

APPLICATION OF NCSC COURTOOLS “MEASURE SEVEN”

This research project applied the National Center for State Courts (NCSC) Measure Seven, “Collection of Monetary Penalties”, in eight Arizona limited jurisdiction courts.

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Abstract

The court community has undoubtedly focused on the collection of fines and fees. Specifically, abundant information exists regarding the benefits of monetary penalties as a sanction; a defendant's ability to pay; methods of payment and collection techniques; efforts and issues surrounding the collection of fines and fees; and the lack of data and management reports. Nevertheless, information related to compliance rates for the collection of monetary penalties is virtually non-existent. The literature clearly indicates courts are able to capture total dollar amount collected, however, information related to the amount imposed to that collected is lacking. Therefore, it is difficult to know the efficiency and effectiveness with which courts, at both the national and local level, are enforcing orders requiring payment of monetary penalties.

In an effort to obtain relevant information on how well Arizona courts are enforcing court ordered monetary obligations, this research project applied the National Center for State Courts (NCSC) Measure Seven, "Collection of Monetary Penalties", in eight Arizona limited jurisdiction courts. The eight courts selected represented both large and small volume courts as well as rural and urban courts, including both municipal and justice of the peace courts. Moreover, the project focused on misdemeanor criminal cases as the category of court cases identified for measurement because accounting for court ordered monetary penalties is a vital operational activity for courts with misdemeanor jurisdiction; therefore, data is readily available to collect and analyze.

The data collection process consisted of obtaining the eight data elements established by the NCSC for “Measure Seven” from 230 misdemeanor criminal cases in the selected eight courts. In addition to the eight data elements, data collection included dollar values credited when the court allowed the monetary obligation satisfied by time served or community work service. All data was obtained primarily from the statewide case management system and when not available in the computer system, the physical case.

The data from the 230 misdemeanor criminal cases in the eight limited jurisdiction courts produced the following information.

- The overall compliance rate for the collection of monetary penalties with a due date for final payment within the established timeline is 70%.
- Converting dollars to jail time resulted in a 13% increase in compliance for one court.
- An overall compliance rate of 33% was found for cases with final due dates falling outside the established timeline.
- The collection of restitution payments resulted in a 44% compliance rate.
- All collected restitution monies were disbursed to the victim prior to paying any other government revenue penalty.
- The overall compliance rate for cases with no established due date for final payment is 11%.

- The court with the highest overall compliance rate showed cases were paid in full at time of sentencing, had established payment plans¹ and/or a due date for final payment.
- The court with the lowest overall compliance rate revealed cases were either 100% or zero percent compliant.

Based on the information obtained from the selected cases, a number of conclusions were drawn and detailed below.

- The ability to measure compliance for the collection of monetary obligations is available and simple to apply.
- Equity-related practices result in higher overall compliance rates for collection of monetary penalties.
- Dramatic drop in overall compliance rate for cases with due date for final payment outside of established timeline hard to explain.
- “Measure Seven” provides the court with the ability to measure compliance for the collection and disbursement of restitution.
- The due date for final payment is a critical component for measuring court performance.
- Courts that establish payment plans experience a higher overall compliance rate, including the collection of restitution.

¹ Established payment plans defined as the total monetary obligation broken down into installments, usually monthly, to be paid by the defendant to the court.

Introduction

“Being Accountable” is the third goal of Arizona Chief Justice Ruth V. McGregor’s strategic agenda. Chief Justice McGregor states in her 2005 - 2010 strategic agenda, *Good to Great*, those courts must adopt a system of standards to measure operations and performance.² Although there is an abundance of national information on the collection of fines and fees in general, and specific state information related to revenues collected and expended, there is limited, if any, information available on a specific court’s performance as it relates to the amount of money imposed to that collected. This lack of information further justifies the Chief Justice’s vision to adopt standards that measure operations and performance.

The Administrative Office of the Courts (AOC) provides support to the Chief Justice in the supervision of all courts in the state. To that end, the AOC assists in the development and implementation of court guidelines, standards and projects that support the Chief Justice’s Strategic Agenda, vision and direction. This would include supporting the implementation of the National Center for State Courts (NCSC) CourTools in Arizona courts.³

The CourTools are ten performance measures that can assist courts to measure, manage and improve court performance. Due to the recent publication (2005) of CourTools, there is limited national and state information regarding the application and outcomes for the ten performance measures identified in Table 1.

² www.supreme.state.az.us

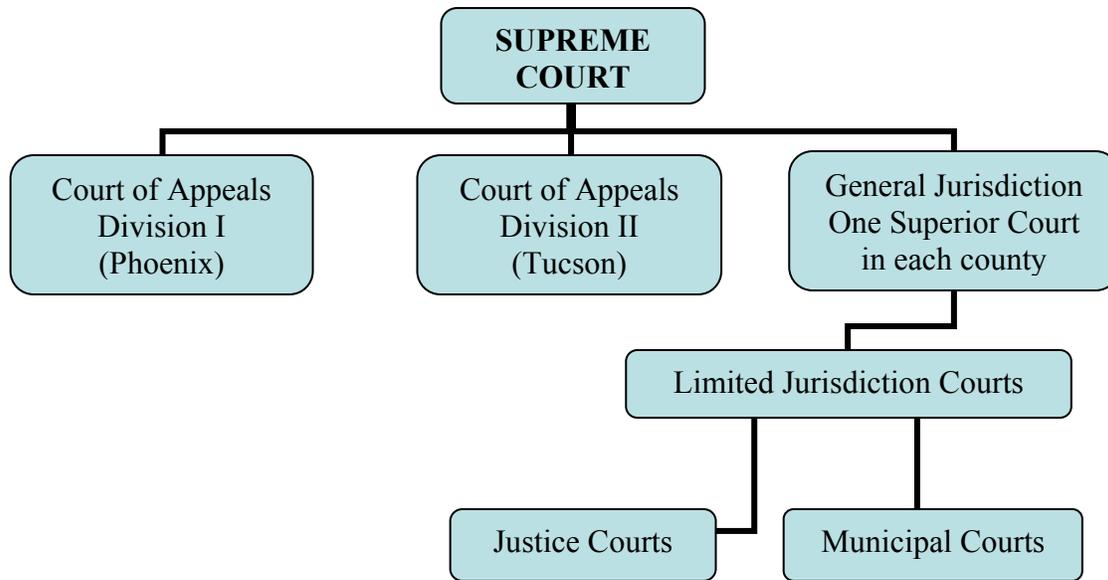
³ www.ncsconline.org/D_Research/CourTools/tcmp_courttools

Table 1: NCSC CourTools	
Measure	Title
One	Access and Fairness
Two	Clearance Rates
Three	Time to Disposition
Four	Age of Active Pending Caseload
Five	Trial Date Certainty
Six	Reliability and Integrity of Case Files
Seven	Collection of Monetary Penalties
Eight	Effective Use of Jurors
Nine	Court Employee Satisfaction
Ten	Cost Per Case

Source: National Center for State Courts

In an effort to obtain relevant information related to the amount of monetary penalties imposed to that collected in Arizona courts, this research project consisted of applying the NCSC CourTools “Measure Seven” in eight Arizona courts. “Measure Seven” is defined as payments collected and distributed within established timelines, expressed as a percentage of total monetary penalties ordered in a specific case.

The eight courts selected for this project are part of the court system in Arizona. The Arizona court system includes a Supreme Court, Court of Appeals, Superior Court, Justice of the Peace Courts, and Municipal Courts. The Supreme Court, the court of last resort, includes three associate justices, one Vice-Chief Justice, and one Chief Justice. The Chief Justice, according to the Arizona Constitution, has administrative oversight of all the courts in Arizona. The following organizational chart provides an overview of the Arizona court system.



Arizona consists of fifteen counties, with a branch of the superior court located in each county. The Superior court generally hears two categories of cases, civil and criminal. Specifically, civil claims of \$5,000 or more, and felony and misdemeanor prosecutions not otherwise provided for by law.

In addition to the Superior Court, all fifteen counties have limited jurisdiction courts. Limited jurisdiction courts consist of Justice and Municipal courts and are responsible for 92% of all case filings in the state. Specifically, the fiscal year 2006 filings for the state are 2,551,574, with 2,337,166 of those filed in limited jurisdiction courts.⁴

Both Justice of Peace and Municipal courts handle civil and criminal traffic and criminal filings (misdemeanor and felony for justice courts and only misdemeanor for municipal courts). In fact, civil and criminal traffic filings consist of almost two-thirds of all justice

⁴ www.supreme.state.az.us/ar2006/casefilings.htm

court filings and approximately three-fourths of all municipal court cases.⁵ In addition to the civil and criminal traffic case filings, there were 155,306 misdemeanor and felony case filings in justice courts and 237,418 misdemeanor case filings in municipal courts for fiscal year 2006.⁶

Table 2 identifies Arizona's fifteen counties, the population of each county and total misdemeanor case filings for the state in fiscal year 2006, which includes criminal traffic and misdemeanor filings.

Table 2: Arizona Case Filings			
County	Total County Misdemeanor Filings (FY 2006)	Total Population of Each County*	Filings (as a percentage of the population)
<i>Greenlee</i>	357	8,300	4%
<i>Graham</i>	1,315	35,455	4%
<i>Apache</i>	2,630	73,775	4%
<i>Santa Cruz</i>	2,786	44,055	6%
<i>Gila</i>	3,890	54,445	7%
<i>La Paz</i>	5,459	21,190	26%
<i>Yuma</i>	6,281	189,480	3%
<i>Coconino</i>	8,091	130,530	6%
<i>Yavapai</i>	10,084	205,105	5%
<i>Navajo</i>	11,374	109,985	10%
<i>Pinal</i>	12,421	246,660	5%
<i>Mohave</i>	16,727	188,035	9%
<i>Cochise</i>	17,061	131,790	13%
<i>Pima</i>	57,299	957,635	6%
<i>Maricopa</i>	70,267	3,648,545	2%
Total	226,042	6,044,985	
Average	15,069	402,999	7%

*Sorted by number of filings

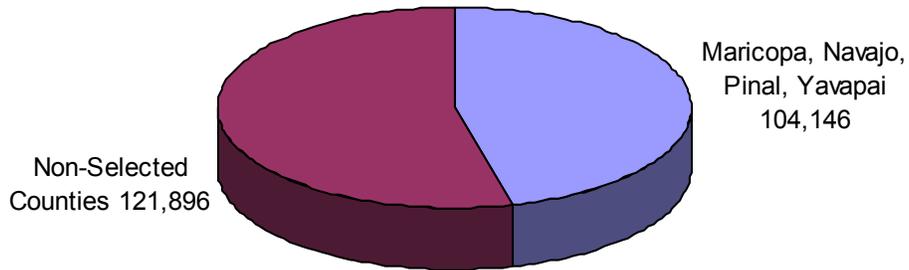
⁵ Ibid

⁶ www.supreme.state.az.us/ar2006/casefilings.htm

Arizona's fifteen counties are diverse in size and locale. For example, Maricopa County the largest and mostly urban county has a total population of 3.6 million and misdemeanor filings of 70,267 for all courts. In contrast, Greenlee County has the smallest total population of all the counties and as expected, the smallest number of misdemeanor case filings in fiscal year 2006. However, there is no known correlation between the county filings and population and in fact; there is a large variation between percent of filings to population when comparing counties such as La Paz (26%) and Maricopa (2%). One reason for the variation may be due to the large population in Maricopa, which could result in a smaller filing to population ratio. However, the smallest populated county (Greenlee) also had a small (4%) percent of filings to population.

The four counties selected for this project include Maricopa, Navajo, Pinal and Yavapai, and represented total filings of 104,146. In comparison, the eleven non-selected counties' filings for fiscal year 2006 totaled 121,896. The chart on the next page visually represents the total fiscal year 2006-misdemeanor case filings for the selected and non-selected counties.

Comparison of Selected Counties and Non-Selected Counties



Misdemeanor cases in eight Arizona limited jurisdiction courts in four counties are the focus of this project. Specifically, the project includes an evaluation of 230 misdemeanor cases to determine the extent to which a court takes responsibility for the enforcement of orders requiring payment of monetary penalties. As a result, new information exists on compliance rates for court ordered monetary penalties, including the payment of restitution in Arizona.

Literature Review

This literature review consists of six previous studies pertaining to the collection of fines and fees in courts, with a focus on seven themes in those studies. The seven themes include: 1) the benefits of monetary penalties as a sanction; 2) assessments and the defendant's ability to pay; 3) methods of payment; 4) lack of effort to collect fines and fees; 5) issues surrounding acceptable collection of financial sanctions; 6) collection techniques and programs; and 7) the lack of data and management reports for fine collection.

Hillsman and her colleagues clearly illustrate the *benefits of monetary penalties* as a sanction in "Fines as Criminal Sanctions". In the United States, over a billion dollars in fines are collected in criminal courts each year. Judges in limited jurisdiction courts report they impose fines alone 36 percent of the time or in combination with another penalty an average of 86 percent of their sentences.⁷

As early as 1973, the Task Force on Corrections of the National Advisory Commission on Criminal Justice Standards and Goals found that imposition of fines, properly employed, is less dramatic and costly, and perhaps more effective than imprisonment or community service, and includes a rehabilitative component for the offender⁸.

Further, the benefits of imposing financial penalties as a sanction is more clearly understood given the need to expand intermediate sanctions due to costs of jail and

⁷ Sally T. Hillsman, Barry Mahoney, George F. Cole, and Bernard Auchter, *Fines as Criminal Sanction*, National Institute of Justice: Research in Brief, U.S. Department of Justice, September 1987, p. 1, 2

⁸ *Ibid*, p 1, 2

prison. Although Hillsman and her colleagues plainly articulate the benefits of the imposition of monetary penalties, these benefits are undermined and the integrity of the court called into question when fines are not paid. As Honorable Frank X. Gordon, Jr., former Chief Justice of the Arizona Supreme Court stated in the 1990 Judicial Report, “...An uncollected fine is an untaught lesson in accountability.”

As noted above, financial penalties are beneficial to both the public and defendant, including the need to collect those monies; however, issues influencing the successful collection of financial penalties are the *amount of assessment and the defendant’s ability to pay*. Ron Zimmerman points out that mandatory sentencing and progressive penalties result in massive imposition of fines that have no relationship to the circumstance of the case and ignore the defendant’s ability to pay. Further, he notes a court’s prime directive is to pronounce a sentence that has relevance to both the offense and the defendant’s ability to pay.⁹

In conjunction with the assessment and ability to pay are the *methods of payment*. Typically, methods of payment for court ordered financial sanctions include payment by mail, in-person payment, personal checks (majority of courts), credit cards (small number of courts), lockbox (financial institution receives, receipts and deposits a court’s mailed in payments), payment plans or installments and day fines (fines set on severity of the offense and offender’s ability to pay). An alternative to payment is an option, in some courts, that usually includes community service with a standard hourly rate, usually

⁹ Ron Zimmerman , *Dollars and Sentences: The Fiscal Seduction of the Courts* ,State Court Journal, Fall 1990, p. 21, 22.

minimum wage, credited for service. The fine is satisfied when the value of the number of hours equals the amount of the fine.¹⁰

Although the assessment of financial penalties and the collection of those penalties result in numerous noted benefits, Matthias and his colleagues in “Current Practices in Collecting Fines and Fees” suggests that *most courts do little or nothing to collect unpaid fines*. Most courts have automated case management systems, however, most do not have specialized fine collection programs. A few courts have sophisticated collection programs and dedicated staff for collections, including, automated noticing capabilities, detailed financial screening practices, and quick response tactics for nonappearance or nonpayment. However, staff dedicated for collections and sophisticated collection programs are the exception and not the rule.¹¹

Judges view the fine-collection problem as the responsibility of the offender and not court administration and administrators dislike the role of bill collector. These views result in *less than adequate collection of court ordered financial obligations*. The narrow perspective that court ordered fines are only recorded and tracked as they pass through the court further complicates collection practices. The broader perspective views courts taking responsibility for the success of the sentence itself in order to ensure offenders meet their court obligations in a timely and appropriate manner.¹² Finally, post-sentence management of fines has not been the subject of the same level of administrative and

¹⁰ John T. Matthias, Gwendolyn H. Lyford, Paul C. Gomez, *Current practices in collecting fines and fees in state courts: a handbook of collection issues and solutions*, National Center for State Courts: Court Services Division 1995, p, 16, 17, 19.

¹¹I John T. Matthias, Gwendolyn H. Lyford, Paul C. Gomez, *Current practices in collecting fines and fees in state courts: a handbook of collection issues and solutions*, National Center for State Courts: Court Services Division 1995, p6.

¹² Sally T. Hillsman, *The Growing Challenge of Fine Administration to Court Managers*, The Justice System Journal, Volume 13, Number 1 (1988), p 3

policy concerns as other penalties due partly because post-sentence administration of these penalties tends to be the least well coordinated or administered of many court functions.

Regardless of the court's perspective on post-sentence management of fines, the improvement of collections in general comes about by applying *collection techniques*. Routine enforcement includes techniques such as notices, suspensions, late fees, community work service, jail, credit reporting, setoffs, and collection agencies. More coercive enforcement measures include the collection of fines using civil judgments, garnishments and liens, income tax refund intercepts, arrest warrants and incarceration.¹³

In conjunction with the application of collection techniques, court administrators and clerks should use individual case records as the source information for the fines-management information systems. Finally, goals for effective fine administration, such as the percentage of cases in which the collection of fines occur in 30 or 60 days, should be set, and the court's performance monitored against these goals.¹⁴

As noted by Leonard Montanaro, a successful in-house collection program depends on five components. First, the bench must be committed to taking enforcement of monetary obligations seriously. Competent staff performance and adequate technology is the second and third component. Fourth, good working relationships with the court's local law enforcement agency (for their role in executing court orders for non-compliance or

¹³ John T. Matthias, Gwendolyn H. Lyford, Paul C. Gomez, *Current practices in collecting fines and fees in state courts: a handbook of collection issues and solutions*, National Center for State Courts: Court Services Division 1995, p. 21

¹⁴ Sally T. Hillsman, Barry Mahoney, George F. Cole, and Bernard Auchter, *Fines as Criminal Sanction*, National Institute of Justice: Research in Brief, U.S. Department of Justice, September 1987, p. 7.

contempt), and the final component is an effective training program for staff and judges. As part of the in-house collection program, the financial interview with defendants was the most effective way to collect fines and fees, with notices closely following. Collection telephone calls are also effective but not cost effective in terms of staff time.¹⁵

A major problem for fine collection programs in general is the *lack of management reporting information*, even in the courts with adequate automated case management systems. Only the courts with the most sophisticated information-reporting practices have data on collection rates or average times to complete payments. However, most courts do not track collection rates before implementing new procedures. Therefore, only anecdotal information exists supporting the effectiveness of the implemented collection efforts. Even courts with sophisticated systems are usually only able to report total assessed fines and fees.¹⁶

According to George F. Cole, although there are courthouse myths about the huge amount of fines unpaid, there is virtually *no data about the extent of nonpayment*. Many courts are able to answer the amount collected, but cannot provide information on the amount imposed to that collected.¹⁷ Finally, no benchmark exists nationally for court collections and court case management financial systems typically only capture total dollar amount collected.¹⁸

¹⁵ Leonard Montanaro, The Facts about Collection Practices at the Mesa Municipal Court, NACM Phase II of the Court Executive Development Program, 2001

¹⁶ John T. Matthias, Gwendolyn H. Lyford, Paul C. Gomez, *Current practices in collecting fines and fees in state courts: a handbook of collection issues and solutions*, National Center for State Courts: Court Services Division 1995, p., 6.

¹⁷ George F. Cole, *Fines Can Be Fine – and Collected*, Judges Journal, Volume 28, No. 1 (Winter, 1989) p. 2.

¹⁸ John T. Matthias, Gwendolyn H. Lyford, Paul C. Gomez, *Current practices in collecting fines and fees in state courts: a handbook of collection issues and solutions*, National Center for State Courts: Court Services Division 1995, p. 28, 29.

Overall, information on how well courts enforce orders requiring payment of monetary penalties appears to be anecdotal and limited due to the court's automated case management system and lack of meaningful management reports. Therefore, information on overall compliance percentages for court-order monetary penalties is not available. One exception to the lack of information pertaining to collection rates and/or overall collection compliance is the National Center for State Courts (NCSC), who published a set of ten court performance measures identified as CourTools. One of the ten measures is Measure seven: Collection of Monetary Penalties, which focuses on enforcement of monetary penalties imposed on offenders, including restitution for crime victims. At the time of this literature review, there was no published information regarding the implementation and outcome for "Measure Seven".

Project Methodology

This research project is an assessment of the application of "Measure Seven", wherein eight Arizona limited jurisdiction courts located in four separate counties were evaluated. In an effort to apply "Measure Seven" to a cross section of Arizona courts, the selection process included both large and small volume courts, as well as rural and urban courts. Additionally, all courts selected used the statewide case management system. Table 3 identifies the eight courts, including the four counties where the courts are located, and fiscal year 2006 misdemeanor filings in each court.

Table 3: FY2006 Misdemeanor Filings by Court		
Court	County	FY 2006 Filings
Municipal Court 1 County 1	Maricopa	16,860
Municipal Court 2 County 1	Maricopa	463
Justice Court 3 County 2	Pinal	3,636
Justice Court 4 County 2	Pinal	2,400
Justice Court 5 County 3	Navajo	2,071
Justice Court 6 County 3	Navajo	1,996
Justice Court 7 County 4	Yavapai	2,541
Justice Court 8 County 4	Yavapai	2,292
Total		32,259*

Source: AOC Research and Statistics, FY2006

*Represents 14% of the total misdemeanor filings for Arizona in FY2006

Of the eight limited jurisdiction courts, six were justice of the peace courts and two were municipal courts. Both municipal courts are located in Maricopa County; however, the 23 Maricopa County justice courts are not on the statewide information system and therefore not selected for the project. The belief that more restitution cases are filed in justice of the peace courts is the reason the majority of courts selected for the project are justice of the peace courts.

The misdemeanor criminal case is the category of court case identified for measurement because as noted in “Measure Seven”, a major responsibility for a court with misdemeanor jurisdiction is accounting for fines, fees, and restitution. Additionally, most of the money handled by the court originates in criminal traffic and other misdemeanor cases and due dates for final payment are likely to fall within one year from order date.

The data collection process for the misdemeanor cases consisted of collecting the following eight data elements the NCSC established for “Measure Seven”.

- *Case Number*
- *Date of the Order of Sentence*
- *Due Date for Final Payment of Total Monetary Penalty*
- *Total Monetary Penalty in Case*

- *Total Monetary Penalty Collected to Date*
- *Total Restitution Ordered in Case*
- *Amount Received Applied by the Court to Restitution*
- *Amount of Restitution Received Disbursed to Victims*

In addition to the eight data elements noted above, data collection also included a dollar value for converting the monetary penalty into time served or community work hours. As part of the design of “Measure Seven”, an accurate measurement of compliance includes a means to convert a monetary penalty into days of community service or jail time when accepted in lieu of fines or as an alternative to payment, also known as equity-related practices.

Once the identification of courts and category of cases was complete, the selection of specific misdemeanor cases began. The eight data elements noted above, and more specifically, the due date for final payment of the total monetary penalty is essential to the application of “Measure Seven” and potentially case selection. However, due to the lack of standardized court business processes and event codes related to the collection of monetary penalties, it was not possible to generate a sample of misdemeanor cases from the case management system based upon the due date for final payment. Instead, disposition date was the criteria for case selection because the disposition date is a standardized data element related to each case. Therefore, January 2006 was the disposition date selected due to the assumption that eleven months (January 2006 through November 2006) was enough time to pay the monetary obligation in full for most misdemeanor cases.

Automated reports identified 742 criminal misdemeanor cases disposed in January 2006 from the eight selected limited jurisdiction courts. From the 742 cases, 230 (31%)

misdemeanor cases were selected for the project. Of the 230 cases, six had no due date for a final payment and 41 had a final due date outside the established timeline for the project (January 2006 through November 2006).

An estimated dollar amount that should have been collected by November 2006 was calculated for the 41 cases with a final due date outside the established timeline (November 2006) for the project. The calculation consisted of determining a monthly dollar amount per case by dividing the total assessment for each case by the total number of months necessary to meet the due date for final payment. Once the monthly dollar amount per case was determined, that number was multiplied by the number of months between sentence date and November 30, 2006, resulting in the amount of money that should have been collected by November 30, 2006. Table 4 details the cases selected for the project.

Table 4: Project Case Sample					
Courts	1/06 Misd Cases Disposed	Cases selected for project	Cases with no due date	Cases with a final due date outside the established timeline	Cases with a final due date within the established timeline
Court 1 County 1	245	71	2	1	68
Court 2 County 1	13	9	0	1	8
Court 3 County 2	100	31	0	9	22
Court 4 County 2	100	36	2	12	22
Court 5 County 3	68	16	0	5	11
Court 6 County 3	52	16	2	6	8
Court 7 County 4	85	25	0	5	20
Court 8 County 4	79	27	0	2	24
8 Courts & 4 Counties	742	230	6	41	183

The primary data collection for the 230 cases occurred in October 2006. Specifically, the register of actions and/or docket in the statewide case management system for each case contained the majority of the required data elements. The collection process consisted of

viewing the information in the register of actions and inputting the information in an Excel spreadsheet.

The author of this report, and to various degrees staff in the Court Services Division (CSD) of the Administrative Office of the Court (AOC), inputted the information from the register of actions to the Excel spreadsheet. The data collection process took approximately two hours for every 10 cases. The time required is dependent on Excel and data input skills and the ability to locate and interpret information in the docket. Data collection from the physical case file was required in the instance where the data was not available in the information system. All eight courts required physical file data collection. The due date for final payment and restitution disbursed to victims are two required data elements not always noted in the information system. In all but two courts, court staff collected the data and provided the information via email or phone for cases where the information was not available in the information system. The author of this report collected the information at the court by reviewing the case files for the two courts where staff did not collect the data. This on-site data collection took approximately one hour for five cases.

Finally, a second data collection process occurred in December 2006 for cases not paid in full at the time of the original data collection (October 2006). This secondary data collection effort took approximately two hours to determine if a payment had been made between the original data collection and the secondary data collection and if so how much. Thus, this extended the time to pay the monetary obligation in full to November 30, 2006.

Determining the due date for final payment of the total monetary penalty was the main difficulty for data collection. With few exceptions, a specific due date for final payment was not noted in the case management system or the physical file. As a general practice, judges assess the monetary penalty in a case, including restitution, but do not determine a final due date. Typically, non-judicial staff establishes payment plans for defendants not able to pay the assessment on the date of judgment. As a rule, payment plans focused on the monthly payment and not on a due date for final payment.

Because of the court's practice, due dates for final payment of monetary obligations had to be calculated from information that pertained to collection plans. For example, a due date for final payment was determined to be May 2006 for a defendant assessed a total of \$200.00 with monthly payments of \$50.00 beginning on February 1, 2006. It should also be noted that payment plans are subject to change based on the defendant's circumstances, resulting in a changing due date for final payment. Lastly, payment plan information is not always available in the case management system but is typically available in the physical case file.

In addition to the challenges related to determining a due date for final payment, the assumption that final due dates would fall within one year from the order or sentence date was not always accurate. For example, 41 of 230 cases (18%) had a December 2006 or later final due date and therefore fell outside of the established time line. In addition, six cases lacked a due date for final payment in the case management system or physical case file.

Another difficulty with data collection was obtaining information related to restitution assessed and distributed, and the conversion of a monetary assessment into jail time or community work service. Of the 183 cases with a due date within the established time line, only 14 cases (8%) had restitution ordered in the case and only two cases had the monetary assessment converted to jail time.

Findings

As a result of this project, and specifically the application of “Measure Seven”, new information related to the amount of monetary penalty imposed to that collected is now available to the court community. As such, new information exists as to the efficiency and effectiveness in which courts can enforce orders for monetary penalties.

Finding 1: The overall compliance rate for the collection of monetary penalties is 70%.

A total of \$128,782.56 was assessed (total monetary penalties) and \$89,696.49 collected for the 183 sampled cases within the established time period, resulting in an overall compliance rate of 70%. A breakdown of the cases at the court level showed a variety of overall compliance rates, ranging from a high of 99% to a low of 60%. Table 5 details the compliance rate for all eight courts.

Table 5: Overall Compliance Rate						
Court	Cases	\$ Assessed	\$ Collected	Preliminary Compliance Rate	\$ Converted	Overall Compliance Rate
One	68	\$70,975.82	\$45,931.43	65%	0	65%
Two	8	\$7,569.00	\$6,253.00	83%	0	83%
Three	22	\$10,927.00	\$10,831.00	99%	0	99%
Four	22	\$12,935.82	\$8,305.39	64%	0	64%
Five	11	\$3,486.73	\$2,096.00	60%	\$436.73	73%
Six	8	\$1,784.67	\$1,370.67	77%	0	77%
Seven	20	\$7,216.82	\$6,589.00	91%	0	91%
Eight	24	\$13,886.70	\$8,320.00	60%	0	60%
Total	183	\$128,782.56	\$89,696.49	69.65%	\$436.73	69.99%

For the most part, there was little distinction between the overall compliance rate (69.99%) and the preliminary compliance rate (69.65%) for the entire sample because the conversion of monetary penalties into days of jail time occurred in only two cases.

Finding 2: Converting dollars to jail time resulted in a 13% increase in compliance for one court. Although the overall compliance rate for the entire sample was not significantly affected by the two cases that had monetary penalties (\$436.73) converted into days of jail time, the overall compliance rate for a single court (court 5) showed an increase from 60% to 73%. In those two cases, the court converted and documented the monetary assessment into days of jail time. In effect, this court established an implied conversion formula of \$216.58 dollars for 45 days in jail for one case and \$220.15 for 45 days in jail in another case. Unfortunately, neither of the sampled cases had documentation of community service imposed due to an inability to pay.

Finding 3: An overall compliance rate of 33% was found for cases with final due dates falling outside the established timeline. An evaluation of the 41 cases with a due date for final payment outside the established timeline revealed that a total amount of \$47,474.76 was assessed, while \$24,277.60 should have been collected by November 30, 2006. However, only \$8,626.30 was actually collected by November 30, 2006, resulting in a 33% overall compliance rate for the 41 cases. It is interesting to note that the eight courts gave the defendants an average of 24 months to pay an average total assessment of \$1,157.92.

Finding 4: The collection of restitution payments resulted in a 44% compliance rate. Similar to the small number of cases converted to jail time, only 14 of 183 (8%) cases had restitution ordered within the established time period. The total dollar amount ordered for restitution was \$8,627.18, while \$3,753.06 was actually collected, resulting in an overall compliance rate of 44% for all 14 cases. Table 6 details the compliance rate for restitution in all four courts.

Table 6: Restitution Compliance Rate						
Court	Number of Cases with restitution	Total Restitution Ordered in dollar amount	Amount collected by the court	Amount applied to restitution	Compliance rate for restitution collected	Amount of restitution disbursed to victims
Four	3	\$3,959.27	\$2,399.67	\$2,399.67	61%	\$2,399.67
Six	3	\$169.67	\$169.67	\$169.67	100%	\$169.67
Seven	5	\$1,701.54	\$1,183.72	\$1,183.72	70%	\$1,183.72
Eight	3	\$2,796.70	\$0	\$0	0%	\$0
Total	14	\$8,627.18	\$3,753.06	\$3,753.06	44%	\$3,753.06

A closer look at individual courts revealed a wide range of restitution compliance rates. Court 6 had the highest compliance rate of 100% while court eight had the lowest compliance rate of 0%. Courts four and seven had compliance rates of 61% and 70% respectively.

Finding 5: All restitution monies collected were disbursed to the victim. Disbursement of the monies collected from restitution payments (from the courts to the victims) is just as critical as the collection of the restitution payments from the defendant. Of the 14 cases with assessed restitution, nine had collected and disbursed the restitution payments to the victims, prior to satisfying any other government revenue penalty. It should be noted that of the nine cases with assessed restitution, six had other government revenue penalties assessed.

Finding 6: The overall compliance rate for cases with no established due date for final payment is 11%. The analysis of six cases originally selected, but eventually excluded because the court did not establish payment plans and/or a due date for final payment, revealed a reduction in compliance rates. Table 7 details the monetary assessment and collection for the six cases.

Table 7: Overall Compliance Rate for Cases with No Final Due Date				
Case	Court	\$ Assessed	\$ Collected	Compliance Rate
One	1	\$1,169.77	\$500.00	43%
Two	1	\$2,296.70	0	0%
Three	4	\$475.00	\$50.00	11%
Four	4	\$847.00	0	0%
Five	6	\$179.00	0	0%
Six	6	\$247.39	0	0%
Total	3	\$5,214.86	\$550.00	11%

The six cases showed a combined monetary penalty of \$5,214.86 with only \$550.00 collected. In fact, four of the six cases had no monies collected. As compared to the overall compliance rate for cases with a due date for final payment, the overall compliance rate for cases without a due date for final payment is significantly lower (11% compared to 70%).

Finding 7: The court with the highest overall compliance rate showed cases were either paid in full at time of sentencing, had established payment plans and/or a due date for final payment. Court 3 had 22 cases in the sample and an overall compliance rate of 99%. A review of the 22 cases revealed 21 were 100% compliant and provided the following detail:

- Thirteen were paid in full at or near the time of sentencing;
- Five had a payment plan with a set monthly payment amount;
- Two had a due date for the final payment; and
- One had no payment until an order to show cause hearing was set on 5/3/2006, resulting in payment in full on 5/22/2006.

The one case that was not 100% compliant (collected \$134 of \$230) was set on a payment plan; however, all monthly payments were not consistently made resulting in a 58% compliance rate.

Finding 8: The court with the lowest compliance rate showed cases were either 100% or zero percent compliant.¹⁹ Court 8 had 24 cases in the sample, including three restitution cases, and an overall compliance rate of 60% with a restitution compliance rate of 0%. Of the 24 cases in the sample, 17 cases indicated the full payment for the monetary

¹⁹ With one exception; in that case only \$50.00 was collected of the \$260.00 assessed resulting in a 19% compliance rate. The assessment would have been suspended if the defendant completed defensive driving school by 3/06, which he did not. The court took no action for failure to pay or complete defensive driving school.

obligation occurred on or near the date of disposition, resulting in a 100% compliance rate. Of the seven cases that did not have 100% compliance, six cases (including three restitution cases) revealed no monies collected and only \$50.00 was collected in the remaining case. Of the entire sample, only one restitution case had an established monthly payment plan. A closer look at the three restitution cases revealed the following specific information.

- The defendant was ordered to pay the total restitution in full within 6 months from the January sentence date (7/06). No payment was received and on 10/2/2006, the defendant failed to appear for the order to show cause hearing; as of 12/5/2006 no action had been taken by the court.
- The defendant was ordered to pay the total restitution in full within 6 months from the January sentence date (7/06). The defendant was in custody as of 12/06. An order to show cause hearing will be set for May 2007 when the defendant is released from jail.
- The defendant was ordered to pay restitution with a monthly payment of \$333, beginning 2/10/2006. No monies were paid and the court has not taken any action.

The court's established collection practice requires payment at time of sentencing. This practice, in effect, makes the due date for final payment the actual sentencing date. The court does not establish payment plans or set due dates for final payment, even when the defendant is unable to pay at time of sentence.²⁰ In lieu of payment plans, the defendant is usually ordered to complete a program. Typically, the court gives the defendant a date to complete the program and if the defendant complies with the order by that due date, the court will suspend the monetary obligation.

²⁰ It should be noted the exceptions to this practice appears to be restitution cases as two of the three restitution cases had a due date for final payment outside of the sentence date and one restitution case had a payment plan.

The court's practice to not establish payment plans is reportedly due to limited resources and the judge's personal philosophy, which is in line with Matthias and his colleague's statement that judges view the fine-collection problem as the responsibility of the offender and not court administration.²¹

Conclusions and Recommendations

There is little argument that the enforcement of court orders and in particular, the collection of monetary penalties imposed, including restitution, is critical to the integrity of the court. To that end, a method to measure court performance is fundamental to improving and reporting court performance. The following conclusions and recommendations regarding measuring compliance for the collection of monetary penalties may assist in the improvement of court performance.

The ability to measure compliance for the collection of monetary obligations is available and simple to apply. The National Center for State Courts (NCSC) has provided courts with a performance measure, which was easily applied to the eight selected courts for this project and resulted in an overall compliance rate of 70% within approximately 46 hours for 183 cases. The eight essential data elements necessary to implement ““Measure Seven”” in a court are available to court staff in either the physical case file or case management system. The statewide case management system in Arizona provides most of the necessary information; however, there are no known reports to facilitate the systematic collection of the data. In other words, viewing the docket in the case

²¹ John T. Matthias, Gwendolyn H. Lyford, Paul C. Gomez, *Current practices in collecting fines and fees in state courts: a handbook of collection issues and solutions*, National Center for State Courts: Court Services Division

management system for each selected case was required and additional data collection necessary from the physical case file. Although additional time is required to view the case docket in either the information system or hard case file, neither was extremely time consuming.

The case selection process, including the category of cases used, requires consideration and it is recommended to follow the guidelines outlined in “Measure Seven”. Specifically, this project focused on misdemeanor criminal cases and found those cases to be the most beneficial for the purpose of the measure because the court has full control over the monies ordered and received.

The number of cases used to determine an overall compliance rate will depend on the size and resources of the court. For large volume courts, a sample of cases from a designated time period might be necessary. If possible, court staff should attempt to obtain the data using a report that generates the required data from the case management system, but in the absence of that, the information is obtainable in each case docket or the physical case file. For the purposes of this project, 230 cases were inputted into an Excel spreadsheet. Once the information was in the Excel document, formulas within the document quickly calculated totals and percentages for expedited analysis. The time necessary to determine a court’s overall compliance rate is dependant on a court’s resources, size, information system and capabilities, data integrity, and court processes.

Courts must recognize the time necessary to implement Measure 7, especially considering that not all of the information may be available in the information system; and if available, it may not be easily obtainable through a systematic process. Therefore,

efforts should be made by courts to develop standardized business collection practices and codes in order to easily obtain clear, accurate information from their automated case management systems. However, until such time, courts can still gain valuable information from the implementation of Measure 7. Generally, the time spent to obtain the information was not overly burdensome, nor was it difficult, and the information gained allows the opportunity to increase their collection of monetary penalties. Courts will be able to establish a baseline for compliance rates for collection of monetary penalties. Once the baseline is established, a court should set annual incremental increases as a way to measure performance. This information could be available to the public and to the court's funding source.

Equity-related practices results in higher overall compliance rates for collection of monetary penalties. Although the information on this issue was limited in number and scope for this project, it was interesting to note the increase (13%) in one court's performance when only two cases revealed a conversion of dollars to days in jail. For the two cases that converted the monetary obligation to jail, the information was clearly documented in the case management system. For the purposes of this project, only one additional data element was required to capture the courts efforts when converting a monetary penalty into days of jail. The effort is not overly time consuming and is clearly worth the time spent.

Equity-related practices are a valuable sentencing alternative for a judge that wants to hold the defendant accountable to a court order but the offender is unable to pay the full amount of the monetary penalty. Considering the costs of incarceration, using community service in lieu of non-mandatory fines might be more cost effective than jail. In either

case, the court should develop a local policy that establishes a consistent dollar value when converting monetary obligations to time served in jail or conducting community work service. It is equally important to clearly document in the case file when a defendant is sentenced to jail or community service work in lieu of fines. This approach ensures accountability that is vital to the integrity of the court and meets the challenge noted by the Honorable Frank X. Gordon, Jr., former Chief Justice of the Arizona Supreme Court, that “an uncollected fine is an untaught lesson in accountability.”

A dramatic drop in the overall compliance rate for cases with due date for final payment outside of established timeline is hard to explain. The overall compliance rate of 33% for the 41 cases that had a due date for final payment outside the project timeline is significantly lower than the overall compliance rate of 70% for the 183 cases with a due date for final payment within the project timeline line. This drop is difficult to explain, given that the 41 cases were only evaluated on the amount of money that should have been collected within the project timeline, and that most courts in the study establish monthly payment plans. One possibility is that courts are more successful at collecting monetary obligations when incremental payments are not spread out over one year. Another speculated cause might be due to poor timely enforcement of monthly payments with increased court enforcement efforts, as the time draws closer to the due date for final payment. For whatever reason, this interesting finding may require additional research for further explanation.

Measure 7 provides the court with the ability to measure compliance for the collection and disbursement of restitution. Determining compliance on the collection and disbursement of restitution is an integral part of determining overall compliance for the

collection of monetary penalties. As part of “Measure Seven’s” methodology, if a misdemeanor case includes a restitution order, three data elements related to restitution are required and all are included in the eight essential data elements identified in “Measure Seven”. The information was available in the case management system but specific information related to the disbursement of the monies to the victim had to be obtained from the physical case file.

All courts consistently did an excellent job applying collected monies to restitution and disbursing those monies to the victim. Although one court also enjoyed high compliance rates for the collection of restitution (100%), other courts could improve their restitution collection practices (61 and 70%), while the remaining court must focus on improving their overall compliance rate (0%). By implementing “Measure Seven”, performance in this area can be measured and possibly improved, which may result in making victims of crime a priority.

The due date for the final payment is a critical component for measuring court performance. The due date for final payment is a required data element for the application of “Measure Seven”. The reason it is a required element is because only cases in which monetary penalties are actually due should be measured. If a monetary penalty is not due, compliance cannot be measured. Given the necessity of the element, courts would benefit by determining a due date for final payment and record that information in the case management system. As a result of determining and recording a due date for final payment, monitoring and determining compliance would be simplified and could be automated. This practice would eliminate the necessity for analyzing payment plans and calculating monthly payments to determine a final due date. This said, it is not

recommended to discontinue setting up and monitoring monthly payment plans, just identify the final due date at the time the payment plan is developed and record that date in the case management system. It is also recommended that courts clearly document a new due date for final payment if an original date is extended.

Additional insight into the importance of a due date for final payment became known when the cases excluded from this project were analyzed. Although this information is clearly not part of the methodology of “Measure Seven”, the evaluation of the information from the cases excluded from the project clearly revealed that cases with no due date for final payment showed a lower overall compliance rate (11%). The six cases identified with no due date for final payment did not have established payment plans. In the situation of these six cases, the lack of payment plans resulted in no due date for final payment. This information may provide valuable information to courts as they establish their collection practices.

Courts that established payment plans experienced a higher overall compliance rate, including restitution. The court with the highest overall compliance rate had established payment plans in 7 of 9 (78%) cases, where the assessment was not paid in full at time of sentencing and the two cases with no payment plan had a due date for final payment; both were paid in full at the time of data collection. Conversely, the court with the lowest overall compliance rate, including restitution, had an established payment plan in only 1 of 7 (14%) cases, where the assessment was not paid in full at time of sentencing; however, an additional two cases (restitution cases) did have a due date for final payment.

The court with the highest overall compliance rate typically established monthly payment plans and the court with the lowest overall compliance rate does not typically establish payment plans for offenders who cannot pay at time of sentencing. Even though the court with the lowest overall compliance rate enjoyed a 100% compliance rate for the majority of sampled cases (17 of 24 or 71%), due to the full payment of monetary obligations required at or near time of sentence, the seven cases where the defendant was not able to pay at time of sentence reduced the 100% compliance rate to only 60%. The severe reduction in compliance may be the result of the court's collection practices, which does not typically include established monthly payments.

Although evaluating court's enforcement methods were not part of this project, the limited information obtained from the court with the highest (court 3) and lowest (court 8) compliance rate suggests the monetary obligation is more consistently monitored and enforced when payment plans are established. For example, court three conducted some type of enforcement in all cases where enforcement was required. Conversely, court eight took no enforcement effort in five of the seven cases that had no monies or minimal monies collected. A closer look at the two cases with some enforcement effort revealed the court took enforcement action (warrant) in one case and in a second case the defendant is currently in custody. It is unclear if the court took action or the defendant is in custody for another offense. However, it was noted the court would schedule an order to show cause hearing when the defendant is released. These preliminary findings support the idea that the defendant is more likely to comply with the court order when the court clearly sets out an expectation defining due dates and payments.

Overall, the results of this project support the idea that CourTools “Measure Seven” can be easily applied and provides valuable information for the court. As a result of implementing this measure, courts will be able to determine realistic and attainable collection performance measures because accurate baseline information would exist. Additionally, courts will be able to analyze their collection and enforcement practices as a means to improve compliance rates.

Courts will benefit from implementing CourTools “Measure Seven”. Due to the increasing scrutiny of the judiciary, courts should be implementing performance measures that highlight the court’s desire to enforce its court orders, make the offender accountable for his or her actions, and in some part, make the victim whole by collecting and disbursing restitution to crime victims.

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