

VISION FOR VICTIM SERVICES

Strengthening the Ordering and Collection of Restitution

Problem

Restitution holds offenders partially or fully 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. Prior to July 2, 1995, judges had discretion in deciding when and to whom restitution would be ordered. Since July 2, 1995, restitution is mandated by statute (Act 12 of 1995) and judges cannot take into account the offender's ability to pay.

Statistics show that in restitution eligible cases (cases where there is an offender that has been found guilty or pleads guilty and where substantiated restitution is not at issue), judges are ordering restitution in only 58% of cases.

Although this figure is significantly higher than the pre-1995 figure of



35%, it is still lower than what might be expected. Moreover, according to research and studies completed by the Pennsylvania Commission on Sentencing, data indicates that when restitution is ordered, the actual amount collected is 30% of the original amount ordered.

To substantiate this point, the Victims Compensation Assistance Program (VCAP) paid out \$13,474,202 in state fiscal year 2009/10. As approximately 50% of the VCAP claims have offenders listed, the maximum amount of restitution that could

be ordered is \$6,737,101. In addition, since judges are ordering restitution in 58% of the cases, the total amount of restitution that could be collected is now down to \$3,907,519. As VCAP received \$810,344 in restitution in SFY 2009/10, a quick calculation shows that VCAP received 20.7% of the total ordered, which is much less than the statewide average of 30%. In addition, VCAP's \$810,344 in restitution amounts to a collection rate of only 12% when compared to the maximum amount of restitution that could be ordered.

Restitution has an important impact on both parties of a crime. For the offender, restitution serves as part of the punishment and as part of the rehabilitation process. For the victim, restitution repays some or all of the financial losses suffered as a result of the crime. However, the significant differences in the ordering of restitution, knowing the chances of full and complete payment are unlikely, can sometimes set up false hope for victims.

Business Issues

Three issues have been identified:

1-Restitution received by VCAP has increased by more than 282% since 1999. This amounts to only 4.5% of VCAP's annual funding streams. A recent query performed by the Administrative Office of the Pennsylvania Courts (AOPC), showed that VCAP is owed close to \$20 million in unpaid restitution from offenders, whose orders are over \$2,000.

2-The most recent amendments to the statutes relating to restitution occurred in 1998 with the passage of PA Act 84. These amendments clarified the roles of each of the agencies within the criminal justice system and added authority to several agencies to enhance their role in the restitution process. An analysis of existing statutes should be conducted to determine what pieces or sections need strengthened.

3-The overall progression of restitution starts with the responsibility of the county district attorney to solicit restitution information from the victim and ends with the lifting of a civil judgment by the Prothonotary when the offender has completed payment of the

economic sanctions imposed upon them. There are substantial differences between counties in terms of how they impose restitution. There needs to be a systematic examination of the way restitution is handled in the 67 counties in Pennsylvania.

Solution

Identified solutions for each issue are:

1-Establish a Financial Recovery Unit. The main objectives of this unit will be:

- a. Develop new, innovative methods and approaches to improving the restitution collection process.
- b. Develop best practice documents that outline the processes and techniques in the restitution ordering and collection or restitution that have proven positive results.
- c. Create incentives at the county level to enhance their restitution collection efforts.
- d. Develop an Outreach and Training Plan for affected stakeholders.

The Federal Victims of Crime Act (VOCA) will reimburse 60% of the costs of salary and benefits for positions dedicated to restitution recovery efforts.

2-Analyze the research completed by PCCD that examined restitution statutes in other states. Determine what areas Pennsylvania needs to pursue to enhance restitution efforts in Pennsylvania.

3-Conduct focus groups and on-site visits with counties to document their entire restitution process,

including best practices and enforcement techniques and suggestions on improvements and changes needed at the state and local level.

Over the next year, a coordinated interagency approach will be taken to focus on the improvement and enhancement of restitution. It is critical that all agencies responsible for restitution, including the courts, probation, prosecution, and corrections, collaborate to strengthen existing statutes, develop and implement new procedures and innovative strategies, including the seamless sharing of data and open lines of communication between agencies to advance and promote the ordering, collection and enforcement of restitution.

Results

As a result of a coordinated interagency approach, Pennsylvania will realize significant advancements in the area of communication, ordering, collection and enforcement of restitution.

