

Written Testimony of Justice Fellowship of Pennsylvania

Before the Pennsylvania House of Representatives

Judiciary Subcommittee on Crime and Corrections

September 10-11, 1997

House Bills 1744 and 1745

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Mr. Chairman and members of the Committee, thank you for the opportunity to present written comments for submission to the record on House Bills 1744 and 1745. Justice Fellowship regrets that it is unable to send a representative to these hearings since we consider restitution to be one of the most important elements of any criminal justice system. We are deeply concerned that in modern times, restitution has been accorded a "second class" status as a method of holding offenders accountable to their victims. We indeed are delighted that the Chairman is leading to improve the Commonwealth's restitution system and for holding these two days of public hearings.

Justice Fellowship is the public policy arm of Prison Fellowship Ministries. Founded in 1983, Justice Fellowship seeks to apply restorative justice principles to criminal justice systems nationwide. Under restorative justice thinking, the objective of the criminal justice system is to repair the harm of all the parties impacted by crime—victims, communities and offenders. Currently involved in twenty-seven states and at the federal level, Justice Fellowship has successfully advocated for more comprehensive restitution laws in several jurisdictions, while numerous others are considering proposals initiated by our organization. Restitution is one central theme of restorative justice as it requires a recognition by offenders that they broke more than just the law of the land—it emphasizes that they also understand that real people are hurt by the crime that was committed.

Last year, the Pennsylvania Justice Fellowship Task Force, published its recommendations for improving the Commonwealth's correctional and sentencing systems. The Task Force, comprised of thirty citizens from across the state, made recommendations that urged the General Assembly to improve the system for collecting and disbursing restitution to victims of crime. The comments that

follow in this testimony, therefore, are related back to the work of the Task Force in its *Plan for Restoring Justice*¹ as well as to additional research we have performed.

Restitution long has been a stepchild of the criminal justice system. As demonstrated by the important work of Erie County, Pennsylvania, a commitment to restitution collection results in significant increases in the amount collected. Erie also has dispelled a long-standing myth of the criminal justice system that you "cannot get blood from a stone." In one year, they improved their collections totals by \$750,000.

We recognize that it is unrealistic to assume that all restitution will or can be collected, but too often it is overestimated what the real financial burden is on offenders. A June 1997 study by the North Carolina Sentencing and Policy Advisory Commission indicated that the average felony restitution order was \$2,038.² An earlier report of the N.C. Sentencing Commission placed the average amount of restitution ordered at \$1,261 for felony convictions and \$472 for misdemeanor convictions.³ Even with the growth in amount of restitution ordered for felony convictions, the average amount ordered is not an unreasonable figure to be repaid. In fact the average \$2,038 restitution obligation, when spread out over a three-year probation sentence, is less than the amount of pack-a-day cigarette habit.

In general, we applaud the introduction of H.B. 1744 and H.B. 1745. These bills build on the important work of the 1995 Special Crime Session when the General Assembly adopted a mandatory restitution law for the Commonwealth. While these bills are a good next step, we do not believe that as drafted the bills will result in significant increases in restitution collection; ultimately, victims will not receive compensation for their losses. Some important issues have been omitted from the bills; still others require refinement. Justice Fellowship will attempt to highlight these for the Committee in its recommendations below.

¹ Copies of the *Plan for Restoring Justice* are available from Justice Fellowship. Please write to: Justice Fellowship, P.O. Box 755, Camp Hill, PA 17001-0755 or call (717) 651-2912.

² Structured Sentencing Monitoring—System Report for Felons: January through December 1996. North Carolina Sentencing and Policy Advisory Commission, June 1997.

³ Victim Restitution in North Carolina—Report to the 1994 Session of the General Assembly. North Carolina Sentencing and Policy Advisory Commission, June 1994.

Recommendations

1. Authorize the county probation/parole departments to impose a restitution collection fee on offenders.

The bills do not offer the counties any incentive to collect restitution. While statutorily the county probation and parole departments would be required to collect restitution under these proposals, the counties also are responsible for collecting other financial obligations that fund court and probation operations. In practical terms, these other financial obligations compete with restitution in order to continue funding court and probation operations.⁴

In Erie County, the county probation department has begun charging a small fee (\$10 monthly) to cover its collections operation. At present, Erie County breaks even under this scheme. However, many counties do not believe they are authorized to impose additional fees on offenders to support the collections operations. The General Assembly should consider authorizing the counties to impose such fees up to a cap of twenty dollars (monthly) so that the counties are not receiving an unfunded mandate.

2. Require that restitution statistical data be reported to the Pennsylvania Commission on Crime and Delinquency for evaluation purposes.

As the statewide criminal justice planning agency for the Commonwealth, PCCD is uniquely qualified to evaluate how new criminal justice laws impact the counties. Since PCCD also awards numerous state and federal grants, grants to improve collections practices could result from PCCD's evaluation of existing collections practices.

In a 1996 survey of the sixty-seven county clerks of Pennsylvania, Justice Fellowship identified only one county of the forty-two respondents that could report the amount of restitution ordered in a given year. Most, however, were able to report how much money was collected. This research is indicative of the minimal priority that restitution enjoys across the Commonwealth.

⁴ In light of the 1996 state Supreme Court decision concerning statewide funding for a unified court system, this funding issue likely will diminish as the phased transition is implemented. In the interim, however, the counties must be authorized to help fund their collections operation.

Reporting of collections data enables counties to relate their particular county's performance to other counties of similar size and demography. Those counties that perform well can help build models for others; counties that perform poorly would be identified and special attention would be paid to make improvements. In the end, what matters is that crime victims are repaid for their losses. Comparisons of county-to-county data is a step toward achieving justice for victims of crime.

3. Standardize reporting and collections requirements.

While Justice Fellowship does not believe that each county should perform its collections operations identically to other counties, standardization of priority, disbursement and technology are all necessary to fully integrate the Commonwealth's criminal justice system.

The PCCD should be involved in developing standards for disbursement, technology and data reporting. We support H.B. 1744's language to elevate the status of victims in the "pecking order" for receiving restitution. The standardization of key components of the collections apparatus will result in increased parity of services from jurisdiction to jurisdiction.

4. Increase funding levels for county probation and parole services.

County probation and parole services have not experienced the level of financial support enjoyed by the state Board of Probation and Parole. While the General Assembly has invested in hundreds of new officers for the state Board of Probation and Parole, no similar investment has been made to support county probation and parole services. In fact, the state grant-in-aid program for county probation services is funding only 46% of the salary requirements for eligible officers during the current fiscal year.

These overburdened county probation officers, however, are called to do double duty for the state Board of Probation and Parole. Not only are county probation caseloads averaging 121 offenders per officer, county probation is expected under this proposed legislation to bear the responsibility for collecting restitution for the state Board of Probation and Parole. They are given this responsibility in spite of the fact that they have no supervisory responsibility for these offenders.

This raises the issue of having dual systems for providing probation and parole services. It was Justice Fellowship's recommendation in its *Plan for Restoring Justice* to streamline all probation and parole services at the county level. With the counties already shouldering much of the burden and with the mandate for a statewide unified court system, timing for this recommendation could not be better.

5. Recommend guidelines to the Department of Corrections for how inmate personal accounts can be seized for purposes of restitution.

Justice Fellowship is philosophically supportive of requiring all offenders to be held accountable to their victims. Similarly, we recognize that imprisonment causes financial strains on prisoners and their families. We recommend that the Department of Corrections be authorized to tap the personal accounts of inmates only when those inmates are employed doing institutional or other jobs for which they are compensated. By definition, restitution is not only satisfying a financial obligation resulting from a harm one causes, it is the only direct tie between victims and offenders that our current criminal justice system offers on a wide scale basis. Therefore, the offender must be the one making restitution payments.

Tapping inmate personal accounts, that in many cases were provided by family members, is neither holding the offender accountable to his/her victim nor is it restorative. Rather, restitution becomes merely another "fine" imposed on the prisoner; just another punitive sanction. In the end, victims will fail to be satisfied and offenders will not be held responsible for making their victims whole again.

Conclusion

Whatever restitution system is ultimately imposed upon county probation and parole services, it must meet all the following tests:

1. victims are regularly sent restitution payments with the ultimate goal being full financial restoration;

2. offenders are held directly accountable to their victims by making restitution, with the end result being that the victim is satisfied and the offender by being held accountable and by taking responsibility for making restitution, is again welcome into society; and
3. the system is accountable for doing the job it is required to do by law and is given the appropriate resources to carry out those duties.

Justice Fellowship is grateful for the opportunity to submit these remarks. If the Committee requires clarification of any of this testimony, we would be available to respond to any questions that arise.