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TO: Commission on Alternatives to Incarceration

FROM: Sally Holewa, State Court Administrator SH

RE: Collection of Restitution

DATE: April 28, 2014

At your last meeting, the Commission considered the idea of establishing a victim reparation fund that would allow for payments to be made to a victim of any type of crime who was still owed restitution at the end of a defendant's probationary period. The court was asked to provide information about the amount of restitution that is assessed and collected statewide.

This is information that we can look at in the aggregate form but is not easily transferable to individual case data. In other words, what we know about assessment and what we estimate can be collected over time can give us a picture of the whole but can't tell us much at all about what will happen in any particular case. That is because individual behavior, length of probation, and amount of restitution varies widely from case to case and all of these factors play a part in determining if restitution will be paid in full.

Whenever we look at account data for the courts, we have to look at a single date in time and make estimates based on that particular date. That is because every single day the data is changing as more accounts are added and others are paid off. It is particularly hard to determine an exact collections rate because payments received on any given day could be for assessments made in another year. Furthermore, those payments could be for an account that is not yet due (future receivables), currently due, or past due.

Using February 20, 2014 as our single date in time snapshot, we found that statewide we had an accounts receivable balance for restitution of $25,676,201. This does not include any restitution assessed in Burleigh and Grand Forks County, and only includes partial restitution assessed in Cass and Ward counties. The reason for the variance in who collects restitution is found in NDCC 11-16-01.1.

> **11-16-01.1. Restitution collection and enforcement.**
> Except as provided in this section, the county and state offices performing restitution collection and enforcement activities as of April 1, 2001, shall continue to perform those activities. In counties in which a county office performs those activities, a county may transfer responsibility for the activities to another county office.

As with any kind of collections, the chances of receiving payments are best at the beginning of the collection period and taper off over time. To estimate the amount of money we will collect over time we have developed an aging schedule. We estimate that 84% of what is owed will be collected in the first year, 76% in the second year, 15% in years three to six, and so on. Using that aging schedule the uncollectible restitution is estimated at $17,372,569. It is important to note that of the $25.6 million owing, just over $10 million is already more than six years old. Because we brought forward the past due district court accounts when we went on our first computer system (1982) and added the past due county court accounts when we unified the courts (2001), some of the balances could be as old as 30 years.

Pursuant to N.D.C.C. 12.1-32-08, restitution can be filed as a civil judgment and enforced through regular judgment collection processes. Victims may also be entitled to payments from the North Dakota Crime Victims Compensation Program.

Restitution Receivable Estimate/Aging Schedule - February 20, 2014

AGING SCHEDULE	Uncollect	Collectible
0-1 year	16.0%	84.0%
1-2 years	24.0%	76.0%
2-6 years	85.0%	15.0%
6-9 years	92.0%	8.0%
9-12 years	97.0%	3.0%
12+ years	100.0%	0.0%

TOTAL PER COUNTY

	No due Date	Under 1 year	1-2 years	2-6 years	6-9 years	9-12 years	12+ years	Future Receivables	Total Restitution
Adams	$16,436	$0	$1,724	$7,078	$5,911	$3,412	$0	$6,848	**$41,410**
Barnes	$72,193	$8,965	$5,898	$131,161	$31,834	$20,953	$42,930	$240,472	**$554,406**
Benson	$91,052	$30	$2,194	$34,905	$53,044	$5,499	$53,160	$35	**$239,920**
Billings	$12,867	$0	$315	$14,262	$0	$473	$0	$7,904	**$35,821**
Bottineau	$37,857	$1,581	$20,424	$8,752	$2,030	$573	$2,046	$33,807	**$107,070**
Bowman	$7,950	$7,570	$2,980	$3,964	$1,043	$1,630	$5,677	$20,880	**$51,693**
Burke	$27,332	$260	$9,079	$4,371	$1,556	$69	$13,348	$14,531	**$70,547**
Burleigh/1	$0	$0	$0	$0	$0	$0	$0	$0	**$0**
Cass/2	$448,410	$214,648	$67,213	$2,209	$0	$0	$0	$523,245	**$1,255,723**
Cavalier	$4,414	$333	$0	$135	$27,132	$2,026	$26,864	$1,119	**$62,024**
Dickey	$160,359	$2,797	$7,011	$6,018	$1,518	$244	$9,584	$12,289	**$199,819**
Divide	$385,299	$50	$1,324	$38,362	$0	$11,661	$10,473	$15,956	**$463,125**
Dunn	$15,027	$1,698	$1,275	$6,636	$7,513	$4,472	$13,129	$40,993	**$90,744**
Eddy	$8,932	$912	$265	$1,005	$23,800	$0	$451	$2,836	**$38,200**
Emmons	$28,472	$1,200	$1,052	$12,109	$0	$1,818	$75,059	$43,159	**$162,870**
Foster	$42,088	$2,885	$292	$2,588	$697	$503	$0	$83,247	**$132,299**
Golden Valley	$1,511	$0	$94	$28	$604	$1,482	$20,586	$0	**$24,305**
Grand Forks/1	$0	$0	$0	$0	$0	$0	$0	$0	**$0**
Grant	$32,850	$3,696	$0	$0	$19,179	$0	$0	$7,741	**$63,466**
Griggs	$10,523	$388	$2,146	$2,898	$780	$0	$0	$21,494	**$38,229**
Hettinger	$11,051	$1,441	$0	$2,735	$2,634	$17,659	$0	$26,191	**$61,710**
Kidder	$400	$1,020	$236	$662	$2,376	$15,486	$3,323	$4,647	**$28,149**
Lamoure	$37,157	$906	$0	$7,751	$97,593	$421	$0	$0	**$143,828**
Logan	$135	$0	$0	$75	$3,248	$116	$790	$0	**$4,364**
McHenry	$49,392	$1,738	$4,256	$4,845	$517	$3,624	$10,779	$57,335	**$132,487**
McIntosh	$0	$695	$0	$163	$59,724	$849	$2,017	$3,070	**$66,519**
McKenzie	$116,280	$7,810	$3,032	$19,381	$10,342	$14,431	$84,711	$46,494	**$302,481**
McLean	$20,916	$5,254	$3,158	$116,806	$104,192	$8,781	$11,132	$8,584	**$278,824**
Mercer	$36,609	$4,466	$3,511	$34,075	$7,850	$12,783	$260,032	$54,385	**$413,711**
Morton	$128,776	$3,272	$9,383	$93,060	$39,926	$116,964	$104,383	$37,582	**$533,345**
Mountrail	$63,647	$813	$30,783	$49,803	$90,221	$4,227	$1,465	$64,380	**$305,338**
Nelson	$8,984	$125	$145	$20,395	$1,821	$1,761	$26,767	$8,944	**$68,942**

	No due Date	Under 1 year	1-2 years	2-6 years	6-9 years	9-12 years	12+ years	Future Receivables	Total Restitution
Oliver	$7,040	$0	$422	$2,143	$40	$1,921	$300	$849	**$12,716**
Pembina	$24,859	$1,047	$2,610	$28,112	$1,040,124	$26,252	$38,727	$9,215	**$1,170,946**
Pierce	$39,459	$2,431	$7,260	$10,105	$1,796	$9,558	$4,734	$21,676	**$97,021**
Ramsey	$198,258	$4,155	$8,864	$48,301	$106,452	$144,517	$96,149	$70,776	**$677,473**
Ransom	$9,582	$1,880	$6,397	$53,981	$2,785	$2,154	$425	$4,598	**$81,801**
Renville	$33,446	$1,178	$168	$29,038	$5,848	$795	$0	$554	**$71,027**
Richland	$558,807	$3,596	$4,847	$147,350	$66,927	$89,304	$209,257	$14,751	**$1,094,838**
Rolette	$55,674	$4,024	$4,961	$201,425	$55,240	$33,811	$238,546	$35,240	**$628,922**
Sargent	$32,420	$0	$1,165	$11,154	$119	$1,308	$188	$2,065	**$48,418**
Sheridan	$2,216	$340	$0	$74,991	$269	$35	$0	$60	**$77,910**
Sioux	$19,593	$0	$2,100	$0	$0	$0	$0	$0	**$21,693**
Slope	$87	$16	$0	$2,988	$130	$782	$0	$222	**$4,224**
Stark	$155,638	$9,535	$11,520	$199,930	$4,199,076	$72,262	$435,578	$128,610	**$5,212,150**
Steele	$3,200	$0	$0	$3,174	$154	$800	$0	$1	**$7,329**
Stutsman	$843,645	$15,893	$0	$113,245	$42,745	$24,195	$31,429	$112,623	**$1,183,774**
Towner	$67,671	$0	$0	$3,059	$15,956	$309	$19,022	$0	**$106,017**
Traill	$38,402	$2,059	$3,016	$372,744	$7,634	$11,337	$0	$4,575	**$439,767**
Walsh	$36,794	$5,960	$4,907	$126,427	$57,669	$53,202	$238,238	$1,958,673	**$2,481,870**
Ward*	$303,262	$157,300	$61,157	$423,018	$54,382	$116,930	$490,160	$2,736,627	**$4,342,835**
Wells	$161,128	$1,431	$650	$5,677	$2,066	$2,716	$678	$66,255	**$240,601**
Williams	$336,918	$12,109	$15,163	$137,806	$360,608	$212,376	$73,466	$555,054	**$1,703,500**
Statewide restitution	**$4,805,021**	**$497,508**	**$312,998**	**$2,620,898**	**$6,617,105**	**$1,056,478**	**$2,655,602**	**$7,110,591**	**$25,676,201**
Uncollectible percent	**85%**	**16%**	**24%**	**85%**	**92%**	**97%**	**100%**	**16%**	
Uncollectible Allowance	**$4,084,268**	**$79,601**	**$75,119**	**$2,227,763**	**$6,087,737**	**$1,024,783**	**$2,655,602**	**$1,137,695**	**$17,372,569**

TOTAL RESTITUTION

	< 1 year & Future Rec.	1 - 2 years	2- 6 years/ No due date	6- 9 years	9 - 12 years	> 12 years	Total
Total Restitution	**$7,608,099**	**$312,998**	**$7,425,919**	**$6,617,105**	**$1,056,478**	**$2,655,602**	**$25,676,201**
Uncollectible Allowance	**$1,217,296**	**$75,119**	**$6,312,031**	**$6,087,737**	**$1,024,783**	**$2,655,602**	**$17,372,569**
Net Restitution	**$6,390,803**	**$237,878**	**$1,113,888**	**$529,368**	**$31,694**	**$0**	**$8,303,632**

1/ In Burleigh and Grand Forks Counties, restitution is collected and balances maintained by the state's attorney.

2/ In October 2012, the Cass County clerk's office started collecting restitution.

3/ In Ward County, restitution is collected by both the state's attorney and the clerk's office. The clerk's office maintains collections and balance due.

Priority set for payment of court fees

By Sally Holewa, State Court Administrator

Most people are familiar with the concept of a fine as a penalty for criminal behavior, but many are not aware that besides a fine, there are a number of other fees that may be added to a sentence when someone is found guilty of a crime.

Because most payments are not enough to cover the entire financial obligation, the court has had to set a priority for how the payments are divided. In general, if a defendant has multiple cases, the payment is applied to the oldest case first. Within each case, the payment is divided using the priorities established by the Administrative Council. This priority list is:

- Indigent defense application fee
- Indigent defense/facility improvement fee
- Victim/Witness fee
- Restitution
- Fines/Forfeitures
- Court administrative fee
- Check collection fee
- Community service supervision fee
- Indigent defense recoupment
- City transfers and other county ordinance violations

Questions are sometimes raised as to why we don't have restitution as our first priority, or why some other fee isn't higher on the list. There are two main drivers behind how the priority list is set. The first has to do with the services the fees are funding and the second has to do with whether or not there are other sources of funding.

The indigent defense application fee and the indigent defense fee receive the highest priority because they are used to fund the Commission on Indigent Defense Services. The court system recognizes that to have a fair and just system, indigent defendants must have access to legal counsel. Part of the indigent defense fee also goes into a fund that is used to reimburse counties for maintenance and improvement of court facilities. Adequate facilities are necessary for the court to conduct hearings.

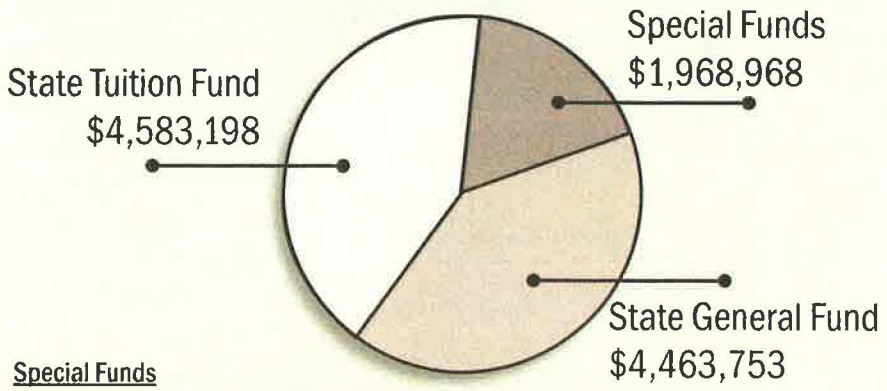
The victim/witness fee is used to fund victim and witness advocates and as funding for entities that provide direct services to victims. By placing this fee high in the priority list, the court system recognizes the impact of crime on individuals and the need to provide someone who can assist victims and witnesses in understanding their rights, the sometimes complex and confusing legal procedures and terminology and to ensure that the victims get an opportunity to voice their thoughts about the case.

Restitution is fourth on the priority list. While restitution is an important part of any defendant's sentence, it is not first on the priority list because victims have the ability to pursue restitution through civil action and because victims of certain types of crimes can seek payment through the Crime Victims Reparations Fund.

The balance of the items on the list serve as a supplemental source for entities whose major funding comes from somewhere else and therefore are given a lower priority than some of the other fees.

Revenues Collected

Fiscal year ending 6/30/2010



Special Funds

Fund 279: Indigent Defense Facility Fee (SC) - $547,624
Fund 282: Indigent Defense Facility Fee - $845,514
Fund 282: Indigent Application Fee - $90,620
Fund 237: Civil Legal Service - $333,252
Fund 235: Displaced Homemakers - $97,735
Fund 268: Restitution Collection Assistance - $26,135
Fund 320: Community Service Supervision - $28,088

The pie chart above indicates state revenues collected by the clerk of court offices for fiscal year ending June 20, 2010. Revenue collected by the courts is divided between the State General Fund, the State Tuition and Special Funds. A breakdown of those special funds is included in the chart.