

Iowa Crime Victim Compensation Program Restitution Initiative

Needs Assessment Results

**Funded by the Crime Victim Assistance Division of the
Iowa Attorney General's Office from the Office of
Victims of Crime**

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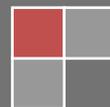


TABLE OF CONTENTS

Introduction.....	1
Methodology.....	3
County Level Interviews.....	3
Collateral Interviews.....	4
Judge Interviews and Survey of the Judiciary.....	4
Analysis of Victim Registration Packets.....	4
Needs Assessment Results: The Restitution Process.....	5
The Restitution Process.....	5
Barriers to Ordering Restitution.....	5
Analysis of the Readability of Victim Registration Packets.....	7
Considerations Regarding the Ordering of Victim Restitution.....	8
Needs Assessment Results: Collection of Restitution.....	10
Collection Process at CCU.....	10
Collection Process at the County Level.....	11
Needs Assessment Results: Payments to Victims.....	18
Finding Victims.....	18
Clerk’s Perceptions of County Collections.....	18
Other Issues Shared by the Clerks.....	19
Summary and Considerations Regarding the Restitution Collection Process.....	20
Judge Interviews and Survey of the Judiciary.....	21
Types of Crime and Factors Used to Determine Restitution Orders.....	21
Role of Victim Restitution in Sentencing and Sanctions for Offenders.....	24
Perceptions of Problems with and Responsibility for Restitution Collection.....	26
Considerations from the Judges Survey.....	31
Summary of the Victim Restitution Process in Iowa.....	32
Implementation Ideas Generated from the Needs Assessment.....	38
Increasing Victim Registration.....	38
Increasing Offenders’ Compliance with Restitution Orders.....	39
Finding Victims for Payment.....	42
APPENDIX A: Counties in Final Sample.....	43
APPENDIX B: Readability Assessment of Selected Excerpts of Victim Registration Packets.....	44

Introduction

Per Iowa Code §915, a victim in Iowa has the right to restitution¹ of pecuniary damages suffered as a result of the crime. Iowa Code §910.1 defines pecuniary damages as:

All damages to the extent not paid by an insurer, which a victim could recover against the offender in a civil action arising out of the same facts or event, except punitive damages for pain, suffering, mental anguish, and loss of consortium. Without limitation, “pecuniary damages” includes damages for wrongful death and expenses incurred for psychiatric or psychological services or counseling or other counseling for the victim which became necessary as a direct result of the criminal activity.

Consideration of restitution is mandatory in all criminal cases in which the defendant is convicted and is part of the sentencing order. Crime victims in Iowa have the right to request restitution for all crime-related expenses that have not been covered by insurance, or by the Crime Victim Compensation Program. This may include, but is not limited to medical bills, counseling expenses, transportation, lost wages, and damaged property. Victims typically make this request through a Victim Impact Statement, which documents the crime-related financial losses suffered by the victim. If the full extent of the victim’s loss is not known at sentencing, the restitution amount may be determined at a later date and sentencing orders can subsequently be amended if additional expenses are incurred. Offenders also have the right to object to restitution ordered by the court. In such instances, the court may hold a hearing to address these objections and the victim may be asked to testify at the hearing and submit additional proof of the loss.

Restitution is only an option for the victim if the offender is convicted and ordered to pay restitution by the court. While an offender's court debt can also include fines, penalties, court costs, fees, forfeited bail, surcharges, court-appointed attorney fees or expenses for a public defender, jail room and board fees, under Iowa Code §911, any monies paid are supposed to be applied to victim restitution first. After victim restitution, debts are paid in the following order: 1) fines, penalties, criminal penalty surcharge, and law enforcement initiative surcharge; 2) Crime Victim Compensation Fund; and 3) court costs, including correctional fees, court-appointed attorney fees, and public defender expenses.

Every state provides courts with the statutory authority to order restitution although barriers to ordering have been found to include victims' failure to request restitution, the victim or court's inability to determine the loss experienced, and perceptions of the offender's inability

¹ In Iowa, the term “restitution” is used to refer to all court ordered costs such as fines, court costs, attorney fees, surcharges, and victim restitution. For the purpose of this document, “restitution” is used to refer more specifically to victim restitution.

to pay.² While restitution is often touted as a means for holding offenders “accountable” for their crimes, Harland and Rosen (1990) argue that more effort is needed to hold the court systems accountable for documenting its efforts and failures in collecting restitution.³ In 2011, the National Center for Victims of Crime published a collection of case studies entitled: *Making Restitution Real: Five Case Studies on Improving Restitution Collection*. The introduction cited that as of 2010, Iowa had outstanding court debt, including victim restitution, totaling \$533 million.⁴ In a 2014 Legislative Services Agency report, Iowa had \$633 million in unpaid court debt, although this figure did not include victim restitution because those monies are not owed to the State of Iowa.⁵ In 2012, the Des Moines Register investigated restitution payments in Iowa and found that while Iowa judges had ordered convicted criminals to pay a total of \$159 million in victim restitution over the past five years, offenders’ payments during that time totaled only \$19 million, or less than 12 percent of the new debts. That left \$140 million unpaid to victims.⁶ These figures on outstanding court debt illuminate the persistent and significant deficit between the restitution ordered in Iowa and the restitution paid. These figures do not, however, take into account victim restitution that has not been ordered, which may be another significant obstacle to victims receiving reimbursement for crime-related losses in Iowa.

Several suggestions for improving restitution have been made by experienced professionals in Iowa who interact with crime victims and offenders. However, before implementing any of these actions, a needs assessment was necessary to identify gaps in the restitution collection process⁷ at the state and county level in order to determine how we can make meaningful across-the-board improvements to how restitution is ordered and collected in Iowa. This report summarizes the results of a needs assessment conducted to examine the ordering and collection of restitution in Iowa.

² Office for Victims of Crime (2002). *Ordering restitution to the crime victim*. Washington, DC: Author.

³ Harland, A. T., & Rosen, C. J. (1990). Impediments to the recovery of restitution by crime victims. *Violence and Victims*, 5, 127-140.

⁴ National Center for Victims of Crime (2011). *Making restitution real: Five case studies on improving restitution*. Washington, DC: Author.

⁵ Legislative Services Agency (2014). *Court debt collection programs and outstanding court debt*. Retrieved from <https://www.legis.iowa.gov/docs/publications/IR/25246.pdf>

⁶ Eckhoff, J. (2012, July 15). \$140 million. *Des Moines Register*, pp. 1a.

⁷ The restitution collection process includes all monies offenders are ordered to pay but if victim restitution is ordered, the victim is supposed to be paid first.

Methodology

The methodology used to conduct this needs assessment included the following: 1) county level interviews with county attorneys, victim witness coordinators (VWC), Clerks of the Court, and county collection staff; 2) a readability analysis of counties' victim registration packets; 3) interviews with the director of the State Centralized Collection Unit (CCU), Department of Corrections staff, and program directors from ICADV and IowaCASA; and 4) interviews with four district court judges and a statewide survey of judges.

County Level Interviews

Since restitution is ordered, paid, and monitored at the county level in Iowa, county level interviews were the primary source of data collected. We conducted in-person qualitative interviews with county attorneys from a sample of 21 counties. If the county had a victim witness coordinators and/or a county collection unit, we interviewed these individuals as well. If scheduling permitted, we also interviewed Clerks of the Court.

The 21 counties were selected using a purposive sampling procedure to assure a sample of counties with the following characteristics:

- A mix of rural/non-rural counties based on the 2013 USDA Urban Influence codes which classify counties along a rural to urban continuum;
- Counties with and without a victim witness coordinator
- Counties with and without a county debt collection unit
- Counties from all judicial districts in Iowa

One county (Warren) was added based upon information shared in other county interviews describing this county as having a particularly innovative collections unit. Another county was substituted when we were unable to schedule an interview with the county attorney in the originally selected county. Appendix A includes a list of the 21 counties in the sample.

Interviews were conducted using a semi-structured interview format. The purpose of these interviews was to illustrate the steps in the restitution process from initial contact with eligible victims, to the filing and granting of an order of restitution, through final collection of monies. From the county attorneys and victims witness coordinators, we gathered information about the nature and amount of crime in the county, the procedures used for contacting victims for restitution information, and their thoughts on barriers and successes to the ordering and collection of restitution.

From counties with collection units, we inquired about their procedures for tracking offenders, setting up payment plans, and monitoring offender compliance with paying victim restitution and other court-ordered monies. The Clerk of the Court interviews focused on their

role in collecting and distributing restitution to victims and, if applicable, working with their county collections staff. For counties with collection units, we asked additional questions about the clerk's role in assisting the county attorney's office with their collection procedures.

For each interview, there was a primary interviewer and a note-taker. Efforts were made to capture an accurate representation of statements made in the interviews, however the notes taken should not be considered to be verbatim. All of the interviewer notes were typed up and analyzed using NVIVO, a qualitative analysis program.

Collateral Interviews

Collateral interviews were conducted with the director of the State Centralized Collection Unit (CCU), Department of Corrections (DOC) staff, and program directors at the annual ICADV and IowaCASA directors meeting. Information from CCU and DOC staff was gathered to understand their role in the collection of restitution monies. A focus group with the directors of victim service agencies gathered their perspectives on the role of restitution for supporting victims of crime. In addition to these collateral contacts, we interviewed CVAD staff to better understand the crime victim compensation process in Iowa and how it fits with victim restitution. Information from these collateral interviews is incorporated in to the key findings of the needs assessment.

Judge Interviews and Survey of the Judiciary

To understand the role of the judiciary in the restitution process we interviewed staff from the State Court Administrator's Office (SCA), conducted individual interviews with four judges, and developed and distributed an online restitution survey to all judges in the state. The SCA and judge interviews were used to inform the development of the survey. This survey asked judges to assess their likelihood of imposing restitution for different types of crimes and victims; what factors they use to determine how much restitution should be ordered; court sanctions they support for offenders who fail to pay; barriers to collecting restitution; and who they think should be responsible for monitoring offender payments. Results of the survey and themes from the judges' interviews are presented in the results section.

Analysis of Victim Registration Packets

The victim registration process is vital to engaging victims and collecting information needed to determine the amount of their losses for a restitution order. All counties interviewed send a victim registration packet to victims, which the victims are asked to complete and return within ten days. We conducted a readability analysis of selected paragraphs of text from these packets.

Needs Assessment Results: The Restitution Process

The Restitution Process

The process of ordering victim restitution in Iowa counties appears to follow Iowa Code. If a victim is eligible for restitution, county attorneys are filing and judges are granting those orders. According to the county attorneys, few defendants challenge victim restitution amounts, in which case a hearing is scheduled to resolve the dispute and victims are required to participate in these hearings. While few victim restitution orders are challenged, some attorneys did note that orders are infrequently amended for additional amounts except when the Crime Victim Assistance Division (CVAD) sends updated claims. In addition, most counties are not requesting “*soft charges*,” such as lost wages, because of difficulty linking these costs to the crime.

The primary driver of restitution is the victim working with County Attorney's office and CVAD.

–County Attorney

Barriers to Ordering Restitution

Lack of victim response. Every county interviewed described a process in which crime victims are either given a victim registration packet by law enforcement or after the case arrives in the county attorney's office. These packets typically include a cover letter notifying the victim of the criminal complaint and informing them of their right to register, a victim impact statement form, and a restitution claim form. The victim is typically asked to return the registration packet within 10 days.

According to the county attorneys and victim witness coordinators, the number one barrier to ordering victim restitution is the victim's lack of response to the registration packet and/or their unwillingness to participate in the restitution process. In most counties, the county attorney's office relies on their local law enforcement for victim contact information. In a few counties, law enforcement actually completes the initial victim registration, but the packet usually comes from the county attorney's office. As stated by several county attorneys and victim witness coordinators, the onus is clearly on the victim to complete the paperwork and return in to the county attorney in a timely manner.

Victims are not always easy to work with; when identified as a victim, a letter is sent, but the onus is on the victim to get in touch with the office – there is not any follow up. –Victim Witness Coordinator

Victims move, no good address, etc... Can be a time lag between arrest, hearing, paperwork...can be days to a month before anything happens. People are most interested in the immediate aftermath of the crime. – County Attorney

Victim response to the registration packets varies. Domestic violence victims, across the board, are reported to be the least likely to register/return information. Victims with higher dollar loss (i.e., property crimes) or who are more indignant or outraged about their victimization are more likely to register. Businesses who are victimized vary in their interest in being involved in the restitution process. In some counties, larger businesses are less likely to register for restitution due to insurance coverage and ability to absorb the loss.

DV cases are the most challenging regarding the victim participation. - VWC

Larger counties tend to get lower returns of victim paperwork. Few counties have the resources to track down victims who do not return the victim registration packet. Most counties will send a follow-up letter and smaller counties, who may be more familiar with victims in their community, may do more outreach, but these are typically counties that have victim witness coordinators. In general, if the victim

We don't have a lot of time to walk victims through the process. - VWC

Victims in our county are very transient or undocumented. - VWC

does not respond to the victim registration packet, the county attorney is unable to move forward with a restitution order. Some counties also have a more transient population, such as students or immigrant workers, who are much more difficult to track.

When asked about barriers to victim engagement in restitution, some county attorneys and victim witness coordinators stated that the victims might think “*why bother, the defendant is never going to pay.*” They also shared that domestic violence victims might be concerned about further retaliation or that the money the offender would be ordered to pay would come out of their family income in the end. The attorneys and victim witness coordinators also acknowledged that the victim registration packet is an “*overwhelming packet of information*” that the victims “*don't even know where to start to get the needed documentation for the restitution order.*” The victim service providers also reported that the communications typically sent to victims about restitution are “*sometimes difficult for victims to decipher as they are often written at a level higher than victims can understand without assistance.*”

Documentation of loss. Difficulties estimating the value of some losses were also another frequently mentioned barrier to ordering restitution. Victims often do not have receipts for property or estimates of the worth of valuables, like family heirlooms. Medical and dental bills were the best documentation available.

It may be a hassle to figure out the value, to find receipts or the original cost of an item. Victims may see that as a lot of work to figure out, so some may say it is not worth it. – County Attorney

Bills of actual costs are the best kind, then replacement costs can usually be ordered. Injury and missed time at work, we try to go for that, but sometimes it is hard to calculate. – County Attorney

Analysis of the Readability of Victim Registration Packets

The Flesch and Flesch–Kincaid readability tests measure the comprehension level of English text passages using two separate tests, the Flesch Reading Ease, and the Flesch–Kincaid Grade Level. Each test is based on the number of syllables in each word in a passage of text and the number of words per sentence. The Flesch Reading Ease score ranges from 0 to 100, with higher scores indicating greater readability and lower scores indicating more difficult passages. A score of 60 to 70 is easily understood by 13 to 15 year old high school students, whereas a score of 30 or less is best understood by college graduates. The Flesch–Kincaid Grade Level score represents a U.S. grade level. For example, a score of 8.0 indicates an eighth grade reading level. A grade level score of 7.0 to 8.0 is recommended for most documents. The National Institutes of Health recommend a reading level between 6th and 8th grade for consent forms in research studies⁸ and other studies note that given that almost half of Americans read at or below an 8th grade level, research consents should be written at a 4th to 6th grade level.⁹

We received copies of the victim registration packet from ten counties. We transcribed a total of 22 selected paragraphs from these documents that were related to restitution, victim impact statements, or victim registration in general. We then conducted the Flesch and Flesch–Kincaid readability tests using Microsoft Word. The Flesch Reading Ease scores for these 22 passages ranged from as low as 14.7 to as high of 70.2 (see Appendix B for the complete list of

⁸ Walters, K. A., & Hamrell, M. R. (2008). Consent forms, lower reading levels, and using Flesch-Kincaid readability software. *Drug Information Journal*, 42, 385-394.

⁹ Paasche-Orlow, M. K., Taylor, H. A., & Brancati, F. L. (2003). Readability standards for informed consent forms as compared with actual readability. *The New England Journal of Medicine*, 341, 721-726.

passages tested). Only five passages had a reading ease score at or above 60%. The grade level scores ranged from 8.1 to 20.6 years (which would be equivalent to a Juris Doctorate or PhD degree).

An example of an excerpt rated as more difficult to read and comprehend addresses pecuniary damages and instructions for reporting the amount of losses suffered:

Pecuniary damages means all damages to the extent not paid by an insurer which a victim could recover against the offender in a civil action arising out of the same facts or event, except for punitive damages for pain and suffering, mental anguish, and loss of consortium. I have incurred the following monetary losses, which may include property damage, medical expenses, and loss of income, as a result of the defendant's criminal actions in the above-captioned criminal case. Polk County, Flesch Reading Ease: 16.4, Flesch–Kincaid Grade Level: 20.6

The most readable passage explained the victim impact statement and provided instructions for completing the statement:

The victim impact information is being collected to provide the sentencing judge in this matter with knowledge about the impact of this crime on your life. Please print or type your answers. Feel free to elaborate on the back of this form or on another sheet of paper and attach it if you need to do so. Woodbury County, Flesch-Kincaid Reading Ease: 70.2, Flesch–Kincaid Grade Level: 8.1

Considerations Regarding the Ordering of Victim Restitution

The ordering of victim restitution in Iowa is clearly supported by county attorneys and judges per Iowa code. The primary barrier to ordering appears to be a result of victims not registering. The county attorneys and victim witness coordinators all agreed that the onus was on the victims to register and few counties, even those with victim witness coordinators, were limited in their ability to follow-up with victims who do not respond. In some counties, transient victim populations also hindered victim engagement.

Although we did not gather any information directly from crime victims for this needs assessment, we do think the readability of the victim registration packets may present a significant barrier to victims engaging with the county attorney's office. If victims cannot

understand the information in the packets and are not receiving assistance from victim service providers, it is reasonable to assume they would be less likely to respond.

Domestic violence victims may be making a conscious choice to opt out of registration due to safety concerns and since the registration packets may include information on crime victim compensation, these victims may be losing out on the opportunity to receive any kind of reimbursement for crime related expenses. The victim's perception that the offender is not going to pay may also be based in reality and these victims may continue to choose not to register as they may believe they will never receive any restitution.

Needs Assessment Results: Collection of Restitution

The court debt collection process begins with the sentencing order. The Clerk of the Court receives this order and sets up financial codes (FIN codes) into Iowa Court Information System (ICIS) which specifies the amounts and types of monies ordered. According to Iowa Code, the offenders have 30 days to pay all monies owed and if they fail to pay within 30 days, their case is sent to the State Centralized Collection Unit (CCU); however there were some discrepancies in the information clerks shared about this step. Some clerks asserted that all the monies owed had to be paid in full in 30 days. Other clerks mentioned the Judge or probation officer setting up payment plans and if the offender remained current on their payment plan, their debt would not be transferred to CCU.

We do get payment plans with judges at sentencing. Stays with the clerk if they pay continuously – Clerk from a midsize county

We have been told we can't do payment plans which are really needed in rural Iowa – the flexibility to offer a payment plan. . . It was about three years ago that they took away the clerks right to do payment plans with defendants.
- Clerk from a rural county

All the clerks did note that there was no flexibility with regards to the case being sent to CCU for failure to pay. If an offender was one day late, the debt is automatically transferred.

Collection Process at CCU

CCU receives an electronic file of a case when it is transferred from the clerk. They have access to skip trace technology to get updated phone numbers and addresses for offenders. They also use various state database systems to find information on offenders, including workforce development employment information, bank information, and any agency that issues a state license.

Once they locate an offender, CCU uses a scoring program to determine which offenders are most likely to pay voluntarily in 120 days. Offenders receive different collection letters depending on their score. They also look at the offender's prior debt, employment, and payment history and if an offender has a poor history they are more assertive in collecting.

CCU uses a debt collection recovery system called CACS which they purchase from an outside vendor. CACS has workflow and tickler capabilities and automatically generates letters to send to offenders. This system allows CCU to track every offender electronically and it

appears that data can be transferred from other state databases, such as the Iowa Work Force Development, directly in to CACS. CCU also has the ability to combine restitution orders from multiple on an offender into one payment plan even if there are orders in multiple counties. CCU also has the capability to put a hold on professional licenses issued by the state if an offender owes more than \$1000 dollars and they can also restrict the purchase of hunting and fishing licenses.

If CCU is successful in establishing a payment plan, they typically give offenders two years to pay the remaining debt. However, the amount of time the debt remains with CCU if the offender is not paying varies. If a county attorney wishes to recall any delinquent debt for their own collections unit, they may do so after 90 days (30 days with the Clerk of the Court, 60 days with CCU. If a county does not wish to recall a case for collections, delinquent debt will remain at CCU for 365 days, at which time it is sent to a private party debt collection agency, Linebarger, Groggan, Blair, and Sampson, LLP (Linebarger) which is contracted by the State of Iowa to collect this debt.

CCU estimates that 70% of cases get recalled in 91 days by the counties, but they expressed a concern that some counties are pulling back cases but are not actually collecting the debt. CCU also mentioned there is flexibility in the law for restitution cases to go back to the county attorney faster, bypassing CCU altogether, but only one county we interviewed mentioned doing this.

Collection Process at the County Level

County attorneys began collecting court debt in 1992. Currently, their county receives 40% of the any court costs and fines they collect, and after meeting a required threshold amount (based on county population), the county retains 52% of the monies collected. The State receives the remaining amount. The county does not receive any amounts collected for victim restitution, the Victim Compensation Fund, surcharges, or sheriff's fees.

Do collections to uphold the integrity of the court system. [Offenders] being held accountable.
– County Attorney

In addition to the ability of the county attorney's offices to establish collection units, they also have the authority to implement License Reinstatement Programs, for offenders who have been convicted of traffic-related crimes (Iowa Code 321.210B). Through these programs, offenders who stay current on their payments are permitted to obtain and maintain a valid driver's license. If the County Treasurer has a hold on the offender's tag renewal because of non-payment of fines, that hold can be lifted by county attorney staff upon execution of a voluntary payment plan or wage assignment.

When asked about their reasons for having a collections unit, the county attorneys were

very frank in stating that a primary motivation for doing collections was revenue. Collection units bring money in to the county and the county attorney's budget. It should also be noted that no county was solely focused on collecting victim restitution because they only earn revenue for collecting court costs and fines. However, in addition to the revenue collections brings in, the county attorneys did feel they had an obligation to do collections as a means of assuring offenders were being held accountable to the community. Finally, some county attorneys talked about collections as a way to uphold the integrity of the court system and the public's perception of that system.

Twelve counties interviewed had some form of a collection unit. The larger counties interviewed were more likely to have collection units (6 of the 7 larger counties interviewed were doing collections) than rural counties (only one rural county was collecting). However, the methods used by these collection units varied. Some of the larger counties are tracking and attempting to collect on thousands of cases. These counties also stated that they prioritized cases where the victim is calling to inquire about payment. One large county uses a civil attorney to file wage assignments to recoup fines but they do not follow-up on restitution orders.

Calling cases back. For counties doing collections, the process of recalling cases for debt collection was described as cumbersome and time consuming. At the end of the 60 day period with CCU, the county receives a list of eligible cases they can recall. They do not receive any other information collected by CCU. The Clerks must look up each case in ICIS to confirm that the offender has not, in fact, begun to make payments to CCU. Once confirmed, the county attorney must file a Notice of Full Commitment on each case with the Clerk of Court, which is a declaration of their intent to begin collecting on that case. The clerk must also docket each Notice of Full Commitment. It is

Some counties battle with their clerks. It takes time to flip the cases to collection by the clerks. You have to work closely with clerks – have to have a good relationship. – County Attorney

Lots of our time is spent on finding out where the case is, who is owed, and how much. – Clerk of the Court

possible to recall cases from Linebarger but few counties mentioned doing this. This process of confirming case eligibility and filing notices is all done manually, and although the filings are becoming more streamlined in counties on the Electronic Document Management System (EDMS)¹⁰, the county attorneys all agreed that doing collections requires a

¹⁰ The Electronic Document Management System (EDMS) is a new system currently being rolled out across the state that allows documents to be electronically filed and managed.

good working relationship with the Clerk of the Court for collections to be successful.

Once a case is recalled, the collections staff described having to manually track these offenders. One collection staff person described using an “*all paper*” system to monitor payments, while another created her own Excel spreadsheet to keep track of payments and due dates. A few counties were able to set up a payment review system in ProLaw, their office management system, but not all counties use ProLaw, and the system still requires them to manually enter in payment data. ProLaw at least allows collection staff to create a tickler if an offender is delinquent with a payment.

Finding offenders. Once the county recalls a case, the next step involves finding the offenders to notify them about the County's intent to collect. Since these cases are not returned to the county attorney's office for at least 91 days, and sometimes considerably longer, locating offenders was described as challenging. County-level collection unit staff described a variety of tactics for finding offenders but these steps require tracking down each offender manually. They usually begin by looking up the offender in ICIS to ascertain if there is a recent address. They contact the Sheriff's office and the Department of Corrections for offender contact information. The collection units are also able to track employed offenders through Iowa Workforce Development but they expressed frustration that they do not have “real time” access to this employment data. The information they receive from Iowa Workforce Development is usually “*behind by several months.*” As noted by some collections staff, “*workers work and they will eventually pop up in the system.*”

It's like "whack a mole." We are not going after every case or hitting every one.
– County Attorney

Once offenders are located, the collection staff sends them a letter informing them that the county is collecting their debt and instructing them to contact the county attorney's office to set up a payment plan. Response to these letters varies. One county said about 50% of offenders will call after receiving the letter. Another county stated that about 5% of offenders will pay in full when they receive the letter, 40% of the letters will be returned with an invalid address, and 10% will voluntarily set up a payment plan. For the remaining offenders who do not respond, the collection staff acknowledged that they do not have time to go after all of these cases unless the victim asks them to.

The collection units and county attorneys acknowledged that they are not hunting down “*off the grid*” offenders and instead focus on offenders they think will actually pay. The counties doing collections also acknowledged the State placing holds on offenders' car tags and driver's license for failure to pay are a very effective ways of getting offenders to

The tag hold is the greatest thing that has ever happened.
– Clerk

either respond to contact from them or to get them to appear at the Clerk of the Court's office, who then sends them to the county attorney's office to set up a payment plan.

Working with offenders to pay. The standard payment is \$50 a month but the collection staff will reduce this amount to \$25 for an offender with a disability. The collection staff described a willingness to work with offenders to pay, taking a “*fair, but firm*” approach. The counties doing collections all indicated that you “*need the right kind of person in the collections position,*” someone who can establish relationships with the offenders and “*walk them through the process*” but be able to know when they are trying to manipulate the system and hold them accountable. They feel that CCU and Linebarger do not take the time to connect with offenders. They believe they get a better response because they have developed these relationships and treat offenders with dignity and respect.

Collect pop cans if you have to. – Collection staff

Collections process successes. The counties doing collections described a variety of strategies that facilitate successful collections. As stated earlier, the car tags and license reinstatement programs, while not being done in all counties, were seen across the board as being *very effective* in bringing offenders in to be able to establish payment plans. Some counties described using a combination of wage garnishment and wage assignments for working offenders. They find that wage garnishments “*get their attention*” but are more costly to do. They may start with a garnishment initially and allow the offender to request it be dropped if they are then willing to establish a payment plan. Counties with good relationships with probation found this to be useful for pressing offenders to pay.

Collections staff also felt it was necessary sometimes to create “*an inconvenience*” for offenders. If they are not paying, they may be required to meet with county attorney. They described this as a form of “*legal harassment.*” One of the judges we interviewed also agreed with this sentiment, stating “*the best sanction is to hassle people – make them come in and say why they aren't paying.*” Finally, county attorneys felt they were more effective at doing collections because they and their collections staff “*know their community.*” They feel this local connection contributes to their success.

Collections process barriers. Despite the success some counties are having with collections, they did describe a number of barriers to their collection process. The most frequently mentioned barrier was the restrictions on the use of court time or court sanctions to compel offenders to pay. Many

The county lost the hammer of the judge and compliance hearings although the threat of having to see the judge is often invoked. – County Attorney

of the county attorneys described how in the past they were able to bring offenders in for contempt hearings for failure to pay and issue warrants if they did not appear. They described having review hearings on a weekly basis but have been told by the State Court Administrators that they can no longer do this.

We used to do this, set a review date four months after sentencing. [The defendants would] have to come in and say where they are at on fulfilling the judge's orders. We would like to do this but the judicial branch thinks it takes up too much time to do this; they just want the debt to go to the 3rd party payer. - County Attorney

Initially, judges helped out with making sure debts were paid and would issue warrants for failure to appear. Failure to appear was a way of legal harassment. It was a major and important tool in which offenders had to appear every three months and report progress. Now, judges can't be involved unless it egregious. The County lost the hammer of the judge and compliance hearings although the threat of having to see the judge is often invoked. - County Attorney

Collection aspect of it has changed so much and has gone back and forth. We are not involved in this anymore. We used to have dockets filled with cases holding people in contempt of court for not paying restitution. The legislature has taken that away from us and has given it to a collections agency/CCU. - Judge

The clerks also echoed this sentiment about no longer being able to issue warrants. As one clerk stated,

Defendants are not as scared as they used to be since they stopped issuing warrants if they didn't pay; defendants don't want warrants, so that procedure had teeth.

They also described judges and corrections staff as reluctant or unwilling to violate an offender's probation or extend probation solely for non-payment.

Some county attorneys also expressed concerns that CCU was "cherry picking" cases by not sending all eligible cases back to the county for collection. Finally, there were a number of

comments about technological barriers. Collections staff described the workforce database as “*behind by several months*” and having real-time access to data for tracking offenders would assist them in locating offenders. CCU is able to access real-time workforce data, but counties cannot. They also expressed a lot of frustration with regards to the manual tracking and monitoring of payments which also require duplication of effort because the various electronic data systems they use don't have the ability to transfer data across systems. Although EDMS is seen as a plus, it has not been rolled out to all counties at the time of the interviews. Frustration was heard over and over from county staff about the inability to quickly access data due to systems “not talking” to each other. Although not directly related to their collections process, the county attorneys and clerks also raised concerns about the Department of Corrections collecting their supervision fee before restitution is paid. This appears to happen because offenders pay corrections directly for this fee.

Corrections is zealous about revoking for not paying their fees. – County Attorney

Reasons counties are not collecting. County attorneys who were not doing collections shared a variety of reasons for not doing so. The most frequently stated reason was a lack of person-power to actually run the collections unit. In most instances, their county Board of Supervisors would not support adding the staff time needed to do collections. Related to the additional resources needed for a collections unit were concerns, particularly in smaller counties, about whether the monies collected would be sufficient to “*pay for itself*” or being able to make the required state threshold for the amount that must be collected, as well as pessimism about offenders' ability to pay. While several county attorneys expressed a clear interest in doing collections, others did not appear interested and seemed unaware of what happened to an offender's debt after sentencing.

If you shake the tree something will fall out, but you need someone to shake the tree. – County Attorney

Not currently doing collections – wanted to do but found out the case load would be too much to take on. Doesn't want push the county board right now to add staff. Feels like a lot of defendants are indigent – so attitude would be that they won't pay. Judges are pessimistic about defendants' ability to pay. – County Attorney

Don't do collections. Kicked around the idea of doing it but don't have the resources. Would have to increase staff capacity but their board of supervisors

is balking at it. – County Attorney

Suggestions for improving the collections process. The primary suggestion county attorneys made regarding how to improve the collection process addressed the time restrictions on their access to the cases for collection. They questioned why there needs to be the “CCU middleman.” The county attorneys believe the earlier they can get offenders on a payment plan, the more likely they are to pay and think counties should be able to keep cases for collection from the time of sentencing.

We would love to keep cases from the very beginning. – County Attorney

The sooner you hit them [defendants], the more they pay. Not sure what they [CCU] do, but being local and knowing the population, we have more control and knowledge of the defendants. The local presence is huge. – County Attorney

They also want to reinstate the ability to do review and/or contempt hearings as leverage over offenders and would ideally like to set these hearings at the time of sentencing. Some counties had found a way around the limitations on contempt or compliance hearings. In one county, the county attorney has an arrangement where he works with the Clerk of the Court to manage the contempt docket. This attorney schedules contempt hearings for offenders who were not paying. When the offenders come in for their review hearings, they meet with the county attorney and if they agree to set up a payment plan or resume paying, they did not actually go in front of the judge for a hearing. This allows the county attorney to have some leverage over offenders without using up court time.

Another county attorney puts compliance hearings in every sentencing order. The offenders are required to come in for a hearing three months after sentencing even in they are paying CCU. This office also requires offenders on payment plans to meet regularly with their collection staff to monitor compliance.

Needs Assessment Results: Payments to Victims

Finding Victims

If the county collection unit, CCU or Linebarger are successful in collecting money from offenders, the Clerks of the Court are still faced with the challenge of getting the payments to the victim. The clerks reported significant challenges in making victim payments. By the time money is ready to be distributed, they often find that the victims' addresses are no longer valid. They think victims do not understand how the payment system works and it does not occur to them to notify the clerk of a change of address. The clerks rely primarily on the Department of Transportation driver's license database and the ARTS database which searches car registrations. Some clerks will make an effort to use the White Pages or Google to find victims, but if they are unable to locate someone, the money goes to the Great Iowa Treasure Hunt which publishes a yearly list of unclaimed monies from the state. If the money remains unclaimed it eventually reverts back to the state's general fund.

Victims may not understand the system – that we can't find them if they move. - Clerk of the Court

Clerk's Perceptions of County Collections

As discussed previously in the section on county collections, the clerks also described the importance of a good working relationship between them and the county attorney's office as being key to a successful county collection process. When asked what makes for a good working relationship, one clerk stated that it took,

The right fit of people and attitudes; recognition of the team impact or shared goals; and recognition that the County Attorney's office is putting time and energy into collecting restitution.

Some of the clerks we spoke with were very supportive of county collection efforts. They described a *quid pro quo* relationship where they incurred more work having to file Notices of Full Commitment, but could rely on the county attorney for other kinds of assistance, like finding an address for a victim when a payment check is returned or being able to send offenders to the county attorney if they want to register a car.

Some clerks, however, were resentful of the county collection units. They perceived the county attorney's office as getting more staff to do collections but they are required to do more work to assist with collections. One clerk, for example, expressed resentment at the county attorney's office for collecting fines for traffic tickets where *“the offender never stepped in to*

court” and the county attorney never worked with the case. Some clerks also see collections as taking money away from the state and were not eager to assist with county collections. Even clerks who were supportive of the county attorney’s collect efforts expressed some frustration about their workload.

[The County Attorney] could be better communicating about the filing load – don't hound the clerk about getting the filings done and be aware of their other work load. These filings are not the only thing we do. - Clerk

Other Issues Shared by the Clerks

The clerks expressed concerns about the lack of flexibility for when a case gets sent to CCU. If the offender is one day late with a payment, the case is automatically sent to CCU. The clerks also expressed frustration at not being able to set up payment plans with offenders in the first 30 days. Clerks in the rural counties, in particular, thought payment plans were beneficial for assisting offenders in paying their fines in a timely manner.

Payment plans give defendants hope. - Clerk of the Court

The clerks also noted that they lack the ability to see if offenders owe restitution in other counties; even though counties are the same ICIS databases, the county’s systems do not talk to each other. As a result, they are limited to applying payments only to their county cases even if restitution is owed in another county. They also see the offender’s ability to choose which cases they want to pay on as a huge barrier to getting money to victims; however they also noted a downside of offenders having to pay restitution first. They frequently saw offenders accumulating other violations if they were, for example, unable to clear their license for a speeding ticket and getting a new charge for driving while barred.

We don't have any control over where the payment goes if the offender pays online or asks it to be put on a driving case. - Clerk of the Court

None of the clerks we spoke with had any positive

I wish I could knock Linebarger off – it causes more problems. - Clerk of the Court

comments to share about the state's third party debt collector, Linebarger. They all saw Linebarger as creating more work for them by making it more difficult to pull cases back to the county for collections, they did not view Linebarger as being effective at collecting, and they disliked the 25% fee placed on top of what offenders already owed.

Summary and Considerations Regarding the Restitution Collection Process

Several of the counties we interviewed that were not doing collections were interested in doing so but cited a lack of staff as the primary barrier. Adding additional staff requires approval from their county Board of Supervisors, whom they described as reluctant or unwilling to approve new hires. Some of these county attorneys also expressed concerns about whether they would be able to collect enough money to reach their required threshold to maintain any new staff positions. A few of the smaller counties expressed an interest in coordinating collections with neighboring counties but seemed uncertain about how to initiate this process.

For counties that were doing collections, there were several that were recognized as being quite innovative and successful in their debt collections. But despite this success, they still encountered significant challenges. One frustration was the inability to keep cases for collection from the time of sentencing. Having to wait 90 days or longer to recall a case very likely makes it more difficult to locate offenders to establish payment plans.

Overall, the process of recalling cases, locating offenders, and tracking payment plans is incredibly labor intensive, and made more so by inadequate technology. Most of the work is done manually, on a case-by-case basis. The various electronic systems, ICIS, EDMS, ProLaw, ARTS, Iowa Work Force Development, etc., are not integrated, which requires a lot of information to be transferred manually from one system to another. Inadequate technology also interferes with payments being applied to restitution cases first, per Iowa code. Counties do not talk to each other electronically. A clerk in one county is not easily able to determine if restitution is owed in another county. The loophole in the code that allows offenders to choose which cases they want to pay on may also affect victim receiving restitution payments.

Changes in the ability to use review and contempt hearings, warrants, and the threat of jail were perceived as a major hindrance in compelling offenders to pay. The county attorneys and clerks believe the restrictions on the use of court time reduces the leverage they have over offenders.

Finally, difficulties getting payments to victims may be a downstream effect of communications with victims at the front end of the process. If victims do not understand the restitution process, they may not understand the need to stay in contact with the clerk or county attorney's office to assure they receive payment.

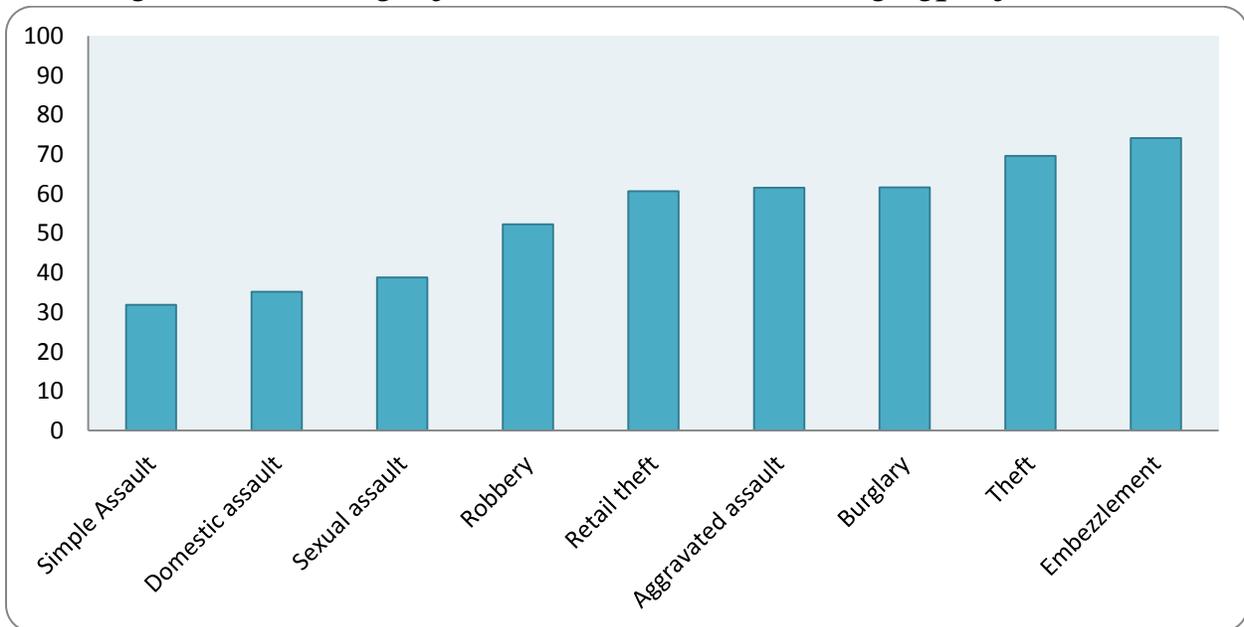
Judge Interviews and Survey of the Judiciary

The survey for judges was distributed in September 2014. Follow-up emails were sent after the first two weeks and only 46 judges responded to the survey. This is a very low response rate so the results of this survey should be viewed cautiously as it is not possible to determine if these findings are representative of the entire judiciary. Of the judges to the survey, 27 were District Court or Chief Judges, 14 were District Associate Judges, two were Senior District Court or Senior District Associate Judges, one responded other and two who did not indicate their appointment. All eight judicial districts were represented. All but five of the judges had been on the bench for 7 or more years.

Types of Crime and Factors Used to Determine Restitution Orders

The judges were asked to indicate what percentage of time they would order restitution for a variety of different crimes. Cases involving a clear loss of monetary value (i.e., embezzlement, theft, and burglary) were more likely to have restitution ordered for the majority of cases; whereas assault cases, including sexual assault and domestic assault were the least likely to have restitution ordered.

Figure 1. Percentage of Time Restitution Ordered by Type of Crime



The judges rated how likely they would be to order restitution for different types of victims. As can be seen in Figure 2, judges would order victim restitution for each type of crime

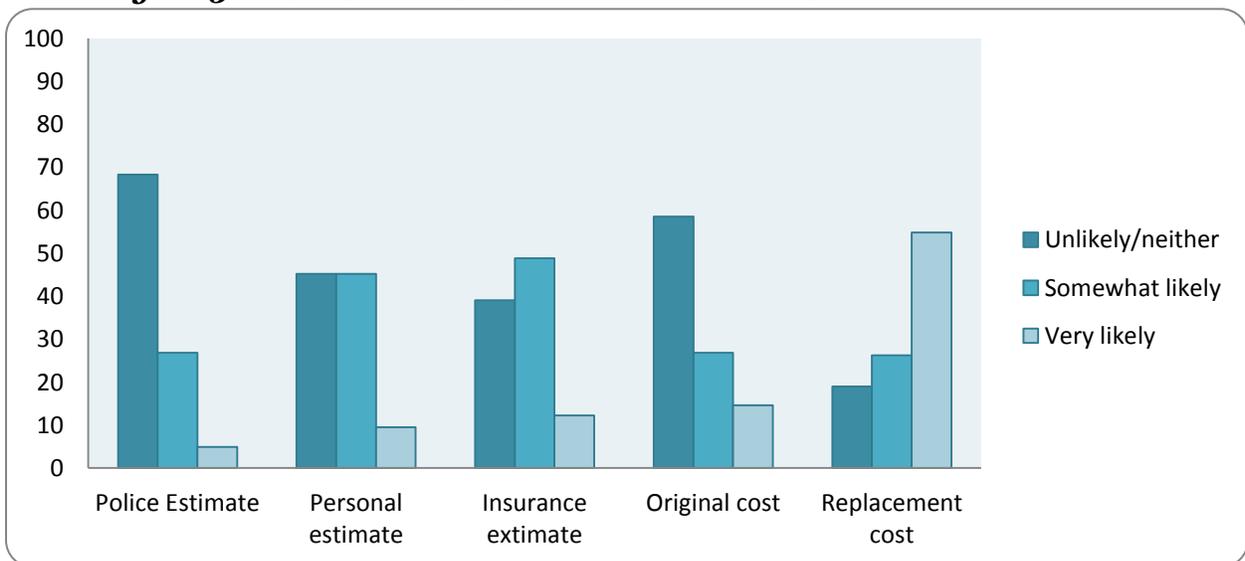
although they were more likely to order restitution when the crime involved an individual victim and less likely to order restitution for large businesses.

Figure 2. Restitution Orders by Type of Victim



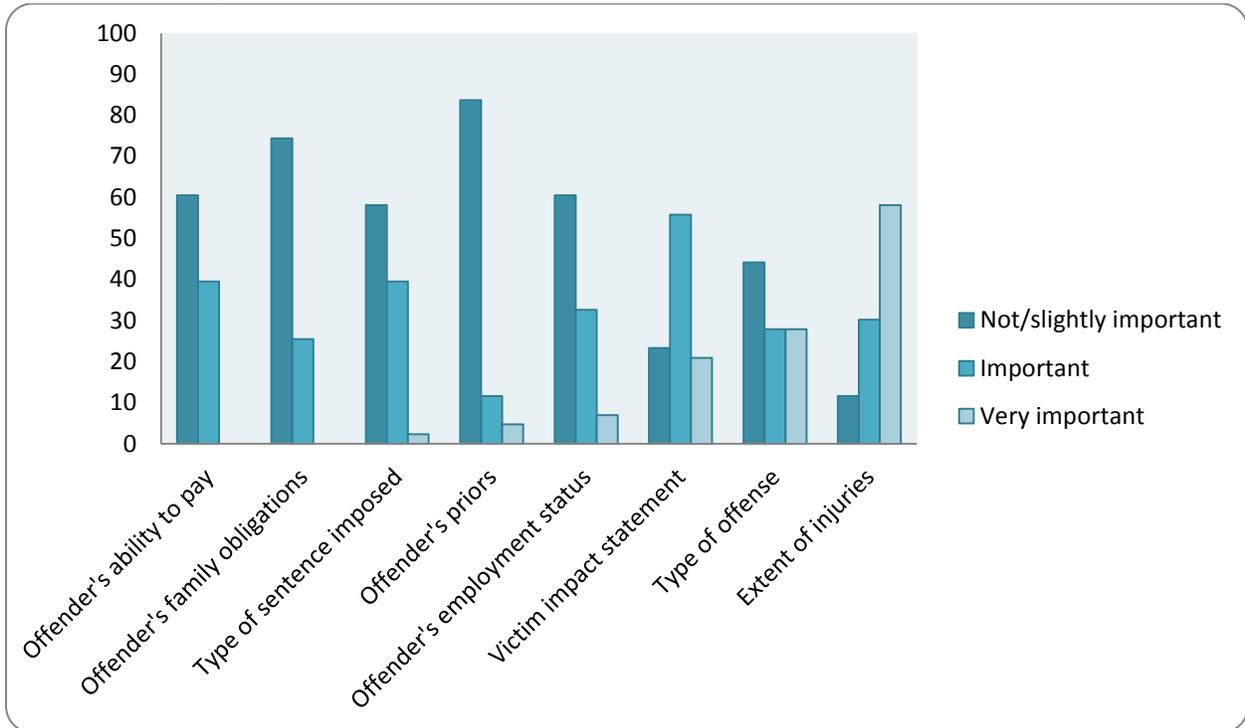
Determining the value of a loss is required for an order of restitution and judges were asked what kind of estimates they were most likely to use in determining the restitution amount. Judges were more likely to base the restitution amount on the replacement cost of the item and less likely to consider the police estimates of loss (See Figure 3).

Figure 3. Cost Estimates Used to Determine Restitution Amount



When asked what factors were most important in determining the amount of restitution to be ordered, judges indicated that the extent of a victim's injuries was very important, whereas the offender's prior record, family obligations, or employment status carried much less weight in their decisions (see Figure 4).

Figure 4. Factors Used to Determine Restitution Amount



The judges did not appear to differentiate between different types of crime when asked how important it was to order restitution for each crime type. As can be seen in Figure 5, all the judges indicated it was “important” or “very important” to order restitution for all types of crime, but they did indicate that restitution was most important for victims of violent crime.

Figure 5. Importance of Ordering Restitution by Type of Crime

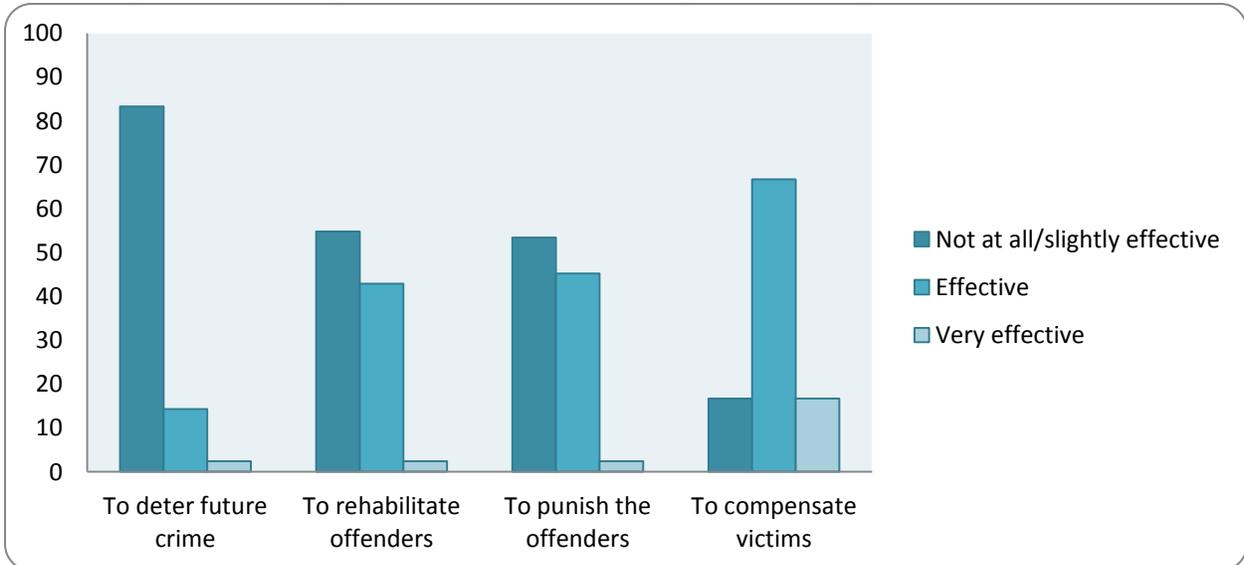


Judges were asked about the importance of providing restitution to cover the cost of mental health counseling and lost wages for crime victims. While only a few judges indicated that restitution to cover counseling and wages was not or only slightly important, only about a third of the judges saw restitution for these two issues as very important.

Role of Victim Restitution in Sentencing and Sanctions for Offenders

When asked about the effectiveness of restitution for meeting the goals of sentencing, the judges were very pessimistic that restitution played any role in deterring future crime, and only somewhat more optimistic that it was effective to rehabilitate or punish offenders (see Figure 6).

Figure 6. Role of Restitution in Meeting Sentencing Goals



With regards to setting up payment plans, there was considerable variation amongst judges. Thirteen judges (31%) said they never or rarely established payment plans, whereas 22 (52%) said they often or always set up payment plans at the time of sentencing. “Show cause” hearings are one method judges can use to monitor an offender’s progress towards paying victim restitution and other court costs and fines. Only one judge used these hearing all the time, and 21 judges (48%) reported never or rarely using these hearings to monitor offenders.

Judges were asked an open-ended question about factors they consider in determining an offender's “reasonable ability to pay” restitution. The more frequently reported factor was related to employment and/or the ability to find work. One judge stated,

If the offender is an able-bodied individual who is capable of holding a job but just makes little or no effort to get a job, I am unlikely to be at all sympathetic to that situation.

They also mentioned the offender's overall income and assets, but several judges also mentioned other financial obligations such as child support or family responsibilities. One judge mentioned looking at how offenders are supporting themselves:

Does the offender have money for smoking, drinking, drugs, cable TV, pricy vehicles, etc...? If so, how financed?” Another judge did note, however, that “*Restitution to an individual victim is not subject to a ‘reasonable ability to pay’ analysis. So I don't consider any factors in that circumstance.*”

Court sanctions can be useful in compelling offenders to comply with court orders. Judges were asked how likely they were to use certain sanctions with offenders who failed to pay *any court owed monies* (e.g., victim, restitution, fines, surcharges, etc.) (see Figure 7), as well as whether they would use these sanctions if an offender was meeting all the conditions of the probation or parole *except for paying victim restitution* (see Figure 8). Generally, more judges said they would be unlikely to revoke probation or send offenders to jail for failing to pay restitution or other monies. They were only somewhat likely to send an offender to jail or issue a warrant. Extending an offender's probation was the sanction they were most likely to use but only 50% of judges said they would be very likely to use this sanction to address offenders' failure to pay.

Figure 7. Court Sanctions for Failure to Pay Any Court-Ordered Monies

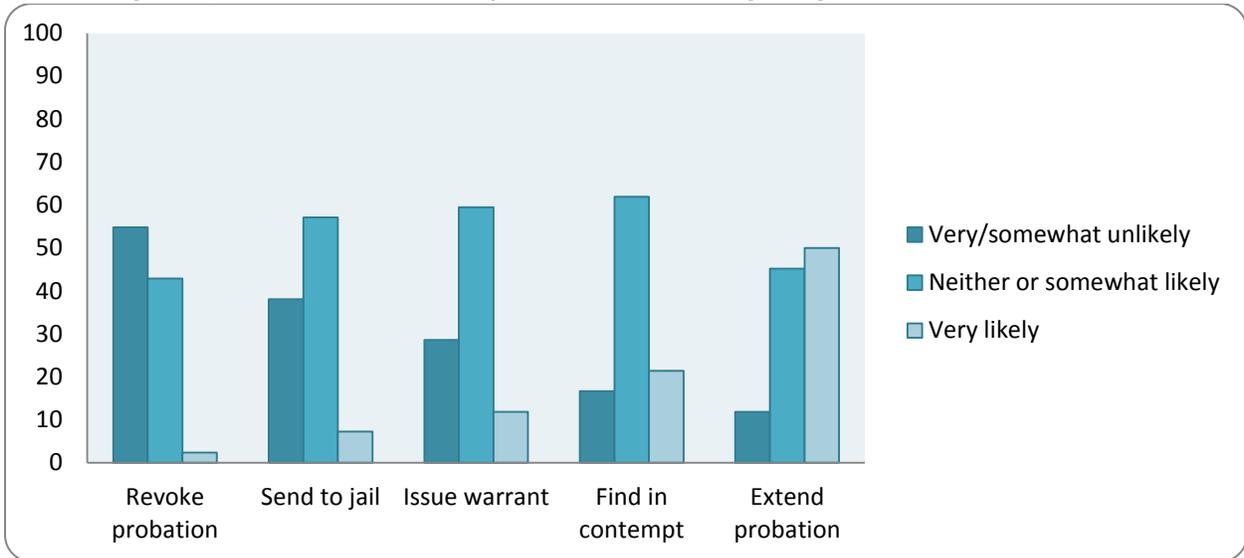
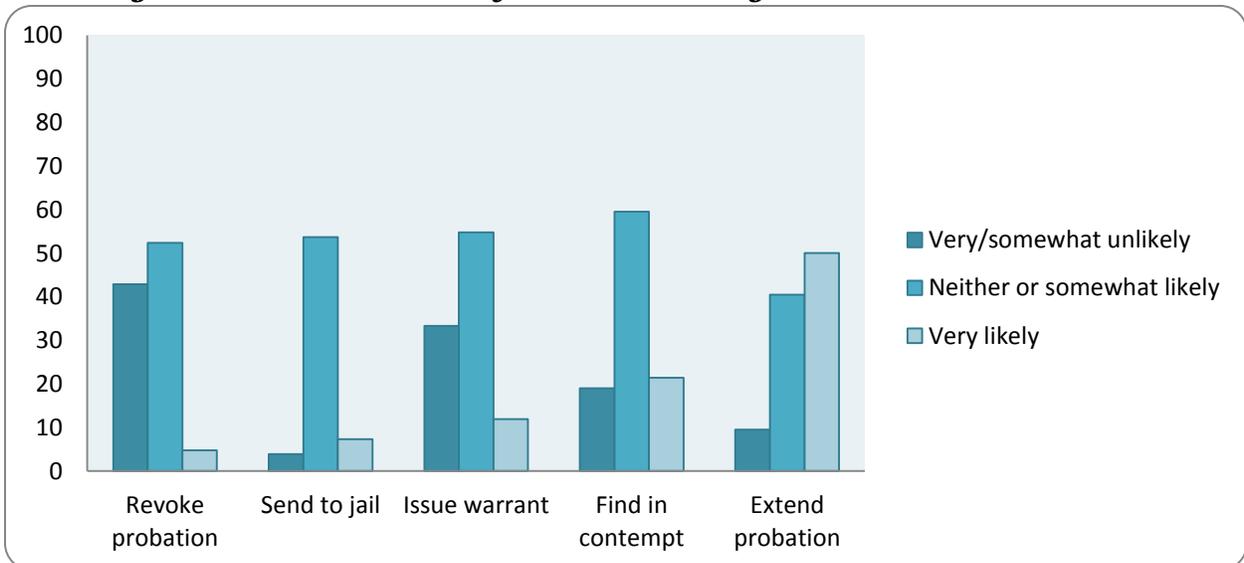


Figure 8. Court Sanctions for Failure to Pay Victim Restitution



Perceptions of Problems with and Responsibility for Restitution Collection

When asked whether they saw any problems with the collection and enforcement of restitution in their courts, about one third of the judges felt it was a major problem (35.7%) and slightly more than a third saw it as a moderate problem (38.1%). Only 5% of judges perceived no problems with restitution collection.

The question of who is responsible for monitoring offenders' compliance with victim restitution orders and for collecting victim restitution payments was also put to the judges.

Specifically, judges were asked to rank order who they thought should be responsible. With regards to the responsibility for monitoring compliance, probation the most frequently ranked top choice, and after that, county attorneys were ranked first. With regards to the collection of monies, the number one rankings were more evenly distributed among the county attorney and probation.

Figure 9. Ranking, Responsible for MONITORING Offenders' Compliance

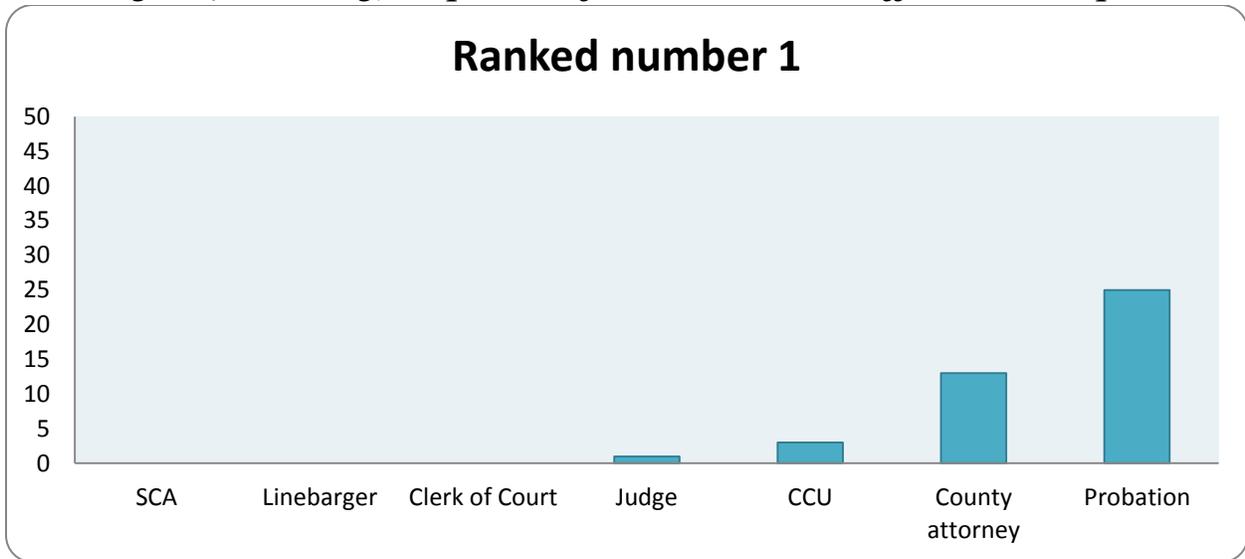
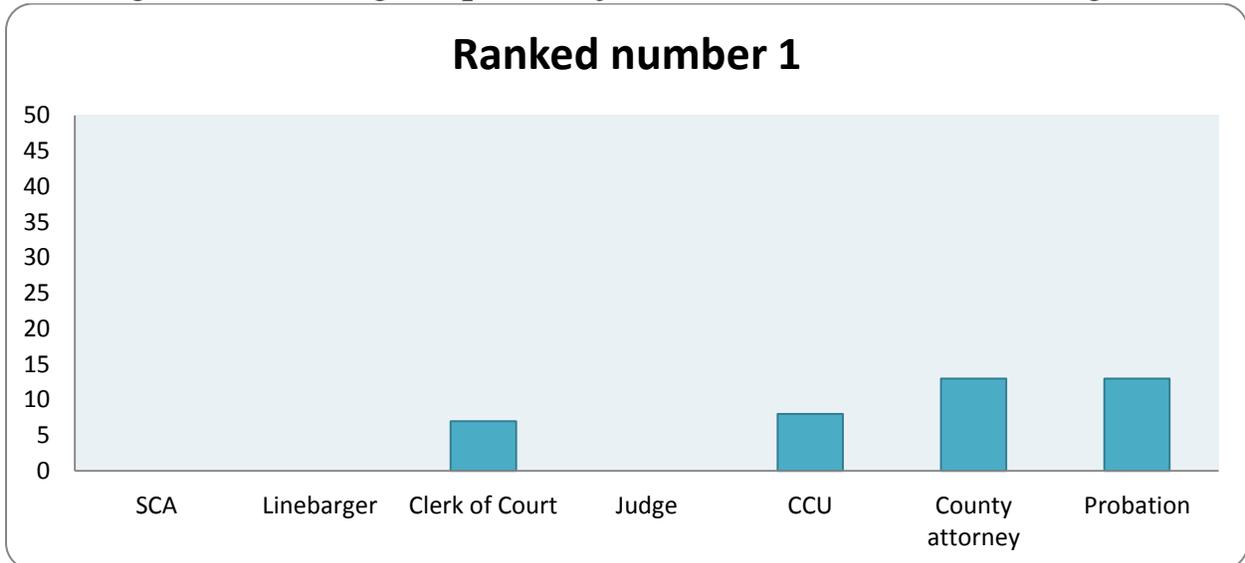


Figure 10. Ranking, Responsible for COLLECTING Restitution Payments

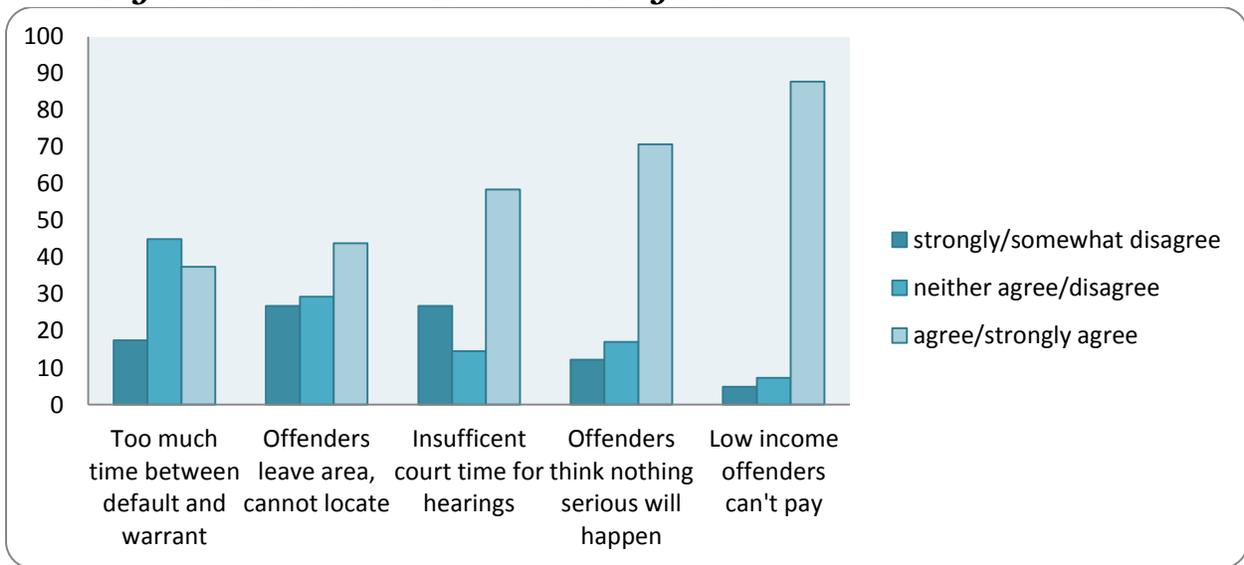


When offenders have difficulty paying restitution, we wanted to know whether judges ever considered lowering an offender's restitution payments or imposing community service in lieu

of restitution. Most of the judges said they would be very or somewhat unlikely to lower the restitution amount (72.2%) and only 34% said they would be somewhat or very likely to order community service.

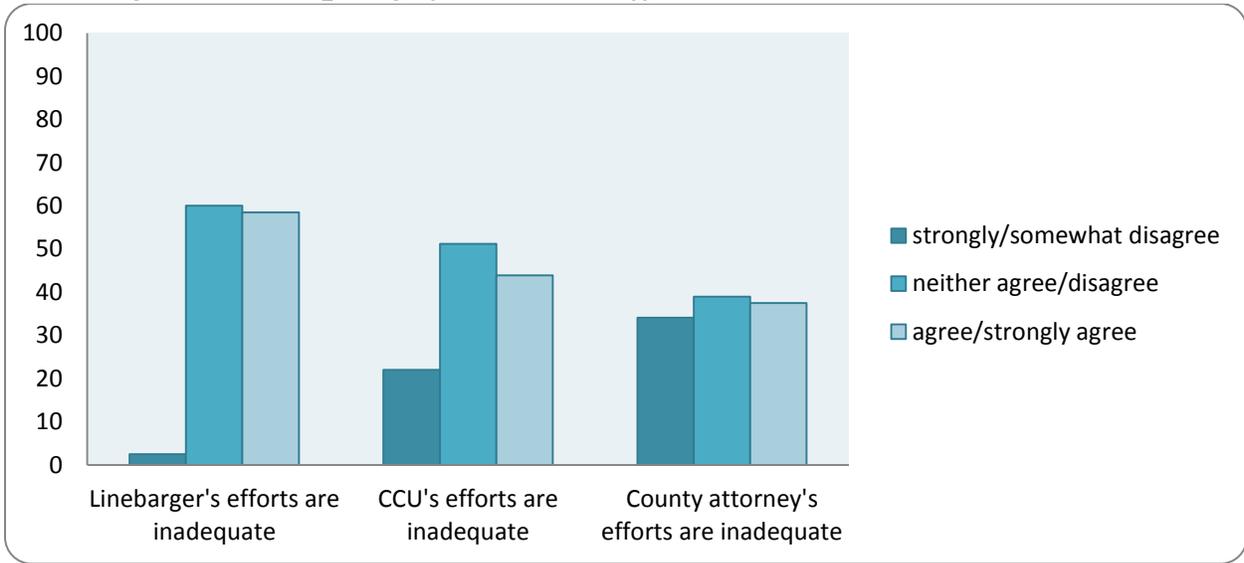
To better understand what judges saw as barriers to collecting restitution, they were asked about their level of agreement to the statements listed in Figure 11. They most strongly agreed with the statement about low income offenders being unable to pay as a barrier to payment and also thought offenders beliefs that nothing serious would happen to them if they failed to pay was an issue.

Figure 11. Barriers to Restitution Payment



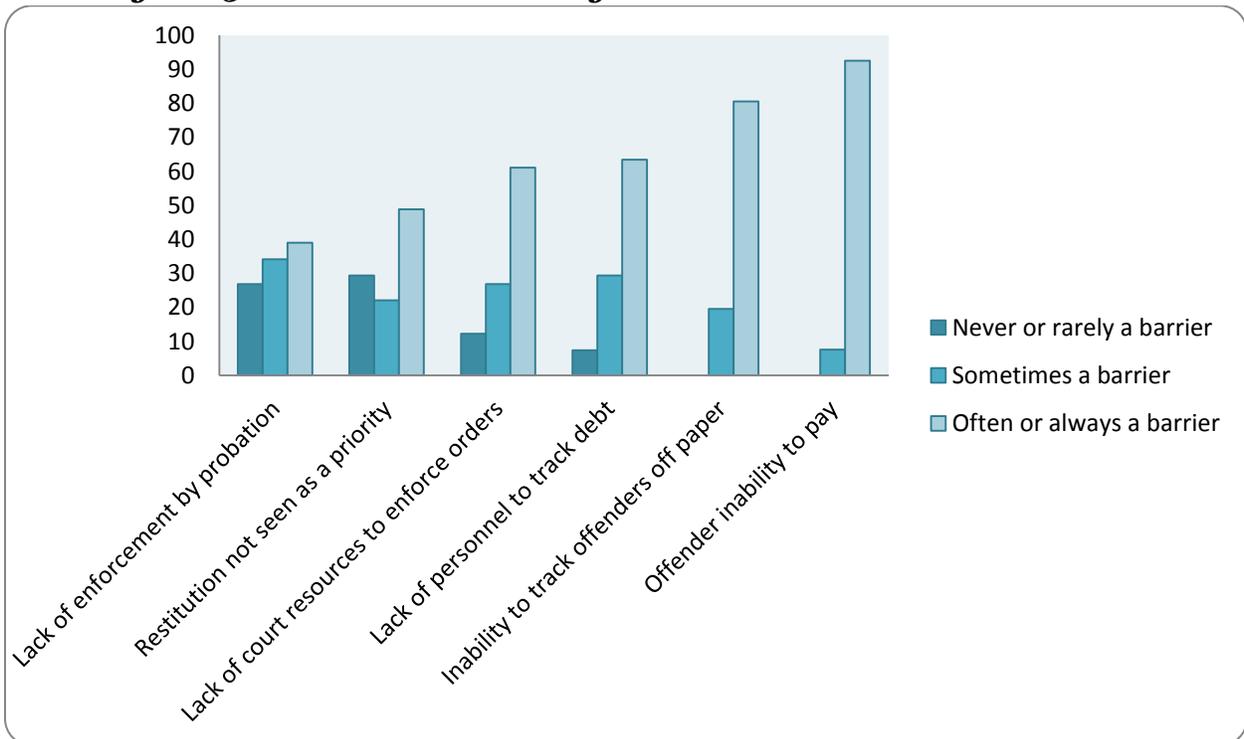
The judges also weighed in on the adequacy of the county attorney, CCU, and Linebarger for collecting restitution. They clearly perceived Linebarger as being the most inadequate, but they did not strongly endorse the efforts of CCU or the county attorney (see Figure 12).

Figure 12. Adequacy of Collection Efforts



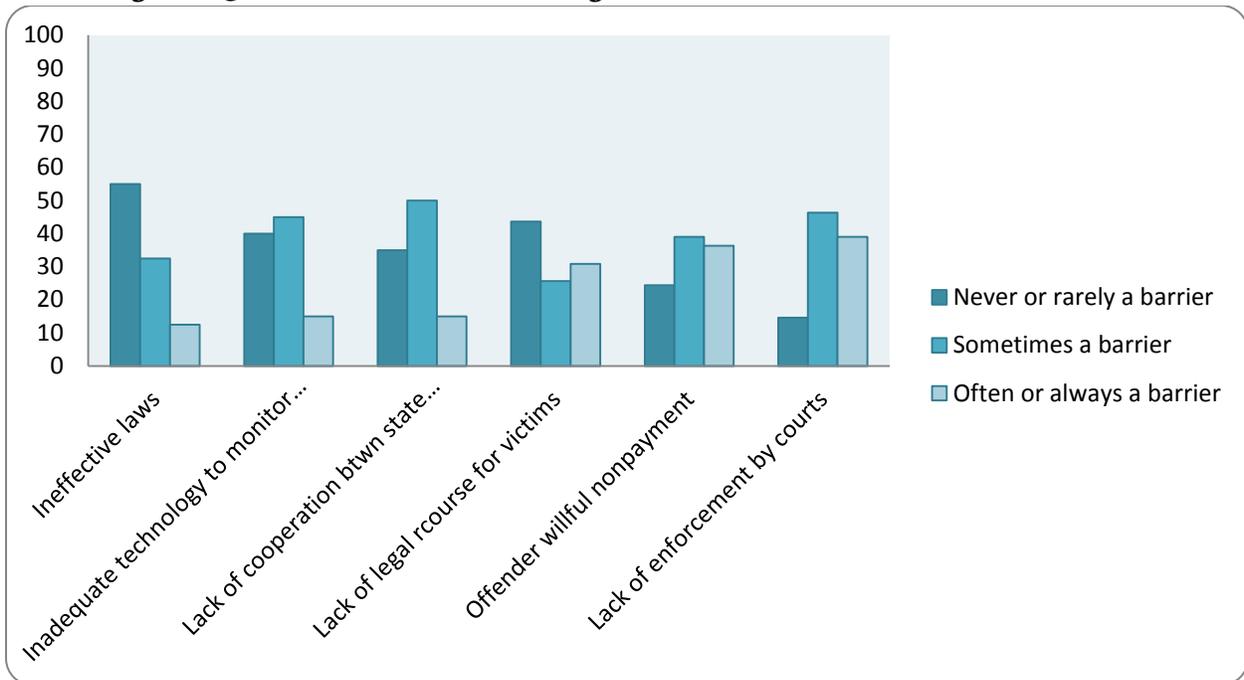
Finally, the judges were asked about specific barriers (see Figure 13a and 13b) to collecting victim restitution in Iowa. Once again, the largest perceived barrier was the offenders' inability to pay, with 93% of judges indicating this is often or always a barrier. Inability to track offenders after they are off probation or parole and the lack of personnel to track offender payments were the next most frequently endorsed barriers.

Figure 13a. Barriers to Collecting Restitution



While the judges were mixed on their perceptions of whether a lack of enforcement by probation or parole was a factor (see Figure 13b), they were much less likely to see ineffective laws and inadequate technology as contributing to the difficulties in collecting restitution.

Figure 13b. Barriers to Collecting Restitution



They also did not think offender *willful nonpayment* was a barrier, although they did agree that an overall inability to pay is an issue. Individual interviews with judges supported this survey finding.

The vast majority of the defendants cannot pay their bills – they have addiction, not working, mental health issues. You can put all the financial obligations on them that you want.

Maybe 10% are thumbing their noses at the system re paying. Very small percentage that willfully refuse to pay. You are trying to collect money you know you cannot collect.

Considerations from the Judges Survey

As stated earlier, the findings from the survey of judges needs to be viewed cautiously because of the small sample size. While the county attorneys did not express any resistance from judges for ordering restitution, some of the responses given by the judges in the survey were contradictory. The judges reported they were less likely to order restitution in all assault cases, yet they reported that they were more likely to order restitution for individual victims and they were most likely to consider the extent of injuries when determining restitution amounts.

When asked about court sanctions, the judges' survey responses were similar to views expressed by the county attorneys and collections staff. They were less likely to revoke an offender's probation, issue a warrant, or send an offender to jail. This seemed to contradict their assertion that probation should be responsible for monitoring offenders' compliance with restitution orders. The judges did say they were more willing to extend an offender's probation, but interestingly, this was not mentioned by the county attorneys.

The perception of an offender's ability to pay was another contradiction in the judges' survey results. Although most judges stated that the offender's inability was not important in determining the restitution amount, when asked about barriers to collecting restitution, the judges overwhelmingly thought the offender's inability to pay was the most significant barrier. They did not, however, see this as inability as willful for most offenders.

Summary of the Victim Restitution Process in Iowa

Figure 14 illustrate the steps in the restitution process in Iowa from the initial crime through payments of restitution to victims. Along this process, we identified three places where victim restitution hits a “brick wall.”

The victim restitution process in Iowa begins with a crime involving a victim. Law enforcement investigates these crimes and gathers information on both the victims (green lines in Figure 14) and offenders (red lines in Figure 14). This information is sent to the county attorney’s office where a decision is made about charging an offender. In most counties, once a charging decision is made, the county attorney’s office is responsible for sending all crime victims a registration packet. In addition to informing victims of their rights, this packet includes forms the victim can use to document any monetary losses they experienced as the result of the crime.

Registration is the first step in the process where victim restitution may hit a brick wall. If the victim does not return the necessary paperwork, in absence of a crime victim compensation claim, no victim restitution can be ordered and all the counties stated that “*the onus*” was on the victim to register. The county attorney’s and victim witness coordinators shared their ideas about why victims might not return the packet. Domestic violence victims were the least likely to return registration packets, possibly due to safety concerns or a belief that the restitution would ultimately come out of their family income. Some counties had more transient populations, such as college students or undocumented immigrants who were more difficult to reach. They speculated that the registration packets might be an “*overwhelming*” amount of information and they acknowledged that they had limited resources to follow-up with victims who did not respond. In addition to reasons for a lack of follow-up shared by the county, our analysis of the readability of these packets would indicate that the information in these forms is not written at an accessible reading or comprehension level.

If a victim does register, victim restitution is typically ordered. None of the county attorneys described any difficulties with judges’ willingness to order victim restitution and few offenders were challenging restitution amounts. Some attorneys did note that estimating the cost of some losses was difficult and they were less likely to request restitution for “indirect” costs such as lost wages or counseling expenses because of difficulties proving these costs were the result of the crime.

Once ordered, the restitution order is docketed by the Clerk of the Court, and the clerk establishes financial codes in ICIS for each kind of monies ordered: victim restitution, fines, court costs, etc. When offenders pay any money, the Clerk applies these to the amounts owed in the following order as stipulated by Iowa code: 1) victim restitution, 2) fines, penalties, criminal

penalty surcharge, and law enforcement initiative surcharge; 3) Crime Victim Compensation Fund; and 4) court costs, including correctional fees, court-appointed attorney fees, and public defender expenses. However, as noted by the clerks, they do not have easy access to whether an offender owes victim restitution in another county and are limited to applying payments only to debts in their county.

After the restitution order is docketed, the offender has 30 days to pay all debt in full. At day 31, if the offender's debt becomes delinquent, the debt is automatically sent to the state Central Collection Unit (CCU). CCU accesses offender information from the original restitution order, but also has access to skip trace technology, employment and banking information, and state professional licenses to gather additional information to locate offenders. If CCU is able to locate an offender and establish a payment plan, the offender's debt remains with CCU for up to least two years. CCU adds a 10% surcharge to the offender's debt which is recouped first before victim restitution is paid. CCU is the State collection department for the Judicial Branch, Department of Revenue, Department of Human Services Child Support Recovery Unit and the Department of Natural Resources. They do not have any communications with the county attorney or correctional services regarding offenders' compliance with payments.

If CCU is unable to establish a payment plan with offenders after 90 days, county attorney offices have the option of recalling these delinquent cases to conduct their own collections. Only about half the counties in Iowa do some kind of county-level collections. Every month, the counties receive a list of cases that are delinquent at 91 days. To recall these cases, the county must file a Notice of Full Commitment on each case, which must be docketed by the Clerk of Court. Any offender information gathered by CCU is not shared with the counties and counties do not have access to the same kinds of technology for tracking offenders that CCU does. Counties are essentially starting over in re-establishing contact with offenders and they do a considerable amount of manual work tracking and monitoring of individual offenders.

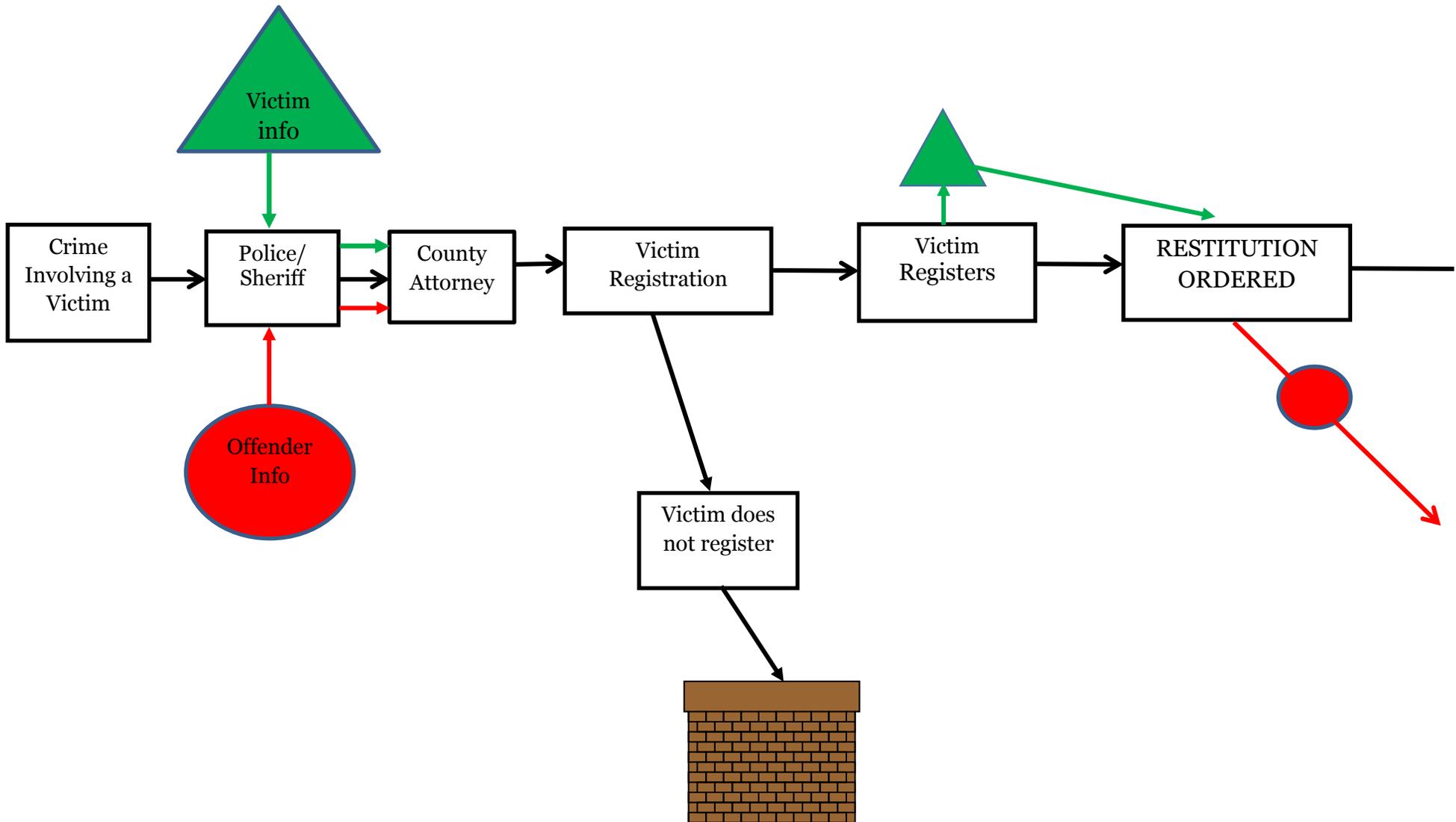
If counties do not do collections, and CCU is unable to establish a payment plan with offenders, after 365 days the debt is transferred to the state's third party debt collector, Linebarger. It is unclear what offender information CCU provides to Linebarger and no information is available on Linebarger's collection procedures or success rates. Linebarger also adds an additional 25% fee to the offender's debt.

If the counties, CCU or Linebarger are unable to establish payment plans with offenders, this is the second brick wall victims encounter to receiving victim restitution. Offender inability to pay was identified by judges as a major barrier to victim restitution, but it is unclear how many offenders are "willfully" not paying or how many offenders could pay but are not doing so because of difficulties locating them to establish payment plans. County attorneys felt they would have greater success with collections if they could keep cases from the time of sentencing.

They feel the local connection with offenders is essential and their county collections staff described a willingness to work with offenders on reasonable payment plans. The county attorneys also bemoaned the inability to use contempt hearings, warrants, and the threat of jail to incentivize offenders to pay.

The final brick wall victims encounter to receiving victim restitution happens at the time of payment. As illustrated in Figure 14, the last time victim contact information is updated is at the time restitution is ordered and a considerable amount of time may have lapsed before offenders make payments. Unless they update their contact information with the Clerk of the Court, the clerks have a limited ability to find victims for payments.

Figure 14: Flowchart of Victim Restitution Process in Iowa



Implementation Ideas Generated from the Needs Assessment

The results of the needs assessment indicate several areas where changes could improve the victim restitution process in Iowa, however some of these implementation areas could be more easily implemented in the short term, whereas other strategies may require legislative or policy changes or judicial support to successfully implement. The following are suggestions for the Iowa Restitution Initiative Steering Committee to consider. General steps for each suggestion are described along with a discussion of the feasibility of each option. A more detailed evaluation plan will be provided at a later date once the Committee decides on an implementation plan.

Increasing Victim Registration

The primary method county attorneys use to communicate with crime victims is a victim registration packet mailed to the victims. A fair number of victims do not return these packets and even counties with victim witness coordinators have limited time to follow up with victims who do not respond.

Based on the readability analysis of the text in the victim registration packets, a major concern is whether victims are able to understand the information in these packets to successfully complete the required information. Revising these packets with a focus on reading level and comprehension may help increase victim engagement in the registration process. It might also help to consider parceling out the information that is sent to victims to reduce how “overwhelming” the information may be perceived.

Implementation steps for improving the comprehension of victim registration packets.

1. Review Iowa code to determine exactly what information needs to be in the victim registration packets. For example, do the packets have to include a legal definition of “pecuniary damages”
2. Revise the registration packets to a 6th grade reading level by reducing the length of sentences and using words with fewer syllables.
3. Conduct focus groups with crime victims to elicit feedback on the revised forms for both reading accessibility and their overall effectiveness in engaging victims in the registration process. Revise the forms based on this feedback.
4. Pilot the revised forms in a sample of counties by randomly assigning victim cases to receive the revised registration forms or the current registration forms and track the victim return rates by type of registration packet to determine the effect of the revised packets on registration rates.

Feasibility. This plan to improve the victim registration packets would be highly feasible. Revising information packets would not require any legislative approval. There is unlikely to be resistance from counties since the intent is to improve victim engagement. If the data collected show that the revised packets improve victim registration, it is very likely that other counties would be willing to adopt these new materials.

Other ideas for improving victim registration.

1. Increase the number of victim witness coordinators in counties to work with victims to increase victim registration.
2. Conduct a more in-depth study of types of victims that are more or less likely to return victim registration packets to determine a list of case characteristics that predict lower response rates. Victim witness coordinators could use this information to prioritize which crime victims would benefit from more concerted outreach efforts.

Increasing Offenders' Compliance with Restitution Orders

Even when victim restitution is ordered, a substantial number of victims never receive monies owed because of offenders' failure to pay. CCU indicated that 70% of the cases they receive for delinquent debt are returned to the counties for collections because they are unable to establish payment plans. While information on the county attorneys' success rates for collections was not examined in this needs assessment, the counties assert that they are more effective at collections because of the community connection with the offenders and the efforts of their collection staff to work with offenders to facilitate payment. The county attorneys also contend that they would be more effective at collecting if they could keep cases from the time of sentencing, rather than having to wait 90 days or longer to establish payment plans. Thus the question remains: If counties doing collections were able to keep these cases from the time of sentencing, would this improve their ability to set up payment plans with offenders and increase offender payments? The following pilot project could be used to answer this question.

Implementation steps for increasing offender payments by establishing payment plans with the county at the time of sentencing.

1. Identify a county currently doing collections to participate in the pilot project.
2. Randomly assign victim restitution cases to one of two conditions: a payment plan established with the county attorney at the time of sentencing or the usual procedures of debt proceeding through the Clerk of the Court to CCU and back to the county.
3. Track offender payments through ICIS to determine whether offender compliance with payment is greater for cases where payment was established at sentencing compared to the current collections procedures.

Feasibility. The county attorneys are eager to keep collection cases from the time of sentencing so finding a county to participate in a pilot project should not be difficult. However, since the debt collection procedures are set by Iowa code, this pilot project may require approval by the State Court Administrators or other state agencies. There may also be long term resistance to changing the payment procedures because of how payment money is distributed. When offenders pay off their debt in the first 30 days or establish a payment plan with CCU, after victim restitution, court costs and fines collected go in to the state general fund. When counties do collections, they get to keep between 40% and 52% of these court costs and fines. Thus, stakeholders benefitting from these funds might resist any changes to the current debt collection procedures.

The lack of court sanctions was another perceived barrier to successful restitution collection. Although some judges and counties were still using review or show cause hearings to monitor offenders' compliance with court ordered restitution, most of the county attorneys described a significant decrease in the use of court hearings to compel offenders to pay. The county attorneys and clerks both felt that this change was having a negative effect on offender compliance. A pilot project on the use of court sanctions might provide empirical data on the effectiveness of court sanctions that, if positive, could be used to argue for increased use of court time to monitor restitution payments.

Implementation steps for examining the effectiveness of court sanctions on increasing offender compliance with restitution payments.

1. Identify a sample of counties that are and are not doing collections to participate in the pilot project. This would allow us to examine whether court sanctions in combination with county collections is more effective than court sanctions alone.
2. Randomly assign cases within each county to one of two conditions. In the experimental group, a regular schedule of review hearings, lasting a minimum of a year, is set at the time of sentencing. The control group would not be subject to any additional hearings than might ordinarily occur with the case. All cases would follow whatever collection procedures they would normally be subjected to in the county where the case resides.
3. Track offender payments through ICIS to determine whether offender compliance with payment is greater for cases that receive regular review hearings compared to business as usual. The number of review hearings and other court sanctions imposed would be collected to determine the effectiveness of the sanctions.

Feasibility. This pilot project would require more court time so approval from the State Court Administrators/Judicial Branch is key to the implementation of this plan. Judges have

considerable autonomy of their courtrooms, so this project may also require eliciting the support of specific judges to successfully implement. Since the Clerks of the Court are required to docket hearings, their support might also be important.

A potential drawback of this implementation plan is that more compliance hearings could lead to more findings of contempt which could result in more jail time for offenders. This could strain county jails and also result in more fines and correctional fees for offender.

Other implementation ideas for enhancing victim restitution collections.

1. *Encourage more counties to do collections.* Only 48 of 99 Iowa counties were doing collections in 2014. Smaller counties not doing collections had concerns about making the state required threshold. Iowa Code §28E allows counties to enter in to an agreement to coordinate collections with the collection threshold being set based on the population of the largest county. Education on these agreements and training on establishing collection procedures might encourage more counties to start collection units.
2. *Establish a toolkit to assist county attorneys in working with their county Board of Supervisors (BOS) to establish collections units.* The BOS controls hiring of county paid staff and was described as major a barrier to establishing collection units. Creating a toolkit of information and cost/benefit analysis of collections that could be used by county attorneys to lobby their county BOS might increase the number of county collection units.
3. *Improve the technology for tracking offenders and monitoring offender payments.* Improving technology statewide would be a major undertaking that is likely beyond the scope of the Restitution Initiative Project. However, inadequate technology seems to be a major barrier to effective collections. At a minimum, counties should have the same access to databases used by CCU to track offenders. In addition, when a case is transferred from CCU to the county, the county should receive all the information gathered by CCU.

On a larger scope, the state needs an integrated system that can push data across databases (ICIS, EDMS, ProLaw) and reduce the amount of manual tracking that needs to be done to recall cases and monitor offender payments.

4. *Close the loophole in Iowa Code that allows offenders to choose the cases they want to pay.* Offenders may be able to avoid paying victim restitution because the code allows them to specify where they want the payments applied. If the offender does not specify, the code assures that payments are applied to victim restitution first. Closing this loophole would assure that victim restitution is paid first.

5. *Create a coordinated database that displays all the offenders' cases.* Currently, the Clerks of the Court can access only those cases in their county. When they receive a payment, they are unable to see if victim restitution is owed in another county. Allowing clerks access to all the offenders cases would assure victim restitution is paid first.

Finding Victims for Payment

Victim payment is hindered by the fact that victim contact information is last collected or updated when the restitution is ordered is filed. This is a downstream issue that might be addressed by improving the victim registration process. If victims have a better understanding of how the restitution process works, they may take more initiative to maintain contact with the Clerk of the Court over time.

Moving up county collections to the time of sentencing might also improve contact with victims. County collection staff would be able to contact victims at sentencing to discuss the payment process and encourage them to stay in touch with the county attorney's office.

APPENDIX A: Counties in Final Sample

County	Collection Unit	Judicial District	Have VWC	UIC Code
Black Hawk	Yes	1	Yes	2
Story	Yes	2	Yes	2
Cherokee	Yes	3	Yes	6
Woodbury	Yes	3	No	2
Marion	Yes	5	Yes	6
Polk	Yes	5	Yes	2
Warren	Yes	5	Yes	2
Iowa	Yes	6	No	6
Johnson	Yes	6	Yes	2
Jackson	Yes	7	Yes	6
Muscatine	Yes	7	Yes	5
Jefferson	Yes	8	Yes	9
Clayton	No	1	No	7
Cerro Gordo	No	2	Yes	8
Hancock	No	2	No	9
Winnebago	No	2	No	9
Crawford	No	3	Yes	6
Audubon	No	4	Yes	7
Mills	No	4	Yes	2
Louisa	No	8	No	5
Poweshiek	No	8	No	9

APPENDIX B: Readability Assessment from Selected Excerpts of Victim Registration Packets

The Cherokee County Attorney's Office provides information and assistance to victims of crime. My office has implemented a policy to notify victims, support victims, interview victims and refer victims to services that will help them recover emotionally, physically, and financially from crimes committed against them. **Cherokee County, Flesch Reading Ease: 14.7, Flesch–Kincaid Grade Level: 16**

Pecuniary damages means all damages to the extent not paid by an insurer which a victim could recover against the offender in a civil action arising out of the same facts or event, except for punitive damages for pain and suffering, mental anguish, and loss of consortium. I have incurred the following monetary losses, which may include property damage, medical expenses, and loss of income, as a result of the defendant's criminal actions in the above-captioned criminal case. **Polk County, Flesch Reading Ease: 16.4, Flesch–Kincaid Grade Level: 20.6**

You are entitled to sign a Victim Impact Statement for the Court to review prior to sentencing and ordering of restitution, or you may personally appear and present an Oral Victim Impact Statement to the Court. **Mills County, Flesch Reading Ease: 26.9, Flesch–Kincaid Grade Level: 18.4**

Your answers are one of several considerations that will assist us in the prosecution of the case as well as assist the judge in determining amounts of restitution and what penalties should be imposed against the Defendant. **Cherokee County, Flesch Reading Ease: 27.5, Flesch–Kincaid Grade Level: 18.6**

If the defendant is found or pleads guilty, you are entitled to victim restitution. Restitution can be ordered to reimburse you for damages not paid by insurance, which a victim could recover against the offender in a civil action arising out of the same facts or event, except punitive damages and damages for pain, suffering, mental anguish and loss of consortium. **Winnebago County, Flesch Reading Ease: 33.0, Flesch–Kincaid Grade Level: 16.2**

If the defendant is found or pleads guilty, you are entitled to victim restitution. Restitution can be ordered to reimburse you for damages not paid by insurance, which a victim could recover against the offender in a civil action arising out of the same facts or event, except punitive damages and damages for pain, suffering, mental anguish and loss of consortium. **Hancock County, Flesch Reading Ease: 33.0, Flesch–Kincaid Grade Level: 16.2**

Restitution is court ordered payment of crime related expenses to a victim by an offender. The Judge can order restitution as part of the offender's sentence. The sentencing hearing in which restitution can be ordered is usually a few weeks after the offender's criminal court conviction. Consideration of restitution is mandatory in all criminal cases in which the defendant is convicted. **Mills County, Flesch Reading Ease: 34.6, Flesch–Kincaid Grade Level: 12.2**

You have the right to request restitution for all crime-related expenses, which are not covered by insurance. Please complete the enclosed "restitution information form" and return it to our office as soon as possible. **Story County, Flesch Reading Ease: 42.7, Flesch–Kincaid Grade Level: 11.5**

Our office recently received a criminal complaint and/or citation in the above referenced case. As a victim of the defendant's criminal activity, Iowa law grants you several rights. The County Attorney's office is required to advise victims in writing of these rights. **Winnebago County, Flesch Reading Ease: 44.7, Flesch–Kincaid Grade Level: 10.5**

Below you will find categories for crime related expenses. Please list your expenses in the appropriate categories and include what they are for, the total amount, and any insurance information with deductible amounts you are responsible for. If you need more space, feel free to attach additional sheets or use the back of this paper. Remember to attach receipts and/or estimates to verify your losses. **Cerro Gordo County, Flesch Reading Ease: 46.5, Flesch–Kincaid Grade Level: 10.8**

You have the right to provide a victim impact statement, in writing or at the time of sentencing, to explain to the court how you or your loved ones have been affected by this crime. If provided in a timely manner, the victim impact statement may also be considered by the prosecutor for plea negotiations. If you are interested in providing a victim impact statement or discussing the details of the plea in this case, please complete the enclosed forms or contact our office as soon as possible. **Story County, Flesch Reading Ease: 47.2, Flesch–Kincaid Grade Level: 13.9**

Restitution is payment made by the defendant for some of the damages suffered by a victim. Damages not covered are punitive damages, damages for pain, suffering, or mental anguish, loss of consortium, and damages paid for by insurance. As a victim in this case, you may be entitled to receive restitution should the defendant please guilty or be found guilty. Please attach copies of

any bills or estimates that can verify your losses. Being awarded restitution does not waive your right to take civil action against the defendant. Reporting your losses also does not in any way guarantee restitution can or will be paid by the defendant. **Cherokee County, Flesch Reading Ease: 48.7, Flesch–Kincaid Grade Level: 10.8**

When a defendant is convicted of or pleads guilty to a crime, the sentencing judge must consider ordering the defendant to make restitution to the victims of the crime. So that we may make an accurate report to the court regarding your losses, we must know the nature and exact amounts of those losses. The kinds of damages which may be the subject of restitution include all damages which have not been paid by the insurer. For example, defendants may be ordered to pay restitution for property losses or medical and dental expenses. **Crawford County, Flesch Reading Ease: 49.5, Flesch–Kincaid Grade Level: 12.1**

This is to notify you that you are eligible to register as a victim in a criminal case. In order to become registered, you must return the victim impact statement and any other requested items to this office. The following information will help to explain your legal rights. **Woodbury County, Flesch Reading Ease: 49.5, Flesch–Kincaid Grade Level: 10.3**

Although many crime victims experience similar feelings, questions and concerns as a result of crime no two victims experience the same emotional, physical and financial impacts. Only you can tell those of us involved in your case how you, or those close to you, have been affected by this crime. One way to do this is to prepare a victim impact statement. Not all individuals are comfortable putting their thoughts on paper and while you have the opportunity to complete an impact statement, you are under no obligation to do so. **Cerro Gordo County, Flesch Reading Ease: 51.7, Flesch–Kincaid Grade Level: 11.6**

At the time of sentencing, the information which you provide will be included in a report to the court. Neither this report nor the court's order guarantees that the defendant can or will ever pay restitution. Any restitution order will not limit or impair your right to sue the defendant in a civil action for your damages. **Crawford County, Flesch Reading Ease: 53.9, Flesch–Kincaid Grade Level: 10.4**

You may be eligible for restitution for your losses or expenses as a crime victim. If applicable we have enclosed the crime victim's statement of pecuniary damages. This is the form we submit to the courts to order the defendant to pay restitution for your damages. Please review the enclosed claim. If you feel it applies to you complete and return it also. **Marion County, Flesch Reading Ease: 58.4, Flesch–Kincaid Grade Level: 8.2**

If you incurred out of pocket expenses as a result of a crime, you can request restitution from the defendant. If you feel you may have eligible out of pocket expenses, please contact me. **Mills County, Flesch Reading Ease: 60.1, Flesch–Kincaid Grade Level: 9.0**

Please recall that I sent you a letter and victim packet on November 13, 2013 about the above case. To this date, I do not have the victim paperwork back yet. Please return your packet back to me at your earliest convenience so our office can assist you with any victim restitution or assist with services that your daughter may need. To that end, I am enclosing with this letter a Victim Impact Statement for your daughter. Please assist her in filling out the document and return it to me. **Cherokee County, Flesch Reading Ease: 63.5, Flesch–Kincaid Grade Level: 8.8**

You have been listed as a victim in the above referenced Marion County criminal matter. Please find enclosed a victim registration form for you to fill out. This form is used by our office to verify the spelling of your name and to maintain your current address and telephone number. This is your written permission for us to keep you up to date on the status of the above listed case. Please fill out this information accurately, mark whether or not you wish to be informed regarding this criminal case and mail the form back. **Marion County, Flesch Reading Ease: 63.7, Flesch–Kincaid Grade Level: 9.0**

To help the Court weigh all factors before sentencing the defendant in the case names above, we ask you to cooperate by filling out this form. This statement will be given to the Judge who will be doing the sentencing in this case. The information, which is in the statement, will be available to the defendant as well as the Judge. **Crawford County, Flesch Reading Ease: 66.9, Flesch–Kincaid Grade Level: 8.9**

The victim impact information is being collected to provide the sentencing judge in this matter with knowledge about the impact of this crime on your life. Please print or type your answers. Feel free to elaborate on the back of this form or on another sheet of paper and attach it if you need to do so. **Woodbury County, Flesch Reading Ease: 70.2, Flesch–Kincaid Grade Level: 8.1**