

Promising Restitution Management and Victim Related Practices

Presenters:

Jennifer Storm

Victim Advocate for Pennsylvania

Teresa Wilcox

Chief Juvenile Probation Officer and Chair of the Victims Services
Committee of the PCCJPO's

Susan Blackburn

Policy and Program Development Specialist
JCJC

Workshop Objectives

- Discuss Victim Restoration in the PA JJSytem
- Review Best Practices
- Review the Restitution Task Force recommendations and progress
- Discuss outcomes for victims of juvenile offenders

Balanced and Restorative Justice

**Community Protection
Victim Restoration
Youth Redemption**

**Three Clients
Community – Victims – Youth
Balanced Attention**

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JJSES Statement of Purpose

We dedicate ourselves to working in partnership to enhance the capacity of Pennsylvania's juvenile justice system to achieve its balanced and restorative justice mission by:

- Employing evidence-based practices, with fidelity, at every stage of the juvenile justice process;
- Collecting and analyzing the data necessary to measure the results of these efforts; and, with this knowledge,
- Striving to continuously improve the quality of our decisions, services and programs.

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Victim Restoration

- Restoring victims to their pre-crime status to the degree possible
 - Victims Rights and Services
 - Restitution
 - Meaningful Community Service
- The Accountability Goal
 - Process of defining and repairing harm with input from the crime victim
 - Juvenile Justice has responsibility to ensure offenders meet their obligations and *honor and protect victims' rights*

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What we need to know

- Victim's constitutional and statutory rights/Rules
- The impact of crime on victims
- What crime victims want and need
- Best Practices for providing services
- Agencies and services available in the community for crime victims and how to access them
- Juvenile justice outcomes enhancements

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Rights And Services for Victims of Crime

- Amendments to Crime Victims Act

http://www.portal.state.pa.us/portal/server.pt/community/information_and_victim_rights/20957/pennsylvania%27s_crime_victims_act/1180822ding

- Delinquency Rules Enhancements

<http://www.pacourts.us/assets/files/setting-1744/file-1560.pdf?cb=ae9e98>

- Responsibilities for specific rights
- VOJO funding

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Impact of Crime/Crime Victims Needs

Juvenile crime victims should experience tangible benefits and satisfaction from the process.

- Safety and Security
- Information
- Input into process
- Restitution
- Opportunities for restorative practices

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Best Practices

- Victim orientation to juvenile court
- Case information and notifications
- Victim voice - input into the process
- Victim impact statements
- Victims safety needs generally
- Victim needs around offender re-entry

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Best Practices

- Collaboration and partnerships with victims service providers
- Impact of crime training for juvenile justice practitioners
- Victim impact panels
- Restorative community service
- Victim impact classes for offending youth
- Victim offender conferences/dialogue and other restorative practices
- Victim restitution

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Restitution Task Force Report and Recommendations

- To access the full report as well as other resources and documents:
- www.Pa-RestitutionTaskForce.info
- Or
- www.ova.state.pa.us

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Restitution Philosophy

“Restitution is a restorative justice concept that recognizes the harm to individual victims and attempts to repair the damage caused by the crime. It is inherently rehabilitative as it holds the offender accountable and provides the opportunity to right a wrong.”

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Restitution Research

Studies done by Dr. Barry Ruback and others suggest:

- Their understanding of the restitution process influences victims' overall satisfaction with the criminal justice system
- Financial reparation is the number one satisfier for victims in the criminal justice process
- When defendants know and understand 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.

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Goal of the Task Force

- The Restitution in Pennsylvania Task Force was to examine the restitution laws, rules, policy and processes currently 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.
- Convened in October of 2011
- Final Report was issued in February of 2013.
- The report contained 47 Recommendations
- These recommendations were made to the Governor's Administration, the Legislature, and the Judiciary, as well as to the many county and state level entities, which through their policies, practices and procedures have an impact upon restitution ordering, collections and disbursement.
- The overall goal of these recommendations was to enhance the criminal and juvenile justice systems' effectiveness regarding restitution.

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Juvenile Justice Subcommittee

- James Anderson & Susan Blackburn Co-Chairs
- Theresa Wilcox Chief's Council Representative
- Expanded membership outside the task force and utilized conference calls for meetings
- Identified Existing Challenges and best practices in the Juvenile Justice System regarding the ordering, collection and disbursement of restitution.
- Identified themes - general/challenges and issues/best practices
- Determined 3 focus areas for further exploration, discussion and recommendation development
- SELECTED GOALS
- To enhance understanding of the restitution laws, policies and practices in the Pennsylvania Juvenile Justice System
- To enhance consistency of application of policy and practice regarding restitution
- To enhance the collection of restitution in all cases, but particularly where the offenders are 18 – 21 years of age.

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Recommendations

The Task Force identified four overarching factors which impact the current state of restitution in PA and are noted within the 47 recommendations:

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

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Uniformity of Policy & Practice

1. Convene a group of stakeholders to further review existing restitution law and compile recommendations for judicial, legislative or department/-agency clarifications or revisions. *

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Uniformity of Policy & Practice

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. *
- AOPC is developing a restitution bench book and other resources for juvenile and criminal court.
 - AOPC trained judges and staff in September of 2013 on best practices.
 - CCJPO's/JCJC developing Victim's Guide and a compendium of best practices

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Uniformity of Policy & Practice

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:

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

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

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

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Uniformity of Policy & Practice

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

- Amount of restitution ordered;
- Payment plan details (if appropriate);
- Payee(s);
- Clarify who has the authority to enforce payment;
- Process for application of payments to fines, costs and restitution;
- Whether or not payment is delayed;
- Ongoing expenses that need to be reviewed at a future time;
- Indication if restitution has been satisfied in full or in part prior to disposition.

Standardization of a restitution order could be achieved through:

- Bench books;
- Evidence-based and/or promising practices training;

Electronically in CPCMS as a form. *A standardized restitution court order form has been developed.

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Recommendations 7 & 8

- **Encourage counties to establish collections enforcement units and hire dedicated staff to solely focus on collections enforcement efforts within the jurisdiction. ***
- **Encourage President Judges to establish restitution, fines and costs contempt courts allocating the judicial resources to preside over such hearings. ***

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General Assembly Recommendations 9-10

- **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. ***
- **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. ***

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Recommendation 11-13

- **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. ***
- **Develop restitution funds and restitution programs throughout both the criminal and juvenile justice systems. ***
- **Expand the availability of programs and processes such as Victim Offender Conferencing/Dialogue throughout both the criminal and juvenile justice systems. ***

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Strengthening Accountability Recommendations 14 & 15

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.*

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.

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Recommendation 16-18

- Provide support for on-going research regarding restitution in Pennsylvania.
- Establish performance measures for agencies supervising probationers and parolees relative to the payment/collection of restitution.
- 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.

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Recommendation 19-20

- 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. * [Several recommendations will address this issue for JPO](#)
- 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. * [Dashboards](#)

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Coordination of Information Recommendations 21-22

- **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.***
 - The Office of the Victim Advocate has become the lead agency for the task force and monitor the progress of its recommendations.
 - Working directly with Senate and House Leadership
 - Provide advocacy for individual victims
 - Provide technical assistance to county agencies
 - Promote the efforts of the Task Force and of interagency coordination
- **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.**

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Recommendations 23-25

- **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.**
- **Establish a web-based system for victims/survivors to update personal contact information related to their restitution order.**
- **Encourage all counties to establish communication protocols to determine whether individuals are in payment plan compliance with respect to public assistance eligibility.**

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Recommendation 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. * CPCMS

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Recommendation 27-28

- 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. *
- 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.

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Recommendation 29-31

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

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Recommendation 32-33

- PCCD, through Criminal Justice Advisory Boards (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. *
- 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. * Dashboards

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Recommendation 34-35

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

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Authority Recommendations 36-38

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

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Recommendation 39-40

- 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.
- 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.

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Recommendation 41 & 42

- 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.
- 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.

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Recommendation 43-45

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

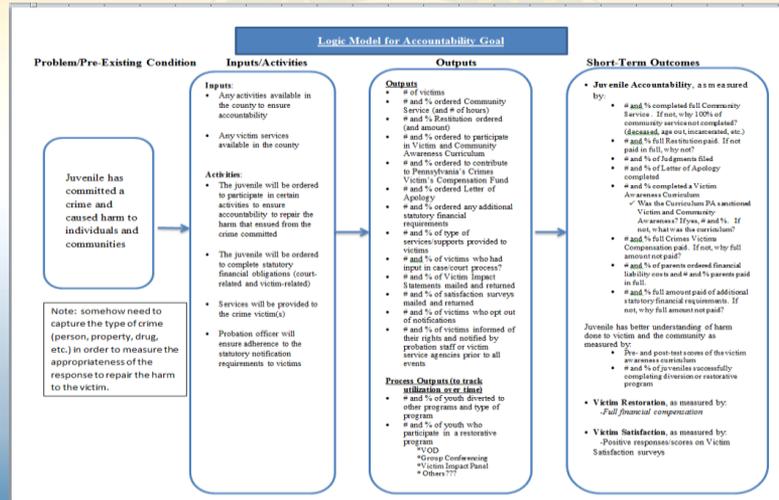
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Recommendation 46-47

- 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. *
- 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. *

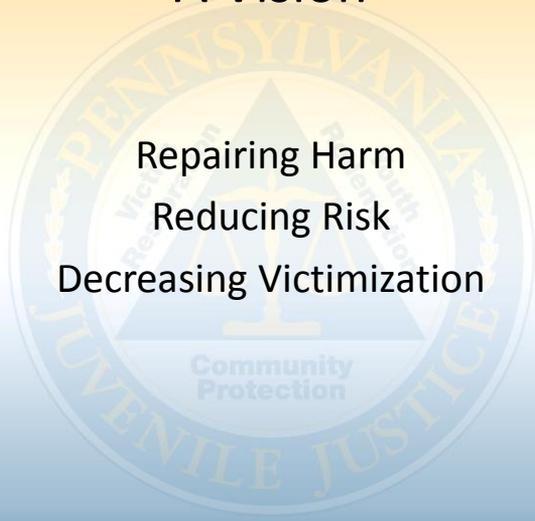
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Outcomes for Victim Restoration/Offender Accountability



A Vision

Repairing Harm
 Reducing Risk
 Decreasing Victimization



Thank you and enjoy the conference!

Jennifer Storm
Victim Advocate for Pennsylvania
jstorm@pa.gov

Teresa Wilcox
Chief Juvenile Probation Officer and Chair of the Victims Services Committee of the
PCCJPO's
TAWilcox@mckeancountypa.org

Susan Blackburn
Policy and Program Development Specialist
JJC
sblackburn@pa.gov

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