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2010 Innovations Awards Application

Deadline: March 1, 2010

ID # (assigned by CSG): **10-W-05AZ**

Please provide the following information, adding space as necessary:

State: Arizona

Assign Program Category (applicant): Public Safety/Corrections

- 1. Program Name:** Restitution Court
- 2. Administering Agency:** Maricopa County Adult Probation Department, Superior Court in Maricopa County
- 3. Contact Person (Name and Title):** Stephen Hartley, Adult Probation Supervisor
- 4. Address:** 8230 E. Butherus Drive, Scottsdale, AZ 85260
- 5. Telephone Number:** (602) 619-3064
- 6. FAX Number:** (480) 423-5378
- 7. E-mail Address:** shartley@apd.maricopa.gov
- 8. Web site Address:** <http://www.superiorcourt.maricopa.gov/AdultProbation/index.asp>

9. Please provide a two-sentence description of the program.

Restitution Court holds offenders accountable for restitution payment. Adult probationers who are egregiously delinquent in the payment of restitution, despite the ability to pay and multiple steps to gain their compliance, are brought before the court for civil contempt proceedings.

10. How long has this program been operational (month and year)? Note: the program must be between 9 months and 5 years old on March 1, 2010 to be considered.

The program has been operational since September 2008.

11. Why was the program created? What problem[s] or issue[s] was it designed to address?

The need to hold individuals accountable in the payment of Court-ordered restitution is imperative. Restitution repays victims of crime for financial losses resulting from the crime. Victims often feel violated, lose a feeling of security, suffer emotional and physical pain, suffer financial losses, and lose resources. Receipt of restitution may not solve all of the above ramifications of a crime, but it does provide financial restoration and can allow for the healing to begin. Often victims and the community as a whole rate the criminal justice system on its ability to hold probationers accountable to the orders of the Court, and perhaps especially to collect the monies they are owed. If the criminal justice system fails to fulfill this basic responsibility, it significantly lowers the trust and confidence of victims and the community.

A secondary problem with the nonpayment of restitution is that it lowers the amount of monies received for Court-ordered fines and fees. These monies are used by many government agencies to augment shrinking budgets. In Arizona, once a probationer falls two full months behind in the payment of restitution, all monies received are justifiably mandated for restitution. Once the probationer brings his/her restitution payment current, monies can again be credited to various accounts as the Court had ordered. This can be a significant financial benefit to government entities. For example, the Maricopa County Adult Probation Department funds approximately 175 positions from the collection of probation service fees.

When individuals are granted probation, they often struggle with meeting the Court-ordered financial obligations. The Maricopa County Adult Probation Department (MCAPD) has implemented extensive procedures for enforcing financial compliance and employs professional collectors assigned to a collections unit (FINCOM). During 2008, it became apparent to FINCOM that special attention needed to be given to probationers who were willfully noncompliant towards payment of restitution. These individuals had financial resources but deliberately made Court-ordered restitution payments a low or nonexistent priority. During the same time period, the Judiciary was frustrated with the lack of resources available to address nonpayment of restitution.

12. Describe the specific activities and operations of the program in chronological order.

The Adult Probation Department monitors accounts and identifies probationers who are egregiously delinquent in the payment of restitution. A list is prepared. Referrals to Restitution Court can be received from multiple sources: probation officers, FINCOM collectors, the MCAPD victim advocate, the Attorney General's victim advocate, and judges. The Judicial Clerk prepares Order to Show Cause (OTSC) hearings and notifications. The assigned probation officer delivers the OTSC notification to the probationer and directs him/her to attend the hearing.

A civil OTSC hearing is held to determine if the probationer is in contempt of the Court's order to make restitution payments. On the day of the hearing, the Adult Probation Department provides the amount in arrears and documentation and evidence of failure to pay. The probationer, who can be represented by private counsel, is then allowed to explain his/her position and reasons for nonpayment. During this process, both the Adult Probation Department staff and the probationer are subject to questioning from the Bench.

The Judge makes a determination regarding the ability and willingness of the probationer to pay. The Judge can rule that the probationer is not in Contempt and the matter is dismissed. If the matter is not dismissed, the Court has several other options, which include:

- Delay a finding of Contempt and order the probationer to meet with FINCOM and develop a plan to address the financial delinquency. Often times, the Court orders payments to start pending the creation of this plan.
- The Court rules the probationer is in Civil Contempt, but is allowed to remain free to address the delinquency.
- The Court finds the probationer in Contempt and takes him/her into custody until a purge amount is paid. That purge amount is often equal to the delinquency.

The probationer continues under the jurisdiction of the Court and reports monthly for a review hearing until the Judge determines that the probationer is no longer in Contempt. This is usually demonstrated by the delinquency being eliminated or by the individual making several months' worth of significant payments.

The OTSC hearings and review hearings are scheduled on a dedicated court calendar, with Restitution Court being held monthly. The court calendar is set so that the cases continued from the previous month are heard first. This scheduling allows probationers who are new attendees at Restitution Court to see what has worked, or failed, for other probationers. In addition, probation officers send

probationers to observe Restitution Court and have found that this experience is a useful tool for encouraging compliance with restitution payment.

13. Why is the program a new and creative approach or method?

Restitution Court enforces the collection of late restitution payments by applying procedures that are used to collect child support payments in arrears in family court. As the hearings are civil, the probationers are not entitled to representation by a public defender. The state prosecutor does not attend the hearings. The hearings provide a tremendous cost savings to the court and criminal justice system when compared to the time and costs of conducting criminal probation revocation proceedings based on a probationer's failure to pay restitution.

The structure of the court hearings permit probationers who are delinquent in paying restitution to observe the Court's handling of similar cases and this experience encourages compliance with the payment of restitution.

14. What were the program's start-up costs? (Provide details about specific purchases for this program, staffing needs and other financial expenditures, as well as existing materials, technology and staff already in place.)

The Restitution Court has been operated by existing staff in the Adult Probation Department and Superior Court. Each probationer's court-ordered restitution amount, payment schedule, and the payments received to date are obtained from existing management information systems used by the Superior Court, Clerk of Court, and Adult Probation Department. The MCAPD has well-established financial compliance policies and procedures to hold probationers accountable for the payment of their court-ordered financial obligations. The assigned probation officer takes specific steps to gain financial compliance and refers the probationers who remain delinquent on their court-ordered payments to the MCAPD collections unit known as FINCOM. The collectors work with the probationers who have ongoing delinquencies. Restitution payment has top priority among the court-ordered financial obligations, by statute and policy. The policies, procedures, and staff were already in place to identify probationers who were very delinquent in their restitution payments despite the ability to pay and efforts to collect. What was needed was a new enforcement strategy. Development and implementation of the Restitution Court did not require new funds or resources. It is estimated that program start-up involved approximately five hours of the Judge's time and ten hours of Adult Probation staff's time.

15. What are the program's annual operational costs?

Existing staff in the Adult Probation Department and Superior Court operate the program. No additional funds or resources are needed for this program to operate.

The individuals involved in the program are listed below by position. The approximate number of hours devoted to the program in a year and the associated personnel costs (salary and benefits) are provided:

MCAPD FINCOM supervisor	168 hours	\$ 7,197
FINCOM collectors (3)	144 hours	3,608
Judges (2)	60 hours	3,760
Judicial Clerks (2)	72 hours	1,408
Bailiffs (2)	48 hours	834
Court reporters (2)	96 hours	<u>3,062</u>
Total		\$19,869

16. How is the program funded?

Adult Probation staff is supported with county funds and Court staff is funded through a combination of state and county funds.

17. Did this program require the passage of legislation, executive order or regulations? If YES, please indicate the citation number.

No. However, Arizona Revised Statute 13-810 provides for this remedy.

18. What equipment, technology and software are used to operate and administer this program?

Desk top and/or laptop computers and standard office software are used to operate and administer the program. The Adult Probation Department and the Court take advantage of the existing system for tracking adult probation case information (APETS), along with the Clerk of the Court's payment tracing system (RFR) and the Integrated Court Information System (ICIS). A spreadsheet is used to track and identify all referrals and a scoring document has been developed to establish a priority list.

19. To the best of your knowledge, did this program originate in your state? If YES, please indicate the innovator's name, present address, telephone number and e-mail address.

Yes, to the best of our knowledge, this program originated in Arizona. The innovators are:

- Honorable Roland Steinle, Maricopa County Superior Court, Central Court Building, 201 West Jefferson St., Courtroom 402, Phoenix, AZ 85003, (602) 506-7893, rsteinle@superiorcourt.maricopa.gov.
- Mr. Dan Levey, Director, Office of Victim Services, Arizona Attorney General, 1275 West Washington St., Phoenix, AZ 85007, (602) 364-3329, dan.levey@azag.gov.
- Ms. Barbara Broderick, Chief Probation Officer, Maricopa County Adult Probation Department, 620 West Jackson St., Suite 3098, Phoenix, AZ 85003, (602) 506-7249, bbroderi@apd.maricopa.gov.

20. Are you aware of similar programs in other states? If YES, which ones and how does this program differ?

No.

21. Has the program been fully implemented? If NO, what actions remain to be taken?

Yes, the program has been fully implemented.

22. Briefly evaluate (pro and con) the program's effectiveness in addressing the defined problem[s] or issue[s]. Provide tangible examples.

The program was designed to identify probationers who are significantly delinquent and willfully noncompliant in the payment of Court-ordered restitution payments and to enforce their payment of restitution. Once individuals have been identified, the success of the program can to a large part be determined by the increase in monies collected. Existing MCAPD procedures were used to identify the probationers who were significantly delinquent in restitution payment despite the ability to pay and to create the lists of individuals to be notified of OTSC hearings.

As of December 2009, twenty-one (21) sessions of Restitution Court have been held since the program's beginning in September 2008. During that time, 97 individuals were summoned to the Restitution Court. This resulted in 306 hearings and the collection of \$153,770 in restitution payments. Victims are pleased with the Restitution Court concept and the positive results.

Given that the individuals who appeared before the Restitution Court were, on average, at least a year behind on payments, it is likely that without the Restitution Court's intervention, little, if any, of this money would have been collected and forwarded to victims.

A secondary positive effect has been observed with probationers who are delinquent in restitution payments, but have not reached the point of being referred to Restitution Court. These individuals have been directed to attend Restitution Court and observe the process. This experience has had a positive effect on their willingness to cooperate and begin making payments. In addition, as the word of the program has spread, probationers are asking how to avoid Restitution Court.

23. How has the program grown and/or changed since its inception?

Due to the initial success of Restitution Court, a second session of Restitution Court was added to the ongoing Court calendar.

Two other Arizona counties have begun operating variations of Restitution Court. In addition, two more counties are in the process of finalizing plans to bring Restitution Court to their respective counties. If and when that occurs, Restitution Court will be active in one-third of all Arizona counties.

24. What limitations or obstacles might other states expect to encounter if they attempt to adopt this program?

In transferring Restitution Court to other jurisdictions, several potential obstacles could arise. Arizona has a clearly defined statute that allows for the use of Civil Contempt in non-payment of criminal restitution. That statutory ability would need to exist in other jurisdictions. In addition, a Judge would have to feel comfortable in enforcing the statute. As the Restitution Court is a cooperative effort of several governmental agencies including the Judiciary, the County Clerk's Office, and the Adult Probation Department, these agencies would need to have a willingness to try something new and an ability to overcome territorial differences to cooperate with each other. Lastly, in order to keep start-up costs and operational expenses at a minimum, existing staff would have to have the willingness and ability to assume additional functions.



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2010 Innovations Awards Application Program Categories and Subcategories

Use these as guidelines to determine the appropriate Program Category for your state's submission and list that program category on page one of this application. Choose only one.

Infrastructure and Economic Development

- Business/Commerce
- Economic Development
- Transportation

Government Operations and Technology

- Administration
- Elections
- Information Systems
- Public Information
- Revenue
- Telecommunications

Health & Human Services

- Aging
- Children & Families
- Health Services
- Housing
- Human Services

Human Resources/Education

- Education
- Labor
- Management
- Personnel
- Training and Development
- Workforce Development

Natural Resources

- Agriculture
- Energy
- Environment
- Environmental Protection
- Natural Resources
- Parks & Recreation
- Water Resources

Public Safety/Corrections

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- Courts
- Criminal Justice
- Drugs
- Emergency Management
- Public Safety

Save in .doc or rtf. Return completed application electronically to innovations@csg.org or mail to:

CSG Innovations Awards 2010
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Lexington, KY 40578-1910

Contact:

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This application is also available at www.csg.org.