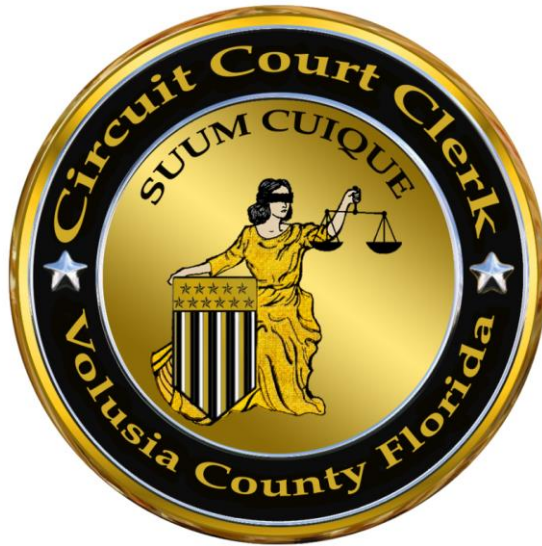


WHY CRIME DOESN'T PAY: EXAMINING FELONY COLLECTIONS



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WHY CRIME DOESN'T PAY: EXAMINING FELONY COLLECTIONS

Don Murphy

Abstract

What makes collecting in felony cases so difficult? In 2013 alone \$278 million dollars were assessed on felony cases state-wide. The collection rate for felony costs was below 14%. That left a collections gap of over \$240 million dollars in 2013. While each felony defendant may receive different sanctions, all of them are assessed fines and costs. If these costs are part of the court's sentencing sanctions, what prevents them from being satisfied? What can be done to improve things? This project explored the potential for felony collections both state-wide in Florida and in the local courts of Volusia County. Research identified expectations for felony collections and asked what factors inhibit achieving a better collection rate for these cases. An analysis was then performed to identify the types of investments that should be made by the courts to gain a better collection rate for the felony sanctions assessed each year in Volusia County.

The literature review initially began with the National Center for State Courts' CourTools performance measures as a means to seek best practice guidelines on the collection of court fines and fees from a national perspective. However, CourTool Measure 7 focused on misdemeanor case performance rather than felony case types. The literature review continued with a look at best practices in collections that are used in trial courts by examining collections handbooks published by the National Center for State. The project also examined the experiences of four specific state trial courts in Texas, Michigan, Arizona, and California to understand techniques

used in these jurisdictions to collect criminal fines and costs. Finally, Florida legislation was analyzed that defines the obligations of court collections.

In addition to the literature review, surveys were conducted with collectors in Clerk's offices across Florida to better understand how collections are performed. Court collections experts were surveyed separately to gain insight from long standing collection practitioners concerning their opinions on the challenges and opportunities to improve collections in felony cases. Annual statistics were reviewed from the state mandated Assessments and Collections Report and a five year statistical review was conducted of Volusia County felony cases to explore the characteristics that make collections difficult to obtain, including prison sanctions, defendants who lack the means to pay, and the high dollar assessments required in drug trafficking cases.

Literature suggested and results in both surveys supported the finding that felony collections are especially difficult. Two separate data reviews confirmed the depth of the challenge and potential causes that inhibit felony collections. According to the collector's survey, prison sentences contribute to collections difficulties. The Volusia report indicated that over 35% of felony defendants sentenced in Volusia County went to prison over the past five years. Defendants not in prison also faced difficulties paying. Over 70% of all felony defendants were declared indigent by federal guidelines, which determines a defendant's ability to pay costs. Collections were also inhibited by the very large assessments assigned to drug trafficking cases; in Volusia County over the past five years, 1% of all defendants sentenced were for drug trafficking offenses. This accounts for up to 62% of all outstanding felony debt.

The Florida Department of Corrections (DOC), is involved with 93% of all sentenced felons. Survey results and an interview with DOC suggested that dialogue between collectors and DOC is limited. DOC staffing constraints require focus primarily towards additional criminal behavior and victim protection, leaving limited time to work with felony payment obligations, and in many cases, defendants' cases are closed with payments due.

Felony cases received longer prison sanctions, carried larger fines and costs, and the costs were assessed against defendants with limited abilities to pay. Felony collections have definite challenges that require different types of attention. Working these cases the same as other collections cases will continue to produce unsatisfactory results. Knowing what it takes to collect felony assessments requires an improved focus on factors that inhibit collections from the organizations involved.

Legislators require assessment and collection results each year in Florida; these numbers demonstrate a sizeable collections gap. By including factors that inhibit collections in state reporting, reviewers see the challenges associated with collections efforts. Clerks recently introduced these collection inhibitors to the current Assessment and Collections Report to better reflect these factors.

Felony cases carry longer sanctions. Adjusting felony collection timelines beyond 12 months would more properly demonstrate efforts made on cases over a period of three years once defendants are released from prison. While in prison, Florida should consider requiring defendants to pay court sanctions. Collections practices in Michigan and Texas confirmed that this process can work and that paying while in prison acknowledges the sanction ordered by the court. It is necessary to orient all court participants towards a program where felony collections

become a priority to ultimately improve collections received. Educating participants about the causes will contribute to the solution. Crime can pay in these cases – but it is necessary to take time to properly educate participants about the nuances of felony collections as well as a collaborative approach to felony collections with all justice partners contributing towards the solution.

Introduction

Every felony sentence is assigned court fines and costs. Yet, defendants do not routinely pay the costs ordered in their felony sentences. For every fine and cost dollar ordered by the judges in Volusia County, Florida only ten cents is collected. During the 2013 fiscal year, nearly \$4.5 million dollars were ordered to be paid in felony cases - only \$450,000 was collected. In the State of Florida, nearly \$278 million dollars were assessed during the same time period; less than 14% was collected. Fines in felony cases are assessed identically to other criminal cases; however, there are a number of aspects that are unique to felony collections. The application of traditional criminal collection methods to felony cases continues to produce diminished returns despite vigilant efforts by the courts' collections units.

The goal of this project is to assess options to reprioritize felony assessments so that they continue to remain a powerful sanction to punish and deter felony behavior but do not exceed collectible amounts. This report examines the contributing factors which make collection of felony fines and costs significantly lower than collections for all other case types. What are the inhibiting factors that limit felony cases from achieving a better collections rate? This project seeks to discover the potential for felony assessment collections in both the state of Florida and in Volusia County through the identification of successful collections strategies from state courts across the country.

There are several potential reasons that account for a defendant's failure to pay fines and costs. They include a defendant's ability to pay, length of time to pay, and the amount of fines and costs levied. In Florida, over 33,000 defendants were sentenced to prison during the reporting period July 2012 to June 2013 (Florida Department of Corrections, 2014). In Volusia

County, over one-third of all convicted defendants are incarcerated in state prison. This high volume of incarceration creates an availability hardship for purposes of retrieving payment obligations, directly impacting a defendant's ability to pay. However, availability is not the only hardship encountered by collection units.

The ability of defendants to pay felony costs based on income is also a factor – and one that ultimately impacts the length of time to pay. Federal guidelines establish boundaries to allow no cost attorney representation based on income. This same indigent or low income status restricts the amount of money that can be paid by a defendant each month towards court obligations. In Florida, the law allows collections on only 2% of a defendant's monthly income (The 2014 Florida Statutes, Section 28.246, 2014). According to the 5 Year Felony Report created by Volusia County, the average felony assessment of the 19,859 cases assessed was \$1,103 (Volusia County Clerk of Court, 2014). If the average income in Volusia County \$24,000 (United States Census Bureau, 2014), the Federal Guidelines would need to be applied to assess the defendant's ability to pay (United States Census Bureau, 2014). This means that only 2% of the defendant's total income can be applied to court fines and costs. This 2% contribution would equal \$40.00 per month eligible to pay towards the felony obligation. Based on this \$40 contribution, the average felony fine would take 27.5 months to pay. As indicated in the 5 Year Felony Report, in Volusia County, in nearly 70% of all cases the defendant was certified as indigent. This does not consider higher assessments levied in drug trafficking cases.

Another challenge is the mandatory amount of felony fines and costs that are levied in drug cases that contribute to a low felony collection rate. In 2013, 3.2 million of the 4.5 million dollars assessed in felony cases involved drug trafficking charges. Florida law requires large fine

assessments on these convictions; trafficking fines range from \$10,000 to \$525,000 per charge. There were just 162 cases sentenced to drug trafficking charges in Volusia County. This accounted for just under \$13 million dollars in felony assessments (Volusia County Clerk of Court, 2014).

While the reasons that defendants do not pay felony fines and costs are important, they are only one part of the overall picture that illustrates why felony collections are largely unpaid. Thus, this report also reviews state-wide best practices used to recover unpaid criminal debt. Opinions from respected collections experts regarding the strategies that they deem most effective to improve collections are presented. Additionally, a survey of court collections units in Clerk's offices throughout Florida identifies strategies currently used to increase collections, imparting valuable local data. This includes consideration of newly authorized debt recovery options, such as the ability to negotiate debt outstanding felony fines and costs balances. The author assesses new strategies these options offer as well as potential limitations associated with these techniques. Finally, the report identifies organizations available to provide assistance through establishment of collections best practices and collections education for court personnel.

The next section of this report provides a summary of the relevant literature regarding collection of felony fines and costs. Following the literature review, the report describes the research methods used. The report then presents the research findings, followed by conclusions and accompanying recommendations to improve felony collections in Volusia County.

Literature Review

A review of the relevant literature suggests that felony fine and cost collections differ from collections for non-felony criminal cases. To establish standards for national best practices, the report first details performance measures and recommendations compiled by the National Center for State Courts. Approaches used in the state trial courts of Texas, Michigan, California, and Arizona are then presented to illustrate the variety of collections practices followed throughout the nation. To provide local context, the literature review next examines legislation that provides the Florida Clerks of Court with authority to collect fines and costs. This legislation also assigns responsibility to Clerks to publish collection results, providing valuable insight into compliance efforts and collection strategies. Finally, a look into the challenges of collections points out the many barriers to improving collections. Within this context, the assistance of agency partners, such as the Florida Department of Corrections, proves an invaluable resource.

National Collections Standards

In 2005, the National Center for State Courts published performance measures for the courts entitled “CourTools”. As described in the CourTools website;

CourTools enables courts to collect and present evidence of success in meeting the needs and expectations of customers. Designed to demonstrate the quality of service delivery, CourTools fosters consensus on what courts should strive to achieve and their success in meeting objectives in a world of limited resources (National Center for State Courts, 2005).

CourTool 7 is a measure that pertains exclusively to the collection of monetary penalties, recommending that payments collected be tracked and distributed within specific timelines. The performance measure focuses only on misdemeanor cases. While there is no specific CourTool measure for collection of felony fines and costs, the measure may also be applied to felony cases because the court collections principles apply to all criminal court collections (National Center for State Courts, 2005).

Interest in national best practices for collections of fines and costs preceded the 2005 CourTools release. In 1995, John Matthias, Gwendolyn Lyford, and Paul Gomez tracked both the challenges experienced in collections by trial courts across the country as well as the solutions courts applied to collect fines and fees more efficiently (Matthias, Lyford, & Gomez, 1995). This work was updated in 2009 by John Matthias and Laura Klaversma to note changes that occurred in collection processing methods and technology over the past 14 years. The authors suggest that creating a fine collection atmosphere is a key component and a best practice in establishing a successful collections program (Matthias & Klaversma, 2009). While some judges and administrators may discourage the active practice of collecting money, the most important aspect of successful programs require leadership from the judge's bench to enforce follow-through on collection activities as part of fine and costs sanctions. In order to achieve progress, it is recommended that court leaders should consider creating a collection task force that establishes sound assessment and collections information, specifies collection performance goals, and reviews and encourages better collections compliance (Matthias & Klaversma, 2009).

Matthias and Klaversma (2009) go on to explain that better communication with defendants and cooperating justice agencies prior to, during, and after sentences have been rendered encourages better participation by defendants and increases the probability that fines

and costs will be satisfied. This includes conversations by attorneys prior to sentencing so that defendants are aware of potential fine and cost outcomes, and in particular, by the judge at the time of sentencing (Matthias & Klaversma, 2009). These efforts raise defendants' awareness that costs are due on the date of sentencing and if not paid at that time, that arrangements must be made with court personnel to establish payment plan arrangements to satisfy the obligation in a timely manner (Matthias & Klaversma, 2009).

Discussing why courts should collect fines and costs, the authors noted:

The attitudes of other branches of government and the general public are changing in regard to court operations and the court's role in collections, and the attitudes within the judicial branch are changing as well. Whether or not the change within courts toward an increased role in improving collections is from government pressure, increasing lack of public trust and confidence, or financial desperation, many courts have made changes in their processes and procedures to improve the collection of fines and fees (Matthias & Klaversma, 2009).

The authors further point out that:

There is increasing pressure and support for courts to be knowledgeable about their own collection practices and collection best practices, and to also modify their own practices, processes, and procedures as needed to improve collections (Matthias & Klaversma, 2009).

This resource makes it clear that effective collections practices encourage compliance with court orders while increasing revenue for the courts and providing a mechanism to monitor court performance. Matthias and Klaversma (2009) note that if the public is aware that courts do not enforce orders to pay fines and court costs by active collection orders, the public may assume that courts are not serious about enforcing other types of orders that are issued. The authors

suggest that this could have a crippling effect on the credibility of the court. The authors also observe that courts that are considered to be the most successful in collections are committed to collecting fines and fees by creating and maintaining best practice collections procedures and making sure that all parties involved - including judges, attorneys, and defendants - understand this and that it is communicated to defendants. This includes having effective sanctions in place for failure to pay or failure to appear for court ordered compliance events in addition to regularly enforcing noncompliance sanctions (Matthias & Klaversma, 2009).

Matthias and Klaversma (2009) suggest that if the basic approaches towards collections fail, additional, more aggressive measures may be applied to induce payment. These include creating a property lien against the defendant (Matthias & Klaversma, 2009). This enforcement method puts a hold on any proceeds a defendant may receive through the sale of property until the outstanding fines and costs are paid in full. Additional collection measures include garnishing wages or creating a tax intercept to satisfy the debt (Matthias & Klaversma, 2009). An intercept allows the collector to pay off the debt by intercepting any tax or lottery refund a defendant may be entitled to until the fines and costs are paid in full (Matthias & Klaversma, 2009).

State Collection Models

The state collections literature suggests several different models of collections exist among the states. Three models include: (a) deduction from inmate accounts, (b) use of performance measures, and (c) use of an enforcement program.

Deduction from inmate accounts.

Large populations of sentenced felons are sent to prison. In many cases, states wait until the defendant is released to collect fines and costs. However, there are at least two states that immediately collect from prisoners by deducting payments from inmate accounts.

Michigan.

In 2006, Michigan's state legislature gave courts the authority to collect from prisoners. The Michigan Code of Criminal Procedure 769.1L specifically states:

If a prisoner under the jurisdiction of the department of corrections has been ordered to pay any sum of money as described in section 1k and the department of corrections receives an order from the court on a form prescribed by the state court administrative office, the department of corrections shall deduct 50% of the funds received by the prisoner in a month over \$50.00 and promptly forward a payment to the court as provided in the order when the amount exceeds \$100.00, or the entire amount if the prisoner is paroled, is transferred to community programs, or is discharged on the maximum sentence (Michigan Legislature, 2014).

Organization, procedures, and form changes were created and required in trial courts across the state to implement this systematic sweep of inmate accounts (Michigan Courts, 2014).

Texas.

In 1995, the Texas courts were authorized to collect inmate funds through section 501.014 (3) of the Texas Government Code (Texas Judicial Branch, 2014). In 2006, litigation was filed to challenge the automatic withdrawal of inmate funds. In the 2009 case of Harrell v. State, the

Texas Supreme Court issued an opinion affirming the practice of withdrawing inmate funds by direct court order (Texas Court of Criminal Appeals, 2009). The reinstatement of the practice was then authorized by the court for purposes of collecting fines and costs from inmate funds. The Texas Collection Improvement Program defines a four-step process for court users to withdraw inmate funds by contacting the Texas Department of Criminal Justice and then providing the defendant with a copy of the order to withdraw funds (Texas Courts Improvement Program, 2014).

Use of performance measures: California.

The State of California adopted best practices for collections in 2008 and continually publishes results pursuant to California Penal Code 1463.010. Best practices adopted include driver's license suspension, civil judgments, and contracting with collection vendors. Performance measures are used to track a gross recovery rate. The gross recovery rate reflects each collections program's ability to satisfy past due debts using alternative sentences, community services, and discharges. An additional performance measure monitor is the success rate of recovering delinquent revenue through a collections program (Revenue and Collections-California Judicial Branch, 2014).

Use of an enforcement program: Arizona.

The trial courts in Arizona developed the Fines/Fees and Restitution Enforcement (FARE) Program to address the challenge of collections. This statewide program originated in 2003 in an effort to help Arizona courts improve the compliance rate of monetary court orders. Courts assign overdue court fines and fees to the (FARE) program for criminal and traffic offenses using established best practice collection methods. In addition, the Arizona Legislature passed legislation to support collection efforts in the courts. For example, the legislature authorized a

tax refund intercept as part of the Debt-Setoff (DSO) program (Arizona Revised Statutes 42-1122). Lottery winnings may also be intercepted under Arizona Revised Statutes. 5-575.

Registered collectors can enroll overdue debtors into the tax intercept system by providing their name, social security number, and the full amount of the debt owed. If a debt claim matches a taxpayer's refund or lottery winning, an intercept is performed and the court debt is satisfied (Arizona Judicial Branch, 2014).

Florida Legislation: Authority to Collect

There are 67 independently elected clerks in Florida, representing every county in the state. The Florida Legislature has provided each court clerk with authority to collect criminal fines and costs. Florida Statute 28.246 authorizes the use of collection agents by the courts to locate non-compliant defendants and aggressively seek repayment of overdue fines and fees. The legislature has further authorized collection agents to charge up to an additional 40% above the amount owed as a collector's fee for bringing in delinquent fines and fees:

A clerk of court shall pursue the collection of any fees, service charges, fines, court costs, and liens for the payment of attorney fees and costs pursuant to s. 938.29 which remain unpaid after 90 days by referring the account to a private attorney who is a member in good standing of The Florida Bar or collection agent who is registered and in good standing pursuant to chapter 559 (The 2014 Florida Statutes, Section 28.246, 2014).

The legislation further provides that:

The collection fee, including any reasonable attorney's fee, paid to any attorney or collection agent retained by the clerk may be added to the balance owed in an

amount not to exceed 40 percent of the amount owed at the time the account is referred to the attorney or agent for collection (The 2014 Florida Statutes, Section 28.246, 2014).

Legislation also permits the courts to take punitive action against a defendant who has not paid an outstanding fine or cost. Specifically, a defendant's license may be suspended for failure to pay fines and fees under the authority provided by Florida Statute 322.245 (5) (a):

When the department receives notice from a clerk of the court that a person licensed to operate a motor vehicle in this state under the provisions of this chapter has failed to pay financial obligations for any criminal offense other than those specified in subsection (1), in full or in part under a payment plan pursuant to s. 28.246 (4), the department shall suspend the license of the person named in the notice (Florida Legislature, 2014).

Note that Matthias and Klaversma (2009) suggest these same collection approaches, are also embraced by other states, such as California. Such enforcement measures are routinely considered to be best practices (Matthias & Klaversma, 2009).

Florida Legislation: Responsibility of Clerks

Along with the authority to collect fines and costs, court clerks are required to collect and regularly report all assessments on each sentenced charge. (The 2014 Florida Statutes, Section 28.246, 2014) They must report any assessments below the minimum cost requirement fixed by the courts. This report is known as the Assessment and Collections Report and must be submitted directly to the Florida Legislature. The report also tracks any fines or costs that are converted to community service or jail time.

To assist with this requirement, the Florida Clerks of Court Operations Corporation (FLCCOC) was established to review and certify court-related proposed budgets under the oversight of the Florida Legislature, the Governor, the Chief Financial Officer, and the Department of Revenue. Florida legislation specifically identifies clerk duties to include the “effective collection of fines, fees, service charges, and court costs” (Florida Statutes, Section 28.35 (d), 2014)

In a 2007 report, the Office of Program, Policy, Analysis and Government Accountability (OPPAGA), the analysis and auditing organization office of the Florida Legislature, suggested that the FLCCOC has an important role to play:

The Corporation (FLCCOC) should identify best practices that maximize collections. As part of its responsibility to identify deficiencies and corrective action plans when clerks fail to meet performance standards, the corporation should do an in-depth analysis to identify and recommend collection techniques that are appropriate and likely to be effective (OPPAGA, 2007).

The Florida Clerks of Court Operations Corporation worked with Clerks in Florida to create a series of best practices that promotes the effective collection of criminal fines and costs. These practices embrace the national best practice methods identified by the National Center for State Courts handbook on collections, including creating flexible payment plans, working with the judiciary and other parties involved in collections, and setting and measuring collection goals (Florida Clerks of Court Operations Corporation, 2007). To demonstrate the importance of effective collections practices, the role that the Florida Courts play in the criminal court collection process is defined and documented in the Florida Courts Strategic Plan (Judicial Branch State Courts

System Long-Range Program Plan for Fiscal Years 2013-14 through 2017-18). The vision of the plan is that “Justice will be accessible, fair, effective, responsive, and accountable” (Judicial Branch State Courts System Long-Range Program Plan for Fiscal Years 2013-14 through 2017-18). To that end, each long range issue discussed in the plan has associated goals and strategies that are identified to achieve these goals. Included among these goals is effective utilization of public resources (Judicial Branch State Courts System Long-Range Program Plan for Fiscal Years 2013-14 through 2017-18. The Florida Courts Strategic Plan also endorses the practice of collecting fees and fines in compliance with terms of probation (Florida State Courts Long Range Program Plan- FY2013). To achieve these goals, authority has been given by the legislature to Florida Clerks to collect felony fines and costs and to regularly report collection outcomes (The 2014 Florida Statutes, Section 28.246, 2014). Organizations such as the Government Revenue Collections Association (GRCA, 2015) and the Florida Clerk of Courts Corporation have been established to define collections best practices, to conduct training on collection techniques, and to enhance reporting within the local courts. In its most recent long range strategic plan, the judiciary supported the collection of fines and fees stating that “the State Courts System will utilize public resources effectively, efficiently, and in an accountable manner”. Specifically in the strategy the courts would, “augment the capacity of the judicial branch to enforce orders and judgments, including collections of fees and fines, compliance with terms of probation, and adherence to injunctions. (Florida Judicial Branch State Courts System, 2012)

Collections Challenges

Defendants can't pay - indigent assessment.

Each defendant, as provided by the Florida Statutes, has a right to representation by an attorney. If he or she can't afford one, the court then appoints the Public Defender to represent the defendant (Florida Statutes 2013-FS 29.007 (1)).

An applicant, including an applicant who is a minor or an adult tax-dependent person, is indigent if the applicant's income is equal to or below 200 percent of the then-current federal poverty guidelines prescribed for the size of the household of the applicant by the United States Department of Health and Human Services (Florida Statutes 2013-FS 27.52 (2 a)).

Not only does this determination affect a defendant's ability to secure legal services without cost, it also impacts the defendant's ability to pay for criminal fines and costs. Federal guidelines define indigence eligibility depending on household size. In the past five years in Volusia County, Florida 69% of the 24,000 felony cases that received sentences were indigent. (Volusia County Clerk of Court, 2014)

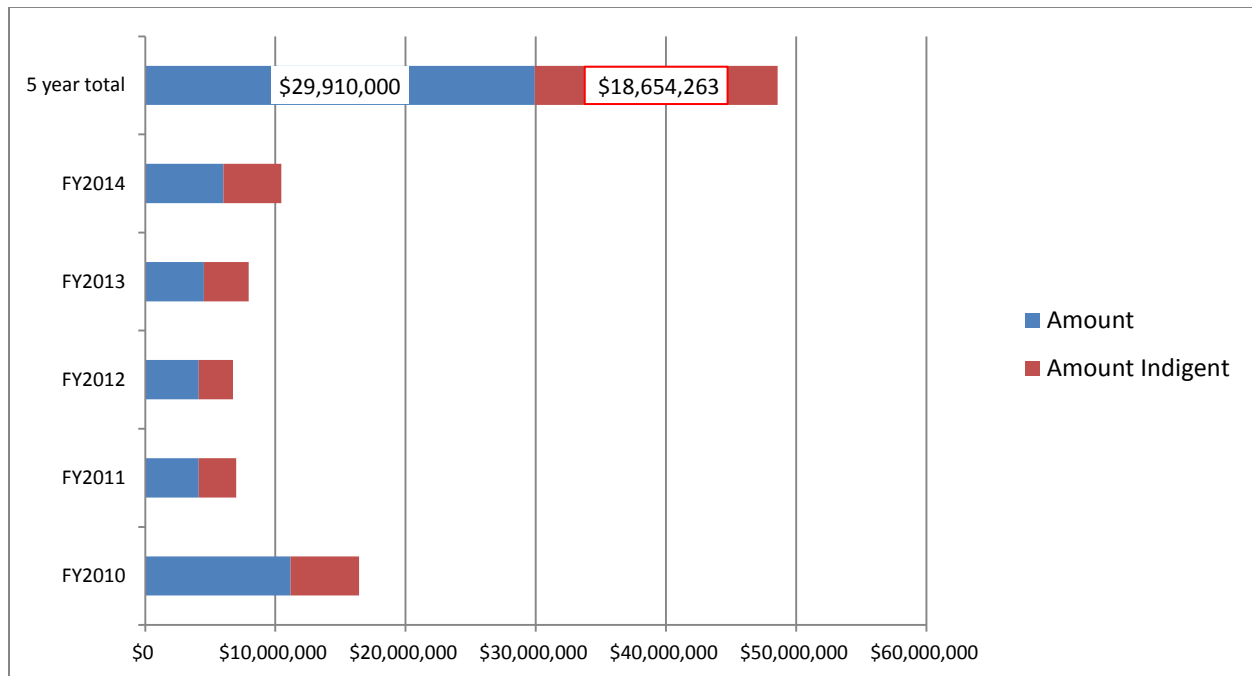


Figure 1-Fines Assessed in Indigent Felony Cases

Payment plans authorize the systematic payment of outstanding fines and costs, but under Florida Statute 28.246 (4), payments must not exceed 2% of a person’s net monthly income. Federal guidelines state that a family of four would be indigent if they made less than \$48,000 (Federal Register, Vol. 79, January 22, 2014, pp. 3593-3594, 2014). According to the United States Census Bureau, in 2012, the average annual income for Volusia County was just over \$24,000 (United States Census Bureau, 2014).

High cost of felony fines in drug trafficking cases.

In the 2013 Annual Assessments and Collections Report for Volusia County, 3.2 of the 4.5 million dollars assessed were drug costs where costs range from \$525,000 to \$10,000 per charge within a case (Volusia 5 Year Sentencing Felony Report, 2014). In Florida, per Florida Statutes section 893.135, drug trafficking cases carry a significant mandatory fine of \$10,000 per sentenced charge, up to a maximum amount of \$525,000 (The Florida Legislature, 2014). In

Volusia County, there were 162 of 21,633 cases sentenced over the 5 year review period, or less than one percent of all cases, that were sentenced to pay \$10,000 or greater in fines and costs. These cases accumulated \$13,000,000 in felony fines and costs.

State prisoners unable to pay

According to the Florida Department of Corrections (DOC) (2014), from July 1, 2012 through June 30, 2013 33,295 inmates were admitted to Florida prisons, and 33,137 inmates were released. During that same period, 88,819 offenders were admitted to community supervision, and 88,940 were released from supervision (Florida Department of Corrections, 2014). Inmates released in June 2013 served an average of 85.2% of their sentences (Florida Department of Corrections, 2014). The average state prison sentence is four years (Florida Department of Corrections, 2014). There were 21,633 cases assessed in Volusia County over the past five years (Volusia County Clerk of Court, 2014). Of those cases, 96% were either sentenced to state prison or were placed on state probation, accounting for 20,862 cases of assessed felony cases under the supervision of DOC (Volusia County Clerk of Court, 2014).

Felony Performance Measure Indicate Collection Difficulty

Collection of felony fines and fees is one of the many performance goals that Florida Clerks use to keep up with processing demands. Included in these measures are case filing and docketing timeliness. Misdemeanor cases are expected to meet a 40% collection goal while felony collections are perceived to be much more difficult and only require a 9% collection rate (Florida Clerks of Court Operations Corporation, 2007). The reporting tool used to track performance collecting on a group of assessments is defined as part of the best practices in collection performance measures (FCCC, 2007). Twenty days after each quarter ends, Clerks are required to report on the performance of the collections made for each case type (Florida Clerks

of Court Operations Corporation, 2007). The report studies a period of five consecutive quarters to determine success rate (Florida Clerks of Court Operations Corporation, 2007).

**Fiscal Year 2008-09
Collections Quarterly Report Form for CCOC**

Report for Quarter Ending: Qtr1 - December
Version #: version #1

County: Contact Person: Telephone #:
Court/Case Type: Performance Measure Standard: 9% Email:

| Control Groups | 10/01/07 - 12/31/07 | 01/01/08 - 03/31/08 | 04/01/08 - 06/30/08 | 07/01/08 - 09/30/08 | 10/01/08 - 12/31/08 | 01/01/09 - 03/31/09 | 04/01/09 - 06/30/09 | 07/01/09 - 09/30/09 | |
|------------------|--|---|------------------------------------|------------------------------------|------------------------------------|-----------------------------------|-----------------------------------|-----------------------------------|--|
| CGE Q1-09 | RPE 12/31/07 C = Cumulative Collections A = Amount Assessed - Adjusted CR = Collection Rate | Qtr 1 \$0.00 \$0.00 0.00% | Qtr 2 \$0.00 \$0.00 0.00% | Qtr 3 \$0.00 \$0.00 0.00% | Qtr 4 \$0.00 \$0.00 0.00% | Qtr 5 <input type="checkbox"/> | | | |
| CGE Q2-09 | RPE 03/31/08 C = Cumulative Collections A = Amount Assessed - Adjusted CR = Collection Rate | Qtr 1 \$0.00 \$0.00 0.00% | Qtr 2 \$0.00 \$0.00 0.00% | Qtr 3 \$0.00 \$0.00 0.00% | Qtr 4 \$0.00 \$0.00 0.00% | Qtr 5 <input type="checkbox"/> | | | |
| CGE Q3-09 | RPE 06/30/08 C = Cumulative Collections A = Amount Assessed - Adjusted CR = Collection Rate | Qtr 1 \$0.00 \$0.00 0.00% | | Qtr 2 \$0.00 \$0.00 0.00% | Qtr 3 \$0.00 \$0.00 0.00% | Qtr 4 <input type="checkbox"/> | Qtr 5 <input type="checkbox"/> | | |
| CGE Q4-09 | RPE 09/30/08 C = Cumulative Collections A = Amount Assessed - Adjusted CR = Collection Rate | Qtr 1 \$0.00 \$0.00 0.00% | | | Qtr 2 \$0.00 \$0.00 0.00% | Qtr 3 <input type="checkbox"/> | Qtr 4 <input type="checkbox"/> | Qtr 5 <input type="checkbox"/> | |
| CGE Q1-10 | RPE 12/31/08 C = Cumulative Collections A = Amount Assessed - Adjusted CR = Collection Rate | Qtr 1 \$0.00 \$0.00 0.00% | | | | Qtr 2 <input type="checkbox"/> | Qtr 3 <input type="checkbox"/> | Qtr 4 <input type="checkbox"/> | |
| CGE Q2-10 | RPE 03/31/09 C = Cumulative Collections A = Amount Assessed - Adjusted CR = Collection Rate | There are incomplete fields for this reporting quarter. If no amount has been assessed or collected for this control group for this period, enter \$0 in both amounts. If you are unable to report for this control group this quarter (N/A) check the check box in the one you are unable to report. | | | | | Qtr 1 <input type="checkbox"/> | Qtr 2 <input type="checkbox"/> | |
| CGE Q3-10 | RPE 06/30/09 C = Cumulative Collections A = Amount Assessed - Adjusted CR = Collection Rate | The missing numbers are for reporting period: 10/01/08 - 12/31/08 The missing control groups are: CGE Q1-09 CGE Q2-09 CGE Q3-09 CGE Q4-09 CGE Q1-10 | | | | | Qtr 1 <input type="checkbox"/> | Qtr 2 <input type="checkbox"/> | |
| CGE Q4-10 | RPE 09/30/09 C = Cumulative Collections A = Amount Assessed - Adjusted CR = Collection Rate | | | | | | | Qtr 1 <input type="checkbox"/> | |

Figure 2. Felony Collections Quarterly Report

This approach mirrors the National Center for State Courts' CourTool 7 which targets a group of assessment records over a period of time. This same national collection model does not recognize the collection differences that occur in felony cases in review of collection practices (NCSC, 2005).

Florida and Volusia Collections- Assessment and Collections Report

The Florida Collection and Assessments Report is a legislatively required summary of all assessments in Florida and collections for all case types. Contained within the report is Circuit criminal (felony) findings for the entire state as well as the assessment and collection figures for each of the 67 counties in Florida. By reviewing each county, a determination can be made

about where the large volume counties for assessments are and also where the better collection rates for felony cases can be found. The majority of felony assessments came from only 7 of the 67 counties in the state, consisting of just over \$143 million of the total \$280 million in assessments (Florida Court Clerks and Comptrollers, 2014).

Prison Sanction as a Collections Enforcement Tool

If follow-up notifications and collections courts do not bring an overdue fine into compliance, prison sanctions can be levied against the defendant. Much debate has occurred about the use of jail time as a sanction for unpaid fines. In a report published by the Brennan Center (2012), dissenting opinions about this practice ranged from objections to outrage. The report calls for an impact analysis of proposed and existing fees and the end to incarceration over non-willful failure to pay fines. While the report does not fully define what non-willful means, the report recognizes the need to consider what it describes as “meaningful work” as a means to contribute to the outstanding debt.

This Brennan Center (2012) report also points out that incarceration may actually lead to a higher cost to government than if other means were used to satisfy the fines and costs due. For example, in North Carolina, 564 people accumulated delinquent court fines and fees that were past due and the county jailed just under half of them for an average of four days each. The county was able to collect \$33,476 dollars but spent \$40,000 incarcerating the defendants, which resulted in an overall loss of over \$6,500 (Brennan Center for Justice, 2012).

When Less Can Become More

In Florida, the balance due for criminal debts may also be negotiated. Florida law allows Clerks to negotiate the balance of unpaid criminal assessments using authority given to Clerks by the Florida Legislature under chapter 938.30 (9):

The clerk of the court shall enforce, satisfy, compromise, settle, subordinate, release, or otherwise dispose of any debts or liens imposed and collected under this section in the same manner as prescribed in s. 938.29(3) (Florida Statutes 2013- FS 938.30 (9)).

Florida Court Effectiveness in Court Collections

In 2012, the National Center for State Courts conducted a collections survey in Florida (Raaen, Matthias, & Kim, 2012). The study was initiated by FLCCOC to demonstrate effectiveness in collections as required by the Florida Legislature. The report examined a set of core values to assess adherence to nationally recognized best practices in collections.

Table 1. Study of Collections Effectiveness in Florida

| Collections Best Practices | |
|-----------------------------------|--|
| 1 | Judicial and administrative support |
| 2 | Clear roles and lines of responsibility |
| 3 | Short time periods for compliance |
| 4 | Clear expectations for compliance |
| 5 | Establishment and adherence to procedures |
| 6 | Goals and performance monitoring |
| 7 | Immediate responses to non-compliance |
| 8 | Using a range of effective sanctions |
| 9 | Communication between clerks, judges, and other stakeholders |

The study chose 16 counties in Florida to survey best practices and collection results. Fourteen of the counties selected were considered higher volume assessment counties (Raaen, Matthias, & Kim, 2012). Two additional counties were included (Raaen, Matthias, & Kim, 2012). The participating counties in the study were Escambia, Miami-Dade, Volusia, Hillsborough, Broward, Duval, Pinellas, Lee, Orange, Brevard, Seminole, Pasco, Polk, Palm Beach, Lake and Sarasota Counties (Raaen, Matthias, & Kim, 2012).

The effectiveness study revealed that counties were engaged in collections best practices for all criminal cases. However, counties were not involved in the full range of traditional collection practices for felony cases as in other criminal cases. Few, if any, defendants made payments on the date of sentencing and were not routinely advised to do so by the Court. Most clerks indicated that greater than 50% of all felony probation cases were not fully compliant with financial obligations prior to the time probation was terminated, leaving fine and cost balances unpaid. Of those counties surveyed, over 50% indicated that payment plans were not initiated in cases under state probation supervision (Raaen, Matthias, & Kim, 2012).

Probation/Parole Department Collection Activities

As noted by the DOC (2014), the State Probation and Parole department plays an active role in monitoring the activities of all felony defendants sentenced. The DOC houses 100,445 inmates in 55 state prisons (Florida Department of Corrections, 2014). Additionally, the department actively supervises 146,000 offenders in 150 probation offices (Florida Department of Corrections, 2014). There are two primary collections actions that the DOC can use to provide assistance to the courts by collecting fines and costs during State Probation or Parole resources.

Payment as Condition of Probation or Parole

As each sentence is rendered by the court, sanctions are placed against the defendant. In each case, the minimum mandatory fine amounts are required to be assessed in Florida and reported to the Florida Legislature (Florida Statute 28.246, 2014). These fine amounts, along with all other sanctions mandated by a probation or prison sentence, are largely supervised by the DOC in Florida, or other criminal court jurisdictions nationally. But as pointed out by the

National Center for State Courts Collections Handbook (Matthias & Klaversma, 2009), some probation departments place a higher priority on nonfinancial compliance violations, such as new law violations and compliance with contact conditions, rather than focusing on compliance towards outstanding fine and fee obligations (Matthias & Klaversma, 2009).

Summary

From a national perspective, the available literature on court collections suggests that there is an expectation from both the legislature and the courts that felony assessments should be collected. Current statistics and performance measures assigned to felony collections indicate there is significant room to make improvements to provide a better return. Tools and demonstrated methods exist that enable courts to properly equip collections staff to achieve these stated collections goals.

But felony cases in particular have not been specifically scrutinized in the same way that criminal misdemeanor cases are scrutinized. CourTool 7 only addresses misdemeanors. This may be in part because felony cases result in the sentencing of a large number of defendants to prison, thus removing defendants' ability to pay. By definition, indigent felony defendants who are not in prison have less income, which reduces the chances to achieve a better collections return.

New techniques are available in Florida to work with defendants and at the same time collect fees. Much like the private sector negotiates debt for matters such as credit card balances, Florida Statutes provides the Clerks who are responsible for collections the ability to negotiate balances. The recent study of collection effectiveness in Florida expressed concern by those surveyed over negotiating a judicial order with fine and cost sanctions. (Florida Court Clerks and Comptrollers, 2014) This research examined the realistic opportunities that exist in collecting

felony fines and costs. It further probed the causes that contribute to lower collection rates with the intent of creating an educated focus on how felony collections should be measured for performance and what is realistic in the use of assessments as sanctions on these cases.

Methods

Three different methods were used to understand the current status of felony collections in the State of Florida and the local courts in Volusia County related to national best practices for felony cases: 1) surveys, 2) data collection, and 3) an interview with the Florida DOC.

Two different surveys were conducted. The first was a survey of Clerk of Court collection offices. A previous study conducted by the National Center for State Courts identified 16 county collection programs in Florida. That study uncovered the need for improvements in felony cases and factors that contributed to lower collections. With the assistance of the FLCCOC, the original participants were contacted for assistance in this focused study on felony collections. Of the sixteen original participants contacted, thirteen agreed to participate.

A second survey was developed to gain feedback from national court collection experts. Participants were selected based on past published research, referrals from collection court colleagues, and from demonstrated work in the field of court collections. Nine participants were selected and five of those participants completed the survey. Survey respondents included the National Center for State Court consultants involved in collections research, Trial Court Collection Program leaders from Texas and Michigan, and the National Government Collection Association President.

Two different reports were reviewed to gather information on the condition of assessments and collections in Florida and to assess challenges that make felony collections more difficult. The first report, entitled “Assessment & Collections,” is the State of Florida mandated data review of all assessments and collections for each of the 67 counties in Florida. The second report examined conditions in Volusia County for sentenced felony cases and collections over the past five years. An additional interview was conducted with Vaughn Petford of the Florida DOC to gain insight into the challenges and opportunities that might exist for

collections with assistance from the state agency that supervises state prisons and probation for felony cases in Florida.

Survey 1 Details– Felony Collection Practices- Clerk’s Office Experiences

An online survey was developed to better understand the difficulty that clerks face when collecting felony fines and costs. There were 13 Clerk of Court offices who agreed to participate in the survey out of the 16 original Clerk’s offices participating in the National Center for State Courts study. These same respondents represent some of the largest assessment counties in Florida that use some of the same best practice techniques identified by the National Center for State Courts.

The survey consisted of 19 questions and sought information about felony collection challenges in Florida. Of particular interest is how active a role each office played in collecting felony fines and costs. Additional questions addressed current methods used to pursue felony collections, including whether special consideration was made towards collecting from defendants serving sentences in state prison. These questions sought to determine the hardships encountered while trying to collect in felony cases based on actual experiences of collectors.

This survey was conducted to assess the extent of organization and communication employed within the local court system in an effort to collect in felony cases. Additional information was gathered to gauge collector opinions about how court practices impact felony collections. The survey also explored whether collectors used non-traditional collection means, such as those identified in the literature review, and their opinions regarding use of these techniques. Practices examined include wage garnishment, debt negotiation, and intercepts for income tax and lottery winnings. The survey was pre-tested by two collection experts in Florida.

Both participants provided positive feedback on the configuration of the questions with only minor content adjustments necessary.

Survey 2 Details- Felony Collections Practices- Expert Review

A second online survey was developed to gain the experiences of court experts and collection consultants from around the county. Respondents were chosen using recommendations from three different organizations involved with collections: (1) The Government Revenue Collections Association, (2) the National Center for State Courts, and (3) the Florida Clerk of Courts Operations Corporation. Each organization supplied names for participation and an email was generated requesting participation. Nine respondents were chosen, each with extensive backgrounds in court collections. Five of the nine experts agreed to participate.

The survey consisted of 17 questions that asked each respondent to provide their expert opinion based on experiences with felony collections. This survey sought to gain expert opinions concerning the best collections practices from courts throughout the country. The survey also explored why felony collection rates remain well below that of other court collections. Additional questions examined what the experts considered as timely and best practice techniques that should be applied when collecting felony fines and costs. The survey was pre-tested by two collection experts. Both participants provided positive feedback on the configuration of the questions without need for content adjustments.

Data Collection

Archive data from two existing sources was reviewed to determine the scope of overdue collections for felony cases in Florida and in Volusia County.

Florida and Volusia Collections- Assessment and Collections Report

The Florida Assessment and Collections Report is a legislatively required summary of all assessments in Florida for collections in all case types. The report contains Circuit criminal (felony) findings for the entire State as well as assessment and collection figures for each of Florida's counties. By reviewing the figures from each county, an assessment can be made about where the large volume counties for assessments are located and where the best collection rates for felony cases are found. The Assessment and Collections Report for 2013 is available from the FCCC website (Florida Court Clerks and Comptrollers, 2014).

The purpose of this review was to gauge the combined activity for all felony cases assessed in Florida to develop a baseline understanding of the volume of felony assessments and the results of collections efforts for these cases. The intent was to gauge the depth of the collection issue in Florida and to examine where large volumes of assessments are initiated, both to target collection opportunities and current collection results in these counties for further study. Additional analysis looked specifically at the assessment and collection figures for felony cases in Volusia County.

Five Year Sentenced Felon Review- Volusia County

Specific collection figures in Volusia were also reviewed using a report created by the Volusia Clerk of Court Information Technology Department; the report details five years of data for sentenced felons. Report parameters examined all cases, the assessments associated with those cases, whether the defendant was sentenced to prison, whether the defendant was sentenced to probation, and whether the defendant was determined indigent. The indigent case data revealed the number of cases and the monetary amount assigned to cases for defendants that

had been declared indigent; this is important data as indigent defendants are typically unable to pay.

The assessment totals listed for each case were requested to provide a total dollar amount for all cases and to show how much was assigned to each case. A case detail was also provided to examine specific cases using the Clerk's Case Management System (CCMS) to establish the frequency with which felony defendants who are assessed are also sentenced to prison. Prison and probation information was gathered to study how many cases are sentenced to prison. Individual felony case sentences were also reviewed for high dollar assessments as a result of drug trafficking sentences to assess the success of collections in these cases.

Interview- Florida Department of Corrections

Additional information was gathered through a one on one interview with the Florida DOC about felony collections. This conversation explored in greater detail the opportunities to increase felony collections. Vaughn Petford works in the DOC administration with Accounting Services, and Mr. Petford agreed to participate in the interview. Mr. Petford discussed the challenges faced by DOC with regard to supervising defendants sentenced to prison as well as those on probation. Information discussed ranged from communication issues, to difficulties in staffing probation to cover current demands, to DOC's collection priorities

Findings

Finding One: Felony Fines and Costs Are Difficult to Collect.

The expert collectors agreed that felony cases are more difficult to collect than other criminal cases. A majority of respondents, nearly 70%, rated felony collections difficult to collect.

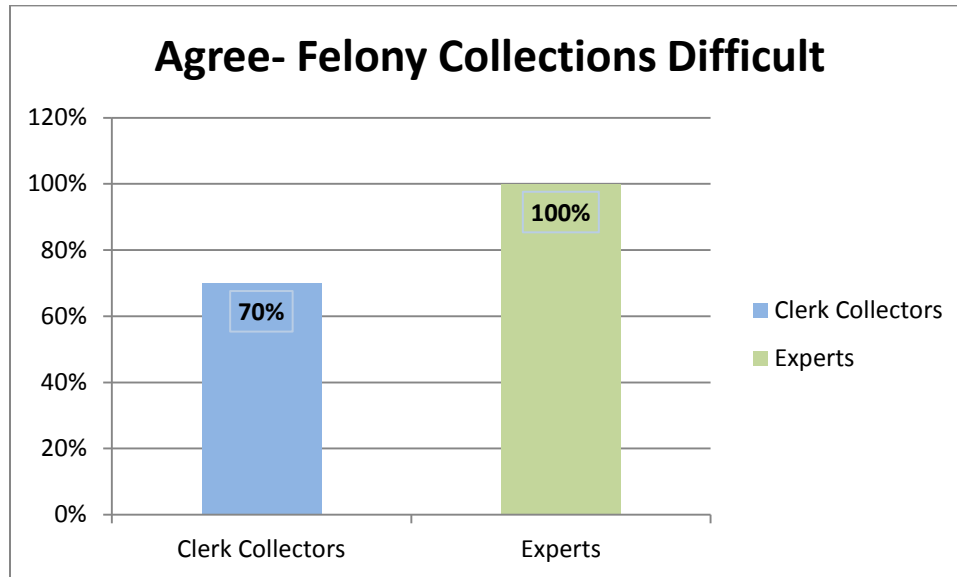


Figure 3. Difficult in Felony Collections

Each survey then explored what made felony cases more challenging. Collectors felt that prison sanction, indigent cases, and high court costs contributed to lower collection rates for felony cases.

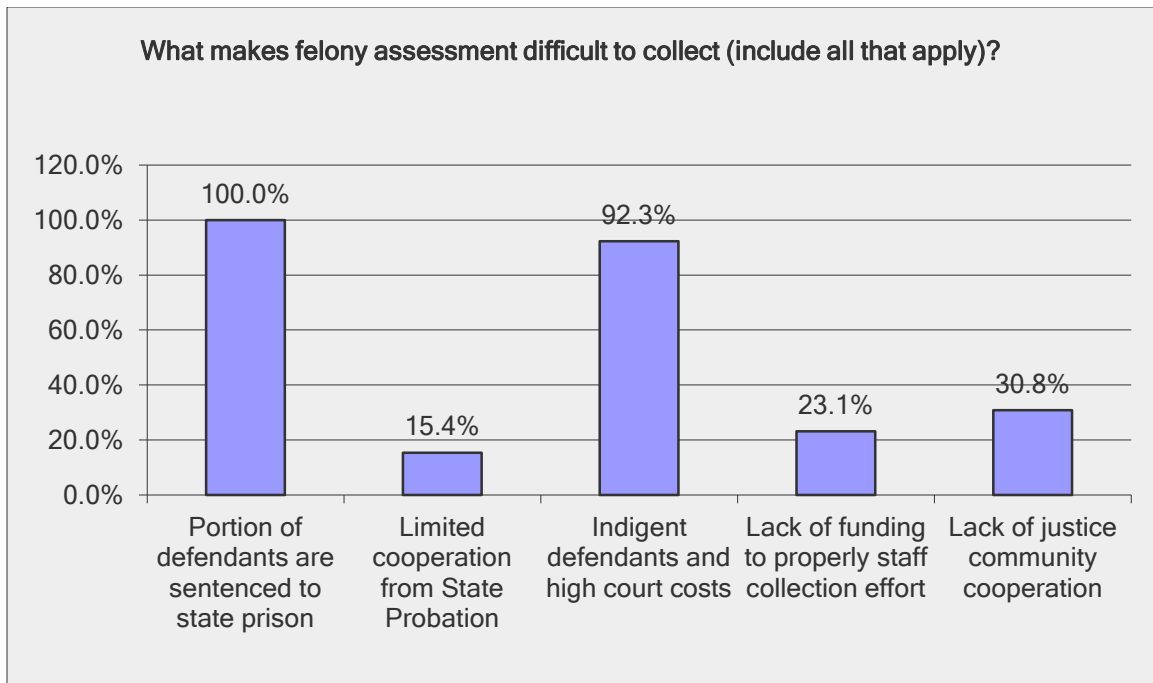


Figure 4. Reasons Felony Collections Are Difficult-Collectors' Opinions

Respondents indicated that sentencing defendants to prison was a significant cause. Ninety-two percent also indicated that defendants lacked the ability to pay.

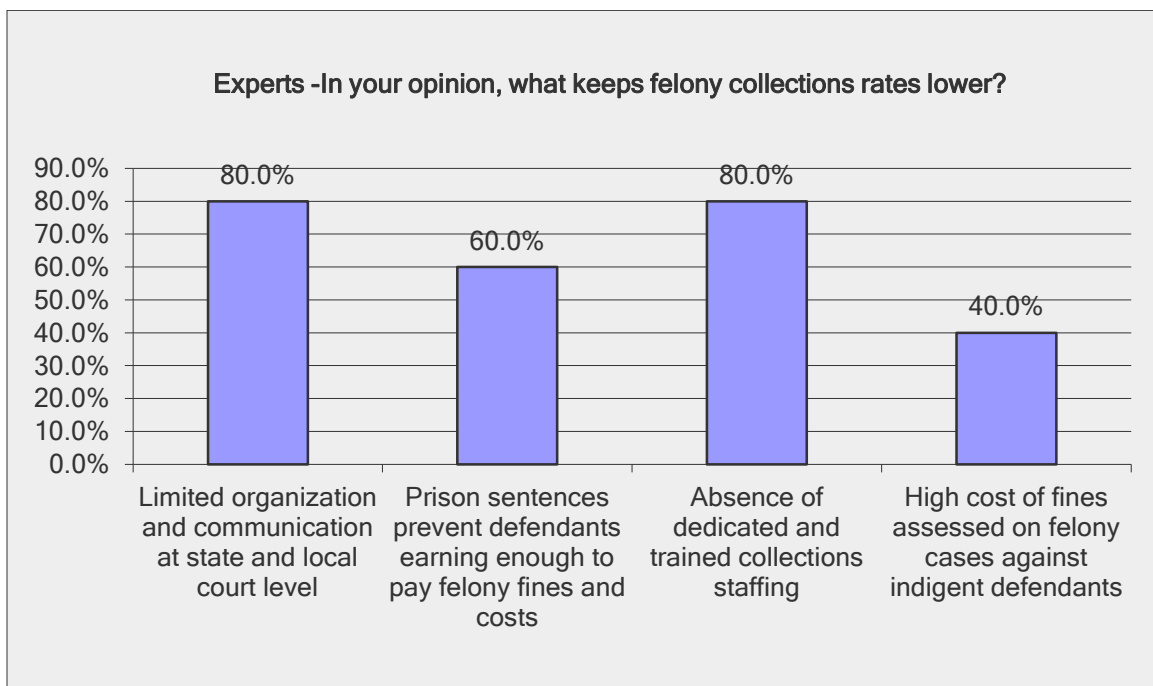


Figure 5. Reasons Felony Collections Are Difficult-Experts' Opinions

Experts were asked the same question about collections difficulty and indicated that limited organization and communication (80%), as well as lack of a dedicated collections staff (80%), were the primary reasons for lower collection rates, in addition to prison sentences (60%).

Finding Two: Collectors Surveyed Dedicate Staffing with Limited Interagency Assistance.

Clerks were also asked how many full-time dedicated employees were assigned to work on felony collections. Of those surveyed, 77% dedicate one or more full-time employees. Forty-six percent indicated that costs were seldom or never addressed as part of sentencing considerations as part of attorney negotiations, and nearly 31% were not sure.

Judges also have an impact on sanctions, including costs. Of those collectors surveyed, nearly 62% indicated that judges directed defendants to see the Clerk's office to pay their fines and also ordered a civil judgment for non-payment for those defendants who did not pay fines as ordered. The remaining 38% indicated that the Court does not address the payment of fines as part of felony sentencing.

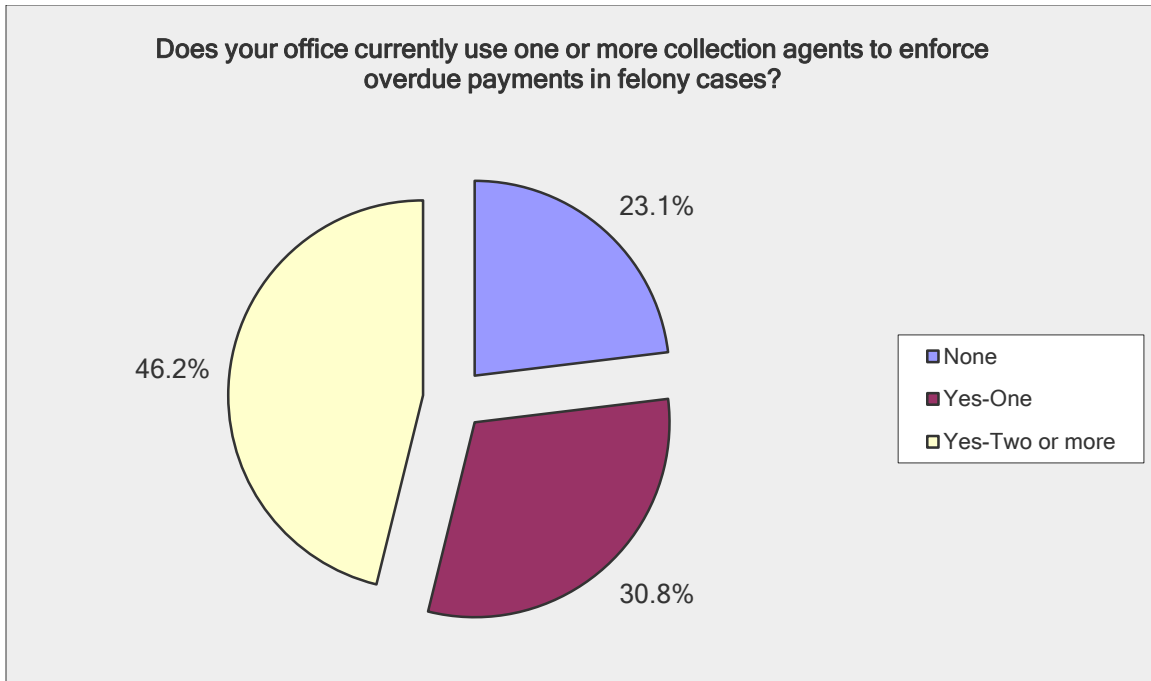


Figure 6. Staffing Resources for Felony Collections

When asked about jail time for non-payment, 69% of all those surveyed indicated that public perception was a contributing factor that prevented judges from sentencing defendants to jail for non-payment of court fines. Over 62% responded that the probation department followed up monthly with the Clerks to enforce timely payments or directed defendants to come and pay their fines to the Clerks directly. Over 23% indicated that the probation department did not assist in the collection of felony fines.

Finding Three: Best Practices Are Necessary for Collections and Are Already in Place.

One hundred percent of respondents indicated that defendants were enrolled in payment plans to monitor and enforce payments. Nearly 77% suspend driver's licenses for failure to pay. Just over 50% notify and call defendants who were late on felony payments as part of regular collection efforts.

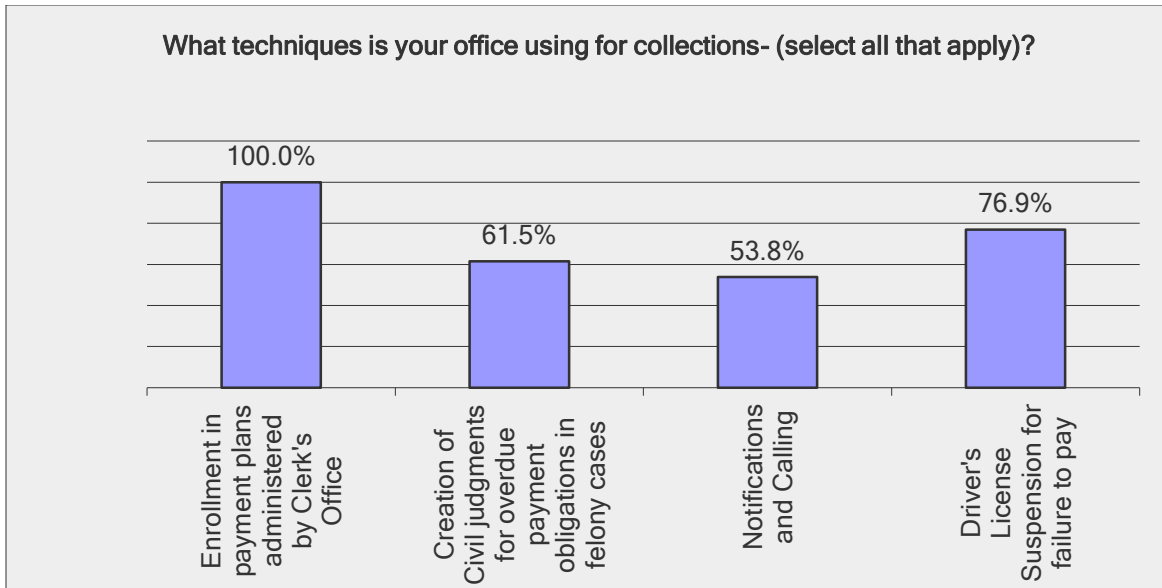


Figure 7. Collectors Best Practices in Place

Clerk collectors suggested a need for better funding for collection efforts, along with increased participation by the Court and by attorneys involved in plea negotiations in the collection of felony assessments.

What types of practices would you like to see initiated for felony assessments (select all that apply)?

Table 2. Clerk Collector Opinion on Best Practices in Felony Collections

| Answer Options | Response Percent |
|--|------------------|
| Better participation by the Court | 69.2% |
| Payment requirements included in plea negotiations | 69.2% |
| Timely cooperation for payment enforcement by State Probation | 30.8% |
| Funding for collection efforts by the Clerk | 92.3% |
| Early participation in collection process by collection agents | 23.1% |
| Payment plan enrollment at sentencing | 61.5% |
| Driver's License suspensions for failing to pay | 61.5% |

Additional Best Practice Collections Techniques Review - Clerks Survey

There are several additional collection techniques that can be used to encouraged payment compliance. These options include the use of collections agents, garnishment of wages, negotiating the balance of sentenced costs, and writing off overdue debt. Seventy-seven percent of all respondents used one or more collection agents; nearly 70% consider wage garnishments; and 85% of all respondents indicated that they would not negotiate a judicial order.

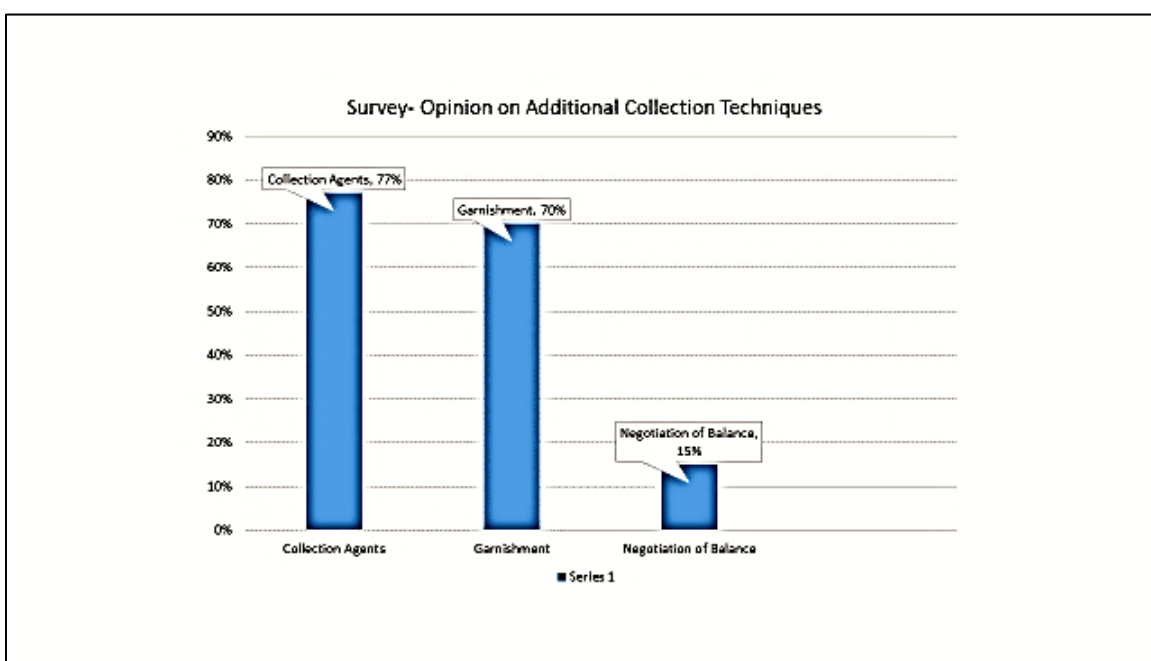


Figure 8. Collectors' Opinion' on Alternative Techniques

Finding Four: Prison Sanctions Impact the Initiation of Felony Collections.

Clerks were then asked about the time frames in which they pursued collection activities. Fifty-four percent indicated that they began collecting on felony cases at the point the defendant was sentenced. Another 39% indicated collection efforts started between one and six months

after sentencing, accounting for 93% of all respondents. When asked the same question, experts unanimously indicated that collections should begin immediately.

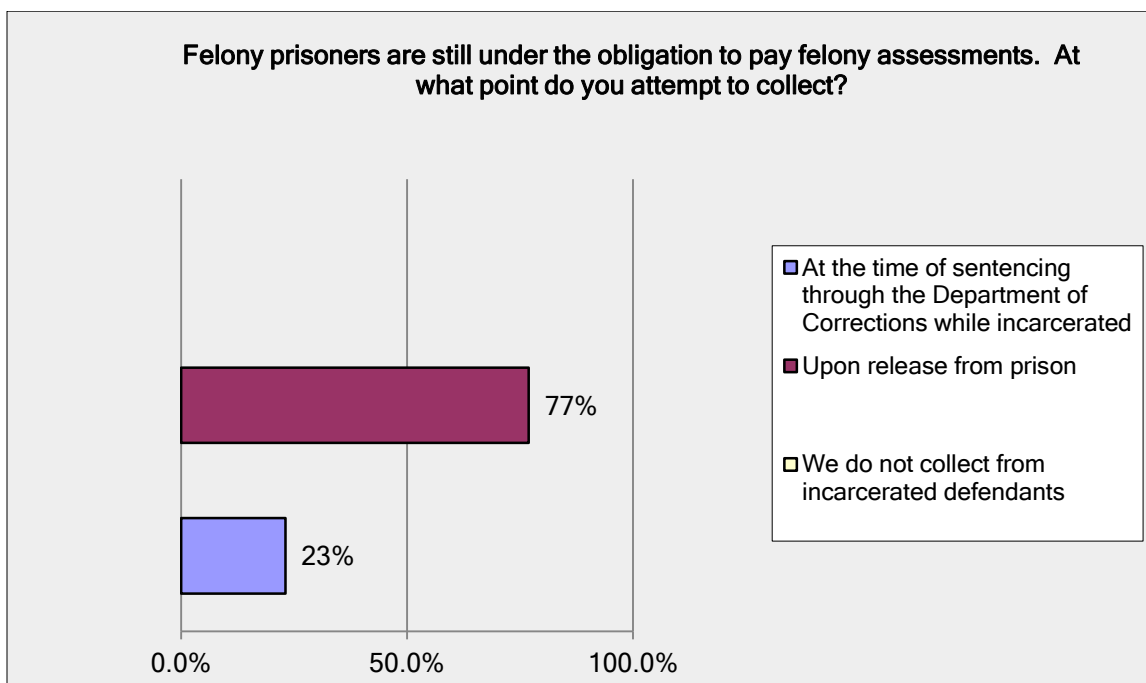


Figure 9. Actual Collection Timeframe from Prison Cases

However, when asked about when they should pursue collections from defendants sentenced to prison, the majority of clerk respondents (77%) indicated they wait until the defendant is released from prison.

Finding Five: Collections Report Confirms a Low State-Wide Collection Rate for Felonies.

The State of Florida Assessments and Collections Report submitted for cases reported during October 1, 2012 to September 30, 2013 for all 67 counties in Florida assessed nearly 278 million dollars. The report indicates a collections rate of just 13.65%, or 38 million dollars.

Finding Six: The Majority of Assessments Are Concentrated in Only a Few Counties in Florida.

While all 67 counties assessed felony fines, the majority of assessments were made in just ten of those counties. Those ten counties assessed 173 million of the 278 million dollars

state-wide. This accounts for just over 62% of all felony assessments in Florida from only 15% of the counties that collect felony debt state-wide.

Table 3. Collections from Ten Counties Compared to Entire State

| Rank | County | Total Felony Assessments | Total Felony Collected | Collections Rate |
|---------|-----------------------|--------------------------|------------------------|------------------|
| 1 | Hillsborough | \$56,389,320 | \$1,802,005 | 3.20% |
| 2 | Pinellas | \$15,980,277 | \$1,630,115 | 10.20% |
| 3 | Miami-Dade | \$14,719,133 | \$2,983,548 | 20.27% |
| 4 | Broward | \$18,122,505 | \$3,101,431 | 17.11% |
| 5 | Duval | \$13,003,990 | \$550,058 | 4.23% |
| 6 | Orange | \$13,800,226 | \$2,775,072 | 20.11% |
| 7 | Palm Beach | \$11,233,134 | \$1,143,542 | 10.18% |
| 8 | Marion | \$11,081,185 | \$1,829,590 | 16.51% |
| 9 | Osceola | \$10,780,293 | \$1,406,032 | 13.04% |
| 10 | Escambia | \$7,938,951 | \$858,421 | 10.81% |
| | | | | |
| Florida | Top 10 Totals | \$173,049,014 | \$18,079,814 | 10.45% |
| | State-Wide All | \$277,898,533 | \$37,926,768 | 13.65% |

Finding Seven: Volusia Report Outcomes Consistent with Opinions of Experts and Collectors.

The Volusia County Five Year sentenced felon report was created to measure the number of cases and dollars assessed against felony cases over the past five years. A state reporting year begins on July 1 and ends on June 30. The report looked at years beginning with July 1 of 2009 and ending on June 30 of 2014. During the five year period studied, \$29,910,000 of assessments were ordered paid on Volusia County felony cases. These cases were reviewed to discover how many cases were sent to prison, how many were put on supervised probation, and in some cases, how many were sentenced to both prison and probation.

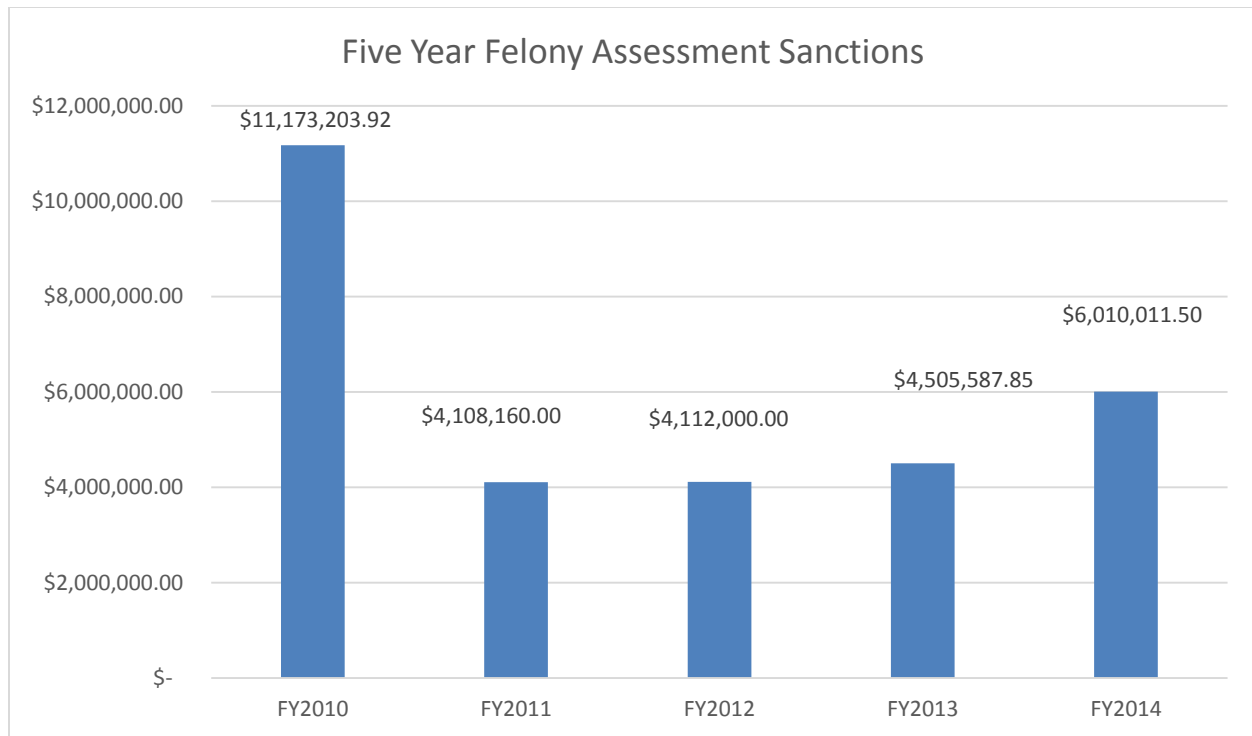


Figure 10. Five Year Volusia Felony Assessment Totals

There were 21,633 cases assessed. Of those cases, 96% were either sentenced to prison or were placed on probation for a total of 20,862 cases. Prison sentences accounted for 36% of all cases that received a felony sentence over the past five years.

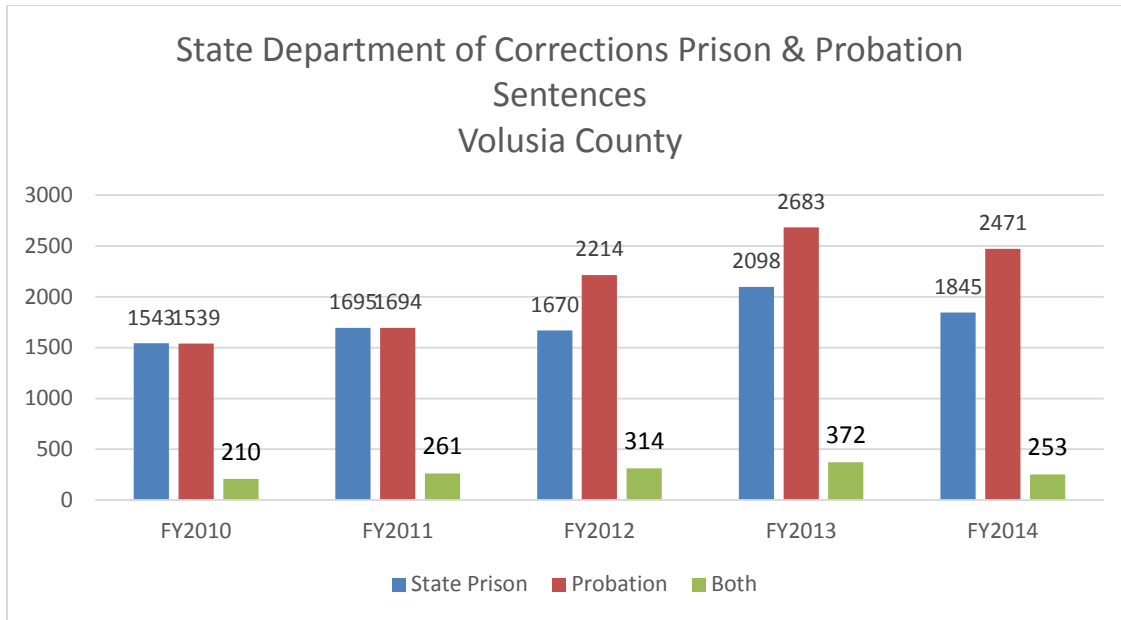


Figure 11. Department of Corrections Involvement in Volusia Felony Cases

Indigent status on each sentenced case was identified to further verify if the defendant had the ability to pay fines assessed within a 12 month period based on income. Of those felony cases assessed, \$18,654,263 out of \$29,910,000 of the fines were levied against indigent defendants.

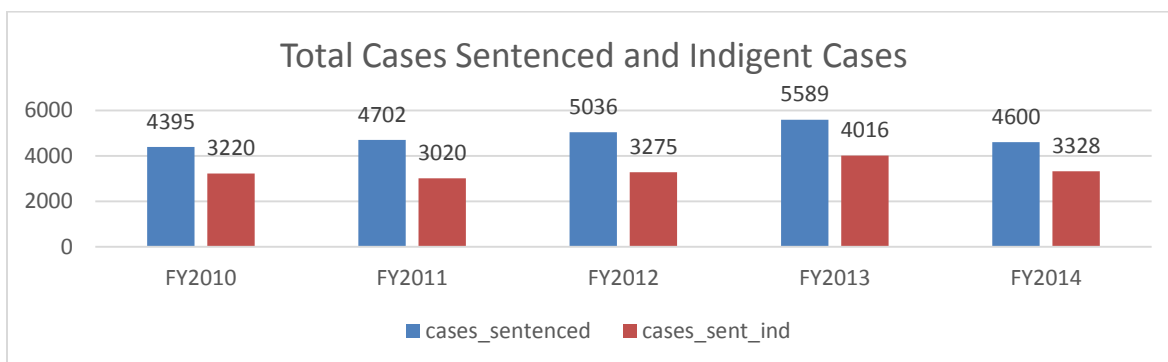


Figure 12. Impact of Indigent Assignment to Felony Cases in Volusia County

High Cost Assessments Associated with Non-Payment

In Florida, drug trafficking cases carry a significant mandatory fine of \$10,000 per sentenced charge, up to a maximum amount of \$525,000 (Florida Statutes 893.135). High assessments in felony cases account for 59% of all felony assessments on less than 1% of all the

cases sentenced in Volusia County. There were 162 cases of the 21,633 cases that were sentenced to pay \$10,000 or greater in fines and costs in Volusia County. These cases accumulated \$13,000,000 in felony fines and costs. There were 30 cases sentenced to pay \$100,000 or greater in fines; costs were assessed in these cases for a total of just under \$6.75 million. Review of these cases showed that all but five received a prison sentence of four years or more, and none of these cases have paid towards their felony debt. The average prison sentence for these cases was ten years.

Finding Eight: Department of Corrections Is in Charge of Most Defendants Required to Pay.

The DOC is in charge of supervising the majority of all defendants sentenced in Florida. In Volusia County, 93% of all cases are either sentenced to prison or probation or both. From July 1, 2012 through June 30, 2013, 33,295 inmates were admitted to prison, and 33,137 inmates were released. During that same period, 88,819 offenders were admitted to community supervision, and 88,940 were released from supervision. Most Florida inmates must serve a minimum of 85% of their sentences before release. Inmates released in June 2013 served an average of 85.2% of their sentences. In January 2014, the DOC housed 100,445 inmates in its 55 state prisons (including seven private prisons), and supervised almost 146,000 active offenders on community supervision at over 150 probation offices throughout the state.

Vaughn Petford is an Accounting Supervisor for the Florida Department of Corrections, Accounting Services Division, responsible for working with felony assessments. In an interview to discuss these challenges, Mr. Petford discussed the demand of keeping up with the volume of sentenced felons and the priorities established for supervision. Included in those priorities are: (1) ensuring that no new offenses are committed while on probation, and (2) that victims are

protected if victims were identified in crimes of violence. The focus of cost distribution was on ordered restitution to crime victims. The remaining balances of fines and costs paid, if any are available, are then distributed to the state and to local courts. Admittedly, there are few costs available to be distributed. The challenge of the department is to keep up with the large demand of continuing new felony cases against a limited budget for probation services. Mr. Petford indicated that new discussions with the courts and the DOC could renew possibilities for better collection of court fines and costs if all parties are willing to refocus on this issue.

Conclusions and Recommendations

Conclusion 1: The System Needs to Reevaluate Collections to Enforce Better Outcomes.

The gap in felony collections is broad. Florida assessed felony fine and cost sanctions in the amount of \$278 million in 2013, but by year's end, collected less than 14% of that debt. This left an open balance for felony collections of \$240 million for that single reporting period. Each year, the debt figure increases and the collections gap widens. Clerks in Florida recognize the challenges in felony cases compared to other case types; they only look for a 9% return on felony cases as indicated by collections best practices.

Florida has many advantages with regard to felony collections. The state legislature requires collections by Clerks. Judges acknowledge the need to comply with court orders. National best practices encourage participation in collection activities for felony cases, along with all other case types. State organizations support the education of best practices for collectors and assist in the reporting of collection results. However, felony collection outcomes continue to suggest that collecting felony debt the same as all other cases does not produce desirable outcomes.

Recommendation 1: Educate Legislators Concerning Felony Collections Hardships.

Education about the uniqueness of felony collections is the starting point towards gaining sensitivity to felony case collections. If felony collections remain only a measured potential debt recovery, merely reporting the significance on how difficult it is to collect felony assessments will remain unheard. Legislators must be made aware of this difficulty in order to raise the focus and generate the resources necessary to make felony collection improvements.

Investment in stronger collections best practices and additional staffing for collection units will strengthen enforcement abilities, thus realizing better collections outcomes. Funding

should be targeted in the counties where the highest volumes of assessments are located. Research suggests that ten of the sixty-seven counties account for 62% of all assessments. Targeted collection efforts in these large volume counties would produce a greater opportunity for increased overall collections. Collectors must demonstrate to legislators not only the hardships, but also the potential for revenue recovery to properly address felony collection concerns.

Recommendation 2: Pursue Collections from Defendants in State Prison.

According to the DOC, over 100,000 inmates are housed in Florida prisons. Each of these defendants owes fines and costs as part of their sentences. Recovery of just \$20 per inmate in one year would produce \$2 million in felony debt recovery. The practice of sweeping inmate accounts is not currently available in Florida. This practice has proved successful in both Texas and Michigan and would require similar legislative authority prior to adopting this practice in Florida. Participation of defendants throughout the tenure of their supervision while working towards fulfilling sentence obligations encourages cooperation in the payment of fine and cost sanctions both while in prison and while on probation or parole. The potential exists for debt recovery from the state prison system to increase in Florida if these best practices from other states are adopted.

Recommendation 3: Authorize Tax and Lottery Intercepts.

Many states around the country now use tax and lottery intercept programs to recover past due court fines and costs. The Arizona Legislature authorized a tax refund intercept as part of its Debt-Setoff program and also enacted legislation to intercept lottery winnings. If a debt claim matches a taxpayer's refund or lottery winning, an intercept is performed and the court

debt is satisfied. This is an additional collection opportunity for Florida is authorizing legislation is passed.

Conclusion 2: Felony Debt Challenges Are Different and Require A Different Collections Approach.

Felony collections contain multiple hurdles which do not fit a twelve month model for debt satisfaction. However, fines and costs in felony cases are sanctions and should be enforced. Examining different ways to ensure compliance over timelines that match these complexities would address the sanction more properly.

Recommendation 4: Increase the Expected Time for Collections.

Felony cases are sentenced longer, carry larger assessments, and often times receive state prison sentences. 33,000 defendants were sentenced to state prison in the 2012-2013 reporting period. The DOC reports that the average prison sentence is four years per case. Availability for payment makes it unlikely that a satisfactory recovery rate will occur in a twelve month period of time. By increasing the expected collection time from one year to three years, clerks are in a better position to work with defendants to pay off cost sanctions, both during incarceration and once they are released from prison.

Recommendation 5: Focus Felony Collections on Participation.

Felony debt is not a typical recovery effort. The length of jail time, ability of defendants to pay, and high costs in drug cases makes it more difficult to timely close fines and costs obligations. Compliance reporting, which focuses on the frequency of participation by defendants, offers collectors a new method to report collections. In addition, it established a habit of regular payment of sanctions by defendants. Cases that are assigned prison time can participate, even if only through smaller installments. Payment amounts could then be increased

upon release from prison. Collections success is reliant upon the volume of those that regularly pay rather than a sole focus upon the total outstanding debt balance.

Recommendation 6: Reexamine the Intention and the Benefit of High Cost Assessments.

Felony drug trafficking charges face exceptionally high fines at sentencing. These costs range from \$5,000 to over \$500,000. In Volusia County, statistics show that less than 1% of all defendants pay felony costs in drug trafficking sentences, amounting to \$13 million (nearly half of all assessments) levied against felony cases in a five year period. Yet, the majority of these defendants are not paying. Statistics also indicated that they spend a large volume of time in Florida prisons. These unpaid balances show up as uncollected revenue. To address this debt, court sanctions should be enforced. It is time to reexamine whether these high cost sanctions serve their intended purpose as punishment for defendants.

Conclusion 3: Felony Cases Need a Unified Commitment to Make Necessary Improvements.

The legislature requires clerks to collect fines and costs but there are many partners in the justice system that must work together to ensure that these sanctions are properly enforced.

From the point that attorneys negotiate sentencing options with defendants, through the probation and prison supervision by the DOC, all partners in the justice community can contribute to improve the enforcement of fines and costs, along with other sentencing requirements for defendants. Payment of court assessments should become a standard part of plea negotiations for successful completion of a sentenced felony case.

Recommendation 7: Attorney Negotiations Should Include Cost Obligations.

Defense attorneys negotiate sentencing provisions for clients with prosecutors to obtain the best outcome for their clients. Prosecutors work to ensure that the punishment fits the crime.

Throughout these negotiations, defendants are advised about probation and prison sanctions. Fines and costs are traditionally not included in these conversations. However, Defendants' awareness of all sanctions, including fines and costs, helps to underscore the necessity to pay these costs.

Recommendation 8: Courts Need Enforcement Options to Recover Cost Sanctions.

Sentencing defendants to prison for non-payment has not proved to be effective, nor is it popular as an enforcement option. Suspension of driver's licenses has proved to be more successful in misdemeanor cases, but less so for felony cases where defendants struggle to find employment and risk losing job after driving privileges are suspended. More stringent community service work assignments for non-payment provides an additional option to convert fines to service and properly pay back debts owed in these cases.

Recommendation 9: The Florida Department of Corrections Must Be Involved.

The DOC supervises nearly 95% of all sentenced defendants in Florida. Defendants are initially enrolled and gain liberty from either prison or probation while in custody or supervision of the DOC. Caseloads and budget cuts push DOC supervision to make decisions about priorities which properly align with public safety and restitution repayment. However, often times, these priorities overlook fine and cost sanctions. Additional cooperative organization between Clerks and the DOC, with funding assistance from the Florida Legislature to permit a renewed focus on felony collection strategies, is a promising starting point to improve collections for felony cases.

Concluding Remarks

In felony cases, crime doesn't pay to the degree it was intended to be a sanction for defendants. Court experts agree that felony collections are difficult. Available statistics support this belief. Only 10% of felony assessments were satisfied in Volusia County during the past

year; state-wide collections averaged fewer than 14% satisfied judgments. The state-wide uncollected dollar amount for 2013 was \$240 million dollars. This research identifies some of the causes underlying nonpayment of fines and fees based upon the experiences of Florida collectors. Defendants' limited availability due to prison sanctions, and inability to pay due to low incomes and higher costs of fines for drug related charges, contribute to existing collection difficulties.

Recognition of contributing factors presents opportunities to identify solutions. Educating all justice community participants about the differences involved in felony collections, including legislators, will help to properly address changes that require both rule modifications and improved funding. There are several potential solutions that have been tested in other states readily available to meet these challenges. State courts such as Texas and Michigan have demonstrated that felony prisoners can and will contribute to debt obligations while incarcerated. Another alternative method – the tax and lottery intercept – is a potential solution currently implemented in Arizona. Debt negotiation, while not always popular in criminal cases, may also be considered as a debt recovery strategy. As pointed out in the literature review, the Florida Legislature does authorize collectors to negotiate unpaid collections balances. With the felony collections rate remaining so low, attempting to collect some of these past due costs through negotiation strategies may produce some positive returns, rather than waiting on payments for the full amount due with no hope of actual collection.

Best practices do currently help to organize collection solutions. The National Center for State Courts and the Government Revenue Collections Association look at trends around the country and help adopt practical guides to improve collections enforcement. The FLCCOC provides help to establish collection best practices in Florida, as well as train clerk collectors

throughout the state. But in the case of felony collections, these organizations must also properly recognize felony differences, assist with educating government funders about growing collection concerns, and help identify innovative techniques to combat the collections problem.

Organizational communication that includes clerks, judges, attorneys, and the DOC may result in a renewed commitment towards felony fine and cost enforcement - this is another key to raising awareness about felony collections issues and identifying potential solutions. Raising awareness and creating improved best practices for felony cases at the state level will also benefit courts at the local court level, including Volusia County. It will then be up to the local courts to adopt these best practices through dedicated staffing and cooperative planning in their local justice community.

If felony fines and costs are considered court-ordered sanctions and are ordered to be collected, provisions should be made to make this enforcement possible. The debt accumulated as a result of sanctions in these cases is growing ever larger. It will take a concentrated focus on the problem to improve it. Only then will sentenced felony defendants begin to adhere to all court-ordered sanctions – including payment of felony fines and fees as required.

References

- Arizona Judicial Branch. (2014, December 9). *Consolidated Collections Unit*. Retrieved from Azcourts.gov: <http://www.azcourts.gov/courtservices/ConsolidatedCollectionsUnit.aspx>
- (2014). *Federal Register*, Vol. 79, January 22, 2014, pp. 3593-3594. Federal Register.
- Florida Clerks of Court Operations Corporation. (2007). *Business Rules-Performance Measures- Collections Rates- Changes Eff. September 11, 2007*. Tallahassee: Florida Clerks of Court Operations Corporation.
- Florida Court Clerks and Comptrollers. (2014). *Assessment & Collections Report- Final 2013 Report*. Tallahassee: Florida Court Clerks and Comptrollers.
- Florida Court Clerks and Comptrollers. (2014). *Assessments and Collections Report*. Tallahassee: Florida Court Clerks And Comptrollers.
- Florida Department of Corrections. (2014, December 8). *Quick Facts about the Florida Department of Corrections*. Retrieved from Florida Department of Corrections: <http://www.dc.state.fl.us/oth/Quickfacts.html>
- Florida Judicial Branch State Courts System. (2012). *Long-Range Progarhm Plan- Fiscal Years 2013-14 through 2017-18*. Tallahassee: Office of the State Courts Administrator.
- Florida Legislature. (2014, December 9). *The 2014 Florida Statutes, Section 322.245*. Retrieved from Online Sunshine Florida Statutes: http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0322/Sections/0322.245.html
- Florida Statutes, Section 28.35 (d)*. (2014).
- GRCA. (2015, March 21). *Government Revenue Collection Association About us*. Retrieved from GRCACollect.org: <http://www.govcollect.org/about-us>
- Matthias, J. T., & Klaversma, L. (2009). *Current Practices in Collecting Fines and Fees in State Courts: A Handbook of Collection Issues and Soultions, Second Edition*. Williamsburg: National Center for State Courts.
- Matthias, J. T., Lyford, G. H., & Gomez, P. C. (1995). *Current Practices in Court Collections*. Williamsburg: National Center for State Courts.
- Michigan Courts. (2014, December 8). *Trial Court Collections*. Retrieved from Courts.mi.gov: <http://courts.mi.gov/administration/admin/op/tcc/pages/default.aspx>
- Michigan Legislature. (2014, December 9). *Section 769.1l*. Retrieved from Michigan Legislative Website: [http://www.legislature.mi.gov/\(S\(ttbwvxvm1zdtien45jtgzmw45\)\)/mileg.aspx?page=GetObject&objectname=mcl-769-1l](http://www.legislature.mi.gov/(S(ttbwvxvm1zdtien45jtgzmw45))/mileg.aspx?page=GetObject&objectname=mcl-769-1l)

- National Center for State Courts. (2005). *Giving Courts the Tools to Measure Success- CourTools*. Williamsburg.
- OPPAGA. (2007). *OPPAGA- Report No. 07-21*. Tallahassee: Florida Legislature.
- Patel, R., & Philip, M. (2012). *Criminal Justice Debt- A Toolkit for Action*. New York City: The Brennan Center for Justice at NYU School of Law.
- Raaen, N., Matthias, J., Kim, A., & Hall, D. J. (2012). *A Study of the Effectiveness of Collections in the Florida Courts, A report to the Florida Clerks of Court Operations Corporation*. Denver: National Center for State Courts.
- Revenue and Collections- California Judicial Branch*. (2014, December 9). Retrieved from Courts.ca.gov: <http://www.courts.ca.gov/partners/447.htm>
- Texas Court of Criminal Appeals, H. v. (2009). *Harrell v. State*, 286 S.W.3d 315, 316 (Tex. 2009).
- Texas Courts Improvement Program. (2014, December 9). *Collection Improvement Program*. Retrieved from Victims of Crime.org: http://www.victimsofcrime.org/docs/restitution-toolkit/c14_tx-account-sweep-procedures.pdf?sfvrsn=2
- Texas Judicial Branch. (2014, December 9). *CIP Tech Support Withdrawing Funds from Inmate Accounts*. Retrieved from txcourts.gov: <http://www.txcourts.gov/cip-tech-support/program-management/withdrawing-funds-from-inmate-accounts.aspx>
- The 2014 Florida Statutes, Section 28.246*. (2014, December 9). Retrieved from Online Sunshine- Official Internet Site of the Florida Legislature: [0000-0099/0028/Sections/0028.246.html](http://www.flsenate.gov/0000-0099/0028/Sections/0028.246.html)
- The Florida Legislature. (2014, December 11). *The 2014 Florida Statutes, Section 893.135*. Retrieved from Online Sunshine- Official Internet Site of the Florida Legislature: [URL=0800-0899/0893/Sections/0893.135.html](http://www.flsenate.gov/0800-0899/0893/Sections/0893.135.html)
- United States Census Bureau. (2014, December 9). *State & County QuickFacts*. Retrieved from [quickfacts.census.gov](http://quickfacts.census.gov/qfd/states/12/12127.html): <http://quickfacts.census.gov/qfd/states/12/12127.html>
- Volusia County Clerk of Court. (2014). *5 Year Felony Sentencing Report*. DeLand: Volusia County Clerk of Court.

Appendices

Appendix A- National Center for State Courts CourTools 7



CourTools

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Trial Court Performance Measures

National Center for State Courts

Collection of Monetary Penalties

Measure

Definition: Payments collected and distributed within established timelines, expressed as a percentage of total monetary penalties ordered in specific cases.

Purpose: Integrity and public trust in the dispute resolution process depend in part on how well court orders are observed and enforced in cases of noncompliance. In particular, restitution for crime victims and accountability for enforcement of monetary penalties imposed on offenders are issues of intense public interest and concern. The focus of this measure is on the extent to which a court takes responsibility for the enforcement of orders requiring payment of monetary penalties.

While court orders establish a wide variety of sanctions, financial obligations are clearly understood and measurable. Financial obligations include child support, civil damage awards, traffic fines, and criminal penalties. However, state courts vary in their responsibility for and control over the full range of monies ordered and received. Therefore, to keep this measure broadly applicable and feasible, the focus is on criminal penalties in misdemeanor cases, including restitution. Once understood and in place for misdemeanor cases, similar measurement methods can be applied to other relevant types of monetary penalties and obligations.

Timely payment of restitution is a significant part of how success is defined for this measure. Collection and disbursement of restitution to victims of crime is particularly emblematic of the court's commitment to public accountability.

Method: The results of this measure should be reviewed on a regular basis (e.g., monthly, quarterly, annually). If reviewed regularly, the court can establish baselines, set performance goals, observe trends as they develop, and aggregate the data for annual reporting.

The first task is to compile a list of all misdemeanor cases in which 1) a financial penalty was ordered and 2) the due date for final payment falls within the reporting period. The term total monetary penalty includes all financial obligations associated with misdemeanor cases, regardless of local terminology and practice (e.g., fines, fees, assessments, restitution, etc.). If the case includes an order for restitution, additional information will include the amount of restitution ordered, the amount of money collected and applied to the restitution obligation, and the amount disbursed to the victims. For the purposes of the measure, separate restitution "accounts" (multiple victims/payees) can be aggregated into a single balance.

Why only measure criminal financial obligations?

- All courts with criminal jurisdiction process and account for financial penalties.
- Every jurisdiction has at least one criminal court.
- Responsibility for financial accounting in child support and other civil matters is not universally accepted as a core court function across the states.

Why only measure misdemeanors?

- Accounting for fines, fees, and restitution is a core operational activity of all courts with misdemeanor jurisdiction.
- Most of the money handled by criminal courts originates in criminal traffic and other misdemeanors.
- Due dates are likely to be clearly established and fall within one year from order date.

Appendix B- Clerk of Court Collectors Survey

1. At what point do you pursue the collection of felony assessments?
 - a. Immediately upon sentencing
 - b. 30 days after sentencing
 - c. Between 31 days and 12 months of sentencing
 - d. After 12 months of sentencing
 - e. Currently not pursued
2. How many resources (FTE's) do you dedicate to collecting felony assessments?
 - a. 1 FTE
 - b. 1-3 FTE's
 - c. 4-5 FTE's
 - d. No resources dedicated to collecting felony assessments
3. What techniques are you using to collect felony assessments- (circle all that apply)?
 - a. Probation Office only
 - b. Enrollment in Payment plans administered by Clerk's Office
 - c. Notifications and Calling
 - d. Driver's License Suspension for failure to pay
 - e. ACH (Automated Clearinghouse) enrollment for automatic account debit for payment plan participants
 - f. None of the above
4. At what level does the Court assist in enforcing the collection of felony assessments?
 - a. At sentencing by directing defendants to see the Clerk for payment
 - b. At sentencing and by creating a civil judgment for felony assessments due
 - c. To conduct Order to Show cause hearings for failure to pay
 - d. To enforce payment through failure to pay sanctions including jail time
 - e. The Court does not directly address payment sanctions in felony sentences
5. At what level does the Florida Department of Corrections Probation department assist in the collection of felony fines and costs?
 - a. The probation department does not assist in collecting felony assessments
 - b. The probation department follows up monthly with payments made
 - c. The probation department monitors payment progress and directs payments to be made directly to the Clerk rather than collecting them first.
 - d. The probation department collects payments but seldom sends them to the Clerk prior to probation termination when an assessment balance is still due on the case.
6. At what level do attorneys for both the State Attorney and the Defense include the requirement of payment of costs as part of plea negotiations prior to sentencing?
 - a. Never
 - b. Seldom
 - c. Regularly
 - d. Always
7. When felony assessments become overdue how many collection agents are you currently using?
 - a. None
 - b. One
 - c. Two or more

8. Do you feel that felony assessments are difficult to collect?
 - a. Yes
 - b. No
9. What makes felony assessment difficult to collect (include all that apply)?
 - a. Portion of defendants are sentenced to state prison
 - b. Limited cooperation from State Probation
 - c. Indigent defendants and high court costs
 - d. Lack of funding to properly staff collection effort
 - e. Lack of justice community cooperation
10. Failure to pay jail sanctions is an option to enforce payments. What are the prohibiting factors from using this practice?
 - a. Public perception of debtors prison
 - b. Cost of placing non-paying defendants in jail
 - c. Judicial practice towards felony assessment enforcement
 - d. Other: _____

There are several best practice collecting techniques available. Consider the following as potential practices for felony collections in your county:

11. Would you consider using ACH (Automated Clearinghouse) account debiting to satisfy felony assessment debts?
 - a. Yes
 - b. No

If No, what keeps you from currently using this practice?
12. Would you consider using wage intercepts to satisfy felony assessment debts?
 - a. Yes
 - b. No
13. Florida Statute 938.30 allows the practice of negotiating the balance due of a criminal assessment. Are you currently negotiating felony assessment debt?
 - a. Yes, between 6 months and 1 year after sentencing
 - b. After 1 year of sentencing but prior to probation termination
 - c. No, negotiating a judicial order is not a current practice of our office
14. Felony prisoners are still under the obligation to pay felony assessments. At what point do you attempt to collect?
 - a. At the time of sentencing through the Department of Corrections while incarcerated
 - b. Upon release from prison
 - c. We do not collect from sentenced defendants
15. What types of practices would you like to see initiated for felony assessments (mark all that apply)
 - a. Better participation by the Court
 - b. Improved plea negotiations by attorneys
 - c. Timely cooperation for payment enforcement by State Probation
 - d. Funding for collection efforts by the Clerk

- e. Early participation in collection process by collection agents
16. At what point should Clerk's be allowed to write off felony assessment debt if it were authorized by Florida Statute?
- a. After 12 months
 - b. After 12 months and proof of collection attempts
 - c. Upon probation termination
 - d. Felony assessment debt should not be written off

Appendix C- Experts in Collections Survey

In your opinion at what point should you initiate collections of felony assessments?

Answer Options

- ☐ Immediately upon sentencing
- ☐ 30 days after sentencing
- ☐ Between 31 days and 180 days
- ☐ 181 days to 12 months
- ☐ After 12 months of sentencing
- ☐ Other (please specify)

In your opinion what is the highest number of cases that should be assigned to a single full time collections employee?

Answer Options

- ☐ Less than 50 per employee
- ☐ 50 to 99
- ☐ 100 to 499
- ☐ 500 to 749
- ☐ Greater than 750 per employee

In your opinion, do you think felony collection processes need improvement?

Answer Options

- ☐ Yes
- ☐ No
- ☐ Explain

In your opinion, what types of legislation would create better results for Clerk's Offices performing collections on felony cases- (select all that apply)?

Answer Options

- ☐ Defendants who can not satisfy payment obligations at the day of sentencing must be ordered by the Court to be enrolled by the Clerk into payment plans
- ☐ Payments on felony cases must be made directly to the Clerk's Office
- ☐ Defendants who are sentenced to prison must set up a payment account while in prison to regularly contribute to outstanding fines and costs due
- ☐ The State prison must contact the Clerk's offices of a defendant's release from prison to resume payment plans entered at time of sentencing.
- ☐ Defendants may not have their probation sentence terminated early without paying all felony costs on their case.
- ☐ Explain other possible legislative changes that would improve felony collections

In your opinion, with one being the most important and five the least important how would you rank these attributes for having a successful collections organization?

Answer Options

- ☐ Good local organization and communication
- ☐ Budgetary funding that allows for a proper staffing ratio of agents to collection cases
- ☐ Initial enrollment, notifications, calls, and follow-calls

- Regularly enforced failure to pay penalties assessed by the Court to encourage timeliness
- Regular creation of civil liens and judgments for unpaid felony costs

In your opinion what are the best techniques to collect felony fines from defendants in prison- (select all that apply)?

Answer Options

- Civil judgments on unpaid felony fines and costs
- Payment plans that collect from defendants while in prison
- Driver's license suspensions for past due payments that come into effect once defendant is released from prison
- Automatic payment plan reinstatement as part of defendants being released from prison
- What other options should be considered

In your opinion, what keeps felony collections rates lower- (select all that apply)?

Answer Options

- Limited organization and communication at state and local court level
- Prison sentences prevent defendants earning enough to pay felony fines and costs
- Absence of dedicated and trained collections staffing
- High cost of fines assessed on felony cases against indigent defendants
- What other factors contribute to lower felony collections?

Based on your experience do you have a national perspective on states with the best practices in felony collections?

Answer Options

- Yes
- No
- If Yes, which states

Given your experience, what additional collections techniques could be legislatively authorized to ensure greater returns?

Answer Options

- Wage Intercept
- Automated debit programs from felony payment plans
- Negotiated debt satisfaction
- IRS and Lottery Intercept
- Additional techniques to consider?

Based on your experience in collections do you support the authorized use of wage intercepts to satisfy overdue felony costs?

Answer Options

- Yes
- No

- If Yes, Why? If No, Why not?

Based on your experience in collections do you support the authorized use of wage intercepts to satisfy overdue felony costs?

Answer Options

- Yes
- No
- If Yes, Why? If No, Why not?

Given the challenges of collecting felony costs, in your opinion should felony cost debt be negotiated with felony defendants?

Answer Options

- Yes
- No
- If Yes, Why, If No why not?

In your opinion, what is the ideal time to collect fines from felony prisoners?

Answer Options

- At the time of sentencing through the state prison system while incarcerated
- Upon release from prison
- Do not collect from incarcerated defendants
- Explain

In your opinion should felony debt be allowed to be written off?

Answer Options

- Yes
- No
- If yes specify when, if no why not?

Appendix D-Best Practices Collections Methods- Florida

BUSINESS RULES -PERFORMANCE MEASURES - COLLECTION RATES

Changes Eff. September 11, 2007

Pursuant to F.S. 28.35(2)(e) the Clerks of Court Operations Corporation shall develop a uniform system of performance measures and standards. Included in these standards shall be a measurement of the effective collection of fines, fees, service charges, and court costs.

The CCOC Collection Rate Performance Measure report tracks dollars in the quarter they are assessed and then how well those assessed dollars have been collected over the next five quarters. The CCOC report relates only to those assessments within the assigned control groups and the dollars collected towards those specific assessments only while the Assessment and Collections report captures all money assessed or collected during the year without a relationship between the dollars assessed and the dollars collected.

Standards

- **Circuit Criminal 9%**
- County Criminal 40%
- Juvenile Delinquency 9%
- Criminal Traffic 40%
- Circuit Civil 90%
- County Civil 90%
- Civil Traffic 90%
- Probate 90%
- Family 75%

Appendix E- Assessment and Collections Report Summary 2012-2013

| Florida County | Fines: Total Collectible Amt. | Fees: Total Collectible Amt. | Total Collections | Collection Rate (%) | | Number of Drug Trafficking Cases | Drug Trafficking Assessments |
|------------------------|-------------------------------|------------------------------|---------------------|---------------------|--|----------------------------------|------------------------------|
| Escambia | \$7,348,678 | \$590,273 | \$858,421 | 10.81% | | 56 | \$5,863,061 |
| Okaloosa | \$4,178,686 | \$17,089 | \$615,109 | 14.66% | | 27 | \$2,071,958 |
| Leon | \$4,655,899 | \$104,129 | \$530,671 | 11.15% | | 18 | \$843,740 |
| Duval | \$12,850,837 | \$153,153 | \$550,058 | 4.23% | | 150 | \$6,152,466 |
| Lake | \$5,827,284 | \$1,812,499 | \$1,263,552 | 16.54% | | 33 | \$3,250,125 |
| Marion | \$10,345,521 | \$735,664 | \$1,829,590 | 16.51% | | 74 | \$6,046,446 |
| Pasco | \$3,474,370 | \$814,407 | \$997,870 | 23.27% | | 174 | \$1,779,350 |
| Pinellas | \$15,034,932 | \$945,345 | \$1,630,115 | 10.20% | | 68 | \$9,491,800 |
| Volusia | \$4,206,484 | \$282,785 | \$460,281 | 10.25% | | 56 | \$3,204,909 |
| Orange | \$10,836,682 | \$2,963,544 | \$2,775,072 | 20.11% | | 160 | \$6,882,524 |
| Osceola | \$9,988,032 | \$792,261 | \$1,406,032 | 13.04% | | 120 | \$5,864,605 |
| Polk | \$5,907,322 | \$2,910,943 | \$1,708,758 | 19.38% | | 51 | \$2,387,720 |
| Miami-Dade | \$13,513,631 | \$1,205,520 | \$2,983,548 | 20.27% | | 462 | \$3,821,851 |
| Sarasota | \$4,510,394 | \$270,117 | \$580,109 | 12.13% | | 36 | \$1,592,207 |
| Hillsborough | \$55,275,279 | \$1,114,041 | \$1,802,005 | 3.20% | | 337 | \$50,668,244 |
| Palm Beach | \$10,739,121 | \$494,013 | \$1,143,524 | 10.18% | | 126 | \$6,571,991 |
| Broward | \$13,010,411 | \$5,112,094 | \$3,101,431 | 17.11% | | 429 | \$6,938,094 |
| Brevard | \$5,151,266 | \$265,736 | \$1,240,840 | 22.91% | | 50 | \$3,509,350 |
| Seminole | \$7,216,551 | \$581,220 | \$751,628 | 9.64% | | 72 | \$5,345,100 |
| Lee | \$3,505,116 | \$784,860 | \$887,395 | 20.69% | | 29 | \$1,323,705 |
| Top 20 Counties | \$207,576,496 | \$21,949,693 | \$27,116,009 | | | 2528 | \$133,609,246 |
| State Total | \$248,190,041 | \$29,708,492 | \$37,926,768 | 13.65% | | 2878 | \$148,339,668 |

The report listed above shows the felony assessments of the top 20 counties in Florida and provides the collections and collections rates for each county. Included in this listing is the number of cases that were assessed drug trafficking fines and costs and the total dollars that were assessed for drug trafficking costs. The total assessments for each county is equal to fines plus fees.

- The total assessments for the top 20 assessment counties in Florida equaled **\$229,526,189**
- The total felony assessments in Florida equaled **\$277,899,533**
- The total amount of drug trafficking assessments in Florida equaled **\$148,339,668**
- The percentage of the top 20 assessment counties equaled **82% of all 67 counties**
- The percentage of drug trafficking assessments in the State equaled **53% of all felonies**

Appendix F- Volusia 5 Year Sentenced Felony Report Summary

The summary listing of the 5 year summary report includes the fiscal year of each reporting year. A fiscal year runs from July 1 until June 30th of the following year. For example, FY 2010 began on July 1, 2009 and ended on June 30th of 2010. The report includes the total number of cases that had felony assessments in each year and the total amount cases that declared the defendant indigent which affected eligibility to pay costs. Amounts displayed show the total amount of felony assessments and total amount dollars affected by indigent cases. The report also shows the number of cases that were sentenced to prison, sentenced to probation, or sentenced to both prison and probation within the same case.

| Year | Cases | Indigent | amount | Indigent amt. | Prison | Probation | Both |
|--------------|--------------|--------------|-------------------------|-------------------------|-------------|--------------|-------------|
| FY2010 | 4395 | 3220 | \$ 11,173,203.92 | \$ 5,241,054.97 | 1543 | 1539 | 210 |
| FY2011 | 4702 | 3020 | \$ 4,108,160.00 | \$ 2,883,723.00 | 1695 | 1694 | 261 |
| FY2012 | 5036 | 3275 | \$ 4,112,000.00 | \$ 2,628,877.00 | 1670 | 2214 | 314 |
| FY2013 | 5589 | 4016 | \$ 4,505,587.85 | \$ 3,453,633.34 | 2098 | 2683 | 372 |
| FY2014 | 4600 | 3328 | \$ 6,010,011.50 | \$ 4,447,630.50 | 1845 | 2471 | 253 |
| TOTAL | 24322 | 16859 | \$ 29,908,963.27 | \$ 18,654,918.81 | 8851 | 10601 | 1410 |

Appendix G- Federal Indigent Guidelines 2014

| Size of Family unit | Maximum Monthly Income for Indigence Eligibility | Maximum Annual Income for Indigence Eligibility |
|---------------------|--|---|
| 1 | \$ 1,945 | \$ 23,340 |
| 2 | \$ 2,622 | \$ 31,460 |
| 3 | \$ 3,298 | \$ 39,580 |
| 4 | \$ 3,975 | \$ 47,700 |
| 5 | \$ 4,652 | \$ 55,820 |
| 6 | \$ 5,328 | \$ 63,940 |
| 7 | \$ 6,005 | \$ 72,060 |
| 8 | \$ 6,682 | \$ 80,180 |

Source: Federal Register, Vol. 79, January 22, 2014, pp. 3593-3594

<http://aspe.hhs.gov/poverty>

Appendix H- United States Census Bureau Data Volusia County, Florida

United States Census Bureau Data

| People QuickFacts | Volusia County | Florida |
|---|---------------------------|----------------|
| Population, 2013 estimate | 500,800 | 19,552,860 |
| Population, 2010 (April 1) estimates base | 494,597 | 18,802,690 |
| Population, percent change, April 1, 2010 to July 1, 2013 | 1.3% | 4.0% |
| Population, 2010 | 494,593 | 18,801,310 |
| Households, 2009-2013 | 195,907 | 7,158,980 |
| Persons per household, 2009-2013 | 2.47 | 2.61 |
| Per capita money income in past 12 months (2013 dollars), 2009-2013 | \$23,973 | \$26,236 |
| Median household income, 2009-2013 | \$42,457 | \$46,956 |
| Persons below poverty level, percent, 2009-2013 | 16.8% | 16.3% |