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RESTITUTION, FINES, AND FORFEITURE

Issues For Further Review and Oversight

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RESTITUTION, FINES, AND FORFEITURE: ISSUES FOR FURTHER REVIEW AND OVERSIGHT

SUMMARY STATEMENT OF HENRY R. WRAY
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The Senate Committee on Governmental Affairs asked GAO to summarize its work on federal criminal debt collection efforts, emphasizing those areas that could be improved. GAO obtained information on the amount of outstanding criminal debt, the status of the National Fine Center, and the nature and operation of criminal and civil forfeiture laws.

Criminal monetary penalties, consisting primarily of fines and restitution, are important tools in the criminal justice system and serve both punitive and remedial purposes. Most criminal fine payments go to the Crime Victims Fund, which is used for grants to support victim assistance programs. Restitution orders are designed to compensate identifiable victims for financial loss suffered as a result of the defendant's crime.

According to the Justice Department, outstanding criminal debt grew from $0.3 billion to $3.6 billion between fiscal years 1985 and 1993. Much of this increase is attributable to penalties imposed in financial institution fraud cases. Because of severe data limitations and other factors, it is extremely difficult to assess how effectively federal agencies collect criminal debts or how much of the outstanding debt is realistically collectible.

The most important step to enhance debt collection efforts would be for the Administrative Office of the United States Courts to make the National Fine Center (NFC) fully operational. The NFC is intended to centralize criminal debt collection and to develop a comprehensive data base providing current information on the payment of criminal debt imposed by federal courts. Its implementation has been delayed, however. The Administrative Office now is developing a new two-part NFC implementation plan, and expects that the first phase of the NFC will be operational nationwide by September 1, 1996.

While distinct from criminal fines and restitution, asset forfeiture authorities are an important component of law enforcement efforts to deprive criminals of the proceeds and instruments of their crimes. They permit assets to be seized before or even without a criminal conviction, thereby potentially overcoming one limitation on collection of fines and restitution--the diversion of a defendant's assets prior to conviction. Most forfeiture proceeds are used to fund law enforcement activities. According to the Justice Department, there may be opportunities for greater use of forfeiture through such steps as more effective financial investigations. On the other hand, as Justice also recognizes, concerns have been raised about overly aggressive use of forfeiture by law enforcement agencies. Another concern is that forfeiture may reach assets that might otherwise be available for restitution payments to crime victims.

Mr. Chairman and Members of the Committee:

We appreciate the opportunity to discuss criminal debt collection efforts of the federal government. With the outstanding criminal debt balance having exceeded $3.6 billion at the end of fiscal year 1993, we believe that the government's systems for imposing, collecting, enforcing, and accounting for criminal debt deserve scrutiny.

At your request, our testimony summarizes GAO's previous work on criminal monetary penalties, emphasizing such areas as: efforts to collect criminal debt arising from financial institution fraud; the status of the National Fine Center; use of the Crime Victims Fund; and the relationship between asset forfeiture and criminal debt collection. We obtained updated information on the amount of outstanding criminal debt, Justice's efforts to improve criminal debt collection efforts, and the status of the federal courts' efforts to automate the accounting and collection system for criminal debt. In addition, we obtained information on the nature and operation of criminal and civil forfeiture laws.

BACKGROUND

Criminal monetary penalties are important tools of the criminal justice system, serving both punitive and remedial purposes. Upon conviction of a criminal defendant, courts may impose one or all of four monetary penalties:

(1) Fines--an amount the court sets as punishment.[1] Fines that are not paid in a timely manner may accumulate interest and penalty charges.

(2) Restitution--amounts paid to identifiable crime victims and intended to make them whole.[2]

(3) Special Assessments--fixed amounts, ranging from $25 to $200, assessed for each count upon which the defendant is convicted.[3]

(4) Reimbursement of costs--an amount equal to the court and legal costs of the trial.

In arriving at the sentence, the judge is to consider a number of statutorily imposed factors. When deciding whether to impose a fine, and if so what amount to impose, courts are to consider a defendant's income, earning capacity, financial resources, the burden placed on a defendant, and other factors. If the court decides to order restitution, it also must consider a number of factors, such as the amount of the loss sustained by any victims as a result of the crime and the defendant's ability to pay. In making these sentencing decisions, the court is to

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[1]The Federal Sentencing Guidelines require courts to impose fines in all criminal cases, except where the defendant establishes that he or she is unable to pay and is not likely to become able to pay any fine. In general, the maximum fine permitted by law upon each count of conviction is $250,000 for a felony or any misdemeanor resulting in death. However, higher or lower limits may apply when specified by statute. United States Sentencing Commission, Guidelines Manual, § 5E1.2 (Nov. 1993).

[2]The Victim and Witness Protection Act of 1982 (P.L. 97-291) provides the overall framework for federal orders of restitution. Under the act, a district court is empowered to order a convicted defendant to make restitution to any victim of the offense. In the case of a misdemeanor, restitution may be ordered in addition to or in lieu of any other penalty authorized by law. With a felony, restitution must be in addition to some other penalty.

[3]The Victims of Crime Act of 1984 (P.L. 98-473) required courts to impose special assessments against convicted persons. For any offense committed after November 18, 1988, the court an assessment of up to $25 against an individual and up to $125 for an organization convicted of a misdemeanor. For a felony conviction, the court makes an assessment of up to $50 against individuals and up to $200 against organizations. Assessments are imposed to offset the cost of programs authorized under the act.

consider recommendations made by the U.S. Attorney's office (USAO) and information contained in the presentence investigative report prepared by probation officers. This report includes information on the defendant's financial condition.

Upon determination of sentence, the court is to prepare and issue a Judgment and Commitment Order (J&C) specifying the terms of that sentence. In general, fines and restitution are due immediately unless the sentencing court provides for payment on a specific future date or in installments.[4] If a defendant is ordered to pay special assessments, restitution, and a fine, payments are applied in that order, with restitution taking precedence over fines.[5]

Unlike restitution, which is paid to identifiable victims of particular crimes, special assessments and most fines are to be deposited into the Crime Victims Fund, administered by the Department of Justice's Office for Victims of Crime. The fund is used to support judicial branch criminal debt collection activities (discussed later in this statement) and to make grants to State and local agencies that provide compensation and assistance to crime victims in general.[6] In fiscal year 1993, $144.7 million was deposited into the fund, and $138.5 million

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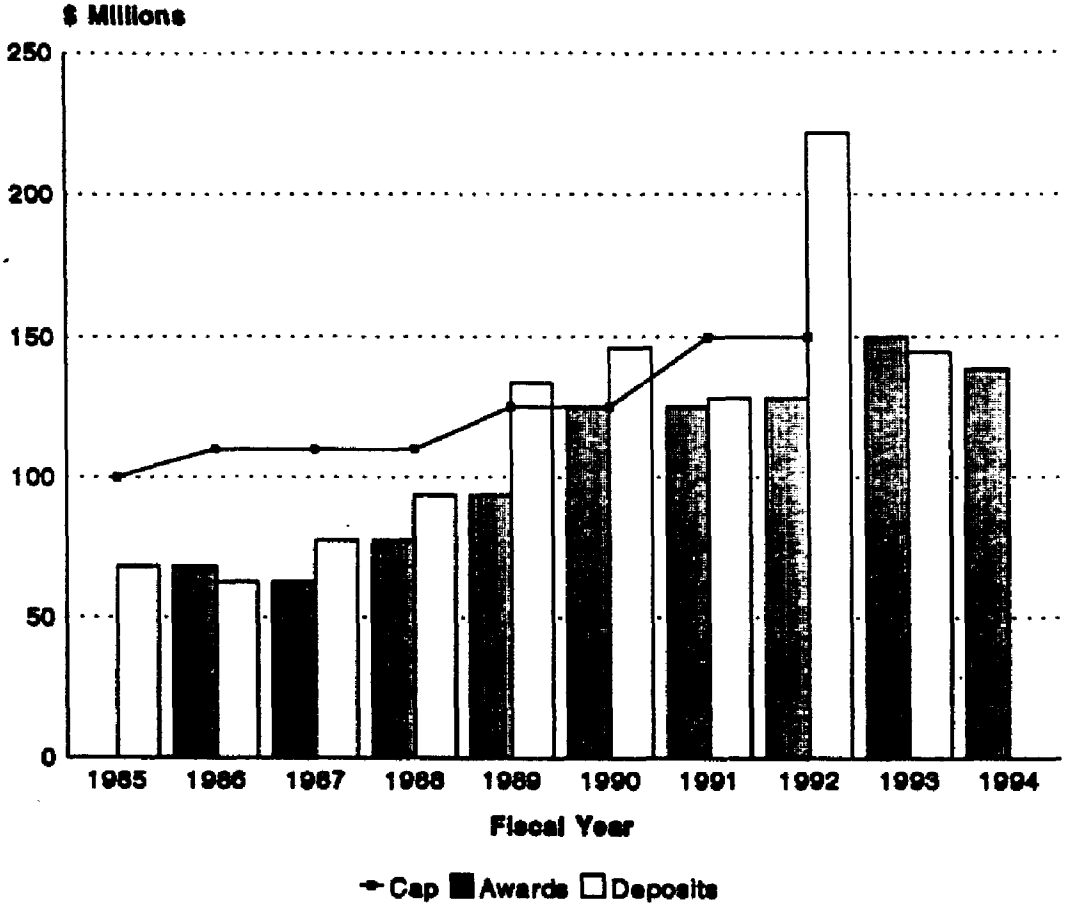
[4]Installment payments on fines may not exceed 5 years, excluding any period the defendant is imprisoned for the offense.

[5]Sentencing Guidelines at § 5E1.1.

[6]The first $6.2 million deposited to the fund in fiscal years 1992 through 1995 and the first $3 million in each subsequent fiscal year is to be available to the judicial branch for administrative costs to carry out its criminal debt collection functions. Additional deposits are to be available for victim compensation and assistance grants in amounts specified by law. Prior to fiscal year 1993, caps were imposed on amounts that could be deposited to the fund, with any excess to be deposited in the general fund of the Treasury. The cap was removed beginning in fiscal year 1993.

was later awarded in grants for victim services. Figure 1 shows the amounts received and awarded by the fund since fiscal year 1985, along with the fund's cap on deposits.

Figure 1: Crime Victims Fund Cap, Deposits, and Awards



Source: GAO analysis of Administrative Office of the U.S. Courts' data.

Criminal Debt Collection Responsibilities Are Fragmented

Criminal debtors make payments directly to victims or to the local offices of one of three different agencies: the USAO, probation office, or the Clerk of Court. Presently, the USAOs, Clerk of Courts, and probation offices in the 94 judicial districts have entered into memorandums of understanding which detail the agreed upon division of criminal debt collection duties in each district.

According to Justice, this fragmentation of criminal debt collection responsibilities arises partly from changes in the law. Prior to 1985, the Clerks of Courts were responsible for receipt of payments made by defendants on criminal fines and restitution. The Criminal Fine Enforcement Act of 1984[7] made the Attorney General responsible for receiving payments on criminal fines imposed on or after January 1, 1985. The act also provided that for restitution ordered on or after January 1, 1985, offenders could pay restitution directly to victims or to victims through the Attorney General. Later, the Criminal Fine Improvements Act of 1987[8] transferred responsibility for receiving criminal fine and assessment payments from Justice back to the courts. Depending on how the J&C is written, however, courts may order defendants to pay restitution to victims either directly or through one of those sources.

[7]P.L. 98-596.

[8]P.L. 100-185.

Federal Courts Are Initially Responsible For

Criminal Debt Collections and Accounting

The Criminal Fine Improvements Act of 1987 addressed the need for a centralized collection system. The act centralized criminal debt collection responsibility within the Administrative Office of the U.S. Courts (AOUSC). Congress contemplated that the director of the AOUSC would establish a single national center within the judicial branch for processing fines, restitution, and special assessments. The National Fine Center (NFC) will be the result of this effort.

The NFC is intended to streamline and centralize the criminal debt collection process, providing continuity of federal debt collection data and less duplication of effort. The NFC is to track and collect criminal debts for all 94 judicial districts. Local probation offices, clerks of court, and USAOs should no longer be responsible for receiving debt payments or maintaining local records of payment or balance. The NFC is to create one criminal debt database, which should improve the completeness and accuracy of federal debt collection data. If successful, the database will enable the NFC to provide current and comprehensive information on the payment of fines, restitution, forfeitures of bail bonds or collateral, and special assessments imposed by federal courts in felony and misdemeanor cases.

Justice Is Responsible For Enforcing Delinquent Criminal Debt

If offenders do not make criminal debt payments as required, the debts are to be referred to the USAOs. The USAOs are responsible for taking legal collection actions on delinquent or defaulted criminal debts, such as filing liens on debtor properties, garnishing debtor wages, coordinating collection activities with probation officers, and providing the Internal Revenue Service (IRS) with names of criminal debtors eligible for the tax refund offset program.[9]

Justice encourages offenders who are incarcerated to participate in the Bureau of Prisons' Inmate Financial Responsibility Program. This program provides a means of collecting some of the delinquent and defaulted debts of inmates. Voluntary periodic deductions are made from inmates' participation in one of the Federal Prison Industries or other non-industry related prison occupations. The amounts are generally small and are deducted monthly, quarterly, or semiannually from wages.

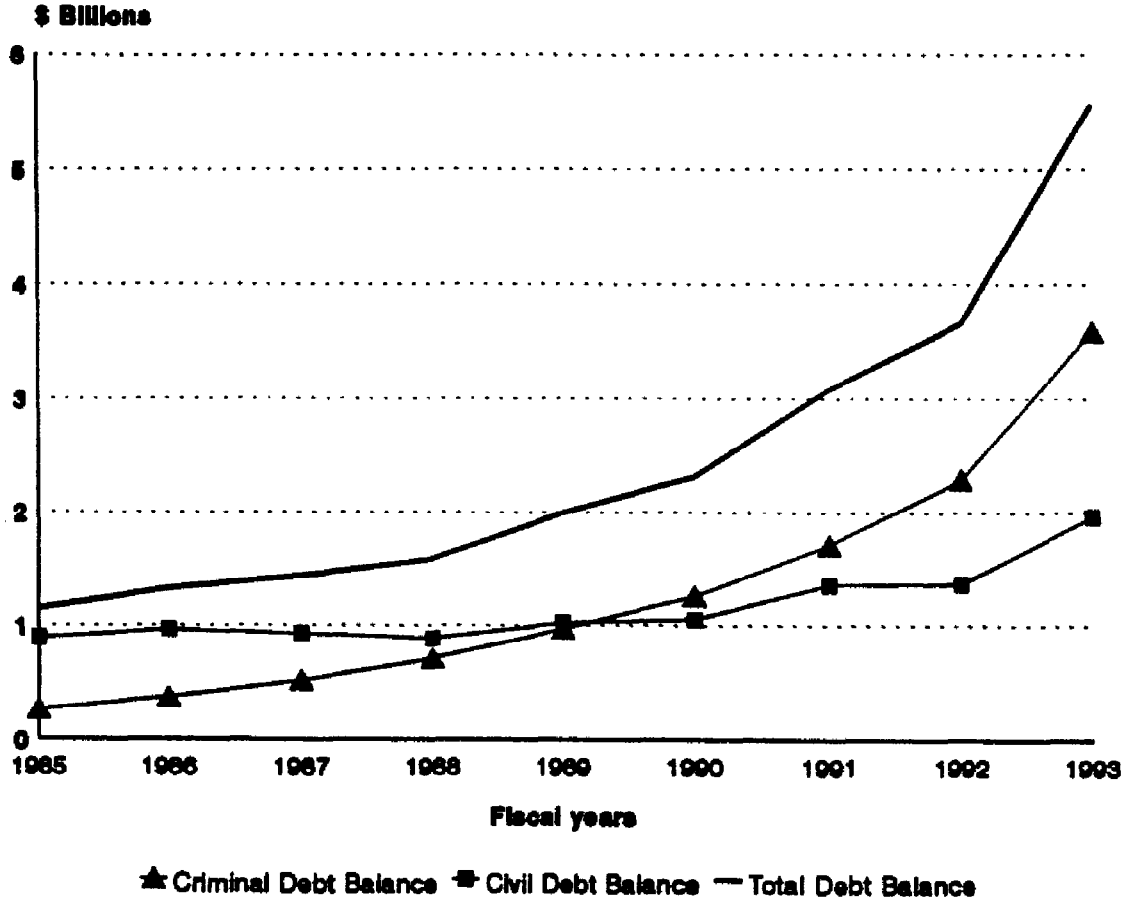
THE AMOUNT OF CRIMINAL DEBT OUTSTANDING HAS GROWN SIGNIFICANTLY IN RECENT YEARS

According to statistics from Justice's Executive Office for U.S. Attorneys, the amount of civil and criminal debt owed the government has grown significantly since fiscal year 1985. Figure 2 shows the change in the criminal and civil debt balances pending at the end of each

[9]The IRS Offset Program is another means used to obtain payments on outstanding criminal debt. Once notified by Justice of debtors with outstanding criminal debts, IRS can offset any of the debtors' tax refunds against the amount of criminal debt owed.

fiscal year in USAOs. Since the end of fiscal year 1985, USAOs reported that outstanding criminal debt increased from $0.3 billion to $3.6 billion. Appendix I provides additional detail on the USAOs' total civil and criminal debt caseload and balance.

Figure 2: Change in USAO Outstanding Criminal and Civil Debt Balances



Source: GAO analysis of Justice data.

A large proportion of the outstanding criminal debt is owed by a relatively small number of bank and thrift offenders. According to information from Justice, $1.7 billion (47.4 percent) of the total $3.6 billion criminal debt balance involves as many as 3,576 offenders sentenced

in "major"[10] financial institution fraud (FIF) cases.[11] Moreover, according to a Justice official, 88 percent of all the restitution due in FIF cases is owed by only 108 individuals. An analysis of data from cases that Justice determined to represent the 50 largest criminal debts owed to the United States revealed similar findings: Debts associated with individuals convicted of FIF offenses constitute nearly three-quarters of both the criminal debts imposed and criminal balance outstanding from those 50 cases. Table 1 summarizes the results from that analysis, separating those cases that are FIF-related from those that are not.

Table 1: Summary of the 50 Largest Criminal Debts Owed to the United States

Criminal Debt	Non-FIF (n = 14)		FIF						Total (n = 50)	
			In prison (n = 22)		Not in prison (n = 14)		Subtotal (n = 36)			
	$ millions	Percent	$ millions	Percent	$ millions	Percent	$ millions	Percent	$ millions	Percent
Amount Imposed	213.2	100.0	384.1	100.0	224.6	100.0	608.8	100.0	822.0	100.0
Amount Paid	0.2	0.0	1.0	0.3	2.9	1.3	4.0	0.6	4.1	0.5
Balance	229.3	107.6	383.1	99.7	221.7	98.7	604.8	99.4	834.2	101.5

Note: Totals may not add across or down due to rounding. Additionally, some balances exceed the amount imposed due to penalties and interest.

Source: GAO analysis of Justice data.

[10]Justice defines a "major" bank and thrift fraud case as one in which (a) the amount of fraud or loss was $100,000 or more; or (b) the defendant was an officer, director, or owner (including shareholder); or (c) the schemes involved multiple borrowers in the same institution; or (d) the case involved other major factors. We have no information on whether all 3,576 offenders in these "major" fraud cases were sentenced to pay criminal monetary penalties.

[11]According to the U.S. Sentencing Commission's 1992 Annual Report, 12,793 defendants were ordered by federal courts to pay some fine and/or restitution during fiscal year 1992 alone.

Table 1 also illustrates that over half of the FIF-related offenders who owe those debts are incarcerated. With only these data, however, we are not able to determine what amount, if any, of the $221.7 million balance outstanding from those FIF offenders who are not in prison is delinquent, illustrating the first of many difficulties associated with interpreting such data.

NUMEROUS DIFFICULTIES HINDER FEDERAL COLLECTION EFFORTS

The multiplicity of agencies involved in criminal debt collection has led to a number of frequently mentioned problems. For example, problems we reported in 1985 included a lack of standardized procedures, discrepancies among agency collection records, and duplication of effort. We concluded that because of the fragmentation of collection responsibility, the federal government could not ensure that debtors who did not pay were quickly identified and pursued.[12] More recently, Justice stated that the confusion over monitoring and receipting payments has impeded the government's ability to collect restitution and criminal fines imposed by the courts. AOUSC has also acknowledged that historically fragmented record-keeping among the 94 different judicial districts has created a situation in which systems are usually inconsistent and tend to differ from court to court.

As a result, no one is able to determine with certainty how much is due and how much has been collected. Yet even if that basic accounting data were available, the lack of other

[12]After the Criminal Fine Enforcement Act of 1984--Some Issues Still Need to be Resolved (GAO/GGD-86-02, Oct. 10, 1985).

critical evaluative information might still preclude an independent review of how effectively or efficiently the government collects criminal debt.

Complete and Reliable Data on Balances Due Not Available

At the outset, the federal government lacks complete, reliable data on criminal debt balances. As noted before, AOUSC is initially responsible for accounting for criminal debt. But because the NFC is not yet operational, there is no automated, centralized national data system. Both the courts and Justice maintain some data on outstanding debt, but for a variety of reasons, those data may not agree, thus limiting their quality and usefulness.

For example, neither set of data may record interest or penalties that should be posted to some accounts. According to Justice, because the USAOs have better automated systems, the courts often ask them to record penalties and interest for criminal debt accounts. But in a review of criminal debt collection practices in 10 USAOs in 1993, Justice's Inspector General found that 8 of the 10 USAOs they visited pursued no penalties, and 2 USAOs had waived both interest and penalties for all delinquent debts.

A second major shortcoming of the publicly reported data on criminal debt balances is the lack of critical sentencing information. For example, the systems do not indicate the terms of the fine or restitution orders. As a result, as indicated earlier by Table 1, although the data may suggest the existence of a large outstanding criminal balance, depending upon how the J&C is worded, an offender may owe nothing until the last day of supervised release.

A step in the right direction of clarifying the amount of criminal balances outstanding would be for Justice to reclassify some of the criminal debt that appears uncollectible. This debt could then be deleted from the total balance due. In a recent report on USAO criminal debt collection efforts, Justice's Inspector General found that 33 percent of all criminal debts outstanding in fiscal year 1991, worth an estimated $565 million, were older than 3 years, and collection rates for those debts were "materially low." To enhance the estimated net realizable value of the open criminal debts, the Inspector General recommended identifying those as uncollectible.[13]

Data on Amounts Paid By Offenders Is Incomplete

Until the NFC is fully operational, the government will continue to lack complete and reliable data on the total amount of criminal debt that federal offenders have paid. This is because courts have ordered offenders to pay restitution to victims through the clerk of court, probation office, USAO, or directly to the federal or non-federal victim. According to Justice, a high percentage of large FIF cases surveyed had restitution ordered to be paid

[13]According to the U.S. Attorneys' Manual, criminal fines, assessments, interest, penalties, and court costs imposed for felony offenses may be placed "in suspense" if a current address is not available for the defendant and the defendant cannot be located after reasonable diligence. This policy allows the USAOs to segregate uncollectible criminal fines and devote greater attention to active cases and those where a likelihood of collection exists. In general, the segregation policy does not apply to restitution, fines over 20 years old (which may be closed), fines imposed for offenses committed on or after November 1, 1987, or fines where the defendant is incarcerated and eligible to participate in the Bureau of Prisons Inmate Financial Responsibility Program.

directly to the victim. Private victims may collect, but there is no mechanism by which those collections are reported to any governmental entity.

Although the USAO, clerk of court, and probation office in each district have procedures for sharing information on amounts received in their offices, payment data may still disagree. During our earlier review of the National Fine Center,[14] we noted that in the Eastern District of North Carolina, reconciling differing balances for the district's 2,500 accounts took over a year. In addition, Justice's Inspector General noted that because of a variety of problems, USAO data may not accurately reflect criminal debt payments received through the Inmate Financial Responsibility Program.

Other Important Information Not Available

Of the balance due, how much is realistically collectible? Any evaluation of federal criminal debt collection efforts should be measured against the total amounts that are collectible.

Justice officials have noted that collection rates vary greatly depending on the nature of the offense. The amounts that are collectible tend to be higher with white-collar crime than with violent personal offenses. However, the Attorney General testified in 1990 that only about 5 to 10 percent of losses in FIF cases may be recovered through civil and criminal proceedings. For a variety of reasons, Justice believed that the money disappeared and that there is little or nothing left to collect or recover at the conclusion of the criminal process when sentencing

[14]NATIONAL FINE CENTER: Expectations High, But Development Behind Schedule (GAO/GGD-93-95, Aug. 10, 1993).

occurs. Additionally, Justice has said that federal courts tended to base their restitution orders in FIF cases not on an offender's current ability to pay, but on the loss to the victim institution.[15] Consequently, this has created an "inevitable gap" between the amounts ordered and the amounts collected.

Efforts to estimate this "gap" are stymied by poor information. On the one hand, Justice has maintained that the collection rate in FIF cases is not unexpectedly low, because there is "historic agreement" that only a fraction of the total losses would ever be recovered. On the other hand, in a study of 59 major FIF cases, Justice found that its collection rate rose to over 30 percent once it accounted for debt that was legally uncollectible (either because the debt had been stayed pending appeal or was not due until the offender was on probation). Justice also said that "a truly accurate picture" of its collection efforts would require further consideration of the offender's financial condition.

NATIONAL FINE CENTER IS BEHIND SCHEDULE

The NFC was originally scheduled to be operational nationwide by early 1995. The original project plan provided for a pilot development and testing phase to be implemented in 5 pilot districts by December 1992, followed by a 4-year expansion to all districts. In our prior review of NFC, we reported that, as of December 1992, only one of the five pilot districts

[15]Studies of two different sets of FIF cases done by Justice in 1992 found that in 83 percent and 90 percent of the cases, courts set restitution based primarily on the loss to the victim institution. The same studies found that courts rarely ordered restitution based primarily on the defendant's present ability to pay. Justice prosecutors have pursued "loss-based restitution" in other white-collar crimes besides FIF, such as defense contractor fraud and health care fraud.

had been integrated into NFC operations. Because NFC had missed developmental milestones in several areas, we said that full implementation would probably be delayed.

Since then, AOUSC has acknowledged that the NFC project proved to be much larger, more complex, and more difficult than originally expected. It now regards the attempt to establish the NFC in Raleigh, North Carolina, as a prototype from which it drew important lessons about the practicality of the project's attempts to meet user requirements. AOUSC has obligated $5.7 million of the $19 million made available by Congress from the Crime Victims Fund for the NFC.

AOUSC has reported that the prototype experience provided the basis for reassessing user requirements, leading to a new two-part NFC implementation plan. AOUSC began implementing the first part in April 1994. Its objective is to develop and operate a basic billing, collection, disbursing, and accounting processing center and to convert all 94 district courts to this central system as rapidly as possible. AOUSC expects to have the first court operating on the new system by August 26, 1994, converting 23 additional courts to the system during the first year, and converting all courts to the system by September 1, 1996. According to AOUSC officials, this first part will produce a manual system in which Clerks of Courts, probation offices, and USAOs submit hard copies of criminal debt accounting records (e.g., the J&C, collection receipts) to AOUSC, which will computerize the data on a system in Washington.

During implementation of the first phase, AOUSC expects to procure the "enhanced system," which will meet both the accounting requirements and other management information needs.

According to AOUSC officials, this system will be an automated system that more closely resembles what the prototype was attempting at the outset. AOUSC expects that the "enhanced fine center solution" will be in place within 5 years.

RELATIONSHIP BETWEEN FORFEITURE AND CRIMINAL DEBT COLLECTION

One of the areas you asked us to address is the relationship between criminal debt collection and asset forfeiture.

Forfeiture is separate and distinct from criminal fines and restitution. Property can be forfeited administratively,[16] through a civil judicial forfeiture action,[17] or as part of a criminal conviction.[18] Forfeited property is disposed of in accordance with the federal statute which permitted the forfeiture. Most often, forfeited property is disposed of by retaining the property for official use by a federal law enforcement agency, transferring the

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[16]Federal investigative agencies have authority to administratively forfeit cash and other property valued at $500,000 or less and conveyances (cars, boats, airplanes, etc.) used to transport controlled substances without regard to value. Justice policy requires that forfeitures of real property proceed judicially.

[17]Civil forfeiture proceedings are brought against the property itself. Therefore, the forfeiture action is not contingent on conviction of the property owner. However, in order to qualify for forfeiture property must constitute either the proceeds or instrument of criminal activity. The major civil forfeiture statutes include 18 U.S.C. § 981 (Money Laundering/Financial Institution Fraud), 18 U.S.C. § 1955 (Illegal Gambling), 21 U.S.C. § 881 (Drug Abuse Prevention and Control), and 31 U.S.C § 5317 (Reports on Currency Transactions).

[18]Criminal forfeiture is based upon the jurisdiction the court has over the defendant rather than his or her property. If the defendant is found guilty of the crime charged, then property identified in the indictment can be forfeited incident to the final judgment in the criminal case. The key criminal forfeiture provisions include: 18 U.S.C. § 982 (Money Laundering/Financial Institution Fraud), 18 U.S.C. § 1963 (Racketeer Influenced and Corrupt Organizations (RICO)), and 21 U.S.C. § 853 (Drug Abuse Prevention and Control).

property to a State or local law enforcement agency which participated directly in the seizure or forfeiture of that property, destroying contraband and other illegal property in accordance with the law, or selling the property.[19]

While we have not done any specific work regarding the interplay between forfeiture and criminal debt collection, we can offer several general observations. One issue that has been raised is whether tension exists between the two because forfeiture might remove assets that would otherwise be available to satisfy criminal fines and restitution orders. This does not appear to be a problem with respect to fines since allowing defendants to pay their fines from forfeiture proceeds would in effect enable them to benefit from their ill-gotten gains.

The effect of forfeiture on restitution is more problematic. For example, assets seized through administrative and civil forfeiture generally are not available for restitution. Therefore, forfeiture may divert assets from restitution and, thus, the crime victims. On the other hand, assets might not have been available for restitution had they not been seized in advance of a conviction.

Forfeiture may complement fines and restitution in the law enforcement arsenal as a means of depriving criminals of the fruits of their crimes. Fines and restitution are imposed only after conviction of a crime. By that time, the defendant may have dissipated or diverted assets.

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[19]Forfeited cash and proceeds of sale are deposited into the Justice Assets Forfeiture Fund or the Department of Treasury Assets Forfeiture Fund. Deposits to the Justice Forfeiture Fund between fiscal years 1985 and 1993 totaled $3.2 billion. See Appendix II for additional information on how the Justice Asset Forfeiture funds were disbursed.

By contrast, forfeiture reaches assets before or even in the absence of a criminal conviction.

Law enforcement officials view asset forfeiture as an effective method to strip away the proceeds and instruments of such criminals as drug traffickers, members of organized crime, and money launderers, and thereby to dismantle their criminal enterprises. In fact, a recent Justice report suggested that there may be opportunities to make greater use of forfeiture through such steps as more effective financial investigations. On the other hand, as the same Justice report recognized, concerns have been raised that asset forfeiture might be used too aggressively by law enforcement agencies.

ISSUES FOR FURTHER REVIEW AND OVERSIGHT

We do not know how much in criminal debt collections should reasonably be expected. While Justice has stated that one should not expect large amounts of collections, it has taken some actions that may improve criminal debt collections. For example, USAOs have implemented a criminal debt management plan that focuses on the identification and active enforcement of collectible criminal debts. Also, the Executive Office for U.S. Attorneys is making numerous efforts to work with the Resolution Trust Corporation and Federal Deposit Insurance Corporation to establish procedures to identify, reconcile, prioritize, and develop collection strategies for FIF debts.

These are positive steps. However, with the total criminal balance growing toward $4 billion, we believe that several areas merit further review and continued oversight. Foremost among those is the NFC. Until the NFC is fully operational on a national basis, efforts to review the

government's criminal debt collection performance will continue to be hampered by the lack of fundamental accounting data information on balances due and collected. Considering the difficulties that the AOUSC has experienced in developing the NFC over the past several years and the change in its approach, we believe that continued oversight of the NFC is important.

In our work on bank and thrift fraud, we were often told about the importance of identifying suspects' assets early on during an investigation, before the assets can be moved or dissipated. However, we have little information on how effectively Justice and Treasury conduct investigations to locate assets to be used in collecting criminal debt. Moreover, Justice has acknowledged that efforts to identify assets for forfeiture could be enhanced. Thus, additional attention might be devoted to Justice's efforts to identify and locate assets that could be seized, forfeited, or otherwise used to meet later criminal debt obligations.

That concludes my statement, Mr. Chairman. We would be happy to respond to any questions you or the Committee might have.

SUMMARY OF CRIMINAL AND CIVIL DEBT CASELOAD AND BALANCE OUTSTANDING IN THE USAOs, END OF THE FISCAL YEAR

Fiscal year	Criminal		Civil		Total	
	Debt cases	Balance ($000)	Debt cases	Balance ($000)	Debt cases	Balance ($000)
1985	29,219	260,319.6	72,393	887,648.5	101,612	1,147,968.1
1986	44,447	369,228.2	69,441	961,044.5	113,888	1,330,272.7
1987	59,982	515,936.3	57,425	926,117.9	117,407	1,442,054.2
1988	73,057	704,655.8	46,093	883,579.2	119,150	1,588,235.0
1989	84,171	968,487.8	44,039	1,025,133.0	128,210	1,993,620.8
1990	96,455	1,260,382.1	41,366	1,051,678.1	137,821	2,312,060.2
1991	105,649	1,714,470.7	50,355	1,362,885.8	156,004	3,077,356.5
1992	110,898	2,286,911.6	55,727	1,370,952.6	166,625	3,657,864.2
1993	115,352	3,587,400.1	52,290	1,965,382.8	167,642	5,552,782.8

Source: U.S. Attorneys' Statistical Reports, fiscal years 1985 – 1993.

JUSTICE ASSETS FORFEITURE FUND DISBURSEMENTS FISCAL YEARS 1985 THROUGH 1993

Use of funds	Amount ($ millions)	Percent of total
Equitable sharing with state, local, and foreign law enforcement agencies[1]	$1,177.1	36.8
Forfeiture-related expenses	$723.9	22.7
Federal investigative and prosecutorial expenses	$455.4	14.3
Special forfeiture fund[2]	$340.0	10.6
Prisons and jails	$427.5	13.4
General Treasury	$70.7	2.2
Total	$3,194.6	100.0

[1]Equitable sharing payments reflect the degree of direct participation by state, local, and foreign law enforcement agencies in the law enforcement effort resulting in the forfeiture. This amount does not include $113.2 million in tangible property that was also shared with these law enforcement agencies.

[2]From fiscal years 1990 to 1993, Justice could transfer surplus monies in the Fund, up to $150 million per year, to the Special Forfeiture Fund for implementation of the national drug control strategy.

Note: In fiscal years 1991 through 1993, a total amount of $176 million was declared a surplus available to the Attorney General for law enforcement, prosecution, and correctional activities, and related training requirements of federal agencies in accordance with appropriation acts in recent years. These surplus balanced are available after all expenses are paid and prior year adjustments are made. Of the total surplus amount, $109.4 million has been allocated to various federal agencies as of the end of fiscal year 1993. In fiscal year 1994, the Attorney General has advised Congress of her intention to allocate additional surplus funds in the amount of $65.4 million.

Source: GAO analysis of Justice data.

RELATED GAO PRODUCTS

NATIONAL FINE CENTER: Expectations High, But Development Behind Schedule (GAO/GGD-93-95), August 1993.

BANK AND THRIFT CRIMINAL FRAUD: The Federal Commitment Could Be Broadened (GAO/GGD-93-48), January 1993.

OFFICE OF JUSTICE PROGRAMS: Discretionary Grants Reauthorization (GAO/GGD-93-23), November 1992.

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