



OFFICE OF THE SECRETARY

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Criminal Justice Task Force on Offender Court Costs and Collections
Virtual meeting
Tuesday, December 14, 2021 at 10:00 AM

Attendees:

1. Rep. Robin Lundstrum
2. Sen. Clarke Tucker
3. Sen. Bob Ballinger
4. Ms. Lorie Mason Jordan
5. Ms. Ateca Foreman
6. Sheriff John Montgomery
7. Mr. Benny Magness
8. Judge Hamilton Singleton
9. Circuit Clerk Debbie Wise
10. Mr. Rick Stallings
11. Ms. Robin White
12. Ms. Lori Kumpuris (for Bob McMahan)

Guests:

1. Lindsay Wallace
2. Melissa Rangel
3. Shari Gray

Members Absent:

1. Rep. Keith Slape
2. Judge Tommy Fowler
3. Ms. Kristin Clark
4. Ms. Elizabeth Taylor

I. Call to Order by Rep. Lundstrum

While waiting on a quorum, Rep. Lundstrum asked to go out of order on the agenda. Senator Tucker was asked to provide a report from his Subcommittee meeting.

II. Subcommittee's report / Senator Clarke Tucker

The subcommittee met yesterday and set a second meeting. The committee spoke to Charlie Collins yesterday and Robin White is working on compiling DOC's list of fines which will be completed later this week. Kristin Clark's list is already put together. Rep. Lundstrum received a letter from the Supreme Court that she will send to the group that provides us with some information on what the Governor's office needs.

Rep. Lundstrum recognized that a quorum was present upon conclusion of Sen. Tucker's report. Lori Kumpuris is joining the meeting on behalf of Bob McMahan.

III. Approval of Minutes / September and October minutes

A motion to adopt the September minutes was made by Sheriff John Montgomery. The motion was seconded by Debbie Wise. The minutes were approved.

A motion to adopt the October minutes was made by Debbie Wise. The motion was seconded by Sen. Clarke Tucker. The minutes were approved.

IV. Association of Counties / Ms. Debbie Wise

Ms. Debbie Wise began by sharing that a meeting was held with other clerks to discuss how the collection process operates for fines, fees, costs, restitution, etc. Generally, the process begins when sentencing order is entered. Restitution collection may differ from the collection of fines, fees, and costs because amounts can widely vary. There is a system of collection that is used (Tracy Smith) that was designed so that the process involves the clerks. In this system, reports are given to circuit judges, prosecuting attorneys, probation/parole officers, defendant's attorneys, etc. Reports show payments received and checks written to victims, even in instances in which defendants may have more than one case. Everything is audited by legislative audit. This is something Sheriff Montgomery has talked about because they are able to do tax interceptions. The clerks also discussed issues when defendants must go to more than one place to make payments. Since the courts can only collect on certain things, the sheriffs' office will collect on Public Defender fees, drug court fees, and DNA fees. There also may be probation supervision fees that need to be collected separately. Sometimes this can be confusing because offenders have multiple places to pay and may not know where to pay them.

Sheriff Montgomery believes one place to pay would be more efficient and that the sheriff's office is good option. There is not currently a way for the clerks to know whether defendant has been incarcerated and this has been a problem for the clerks have faced when trying to determine what is owed by who and where it is owed. Additionally, Sherriff Montgomery noted that fees can differ throughout the state. An example was provided that in Ms. Wise's county, the previous judge felt that the laws on fees were unconstitutional and frequently waived them whereas their new judge wants the fees assessed.

Everyone agreed that restitution should be paid first, prior to fees to the state, counties, etc. Ms. Wise noted that the clerk will explain to an offender what they have to pay and where they have to pay it, but there are often discussions with offenders over their ability to pay. Most offenders are ordered to pay \$100/month. If this is not possible for them, the clerks will instruct them to pay whatever they are able to. The biggest concern amongst the clerks is that since they are the recorder too, they are very busy. It was mentioned that the clerks feel as though they've become a collection agency. They need more technology and access to all of the information needed related to collection to do a thorough job. In many cases, there is often information that is missing or inaccurate. Sentencing orders frequently have incorrect victim information and collection numbers. Ms. Wise said that the clerks want to stay involved in whatever process we ultimately set up.

Rep. Lundstrum asked how many clerks are still using paper, to which Ms. Wise replied that she does not think many still do. Most of the clerks have been using the Tracy Smith system, and most have some sort of technology/program they are using. But these programs/systems are all standalone to each county and they cannot access each other's information. All of the programs are very similar regardless of what the counties use, but an issue that is present is that not every county has an IT department/person.

Sheriff Montgomery restated the idea that we could perhaps move to create a master database so each county could maintain the program they are using and upload their information into one system. Data could be uploaded every day and everyone could access it -- he is not in favor of each county using a different system.

It was noted that Rep. Lundstrum was having connectivity issues, so Sen. Tucker is going to chair the remainder of the meeting.

Sheriff Montgomery continued that he feels as though there is a general idea that offenders cannot afford to pay fines, fees, etc., and he believes that there more offenders that can afford to pay than those who cannot. He continued saying that in his county, it is likely that every sentencing order indicates that

offenders are ordered to pay \$100/month, and we are setting them up for failure by only providing one option for payment. If you work with them, like Ms. Wise said, they will be able to pay. He provided insight into the practices of Baxter County. Baxter County collects payments weekly, and though payments may be less than \$100, they still are receiving some payment amount every week. The county has seen efficiency in their practices, such as utilizing these weekly payments and garnishing state income taxes, and have had less people who are past due on payments. If we can hold offenders accountable to make their payments while working with their situation, we will be able to get this resolved.

Ms. Wise shared something they do in her district that has been very helpful. Once a defendant pleads out, they are required to sign an order to come back every six (6) months to determine if they are still making payments. If they are, the offender can leave. If not, they must see the circuit judge.

Sen. Tucker asked how we can implement best-practices across the state and said that he would like to have uniformity where possible. Sheriff Montgomery said part of the issue is that judge's courtrooms operate differently throughout the state, and that seeking uniformity where possible ultimately goes back to creating a statewide database.

Mr. Magness asked who makes the decision as to who collects the fines, fees, etc. The quorum court votes who collects fines and fees, whilst some collection responsibilities are set by law. Ms. Wise informed the group that she signs off on a specific form when an offender pays off everything at her office. It was then asked if there is there any other county where the circuit court fines and fees are split between two different agencies to complete the collection. Ms. Wise said that the clerks she met with have the same set up that her county does. Sheriff Montgomery said that he thought other counties have one entity collecting.

Sen. Tucker asked if there may be an advantage to the state passing a law to create uniformity in collection. He is hesitant to do that because he doesn't want to be too heavy handed. He believes we may have grounds to create a bill, but he is just not sure where it would fit amongst accommodating everyone. The associations would need to be involved to make sure everything fits their needs and practices. Rep. Lundstrum would like us to mirror what is working and utilize something we could replicate.

Ms. Wise thinks legislation for uniformity this would be a good thing and agrees that the uniformity would be a big help to clerk's duties. Sheriff Montgomery disagreed and said that he likes the idea of uniformity but does not believe that the legislature should dictate specifically who should be responsible for collection. Sheriff Montgomery gave the example of in one county, the sheriff's office was having problems with maintaining collection which led to their collection authority being taken away by the quorum court and given to the clerk.

Sheriff Montgomery continued that he is in favor of a state-wide database so that anyone, for example probation and parole, can access that database and look the information up. Sheriff Montgomery suggested an example of a person being released from parole but still owing thousands of dollars in restitution. He thinks this database would be a great solution to issues like this and noted that in Baxter County, all the different agencies have access to the data on collections. Mr. Magness commented that it should not be the case that someone is released on parole while they still owe fines, fees, restitution, and that it must be made easier for an officer to get more information on the fines, fees, and restitution one of their parolees owes.

Sen. Tucker asked about the possibility of DFA overseeing collection if the only thing that is left to be collected is restitution, fines, or fees, an offender's supervision ends, etc. He believes this may be an option since they are set up to operate collection processes already and asked what the committees' thoughts were on this.

- Sheriff Montgomery opposed this idea. He feels that the sheriff's office already does a great job and are aggressive at collection because they answer to the county. He added that in his tenure, he's paid out 3.5 million in restitution.
- Mr. Magness disagreed as well. He said that probation and parole only collect fees for supervision and does not believe that DFA should get involved in this process. Probation and parole require offenders to demonstrate their ability or inability to pay, and DOC is adamant about not sending folks back strictly for failure to pay fees. For those that do demonstrate their inability to pay, probation and parole can waive their supervision fees.

Sheriff Montgomery said he would like for the committee or legislature to make it easier to uphold the responsibility that defendants have to pay what they owe. He said he would like for it to be easier to get a warrant if an individual does not pay. He feels we have proven the last 2 years the more we hold these people accountable, the more likely it is they will pay.

Rep. Lundstrum asked if we can get a list of all the counties and what method they employ to collect money. Ms. Wise said the Association of Counties should be able to provide the information. Sheriff Montgomery said legislative audit should be able to ask the counties what method they use.

V. Letter update

Ms. Kristin Clark was not available to give an update on the letter for COVID funds. Rep. Lundstrum said she would e-mail the committee back to alert them what she found out.

VI. Other business

There was no other business of the committee

VII. Next Meeting Date

Staff will send out information on the next meeting date.

VIII. Adjournment

The meeting was adjourned.