

Carla Kringer- Pennsylvania Citizen, Secondary Victim of Crime
79 West Foothills Drive
Drums, PA 18222
(570)-579-4044

Subject: Public Hearing on Restitution in Pennsylvania Task Force Report

To: House Judiciary Committee

Dear PA Task Force and House Judiciary Committee Members,

I want to thank you for the opportunity to present testimony to the importance of restitution collection and enforcement in Pennsylvania.

First, I would like to provide you with how my family and I came to be involved with the system we call the justice system. April 24, 2008 is a day that will forever be burned in my memory and in my heart. For most if not all of you in this room you have no reason to recall that particular day just over six years ago.

It was a day when record breaking temperatures were being called for across the state of Pennsylvania. After this year's long winter we can all appreciate looking forward to such temperatures coming our way once again. On that sun shiny day not so long ago, I jumped out of bed hearing the birds chirping as the first rays of sun made their way through my bedroom window. It would be a stretch of my imagination if I were to admit I was a morning person, but on this day I was anticipating many great things. First, I was excited because in a few days, (April 28th to be exact) I was anxiously awaiting to hear if I would be the candidate selected for a job as a high school counselor which I had interviewed for weeks earlier. Second, I love the heat and I was looking forward to the hot temperatures that were being called for. Last but not least, it was my mom, Kathleen Gigliotti's 63rd birthday. A birthday celebration dinner was planned at my home that afternoon with my family, my mom, dad, Jo Jo Gigliotti along with my sister Crystal and my 18 month old niece Alana.

My husband Joe and I went to work and came home immediately after to prepare dinner for my parents who were expected to arrive at about 5 pm. I am Italian by background so baked ziti was part of this birthday dinner celebration. My husband chopped lettuce and tomatoes for the salad as I prepared the ziti. My phone rang about 4:10 pm and due to modern technology, I knew by caller ID that it was my sister Crystal. She said she would be on her way to my home in a few minutes and asked if I needed anything? I said no, please drive safely. I will see you soon and we hung up.

My daughter, Faith yelled from upstairs saying she was going to take a shower. I heard the bathroom door close and the shower water running. As I was placing the ziti in the oven my phone rang a second time. I shut the oven door and reached for the phone. Caller ID showed it was calling. I said hello, expecting to hear her voice on the other end of the receiver. Instead, I was greeted by a male voice, who identified himself as a police officer. To this day, I don't know that officer's name. He asked for me by name. He said, "there was an emergency and that I needed to get to my mom's as soon as possible".

My stunned voice said, "is this a joke"? The officer said, "no mam"! I responded, "what kind of emergency"? The officer said, mam you need to get to your mom's as soon as possible.

I hung up the phone, and my brain tried to shelter me from what was to come as I denied receiving that call and continued to make dinner. (I wish I never received that call). My husband having heard only my part of the conversation asked me what was going on. I repeated the officer's message. My husband took my hand saying, "honey we have to go to your mom's".

I called my sister while trying to remain calm to reroute her to our mom's knowing she was driving alone with my niece. I could hear the panic in her voice as she repeated the same questions I had. What kind of emergency? Have you talked to dad?

We left the house in a panic, yelling to my daughter, Faith through the bathroom door that there was an emergency and we needed to get to her granny's. I could hear her voice crack as she asked, what kind of emergency? All I could say is we would call her as soon as we got there.

I called my mom's house as my husband drove there. I was greeted by the voice of the same police officer. I told him we were on our way and pleaded with him to tell me what was going on. The officer just said, "please get here as soon as you can".

My next question must have caught him off guard. I asked "was my father killed in an accident"? The officer's voice grew soft as he said, "yes mam, I am very sorry".

Arriving at my mom's I could hear her wails from the street. The officer was gone and a family friend was there trying to console her. My sister arrived just a few minutes later and I had to tell her that her hero, our dad, Jo Jo was killed in what we thought was an accident. My husband held my niece, and I had to stop my sister from running into the street into oncoming traffic as she tried to escape the unbearable news.

Within 48 hours we learned the driver, Kevin Prussock who collided with my father's vehicle, killing him instantly, was suspected of driving drunk. This was no accident!

My father, Jo Jo Gigliotti became a victim of drunk driving and we his survivors were granted the title of secondary victims of crime.

I can't say what it is like to be the victim of drunk driving, my father, Jo Jo was the victim and his voice was forever silenced that day. I can only tell my story, from a secondary victim's perspective. If you have never been a victim or secondary victim of crime you can't really understand what it is like to walk in our shoes; yet you are here today asking for testimony from someone who has been traumatized by crime. I am here to convince you about the importance of restitution and collection enforcement. I am not looking for pity only justice and accountability. I am hopeful my story will provide you what you need to move forward to make legislative changes that will improve the collection of restitution for all victims and secondary victims of crime.

My dad, was working part-time as a courier for FNCB Bank in route from one stop to another on that sunny day, April 24, 2008 at approximately 1:30 pm completely unaware his life was in danger. At the point of impact, his life was taken and my family's life was shattered. Neither my father, Jo Jo nor my family asked to be involved in the criminal justice system. We were vulnerable, weak, and grieving when we were dumped into the middle of the criminal justice system that is not kind to victims.

Have any of you ever experienced an event or situation where you were in complete despair? Who did you turn to? How did you get through it?

On December 22, 2008, Kevin Prussock pled guilty to a variety of charges. The highest charge he admitted guilt to was homicide by vehicle DUI. Now you may think Kevin Prussock did the right thing by making this plea but please don't be misguided. His omission of guilt came at a high emotional price to my family. Kevin only did so after multiple court hearings and after exhausting all legal tactics he and his defense attorney could muster to have evidence such as the blood alcohol suppressed. When all legal tactics to attempt to shelter him from the consequences of his actions failed, only then did Mr. Prussock make the guilty plea forcing him to take ownership of his destructive actions. It is my opinion his plea was an attempt to manipulate the court so in an attempt to be shown mercy and leniency when it came to the sentencing phase. My family wanted accountability, Mr. Prussock and his attorney sought loopholes. During that same hearing the court ordered him to pay restitution in the amount of \$14,094.36 to my mother for funeral and related expenses.

Kevin Prussock was sentenced for the crime against my father, Jo Jo Gigliotti on February 2, 2009. At the beginning of the sentencing there was discussion between the defense attorney, Mr. Bott, the prosecuting attorney, Mr. Vough and Judge Peter Paul Olszewski regarding the amount of restitution owed to my mom. I am quoting this information directly from the court transcript:

Mr. Bott: Your honor, one preliminary matter, the original plea agreement indicated the defendant was to pay, \$14,094.36 in restitution to the victim's family for funeral and related expenses. Now, that was subject to my receipt of copies of bills for those items. And the Commonwealth has provided me with certain bills. One or two were duplicates. There is now a revised figure with an additional caveat.

It is clear from the civil attorney for the victim's family that they have received \$3,000-dollar funeral benefit which should come off of the funeral bill to which Kevin is supposed to pay restitution. However, we also acknowledge that may be recoverable by the insurance company and in the event

that it is and there is proof of payment by the family, he would pay that back. And that, should be added back into the restitution.

The Court: Was that benefit paid by the Crime Victims Compensation Fund?

Mr. Vough: No, Judge. It was paid by a Worker's Compensation Carrier. There is a right of subrogation by the carrier against the family of any civil settlement and the family at that point would be responsible to that \$3,000 back to the Worker's Compensation Carrier. Our position is if they are responsible to pay that \$3,000, we want the defendant to reimburse the family for that \$3,000 figure.

The Court: Ok. So absent repayment of that \$3,000, what is the restitution figure?

Mr. Bott: The restitution figure including some bills that were given to us today should then be..

Mr. Vough: \$7,788.20.

The Court: If the restitution is increased by the \$3,000, then obviously the figure would be \$10,000. End of information drawn from the court records.

The final figure the court determined, since our family paid back the Workman Compensation Carrier the \$3,000 dollars for the funeral expenses was \$10,788.20. We did this by choice because we wanted Kevin Prussock to be held responsible for the entire \$10,788.20. I want to clarify for the Task Force and for all the House Committee members here today and/or to those who will read my testimony in the future that at no time, past, present or in the future has my family's focus or desire been to obtain money. There is no money that would alleviate the loss of the victim my father, Jo Jo Gigliotti! His life, along with the lives of other innocent victims is priceless. My family and I, in the past, present, and the future stand by our belief that Kevin Prussock, the criminal, be held financially accountable for court ordered restitution caused by his destructive actions. Mr. Prussock alone is to be held responsible and accountable for the restitution the court deemed him responsible to pay. I also believe there needs to be an agency/party within the complicated criminal justice system, responsible for assuring all court ordered restitution is paid by the offender.

My family was told after the sentencing hearing that restitution would begin while the defendant, Kevin Prussock was incarcerated. We were told that twenty percent of any money Kevin's family sent him along with any money he earned while in prison would be sent toward fulfilling his restitution debt. Kevin Prussock was finally cuffed and hauled off to begin serving his court ordered sentence on February 2, 2009.

The pursuit for justice on my father's behalf had many consequences on all members of my family. This was a battle and believe me it was an uphill battle. If I can be so bold to suggest that if this committee is open to permitting me to testify at a future hearing on Motivational Boot camp and its impacts; I would be overjoyed and welcome that opportunity but for today I will remain focused on restitution. We left the courtroom on February 2, 2009 believing we achieved a victory in securing justice. Little did we know that being court ordered to pay restitution and actually receiving it was yet another battle.

So we left that courtroom thinking there was a system in place for restitution to be paid to my mom. I was not really surprised that the system was not really a good functioning one. As Kevin Prussock and his attorney appealed the sentence, we slowly began the painful journey of healing. My energy was completely depleted from all the criminal court proceeding. I felt as though I went to battle. When anyone returns from battle there are wounds. The emotional scars although hidden from the eye ran deep enough to impact my soul. During that time I bore witness to my mom's sorrow when she lost her husband and best friend. The consequences of the loss on her were physical, psychological, emotional, and also financial. She incurred debt to pay for his funeral expenses. Looking back now I see more clearly my own weakness but even now I can't believe how little my mom recalls from that time. The DA told us it would take a few months for Kevin to be processed into the prison system but that my

mom would begin receiving restitution in about 3 months following his incarceration. I can't give you an exact date when I made a call which was to the Luzerne County DA's office regarding the restitution. That call is where the never ending circle (runaround began). The DA's office said they don't have anything to do with restitution collection. I was then referred to I believe the Clerk of Courts who touted the same message and referred me to the Luzerne County Probation Office. They said they are only involved after the defendant is placed on parole. So round and round I went trying to find out who was responsible for assuring restitution would be paid while he was incarcerated.

I want to make clear to those present today that my family and I were still struggling to recover from the loss and trying to regain emotional footing from the debilitating emotional impacts of all the civil and criminal proceedings. Lack of accountability in a system which is already complicated and confusing becomes an overwhelming, insurmountable obstacle for the traumatized, grief ridden survivors. We were all weak but as the oldest, I felt it was my responsibility to see Mr. Prussock fulfill his financial obligation to my mom. My mom was 63 years old and completely devastated.

Imagine the state of your own mother in a similar situation. What would she do? In reality, I see this money as blood money, however, Mr. Prussock was court ordered to pay restitution and I expected that to happen. I expected the system to hold him accountable. I began to think during this time that this bureaucratic system works for the guilty.

As I tell my story, I want you to think of all the countless victims and secondary victims who may not have the strength to continue to fight. Those alone who may not have someone to help them fight? I want you to think about all the physical and psychological impacts of the crime and how that leaves victims and secondary victims feeling powerless.

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

Trying to get off this crazy merry-go-round, I made my first call regarding restitution to the Office of the Victim Advocate on 3/2/2009.

This is the timeline of calls.

3/2/2009, 6/8/2009, 3/31/2010, 4/30/2010, 8/25/2010, 11/4/2010, 11/16/2010, 12/16/2010, 12/20/2010, 12/28/2010, 3/7/2011, 3/23/11, 5/2/2011, 5/5/2011, 7/15/2011, 7/18/2011, 7/19/2011, and 8/2/2011. The last call regarding restitution while Prussock was incarcerated occurred 8/17/2011 when I notified the OVA my mom finally received her first restitution payment of \$63.95. Twenty calls to the OVA during that time frame. I believe I made some calls to the DOC as well. I heard many excuses and reasons why my mom was not receiving the restitution payments.

Do you have time in your schedules with work and personal commitments to make this many calls? Would you become frustrated? Give up?

There was a gap of 2 years, 6 months and 14 days from when Kevin Prussock began serving his sentence on February 2, 2009 to when my mom received the first restitution payment on August 17, 2011.

Are there some victims who never receive a single penny of restitution?

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

I want to note that Kevin Prussock was released on parole on January 16, 2013. Since it took 2 years, six months and 14 days for her to begin receiving restitution while Prussock was incarcerated, I was concerned that once he was paroled who would be the responsible party to assuring the payments would continue and now that he should be working (condition of his parole) seeing the payments increase.

I again used the services of the OVA. They provided me with the name and contact information of his parole officer. I made multiple calls, left multiple messages, and sent multiple e-mails with no response from the parole officer. I thought, here we go, the merry-go-round begins again. Once again, I contacted the OVA and it was only with their assistance the parole officer contacted me. I was skeptical of his only reassurance that Prussock was told he needs to make arrangements for restitution payments.

Who would make sure he followed through. Mr. Prussock has made consistent restitution payments since his release but I know that this doesn't happen in all cases.

What happens in those cases? What system protects those victims? What steps are put in place to guarantee that the perpetrators are held accountable to pay all the restitution? What happens when perpetrators of crime refuse to get a job to pay their debt to the victims? To the courts? What happens if Prussock still owes restitution when he is off of parole and probation? With modern technology why can't wage garnishments be put in place to secure payments for the victims or secondary victims? What legislative changes can be put in place to help victims receive their restitution?

Below is the list of restitution payments my mother has received to date. Please note the 2 year, 6 month and 14 day delay from sentencing to first payment.

Date:	Amount
8/17/2011	\$63.95
10/28/2011	\$24.25
11/30/2011	\$34.44
1/5/2012	\$43.92
1/26/2012	\$27.14
2/10/2012	\$25.91
2/28/2012	\$28.77
3/27/2012	\$27.95
4/5/2012	\$32.73
4/11/2012	\$22.95
6/7/2012	\$47.90
6/20/2012	\$22.95
7/14/2012	\$14.58
8/17/2012	\$41.50
8/30/2012	\$20.91
10/1/2012	\$58.26
11/10/2012	\$16.93
12/3/2012	\$27.75
12/28/2012	\$28.77
1/7/2013	\$26.32
2/13/2013	\$34.77
2/28/2013	\$36.95
3/27/2013	\$100.00
4/11/2013	\$12.96
5/6/2013	\$100.00
5/28/2013	\$100.00
6/28/2013	\$125.00
8/1/2013	\$125.00
8/28/2013	\$125.00
9/30/2013	\$125.00
11/8/2013	\$125.00
11/30/2013	\$125.00
1/8/2014	\$125.00
2/19/2014	\$125.00
3/14/2014	\$125.00
4/15/2014	\$125.00
TOTAL TO DATE:	\$2,276.23

The Task force acknowledges that there are flaws with the collection of court ordered restitution. Proposed legislative changes are necessary to ensure that victims and/or secondary victims of crime receive the court ordered restitution.

I am here to speak for all victims and secondary victims of crime whose lives have been touched by horrific tragedies. My educated mind can't understand why a society driven by technology can't come up with a solution such as automatic withdrawals of restitution payments. Can't the government withhold a percentage of tax refunds to secure these debts are paid? What about consequences such as being placed back in prison if a released perpetrator fails to follow through with their financial commitment?

There is an old adage that says don't do the crime if you can't do the time. Maybe that adage deserves to be updated to "Don't do the crime, if you can't pay the fine"!

I am unsure of what legislative intervention the Task Force is proposing but I support any recommended legislative interventions that hold the perpetrators accountable while easing the burden on the victims.

Wouldn't you agree they've suffered and endured enough?

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

I also welcome the opportunity to provide testimony to this Task Force and the House Representatives about Motivational Boot camp at a future hearing. Thank you for the opportunity to share my personal story about restitution. It is my hope it will help others. I am open to answering any questions you may have.

Sincerely,
Carla Kringer