

Implementation of the state Victim Advocate's Task Force on Restitution  
**Pennsylvania Court System Testimony, May 5, 2014, House Judiciary Committee**  
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Pennsylvania's judicial system partnered with former state Victim Advocate Carol Lavery and others in 2011 when her office convened a broad-based taskforce to study how restitution might be more effectively collected. The judiciary's commitment to that goal remains, working now with Victim Advocate Jennifer Storm.

Ultimately, the task force report contained 47 recommendations for further review or action. Of those, 25 relate to the judicial system directly or in tandem with other "stakeholders."

Following publication of the report, AOPC, PCCD, JCJC and the former Victim Advocate informally met on several occasions to identify recommendations in our respective areas on which immediate action could be taken to ensure forward momentum. Accompanying this statement is a list of those recommendations that were commonly viewed as related to the judicial system along with a synopsis of their progress.

Candidly, it was possible for the judiciary to move forward in many of the report's relevant areas because the AOPC and its Judicial Computer System department had already made effective collection of imposed financial penalties a priority. For instance, the first statewide JCS project, a case and financial management system for magisterial district judges completed in 1992, provided electronic "tools" for MDJs and staff to track court assessments, payments, and delinquencies. Since then, those tools have been upgraded and expanded to all of Pennsylvania's criminal courts and training in this area by JCS staff for county court employees is routine. One especially promising tool, **PAePay**, allows payment of court-ordered penalties on-line by credit or debit card. More than \$163 million has been collected via **PAePay** since 2010.

In 2011 the AOPC began publicly releasing annual collections data both in the aggregate and on a county-by-county basis. While many factors influence the collections process, including the ability of defendants to make payments and the variety of local government participants in the process (e.g., appointed staff and/or elected officials), the AOPC's intent in releasing such data is to provide facts that can help drive greater collections success. In the very near future, AOPC will supplement this aggregate collections data with one of a number of web-based dashboards that will provide additional public information on court collections.

It is important to know that the judicial system emphasizes collection of *all* court-assessed penalties, fines, fees, costs, and restitution. Effectively collecting restitution is important as a key component of restorative justice for victims. Restorative justice also means that "a sentence earned is a (financial too) sentence served," which is also important since the public's confidence in the justice system rests in part on that premise. Finally, effective collection of fines, fees, and costs is pragmatically important because contemporary public policy utilizes collections to fund disparate public services, from road construction to emergency medical services, to local government, to parts of the judicial system itself.

Judiciary's Progress on the Recommendations Set Forth in the *Restitution in Pennsylvania Task Force Final Report* dated February 2013

Recommendations 2, 3, 4 and 5 suggest the development for juvenile and adult cases of (a) a restitution bench book, (b) quick reference sheets for restitution, (c) educational strategies, training and technical assistance to bench and others, and (d) a "toolkit" clarifying policies and practices around restitution issues. The Judiciary convened a working group chaired by Superior Court Judge Jack Panella to develop the bench book including reference, training materials and toolkit information. The working group is progressing on this endeavor and expected to seek input from others once a draft is finalized.

Recommendation 6 encourages AOPC and/or the Supreme Court's Criminal Procedural Rules Committee to standardize a restitution order for use at sentencing and disposition. AOPC's work with the Committee on this matter has resulted in the Committee publishing for public comment a proposal to adopt new Rule 705.1 (Restitution), amend Rule 454 (Trial in Summary Cases), and revise the Comments to Rules 455 (Trial in Defendant's Absence) and 704 (Procedure at Time of Sentencing) to standardize the procedures by which restitution is awarded in criminal cases. The proposal was published on April 19, 2014 (44 Pa.B. 2369) and the Committee is accepting comments until May 30, 2014.

Recommendations 7 and 8 encourage counties to establish collection enforcement units and hire dedicated staff to focus on collection efforts. In addition, it is recommended that president judges should allocate judicial resources to preside over contempt proceedings wherein defendants are in arrears. AOPC offers training to courts on the collection of court imposed assessments including a discussion on best practices. It is important to remember that a cookie cutter approach for collections in all judicial districts is not feasible given the various sizes and resources of the individual districts. However, greater uniformity and implementation of best practices could more easily be achieved if the entities involved in the collection were more centralized.

Recommendation 10 encourages counties to provide the Department of Transportation with non-payment information so that recent amendments to 75 Pa.C.S. § 1533 which permit the suspension of an individual's driver license for nonpayment of restitution in a Title 75 matter can be implemented. AOPC's computer systems already provide this information electronically to the Department and trains court personnel on the appropriate court notices that are issued to individuals who fail to make the above payments.

Recommendation 11 suggests wider use of dunning letters or overdue notices to remind defendants of their obligations and the penalties which can be imposed for failing to do so. Judicial Computer System staff trains court staff on the appropriate use of these letters which are produced by the statewide case managements systems (i.e. CPCMS and MDJS).

Recommendation 14 suggests the reinforcement of the protocols in 42 Pa.C.S. § 9728(b)(3) that the clerk of courts transmit to the Department of Corrections or county correction facility copies of all orders for restitution or other court imposed assessments. AOPC's computer systems are prepared to provide this information to the Department in an electronic form. Currently, the

Department requires this information to be submitted in a paper format. The information is also available electronically for consumption by county correctional facilities.

Recommendation 15 suggests the reinforcement of the protocols in 42 Pa.C.S. § 9728(b)(1) and (2) that the clerk of courts transmit to the prothonotary information on certain cases in order for a civil judgment to be filed against the defendant. AOPC can include information on these protocols in additional training materials. Judicial Computer System staff has worked with counties to create an electronic judgment file that can be produced for the county's civil system thus allowing the e-filing of these judgments. Greater uniformity and implementation of these protocols could more easily be achieved if the entities involved in the process were more centralized.

Recommendation 17 suggests the establishment of performance measures for agencies supervising probation and parole related to collections of court assessments. AOPC is set to release in the near future web-based "dashboards" which will permit anyone with Internet access to review a county's collection performance. For some years, the AOPC has annually released this information.

Recommendation 19 provides for strengthening existing tools to collect restitution from juvenile delinquents between the ages of 18 and 21. AOPC is prepared to work with the Juvenile Court Judges Commission towards this end.

Recommendation 22 calls for the establishment of a unique individual identifier to be used across the executive and judicial branches to better match records. AOPC has long viewed this as a key issue and is prepared to work with stakeholders to determine possible solutions. However, such an identifier would need to be collected by all entities in order for such an approach to be successful.

Recommendation 23 provides for the sharing of information across various agencies which can be used to ascertain a defendant's total outstanding court balance. The Department of Corrections and the Board of Probation and Parole are developing a record management system to track prisoners, parolees and their cases. AOPC's computer systems provide those entities with information on court imposed assessments which can be used to determine a prisoner's or parolee's outstanding court balance.

Recommendation 26 encourages placement of defendants on a single payment plan, including for restitution owed on a juvenile delinquency case. This capability already exists in the statewide case management systems implemented by AOPC (i.e. CPCMS and MDJS).

Recommendation 30 suggests the attachment of priority to the collection of restitution, fines and costs in the CPCMS Delinquency Module. This capability is already available in CPCMS Delinquency Module which is currently being rolled out statewide.

Recommendation 31 suggests that the Supreme Court provide the capacity to address collection performance measures and promote evidence-based and/or promising practices to improve the collection of restitution. As mentioned above, a bench book is being developed, AOPC trains

court personnel on collection protocols (including best practices) and AOPC is set to release in the near future web-based “dashboards” which will permit anyone with Internet access to review a county’s collection performance.

Recommendation 39 requests the General Assembly to impose additional license suspensions on individuals for failure to pay outstanding court imposed assessments such as driver license suspension, hunting license, vehicle registration and professional licenses. (Note: 75 Pa.C.S. § 1533 permits the suspension of a driver license for nonpayment of court assessments in Title 75 cases and 34 Pa.C.S. § 930 permits the suspension of a hunting license if the defendant fails to pay all court imposed assessments in a Title 34 matter within 180 days following conviction.)

Recommendation 41 requests the General Assembly to amend 42 Pa.C.S. § 9730.1 to clarify that a court could assign a defendant’s wages in regard to restitution and other court imposed assessments. (Note: 42 Pa.C.S. § 8127(a)(5) already permits a court to order an attachment of a defendant’s wages “for restitution to crime victims, costs, fines or bail judgments pursuant to an order entered by a court in a criminal proceeding.”)

Recommendation 42 suggests that the Supreme Court’s Criminal Procedural Rules Committee consider amending Rule 535 to provide a court with the ability to apply a defendant’s bail deposit to his/her outstanding court assessments. The Committee published for public comment on February 8, 2014 (44 Pa.B. 778) a proposal which would permit a court to retain an individual’s bail and apply the same to his/her outstanding court assessments. The public comment period ended on March 7, 2014. The Committee is considering the comments received.

Recommendation 43 requests the General Assembly to authorize a court to order a wage attachment for defendants who have been found in contempt for nonpayment of court imposed assessments. (Note: 42 Pa.C.S. § 8127(a)(5) already permits a court to order an attachment of a defendant’s wages “for restitution to crime victims, costs, fines or bail judgments pursuant to an order entered by a court in a criminal proceeding.”)

Recommendation 44 requests the General Assembly to authorize courts to order wage attachments for defendants who have the ability to pay restitution, costs or fines. (Note: 42 Pa.C.S. § 8127(a)(5) already permits a court to order an attachment of a defendant’s wages “for restitution to crime victims, costs, fines or bail judgments pursuant to an order entered by a court in a criminal proceeding.”)

Recommendation 46 requests the General Assembly to enact authority for an individual’s lottery winnings to be used to offset outstanding court imposed assessments. AOPC remains willing to look at any suggestion and work with others to improve the collection of court imposed assessments.

Recommendation 47 encourages the Supreme Court’s Criminal Procedural Rules Committee to examine current rules and rules of other jurisdictions to consider whether any rules should be amended or adopted to improve restitution collection. AOPC’s work with the Committee on this matter has resulted in the Committee publishing for public comment a proposal to adopt new

Rule 705.1 (Restitution), amend Rule 454 (Trial in Summary Cases), and revise the Comments to Rules 455 (Trial in Defendant's Absence) and 704 (Procedure at Time of Sentencing) to standardize the procedures by which restitution is awarded in criminal cases. The proposal was published on April 19, 2014 (44 Pa.B. 2369) and the Committee is accepting comments until May 30, 2014.