

Report to the Legislative Assembly On the Restitution Pilot Program



Submitted by the Oregon Department of Justice

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Testimonials by those involved with the pilot project...

“I’m seeing a real culture change in this subject [restitution] by judges.”

“The payments I’m seeing as a result of the DOJ agents efforts are larger than what we’ve seen in the past.”

“[The] State of Oregon deserves applause for the hard work you guys are doing. Other counties should follow your example.”

The following is a link to a news story on a case in Multnomah County where a significant amount of restitution was owed to an assault victim and was not being paid. After the pilot project received the case and made contact with the debtor the victim began receiving significant restitution payments every month.

<http://www.koinlocal6.com/mediacenter/local.aspx?videoid=3465545>

Introduction

In 2010 the Oregon Secretary of State’s office conducted an audit of restitution practices in four counties in Oregon. The audit found that of the 210 cases examined, nearly half appeared to involve a victim who suffered an economic loss, yet no restitution was ordered. Statewide data also confirmed that restitution orders were under-collected. In 2010, \$50.8 million in restitution was ordered to victims. However, Oregon only collected \$6.5 million. In total, Oregon victims were owed over \$350,000,000 in uncollected restitution. While the Oregon Constitution guarantees victims the right to receive prompt restitution, it was clear that the state had yet to deliver on that promise.

In 2011, the Oregon State Legislature passed House Bill 3066. HB 3066 authorized the Oregon Department of Justice to implement an innovative pilot program aimed at increasing the number of restitution orders submitted and approved by the courts and the rate of restitution collected. The Department’s Restitution Pilot Projects were established in five geographically dispersed counties throughout the state. As part of the project, a restitution clerk was employed by each of the District Attorney’s offices involved in the grant. The clerk’s responsibilities include working with victims, Deputy District Attorneys (DDAs), and the court to ensure that restitution information is investigated and provided in a timely fashion and that restitution orders accurately reflect the victim’s loss. Also as part of the Projects, five restitution collection agents work with offenders, Community Corrections, Parole and Probation, and the courts to ensure that restitution orders are enforced and monetary obligations are collected.

The Department was authorized to fund the projects using \$1.8 million in punitive damage award money. To implement the program, DOJ collaborated with state agencies and local municipalities. Under the bill:

The Department of Justice was responsible for:

Participating counties were responsible for:

<ul style="list-style-type: none">• Hiring Restitution Collection Agents to work in the selected counties• Partnering with the Oregon Judicial Department, the courts and the District Attorneys’ offices to determine what cases will be referred to the DOJ agents for collection.• Preparing a report for the legislature which may include recommendations for legislation to improve the collection of restitution for crime victims¹.	<ul style="list-style-type: none">• Hiring Restitution Clerks and other staff included in the grant proposals as well as partnering with other county agencies for the purpose of increasing the ordering and collection of restitution.
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¹ This report covers the period of August 2, 2011 through January 31, 2012

The evidence in 2012 was encouraging. According to the OJD HB 3066 report submitted in February 2013, the vast majority of uncollected restitution debt in Oregon was old debt². Compared to statewide circuit court collections and restitution courts, the Pilot Project showed better collection rates on old debt³. Economic variables, length of program existence, and staffing levels make it difficult to draw comparisons between the Pilot Project and restitution court or circuit court efforts; however, two things were certain: First, restitution collections at the time were far more successful with this project in place, and second, extending the Pilot Project would have helped to clarify the effectiveness of its role.

2012 reported Collection Rate of Debt More than a Year Old

Statewide Collection	2.1%
Model Restitution Court	2.4%
DOJ Restitution Pilot Project 2012	3.3%

Implementation of the Restitution Pilot Program

HB 3066 authorized the Department of Justice to:

1. Establish restitution pilot programs in geographically dispersed counties or regions throughout the state;
2. Make grants to participating counties to employ at least one restitution clerk, and;
3. Hire collection agents within the Department to do investigative work and collect monetary obligations.

After the signing of HB 3066 the Department sent Requests for Applications (RFA's) to all 36 county District Attorney offices. On November 1, 2011, the Department announced grant awards to Multnomah, Lane, Jackson and the collaboration of Jefferson and Crook Counties. Prior to March 2012, the Department worked collaboratively with the Oregon Judicial Department (OJD) in an effort to determine how OJD would distribute cases to the collection agents in the participating counties. OJD developed an HB 3066 implementation plan for case referral which included pre-judgment and post-judgment cases. The Department also worked with the participating counties in an effort to have each individual program operational as quickly as possible.

By December 19, 2011, three of the collection agents had been hired and trained. On January 2, 2012, the project officially began; however, due to a state wide hiring freeze the final two collection agents were not stationed in their respective counties until March 1, 2012.

² Appendix 1

³ The Pilot Program's collection rate on old debt was 3.3% in 2012 compared to OJD's 2.4% and the normal statewide court collections of 2.1%.

Accomplishments in 2012

Between January 1, 2012 and December 31, 2012 the Restitution Pilot Project collected \$705,256 (Table 1) in court ordered restitution, compensatory fines and fines and fees. Of that 74% of the total collections by the pilot project consisted of restitution and compensatory fines which went directly to victims of crime.

Table 1: Totals for all cases referred for Pilot Project counties

Restitution Assigned	\$14,861,859
Fines & Fees Assigned	\$1,211,134
Total Collected	\$ 705,256
Amount Due	\$15,367,737

Chart 1: Collections by County and Month for 2012

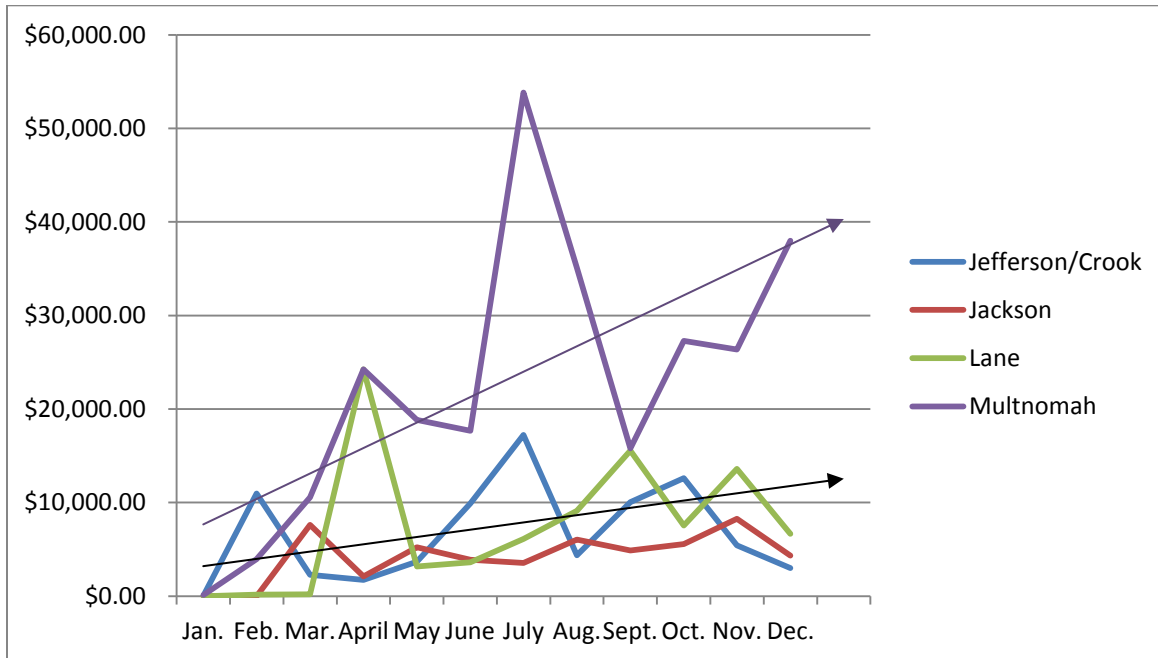
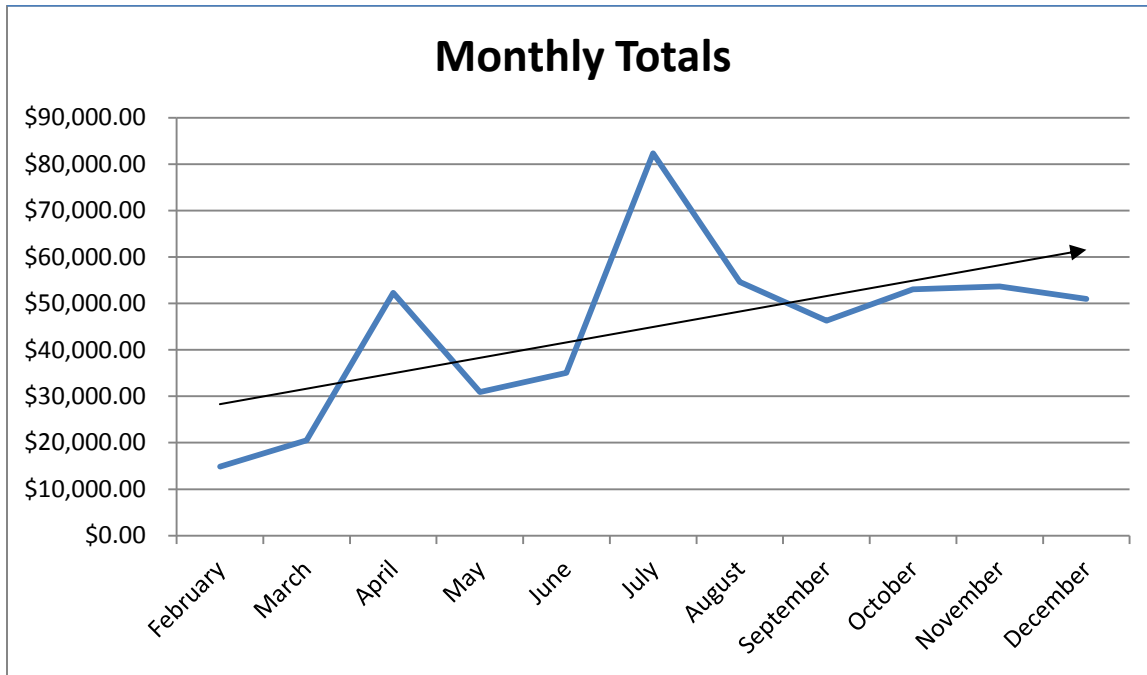


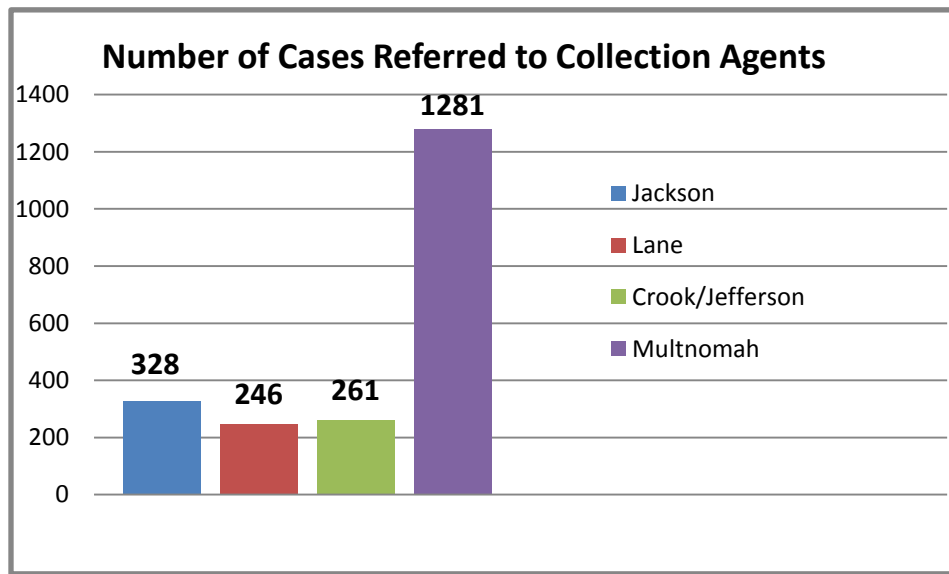
Chart 2: Monthly Totals in 2012



Initial Barriers to Implementing the Program

The Department’s ability to collect was hindered by the limited number of cases that were initially referred to the pilot program. The graph below shows the number of cases containing restitution or compensatory fines referred to the Pilot Project by county. This piece of the Project is continually evolving and throughout the duration of the project DOJ continued to work with OJD and community partners to increase case referrals.

Chart 3: Number of Cases Referred 2012



Accomplishments in 2013

Between January 1, 2013 and December 31, 2013, the Restitution Pilot Project collected \$1,062,860.85 in court ordered restitution, compensatory fines and fines and fees.

Table 2: Total for all Cases Referred for Pilot Project Counties 2013

Amounts Assigned	\$14,078,154
Total Collected	\$1,062,861
Amount Due	\$13,015,293

Chart 4: Monthly Collections by County 2013

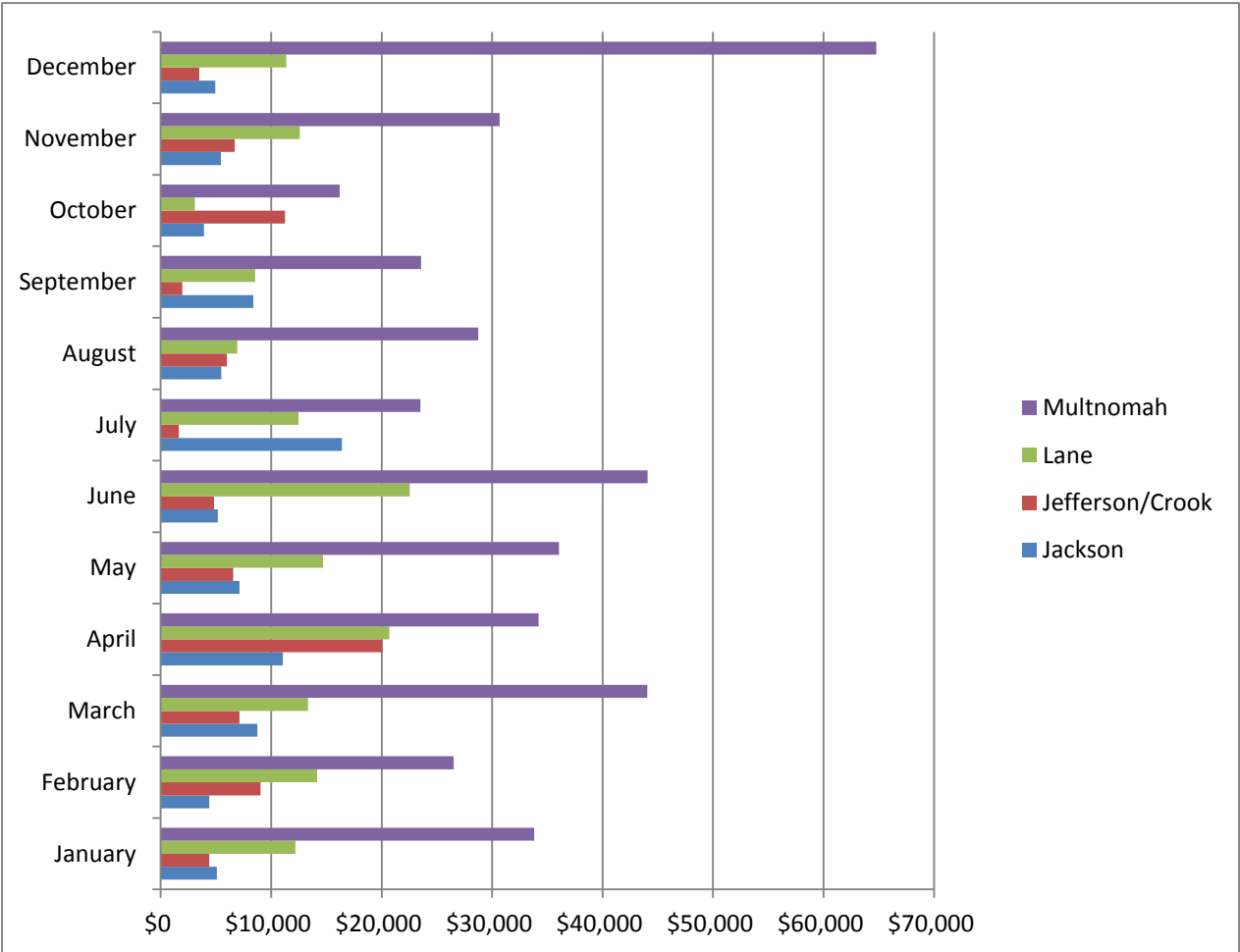
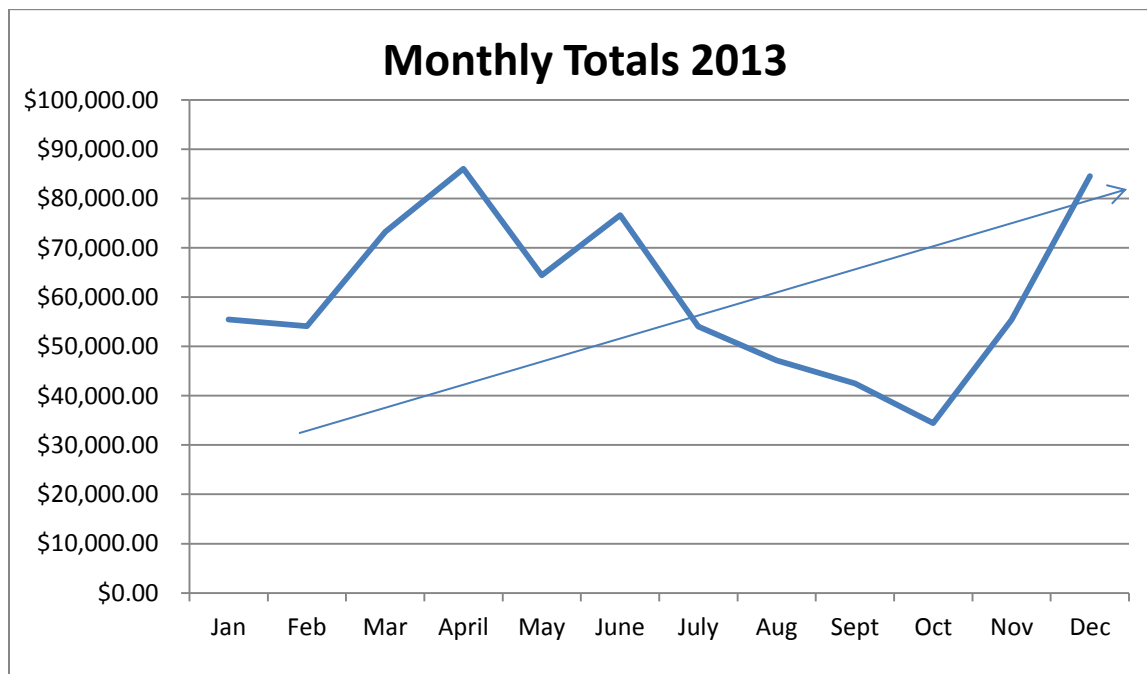


Chart 5: Monthly Totals 2013



Collection Barriers

As indicated in 2012 the Department's ability to collect was hindered by the limited number of cases that were initially referred to the pilot program. The charts below show the number of cases containing restitution or compensatory fines referred to the Pilot Project by county in 2013, and the total referred for the length of the project. Many of the cases referred were older cases that had not been looked at in many years. In the majority of these cases the Collection Agents were either unable to locate the debtors or there was no asset available for collection purposes. Despite the initial setbacks, the Department continued to work with OJD and community partners on the referral process throughout the length of the pilot program.

A second significant obstacle emerged when OJD began the transition to the new Odyssey (eCourt) system. The first counties to convert to eCourts were Jefferson and Crook in December 2012. Then in March 2013, Jackson County made the transition. Although the pilot program was receiving weekly "Odyssey Processing Notifications" showing collection amounts for cases within Crook, Jefferson and Jackson Counties at the time, no actual cases were referred to DOJ through the eCourt/Odyssey system between December 2012 and October 2013. To try and overcome this hurdle, DOJ worked closely with Crook, Jefferson and Jackson counties to develop a "work around" for receiving new cases. The Restitution Clerks, Collection Agents and courts worked together to communicate which cases would be collected by DOJ. The DOJ Collection Agents would then enter the cases into an excel spreadsheet and forward to the Salem office to be entered into our PIMS database for tracking and collection purposes.

Chart 6: Number of Cases Referred 2013

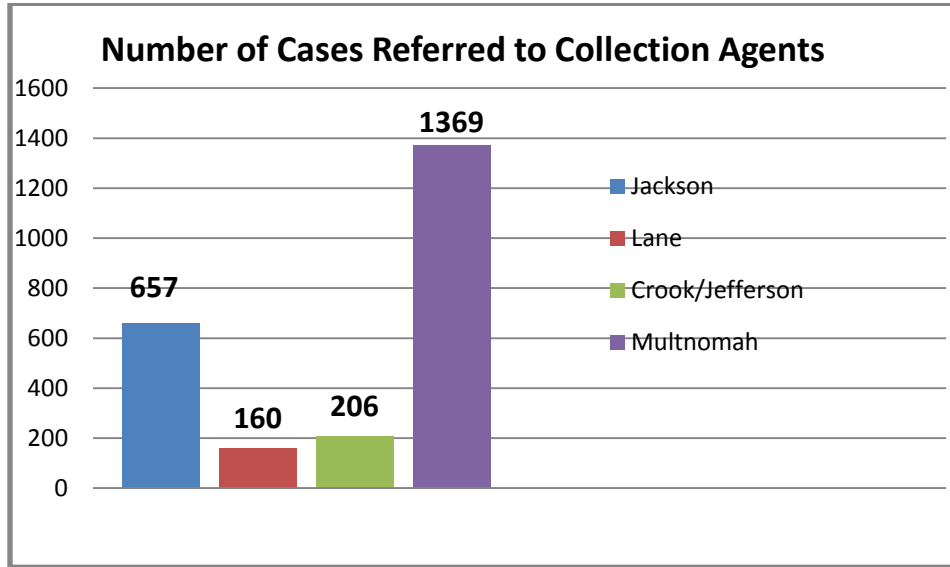
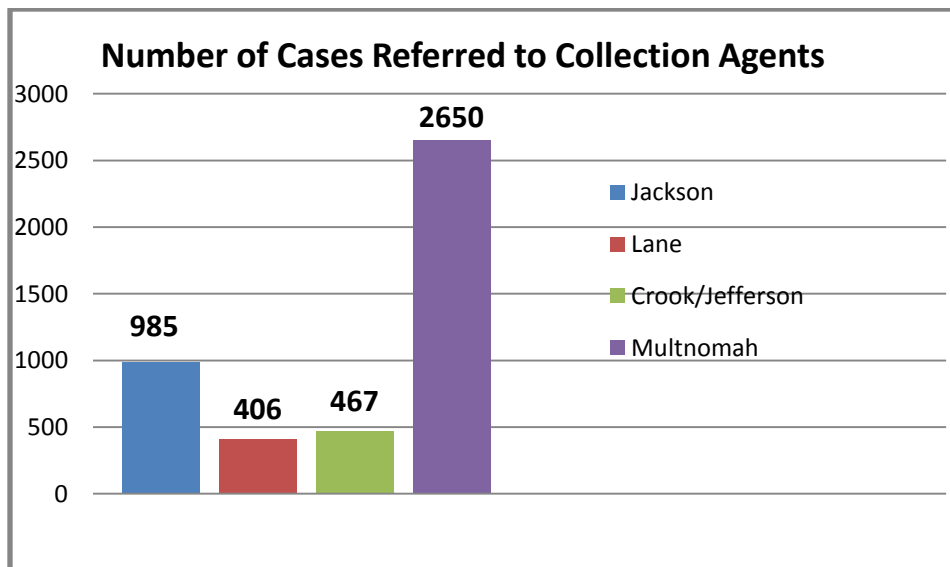


Chart 7: Number of Cases Referred for Duration of Project



County-by-county highlights from the Pilot Program⁴

Crook/Jefferson

The grant awarded to the collaboration of Crook and Jefferson Counties included one full time restitution clerk who split her time between the two counties and a half time Court Collections Coordinator to receive restitution payments, track outcomes and collaborate with the DOJ Collection Agent to ensure restitution payments reach the victim.

Throughout 2013 the Victim Assistance Program continued to coordinate its efforts with all law enforcement agencies in the area in order to assist in contacting victims who may need restitution ordered in their cases. Without question the presence of a Restitution Clerk in Jefferson and Crook Counties has helped to increase the number of cases in which restitution has been ordered. For the grant period ending October 31, 2013, there were 169 cases within Crook and Jefferson counties where restitution was a factor in the criminal case. Of these 169 cases, 55 victims declined restitution services. Of the 169 cases, 80 were prepared for the prosecuting attorney to present to the court in order to request restitution. The restitution clerk made 274 follow-up contacts.

During the second quarter of 2013 the DOJ Collection Agent left the position in Jefferson and Crook Counties, leaving the project without an agent to focus on collections. Due to the uncertainty of continued funding, and the fact that the position was limited duration, the vacancy was not filled. In an effort to continue collection efforts in Jefferson and Crook Counties between May and December 2013, the Collection Agent assigned to Lane County began collecting on behalf of these two rural counties, as well as Lane County. Even with the absence of a Collection Agent stationed in Jefferson and Crook Counties, the DOJ Project collected 10.26% of the restitution, fines and fees referred for collection.

Jackson County

The grant awarded to Jackson County included one half time restitution clerk and one full time probation officer at Jackson County Community Justice. The probation officer handled approximately 80 probation cases where restitution had been ordered.

During the last reporting period restitution was ordered in 100% of the cases presented to the court where there was evidence of economic damage as the result of a crime. During the quarter ending October 31, 2013, 159 cases were presented to the DDA as part of this project, this quarter and 31 were presented to the court within 90 days after sentencing. Of the 159 cases, 66 had restitution ordered, 92 of the cases are currently pending and 1 case was dismissed.

4. The following summaries were taken from participating counties performance reports for the period ending October 31, 2013.

Lane County

The grant awarded to Lane County initially included one full time restitution clerk. However during the second quarter of 2013, after the last clerk was promoted to a non-limited duration position, Lane County utilized the grant money to pay for 2 part time restitution clerks. The restitution clerks contact all victims in cases where there is evidence of economic loss. The clerks investigate and document the loss prior to the first status hearing, if possible. As part of the pilot in Lane County, judges allow the DOJ collection agent, or the supervising probation officer, to determine the defendant's payment plan based on their evaluation of the defendant's ability to pay.

During this reporting period there were 130 financial impact statements returned by victims. The restitution clerks followed up with 578 victims in cases where restitution appeared to be a factor yet the victim had not returned the financial impact statement. The restitution clerks investigated, documented and supplied 149 restitution schedules to the prosecuting attorney, who provided the schedules and evidence to the court prior to sentencing. The court ordered restitution in all 149 cases.

Multnomah County

The grant awarded to Multnomah County included two full time restitution clerks and one half-time DDA. The restitution clerks, along with the DDA, are responsible for investigating the nature and amount of economic damage suffered by victims and, in conjunction with the two DOJ Collection Agents, determining defendants' ability to pay restitution. This information is provided to the court at the time of sentencing. Multnomah County has also partnered with the National Crime Victim Law Institute for assistance in matters relating to violations of victims' rights in receiving prompt restitution.

Multnomah County has made significant improvements in collecting victim information on cases where restitution appears to be a factor. They have also modified the process whereby they present victims' information to the court. As a result of Multnomah County's participation in the project they have developed an all-inclusive "restitution envelope" which is presented to the court at the time of sentencing. The envelope includes the number of attempted or successful contacts the restitution clerk had with the victim, as well as all evidence substantiating economic damages as a result of the offender.

While Multnomah County does not determine the defendant's ability to pay prior to sentencing, they do request that the court send the defendant to the DOJ Collection Agent after sentencing in order to determine the defendant's ability to pay. Once referred, the defendant either pays the obligation in full or a payment plan is set.

During the calendar year 2013, Multnomah County Restitution Clerks processed 1548 cases and assisted 2949 victims. This calculated to 983 victims assisted per restitution clerk for the year, or 82 victims assisted with restitution issues per month. The total restitution amount gathered by the

restitution clerks for potential request to the court was \$7,407,733.22, or an average of \$617,311.10 per month.

Program Conclusion

In February 2013 both OJD and the Department agreed more time was needed to draw concrete conclusions regarding the long term impact of the restitution pilot program. Last year the program increased collections of old debt and made significant strides towards increasing the number of court ordered restitution money judgments. The Pilot Project overcame the majority of the obstacles mentioned above and was seeing increases in collections each month. With many of the logistical and training challenges in the past, the Department attempted to secure funding so the Project could continue working towards delivering on the state's obligation to provide victims with prompt restitution. Unfortunately, funding was not secured and the DOJ Restitution Pilot Project officially ended on December 31, 2013.

Table 3: Collection Totals for all cases referred for Pilot Project counties

Case/Financial Management System	Pilot Project Court Location	Outstanding Amounts Due (as of 12/31/2013)	Payments Received 01/01/12 - 12/31/13	% Collected 01/01/12 - 12/31/13
OJIN/FIAS	Lane	\$ 3,000,890.90	\$ 333,627.68	10.01%
OJIN/FIAS	Multnomah	\$ 20,352,528.78	\$ 1,017,740.11	4.76%
Odyssey	Crook	\$ 333,050.12	\$ 40,047.81	10.73%
Odyssey	Jackson	\$ 5,103,764.38	\$ 228,965.07	4.29%
Odyssey	Jefferson	\$ 1,360,912.57	\$ 147,736.18	9.79%
	Grand Total	\$ 30,151,146.75	\$ 1,768,116.85	5.54%