

**GOVERNOR'S
MANAGEMENT
REVIEW
COMMISSION**

COLLECTION OF ASSESSMENTS

FINES AND RESTITUTION

October 19, 1993

GOVERNOR'S MANAGEMENT REVIEW COMMISSION

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THE HONORABLE JIM FLORIO
GOVERNOR
STATE OF NEW JERSEY

Governor's Management Review Commission

Collection of Assessments,

Fines, and Restitution

INTRODUCTION

Governor Florio directed the Governor's Management Review Commission (GMRC) to investigate the cause and magnitude of the state's problems in collecting debt owed by convicted persons. The GMRC's objective was to recommend improvements to the collection system for assessments, fines and restitution. (Exhibit 1, Governor Florio to Stanley Van Ness, July 25, 1993)

Monetary sanctions are one of the primary means of punishment used by the courts. These sanctions are used both independent of, and in concert with, incarceration, probation and other sentencing structures to effect retribution and gain restitution. Monetary sanctions are levied in the form of assessments, restitution, penalties, fines and fees. Generically, these sanctions are referenced, either singularly or collectively, as assessments, fines and restitution. Over the years, the New Jersey State Legislature has increased the scope and number of monetary sanctions for conviction of certain crimes, especially for crimes involving violence or drugs.

In total, approximately 170,000 individuals have court imposed assessments and fines. These individuals fall into one of several places in the criminal justice system. These individuals may be on probation, in prison or on parole. Others have completed their probation or prison sentence, but still not have satisfied their monetary obligations to the Courts. The number of cases and multiple number of sanctions that can be assessed make calculating the total amount of indebtedness across the criminal justice system difficult. In recent years, assessments have exceeded \$70 million annually with overall collections running at a little more than \$20 million excluding municipal court actions.

The Department of Corrections (DOC) and the Administrative Office of the Courts (AOC) are the two state agencies with primary responsibility for oversight of the collection of court imposed sanctions. The Violent Crimes Compensation Board (VCCB) within the Department of Law and Public Safety is the first beneficiary agency of the collections process.

Through Task Force meetings, research, and analysis, the GMRC provides a perspective on the collection issue and 9 significant findings. For each finding at least one recommendation for improving the State's collection efforts is made. The subject matter for this issue is complex and the many interdependencies often make progress seem slow. Improved collection at a minimum involves the cooperative efforts of all three branches of state government, development and application of uniformly acceptable practices and, of course,

financial resources. The GMRC acknowledges the progress that has already been made but believes that opportunities for continued improvement exist.

ESTABLISHING THE TASK FORCE

On July 28 1993, the GMRC convened a task force which included each major agency associated with the collection of assessments, fines and restitution. GMRC Executive Director Steven A. Clark chaired the Task Force. Paul Finocchio, Management Analyst for the GMRC provided coordination, issue analysis and was the primary author of the report.

Representing DOC was Bureau of Parole Chief Victor D'Ilio and Susanne Pavelec, Supervisor of the Collections Unit. Representing the AOC's Probation Services Office was William Burrell, Chief of Supervision Services-Adult and Collections Coordinator Dennis Martin. Within the Department of Law & Public Safety, the VCCB was represented by VCCB Chairman, Jacob Toporek and Commissioner Anthony Carrino. The Office of the Attorney General (OAG) was represented by Assistant Attorney General Jane Grall and Director of Data Processing Steve Long.

Also participating on the Task Force was Anthony Anastasio, Director of Administration for the Department of Public Advocate; Glenn Holland, Chief of Data Processing for the Division of Taxation; and Patrick Mulligan, Budget Analyst for the Office of Management and Budget.

Special assistance to the Task force was provided by GMRC Chairman Stanley Van Ness, Acting Attorney General Fred DeVesa, DOC Commissioner William Fauver and AOC Administrative Director Robert Lipscher.

Additional assistance was also given by Harvey Goldstein, AOC Assistant Director for Probation Services; Daniel R. Coburn, Special Master to the Chief Justice; David P. Anderson Jr., AOC Assistant Director for Legislative and Liaison Services; John Podeszwa, AOC Chief of Municipal Court Programs; Dean Deakins, L&PS Manager, Data Processing Services; James Rebo, AOC Assistant Director for Information Systems; and Stanley Repko, DOC Deputy Director for Policy and Planning.

The GMRC recognizes these agencies and their representatives for their participation, sharing of information and insights for improvement.

THE COMPOSITION OF FINES AND PENALTIES

The current schedule of assessments and fines that may be imposed upon conviction include a variety of legislatively required and court imposed sanctions levied at sentencing for criminal, disorderly, petty disorderly and specific motor vehicle offenses. As noted earlier, the number of mandated charges for conviction of crimes, especially those involving violence and drugs, has increased significantly. In addition, there are a growing number of assessments and fees related to the collection and probation process.

By law, each assessment and fine is priority ranked for collection purposes. It is important to note, that in all cases where a convicted person is also paying (or ordered to pay) child support, those payments maintain first priority in the collection system. The following list contains, as of August 8, 1993, the priority order of monetary assessments and fines prescribed by New Jersey law upon conviction of an adult offender. Similar, though generally smaller, monetary charges are levied against juveniles.

Priority Listing of Assessments and Fines

1. Violent Crimes Compensation Board Assessments

- ◆ From \$100 to \$10,000 for each criminal conviction of violence ◆ \$50 for disorderly or petty disorderly convictions

2. Restitution Payments

- ◆ An amount that provides the victim with the fullest compensation that is consistent with the defendants ability to pay

3. Safe and Secure Communities Act (8/2/93)

- ◆ \$75 for each conviction under Safe and Secure Communities Act of 1993

4. Forensic Laboratory Fees

- ◆ A \$50 Forensic Laboratory Fee for each conviction under the Comprehensive Drug Reform Act of 1986 (CDRA)

5. Drug Enforcement and Demand Reduction Penalties

- ◆ \$3,000, \$2,000, \$1,000 and \$750 mandatory Drug Enforcement and Demand Reduction penalties (DEDR) for crimes of the first, second, third and fourth degrees, respectively ◆ \$500 for a disorderly or petty disorderly person offense for each conviction under the CDRA

6. Court Fines (Court fines are discretionary and subject to defendant's ability to pay. The discretionary fines listed are maximum amounts)

- First Conviction:** ◆ Up to a \$100,000 penalty for conviction of a crime of the first or second degree ◆ Up to a \$7,500 penalty for a crime of the third or fourth degree ◆ Up to a \$1,000 penalty for a disorderly person offense ◆ Up to a \$500 penalty for a petty disorderly person offense

- Second or Subsequent Convictions:** ◆ Up to a \$200,000 penalty for conviction of a crime of the first or second degree ◆ Up to a \$15,000 penalty for a crime of the third or fourth degree ◆ Up to a \$2,000 penalty for a disorderly person offense ◆ Up to a \$1,000 penalty for the conviction of a petty disorderly person offense

7. Miscellaneous Assessments and Fines

- ◆ Any higher amount equal to three times the street value of a controlled substance for conviction of any violation of the CDRA ◆ \$50 for any conviction of operating a motor vehicle under the influence of alcohol or liquor ◆ A transaction fee of up to \$1.00 for each payment of any fine or

assessment for all convictions after February 2, 1993 ♦ \$45 for any sentence involving supervisory treatment ♦ Proposed, but not yet enacted, an assessment of \$25 per month for probationary supervision

New Jersey has clearly opted to pursue a policy of monetary sanctions as a means to effect retribution, and to provide funding for activities required as a result of criminal behavior.

Revenues from the collection of monetary sanctions are used to partially or wholly fund certain programs. VCCB assessments are used to compensate victims for such items as medical expenses and loss of wages. Other assessments and fees fund community police equipment and program needs, substance abuse programs and police laboratory operations. Court fines and penalties are generally returned to the local or state jurisdiction and used according to appropriate law and regulation.

COLLECTION EFFORT IMPROVEMENTS

In 1991, the Legislative, Executive and Judicial branches of government recognized that collections of court assessed charges were being hampered by program and systemic issues. The proliferation of charges, the number of people that needed to be tracked and the limited fiscal and personnel resources of responsible agencies were predominate factors. Other contributing factors included the lack of uniform procedures and the use of inefficient accounting and collection efforts.

In a cooperative effort across the three branches, the Legislature passed and Governor Florio signed P.L. 1991, CHAPTER 329 which modified existing law to establish a comprehensive law on the issues related to the assessment, collection and reporting of fines. Chapter 329 required the development of a uniform collection and reporting system and provided funding mechanisms for systems development. Included within Chapter 329 were provisions which:

1. Called for the development of *"a uniform system for recording all information necessary to ensure proper identification, tracking, collection and disposition of moneys owed"* for court imposed assessments, fines, restitution, fees and penalties within 180 days (June 30, 1992)
2. Established a hierarchical structure and vested lead responsibility for establishing and reporting progress on the uniform system with the Violent Crimes Compensation Board
3. Recognized the Department of Corrections and the Administrative Office of the Courts, on behalf of the County Probation and Municipal Courts, as the agencies with primary collection responsibility
4. Provided funding for the uniform system by authorizing the VCCB to dedicate \$3.00 of every VCCB Assessment to a Criminal Disposition and Revenue Collection Fund

5. Required the courts to order defendants sentenced to probation to satisfy all VCCB assessments and restitution payments as a condition of probation
6. Directed the Commissioner of Corrections to withhold up to 1/3 of prisoner earnings for payment of assessments, fines and restitution
7. Provided for the suspension of a driver's license for willful failure to pay moneys owed through court imposed sanctions
8. Authorized the courts to establish or modify payment schedules, or revoke or suspend fines when circumstances warrant
9. Provided for the immediate filing of judgments for the full amount of penalties and fines in cases where the court has found that a payment schedule is not necessary and that ability to pay is not an issue
10. Required the Department of Corrections and the Administrative Office of the Courts to report annually to the VCCB as required for the operation of the uniform system
11. Required the VCCB to report to the Legislature, Governor, Attorney General, AOC, and DOC annually on the development, implementation and effectiveness of the uniform system

Besides the passage of Chapter 329, other components of the collection system have been improved and progress has been made to confront the issue of lagging collection and accounting efforts. But, the State's goal of a uniform collection system integration has not been accomplished. The VCCB's June 30, 1992, report was quick to note that the 180 day goal established by the 1991 law proved to be unrealistic primarily as a result of funding shortages and the need to evaluate the collection system requirements completely.

As the volume of fines and convictions continues to grow, the problems of timely collection and the need for effective management become more keen. Part of the difficulty in collecting and accounting for fines results from a substantial and continuing increase in the number of fines. In addition, the inability of agencies to absorb new responsibilities without additional resources compounds the problem.

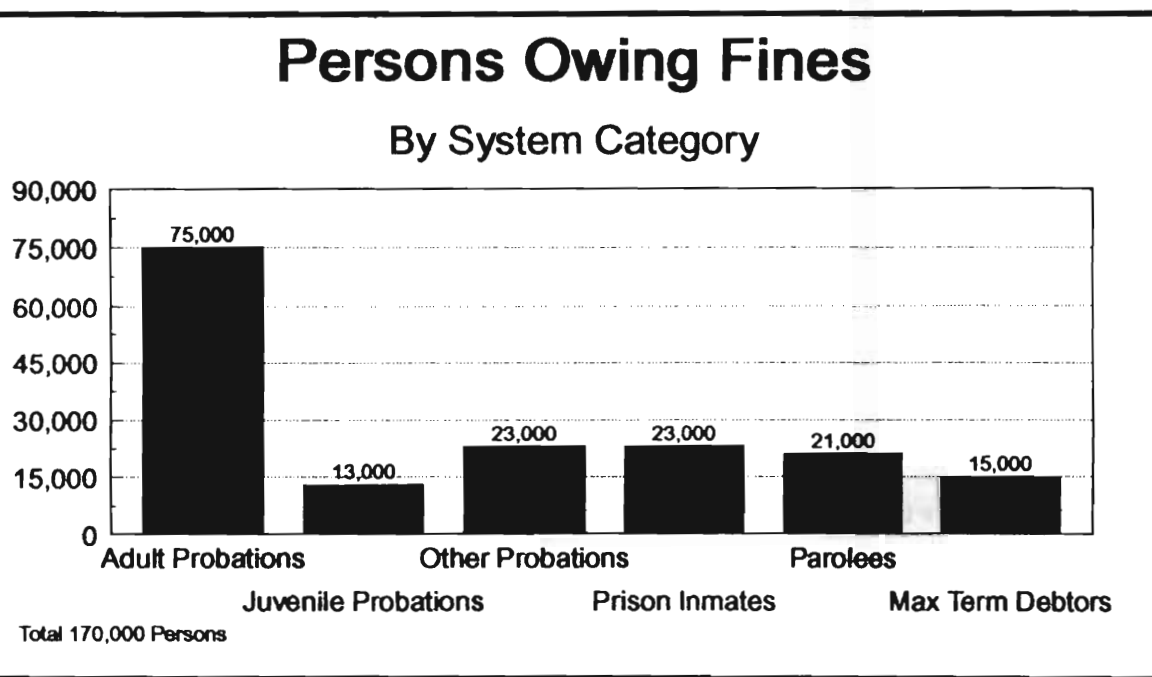
As noted, Chapter 329 authorized that \$3 of each VCCB assessment be dedicated to the Criminal Disposition and Revenue Collection Fund. Through June 30, 1993, total deposits to the fund equaled \$339,806. To provide additional collection system funding, legislation was enacted in 1992 that allows a sliding scale transaction fee of up to \$1 to be charged with each payment of a criminal debt levied subsequent to February 8, 1993. Revenues from the transaction fee remain with the collecting agency for enhancement of their collection system. AOC anticipates that the transaction fee will produce about \$250,000 in the first full fiscal year.

The Department of Corrections does not anticipate significant revenues to be generated for several years. If DOC required monthly inmate payments and each inmate was subject to the \$1 transaction fee, DOC would eventually generate annual revenue of about \$250,000. However, this fee only applies to convictions after February 8, 1993, and transaction fee revenue will be delayed. If DOC collects fines from all eligible inmates, annual transaction fee revenue is still likely to remain under \$100,000 for the first three years.

Over the last several years there has been significant improvement in the collection efforts. During this time laws were strengthened, internal weakness recognized, funding issues addressed and new programs initiated. Still, the goal set by Chapter 329 of "a uniform system for recording all information necessary to ensure proper identification, tracking, collection and disposition" of criminal debt has not been achieved.

SIZING THE ISSUE

Over 170,000 persons owe fines, assessment or restitution payments. Of these individuals, 98,000 adults and 13,000 juveniles are under AOC's jurisdiction. The adults include 75,000 current probation cases and another 23,000 collection and discharged cases. The Department of Corrections is responsible for 23,000 adult and juvenile inmates, 21,000 parolees and 15,000 former (max term) inmates who have completed their sentence but still owe money.



The GMRC was not able to quantify accurately the criminal debt amount receivable nor the amount delinquent. Average assessments for the last two years have exceeded \$70 million while collections have averaged about \$21 million. The available information indicates that the June 30, 1992 total of money outstanding is greater than the \$166 million mentioned in a recent news account.

The Newark Star-Ledger reported that *"\$110 million is owed by persons serving probationary sentences" and "another \$56 million is owed by almost 36,000 parolees and persons who have served their maximum prison sentences."* (Exhibit 2, Newark Star-Ledger, "State lags in forcing criminals to pay up", July 19, 1993)

It is important to understand that the "\$166 million in fines owed" reported in the news article are not all past due or delinquent. One must distinguish between debts, receivables and delinquencies. As the courts impose monetary charges upon conviction they become a debt of the offender and a receivable to the respective agencies. Agencies (should) then record the amount of the levied charges and any amount collected at the time of sentencing. The difference or balance due then becomes a scheduled receivable to be paid over a period of time. In cases of probation, this time generally equals the probation period. Debt payments that are not made on schedule become delinquencies. Therefore, of the \$166 million in criminal debts, a portion is delinquent and the rest is being paid according to court ordered schedules.

The amount receivable is continually changing. Agencies maintain records for previous offenders and continually add charges and payments of new offenders. It is difficult to calculate the amount of criminal debt that is outstanding or delinquent because most fines are due over a scheduled period. Without computerization, it is virtually impossible to determine accurately the amount of the criminal debt receivable which is past due. Efforts to collect any delinquency must be manually initiated and performed on a case by case basis. Even common collection techniques such as sending dunning letters require significant manual effort.

The State has well over \$166 million dollars in receivable criminal debt. The amount outstanding is growing rapidly as a result of the increase in the scope and number of fines and the inability of state agencies to keep up on current collections. However, the GMRC can not determine the delinquency total or its trend from the available information.

THE DEPARTMENT OF CORRECTIONS

The Department of Corrections is responsible for collections from any person sentenced to, released, or paroled from a state correctional institution. As of June 30, 1993, Corrections had 59,000 individuals under its jurisdiction including 23,000 inmates, 21,000 parolees, and 15,000 persons whose terms have expired but still owe money.

DOC was first required to collect criminal debt beginning in 1981. In the 10 years from 1983-1993, DOC collections increased from \$200,000 to \$1.1 million. Collection activity is a function of each of DOC's 14 institutions and 13 district parole offices. DOC uses a manual ledger card system which requires one card per inmate per type of fine.

Inmate payments are processed through the DOC's Central Office Revenue Unit and parolee payments are made at the district parole offices. In FY 93, the Central Office Revenue Unit collected \$154,995 from inmates while parole offices collected \$966,877. The amount of assessments noted in the table is understated as DOC's method of accounting for inmate debt

does not recognize an assessment until an individual begins to make payments. The following table shows assessments and collections by penalty type for 1992 and 1993.

DEPARTMENT OF CORRECTIONS Assessment & Collection Summary

	Assessments 1992 ¹	Collections 1992	Assessments 1993 ¹	Collections 1993
VCCB - Victim Assistance		\$427,260		\$399,914
Restitution		\$116,919		\$140,569
Forensic Lab Fees		\$107,281		\$110,487
DEDR Penalties		\$359,749		\$382,013
Fines		\$119,721		\$88,889
TOTAL²	\$19,309,304	\$1,130,930	\$11,258,510	\$1,121,872

Sources – DOC Annual Report 1991-1993

¹ – Assessment amounts calculated by GMRC are understated (see next note)

² – Department receivables are understated; see Exhibit 3, Auditor's Report

In an audit covering the period July 1989 to March 1991, the Office of the State Auditor found that *"the department did not withhold funds from inmate wages"...*and that *"there is a loss of revenue for state agencies and crime victims"*. (Exhibit 3, Office of the State Auditor, Department of Corrections Selected Programs, July 1, 1989 to April 30, 1991) Since the audit, the Department has initiated wage withholding for inmates on work release and halfway house inmates for VCCB assessments.

The State Auditor also found that inmate liabilities *"are not recorded by the department until receipt of the initial payment."* Because of that deficiency the audit found that a *"recorded outstanding assessment balance of \$27.6 million at April 30, 1991, is understated by an undetermined amount."* To calculate annual assessments it was necessary to rely upon these understated receivables as a base amount.

The Star-Ledger further notes that *"The \$166 million in fines owed the state does not include many additional millions of dollars in fines that must eventually be assessed against the 23,500 state prison inmates. They are not required to begin making payments until they are paroled or complete their sentences."* In fact, the state's prisoners are required to make payments before their parole or release. Chapter 329 provides that *"From moneys paid to inmates of correctional institutions, the Superintendent of the institution shall withdraw sufficient moneys, in an amount not to exceed one third of the inmates total income, as may be required to pay any assessment, restitution of fine..."* The FY 94 appropriation for inmate wages is \$10.2 million. By law, the DOC should be withholding one third of those wages or as much as \$3.4 million.

The collections process in the Department of Corrections can be significantly improved. In its 1992 annual report to the Governor and Legislature, the VCCB notes that *"The reasons the*

Department of Corrections cites for the difficulty in collecting outstanding penalties from inmates is the lack of staff with accounting and bookkeeping skills and the fear of inmate unrest." (VCCB 1992 Report, Page 5) One year later, in a letter to the VCCB, Corrections notes that a system analysis for inmate collections was initiated, but the task was never completed due to employee layoffs. DOC estimates that the development of software for inmate collection alone will cost \$250,000 to \$300,000, but that its current computer hardware lacks the capacity to operate any new programs. Upgrading the computer system hardware is not anticipated until FY 96 at the earliest.

DOC has plans to improve their collections process. The initial focus of this plan is on an inmate collections system which requires computer hardware and software. For this effort to be successful, DOC must change its policy and require involuntary payments of criminal debts. With potential collections of more than \$3 million, there can be justification for investment to support inmate collections. However, to justify any investment DOC needs to alter the policy of not requiring inmate payments. Moreover, the DOC systems plan at this time does not address how it will improve collections for the 21,000 parolees and 15,000 former inmates out on maximum sentence release. These two groups represent 61% of the DOC population, approximately 90% of its current collections, and about \$50 million in outstanding criminal debt.

THE ADMINISTRATIVE OFFICE OF THE COURTS

The AOC has oversight responsibility for collections from the 21 county probation offices and for all payments made through the courts. AOC's collections are spread over 21 counties and 567 municipalities. As of June 30 1993, the AOC had 111,000 people under its supervision including 98,000 adult and 13,000 juvenile probationers. In addition AOC also supervises 8,600 adults in pretrial intervention programs who have not been convicted and whose count is not included in the 111,000. AOC's adult cases include 75,000 current probationers and another 23,000 collection (only) and discharged cases still under supervision. Over the 10 year period of 1983-1993, AOC's collections have increased from \$7.0 to \$19.7 million per year.

PROBATION SERVICES Assessment & Collection Summary

	Assessments 1992	Collections 1992	Assessments 1993	Collections 1993
VCCB - Victim Assistance	\$1,859,847	\$1,185,573	\$3,307,792	\$1,636,215
Restitution	\$24,214,115	\$6,985,593	\$28,974,649	\$7,396,173
Forensic Lab Fees	\$918,105	\$560,597	\$890,581	\$519,347
DEDR Penalties	\$21,052,231	\$6,737,641	\$15,890,233	\$6,711,321
Fines	\$12,100,104	\$4,101,207	\$5,858,901	\$3,444,661
Misc. Fines	\$0	\$63,244	\$0	
TOTAL	\$60,144,402	\$19,633,855	\$54,922,156	\$19,707,717

Sources: 1992 & 1993 AOC Probation Statistical Summary Reports

In 1989, AOC began to recognize its weaknesses as a result of internal and independent reviews. AOC developed a model uniform collection process to codify a uniform statewide collections operation to be used throughout the criminal justice system. (Exhibit 4, AOC Model Collection Plan - draft) Although this approach has been endorsed in principle by all parties it has not gained full approval. Among the plan's components are the following recommendations:

1. Standardize collection policies and procedures statewide
2. Verify all financial information at predisposition
3. Notify defendants that they are expected to make some payment at sentencing
4. Detain individuals who have an ability to pay but fail to do so at sentencing
5. Incorporate a payment plan into the sentence
6. Automate records to generate billing notices, dunning letters and payment coupons
7. Employ the collection techniques successfully used in child support enforcement for criminal debt (wage attachments, liens and judgments, tax and homestead rebate offsets, etc.)

In 1991, the AOC adopted a uniform reporting procedure that made significant progress in improving its ability to track and report assessments, fines and **restitution** statewide. AOC's efforts were also designed to improve collection techniques and **accounting**. Prior to recent improvements, each jurisdiction had unique and mostly manual bookkeeping systems which made statewide accounting and compilation difficult.

AOC's long term solution to improve collection is their proposed Comprehensive Automated Probation System (CAPS) and the proposed uniform collection plan. With funding provided by the VCCB's Criminal Disposition and Revenue Collection Fund, AOC is developing an automated process that will provide a modern collection and **management** system. The continued planning, development and implementation of this system will be assisted by the state takeover of the courts.

AOC has found that about 20% of a probation officer's time is consumed by collection related activities. These activities range from discussing payment plans and financial status to actual collection of payments. It is likely that as the number, scope and amount of fines continue to increase so will the probation officer's time related to such activity. The AOC needs to assure that a reasonable balance is maintained between collections and other significant duties. AOC must focus upon procedures and systems that minimize collection activity while maintaining improved collections.

FINDINGS AND RECOMMENDATIONS

The State of New Jersey can continue to improve upon the collection of assessments, fines and restitution. The Governor's Management Review Commission offers the following findings and recommendations to improve criminal debt collections.

1. AOC SYSTEMS DEVELOPMENT

Findings

The Administrative Office of the Courts has begun development of a uniform computerized collections system, CAPS, to track and account for monetary sanctions. The project calls for multiple computers within a county to be networked to a county wide database. Every county will have the same software system with identical record formats to aid in statewide tracking and reporting. Operation and maintenance of the computer hardware will fall to the Judiciary.

CAPS is in the program development stage and scheduled to be tested by February 1994. With adequate funding, full implementation in all 21 counties could be completed by February 1996. The total cost for project development and implementation is estimated at \$4 million. Funding for the full implementation of the project is not yet secure. Conservative estimates suggest that automation alone will increase collection efforts by 15%, yielding an additional \$3 million dollars per year for a system payback period of about 15 months.

Recommendations

A: The AOC, in concert with the Department of Law and Public Safety, should reexamine the benefits of a developing and maintaining CAPS data on a statewide basis. Developing CAPS on a statewide basis would enable the system to exchange data with other statewide systems such as Promis-Gavel, Cheater Beaters and SOILS. While such an approach may increase development cost, the benefits of direct linkage to other statewide databases are significant and long term. Chief among those benefits is the elimination of many data entry requirements and the ability to build upon the strengths of other systems.

B: The AOC, VCCB, OMB, L&PS and Treasurer's office should work with representatives of the Legislature to develop, by January 31, 1994, a viable funding plan that will fund the cash flow needs of this project. The project has significant long term anticipated revenues, third party funding opportunities, and a quick payback. A plan to fund the cash needs of the project through its full implementation is needed.

C: The AOC should review its time table for this project and consider approaches that might be used to speed up implementation. The Agency may want to consider subcontracting part of the work to expedite implementation. Waiting 2 to 3 years to fully implement the AOC system will increase the case management problems.

D: The AOC should continue to expand low cost, intermediate actions to improve its present collection rate. AOC should continue and expand its intermediate efforts for improving collections. In the past, AOC yielded positive results by sending dunning letters to inactive accounts. The AOC should also focus on those cases where probation is within six to nine months of expiration as studies have shown the likelihood of collections becomes negligible once the term has expired. AOC should assure that those accounts are satisfied or returned to court before the probation ends.

2. AOC MODEL UNIFORM COLLECTION PROCESS

Findings

The AOC has sought cooperative agreement on their proposed model uniform collection plan (Exhibit 4). The principal parties which must agree to a model collection plan are the Chief Probation Officers, Family Division Managers, Criminal Division Managers, Trial Court Administrators, Municipal Court Administrators, State Prosecutors and the Chief Justice and Assignment Judges. Although many of these parties have agreed to the plan in principle, certain disagreements remain. The plan has not been formally adopted. Multiple agencies as well as the county and local courts continue to operate under their own rules.

An integral component of the model collection process is the court's ability to have access to all relevant financial information regarding the case. Among the information that is vital to a proper sentencing assessment is the defendants' ability to pay, the potential amounts to be assessed and information regarding victim loss. During the Task Force's work it was reported that county prosecutors were often delayed in submitting data on victim loss. The GMRC immediately requested the OAG to review this matter and to initiate remedies to correct deficiencies that may have existed. The Attorney General, working through the Division of Criminal Justice, has taken steps to remediate this issue. Discussions have taken place between the OAG, AOC and the county prosecutors to clarify respective roles and the importance of timely delivery of victim data.

Recommendations

A. All parties should commit to a task force to agree on the outstanding issues and implement a uniform collection plan by January

31, 1994. Each party should give the highest priority to the statewide implementation of a uniform collection process.

B. The AOC, OAG, DOC, VCCB and other state and local agencies should collectively develop training programs as part of the implementation of the uniform system. All parties must be aware of the entire collection process and their impact on the overall process. The collection of criminal debt involves an extremely wide span of government agencies. Judges, probation officers, parole officers, clerks in the municipal court system and state agencies, prosecutors, systems personnel and many others must all understand the process and have a mechanism to suggest improvements. The adoption of a uniform collection process is a primary step to collections improvement, but for the process to work, there must be a comprehensive and integrated training program.

3. DOC POLICY AND SYSTEMS

Findings

The Department of Correction's manual system of ledger cards to track obligations and payments for persons under their jurisdiction requires one ledger card for each offender and for each type of fine. By department estimates, one third (19,700) of all inmates and parolees have drug related convictions. At minimum, a drug conviction carries three fines. DOC procedure therefore requires a minimum of 59,100 ledger cards for this one third of the client population.

DOC only requires "involuntary payments" for VCCB assessments by inmates on work release, in halfway houses and certain county jail programs. These involuntary payments represent the \$155,000 collected by DOC's Central Office Revenue Unit in 1992. No other involuntary payments are deducted nor were any cases of voluntary payments made known during the review. Contrary to the law, the Department policy excludes inmate wages earned inside the prison from involuntary deductions.

In 1992, New York State implemented a substantially more stringent policy and now withholds up to 40% of an inmate's wage and up to 50% of an inmate's non-wage fund for repayment of public debt. Officials from New York indicate that no major problems occurred as a result of this policy's implementation. Pennsylvania does not require involuntary payments at this time. DOC should develop strategies to address their concern over the inmate unrest if withholding of wages is instituted.

The majority of all inmates are paid for working in prison jobs. The approved wage scale allows earnings from \$40 to \$50 per month for general

job assignments to \$200 per month for special or skilled assignments. Inmate wages are deposited to a custodial account maintained by DOC. Inmates can spend against their account in the subsidized canteen for cigarettes, stationery and other personal effects. No involuntary payments are collected from inmate earnings.

The Department of Corrections has noted that inmates and parolees are "*both the least able and the least motivated (sic) to pay*" their fines. (Exhibit 5, DOC Revenue Collection Process, August 3, 1993) Ability to pay is a legitimate factor in determining the schedule and terms for paying criminal debts. It does not relieve one of their responsibility to make payments. The State of New Jersey and the victims involved have a right to compensation as ordered by the court.

Recommendations

A. The Department of Corrections should submit a corrective action plan to the Governor by January 31, 1994, that begins to recover criminal debt from all incarcerated persons through wage withholding. The Department's policy of not requiring deduction of up to one third of all inmate wages "flies directly in the face of the crime doesn't pay philosophy" discussed by Governor Florio in his July 25, 1993 letter to the GMRC. If a phased in approach is necessary to mitigate security concerns, it should be discussed as an element of DOC's recommendations to improve criminal debt collections.

B. The Department of Corrections should immediately seek an independent review for ways to improve its existing accounting system. It is not reasonable to wait until 1997 to strengthen DOC's debt collection system. The existing manual procedures must be improved as a first step to better collections. New procedures will assist the department's conversion to computerized tracking and accounting of criminal debt.

C. The Department should focus upon current convictions only and modify the existing inmate payroll system to deduct 1/3 of the wages as required by law. DOC has based much of its computer needs upon an ability to track all fines owed by an inmate. By concentrating upon fines related to the current conviction, modifying its present inmate payroll system and downloading withholding information to a stand alone system, DOC can significantly scale down its system needs.

D. The Department of Corrections should develop a plan to improve collections from its parolees and max term releasees. The Department may want to examine the benefit of acquiring surplus personal computers for a small database program to account for parolee payments. Given the limited number of collection points, the Department should be able to make

significant improvement with very little expenditure. The CAPS program being developed by AOC should be considered as an alternative method to manage these collections.

4. ENFORCEMENT COURTS

Findings

Former Judge Daniel Coburn developed and implemented the Morris County Sheriff's Labor Assistance Program. (Exhibit 6. Dispositional Enforcement, Morris County S.L.A.P., Program Description 3/10/92, Selected Pages Only) This successful program uses an enforcement court whose primary purpose is to efficiently and effectively provide non-custodial punitive sanctions for neglect of court ordered payments. Typically, sanctions involve participation in highly supervised community service projects. These sanctions do not release responsibility from, or abate, the original debt but provide alternate means of enforcing court orders. Reports from AOC and others indicate the success of the Morris County initiative. Similar programs have also been started in Camden, Gloucester, Sussex and Mercer Counties.

The Administrative Office of the Court has recommended expanding the enforcement court concept by establishing a statewide Comprehensive Enforcement Court. The Comprehensive Enforcement Court would be modeled after the Judiciary's Child Support Enforcement Program and utilize methodologies of the Morris County S.L.A.P. Hearing Officers would enforce court orders and collect court ordered assessments, fines and restitution. The Judiciary has the authority to establish such a system, but does not have the ability to provide for its funding. The AOC is drafting legislation that proposes a first year appropriation, the establishment of a revolving fund and authority to retain 25% of the collections (less VCCB money) for deposit into the revolving fund. The revolving fund would be used to fund enforcement courts on an ongoing basis.

Recommendations

A. Create a statewide Comprehensive Enforcement Court. The Legislature and Governor are urged to provide expedited review of the Judiciary's proposal. The AOC's proposal for statewide expansion of a comprehensive enforcement court system to handle enforcement issues deserves special attention. Consolidating court collections, enforcement efforts and their support systems can demonstrably increase collections.

B. The AOC needs to develop fiscal need and revenue analysis statements to support the retention of a certain percentage of collections for enforcement activity. The use of incentives to fund successful

operations has worked well in the past. However, AOC has not provided sufficient analysis to support the funding request discussed within the AOC draft proposal. Full fiscal analysis to support or modify the proposal that 25% of proceeds (less VCCB dollars) be deposited in the revolving fund is needed.

5. OTHER COLLECTION MECHANISMS

Findings

A number of other collections methods and systems are available for consideration and implementation. SOILS, the state's Set Off Income Liabilities System is operated by the Division of Taxation. Liabilities placed on the system are automatically cross referenced against pending payments before the Division's issues tax refunds or homestead rebate payments. If a liability is found it is deducted or withheld from the payment and the liability balance decreased appropriately.

In response to a 1991 recommendation of the GMRC, the Division of Taxation and L&PS implemented the "Cheater Beater" program of aggressive pursuit of public debt. In two years this program has yielded more than \$80 million. Cheater Beaters was designed to rapidly move delinquent public debt through a series of automated and legal collection efforts.

Technology also provides alternate collection mechanisms that are worthy of future exploration. ATM (Automated Teller Machine) technology is one that can readily be applied to this effort. ATMs allow for multiple or integrated use, cash or credit payment and electronically report payments. Therefore, other state ATM's such as those planned for motor vehicle registrations can be modified to accept payment for assessments and fines.

Recommendations

A. The AOC and the Department of Corrections should include in their collection plan quick identification of 'willful' delinquencies. A key principle to successful collections is the early identification of a delinquent account. State agencies should be able to identify account delinquencies quickly and to direct those accounts to more experienced and specialized collections programs.

B. Examine the benefits of privatized collections along with internal programs such as SOILS and Cheater Beaters. Experienced collection agents have many alternatives available to them to both discover and return hidden assets. Piloting this alternative to internal programs will highlight the strengths and weaknesses of the alternative approaches. The AOC and DOC should consider privatizing collections for persons known to have moved out of state.

C. The AOC and DOC should examine the potential benefit of applying new technologies to the collection of fines. Applying new technology such as ATMs to the collection of fines can improve client accessibility for payment and reduce administrative tasks. Whenever possible, effort should be taken to cooperatively use technologies that are planned or presently employed by other state agencies.

6. PUBLIC NOTICE - TOUGH FOLLOW UP

Finding

"The public believes that the courts system is not effectively discharging its responsibility to hold offenders accountable for the orders they issue. ... Offenders realize that it is unlikely they will be incarcerated for failure to comply with court ordered obligations." (Exhibit 6, Page 2, Morris County S.L.A.P. Program Description, 3/10/92)

Little evidence was found to suggest that regular and prompt payment of delinquent debt is really expected. Even in correctional institutions that hold inmate funds, individuals are not required to pay. The failure to withhold appropriate wages for the repayment of criminal debt sends a clear message that payment is not required.

Uniform policy, effective systems, strong enforcement and cooperative working relationships among respective state agencies are critical factors in improving the collection system. In addition, the state must effectively communicate client and public information. Just as successful businesses promote positive consumer habits, so must the State encourage good habits among its client base.

Recommendation

The DOC and AOC should develop general and targeted public information campaigns stressing that New Jersey will take increasingly punitive measures for willfully defaulting on criminal debt. The recommended programs provide a wide array of collection methods that, if implemented with proper coordination, will yield positive results. The campaign should be launched after the major underlying issues are resolved. Communications should stress that regular payments are critical to avoiding further action. Agencies must be able to follow through on their promise for tough action. Participating agencies might seek help from the NJ Lottery, Motor Vehicles and DEPE or other agencies who have developed highly successful public information campaigns.

7. PENALTIES AND FINES

Findings

Two important legal issues related to assessments and fines were surfaced during the task force meetings. The first issue is whether or not the DEDR penalty is subject to an "ability to pay" test either upon conviction or at discharge. Current practice within the Courts has been to levy this penalty at face value or \$3,000 for a related crime of the first degree. If a convicted person sees absolutely no way to pay such an amount then they have no incentive to pay any amount toward this or any other assessment or penalty. The ability to pay test should be used to establish penalties that while punitive, are within the realm of possibility to pay. Further, there is question as to whether a DEDR penalty can be discharged if other terms of sentencing have been satisfied.

Juvenile fines also provide an interesting issue for debate. The opinion of some, if not most, on the task force seemed to be that fines levied against a juvenile lapse when the offender becomes 18 years of age. In essence, opinion has it that a juvenile debt can not be carried forward into adulthood. If this is true, there seems to be very little, if any, incentive for a juvenile to pay any fine, especially if the conviction occurs at 16-17 years of age. By default, the juvenile would be 'Scot free' on his 18th birthday. From the State's perspective the likelihood of collecting any juvenile fine is negligible if fines are allowed lapse. Further, without a write-off policy for uncollectible or lapsed accounts, these amounts would continue to appear as outstanding debt.

Recommendations

A. The GMRC requests that the Attorney General provide an opinion to the following two questions:

- 1. Can Drug Enforcement and Demand Reduction (DEDR) penalties be subject to an ability to pay test either upon conviction or at the time of discharge?*
- 2. Do Court ordered fines against a juvenile remain a legal debt of the offender after the age of 18?*

If the response to either question is negative then legislation should be drafted to amend NJ Law to permit DEDR penalties to be subject to an 'ability to pay' means test either at the time of sentencing or upon discharge, and to hold juveniles responsible for all court ordered penalties after reaching the age of 18.

B. The OAG should provide the AOC and DOC with written administrative direction on the order in which collected fines are applied when multiple convictions exist. During the task force meetings a discrepancy surfaced on how payments should be applied when multiple convictions exist. Chapter 329 establishes a priority order for criminal penalties for each conviction. However, multiple convictions from one or more trials add confusion to how payments are applied. While application of payments does not directly affect collections it does impact upon program revenues. The OAG should provide written clarification to AOC and DOC on how criminal debt payments should be distributed when multiple convictions exist. Agencies should the assure their procedures are in line with this direction.

8. UNCOLLECTIBLE DEBT

Finding

Uncollectible receivables that remain on the books for long periods of time unrealistically inflate the value of outstanding debt. This practice complicates the management of active and delinquent accounts. OMB Circular 94-27 (Exhibit 7) specifies procedures to write off a state debt under certain conditions. It is important to note that write off of debt under Circular 94-27 is an accounting process only and does not absolve the debtor from the liability.

Regulations require that "each agency shall make every effort to effect collection" of the receivable prior to write off. Criminal debt likewise should be vigorously pursued prior to any write off. Actions prior to write off should include dunning letters, enforcement courts, use of the SOILS and Cheater Beater systems, private collections or any other likely means of gaining payment. If an individual demonstrates an inability to make payments, then alternatives like converting criminal debt to community service or SLAP assignments should be pursued. Once these routes are exhausted agencies should begin an orderly process to write off uncollectible accounts.

Recommendation

After vigorous attempts to collect criminal debt, agencies should begin an orderly process of reducing fines to judgments and writing off uncollectible accounts in accordance with approved policy. To protect the integrity of court sanctions, stringent criteria and procedures required by Circular 94-27 must be in place and conscientiously applied before initiating the write-off. Alternative sanctions like performing community service should be used in lieu of monetary payments where one cannot make payments before any court obligations are written off.

9. PERSONNEL USAGE

Finding

The review concentrated on systemic issues which affect the collection of criminal debt and did not specifically examine staffing levels or needs. DOC has noted their lack of staff required to assist its collection effort; other agencies may have similar needs. Through its other studies, the GMRC has found that the cost of additional staff to support increased collection and auditing functions can often be offset by the revenues they collect.

Clearly, additional staff will be needed to expand enforcement courts and may be justified in other areas. However, existing staff lack the appropriate procedural or systems support to allow them to work efficiently. Moreover, employees who serve multiple purposes do not always share a common perception of what the priorities of their jobs are. Parole and Probation officers do not see their primary function as being debt collectors. They have many other important responsibilities besides tracking payments.

Providing the proper tools and support systems can keep them from spending inappropriate amounts of time collecting and accounting for criminal debt. Designing these systems to minimize the collections support activities of parole and probation officers will enable them to better meet other key job responsibilities. Directing payments by mail to central collections processing areas and using field officers to intervene when individuals fail to make their scheduled payments is a more balanced and effective use of personnel.

Recommendation

Minimize the need for parole or probation officers of the DOC or AOC to perform regular criminal debt collections activities by developing appropriate collections support systems. Use officers as enforcement agents, not collection agents. Design the model uniform collections program with this philosophy in mind.

FISCAL IMPACT OF RECOMMENDATIONS

The GMRC conservatively estimates that implementation of its recommendations will yield \$10 million annually as follows:

Requiring withholding of inmate wages	\$3 million
Implementation of CAPS on statewide basis	\$3 million
Statewide expansion of enforcement courts	\$3 million
CAPS usage in parole	\$1 million

Page 21

Total Revenues

\$10 million

It must be recognized that the estimated revenues noted above require an investment in systems and personnel. The investigation noted the following areas and estimates for investments necessary to improve criminal debt collections.

Investments

AOC CAPS System

\$4 million

DOC Inmate Collections

\$300,000

DOC Parolee Collections

TBD

Total Investment

\$4.3 million

EXHIBITS

- Exhibit 1 Governor Florio to Stanley Van Ness, July 25, 1993

- Exhibit 2 Newark Star Ledger, "State lags in forcing criminals to pay up";
July 19, 1993

- Exhibit 3 Office of the State Auditor, Department of Corrections Selected
Programs, July 1 1989 to April 30, 1991

- Exhibit 4 AOC Model Collection Plan - draft

- Exhibit 5 DOC Revenue Collection Process, August 3, 1993

- Exhibit 6 Dispositional Enforcement, Morris County S.L.A.P., Program
Description, March 10, 1993 (Selected Pages Only)

- Exhibit 7 Office of Management and Budget Circular # 94-27, July 1, 1993



JIM FLORIO
GOVERNOR

STATE OF NEW JERSEY
OFFICE OF THE GOVERNOR
TRENTON
08625

July 25, 1993

The Honorable Stanley C. Van Ness
Chairman
Governor's Management Review Commission
CN 102
Trenton, New Jersey 08625

Dear Chairman Van Ness:

Reports indicate that fines owed to the State in a variety of areas have not been vigorously collected, in some cases due to an outdated system of data collection, in others due to insufficient staffing levels. Those convicted of crimes owe \$166 million alone.

This situation flies directly in the face of the "crime doesn't pay" philosophy in which we believe as a society. While scofflaws should pay their fines under any circumstances, the impunity appears that much worse when one considers the need of state government to make sure we spend taxpayers' dollars wisely. We owe it to the people who are honest and play by the rules to crack down on everyone who doesn't, and whose actions require the honest people to pay more.

The Governor's Management Review Commission, in one of its earlier reviews, correctly identified the fact that New Jersey could do a better job of collecting overdue taxes from delinquent taxpayers. That finding resulted in the creation of our "cheater beater" program, a self-funding, public/private program which has enhanced the State's ability to ease the burden on law-abiding taxpayers by collecting back taxes from those who have shirked their responsibility. Under this program, over \$112 million has been collected from tax delinquents, with additional collections expected in Fiscal Year 1994.

Given the GMRC's successful track record in this area, I would appreciate your immediately convening a working group comprised of representatives of the appropriate departments: Law and Public Safety, Corrections, Treasury and Public Advocate. The mandate of this working group will be to quickly investigate the cause and magnitude of the collections problem, and develop an improved collections system.

I would appreciate your advising me of your findings and suggestions prior to August 15.

Sincerely,

A handwritten signature in dark ink, appearing to read "J. Florio".
Jim Florio
Governor

State lags in forcing criminals to pay up

STAR-LEDGER 7-19-93

By HERB JAFFE

Criminals owe New Jersey at least \$166 million in court fines and restitution, but state officials concede that most of the money will never be collected.

Still, a bill is pending in the Legislature that would impose a new category of fines on the convicted to help finance court costs.

A second bill would increase by 150 percent one of the five areas of fines to help pay for the hiring of 1,000 police officers.

The \$166 million in fines owed the state does not include the many additional millions of dollars in fines that must eventually be assessed against the 23,500 state-prison inmates. They are not required to begin making payments until they are paroled or complete their sentences.

The amount does not include

past due support and alimony payments owed in Family Court. Nor does it include past due fines and other assessments in the municipal courts.

And it does not include approximately \$180 million in assorted debts owed to the state, including deadbeat tax claims, delinquent student loans, and assessments for violations and penalties submitted to the Attorney General's Office by 27 state agencies for collection.

The Star-Ledger has found that efforts to collect the \$166 million imposed by Superior Court judges against persons found guilty of crimes do not carry a high priority.

Corrections and probations officials have attributed this largely to the lack of personnel available for collections. The problem is compounded by an archaic system of manual book-

Please turn to Page 7

Continued from Page One

keeping and poorly integrated information systems.

In the meantime, the debt keeps growing. While the state collected \$17.3 million in criminal fines and other debts last year, the courts also assessed almost \$48 million in new fines and restitution.

In some cases, substantial fines have remained unpaid for years.

For example, in April 1985, Superior Court Judge Alfred Wolin, who has since become a U.S. District Court judge, fined 16 persons in a major insurance fraud scam a total of \$530,750 in addition to sending several to prison. Among the defendants were three physicians, two lawyers, a chiropractor and three insurance adjusters.

According to state records, "details are unavailable as to the final amount of fine paid" by most of the 16.

However, where records were available, it was learned that one person, an investigator, was fined \$100,000 and still owes \$96,935, with the most recent payment made in September 1990.

Another investigator who was fined \$100,000 still owes \$94,700 since his last payment in December 1990. A third defendant, a lawyer, was fined \$100,000 and has owed \$96,200 since

April 1984.

A defendant fined \$7,500 has owed \$4,918 since his last payment on Dec. 14, 1984. And a defendant fined \$25,000 has a balance of \$21,725 since his last payment in July 1991.

According to the records, one of the 16 has paid his full fine of \$5,000.

The collection of such debts is the responsibility of two middle-level agencies in two separate branches of government, the Parole Bureau in the Corrections Department and the Office of Probation Services in the Administrative Office of the Courts.

An estimated \$112 million is owed by persons serving probationary sentences. The debts are referred for collection to county-employed probation officers, most of whom have heavy caseloads involving a variety of higher-priority responsibilities.

Another \$56 million is owed by almost 24,000 parolees and persons who have served their maximum prison sentences. Collecting their debts is the responsibility of equally overburdened parole officers who have average caseloads of 140 former inmates.

So disorganized is the system of monitoring and collections that officials will not certify the accuracy of the \$166 million owed.

"I have no confidence that the numbers we're dealing with are accurate," said Dennis Martin, probation collections coordinator in the Administrative Office of the Courts.

Martin said the information on which a figure of \$110 million owed for Superior Court fines, assessments and restitution is based is compiled manually. "We don't have statewide data on assessments prior to 1992, when all the record-keeping was done by the county probation offices," he added.

"I'm not comfortable with the numbers because it's not a unified system," Martin said, noting that some counties have left gaps in the amounts of fines for certain categories.

"We are dealing with 21 separate county probation offices, and each of them has their own information gathering systems," Martin said. "They are all done manually, and there is room for error. Their figures are sent to our state office, and we simply tabulate what they submit to us."

The 1992 statistical report for probation services showed that criminal defendants placed on probation paid \$10,135,146 in fines and restitution in 1992. However, it also revealed that \$41,738,703 in new fines was added to the total.

The debt keeps growing. While the state collected \$17.3 million in criminal fines and other debts last year, the courts also assessed almost \$48 million in new fines and restitution.

Susanne Pavelec, supervisor of the central office revenue unit in the Corrections Department, also expressed uncertainty over the exact amount owed.

"A total number of the amount of fines owed by all inmates, parolees and those who have maxed out (served their full prison sentences) is not known," Pavelec said. She said that while the courts dictate the fines owed by defendants at the time of sentencing, there is no computerized system in the Corrections Department for maintaining the data.

"We found it is virtually impossible to keep a daily track of fines owed by inmates," she said. "We do every-

thing manually. If we had a computerized system, we might have complete information and total amounts."

Pavelec said the Parole Bureau has 13 district offices in addition to the central office. "We have a bookkeeper at the central office who manually enters each payment," Pavelec said. "She's the only bookkeeper in the system. Parole officers enter the collections in the district offices."

Lee Bauldock, the central office bookkeeper, sits beside a pile of large cardboard boxes containing accounting cards for parolees and other former inmates who owe fines.

Bauldock said she is responsible for entering each payment manually as it is collected by the parole officer for each former inmate.

Pavelec said that for the fiscal year ending June 30, 1992, the bureau collected \$1,130,930. As of May 31, with one month remaining in the 1993 fiscal year, the bureau collected \$1,810,764.

However, with just under \$56 million owed by former inmates, the annual collections have represented less than 2 percent of the total debt.

Asked how much of the debt falls through the cracks, Pavelec said, "I don't doubt that there is a portion of fine debt that falls through the cracks. Often there's no pressure for them to pay it."

"But we don't write off debts other than for persons who die," Pavelec said, adding that some of the outstanding amount might be owed for decades.

"We started collecting these fines in 1981," she said. "Before that, the county probation officers collected this money."

"Now we use parole officers in their spare time to do the collecting, but these people are already heavily burdened. I have to tell you that it is not one of the agency's priorities to collect money," Pavelec added.

1991

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EXHIBIT 3

New Jersey State Legislature
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OFFICE OF THE STATE AUDITOR

REPORT

DEPARTMENT OF CORRECTIONS
SELECTED PROGRAMS

JULY 1, 1989 TO APRIL 30, 1991

DEPARTMENT OF CORRECTIONS

SELECTED PROGRAMS

REPORT

I N D E X

	<u>Page</u>
Transmittal Letter.	1
General Background.	5
Summary	7
Findings and Recommendations	
Overtime Payments	8
Payroll Charges	12
Fine, Restitution and Penalty Collections	13
District Parole Offices	14
Inmates Incarcerated in County Facilities	16
Use of Treasury Documents	17
Newark House.	18
Farm Operations	19
Fixed Assets.	19
Nonmajor Federal Programs	20
Financial Summaries	21-22
Departmental Response	23

unit is a separate entity for purposes of appropriations and expenditures. Payroll costs of the Department of Corrections - Central Office were understated by approximately \$500,000 during our review period because of this condition.

RECOMMENDATION

We recommend that the department:

- . limit the number of paid union leave days to 225 (including union time incurred by the confidential agent) in accordance with the contractual agreements;
- . identify all employees working for other state agencies and transfer them from Department of Corrections' payrolls;
- . transfer all central office employees charged to payrolls of the correctional facilities to central office payrolls.

NO. 3 - FINE, RESTITUTION AND PENALTY COLLECTIONS

FINDING

The courts may impose financial obligations on defendants in addition to sentencing them to prison terms. These obligations are assessed to pay for such things as fines, restitutions to crime victims, and penalties for violation of the Comprehensive Drug Reform Act of 1987. The Department of Corrections is responsible for the collection of these assessments. During our review period, the department collected approximately \$1.7 million in fines, restitutions and penalties from inmates and parolees. The total assessments outstanding at April 30, 1991 exceeded \$27.6 million. Our review of these collections disclosed the following conditions:

- . At April 30, 1991, approximately \$211,000 in restitutions collected from inmates had not been sent to the victims. These funds have been accumulating in a General Fund deferred revenue account since fiscal year 1987. We found that the records maintained by the bureau responsible for making restitution payments are incomplete and inaccurate. The department has a fiduciary responsibility to distribute these restitutions to the intended beneficiaries in a timely manner.
- . N.J.S.A. 2C:46-1 states that when a defendant is sentenced to pay a fine, penalty or make restitution, "the court may grant permission for the payment to be made within a specified period of time or in specified installments. If no such permission is embodied in the sentence, the penalty assessment, fine or restitution shall be payable forthwith." In regards to the collection of penalties due to the Violent Crimes Compensation Board (VCCB), N.J.S.A. 2C:43-3.1 states

that they shall be "deducted from any income the inmate receives as a result of labor performed at the institution or any type of work release program".

During most of our review period, the department did not withhold funds from inmate wages and work release program wages to pay for VCCB penalties or other fines, restitutions and penalties. It has recently instituted mandatory withholding of work release wages to pay VCCB penalties only. Because voluntary payments by inmates are infrequent and untimely, there is a loss of revenue for state agencies and crime victims.

- . Inmates' liabilities for fines, restitutions and penalties are not recorded by the department until receipt of the initial payment. These assessments should be recorded upon the receipt of inmate commitment papers, in order to provide control over the collection effort. The total recorded outstanding assessments balance of \$27.6 million at April 30, 1991 is understated by an undetermined amount.

RECOMMENDATION

We recommend that the department:

- . update and correct its records of inmate payments and beneficiary names and addresses so that collected restitutions can be sent to victims in a timely manner;
- . record amounts due for fines, restitutions and penalties upon notification from the court. Automatic withholding from inmate wages and work release wages should then be initiated to pay for all fines, restitutions and penalties.

NO. 4 - DISTRICT PAROLE OFFICES

FINDING

Within the Bureau of Parole there are 13 district parole offices (DPO's) located throughout the state. In addition to their primary responsibility to supervise parolees, the DPO's are responsible for the collection and disbursement of state funds. Specifically, parolees must remit payments to the DPO's for fines, restitutions and penalties that were imposed as part of their sentences. Also, each DPO administers a financial aid fund, which is used to provide money to parolees with demonstrated financial need. During our review period, the DPO's collected \$1.3 million in fines, restitutions and penalties from parolees and awarded approximately \$440,000 in grants from the financial aid funds.

We tested the administration of the fines, restitutions and penalties (FRP) accounts and the financial aid funds at several DPO's. Our review of the FRP accounts disclosed several internal control weaknesses.

- . There exists inadequate segregation of duties over the collection, recording and depositing of funds for the FRP accounts. One individual at each DPO is responsible for all of the following functions:

- collecting payments and issuing receipts;
- recording checks in journals and on subsidiary ledger cards;
- preparing deposit slips and taking deposits to the bank;
- reviewing bank statements; and
- preparing monthly reports.

A strong system of internal control requires adequate segregation of duties between revenue processing and recording functions in order to safeguard funds.

- . None of the DPO's prepared logs to record payments upon receipt from parolees. In addition, checks were not restrictively endorsed until the time of deposit at two of the DPO's tested. The lack of a log and of restrictive endorsements increases the risk of lost funds.
- . Fines, restitutions and penalties are supposed to be recorded at the DPO's by means of a one-write system. This system permits the simultaneous recording of payment information on journal sheets, individual ledger cards, and receipts. The one-write system was disregarded frequently at one of the DPO's. In addition, totals per the journal sheets and the ledger cards were not reconciled at any of the DPO's tested. Use of the one-write system and frequent reconciliations will decrease the likelihood of posting errors.
- . According to Department of the Treasury Circular Letter 85-12, deposits of state funds should be made within three working days from the day of receipt. One of the DPO's makes deposits only once a month, regardless of the amount of money that has been received. We observed two monthly deposits and found they included checks that had been received up to twenty-three days earlier; the total value of the untimely deposits was \$4590. Because the majority of collections are cash, there is an unnecessary risk of loss that is incurred by these untimely deposits.
- . There is a lack of segregation of duties over the maintenance of the financial aid funds. One employee at each DPO performs all of the following duties:

- authorizing grants;
- preparing checks;
- recording payments;
- depositing reimbursement checks from the state; and
- performing bank reconciliations.

These internal control weaknesses resulted because the Bureau of Parole has not established adequate procedures for the district parole offices to follow in administering the fines, restitutions and penalties account and the financial aid fund.

RECOMMENDATION

We recommend that the Bureau of Parole develop procedures that would require the district parole offices to:

- . establish segregation of duties in the handling of both the fines, restitutions and penalties (FRP) account and the financial aid funds;
- . reconcile control totals in the FRP journal sheets to subsidiary ledger cards;
- . restrictively endorse checks upon receipt and maintain a mail log for payments of fines, restitutions and penalties.

In addition, the bureau should ensure that district parole offices comply with state and department regulations regarding frequency of deposits and use of a one-write system.

NO. 5 - INMATES INCARCERATED IN COUNTY FACILITIES

FINDING

The department reimburses the counties for housing costs, inmate wages, and medical costs of state prison inmates confined in county facilities. In addition, the department provides financial assistance for approved correctional facility construction projects.

The department reimburses the counties for each state prison inmate at the rate of \$45 per day, but the reimbursement rate for those counties that have received construction assistance is only \$33.75 per day. This lower rate remains in effect until the department has retained the amount specified in the correctional facility assistance contract.

The correctional facility assistance contract specifies that the daily reimbursement rate is based on 75% of the average budgeted daily cost of maintaining inmates in state correctional facilities. This language is not consistent with the department's method of payment and should be revised.



State of New Jersey
DEPARTMENT OF CORRECTIONS

WHITTLESEY ROAD
CN 863
TRENTON, NEW JERSEY 08625

WILLIAM H. FAUVER
COMMISSIONER

RICHARD A. SEIDL
DEPUTY COMMISSIONER

March 13, 1992

DEPARTMENTAL RESPONSE

Mr. Richard L. Fair
State Auditor
Office of Legislative Services
Office of the State Auditor
CN 067
Trenton, New Jersey 08625

Dear Mr. Fair:

I would like to take this opportunity to respond to the findings included in the recent Office of Legislative Services audit of the Department of Corrections, Selected Programs.

No. 1 - OVERTIME PAYMENTS

The Department will exercise the option of paying more overtime in the form of cash. The maximum number of compensatory hours that an employee may currently accumulate will be reduced. Employees who earn overtime in excess of the revised maximum compensatory time allowance will be compensated for such hours in the form of cash. Overtime compensation in the form of compensatory time will therefore be reduced.

The Department of Corrections will seek an opinion from the Attorney General as to the appropriateness of including vacation, sick and compensatory time as time worked for the purpose of computing overtime.

The Department has and will continue to pursue the development of a policy to better control employee sick leave as well as establish more definitive schedule of sanctions in the case of abuse. These latter efforts are being developed in conjunction with the Department of Personnel.

-2-

The policy of granting Interstate Escort Officers a block of 8 hours overtime when they are detailed to overnight, out-of-state assignments is premised on the fact that the employee is away from home, is acting as an agent of the Department and is unable to use the time effectively for his/her own purposes. The Department will, however, review this policy with either the Office of Attorney General or Department of Personnel and implement a revised policy based on their guidance.

The practice of granting escort officers time off with pay when assignments are completed before the end of an eight-hour shift will be discontinued.

No. 2 - PAYROLL CHARGES

Article XXVI of the Agreement between the State of New Jersey and the State Law Enforcement Conference of the New Jersey P.B.A., Leave for Association Activities, provides for union members to receive up to 20 days a year leave for Association Activities and as delegates to an Association Convention. The intent of this language is to provide these individuals with an opportunity to participate in monthly union meetings or authorized union functions. Although the time in question during the audit period was designated on time records as "P" (union leave) days, the employees were excused from their post assignments to perform employee relations functions for the Department. The Department believes it is more efficient for the employee relations function, and far less disruptive to the scheduling of custody staffing, to assign the President and three Executive Vice-Presidents of P.B.A. Local 105 and East Jersey State Prison's Confidential Agent to work almost exclusively on employee relations problems (i.e. grievances and disciplinary actions). In doing so, they are not on union leave, but in fact, performing employee relations work for the Department.

It should be noted that the Confidential Agent title is not covered by the Law Enforcement Unit agreement and therefore that employee's time related to union activities is not limited under the contract. The Confidential Agent position serves at the pleasure of the Chief Executive Officer who is allowed a wide latitude in assigning the employee work of a sensitive nature. This position performs an extremely critical employee relations advisory function to the Department and the State.

The Department concurs with the finding that three employees cited on the Central Office payroll perform work for other State agencies. The availability of vacancies in those agencies will be monitored and the employees will be transferred from the Department of Corrections' payroll as those vacancies occur.

-3-

The Department concurs that during the period of the audit, the salaries of twelve employees working at Central Office were charged to the payrolls of institutions within the Department. Presently, six of the twelve employees cited remain on institutional payrolls. Position vacancies at Central Office will be monitored and the employees will be placed in those positions as they become available.

NO. 3 - FINE, RESTITUTION AND PENALTY COLLECTIONS

With regard to the restitution amounts collected that have not been forwarded to victims, it should be noted that in a majority of cases the beneficiaries have not been identified by the courts or the current addresses of the beneficiaries are not known to the Department. The Department must rely on the courts to provide the necessary information so that the records are complete and accurate. Efforts are being made, however, to update and correct existing beneficiary records. The Department is also considering computerization of restitution and beneficiary records.

The lack of available resources has limited the Department's ability to record amounts due for fines, restitution and penalties upon notification from the courts. The Department will continue efforts to obtain necessary resources to automate the recording of fines, restitution and penalty obligations upon notification by the courts.

No. 4 - DISTRICT PAROLE OFFICES

The Bureau of Parole is in the process of establishing procedures to:

- segregate duties in the handling of both the fines, restitution and penalties (FRP) account and the financial aid funds;
- reconcile control totals in the FRP journal sheets to the subsidiary ledger cards;
- restrictively endorse checks upon receipt and maintain a mail log for payment of fines, restitution and penalties.

The reconciliation of the FRP journal sheets to the subsidiary ledger cards will be a tedious and time consuming task. The lack of available staff resources has impaired the Bureau's ability to perform this task on a monthly basis. The Bureau of Parole will consider the reassignment of existing staff to comply with the audit recommendation. The Bureau will comply with the Department's regulations regarding frequency of deposits and use of the one write system.

-25-

No. 5 - INMATES INCARCERATED IN COUNTY FACILITIES

The Department has revised the correctional facility assistance construction contract language regarding the method of calculating reimbursement rates. The revised language stipulates that "The Department shall pay the county a per diem rate..., which shall be 75 percent of the established daily per diem rate". This language is consistent with the Department's method of payment.

No. 6 - USE OF TREASURY DOCUMENTS

The Department will use the proper documents as required by the NJFIS procedures manual. Accounts receivables will be established for federal programs as necessary. The Department will discontinue the practice of processing receipts as refunds of disbursements.

No. 7 - NEWARK HOUSE

The Department will strengthen internal controls in the areas of purchasing and petty cash at Newark House. Telephone bids and written quotations will be obtained when required. The practice of splitting invoices to circumvent procurement requirements has been discontinued.

All required information is now included in the petty cash register. Canceled checks and bank reconciliations will be retained in accordance with the State's record retention schedule.

No. 8 - FARM OPERATIONS

The Bureau of Farm Operations has established a mail log which is now being maintained to record the receipt of all checks. Bureau staff have been instructed to prepare checks promptly for deposit.

No. 9 - FIXED ASSETS

The Bureau of State Use Industries has conducted a physical inventory of all assets. Each record has been reconciled to the Bureau's general ledger. Each asset required to be included in the State's General Assets Account Group has been identified and reported to the Department of the Treasury in accordance with Circular Letter 83-8.

-5-

To achieve compliance with Treasury Circular Letter 91-32, which superseded Circular Letter 83-8, fixed asset records will be maintained on the Department's System 36 utilizing the Fixed Assets software application.

No. 10 - NON-MAJOR FEDERAL PROGRAMS

The Department will ensure that the proper CFDA members for Federal programs are reported to the Department of the Treasury. Federal financial reports will be submitted in a timely manner.

Very truly yours,


William H. Fauver
Commissioner

RJW:km

-27-

**** DRAFT ** 3/31/93 ****

MODEL COLLECTION PROCESS:

A PLAN TO IMPROVE PROBATION COLLECTIONS

THROUGH STANDARDIZATION

I. INTRODUCTION

Since its inception in New Jersey in 1900, probation has been charged by statute with the responsibility of collecting court-imposed financial obligations. N.J.S.A. 2A:168-11 defines the powers and duties of probation officers. Section d. states that the officer shall:

...collect from persons under their supervision such payments as may be ordered by the court so to be made, and disburse the money so received under the direction of the court.

Additionally, section g. of that statute requires the probation officer:

...to keep accurate and complete accounts of all money collected and disbursed, and to give and obtain receipts therefor.

Under N.J.S.A. 2C:46-4, collection responsibilities for various penalties are more clearly defined. This statute states that monetary obligations of offenders under custodial sentence to a State correctional facility shall be collected by the Department of Correction. Financial impositions made in the Municipal Court where no condition of probation supervision is ordered will be collected by the Municipal Court Clerk. All other fines and restitution are to be collected by probation.

In the past decade, probation's collection responsibilities have increase in both number and scope. In addition to fines (which may be payable to the State, county, or municipality) and restitution (to individuals, corporations, government entities, etc.), the court is now required to impose other mandatory fees and penalties. Violent Crimes Compensation Board (VCCB) penalties were added in 1980 and the Victim/Witness Assistance Fund (VAF) fees in 1986. Statutes enacted by the Legislature in December, 1991, increased the amounts of these assessments and added a new category, the Criminal Disposition and Revenue Collection Fund. In 1987, the Comprehensive Drug Reform Act called for the imposition of the Forensic Lab Fee (FLF) and the Drug Enforcement and Demand Reduction (DEDR) penalty. Enabling legislation prescribed collection of these new obligations to be made in accordance with N.J.S.A. 2C:46-4. (See N.J.S.A. 2C:43-3.1a(3), N.J.S.A. 2C:35-15b, and N.J.S.A. 2C:35-20c.)

--DRAFT--

PLAN TO IMPROVE COLLECTIONS

MARCH 31, 1993

PAGE 2

At the end of 1992, the Legislature enacted a new statute requiring probationers to pay a transaction fee of up to \$1.00 on each payment or installment payment associated with an offense committed on or after February 1, 1993. The exact fee schedule is to be determined by the Administrative Office of the Courts. The money is to be placed in an operating account devoted exclusively to the development and operation of a statewide, automated collections system. In addition, probation divisions continue to collect a variety of other financial impositions as well: PTI application fees, court costs, traffic penalties, mandatory surcharges, drug testing fees, in some cases fees for supervision, and the like. Nor is this trend expected to abate. Across-the-board fees for supervision are under serious consideration.

The amount of money for which probation is responsible has also increased astronomically. While past records on impositions are not adequate for detailed analysis, collection figures are well documented. In Court Year 1980, probation departments collected \$2,848,594; by Court Year 1991, that figure had increased more than seven-fold to \$20,207,478, a difference of nearly \$17.5m.

An important aspect of this background is that nearly all of the money collected by probation is designated for use by other agencies; very little of it can be used by the courts. Most revenues collected go to the funding of programs operated by other agencies in other branches of government. Compensation to victims, assistance to witnesses, laboratory tests of confiscated substances, programs to educate the public about the dangers of drug use: these and many more programs operated by State, county, and local agencies depend on the success of probation collections to continue their operations.

In recognition of probation's growing responsibility to enforce the court's monetary orders, the Probation Services Division of the Administrative Office of the Courts made a commitment in 1988 to put forth serious effort to improve probation collection techniques and thereby increase the money garnered to run these important programs. As part of the initial commitment, a Probation Collections Coordinator was appointed at the end of 1988, and a study of probation collection practices was commissioned.

II. ARTHUR ANDERSEN STUDY

Early in 1989, Arthur Andersen Consulting was hired to conduct a study of collection practices in four counties -- Camden, Middlesex, Ocean, and Somerset -- and several municipalities. In response to a perception that collections were handled very differently from county to county, the researchers were asked to document practices, analyze their effectiveness, and make recommendations for statewide improvement. The consultants did indeed find a wide range of methods by which counties tracked financial matters and

--DRAFT--

PLAN TO IMPROVE COLLECTIONS

MARCH 31, 1993

PAGE 3

attempted to stimulate compliance with monetary orders imposed by the courts. Based on their expertise in this area and the results that they saw in the counties, the consultants came up with a series of recommendations, the most salient of which are enumerated below.

1. Collection policies and procedures should be standardized statewide and codified in a manual.
2. Financial background information should be verified at the predisposition phase and provided to the court to ensure appropriate payment terms.
3. Defendants should be expected, and so notified, to pay a portion of their financial penalties on the day of sentencing.
4. The court should consider detaining individuals who demonstrate an ability to make an initial payment on the day of sentencing but fail to do so.
5. Judges should incorporate into the sentence a specific payment plan compatible with the defendant's financial situation. The plan should be designed with the goal of satisfying all court-ordered monetary obligations in the shortest possible amount of time and certainly before the end of the probation sentence.
6. A study should be performed to establish optimum fine, fee, and penalty levels based on the defendant's ability to pay.
7. The court should communicate sentences promptly to probation.
8. Probation should maintain automated collection records capable of generating billing notices, dunning letters, payment coupons, etc.
9. Probation should establish a structured approach to nonpayors based on a series of increasingly negative consequences and concluding with court appearances on a calendar devoted exclusively to those in default.
10. Collection techniques used successfully in the enforcement of child support orders should be adapted for use in the area of criminal penalties: wage attachments, docketing civil judgements, tax and homestead rebate offsets, etc.

--DRAFT--

PLAN TO IMPROVE COLLECTIONS

MARCH 31, 1993

PAGE 4

On an independent basis, the Probation Services Division conducted its own statistical analysis to determine the extent of correlation between the collection practices identified as effective in the Arthur Andersen study and the performance of the various local probation departments. Counties were ranked on their use of the techniques recommended in the Arthur Andersen report and on county economic factors such as per capita income, average income, unemployment rate, percentage of families receiving welfare, etc. These factors were further compared with collections performance defined as percentage of assessments collected. This study showed a weak correlation between the economic health of the county and probation's success in collecting financial obligations imposed by the court. However, a statistically significant relationship was shown to exist between use of the collection practices identified as effective by the Arthur Andersen study and a probation department's success in collecting assessments.

III. DEVELOPMENT OF THE MODEL COLLECTION PROCESS

The Chief Probation Officers Subcommittee on Collections addressed itself to the central recommendation of the Arthur Anderson report: the development of a collections policies and procedures manual which would codify standardized, statewide collection operations in the probation divisions. The final product will contain a flow chart of the procedures; citations of relevant statutes, case law, and administrative directives; detailed protocols for the use of specific collection techniques; and sample forms to be used uniformly by all probation divisions. At the core of this manual will be the Model Collection Process, a detailed step-by-step description of responsibilities and actions to be taken by Prosecutors, Case Managers, Court Administrators, Judges, and Probation staff. Separate sections of the Process address Pretrial Intervention cases as well as those coming out of the Criminal and Family Divisions and from Municipal Court.

While the initial drafts of the Model Collection Process were written by the CPO Subcommittee on Collections, a wide variety of groups and individuals were brought into the process:

- ...local probation division DEDR and VCCB Coordinators;
- ...Chief Probation Officers;
- ...Family Division Managers;
- ...Criminal Division Managers;
- ...Trial Court Administrators;
- ...Municipal Court Administrators;
- ...the Counsel to the Administrative Director; and
- ...staff of AOC Divisions for Probation Services, Criminal Practice, Family, and Municipal Services.

--DRAFT--

PLAN TO IMPROVE COLLECTIONS

MARCH 31, 1993

PAGE 5

At various times in the development, advice was sought from the Conferences of Family and Criminal Presiding Judges and the Assignment Judges. Comments and suggestions were also solicited from the State and local directors of the Victim/Witness Advocacy Programs, the trial assistant prosecutors from several counties, and the State Prosecutors Association.

The purpose of this complex process was to involve as many as possible of the key actors who play significant roles in collections. Their ideas were essential for building a consensus among those who have the responsibility and authority to affect the results of collection activities. By designing the Model Collection Process around the ideas advanced by all of these people, a commitment was created which would make possible full and effective implementation of the system.

The Model Process presented in this document was adopted unanimously by the Conference of Chief Probation Officer. It has received endorsement in principle from all of the other groups and individuals enumerated above. Full agreement with all specific recommendations has yet to be accomplished.

The Model Process is now being sent to the Conference of the Chief Justice and the Assignment Judges in order to obtain any final suggestions and amendments. The goal is for this Process to be adopted by the CJ/AJ Conference in order for it then to be promulgated as the official policy of the New Jersey Judiciary as to how collection cases will be addressed.

IV. PRINCIPLES AND VALUES

At the basis of the Model Collection Process are fundamental values and good collection principles which dictated a number of the policy decisions made by the CPO Subcommittee on Collections. These notions were drawn from the Arthur Andersen study as well as from broad investigation into trends in court practices throughout the country and a review of effective collection practices in the private sector. These principles and values are explained briefly in this section. In the next section, policy decisions imbedded in the Model Process are highlighted so that they may either be ratified or altered.

Dictates embodied in the statutes must be followed. A strong inclination prevailed that actions and procedures stipulated in New Jersey State law had to be raised to conscious awareness with the emphasis on total compliance with their requirements. Practices followed as a matter of tradition which are contrary to legal requirements should be rooted out of the Judiciary's repertoire of activity. Probably the best examples of this are the duty of the judge to set restitution amounts and establish payment schedules. These actions are often left to the discretion of the probation officer. The Model Collection Process strongly advocates a practice which follows the legal requirements because it is both correct and effective in terms of how the defendant views the monetary sanctions and therefore responds to them.

--DRAFT--

PLAN TO IMPROVE COLLECTIONS

MARCH 31, 1993

PAGE 6

Complete and accurate financial information about the defendant must be available to the court at the time of sentencing and must be maintained throughout probation supervision. Financial sanctions work best when they are tailored to fit the specific circumstances of the individual. Jurisdictions which have experimented with monetary penalties based, at least in part, on the offender's financial profile (the "day fine" approach) have found their collection rates to be higher than those situations where that is not the case. While New Jersey sentences contain many mandatory components and cannot therefore be based solely on the defendant's economic conditions, nevertheless the payment plan can and should be devised for the particular individual. To do this requires the judge to have as much relevant information as possible concerning the defendant at the time of sentencing. Probation officer activity during the period of supervision will also be more successful to the degree that the Officer has a total picture of the probationer's finances.

Consequently, it is essential that presentence reports include a complete and verified account of the defendant's income, assets, and liabilities. (See N.J.S.A. 2c:44-6b.) This record should be updated on a regular basis by the supervising probation officer. To this end, court divisions should work out policies and procedures for sharing information about offenders on a regular and systematic basis. Similar arrangements should be made with other components of the justice system which normally have information useful to the courts; the prosecutor's office and victim assistance programs are good examples.

Collections should be made over the shortest period of time consistent with the offender's ability to pay. There should be an expectation that the defendant will pay as much as possible toward court-imposed financial obligations at the time of sentencing. This should be communicated to the defendant in terms of a specific dollar amount which should be made a part of the plea agreement in appropriate cases. In the vast majority of cases where the monetary penalties are not paid forthwith, payments schedules should be designed to collect the total due in the least amount of time the defendant requires given income and other expenses. A standard amount such as \$10 per week should not be used for every case. At the same time, the schedule should ensure that all penalties are paid by the time the probation period ends.

Constructive use of authority should be brought to bear on the task of enforcing court orders involving financial penalties. The Judge should be prepared to apply sanctions if the initial payment originally part of the plea agreement is not fulfilled. Following this initial push for payment, which should include a discussion with the defendant about the application of any bail money posted, the judge should lay out in detail to the offender what is expected in terms of payments -- how many, how much, when due, and to whom payments shall be made. Consequences for non-payment should be outlined clearly and in some detail. When the probationer first meets with the probation officer, payment expectations should again be reviewed in the context of a general discussion of the rules and regulations of supervision. Probation officers must monitor their probationers closely to make sure they are adhering to the payment plans prescribed by the court.

--DRAFT--

PLAN TO IMPROVE COLLECTIONS

MARCH 31, 1993

PAGE 7

A series of increasingly negative consequences should be used routinely in response to default on the payment plan contained in the sentence. By policy, the probation supervision divisions should have an established sequence of events that follow default in the court-ordered installment payments which have been established to ensure compliance with the court-imposed monetary assessments. A series of increasingly negative consequences should follow non-compliance with payment plans until the probationer changes behavior to comport with the court orders or, failing this, the individual is brought back to court for a Violation of Probation, contempt, or summary collection hearing. The steps in this process should be made clear to the probationer at the outset of supervision and should be followed meticulously when infractions occur. The Model Collection Process suggests what these increasingly negative sanctions should be.

V. POLICY ISSUES RELATED TO RECOMMENDED PRACTICES

There are a number of practices recommended in the Model Collection Process which involve policy decisions based on the principles and values described above. The purpose of this section is to describe what policy decisions are recommended and why. In that way, those responsible for making and promulgating policy can be made aware of the issues involved and the directions preferred so that conscious decisions can be made either to support the recommendations or to go in a different direction. These issues can be organized loosely under four distinct headings: information, priorities, practices, and enforcement.

A. Information

1. It is necessary for the judge to have all of the relevant information needed to specify the installment payment schedule for court-ordered financial obligations. Therefore, materials going to the judge from the Criminal Division Managers Office on Pretrial Intervention cases and in presentence reports should contain information on the financial status of the offender. Besides making sense to include data regarding income, assets, debts, and other court-imposed obligations, this policy recommendation is in accord with the statutes regarding VCCB which require this information to be available to the judge.
2. Guidelines need to be developed to assist judges in comprehending and analyzing the financial information they obtain about the defendant. In particular, judges need to be able to evaluate the defendant's income, expenses, assets, and liabilities in order to arrive at a fair and affordable initial payment to be made at the sentencing hearing. Further, the judge must than be able to use the financial background information to establish an installment payment schedule that the defendant can reasonably be expected

--DRAFT--

PLAN TO IMPROVE COLLECTIONS

MARCH 31, 1993

PAGE 8

to maintain and that will collect the total amount owed in the least amount of time but within the time period during which the defendant will be under probation supervision. Guidelines will help ensure that these issues are addressed uniformly and consistently throughout the State.

3. Cooperation between court divisions as well as interagency cooperation must be developed in order to ensure that financial information impacting on dispositions is shared with the judge regardless of where that data originates. Case Management Divisions and Supervision Divisions should cultivate good working relationships with each other and with the county prosecutors office and the county Victim Assistance Program in order to obtain the financial information those agencies have, especially regarding losses suffered by victims. Routine mechanisms should be put into place so that this type of data is transmitted on a regular basis.
4. **In order to begin the collection process at the earliest possible moment -- immediately after sentencing -- the defendant must be notified in writing of the amount expected to be paid at sentencing. No movement can be expected in this regard until that information is shared routinely with defendants so that they can be prepared to pay.**
5. To allow for strict enforcement of court orders, the sentence must contain complete and accurate information regarding the financial penalties assessed: amount, to whom owed, where to be paid, priorities for disbursement, schedule of payments, etc. All of these factors should be a condition of probation where supervision is ordered. They must be accurately recorded on the Judgment of Conviction and forwarded promptly to the probation division as quickly as possible in order to begin enforcement immediately.

B. Priorities

1. Child support payments (current amount plus court-ordered payments on arrearages) take precedent over any monetary penalties resulting from a disposition of delinquency or a criminal conviction.
2. PTI application fees should be collected prior to admission to the program or waived as provided by statute. They should not be deferred for collection by probation during PTI supervision.
3. In the event a PTI application fee remains to be paid after an offender is convicted and has been assessed other monetary penalties, the sentencing judge must specify what priority the PTI application fee has in relation to the collection of the other assessments.

--DRAFT--

PLAN TO IMPROVE COLLECTIONS

MARCH 31, 1993

PAGE 9

4. If an adult is convicted and put on probation with court-imposed financial obligations, and that individual has unpaid monetary assessments from previous convictions, all previously imposed penalties should be paid off completely before payments are applied to the new assessments. In other words, if there is a series of convictions, each with its own financial penalties, all payments should be completed for the first conviction before payments commence on the second conviction. Then penalties for each conviction should be taken in chronological order. This policy should be applied even when the earlier unpaid penalties are the result of juvenile adjudications.
5. A policy is needed relative to the payment of fees charged by the probation department, such as drug testing fees or fees for supervision. Where in the order of collection priorities do these fall? Can they be collected independent of the court-imposed financial obligations or must they await full payment of assessments mandated by the statutes?

C. Practices

1. Out-of-state cases should be handled especially carefully in terms of trying to get the maximum amount of money at the time of sentencing. The approach must be realistic about the fact that once the defendant leaves the state, there may be very little leverage that can be exerted to enforce compliance with the court's financial sanctions.
2. All installment payment plans should be made a condition of the probation sentence so that a missed payment becomes a violation of probation.
3. Payment plans should be designed to collect all assessments in the shortest amount of time consistent with the defendant's financial situation. However, in all cases the payment plan should be designed in such a way that, if followed, all financial penalties will be paid off in full at the end of the probation sentence.
4. If the payment plan imposed by the judge is to be changed by probation officials, e.g., following an administrative hearing, the sentencing judge must be asked for permission to make this change if the new schedule will allow the offender to take more time to pay off the obligations. If approved, the new payment schedule should be entered as a court order. If the new plan would have all assessments paid off sooner than the original order, the judge should still be notified of the change. If the defendant signs a waiver, these changes may be made without a court hearing.
5. Probation should disburse monies collected at least monthly. This holds true for victims receiving restitution. The probation division may establish a small (no more than \$20) minimum amount to be sent before a check is cut to a restitution recipient and accumulate monies from month to month until that minimum is reached.

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PLAN TO IMPROVE COLLECTIONS

MARCH 31, 1993

PAGE 10

6. Policy needs to be established with regard to offenders who have paid all or some FLF and DEDR penalties as part of a PTI agreement who are taken off PTI, subsequently brought to trial and convicted. The sentencing judge should clearly state what additional FLF and DEDR are owed, if any.
7. Policy needs to be established as to the type of proof needed at a Violation of Probation hearing to establish that the probationer was sent default notices but failed to respond to them. Is it necessary to have a hard copy of the notice sent? Or is it sufficient to have a notation in the computer file or a computer generated list of individuals who were sent payment-due notices on a particular day?
8. As work on the Model Collection Process has progressed and more attention is focused on this area, questions continue to arise that must be resolved in spite of the fact that there are no obvious answers. While this document confronts a lot of those issues and suggests policy for consideration, other enigmas are bound to arise after this document is supposedly finalized. ~~A mechanism should be established by which questions related to collections can be answered and policies established and approved in a timely fashion.~~

D. Enforcement

1. Defendants should be notified ahead of time and in writing of the amount of initial payment they are expected to make at sentencing toward their court-imposed financial obligations. At the hearing, the judge should remind the defendant that payment is expected and be prepared to impose additional sanctions if that payment was part of the original plea agreement and is not made.
2. If the defendant has posted any cash bail, at sentencing the judge should order as a condition of sentence the application of that money toward financial penalties.
3. Also at sentencing, the judge should impress upon the defendant and the defense attorney the importance and seriousness of paying the financial penalties and make the defendant aware of the possible consequences for failure to comply with the installment schedule imposed as a condition of the sentence.
4. At the initial meeting with the probationer when conditions of the sentence are reviewed, the probation officer should cover in detail the monetary conditions imposed by the court. The probationer should understand the amount to be paid at what intervals and to whom. Consequences for failure to comply should be explained in detail.

--DRAFT--

PLAN TO IMPROVE COLLECTIONS

MARCH 31, 1993

PAGE 11

5. Probation divisions should standardize an increasingly negative series of consequences to be applied to probationers who default on the court-imposed installment schedule. These graduated sanctions should be used uniformly across the board unless officer and supervisor agree that there is sufficient reason not to do so.
6. As part of the sequence of escalating consequences, probationers in default should be brought into the probation division for an administrative hearing in front of a senior probation management official before being scheduled for a Violation of Probation, contempt, or summary collection hearing in front of the sentencing judge. Counties should also consider setting up a special calendar of default cases before a specific judge (Fine Court or Default Court) to follow an administrative hearing before a formal violation hearing is scheduled. Current practice seems to reserve this intermediate type of hearing for cases where the only infraction is the lack of payments; all other conditions of probation are being met.
7. The probation supervision period should be extended to provide additional time to complete payment of court-ordered financial obligations only if there is reason to believe that such an extension will in fact produce payments. If there is no evidence that more time will bring in more money, alternative sanctions should be considered.

ncptoc

DEPARTMENT OF CORRECTIONS
BUREAU OF PAROLE
REVENUE COLLECTION PROCESS
Revised August 3, 1993

I Description of Collection Process

By statute (2C:46-4) the Department of Corrections shall collect all assessments, restitution and fines imposed by Superior Court in conjunction with a custodial sentence to a state institution. Further by statute, known as the Parole Act of 1979, the Bureau of Parole is designated as the collector of certain imposed revenue obligations of state offenders paroled by the State Parole Board. By Department policy all court imposed assessments, restitution and fines are collected by the Bureau of Parole while the offender is a state inmate, on parole and when the offender has completed the time portion of sentence but owes revenue obligation. These offenders who receive state custodial sentences are both the least able and the least motivated to pay.

When an offender receives a state custodial sentence the various probation departments transfer (via a handwritten form) to the Bureau of Parole any and all outstanding assessments, restitution and/or fines that individual may still owe. The Bureau of Parole has fourteen collection sites, its thirteen district offices and its central office. The Bureau's central office collection site is known as the Central Office Revenue Unit (CORU). The districts collect from both parolees and those offenders whose time portion of sentence has expired, some 36,000 cases and CORU collects from the state inmates, some 23,000 cases. The collection process within the Bureau is entirely manual, i.e. handwritten bookkeeping. Due to the manual system, there is neither the staff nor the space to maintain account records for 23,000 inmates. Each type of obligation that an offender owes is a separate account requiring a separate ledger card for each. Therefore an inmate's individual account receivable is not posted until a payment is received. If no payment is received while the individual is an inmate, the account(s) is established by a district office upon the individual's release. A determination of the total amount an individual owes is determined upon a manual search of paper records. When an individual moves from the jurisdiction of one payment site to other, the account(s) are transferred to the new collection site. Again this is a paper transfer of records.

As stated, due to the lack of resources, staff and space, the total accounts receivable for the Department of Corrections is not known. The Bureau is responsible for the collection from approximately 59,000 offenders, 23,000 of whom are inmates, 21,000 of whom are currently on parole, and 15,000 of whom still

owe revenue but whose time portion of sentence has expired. Of these 59,000 cases, a goodly portion owe more than one type of obligation. According to department records for the calendar year 1991 (last published year), as of December 31, 1991 thirty-two percent (32%) of the inmates and thirty-four percent (34%) of the parolees were committed for drug offenses. Each drug conviction accounts for at least three types of obligations. Drug offenders alone would require some 20,000 handwritten ledger cards.

The Department's Bureau of Audits and Accounts (A and A) is responsible for the proper distribution of payments. A and A is notified of amounts and types of disbursement via the handwritten journal pages received from the fourteen collection sites. All district offices submit the journal pages to CORU for oversight of submission in a timely fashion. At CORU, the Bureau's one and only trained bookkeeper reviews these pages. If errors are found, the errors are either corrected at CORU or the page returned to the appropriate district for correction prior to submission to A and A.

CORU notifies A and A of all beneficiaries of restitution payments. This notification is by memo after manual search of paper records and/or contact with the victim/witness coordinators of the various twenty-one county prosecutors' offices.

All payments received by the Bureau are deposited directly in a general treasury account. Each of the fourteen collection sites has a designated local bank where the deposits are made. Upon manual advisement (handwritten forms) by A and A, the Department of Treasury issues a check directly to the agency, party, etc.

II Hierarchy of Payments

The Bureau credits payments received to accounts in a priority order set by statute (2C:26-4.1). As such all payments made by an individual now go the VCCB assessment first, restitution second, forensic lab fee (FLF) fourth, drug enforcement demand reduction (DEDR) fifth and fine last. On August 2, 1993 the "Safe and Secure Communities Act" was signed into law. This created a sixth category of payment and becomes third in priority order of payment.

There apparently is nothing clearly definitive indicating collection priority as further established by order of Judgments of Conviction such as all VCCB assessments first, etc. regardless of date of conviction. Upon Department legal advice pending Attorney General advice, the Bureau policy is to collect all VCCB first, all restitution second, etc., regardless of date of conviction.

Re Bureau of Parole/Revenue Collection Process

III Payment Schedules

Payment schedules for parolees are set by the parole officer. This is done initially at the time of the first interview upon release. The schedule is revised by the parole officer either upward or downward as the parolee's financial circumstances dictate.

Involuntary payments for VCCB assessments are made by inmates housed in the institution when on work release from the institution. These payments are at the rate of one third of the work release wage as set by statute. There are no involuntary payments for other types of obligations.

Inmates housed in contract halfway houses are expected to pay weekly while employed. There is no established rate, however most payments are either five or ten dollars. The Bureau is not involved in rate establishment in these cases.

IV Sanctions

Under the Parole Act of 1979, a parolee's parole may be revoked by the State Parole Board upon referral by the Bureau via a probable cause hearing if there is established a no good faith effort to pay. No parolee has ever had parole revoked solely for this reason. Revocation and return to the institution is costly and does not produce payment.

Again under the Parole Act of 1979, a parolee may be granted early discharge from parole, providing certain conditions have been met including satisfactory adjustment and payment in full of any fine or restitution. Consideration for this discharge is upon recommendation by the parole officer. If a parolee qualifies for such a recommendation other than payment of all revenue obligations, payment in full may be accomplished in some cases by advising the parolee that a recommendation for early discharge will be made upon payment in full. However, during FY 1992 less than two tenths of one percent (.16%) of the cases supervised received an early discharge.

Once an offender has reached the maximum date of the time portion of sentence, willful non-payment may be referred to the Office of the Attorney General for collection efforts. Such a referral requires a known source of income and address. Due to many higher priorities and high caseloads (1:141) few referrals are actually made by the supervising parole officer. For fiscal year 1993, through the efforts of the Attorney General \$1,390.00 was collected through the SOIL program and \$3,995.00 was collected by direct payment from the offender. These collections involved twenty (20) cases. During the course of fiscal year 1993 ten

(10) new cases have been referred, a procedure which is slow and tedious, taking a number of man hours to prepare.

V Write-offs

The Bureau has permission from the Department of Treasury to request write-off of all outstanding obligations upon the death offender. However to do this, each case must be submitted to Treasury accompanied by certain documentation. After their review, the Bureau is notified as to whether or not the death may be written-off. Although the Bureau has requested authorization to write-off debt for other reasons, such authorization has yet to be forthcoming. Again, this is a slow and tedious procedure.

VI Average Amount of Payment

As the bookkeeping/accounting system is entirely manual and maintained in fourteen separate locations, there is no record of average payment. However, based on a small sampling of payments (less than 200) made to district offices fifty percent (50%) are twenty dollars (\$20) or less and seventy-five percent (75%) are for forty dollars (\$40) or less.

VII Computer Initiatives

The Department did initiate the user requirements needs for the institutional component of the revenue collection system. The initial plan for the analysis did not include the Bureau's bookkeeping system. However, due to fiscal constraints resulting in staff cut backs this analysis can not be completed until staffing levels are restored. In addition the hardware to support this system is approaching overload, plus being aged and obsolete. Until the hardware needs are met, any software for the revenue collection process cannot be used. It is not projected that hardware needs will be met prior to FY 1997.

VIII Resources and Funding

The manual system of revenue collection has never received funding from any source other than Bureau's annual allocated budget. When the Bureau was first required to collect revenue no addition funds or other resources were allocated. The only current budgeted staff for this collection is the Bureau's lone bookkeeping position, a position which has only existed since December 1989, almost nine years after collections started. All other staff involved with revenue collection is staff assigned for, and to do, other Bureau responsibilities.

The transaction fee enacted late last year is to assist in the funding of a computerized system. These fees apply to all convictions when the offense occurred on or after February 1, 1993. Because of the judicial process and the Bureau's collection system it will be some time, perhaps several years, before any significant amount will be collected as the bulk of these payments will be received after the offender is paroled or released at maximum sentence. Under current planning, the initial use of these funds is for software development and up-grade of institutional hardware necessary to utilize the software. Subsequent to this will come the Bureau's automation in the collection process.

Bureau of Parole

VRD

Victor R. D'Ilio



Susanne Pavelec

DISPOSITIONAL ENFORCEMENT

MORRIS COUNTY

S.L.A.P.

PROGRAM DESCRIPTION

01
02
03
04
05

March 10, 1992

TABLE OF CONTENTS

I.	Introduction	1
II.	Goals	2
III.	Organization	3
IV.	Benefits	3
V.	Program History	4
VI.	Weekend and Weekday S.L.A.P.	12
VII.	Conversion of Fines into S.L.A.P.	15
VIII.	Change of Sentence Order	19
IX.	Community Service Conversions to S.L.A.P.	20
X.	Bench Warrant Process	23
XI.	S.L.A.P. and High Intensity Probation	26
XII.	S.L.A.P. and Electronic Monitoring	28
XIII.	S.L.A.P. as a Component of E.D.C.	29
XIV.	S.L.A.P. as it Affects the Municipal Courts	34
XV.	G.E.D. and Similar Programs as Part of S.L.A.P.	38
XVI.	S.L.A.P. as a Means of Early County Parole.	40
XVII.	S.L.A.P. and Urinalysis and Alcohol Testing	42
XVIII.	S.L.A.P. and the Future	49

APPENDIX

DISPOSITIONAL ENFORCEMENT

I. INTRODUCTION

Rigorous enforcement of community-based judicial dispositions is critical to their success. Conditional sentences requiring the fulfillment of release conditions such as payment of financial sanctions, community service and treatment depend for their effectiveness on the recognition by the offender that the courts will take the steps necessary to ensure compliance. Without effective enforcement techniques offenders will not perceive the necessity of meeting the conditions of community release nor will the enforcement agents (Probation) be effective in seeing that the orders are fulfilled.

In this regard, the enforcement of judicial dispositions in New Jersey has become an increasingly difficult task for the following reasons: an increase in mandatory penalties, an increase in the number of offenders being sentenced, procedural requirements having increased court staff demands, pretrial processing matters taking priority for court time, and inadequately equipped courts and court support operations (space, equipment and technology).

Additionally, Probation (the enforcement arm of the Court in New Jersey) has seen its responsibilities and workload increase dramatically, and probation resources have not kept pace with its workload growth. These conditions have reduced probation's ability to effectively enforce the financial and community service requirements imposed by the court.

This growing trend has become a major concern for judges, probation officers, court administrators, prosecutors, victims, and the public.

The public believes that the court system is not effectively discharging its responsibility to hold offenders accountable for the orders they issue. This impression is also held by offenders. Additionally, New Jersey's jails are seriously crowded. Offenders realize that it is very unlikely that they will be incarcerated for failure to comply with court ordered obligations. Our lack of progressively intensive sanctions short of incarceration contributes to the impression that offenders may disregard court orders.

These factors cause frustration among judges, probation officers, prosecutors, wardens, sheriffs, victims, and the public. To ameliorate these problems, a new and effective enforcement approach, one that provides a flexible range of viable options short of incarceration designed to hold offenders accountable has been developed. This approach, the Sheriff's Labor Assistance Program (SLAP) includes the following elements.

II. GOALS

- Ease jail overcrowding
- Hold offenders accountable for meeting the court imposed requirements;
- Increase the rates of compliance for the payment of fines, restitution, financial penalties and community service;
- Establish a range of graduated community based sanctions for those offenders who fail to comply; and

- Establish a partnership between the Judiciary, the Executive Branch agencies and the community to administer the program elements.

III. ORGANIZATION

S.L.A.P. is a partnership between the Superior Court, Probation, Sheriff, Corrections, Municipal Courts and communities of the county. A Superior Court Judge designated by the Assignment Judge administers the program on the part of the Judiciary. Specific agreements are developed among the participating agencies and communities. These agreements define the responsibilities of each group involved and the procedures for handling these offenders. In addition, input as to how to make the program more effective is solicited from the prosecutor, public defender, private criminal defense bar and the participants on the program.

IV. BENEFITS

- Eases jail overcrowding
- Improves community service and fine payment compliance rates
- Saves money
- Requires little resources
- Easy to accomplish
- Improves intergovernmental coordination
- Enhances rehabilitative efforts

- **Reduces indirect costs**
- Restores credibility and confidence by the public in the courts

V. PROGRAM HISTORY

By 1983, the problem of county jail overcrowding in Morris County had become so severe that many defendants sentenced to a period of incarceration from Municipal and Superior Courts, could not begin serving that sentence immediately. Disrupting scheduled sentence commencement dates were events such as secret drug raids or nonsupport raids which resulted in jail admissions that would additionally burden the jail. This problem was even more acute on weekends when arrests resulting in incarceration dramatically increased.

Since the inmate capacity of the Morris County jail couldn't be expanded and the number of defendants being sentenced to jail was increasing, a plan was developed to utilize a county farm as a location for serving some sentences. The county farm, located seven miles west of the jail, was used to allow trustee status inmates to do farming under correctional supervision. Each morning five to ten incarcerated inmates were escorted by armed corrections officers by van to the farm to work. They were returned around suppertime to continue serving their sentence in the jail. This detail was considered a prize by the inmates because it got them out of the jail for the daytime and the work was healthy and useful. The crops grown at the farm were used by the jail and the Youth Center as part of the daily menu. Similarly to inmates who participated in the traditional work-release



CIRCULAR

STATE OF NEW JERSEY

DEPARTMENT OF THE TREASURY

NO: 94-27-OMB	ORIGINATING AGENCY: OFFICE OF MANAGEMENT & BUDGET	PAGE 1 OF 3
EFFECTIVE DATE: JULY 1, 1993	EXPIRATION DATE: INDEFINITE	SUPERSEDES: 92-14-OMB
SUBJECT: WRITE-OFF OF UNCOLLECTABLE ACCOUNTS RECEIVABLE		
ATTENTION: DIRECTORS OF ADMINISTRATION AND CHIEF FISCAL OFFICERS		
FOR INFORMATION CONTACT: ALBERTHA HYCHE		PHONE: 633-9056

This policy sets forth the basic responsibilities, principles, and general instructions for the removal of uncollectable accounts from an agency's records, and the subsequent write-off of such accounts which may appear in the State's general ledgers.

All requests to write off uncollectable accounts receivable for accounting purposes must be submitted to the Receivables Management Section, Division of Administration, Department of the Treasury, and must be approved by the Director of the Office of Management and Budget, Department of the Treasury. Only when such approval has been obtained may those accounts be removed from the books of the State and/or agency.

CRITERIA FOR WRITE-OFF

To be eligible for write-off, a receivable must meet one of the following criteria:

1. Any debt of \$100 or less, which is delinquent at least one year with no contact with or no payment from the debtor for at least one year.
2. Any debt greater than \$100, but no more than \$250, that is delinquent at least two years with no contact with or no payment from the debtor for at least two years.
3. Any debt greater than \$250 which is delinquent at least three years with no contact with or no payment from the debtor for at least three years.
4. Any debt that is owed by a debtor that is deceased and there are no assets in his or her estate from which to collect the sum owed.

5. Any debt or portion thereof that is discharged in bankruptcy.
6. Any debt that is owed by a corporation and there are no assets and/or the corporation is no longer in business or has been dissolved.
7. Any debt that is determined to be uncollectable by the Attorney General or his designee.

AGENCY RESPONSIBILITY

1. Each agency shall make every effort to effect collection of all of its accounts receivable. It shall develop and establish procedures and guidelines to be followed for an effective account collection function. These guidelines and procedures shall also be directed toward providing an effective appraisal and evaluation of the adequacy of the collection effort undertaken. Upon request, the guidelines and procedures must be made available to:

Department of the Treasury
Office of the Treasurer
Fiscal and Resources
Receivables Management Section
CN 211
Trenton, New Jersey 08625

Having pursued a conscientious but unproductive collection effort, the agency may consider the accounts receivable in question as eligible for removal from its books.

The Office of the Treasurer, Fiscal and Resources, has been delegated the authority to perform periodic reviews of agency collection procedures to determine if the policies detailed in this Circular Letter and in the agency guidelines are being followed.

2. Agency fiscal personnel must determine whether the account in question appears on their records only or has been entered onto the State's central accounting system.

Permission to write off the account must then be formally requested through the submission of Form AR-900A for internal records or Form AR-900 (revised) for State accounting records, whichever is appropriate. These forms must be transmitted to the Receivables Management Section, Office of the Treasurer, Fiscal and Resources.

RECEIVABLES MANAGEMENT SECTION

The Receivables Management Section, Office of the Treasurer, Fiscal and Resources, has been delegated the authority to review and evaluate each write-off request, whether it concerns agency internal records only or the State's central accounting system. This review shall permit the on-site inspection of agency records. Its recommendations will be recorded in the space provided on the forms. The forms, together with documentation of the agency's collection effort and results thereof, will be transmitted to:

Director, Office of Management and Budget
Department of the Treasurer
CN 221
Trenton, New Jersey 08625-0221

OFFICE OF MANAGEMENT AND BUDGET

The Director of the Office of Management and Budget, in accordance with the duties and authorities as outlined in N.J.S.A. 52:24-4 and 52:27B-33 et. seq. shall review the recommendations of the Receivables Management Section and make a formal determination as to the disposition of each account in question.

All requests for write-off, after review and determination by the Director, will be forwarded to the Financial Reporting Section of the Office of Management and Budget and will serve as the basis for recording the appropriate entries on State and agency records. The Receivables Management Section will notify the agency of the action taken by returning a copy of the completed request form. Where write-off has been approved and the account appears on the State's central accounting system, the Financial Reporting Section will remove it; if the account is solely on the agency's internal records, the copy of the approved request will serve as official authorization to remove the account from the agency's books.



Richard F. Keevey
Director

