

**Alaska Criminal Justice Commission
Restitution/Restorative Justice Workgroup**

REVISED Meeting Summary

July 29, 2016

9 a.m. – Noon

AG's conference room, 5th Floor, Anchorage

Present: Brenda Stanfill (telephonic); Dunnington Babb (telephonic) (for Commissioner Steiner); Alex Bryner (telephonic); Nancy Meade & Christine Johnson, Alaska Court System; Stacy Steinberg & Jim Cantor, Department of Law; Alyssa Wooden, DHSS; Trina Sears, OVR; Fred Dyson; Jeff May, UAF (telephonic); Kate Hudson, VCCB (telephonic).
Susanne DiPietro, Giulia Kaufman, Staci Corey, & Brian Brossmer, Alaska Judicial Council.

The Department of Law took over collection of restitution from the court system in 2002 and began collecting victim restitution for restitution judgments entered after 2002. The court continued to collect restitution on all pre-2002 restitution judgments. Victim restitution is roughly 20% of all DOL collections.

Governor Walker has line-item vetoed the victim restitution unit from the Department of Law's budget. The unit will be closed down in January. The group discussed the implications of this closure, and what resources might be offered after January for victims who need assistance collecting restitution.

One idea was to rely on private collections agencies, who charge a fee. For this idea to work, a law would be need to allow the fee to be assessed against the debtor/defendant, and not the victim. Such a system might make sense in some situations, but experience in other states shows that collection agencies assess significant fees that pile up against defendants who owe smaller amounts, and some of these defendants have ended up with debts to the collection agencies far exceeding the actual judgment amount. These types of debts are damaging to defendants' abilities to successfully re-enter society, and the debts could be viewed as unfair.

Another idea is to rely more on the Violent Crime Compensation Board. The VCCB is funded through state appropriations (an RSA from the Permanent Fund Criminal Fund), and a federal grant. Mr. Dyson asked the working group to support his proposal to increase state funding for the VCCB by ending the current practice of appropriating money from the Permanent Fund Criminal Fund to the Department of Corrections (around \$14.8 in FY13). It was not clear whether the executive branch has the authority to direct Criminal Fund appropriations, or whether this is a

legislative function. Eligibility restrictions apply to VCCB's services. For example, victims of property crimes are not eligible, and the maximum award is capped at \$40K.

Negotiated resolutions to some criminal cases involve a plea to a lesser charge and payment of restitution. Currently, these resolutions are difficult to implement because there is no easy way for the defendant to pay the restitution before entry of judgment. Ms. Johnson and Ms. Meade will investigate whether the court system could accept these types of payments. Defendants should somehow be incentivized to pay restitution early on, even before judgment.

Executing on a civil judgment is difficult for inexperienced or unsophisticated victims. The same is true for obtaining an order garnishing wages.

Restitution should be more clearly defined so that victims understand what they can ask for. Commissioner Bryner cited one case in which the judge ordered the defendant to pay restitution, but the amount was not known at sentencing, and the prosecutor never followed up with the court to provide the amount.

Another proposal might be to increase assets available for restitution by decreasing the number of defendants who become ineligible for a PFD based on incarceration. Mr. Babb asked the group to consider whether the law should be changed to allow defendants who serve only short prison sentences to retain their PFD eligibility.

Mr. Babb also asked the group to consider whether to triage the types of victims paid by the PF Criminal Fund, based on indigency or some means-based assessment.

The court system and the Department of Law are conferring to work out the details of how existing restitution accounts will be serviced after January. This task likely will not be fully completed by January.

Starting in January, DOC probation officers will be required to create a restitution payment schedule based on the probationer's income and ability to pay if the court has not already set a restitution payment schedule. It is not clear how DOC will implement this responsibility. Currently, probation officers rely on the Department of Law collections unit to inform them about fines, fees, and restitution owed by their supervisees. After January, victim restitution will be handled by the court system but the fines and fees will still be collected by DOL. Also, the group wondered whether the officers will create one payment plan for fines and fees and a separate plan for restitution

After January 1, a probationer will be eligible to earn a credit of 30 days for each 30-day period served in which the defendant complied with the conditions of probation. (Question: Does this provision apply only to felony probationers, or also to misdemeanants?) The DOC must promulgate regulations to implement this credit system, including defining whether failure to pay restitution would prevent the defendant from earning the credit.

The next meeting date is August 18, 2016 from 9 am – noon, location TBA.

Staff will collect more information and revise the restitution memo before the next meeting.