

Report to the Legislative Assembly On the Restitution Pilot Program



Submitted by the Oregon Department of Justice

Table of Contents

Contents

Introduction	4
Implementation of the Restitution Pilot Program	5
A county-by-county overview of the Pilot Program.....	6
Crook/Jefferson.....	6
Jackson County.....	6
Lane County	6
Multnomah County	7
Accomplishments to Date.....	7
Table 1: Totals for all cases referred for Pilot Project counties.....	7
Chart 1: Collections by County and Month	8
Chart 2: Monthly Totals	8
Barriers Implementing the Program.....	9
Chart 3: Number of Cases Referred.....	9
Recommendation for the Continuation of the Program	10
Table 2: DOJ Restitution Pilot Statistics on Collections – 2012 Collection Rate.....	11

Testimonials by those involved with the pilot project...

“I’m seeing a real culture change in this subject [restitution] by judges.”

“The payments I’m seeing as a result of the DOJ agents efforts are larger than what we’ve seen in the past.”

“[The] State of Oregon deserves applause for the hard work you guys are doing. Other counties should follow your example.”

The following is a link to a news story on a case in Multnomah County where a significant amount of restitution was owed to an assault victim and was not being paid. After the pilot project received the case and made contact with the debtor the victim began receiving significant restitution payments every month.

<http://www.koinlocal6.com/mediacenter/local.aspx?videoid=3465545>

Introduction

In 2010 the Oregon Secretary of State's office conducted an audit of restitution practices in four counties in Oregon. The audit found that of the 210 cases examined, nearly half appeared to involve a victim who suffered an economic loss, yet no restitution was ordered. Statewide data also confirmed that restitution orders were under-collected. In 2010, \$50.8 million in restitution was ordered to victims. However, Oregon only collected \$6.5 million. In total, Oregon victims were owed over \$350,000,000 in uncollected restitution. While the Oregon Constitution guarantees victims the right to receive prompt restitution, it was clear that the state had yet to deliver on that promise.

In 2011, the Oregon State Legislature passed House Bill 3066. HB 3066 authorized the Oregon Department of Justice to implement an innovative pilot program aimed at increasing the number of restitution orders submitted and approved by the courts and the rate of restitution collected. The Department's Restitution Pilot Projects were established in five geographically dispersed counties throughout the state. As part of the project, a restitution clerk was employed by each of the District Attorney's offices involved in the grant. The clerk's responsibilities include working with victims, Deputy District Attorneys (DDAs), and the court to ensure that restitution information is investigated and provided in a timely fashion and that restitution orders accurately reflect the victim's loss. Also as part of the Projects, five restitution collection agents work with offenders, Community Corrections, Parole and Probation, and the courts to ensure that restitution orders are enforced and monetary obligations are collected.

The Department was authorized to fund the projects using \$1.8 million in punitive damage award money. To implement the program, DOJ collaborated with state agencies and local municipalities. Under the bill:

The Department of Justice is responsible for:

Participating counties are responsible for:

<ul style="list-style-type: none">• Hiring Restitution Collection Agents to work in the selected counties• Partnering with the Oregon Judicial Department, the courts and the District Attorneys' offices to determine what cases will be referred to the DOJ agents for collection.• Preparing a report for the legislature which may include recommendations for legislation to improve the collection of restitution for crime victims¹.	<ul style="list-style-type: none">• Hiring Restitution Clerks and other staff included in the grant proposals as well as partnering with other county agencies for the purpose of increasing the ordering and collection of restitution.
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¹ This report covers the period of August 2, 2011 through December 31, 2012

The evidence thus far is encouraging. According to the OJD HB 3066 report, the vast majority of uncollected restitution debt in Oregon is old debt². Compared to statewide circuit court collections and restitution courts, the Pilot Project has shown better collection rates on old debt³. Economic variables, length of program existence, and staffing levels make it difficult to draw comparisons between the Pilot Project and restitution court or circuit court efforts; however, two things are certain: First, restitution collections are thus far more successful with this project in place, and second, extending the Pilot Project would help clarify the effectiveness of its role.

Collection Rate of Debt More than a Year Old

Statewide Collection	2.1%
Model Restitution Court	2.4%
DOJ Restitution Pilot Project	3.3%

Implementation of the Restitution Pilot Program

HB 3066 authorized the Department of Justice to:

1. Establish restitution pilot programs in geographically dispersed counties or regions throughout the state;
2. Make grants to participating counties to employ at least one restitution clerk, and;
3. Hire collection agents within the Department to do investigative work and collect monetary obligations.

After the signing of HB 3066 the Department sent Requests for Applications (RFA's) to all 36 county District Attorney offices. On November 1, 2011, the Department announced grant awards to Multnomah, Lane, Jackson and the collaboration of Jefferson and Crook Counties. Prior to March 2012, the Department worked collaboratively with the Oregon Judicial Department (OJD) in an effort to determine how OJD would distribute cases to the collection agents in the participating counties. OJD developed an HB 3066 implementation plan for case referral which included pre-judgment and post-judgment cases. The Department also worked with the participating counties in an effort to have each individual program operational as quickly as possible.

By December 19, 2011, three of the collection agents had been hired and trained. On January 2, 2012, the project officially began; however, due to a state wide hiring freeze the final two collection agents were not stationed in their respective counties until March 1, 2012.

² Appendix 1

³ The Pilot Program's collection rate on old debt was 3.3% in 2012 compared to OJD's 2.4% and the normal statewide court collections of 2.1%.

County-by-county highlights from the Pilot Program⁴

Crook/Jefferson

The grant awarded to the collaboration of Crook and Jefferson Counties includes one full time restitution clerk who splits her time between the two counties and a half time Court Collections Coordinator to receive restitution payments, track outcomes and collaborate with the DOJ Collection Agent to ensure restitution payments reach the victim.

When a report is received by either victim assistance office, an advocate contacts all victims listed in the police report. During this contact victims are informed of their rights, including the right to restitution. For the grant period ending October 31, 2012, there were 297 cases within Crook and Jefferson counties where restitution was a factor in the criminal case. Of these 297 cases, 88 victims declined restitution services and 159 returned restitution information as requested. The restitution clerk made 907 follow-up contacts. Of the 297 cases, 173 were prepared for the prosecuting attorney to present to the court in order to request restitution.

Jackson County

The grant awarded to Jackson County includes one half time restitution clerk and one full time probation officer at Jackson County Community Justice. The probation officer handles approximately 80 probation cases where restitution has been ordered.

During the last reporting period restitution was ordered in 100% of the cases presented to the court where there was evidence of economic damage as the result of a crime. During the quarter ending October 31, 2012, \$31,887 in restitution was paid directly to victims as a result of detailed plea negotiations that included immediate payment of restitution as a condition of the plea offer. This is particularly significant because when an offender pays restitution at the time of sentencing rather than setting a payment plan, every dollar paid goes directly to the victim. When an offender pays restitution through a payment plan, the victim only received \$.50 of every dollar the defendant pays.

Lane County

The grant awarded to Lane County includes one full time restitution clerk. The restitution clerk contacts all victims in cases where there is evidence of economic loss. The clerk investigates and documents the loss prior to the first status hearing, if possible. As part of the pilot in Lane County, judges allow DOJ collection agents, or the supervising probation officer, to determine the defendant's payment plan based on their evaluation of the defendant's ability to pay.

During this reporting period there were 130 financial impact statements returned by victims. The restitution clerk followed up with 578 victims in cases where restitution appeared to be a factor yet the victim had not returned the financial impact statement. The restitution clerk investigated,

⁴ The following summaries were taken from participating counties performance reports.

documented and supplied 149 restitution schedules to the prosecuting attorney, who provided the schedules and evidence to the court prior to sentencing. The court ordered restitution in all 149 cases.

Multnomah County

The grant awarded to Multnomah County includes two full time restitution clerks and one half-time DDA. The restitution clerks, along with the DDA, are responsible for investigating the nature and amount of economic damage suffered by victims and, in conjunction with the two DOJ Collection Agents, determine defendants' ability to pay restitution. This information is provided to the court at the time of sentencing. Multnomah County has also partnered with the National Crime Victim Law Institute for assistance in matters relating to violations of victims' rights in receiving prompt restitution.

Multnomah County has made significant improvements in collecting victim information on cases where restitution appears to be a factor. They have also modified the process whereby they present victims' information to the court. As a result of Multnomah County's participation in the project they have developed an all-inclusive "restitution envelope" which is presented to the court at the time of sentencing. The envelope includes the number of attempted or successful contacts the restitution clerk had with the victim, as well as all evidence substantiating economic damages as a result of the offender.

While Multnomah County does not determine the defendant's ability to pay prior to sentencing, they do request that the court send the defendant to the DOJ Collection Agent after sentencing in order to determine the defendant's ability to pay. Once referred, the defendant either pays the obligation in full or a payment plan set.

During the last reporting period Multnomah County sent out 1770 restitution notices to victims where restitution appeared to be a factor. Of those, 726 victims responded with information. Victims were also contacted multiple times if they did not respond to the initial notice.

Accomplishments to Date

Between January 1, 2012 and December 31, 2012, the Restitution Pilot Project collected \$705,256 (Table 1) in court ordered restitution, compensatory fines and fines and fees. Of that, 74% of the total collections by the pilot project consisted of restitution and compensatory fines which went directly to victims of crime.

Table 1: Totals for all cases referred for Pilot Project counties

Restitution Assigned	\$14,861,859
Fines & Fees Assigned	\$1,211,134
Total Collected	\$ 705,256
Amount Due	\$15,367,737

Chart 1: Collections by County and Month

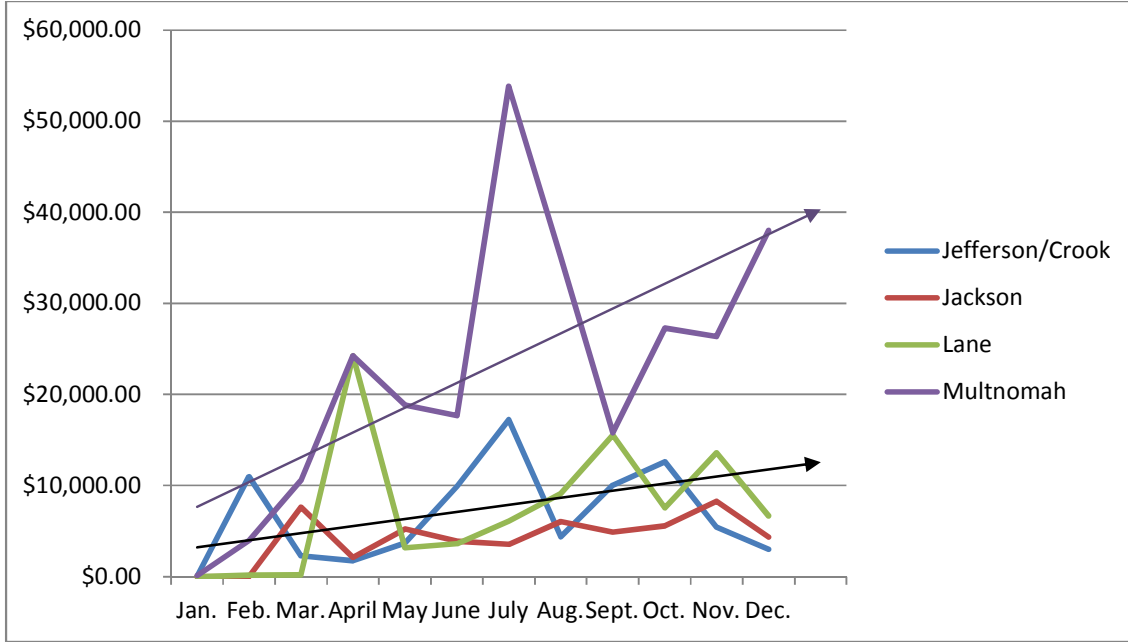
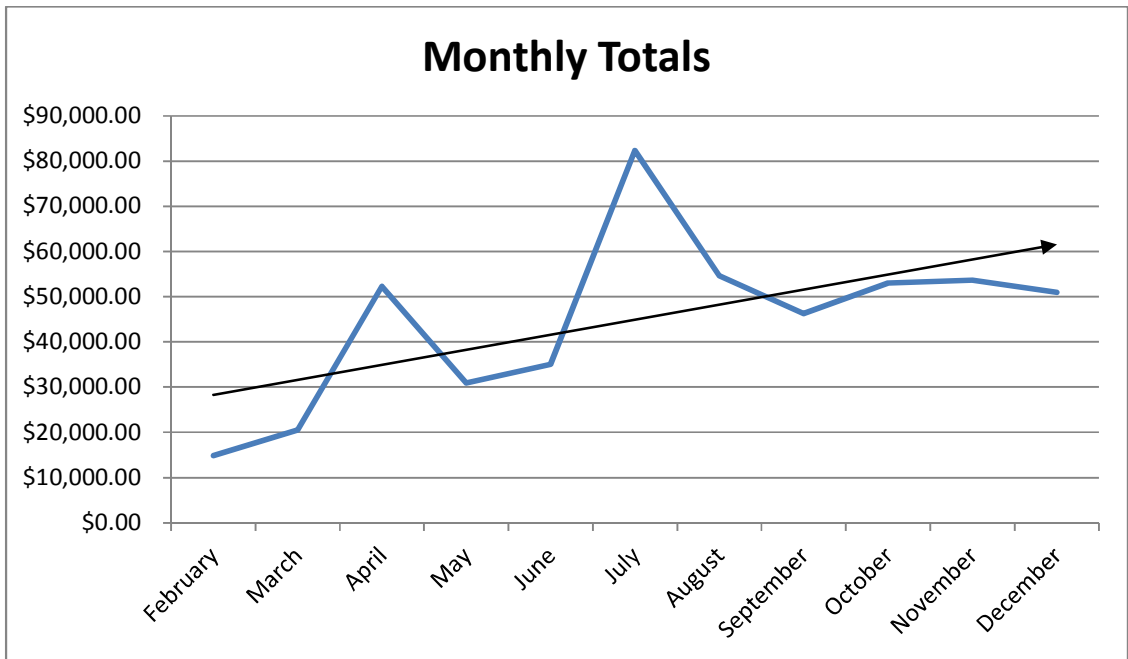


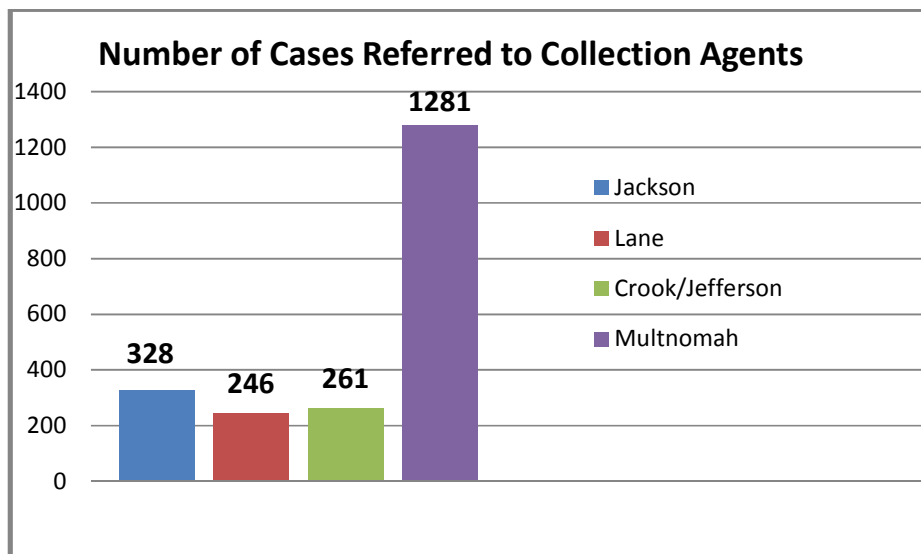
Chart 2: Monthly Totals



Barriers to Implementing the Program

The Department's ability to collect was hindered by the limited number of cases that were initially referred to the pilot program. The graph below shows the number of cases containing restitution or compensatory fines referred to the Pilot Project by county. This piece of the Project is continually evolving and we are continuing to work with OJD and community partners to increase case referrals.

Chart 3: Number of Cases Referred



Due to budget cuts in Lane County many property crimes are not being pursued criminally. This has caused a decrease in the number of cases where restitution would likely be ordered. As a result, the DOJ Collection Agent working with Lane County has received very few criminal money judgment referrals.

The Pilot Project started later than anticipated. The delays were the result of the following:

- A statewide hiring freeze delayed the recruitment of additional collection agents.
- Delay in, or lack of, case referrals from county courts and parole and probation despite Memorandums of Understanding.
- Research and purchase of new collection database software.
- Delays in completing inter-governmental agreements between county agencies participating in the project.
- Delays and discrepancies in information received from OJD after conversion to the new eCourt case management system in Crook and Jefferson Counties.
- Staffing turn over due to "limited duration" status.

The Pilot Projects also involve some labor intensive processes because there isn't a cohesive data collection system between the Department and the courts. As OJIN is unable to interface with outside systems, the Department receives minimal information from the courts. To follow up, DOJ staff must access OJIN and look up the required defendant information for each case. This information is then placed in an excel spreadsheet and loaded into our database so we can track collections. The following is an example of the limited information forwarded to DOJ from OJD on a daily basis:

<u>County</u>	<u>Case Number</u>		<u>Amount owed</u>
MCR	120444286	0	3135
MCR	120748460	0	730
JAC	125615MI	43906	52.01
MCR	121034424	0	945.5
LAN	211216624	0	192.13
JEF	MI120390	0	525.54

Finally, though OJD has an implementation plan which established how they will refer cases to the Department's pilot program for collections, these referrals have ground to a halt following the transition to the new Odyssey or "eCourt" system. In December 2012, eCourts was rolled out in Jefferson and Crook counties. Since then, the pilot program has not received a new case referral from OJD. We have been told that at this point, eCourts does not have the ability to transfer or transmit case information from OJD to another agency (previously done through OJIN). If this persists not only will it have a significant and negative effect on the Department's pilot collection program, it may also hinder other agencies' ability to collect monetary obligations assigned through court judgments. This becomes an even greater concern as other counties are scheduled to transition to eCourts. Jackson County began the transition this month.

Recommendation for the Continuation of the Program

Both OJD and the Department agree that more time is needed to draw concrete conclusions regarding the long term impact of the restitution pilot program. Thus far, the program has increased collections of old debt and made significant strides towards increasing the number of court ordered restitution money judgments. The Pilot Project has overcome the majority of the obstacles mentioned above and is seeing increases in collections each month. With many of the logistical and training challenges in the past, the Department is looking forward to making further progress towards delivering on the state's obligation to provide victims with prompt restitution. To continue this work, the Department has requested that the Legislature extend the sunset on the pilot project to July 2015.

Table 2: DOJ Restitution Pilot Statistics on Collections – 2012 Collection Rate

DOJ RESTITUTION PILOT STATISTICS ON COLLECTIONS - 2012 COLLECTION RATE

Crook/Jefferson County Circuit Court Collection Data - Cases Assigned to DOJ Pilot Program

2012 Collection Rate through 12/8/12 (Total Collected / Total Assigned)

Age of Debt	Total Assigned	REST/COMP Assigned	Total Collected	REST/COMP Collected	Total Collection Rate	REST/COMP Collection Rate
Debt Less than a Year Old	\$ 1,192,758	\$ 1,137,356	\$ 59,612	\$ 45,946	5.0%	4.0%
Debt More than a Year Old	\$ 257,175	\$ 264,517	\$ 28,313	\$ 23,227	11.0%	8.8%

Jackson County Circuit Court Collection Data - Cases Assigned to DOJ Pilot Program

2012 Collection Rate (Total Collected / Total Assigned)

Age of Debt	Total Assigned	REST/COMP Assigned	Total Collected	REST/COMP Collected	Total Collection Rate	REST/COMP Collection Rate
Debt Less than a Year Old	\$ 1,195,337	\$ 853,278	\$ 62,773	\$ 41,100	5.3%	4.8%
Debt More than a Year Old	\$ 1,716,897	\$ 1,601,869	\$ 40,486	\$ 26,015	2.4%	1.6%

Lane County Circuit Court Collection Data - Cases Assigned to DOJ Pilot Program

2012 Collection Rate (Total Collected / Total Assigned)

Age of Debt	Total Assigned	REST/COMP Assigned	Total Collected	REST/COMP Collected	Total Collection Rate	REST/COMP Collection Rate
Debt Less than a Year Old	\$ 1,027,524	\$ 915,581	\$ 101,571	\$ 56,555	9.9%	6.2%
Debt More than a Year Old	\$ 726,303	\$ 690,390	\$ 41,860	\$ 32,254	5.8%	4.7%

Multnomah County Circuit Court Collection Data - Cases Assigned to DOJ Pilot Program

2012 Collection Rate (Total Collected / Total Assigned)

Age of Debt	Total Assigned	REST/COMP Assigned	Total Collected	REST/COMP Collected	Total Collection Rate	REST/COMP Collection Rate
Debt Less than a Year Old	\$ 3,095,941	\$ 2,718,915	\$ 112,630	\$ 73,634	3.6%	2.7%
Debt More than a Year Old	\$ 6,861,056	\$ 6,679,953	\$ 258,011	\$ 222,350	3.8%	3.3%

Overall Totals for DOJ Collections in Pilot Counties

2012 Collection Rate (Total Collected / Total Assigned)

Age of Debt	Total Assigned	REST/COMP Assigned	Total Collected	REST/COMP Collected	Total Collection Rate	REST/COMP Collection Rate
Debt Less than a Year Old	\$ 6,511,561	\$ 5,625,130	\$ 336,586	\$ 217,235	5.2%	3.9%
Debt More than a Year Old	\$ 9,561,432	\$ 9,236,729	\$ 368,670	\$ 303,846	3.9%	3.3%

MODEL RESTITUTION COURT - Clackamas County Circuit Court Collection Data

2012 Collection Rate (Total Collected / Total Assigned)

Age of Debt	Total Assigned	REST/COMP Assigned	Total Collected	REST/COMP Collected	Total Collection Rate	REST/COMP Collection Rate
Debt Less than a Year Old	\$15,181,219	\$2,959,979	\$ 2,151,032	\$194,648	14.2%	6.6%
Debt More than a Year Old	\$134,179,484	\$28,740,135	\$4,181,783	\$694,206	3.1%	2.4%

Statewide Collection Data

(excluding CLA, CRO, JEF, JAC, LAN, MCR, YAM)

2012 Collection Rate (Total Collected / Total Assigned)

Age of Debt	Total Assigned	REST/COMP Assigned	Total Collected	REST/COMP Collected	Total Collection Rate	REST/COMP Collection Rate
Debt Less than a Year Old	\$ 148,125,478	\$ 21,641,985	\$ 35,500,052	\$ 1,949,977	24.0%	9.0%
Debt More than a Year Old	\$ 808,930,946	\$ 205,476,206	\$ 27,302,257	\$ 4,278,443	3.4%	2.1%

1 This data contains revenue collected in 2012 by age of debt assigned. Debt less than a year old was imposed in CY 2012. Debt more than a year old was imposed before 2012. The Total Assigned amount is the total portfolio of debt assigned to the court or to the DOJ pilot program. The Collection Rate is the total collected divided by the total amount assigned.

2 Clackamas County Circuit Court was used to compare the DOJ Restitution Pilot to an established Restitution Court.

3 The Statewide Collection Rate was used to compare the DOJ Restitution Pilot and Clackamas Restitution Court to the normal collections process for OJD (and excludes all the DOJ pilot counties and Clackamas Restitution Court).

4 This information does not represent a complete 2012 collection rate for all circuit courts. Odyssey courts are excluded (Yamhill County is excluded and Crook/Jefferson Counties are through 12/8/12) and debt in the pilot courts that went through the OJD normal collections process is also excluded.