



U.S. Department of Justice

Washington, D.C. 20530

AUG 31 2005

The Honorable Frank Wolf
Chairman
Subcommittee on Science,
State, Justice, and Commerce,
and Related Agencies
Committee on Appropriations
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

As directed in the Conference Report accompanying the 2005 Departments of Commerce, Justice, and State Appropriations Act, P.L. 108-447, enclosed is a report prepared by the Task Force on Improving the Collection of Criminal Debt on its activities and the development of a strategic plan for improving criminal debt collection.

The Office of Management and Budget has recently approved this report for transmittal to Congress. Please contact me if you or your staff have additional questions.

Sincerely,

A handwritten signature in black ink, appearing to read "P. R. Corts", with a long horizontal flourish extending to the right.

Paul R. Corts
Assistant Attorney General
for Administration

Enclosure



U.S. Department of Justice

Washington, D.C. 20530

AUG 31 2005

The Honorable Alan Mollohan
Ranking Minority Member
Subcommittee on Science,
State, Justice, and Commerce,
and Related Agencies
Committee on Appropriations
U.S. House of Representatives
Washington, DC 20515

Dear Congressman Mollohan:

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AUG 31 2005

The Honorable Richard Shelby
Chairman
Subcommittee on Commerce,
Justice, and Science
Committee on Appropriations
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

As directed in the Conference Report accompanying the 2005 Departments of Commerce, Justice, and State Appropriations Act, P.L. 108-447, enclosed is a report prepared by the Task Force on Improving the Collection of Criminal Debt on its activities and the development of a strategic plan for improving criminal debt collection.

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Assistant Attorney General
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U.S. Department of Justice

Washington, D.C. 20530

AUG 31 2005

The Honorable Barbara Mikulski
Ranking Minority Member
Subcommittee on Commerce,
Justice, and Science
Committee on Appropriations
United States Senate
Washington, DC 20510

Dear Senator Mikulski:

As directed in the Conference Report accompanying the 2005 Departments of Commerce, Justice, and State Appropriations Act, P.L. 108-447, enclosed is a report prepared by the Task Force on Improving the Collection of Criminal Debt on its activities and the development of a strategic plan for improving criminal debt collection.

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Activities of the Attorney General's Task Force on Improving the Collection of Criminal Debt

I. Introduction

According to the Government Accountability Office ("GAO"), \$25 billion in criminal monetary penalties—that is, restitution orders, fines, and special assessments—was outstanding as of September 2002, twice as much as was outstanding three years earlier. As of September 2004, that figure was estimated to be close to \$33 billion. Most of this increase is due to the enactment of the Mandatory Victims Restitution Act (MVRA) of 1996, which required that courts order restitution for victims regardless of the offenders' ability to pay. That requirement has led to large and uncollectible amounts of monetary penalties being ordered. Nevertheless, Congress, the Executive Branch, and the federal courts have recognized that changes in legislation, policies, and procedures governing the criminal debt collection process will help improve the collection of the outstanding debt and result in more restitution to victims of crime.

In the conference report on the Consolidated Appropriations Act of 2005, Congress directed the Attorney General to establish a task force, consisting of various federal agencies, to develop a strategic plan for improving criminal debt collection. The Attorney General was directed to report to Congress within 180 days on the activities of the task force to date and the development of the strategic plan.

This Report is submitted to Congress in fulfillment of that mandate. It contains a review of the activities of the task force, a discussion of legislative proposals and new policies and procedures by the Executive Branch and the federal courts, and a strategic plan for improving the collection of criminal debt.

II. Background, Authority, and Creation of the Task Force

The GAO issued a report in 2001 entitled, *Criminal Debt: Oversight and Actions Needed to Address Deficiencies in Collection Processes*, GAO-01-664 (July 2001), that, *inter alia*, recommended the creation of an inter-agency task force to develop a coordinated strategy for improving the debt collection process. The GAO conducted a follow-up assessment in June 2004, *Criminal Debt: Actions Still Needed to Address Deficiencies in Justice's Collection Processes*, GAO-04-338 (March 2004), that found that DOJ had taken measures to address recommendations in the 2001 report but that the inter-agency task force had not been created. The GAO therefore renewed its recommendation that the DOJ establish a task force.

In the conference report on the Consolidated Appropriations Act of 2005, Congress directed the Attorney General to establish a task force "[t]o address the large balances of outstanding criminal debt" within 90 days of the enactment of the Act. The task force was to include various federal agencies, including but not limited to the Department of Justice ("DOJ"), the Department of Treasury ("Treasury"), the Office of

Management and Budget ("OMB"), and the Administrative Office of U.S. Courts ("AOUSC"). The task force was to be "responsible for developing a strategic plan for improving criminal debt collection . . . includ[ing] specific approaches for better managing, accounting for, reporting, and collecting criminal debt." The Attorney General was directed to report to Congress within 180 days on the activities of the task force and the development of the strategic plan.

The Attorney General established the Task Force on Improving the Collection of Criminal Debt ("Task Force") on January 5, 2005, through letters and memoranda to the Director of OMB, the Secretary of the Treasury, the Director of the AOUSC, the Director of the Executive Office for United States Attorneys ("EOUSA"), the Director of the Bureau of Prisons ("BOP"), the Director of the Federal Bureau of Investigation ("FBI"), and the Director of the Office for Victims of Crime ("OVC"). The Attorney General designated the DOJ's Office of Legal Policy ("OLP") as the chair of the Task Force.

III. The Work of the Task Force

As of this Report, the Task Force has met in full twice, and members have held numerous other conversations to identify areas for improvement of the debt collection process, develop legislative proposals, formulate ideas for new proposals and policies, and craft the Strategic Plan.

The following sections of this Report describe the results so far of the Task Force's work. Following the submission of this Report, the Task Force will periodically meet to monitor, coordinate, and assess progress in the implementation of the Strategic Plan.

IV. Legislative Proposals

In order to improve the collection of criminal monetary penalties, the Task Force agreed that fines and restitution should be made payable immediately. Both the Administration and the Judicial Conference have legislative proposals to achieve this objective.

The Judicial Conference's proposal was included in its Federal Courts Improvement Act of 2005 transmitted by the federal judiciary to Congress on June 2, 2005. Included in the Judicial Conference's proposal are provisions that would require that fines and restitution be payable immediately; expedite the United States's and the Bureau of Prisons's ability to enforce restitution orders through civil collection mechanisms and the Inmate Financial Responsibility Program (IFRP), respectively; and allow courts to impose a range of sanctions on offenders who willfully fail to pay monetary penalties.

The Administration's proposal, which will be submitted shortly after this Report, includes other measures to improve debt collection as well, including, *inter alia*, statutory changes to prevent offenders from dissipating their funds prior to issuance of a restitution

order; to provide federal prosecutors access to financial information concerning the defendant obtained by the Probation Office, without the need for a specific court order; eliminating minimum payment schedules ordered at the time of sentencing, clarifying that notwithstanding a court established payment schedule, an order of restitution can be enforced by the U.S. and through the Bureau of Prisons.

V. New Policies and Procedures

The members of the Task Force note that the lead agencies for collection of criminal debt—DOJ and the federal courts—have both recently made important strides in implementing new policies and procedures to improve collection of criminal debt.

EOUSA, for example, recently issued policy guidance to the USAOs on how to prioritize debts for collection and has made changes to its debt collection tracking system that will help with such prioritization as well as with tracking enforcement actions. Furthermore, DOJ, as reported in its responses to the GAO reports cited above, has made significant progress in implementing the GAO's recommendations.

For its part, the federal court system has also recently instituted new policies and procedures to improve collection of criminal debt. For example, following on the GAO's recommendation in its 2001 report, the AOUSC worked with 19 district courts that did not accept and mark paid pre-MVRA restitution payments to enable them to do so. The GAO's recommendation raised concerns among the courts regarding the cost and workload related to processing high-volumes of small payments received through the IFRP, and it came at a time when significant budget cuts had adversely affected court resources. Nevertheless, through the efforts of the AOUSC and the courts, as of this writing, 92 of the 94 districts now accept pre-MVRA restitution payments.

Most significantly, the federal courts are implementing a Civil/Criminal Accounting Module ("CCAM"). CCAM is an enhancement to the judiciary's standard accounting system, the Financial Accounting System for Tomorrow ("FAS₄T"), to integrate the civil and criminal accounting and cash receipting functionality with FAS₄T, providing district court clerks' offices with a standardized application to track and monitor the payment status of civil and criminal debt. CCAM will provide accounting capability to: 1) establish civil and criminal debt accounts, including joint and several restitution; 2) receive monies; 3) apportion and disburse monies received; and 4) calculate interest and penalties. As of July 2005, nine districts had implemented CCAM, and it is expected to be operational in another six districts by the end of Fiscal Year 2005. Forty districts are expected to have implemented CCAM by the end of Fiscal Year 2006, and the remaining 39 districts will implement it by the end of calendar year 2007. Among its other benefits, CCAM will eliminate duplicate data entry by the courts and DOJ, resulting in a higher accounting consistency in the data and will allow the USAOs to focus their attention on enforcement efforts.

The Task Force preliminarily discussed several other ideas for new policies and procedures at its two meetings and will continue to refine those for possible

implementation. The Task Force also discussed tasking the FBI to develop ideas and procedures for early identification of assets available for restitution in order to prevent defendants from dissipating those funds before a restitution order is issued at sentencing. In addition, DOJ has begun a review of the structure of the Financial Litigation Units ("FLUs") in the USAOs with a view toward reforming and improving their operations. With a site visit to one USAO and a meeting with a FLU expert from another, OMB has likewise begun to review the structure of FLUs. These reviews will likely result in new policies and procedures being implemented.

VI. Strategic Plan

The Task Force developed a Strategic Plan that will guide the work of the Task Force going forward. As shown in the Appendix to this report, the Strategic Plan includes both long-term and intermediate goals and objectives and sets out performance measures for the plan.

The two overarching long-term goals are to enhance the effectiveness of the criminal debt collection system and to increase collection of restitution due to crime victims. The main measure of success for these objectives is the amount of **collectible** criminal debt actually collected. Measuring by the amount of collectible debt is crucial. The USAOs estimate that approximately 75 to 80 percent of the outstanding criminal debt balance is in "suspense" as uncollectible based on a review of each defendant's financial circumstances, including information contained in pre-sentence reports, financial statements, credit bureau reports, asset searches, skip-tracing reports, tax returns, and information gathered as a result of subpoenas, interrogatories, or requests for production of documents. Whenever the FLU learns that a defendant has the ability to pay or the defendant can be located, the criminal debt is promptly removed from suspense and collection action is initiated.

The plan's intermediate goals and objectives center on improving the ability to identify, collect, and track collection of defendants' assets. As shown in the appendix, this will involve a combination of new legislation and new policies and procedures, particularly those described above. The plan also notes the possibility of developing new tools for prosecutors to restrain assets prior to sentencing to prevent their dissipation.

The Strategic Plan therefore represents the Task Force's current evaluation of how to proceed. It may change as the Task Force continues its work and identifies new ideas and monitors the implementation of current initiatives.

VII. Conclusion

This Report describes the preliminary work of the Attorney General's Task Force on Improving the Collection of Criminal Debt, in accordance with the directive of the conference report on the Consolidated Appropriations Act of 2005. The Attorney General established the Task Force within 90 days of the enactment of the Act, and this Report is submitted in compliance with the requirement that the Task Force reports on its

activities within 180 days of the enactment of the Act. The Task Force has begun to discuss new policies and procedures to improve the collection of criminal debt and has prepared an initial Strategic Plan to implement its recommendations. The AOUSC has provided, and DOJ will provide, Congress with legislative proposals intended to enhance the collection of fines and restitution. Finally, the Task Force will continue to meet periodically to monitor progress and identify new initiatives. The Task Force members believe that the efforts of their agencies and of the Task Force can help ensure that victims are provided the restitution they deserve and the rate of increase in uncollectible monetary penalties is reduced.

APPENDIX

**Strategic Plan for Criminal Debt Collection:
Goals and Objectives**

Goals/Objectives	Actions
Long-Term Goals (Numbers) and Objectives (Letters)	
1. Enhance the effectiveness of the criminal debt collection system.	1. Percentage of collectible criminal debt collected. 2. Percentage increase in collectible criminal debt collected (over prior period).
2. Improve outcomes for victims of crime. a. Increase collection of restitution due to crime victims.	1. Percentage of collectible restitution collected. 2. Percentage increase in collectible restitution collected (over prior year).
Intermediate Goals (Numbers) and Objectives (Letters)	
1. Improve the capabilities of the Department of Justice to identify defendants' assets. a. Integrate existing information from all sources on amount and type of defendants' assets. b. Develop new ideas and procedures for the identification of additional assets.	1. Develop plan, including IT modifications (if necessary) for integrating defendants' asset information. 2. Review additional procedures for asset identification; develop and issue guidance to the FBI and the USAOs.
2. Improve the capabilities of the Department of Justice to collect identified assets. a. Provide tools to prosecutors to prevent assets from being disposed of prior to collection and to recover certain assets that have already been disposed of or otherwise made unavailable for collection. b. Clarify and simplify collection guidelines to eliminate loopholes and other identified deficiencies.	1. Consider new legislative and procedural tools to ensure that prosecutors are able to make collection prior to dissipation of assets. 2. Enforce existing statutory provisions regarding consequences for failure to comply with restitution obligations.
3. Develop alternative collection techniques and incentives. a. Examine the use of private collection agencies or other available federal collection authorities. b. Examine how asset seizure and forfeiture procedures can be used to maximize recoveries for crime victims. c. Investigate incentives that will defray costs or otherwise encourage additional collection efforts.	1. Review experience with use of private debt collection attorneys for opportunities to expand use. 2. Consider procedures to permit transfer of uncollected criminal debt to Treasury for use of debt collection tools, including offset and private collection agencies. 3. Review procedures used to ensure that asset seizure and forfeiture procedures are routinely used to maximize recoveries for crime victims. Develop legislation, if needed.
4. Improve the tracking of outstanding criminal debt and the status of collection efforts. a. Improve information management systems to allow for tracking of relevant defendant data and collection status. b. Adopt uniform standards and procedures for assessing and monitoring collectibility of criminal debt. c. Provide for regular reconciliation of payment/collections data from all sources. d. Centralize information, where possible, to reduce duplication.	1. Institute IT system review; create modifications to permit tracking of defendant data and collection status. 2. Reconcile payments/collections monthly with Financial Litigation Units and the courts.