

# Repaying Debts

Released from  
Rollins Correctional  
Institution: March 1

## Debts

- child support (\$20,000) to the kids
- victim restitution (\$1,500) → victim
- felony fines (\$3,500) → District court
- felony surcharge (\$125) → Probation
- Jail surcharge (\$45) → Sheriff
- Training surcharge (\$3) → District court
- court costs (\$120) " "
- probation fees (\$30) → Probation
- Drug Testing fee (\$18) "
- DNA Analysis fee (\$30) "
- crime victim assistance fee (\$75) → Probation

Total: \$25,446



**BJA** Bureau of Justice Assistance

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THE COUNCIL OF STATE GOVERNMENTS



# Repaying Debts

A publication about how policymakers can increase accountability among people who commit crimes, improve rates of child support collection and victim restitution, and make people's transition from prisons and jails to the community safe and successful

Rachel L. McLean  
Michael D. Thompson

Council of State Governments Justice Center  
New York, New York



**BJA** Bureau of Justice Assistance

**JUSTICE★CENTER**  
THE COUNCIL OF STATE GOVERNMENTS

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The Council of State Governments Justice Center is a national nonprofit organization that serves policymakers at the local, state, and federal levels from all branches of government. The Justice Center provides practical, nonpartisan advice and consensus-driven strategies, informed by available evidence, to increase public safety and strengthen communities.

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# Contents

**1 Introduction**

**7 Research Highlights: The Financial Obligations of People Released from Prisons and Jails**

**Policy Statements and Recommendations**

**11 POLICY STATEMENT 1**

Identify state and local laws and policies that address court orders for child support, victim restitution, and other fines, fees, and surcharges and determine how these laws and policies are used to govern collections made from people released from prisons and jails.

**17 POLICY STATEMENT 2**

Coordinate—and ideally integrate—distinct agencies' policies, procedures, and information systems so that the fines, fees, surcharges, and restitution orders of each person sentenced to prison or jail are consolidated to improve collection rates, where possible, and child support and restitution are prioritized appropriately.

**25 POLICY STATEMENT 3**

Enact child support enforcement policies that encourage parents released from prisons and jails to maintain legitimate employment that will help them provide long-term support to their children.

**29 POLICY STATEMENT 4**

Ensure that victims receive the restitution they are owed.

**33 POLICY STATEMENT 5**

Make certain that new fines, fees, and surcharges do not reduce the ability of people returning from prisons and jails to pay child support and restitution.

**35 POLICY STATEMENT 6**

Establish a range of sanctions and incentives that agencies responsible for collections can exercise when a person released from prison or jail does not meet his or her child support and court-ordered financial obligations.

**41 Conclusion**

**43 Appendix A: Methodology**

**45 Appendix B: Advisory Group**

**47 Notes**



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# Introduction

## BACKGROUND

### What issues does this guide address?

In states, counties, and cities across the country, elected officials and other policymakers are focusing unprecedented levels of attention on the growing number of people released from prisons and jails. This guide is written for these policymakers. It focuses on an aspect of prison and jail reentry that has received little attention to date: people's failure to pay child support, restitution, and various fines, fees, and other court-imposed financial obligations after their incarceration—a source of enormous frustration to parents, victims, judges, child support enforcement officials, administrators of corrections and community corrections agencies, and social service providers.

In 2004 alone, more than 650,000 people were released from prisons in the United States, and an estimated 9 million people were released from jails.<sup>1</sup> Rates of failure among this population are high: approximately two out of every three people released from prisons in the United States are rearrested within three years of their release; more than 50 percent are reincarcerated.<sup>2</sup> Given the billions of dollars spent on corrections each year, and the public safety implications of so many people returning to communities from prisons and jails who are not complying with their conditions of release, policymakers' increasing interest in reentry is not surprising.

As state and local leaders make it a priority to improve the rates of success among people released from prisons and jails, they must consider the debts that this population owes when they return to the community—and the people (in addition to the government agencies) who depend on the repayment of these debts. Approximately 1.5 million children have a parent incarcerated,<sup>3</sup> and, when a father or mother returns to the community from prison or jail, the family is understandably eager to receive child support. For victims (and it is not unusual for a victim to also be a family member), restitution provides some reimbursement for the financial losses they have sustained, and it demonstrates that the person who committed the crime is assuming some responsibility for his or her actions. At the same time, courts and law enforcement agencies such as probation and parole departments increasingly rely on revenue-generating fees and fines.

Most people released from prisons and jails have few financial resources. It is unlikely their financial outlook will improve soon after their return to the community. On average, people released from prison are about 34 years old. Typically, 90 percent of these individuals are male, and more than half are African-American or Latino.<sup>4</sup> They have little education and few marketable job skills.<sup>5</sup> Generally, they return to the neighborhoods they came from or similar locales, where job opportunities are particularly limited.<sup>6</sup>

Given this context, the ability of people to meet their court-imposed financial obligations immediately upon their return to the community from prisons and jails is typically unrealistic. Not surprisingly, expectations among families and victims that they will be receiving payments of a particular size and frequency go unfulfilled. Competition ensues—between families and victims, and among these groups and government agencies—for some share of the monies that the person released from prison or jail owes them. This is a difficult problem for everyone involved, and it is growing more acute as the number of people released from prison and jail increases, the high rates of failure among this population persist, states pass new laws imposing new fines and fees (or increasing existing charges), and courts and community corrections agencies are told to derive a larger source of their budget from this revenue.

### What will this guide help policymakers accomplish?

In this guide, legislators, administrators of corrections and community corrections agencies, court officials, victim advocates, child support enforcement officials, social service providers, and others who have an interest in the repayment of debts owed by people released from prisons and jails will find specific, practical recommendations to help them realize the following goals:

- (1) Learning which state, city, and county laws address court orders for child support, victim restitution, and other fines, fees, and surcharges, and understanding how these laws and policies are used to govern collections made from people released from prisons and jails.
- (2) Improving rates of collection of child support, restitution, and fines, fees, and surcharges from people returning to the community.
- (3) Helping people successfully complete the conditions of their sentence.

## Glossary\*

**Child Support:** Amount that a noncustodial parent pays to a child's parent or guardian to contribute toward the financial cost of raising the child.

**Fees (or Assessments):** Amounts charged in exchange for the services provided by courts, probation departments, and other agencies, (e.g., probation supervision, electronic monitoring, or a court filing fee).

**Financial Obligations:** A term used to encompass child support, restitution, fines, fees, surcharges, and other court-ordered debts commonly owed by people returning from prisons and jails to the community.

**Fines (or Sanctions):** Penalties associated with committing specific crimes or levels of offense (e.g., a DUI or felony), which courts order as a punishment in their own right; these may be mandatory or discretionary.

**Restitution:** Sums that judges order people convicted of crimes to pay to their victims as compensation for the financial losses associated with the crime.

**Surcharges:** Add-on amounts used to generate general fund revenue for specific purposes (e.g., law library, judge retirement, or staff training funds), often unrelated to the crime.

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\* The meaning of these terms varies by jurisdiction. This document uses definitions from *Standards Relating to Court Costs: Fees, Miscellaneous Charges, and Surcharges*, adopted at the Conference of State Court Administrators' 1986 Annual Meeting, Omaha, Neb.

- (4) Informing lawmakers' policy discussions and decisions when they are considering the establishment of new fines, fees, and surcharges.

## HOW TO USE THIS GUIDE

### How is the guide organized?

This guide provides research findings, with supporting statistics, to explain the origins and extent of the problems associated with the repayment responsibilities of people released from prisons and jails. With this foundation, the CSG Justice Center developed six policy statements, each of which articulates a principle that should guide an initiative to improve the likelihood that people released from prisons and jails will successfully meet their financial obligations to victims and families. Each policy statement is followed by a description of the problem it addresses and by a set of recommendations for implementation that are presented as lettered statements in bold text.

Numerous examples included in this guide draw attention to interesting efforts in a variety of cities, counties, and states that may provide valuable ideas for policymakers to consider or build upon as they develop their own initiatives. By highlighting certain approaches, however, this guide is not necessarily promoting them as “best practices.” The examples cited simply reflect various types of efforts that involve partnerships, programs, or practices for other communities to think about as they develop responses to the problems detailed in this guide.

### What subset of people involved in the criminal justice system does this guide address?

The policy statements in this guide address issues facing adults under correctional supervision who have been sentenced and are serving time in a correctional facility such as a prison or jail, or are under community correctional supervision (e.g., probation or parole). The policy statements here do not directly address—but may nonetheless affect—the many individuals who pass through the court system and owe substantial financial obligations but have not been sentenced to prison or jail. Considering this issue as it relates only to people released from prisons and jails and under community correctional supervision may seem arbitrary, but it does help make the scope of this document manageable, excluding issues unique to people who owe fines, fees, child support, and restitution but are not incarcerated or returning from prisons and jails to the community. It also allows an emphasis on the individuals with the fewest resources, whose failure is of the greatest cost to the state.

This guide also does not address debts that are commonly owed but not explicitly part of a sentence imposed by a criminal court, such as transportation and housing payments or consumer debt. Though not the focus of this guide, these kinds of debt are relevant to many of the policy statements and recommendations provided here.

Local governments within a state may have distinct policies and practices related to levying and collecting child support, restitution, fines, fees, and surcharges. This guide discusses state and local policies, but does not fully address the nuances that may arise on a local level.

## Where does one start?

Successful implementation of the recommendations in this guide requires substantial collaboration among multiple agencies and systems. To this end, policymakers should form a working group that includes representatives of each of the systems relevant to this issue, including legislators, administrators of institutional and community corrections agencies, court officials, victim advocates, child support enforcement officials, social service providers, and others. In addition, the working group should include representatives of those constituencies that have first-hand experience with this issue—namely, victims, family members of people who have been released from prisons and jails, and people who have themselves been incarcerated.

When convening a group with such diverse perspectives—and potentially competing interests—it is important to select as chair of the working group someone in a position of leadership and with broad authority, rather than the head of a particular agency. Judges may be uniquely suited to serve as chair because they carry with them the impartiality of the courts and typically enjoy a stature in state and local government that enables them to bring together people from different systems. Indeed, they are well positioned to moderate discussions between parties (child support advocates, probation agencies, victim advocates, and others) with different priorities and attitudes about what financial obligations should be emphasized in the collections process. Policymakers such as state legislators or county executives with responsibility for setting the budgets of multiple agencies may also appropriately be effective in this role.

The judge or elected official who leads the working group will likely not have time to coordinate the logistics of convening the group or to ensure follow-through with the group's policy decisions. To fulfill this role, the working group should appoint a staff person whose time is dedicated to coordinating the group. The staff person should ideally have experience coordinating groups that span multiple systems and disciplines, and could conceivably come from any of the participating agencies.

With a respected chairperson and skilled support staff, the working group should begin with Policy Statement 1, which describes how to develop an understanding of the relevant laws and policies in its city, county, or state; organize this information in meaningful ways; and develop an informed plan for making improvements to the existing system based on the working group's assessment of its laws and policies.

## What resources, beyond this guide, are available?

No one document has examined in detail each of the financial obligations that people released from prisons and jails must meet. But numerous organizations have issued reports focusing on particular aspects of this issue, such as child support or victim restitution.

Users of this guide may find particularly helpful the following reports and resources:

- *Working with Incarcerated and Released Parents: Lessons from OCSE Grants and State Programs*, U.S. Department of Health and Human Services, Administration for Children and Families, Office of Child Support Enforcement.<sup>7</sup>
- *New Directions from the Field: Victims' Rights and Services for the 21st Century—Restitution*, U.S. Department of Justice, Office of Justice Programs, Office for Victims of Crime.<sup>8</sup>

- *The Role of Victims in Offender Reentry: A Community Response Manual*, American Probation and Parole Association and the U.S. Department of Justice, Office of Justice Programs, Office for Victims of Crime.<sup>9</sup>
- *Online Resource Library*, National Center for State Courts.<sup>10</sup>

Finally, the working group should consult the dozens of resources upon which this guide relied heavily, which are listed in the Notes section.

## About the Development of This Guide

To develop this guide, staff of the Council of State Governments (CSG) Justice Center interviewed dozens of experts in community corrections, court administration, child support, victim services, and other fields. In addition, the CSG Justice Center reviewed policies and procedures from countless local, state, and federal agencies, legislation enacted in various states, and published and unpublished research. This guide also benefited considerably from a day-long meeting attended by various leading policymakers, practitioners, and advocates (for a description of the methodology used to develop this guide, see Appendix A).

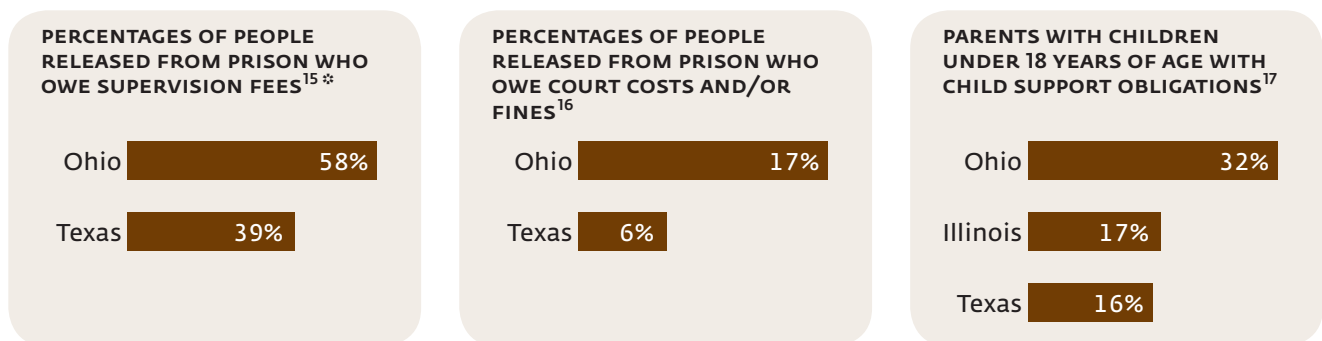
This guide also draws on the *Report of the Re-Entry Policy Council*. The council brought together more than 100 leaders from across the United States to develop bipartisan recommendations for policymakers to use to improve the likelihood that adults released from prisons and jails will avoid crime and become productive, healthy members of families and communities. These recommendations were published in January 2005, in the council's landmark report, which can be viewed, free, online at [www.reentrypolicy.org](http://www.reentrypolicy.org). This report is a valuable resource for readers of this guide, who may find useful the additional discussions of relevant issues such as the employment of people released from prison and effective release and supervision decisions.



# Research Highlights: The Financial Obligations of People Released from Prisons and Jails

**Many people released from prisons and jails have a substantial amount of debt to repay, including supervision fees, court costs, victim restitution, and child support.**

- Many of the men released from prisons in two states report owing monthly probation or parole supervision fees; 12 percent owed court costs and/or fines.<sup>11</sup>
- An analysis in one jurisdiction found that the 15 percent of people on probation with restitution orders owed an average of \$3,500.<sup>12</sup>
- Most people who are incarcerated have children under 18 years of age.<sup>13</sup> Parents in one state were shown to leave prison owing an average of more than \$20,000 in child support arrears.<sup>14</sup>



**The financial obligations of people released from prisons and jails often go unfulfilled.**

- A study of people released on parole in Colorado found that they owed an average of \$16,600 in child support.<sup>18</sup>
- An examination of court-ordered obligations in 11 states found an average of \$178 million per state in uncollected court costs, fines, fees, and restitution.<sup>19</sup>
- Court administrators in one state report that only 23 percent of fines are successfully collected, and no action is taken on uncollected payments.<sup>20</sup>

**People released from prisons and jails typically have insufficient resources to pay their debts to their children, victims, and the criminal justice system.**

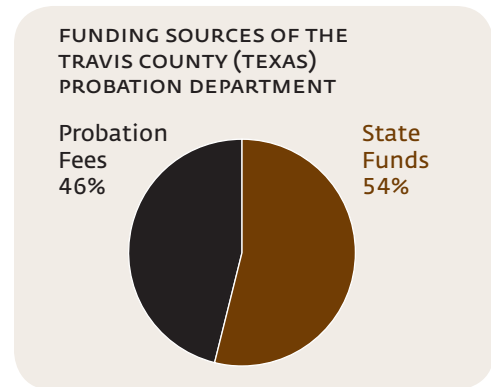
- Nationally, two-thirds of people detained in jails report annual incomes under \$12,000 prior to arrest.<sup>21</sup>
- Most people returning to the community have difficulty finding employment upon release from incarceration, and they often rely on their families for support.<sup>22</sup>

\* These graphs present unpublished findings of the Urban Institute's *Returning Home* study of released prisoners in Texas, Ohio, and Illinois. For more information on *Returning Home*, see [www.urban.org/projects/reentry-portfolio/index.cfm](http://www.urban.org/projects/reentry-portfolio/index.cfm).

- In one study, three-fourths of people released from prison owing child support, restitution, and supervision fees reported having difficulty paying off these debts.<sup>23</sup>
- Financial pressures and paycheck garnishment resulting from unpaid debt can increase participation in the underground economy and discourage legitimate employment.<sup>24</sup>

**Victims, families, and criminal justice agencies often compete for a share of the small payments people released from prisons and jails are able to make.**

- Victims need restitution to compensate for their monetary losses. And though most states have established their compensation as a “right,” victims often do not receive the amounts owed to them.<sup>25</sup>
- Children whose parents are incarcerated require financial support, yet nearly half of these children’s caregivers received government assistance to meet basic needs.<sup>26</sup>
- Criminal justice agencies are increasingly fee-driven; administrative assessments on citations fund nearly all of the Administrative Office of the Court’s budget in Nevada.<sup>27</sup> In Texas, probation fees made up 46 percent of the Travis County Probation Department’s \$18.3 million budget in 2006.<sup>28</sup>



**Within units of state and local government, policies governing the collection of fines, fees, restitution, and child support are often at odds with one another, making it difficult for people released from prisons and jails to meet their financial obligations.**

- People released from prisons and jails typically must make payments to a host of agencies, including probation departments, courts, and child support enforcement offices. While coordinated collections efforts among these agencies could increase rates of repayment to victims, families, and criminal justice agencies, there is rarely a single agency tracking all of an individual’s court-ordered debts.<sup>29</sup>
- Federal law provides that a child support enforcement officer can garnish up to 65 percent of an individual’s wages for child support.<sup>30</sup> At the same time, a probation officer in most states can require that an individual dedicate 35 percent of his or her income toward the combined payment of fines, fees, surcharges, and restitution.
- Staff working for distinct agencies often lack clear guidelines as to how their collection efforts should be prioritized; some agencies prioritize the collection of fines, fees, or surcharges over restitution, while others put the collection of restitution first.<sup>31</sup>

**The inability of people released from prisons and jails to meet their financial obligations can contribute to their reincarceration.**

- A study of probation revocations found that 12 percent were due at least in part to a failure to meet the financial portion of probation supervision requirements.<sup>32</sup>

**PROBATION VIOLATIONS COMMITTED WHILE UNDER COMMUNITY SUPERVISION<sup>33</sup>**

Type of probation violation	(%)*
Arrest for new offense	87
Failure to report to probation/parole officer, absconding	37
Failure to pay fines, restitution, or other financial obligation	12
Positive test for drug use	10
Leaving jurisdiction without permission	8
Number of individuals	42,777

\* Percentages total more than 100% because some people had more than one type of probation violation.



# Policy Statements and Recommendations



## POLICY STATEMENT

# 1

Identify state and local laws and policies that address court orders for child support, victim restitution, and other fines, fees, and surcharges and determine how these laws and policies are used to govern collections made from people released from prisons and jails.

### LAWS AND POLICIES THAT GOVERN WHAT FINANCIAL OBLIGATIONS MAY BE IMPOSED

on a person sentenced to prison or jail vary significantly from one state to another, and across the cities and counties within a given state. For example, some states prioritize the collection of fines and fees over that of restitution, while others place the collection of restitution first. Similarly, some states permit the suspension of child support orders during periods of incarceration while others do not. At the local level, cities or counties within a state often impose different kinds of fines, fees, and surcharges to fund local community corrections, treatment, and training programs.

Furthermore, courts, probation departments, and other agencies within a city, county, or state responsible for collecting money that someone incarcerated or released to the community owes often collect these debts separately and do not share information or resources. Accordingly, administrators of one criminal justice agency (such as a court or probation department) typically are uncertain how the collections practices of multiple agencies relate to one another.

To help state and local government officials better understand how the system(s) currently work, the following three recommendations explain how the multidisciplinary working group (see *Where does one start?*, page 4) can (1) develop a list of questions to guide the information-gathering process and engage all of its members to answer these questions; (2) organize the information that the members compile in response to these questions into reports, case studies, and diagrams; and (3) use the information to inform the development of a strategic plan.

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### **A | Develop a list of questions to elicit key information about how collections are made pursuant to existing laws and policies and engage members of a multidisciplinary working group to answer these questions.**

Navigating the vast landscape of different agencies' collections practices and policies can be a daunting task. The following list of questions should provide a useful starting point for the working group. Some of these questions may be more difficult to answer than others. The working group should select questions it thinks will be particularly useful and then add any questions of its own that would be especially relevant to its jurisdiction.

The members of the working group will likely have the expertise needed to answer many of these questions; some may need to look no further than the staff, policies, and publications of their own agencies for answers. At the same time, even veteran court or probation staff may be unable to list, for example, all of the fines, fees, and surcharges in a given city, county, or state. To ensure that key questions are answered, the policymaker responsible for convening the working group should assign various members of the group the task of answering the questions that pertain to their fields of expertise.

To conduct an inventory of relevant statutes within a particular city, county, or state, policymakers should consult a range of sources, such as relevant government Web sites, law libraries, and legislative search engines.\* As mentioned in the Introduction, working group members should also look to the reports federal agencies, such as the

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\* While most fines, fees, and surcharges will likely be found in the criminal, corrections, and judicial codes, others—such as the fee for driving while intoxicated—will be located in the municipal or vehicle and traffic code. State and local government Web sites can be helpful for finding specific statutes, while law libraries and legislative search engines can be useful for doing broad searches to find mention of specific key words. For example, the words “restitution” and “priority” could be used to find the priority with which restitution is collected and disbursed among other financial obligations within a given city, county, or state. Other terms that may prove effective include fines, fees, surcharges, penalties, costs, restitution, and assessments.

## Sample Questions to Ask When Reviewing State and Local Collections Policies

### Factors affecting the collection, distribution, and prioritization of various financial obligations

- Who is responsible for collecting restitution, fines, fees, surcharges, and other court-ordered financial obligations?
- How do agencies responsible for collections coordinate their efforts?
- Does any agency consolidate non-child support debts (i.e., restitution, fines, fees, and surcharges)?
- How do state laws prioritize the collection of fines, fees, and restitution?
- What percentage of court-ordered financial obligations that are assessed is successfully collected?
- What percentage of dollars is successfully directed to their intended recipients?
- To what extent do state and local court, corrections, training, treatment, and general fund budgets rely on fines, fees, and surcharges to cover operational costs?
- How do judges and probation and parole staff incorporate the payment of financial obligations into the conditions of release or supervision for individuals on probation or parole?
- Do judges transform outstanding restitution orders into a civil case when the sentence (i.e., period of probation or parole) of someone who owes restitution is completed?

### Factors affecting the ability of people released from prisons and jails to meet their financial obligations

- What types of debts does a typical individual released from prison or jail owe?
- Which financial obligations are mandatory, and which are discretionary?
- Who has the authority to change, reduce, or waive fines, fees, and surcharges?
- What are the state’s Office of Child Support Enforcement policies on collecting or modifying child support orders for noncustodial parents who are incarcerated?
- To what extent does a person’s failure to meet one or more court-ordered financial obligations contribute to his or her revocation of parole or probation?
- Do judges and agencies responsible for collections provide nonmonetary or in-kind options for payment (e.g., community service)?
- How are individuals supported in their efforts to meet their financial obligations to victims and families during periods of incarceration and upon release from prison or jail?

Office of Child Support Enforcement, and national membership organizations, such as the National Center for State Courts, have released that include examples of relevant state and local policies and laws.

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**B | Organize this information into three types of documents that policymakers can use to develop a strategic plan: reports, case studies, and diagrams.**

Answers to the questions of the working group will likely generate a lot of information that may be difficult for other members of the group to analyze. To organize this information in a meaningful way, the working group should develop three types of documents: reports, case studies, and diagrams.\*

### Reports

To answer the questions about relevant laws and policies, members of the working group should prepare reports that provide an inventory or analysis of specific governing authorities and practices. For example, in a given jurisdiction these reports could cover the range of state and local fines, fees, and surcharges; child support policies relating to people who are incarcerated or recently released from prisons and jails; and/or the percentage of all financial obligations assessed that is successfully collected.

#### Court Costs and Fees Study, Sunset Advisory Commission, Texas

In 2005, the Texas legislature reviewed the collections practices of courts statewide and found that the courts were unable to provide information about what percentage of the total court fines and fees assessed were actually collected. To gather this information, the legislature required the Sunset Advisory Commission, a legislative review body, to study the purpose, collection, and use of court costs and fees. In its report to the legislature, the commission listed state and local court costs and fees and provided a series of case studies illustrating the costs associated with various offenses, including a minor traffic violation and a driving while intoxicated offense.<sup>34</sup>

### Case Studies

The working group should develop one or more case studies to ground its discussion and connect the various types of financial obligations owed by people released from prisons and jails with people's ability to meet their obligations to victims and families. A case study should describe a typical person released from prison or jail and list the types of court-ordered financial obligations that he or she would owe for a common conviction, such as driving while intoxicated (DWI), larceny, or assault.

In addition to criminal sanctions, the case study should describe the individual's child support obligations, if any. Together, these will illustrate the types of court-ordered financial obligations that an individual would be trying to meet during the period of his or her sentence.

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\*Although policymakers in numerous states have engaged in answering some of these questions, none has completed all of the steps listed here. This recommendation draws heavily on the experiences of two of these states: Texas and New York.

**Court-Ordered Financial Obligations Case Study, Center for Community Alternatives, New York**

The Center for Community Alternatives developed the following case study, based on New York law, to illustrate all of the court-ordered financial obligations that an individual would make payments toward during the period of his sentence. These include the fines, fees, surcharges, and restitution associated with his conviction, and his weekly child support payments.\*

*John, age 29, had recently been released from jail when, after refusing a chemical test, he was convicted of driving while intoxicated, a class E felony, and driving with no insurance, a misdemeanor. He was sentenced to 5 years of probation. Restitution was ordered for damage to a parked car. John also has two children, who were placed into the custody of his mother while John was in jail. John's mother received Temporary Assistance to Needy Families (TANF) and was required to petition John for child support. John had to meet the following court-ordered financial obligations during the period of his probation sentence:*

**FINANCIAL OBLIGATIONS ASSOCIATED WITH A DRIVING WHILE INTOXICATED CONVICTION, NEW YORK**

Mandatory Fine for Felony DWI Conviction	\$1,000	Ignition Interlock Device	\$2,175
Mandatory Felony Surcharge	\$250	Driver Responsibility Assessment	\$750
Crime Victim Assistance Fee	\$20	Restitution	\$1,000
Probation Supervision Fee (\$30/month)	\$1,800	Surcharge for Collecting Restitution (5 percent)	\$50
Civil Penalty (Zero Tolerance DWI)	\$125	<b>Subtotal</b>	<b>\$8,795</b>
Fee for Termination of License Revocation	\$100	Child Support Payments (\$100/week for 5 years)	\$26,000
Surcharge for Vehicle and Traffic Law Conviction	\$25	<b>Total</b>	<b>\$34,795</b>
Civil Penalty for No Insurance	\$750		
Civil Penalty for Chemical Test Refusal with Prior Vehicle and Traffic Law § 1192 Conviction within 5 Years	\$750		

**Diagrams**

To complement the case study above, the working group should develop a diagram that illustrates the collections practices of multiple agencies and their relationships to each other. Including details in the chart, such as how each agency establishes payment schedules and amounts, the degree to which they coordinate their collections efforts, how collections are prioritized, and how dollars are disbursed to their intended recipients would be particularly useful to working group partners.

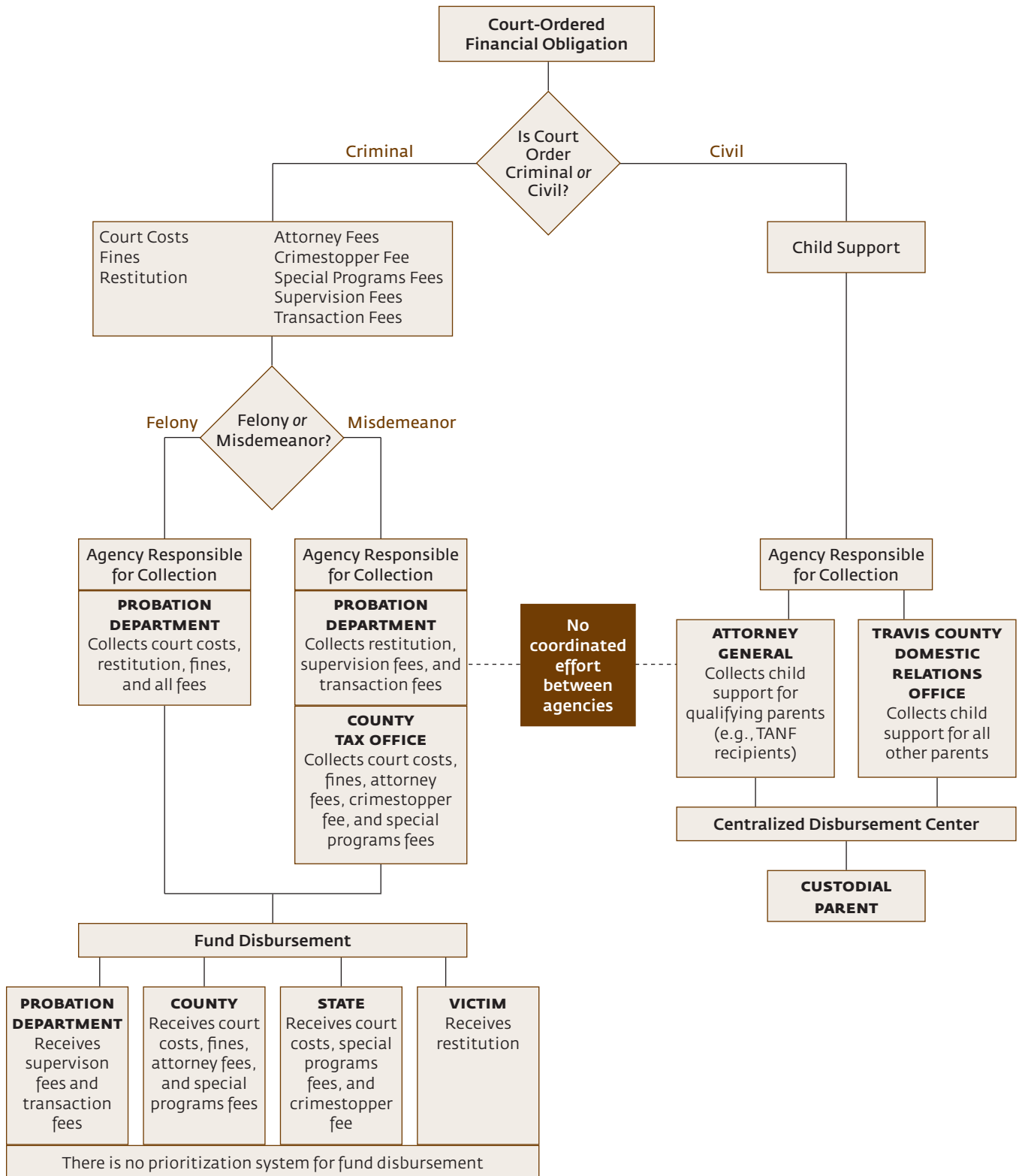
**Multiagency Collections Diagram, Travis County, Texas**

CSG Justice Center staff and consultants prepared a diagram (featured on the following page) to illustrate the relationships between the multiple agencies responsible for collecting court-ordered financial obligations from people released from prisons and jails in a sample jurisdiction.

In addition to a diagram of the relationships among multiple agencies, it would be useful to depict the collections practices within a particular agency, such as how the probation department or court assesses an individual's ability to meet his or her financial obligations, establishes payment schedules, notifies individuals of payments due, and handles instances of nonpayment.

\* This case study was reprinted with permission by The Center for Community Alternatives. It also informed a broader report that the New York Bar Association submitted to the state legislature on the various consequences of criminal proceedings on reentry. To retrieve the full report, entitled *Re-Entry and Reintegration: The Road to Public Safety, Report and Recommendations of the Special Committee on Collateral Consequences of Criminal Proceedings*, see [www.nysba.org](http://www.nysba.org).

# Multiagency Collections Diagram, Travis County, Texas



### **Single Agency Collections Diagram, Collections Improvement Program, Office of Court Administration, Texas**

To illustrate the principles of its Collections Improvement Program, the Texas Office of Court Administration developed a diagram depicting the course of action that court administrators take at each juncture in the collections process, beginning with determining whether an individual is able to pay in full at sentencing, and ending with the consequences of noncompliance with the court's orders.<sup>34</sup>

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## **c | Develop an informed strategic plan for making improvements to the existing system based on the working group's assessment of state and local laws and policies.**

Using the in-depth reports developed by members of the working group, case studies, diagrams, and other research that has been gathered, policymakers can begin to identify problem areas for potential policy intervention. With this information and other resources mentioned in this guide, policymakers can engage the working group in identifying policy options and exploring their feasibility.

For example, policymakers could discover that agencies responsible for collections are not consistently determining the ability of people released from prisons and jails to meet their court-ordered financial obligations and that people with ample financial resources may be paying less than they are able, while those with little ability to pay are given unrealistic payment plans that threaten long-term collections. In response to this finding, policymakers and other members of the working group could decide to require the use of a standardized form for assessing an individual's income, assets, and expenses, and establish guidelines for using this information to develop a payment plan. As another example, the working group could find that collections are inconsistent among courts and decide to mandate that court administrators implement a proven collections program.

### **Mandatory Collections Improvement Program, Select City and County Courts, Texas**

As part of its review of court collections policies in 2005, the Texas state legislature found that a voluntary Collections Improvement Program, developed by the state Office of Court Administration and being implemented in a handful of courts statewide, was effective in increasing compliance with court-ordered financial obligations.<sup>35</sup> The legislature passed a bill requiring cities and counties with population levels above a certain threshold to implement the program and to provide annual reports about their collections practices. As a sanction for courts' noncompliance, the legislation denied the long-standing ability of city and county courts to retain 10 percent of the dollars they collected.<sup>36</sup>

Having gathered and organized information about collections policies, practices, and problems in their jurisdiction, policymakers should look to the policy statements, recommendations, and other resources in this guide for strategies to address the problems they have identified.

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\*The Collections Improvement Program flowchart can be retrieved at [www.courts.state.tx.us/oca/collections/model\\_concept\\_flowchart.pdf](http://www.courts.state.tx.us/oca/collections/model_concept_flowchart.pdf).



## POLICY STATEMENT

# 2

Coordinate—and ideally integrate—distinct agencies' policies, procedures, and information systems so that the fines, fees, surcharges, and restitution orders of each person sentenced to prison or jail are consolidated to improve collection rates, where possible, and child support and restitution are prioritized appropriately.

**IN EVERY STATE, PEOPLE RELEASED FROM PRISONS AND JAILS MAKE PAYMENTS TO A** host of agencies, including probation, courts, and child support enforcement offices. Furthermore, in many jurisdictions, courts and probation departments often contract with private companies to pursue delinquent cases. Each of these agencies typically has different priorities and collection methods, and there is rarely one agency that tracks the collection of every debt assessed to an individual. Nor does any single agency assume responsibility for providing people with a summary of the status of all of their outstanding obligations.

For example, an individual might owe payment for court fines to several different courts; supervision fees to a probation department; child support to a child support enforcement office; and restitution to a victim services agency, probation office, or court administrator. Without any one agency keeping track of these debts collectively, many of the debts remain, not surprisingly, unpaid. Their expectations unmet, victims and families who anticipated receiving some reimbursement and expression of accountability from the person sentenced become understandably frustrated and angry.

Debts often remain unpaid at least partly because staff working for distinct agencies do not have clear guidelines as to how their collection efforts should be prioritized. With the exception of child support, which federal law prioritizes above all other obligations to victims or the state,<sup>37</sup> states have considerable leeway when prioritizing among the collection and disbursement of restitution, fines, fees, and surcharges. Many states, for example, have enacted laws that prioritize payment of victim restitution over other non-child support debts. A number of states, however, collect fines, fees, and surcharges before restitution.\*

While child support collection cannot be consolidated with other financial obligations,<sup>38</sup> there are opportunities for simplifying their collection that are often missed. To capitalize on these opportunities, policymakers should decide how to coordinate the collection of financial obligations from people released from prisons and jails to ensure that returning prisoners can first meet their obligations to victims and families. Even in cases where individuals do not owe child support or restitution, policies

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\* States that prioritize restitution include Arizona, Florida, Hawaii, Idaho, Iowa, Michigan, and Wisconsin. States that prioritize other fines, fees, or surcharges include Alaska, Colorado, Connecticut, and Georgia.

should encourage long-term repayment by providing realistic financial conditions of their sentence.

Policymakers can pursue a number of strategies for improving and coordinating collections practices, including determining financial sanctions in one lump sum and setting priorities for disbursement, consolidating collection efforts, providing sufficient resources to agencies responsible for collections to pursue unmet obligations, keeping individuals apprised as to the status of their payment efforts, capping collections at a set rate, and calculating realistic payment plans.

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**A | Calculate, at the time of sentencing, the sum of the restitution, fines, fees, and other surcharges that the person should be assessed.\***

To hold people accountable and to ensure that they can and will meet the financial obligations assessed at the time of sentencing, judges should determine one sum that an individual should pay as a sanction for his or her crime(s). Judges can then work backward to divide the sum among its intended recipients, including victims (in the form of restitution) and criminal justice agencies (in the form of fines, fees, and surcharges).

**Sentencing Statute, Washington State**

Washington State's sentencing statute (Rev. Code 9.94A.760) requires that judges, at the time of sentencing or during a subsequent order, designate the total amount of a legal financial obligation and separate this amount into segments toward the payment of restitution, costs, fines, and other assessments. Judges are also required to consider the individual's assets, earnings, and total potential debt when determining the full financial sanction.

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\* Child support is determined by federal standards, is not a criminal sanction, and cannot be determined as part of this sum.

## Federal Child Support Enforcement Policies and Reentry

- Federal law prioritizes child support obligations above all other debts owed to the state, including restitution, fines, fees, and surcharges.<sup>39</sup>
- Child support is determined by federal standards and administered by designated state child support enforcement agencies (which may be housed within a state's attorney general's office, health department, or social service agency); its collection cannot be consolidated with that of restitution, or court-ordered fines, fees, and surcharges.<sup>40</sup> Where possible and legally permissible, agencies responsible for consolidating debts should communicate regularly with state or local child support enforcement officials to determine the amount of an individual's child support obligations and factor this into the schedule and amount of his or her payments toward court-ordered financial obligations.
- Federal law prohibits child support enforcement agencies from reducing child support debts owed to custodial parents once these debts have accumulated. Federal law does, however, allow states to forgive child support payments that noncustodial parents are required to pay to reimburse the state for TANF payments to support the child.<sup>41</sup>
- Child support enforcement officials can garnish as much as 65 percent of a noncustodial parent's wages toward the payment of child support debt.<sup>42</sup> For parents released from prisons and jails, this practice may increase the difficulty of securing and maintaining housing, transportation, and employment that are necessary for making future child support payments.

To gather the information needed to determine the total amount of the sanction, court personnel should list all of the fines, fees, and restitution requirements that apply in each case as per state or local statute. In addition, the court should gather documentation from the individual of his or her past, present, and future earnings, assets, debts, job skills, educational level, health issues, and disabilities.

With this information, and taking the above recommendations into account, judges should determine what would be an appropriate sum and include payment of this sum as one of the conditions of the sentence or condition of release.

In cases where an individual is able to work but is unemployed and has little or no assets, the judge should assume that the individual will earn the prevailing minimum wage, unless the evidence suggests otherwise. The same standard should apply in cases where the criminal conviction makes it unlikely that the individual will return to his or her earning level prior to incarceration.

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**b | Give priority to the children and victims of people released from prisons and jails at the time of sentencing and when disbursing payments to their intended recipients.**

As mentioned previously, child support is not a criminal sanction, and it is prioritized by federal law over obligations a person may owe to victims or the state. People released from prison and jail owing child support, restitution, and fines, fees, and surcharges, and with little earnings, may nevertheless feel compelled to choose which payment not to make. In addition, as also noted earlier, some states have policies that direct payments first to courts, corrections departments, and other criminal justice agencies before they direct payments to victims for restitution. In these cases, victims may feel ignored as they watch the person make payments to governmental agencies and wait for the restitution owed to them.

For these reasons, policymakers should enable judges to consider an individual's obligations to his or her children at the time of sentencing. Policymakers should also enable personnel responsible for distributing dollars collected from people released from prisons and jails to prioritize, after child support, the payment of restitution to victims before obligations to criminal justice agencies, third parties (such as insurance companies), or the city, county, or state.

**Sentencing and Restitution Statutes, Wisconsin**

Wisconsin's sentencing statute (Wis. Stat. 302.373) enables judges, when ordering that an individual pay fees to reimburse the state for the costs of his or her incarceration, to reduce this order by the amount of that individual's child support obligations. A separate, restitution statute (Wis. Stat. 973.20) prioritizes the payment of restitution to victims over other obligations to the state, including fines, fees, and the costs of representation.

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**c | Designate a single agency to consolidate fines, fees, surcharges, and restitution into one centrally managed debt and keep victims, families, criminal justice agencies, and the individual returning to the community informed about the status of its collection.**

People released from prisons and jails are often unaware of their total debt, and do not know to whom they should pay it. Victims and families are also often unaware of what portion of restitution or child support they can realistically expect to be paid

and when to expect these payments. This situation often generates frustration among victims and family members, as well as among the people who are indebted, who do not know when, if ever, they will satisfy their financial obligations in full.

Once the judge has established the amount of the total sanction, and divided that sum among its various intended recipients, staff working on behalf of various agencies responsible for collections must coordinate their efforts. To simplify and improve the efficiency of collection practices, policymakers should designate one of these agencies—whether the probation department, the office of court administration, the state’s supreme court, or another agency—to coordinate and consolidate the fines, fees, surcharges, and restitution that people released from prisons and jails owe.

#### **Intensive Supervision Program, Adult Probation Department, New Jersey**

The New Jersey Adult Probation Department consolidates the debts of people under probation supervision and charges its staff with ensuring that people under intensive supervision meet all of their financial obligations. Staff collect information about all of an individual’s debts from various courts and direct payments toward restitution and other financial obligations simultaneously. Judges determine how payments are proportioned but prioritize child support, a victim compensation program, and restitution, respectively.<sup>43</sup>

Staff of the consolidating agency (such as caseworkers at the prison or jail, court personnel, or community corrections staff) should provide people at appropriate times (including at sentencing, when the community supervision plan is developed, and immediately prior to release), with the following relevant information in writing:

- The total amount of each debt and the extent to which it has been “paid down.”
- A payment schedule that includes the amount and date of the first payment and the amounts and timing of subsequent payments.
- Clear information as to where payments should be submitted.
- A schedule of probation or court reporting hours, with flexible provisions that do not conflict with an individual’s ability to maintain employment.
- Information about how a person can authorize automatic deductions from his or her wages to facilitate the payment of debts.
- An opportunity to pay fines, fees, surcharges, and restitution at the time of sentencing.
- A list of the graduated sanctions, including reincarceration, that staff will use in response to nonpayment and a list of incentives for payment.
- What to do in the event of a change in financial circumstances due to a loss of employment, injury, disability, or other special condition.

The agency responsible for consolidating collections should compile this information in a centralized filing system or database and ensure that this information follows individuals through their sentencing, incarceration, release, and community supervision. The consolidating agency should also provide victims, criminal justice agencies, and people released from prisons and jails who owe fines, fees, surcharges, and restitution with regular updates about the total amount owed and the dates and amounts of expected payments.

#### **Offender Obligation System, Department of Corrections, Utah**

The Utah Department of Corrections uses an automated accounting system to link probation, parole, and court records throughout the state to track the centralized collection of restitution

while individuals are incarcerated or under community supervision. The Offender Obligation System generates monthly statements to remind individuals under correctional supervision as to the status of their restitution payments and the amount of the next payment that is due. Victims may inquire about the status of restitution payments by telephone from anywhere within the state.<sup>44</sup>

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**D | Provide the agency responsible for managing collections with the resources and organizational supports—such as dedicated staff time, reduced caseloads, and access to information about people’s debts and employment—it needs to maximize the efficiency of collections.**

Personnel in agencies responsible for collections are often spread thin; it is not unusual for community supervision staff to handle caseloads of more than 100 individuals.<sup>45</sup> Personnel working for agencies charged with consolidating debts must draw on information from multiple sources. Depending on the degree to which information is shared efficiently among distinct agencies, this process can be especially time- and staff-intensive. For many staff members, assuming these responsibilities in addition to their other job duties is impossible; their caseloads are already extraordinarily high, and they may lack the skills or the authority to use information systems to detail people’s various debts, employment status, or other personal financial information.

For these reasons, administrators of agencies charged with consolidating collections should dedicate specific staff to collections or reduce caseloads to enable all staff to better incorporate collections into their job duties. Reducing caseloads will likely require additional resources. The American Probation and Parole Association has identified a ratio of one officer to every 30 supervised individuals as the minimum necessary for adequate supervision of high-risk individuals.<sup>46</sup> This ratio may not be realistic or necessary, however, for people under community supervision who are at low risk for committing a new crime. Such individuals, where appropriate, can potentially be moved to “collections-only” caseloads, thus requiring fewer staff resources.<sup>47</sup>

Indeed, dedicating specific staff to collections may be less resource-intensive than reducing caseloads across the board. Agencies that withhold a small portion (such as 5 or 10 percent) of successful collections to pay for the costs of collections staff can recoup personnel costs.<sup>48</sup> With either approach, personnel who establish a rapport with people under community supervision may be able to improve collection rates.

Agencies responsible for collections often have significant backlogs of collections cases. Substantial resources are expended pursuing old cases with little potential return. To enable staff to prioritize current collections over past arrears, administrators should develop criteria for determining when an outstanding debt is uncollectible because time spent on pursuing the collection will outweigh considerably the value of the debt being pursued. With the exception of restitution, staff performance should not be based on the collection of small, outstanding debts from individuals no longer under community supervision.

**Collections Audit, Office of the State Auditor, New Jersey**

In 2004, the New Jersey state auditor reviewed probation records and found that, among 180,000 outstanding cases, approximately 6,000 people on probation owed sums under \$25, and an additional 20,000 people owed between \$25 and \$100.<sup>49</sup> The auditor recommended creating collections-only probation cases for amounts between \$25 and \$100 and writing off as losses amounts under \$25 for people no longer under probation supervision. Accordingly, the New

Jersey adult probation department does not base its staff performance evaluations on the collection of debts that have been deemed “uncollectible.”<sup>50</sup>

To enable staff to determine an individual’s total debts, administrators of agencies responsible for collections should establish information-sharing agreements, such as memoranda of understanding (MOUs), which authorize the consolidating agency to collect information about an individual’s debts from all of the various parties to which he or she is indebted. The agreement should specify what information each participating agency will provide to the consolidating agency and at what intervals this information will be updated.

The consolidating agency should also develop information-sharing agreements with the Social Security Administration and with state and local departments of labor, health, and human services to secure birth, death, disability, and employment information. Agencies should collect this information with the sole purpose of adjusting or suspending payment schedules that best ensure longer-term repayment in the event of changes that affect an individual’s financial status, such as unemployment or disability.

#### **Information-Sharing Statute, Washington State**

Washington State’s information-sharing statute (Rev. Code Wash. 9.94A.760 (13)) permits the county clerk to access employment records to verify employment or income, to seek wage garnishment, and to perform other duties necessary for the collection of restitution, fines, fees, and surcharges. Clerks add this information to an integrated judicial information system, which includes municipal and superior courts, to track payments toward the total, consolidated debt that an individual owes.

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### **E | Cap the percentage of an individual’s assets that can be collected for a given period toward the fulfillment of his or her court-ordered financial obligations to help ensure long-term compliance and discourage illegal activities to support repayment.**

It is conceivable, and even probable, that collectors representing multiple agencies could demand that 100 percent of an individual’s income be applied toward the payment of court-ordered financial obligations, leaving him or her with no living expenses. As previously discussed, by law a child support enforcement officer could garnish up to 65 percent of an individual’s income for child support. At the same time, a separate court or probation officer could require that an individual dedicate 35 percent of his or her income toward the combined payment of fines, fees, surcharges, and restitution.

Such a situation could inadvertently encourage a person to return to the behavior and illegal activities that resulted in the person’s incarceration in the first place. In other words, aggressive collectors representing distinct agencies could end up contributing to a person’s failure to meet his or her financial obligations and, by extension, their revocation of probation or parole.

To avoid these situations, policymakers should cap the portion of an individual’s income that can be collected in a given period toward the payment of fines, fees, surcharges, and restitution at less than or equal to 20 percent. At the same time, policies should provide for the possibility that the offender has sufficient resources to pay

more than 20 percent of their income toward fines, fees, surcharges, and restitution and enable judges and staff from agencies responsible for collections to waive the cap.

#### **Community Supervision Statute, Parole and Post-Prison Board, Oregon**

Oregon's community supervision statute (Ore. Adm. Rule 255-065-0005(5)) caps the amount of an individual's income that parole and post-prison supervision officers can collect toward court-ordered financial obligations. Collections are capped at 20 percent of a person's take-home salary, unless the person has significant savings or assets that would permit larger amounts, in which case the cap is waived.<sup>51</sup>

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### **F | Calculate realistic payment schedules.**

In order to hold people returning from prisons and jails accountable for their financial obligations, reentry strategies should include payment plans that recognize when individuals returning home have very little income—which is typically the case for someone just released from a corrections facility. The plan should then be adjusted to ensure larger payments as soon as the person released from prison or jail finds and maintains work or increases his or her income. At the same time, payments may need to be adjusted downward if the person loses employment, becomes disabled, is hospitalized, or is in similar special circumstances that make him or her unable to make scheduled payments.

To monitor these situations, and to ensure that the payment plan is adjusted for legitimate reasons, the collection agent should conduct periodic reviews of the person's situation. This review would include an analysis of the person's total assets, including wages, savings, investments, and property. This sum should be contrasted with an inventory of the individual's monthly *basic* living expenses, such as rent, utilities, food, clothing, medical care, transportation, and insurance.

By subtracting from the individual's total assets the list of his or her most basic living expenses (and allowing a small cushion for emergencies), collection personnel can determine the amount of expendable income. In addition, personnel can identify potential areas for reallocation from living expenses towards the payment of court-ordered debts, such as cable television subscriptions or other forms of entertainment. Whenever a change in the payment plan is made, the collection agent should inform the affected victim and the family.

#### **Restitution Statute, New Mexico**

New Mexico's restitution statute (N.M. Stat. 31-17-1 (E)) requires the probation or parole officer, and the court, to consider the following factors when reviewing the restitution plan: the physical and mental health of the individual; his or her age, education, employment circumstances, potential for employment, family circumstances, and financial condition; the damages to each victim; and what plan of restitution will most effectively aid the individual's rehabilitation.





## POLICY STATEMENT

# 3

Enact child support enforcement policies that encourage parents released from prisons and jails to maintain legitimate employment that will help them provide long-term support to their children.

**CHILD SUPPORT PAYMENTS SERVE AS AN IMPORTANT MEANS FOR PARENTS WHO DO** not live with their children to fulfill their responsibility to them and to contribute to the costs of childrearing. In most states, parents who are incarcerated remain legally responsible for complying with their child support orders. And, although it is true that a child's needs for financial support do not diminish just because a parent is incarcerated, it is also true that most parents who are incarcerated have little or no ability to meet their child support obligations.<sup>52</sup>

Prison-based employment programs are limited in scope, and wages (e.g., \$0.23 per hour) are not comparable to what is paid in the community,<sup>53</sup> making it nearly impossible to raise the typical \$225–\$300 monthly child support payment in most cases.<sup>54</sup> Some parents have been shown to owe more than \$20,000 when they are released from prison.<sup>55</sup>

Research highlights the importance of programs that, in appropriate situations, facilitate and strengthen family connections during incarceration.<sup>56</sup> Parents who make regular child support payments are likely to have improved familial ties that can help reduce recidivism and restore stability.<sup>57</sup> Realistic payment amounts can also help to ensure long-term payment compliance. Unless suspended or reduced during incarceration, accumulated child support debt can interfere with family reunification in desired circumstances, and undermine a parent's efforts to retain regular, legal employment that will be a source for ongoing child support payments upon release from prison or jail.<sup>58</sup>

The recommended strategies that follow are designed to improve people's ability to meet their child support obligations after their release from prisons and jails. These include authorizing the reduction or suspension of child support obligations during periods of incarceration when there are insufficient assets; sharing information among corrections and child support enforcement agencies; and using enforcement methods that promote employment and long-term payment of child support.\*

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\*The recommendations in Policy Statement 3 primarily address state-level policies because child support is administered on a state level by a single, designated child support enforcement agency. However, many of these recommendations can be implemented at a local level with state support.

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**A | Authorize modifications of child support orders for prisoners who are noncustodial parents and who have no assets or income from which to make payments during the period of incarceration to improve the chances for long-term child support payment.**

In almost half of the states in the United States, child support enforcement policies categorize incarceration as “voluntary unemployment,” a designation used when someone has chosen not to work.<sup>59</sup> In states that classify incarceration as “voluntary unemployment,” a person’s child support order may not be modified when he or she enters prison or jail.

A state’s classification of incarceration as voluntary unemployment is typically included in the state’s child support guidelines used to set support orders. Federal law requires states to periodically review these guidelines.<sup>60</sup> Policymakers should consider whether to authorize modification of support obligations (up to and including suspension) during incarceration with the objective of setting realistic payment plans on release or as assets become available.

**Child Support Statute, North Carolina**

North Carolina’s child support statute (N.C. Gen. Stat. 50-13.10(d)) provides for the suspension of child support orders during any period when the supporting party is incarcerated, is not on work release, and has no resources with which to make payments.

**Child Support Statute, Oregon**

Oregon’s child support statute (Ore. Adm. Rule 137-055-3330) has established a presumption, to which the custodial parent can object, which states that an incarcerated parent with income of less than \$200 per month is unable to pay any child support.

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**B | Notify child support collection agents when a noncustodial parent has been incarcerated, and work with custodial parents to determine appropriate child support orders during the period of incarceration.**

Currently, most states do not have procedures in place to identify and track prisoners systematically with support orders, or to modify child support obligations during incarceration. Of those states that do provide for such modifications, one of the parents often must engage in a confusing and time-consuming process to request the court or child support enforcement agency to review and adjust the support order.

To assist families in setting realistic payment expectations, corrections administrators should ascertain a parent’s child support obligations upon admission to a correctional facility and establish mechanisms for notifying child support enforcement officials when a noncustodial parent has been incarcerated.

Mechanisms for collecting this information include incorporating questions about children and child support obligations into intake procedures and instituting an automated data match or weekly population list exchange among corrections and child support agencies. As discussed in Policy Statement 2, it is important for judges and agencies responsible for collections to have access to information about all of an individual’s court-ordered debts where it is legally permissible, even if, as in the case of child support, those obligations cannot be consolidated with other debts.

Corrections administrators and child support enforcement officials should also collaborate to inform incarcerated parents of their child support obligations, consult with the custodial parent to determine appropriate modifications, and assist with

modification orders, where appropriate. Modification should be contingent upon the income of the incarcerated parent remaining below a certain threshold, (e.g., \$200 per month), and be subject to review upon release or as additional assets become available.

An appointed child support enforcement liaison or a specialized corrections case-worker may be the ideal person to perform the following functions:

- Interact with corrections personnel, custodial parents, and incarcerated parents.
- Distribute informational brochures on child support procedures.
- Make regular verbal and video presentations to explain child support responsibilities and procedures to parents, corrections staff, and other criminal justice personnel.
- Facilitate the modification process, when appropriate.

When a modified child support order is appropriate and authorized by statute, corrections administrators and child support enforcement officials should also institute policies to assist with the process, such as providing noncustodial parents with forms, addressed envelopes, and postage. Where called for, administrators may consider instituting policies to modify support orders automatically when a parent is admitted to prison or jail, *unless the custodial parent objects when notified of a potential modification*, and reinstate the order when the noncustodial parent is released from prison or jail or conditions change that warrant review.<sup>61</sup>

#### **Child Support Modification Process, Department of Corrections, Massachusetts**

The Department of Corrections (DOC) sends monthly a list of people who are incarcerated to the Department of Revenue (DOR). DOR performs a data match to identify which people have outstanding child support orders and then sends this list back to DOC. A DOR worker helps parents submit a modification request to the court. DOR also informs court personnel of parents' release dates, so that child support modification orders can be reversed after parents are released.

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### **c | Use child support enforcement mechanisms short of incarceration, where appropriate, that hold the noncustodial parent accountable but do not limit his or her ability to make future child support payments.**

As stated earlier, employment prospects for people released from prisons and jails are typically dim. Noncustodial parents released from prison and jail owing child support are also subject to paycheck garnishment, which sometimes discourages them from

## **Report on Working with Parents Who Are Incarcerated, Office of Child Support Enforcement, U.S. Department of Health and Human Services**

The federal Office of Child Support Enforcement (OCSE) released a report describing a number of local and state initiatives to help parents who are incarcerated meet their child support obligations. The report, "Working with Incarcerated and Released Parents:

Lessons from OCSE Grants and State Programs," can be retrieved at [www.acf.hhs.gov/programs/cse/pubs/2006/guides/working\\_with\\_incarcerated\\_resource\\_guide.pdf](http://www.acf.hhs.gov/programs/cse/pubs/2006/guides/working_with_incarcerated_resource_guide.pdf).

pursuing legitimate employment.<sup>62</sup> A criminal record and history of incarceration are not justifications for staying unemployed or engaging in illegal behavior; ensuring long-term support for children requires that parents find and maintain legitimate employment.

To support the ability of noncustodial parents to find and sustain employment upon release from prisons and jails, child support enforcement officers should help connect parents re-entering the community with One-Stop employment centers, transitional employment, and other work programs.\* When needed, officers should also grant parents a 60-day post-release grace period to find employment before resuming child support payments. To encourage regular payments, officers should prioritize the collection of current payments over that of past arrears.

#### **Child Support Statute, Oregon**

Oregon's child support statute (Ore. Rev. Stat. 416.425(9)) returns child support payment amounts to pre-incarceration levels 60 days after a noncustodial parent is released from prison, providing time for parents who have been released from prisons and jails to find employment.<sup>63</sup>

Child support enforcement officers should use driver's license revocation as a measure of last resort, and include flexible provisions for traveling to and from work when revoking licenses. In addition, child support enforcement officials should prioritize payments that directly benefit the child over repayment of costs to the state for providing financial assistance (TANF) to the child's family.<sup>64</sup>

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\*The Workforce Investment Act (WIA) of 1998 required jurisdictions to create One-Stops, which are comprehensive career centers for people seeking training, education, and employment services. For more information about WIA, or One-Stops, see [www.doleta.gov](http://www.doleta.gov). For more information about workforce development, employment, and reentry, see the Employment and Education section of the Reentry Policy Council Web site at [www.reentrypolicy.org](http://www.reentrypolicy.org).

POLICY STATEMENT

4

Ensure that victims receive the restitution they are owed.

**WHEN A PERSON IS THE VICTIM OF A CRIME, HE OR SHE SUFFERS A NUMBER OF** losses, most of which cannot be quantified. For many victims, having financial losses (such as destroyed property and lost income) repaid through restitution represents a means of repairing one aspect of the damage wrought by the crime. In addition to reimbursing victims for their financial losses, restitution demonstrates that the person who committed the crime is assuming responsibility for his or her actions.

Over the past 20 years, legislatures have increasingly recognized the right of victims to financial restitution. Legislatures in every state have mandated through laws or state constitutional amendments that courts order people convicted of crimes to pay monetary restitution to victims in all cases where a loss can be documented.<sup>65</sup> They have also created victim compensation funds to ensure that victims of crime receive assistance with the costs associated with their losses, such as medical care and counseling.<sup>66</sup>

Despite the value and emphasis lawmakers have placed on restitution, it is not always ordered or enforced.<sup>67</sup> This happens for multiple reasons: the victim may not know his or her rights; law enforcement personnel may not collect information about a victim's financial losses; the prosecutor may not seek restitution; the judge may not order restitution; or the agency responsible for collections may not pursue restitution. The recommendations that follow detail a number of methods for ensuring that victims receive the compensation to which they are entitled. This includes educating criminal justice staff, victims, and people who owe restitution about the process of restitution and its importance, pursuing civil remedies for outstanding payments, and garnishing taxes and wages.

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**A | Order restitution in all appropriate cases and emphasize its importance in regular training sessions for the staff of probation departments, courts, and other agencies responsible for enforcing restitution orders.**

In some cases, prosecutors and judges may be reluctant to recommend or order restitution because it appears that the individual who has been convicted of the crime is unlikely to be able to make immediate payments. While this may be true, individuals who cannot pay restitution in full may be able to make regular, partial payments and may become more able to meet their restitution obligations over time with

employment and other assistance. Indeed, consistent, small payments can be more important than periodic large payments in ensuring full payment of financial obligations in the long run.

For these reasons, judges and prosecutors should order and pursue restitution in all cases where it is appropriate. In cases where a victim does not wish to collect restitution, policymakers should establish mechanisms to pass restitution along to the recipient of the victim's choice, such as a particular charitable organization.

Agency administrators should also provide regular training programs to emphasize the importance of victim restitution to criminal justice personnel. Training should address methods for improving collections as well as guidelines for using additional incentives and sanctions to encourage payment.

**Training to Improve Restitution Management,  
American Probation and Parole Association**

The Office for Victims of Crime (OVC) has awarded a cooperative agreement to the American Probation and Parole Association (APPA) to develop and pilot test a curriculum for community corrections and court services personnel on restitution management. For more information on this project or the curriculum, visit APPA's Web site at [www.appa-net.org](http://www.appa-net.org).

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**B | Educate victims about the restitution process, maintain updated victim contact information, and keep victims apprised of the status of restitution payments.**

Victims are often unaware of their right to restitution, let alone how to pursue it. Even when restitution is ordered and collected, monies often fail to reach victims because, understandably, court or probation staff have trouble keeping victim contact information current.

Prosecutors, probation officers, court personnel, victim advocates, and staff from the agency responsible for consolidating collections should employ a number of methods to ensure that victims receive restitution:

- Provide victims with information about their rights to restitution and assistance in documenting their losses through victim impact statements.<sup>68</sup>

## The Difficulty of Maintaining Victim Contact Information

Maintaining victim contact information is difficult because victims may move or be reluctant to share their information out of fear for their safety. As this happens, the likelihood diminishes of obtaining a victim impact statement or ensuring that he or she receives the restitution that is owed. The importance of maintaining victim contact information warrants the use of time-intensive methods to update these records (e.g., telephone calls to family members, and phone book and computer searches).

**Victim Location, Community Supervision and Corrections Department, Tarrant County, Texas**

Community supervision staff use a computer service database to conduct extensive, electronic searches of marriage licenses, driver's licenses, city utilities records, nationwide telephone directories, and other sources to locate victims who are owed restitution. In 1999, staff had successfully located 640 victims, who received almost \$400,000 in restitution.<sup>69</sup>

- Collect victim contact information and ensure that an updated address and telephone number for the victim is maintained (or an alternative contact's telephone number for a victim who fears for his or her safety).
- Inform victims about what to expect during the criminal justice process, including the amount and pace at which they can likely expect to receive restitution payments.
- Keep victims apprised of the status of restitution payments, including any changes made in payment schedules.

Restitution payments of any size can be essential because they represent personal accountability. At the same time, victims differ as to what payment size is sufficient to demonstrate accountability. Staff from the consolidating agency responsible for collections should consult victims when determining what amount warrants sending a restitution payment and ensure that payments are of a reasonable size (e.g., more than \$30) before they are sent to victims.

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### **c | Educate people who owe restitution about its importance.**

People who owe restitution may not recognize the impact their crime has had on the victim or appreciate the critical role restitution plays in reimbursing victims for financial losses that flow from the crime. To promote payment and to help people who owe restitution appreciate the harm they have caused, corrections staff should provide programming for people who have committed crimes (such as victim impact classes) that emphasizes the importance of restitution and reparative activities to victims and communities.

#### **Impact of Crime on Victims Class, Department of Corrections, Arizona**

As part of its Restorative Justice Initiative, the Arizona Department of Corrections is piloting victim impact classes in 6 of its 10 prisons. The 10-week program is designed to help prisoners realize the consequences of their past actions. As part of the program, victims make presentations to prisoners about how crimes such as robbery, substance abuse, drunk driving, and violence can affect victims, and prisoners donate labor for victim service organizations.<sup>70</sup>

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### **d | Assist crime victims who wish to pursue civil remedies for the payment of restitution.**

When a person completes his or her sentence without paying restitution in full, victims are often left without recourse to pursue its collection. At the same time, crime victims usually lack sufficient resources and familiarity with the justice system to navigate complex civil courts.

To provide crime victims with an additional remedy to obtain restitution in cases where an individual completes his or her penal sanctions without meeting his or her restitution obligations, policymakers should enable judges to enter a civil judgment for restitution.

#### **Sentencing Statute, Washington State**

Washington State's sentencing statute (Rev. Code 9.94A.760) entitles the party to whom a financial obligation is owed the authority to pursue that financial obligation in civil court.

Given the complexity of the legal system, agencies responsible for collections should ensure that technical assistance is available to victims seeking restitution claims in civil court, and pursue restitution on their behalf, whenever possible. Judges should also use their discretion to make restitution an automatic civil judgment.

#### **Restitution Statutes, Colorado**

Colorado's statutes (Col. Rev. Stats. 16-18.5-103(4) (a), 16-18.5-107(1), and 16-11-101.6(2)) make restitution an automatic civil judgment that is enforceable until it is paid in full (rather than only while an individual who owes restitution is under criminal justice supervision). The statutes also enable collections investigators to assist victims in pursuing restitution and allocates funds to the judiciary and the Department of Corrections to collect restitution on behalf of victims.

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### **E | Garnish wages and withhold state income tax returns from individuals who owe restitution, when doing so does not preclude the individual from meeting basic living expenses.**

Federal law enables state child support enforcement officials to garnish wages to collect child support, but courts and probation departments often lack the statutory authority to pursue this enforcement method. Policymakers should enable agencies responsible for collecting restitution to garnish wages and withhold state income tax returns as payment of victim restitution from individuals who fail to pay restitution but have sufficient earnings to do so.

#### **State Income Tax Statute, Rhode Island**

Rhode Island's income tax statute (RIGL 44-30.1-3) enables the court to withhold state income tax returns for the purposes of collecting child support, restitution, fines, fees, and amounts of public benefits that the state may have overpaid to individuals.



## POLICY STATEMENT

# 5

Make certain that new fines, fees, and surcharges do not reduce the ability of people returning from prisons and jails to pay child support and restitution.

**IN ADDITION TO CHILD SUPPORT AND VICTIM RESTITUTION, PEOPLE RELEASED FROM** prisons and jails typically owe the wide variety of court fines, supervision fees, and surcharges previously discussed. Such fines and fees have different definitions, depending on the city, county, or state, as the glossary provided in this guide’s Introduction explains.

Typically *fin*es, which may or may not be mandatory, are associated with the level of offense, such as misdemeanor or felony, and the specific type of offense, such as driving while intoxicated or assault. *Fees*, by contrast, are ordered to reimburse criminal justice agencies or a jurisdiction’s general fund for services rendered (e.g., prosecution, indigent and public defense, incarceration, probation supervision, drug testing, electronic monitoring, and court filing procedures).<sup>71</sup> *Surcharges* are add-on amounts that generate revenue for specific purposes (e.g., funds for law libraries, retirement, and staff training) and are often unrelated to the crime.

Fines, fees, and surcharges, unlike child support and restitution, are financial obligations to the city, county, or state—not to individuals. With a growing percentage of criminal justice agencies’ budgets dependent upon revenue derived from the collection of these additional monies, tensions arise surrounding the priorities of these agencies and the needs of victims and families who rely on individuals released from prisons and jails for compensation and support.

For example, as illustrated in Policy Statement 1, a person convicted of driving while intoxicated who damaged a parked car could owe nearly \$8,000 in fines, fees, and surcharges, in addition to the \$1,000 restitution he or she would owe to the victim whose car was damaged. As mentioned in Policy Statement 2, if this happened in one of a number of states where fines, fees, and surcharges are collected before restitution, the victim might wait years before receiving any compensation for his or her loss.

Resolving this situation presents a dilemma. Criminal justice agencies rely on the revenue that fines and fees generate to cover a significant percentage of their operating costs. Administrative assessments on misdemeanor citations, for instance, fund nearly all of the Administrative Office of the Court’s budget in Nevada.<sup>72</sup> In Iowa, fees paid by people under parole and probation supervision or work release make up approximately 15 percent of the budgets of the state’s community corrections programs.<sup>73</sup> Furthermore, elected officials want to be responsive to voters who require accountability from people who have been convicted of crimes and express frustration about how much it costs to administer court and corrections systems.

The current dilemmas notwithstanding, policymakers should be cautious of exacerbating the tensions that already exist among different agencies and individuals

due payment. To that end, the following recommendations discuss steps such as preparing reentry impact statements when introducing legislation that contemplates new or increased fines, fees, and surcharges and limiting the extent to which criminal justice agencies rely on fee collection to support their operational costs.

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**A | Provide lawmakers who are considering legislation that would impose or increase fines, fees, or surcharges with an impact statement projecting the legislation's effect on the ability of a person released from prison or jail to meet his or her child support and restitution obligations.**

New fines, fees, and surcharges may be legislated in response to pressure from taxpayers to ensure that people convicted of crimes help contribute to prosecution and incarceration costs, and to fund new criminal justice initiatives, such as a new problem-solving court or treatment program. While understandable, these actions can have unintended consequences: the fines, fees, and surcharges already imposed on people sentenced to prisons and jails can collectively impair people's ability to meet their financial obligations to their victims and families and to complete the conditions of their sentence.

Before enacting new fines, fees, and surcharges, lawmakers should examine the potential impact of the proposed legislation on the ability of a typical person released from prison or jail to meet child support and restitution obligations and to complete his or her sentence. Similar to an environmental impact statement, a reentry impact statement would add the new fine, fee, or surcharge to the list of existing sanctions (as described in Policy Statement 1). With this information and the input of community supervision staff, victims' advocates, child support enforcement personnel, and others, policymakers can determine whether the benefits of the new fine, fee, or surcharge will outweigh its costs in terms of public safety and public spending. In particular, policymakers can evaluate whether the inability of people released from prisons and jails to meet this new obligation could potentially contribute to increased rates of reincarceration.

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**B | Curb the extent to which the operations of criminal justice agencies rely on the collection of fines, fees, and surcharges from people released from prisons and jails.**

Knowing the potential impact of a new financial sanction on the ability of a typical person released from prison or jail to meet financial obligations will be helpful to policymakers considering new legislation or balancing budget priorities. The challenge remains, however, to generate revenue sufficient to fund criminal justice operations. Given the cautions provided in previous recommendations, policymakers should limit the extent to which criminal justice agencies rely on new fines, fees, and surcharges to operate. Doing so will likely require tough decisions. Nevertheless, the limited ability of people released from prisons and jails to meet all of their financial obligations, and the primacy of ensuring that these individuals remain able to pay child support and restitution, means that policymakers must confront recent trends and revisit how they are funding criminal justice operations.

POLICY STATEMENT

6

Establish a range of sanctions and incentives that agencies responsible for collections can exercise when a person released from prison or jail does not meet his or her child support and court-ordered financial obligations.

**PEOPLE RELEASED FROM PRISONS AND JAILS OFTEN FAIL TO MEET THEIR FINANCIAL** obligations. In some cases, individuals are unwilling—though able—to assume their fiscal responsibilities to the victims of their crime and their families, as well as to the criminal justice system. In these situations, appropriate responses include a range of sanctions to compel payment, such as increased levels of supervision or incarceration.

At the same time, there are people who make every attempt to meet all of their financial obligations, yet lack the necessary assets. These individuals, who typically are unable to obtain employment (or employment with decent wages) because of their limited education or marketable job skills often fall short of their goals to meet their obligations. In exceptional cases, individuals who are indigent or disabled may not be able to make any monetary payments but may want the opportunity to demonstrate their accountability to their victims, families, and communities.

The recommendations that follow address both those individuals *unwilling* to pay and those people *unable but trying* to pay, suggesting sanctions for the former and incentives or rewards for the latter, such as waivers of interest on accumulated debts. These recommendations also suggest strategies to increase the earning capacity of people with limited education or marketable job skills. They also promote the establishment of nonmonetary payment options, such as community service, for people who are indigent or disabled.

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**A | Design sanctions, such as increased supervision and mandatory service at a restitution center, to compel people under community supervision to meet their financial obligations.**

When evaluating an individual's failure to meet his or her financial obligations, court personnel, probation officers, and others responsible for enforcing collections must make a determination: Has the individual had the financial resources to meet his or her obligations, or the ability to work, and been unwilling to comply with the court's order? Or has the inability to find employment or another legitimate reason contributed to the individual's failure to meet his or her financial obligations?

Court personnel, probation officers, and others responsible for enforcing collections who find that an individual is essentially disregarding the court's orders should consult victims and families and then initiate graduated sanctions as appropriate. Options short of incarceration should be explored first because the limited ability

of prisoners to meet their financial obligations during periods of incarceration can further delay payments of child support and restitution. While sanctions should be applied consistently, they should also consider what the individual perceives to be a significant sanction.

Agencies responsible for collections should provide individuals who are able and unwilling to meet their financial obligations with a range of appropriate sanctions to compel payment:<sup>\*</sup>

- Written, verbal, and in-person reminders.
- In-depth financial assessments.
- Mandatory budget classes.
- Mandatory service in the community or at a restitution center.

#### **Restitution Center, Department of Corrections, Multnomah County, Oregon**

At the Multnomah County Restitution Center, residents live and work under community correctional supervision and participate in educational, vocational, and behavioral programs. Their wages are collected and divided among a variety of expenses, including room and board, court fees, victim restitution payments, and family support.<sup>74</sup>

- Special appearances before a judge.
- Revocation of driving, hunting, and fishing licenses (with exemptions to find and maintain employment).
- Restricted liberty (e.g., curfews, restrictions on interstate probation transfers, and electronic monitoring).

#### **Interstate Compact, Interstate Commission for Adult Offender Supervision**

The interstate compact agreement between the probation and parole departments of member states requires that people under probation or parole supervision be in “substantial compliance” with the requirements of supervision to qualify for a transfer of probation supervision to another state.<sup>75</sup>

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<sup>\*</sup> For more information on the use of incentives and sanctions in community supervision, see Policy Statement 29 of the *Report of the Re-Entry Policy Council* at [www.reentrypolicy.org](http://www.reentrypolicy.org).

## Financial Compliance Program, Adult Probation Department, Maricopa County, Arizona

As part of the Financial Compliance Program, 14 full-time probation officers dedicated to collections review individuals’ assets and obligations at the first probation contact, set up payment plans, and advise individuals of the sanctions associated with nonpayment. Probation officers employ a graduated list of responses to nonpayment based on the number of days a payment is delinquent:

- **15 days:** written reminder of payment schedule and amounts.
- **30 days:** seven-page Payment Ability Evaluation form—administrators report that the length of the form alone often acts as a payment incentive.
- **60 days:** mandatory five-week budgeting class—administrators report that 80 percent of individuals

who reach this sanction make a payment to avoid taking the budgeting class.

- **90 days:** referral to a collection agent for further monitoring.
- **180 days:** referral by collection agent to probation officer for intervention or probation revocation.
- **210 days:** probation revocation for willful noncompliance with court-ordered financial sanctions if the case remains unresolved.

Probation officers also use the revocation of driving, hunting, and fishing licenses as a sanction. Administrators report that the use of incentives and sanctions of personal importance to the individual has been a particularly effective enforcement strategy.<sup>76</sup>

This restriction specifically includes the payment of restitution and other court-ordered financial obligations and can act as either a sanction or an incentive for individuals who must meet their financial obligations in order to qualify for a probation transfer to another state.

- Increased supervision, including reincarceration.

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**B | Develop a range of incentives, such as certificates of good conduct and waivers of fines, fees, and surcharges to help people who are willing to meet their financial obligations.**

When individuals have served time in prisons and jails for their crimes and are making bona fide efforts to support their families and reimburse their victims, incentives may be warranted to encourage them to meet their remaining obligations. The range of incentives that agencies responsible for collections could offer includes the following options:

- Certificates of good conduct, achievement, or recognition.
- Reduced requirements of supervision (e.g., electronic monitoring, reporting frequency, travel restrictions) and, where appropriate, shorter length of time a person must spend under supervision as he or she demonstrates responsible behavior and meets his or her financial obligations.

**Financial Compliance Program, Adult Probation Department, Maricopa County, Arizona**

As part of the Financial Compliance Program, probation officers offer probationers who are at a low risk for recidivism a number of incentives for payment. These include travel permits, less frequent reporting requirements, transfer to reduced supervision caseloads (in which individuals can maintain payments by mail rather than reporting in-person), and early termination of probation when the individual has fully met his or her court-ordered financial obligations.<sup>77</sup>

- Waiver of accrued interest on financial obligations.

**Collections Statute, Washington State**

Washington State's collections statute (Was. Stat. 10.82.090 (2)) enables courts to forgive the interest on an individual's financial obligations as an incentive for payment. Individuals qualify for a waiver if they meet certain criteria, such as having made good-faith payment efforts and being likely to pay the debt if the interest is forgiven.

- Waiver of fines, fees, and surcharges in cases where individuals meet some or all of the following criteria:

- history of bona fide attempts to make payments to meet his or her financial obligations.
- severe illness, injury, or inability to work or receipt of eligibility for disability insurance.
- indigence.

**Court Fees and Costs Waiver, All Courts, California**

Individuals may apply to all courts in California for waivers of court costs and fees if they are receiving food stamps, Supplemental Security Income (SSI), TANF, or other public assistance; have earnings below an income threshold; or cannot pay for both basic life necessities and court costs and fees. Applicants must provide proof of income, financial difficulty, and receipt of public benefits.<sup>78</sup>

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**c | Develop programs, such as job placement and training in personal finance management, to increase the earning capacity of people who have been unable to meet their financial obligations.**

While some individuals require sanctions to compel payment, many others make legitimate attempts to meet their financial obligations upon release from prison or jail. These individuals, who typically are unable to obtain employment (or employment with decent wages) because of their limited education or marketable job skills often fall short of their goals to meet their obligations.

In such cases, removing these barriers and supporting people who are able to work in finding and maintaining employment will enable these individuals to resume payments to victims and families. Corrections departments and agencies responsible for collections should provide these individuals with a range of programs, as appropriate, to increase their earnings capacity and enable them to meet their financial obligations:

- **Prison-based work and savings programs.**

**Prison Industry Enhancement, United States**

The Prison Industry Enhancement portion of the Justice System Improvement Act of 1979 (18 U.S.C. 1761(c)), established mechanisms for industries to provide prevailing wage employment for offenders, and to deduct a portion of these wages towards taxes, incarceration costs, crime victims compensation boards, savings, and financial obligations.<sup>79</sup> Between 1979 and 2005, participants set aside more than \$13 million in mandatory savings accounts (for reentry needs such as housing); generated approximately \$33 million toward victims programs (including restitution); and paid more than \$21 million toward family support (including child support).<sup>80</sup>

- **Training in financial management, budgeting, and other organizational skills.**

**Financial Education Classes, Department of Corrections, Minnesota**

The Minnesota Department of Corrections contracts with a private, nonprofit financial education company to provide budgeting and money management classes for people who are incarcerated. The agency also provides free credit reports and counseling to people who are close to release from prison and helps participants improve their credit ratings and increase the likelihood that they will successfully obtain housing and employment and meet their financial obligations.<sup>81</sup>

- **Job training, job placement, and employment.\***

**Center for Employment Opportunities, Department of Corrections, New York City, New York**

The Center for Employment Opportunities meets individuals at the moment of their release from New York City's Rikers Island Jail and provides transportation from Rikers Island directly to work sites scattered across the city. Participants work on day-labor crews, which are run by city and state agencies and involve a variety of assignments including providing custodial services to government buildings, maintaining nature trails, painting classrooms, and cleaning roadways.

**Parents Fair Share Program, Department of Corrections and Department of Economic Development, Missouri**

In collaboration with the Missouri Department of Corrections, the Missouri Department of Economic Development provides employment and training services to people who are incarcerated or who have been released to the community. Eligible individuals can also participate in the Parents Fair Share program, which provides job placement, transportation assistance, and parenting education. The goal of the program is to increase the ability of parents who are being released from prison to meet their children's emotional and financial needs, including child support. Through other programs, participants also receive budgeting and life skills classes, and photo identification.<sup>82</sup>

- Collection delays in the event of illness, hospitalization, or injury.

**Intensive Supervision Program, Adult Probation Department, New Jersey**

In cases where an individual's substance abuse problem interferes with his or her ability to obtain or maintain employment, probation personnel delay collections until the person has completed substance abuse treatment. For individuals with severe mental illness, the probation department provides job training and placement for those who can work, and collects a portion of the disability checks of those who cannot work but have sufficient resources to make payments. Probation personnel also delay collections in cases of pregnancy or injury.<sup>83</sup>

- Assistance for people who are eligible in gaining access to federal benefits and other public benefits programs.

**Social Security Access, Department of Corrections, New York City, New York**

The New York City Department of Corrections plans to locate part-time Social Security Administration staff in its jail at Rikers Island to help complete Social Security applications for people while they are still in detention.\*

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**o | Create the possibility of alternatives to payment, such as community service, when appropriate, to enable individuals with disabilities or other special conditions to demonstrate accountability to victims, families, and communities.**

In exceptional cases, people with disabilities or who are indigent may be entirely unable to make monetary payments toward their debts despite their wishes to demonstrate accountability to victims, families, and their communities. In these instances, agencies responsible for collections should provide opportunities for nonmonetary contributions.

Strategies for providing these opportunities include engaging in treatment to address the behavior that caused harm to the community. Alternatives for non-monetary restitution should be provided only with the consultation of the victim.

- Opportunities for community service.

**Civic Justice Corps, Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice**

As part of the Civic Justice Corps program, young adults who are under community supervision perform community service projects such as building houses and maintaining public lands. Participants receive training and education in addition to a stipend, educational benefits, and scholarships. Their wages are used to pay restitution and other financial obligations.<sup>84</sup>

**Sentencing Statute, Iowa**

Iowa's sentencing statute (Iowa Stat. § 910.2 1999 Supplement) enables the sentencing court to require an individual who is not reasonably able to pay all or a part of his or her financial obligations (apart from victim restitution) to perform a set number of hours of community service. Service hours are set at an amount the court determines to be approximately equivalent to the value of an individual's court-ordered financial obligations. In Iowa, as well as other states with this practice, service hours are generally valued at a rate of \$6 to \$10 per hour, depending on the local minimum wage and the prevailing wage for the duties performed.

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\* For more information on increasing access to federal benefits, also go to [www.reentrypolicy.org](http://www.reentrypolicy.org).

- Waiver of fines, fees, and surcharges in exchange for reparative activities such as participation in drug treatment or other services.

**Homeless Court Program, Superior Court, San Diego County, California**

In a community-based court, judges handle quality-of-life related warrants for homeless individuals that involve minor infractions, such as riding the local trolley without a ticket. (Cases handled by this court do not involve victim restitution.) Defense attorneys meet with prosecutors and clients a week prior to the hearing to negotiate agreements for clients. As part of these agreements, the court forgives the jail time and fines, fees, and surcharges of clients who participate in social services designed to address the issues that are likely to be associated with their conduct, such as substance abuse and mental illness.<sup>85</sup>



# Conclusion

**STATE AND LOCAL GOVERNMENT OFFICIALS AND OTHER POLICYMAKERS ARE INCREAS-**ingly concerned about the failure of people returning from prisons and jails to pay child support; restitution; and various fines, fees, and other court-imposed financial obligations. This guide's policy statements and recommendations detail comprehensive strategies that state and community leaders can use to address those concerns. Because every jurisdiction is unique, how these policies and recommendations are implemented will vary significantly from one state (and even one county) to another. Each state or jurisdiction must analyze its distinct barriers to holding people released from prisons and jails accountable and develop support systems that help these individuals fulfill their long-term obligations.

But even with the variations among states, there will continue to be some common denominators that are essential to a successful initiative, including extensive collaboration among multiple independent agencies at all levels of government that represent different (and sometimes competing) interests. Strong, committed leadership will remain key to getting these different groups to recognize their common interests and to develop a shared vision. This guide provides examples of such inspiring leadership and the results it has generated. And though great success has been achieved in those areas in which it has been exercised, the impact has been on only a handful of states or smaller jurisdictions. There is much more work to be done in the majority of states across the nation. Victims and the children and families of people who are released from prisons and jails each year depend on it. The integrity of the judicial system requires it. And the millions of people reentering our communities each year cannot meet their obligations without it.



## APPENDIX A

# Methodology

**THE CSG JUSTICE CENTER CONDUCTED EXTENSIVE RESEARCH TO DEVELOP A SOPHISTICATED** understanding of the restitution, child support, and fines, fees, and surcharges that people released from prison and jail typically owe and how these financial obligations relate to a person's reentry to the community. To develop recommendations that policymakers could use to improve rates of collection of these debts, and to increase the likelihood that people released from prison complete their sentence successfully, Justice Center staff reviewed policies developed in cities, counties, and states across the country; collected descriptions (published and unpublished) of various innovative programs; and conducted more than 100 interviews of experts in the fields of community corrections, court administration, victims' advocacy, child support enforcement, employment, and service provision, in addition to bipartisan legislative and judicial representatives.

As part of the information-gathering process, Justice Center staff also sent an online survey in December 2005 to 1,200 members of the American Parole and Probation Association regarding their practices of collecting and monitoring the financial obligations of people on probation and parole. The project team received nearly 200 responses. The results of these surveys, together with interviews, a meeting of experts, and a review of policies, practices, and research, have been incorporated into this report.

To review an early draft of this guide, Justice Center staff also convened an advisory group meeting on April 6, 2006, in Washington, D.C. The meeting included leaders in the fields of community corrections, court administration, victims' advocacy, child support enforcement, employment, and service provision, in addition to bipartisan legislative and judicial representatives.



## APPENDIX B

# Advisory Group\*

### **Julie Begoña**

Field Division Director,  
Maricopa County Probation  
Department, Arizona

### **Terry Collins**

Assistant Director,  
Ohio Department of  
Rehabilitation and Correction

### **Alan Cropsey**

Chair, Senate Judiciary  
Committee, Michigan

### **Sharon English**

National Victim Survivor  
Advocate, Victim Services,  
California

### **Kay Farley**

Director of Government  
Relations, National Center  
for State Courts, Virginia

### **Lisa Holley**

Chair, Rhode Island Parole  
Board; President, Association  
of Paroling Authorities  
International, Rhode Island

### **Steven C. Hollon**

Administrative Director,  
Supreme Court of Ohio

### **Karen Imas**

Communications Manager,  
Council of State Governments,  
Eastern Regional Conference,  
New York

### **George Keiser**

Chief, Community Corrections/  
Prison Division, National  
Institute of Corrections,  
Washington, D.C.

### **John Larivee**

Chief Executive Officer,  
Community Resources for  
Justice, Massachusetts

### **Sheila Leslie**

Specialty Courts Coordinator;  
Chair, Assembly Health and  
Human Services Committee,  
Nevada

### **Kirsten Levington**

Director, Criminal Justice  
Program, Brennan Center  
for Justice, New York

### **Barry Miller**

Chief, Child Support  
Enforcement, North Carolina

### **Andrew Molloy**

Senior Policy Advisor for  
Corrections, Bureau of Justice  
Assistance, Office of Justice  
Programs, U.S. Department  
of Justice, Washington, D.C.

### **Benidia Rice**

Director, Child Support  
Enforcement, Washington, D.C.

### **Alan Rosenthal**

Director of Justice Strategies,  
Center for Community  
Alternatives, New York

### **Amy Solomon**

Policy Associate, Justice Policy  
Center, Urban Institute,  
Washington, D.C.

### **Richelle (Chelle) Uecker**

President, National Association  
of Court Managers, California

### **John Andrew West**

Judge, Hamilton County,  
Common Pleas Court, Ohio

### **Joseph Williams**

Chief Executive Officer,  
Transition of Prisoners, Inc.,  
Michigan

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\* Advisory group members' titles are reflective of the positions they held at the time of the advisory group meeting convened April 6, 2006, in Washington, D.C.



# Notes

- 1 The number of people released from state prisons each year has been steadily increasing—from slightly more than 600,000 in 2000 to just under 670,000 in 2004. See Paige Harrison and Allen Beck, *Prison and Jail Inmates at Midyear 2005*, U.S. Department of Justice, Bureau of Justice Statistics, NCJ 213133 (Washington, D.C.: U.S. Department of Justice, 2006). Allen J. Beck, “The Importance of Successful Reentry to Jail Population Growth,” presented at the Urban Institute Reentry Roundtable, June 27, 2006, Washington, D.C.
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**Council of State Governments  
Justice Center**

100 Wall Street  
20th Floor  
New York, NY 10005  
tel: 212-482-2320  
fax: 212-482-2344

4630 Montgomery Avenue  
Suite 650  
Bethesda, MD 20814  
tel: 301-760-2401  
fax: 240-497-0568

**[www.justicecenter.csg.org](http://www.justicecenter.csg.org)**