

M E M O R A N D U M

TO: TOM FREEDMAN

FROM: MARY L. SMITH

RE: NATIONAL FINE CENTER AND DOJ DEBT COLLECTION

DATE: JUNE 4, 1997

SUMMARY

There is approximately \$6 billion in uncollected federal criminal debt. A project that would have created a national database to oversee the collection has been terminated because it was behind schedule and plagued with problems. Only \$2 billion of the \$6 billion can reasonably be collected. However, at this time, we still need to pursue the specific proposal or legislation we should sponsor. We will continue pursuing this project as this problem was listed by the House Government Reform and Oversight Committee as among the "worst examples of government waste."

PRELIMINARY RECOMMENDATION

- Attempt to revamp the national database project so that it is feasible.
- Create an accounting standard for designating uncollectible debt in instances such as the inability of the debtor to pay.

BACKGROUND

The National Fine Center was authorized by the Criminal Fine Improvements Act of 1987, Pl. 100-185, 101 Stat. 1279. The Criminal Fine Improvements Act of 1987 contemplated that the director of the Administrative Office of the U.S. Courts (AOUSC) would establish a single national center within the judicial branch for processing fines, restitution, and special assessments.

There is a great need for a collection service for criminal fines because many fines are being collected. For instance, as of early 1992, DOJ estimated that the total amount of unpaid criminal debt exceeded \$1.6 billion. By late 1996, the amount of unpaid criminal debt had ballooned to nearly \$6 billion.

Once the criminal debts were collected, the National Fine Center, via the Treasury, was to make payments to either the victims (e.g. federal agencies, private corporations, banks, or individuals) or to the Crime Victims Fund. The Crime Victims Fund was established by the Victims of Crime Act, P.L. 98-473, 98 Stat. 2170. Virtually, all criminal fines, special assessments, and bail bond forfeitures are deposited into this fund, which is administered by the

Office for Victims of Crime in the Department of Justice. Ninety percent of the Crime Victims Fund is distributed to states for compensation programs such as rape crisis centers and child abuse centers that provide financial assistance to victims and survivors of victims of criminal violence.

The National Fine Center was closed on November 15, 1996. Debt collection will revert to the decentralized system employed by each federal judicial district in the country, which, in many districts, involve catalog cards or ledger books.

Part of the reason that the amount of uncollected debt is so high is that "vanity fines" stay on the books. Vanity fines are fines with no realistic expectation that they will be collected. In fact, Kathleen Hegerty at the Department of Justice estimates that two-thirds of the current \$6 billion in criminal debt is uncollectible, or, in other words, approximately only \$2 billion can reasonably be collected. In fact, one of the recommendations of a May 1995 GAO report was to establish procedures for determining the collectibility of criminal debt accounts.

There is often sufficient information available at the time of sentencing to determine the offender's ability to pay. For example, in the 1993 bombing of the World Trade Center, each of the four defendants was assessed \$250,000 in fines in addition to jail time. Although the probability of collecting this \$1 million is low, DOJ records these debts as being fully collectible.

Despite the uncollectibility of much of the accrued criminal debt, there is still potentially a surplus, given a few criminal defendants with large fines and penalties that do have the ability to pay such as ADM and Daiwa, the Korean bank .

American Bar Association, November 1996

ABA Journal

- the National Fine Center in Washington, DC forfeited its role as clearinghouse for federal criminal fines, fees and restitution.
- the Administrative Office of the US courts closed the center that it managed, returning 20,000 debtor accounts to the 42 small and medium-sized US district courts that converted to its system.
- the National Fine Center was suppose to record, collect and issue receipts for debts and report back to the districts.
 - unfortunately the 27-employee center was unable to come up with an adequate computer system
- have difficulties collecting fines because "vanity fines" that are levied by judges with no realistic expectation that they will be collected
- no one knows how much of the estimated 85.4 billion in fines that criminals owe the federal government is actually collectable
 - the total collected by the federal courts and US attorneys was 8193.7 million in fiscal year 1995
- The amount of fines collected by the federal courts and US attorneys for the last five fiscal years:

1. 1991	\$127.9 million
2. 1992	\$221 million
3. 1993	\$144.7 million
4. 1994	\$185 million
5. 1995	\$193.7 million

1996 PR Newswire Association, Inc.

October 7, 1996

Legal Times, July 22

- the amount of criminals owe the federal government climbed from \$300 million 10 years ago, to \$5.4 billion presently
- tried to create a nationwide system and impose it upon very different courts backfired
 - Reasons-
 1. Judges are independent which makes it difficult to impose a standardized system
 2. Criminal debt is hard to collect. Many are poor or fugitives, have little incentive to cooperate, since they are in prison
- transition back to original system creates two specific problems:
 1. Additional workload for courts to pick up again
 2. Have unaccounted funds which has gone into the orphan account

Federal Document Clearing House, Inc.

Congressional Press Release July 16,1996

- the National Fine Center was set-up to establish a national database that would track and receive criminal fines and victim restitution orders levied against federal felons
- want to shut NFC down because has wasted \$11 million that was taken out of the crime victim fund

1996 Gannett Company, Inc.

USA Today, June 7, 1996

- collections have grown from \$68 million in '85 to \$234 million in '95. But the uncollected balance has swelled from \$300 million to \$5.4 billion in that period
- USA TODAY reported in October that the center's inability to collect fines efficiently caused hardship for 8,000 organizations that provided services to crime victims.
 - the shortage of money has made it difficult for these organizations to help victims and their families pay for medical treatment, burials, etc.

1996 IBJ Corporation

The Indiana Lawyer, October 30, 1996

- the US Attorney's Office is sending notices every month to debtors with criminal fines reminding them of how much they owe
 - the Administrative Office of the US Courts decided to close the NFC on Nov. 15 (it ran for eight years)
 - it was unable to establish computer system to handle its 20,000 debtor accounts
- 1995 News World Communications, Inc.
The Washington Times, July 31, 1995
- convicted criminals had not paid \$4.5 billion in fines
 - in fiscal year '94 federal courts handed down penalties estimated at \$1.5 billion
 - an inefficient centralized system and permissiveness of criminals to make payments through various channels are factors that made it difficult to collect penalties

American Bar Association, 1996

ABA Journal, June 1996

- Colorado was the first state to adopt a statewide collections enforcement program in '88
 - collections have increased 59%, going from \$25.6 million in '87 to 40.6 million in '95
- at the federal level, the General Accounting Office estimates that more than 4.5 billion in fines have gone uncollected since '85
- New Jersey labeled as success story-
 - projected budget is \$450,000 funded by 25% of the money it collects from fees and fines
 - does not get a cut of victim assistance or crime compensation collections
 - program relies upon nonjudicial hearing officers and is operated by the Administrative Office of the Court's Probation Division
 - the hearing officers use alternative dispute resolution techniques to create realistic payment schedules
 - those who choose not to pay will face a variety of sanctions, ranging from community service to jail
 - judges only involved when defendant fails to appear or does not cooperate
- States with programs to collect fines and restitution include:
 - Arizona
 - Colorado
 - Connecticut
 - Maine

New Hampshire
Oklahoma
Virginia

1996 PR Newswire Association, Inc.

PR Newswire

October 7, 1996

-United States Attorney's Office for the District of Massachusetts recovered \$75.1 million for fiscal year '96

-out the \$75.1 million-

-\$46.1 million was from civil settlements and judgements

-\$26 million was from criminal fines, assessment and restitution

-\$3 million was from civil and criminal forfeited assets