



**AUDIT OF
COLLECTION AND DISTRIBUTION OF RESTITUTION
FOR CRIME VICTIMS**

From The Office Of State Auditor
Claire McCaskill

Victims of crime need better support to receive
reimbursement for financial loss caused by offenders.

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PERFORMANCE AUDIT



Office Of The
State Auditor Of Missouri
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At least \$ 37 million in restitution is owed to crime victims, but the money may never reach them because Missouri laws are not victim friendly

This audit examined how well Missouri restores the financial loss to crime victims through collecting court-ordered restitution payments from offenders. In 1999, 52 percent of the cases requiring restitution received no payments at all. The report analyzed how Missouri's crime victim laws and statewide procedures affect collecting, distributing and monitoring these payments.

Offenders free from paying restitution after probation ends

Nearly \$3 million of the \$37 million in restitution owed in 1999 will never make it to victims. This money cannot be recovered because the offenders have been released from probation, sent to prison, or have died. As a result of these conditions, in 1999, 2,574 offenders who owed \$2.9 million to victims no longer had to make their payments. Paying restitution in full is not a condition for parole in Missouri. This is not the case across the nation where at least 29 other states have laws that better ensure the victim will be compensated. (See page 3)

Offenders that could pay, did not

At least 353 offenders who owed restitution in 1999 never made a payment even though they all worked and earned wages greater than \$20,000 a year. In total, these offenders earned \$7.2 million while on probation and owed their victims \$1.6 million. In addition, 66 offenders who owed restitution also received worker's compensation or second injury fund settlements. Missouri law does not allow the victim in either of these cases to obtain restitution by garnishing wages or attaching liens to settlements. (See page 5)

Courts, attorneys and police receive offender money before victim

When offenders make their court-ordered payments, the victim ranks 36th of the 38 entities that receive a portion of the money. The Office of State Court Administrators created this disbursement hierarchy, which applies to all courts on the state's Banner computer system. Some of the entities that receive an offender's money before the victim include various court divisions, sheriff's retirement accounts and law enforcement training funds. OSCA's reasons for this hierarchy included: an offender can more likely pay court costs, which are often lower than restitution owed; victims can more easily retrieve restitution through civil lawsuits than a court can obtain its fees through civil action; and to keep the Sheriff's Association satisfied. (See page 6)

YELLOW SHEET

Inaccurate data on restitution payments

Our review noted more than \$13 million inaccurately included in the restitution data, which the Division of Probation and Parole regularly used to update legislators and the public about collection progress. The data often overstated how much restitution actually reached victims. For example, the data included child support payments as victim restitution payments. (See page 12)

TABLE OF CONTENTS

	<u>Page</u>
STATE AUDITOR’S REPORT	1
 RESULTS AND RECOMMENDATIONS	
1. There is No Assurance Court-Ordered Restitution Payments for Victims of Crimes will be Collected and Disbursed to Victims.....	2
Victim restitution is ordered by courts and monitored by probation officers	3
State law does not ensure victims’ rights are protected	3
Victims are not considered high priority payees	6
State law does not address how restitution should be paid when there are multiple victims	7
Probation officers do not place emphasis on restitution	8
Courts are not ordering restitution to the Crime Victims’ Compensation Fund.....	9
Conclusion and recommendations	10
2. Improvements Should be Made to Data Systems for Managing Victim Restitution.....	12
Inaccurate restitution information exists within the Division of Probation and Parole’s case management database.....	12
Success rate of collection was overstated because the performance measure was invalid	14
Formal criteria for requesting restitution for the Crime Victims’ Compensation Fund program is needed, and a tracking system for requests for restitution should be developed	14
Inconsistency over who handles restitution collection in each county restricts the state’s ability to efficiently track restitution activity on a statewide basis.....	15
Conclusion and recommendations	16

TABLE OF CONTENTS

	<u>Page</u>
APPENDIXES	
I OBJECTIVE, SCOPE AND METHODOLOGY.....	19
II BACKGROUND.....	21
III RESTITUTION FINANCIAL DATA.....	26
IV RESTITUTION FINANCIAL DATA – BY JURISDICTION	27
V OTHER STATE RESTITUTION LAWS	28
VI STATE HIERARCHY FOR DISBURSEMENTS OF COURT PAYMENTS	29
VII MAP – RESTITUTION COLLECTORS BY COUNTY.....	30
VIII OFFICE OF STATE COURTS ADMINISTRATOR RESPONSES.....	31
IX DIVISION OF PROBATION AND PAROLE RESPONSES	33
X DIVISION OF WORKERS’ COMPENSATION RESPONSES.....	39



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Honorable Bob Holden, Governor
and
Members of the General Assembly

The State Auditor's Office performed an audit of restitution collection and disbursement for victims of criminal acts. The audit focused on the policies and procedures of the Department of Correction - Division of Probation and Parole and the Crime Victims' Compensation program administered by the Department of Labor and Industrial Relations - Division of Workers' Compensation as well as various state laws covering restitution. Offenders who create financial loss for the victim of their crime may be ordered by the court to pay restitution to the victim(s) of the crime while on probation under Section 559.021, RSMo. Victims can also apply for reimbursement from the Crime Victims' Compensation Fund for medical and wage loss under Section 595.015, RSMo.

Compliance with restitution orders of courts is a condition of probation that is monitored by probation officers. The objectives of the audit were to determine if:

- Missouri's restitution laws are victim friendly, allowing for victims to be fully compensated for the losses they incurred,
- Missouri's restitution laws are comparable with those of other states,
- Probation officers are properly monitoring the restitution obligations of offenders and taking the necessary actions as outlined by the Division of Probation and Parole's policies,
- The Division of Probation and Parole's case management database system reports accurate restitution data. This database is used to report restitution collection results to agency management, the legislature, and the public, and
- Revenue for the Crime Victims' Compensation Fund is maximized.

We concluded that victims of crime, in many cases, are not receiving the restitution from the offender, to which they are entitled, due to various legal restrictions and lack of implementation of the Division of Probation and Parole's procedures. In addition, the centralized case management database maintained by the division contains inaccurate data which impacts reported restitution collection results.

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October 27, 2000 (fieldwork completion)

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RESULTS AND RECOMMENDATIONS

1. There is No Assurance Court-Ordered Restitution Payments for Victims of Crimes will be Collected and Disbursed to Victims

During the year ended December 31, 1999, court-ordered restitution payments amounting to approximately \$3 million were not made, cannot be recovered, and cannot be distributed to the victims of the crimes. In addition, the outstanding balance of court-ordered restitutions for active cases at December 31, 1999, was approximately \$34 million for more than 15,070 cases. Audit tests disclosed that there were no payments made in 1999 on 9,106 (52 percent) of the probation supervised cases for which restitution was owed at some point in that year. The following reasons explain why victims do not always receive proper restitution and why the \$34 million balance is vulnerable to default.

- ❑ State law does not extend the liability for restitution beyond the offender's probation period.
- ❑ State law does not require payment of restitution before releasing offenders from probation.
- ❑ State law does not provide for collection methodologies such as garnishment of wages without the victim also being successful with a civil lawsuit.
- ❑ The victim is not considered a high priority payee when payments are received.
- ❑ There are no established formal guidelines to determine how to pay restitution to multiple victims.
- ❑ Repayment of restitution is treated as a low priority condition of probation for offenders.

Many victims are left to fend for themselves in civil court to obtain restitution that, in effect, victimizes them again because of the costs to file and prevail in court. Additionally, without stronger laws, procedures, and practices, there is no incentive for the offender to comply with the restitution requirement of his/her probation.

Missouri's laws and Department of Corrections - Division of Probation and Parole's procedures, are compromising victims. In addition, offenders are not being held accountable for their actions in all cases.

Victim restitution is ordered by courts and monitored by probation officers.

Prior to sentencing an offender, a court determines if the crime caused financial loss to the victim. The court, as a condition of probation, may order the offender to pay restitution for a victim’s tangible losses (asset theft, property damage, loss of wages, medical expenses etc.). Normally the offender does not have the ability to pay the victim the full amount of restitution when sentenced. In those cases, the court will order, or have the assigned probation officer determine, a repayment schedule for payment of the restitution. The offender makes payments to the court or applicable local government official or office.

(See Appendix II, page 21, for more detail on the restitution process)

State law does not ensure victims’ rights are protected

Under Missouri law, when the offender willfully fails to make payments, the recourse for the court is to revoke the offender’s probation. However, once an offender is released from probation, has his/her probation revoked or dies, the probation period is over and the offender no longer owes the restitution. During 1999, 2,574 offenders were relieved of their restitution obligations:

Nearly \$3 million cannot be collected

Reason Restitution Relieved	Number of Offenders	Amount of Lost Restitution
Released from probation	1,660	\$1,477,341
Probation Revoked	857	1,412,617
Death of Offender	<u>57</u>	<u>72,819</u>
Total	2,574	\$2,962,777

As of December 31, 1999, approximately \$34 million was owed to victims from offenders still active in the probation system.

(See Appendixes III and IV, pages 26 -27, for financial restitution data obtained from the Division of Probation and Parole case management database for the year ended December 31, 1999.)

Restitution cannot be collected beyond the offender’s probation period

Section 559.021.2 (1), RSMo allows for collection of court ordered restitution for the duration of the offender’s probation period. Per section 559.016, RSMo, the maximum probation periods are 2 years for a misdemeanor and 5 years for a felony. The offender is not legally obligated to pay any unpaid balance of restitution when he/she is released from probation or is imprisoned upon revocation of probation. When the offender has been removed from “probation” status, the only recourse for the victim to collect the remaining restitution is to file a lawsuit in civil court. This same rule applies for offenders who die during their probation period. A civil judgment would be required to file a claim against the

offender's estate. A victim normally must hire an attorney, file a motion, appear in court, and prove a loss caused by the crime including the amount or value of that loss. When successful, the victim may garnish the offender's wages for 90 days, place a lien on property, and other actions allowed by civil courts. The costs can be greater than the loss incurred by the victim from the originating offense. However, even after a successful civil judgment, the victim may find the offender has no means to pay the judgment and must endure the initial loss and the costs of the civil court action.

Victimized
how many
times?

Examples of offenders who were relieved of their restitution obligations follow.

Restitution				
Case Description	Ordered	Paid	Relieved	Reason
Stealing	\$ 15,000	\$ 200	\$ 14,800	Released
Arson	7,175	0	7,175	Released
Receiving Stolen Property	29,538	0	29,538	Probation Revoked
Tampering with Motor Vehicle	8,417	1,870	6,547	Probation Revoked
Driving While Intoxicated	3,500	0	3,500	Death of Offender

Our review of the laws of other states indicated at least 29 states had more victim friendly laws than Missouri. These laws included provisions for collecting restitution after the offender completes probation or is imprisoned. For example:

<i>State Allows Collection of Restitution:</i>	<i>Number of States</i>
While Offender is in Prison	18
After Offender is Paroled	26
After Offender is Released from Probation or Parole	17

Many states have been more aggressive than Missouri in establishing or changing laws to benefit victims and holding offenders accountable for losses they have caused. Several states including Washington, Colorado, and Iowa allow for collection of restitution until paid in full. The states of Delaware and Kentucky will not allow the offender to be released from supervision (probation or parole) until the restitution balance has been paid in full.

(See Appendix V, page 28, for a summary of the other state restitution laws.)

Offenders are released without paying restitution

Since Missouri laws do not allow for collection of restitution after release from probation or revocation of probation, it would appear that restitution would have to be paid in full before the offender could be released. However, this is not always the case. If the court has not ordered the revocation of an offender's probation for failure to pay all restitution owed, the

court may still release the offender from probation if satisfied about the completion of other probation conditions. Based on interviews with court officials, there is no desire to keep offenders in the state's correctional system for failure to repay all ordered restitution when victims still have recourse in civil court.

With better laws, Missouri could ensure victims are properly compensated

The Crime Victims' Bill of Rights and section 595.209, RSMo (Victim's and Witness's Rights) provide that crime victims have the right to restitution, which shall be enforceable in the same manner as any other civil cause of action. However, our discussions with judges and county Prosecuting Attorney's indicated these laws are not interpreted to allow victims to enforce a restitution order against an offender without first prevailing in a civil suit against him/her.

In Missouri, there are no statutes that directly allow victims to obtain unpaid restitution by means of liens, garnishments, or attachments. Crime victim laws in 25 states specifically allow some of these enforcement measures. Eleven of these 25 states required state officials to take these enforcement measures to ensure victims received the restitution.

In 1999, there were 373 cases statewide in which 353 offenders

- had a balance of restitution at December 31, 1999,
- did not make restitution payments, and
- had wages greater than \$20,000 reported to the Department of Labor and Industrial Relations - Division of Employment Security.

These offenders earned approximately \$7.2 million during their 1999 probationary periods and as of December 31, 1999, owed their victims \$1.6 million (22 percent of the total applicable wages reported). This review indicates that many offenders had the means to pay at least some of the restitution balance owed. Since the offender chose not to make restitution, and Missouri does not have a statute to provide for garnishment of wages, the victim was unable to be compensated.

Offenders could have paid \$180,000 to victims

Thirty-nine of these 353 offenders were released from probation in 1999, which effectively canceled their obligation to pay. These offenders earned approximately \$758,000 in wages during 1999 after their release. The outstanding restitution balances for these 39 offenders was \$147,377. Of this amount \$76,241 was potentially available to victims.

Sixty-six offenders on probation who owed restitution received workers' compensation or second injury fund settlements during 1999. With better laws, some of these funds could have been made available to the victims.

Income Source	Number of Offenders	Benefit Settlement¹	Restitution Balance	Available to Victim
Workers' Compensation	56	\$ 198,899	\$ 133,000	\$ 79,675
Second Injury Fund	10	44,400	40,697	<u>24,879</u>
				<u>\$ 104,554</u>

As a result, in excess of \$180,000 (\$76,241 + \$104,554) was potentially available to compensate victims for their losses, but not accessible unless the victim was already successful in a civil lawsuit.

Victims are not considered high priority payees

Victims are often not receiving payments until all other court costs and fees are collected from the offender. There would not be any court costs or fees if the victim had not been victimized in the first place.

Victims cannot get paid with available funds

In 1999, 1,078 of the 9,106 offenders noted above who made no restitution payments to victims made payments on their cases totaling \$173,000. None of this money was given to the victims. Instead, all the funds were applied to court costs and statutory fees. One offender made payments of \$1,556 in 1999, on a case that included a \$1,000 restitution order and other surcharges and fees. No payments were applied to restitution; rather \$1,510 was applied to court costs and \$46 applied to Crime Victims' Compensation Fund surcharges.

The Office of State Courts Administrator has developed a hierarchy for disbursements of payments received from offenders. The hierarchy was adopted by the State Supreme Court by Administrative Rule 21.03 and became effective July 1, 1999. Within this hierarchy, restitution to victims is ranked 36th out of 38 disbursement priorities. The Supreme Court requires any court that is part of the new statewide court system (Banner) that collects restitution to follow this approved hierarchy. Courts that collect restitution but are not on the Banner system are not required to use this hierarchy. Therefore, these courts are free to establish different disbursement priorities. In addition, in counties where officials other than courts collect restitution, such as the Prosecuting Attorney or Sheriff, the hierarchy does not apply.

Restitution trickles down to victim

After a case has been heard, there may be court costs, fines, attorney fees, Crime Victims' Compensation Fund surcharges, and restitution ordered by the court. The case initiates because the victim has been injured or incurred losses due to an offender's actions; however, the hierarchy adopted by the Supreme Court ensures courts and attorneys collect applicable fees first in addition to all other surcharges before the victim is compensated. According to State Courts Administrator personnel, the hierarchy approved by the Supreme Court was attempting to achieve the most efficient collection for the courts. These personnel provided the following reasons for establishing the

¹ Net of Attorney Fees and Liens

hierarchy the way they did:

- ❑ Total court costs, attorney fees, and Crime Victims' Compensation Fund surcharges are normally less than the restitution ordered by the court, and it is more likely that the offender could satisfy those costs rather than the restitution amount owed to the victim.
- ❑ Judges have indicated it would be easier for the victim to collect restitution through civil action than it would be for the court to obtain court costs through civil action.
- ❑ To keep the Sheriff's Association satisfied, fees and surcharges were placed at higher priority.

Many other states as well as the federal government place victims' restitution as the highest priority for the distribution of monies collected from offenders. The goal is to make the victim whole again as soon as possible. In Colorado, a committee consisting of crime victims, legislators, victim advocates, and state officials established the state's victims' compensation fund and victim restitution as the highest priority distribution payees in that state. This decision prevents the victim from being penalized again over the state's desire for funding. Likewise, part of a statute in the state of Maryland states "... restitution payments ordered by a court to a victim of crime shall be the highest priority."

(See Appendix VI, page 29, for the state hierarchy for disbursement of court payments.)

State law does not address how restitution should be paid when there are multiple victims

The priority or method of disbursement of restitution payments to multiple victims of an offender is inconsistent from court to court and sometimes inconsistent within the same court jurisdiction. State law does not address the procedures to be followed when transmitting payments to individual victims when multiple victims are involved in a case. Without guidelines for such distributions, victims may not be receiving fair and consistent treatment when monies are disbursed.

Restitution is normally collected in installments from offenders. There are varying methods used by counties for distributing these installments to multiple victims. As the table shows, procedures are not consistent among the counties.

County	Distribution Method Used
Andrew County	Split equally among victims regardless of each victim's loss
Butler County	Proportionally based on the total restitution owed all victims
Cape Girardeau County	Based on the order listed in the official paperwork (computerized system)
Cole County	Proportionally based on the total restitution owed all victims
Dekalb County	Split equally among victims regardless of each victim's loss
Ozark County	The offender determines which victims receive payments and how much
St Charles County	Varies by case circumstances

Probation officers do not place emphasis on restitution

Probation officers are responsible for supervising and monitoring offenders to ensure they are complying with the orders set out by the court. One of the special conditions of an offender on probation may be the payment of restitution. If the court orders the offender to pay restitution as a condition of his/her probation, the probation officer is responsible for monitoring compliance with this financial obligation. Audit tests disclosed that probation officers are not

Restitution should be emphasized

- ❑ placing emphasis on financial obligations of the offender,
- ❑ always reporting non-compliance of restitution obligations,
- ❑ establishing restitution payment schedules, and
- ❑ posting the payments timely in the financial system.

The lack of emphasis on financial obligations results in the victim not receiving restitution and the courts being unable to take necessary action.

Probation officers are not properly reporting restitution non-compliance

Probation officers are not always preparing violation reports when an offender has failed to comply with the payment of restitution as ordered by the court. Audit test results showed a violation report was not prepared for 44 of 70 (63 percent) offenders who were not in compliance with their payment plans. Similarly, a violation report was not prepared for 3 of 7 offenders in the test population who were not in compliance with court ordered restitution obligations 90 days prior to expiration of the probation period.

Violation reports must be prepared

The Department of Corrections - Division of Probation and Parole's operations manual states a violation report is required at any point the offender is in violation of a special condition ordered by the court, including those related to court costs and restitution. A violation report is specifically required if restitution is outstanding 90 days prior to expiration of the probation period. Violation reports are required as formal notice to the court that an offender has failed to comply with the conditions of supervision. Violation reports are necessary to alert the court that restitution has not been made, and to enable the court to take appropriate action.

Restitution payment schedules are not always prepared

Neither the court nor the probation officer prepared a restitution payment schedule for the offender in 32 of 135 cases (24 percent) reviewed. Once the court orders restitution as a condition of probation, the court may prepare a payment schedule or the court may order the probation officer to establish the payment schedule. Without a predetermined restitution

payment schedule, neither the offender nor the probation officer can determine if the restitution can or will be paid 90 days prior to the end of the probation period. The probation officer cannot measure non-compliance with restitution payments, and there is no pressure on the offender to attempt to pay restitution.

The Division of Probation and Parole's operations manual states, "Restitution is an offender's obligation to pay, if so ordered by the sentencing court. Restitution is considered to be the offender's financial obligation to the victim. Immediately upon intake of a new case, the supervising probation officer will establish a reasonable payment schedule, in light of the court order, the term of supervision, and the offender's financial situation."

Probation officers rely on 6-month confirmations to monitor payments

Monthly payments made by offenders recorded in the Division of Probation and Parole's case management database system did not agree with payments confirmed by the court or local government official or office responsible for restitution collection for 64 of 133 (48 percent) probation cases reviewed.

Some probation officers primarily rely on verification of restitution payments with the court or local government office responsible for restitution collection every 6 months prior to preparing routine case summary reports. The case summary report is a narrative document with financial data prepared to update the court on the offender's progress in completing his/her conditions of probation. During the 6 months between case summary reports, some probation officers do not appear to be concerned with maintaining accurate payment information.

However, the Division of Probation and Parole's operations manual states that the probation officer is responsible for establishing and maintaining an accurate record keeping system to verify payments. Without posting payments timely to the division's database and requiring the offender to always present payment documentation, it is not possible for the officer to maintain an accurate record of payment for an offender. Therefore, some probation officers may have no idea if offenders are in compliance with their financial obligations during the 6 months between each case summary report. In addition, since non-compliance cannot be determined due to inaccurate financial information, non-compliance of restitution obligations may not be properly reported to the court.

Courts are not ordering restitution to the Crime Victims' Compensation Fund

In fiscal year 1999, the Crime Victims' Compensation Fund paid out approximately \$4.7 million to victims for their losses. However, the fund only received approximately \$100,000 in court ordered restitution. In the city of St. Louis, approximately \$1.2 million was provided to victims of offenders yet only \$3,958 was returned to the fund through court ordered restitution.

The Department of Labor and Industrial Relations - Division of Workers' Compensation administers the Crime Victims' Compensation Fund program. The fund reimburses victims for loss of wages

and medical expenses caused by criminal acts. Program personnel may submit restitution requests to prosecuting attorneys involved in cases for which fund expenditures were made. For example, if a victim was compensated \$5,000 from the Crime Victims' Compensation Fund, an order of reimbursement of \$5,000 from the offender to the fund would be sought as part of the judgment in the court case.

In 14 of 29 states we reviewed, judges are required to order restitution to the Crime Victims' Compensation Fund or explain why this was not done. In Missouri it is not required. In Missouri, judges order Crime Victims' Compensation Fund restitution to be paid by the offender on only about half of the requests received. Why these orders are not being made could not be determined unless the fund is considered to be more than adequately funded by other revenue sources.

By not being ordered to repay the Crime Victims' Compensation Fund, offenders are relieved of the financial responsibility of damage caused to victims. In addition, the future viability of the Crime Victims' Compensation Fund could be at risk if victim recovery limits are increased without an increase in the Crime Victims' Compensation criminal case surcharge, which is currently the primary funding source for the fund. State officials are currently evaluating an increase in recovery limits.

Conclusion

With a few changes in the law, amendment of the hierarchy of payment priorities, and improved compliance by probation officers with division operating procedures; the crime victim has a better chance to be reimbursed for losses, and offenders will be required to accept financial responsibility for the criminal actions and the losses they caused.

Recommendations

We recommend the General Assembly:

- 1.1 Pass legislation allowing collection of court ordered restitution at other times than just during probationary periods. Such a change should allow collection while the offender is in prison, on parole, or released from supervision when the financial status of the offender permits.
- 1.2 Clarify victims' restitution enforcement rights as currently addressed in state law by specifying enforcement means that do not require victims to file a civil action lawsuit against the offender.
- 1.3 Mandate courts order offenders to pay restitution to the Crime Victims' Compensation Fund for fund disbursements which resulted from their actions. In cases in which such restitution is not ordered, the judge or prosecuting attorney should be required to formally document why restitution was not ordered or recommended.

We recommend the Office of State Courts Administrator:

- 1.4 Establish guidelines to assist in the distribution of restitution payments owed to multiple victims in a fair and consistent manner.
- 1.5 Revise the hierarchy of disbursements for monies received from offenders to place restitution near or at the top of the priority listing.

We recommend the Division of Probation and Parole implement procedures to ensure:

- 1.6 Violation reports are appropriately submitted to courts when offenders are in non-compliance with restitution obligations.
- 1.7 All offenders have appropriate restitution payment schedules established or case files explain why a payment schedule was not prepared.
- 1.8 Reported restitution payments are timely posted to the division's database.

Office of State Courts Administrator Comments

The agency's responses to recommendations 1.4 and 1.5 indicate that with some reservations action will be taken to implement the recommendations. The detailed comments are found at *Appendix VIII, page 31*.

Division of Probation and Parole Comments

The division's responses to recommendations 1.6 - 1.8 indicate partial agreement with the recommendations. Division personnel believe violation reports for nonpayment of restitution are currently being submitted appropriately, will make procedural changes to ensure case files reflect when offenders do not have restitution payment schedules, and plan to discontinue entering payment information in the OPII system to track restitution financial activity unless it is provided by the primary collection source. The detailed comments are found at *Appendix IX, page 33*.

State Auditor's Comments

The responses provided are acceptable with a reasonable implementation period for recommendation 1.7. The division noted in the response to recommendation 1.7 that since the majority of offenders tested had payment schedules (76 percent) the majority of offenders are making restitution. This assumption is not correct since 50 of the 103 offenders (48 percent) tested with a payment schedule made no payments during 1999.

2. Improvements Should be Made to Data Systems for Managing Victim Restitution

The Department of Corrections - Division of Probation and Parole and the Crime Victims' Compensation Fund program unit of the Department of Labor and Industrial Relations - Division of Workers' Compensation do not have adequate data and management reporting systems to ensure victims, as well as the state, are properly compensated and that restitution information is adequately recorded and tracked. We attributed the inadequate data and poor management reporting systems to the following reasons:

- ❑ Personnel of the Division of Probation and Parole did not adequately identify information that was needed in the data collection system or verify the accuracy of the data input into the system.
- ❑ The Division of Probation and Parole used an inaccurate comparison to evaluate restitution collection performance. The performance measure, which is reported to division management, the legislature, and the public, provides a false impression of the success victims have in being compensated by offenders.
- ❑ The Crime Victims' Compensation Fund program unit did not establish formal guidelines for determining cases to request restitution orders for as well as a record keeping system to track the overall financial activity related to these cases. Currently, records are maintained in individual case files and summarized in various computer files.

Without accurate data and management reporting systems, neither the Division of Probation and Parole nor the Crime Victims' Compensation Fund program unit can effectively oversee victims' restitution. The Division of Probation and Parole has the only centralized case management database for restitution information and since this information is used to report program results to the legislature and the public, the data must be as accurate as possible.

Inaccurate restitution information exists within the Division of Probation and Parole's case management database

The financial information in the Division of Probation and Parole's case management database has some errors, which impact its usefulness as a management tool. The database was not initially designed to track offender financial data; however, the division modified it to do this. The modified system has limitations, which the division recognized; however, financial information from the system has been used to report division results. Court orders for items other than restitution are inappropriately entered as restitution, restitution orders are sometimes duplicated, and system fields have been improperly used or not used to their full potential.

- ❑ Court ordered child support obligations are inappropriately posted as restitution in the database. While child support is a court order and needs to be monitored by the probation officer as a condition of probation, it is not restitution and should not be posted as such in the database. The Division of Probation and Parole overstated the

balance of victim restitution owed at December 31, 1999, by \$12 million because child support payment obligations were included in that balance (*see Appendix III, page 26, for details on outstanding restitution balances*).

- ❑ When a change order is prepared by the court to reduce the restitution amount due from the offender, some probation officers will leave the original restitution balance as stated and post a payment to adjust for the change order. This procedure causes both the balance and payment information to be misstated in the database.
- ❑ Miscellaneous court orders for donations or payments unrelated to restitution are inappropriately being recorded as restitution.
- ❑ At least one district probation office incorrectly reports the current status code for some offenders due to a misunderstanding with the codes. The status code identifies the status of the offender in the probation and parole system (*See Appendix III for examples of such code descriptions*). The status code for an offender may affect a probation officer's management of the case. The problem noted resulted in some offenders being misidentified as discharged when their cases were still actually active.
- ❑ When there are related sentence sequences such as with bad check offenses, sometimes the restitution amounts are duplicated in the database system for each sequence. (i.e. An offender is convicted of 5 counts of forgery and ordered to pay restitution of \$500 in total. Often each count is entered separately on the database with the \$500 restitution amount posted to each count which overstates the amount due.)
- ❑ Restitution ordered to the Crime Victims' Compensation Fund is not always properly entered as restitution in the database. Rather, in some cases, probation officers post fund restitution in a field reserved for fund court surcharges.
- ❑ Overstatements occur in restitution balances and payments related to co-defendant cases. When a judge orders restitution to be paid jointly and severally, the total restitution is entered into the database as due from each defendant because each one is potentially liable for the full amount of restitution owed. However, the victim can only receive up to the total amount of restitution ordered. If a judge orders victim restitution of \$40,000 to be paid jointly and severally between 4 offenders when \$40,000 is posted to each case to reflect the potential liability for each defendant it results in the restitution balance being overstated, as in this example, by \$120,000. In order to compensate for this problem, payments made from one defendant were sometimes posted to each co-defendant's case; however, this solution only resulted in restitution payment totals also being overstated.
- ❑ Probation officers are not always using the co-defendant flag field when entering case information into the database. The co-defendant flag allows the probation officer to

indicate if the offender had any other defendants involved in the offense and to identify those offenders.

The cumulative effect of the errors or problems identified totaled approximately \$13.3 million. These amounts were adjusted out of the financial data presented in *Appendix III*.

Success rate of collection was overstated because the performance measure was invalid

The Division of Probation and Parole overstates the success rate for collection of offender restitution payments when these results are reported to the legislature and public. The division's restitution collection rate computation compares the restitution payments for the period to the new restitution court orders for the period. This computation does not consider the outstanding balance for all orders prior to the beginning of that period. Therefore, in the Department of Corrections fiscal year 2000 budget submitted to the legislature the division reported a restitution collection rate of approximately 45 percent for fiscal year 1999; however, this percentage is clearly high because the collection of restitution for the year ended December 31, 1999, was actually less than 17 percent as shown below.

Collections overstated by nearly 200 %

$$\frac{\text{1999 restitution payments}}{\text{1/1/99 restitution due} + \text{1999 new orders}} = \frac{7,384,764}{44,159,937} = 16.7 \text{ percent}$$

(See *Appendix III, page 26, for financial restitution data for the year ended December 31, 1999.*)

Division personnel did not validate the data used to derive the performance result reported. If the accuracy of the information in the database had been verified, errors such as the child support entries we noted would have been identified in the data. However, since this did not occur, erroneous data is left in the system undetected, which also contributed to the misstated success of restitution collections.

Formal criteria for requesting restitution for the Crime Victims' Compensation Fund program is needed, and a tracking system for requests for restitution should be developed

As noted above, the personnel of the Crime Victims' Compensation Fund program unit may submit restitution requests to prosecuting attorneys involved in cases for which fund expenditures were made. The unit has not established formal documented policies explaining for which paid claims a request for restitution reimbursement will be made. Without a formal policy documenting the criteria reviewed, personnel managing the program have no assurance that all paid claims have been appropriately considered for restitution requests.

For those cases in which the program unit has submitted a request for restitution, there are no summary records maintained to indicate the status of all requested claims. When a request is made, the program unit will prepare a formal written request and submit it to the prosecuting attorney. A copy of the request will be placed in the case file documenting that a request was made. The case files are separated by status, which allows for tracking of cases for which restitution has been

ordered. Separate computer files are also maintained summarizing pertinent case information as well as restitution received by month, in total by fiscal year and by court jurisdiction.

In fiscal year 2000, victims of crime submitted approximately 1,723 restitution claims to the program. Program unit personnel estimate that about half of those claims were approved for some payment being made from the fund. Of those claims paid, an estimated 1/3rd were submitted to courts for restitution to be made to the Crime Victims' Compensation Fund by the offender. Since there are no summarized tracking records, unit staff cannot easily determine a summary of case financial activity without retrieving the individual case files.

Inconsistency over who handles restitution collection in each county restricts the state's ability to effectively track restitution activity on a statewide basis

Within a county or the city of St. Louis, state law does not prescribe which official has the responsibility for collecting restitution payments from offenders. For the state's 114 counties and the city of St. Louis, the following summary itemizes which officials or offices have the responsibility to collect and distribute restitution monies:

Official, Office or Individual Responsible for Collection	<u>Number</u>
Prosecuting Attorney only	58
Circuit Clerk only	31
Both Circuit Clerk and Prosecuting Attorney	17
Both Prosecuting Attorney and the Victim	4
Sheriff's Department only	1
Both Circuit Clerk and Sheriff's Department	1
Both Prosecuting Attorney and Probation Officer	1
Both Circuit Clerk and the Victim	1
Both Department of Criminal Records and Probation Officer	<u>1</u>
	<u>115</u>

A court case management system (Banner) is being implemented in circuit courts across the state. This system is designed to track all court case financial activity going through the court including restitution. However, if the Banner system is implemented in a court but another office or official in the county collects restitution, the county is not required to shift the duties of restitution to the circuit court to ensure restitution is posted to the system. As of November 6, 2000, 30 counties were using the Banner system but the circuit courts were collecting restitution in only 7 of these counties.

All circuit courts statewide should be using the Banner system within a few years. If all circuit courts recorded restitution information on the Banner system, the Division of Probation and Parole could directly access this information for the division's database and improve its accuracy. As a result, victims should benefit from the improved information available to probation officers regarding offender restitution compliance. Such a change would also eliminate the situation in five counties where some victims must deal directly with offenders for restitution payments.

(See Appendix VII, page 30, Map - Restitution Collectors by County)

The Division of Probation and Parole was considering linking the division's database with the Banner system to increase the accuracy of the division restitution financial data. However, since many circuit courts will not be posting restitution financial activity on the Banner system such a project will not be worthwhile unless a change is made requiring circuit courts to collect restitution.

Conclusion

The Division of Probation and Parole's database needs some improvements to enhance its usefulness to the state and the public. In addition, the personnel managing the Crime Victims' Compensation Fund program need more formal policies and improved tracking of cases for which funding requests have been received. More consistency is needed statewide regarding who is responsible for collecting and reporting restitution.

Recommendations

We recommend the Division of Probation and Parole:

- 2.1 Add additional fields to the division's case management database to allow for the posting of miscellaneous payments unrelated to restitution, the tracking of offender's child support responsibilities, the adjustment of initial restitution balances when ordered by a court, and the handling of any other unusual circumstances impacting the accuracy of the restitution information in the system.
- 2.2 Improve the training of staff on the appropriate times to use the various offender status codes in the database as well as the appropriate way to report restitution for related sequence and co-defendant cases and court ordered Crime Victims' Compensation Fund restitution.
- 2.3 Fully utilize the co-defendant flag field in the division's database to improve the tracking of restitution owed in cases involving co-defendants.
- 2.4 Revise the restitution collection performance measurement calculation to ensure a relevant comparison is used. In addition, validate the data that is used for this computation which should include taking steps to adjust out overstated restitution information for applicable co-defendant cases.

We recommend the Crime Victims' Compensation Fund program unit:

- 2.5 Establish written criteria to determine for which paid claims a restitution request will be submitted to courts.
- 2.6 Prepare and maintain summarized tracking records of restitution reimbursed to victims, restitution requests submitted to courts, restitution orders awarded by courts, and restitution payments received from offenders.

We recommend the General Assembly:

- 2.7 Pass legislation that establishes the collection of restitution as a duty of the Circuit Courts. This would ensure all courts post restitution payments to the Banner case management system, improve the uniformity of restitution collection records statewide and allow the Division of Probation and Parole to obtain timely accurate restitution financial information.

Division of Probation and Parole Comments

The division's responses to recommendations 2.1 - 2.4 indicate disagreement with recommendations 2.1 - 2.3 and partial agreement with recommendation 2.4. The detailed comments are found at *Appendix IX, page 33*.

State Auditor's Comments

Division responses failed to address the recommendations being made. Rather than discuss the specific weaknesses in the OPII system pointed out in the report, the division suggests that the recommendations are not relevant because the division now plans to only input restitution data obtained from the primary collection source every 6 months since the system was not originally designed to handle financial data. Until the weaknesses noted in the report, the division has appeared to be willing to produce financial information from the OPII system to provide data to the public and legislature. The decision to input only information obtained from the primary collection source will not solve all weaknesses pointed out especially if the erroneous data already in the system is not corrected. Reports prepared from financial data in the OPII system will still have erroneous results. We will follow up on the Division's plans.

Division of Workers' Compensation Comments

The division's responses to recommendations 2.5 and 2.6 indicate recommendation 2.5 has been implemented and recommendation 2.6 will at least be partially implemented with a new computer program by the end of the year. The detailed comments are found at *Appendix X, page 39*.

The Division of Probation and Parole also provided the following general comments about the report:

- *This audit only considers restitution payments made in 1999. The audit fails to consider payments made by any probationers during the full term of their supervision. Division records reflect that 75 percent of probationers discharged in 1999 had fully paid their court ordered restitution.*
- *The audit's sample size is not statistically significant and as such, is insufficient in number to generalize performance observations.*
- *This audit fails to note that 35 percent of the probation population sampled began probation supervision in 1999. It is unlikely that these newly assigned probationers were able to obtain*

employment and begin restitution payments during the calendar year in which the fiscal audit occurred.

- Specific scope and methodology concerns were:
 - *Sampling protocols, including universe definition, subsamples (if any) and discarded cases. It is noted that the denominator changes throughout the report which raises questions as to the sampling and inclusion of cases in the review.*
 - *The calculated statistical confidence level of the cases sampled, given the stated universe of 15,070 active cases owing restitution payments.*
 - *Data collection instruments.*
 - *The audit was designed to only consider restitution payments made in 1999. The audit fails to consider payments made during the full term of supervision.*
 - *The audit fails to define the test or review cases upon which it has drawn generalized conclusions. Many of these cases are very small in number.*

The entire response is included at *Appendix IX, page 33.*

State Auditor Comments

For probation cases open prior to January 1, 1999, 45 percent of offenders made no restitution payments in 1999. In addition, 36 percent of offenders whose probation cases opened during 1999 made at least one payment during the year. The audit results have not been adversely impacted by new 1999 probation cases.

The division's reported 75 percent collection success for cases discharged in 1999 may be overstated due to the child support payment information for some offenders which was reported as restitution. We excluded child support payments because they were not part of the victim's restitution universe and should not be included in the analysis for this report. We advised the division personnel of this issue at the exit conference but they continue to report a 75 percent collection rate.

The sample population was selected to support a 90 percent confidence level and 4 percent precision. Probation cases statewide were systematically selected with only cases reporting child support activity incorrectly as restitution being removed from the population. The denominator for the test results changed because each attribute tested was not applicable for each test item due to the varying circumstances of each offender's case. The audit results reflect weaknesses that should be addressed.

OBJECTIVE, SCOPE AND METHODOLOGY

Objective

To determine if crime victims are receiving the full amount of restitution ordered by courts and if not the financial impact on them. Also, to determine how Missouri's crime victim laws compare with those in other states. In addition, to review and test some procedures of the state's Department of Corrections - Division of Probation and Parole's as well as the state's Crime Victims' Compensation Fund program to evaluate if offenders are being held accountable for their actions.

Scope and Methodology

To accomplish the audit objectives we:

- Reviewed applicable state statutes and the policies and procedures of the Division of Probation and Parole.
- Discussed statewide policies involving probation and the special condition of restitution with the management of the division, probation officers, and applicable court or local government officials.
- Contacted personnel with the Crime Victims' Compensation Fund program administered by the Department of Labor - Division of Workers' Compensation to determine the procedures for handling victim claims for this program as well as the methods used for seeking repayment from offenders for assistance provided to victims.
- Reviewed the Division of Probation and Parole's database for offenders on probation and parole since it is the only available statewide source for this data. We evaluated the accuracy of the database system, probation officer's compliance with the formal policies of the division, and the action by the courts through the following procedures:
 - Reviewed a statistical sample of probation cases with restitution balances in 1999. The sample included all statewide probation cases open at any point during 1999. The results were not projected to the population.
 - Reviewed the probation case files for the cases tested.
 - Verified the 1999 restitution payments and the December 31, 1999, remaining restitution balances with applicable court or local government officials handling restitution collection for the sampled cases.
 - Summarized the database's financial information by final offender status code to determine the total restitution due Missouri victims at December 31, 1999, and the approximate amount of restitution in 1999 which became uncollectable without civil

APPENDIX I

action being taken by the victim due to the offenders release from probation, revocation of probation or death.

- Reviewed the crime victim laws of other states as well as the federal government to determine how these laws compare with those in Missouri. We also contacted officials in various states to better understand the crime victim laws in those states and how victims benefit.
- Reviewed employment wage information and workers' compensation and second injury fund benefit payments as well as lottery winnings for offenders with restitution balances in 1999. This review was conducted to identify sources of income of offenders that victims could access to satisfy unpaid restitution.
- Reviewed the financial data in the case management database, adjusted for errors, and ensured the financial data in *Appendix III* is materially accurate.

The audit was made in accordance with applicable generally accepted government auditing standards and included such tests of the procedures and records as were deemed appropriate under the circumstances.

BACKGROUND

Restitution Process

Victims of crime may receive restitution for losses caused by an offender if ordered by a court. The court or the offender's probation officer may establish the restitution repayment schedule. Repayment of restitution is a condition of probation. In each county, different procedures have been established or are followed for offenders to make restitution payments and those payments to be turned over to the victim. Offenders are to provide copies of receipts to probation officers to document restitution payments made. Probation officers file case summary reports every 6 months with the court having jurisdiction over the case. If offenders fail to make required restitution payments or fail to meet other conditions of probation, the officer must file a violation report with the court. The offender's probation status will be reviewed by the court for each violation report filed which may result in the revocation of his/her probation and a prison sentence.

Victims of crime and others as defined in state statutes that incur unreimbursed medical or counseling expenses or loss of wages as the result of an offender's crime may file a claim for compensation with the Department of Labor and Industrial Relations - Division of Workers' Compensation from the Crime Victims' Compensation Fund. Victims cannot receive assistance related to loss of tangible property from this fund. Local government victim advocates generally encourage victims to file claims with this fund if applicable losses have been suffered. Compensation is limited to a maximum of \$15,000 with no compensation being paid unless the victim's out-of-pocket loss was at least \$50 or lost employment wages covered 2 weeks. Any victim can apply for compensation from the fund with payments for approved applications generally being made within a few weeks. The fund allows victims to be compensated more quickly for losses suffered than waiting for restitution to be ordered and received through normal judicial procedures as well as receive assistance when an offender is not arrested and prosecuted for a crime committed. Offenders are sometimes ordered to pay restitution to the Crime Victims' Compensation Fund in addition to any restitution ordered to the victim for tangible losses or other losses not covered by any payments received from this fund. *(See Appendix VII, page 30, Map - Restitution Collectors by County)*

Department of Corrections - Division of Probation and Parole

The Board of Probation and Parole is comprised of seven full-time members appointed by the Governor with one of the members appointed as the Chair or Division Director. The Board determines the release of individuals from confinement in state prisons through parole or conditional release. The Division Director is the appointing authority and is responsible for the administration of the Division. Investigation and supervision services for the Board and the Courts are provided by districts throughout the state organized into six field regions and one institutional region.

Division of Probation and Parole's Case Management Database

The quality and type of restitution records maintained in each county vary from jurisdiction to jurisdiction. This problem made it difficult to obtain statewide information on offender restitution

obligations. The Department of Corrections - Division of Probation and Parole developed a financial system to track offender restitution payments and balances owed to improve probation officers' abilities to identify non-compliance with restitution orders and evaluate willful failure to comply with payment requirements. Following inquiries from the legislature about statewide restitution information, the division expanded the use of this system to compile more information on offenders under the supervision of the division and provide statewide information to the legislature.

Statutes

Section 217.650, RSMo defines probation as a procedure under which a defendant found guilty of a crime upon verdict or plea is released by the court without imprisonment, subject to conditions imposed by the court and subject to the supervision of the Board of Probation and Parole.

Section 217.655.1, RSMo provides that the Board of Probation and Parole shall be responsible for determining whether a person confined in the department shall be paroled or released conditionally as provided by section 558.011, RSMo. The board shall provide supervision to all persons referred by the circuit courts of the state as provided by sections 217.750 and 217.760, RSMo.

Section 217.705, RSMo requires the appointment of probation and parole officers to carry out the purposes of the Board of Probation and Parole. Probation and parole officers:

1. Shall investigate all persons referred to them for investigation by the board or by any court as provided by sections 217.750 and 217.760, RSMo. They shall furnish to each offender released under their supervision a written statement of the conditions of probation, parole or conditional release and shall instruct the offender regarding these conditions. They shall keep informed of the offender's conduct and condition and use all suitable methods to aid and encourage the offender to bring about improvement in the offender's conduct and conditions.
2. May recommend and, by order duly entered, the court may impose and may at any time modify any conditions of probation. The court shall cause a copy of any such order to be delivered to the probation and parole officer and the offender.
3. Shall keep detailed written records of their work and perform such other duties as the board may require.

Section 217.750.1, RSMo provides that at the request of a judge of any circuit court, the Board of Probation and Parole shall provide probation services as provided in this section.

Section 559.016.1, RSMo provides that unless terminated as provided in section 559.036, RSMo the terms during which each probation shall remain conditional and be subject to revocation are:

1. A term of years not less than one year and not to exceed five years for a felony;
2. A term not less than six months and not to exceed two years for a misdemeanor;
3. A term not less than six months and not to exceed one year for an infraction.

APPENDIX II

The court shall designate a specific term of probation at the time of sentencing or at the time of suspension of imposition of sentence. The court may extend a period of probation, however, no more than one extension of any probation may be ordered. Total time on any probation term, including any extension, shall not exceed the maximum term as established.

Section 559.021, RSMo, provides that the conditions of probation shall be such as the court in its discretion deems reasonably necessary to ensure that the defendant will not again violate the law. When a defendant is placed on probation he shall be given a certificate explicitly stating the conditions on which he is being released. In addition to such other authority as exists to order conditions of probation, the court may order such conditions as the court believes will serve to compensate the victim, any dependent of the victim, or society. Such conditions may include, but shall not be limited to:

1. Restitution to the victim or any dependent of the victim, in an amount to be determined by the judge; and
2. The performance of a designated amount of free work for a public or charitable purpose, or purposes, as determined by the judge.

The court may modify or change the conditions of probation at any time prior to the expiration or termination of the probation term.

Section 559.100 RSMo, provides that the circuit courts of this state shall have power, herein provided, to place on probation or to parole persons convicted of any offense over which they have jurisdiction, except as otherwise provided in sections 195.275 to 195.296, RSMo, section 558.018, RSMo, section 565.020, RSMo, section 571.015, RSMo, and section 559.115, RSMo.

The circuit court shall have the power to revoke the probation or parole previously granted and commit the person to the department of corrections. The circuit court shall determine any conditions of probation or parole for the defendant that it deems necessary to ensure the successful completion of the probation or parole term, including the extension of any term of supervision for any person while on probation or parole. The circuit court may require that the defendant pay restitution for his crime. The probation or parole may be revoked for failure to pay restitution or for failure to conform his behavior to the conditions imposed by the circuit court. The circuit court may, in its discretion, credit any period of probation or parole as time served on a sentence.

Section 595.030, RSMo establishes the maximum award amounts to be disbursed to victims of crime through the Crime Victims' Compensation Fund. No compensation shall be paid unless the claimant has incurred an out-of-pocket loss of at least \$50 or has lost two continuous weeks of earnings or support from gainful employment. Out of pocket loss means unreimbursed or unreimbursable expenses reasonably incurred for medical care or other services including psychiatric, psychological, or counseling expenses except that the amount paid for psychiatric, psychological or counseling expenses per eligible claim shall not exceed \$2,500. Fifty dollars shall be deducted from any award granted. Any compensation for loss of earnings or support from gainful employment shall be in an amount equal to the actual loss sustained not to exceed \$200 per week; provided, however, that no award shall exceed \$15,000. (A victim cannot receive an award for the loss of tangible property.)

Section 595.209.1, RSMo provides that certain rights shall automatically be afforded to victims of dangerous felonies, as defined in section 556.061, RSMo, and specified other serious felonies and, upon written request, these rights shall be afforded to victims of all other crimes. One of these rights is for victims, to be informed by the prosecuting attorney of the right to restitution which shall be enforceable in the same manner as any other cause of action as otherwise provided by law.

Crime Victims' Bill of Rights (effective November 1992)

Section 32.1, Missouri Constitution provides that crime victims, as defined by law, shall have the following rights, as defined by law:

- (1) The right to be present at all criminal justice proceedings at which the defendant has such right, including juvenile proceedings where the offense would have been a felony if committed by an adult;
 - (2) Upon request of the victim, the right to be informed of and heard at guilty pleas, bail hearings, sentencing, probation revocation hearings, and parole hearings, unless in the determination of the court the interests of justice require otherwise;
 - (3) The right to be informed of trials and preliminary hearings;
 - (4) The right to restitution, which shall be enforceable in the same manner as any other civil cause of action, or as otherwise provided by law;
 - (5) The right to the speedy disposition and appellate review of their cases, provided that nothing in this subdivision shall prevent the defendant from having sufficient time to prepare his defense;
 - (6) The right to reasonable protection from the defendant or any person acting on behalf of the defendant;
 - (7) The right to information concerning the escape of an accused from custody or confinement, the defendant's release and scheduling of the defendant's release from incarceration; and
 - (8) The right to information about how the criminal justice system works, the rights and the availability of services, and upon request of the victim the right to information about the crime.
2. Notwithstanding section 20 of article I of the Constitution, upon a showing that the defendant poses a danger to a crime victim, the community, or any other person, the court may deny bail or may impose special conditions which the defendant and surety must guarantee.

APPENDIX II

3. Nothing in this section shall be construed as creating a cause of action for money damages against the state, a county, a municipality, or any of the agencies, instrumentalities, or employees provided that the general assembly may, by statutory enactment, reverse, modify, or supercede any judicial decision or rule arising from any cause of action brought pursuant to this section.
4. Nothing in this section shall be construed to authorize a court to set aside or to void a finding of guilt, or an acceptance of a plea of guilty in any criminal case.
5. The general assembly shall have power to enforce this section by appropriate legislation.

**RESTITUTION FINANCIAL DATA *
YEAR ENDED DECEMBER 31, 1999**

NUMBER OF OFFENDERS	BEGINNING		NEW			ENDING		PROBATION STATUS DESCRIPTION
	BALANCE JANUARY 1, 1999	RESTITUTION ORDERS	PAYMENTS	ADJUSTMENT **	BALANCE DECEMBER 31, 1999			
7,790	\$ 15,509,701	5,935,514	4,010,447	18,411	17,453,179		NEW COURT PROBATION	
1,480	1,620,742	1,296,649	340,916	1,519	2,577,994		OLD SENTENCE NEW CHARGE	
2,076	2,426,439	3,777,755	948,328	1,883	5,257,749		REVISIT	
531	951,401	129,375	49,767	(14,735)	1,016,274		PROBATION REVOCATION	
140	155,257	56,210	20,655	30	190,842		PROBATION REVOCATION - 120 DAYS	
14	17,346	101	1,883	(66)	15,498		RELEASE TO PROBATION	
1,212	3,657,477	590,297	387,681	6,457	3,866,550		RELEASE TO PROBATION	
216	331,952	22,422	16,173	(10,496)	327,705		PROBATION REVOCATION	
807	1,649,437	160,222	299,095	(3,735)	1,506,829		PROBATION REINSTATED	
1,165	1,795,901	258,433	139,496	353	1,915,191		COURT PROBATION SUSPENDED	
95	167,908	9,545	44,245	0	133,208		INTERSTATE TRANSFER IN	
291	561,468	379,275	47,639	2,252	895,356		INTERSTATE TRANSFER OUT	
194	201,652	1,551	72,947	0	130,256		DISCHARGE	
107	100,136	266	39,517	0	60,885		DISCHARGE CONFIDENTIAL	
5	5,099	4,120	4,120	0	5,099		DISCHARGE NO FURTHER ACTION	
1	936	0	0	0	936		PROBATION REVOCATION	
54	196,054	9,436	24,794	0	180,696		RELIEVED OF SUPERVISION	
726	1,111,614	4,105	427,785	0	687,934		DISCHARGE	
564	811,282	8,140	497,171	595	322,846		DISCHARGE CONFIDENTIAL	
10	91,775	2,592	4,578	(164)	89,625		NO FURTHER ACTION	
109	56,132	17,496	4,680	(1,246)	67,702		PROBATION REVOCATION	
57	67,569	9,155	2,847	(1,058)	72,819		DEATH	
17,644	\$ 31,487,278	12,672,659	7,384,764	0	36,775,173			

RESTITUTION DESCRIPTIONS FROM ABOVE WHICH ARE UNCOLLECTABLE DUE TO OFFENDER:

DISCHARGE FROM PROBATION							
194	\$ 201,652	1,551	72,947	0	130,256		DISCHARGE
107	100,136	266	39,517	0	60,885		DISCHARGE CONFIDENTIAL
5	5,099	4,120	4,120	0	5,099		DISCHARGE NO FURTHER ACTION
54	196,054	9,436	24,794	0	180,696		RELIEVED OF SUPERVISION
726	1,111,614	4,105	427,785	0	687,934		DISCHARGE
564	811,282	8,140	497,171	595	322,846		DISCHARGE CONFIDENTIAL
10	91,775	2,592	4,578	(164)	89,625		NO FURTHER ACTION
1,660	\$ 2,517,612	30,210	1,070,912	431	1,477,341		
PROBATION REVOCATION							
531	\$ 951,401	129,375	49,767	(14,735)	1,016,274		PROBATION REVOCATION
216	331,952	22,422	16,173	(10,496)	327,705		PROBATION REVOCATION
1	936	0	0	0	936		PROBATION REVOCATION
109	56,132	17,496	4,680	(1,246)	67,702		PROBATION REVOCATION
857	\$ 1,340,421	169,293	70,620	(26,477)	1,412,617		
DEATH							
57	\$ 67,569	9,155	2,847	(1,058)	72,819		DEATH
2,574	\$ 3,925,602	208,658	1,144,379	(27,104)	2,962,777		TOTAL UNCOLLECTABLE

* The amounts presented have been adjusted for the errors or problems noted on pages 12-14

** Shifting of financial responsibility between offender's in co-defendant cases when a co-offendant's probation status ends

- Transfer control between Department of Correction's division - Division of Adult Institution transaction
- Transfer control between Department of Correction's division - Division of Probation and Parole transaction
- Sentence completion - other charges remain active or current charge has a pending disposition
- Cycle completion

Restitution Balance	36,775,173
Total Uncollectable	<u>(2,962,777)</u>
Active Restitution	<u>33,812,396</u>

APPENDIX IV

**RESTITUTION FINANCIAL DATA - BY JURISDICTION
YEAR ENDED DECEMBER 31, 1999**

County/City	Total Collectable Restitution	Total Uncollectable Restitution	Total Restitution	County/City	Total Collectable Restitution	Total Uncollectable Restitution	Total Restitution
Adair	127,415	20,549	147,964	Linn	90,078	5,195	95,273
Andrew	7,350	284	7,634	Livingston	41,038	5,160	46,198
Atchinson	14,672	0	14,672	Macon	98,742	23,744	122,486
Audrain	370,286	3,052	373,338	Madison	54,622	13,040	67,662
Barry	216,903	30,655	247,558	Maries	12,216	0	12,216
Barton	142,814	14,099	156,913	Marion	163,836	52,263	216,099
Bates	78,331	70,952	149,283	McDonald	146,161	8,168	154,329
Benton	144,828	3,863	148,691	Mercer	57,383	0	57,383
Bollinger	18,181	20	18,201	Miller	515,973	33,299	549,272
Boone	1,319,152	257,005	1,576,157	Mississippi	135,748	16,614	152,362
Buchanan	352,731	52,815	405,546	Moniteau	41,425	0	41,425
Butler	178,418	21,905	200,323	Monroe	30,937	845	31,782
Caldwell	67,193	4,981	72,174	Montgomery	81,748	525	82,273
Callaway	192,854	39,273	232,127	Morgan	141,297	13,975	155,272
Camden	1,529,220	50,361	1,579,581	New Madrid	179,376	26,555	205,931
Cape Girardeau	317,980	18,887	336,867	Newton	211,373	6,235	217,608
Carroll	23,559	28,843	52,402	Nodaway	86,453	11,846	98,299
Carter	59,414	1,387	60,801	Oregon	48,391	17,720	66,111
Cass	408,592	17,794	426,386	Osage	107,497	2,500	109,997
Cedar	93,365	22,056	115,421	Ozark	77,951	1,706	79,657
Chariton	36,539	326	36,865	Pemiscot	92,979	8,684	101,663
Christian	423,563	14,642	438,205	Perry	108,143	2,425	110,568
Clark	11,089	2,285	13,374	Pettis	98,303	7,575	105,878
Clay	1,579,904	112,108	1,692,012	Phelps	196,289	24,447	220,736
Clinton	93,327	17,970	111,297	Pike	209,404	6,383	215,787
Cole	401,242	105,276	506,518	Platt	178,538	8,985	187,523
Cooper	184,590	7,760	192,350	Polk	21,288	2,294	23,582
Crawford	266,523	9,199	275,722	Pulaski	293,621	12,354	305,975
Dade	22,628	3,629	26,257	Putnum	20,767	190	20,957
Dallas	235,744	23,419	259,163	Ralls	13,306	1,566	14,872
Daviess	36,963	0	36,963	Randolph	219,077	26,314	245,391
DeKalb	54,660	11,671	66,331	Ray	187,822	19,845	207,667
Dent	86,428	11,612	98,040	Reynolds	44,064	1,131	45,195
Douglas	25,672	14,820	40,492	Ripley	39,146	2,885	42,031
Dunklin	179,095	21,284	200,379	Saline	307,628	13,462	321,090
Franklin	384,889	46,299	431,188	Schulyer	41,243	362	41,605
Gasconade	57,242	39,381	96,623	Scotland	3,669	374	4,043
Gentry	10,957	1,976	12,933	Scott	267,080	31,042	298,122
Greene	1,597,058	56,108	1,653,166	Shannon	90,481	1,736	92,217
Grundy	30,025	1,004	31,029	Shelby	63,695	4,807	68,502
Harrison	42,032	1,025	43,057	St. Charles	834,491	77,044	911,535
Henry	108,551	7,193	115,744	St. Clair	17,864	965	18,829
Hickory	10,885	0	10,885	Ste. Genevieve	48,444	3,689	52,133
Holt	14,673	4,597	19,270	St. Francois	547,795	54,893	602,688
Howard	26,057	0	26,057	St Louis County	1,995,382	158,464	2,153,846
Howell	401,021	63,940	464,961	St Louis City	5,259,504	312,208	5,571,712
Iron	207,337	126	207,463	Stoddard	112,415	2,929	115,344
Jackson	3,309,375	304,590	3,613,965	Stone	310,381	8,454	318,835
Jasper	782,798	98,817	881,615	Sullivan	14,029	16,134	30,163
Jefferson	435,409	22,228	457,637	Taney	552,071	29,328	581,399
Johnson	244,123	29,689	273,812	Texas	71,661	4,201	75,862
Knox	5,571	0	5,571	Vernon	288,230	12,634	300,864
Laclede	377,459	58,939	436,398	Warren	193,701	16,719	210,420
Lafayette	214,218	25,299	239,517	Washington	130,491	14,167	144,658
Lawrence	370,550	13,864	384,414	Wayne	97,454	0	97,454
Lewis	42,958	2,280	45,238	Webster	195,746	26,909	222,655
Lincoln	244,374	996	245,370	Worth	9,227	0	9,227
				Wright	95,935	14,655	110,590
					33,812,396	2,962,777	36,775,173

**OTHER STATE RESTITUTION LAWS
AT YEAR ENDED DECEMBER 31, 1999 OR MOST CURRENT**

State	Restitution can be Collected After Offender on Probation is:			Restitution may be Enforced Without Victim Taking Any Civil Action	Court Required to Order CVC Restitution
	Sent to Prison	Placed on Parole	Released from Supervision		
Arkansas	Y	Y	Y	Y	U
Arizona	N	Y	Y	Y	U
Colorado	Y	Y	Y	Y	Y
Delaware	N	Y	N/A	Y	U
Florida	Y	Y	N	Y	Y
Georgia	Y	N	Y	Y	N
Illinois	N	Y	Y	Y	U
Iowa	Y	Y	Y	Y	Y
Kansas	N	Y	Y	Y	Y
Kentucky	N	Y	N/A	Y	N
Louisiana	N	Y	N	Y	Y
Maine	Y	Y	Y	Y	Y
Maryland	N	N	N	Y	U
Michigan	Y	Y	Y	Y	Y
Nebraska	N	N	N	Y	N
New Hampshire	Y	Y	Y	N	Y
New Jersey	Y	Y	Y	N	U
New Mexico	Y	Y	N	N	U
Oklahoma	N	Y	Y	Y	U
Pennsylvania	Y	Y	Y	N	Y
Rhode Island	Y	Y	Y	Y	U
South Carolina	Y	Y	Y	Y	Y
South Dakota	Y	Y	Y	Y	U
Texas	N	Y	N	Y	Y
Virginia	N	Y	N	Y	U
Vermont	Y	Y	N	Y	Y
Washington	Y	Y	Y	Y	Y
Wisconsin	Y	Y	N	Y	Y
Wyoming	Y	Y	N	Y	N
Yes (Y)	18	26	17	25	14
No (N)	11	3	10	4	4
Not Applicable (N/A) *	0	0	2	0	0
Undetermined (U)	0	0	0	0	11
Total Reviewed	29	29	29	29	29

* State requires restitution to be paid prior to offender being released from probation or parole

APPENDIX VI

STATE HIERARCHY FOR DISBURSEMENT OF COURT PAYMENTS APPROVED BY THE MISSOURI SUPREME COURT

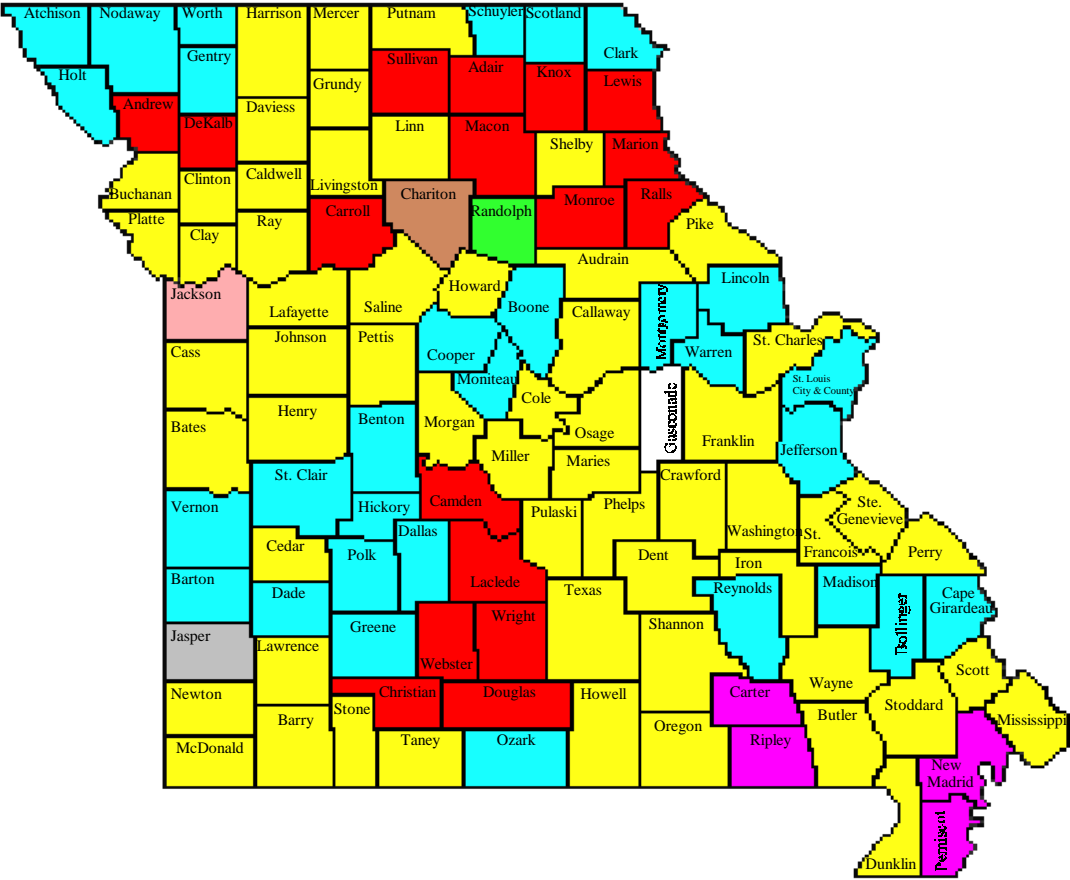
1. Clerk fee
2. Court Automation fee
3. County fee
4. Sheriff's Retirement
5. Independent Living Center surcharge
6. Prosecuting Attorney Training surcharge
7. Police Officer Standards and Training surcharge
8. Crime Victim Compensation surcharge
9. Sheriff's Fee - Criminal Cases
10. Vital Records - Issuance of a Certification
11. Clerk Fees - Appeals, Small Claims, etc.
12. Law Library surcharge
13. Family Court surcharge
14. Family Access Fund fee
15. Domestic Relations Resolutions Fund surcharge
16. Sheriff's Fees - Civil Cases
17. Courthouse Restoration surcharge
18. Courthouse Operation surcharge
19. Court Reporter fee
20. Clerk Fee - Probate Cases
21. Witness fees
22. Interpreter/Translator fee
23. Copying and Certification - Probate
24. Copying and Postage
25. Domestic Violence Shelter surcharge
26. Law Enforcement Training Fund surcharge
27. Board Bill/Incarceration costs
28. Law Enforcement Arrest costs
29. Storage Costs - CAFA Proceeding
30. Jury Fees (Reimbursement to Counties)
31. Domestic Violence Shelter surcharge - County/Municipal Ordinance Cases
32. Drug Commissioner surcharge
33. Juvenile Detention Facility surcharge
34. Crime Victims' Compensation Fund judgment
35. Motor Cycle Safety Trust Fund judgment
36. **RESTITUTION**
37. Other Judgments Ordered Paid Through the Court
38. Fines

Consolidated
Statement -
Items 1 - 9

Add on Costs -
Items 10 - 33

Judgments -
Items 34 - 37

RESTITUTION COLLECTORS BY COUNTY



- Prosecuting Attorney
- Circuit Clerk
- Prosecuting Attorney and Circuit Clerk
- Sheriff
- Sheriff and Circuit Clerk
- Circuit Clerk and Victim
- Prosecuting Attorney and Probation Officer
- Prosecuting Attorney and Victim
- Department of Criminal Records and Probation Officer



APPENDIX VIII

SUPREME COURT OF MISSOURI OFFICE OF STATE COURTS ADMINISTRATOR

2112 Industrial Drive
P.O. Box 104480
Jefferson City, Missouri
65110

MICHAEL L. BUENGER
ADMINISTRATOR
DAVID S. COPLEN
DIRECTOR OF
ADMINISTRATION
AND BUDGET
NANCY GRIGGS
DIRECTOR OF
COURT SERVICES

PHONE (573) 751-4377

JIM ROGGERO
DIRECTOR OF
INFORMATION TECHNOLOGY
LINDA EVANS
DIRECTOR OF JUDICIAL
DEPARTMENT EDUCATION
GARY WAIT
DIRECTOR OF JUVENILE AND
ADULT COURT PROGRAMS

FAX (573) 751-5540

February 14, 2001

The Honorable Claire McCaskill
Missouri State Auditor
Truman State Office Building, Room 880
Jefferson City, Missouri 65101

Dear Ms. McCaskill:

Thank you for the opportunity to meet with your staff to discuss the Audit of Collection and Distribution of Restitution for Crime Victims report and our response to the report. Based on our meeting, some changes were made to the audit report and below is our response with respect to the changes that directly affect us.

Recommendation 1.4:

Using the Banner Case Management System, currently installed in over 30 counties, OSCA will research the various methods of paying restitution to crime victims. There will likely be a number of scenarios that will need to be covered in the guidelines. For example, a restitution order may include 50 businesses that each received a bad check for less than \$25. Such a situation is not atypical. An order may include an individual with restitution for a deductible of \$100 and the insurance company for the remaining restitution, which may be in the thousands. Many defendants make payments of less than \$50 per payment, thus prorating these amounts is not practical in many instances as it could result in some victims receiving payments to the exclusion of others, or payments that are embarrassingly small. We agree that some guidelines should be developed to eliminate examples of people paid in alphabetical order thus leaving some victims uncompensated compared to similarly situated victims. However, we believe a single guideline applicable throughout the state would be as counterproductive as some of the approaches currently in effect.

The Honorable Claire McCaskill
February 14, 2001
Page Two

After completing the research and in consultation with local court officials, OSCA will recommend that guidelines for the distribution of restitution to multiple victims be added to Court Operating Rule 21 by the Supreme Court.

Recommendation 1.5:

The hierarchy of distribution of moneys received from defendants is intended to give emphasis to those costs that benefited the taxpayers at large. These are funds that are used to reduce the cost of justice to the state and the counties. Although there are 38 costs and fees on the list, only part of those can be assessed in a criminal case. The "judgments" were placed lower on the list, since "judgments" can be enforced by garnishments and other means not normally used in the collection of costs. It is important to note that prosecuting attorneys collect a great deal of victim restitution in Missouri. Thus, a change in our distribution schedule will have limited overall impact.

OSCA will recommend that the Supreme Court place restitution at or near the top of the hierarchy which is used by clerks that have the Banner Case Management System.

Again, we appreciate the opportunity to review the audit report and to meet with your staff regarding the matter of restitution.

Sincerely,


Michael L. Buenger

MLB/jr

Missouri Department of Corrections
Division of Probation and Parole
Response to Performance Audit

*COLLECTION AND DISTRIBUTION OF RESTITUTION
FOR CRIME VICTIMS*

Overview

The Auditor's Office should be commended for a comprehensive review of victim restitution in Missouri. This report does identify several long-standing impediments to the collection and monitoring of victim restitution. There are a number of recommendations that, if implemented, will improve collection rates. Specifically, the Division endorses audit recommendations that:

- Orders collection of court-ordered restitution in full whether or not the sentence has expired and without the need for civil lawsuits.
- Creates a statewide computer system that integrates all restitution data entered by the various collectors of restitution.

We believe however, it is important for the reader of this report to remain cognizant of the following:

- The Division is not authorized by state statute or the state Constitution to collect restitution. As per RSMo. 217.705 it reports the degree to which probationers comply with conditions imposed by the court.
- The Division's primary responsibility, as outlined in RSMo. 217.705 and reflected in the agency's mission statement, is management of offender risk to ensure public safety. This directive is carried out by professional and dedicated staff who provide for the assessment, supervision, treatment, and control of the offenders assigned by the court.

Despite the positive aspects of this audit, the report falls short in several respects:

- This audit only considers restitution payments made in 1999. The audit fails to consider payments made by any probationers during the full term of their supervision. Division records reflect that 75 percent of probationers discharged in 1999 had fully paid their court ordered restitution.
- The audit's sample size is not statistically significant and as such, is insufficient in number to generalize performance observations.
- This audit fails to note that 35 percent of the probation population sampled began probation supervision in 1999. It is unlikely that these newly assigned probationers were able to obtain employment and begin restitution payments during the calendar year in which the fiscal audit occurred.

General Responses

The following comments are in response to the two primary points contained in the audit.

1. ***There Is No Assurance that Court-Ordered Restitution Payments for Victims of Crimes will be Collected and Disbursed to Victims. (page 2)***

The opening paragraph of this section states that there were 15,070 active cases with outstanding restitution balances on December 31, 1999. The report does not provide detail or differentiate between cases newly assigned toward the end of 1999 who would have had little time to address their restitution condition. Further, the report does not reflect any payments made by offenders prior to the 12 month period covered by the fiscal audit

Probation and Parole Officers are not authorized by statute to collect restitution. As provided in RSMo. 217.705, officers confront risk issues that compromise public safety. Officers begin the supervision process with an assessment of offenders' risk and need issues that contributed to their criminality. They then develop a plan encompassing the special conditions imposed by the court to protect the community from further criminal activity. The audit findings do not reflect the scope of Probation and Parole Officers' activities and other realities such as the adequacy of offender income to meet their basic financial obligations as well as the other special conditions imposed by the court.

The statement on page 8, "*Probation officers do not place emphasis on restitution,*" as well as the bulleted list that follows, is misleading as it fails to reflect the above referenced job duties of the officer.

Those who work in the criminal justice system recognize that restitution is of vital importance to victims and to the criminal justice system, but realistic payment plans to reimburse victims must factor offenders' other financial obligations

2. **Improvements Should be Made to Data Systems for Managing Victim Restitution. (page 12)**

Agree in part. The maintenance of a statewide tracking system to monitor restitution payments is not the statutory obligation of the Department. As noted by the auditors, the Department database (OP II) was not designed to track restitution payments. The Department attempted to adapt the OP II database in a good faith effort to compile information maintained by those who are statutorily required to collect and track restitution.

In order to meet the recommendations made by the auditors, the OP II system would require significant revisions to its basic architecture. Revisions of this nature require development and installation of a separate accounting structure for integration with the basic OP II architecture. Our Information Systems Director has reviewed the requirements of such a system and estimates an 18-month time frame to complete the development process at a cost of \$525,000 over two fiscal years. Moreover, were these modifications accomplished, the system data would continue

at best be as a secondary tier of information obtained from a primary source, notably the prosecutor, circuit clerk or sheriff.

The Division will continue to rely upon those who are statutorily required to collect and track restitution payments, however only payments that have been confirmed by the primary source for collections will be included in the OP II database effective July 1, 2001. This will eliminate confusion between primary and secondary sources of records. Officers will continue to develop payment plans and monitor payments, as confirmed by the primary sources and will post those payments in OP II as the officer completes the semi-annual case summary report. Officers will use their road books to maintain ongoing records of payments, as confirmed by the primary sources, between semi-annual postings to OP II.

Finding #1

Probation officers are not properly reporting restitution non-compliance. (page 8)

Recommendation

1.6 Violation reports are appropriately submitted to courts when offenders are in non-compliance with restitution obligations.

Response

We agree that a violation report should be submitted when a violation of a special condition of probation occurs however, we disagree with the auditor's conclusion that an offender is in violation of probation when the offender is unable to make a restitution payment and does not have a specific payment schedule.

Division policy P3-5.4 requires a violation report is submitted when an offender is in violation of a special condition ordered by the court or if the restitution balance is outstanding 90 days prior to expiration. A missed payment by an offender, because of other approved financial obligations is not necessarily a violation of probation, although it may result in a revised payment plan being developed. Violation Reports are generated when willful refusal to pay restitution is documented or when outstanding restitution exists within 90 days of expiration of the supervision period.

Finding #1

Probation officers are not properly reporting restitution non-compliance. (page 8)

Recommendation

1.7 All offenders have appropriate restitution payments schedules established or case files explain why a payment schedule was not prepared.

Response

Agree in part. The audit recommendation that the case file should reflect why a payment schedule has not yet been prepared is useful and will be acted upon effective July 1, 2001.

As noted above, an appropriate payment schedule is one that is developed after offender obtains employment and is able to maintain himself and his family in the community. Payments are often delayed until an offender has sufficient funds available. Given the difficulty offenders have in obtaining and maintaining employment to support themselves and their dependents, an audit finding that “32 of 135 cases (24 percent)” did not have a court or officer payment schedule may be correct. Conversely, the fact that 76 percent do have a payment schedule indicates the majority of offenders are making restitution and the officer or court has established a payment plan.

Finding #1

Probation officers are not properly reporting restitution non-compliance (page 8.)

Recommendation

1.8 Reported restitution payments are timely posted to the division’s database.

Response

Agree in part.

Under Division policy P3-5.4, this is the current expectation. As noted previously, effective July 1, 2001, the Division will rely solely on the primary source of collections for all reported restitution payments. The Division will not attempt to maintain a bookkeeping system in OP II and as outlined in P3-5.4, will only require restitution payment postings to this database at the time of the semi-annual report to the court.

Finding #2

Improvements Should be Made to Data Systems for Managing Victim Restitution
(Page 12)

Recommendation

2.1 Add additional fields to the division’s case management database to allow for the posting of miscellaneous payments unrelated to restitution, the tracking of offender’s child support responsibilities, the adjustment of initial restitution balances when ordered by a court and the handling of any other unusual circumstances impacting the accuracy of the restitution information in the system.

Response

Disagree. While the Division will provide reports to the court concerning offender compliance with restitution orders, the Division is not required to collect restitution or to maintain a separate accounting system.

The OP II system was designed to compile the offender's sentence structure, program activity, and supervision status. As noted above, the OP II system has no accounting or bookkeeping capability, as it was not designed for that purpose. In order to meet the recommendations by the auditors, the system would require significant revisions to its basic architecture. Revisions of this nature would require the development and installation of a separate accounting structure for integration with the basic OP II architecture. Our Information Systems Director has reviewed the requirements of such a system and estimates an 18-month time frame to complete the development process at a cost of \$525,000 over two fiscal years. Even if funds were appropriated for these modifications, the system data would continue to represent a secondary tier of information entered by Division personnel, which was obtained from the prosecutor, circuit clerk, or sheriff department.

In the alternative, we endorse a statewide system maintained by the State Court Administrator's Office that integrates all data entered by the primary sources of this information.

Finding #2

*Improvements Should be Made to Data Systems for Managing Victim Restitution
(Page 12)*

Recommendation

2.2 *Improve the training of staff on the appropriate times to use the various offender status codes in the database as well as the appropriate way to report restitution for related sequence and co-defendant cases and court ordered Crime Victims' Fund restitution.*

Response

Disagree. As noted above, the Division relies solely on the primary source of collection for restitution payments. The Division will no longer attempt to maintain a secondary bookkeeping system in OP II. OP II will only be used to collect semi-annual reports of payments as confirmed by the primary sources for collections.

Finding #2

*Improvements Should be Made to Data Systems for Managing Victim Restitution
(Page 12)*

Recommendation

2.3 *Fully utilize the co-defendant flag field in the division's database to improve the tracking of restitution owed in cases involving co-defendants.*

Response

Disagree. As noted above, the Division relies solely on the primary source of collection for restitution payments. The Division will no longer attempt to maintain a secondary bookkeeping system in OP II. OP II will only be used to collect semi-annual reports of payments as confirmed by the primary sources for collections.

Finding #2

Improvements Should be Made to Data Systems for Managing Victim Restitution (Page 12)

Recommendation

2.4 *Revise the restitution collection performance measurement calculation to ensure a relevant comparison is used. In addition, validate the data that is used for this computation, which should include taking steps to adjust out overstated restitution information for applicable co-defendant cases.*

Response

Agree in part. In the future the Division will publish reports based solely on information provided by the primary sources of collection. The Division is not responsible for validating information provided by those who are statutorily required to collect restitution.

Scope and Methodology

The Division expresses concerns regarding the scope and methodology of the audit, specifically:

- Sampling protocols, including universe definition, subsamples (if any) and discarded cases. It is noted that the denominator changes throughout the report which raises questions as to the sampling and inclusion of cases in the review.
- The calculated statistical confidence level of the cases sampled, given the stated universe of 15,070 active cases owing restitution payments.
- Data collection instruments.
- The audit was designed to only consider restitution payments made in 1999. The audit fails to consider payments made during the full term of supervision.
- The audit fails to define the test or review cases upon which it has drawn generalized conclusions. Many of these cases are very small in number.



Bob Holden
Governor

State of Missouri

Department of Labor and Industrial Relations

DIVISION OF WORKERS' COMPENSATION

P.O. Box 58 Jefferson City, MO 65102-0058

APPENDIX X

Catherine B. Leapheart
Department Director

Lawrence D. Leip
Division Director

Reply to: Above Address
(573) 751-7646

February 8, 2001

William D. Miller, CIA
Director of Audits
Office of the State Auditor
224 State Capitol
Jefferson City, Missouri 65101

RE: *Restitution Audit*

Dear Mr. Miller:

This letter is in response to your letter dated January 24, 2001 regarding the Audit of Collection and Distribution of Restitution for Crime Victims.

After reviewing the draft report and particularly 2.5 and 2.6, we agree, in part, to the referenced sections.

2.5 - Establish written criteria to determine for which paid claims a restitution request will be submitted to courts.

RESPONSE: *Written criteria have been established (see attached).*

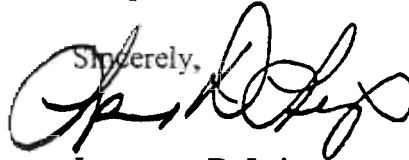
2.6 - Prepare and maintain summarized tracking records of restitution reimbursed to victims, restitution requests submitted to courts, restitution orders awarded by courts, and restitution payments received from offenders.

RESPONSE: *(1) We do not have the staff nor the technological capability to track restitution reimbursed to victims; (2) With the implementation of a new computer program projected to be completed by December 2001, we will have the capability to track restitution requests submitted to courts; (3) Information on Restitution orders awarded by courts is subject to reporting to the program by the courts; (4) Restitution payments received from offenders have been and are currently being tracked and maintained.*

William D. Miller, CIA
February 8 2001
Page 2

APPENDIX X

Thank you for this opportunity to respond to these recommendations. If you have any questions or need additional information, please do not hesitate to call me at (573) 751-7646.

Sincerely,

Lawrence D. Leip
Director

Enclosure