsylvania Task Force

This report offers 47 recommendations, which are grounded in research and interrelated to ensure that a comprehensive approach is used to move the recommendations forward at the county and state levels. The recommendations contained in this report are presented to the Governor, members of the Pennsylvania Supreme Court, State Legislature and stakeholder agencies for future action. It is the collective view and wish of the Task Force that all parties will work collaboratively to further review the proposed recommendations and consider ways for effective implementation.

The recommendations are organized within four overarching categories of identified need: Uniformity of Practice; Strengthening Accountability; Coordination of Information; and Expansion of Authority. The 47 recommendations appear below in an abridged version. The full text of these recommendations is found in Part II of this report.

Uniformity of Policy and Practice Recommendations:

1. Convene a group of stakeholders to further review existing restitution law and compile recommendations for judicial, legislative or department/agency clarifications or revisions.
2. Develop restitution bench books for the juvenile justice and criminal justice systems.
3. Upon completion of the restitution bench books, develop quick reference sheets for restitution in the criminal and juvenile justice systems.

4. In conjunction with the development of restitution bench books, develop educational strategies, training and technical assistance for bench, bar, victim services, police and probation.
5. Develop a toolkit which would clarify policy and practice around restitution issues, identify evidence-based and/or promising practices, clarify available enforcement tools and provide helpful articles, brochures, etc.
6. Encourage Administrative Office of Pennsylvania Courts and/or the Court Rules Committee to standardize a restitution order for use at sentencing/disposition.
7. Encourage counties to establish collections enforcement units and hire dedicated staff to solely focus on collections enforcement efforts within the jurisdiction.
8. Encourage President Judges to establish restitution, fines and costs contempt courts allocating the judicial resources to preside over such hearings.
9. The General Assembly should consider amending Title 42 Section 9728 (b)(5) to establish a mandated minimum percentage threshold for deductions from inmate personal accounts for both county correctional facilities and the Pennsylvania Department of Corrections.
10. Encourage counties to provide Pennsylvania Department of Transportation with non-payment information so that the newly enacted mandate (Act 146 of 2012) for drivers' license suspension can be utilized, as appropriate.
11. Make wider use of dunning letters or overdue notices to notify or remind defendants that their payments are past due and of the sanctions that may be imposed by the court if they do not come into payment plan compliance.
12. Develop restitution funds and restitution programs throughout both the criminal and juvenile justice systems.
13. Expand the availability of programs and processes such as Victim Offender Conferencing/Dialogue throughout both the criminal and juvenile justice systems.

Strengthening Accountability Recommendations:

14. Reinforce the mandate that all Clerks of Court comply with Act 84 of 1998 and transmit "copies of all orders for restitution and amendments or alterations thereto, reparation, fees, costs, fines and penalties" to the Pennsylvania Department of Corrections for state sentenced inmates and to the county correctional facility for county sentenced inmates.
15. Reinforce the mandate that all Clerks of Court comply with the Act 84 of 1998 requirement to file civil judgments when a case balance reaches or exceeds \$1,000 and to exercise the option to file below \$1,000 if effective in a particular case to enforce payment compliance.
16. Provide support for on-going research regarding restitution in Pennsylvania.
17. Establish performance measures for agencies supervising probationers and parolees relative to the payment/collection of restitution.
18. Counties should conduct annual reviews to ensure that restitution collections are not superseded by the collection of county-assessed prison room and board rates and other county-established fees and payment allocation priorities.
19. Strengthen existing tools to enhance restitution collection with particular attention to the issue of collecting restitution from adjudicated delinquents between the ages of 18 and 21.
20. Encourage the Juvenile Court Judges Commission to work with the Pennsylvania Council of Chief Juvenile Probation Officers to create or modify existing juvenile justice data collection and reporting processes to accurately and in detail track and publish county-specific information regarding the ordering and collection of restitution.

Coordination of Information Recommendations:

21. Identify an overarching agency or organization to continue the efforts of the Restitution in Pennsylvania Task Force, such as Pennsylvania Commission on Crime and Delinquency, Administrative Office of Pennsylvania Courts or the Office of the Victim Advocate.

22. Establish or agree to a unique individual identifier to be used across executive agencies and the judicial branch to better match records pertaining to individuals owing restitution, court costs and fines in the commonwealth of Pennsylvania within databases i.e., Pennsylvania Department of Transportation, Pennsylvania Department of Public Welfare and Administrative Office of Pennsylvania Courts' records.
23. Develop the capacity for Administrative Office of Pennsylvania Courts, the courts, Pennsylvania Department of Corrections, Office of the Victim Advocate, Pennsylvania Board of Probation and Parole and similar county-level agencies to share information to ascertain a defendant's total fines, costs, and restitution payments owed across all cases.
24. Establish a web-based system for victims/survivors to update personal contact information related to their restitution order.
25. Encourage all counties to establish communication protocols to determine whether individuals are in payment plan compliance with respect to public assistance eligibility.
26. Place defendants on a *single* electronic payment plan (including restitution owed on juvenile delinquency cases) in the Common Pleas Case Management System and/or the Magisterial District Judge System applications maintained by the Administrative Office of Pennsylvania Courts for Courts of Common Pleas and Magisterial District Courts end users.
27. Enable the identification and collection of restitution owed in delinquency cases from offenders under the jurisdiction of criminal courts, adult probation departments, Pennsylvania Department of Corrections and Pennsylvania Board of Probation and Parole.
28. Encourage counties to enter warrants surrounding the issue of failing to pay restitution, fines, and costs, and/or failure to appear for said proceedings into Commonwealth Law Enforcement Assistance Network/National Crime Information Center, as appropriate. Such action will assist in the location of offenders outside of the originating jurisdiction and once located could result in the immediate collection of monies without the necessity to extradite/transport offenders.
29. Clarify accepted documentation and practice for Pennsylvania Department of Corrections in order to maximize the collection of restitution from inmates; and modify required forms to include all outstanding restitution, fines and costs owed by an individual upon commitment to the Pennsylvania Department of Corrections.
30. Attach priority to the collection of restitution, fines and costs in the development of the Common Pleas Case Management System delinquency module.
31. The Supreme Court of Pennsylvania should consider providing a capacity to address collections performance measures and promote evidence-based and/or promising practices to improve the collection of restitution.
32. Pennsylvania Commission on Crime and Delinquency, through Criminal Justice Advisory Boards, should conduct training and share information with counties and prison boards on the evidence-based and promising practices of other counties that improve the restitution processes, including collection methods, prison policies, costs, etc.
33. Create or modify existing criminal justice data collection and reporting processes to accurately and in detail track and publish county-specific information regarding the ordering and collection of restitution.
34. Provide practical information about restitution to victims.
35. Provide practical information about restitution to defendants.

Expansion of Authority Recommendations:

36. Maintain the current mandatory threshold of filing civil judgments as per Title 42 Section 9728 (b)(1) when "judgments for restitution, reparation, fees, costs, fines and penalties which, in the aggregate, exceed \$1,000."
37. The General Assembly should consider amending Title 42 Section 9728 (b)(5) to mandate both county correctional facilities and the Pennsylvania Department of Corrections to make deductions from inmate personal accounts.
38. Expand Pennsylvania Department of Transportation's authority to suspend and/or prohibit renewal of driver licenses for payment non-compliance. [It is noted that this recommendation was accomplished through the passage of Act 146 of 2012.]

39. The General Assembly should consider amending relevant statutes to authorize counties or courts to suspend or prohibit the issuance of state-issued licenses when the applicant is delinquent in the payment of restitution, fines or costs. Types of licenses, registrations or other authorizations include, but are not limited to: driver's license; hunting; fishing; professional licenses; vehicle registrations; etc. License limitations or suspensions shall be based on an individual case by case determination.
40. The General Assembly should consider amending Title 42 Section 9728 (g) Costs, etc., to clearly state that costs incurred by counties in support of collections enforcement efforts (staff, overhead) shall be borne by defendants.
41. The General Assembly should consider amending Title 42 Section 9730 adding section (a. 1) to clarify the authority of the court to assign the wages of a defendant who agrees to an assignment of income of not more than 25% of the defendant's gross salary, wages or other earnings to the court for payment of any restitution, fines or court cost. This amendment should also impose obligations on employers in this regard.
42. The Criminal Procedural Rules Committee should consider re-visiting Pa.R.Crim.P. 535 and recommend the Pennsylvania Supreme Court adopt a revision authorizing the sentencing court to order any cash bail money posted by the defendant to be applied to any restitution, court costs or fines imposed. Alternatively the General Assembly should consider amending Title 42 adding a Section 5703 to provide for bail money posted by a defendant to be applied to restitution, fines and costs.
43. The General Assembly should consider authorizing courts to order wage attachment for defendants who have been found in contempt for nonpayment of restitution, costs or fines.
44. The General Assembly should consider authorizing courts to order wage attachment for defendants who have the ability to pay restitution, costs or fines.
45. The United States Congress should consider amending the Internal Revenue Code of 1986 Section 6402 to require the IRS to pay any state judicial debt to include overdue costs, fines and/or restitution from any federal income tax refund due to a delinquent defendant.
46. The General Assembly should consider enacting or amending statute to require the Pennsylvania Department of Revenue and Pennsylvania Lottery to pay any state judicial debt to include overdue restitution, costs and/or fines from any state income tax refunds and/or lottery winnings.
47. The Criminal Procedures Rules Committee should consider examining current court rules and the rules of other jurisdictions to consider whether any rules should be amended or new rules adopted to improve the collection of restitution. ■

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Part I: The Case for Action



Crime victims can become destitute, homeless, severely depressed or incapacitated because of an event. I speak for myself and others who may not have the voice or financial security to persist.



Christine Hoerner,
Pennsylvania Crime Victim/Survivor

National Perspective

Every year in the United States millions of Americans are victimized by crime. In 2008 alone over 21 million Americans were the victims of personal or property crimes (U.S. Department of Justice, 2008). In her book on the after effects of violence, psychiatrist Judith Lewis Herman states that crime can have powerful, life-changing repercussions for the health, well-being and financial stability of victims. Mental illness, suicide, and drug and alcohol abuse are far more common among crime victims than the general public. The trauma of victimization can result in a range of reactions, from an immediate crisis response to longer term emotional and psychological consequences (Herman, 1992). In some cases, crime victims are able to return to a new normal without substantial difficulty. But without appropriate services and support systems, many crime victims continue to experience trauma which may render them physically, emotionally and/or financially impaired (see Figure 1).

The Consequences of Crime

Individual Consequences	Societal Consequences
Alcohol/Drug Usage	Community Instability
Anxiety and Fear	Fear of Crime
Lost Work/School Days	Increased Crime
Medical/Mental Health Care Costs	Increased Costs for Criminal Justice
Post Traumatic Stress Disorder	Increased Costs for Social Services

Figure 1: Herman, 1992

In 1982, President Reagan’s Task Force on Victims of Crime produced a Final Report highlighting the inequities between the rights of criminal defendants and the rights of their victims (Office for Victims of Crime (OVC), 1982). While the report ultimately recommended a federal amendment to the Constitution protecting crime victims’ rights (OVC), no such amendment has yet been enacted by Congress. As a result of the report, however, all 50 states subsequently enacted statutes protecting victims’ rights and 33 states went so far as to amend their own constitutions to include protections for the rights of

Although this monetary compensation is not able to fully repay victims/survivors for these losses, restitution can be a means to helping them move forward in a new normal.

crime victims (National Crime Victim Law Institute (NCVLI), 2012).

While the criminal justice system cannot reverse the consequences of victimization, restorative justice measures such as restitution, attempt to address the needs of the victim. Black’s Law Dictionary defines restorative justice as, “[a]n alternative delinquency sanction focused on repairing the harm done, meeting the victim’s needs, and holding the offender responsible for his or her actions. The offender may be ordered to make *restitution*, to perform community service, or to make amends in some other way that the court orders (emphasis added)” (Black’s Law Dictionary, 2009, p. 1428). Restitution itself is defined as “[c]ompensation for loss; especially full or partial compensation paid by a criminal to a victim, not awarded in civil trial for tort, but ordered as part of a criminal sentence or as a condition of probation” (Black’s Law Dictionary, p. 1428).

By addressing both victim compensation and defendant responsibility, restitution is distinguishable from other punitive sanctions. In theory, restitution provides crime victims/survivors with an opportunity to receive some measure of monetary compensation for their losses. Although this monetary compensation is not able to fully repay victims/survivors for these losses, restitution can be a means to helping them move forward in a new normal. Further, restitution is a mechanism by which offenders may be held accountable to some extent for the emotional, physical and/or financial losses suffered by the victims of their crimes. Thus the concept of restitution serves two purposes: addressing victims’ need for compensation; and meeting the criminal justice system goals of punishment and rehabilitation (Pennsylvania Commission on Crime and Delinquency (PCCD), 2011).

The 1982 Victim and Witness Protection Act (VWPA) enabled courts to include restitution in sentences for federal crimes (Kepple, 1989). The authority to order restitution and the types of eligible losses were expanded by the Mandatory Victims Restitution Act of 1996. This act amended the language of existing restitution statutes, made restitution mandatory for most non-drug federal crimes, included victims that were “directly and proximately” harmed by the offense and specified that restitution could be ordered for the “full amount of each victim’s losses.” It also strengthened ordering and enforcement procedures (Mandatory Victims Restitution Act (MVRA), 1996). While these acts cover federal crimes they do not address state crimes. Just as each state has enacted its own victims’ rights statutes, so it is the responsibility of each state to enact its own restitution statutes.

Also in 1982, the President’s Task Force on Victims of Crime recommended that legislation be enacted to “require restitution in all cases, unless the court provides specific reasons for failing to require it” (OVC, 1982). As a result of this group’s work, 29 states (including

Pennsylvania) mandate restitution for victims of serious crime. Most of those laws provide an exception to restitution mandates under “extraordinary and compelling reasons,” but an immediate inability to pay is not considered to be extraordinary or compelling. Additionally, across the 29 state laws, there is generally no cap on restitution amounts, though some states have set caps in juvenile cases.

Further complicating the collection of restitution are the competing financial obligations of most defendants. The phrase “you cannot get blood from a stone” is frequently used to describe the difficulties of collecting any form of payments from defendants. Most incarcerated defendants have minor dependents and many also have associated child support obligations (Mumola, 2000). Additionally, defendants may be required to pay supervision fees, fines, court costs and other related fees (McLean & Thompson, 2007). All of these monetary requirements must be met using the same limited source of income. A 2002 study found that almost 60% of inmates in jail had pre-arrest incomes of less than \$12,000 a year (James, 2004). When trying to address restitution, these factors must also be taken into consideration.

Pennsylvania Perspective

Pennsylvania's Office of the Victim Advocate (OVA) was created by the Victim Advocate Law, Act 8 of the 1995 Special Legislative Session on Crime. OVA by law has the power and duty to advocate for the interests of crime victims generally, including the victims of crimes committed by juveniles. In addition, the Victim Advocate represents the rights and interests of crime victims before the Board of Probation and Parole and the Department of Corrections (DOC). OVA provides notification to crime victims of the potential for inmate release and opportunity to provide testimony; notification of the inmate's movement within the correctional system; referrals for crime victims to local programs; basic crisis intervention and support; general information on the status and location of the inmate as allowed by law; and notification of the expiration of an inmate's maximum sentence or date of execution, if applicable, as well as preparation of a victim who chooses to witness an execution. OVA, parallel to the work of local service agencies, spends a significant amount of time providing restitution-related assistance and advocacy to victims whose offenders are serving time in the DOC or on parole, as well as systems advocacy on behalf of victims regarding restitution.

State and Local Authority

Pennsylvania protects the rights of crime victims through statute but has not amended its Constitution to further protect those rights. The Crime Victims Act emphasizes the rights of victims (18 Pa.C.S. §1106) and was amended in 2000 to specifically include victims of juvenile crime (18 Pa.C.S. §1106). In addition to the Crime Victims Act, in 1995 Pennsylvania made restitution mandatory for all eligible cases (18 Pa.C.S. §1106). Restitution may be ordered to compensate victims/survivors of crime in both criminal (adult) and juvenile cases.

OVA, parallel to the work of local service agencies, spends a significant amount of time providing restitution-related assistance and advocacy to victims.

The primary authority for criminal restitution in Pennsylvania is found in 18 Pa.C.S. §1106. Restitution can be ordered during the sentencing process or as a condition of probation/parole. However, the losses for which a victim can be compensated differ based on the timing of when restitution payments are ordered to be made (18 Pa.C.S. §1106):

- Sentencing – Restitution may be ordered if the prosecutor demonstrates a direct nexus between the loss/injury and the crime.
- Condition of Probation/Parole – Restitution is permissible for indirect losses if it is designed to rehabilitate the defendant and provide redress to the victim.

In addition to statutory authority, restitution is also subject to case law. One example is *Commonwealth v. Griffiths* (2010), in which the court held that “an order of restitution is enforceable until paid.” This case extends the authority of the court to require payment beyond the completion of the criminal sentence.

Juvenile restitution law is predominantly found within the Juvenile Act (42 Pa.C.S. §6301, et seq.). The Act clearly states goals that are specific to the needs of juvenile offenders, including as added in the 1995 amendments to “provide programs of supervision care and rehabilitation which provide balanced attention to the protection of the community, the imposition of accountability for offenses committed and the development of competencies to enable children to become responsible and productive members of the community” (42 Pa.C.S. §6301).

A number of distinctions exist between criminal and juvenile restitution law because of the fundamental difference in the purpose of the juvenile justice system when compared to the criminal justice system. Under the Juvenile Act, restitution “may” be ordered in delinquency cases, but is not mandatory (42 Pa.C.S. §6323(f); §6340(c.1); §6352(a)(5)). While a defendant's ability to pay is not to be considered when determining the amount of restitution in the criminal system (18 Pa.C.S. §1106(c)(1)(i)), a juvenile's ability to pay must be considered (42 Pa.C.S. §6352(a)(5)). However, if a court orders an adjudicated delinquent youth to make restitution, the

Juvenile Act requires the court to retain jurisdiction until there has been full compliance with the order, or until the adjudicated delinquent attains age 21. In addition, any restitution order that remains unpaid at the time the juvenile attains age 21 continues to be collectible through the filing of a judgment (42 Pa.C.S. §9728). There is no limit in law, rules or case law which prohibits the collection of restitution from juvenile perpetrators who age out of the juvenile system. (*Steven J.*, 1985); 42 Pa.C.S. §6352(a)(5); and 42 Pa.C.S. §§9352, 9728)). Additionally, the parents of the juvenile offender may be ordered to make restitution, but only up to \$1,000 for injuries suffered by any one victim or \$2,500, regardless of the number of victims (23 Pa.C.S. §§5503, 5505).

“Restitution funds” enable crime victims to be reimbursed much more quickly than would otherwise be possible.

The juvenile justice system places high priority on the ordering and collection of restitution to crime victims. The primary vehicle for obtaining information from the victim and the victim’s family regarding their physical, psychological and economic losses is the victim impact statement. The Crime Victims Act requires that victims be given opportunities to “offer prior comment on...the disposition of a delinquent child,” and specifically to have a written victim impact statement “detailing the physical, psychological and economic effects of the crime on the victim and the victim’s family.” The Pennsylvania Rules of Juvenile Court Procedure have been amended to specifically address this issue as well. Rule 512 (relating to dispositional hearing) requires the court to give the victim an opportunity to be heard before deciding the disposition. In addition, Rule 513 (relating to aids in disposition) provides that the victim may submit a victim impact statement, and if a victim impact statement is submitted, Rule 513 requires the court to accept and consider the victim impact statement in determining the disposition of the case. It is noteworthy as well that, in addition to having the authority to order a delinquent child to pay restitution in an amount deemed appropriate as part of the plan of rehabilitation considering the nature of the acts committed and the earning capacity of the

child, the court may order the child to contribute to a “restitution fund” established by the president judge. In a number of jurisdictions, “restitution funds” enable crime victims to be reimbursed much more quickly than would otherwise be possible.

“Statutory and Regulatory Authority for Restitution in Pennsylvania,” provides the full text of applicable sections of Pennsylvania statutes which authorize and govern the collection, ordering and distribution of restitution in criminal and juvenile cases. [See Appendix, page 67.]

State and Local Roles and Responsibilities

Pennsylvania statute authorizes many different agencies within the commonwealth to play a role in the ordering, collection and disbursement of restitution (42 Pa.C.S. §9728). While not specifically mentioned in statute, police are often the first to make contact with the victim and have the initial opportunity to inform them of their rights. The police are also responsible for filing charges against the defendant and recognizing who the victims are. If the right charges are not filed initially or if not all victims and losses are identified in the police report it can have a negative impact on the victims’ later ability to seek restitution and/or for authorities to enforce payments that have been ordered.

After a defendant has been charged with a crime, the district attorney is responsible for making a recommendation for the amount of restitution to the court (18 Pa.C.S. §1106(c)(4)(i)). It is important that victims be afforded the opportunity to communicate their losses with the district attorney in order that an accurate restitution amount is requested. The district attorney is also responsible for making recommendations to the court to alter or amend an existing restitution order (18 Pa.C.S. §1106(c)(3)). This is of particular importance in cases where the total extent of a victim’s losses may not have been realized at the time of sentencing.

A fundamental role of Pennsylvania’s judiciary is the fair and impartial dispensation and administration of justice to those who are charged with crimes. In the context of this report, as provided by statute and rules of court, the judiciary also has an active role in the collection of restitution for those to whom it has been awarded upon a

finding of guilt. As stated previously, restitution is mandatory in Pennsylvania in the criminal justice system. Section 1106(c)(1) authorizes the court to “order full restitution: (i) Regardless of the current financial resources of the defendant, so as to provide the victim with the fullest compensation for the loss” (18 Pa.C.S. §1106(c)(1)). The court is also responsible, upon recommendation of the District Attorney, for altering or amending restitution orders (18 Pa.C.S. §1106(c)(3)). Similarly, in emphasis of the rule of law, effective collection of assessed fines, fees and costs is also a basic concern of the judiciary.

Recognizing the economic limitations of a labor-intensive collections process, Pennsylvania’s judiciary has developed significant electronic case management resources to efficiently assist those responsible for collecting fines, fees, costs and restitution. Additionally, the judiciary provides extensive training throughout Pennsylvania to help mostly county-level officials and staff to use those case management features. Separately, specific continuing education is provided periodically to help elected jurists to maintain currency in relevant statutory and case law.

It is the responsibility of the county Clerk of Courts to transmit “copies of all orders for restitution and amendments or alterations thereto, reparation, fees, costs, fines and penalties” to the appropriate county Department of Probation, “the county correctional facility to which the offender has been sentenced or to the state Department of Corrections” (42 Pa.C.S. §9728(b)(3)). The Clerk of Courts is also required to “transmit to the prothonotary certified copies of all judgments for restitution, reparation, fees, costs, fines and penalties which, in the aggregate, exceed \$1,000” (42 Pa.C.S. §9728(b)(1)). The clerk also has the discretion with consultation with the other appropriate state agencies to send copies for judgments where the aggregate monetary sanctions do not exceed \$1,000 to the prothonotary (42 Pa.C.S. §9728(b)(2)).

The supervising parole agent through the Pennsylvania Board of Probation and Parole (PBPP), has the responsibility to ensure the offender is in compliance with the payment plan he establishes with the committing court. As a piece of the defendant’s reentry plan, restitution and other fines and fees should be paid in a timely manner.

It is important that victims be afforded the opportunity to communicate their losses with the district attorney in order that an accurate restitution amount is requested.

All offenders under the supervision of PBPP have, as a standard condition of parole, the requirement to meet their court-ordered financial obligations. Parolees are required to contact the county collection agency within 72-hours of their release to develop a payment plan. The parolee must share this payment plan with the parole agent so that the agent can monitor compliance. If the county does not establish a plan, then the supervising agent will establish a plan. This plan is to be reviewed monthly by the parole agent. Parole agents have a range of sanctions available for failure to comply with the financial payment plan, such as: travel restrictions; increased reporting requirements; electronic monitoring; wage attachments; placement in a community corrections center; or community service work. When requested, the parole agent will work with OVA to meet the victim’s needs.

The county probation department has been authorized to collect all monetary sanctions associated with a sentence including restitution, unless the county commissioners with approval of the president judge have designated another agency to make those collections (42 Pa.C.S. §9728(a)(1)). It is also the responsibility of the county probation department to open a restitution file to track all money collected from the defendant from the state DOC, the county correction facility, the probation department or any other designated agent (42 Pa.C.S. §9728(b.1)).

When a defendant has been sentenced to incarceration, the state DOC or the county correctional facility is “authorized to make monetary deductions from inmate personal accounts for the purpose of collecting restitution or any other court-ordered obligation or costs” and these deductions shall be transmitted to the department of probation or other authorized collection agency (42 Pa.C.S. §9728(b)(5)). The state DOC deducts 20% of any income from an inmate’s account. This includes money earned while incarcerated, along with any monies deposited into the account from outside sources. The DOC only

has the authority to deduct this money if the court order and other supporting documents match each other regarding restitution, court costs and fines.

If the Clerk of Courts transmits certified copies of judgments for monetary sanctions, including restitution, whether they are in excess of \$1,000 or not, the prothonotary is required to file these records of judgment and to index them as all other judgments are indexed. No fee is required as a prior condition to making this filing (42 Pa. C.S. §9728(b)(1)-(2)).

The Juvenile Court Judges' Commission (JCJC) is located within the Governor's Office of General Counsel, and is legislatively mandated to advise juvenile court judges on all matters pertaining to the proper care of both delinquent and dependent children (42 Pa.C.S. § 6372 et seq.). In addition, the JCJC is charged with collecting and analyzing data to identify trends and to determine the effectiveness of programs and practices to ensure the reasonable and efficient administration of the Commonwealth's juvenile court system. Finally, JCJC is required to make recommendations concerning evidence-based programs and practices to judges, the Administrative Office of Pennsylvania Courts (AOPC) and other appropriate entities.

In addition to publishing its annual *Pennsylvania Juvenile Delinquency Disposition Report*, which provides detailed statewide and county-specific information regarding all cases referred to the juvenile justice system, the JCJC has, since 2004, published the statewide *Juvenile Justice Outcome Measures Report*. [See Appendix, page 53.] This report provides the means to determine how well the juvenile justice system is achieving its statutory mandates as set forth in the Juvenile Act (42 Pa.C.S. § 6301). Included in this report is information regarding the number and percentage of juveniles with a restitution obligation; the number and percentage of juveniles who fulfilled the restitution obligation; and the total amount of restitution collected related to the cases closed during each annual report period. [See Appendix, page 62.] This data is one important measure of how well the juvenile justice system is achieving its mandate to provide programs of supervision, care and rehabilitation which give balanced attention to "the imposition of accountability for offenses committed."

Restitution is widely supported because it addresses victims' needs for compensation and because it meets the criminal justice system's goals of punishment and rehabilitation.

Restitution orders and payments in the criminal justice system are reported by the county to the AOPC, through the Common Pleas Case Management System (CPCMS) which is the software used by the Pennsylvania Courts of Common Pleas to record and track court business. This system serves as a public record regarding court activity including sentencing information, court cost, fines and restitution amounts ordered.

Although the responsibilities of the above positions and agencies are delineated by statute, many of these responsibilities fall to the individual counties. As a commonwealth, each county retains a certain level of autonomy for their individual operations. As such, despite the fact that many of these duties are dictated by statute, the execution of duties varies greatly between the counties.

The Pennsylvania Commission on Crime and Delinquency (PCCD), through its Office of Victims' Services, produced the *Strengthening the Criminal Justice in Pennsylvania* report. [See Appendix, page 53.] This report succinctly summarizes individual and societal need for restitution:

Restitution holds offenders accountable for the financial losses suffered by the victims of their crimes. Restitution is typically ordered in both juvenile and criminal courts to compensate victims for out-of-pocket expenses that are the direct result of a crime. However, restitution remains one of the most under enforced victim rights within the criminal and juvenile justice systems.

Restitution is widely supported because it addresses victim's needs for compensation and because it meets the criminal justice system's goals of punishment and rehabilitation (Pennsylvania Commission on Crime and Delinquency, n.d.).

Current Issues in Restitution

The Restitution in Pennsylvania Task Force identified a number of factors which impact the current state of restitution in Pennsylvania. These factors can be divided into four broad categories: Uniformity of Policy and Practice; Strengthening Accountability; Coordination of Information and Expansion of Authority. Each of these categories is explored in greater detail below.

Uniformity of Policy and Practice

The ordering, collection, recording and distribution of crime victims' restitution are inconsistent throughout the commonwealth. The various county and state level agencies which have responsibility for those functions have consistent disagreements about and varying interpretations of the laws, rules and regulations, and policy; as they do about the overall category of fines, costs and other payments made by offenders within the criminal and juvenile justice systems. The overall lack of uniformity in policy and practice between counties has a significant impact on victims of crime.

Even though restitution has been mandatory since 1995, a review of cases in the three-year period following the enactment of this statute found restitution was not ordered in 37% of restitution eligible cases.

Despite law to the contrary, many victims complain that restitution is not ordered at sentencing. Even though restitution has been mandatory since 1995, a review of cases in the three-year period following the enactment of this statute found restitution was not ordered in 37% of restitution eligible cases (Ruback, Ruth, & Shaffer, 2005, p. 336). Despite being mandatory, the characteristics of the offender may play a role in whether or not restitution is ordered. For example, "restitution was ordered more... for property offenders, offenders with no prior record, female offenders, and White offenders" (Ruback et al., p. 334). Additionally, restitution information may not be set forth in a sentencing order if restitution has been satisfied in full prior to sentencing. There currently is no require-

ment that this information be included. Even when restitution is ordered, disagreements arise about how the amount of restitution should be determined. While the new data systems of the AOPC have created a much higher level of information about fines, costs and restitution, there are general breakdowns in data entry at the local level impacting the quality of the information.

Current statutes exist that should create uniform practice across the commonwealth in regard to restitution. However, their implementation and administration are not consistent across all 67 counties. Few current mechanisms exist for cross county/state sharing of best practices, technical assistance and training. Practitioners would benefit from the development and distribution of uniform guidelines that can be used by all practitioners and at all levels of the criminal justice system, including district attorneys and judges. Other areas of the law (e.g., domestic violence) have reference guides for the judiciary. At this time, no such reference is available for restitution law. Even if uniform information on restitution were available, there is currently no specific educational strategy to disseminate that information to all applicable parties.

Collection efforts also vary greatly between counties. Although county correctional facilities are authorized to make deductions from inmate accounts, the amount of those deductions can vary greatly. One county warden reported making deductions as high as 60% from deposits made into inmate accounts (Task Force Subcommittee Discussions, 2012). Many other counties only deduct the authorized (although not mandatory) 20% deductions (42 Pa.C.S. §9728(b)(5)). The counties also vary in their use of dunning letters and other available collections notification tools (O'Shell, 2012). Some counties regularly hold cost contempt courts to address unpaid restitution, costs, fines and fees, while other counties do not (O'Shell).

There are issues with collection at the state level as well. The state DOC has the authority to deduct funds and will do so accordingly, however, there are outlying issues that can prohibit these deductions. These include difficulties in obtaining accurate information from the committing

counties and matching the amounts on the supporting documents with the amount of the 300B form.

The PBPP's collections efforts have been reported as less productive than those efforts at the county level. While the counties have utilized collection tools such as driver's license suspension, cost contempt court, etc. these tools are not used to improve collection efforts at the state level. The PBPP has been able to enhance its ability to enforce payment of restitution through the use of CP-CMS, which can be accessed through laptop computers when parole agents are in the field making required contacts with offenders. Additional training on CPCMS to ensure agents are using it to its potential and collaboration with counties and AOPC to generate reports on the status of an offender's payment plan would help to improve compliance. Joint efforts with county collection agencies, including participating in fines and costs court hearings when enforcement efforts have been exhausted would also improve collection.

The variability in practice does not only affect the ordering and collection of restitution, but it also affects services available to victims. Restitution funds are utilized by some counties to initially compensate the victims of juvenile crimes. These funds are established at the county level by the president judge. Restitution can be disbursed directly to victims from these funds and then the juvenile offenders reimburse the fund by making direct payments into the fund. This system facilitates more immediate payments to victims, while enabling the juvenile offender to make payments into the fund over time (37 Pa.C.S. §200.502 & 42 Pa.C.S. §6301, et seq.). These funds, however, are not universal so the victim of a crime in one county may have access to a fund while the victim of the same crime in another county does not. These funds differ from the Victims Compensation Fund because they do not have the same limitations and prescriptions regarding the types of losses that can be compensated. Additionally, some counties offer restorative justice programs such as Victim Offender Conferencing (VOC) for victims, while others do not, primarily in the juvenile justice system. VOC provides interested victims with the opportunity to meet face-to-face with the offender in a controlled and safe environment with a mediator. After introductions, the parties are given the opportunity to "tell their stories to each other

and take time for clarification and sharing their feelings, then review the losses before looking at options for restitution" (Amstutz & Zehr, 1998). The VOC process addresses the restoration of crime victims, enhances the ability to collect restitution, and empowers the victim to express their needs and wants regarding the repair of harm to them.

The Victim Offender Conferencing process addresses the restoration of crime victims, enhances the ability to collect restitution, and empowers the victim to express their needs and wants regarding the repair of harm to them.

Currently, the experiences of victims of crime in Pennsylvania, including their access to restitution compensation, vary significantly across the commonwealth. While each county is governed by the same state statutes, differences in county level policy and practice result in victims' disparate access to remedies, including restitution. These discrepancies may lead to secondary victimization through loss of entitled compensation or availability of services.

Strengthening Accountability

Even when responsibilities are clearly enumerated in statute, not all accountable entities consistently administer those responsibilities. Unlike variances in the interpretation of the law, some agency and county or state responsibilities are clearly mandated by statute but are not uniformly enforced. A recent study of county clerks offices found that of the 55 responding counties, 13% self-reported that they do not file civil judgments for criminal cases assessed \$1,000 or more even though they are mandated to do so by Act 84 of 1998 (O'Shell, 2012; 42 Pa.C.S. §9728(b)(1)).

There is also no current system in place to ensure that best/promising practices are identified and adopted by the appropriate county or state agency. A mechanism should be established to identify, disseminate and monitor these practices. Currently, the juvenile justice system develops performance measures and reports on them to the JCJC. A similar practice should be applied within the criminal justice system.

Coordination of Information

Restitution collection and disbursement crosses multiple state and county level agencies as well as non-criminal/ juvenile justice agencies such as the Department of Public Welfare (DPW) and the Pennsylvania Department of Transportation (PennDOT). To optimize those processes, information must be shared across all of these groups. For example, to be eligible to receive Temporary Assistance for Needy Families (TANF), an individual must be in compliance with payment of all fines, costs and restitution (The Pennsylvania Department of Public Welfare, n.d.). This requirement can only be enforced if DPW has received information regarding payment plan compliance or non-compliance from the supervising criminal justice agency. Similarly, PennDOT is mandated to “suspend the operating privilege of any person...who has failed to pay any fine, costs, or restitution...” (75 Pa.C.S. §1533(a)). In order for PennDOT to comply with this requirement, it must be made aware that an individual is non-compliant with his payments. Currently no unique identifier exists that will allow the diverse data collection systems to seamlessly communicate with each other regarding restitution or other costs/fines efforts. The ability to share information regarding defendant monetary debts across juvenile and criminal justice systems as well as with other agencies would improve collection and disbursement efforts.

Currently no unique identifier exists that will allow the diverse data collection systems to seamlessly communicate with each other regarding restitution or other costs/fines efforts.

In addition to being able to share information, the consolidation of information for one defendant is also important. A single defendant may have multiple cases spanning both the juvenile and criminal justice system. If the defendant’s debts are not consolidated into a single payment plan recent debts may be given priority at the expense of past debts. Despite court rules regarding the distribution of restitution payments, misunderstandings about how the payments made by repeat offenders with multiple restitution orders should be applied impacts who actually may receive payments. Victims of crime

According to AOPC, as of November 30, 2012, \$434,983,429.82 (less any adjustments) had been assessed in restitution during 2010, 2011 and 2012.

attempting to determine specifics about payments owed to them, often must follow a chain of respective agencies from the district attorney’s office through the Clerk of Courts, AOPC, the Pennsylvania DOC, and/or the PBPP, and private attorneys. Local victim advocates and OVA staff spend a significant amount of time contacting multiple agencies to determine any and all types of problems regarding restitution owed.

According to AOPC, as of November 30, 2012, \$434,983,429.82 (less any adjustments) had been assessed in restitution during 2010, 2011 and 2012. This figure represents total amounts in both the CPCMS and Magisterial District Judge System (MDJS). Of this amount, only \$50,108,915.58 had been disbursed to victims. (Charts containing additional data and information are found in Appendix, page 58 of this report.) While the implementation of the recommendations made in this report will narrow that gap, in addition at least four reasons explain the seemingly significant disparity between the amount of restitution assessed during the years 2010 – 2012 as compared to the amount that has been disbursed to victims. First, approximately 33% of defendants that owe restitution are placed in jail. Thus, many are able to pay very little of the penalties that are due on their cases.

A second factor affecting the immediate payment of restitution is the Crime Victims Compensation (CVC) and Victim Witness Services (VWS) fees. These fees must be paid before a defendant is released from incarceration or probation. In most cases they are typically paid early in the case. In CPCMS, the percentage of any payment to be applied to the collection of restitution after CVC and VWS can, according to statute, be set no lower than 50% or as high as 100%. If an amount lower than 100% is set on a case, money collected will also be applied to fines and other costs, resulting in restitution being paid less quickly. In this regard, it is important

to note that numerous other programs are dependent on statutorily-authorized funding from fines and costs.

Third, there is a small group of restitution assessments that skew the assessment/collection results because they range from \$40,000 to well beyond \$100,000. If a defendant is in jail and/or on a payment plan, the rate at which such high assessments will be collected is typically very low, even when the percentage to be applied to restitution is set at 100%. These very high restitution assessments lower the percentage collected significantly.

Finally, most defendants, whether in or out of jail, are set up on payment plans that take into account their ability to pay, which typically require very low payments. Many payment plans are active for a significant number of years and often these plans become uncollectible over time. (A complete breakdown by county of assessed and disbursed restitution amounts is located in Appendix, page 60.)

Understanding of the restitution process influences victims' overall satisfaction with the criminal justice system.

Even when restitution is collected on behalf of a victim, on occasion that victim may relocate without knowing there is a need to contact the appropriate county agency. Without accurate contact information, it is impossible for disbursement of the victim's funds. Educating victims that they should update their contact information and providing them with more options for doing so would help to alleviate this breakdown in victim restitution.

While it is important to provide victims with the opportunity to more readily share information with criminal justice agencies, information must flow in both directions. It is also important that restitution-related information be shared with both victims and defendants. Victims/survivors need to be informed of their rights regarding restitution and the restitution process including realistic information regarding the amount of compensation they can expect to receive and the length of time it may take them to collect those payments. One study suggests their understanding of the restitution process influences

Sharing restitution information with victims and defendants alike has important positive implications.

victims' overall satisfaction with the criminal justice system (Ruback, Cares, & Hoskins, 2008). Defendants should also be informed when the payments they are making are for restitution. Evidence suggests that when defendants know that they are being required to make payments to compensate the victims of their crimes they are less likely to recidivate than if they are unaware of the restorative nature of those payments (Ruback, 2012). Sharing restitution information with victims and defendants alike has important positive implications.

In general, there is a substantial need to improve the sharing and dissemination of information across the juvenile and criminal justice systems, between state agencies, and with victims and defendants.

Expansion of Authority

Although authority may be given to an agency, there are some instances where the use of that authority is not mandated and the agency may or may not exercise it. For example, Title 42 Section 9728(b)(5) authorizes county correctional facilities and the DOC to make deductions from inmate accounts, however, it does not require them to do so. Therefore, although this is an important collection tool, 45% of the 55 responding counties indicated in a recent survey that they do not collect deductions from inmate accounts even though they have the authority to do so (O'Shell, 2012).

Many collecting agencies have limited authority to collect restitution and lack a wide arsenal of tools to make those collections. Task Force Subcommittee members shared during subcommittee discussions that some of their counties have found driver's license suspensions to be a useful tool to enforce payment of monetary sanctions for delinquent accounts, however, there are limitations on the types of offenses that can make use of this tool. Many recreational licenses and state registrations are not currently available for suspension in response to payment plan non-compliance.

Avoiding license suspension has proven to be an effective tool for compelling some defendants to make payments, but it is only as effective as the defendant's interest in obtaining that license. Compulsive payments are another effective collection tool. Use of wage attachments as a collection tool could be utilized. Authority is also needed for collections to be deducted from other non-wage forms of income such as income tax returns, lottery winnings, etc. By increasing the authority of the agencies collecting restitution and providing them with greater means for collection, the interests of both the state and the victim are served through the increased proceeds of collected restitution, costs, fines and fees.

Technology Improvements/Data Analysis Tools

Advances in the data collection tools available through AOPC, specifically CPCMS, and the DOC now allow for more accurate longitudinal and comparative analysis of restitution data. While data entry and consistency are still an issue, the breadth and flexibility of the data that is collected will allow for a better understanding of how restitution is ordered and collected in the commonwealth.

Task Force Formation

Recognizing the need to examine current restitution laws, rules, policy and processes in place throughout the commonwealth, the Restitution in Pennsylvania Task Force was created through funding provided by the PCCD to OVA as an extension of their work with victims and restitution. The Restitution in Pennsylvania Task Force was charged with conducting a thorough review of restitution processes at the state and local level in order to identify gaps and develop recommendations/solutions to maximize the justice systems' effectiveness (additional information on the composition and organization of the Task Force can be found in Part III of this report).

Prior to the first meeting of the Task Force, a review was performed of existing statutory and case law as well as current literature on restitution within the United States and specifically within the commonwealth of Pennsylvania. The members of the Task Force were then provided with the most relevant law, policies, tools and research available on restitution. Using this information, the Task Force was charged with examining the current landscape of restitution in the commonwealth and making recommendations to maximize the reimbursement of financial losses to crime victims, and to advance restitution within the context of restorative justice for victims,

The Restitution in Pennsylvania Task Force brought together key stakeholder individuals, agencies and organizations across all stages of victim restitution work.

the community and offenders. This Task Force served as a forum for enhancing interagency coordination, increasing communication, and identifying solutions to improve the quality of restitution services at the county and state level.

The Restitution in Pennsylvania Task Force brought together key stakeholder individuals, agencies and organizations across all stages of victim restitution work. This multi-tiered perspective was necessary to accurately pinpoint existing needs, gaps and limitations with regard to the state of restitution in Pennsylvania. This framework also provided the necessary perspective to identify viable recommendations needed to streamline this process. The Task Force proposed and adopted 47 different recommendations addressing all of the identified areas of need. Those recommendations and the accompanying rationale for their proposal and adoption can be found in Part II of this report. ■

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Part II: The Case for Moving Forward

“Without assistance, the victims have no hope of collecting on restitution that is owed. Some of the victims were forced to declare bankruptcy or do reverse mortgages just to keep their homes and stay afloat financially.”

Randy Coldsmith, Pennsylvania Crime Victim/Survivor

The Restitution in Pennsylvania Task Force culminated its 18 months of work in a voting meeting held on October, 18, 2012. The purpose of this meeting was to review and discuss recommendations proposed by the Subcommittees or individual members. This meeting provided an opportunity for the authors of each recommendation to present the rationale for their recommendations to the entire Task Force, as well as allowing Task Force members to question or otherwise discuss/debate each recommendation. Each recommendation was then individually reviewed for language and content. The Task Force effort culminated in 47 compiled recommendations.

Following this meeting, the Task Force Chair and the Center for Schools and Communities compiled all recommendations and placed them into an online voting ballot. Of the 40 Task Force Members eligible to vote on the recommendations, 25 members voted on the 47 compiled recommendations via the online ballot, while 15 members chose to abstain from the voting process. Although consensus was not achieved across all 47 recommendations, a majority opinion was determined for every recommendation. Each recommendation is delineated below, within four overarching categories of identified need:

- Uniformity of Practice
- Strengthening Accountability
- Coordination of Information
- Expansion of Authority

Please note, references to the “sponsor” found within the rationale text should be interpreted as the sponsor of the individual recommendation. A sponsor may be a Subcommittee, the Task Force as a whole or an individual member of the Task Force.

Uniformity of Policy and Practice Recommendations:

1. Convene a group of stakeholders to further review existing restitution law and compile recommendations for judicial, legislative or department/agency clarifications or revisions including, but not limited to the following:

- a. Review language where the law says “upon conviction” but restitution is ordered in Accelerated Rehabilitative Disposition Program (ARD) cases and the specialty courts which may not result in a conviction;
- b. Review all definitions, e.g., victim, property and injury;
- c. Review the percentage and priority of payments to victims;
- d. Include examples of allowable costs, with a caveat that it is not an all-inclusive list. Examples should include lost wages and profit interest, stolen or damaged property, mental health expenses, relocation expenses, security expenses, funeral/burial expenses, medical and dental expenses and rehabilitation expenses;
- e. Define evaluation of losses, e.g., automobiles, replacement costs, intangible losses and reasonable loss guidelines or calculations;
- f. Define a standard for burden of proof (California language, see Appendix, page 53);
- g. Define due process rights and confrontation rights (California language, see Appendix, page 53);
- h. Define the role of the Pennsylvania Board of Probation and Parole (PBPP), the Department of Corrections (DOC) and county probation in the collection of restitution;
- i. Establish a mechanism to address ongoing loss or incomplete knowledge at sentencing;
- j. Define the relationship between civil judgments and criminal restitution;
- k. Allow restitution hearings and amendments via video-conference;
- l. Give counties the authority to create a restitution fund that is modeled after the juvenile justice system and the Vermont model (Rex & Boyce, n.d.).

Rationale: Task Force members indicated that statutory restitution law has not been updated recently and the survey data indicates a wide discrepancy in practice even in areas that are covered by case law. Pennsylvania should utilize evidence based and/or promising restitution practices from other states.

Next Steps: Task Force members indicated a willingness to participate in the stakeholders group and to work with appropriate agencies to draft proposed policy updates.

2. Develop restitution bench books for the juvenile justice and criminal justice systems which would include (as appropriate) the following:

- a. Compilation of all statutes, case law, rules and standards regarding restitution in the juvenile justice and criminal justice systems;
- b. Recommended burden of proof – “preponderance of the evidence;”
- c. Recommendations as to what can be ordered as restitution;
- d. Information on restitution as a sentence (direct losses) vs. condition of probation (indirect losses);
- e. Standardized sentencing/adjudication order language:
 - i. Do not limit restitution payments until parole.
 - ii. Address restitution in the sentencing order:
 - a) No restitution has been ordered at this time;
 - b) Restitution has been ordered in the amount of \$_____;
 - c) Full restitution has been satisfied as of the time of sentencing;
- f. Modification and amendment of restitution orders;
- g. Process /Language to address ongoing victim losses;
- h. Consider limiting fines in cases with restitution above a threshold level;
- i. Payment of restitution upfront, compliance with restitution payments or satisfaction in full could be used to reduce the length of jail time.

These bench books would be compiled and updated through a lead agency or agencies to be identified, with assistance from a law school.

Rationale: The use of a bench book by the judiciary will help to create standardization and consistency of practice across the commonwealth with latitude for individual county mores; introduce good practice at the beginning of a judge’s career; and be consistent with existing practice in other special areas of the law e.g., domestic violence and sexual assault. Additionally, there is a great need to enhance the understanding of all justice system stakeholders in the laws, policies and practices regarding restitution. A bench book, which would provide a focus on restitution to assist in bringing statutory mandates and evidence based and/or promising practices into one comprehensive publication, could provide such a resource. The bench book should also clarify/interpret policy and practice around challenging restitution issues and provide guidance to juvenile justice stakeholders. This bench book could be developed to address restitution in the juvenile justice system as well as the criminal justice system. The bench book should be in electronic form and posted on numerous websites for reference and updating capabilities.

Current Policy or Practice: Currently, information is fragmented and located in various documents and publications, resulting in non-standard application of restitution practices.

Next Steps: Task Force members indicated a willingness to work with stakeholders to create this bench book. In other similar endeavors, convening a work group of agency partners to author a bench book has been successful.

3. Upon completion of the restitution bench books, develop quick reference sheets for restitution in the criminal and juvenile justice systems which would include:

- a. Statutory and case law citations; and
- b. Eligible recipients, allowable costs, restitution as a direct sentence or as a condition of probation, joint and several liability, relationship between civil judgments and criminal sentences.

Rationale: The information contained in the reference guides will be easy to use and remember. It has

applicability for many audiences and will help to clarify areas of the law that are vague or inconsistently practiced. The sheets would be general enough to be beneficial for all groups. California's quick reference sheets could be reviewed and used as guidance. [See Appendix, page 53.] Quick reference sheets could also be drafted in conjunction with the development of the bench books.

Next Steps: Task Force members indicated a willingness to work with stakeholders to create these quick reference sheets.

4. In conjunction with the development of restitution bench books, develop educational strategies, training and technical assistance for bench, bar, victim services, police and probation on the following suggested restitution topics:

- a. Utilize existing training mechanisms and materials for new practitioners;
- b. Judges – focus on the law, guidelines, and the areas covered in the bench book;
- c. Prosecutors – focus on the law and the mechanics of restitution (pre-sentencing leverage for up-front payments, post-sentencing responsibilities and implications for collection, ways to use restitution in negotiation to provide the best possible outcome for the victim, use of re-directed bail money);
- d. Victim Services – focus on law, allowable costs, evidence-based and promising practices, tools for solicitation and restitution information for victims;
- e. Police – focus on impact of the information gathered, actions taken throughout the investigation that may impact the ability to order restitution and restitution information for victims;
- f. Probation – focus on restitution in the Pre-Sentencing Investigation (PSI), collections, the importance of restitution as a tool to reduce recidivism, the research of Dr. Ruback, means to ensure collections and potential sanctions for non-compliance.
- g. Court and court-related personnel engaged in collections enforcement (Adult and Juvenile Probation, Pennsylvania Board of Probation and Parole, Clerks of Court, county collections bureaus) –

present training and information by experienced/expert collections enforcement staff and AOPC MDJS/CPCMS training staff.

Rationale: Education, training and technical assistance are needed to ensure that the information captured, clarified and recommended through the reference sheets and bench books is distributed to system stakeholders. Strategies must be developed to ensure a comprehensive approach to the dissemination of all publications, policies and programs with regard to the ordering, collection and disbursement of restitution in the commonwealth. Task Force members indicated that specific training on restitution will improve overall system understanding of restitution law, evidence based and/or promising practices, and each system's role in the establishment, collection and enforcement process.

Next Steps: Task Force members indicated a willingness to work with stakeholders to create these training modules. Additionally, they will work with stakeholders to create a process to ensure that bench books, reference guides and training modules are regularly updated to ensure that these tools continue to provide up-to-date, evidence-based and/or best practice information.

5. Develop a toolkit which would clarify policy and practice around restitution issues, identify evidence-based and/or promising practices, clarify available enforcement tools and provide helpful articles, brochures, etc.

Other areas of needed clarification:

- a. Use of parental liability statute (23 Pa.C.S. §5501) and the parental participation statute (42 Pa.C.S. § 6310)
- b. Ordering restitution to insurance companies
- c. Juveniles with adult co-defendants
- d. Inter-county transfers
- e. Utilization of civil judgments
- f. CPCMS and the collection process
- g. Wage attachments policy/practice
- h. Definition of "case closed" policy/practice

Some evidence-based and promising practices to be included in the toolkit are:

- a. Victim Offender conferencing/dialogue
- b. Outcomes reporting
- c. Community service
- d. Restitution funds/restitution programs
- e. Residential programs offer opportunities for youth to earn money for payment of restitution
- f. Utilizing victim impact statements to identify the full impact of the crime and appropriate restitution
- g. Utilizing six-month review hearings to review restitution collection

Rationale: Task Force members stated that policies and practices are inconsistent throughout Pennsylvania's 67 counties. The development of this toolkit, for use in the Juvenile Justice System, could lead to additional recommendations for legislative or delinquency rules changes. Once existing tools and strategies to enhance restitution collection are clarified they could be included in the toolkit.

Next Steps: Task Force members indicated a willingness to work with stakeholders to create this toolkit, emphasizing that all tools compiled in the toolkit would be practical and tailored to the specific roles in the system: bench books for judges, guidance on practical application of relevant law, policy and practices. The toolkit should focus on implementing the law for juvenile probation officers, court personnel and victim services.

6. Encourage AOPC and/or the Court Rules Committee to standardize a restitution order for use at sentencing/disposition.

- a. Recommended components of order:
 - i. Amount of restitution ordered;
 - ii. Payment plan details (if appropriate);
 - iii. Payee(s);
 - iv. Clarify who has the authority to enforce payment;
 - v. Process for application of payments to fines, costs and restitution;
 - vi. Whether or not payment is delayed;
 - vii. Ongoing expenses that need to be reviewed at a future time;

- viii. Indication if restitution has been satisfied in full or in part prior to disposition.
- b. Standardization of a restitution order could be achieved through:
 - i. Bench books;
 - ii. Evidence-based and/or promising practices training;
 - iii. Electronically in CPCMS as a form.

Rationale: There is no current accepted standard restitution order in use throughout the commonwealth. Standardization of restitution orders would result in uniformity across counties and improve the collections process.

Next Steps: Task Force members indicated a willingness to work with both the Criminal and Juvenile Court Procedural Rules Committees to create a proposed standard restitution order.

7. Encourage counties to establish collections enforcement units and hire dedicated staff to solely focus on collections enforcement efforts within the jurisdiction.

Rationale: Added personnel costs could potentially be offset by an additional fee established by Administrative Order as authorized by Title 42 Section 9728 (g). This recommendation should be balanced against the reality that defendants already have dozens of costs, fines and fee assessments that are a challenge to pay/collect. Attention should be paid in determining the priority of the assessment among county fees to better ensure payment compliance/collections.

Current Policy and Practice: Lancaster County currently imposes a \$22.50 monthly administrative fee for defendants on active probation/parole.

Next Steps: Task Force members indicated a willingness to work with proposed action agencies (President Judges, Adult Probation departments, Clerks of Courts, Boards of Commissioners or equivalent in Home Rule Counties) to further examine this recommendation.

8. Encourage President Judges to establish restitution, fines and costs contempt courts allocating the judicial resources to preside over such hearings.

Rationale: Subcommittee members indicated that various mechanisms should be employed to reinforce the mandate including encouraging the following actions to be taken by the applicable groups.

Examples include:

- 1) Encourage president judges to designate and dedicate either an individual or agency to petition or otherwise notify the court in regard to overdue defendants' failure to pay i.e., Adult Probation, Clerk of Courts.
- 2) Encourage Adult Probation Officers to petition the court when defendants violate the condition to pay court-ordered costs, fines and restitution.

Current Policy or Practice: Forty-six of the 55 counties surveyed hold cost contempt court or payment hearings for defendants who are no longer on supervision. Thirty-nine counties have incarcerated defendants for failure to pay despite the ability to do so. Twenty-five counties set a "bail" or purge amount for defendants that failed to appear at a hearing. The first full year of cost contempt court hearings held in York County generated \$118,809.38* in payments made in 2011 from the 504 hearings held. (*figure does not include 2012 payments stemming from the 2011 court events).

Next Steps: Task Force members indicated a willingness to work with appropriate action agencies (President Judges, Adult Probation Departments, Clerks of Court, County Collections Bureaus, and Juvenile Probation Departments) to draft proposed policy updates.

9. The General Assembly should consider amending Title 42 Section 9728 (b)(5) to establish a mandated minimum percentage threshold (no less than 20%) for deductions from inmate personal accounts for both county correctional facilities and the DOC.

Rationale: Research conducted by the Collections and Disbursement Subcommittee of the Task Force on this issue discovered that a wide range of deduction percentages are currently in use throughout the commonwealth at various correctional facilities. The statute should be amended to specify a minimum percentage of funds which shall be deducted from inmate accounts by all correctional facilities (county/state). This would insure consistency and fairness. Task Force members indicated that 25% could be considered as a possible minimum percentage.

Next Steps: To determine the mandated minimum percentage threshold, consideration should include flexibility for management staff at correctional facilities to determine precise amounts for collection, considering factors such as institutional safety. Task Force members believe that the DOC is uniquely positioned to determine the appropriate percentage.

10. Encourage counties to provide PennDOT with non-payment information so that the newly enacted mandate (Act 146 of 2012) for drivers' license suspension can be utilized, as appropriate.

Rationale: Section 1533 (A), (C) and (D) of Title 75 authorizes the suspension of a driver license for driving related offenses (other than parking) for failure to pay any fine or costs imposed by an issuing authority. Thirty of the 55 counties surveyed suspend driver licenses for failure to pay Title 75 fines. In 2011 Common Pleas and District Courts submitted 315,331 suspension notifications via the DL-38 form to PennDOT and 331,059 restoration notifications in regard to defendants that came into payment plan compliance.

Next Steps: Sponsors suggested that AOPC should expand the ability to generate the DL-38 form within CPCMS and MDJS on costs (county/state) in addition to Title 75 fines as the law allows.

11. Make wider use of dunning letters or overdue notices to notify or remind defendants that their payments are past due and of the sanctions that may be imposed by the court if they do not come into payment plan compliance.

Rationale: AOPC should analyze CPCMS financial data to determine the benefit of dunning letters by comparing collection rates (percent of assessments collected) of counties generating overdue notices and those that do not. It was noted that Michigan’s 10th District Court sent 32,453 notices and collected \$1,352,546 at a cost of \$24,893 during a 20-month period.

Current Policy or Practice: AOPC currently analyzes CPCMS data for counties at their request. Additionally, 52 of the 55 counties surveyed make use of dunning letters or overdue notices – 46 counties use CPCMS, while six use separate systems to generate notices.

Next Steps: Task Force members indicated a willingness to work with proposed action agencies (Adult Probation Departments, County Collections Bureaus, Clerks of Court, District Court Staff, AOPC, and Juvenile Probation Departments) to explore this recommendation further.

12. Develop restitution funds and restitution programs throughout both the criminal and juvenile justice systems.

Rationale: The Juvenile Justice Subcommittee of the Task Force indicated that approximately 62% of all juvenile courts in Pennsylvania operate restitution programs and/or have developed a restitution fund to reimburse crime victims for monetary losses. A restitution fund is “established by the president judge of a court of common pleas under section 6352(a)(5) of the Juvenile Act (relating to disposition of delinquent child), from which disbursements are made at the discretion of the president judge pursuant to written guidelines promulgated by the president judge and the limitations of the Juvenile Act, and used to reimburse crime victims for financial losses resulting

from delinquent acts” (37 Pa.C.S. §200.502). Juvenile offenders can make payments directly into the restitution funds after restitution has been disbursed to their victims.

Next Steps: Task Force members indicated a willingness to work with stakeholders to further explore this recommendation.

13. Expand the availability of programs and processes such as Victim Offender Conferencing/Dialogue throughout both the criminal and juvenile justice systems.

Rationale: Juvenile Justice Subcommittee of the Task Force members indicated that the practice of Victim Offender Conferencing/Dialogue is primarily about the restoration of crime victims. The research has shown that the use of VOC enhances the ability to collect restitution and empowers the victim to express their needs and wants regarding the repair of harm to them. While this practice has meaningful restorative justice value, it must be implemented carefully, primarily as a service to victims. It should only be an element of an appropriate disposition of a case, not the entire disposition of a case.

Next Steps: Task Force members indicated a willingness to work with stakeholders to explore this recommendation further.

Strengthening Accountability Recommendations:

14. Reinforce the mandate that all Clerks of Court comply with Act 84 of 1998 and transmit “copies of all orders for restitution and amendments or alterations thereto, reparation, fees, costs, fines and penalties” to the DOC for state sentenced inmates (to include form DC-300B and supporting signed/transcribed sentence orders) and to the county correctional facility for county sentenced inmates.

Rationale: Act 84 of 1998 authorizes county correctional facilities and the PA DOC “to make monetary

deductions from inmate personal accounts for the purpose of collecting restitution or any other court-ordered obligation.” For these deductions to be made, the Clerk of courts must follow the mandate that is referenced in this recommendation. Lack of compliance with this mandate prevents the county correctional facilities and PA DOC to act on their authority.

Current Policy or Practice: Forty of the 55 counties surveyed transmit orders for restitution, fees, costs, fines and penalties to probation, 33 to county prison and 47 to DOC. According to the survey, 30 county prisons collect/remit Act 84 deductions from inmate accounts.

Next Steps: The Collections and Disbursement Subcommittee of the Task Force suggested various mechanisms which could be employed to reinforce the mandate, including encouraging the following actions to be taken by the applicable groups:

- a. Clerks of Court could take the added step of providing DOC with AOPC Form # 2123 “Itemized Account of Fines, Costs, Fees and Restitution” from CPCMS to DOC to include the supporting order(s) of court on county sentenced cases to facilitate Act 84 deductions on those remaining case balances to include restitution still owed in prior cases.
- b. Sentencing judges and Clerks of Court could provide DOC with amended DC-300B forms stating corrected amounts of costs, fines and restitution owed to include supporting sentencing orders when discrepancies arise in regard to the initial documentation transmitted (i.e., DC-300B and sentencing orders do not match). DOC could review the submitted costs, fines and restitution information during the 72-hour window prior to commitment. Any discrepancies should then be resolved prior to taking custody of the inmate.
- c. County correctional facilities/prison boards could, under Act 84 authority, make deductions from county sentenced defendants’ inmate accounts. Pike County as per the Pike County Prison Board policy deducts 60% of an inmate deposits garnering between \$5,000 and \$10,000 per month from an average prison population of 200 without any

corresponding reduction in commissary or telephone sales revenue.

- d. DOC could consider amending the Collection of Inmate Debts Policy DC-ADM 005 to increase the Act 84 deduction percentage of 20% to a higher threshold amount. It should be noted that when the Crime Victims Compensation (CVC) and Victim Witness Service (VWS) fees are owed (\$60 total) DOC deducts an additional 10% to specifically pay those assessments. If this mechanism is used, the DOC and the Community Corrections Centers (CCC) deductions should be consistent whether at 20% or some other increased percentage. Currently the CCCs apparently take a lower percentage. Act 84 or Title 42 Section 9728 (b)(5) does not specify a percentage.
- e. AOPC could enhance the CPCMS application with regard to payment plans to allow for a “non-monetary” payment plan to be established (i.e., not setting a dollar amount) for defendants that are incarcerated and pay irregular or inconsistent amounts with regard to Act 84 deductions. AOPC indicated that, “This can be accomplished by setting a due date for full lump sum payment amounts at the end of the expected incarceration period. Without a due date and amount, the payment plan functionality cannot work properly. The term “non-monetary” payment should be revised as it is ambiguous.”

15. Reinforce the mandate that all Clerks of Court comply with the Act 84 of 1998 requirement to file civil judgments when a case balance reaches or exceeds \$1,000 and to exercise the option to file below \$1,000 if effective in a particular case to enforce payment compliance.

Rationale: Although this is a tool for collection that is already available, it is not universally used. Sponsors stressed the importance of gaining compliance from all Clerks of Court to utilize this tool.

Current Policy or Practice: The Collections and Disbursement Subcommittee of the Task Force conducted a survey and found that of the 55 counties surveyed:

- 48 counties file civil judgments on criminal cases initially assessed over \$1,000 as required by Act 84 of 1998 (47 after sentencing, 1 after supervision expires).
- 16 counties follow the judgment filing with petitions to enforce the judgment filed by Adult Probation, the Clerk of Courts or a pro se victim.
- 13 counties use form petitions/orders.

Next Steps: The Collections and Disbursement Subcommittee suggested various mechanisms that could be employed to reinforce the mandate including encouraging the following actions to be taken by the applicable groups:

- a. Clerks of Court/Prothonotaries should explore or make use of the ability to electronically file civil judgments as currently e-filed in Westmoreland County to alleviate staff time/resources. (AOPC stated that it “has worked with counties to create an electronic judgment file that can be produced for the civil system.”)
- b. Standard statewide form petitions/orders should be developed and posted to the Unified Judicial System (UJS) portal <http://www.pacourts.us/Forms/> for use by Clerks of Court and/or pro se plaintiffs (victims) to enforce civil judgments. (AOPC stated that “actions to enforce civil judgments are determined within the Supreme Court’s Rules of Civil Procedure. However, CPCMS permits many debt collection strategies, such as contempt hearings, dunning letters, and collections referrals for money that may be included in a civil judgment.”)

16. Provide support for on-going research regarding restitution in Pennsylvania.

Rationale: Task Force members indicated that ongoing research is needed to continue to improve the state of restitution in Pennsylvania.

Next Steps: Task Force members indicated a willingness to work with stakeholders to further explore this recommendation.

17. Establish performance measures for agencies supervising probationers and parolees relative to the payment/collection of restitution.

Rationale: This recommendation promotes accountability to and for victims concerning criminal justice agencies that are involved in the day-to-day supervision of offenders that owe restitution at both the state and local level. Establishing collection goals and measuring the performance should result in an increase in the total amount of restitution paid.

Next Steps: Task Force members indicated a willingness to work with stakeholders to explore this recommendation further.

18. Counties should conduct annual reviews to ensure that restitution collections are not superseded by the collection of county-assessed prison room and board rates and other county-established fees and payment allocation priorities.

Rationale: While CJCMS has a built-in priority schedule for the allocation of money received toward fines, costs and restitution, some counties have additional fees and charges which are outside of the CJCMS schedule and can impact the disbursement of restitution to victims. An example of one county assessment is the collection of prison room and board charges. The assessment of these charges out of each payment made or deposited on account may result in a victim waiting months to receive their \$150 in restitution even though an offender is making payments or deposits of \$150 month after deduction for county charges (ex. 40% for room and board), only \$90 remains for allocation per the CJCMS disbursement schedule. If county decision-makers are made aware of the impact their decisions have on the disbursement of restitution to victims, some may amend practices and policies to expedite making the victim whole prior to disbursing funds toward county fees and charges.

Next Steps: Task Force members indicated a willingness to work with stakeholders to explore this recommendation further.

19. Strengthen existing tools to enhance restitution collection with particular attention to the issue of collecting restitution from adjudicated delinquents between the ages of 18 and 21.

Rationale: The Juvenile Justice Subcommittee of the Task Force expressed concern for the difficulty in collecting restitution from older youth on juvenile probation caseloads. Effective sanctions and incentives to encourage the payment of restitution by older youth on juvenile probation caseloads have proven difficult to develop and implement. The Juvenile Justice Subcommittee of the Task Force found numerous enforcement tools that are available to the criminal justice system, but have not been identified or acknowledged for use in the juvenile justice system.

The following enforcement tools, at a minimum, should be clarified and strengthened for use in the juvenile justice system as well as the criminal justice system:

- a. Wage attachments
- b. Written warnings
- c. Contempt of Court
- d. License suspension
- e. Travel restrictions
- f. Increased reporting requirements
- g. Act 84 of 1998 (42 Pa.C.S. §9728) process
- h. Utilize DPW Individuals' Financial Tracking System (IVES)
- i. Review of eligibility for public assistance
- j. Enforcement tools option in the Common Pleas Case Management System (CPCMS)
- k. County restitution funds
- l. Restitution specific programs
- m. Enforcement conferences
- n. Utilizing third party collection agencies
- o. Utilizing review hearings to review restitution collection
- p. Attaching IRS refunds
- q. Attaching lottery winnings

Next Steps: Task Force members indicated a willingness to work with stakeholders to strengthen existing restitution collection tools.

20. Encourage the Juvenile Court Judges Commission to work with the Pennsylvania Council of Chief Juvenile Probation Officers to create or modify existing juvenile justice data collection and reporting processes to accurately and in detail track and publish county-specific information regarding the ordering and collection of restitution.

Rationale: The Juvenile Justice Subcommittee of the Task Force believes that the reporting of outcomes is important, as what gets measured gets done. Publicizing county report cards has been instrumental in measuring the success of the juvenile justice system in achieving the goals of balanced and restorative justice.

Next Steps: Task Force members indicated a willingness to work with stakeholders to further explore this recommendation. The Task Force is specifically interested in examining the amount of restitution ordered by county, versus the amount actually collected.

Coordination of Information Recommendations:

21. Identify an overarching agency or organization to continue the efforts of the Restitution in Pennsylvania Task Force, such as PCCD, AOPC or the Office of the Victim Advocate.

Rationale: Task Force members indicated the belief that without a designated leadership agency or organization, continued efforts to improve restitution efforts in the commonwealth may be hampered.

Next Steps: Task Force members indicated a willingness to work with Possible Action Agencies to further examine this recommendation and indicated that this must be a statewide initiative.

22. Establish or agree to a unique individual identifier to be used across executive agencies and the judicial branch to better match records pertaining to individuals owing restitution, court costs and fines in the commonwealth of Pennsylvania within databases i.e., PennDOT, DPW and AOPC's records.

Rationale: Social security numbers are often not reliably reported at the time of arrest. Social security numbers are not included on traffic citations and are often not collected by arresting officers on non-traffic and criminal cases. All agencies would need to be committed to/directed to collecting this identifier.

Current Policy or Practice: AOPC indicated that “current policy is to exclude social security numbers from various documents due to identity theft issues.”

Next Steps: Task Force members indicated a willingness to work with Possible Action Agencies (Governor’s Office of Administration, Pennsylvania State Police, Municipal Police, and AOPC) to explore this recommendation further.

23. Develop the capacity for AOPC, the courts, DOC, OVA, PBPP and similar county-level agencies to share information to ascertain a defendant's total fines, costs, and restitution payments owed across all cases.

Rationale: Legacy information systems, multiple invested agencies and the division of responsibilities between state and local governments have resulted in negative impacts on government’s ability to share information between agencies and between levels of government. So often, the information one agency or level of government is seeking is in the hands of another agency or level of government, but antiquated IT systems, laws, policies and practices prevent the sharing of information. The sponsor believes that the assessment, collection and disbursement of restitution are just the next example of the processes negatively impacted by this reality.

Next Steps: The sponsor indicated a willingness to work with stakeholders to explore this recommendation further.

24. Establish a web-based system for victims/survivors to update personal contact information related to their restitution order.

Rationale: Locating victims who have moved is sometimes a challenge when trying to disburse collected restitution money. Providing victims with a way of automatically updating their contact information would provide a mechanism to help alleviate this problem.

Next Steps: Task Force members indicated a willingness to work with stakeholders to explore this recommendation further.

25. Encourage all counties to establish communication protocols to determine whether individuals are in payment plan compliance with respect to public assistance eligibility.

Rationale: Act 35 of 1996 requires individuals receiving cash assistance owing costs, fines and/or restitution to be in compliance with an approved payment plan.

Current Policy or Practice: With the passage of the state’s 2012-2013 budget cash assistance was eliminated from the General Assistance Program. However, under Pennsylvania’s Temporary Assistance for Needy Families (TANF) State Plan, individuals required to pay fines, cost and restitution must be in compliance with an approved payment plan. Consequently, partnerships and communication with county Public Assistance offices are essential to establish assistance eligibility and promote payment plan compliance. Fifty-two of the 55 counties surveyed regularly interact with their local Public Assistance office. (AOPC stated that it “has worked with DPW to provide files for non-compliance at the MDJ level. AOPC has met with DPW on numerous occasions about accepting CPCMS information.”)

Next Steps: Sponsors suggested that counties should be given access to the Internal Revenue Service Income Verification Express Service (IVES) <http://www.irs.gov/Individuals/Income-Verification-Express-Service> that the Department of Public Welfare uses to determine benefit eligibility to accurately determine an individual's ability to pay costs, fines and restitution owed. Sponsor also suggested that counties should be given access to other resources that DPW may use or acquire to prevent improper benefit payments (i.e. Social Security Administration <http://www.ssa.gov/improperpayments/>) to better determine an individual's ability to pay costs, fines and restitution owed.

26. Place defendants on a single electronic payment plan (including restitution owed on juvenile delinquency cases) in the Common Pleas Case Management System (CPCMS) and/or the Magisterial District Judge System (MDJS) applications maintained by the Administrative Office of Pennsylvania Courts (AOPC) for Courts of Common Pleas and Magisterial District Courts end users.

Rationale: Collections enforcement begins with the creation of electronic payment plans in CPCMS or MDJS allowing collections staff (Adult Probation, Clerk of Courts, District Court personnel) to monitor payment plan compliance in regard to overdue payments and generate dunning letters. Receipting payments on a defendant's single payment plan ensures that prior, older cases are not neglected in favor of their most current case. Doing so ensures that payments made are disbursed in accordance with the Uniform Disbursement Schedule (UDS) across all of a defendant's cases with a minimum of 50% of the payment allocated toward restitution following payment of the Crime Victim Compensation Fund and Victim Witness Services assessments.

Current Policy or Practice: Both the MDJS and CPCMS systems have the capability of allowing multiple cases to be placed on the same payment plan. The Criminal Rules Committee of the Supreme Court determined that there was no rule-based authority for placing multiple cases on the same payment plan,

but conceded that this could be done if an administrative order is in place in a county. Therefore, the UDS was worded to match this finding. The Collections and Disbursement Subcommittee of the Task Force conducted a survey and found that of the 55 counties surveyed:

- 53 make use of CPCMS payment plan functionality.
- 51 counties apply all payments via the payment plan.
- 44 counties place multiple cases on one payment plan.

Next Steps: It was suggested that president judges should consider adopting Administrative Orders requiring the placement of all of a defendant's cases on a single payment plan unless specifically ordered otherwise by the Court and receipting all payments via the single payment plan. Task Force members indicated a willingness to work with Possible Action Agencies to explore this recommendation further.

27. Enable the identification and collection of restitution owed in delinquency cases from offenders under the jurisdiction of criminal courts, adult probation departments, DOC and PBPP.

Rationale: Members of the Juvenile Justice Subcommittee of the Task Force indicated that collection of restitution from "older" delinquents, people aged 18-21 who were adjudicated delinquent for acts committed before turning 18, is spotty at best. If such an offender reoffends after turning 18, he is subject to the jurisdiction of the criminal court. The system for transferring collection efforts from the juvenile system to the criminal system requires improvement. Often restitution from juvenile sentences remains unpaid because it is not transferred to criminal system payment plans and subject to criminal collection efforts.

Next Steps: The criminal court and the agencies who supervise such offenders (county adult probation, DOC, PBPP) should be informed about the offender's failure to comply with the juvenile court's order, and enforce compliance by collecting the unpaid restitution.

28. Encourage counties to enter warrants surrounding the issue of failing to pay restitution, fines, and costs, and/or failure to appear for said proceedings into NCIC/CLEAN, as appropriate. Such action will assist in the location of offenders outside of the originating jurisdiction and once located could result in the immediate collection of monies without the necessity to extradite/transport offenders.

Rationale: In many instances, when an offender is picked up out of county/state, family members will call to ascertain what can be done to resolve the Bench Warrant. In many instances, counties can collect payment in full (or at least a substantial lump sum payment) within 24- to 48- hours, thus resolving the Bench Warrant and eliminating the need to address the issue and costs of extradition/transport.

Current Policy or Practice: In some counties the Sheriff and/or the District Attorney have objected or not approved entry of warrants into Commonwealth Law Enforcement Assistance Network (CLEAN) and/or National Crime Information Center (NCIC) issued as per the above listed rules and/or with regard to a defendant's failure to appear at a cost contempt or non-payment hearing due to concerns about transportation and extradition costs. AOPC informed the Subcommittee and Task Force that the automated mechanism that provides for entry of warrants into CLEAN and/or NCIC does not omit warrants for failure to appear at a cost-contempt or non-payment hearing. As long as the warrant meets other criteria for entry into CLEAN and/or NCIC, these go through the automated JNET based process from AOPC to the state police. State and Federal Law Enforcement decide what warrant information is included in their respective databases. The JNET Federated Warrant Search includes all CPCMS and MDJS warrants.

Next Steps: Task Force members indicated a willingness to work with Possible Action Agencies (Criminal Procedural Rules Committee, Supreme Court of Pennsylvania, Pennsylvania State Police, and JNET) to explore this recommendation further.

29. Clarify accepted documentation and practice for DOC in order to maximize the collection of restitution from inmates; and modify required forms to include all outstanding restitution, fines and costs owed by an individual upon commitment to the DOC.

Rationale: Some inmates who owe restitution do not have any amounts deducted from their accounts due to inadequate documentation provided to the DOC. The sponsors suggested this recommendation to simplify things to the extent possible within law and practice for DOC to be able to collect all the restitution that is owed.

Next Steps: Task Force members indicated a willingness to work with the Department of Corrections to support this recommendation.

30. Attach priority to the collection of restitution, fines and costs in the development of (CPCMS) delinquency module.

Rationale: Attaching priority to the restitution collection sections of the CPCMS could provide for more consistency across the counties utilizing the CPCMS system for tracking and collections. Many issues must be addressed in the development of this module, including:

- a. When one or more defendants are adults and one or more are juvenile – how to deal with cases which include both;
- b. When the juvenile case is still open and then offender commits a crime as an adult, how are restitution payments made that is in the best interest of the crime victims;
- c. There is difficulty utilizing CPCMS when paying restitution from county restitution funds.

Next Steps: Task Force members indicated a willingness to work with stakeholders to explore this recommendation further. It was suggested that tools for the collection of restitution be examined as the delinquency module is developed. It was suggested that one way to accomplish this is to require that once restitution is ordered at every successive court listing, the court has to in its order note how much has been

paid, how much is still owed and what is going to be done about the balance owed.

31. The Supreme Court of Pennsylvania should consider providing a capacity to address collections performance measures and promote evidence-based and/or promising practices to improve the collection of restitution.

Rationale: Other jurisdictions (i.e., Michigan) have created a capacity to address performance measures and promote the use of evidence-based and/or promising practices. As a result, Michigan's restitution collections efforts are considered to be among the best in the country.

Next Steps: Task Force members indicated a willingness to work with the Pennsylvania Supreme Court to address this recommendation. An example would be a Trial Court Collections office within the Judicial Programs Division similar to the Office of Children and Families in the Courts to establish collections performance measures and require evidence based and/or promising practices in each of the 60 judicial districts/ 67 counties. Alternatively, the Supreme Court could appoint an Accreditation Committee with administrative support from the Problem Solving Court Program Office to identify and insure jurisdictions are meeting specific performance measures (i.e., percentage of assessments or specifically restitution collected) and engaging in evidence based and/or promising practices.

32. PCCD, through Criminal Justice Advisory Board (CJAB), should conduct training and share information with counties and prison boards on the evidence-based and promising practices of other counties that improve the restitution processes, including collection methods, prison policies, costs, etc.

Rationale: Discussions at Task Force meetings and various Subcommittee meetings made it quite clear that while some counties have implemented practices and policies that have had a positive effect on restitution collection, other counties have not been as

proactive. The sponsor believes that if PCCD provided information to each CJAB about practices and policies in place in other counties and encouraged each CJAB to review its own practices and policies against what others are doing, counties may be willing to implement new practices and policies and amend existing ones, to improve restitution collection in their county.

Next Steps: Task Force members indicated a willingness to work with stakeholders to explore this recommendation further.

33. Create or modify existing criminal justice data collection and reporting processes to accurately and in detail track and publish county-specific information regarding the ordering and collection of restitution.

Rationale: Task Force members indicated that data collection and the use of that data to improve existing processes or develop new ones are undeniably useful.

Next Steps: Task Force members indicated a willingness to work with stakeholders to explore this recommendation further.

34. Provide practical information about restitution to victims.

- a. Include more information on restitution (documentation, establishment, collection) in the PCCD's Rights for Crime Victims booklet.
- b. Educate victims – what is restitution, how it is established, collected and distributed?
- c. Explore techniques for providing collection information – AOPC website access information relative to their case.

Rationale: In Dr. Ruback's studies (Ruback et al., 2008) and in satisfaction surveys, victims indicate a widespread lack of knowledge about the establishment, ordering and collection of restitution. They also express frustration about a lack of notice concerning collection rates and enforcement.

Current Practice or Policy: In the ordering survey, there were widespread differences in practice concerning trying to locate victims after relocation, indicating that victims may not receive collected funds.

Next Steps: Task Force members indicated a willingness to work with appropriate action agencies to draft proposed information updates.

35. Provide practical information about restitution to defendants.

- a. Help offenders understand that payment of restitution plays a vital role in the offender reformation process as it forces him or her to confront, in concrete terms, the harm his or her actions has caused.
- b. Highlight the correlation between restitution and recidivism (offenders who pay a higher percentage of their court-ordered restitution are less likely to commit a new crime).

Rationale: Restitution is an important part of the offender restoration process. As such, the sponsor believes that providing clear, practical information about restitution to defendants will increase restitution payments to victims and at the same time, decreases the likelihood of reoffending.

Next Steps: Task Force members indicated a willingness to work with appropriate action agencies to draft proposed information updates.

Authority Recommendations:

36. Maintain the current mandatory threshold of filing civil judgments as per Title 42 Section 9728 (b)(1) when “judgments for restitution, reparation, fees, costs, fines and penalties which, in the aggregate, exceed \$1,000.”

Rationale: This recommendation was offered in response to discussions outside of the Task Force to increase the threshold to \$5,000. The Task Force determined that the \$1,000 threshold should remain as

is, and that the existence of the tool is valuable in collection efforts.

Next Steps: The sponsor indicated a willingness to work with State Senators and/or Representatives to draft proposed legislation in support of this recommendation.

37. The General Assembly should consider amending Title 42 Section 9728 (b)(5) to mandate both county correctional facilities and the DOC to make deductions from inmate personal accounts.

Rationale: This provision was created under Act 84 of 1998, but as currently written, only authorizes correctional facilities at the state and county level to withdraw money from inmate accounts for the purposes of paying restitution, fines, and costs.

Next Steps: To realize maximum collections under this provision, Task Force members recommend that this section should be amended to require all correctional facilities (county/state) to deduct money from inmate accounts.

38. Expand PennDOT’s authority to suspend and/or prohibit renewal of driver licenses for payment non-compliance.

Rationale: Subcommittee sponsors recommended that the General Assembly should, at a minimum, amend Title 75 Sections 1533 (A), (C) and (D) from “failure to pay any fine or costs” to “failure to pay any fine, costs or restitution.” This change was recommended in light of the fact that as of March 2012, more than \$90 million was owed statewide in driver offense related restitution. Representatives from AOPC indicated that it “suggested this change in draft legislation presented for comment.”

Next Steps: It is noted that this recommendation was accomplished through the passage of Act 146 of 2012.

39. The General Assembly should consider amending relevant statutes to authorize counties or courts to suspend or prohibit the issuance of state-issued licenses when the applicant is delinquent in the payment of restitution, fines or costs. Types of licenses, registrations or other authorizations include, but are not limited to: driver's license; hunting; fishing; professional licenses; vehicle registrations; etc. License limitations or suspensions shall be based on an individual case by case determination.

Rationale: The suspension of a driver's license is an effective enforcement tool for payment compliance. In many instances, offenders will resolve their non-compliance, thus preventing a license suspension. If this enforcement tool would be available for all criminal offenses and also include other types of licenses (i.e., professional, recreational, etc.) that are issued throughout the commonwealth, significant revenues would be realized for both victims and Counties.

Current Policy or Practice: Currently the ability to suspend a driver's license is only applicable for offenses that fall under Title 75 of the Vehicle Code.

Next Steps: The decision to suspend any type of license should lie within the discretion of the Court and its representatives

40. The General Assembly should consider amending Title 42 Section 9728 (g) Costs, etc., to clearly state that costs incurred by counties in support of collections enforcement efforts (staff, overhead) shall be borne by defendants.

Rationale: Due to the amount of time and resources it takes to address non-compliance with offenders, the Collections and Disbursement Subcommittee of the Task Force believes that more counties would be able to set aside additional resources to increase restitution collections if they would be able to pass the expense on to the offender. Current law does not specifically

include costs incurred for collections enforcement efforts among the enumerated costs borne by the defendant.

Next Steps: Task Force members indicated a willingness to work with State Senators and/or Representatives to draft proposed legislation in support of this recommendation.

41. The General Assembly should consider amending Title 42 Section 9730 adding section (a. 1) to clarify the authority of the court to assign the wages of a defendant who agrees to an assignment of income of not more than 25% of the defendant's gross salary, wages or other earnings to the court for payment of any restitution, fines or court cost. This amendment should also impose obligations on employers in this regard.

Rationale: Subcommittee members stated that this original provision was enacted through Act 84 of 1998. This is an effective enforcement tool which could be utilized to secure funds with the assistance of the defendant's employer. Employers are willing to deduct monies for restitution, fines and costs, however many employers have expressed concern about how to deduct monies that may exceed what is available after other court-ordered wage attachments/garnishments are processed.

Next Steps: Task Force members indicated a willingness to work with State Senators and/or Representatives to draft proposed legislation in support of this recommendation.

Providing more structure to the wage attachment/garnishment would allow for less ambiguity. Additionally, employers should be permitted to charge the defendant an administrative fee to process the wage attachment/garnishment. This would be consistent with what employers are permitted under current child support statutes that govern wage attachments/garnishments.

42. The Criminal Procedural Rules Committee should consider re-visiting Pa.R.Crim.P. 535 and recommend the Pennsylvania Supreme Court adopt a revision authorizing the sentencing court to order any cash bail money posted by the defendant to be applied to any restitution, court costs or fines imposed. Alternatively the General Assembly should consider amending Title 42 adding a Section 5703 to provide for bail money posted by a defendant to be applied to restitution, fines and costs.

Rationale: AOPC indicated that “bail refunds can currently be applied to court costs, fines and restitution on agreement of the defendant. Both MDJS and CPCMS permit bail to be applied to fines, costs and restitution.”

Current Policy or Practice: The Criminal Procedural Rules Committee of the Supreme Court has before it a proposal similar to this recommendation (which is presently open for public comment). The proposed rule would provide that bail posted by the defendant themselves may be ordered to pay adjudicated financial penalties.

Next Steps: The sponsor indicated a willingness to work with stakeholders to explore this recommendation further.

43. The General Assembly should consider authorizing courts to order wage attachment for defendants who have been found in contempt for nonpayment of restitution, costs or fines.

Rationale: Historic opposition to wage attachment was primarily rooted in the belief that wage attachments placed an enormous burden on employers who would have to withhold the attached portion of the employee’s wages and then remit them to the ordering court. Today, wage attachment is a fairly routine practice as it is often required for support obligations and can be voluntarily ordered in criminal proceedings. The sponsor believes that in cases where an individual who owes fines, costs or restitution breach-

es a payment plan or otherwise fails to satisfy his/her payment obligations, the supervising court should have the authority to order the attachment of the individual’s wages, and the individual’s consent should not be required.

Next Steps: The sponsor indicated a willingness to work with State Senators and/or Representatives to draft proposed legislation in support of this recommendation.

44. The General Assembly should consider authorizing courts to order wage attachment for defendants who have the ability to pay restitution, costs or fines.

Rationale: The sponsor believes that if a defendant has the ability to pay, the court should be authorized to order the attachment of the individual’s wages, and the individual’s consent should not be required. The sponsor also believes that this practice would not only improve the collection of restitution, but would also reduce costs to the system overall as it would put an end to missed payments, lost mail containing payments, etc., and reduce the number of court proceedings related to failure to pay. It was recommended that the wage attachment be not more than 25%, consistent with other recommendations.

Next Steps: Task Force members indicated a willingness to work with State Senators and/or Representatives to draft proposed legislation in support of this recommendation.

45. The United States Congress should consider amending the Internal Revenue Code of 1986 Section 6402 to require the IRS to pay any state judicial debt to include overdue costs, fines and/or restitution from any federal income tax refund due to a delinquent defendant.

Rationale: Subcommittee members indicated that there is already a system in place for an aggrieved innocent party to appeal tax refund withholdings when withheld for child support. This system could also be used for restitution, etc. withholdings.

Sponsors indicated that there has been an expressed concern with the lack of uniform identifiers to match a defendant's records across state agencies. This change would be needed. It was further suggested that any proposed amendments to the Tax Code should include relief provisions for innocent and injured spouse.

Next Steps: Task Force members indicated a willingness to work with United States Senators and/or Representatives to draft proposed legislation in support of this recommendation.

46. The General Assembly should consider enacting or amending statute to require the Department of Revenue and Pennsylvania Lottery to pay any state judicial debt to include overdue restitution, costs and/or fines from any state income tax refunds and/or lottery winnings.

Rationale: The Collections and Disbursement Committee stated this would be an additional enforcement tool which would create additional collections when and where applicable.

Next Steps: Task Force members indicated a willingness to work with State Senators and/or Representatives to draft proposed legislation in support of this recommendation.

47. The Criminal Procedures Rules Committee should consider examining current court rules and the rules of other jurisdictions to consider whether any rules should be amended or new rules adopted to improve the collection of restitution.

Rationale: Pennsylvania's Rules of Criminal Procedure impact the assessment, collection and disbursement of funds received from and owed by individuals convicted of crime. The sponsor believes that many of these impacts are collateral consequences of criminal procedure rules that have little if any direct application to restitution. Additionally, Task Force discussion has revealed many promising practices in place in

other jurisdictions outside of Pennsylvania which greatly improve the likelihood that victims are promptly restored to their pre-offense status through the receipt of restitution.

Next Steps: The sponsor indicates a willingness to work with stakeholders to provide with information on what other jurisdictions are doing to improve restitution assessment, collection and disbursement the Committee would be better positioned to improve the restitution environment in Pennsylvania.

Fiscal Considerations

Based on months of intensive research, review and examination by Task Force members, the findings contained in this report represent a comprehensive listing of proven strategies and programs to improve the state of Restitution in Pennsylvania. Using this information, along with evidence-based and promising practice studies conducted on the national, state and local levels, the Task Force has advanced a set of recommendations and strategies they believe Pennsylvania should implement.

Before policy makers can implement any of the programs or strategies recommended by this Task Force, the full cost of these should be evaluated. Policy makers should take into consideration the various program components and related costs in order to determine the feasibility of enhancing or expanding existing programs, or starting new programs. In some cases, current funding and additional tax revenues may off-set costs. Additionally, policy makers should consider how these related costs will be impacted by legislated mandates regarding restitution, costs and fines. Finally, both public and private sector funding sources should be identified to make restitution services more streamlined and available to Pennsylvania crime victims/survivors.

A Pennsylvania-specific analysis of the benefits and costs associated with existing and proposed restitution programs and services should be undertaken by the Administration, Courts and General Assembly to consider how best to enhance or expand the existing restitution infrastructure.

Conclusion

The Task Force that prepared these recommendations represented diverse views and perspectives but were unified in the belief that improvements to the state of restitution in Pennsylvania should be a top priority. The efforts by this Task Force must continue to move forward through collaboration efforts across all levels of government and stakeholder organizations. ■

Part III: The Task Force Process

“

The restitution agreement far exceeded our expectations for swiftness and certainty of payment. The victim and offender conference was a venue for expressing, sharing, connecting and healing that provided restorative closure.

”

Pennsylvania Crime Victim/Survivor

In October 2011, the Office of the Victim Advocate convened the Restitution in Pennsylvania Task Force. This Task Force served as a forum for enhancing interagency coordination, increasing communication, and identifying solutions to increase the quality of restitution services at the state and county level. This Task Force brought together relevant stakeholder individuals, agencies and organizations engaged in victim restitution work. Representatives from state and local agencies, stakeholder associations and victim service organizations were also members of the Task Force. Members came from diverse geographic regions of the state and represented a range of attributes, collective skills and experiences that enabled the Task Force to achieve its strategic goals. Task Force members possessed practical content knowledge and skills that allowed them to strengthen and advance Pennsylvania's restitution process. (See Task Force Membership List, located on pages 2-3 of this report.)

Task Force Goal

The goal of the Task Force was to examine the restitution laws, rules, policy and processes in place throughout the commonwealth in an effort to maximize the reimbursement of financial losses to crime victims, and to advance restitution within the context of restorative justice for victims, the community, and offenders. To this end, the Task Force was charged with completing the following tasks:

1. Examine research, white papers and scholarly articles relative to victim restitution which identify national best practices and promising programs.
2. Examine existing restitution processes currently in place in the commonwealth to identify best practices and promising programs.
3. Create Subcommittees to explore underlying issues in greater depth, which report their findings/recommendations to the Task Force.
4. Compile recommendations into a final report for submission to the courts, the legislature and the Governor's administration.

Task Force and Subcommittee Activities

The 39-member Task Force worked both in Subcommittees and as a whole. The Task Force engaged diverse stakeholders in its deliberations, heard from national and

state experts, including Pennsylvania crime victims/survivors, and reviewed national and commonwealth studies and reports. The Task Force was governed by a Steering Committee, comprised of six individuals: Carol Lavery, the Task Force Chair, and the Chairs and Co-Chairs of the respective Subcommittees.

To facilitate its charge, the Task Force organized into three topic-driven Subcommittees. The Subcommittee members represented a broad cross-section of individuals from both the state and local levels and included content experts from outside the Task Force. The Subcommittees were tasked with crafting recommendations regarding the possible standardization of policies and protocols concerning the collection of restitution and were charged with developing priorities for future action. The work of each Subcommittee was accomplished through: examining existing statutes and any pertinent rules or regulations; identifying promising practices at the local and state level; and reviewing current practice in Pennsylvania as compared to evidence-based or promising practice approaches. Subcommittees included:

- Subcommittee on the Ordering of Restitution
- Subcommittee on the Collection and Disbursement of Restitution
- Subcommittee on Juvenile Justice

Through a series of meetings and underlying research activities, each Subcommittee compiled recommendations for Task Force consideration and for possible inclusion into the final report to the Governor, Supreme Court and Legislature.

Consolidation of Subcommittee Findings

The Task Force consolidated the Subcommittee reports and research findings into a set of recommendations for follow-up action. Two critical decisions were made by the Task force during this period. First, the Task Force revised the wording and consolidated the recommendations to achieve a greater level of clarity. Second, the Task Force agreed that all recommendations put forth would be grounded in research.

Throughout this period, the Task Force emphasized that the recommendations needed to be interrelated to ensure that a comprehensive approach would result. This

approach would enhance interagency coordination, increase communication and expand restitution services at the county and state levels.

Overarching Goal, System Components and Foundation Elements

The Restitution in Pennsylvania Task Force's work can be summarized through this fundamental, overarching goal:

The Restitution in Pennsylvania Task Force will identify recommendations to maximize the criminal and juvenile justice systems' effectiveness, resulting in enhanced services to Pennsylvania crime victims/survivors.

Achieving this goal is central to providing crime victims with appropriate services and support systems to enable them to begin the healing process from their emotional, physical and/or financial losses, to the fullest extent possible. At the same time, changes to the restitution system will provide a greater ability to hold offenders accountable for the trauma inflicted by their crimes. The Task Force emphasized that in order to enhance restitution services in the commonwealth, communication and collaboration efforts between and among state- and local-level stakeholders must also occur. It is the collective view of the Task Force that the Governor, courts, legislature and stakeholder agencies will work collaboratively to further review the proposed recommendations contained in this report and consider ways for effective implementation. ■

Part IV: Appendices

“*It is important to me that others understand that restitution impacts victims differently, depending on the crime. In some cases, imposing a financial burden as a punishment to the offender does matter. They have lost their freedom and have to pay a debt for the rest of their life. Restitution is not to compensate me, but to impose a penalty on the offender.*”

Nancy J. Chavez, Survivor

The following appendices are provided:**Agency Responses**

Pennsylvania Board of Probation and Parole

Pennsylvania Commission on Crime and Delinquency

Supreme Court of Pennsylvania Administrative
Office of Pennsylvania Courts

Bibliography of Resources**Collections and Disbursement Subcommittee
Membership Roster****Juvenile Justice Subcommittee Membership
Roster****Ordering Subcommittee Membership Roster****Pennsylvania Restitution Data**

Data provided by the Administrative Office of
Pennsylvania Courts

Data Provided by the Juvenile Court Judges'
Commission

**Pennsylvania Supreme Court – Uniform
Disbursement Schedule****Statutory and Regulatory Authority for
Restitution in Pennsylvania****Votes and Dissents Chart for All
Recommendations****The online version of this document
contains additional resources, including:**

Collections and Disbursement Subcommittee
Meeting Minutes

Collections and Disbursement Subcommittee
Membership Roster

Collections and Disbursement Subcommittee Survey
and Results

Juvenile Justice Subcommittee Meeting Minutes

Ordering Subcommittee Meeting Minutes

Ordering Subcommittee Survey and Results

Supporting Data and Research

Task Force Meeting Minutes

**To access these resources, go to:
www.PA-RestitutionTaskForce.info**



PA BOARD OF PROBATION AND PAROLE
1101 SOUTH FRONT STREET, SUITE 5100
HARRISBURG, PA 17104-2517

OFFICE OF THE CHAIRMAN

December 4, 2012

Ms. Carol Lavery, Chair
Restitution in Pennsylvania Task Force
Office of the Victim Advocate
Pennsylvania Board of Probation and Parole
1101 S. Front St., Suite 5200
Harrisburg, PA 17104

Dear Ms. Lavery:

The Pennsylvania Board of Probation and Parole is pleased to have been a member of the Restitution in Pennsylvania Task Force, which was charged with examining the restitution laws, rules, policy and processes currently in place in the Commonwealth.

The Board strives to treat all crime victims with dignity and respect and fully recognizes and supports crime victim's rights. The Board's participation in this task force has provided an opportunity for us to examine our own procedures more closely to improve our efforts with holding offenders accountable for the crime they have committed and the harm they have caused to victims.

In support of the restitution task force, we have created an internal work group to review, assess and improve current Board restitution collection practices. Through our internal audits, further training on the use of the court's case management system and enhancing collaboration with county agencies responsible for collections we believe we can improve our restitution collection practices.

The Board is supportive of the recommendations that have been developed by the task force, and we look forward to continuing to work with all stakeholders on this important victim's issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael C. Potteiger".

Michael C. Potteiger
Chairman



PENNSYLVANIA COMMISSION ON CRIME AND DELINQUENCY

November 29, 2012

Ms. Carol L. Lavery
Victim Advocate
Office of the Victim Advocate
1101 South Front Street - Suite 5200
Harrisburg, Pennsylvania 17104-2518

Dear Ms. Lavery:

We would like to commend you for organizing the Restitution Task Force. This Task Force coordinated a comprehensive analysis of the deficiencies in the present practices and systems regarding the awarding and collection of restitution. Additionally, those who participated in the Task Force should be recognized for their commitment to improve restitution – a vital tool which holds offenders accountable for the financial losses suffered by victims of their crimes.

PCCD, through the administration of our Victim Compensation Assistance Program, has firsthand experience with the variations in collection practices from county to county, both in the juvenile and adult justice systems, as well as the unfortunate reality that restitution is widely under enforced. Many victims can wait years before they receive any restitution or may never receive the full amount ordered. Improved restitution collection would assist these crime victims as well as help to ensure the solvency of the Crime Victims Compensation Program.

The recommendations developed by the Task Force call for action on the part of our county and state judicial systems and criminal and juvenile justice agencies in the executive branch of state government during a time when all of these systems face unprecedented fiscal challenges. To place additional programmatic obligations on these agencies at the present time may be very challenging. As such, the Commission urges a strategic assessment of the recommendations of the report, analyzing the fiscal, policy, and programmatic implications of each of the recommendations which will permit all stakeholders to better prioritize the initiatives and develop a staged plan for implementation. PCCD would be happy to participate actively and cooperatively in these discussions.

We look forward to reviewing the Task Force's final report in order to obtain more detailed information on the work of the Task Force as well as the final recommendations that have been developed.

Sincerely,

A handwritten signature in blue ink, appearing to read "L. Rosenberg".

Linda Rosenberg
Executive Director



Supreme Court of Pennsylvania
 ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS
 Pennsylvania Judicial Center
 601 Commonwealth Ave., Suite 1500
 P.O. Box 61260
 Harrisburg, PA 17106-1260
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THOMAS B. DARR
 DEPUTY COURT ADMINISTRATOR
 OF PENNSYLVANIA

November 29, 2012

Ms. Carol Lavery
 State Victim Advocate
 Office of the Victim Advocate
 Board of Probation and Parole
 1101 South Front Street
 Suite 5200
 Harrisburg, PA 17104

Dear Carol:

On behalf of the Pennsylvania's Unified Judicial System, I write in response to your invitation to offer recommendations and discussion of the Restitution in Pennsylvania Task Force.

Initially, I want to extend our appreciation for your efforts in leading the Task Force over the past year. Constructive discussion has ensued from the formal meetings as well as those of the topical sub-committees. In both settings, the dedication to task of those participating was noteworthy.

We look forward to reading the report upon its completion. As you know, the UJS has for some time been attentive to the overall issues of improving collections, so our mutual efforts are in many ways complimentary. We will continue to emphasize means -- whether technologically or through our ongoing training of court personnel or in other ways -- to ensure that adjudicated fines, fees, costs and restitution are effectively collected. Doing so is an important part in sustaining the public's trust and confidence in the judicial system.

As well, we look forward to a participatory role in reviewing upon its completion the report with its accompanying recommendations and to the essential task ahead of prioritizing them for further consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read "T. Darr", with a horizontal line above it.

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Donna VandeMortel, Crime Victims Alliance of
Pennsylvania

Data provided by the Administrative Office of Pennsylvania Courts

As part of the work of the Subcommittee on the Collection of Restitution, the Administrative Office of Pennsylvania Courts was asked to provide statistical information on outstanding fines, costs and restitution from the Court of Common Pleas and Magisterial District Judge statewide case management systems. The following data represents cases in the criminal justice system only, and does not include juvenile justice data.

This chart uses the restitution assessment date, less any adjustments, and provides the total amount of restitution that was assessed by the county during the 2010, 2011

and 2012. This is compared to the total amount of restitution collected and disbursed for the same time-frame based on those specific restitution assessments.

For Magisterial District Judge System (MDJS), Traffic and Non-traffic dockets that have a final disposition are included. For Common Pleas Case Management System (CPCMS), Criminal and Summary Appeal dockets that have a final disposition, Misdemeanor of the third degree (M3) cases disposed by the lower court and Indirect Criminal Contempt cases are included. Archived data and escrowed funds are not included for either system.

Total restitution assessed minus any adjusted amount and monies disbursed from those assessments per County for MDJS and CPCMS for 2010, 2011 and 2012 as of November 30, 2012

	Assessed Amount	Disbursed Amount
Adams	\$3,277,875.91	\$442,504.59
Allegheny	\$37,508,196.21	\$4,160,190.23
Armstrong	\$1,172,802.70	\$284,298.32
Beaver	\$5,489,721.93	\$763,060.49
Bedford	\$1,485,595.64	\$176,680.90
Berks	\$18,269,783.90	\$1,792,878.87
Blair	\$6,012,962.66	\$932,023.14
Bradford	\$3,430,138.40	\$224,645.80
Bucks	\$19,345,885.94	\$2,895,233.86
Butler	\$7,854,802.72	\$1,166,037.00
Cambria	\$6,413,649.56	\$954,625.27
Cameron	\$80,823.95	\$12,894.06
Carbon	\$2,334,955.99	\$236,326.46
Centre	\$3,447,108.99	\$1,147,597.81
Chester	\$29,106,728.36	\$1,383,813.44
Clarion	\$1,454,858.94	\$230,530.29
Clearfield	\$2,039,980.43	\$568,336.22
Clinton	\$1,293,616.34	\$158,483.53
Columbia	\$2,031,699.05	\$348,523.11
Crawford	\$1,908,457.85	\$484,080.21
Cumberland	\$7,718,604.42	\$1,621,089.10
Dauphin	\$15,892,268.70	\$1,843,341.52

Continued

	Assessed Amount	Disbursed Amount
Delaware	\$18,208,129.76	\$1,785,976.25
Elk	\$1,007,082.82	\$99,794.55
Erie	\$9,783,683.94	\$805,387.28
Fayette	\$6,839,261.79	\$614,212.25
Forest	\$119,723.91	\$22,471.60
Franklin	\$4,972,208.67	\$729,106.95
Fulton	\$657,357.66	\$115,936.89
Greene	\$2,466,276.63	\$428,459.78
Huntingdon	\$504,386.07	\$117,430.72
Indiana	\$1,640,853.25	\$418,704.21
Jefferson	\$2,686,021.14	\$502,267.91
Juniata	\$1,165,548.72	\$67,738.59
Lackawanna	\$13,731,721.23	\$1,459,634.11
Lancaster	\$21,747,663.98	\$1,690,703.81
Lawrence	\$4,370,659.77	\$297,893.13
Lebanon	\$3,830,367.25	\$327,140.26
Lehigh	\$13,063,968.00	\$2,327,446.94
Luzerne	\$7,821,084.04	\$1,161,527.11
Lycoming	\$3,900,330.79	\$382,479.78
McKean	\$2,467,903.60	\$649,447.27
Mercer	\$4,365,890.75	\$517,562.09
Mifflin	\$832,826.93	\$216,716.46
Monroe	\$7,154,087.22	\$626,588.69
Montgomery	\$28,383,391.45	\$2,554,268.21
Montour	\$736,232.18	\$57,527.28
Northampton	\$8,263,236.33	\$1,147,093.98
Northumberland	\$2,482,718.47	\$222,378.72
Perry	\$1,559,208.68	\$317,729.84
Philadelphia	\$31,896,513.68	\$1,963,791.97
Pike	\$1,224,913.84	\$187,090.18
Potter	\$494,020.78	\$58,406.17
Schuylkill	\$6,035,932.44	\$209,980.33
Snyder	\$1,272,855.89	\$213,142.03
Somerset	\$3,763,211.42	\$333,492.68
Sullivan	\$97,143.96	\$15,526.04
Susquehanna	\$2,950,590.59	\$139,610.60
Tioga	\$1,183,276.74	\$205,396.31
Union	\$689,746.85	\$207,956.76
Venango	\$1,546,452.73	\$310,014.37
Warren	\$786,533.74	\$141,279.27
Washington	\$5,317,605.49	\$1,260,149.06
Wayne	\$1,536,246.15	\$261,629.56
Westmoreland	\$10,727,572.69	\$1,563,167.12
Wyoming	\$461,703.32	\$122,404.67
York	\$12,666,765.89	\$1,425,059.58
Grand Total	\$434,983,429.82	\$50,108,915.58

This report provides the total unpaid balance of fines, costs and restitution as of August 31, 2012. Any payments and adjustments have been subtracted from the total balance due to provide this figure.

Costs and fees are set amounts owed by the defendant based on the costs incurred and services received, such as supervision, electronic monitoring, transcript fees, etc. Fines are punitive in nature and imposed by the court as part of the defendant's sentence and received by the state.

Restitution is money ordered by the court to be paid to the victim, while server fees are for service of process such as sheriff's and constable fees.

For MDJS, Traffic and Non-traffic dockets that have a final disposition and M3 cases disposed of at the Magisterial District Court are included. For CPCMS, Criminal and Summary Appeal dockets that have a final disposition are included. Archived data and escrowed funds are not included for either system.

Total outstanding fines, costs and restitution owed per county as of August 31, 2012 for CPCMS and MDJS

	Costs/Fees	Fines	Restitution	Server Fees	Grand Total
Adams	\$6,528,383.29	\$3,920,102.67	\$6,227,655.02	\$45,218.47	\$16,721,359.45
Allegheny	\$70,982,765.36	\$40,992,683.39	\$58,028,156.76	\$825,476.16	\$170,829,081.67
Armstrong	\$2,723,156.87	\$2,224,781.74	\$3,066,948.20	\$96,773.47	\$8,111,660.28
Beaver	\$21,038,428.19	\$7,291,175.24	\$11,440,906.87	\$110,183.26	\$39,880,693.56
Bedford	\$1,410,488.77	\$1,885,866.61	\$2,632,993.37	\$19,616.40	\$5,948,965.15
Berks	\$44,658,513.13	\$22,513,000.42	\$29,471,252.96	\$1,098,905.15	\$97,741,671.66
Blair	\$11,710,467.52	\$7,593,351.63	\$9,270,649.25	\$204,571.73	\$28,779,040.13
Bradford	\$4,855,389.61	\$2,178,633.94	\$5,381,988.34	\$17,774.60	\$12,433,786.49
Bucks	\$28,633,780.36	\$20,549,531.59	\$37,026,899.27	\$1,437,558.96	\$87,647,770.18
Butler	\$4,521,379.56	\$4,683,480.97	\$12,755,039.84	\$85,491.32	\$22,045,391.69
Cambria	\$11,610,875.07	\$4,782,794.92	\$10,244,219.93	\$57,724.04	\$26,695,613.96
Cameron	\$238,682.03	\$151,263.62	\$218,008.99	\$669.59	\$608,624.23
Carbon	\$3,506,151.25	\$1,234,721.99	\$5,530,771.11	\$52,202.09	\$10,323,846.44
Centre	\$7,553,029.36	\$3,270,716.79	\$8,630,210.91	\$76,106.45	\$19,530,063.51
Chester	\$14,047,684.64	\$16,525,727.31	\$39,313,200.49	\$268,771.15	\$70,155,383.59
Clarion	\$1,557,736.16	\$945,679.52	\$2,526,885.82	\$14,863.70	\$5,045,165.20
Clearfield	\$3,358,554.94	\$2,871,975.99	\$4,579,545.20	\$22,006.53	\$10,832,082.66
Clinton	\$884,677.80	\$558,632.90	\$1,662,884.88	\$3,039.89	\$3,109,235.47
Columbia	\$1,603,979.18	\$1,828,799.36	\$3,292,435.87	\$20,370.29	\$6,745,584.70
Crawford	\$2,717,925.42	\$1,942,837.37	\$6,906,511.88	\$39,674.52	\$11,606,949.19
Cumberland	\$10,964,037.15	\$6,831,525.00	\$14,064,776.60	\$32,658.97	\$31,892,997.72
Dauphin	\$15,013,845.99	\$12,410,074.02	\$21,956,775.68	\$303,039.78	\$49,683,735.47
Delaware	\$76,376,330.04	\$24,801,967.59	\$32,561,834.86	\$837,020.27	\$134,577,152.76
Elk	\$1,253,528.79	\$742,464.39	\$2,286,991.74	\$482.45	\$4,283,467.37
Erie	\$15,169,896.80	\$10,774,804.90	\$13,066,224.56	\$389,832.24	\$39,400,758.50
Fayette	\$14,989,558.27	\$7,100,081.49	\$13,856,906.30	\$141,658.31	\$36,088,204.37
Forest	\$234,225.34	\$197,412.97	\$1,232,137.56	\$996.64	\$1,664,772.51
Franklin	\$6,588,058.08	\$3,362,969.48	\$9,162,336.88	\$70,225.51	\$19,183,589.95
Fulton	\$511,424.61	\$364,143.24	\$1,078,175.16	\$3,047.74	\$1,956,790.75
Greene	\$2,593,279.28	\$2,179,662.20	\$2,862,958.21	\$19,351.79	\$7,655,251.48

Continued

	Costs/Fees	Fines	Restitution	Server Fees	Grand Total
Huntingdon	\$1,497,143.19	\$1,197,476.04	\$1,087,328.48	\$6,662.00	\$3,788,609.71
Indiana	\$2,809,291.47	\$2,682,730.73	\$2,421,499.32	\$42,809.98	\$7,956,331.50
Jefferson	\$2,032,189.78	\$1,485,677.22	\$4,073,424.60	\$16,259.94	\$7,607,551.54
Juniata	\$658,746.92	\$400,459.10	\$1,539,575.79	\$5,453.84	\$2,604,235.65
Lackawanna	\$12,455,214.32	\$7,063,487.65	\$14,924,139.15	\$60,557.32	\$34,503,398.44
Lancaster	\$40,154,111.48	\$19,023,701.67	\$39,490,223.18	\$805,983.36	\$99,474,019.69
Lawrence	\$5,853,532.75	\$4,360,009.28	\$8,635,039.10	\$26,268.33	\$18,874,849.46
Lebanon	\$9,831,349.82	\$6,309,832.47	\$6,320,433.59	\$163,585.05	\$22,625,200.93
Lehigh	\$29,739,470.83	\$9,061,569.12	\$20,369,156.59	\$403,507.95	\$59,573,704.49
Luzerne	\$14,541,648.27	\$10,505,988.83	\$14,937,318.23	\$357,210.58	\$40,342,165.91
Lycoming	\$7,380,900.08	\$4,628,140.14	\$9,454,442.49	\$177,215.73	\$21,640,698.44
McKean	\$1,512,396.90	\$1,263,203.57	\$3,815,287.41	\$38,664.61	\$6,629,552.49
Mercer	\$3,533,855.46	\$2,295,199.75	\$6,229,415.78	\$38,676.43	\$12,097,147.42
Mifflin	\$2,306,611.56	\$1,837,930.78	\$1,494,997.22	\$42,670.38	\$5,682,209.94
Monroe	\$4,293,097.71	\$3,437,065.49	\$11,401,015.26	\$67,070.99	\$19,198,249.45
Montgomery	\$48,317,732.86	\$25,131,833.77	\$56,995,287.39	\$551,348.93	\$130,996,202.95
Montour	\$312,686.71	\$368,092.36	\$338,899.84	\$10,396.21	\$1,030,075.12
Northampton	\$14,615,753.81	\$7,321,593.34	\$13,061,272.86	\$274,403.07	\$35,273,023.08
Northumberland	\$6,876,274.03	\$3,617,612.01	\$5,745,001.01	\$94,769.84	\$16,333,656.89
Perry	\$1,151,034.26	\$663,801.26	\$2,189,505.44	\$16,299.76	\$4,020,640.72
Philadelphia	\$365,221,749.27	\$22,255,330.54	\$79,834,051.96	–	\$467,311,131.77
Pike	\$2,489,853.28	\$2,001,149.53	\$1,569,401.54	\$17,067.95	\$6,077,472.30
Potter	\$553,214.46	\$897,239.48	\$1,071,486.22	\$4,596.12	\$2,526,536.28
Schuylkill	\$9,093,172.11	\$4,242,099.47	\$22,091,475.10	\$92,098.37	\$35,518,845.05
Snyder	\$2,003,084.05	\$1,232,278.09	\$3,724,135.30	\$45,585.81	\$7,005,083.25
Somerset	\$2,220,205.15	\$2,119,165.52	\$5,633,165.03	\$43,752.27	\$10,016,287.97
Sullivan	\$114,471.11	\$75,579.65	\$153,359.57	\$1,121.53	\$344,531.86
Susquehanna	\$1,198,316.74	\$986,660.06	\$3,523,541.19	\$4,531.23	\$5,713,049.22
Tioga	\$1,309,073.73	\$676,361.45	\$1,711,729.13	\$15,578.00	\$3,712,742.31
Union	\$1,331,552.46	\$580,412.82	\$2,078,138.47	\$14,137.35	\$4,004,241.10
Venango	\$3,958,312.66	\$3,273,570.45	\$3,351,437.38	\$131,161.08	\$10,714,481.57
Warren	\$1,875,197.23	\$1,502,868.10	\$1,847,416.93	\$13,252.82	\$5,238,735.08
Washington	\$15,340,944.42	\$5,727,708.61	\$8,327,253.87	\$213,601.03	\$29,609,507.93
Wayne	\$1,252,470.22	\$1,067,306.18	\$3,746,808.12	\$25,115.27	\$6,091,699.79
Westmoreland	\$28,182,382.30	\$8,809,432.39	\$25,310,072.41	\$524,278.01	\$62,826,165.11
Wyoming	\$806,550.23	\$515,768.33	\$832,593.58	\$16,253.56	\$2,171,165.70
York	\$33,790,742.41	\$16,487,078.03	\$20,385,415.52	\$492,746.76	\$71,155,982.72
Grand Total	\$1,068,450,566.90	\$401,816,276.53	\$780,051,026.56	\$11,150,002.93	\$2,261,467,872.92

Data Provided by the Juvenile Court Judges' Commission

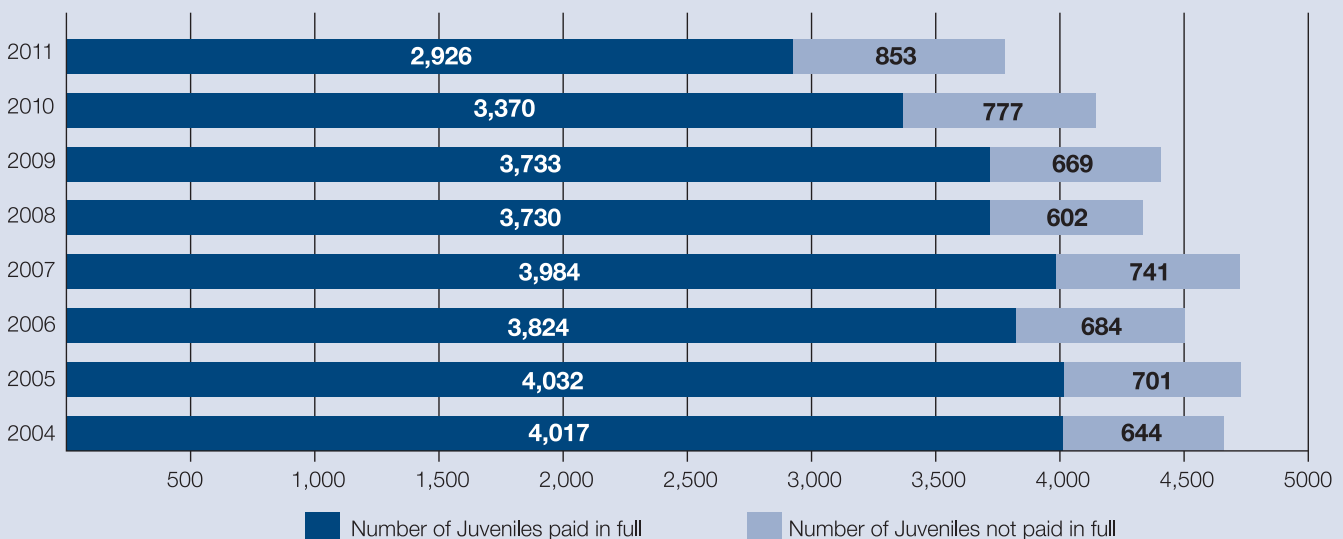
This data contained in this report is based on cases closed during the period 2004 through 2011, as referenced in the 2011 Statewide Outcome Measures report produced by the Pennsylvania Juvenile Court Judges' Commission. Total cases closed that involved an allegation of delinquency and resulted in probation supervision or other service provided through a county juvenile probation department.

Total Closed Juvenile Cases

Year	Closed cases
2004	17,709
2005	18,803
2006	17,576
2007	17,657
2008	16,788
2009	17,702
2010	16,027
2011	14,849

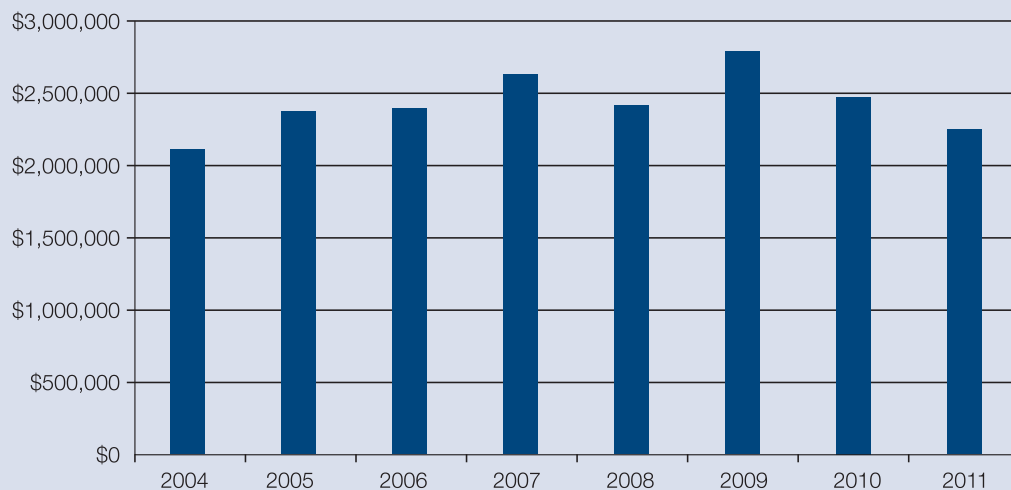
Number and Percentage of Juvenile Offenders with a Restitution Obligation

Year	Number of Juveniles with a restitution obligation	Percentage of Juveniles with a restitution obligation	Number of Juveniles who made full restitution to their victim(s)	Percentage of Juveniles who made full restitution to their victim(s)
2004	4,661	26.3%	4,017	86.2%
2005	4,733	25.2%	4,032	85.2%
2006	4,508	25.6%	3,824	84.8%
2007	4,725	26.8%	3,984	84.3%
2008	4,332	25.8%	3,730	86.1%
2009	4,402	24.9%	3,733	84.8%
2010	4,147	25.9%	3,370	81.3%
2011	3,779	25.5%	2,926	77.4%



Total Amount of Juvenile Restitution Collected

2004	\$2,144,884
2005	\$2,362,067
2006	\$2,397,438
2007	\$2,614,863
2008	\$2,410,514
2009	\$2,806,162
2010	\$2,481,918
2011	\$2,268,183



Over the last eight years, victims of juvenile crime have received \$19,486,029 in restitution from juvenile offenders

PART IV. FINANCIAL MATTERS
CHAPTER 35. Budget and Finance
General Principles

The Supreme Court of Pennsylvania, pursuant to general authority set forth by Art. V, § 10 of the Pennsylvania Constitution, and 42 Pa.C.S. § 1721, has authorized the Court Administrator of Pennsylvania to promulgate regulations in accordance with all applicable statutory provisions pertaining to the distribution and disbursement of all fines, fees, costs, reparations, restitution, penalties and other remittances imposed and collected by the Criminal Division of the Courts of Common Pleas, Philadelphia Municipal Court, and any other entity on behalf of the Court using the Common Pleas Criminal Court Case Management System (CPCMS).

These regulations, as amended, are effective immediately.

- I. Schedule for Standard Distribution of Funds Collected by the Criminal Division of the Courts of Common Pleas, Philadelphia Municipal Court, and any other entity on behalf of the Court Using the Common Pleas Criminal Court Case Management System (CPCMS).
 - A. All fines, fees, costs, reparations, restitution, penalties and other remittances imposed and collected by the Criminal Division of the Courts of Common Pleas, Philadelphia Municipal Court and any other entity on behalf of the Court using the CPCMS shall be distributed in the following prioritized order:
 1. The collection agency fee provided for in 42 Pa.C.S. Section 9730.1 shall be paid first, but only in cases wherein the private collection agency has secured the funds from the defendant or a third party and the payment is made to the court. No more than 25% of each payment secured from the defendant by the private collection agency may be applied towards this fee.
 2. The Crime Victim Compensation Fund and Victim Witness Services Fund shall be paid, but only in cases in which the defendant has been sentenced to incarceration, probation or is admitted into an accelerated rehabilitative disposition program (see 18 P.S. § 11.1101). Otherwise, these costs shall be distributed in accordance with subsection (A)(6) of these regulations.
 3. At least 50% of any additional payment shall go to restitution until it is paid in full (see 42 Pa.C.S. § 9728(g.1)). When restitution is ordered to more than one recipient at the same time, the court shall set the priority of payment as follows, in accordance with 18 Pa.C.S. § 1106(c)(1)(ii)(A)-(D):
 - i. the victim;

- ii. the Crime Victim's Compensation Board;
 - iii. any other governmental agency which has provided reimbursement to the victim as a result of the defendant's criminal conduct;
 - iv. any insurance company which has provided reimbursement to the victim as a result of the defendant's criminal conduct.
4. Judicial Computer Project/Access To Justice (JCS/ATJ) Fee (see 42 Pa.C.S. § 3733(a.1)).
 5. Electronic monitoring fees, offender supervision fees (as set forth in 18 P.S. § 11.1102(c)), alcohol highway safety school fees (see 75 Pa.C.S. § 1548(b)), service fees (such as sheriff's fees set forth in 42 P.S. § 21101 et. seq., and constable's fees set forth in 42 Pa.C.S. § 2950), transcript fees (see Pa.R.J.A. No. 5000.7), witness fees (as provided for in 42 Pa.C.S. § 5903), and other similar fees shall be paid based upon a pro-rated formula, unless the fees are prioritized by court order or the judicial district. The Administrative Office of Pennsylvania Courts may preclude a fee from being classified as an "other similar fee". The amount of the payment allocated to each outstanding item shall be determined by dividing the outstanding balance for the individual item by the combined total of the outstanding balances for all items. The resulting number is then multiplied by the amount of the payment to determine how much of the payment shall be allocated to the outstanding balance of the individual item involved.

For example, a defendant owes \$80.00 in electronic monitoring fees, \$10.00 in offender supervision fees, and \$10.00 in service fees, for a total of \$100.00 in outstanding fees. Defendant makes a payment of \$10.00 in his/her case. To determine the amount to be allocated to electronic monitoring fees, divide the outstanding balance of the electronic monitoring fee (\$80.00) by the combined total outstanding balances of all items ($\$80.00 + \$10.00 + \$10.00 = \100.00). The result in this example is .8 ($80/100$). Multiply the resulting figure by the amount of the payment to determine the allocation to electronic monitoring fees, which in this example is \$8.00 ($.8 \times \$10.00 = \8.00).
 6. All other fines, fees, costs, reparations, penalties and other remittances except for judgment or satisfaction fees shall be distributed based upon a pro-rated formula. Specifically, the amount of the payment allocated to each outstanding item shall be determined by dividing the outstanding balance for the individual item by the combined total of the outstanding balances for all items. The resulting number is then multiplied by the amount of the payment to determine how much of the

payment shall be allocated to the outstanding balance of the individual item involved.

For example, a defendant owes \$80.00 in costs, \$10.00 in fines, and \$10.00 in fees, for a total of \$100.00 in outstanding costs, fines and fees. Defendant makes a payment of \$20.00 in his/her case. To determine the amount to be allocated to the fines, divide the outstanding balance of the fines (\$10.00) by the combined total outstanding balances of all items ($\$80.00 + 10.00 + 10.00 = \100.00). The result in this example is .1 ($10/100$). Multiply the resulting figure by the amount of the payment to determine the allocation to the fines, which in this example is \$2.00 ($.1 \times \$20.00 = \2.00).

7. Fees charged by the clerk of courts, prothonotary, other entity in the county responsible for the distribution and disbursement of all fines, fees, costs, reparations, restitution, penalties, or other remittances, or the Clerk of Philadelphia Municipal Court for the entry or satisfaction of a civil judgment related to a criminal proceeding, as set forth in 42 Pa.C. § 1725, 42 P.S. §§ 21010, 21042, and 21071 shall be paid last. The amount of the payment allocated to each fee shall be determined by dividing the outstanding balance for the individual fee by the combined total of the outstanding balances for both fees. The resulting number is then multiplied by the amount of the payment to determine how much of the payment shall be allocated to the outstanding balance of the individual fee involved.

For example, a defendant owes \$60.00 in judgment fees and \$40.00 in satisfaction fees for a total of \$100.00 in outstanding fees. Defendant makes a payment of \$10.00 in his/her case. To determine the amount to be allocated to judgment fee, divide the outstanding balance of the judgment fee (\$60.00) by the combined total outstanding balances of all items ($\$60.00 + 40.00 = \100.00). The result in this example is .6 ($60/100$). Multiply the resulting figure by the amount of the payment to determine the allocation to judgment fee, which in this example is \$6.00 ($.6 \times \$10.00 = \6.00).

- B. Each payment shall be applied to a single case, unless otherwise ordered by the court.
- II. The county probation department or other agent designated to collect all fines, fees, costs, reparations, restitution, penalties and other remittances pursuant to 42 Pa.C.S. § 9728, shall use the Common Pleas Criminal Court Case Management System when performing collection related activities.
- III. Nothing in these regulations shall be applicable to the collection and/or distribution of any filing fee which is authorized by law. Filing fees shall include but not be limited to the clerk of courts automation fee set forth in 42 Pa.C.S. Section 1725.4(b).

STATUTORY AND REGULATORY AUTHORITY
FOR RESTITUTION IN PENNSYLVANIA

CRIMES CODE

18 Pa.C.S. § 1106. Restitution for injuries to person or property.

(a) General rule.--Upon conviction for any crime wherein property has been stolen, converted or otherwise unlawfully obtained, or its value substantially decreased as a direct result of the crime, or wherein the victim suffered personal injury directly resulting from the crime, the offender shall be sentenced to make restitution in addition to the punishment prescribed therefor.

(b) Condition of probation or parole.--Whenever restitution has been ordered pursuant to subsection (a) and the offender has been placed on probation or parole, his compliance with such order may be made a condition of such probation or parole.

(c) Mandatory restitution.--

(1) The court shall order full restitution:

(i) Regardless of the current financial resources of the defendant, so as to provide the victim with the fullest compensation for the loss. The court shall not reduce a restitution award by any amount that the victim has received from the Crime Victim's Compensation Board or other governmental agency but shall order the defendant to pay any restitution ordered for loss previously compensated by the board to the Crime Victim's Compensation Fund or other designated account when the claim involves a government agency in addition to or in place of the board. The court shall not reduce a restitution award by any amount that the victim has received from an insurance company but shall order the defendant to pay any restitution ordered for loss previously compensated by an insurance company to the insurance company.

(ii) If restitution to more than one person is set at the same time, the court shall set priorities of payment. However, when establishing priorities, the court shall order payment in the following order:

(A) The victim.

(B) The Crime Victim's Compensation Board.

(C) Any other government agency which has provided reimbursement to the victim as a result of the defendant's criminal conduct.

(D) Any insurance company which has provided reimbursement to the victim as a result of the defendant's criminal conduct.

(2) At the time of sentencing the court shall specify the amount and method of restitution. In determining the amount and method of restitution, the court:

(i) Shall consider the extent of injury suffered by the victim, the victim's request for restitution as presented to the district attorney in accordance with paragraph (4) and such other matters as it deems appropriate.

(ii) May order restitution in a lump sum, by monthly installments or according to such other schedule as it deems just.

(iii) Shall not order incarceration of a defendant for failure to pay restitution if the failure results from the offender's inability to pay.

(iv) Shall consider any other preexisting orders imposed on the defendant, including, but not limited to, orders imposed under this title or any other title.

(3) The court may, at any time or upon the recommendation of the district attorney that is based on information received from the victim and the probation section of the county or other agent designated by the county commissioners of the county with the approval of the president judge to collect restitution, alter or amend any order of restitution made pursuant to paragraph (2), provided, however, that the court states its reasons and conclusions as a matter of record for any change or amendment to any previous order.

(4) (i) It shall be the responsibility of the district attorneys of the respective counties to make a recommendation to the court at or prior to the time of sentencing as to the amount of restitution to be ordered. This recommendation shall be based upon information solicited by the district attorney and received from the victim.

(ii) Where the district attorney has solicited information from the victims as provided in subparagraph (i) and has received no response, the district attorney shall, based on other available information, make a recommendation to the court for restitution.

(iii) The district attorney may, as appropriate, recommend to the court that the restitution order be altered or amended as provided in paragraph (3).

(d) Limitations on district justices.--Restitution ordered by a magisterial district judge shall be limited to the return of the actual property or its undisputed dollar amount or, where the claim for restitution does not exceed the civil jurisdictional limit specified in 42 Pa.C.S. § 1515(a)(3) (relating to jurisdiction) and is disputed as to amount, the magisterial district judge shall determine and order the dollar amount of restitution to be made.

(e) Restitution payments and records.--Restitution, when ordered by a judge, shall be made by the offender to the probation section of the county in which he was convicted or to another agent designated by the county commissioners with the approval of the president judge of the county to collect restitution according to the order of the court or, when ordered by a magisterial district judge, shall be made to the magisterial district judge. The probation section or other agent designated by the county commissioners of the county with the approval of the president judge to collect restitution and the magisterial district judge shall maintain records of the restitution order and its satisfaction and shall forward to the victim the property or payments made pursuant to the restitution order.

(f) Noncompliance with restitution order.--Whenever the offender shall fail to make restitution as provided in the order of a judge, the probation section or other agent designated by the county commissioners of the county with the approval of the president judge to collect restitution shall notify the court within 20 days of such failure. Whenever the offender shall fail to make restitution within 20 days to a magisterial district judge, as ordered, the magisterial district judge shall declare the offender in contempt and forward the case to the court of common pleas. Upon such notice of failure to make restitution, or upon receipt of the contempt decision from a magisterial district judge, the court shall order a hearing to determine if the offender is in contempt of court or has violated his probation or parole.

(g) Preservation of private remedies.--No judgment or order of restitution shall debar the owner of the property or the victim who sustained personal injury, by appropriate action, to recover from the offender as otherwise provided by law, provided that any civil award shall be reduced by the amount paid under the criminal judgment.

(h) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

“Crime.” Any offense punishable under this title or by a magisterial district judge.

“Injury to property.” Loss of real or personal property, including negotiable instruments, or decrease in its value, directly resulting from the crime.

“Offender.” Any person who has been found guilty of any crime.

“Personal injury.” Actual bodily harm, including pregnancy, directly resulting from the crime.

“Property.” Any real or personal property, including currency and negotiable instruments, of the victim.

“Restitution.” The return of the property of the victim or payments in cash or the equivalent thereof pursuant to an order of the court.

“Victim.” As defined in section 479.1 of the act of April 9, 1929 (P.L. 177, No. 175), known as The Administrative Code of 1929. The term includes the Crime Victim's Compensation Fund if compensation has been paid by the Crime Victim's Compensation Fund to the victim and any insurance company that has compensated the victim for loss under an insurance contract.

18 Pa.C.S. § 1107. Restitution for theft of timber.

Any person convicted for the theft of standing timber under section 3921 (relating to theft by unlawful taking or disposition) shall, in addition to any other sentence imposed, be sentenced to pay the owner of the timber restitution in an amount twice the value of the timber taken.

18 Pa.C.S. § 1107.1. Restitution for identity theft.

(a) General rule.--The court shall, in addition to any other restitution sentence or order authorized by law, sentence a person convicted of a violation of section 4106 (relating to access device fraud) or 4120 (relating to identity theft) to make restitution for all reasonable expenses incurred by the victim or on the victim's behalf:

- (1) to investigate theft of the victim's identity;
- (2) to bring or defend civil or criminal actions related to theft of the victim's identity; or
- (3) to take other efforts to correct the victim's credit record or negative credit reports related to theft of the victim's identity.

(b) Types of expenses.--The types of expenses recoverable under this section include, but are not limited to:

- (1) fees for professional services by attorneys or accountants;
- (2) fees and costs imposed by credit bureaus, associated with efforts to correct the victim's credit record, incurred in private investigations or associated with contesting unwarranted debt collections; and
- (3) court costs and filing fees.

CRIME VICTIMS ACT

18 P.S. § 11.103. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

* * *

“Crime.” An act which was committed:

(1) In this Commonwealth by a person, including a juvenile, without regard to legal exemption or defense which would constitute a crime under the following:

(i) The act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act.

(ii) 18 Pa.C.S. (relating to crimes and offenses).

30 Pa.C.S. § 5502 (relating to operating watercraft under influence of alcohol or controlled substance).

30 Pa.C.S. § 5502.1 (relating to homicide by watercraft while operating under influence).

The former 75 Pa.C.S. § 3731 (relating to driving under influence of alcohol or controlled substance).

75 Pa.C.S. § 3732 (relating to homicide by vehicle).

75 Pa.C.S. § 3735 (relating to homicide by vehicle while driving under influence).

75 Pa.C.S. § 3735.1 (relating to aggravated assault by vehicle while driving under the influence).

75 Pa.C.S. § 3742 (relating to accidents involving death or personal injury).

75 Pa.C.S. Ch. 38 (relating to driving after imbibing alcohol or utilizing drugs).

(iii) The laws of the United States.

(2) Against a resident of this Commonwealth which would be a crime under paragraph (1) but for its occurrence in a location other than this Commonwealth.

(3) Against a resident of this Commonwealth which is an act of international terrorism.

* * *

“Direct victim.” An individual against whom a crime has been committed or attempted and who as a direct result of the criminal act or attempt suffers physical or mental injury, death or the loss of earnings under this act. The term shall not include the alleged offender. The term includes a resident of this Commonwealth against whom an act has been committed or attempted which otherwise would constitute a crime as defined in this act but for its occurrence in a location other than this Commonwealth and for which the individual would otherwise be compensated by the crime victim compensation program of the location where the act occurred but for the ineligibility of such program under the provisions of the Victims of Crime Act of 1984 ([Public Law 98-473, 42 U.S.C. § 10601 et seq.](#)).

* * *

“Victim.” The term means the following:

(1) A direct victim.

(2) A parent or legal guardian of a child who is a direct victim, except when the parent or legal guardian of the child is the alleged offender.

(3) A minor child who is a material witness to any of the following crimes and offenses under 18 Pa.C.S. (relating to crimes and offenses) committed or attempted against a member of the child's family:

Chapter 25 (relating to criminal homicide).

Section 2702 (relating to aggravated assault).

Section 3121 (relating to rape).

(4) A family member of a homicide victim, including stepbrothers or stepsisters, stepchildren, stepparents or a fiancé, one of whom is to be identified to receive communication as provided for in this act, except where the family member is the alleged offender.

18 P.S. § 11.201. Rights.

Victims of crime have the following rights:

* * *

(6) To be restored, to the extent possible, to the precrime economic status through the provision of restitution, compensation and the expeditious return of property which is seized as evidence in the case when in the judgment of the prosecutor the evidence is no longer needed for prosecution of the case.

* * *

JUDICIARY CODE

42 Pa.C.S. § 4137. Contempt powers of magisterial district judges.

(a) General rule.--A magisterial district judge shall have the power to issue attachments and impose summary punishments for criminal contempts of a magisterial district judge court in the following cases:

* * *

(3) Failure to comply with an order of a magisterial district judge directing a defendant in a criminal proceeding to compensate the victim of the criminal conduct for the damage or injury sustained by the victim.

* * *

42 Pa.C.S. § 6352. Disposition of delinquent child.

(a) General rule. --If the child is found to be a delinquent child the court may make any of the following orders of disposition determined to be consistent with the protection of the public interest and best suited to the child's treatment, supervision, rehabilitation and welfare, which disposition shall, as appropriate to the individual circumstances of the child's case, provide balanced attention to the protection of the community, the imposition of accountability for offenses committed and the development of competencies to enable the child to become a responsible and productive member of the community:

(5) Ordering payment by the child of reasonable amounts of money as fines, costs, fees or restitution as deemed appropriate as part of the plan of rehabilitation considering the nature of the acts committed and the earning capacity of the child, including a contribution to a restitution fund. The president judge of the court of common pleas shall establish a restitution fund for the deposit of all contributions to the restitution fund which are received or collected. The president judge of the court of common pleas shall promulgate written guidelines for the administration of the fund. Disbursements from the fund shall be made, subject to the written guidelines and the limitations of this chapter, at the discretion of the president judge and used to reimburse crime victims for financial losses resulting from delinquent acts. For an order made under this subsection, the court shall retain jurisdiction until there has been full compliance with the order or until the delinquent child attains 21 years of age. Any restitution order which remains unpaid at the time the child attains 21 years of age shall continue to be collectible under section 9728 (relating to collection of restitution, reparation, fees, costs, fines and penalties).

(6) An order of the terms of probation may include an appropriate fine considering the nature of the act committed or restitution not in excess of actual damages caused by the child which shall be paid from the earnings of the child received through participation in a constructive program of service or education acceptable to the victim and the court whereby, during the course of such service, the child shall be paid not less than the minimum wage of this Commonwealth. In ordering such service, the court shall take into consideration the age, physical and mental capacity of the child and the service shall be designed to impress upon the child a sense of responsibility for the injuries caused to the person or property of another. The order of the court shall be limited in duration consistent with the limitations in section 6353 (relating to limitation on and change in place of commitment) and in the act of May 13, 1915 (P.L.286, No.177), known as the Child Labor Law. The court order shall specify the nature of the work, the number of hours to be spent performing the assigned tasks, and shall further specify that as part of a plan of treatment and rehabilitation that up to 75% of the earnings of the child be used for restitution in order to provide positive reinforcement for the work performed.

42 Pa.C.S. § 9721. Sentencing generally.

(a) General rule.--In determining the sentence to be imposed the court shall, except as provided in subsection (a.1), consider and select one or more of the following alternatives, and may impose them consecutively or concurrently:

- (1) An order of probation.
- (2) A determination of guilt without further penalty.
- (3) Partial confinement.
- (4) Total confinement.
- (5) A fine.
- (6) County intermediate punishment.
- (7) State intermediate punishment.

* * *

(c) Mandatory restitution.--In addition to the alternatives set forth in subsection (a) of this section the court shall order the defendant to compensate the victim of his criminal conduct for the damage or injury that he sustained. For purposes of this subsection, the term "victim" shall be as defined in section 479.1 of the act of April 9, 1929 (P.L. 177, No. 175), known as The Administrative Code of 1929.

(c.1) Mandatory payment of costs.--Notwithstanding the provisions of section 9728 (relating to collection of restitution, reparation, fees, costs, fines and penalties) or any provision of law to the contrary, in addition to the alternatives set forth in subsection (a), the court shall order the defendant to pay costs. In the event the court fails to issue an order for costs pursuant to section 9728, costs shall be imposed upon the defendant under this section. No court order shall be necessary for the defendant to incur liability for costs under this section. The provisions of this subsection do not alter the court's discretion under Pa.R.Crim.P. No. 706(C) (relating to fines or costs).

* * *

42 Pa.C.S. § 9728. Collection of restitution, reparation, fees, costs, fines and penalties.

(a) General rule.--

(1) Except as provided in subsection (b)(5), all restitution, reparation, fees, costs, fines and penalties shall be collected by the county probation department or other agent designated by the county commissioners of the county with the approval of the president judge of the county for that purpose in any manner provided by law. However, such restitution, reparation, fees, costs, fines and penalties are part of a criminal action or proceeding and shall not be deemed debts. A sentence, pretrial disposition order or order entered under section 6352 (relating to disposition of delinquent child) for restitution, reparation, fees, costs, fines or penalties shall, together with interest and any additional costs that may accrue, be a judgment in favor of the probation department upon the person or the property of the person sentenced or subject to the order.

(2) In accordance with section 9730.1 (relating to collection of court costs, restitution and fines by private collection agency), the collection of restitution, reparation, fees, costs, fines and penalties under this section may be referred to a private collection agency. Statistical information relating to the amount of restitution collected by the county probation department or any agent designated by the county commissioners of the county with the approval of the president judge of the county shall be made available to the Pennsylvania Commission on Crime and Delinquency on an annual basis.

(b) Procedure.--

(1) The county clerk of courts shall, upon sentencing, pretrial disposition or other order, transmit to the prothonotary certified copies of all judgments for restitution, reparation, fees, costs, fines and penalties which, in the aggregate, exceed \$1,000, and it shall be the duty of each prothonotary to enter and docket the same of record in his office and to index the same as judgments are indexed, without requiring the payment of costs as a condition precedent to the entry thereof.

(2) The clerk of courts, in consultation with other appropriate governmental agencies, may transmit to the prothonotary of the respective county certified copies of all judgments for restitution, reparation, fees, costs, fines and penalties which, in the aggregate, do not exceed \$1,000, and, if so transmitted, it shall be the duty of each prothonotary to enter and docket the same of record in his office and to index the same as judgments are indexed, without requiring the payment of costs as a condition precedent to the entry thereof.

(3) The county clerk of courts shall, upon sentencing, pretrial disposition or other order, transmit to the Department of Probation of the respective county or other agent designated by the county commissioners of the county with the approval of the president judge of the county and to the county correctional facility to which the offender has been sentenced or to the Department of Corrections, whichever is appropriate, copies of all orders for restitution and amendments or alterations thereto, reparation, fees, costs, fines and penalties. This paragraph also applies in the case of costs imposed under section 9721(c.1)(relating to sentencing generally).

(4) The total amount for which the person is liable pursuant to this section may be entered as a judgment upon the person or the property of the person sentenced or ordered, regardless of whether the amount has been ordered to be paid in installments.

(5) The county correctional facility to which the offender has been sentenced or the Department of Corrections shall be authorized to make monetary deductions from inmate personal accounts for the purpose of collecting restitution or any other court-ordered obligation or costs imposed under section 9721(c.1). Any amount deducted shall be transmitted by the Department of Corrections or the county correctional facility to the probation department of the county or other agent designated by the county commissioners of the county with the approval of the president judge of the county in which the offender was convicted. The Department of Corrections shall develop guidelines relating to its responsibilities under this paragraph.

(b.1) Restitution file.--Upon receipt of each order from the clerk of courts as provided in subsection (b)(3), the department of probation of the respective county or other agent designated by the county commissioners of the county with the approval of the president judge of the county shall open a restitution file for the purposes of recording the amounts of restitution deducted by the Department of Corrections or county correctional facility or collected by the department of probation or the agent designated by the county commissioners of the county with the approval of the president judge of the county.

(b.2) Mandatory payment of costs.--Notwithstanding any provision of law to the contrary, in the event the court fails to issue an order under subsection (a) imposing costs upon the defendant, the defendant shall nevertheless be liable for costs, as provided in section 9721(c.1), unless the court determines otherwise pursuant to Pa.R.Crim.P. No. 706(C) (relating to fines or costs). The absence of a court order shall not affect the applicability of the provisions of this section.

(c) Period of time.--Notwithstanding section 6353 (relating to limitation on and change in place of commitment) or 18 Pa.C.S. § 1106(c)(2) (relating to restitution for injuries to person or property), the period of time during which such judgments shall have full effect may exceed the maximum term of imprisonment to which the offender could have been sentenced for the crimes of which he was convicted or the maximum term of confinement to which the offender was committed.

(d) Priority.--Notwithstanding any other statutory provisions in this or any other title, any lien obtained under this section shall maintain its priority indefinitely and no writ of revival need be filed.

(e) Preservation of assets subject to restitution.--Upon application of the Commonwealth, the court may enter a restraining order or injunction, require the execution of a satisfactory performance bond or take any other action to preserve the availability of property which may be necessary to satisfy an anticipated restitution order under this section:

(1) upon the filing of a criminal complaint, information or indictment charging a criminal violation or a petition alleging delinquency for which restitution may be ordered and alleging that the property with respect to which the order is sought appears to be necessary to satisfy such restitution order and judgment; and

(2) if, after notice to persons appearing to have an interest in the property and an opportunity for a hearing, the court determines that:

(i) there is a substantial probability that:

(A) the Commonwealth will prevail on the underlying criminal charges or allegation of delinquency;

(B) restitution will be ordered exceeding \$10,000 in value;

(C) the property appears to be necessary to satisfy such restitution order; and

(D) failure to enter the order will result in the property being destroyed, removed from the jurisdiction of the court or otherwise made unavailable for payment of the anticipated restitution order; and

(ii) the need to preserve the availability of the property through the entry of the requested order outweighs the hardship on any party against whom the order is to be entered.

(f) Temporary restraining order.--A temporary restraining order under subsection (e) may be entered upon application of the Commonwealth without notice or opportunity for a hearing, whether or not a complaint, information, indictment or petition alleging delinquency has been filed with respect to the property, if the Commonwealth demonstrates that there is probable cause to believe that the property with respect to which the order is sought appears to be necessary to satisfy an anticipated restitution order under this section and that provision of notice will jeopardize the availability of the property to satisfy such restitution order and judgment. Such a temporary order shall expire not more than ten days after the date on which it is entered, unless extended for good cause shown or unless the party against whom it is entered consents to an extension for a longer period. A hearing requested concerning an order entered under this subsection shall be held at the earliest possible time and prior to the expiration of the temporary order.

(g) Costs, etc.--Any sheriff's costs, filing fees and costs of the county probation department, clerk of courts or other appropriate governmental agency, including, but not limited to, any reasonable administrative costs associated with the collection of restitution, transportation costs and other costs associated with the prosecution, shall be borne by the defendant and shall be collected by the county probation department or other appropriate governmental agency along with the total amount of the judgment and remitted to the appropriate agencies at the time of or prior to satisfaction of judgment.

(g.1) Payment.--No less than 50% of all moneys collected by the county probation department or other agent designated by the county commissioners of the county with the approval of the president judge of the county pursuant to subsection (b)(1) and deducted pursuant to subsection (b)(5) shall, until the satisfaction of the defendant's restitution obligation, be used to pay restitution to victims. Any remaining moneys shall be used to pay fees, costs, fines, penalties and other court-ordered obligations.

(h) Effect on contempt proceedings.--This section shall not affect contempt proceedings mandated by 18 Pa.C.S. § 1106(f).

42 Pa.C.S. § 9730. Payment of court costs, restitution and fines.

(a) Use of credit cards.--The treasurer of each county may allow the use of credit cards and bank cards in the payment of court costs and fines.

(b) Procedures regarding default.--

(1) If a defendant defaults in the payment of a fine, court costs or restitution after imposition of sentence, the issuing authority or a senior judge or senior magisterial district judge appointed by the president judge for the purposes of this section may conduct a hearing to determine whether the defendant is financially able to pay.

(2) If the issuing authority, senior judge or senior magisterial district judge determines that the defendant is financially able to pay the fine or costs, the issuing authority, senior judge or senior magisterial district judge may turn the delinquent account over to a private collection agency or impose imprisonment for nonpayment, as provided by law.

(3) If the issuing authority, senior judge or senior magisterial district judge determines that the defendant is without the financial means to pay the fine or costs immediately or in a single remittance, the issuing authority, senior judge or senior magisterial district judge may provide for payment in installments. In determining the appropriate installments, the issuing authority, senior judge or senior magisterial district

judge shall consider the defendant's financial resources, the defendant's ability to make restitution and reparations and the nature of the burden the payment will impose on the defendant. If the defendant is in default of a payment or advises the issuing authority, senior judge or senior magisterial district judge that default is imminent, the issuing authority, senior judge or senior magisterial district judge may schedule a rehearing on the payment schedule. At the rehearing the defendant has the burden of proving changes of financial condition such that the defendant is without the means to meet the payment schedule. The issuing authority, senior judge or senior magisterial district judge may extend or accelerate the schedule, leave it unaltered or sentence the defendant to a period of community service as the issuing authority, senior judge or senior magisterial district judge finds to be just and practicable under the circumstances.

(4) A decision of the issuing authority, senior judge or senior magisterial district judge under paragraph (2) or (3) is subject to section 5105 (relating to right to appellate review).

42 Pa.C.S. § 9754. Order of probation.

(a) General rule.--In imposing an order of probation the court shall specify at the time of sentencing the length of any term during which the defendant is to be supervised, which term may not exceed the maximum term for which the defendant could be confined, and the authority that shall conduct the supervision.

(b) Conditions generally.--The court shall attach such of the reasonable conditions authorized by subsection (c) of this section as it deems necessary to insure or assist the defendant in leading a law-abiding life.

(c) Specific conditions.--The court may as a condition of its order require the defendant:

* * *

(8) To make restitution of the fruits of his crime or to make reparations, in an amount he can afford to pay, for the loss or damage caused thereby.

* * *

PENNSYLVANIA CODE

204 Pa. Code § 303.14. Guideline sentence recommendations— economic sanctions.

* * *

(c) Restitution.

(1) Restitution shall be added to any guideline sentence, as authorized by law. Relevant statutes include but are not limited to:

(i) 18 Pa.C.S. § 1106 (relating to injuries to person or property)

(ii) 18 Pa.C.S. § 1107 (relating to theft of timber)

(iii) 18 P. S. § 11.1302 (relating to restitution to the Office of Victim Services)

(iv) 42 Pa.C.S. § 9720.1 (relating to identity theft)

(2) Restitution may be imposed as a direct sentence or as a condition of probation or intermediate punishment, and is considered a non-confinement sentencing alternative (see restorative sanction § 303.9(f)).

JUVENILE ACT

42 Pa.C.S. § 6301.Short title and purposes of chapter.

(a) Short title.--This chapter shall be known and may be cited as the “Juvenile Act.”

(b) Purposes.--This chapter shall be interpreted and construed as to effectuate the following purposes:

(1) To preserve the unity of the family whenever possible or to provide another alternative permanent family when the unity of the family cannot be maintained.

(1.1) To provide for the care, protection, safety and wholesome mental and physical development of children coming within the provisions of this chapter.

(2) Consistent with the protection of the public interest, to provide for children committing delinquent acts programs of supervision, care and rehabilitation which provide balanced attention to the protection of the community, the imposition of accountability for offenses committed and the development of competencies to enable children to become responsible and productive members of the community.

(3) To achieve the foregoing purposes in a family environment whenever possible, separating the child from parents only when necessary for his welfare, safety or health or in the interests of public safety.

(4) To provide means through which the provisions of this chapter are executed and enforced and in which the parties are assured a fair hearing and their constitutional and other legal rights recognized and enforced.

42 Pa.C.S. § 6302.Definitions.

The following words and phrases when used in this chapter shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

“Child.” An individual who:

(1) is under the age of 18 years;

(2) is under the age of 21 years who committed an act of delinquency before reaching the age of 18 years;
or

(3) was adjudicated dependent before reaching the age of 18 years and who, while engaged in a course of instruction or treatment, requests the court to retain jurisdiction until the course has been completed, but in no event shall a child remain in a course of instruction or treatment past the age of 21 years.

“Court.” The court of common pleas.

“Custodian.” A person other than a parent or legal guardian, who stands in loco parentis to the child, or a person to whom legal custody of the child has been given by order of a court.

“Delinquent act.”

(1) The term means an act designated a crime under the law of this Commonwealth, or of another state if the act occurred in that state, or under Federal law, or under local ordinances or an act which constitutes indirect criminal contempt under 23 Pa.C.S. Ch. 61 (relating to protection from abuse).

(2) The term shall not include:

(i) The crime of murder.

(ii) Any of the following prohibited conduct where the child was 15 years of age or older at the time of the alleged conduct and a deadly weapon as defined in 18 Pa.C.S. §2301 (relating to definitions) was used during the commission of the offense which, if committed by an adult, would be classified as:

(A) Rape as defined in 18 Pa.C.S. §3121 (relating to rape).

(B) Involuntary deviate sexual intercourse as defined in 18 Pa.C.S. §3123 (relating to involuntary deviate sexual intercourse).

(C) Aggravated assault as defined in 18 Pa.C.S. §2702(a)(1) or (2) (relating to aggravated assault).

(D) Robbery as defined in 18 Pa.C.S. §3701(a)(1)(i), (ii) or (iii) (relating to robbery).

(E) Robbery of motor vehicle as defined in 18 Pa.C.S. §3702 (relating to robbery of motor vehicle).

(F) Aggravated indecent assault as defined in 18 Pa.C.S. §3125 (relating to aggravated indecent assault).

(G) Kidnapping as defined in 18 Pa.C.S. §2901 (relating to kidnapping).

(H) Voluntary manslaughter.

(I) An attempt, conspiracy or solicitation to commit murder or any of these crimes as provided in 18 Pa.C.S. §§901 (relating to criminal attempt), 902 (relating to criminal solicitation) and 903 (relating to criminal conspiracy).

(iii) Any of the following prohibited conduct where the child was 15 years of age or older at the time of the alleged conduct and has been previously adjudicated delinquent of any of the following prohibited conduct which, if committed by an adult, would be classified as:

(A) Rape as defined in 18 Pa.C.S. §3121.

(B) Involuntary deviate sexual intercourse as defined in 18 Pa.C.S. §3123.

(C) Robbery as defined in 18 Pa.C.S. §3701(a)(1)(i), (ii) or (iii).

(D) Robbery of motor vehicle as defined in 18 Pa.C.S. §3702.

(E) Aggravated indecent assault as defined in 18 Pa.C.S. §3125.

(F) Kidnapping as defined in 18 Pa.C.S. §2901.

(G) Voluntary manslaughter.

(H) An attempt, conspiracy or solicitation to commit murder or any of these crimes as provided in 18 Pa.C.S. §§901, 902 and 903.

(iv) Summary offenses, unless the child fails to comply with a lawful sentence imposed thereunder, in which event notice of such fact shall be certified to the court.

(v) A crime committed by a child who has been found guilty in a criminal proceeding for other than a summary offense.

“Delinquent child.” A child ten years of age or older whom the court has found to have committed a delinquent act and is in need of treatment, supervision or rehabilitation.

42 Pa.C.S. § 6304.1.Summary offenses.

(b) Administration of money.--Any money subsequently paid by the child pursuant to the disposition of the charges shall be administered and disbursed in accordance with written guidelines adopted by the president judge of the court of common pleas. The court may direct that any portion of the money received from the child shall be deposited into a restitution fund established by the president judge of the court of common pleas pursuant to section 6352(a)(5) (relating to disposition of delinquent child).

42 Pa.C.S. § 6310.Parental participation.

(a) General rule.--In any proceeding under this chapter, a court may order a parent, guardian or custodian to participate in the treatment, supervision or rehabilitation of a child, including, but not limited to, community service, restitution, counseling, treatment and education programs.

42 Pa.C.S. § 6310.Informal adjustment

(f) Terms and conditions.--The terms and conditions of an informal adjustment may include payment by the child of reasonable amounts of money as costs, fees or restitution, including a supervision fee and contribution to a restitution fund established by the president judge of the court of common pleas pursuant to section 6352(a)(5) (relating to disposition of delinquent child).

42 Pa.C.S. § 6340.Consent decree.

(c.1) Terms and conditions.--Consistent with the protection of the public interest, the terms and conditions of a consent decree may include payment by the child of reasonable amounts of money as costs, fees or restitution, including a supervision fee and contribution to a restitution fund established by the president judge of the court of common pleas pursuant to section 6352(a)(5) (relating to disposition of delinquent child) and shall, as appropriate to the circumstances of each case, include provisions which provide balanced attention to the protection of the community, accountability for offenses committed and the development of competencies to enable the child to become a responsible and productive member of the community.

42 Pa.C.S. § 6352.Disposition of delinquent child.

(a) General rule.--If the child is found to be a delinquent child the court may make any of the following orders of disposition determined to be consistent with the protection of the public interest and best suited to

the child's treatment, supervision, rehabilitation, and welfare, which disposition shall, as appropriate to the individual circumstances of the child's case, provide balanced attention to the protection of the community, the imposition of accountability for offenses committed and the development of competencies to enable the child to become a responsible and productive member of the community:

(5) Ordering payment by the child of reasonable amounts of money as fines, costs, fees or restitution as deemed appropriate as part of the plan of rehabilitation considering the nature of the acts committed and the earning capacity of the child, including a contribution to a restitution fund. The president judge of the court of common pleas shall establish a restitution fund for the deposit of all contributions to the restitution fund which are received or collected. The president judge of the court of common pleas shall promulgate written guidelines for the administration of the fund. Disbursements from the fund shall be made, subject to the written guidelines and the limitations of this chapter, at the discretion of the president judge and used to reimburse crime victims for financial losses resulting from delinquent acts. For an order made under this subsection, the court shall retain jurisdiction until there has been full compliance with the order or until the delinquent child attains 21 years of age. Any restitution order which remains unpaid at the time the child attains 21 years of age shall continue to be collectible under section 9728 (relating to collection of restitution, reparation, fees, costs, fines and penalties).

(6) An order of the terms of probation may include an appropriate fine considering the nature of the act committed or restitution not in excess of actual damages caused by the child which shall be paid from the earnings of the child received through participation in a constructive program of service or education acceptable to the victim and the court whereby, during the course of such service, the child shall be paid not less than the minimum wage of this Commonwealth. In ordering such service, the court shall take into consideration the age, physical and mental capacity of the child and the service shall be designed to impress upon the child a sense of responsibility for the injuries caused to the person or property of another. The order of the court shall be limited in duration consistent with the limitations in section 6353 (relating to limitation on and change in place of commitment) and in the Act of May 13, 1915 (P.L. 286, No. 177), known as the Child Labor Law. The court order shall specify the nature of the work, the number of hours to be spent performing the assigned tasks, and shall further specify that as part of a plan of treatment and rehabilitation that up to 75% of the earnings of the child be used for restitution in order to provide positive reinforcement for the work performed.

Voting Tallies and Dissenting Opinions for Restitution in Pennsylvania Task Force Recommendations

	Yea	Nay	Abstain	Dissenting Opinions
Recommendation 1	24	0	1	None
Recommendation 2	25	0	0	None
Recommendation 3	25	0	0	None
Recommendation 4	25	0	0	None
Recommendation 5	25	0	0	None
Recommendation 6	25	0	0	None
Recommendation 7	18	7	0	While this may be a good idea, counties are not necessarily currently in a position to hire new staff, so while desirable; this may not be realistic. While collection enforcement units may work well in some jurisdictions, collections through more traditional means (e.g., probation officers/departments) have been found to work better in other jurisdictions. Counties should be encouraged to give higher priority to collection efforts, but should determine locally the best approach. The systems that are currently in place should be encouraged to become more efficient.
Recommendation 8	23	2	0	Creating specialty court is cost prohibited. The spirit of this recommendation could be achieved through enhanced efforts to enforce orders and hold offenders accountable through court action. The cost/benefit (tangible and intangible) of such efforts should be considered in consideration of establishing such courts.
Recommendation 9	18	3	4	None
Recommendation 10	23	0	2	None
Recommendation 11	25	0	0	None
Recommendation 12	19	3	3	It remains unclear through discussion and comments what the source of these funds are, why such funds are not directly paid to victims if collected as restitution, and whether such collected funds either benefit to the detriment of other adjudicated financial penalties. Development of such funds on a county basis should be subject to defined audit standards that are sufficient to ensure the funds' integrity, yet not be onerous and costly in their implementation.
Recommendation 13	24	0	1	None
Recommendation 14	25	0	0	None
Recommendation 15	24	0	1	None
Recommendation 16	23	1	1	None
Recommendation 17	25	0	0	None
Recommendation 18	20	3	2	The issue may be greater than that of superseding collection of restitution. It is unclear what such annual reviews' impact would be. It is recommended that all fees and charges should be brought inside CJCMS and included in the priority schedule for the allocation of monies. The counties should report annually on their compliance with the schedule.
Recommendation 19	25	0	0	None
Recommendation 20	25	0	0	None
Recommendation 21	23	1	1	No one agency can be "overarching" in this process given the diversity of stakeholders from various levels of government and branches of government. An entity or entities in state government to staff a collaborative effort is appropriate. We need to be aware of the commitment we are placing on the selected agency who may already be working with a tight budget, staff and resources.

Continued

	Yea	Nay	Abstain	Dissenting Opinions
Recommendation 22	21	3	1	This issue transcends the criminal justice system to encompass significant privacy concerns, statutory prohibitions and process issues. A solution that meets those and any other factors would be a positive and substantial achievement. Efforts should continue, at least for adult offenders before common pleas courts, to reach full compliance with the fingerprint requirements of the Criminal History Record Information Act (CHRIA). The 'unique individual identifier' assigned based on fingerprints is the state identification number (SID), a number which the AOPC cross-references with case information (OTN) and a number that could be shared with/used by other executive agencies.
Recommendation 23	24	1	0	This recommendation has merit, although its implications and cost/benefit remain unclear. It is recommended that access to this information be limited to government agencies which are responsible for assessing, collecting and enforcing fines, costs and restitution payments. Third parties, such as collection agencies should not have access in order to preserve confidentiality of certain information.
Recommendation 24	22	2	1	This should be facilitated through the local victim service programs, in that the victim service agency can update victims' information to ensure confidentiality and accuracy.
Recommendation 25	22	1	2	More information is needed to cautiously proceed for accountability while not risking welfare and well-being of other household members. Specifically, we are concerned about possible impact on families needing TANF if only one person in the household has outstanding costs, particularly when that person may be abusive toward the family.
Recommendation 26	24	1	0	There are problems with the single payment plan option for multiple citations.
Recommendation 27	24	0	1	None
Recommendation 28	19	3	3	A potential chilling effect exists for people with a warrant in the system should they need police assistance. It is recommended that the exercise of judicial discretion and discourage courts from entering bench warrants against known victims of domestic violence. Additionally, while the recommendation appears to have merit, additional stakeholders should be involved in the discussion, including the Pennsylvania District Attorneys Association, president judges, sheriffs and police.
Recommendation 29	24	1	0	None
Recommendation 30	24	0	1	None
Recommendation 31	21	3	1	It is unclear under what authority this would be established, monitored and funded. Practically, the key issues with this recommendation are those of available resources, the feasibility of existing resources being alternatively marshaled to support evidence based and/or promising practices and the prescriptive nature of the suggestion vis à vis a separate branch of government.
Recommendation 32	24	0	1	None
Recommendation 33	24	0	1	None
Recommendation 34	24	0	1	None
Recommendation 35	25	0	0	None
Recommendation 36	22	0	3	None
Recommendation 37	22	1	2	None
Recommendation 38	17	2	6	None

Continued

	Yea	Nay	Abstain	Dissenting Opinions
Recommendation 39	14	6	5	Restrictions on issuing employment-related licenses, including driver's licenses, professional licenses and vehicle registration are opposed because they inhibit a defendant's ability to secure employment and earn sufficient income to pay restitution in full. The impact of the suspension of driving privileges on the ability to reliably collect restitution remains unclear. Further, clarification is needed to address situations where the defendant co-owns a vehicle that is registered jointly with a non-offending party. If this recommendation moves forward, a case-by-case determination is essential in the process.
Recommendation 40	17	7	5	This recommendation may defeat the purpose of helping restitution recipients. The change proposed in this recommendation shifts the focus from requiring an offender to pay for all costs directly related to his/her case to requiring all offenders to pay the indirect costs of collection enforcement efforts.
Recommendation 41	22	1	2	None
Recommendation 42	19	4	2	This recommendation is inconsistent with the underlying philosophy of restitution that a defendant should raise his/her own money to satisfy court orders. Defendants could be posting bail using funds from third parties. Third parties must be notified at the time of posting bail that any refunds will not be returned to them in full. This is currently an official proposal of the rules committee.
Recommendation 43	22	0	3	None
Recommendation 44	23	0	2	None
Recommendation 45	25	0	0	None
Recommendation 46	22	1	2	Any proposed amendments should include relief provisions for innocent and injured spouse. It is preferred that these agencies be authorized to make these payments, but only required to do so if ordered by a Court. A case-specific review by a Court is preferable to a broad and automatic mandate to an agency.
Recommendation 47	25	0	0	None

