

oppaga Progress Report

August 2004



Report No. 04-58

More Efficient Use of Probation Officers and Prioritization of Victim Restitution Needed

at a glance

When distributing restitution funds, the department does not make payments to victims a priority, as required by law.

Collection and disbursement of offender funds is incompatible with the agency's mission and detracts from probation officers' ability to meet their primary mission of supervising offenders. These responsibilities should be either transferred to the Department of Revenue or privatized.

Increased departmental efforts to identify and apprehend persons who abscond from probation supervision have slightly reduced the number of absconders; however, over 43,000 offenders remain at large.

All probation officers who serve in courts now also maintain active caseloads. While vehicles have not been provided to probation officers, the Legislature has awarded funds to defray personal vehicle costs.

Scope

This progress report is one of a series of four reports that informs the Legislature of actions taken by the Department of Corrections in response to recommendations in our 2000 Justification Review, as directed by state law.^{1, 2, 3}

Background

The mission of the Community Corrections Program is to protect the public by ensuring that offenders on probation comply with Florida law and conditions specified by the courts. At an average cost of \$4.90 per day, probation can be a cost-effective alternative to prison, which has a per inmate cost of \$47.36 per day. Currently, 2,281 probation officers supervise 151,150 offenders in Florida communities. The Legislature appropriated \$199 million to the program for the 2004-05

¹ Section 11.51(6), *F.S.*

² *Review of the Department of Corrections*, OPPAGA [Report No. 00-23](#), December 2000.

³ *Corrections Education and Rehabilitative Programs Significantly Reduced*, OPPAGA [Report No. 04-59](#); *Corrections Program Still Challenged by Inmate Idleness, Prison Planning, and Fleet Maintenance*, OPPAGA [Report No. 04-60](#); *Inmate Health Care Consolidation Progressing; Privatization Requires Agency Vigilance*, OPPAGA [Report No. 04-61](#).

fiscal year, which is 9% of the department's budget.

Offenders can be sentenced to five major types of community supervision.

- Pretrial intervention – requires first-time offenders who committed nonviolent crimes to submit to the terms of their probation in exchange for not being formally charged for their crimes.
- Probation – requires offenders to accept supervision by the department and pay for the costs of this supervision, as well as court costs and victim restitution. Offenders also may be required to participate in a treatment program tailored to their individual needs.
- Community control – requires offenders to submit to a form of house arrest that may include electronic monitoring.
- Drug offender probation – requires an offender to accept intensive supervision, individualized treatment plans, and random drug testing.
- Parole – requires offenders who served time in prison for crimes committed prior to 1983 to be supervised by the department under terms set forth by the Florida Parole Commission.

Current Status

Victim restitution is not given priority

As a condition of their probation, offenders pay court and supervision costs as well as victim restitution. Section 948.09(7), *Florida Statutes*, states that victim restitution payments authorized under s. 948.03(1)(e), *Florida Statutes*, take precedence over all other court-ordered payments. Restitution to victims is particularly important because crime victims often experience severe financial and emotional difficulties resulting from the crimes committed against them. Restitution funds not only enable victims to address unmet needs resulting from the crime, but provide a tool to help them regain control over their lives.

Our 2000 report noted that contrary to law, the department used a pro-rata distribution system that did not favor the victim over the other court-ordered obligations. The department justified this action on the basis of several statutes that did not appear to override the obligation to pay victims first.⁴ Both the Auditor General and OPPAGA have recommended the agency seek legislative clarification on this issue.⁵

The department has not implemented our recommendation. We continue to believe that prioritization of restitution payments is an important issue and that the department should pay victims first or obtain clarification from the Legislature.

Collections and disbursements detract from public safety and are incompatible with the agency mission

As chronicled in our 2000 review, the Department of Corrections has had long-standing problems collecting and disbursing the \$94 million it receives each year from offenders required to pay victim restitution and court and supervision costs. Problems included the failure to prioritize victim restitution, using probation officers as fiscal clerks to process payments which detracts from their ability to supervise probationers, and lapses in the financial management of the funds. We recommended that the Legislature transfer responsibility for collection and disbursement of offender monies to the Department of Revenue.

⁴ Section 895.09(1), *F.S.*, which pertains to forfeiture proceedings; s. 921.187(3), *F.S.*, which specifies that the court can make a decision not to order restitution and that payment of restitution does not diminish the requirement that the court order payment to the Crimes Compensation Trust Fund; s. 946.002(2)(c), *F.S.*, which pertains to payment for lodging, etc.; ss. 946.512 and 946.513(1), *F.S.*, which pertain to inmates who perform labor for which they are paid; s. 775.089, *F.S.*, which defines restitution and the court's authority to impose it.

⁵ See the Auditor General's report entitled *Operational Audit of the Florida Department of Corrections*, Report No. 13262, June 1998, pp. 33-34.

This recommendation has not been implemented, although some improvements have been made. The department has hired intake staff that enter the initial sentencing and financial information into the computer. Account tracking and reconciliation, however, continue to fall to the probation officers. Using highly skilled probation officers as fiscal clerks is an inappropriate use of their time and keeps them behind their desks instead of in the community supervising offenders.

We continue to believe collections and disbursements detract from public safety and are incompatible with the agency mission. Two viable options would be for the Legislature to consider transferring this function to the Department of Revenue or for the Department of Corrections to privatize these activities, as it has done with inmate banking, canteens, and food service. The Department of Corrections should consult with the Department of Revenue on these options.

Increased apprehension efforts have slightly reduced the number of absconders

While most persons sentenced to probation comply with court requirements, a large number abscond from supervision. On average, about 16,000 probationers abscond from supervision each year, while another 16,000 are recaptured. Absconders can commit a variety of serious felonies and can pose a danger to citizens. The department relies on local law enforcement officers to pursue and pick up absconders. As first responders, local law enforcement agencies often have other, higher priorities.

To locate absconders, department employees follow specific procedures when offenders initially abscond. Officers check the offender's last address, interview friends and family, and check with the offender's employer. When officers are unable to locate offenders, they

write a violation of probation report and submit it to the judge. The judge then signs a warrant for the absconder's arrest and the county sheriff enters the warrant into a database. This information notifies law enforcement officers that the person has absconded from probation, should the offender be stopped for some other reason, such as a traffic violation.

In our 2000 review, we recommended that the department better target its efforts to apprehend probationers that flee supervision. Specifically, we recommended the agency develop a website with absconders' pictures, partner with local law enforcement agencies to apprehend absconders, and focus efforts on finding absconders who pose the greatest threat to public safety.

The department has implemented all of our recommendations, and these actions have helped to reduce the number of absconders. The department has posted absconder pictures on its website, assigned a risk level for each absconder so that staff know where to best target their efforts, and has established partnership agreements with 35 of the state's 67 county sheriff offices and 64 of the 288 local police departments.⁶ The department also has created an absconder apprehension unit with four positions within its central office. Staff from this unit process e-mail and telephone hotline tips, as well as information received from other law enforcement agencies. This information is used to alert local law enforcement when an absconder has been seen in its jurisdiction. Local law enforcement agencies have apprehended and arrested 322 absconders based on alerts from the department's absconder unit since its inception in 2001. Overall, as of June 30, 2003, there were 43,923 absconders at large, which was a 10% reduction from the number that existed at the time of our 2000 report.

⁶ These partnerships are not limited to apprehending absconders, but include other mutual activities, such as monitoring sex offenders.

All probation officers working in the courtroom now have caseloads

Our previous report indicated that the department was incurring higher costs than necessary by using sworn probation officers to work full time in the courtroom. These staff did not have functions which required law enforcement training. Unlike probation officers who visit an offender's home and place of employment, court officers were rarely exposed to offenders outside the courtroom setting and were protected in their duties by armed bailiffs assigned to the courtroom. We concluded this job could be performed by civilians, which would save \$350,000 annually in pension costs and avoid \$1 million in training costs.

The Legislature has realized these savings by eliminating the court officer positions. The department now assigns probation officers to stints in the courtroom to accommodate judges and state attorneys who wish to access probation officers' information and experience during trials and sentencing. Probation officers rotate into the court room on a recurring basis and all are required to maintain caseloads.

Vehicles have not been provided to probation officers, but the Legislature awarded funds to defray vehicle costs

Our previous review identified 35 employees who drove their cars above the level at which it becomes cost-effective to provide state vehicles rather than reimbursing them for mileage. We determined the agency would save \$31,257 annually if these employees were assigned state vehicles. The department has not assigned vehicles to these staff as it determined that they do not meet other agency criteria for job functions that qualify for supplied vehicles.⁷ To address the issue that many probation officers drive their personal vehicles extensively, the 2004 Legislature made a onetime lump sum appropriation to help officers defray vehicle expenses. This appropriation was for \$1,610,435, or \$1,200 per field probation officer.

⁷ See *Corrections Program Still Challenged by Inmate Idleness, Prison Planning, and Fleet Maintenance*, OPPAGA Report No. 04-60.

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