

EXECUTIVE SUMMARY

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ICM Phase III Project

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Recently in New Jersey, the collection of financial obligations from those under probation supervision has become an area of increasing importance and a performance measurement statewide. As a result, Mercer Probation has established goals and plans to increase non-child support collections. Strategies and systems to enhance the collection of these financial obligations by Mercer Probation is the focus of this project.

During the 1980's, an increased emphasis on the imposition and collection of fees and fines in the judicial system began. This emerged during a time of increasing deficits in local government operations along with an expectation of increasing governmental accountability to the public it serves. This interest has been increased by the desire of public officials to enhance existing sources of revenue, to rely more on user fees to fund government activities and to seek alternative forms of punishment as state and local correctional facilities have reached capacity. This latter trend arose from a belief that the offender should pay for programs to punish the offender and combat the general rise of crime, especially as related to the use of drugs.

In a broad view, statutory fees such as those required for the filing of a civil complaint or a motion are directly related to the service provided and must be paid in advance. Compliance is therefore rarely an issue. However, probation's responsibility is the collection of assessments imposed by the court as penalties and restitutions. These include the fine, costs, fees and assessments involuntarily imposed upon persons as sanctions for criminal offenses. Compliance by offenders under supervision is the challenge.

The collection of this money is characterized by a number of issues which are unique to the judiciary and criminal matters, in particular. Following are highlights of some of the project's findings and recommendations:

- The decision by the court to impose a financial penalty is not based upon the need to offset the costs of operation. A penalty is imposed that is appropriate to the offense and often not based upon the offender's ability to pay. A monetary penalty is designed to punish and deter.
- Fines should be set properly with respect to the offense and the offender's ability to pay. Often, with mandatory assessments, this is not possible.
- Penalties and restitution are imposed involuntarily upon the person who is responsible for payment. In Mercer, there is no special positive reinforcement to comply. Generally, probationers in NJ have the

option to be considered for "early discharge" from probation after serving half of the term if all financial obligations are paid and other conditions met.

- Research indicates that time periods for payment should be as short as possible.
- Many individuals who come before the court are already under financial stress, making collections difficult from the beginning.
- An immediate and consistent response should be made when non-compliance occurs.
- There should be a steady progression of responses with increasing levels of coercion.
- A variety of responses should be available to the courts to address non-compliance.
- Responding to the three issues listed immediately above, probation in New Jersey has developed model collections procedures and a comprehensive enforcement program to address instances of non-compliance.
- The courts must often rely on the cooperation of outside agencies to compel compliance. The availability of law enforcement personnel to serve warrants and the limitations of local jail space are factors that impact collections.
- The Comprehensive Automated Probation System (CAPS), an automated statewide case supervision management and accounting system has been developed and was introduced in Mercer during December of 1999. This was designed to monitor payments and support enforcement activities.

A research of the literature has revealed that increasing collections in Mercer Probation will require a concerted focus with leadership being a key element. In addition, the latest information on collection techniques must be gathered and shared with all parties concerned. A commitment to excellence and open communication as well as the clear assignment of program responsibility are also necessary ingredients. Courts effective in the collection of financial obligations have information monitoring programs in place that provide constant feedback and guidance to staff. These elements are possible to achieve in Mercer Probation.

Currently, plans have been developed and, by the end of 2000, the automated CAPS system is supposed to be modified to have the capability to collect accounts receivable data. This will provide a wealth of essential information on how the courts are pursuing the accounts, what problems are being encountered and which efforts need to be undertaken, on all levels, to enhance collections. Local funding support to provide additional resources, possibly developing new initiatives to address legislation which has created mandatory collections to be imposed at sentencing, along with continuing commitment by the courts and other allied agencies, are factors, in combination with others, which will contribute to Mercer Probation achieving our collections goals.

In this collections process, the cost of not effectively monitoring and enforcing court orders is often overlooked. As Chief Justice Frank X. Gordon of the Arizona Supreme Court has said, "a fine uncollected is a lesson in accountability untaught."¹ Enforcing court orders will likely result in lower reoffending rates. It may well be a wise investment to spend additional resources to manage court collections effectively throughout the entire system, which will ultimately produce the outcome of requiring fewer broadly-based increases in resources now and in the future.

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