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INTEGRATING STRUCTURED FINES
IN FOUR OREGON COUNTIES

Prepared for
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by
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INTEGRATING STRUCTURED FINES
IN FOUR OREGON COUNTIES

I.	<u>Introduction</u>	
A.	Structured Fines:	
	An Intermediate Sanction	2
B.	A Different Approach to Fines	3
II.	<u>Structured Fines in Oregon</u>	
A.	The Oregon Criminal Justice Council	4
B.	The Courts of Oregon	4
C.	Sentencing Guidelines	4
D.	State Fines Policies	5
E.	The Oregon Justice Information Network	7
F.	Oregon Department of Revenue	
	- Collections Dept.	7
III.	<u>Program Development</u>	8
IV.	<u>Imposing Structured Fines:</u>	
	<u>Setting the Fine Amount</u>	15
V.	<u>Baseline Information</u>	
A.	Coos County	18
B.	Josephine County	19
C.	Malheur County	21
D.	Marion County	22
VI.	<u>Program Operations</u>	
A.	Coos County	24
B.	Josephine County	26
C.	Malheur County	29
D.	Marion County	32
VII.	<u>Conclusions</u>	35
A.	Lessons Learned	
B.	Operational Feasibility	
C.	Practitioners' Attitudes	
D.	Impact on Jail Population and Probation Caseloads	
VIII.	<u>The Future of Structured Fines in Oregon</u>	38
A.	Considerations for Further Implementation	
B.	Recommendations	
	<u>Appendix</u>	45

In September 1991, the Oregon Criminal Justice Council (OCJC) was awarded a grant of \$125,000 grant from the U.S. Department of Justice's Bureau of Justice Assistance (91-SD-CX-0003), beginning Oregon's participation in the National Structured Fines Demonstration Project. Four Oregon counties - Coos, Josephine, Malheur and Marion - were competitively awarded sub-contracts to implement strategies for applying and enforcing court-imposed structured fines for felony and misdemeanor offenders.

The goal of the project was to increase the use of fines as a criminal sanction by establishing fine amounts that take into account the offender's financial means and the severity of the crime. The following is an account of the development, progress and outcome of that project.

INTEGRATING STRUCTURED FINES IN FOUR OREGON COUNTIES

I. INTRODUCTION

A. Structured Fines: An Intermediate Sanction

To address the over 370,000 offense cases filed in Oregon's district courts each year, judges may impose only a few principle sanctions on persons convicted of these crimes: imprisonment, probation, community service and fines.¹

Economic and social realities limit the use of such sanctions, especially when the purpose of the sentence is to punish and/or deter. Across the country, demand far outpaces the supply of expensive prison and jail space. Even in the few locations where jail space is adequate, the severity of an offense may not warrant incarceration. Moreover, the relative cost of maintaining a person in jail may be many times higher than the amount that could be collected in a fine.

Although judges can and do use probation as a form of lesser punishment than jail, probation's principal purpose is rehabilitation, not retribution. Such a widespread misapplication of probation severely overtaxes probation's capacity to address offenders in need of supervision, treatment and other services.²

Requiring an offender to spend a specific amount of time helping others in the community is a relatively new sanction. While community service can be both rehabilitative and punitive, it also can be expensive to administer and difficult to manage. Specifically designated correctional and/or court staff resources must be devoted to develop and supervise suitable community service placements. Compliance needs to be continually monitored and the court should be willing and able take additional punitive actions, if warranted. In the end, community service may not be appropriate for some offenders.

When the intention of the courts is retribution and deterrence rather than rehabilitation and when jail space is at a premium, fines are an effective and underused sanction. Fines are best used as the sole punishment when the offense is not sufficiently serious to warrant incarceration and the offender presents no serious threat to the community. Also, fines may be frequently combined with other sanctions such as community service and probation. However, setting the fine amount to fit the crime and to fit the offender's means has not been so easy.

The use of fines poses questions of equal justice. If an offender cannot or will not pay the fine, the alternative is often jail. Arguably, an unfair advantage is afforded a person of means in these cases. One person's weekly salary may be another's pocket change.³

Fines have an uneven effect on rich and poor when the system does not take into account the offender's ability to pay. The traditional method of determining fine amounts is for judges to follow a specified "tariff" schedule established by State or local lawmakers. In practice, a specific tariff fine becomes a "going rate" regardless of the statutory range when it is imposed often enough. For example, a tariff limit for driving while suspended may be up to \$2,500. However, over time and through practice, the "price" for this offense may be established at \$300.

A proscribed fining system that sets amounts or ranges of permitted amounts for each offense system pays little or no attention to the offender's ability to pay.⁴

Until recently, the fine had not come into prominence as an intermediate sanction (a sentence that is less severe than incarceration and more severe than dismissal) because of "the deep skepticism among American criminal justice practitioners about the ability of judges to set fine amounts that were large enough to punish and deter, yet collectible and fairly imposed across offenders with vastly different economic circumstances". This mistrust is starting to fall away as more American courts explore more flexible fining systems that relate the fine amount to the offender's ability to pay and to the severity of the offense.⁵

B. A Different Approach to Fines

Several countries in Europe and Latin America use a system in which information about an offender's daily income is used to calculate the fine amount. Called "day fines" in Europe, this system provides a more precise way of tailoring the fine both to the severity of the offense and to the offender's ability to pay. Fines calculated in this manner often serve as the sole sanction in some court sentences.

In the United States, this concept is known as "structured fines" to denote the variable nature of a fine determined according to a specific schedule.

Determining the fine amount is a matter of first calculating how much punishment an offender deserves according to a numerical or unit system. The seriousness of a crime is translated into "punishment units". These punishment units are then factored into a formula that includes an income variable. For example, one punishment unit may be equal to one day's pay, or some portion of a day's pay. Therefore, a sentence of three punishment units or three days' pay will be greater for a wealthy offender than it would be for a poorer offender. Theoretically then, punishment is made more equitable and more fines should be collected if the fine assessed is more precisely tailored to the ability of each offender to pay.

II. STRUCTURED FINES IN OREGON

A. The Oregon Criminal Justice Council

The Oregon Criminal Justice Council (OCJC) was the recipient of the Bureau of Justice Assistance structured fines grant and functioned as the project's manager.

The OCJC is the criminal justice planning agency for the State of Oregon. Created in 1985 by the Oregon Legislature as an independent state agency, its 24 member policy board is comprised of public citizens, judges, agency heads, legislators and criminal justice professionals. The OCJC's legislative charge is to coordinate, evaluate and make recommendations for improvements in the state's criminal justice system.

The OCJC was responsible for developing recommendations to the Sentencing Guidelines Board and to the Legislative Assembly which resulted in the adoption of statewide felony sentencing guidelines.

B. The Courts of Oregon

The four court levels in Oregon are District, Circuit, Court of Appeals and Supreme Court. The district and circuit courts were the focus of this project.

There are 58 district court judges in 28 counties handling civil cases where the amount involved is \$10,000 or less and hearing criminal cases where the punishment is up to one year in jail and/or a fine of up to \$5,000. Justice courts, with the same powers as district courts, also exist in some counties separately and concurrently with district courts.

Circuit courts, or general jurisdiction courts, are in every county and handle all civil cases involving over \$10,000 and hear all criminal cases in which the punishment could be more than a year in jail. There are 87 circuit judges in Oregon.

C. Sentencing Guidelines

The Oregon Legislative Assembly adopted statewide sentencing guidelines which apply to felony crimes committed on or after November 1, 1989. The guidelines are intended to:

- o mete out proportional and just punishment to ensure that offenders convicted of the most serious violent crimes and those with the most extensive criminal histories receive the most severe sanctions;
- o ensure that the sentence imposed is the sentence served;
- o reduce disparity in sentencing so that offenders with similar criminal histories who commit similar crimes receive similar sentences; and
- o maintain a sentencing policy consistent with correctional capacity.

Although the guidelines distinguish between felony and misdemeanor convictions for the purpose of determining the extent of criminal history, the guidelines themselves are restricted to felonies and do not set presumptive sentences for misdemeanors. The OCJC's July 1990 report on Oregon's misdemeanor sentencing practices in district and circuit courts was intended to lay the foundation for misdemeanor sentencing guidelines. A subsequent draft outlining misdemeanor guideline rules, adopted by the State Sentencing Guidelines Board, established a class of misdemeanors for which fines were defined as the primary appropriate sanction. Legislation incorporating these rules and practices has not, as yet, been adopted by the Oregon State legislature.

The felony sentencing guidelines, unlike those in most other states, provide structure for probationary sentences as well as prison sentences through use of a system which allocates "sanction units" to various offenses. Community sanctions such as residential drug and alcohol treatment, work release, community service and jail terms are set up as sentencing "equivalencies" and allocated through the use of the assigned units.

OCJC's Structured Fines Program grant application to the Bureau of Justice Assistance proposed to "add a structured fines component to the statewide felony sentencing guidelines and to expand the use of structured fines into the area of misdemeanor sentencing."

Despite the absence of misdemeanor sentencing guidelines, the structured fines program participant sites and OCJC staff developed guidelines for imposing structured fines for misdemeanors that were consistent with the principles and practices of the already-adopted felony guidelines structure.

All misdemeanors were potentially eligible. It was expected that structured fines would have limited use as a sole sanction. The more common expectation was their use in combination with other sanctions and as an exchange for other sanctions within the range limits.

D. State Fines Policies

Statewide laws governing fines are specified in the Oregon Revised Statutes, Vol. 3, of the Penal Code. Section 161.645 "Standards for imposing fines" specifies:

" In determining whether to impose a fine and its amount, the court shall consider:

- (1) The financial resources of the defendant and the burden that payment of a fine will impose, with due regard to the other obligations of the defendant; and
- (2) The ability of the defendant to pay a fine on an installment basis or on other conditions to be fixed by the court."

This statute enabled the initiation of structured fines in the four counties without additional legislation. What the statute did not proscribe, however, were guidelines or valuation scales for setting such fine amounts. One of the first products of the project, then, was to establish a standard process for imposing a fine.

The statute sets upper limits for fine amounts, not previously specified by law, as follows:

- o Class A Felony - not to exceed \$300,000
- o Class B Felony - not to exceed \$200,000
- o Class C Felony - not to exceed \$100,000
- o Class A misdemeanor - not to exceed \$5,000
- o Class B misdemeanor - not to exceed \$2,000
- o Class C misdemeanor - not to exceed \$500
- o Violations - not to exceed \$250

It is important to note that the law also allows for various additional amounts to be assessed in excess of the court-imposed fine. These can include court costs, restitution, probation fees, a unitary assessment, a county assessment, victims' compensation, and attorney's fees.

The unitary assessment is imposed on all defendants convicted of crimes, violations or infractions and can range from \$45 for felonies to \$10 in the case of any offense punishable only by a fine.

However, it is within the sentencing court's discretion to waive unitary assessments if "the court finds that payment of the assessment or portion thereof would impose upon the defendant a total monetary obligation inconsistent with justice in the case". County assessments of from \$3.00 to \$30.00 may be charged, based on the amount of fine or forfeiture the court imposes. The court also has discretion to waive county assessments.

As will become apparent later, assessments are an important factor in establishing realistic lower limits or "floors" for structured fines.

While this discussion has described the established framework for imposing fines, official policy and common practice often lack congruency. Historically, fines have been imposed by the courts according to the going rate mentioned earlier and with little or no follow-up to ensure collections. Moreover, there is little aggregate data on the total amounts imposed and collected over specific time periods by any single court or by the courts across the state. In effect, fines have been imposed by courts with little expectation that they would be paid. An important aspect of the structured fines project was to address these inconsistencies, gather better information on fining practices and modify those practices according to the structured fines theory.

E. The Oregon Judicial Information Network (OJIN)

The Oregon Judicial Department's automated case processing system, known as OJIN or the Oregon Judicial Information Network, was installed in all 36 counties in 1986. The programs reside on a network of 18 mini-computers that can be accessed through ordinary telephone lines using a personal computer and modem. OJIN charges its state agency users an annual fee of \$100.00 which covers set-up, documentation, personal computer communications software and maintenance.

The OJIN system contains almost all of the cases filed in Oregon state courts, appellate courts and tax courts. The database contains tracking and disposition information on criminal, civil, small claims, domestic relations, probate, mental health and some juvenile cases.

The financial software, known as FIAS or the Financial Information Automated System, was installed in all courts by the end of 1992. FIAS is able to display the financial status of a case as it pertains to trust and revenue monies processed by the court and it can display information about money judgments.

An additional accounts receivable software program, to be added to FIAS, for all of Oregon's courts is in various stages of installation. No accounts receivable software system was operational in the four pilot counties during the project period. In an concerted effort to enhance collections, Coos county adapted OJIN's case calendaring system to accounts receivable purposes.

F. Oregon Department of Revenue - Collection Division

The Miscellaneous Law Section of the Government Structure and Finance Law, Part II, Section 293.250, permits the Department of Revenue (DOR) to assist in the collection of delinquent accounts owed to any state organization. In the case of delinquent fines, a county court may refer individual delinquent offenders to the DOR collection process. The DOR takes a percentage of the collected amount as its fee and credits the balance to the State Treasury's account or fund for each court.

The graduated debt collection process of DOR ranges from letters of notification and requests for payment to distraint warrants in which a lien may be issued on real and personal property. Wages can be garnished, bank accounts attached, and property and business licenses seized. A DOR agency official indicated that a particularly profitable practice is to appropriate yearly tax refunds.

III. Program Development

The Oregon system of sentencing guidelines is a resource-based or capacity-based system which establishes crime seriousness in a proportional manner. The purpose of this project was to incorporate the unit penalty concept for "below the line" or presumptive probation sentences, with the theory of structured fines. Since using mean-based fines is new, one of the project's goals was help judges who sought to impose appropriate non-custodial sanctions, make use of fines in a manner that was consistent, fair and carried sufficient weight.

To ensure that proportionality would be central to a judge's exercise of discretion, the judge could rely on the structured fine design developed by this effort and, thereby, make better use of fines - the most punitive non-custodial sanction available. This presented another opportunity to take a step forward in the development of the Oregon sentencing guidelines, one well within the modified "just desserts" objective of Oregon's sentencing structure.

The structured fine requires replacement of the fixed or tariff fine system with a set of benchmarks for determining the number of units that would be appropriate for various offenses. These benchmarks assign units of punishment based on the seriousness of the offense.

The project sought to integrate the concept of structured fines through an equivalency ratio within the custody unit scale presently in place in the sentencing guidelines. And, to craft non-mandatory standards for use with a single well-defined sanction.

This section recounts the process that eventually lead to the development of a method for calculating means-based fines and discusses important issues and considerations of implementation.

A. Getting Started

At one of the early meetings of OCJC's misdemeanor guidelines committee in 1990, Judy Green, a consultant from the Vera Institute of Justice, introduced the concept of structured fines. After discussion, the committee decided to incorporate structured fines within the misdemeanor sentencing guidelines as an appropriate sanction for lower levels of criminal behavior. The misdemeanor sentencing guidelines proposal was forwarded to the Oregon State Legislature in 1991. Although the legislature did not adopt the council's sentencing guidelines proposal for misdemeanors, this early work laid the foundation for integrating structured fines in later activities.

When the 1991 BJA grant solicitation was announced, OCJC's application called for incorporating structured fines into Oregon's felony sentencing guidelines for probation cases and for integrating it into the exchange rate of what was then called "custody units" or the unit of measure applied to apportion probation sanctions.

Following the 1991 grant award, from November through December, the OCJC formed a structured fines committee from among its own members. Each of the four demonstration sites developed their own local structured fines committees which included a judge, a district attorney, a corrections professional and a court administrator. Two members from each of the four county committees were named to participate at the Council level.

The first meeting of the OCJC committee on structured fines was held September 12, 1991. The work of bringing the structured fines concept from paper to life began as the committee considered using the existing crime seriousness rankings for both the felony and misdemeanor guidelines to design fine unit equivalencies. The aim was not to revisit the crime seriousness scale, but to adapt structured fines into what was already in place.

The next order of business was to consider valuation of the structured or day fine unit, i.e., how many custody units equals a day fine unit? It was here that the idea of raising the cap on the existing dollar limit was posed. (A concept introduced later as separate legislation and adopted in the 1993 session.) The committee next considered making all offenses below the disposition line of the felony guidelines grid and all misdemeanors appropriate for structured fines. This important decision set the stage for all four demonstration sites to adopt a uniform model for structured fines while allowing each to experiment with the collection aspects of the project.

B. Goals and Objectives

As a result of these early meetings and discussions, the goals and five basic objectives to guide the project's implementation were outlined:

Goals

1. To achieve greater equity in the use of fines across the state implementing a single penalty structure and needs assessment instrument for statewide use.
2. To achieve greater integrity in the use of fines as a sanction by creating fine levels that were realistic and collectable and by implementing a better collection process, thereby enhancing the rate of collection.
3. To maintain, at a minimum, an overall level of revenue currently generated by fines by monitoring the imposition and collection of fines throughout the course of the project.

Objectives

1. Fine benchmarks would be established based on a review of the seriousness rankings of felonies and misdemeanor guidelines.
2. Financial needs assessment methods would be developed to incorporate the ability-to-pay concept into fines imposition.
3. An approach to valuing the structured fine unit would be developed to make the fine punishment equivalent to, or on an equal par with, other sanctions.
4. Enhancement of fines collections rates would be an indicator of relative success.
5. Tracking of collections methods for efficient management would be essential in making structured fines a more self-perpetuating part of criminal justice sanctions.

Following this meeting, a delegation attended the January 1992 Structured Fines Conference in Washington, D.C. Their assignment was to begin work on the equivalency element and to develop a draft for full committee consideration. The Coos county team, lead by Judge Baron, agreed to work on a needs assessment that would determine ability to pay. The Malheur county team, lead by Judge Yraguen, examined the ability to pay element with a special consideration for indigency.

The group came back from DC with a basic structure of equivalencies for fine units that would align day fines with custody units. A large meeting of most of the project participants, held later that month at the University of Oregon, served to air many operational issues. At this meeting, a rationale for the application of structured fines was discussed, including such topics as the credibility and enforceability of the fine as a discrete sanction, the possibility of substituting fines for periods of incarceration and the utility of Oregon's Financial Information and Accounting System (FIAS).

From January 1992 through March 1992, the project staff reviewed the processes and results of similar programs in other states to identify prototype designs and other materials that could be adapted for Oregon's program.

The working group also considered how to incorporate criminal history within the grid for computing the fine. After weighing various "just desserts" models which took into account previous criminal history, members indicated that, indeed,

criminal history could be factored in as part of the overall structured fines computation.

The working group also argued for retaining the use of aggravating and mitigating facts to allow the judge to move up and down in the penalty unit range.

C. Collections

The eligibility fine unit value and how the fine unit is imposed were intended to be uniform throughout the four sites. However, how the fine was enforced and collected could be unique to each site. Additional research was to be done on the indigency means form by Coos county and one the instrument used for misdemeanors by Marion county with revision of the grid by Council staff by the next meeting. Additional work by the State Court Administrators' Information Systems Division would be done on unitary assessments and how they could be integrated into the project.

The working group was also concerned that the state courts might not be able to manage the FIAS information. The group agreed that, from a management information perspective, the FIAS was deficient, particularly with respect to delinquent account information. Recommendations for remedy were offered and are, as of this date, being put in place with the new OJIN Accounts Receivable Information System. Certainly a tangible benefit of the structured fines project can be claimed in these changes to Oregon's FIAS. Making FIAS more useful to local courts was a critical piece in the development of the structured fines program.

As the working group continued to develop the project, it was agreed that the unit scale and the accompanying grid should incorporate a range rather than a fixed number. A unit scale with a range would allow a judge discretion in each case while staying within a proscribed pattern. The upper range, or higher number of units for more serious offenses, would probably be used as an exception rather than the rule and would equate to a relatively high fine.

D. Eligible Offenses for Structured Fines

Concerning the integration with Oregon's sentencing guidelines, it was determined that all presumptive probation offenses - those below the dispositional line - would be eligible for fines sanction. Instead of excluding certain offenses or criminal history categories, a list of considerations similar to those used to determine eligibility for optional probation would give the sentencing judge guidance.

Fine units were structured to create equivalencies with the custody units scale presently in place, with one fine or penalty unit equal to one custody unit. The sentencing judge would then be able to use fines as part of the probation sentence either in whole or in part and have the same option should there be a

violation of the probation condition. The unused or reserved custody units would then be available to sanction violations of probation sentences.

It was decided that the range of custody units (0-180) was too broad for general use. The proposed model created ranges of fine use, placing the presumptive fine in the middle of the range with the option to mitigate or aggravate for particular facts up to the limits of the range.

The proposed ranges of units split into 8 categories: 180-150; 150-120; 120-105; 105-90; 90-75; 75-60; 60-45; 45-30. These were to be used for felony offenses within the corresponding grid blocks of the sentencing guidelines.

Questions concerning the use of structured fines with consecutive and departure sentences were raised. It was decided that structured fines for departure sentences was not appropriate for this project. However, it was noted that in the future it would be necessary to examine how departure and consecutive sentence limits would affect the use of this concept.

E. Valuation of Fine Units

A model for valuation of fine units, determined independently from the number of custody units, was developed by the Coos County site and adopted by all sites. An assessment tool would be used to collect financial information from a defendant. This information would be factored into the value of the day fine unit. Allowances would be made for daily living expenses and dependents. Regarding dependents, court-ordered child support and other legal definitions of family were carefully weighed and considered.

Additional assessments and fees that are part of a proscribed sanction would be included in the structured fine amount unless statutorily distinct, as in the case of certain DUII fees. Otherwise, the means-based fine amount was to include all assessments. In those cases where mandatory minimum fines were established by statute, the minimum could be imposed, but also suspended or waived in order to match the means-based fine amount, if it was calculated to be less than the minimum required by statute.

A unique aspect of Oregon's valuation instrument was the inclusion of assets to determine the total fine amount. While it was recognized by the working group that this would rarely come up. None the less, it was offered as an optional method in the formula. The value of the fine unit would be proportional to a person's net daily income and left up to the judge to determine if the offender's assets would be used to establish value.

With the exception of Marion County, all sites adopted Coos county's underlying rationale for whatever discounts would be applied to the means-based fine. This eventually became the valuation chart. The rationale presumed that any person, even someone reporting no income, was capable of paying something. As

a baseline, \$300 per month net or \$10 a day, was assumed to be a reasonable figure for all offenders.

For those up to and below the poverty line (\$8,400 per year), 50% of net was assumed to be used for routine expenses. For those whose income was above \$20,000 per year, 35% of net would be used for routine expenses. This is how the tiered adjustment of net income was calculated to arrive at the amount available for fine assessment.

F. Indigence and Fairness

Policies on the use and dissemination of financial information would conform to Oregon's statutory requirements for collection and dissemination of such information, especially as it applied to confidentiality and non-public records. Applicants were asked to provide informed consent to allow the use of means information to calculate their fines.

Issues of equity and practicality concerning indigence and wealth are central to the design of a system of fining offenders in a equitable manner. Key to the theory of structured fines is that indigence alone should not preclude the use of fines as a sanction, since to do otherwise could result in the predominant use of jail for the poor, presumably because of their inability to pay. While it is simply not realistic to fine completely destitute offenders, other low-income offenders are capable of some payment provided that fines are scaled to their resources and reasonable payment schedules are devised.

Built into the valuation scale available to judges was an added level of income adjustment for those living below the poverty level and with no access to credit or savings. Eligibility guidelines for welfare and food stamps and appointment of indigent defense were considered and eventually included in the valuation calculations.

Those at the opposite end of the income spectrum - the wealthy - pose a different problem. Those who can easily pay a sizeable fine, should still feel a sting. The asset enhancement mechanism was suggested principally for this group. However, the \$2,500 cap on misdemeanor fine offenses in place during the project may have prevented higher fines in certain cases.

G. Misdemeanor Offenses

Model misdemeanor fine only sentences, as established through earlier work by the OCJC, employed the crime seriousness rankings used in the felony sentencing guidelines project. Sanctions were arranged in six categories and assigned a range of penalty units based on assaultive behavior, property offenses, regulatory offenses, social order offenses, behavioral control and DUII offenses.

To use fines in these cases as a sole sanction, the following conditions had to apply: the defendant was no threat to the community and not prone to violence; the person's criminal

history was not extensive; the person was not in need of formal probation; he/she had the capability of satisfying the fine sanction; and any restitution owed the court would not preclude the defendant's ability to pay the fine.

Although only a small percentage of the project's cases used fines as a sole sanction, there was widespread use of the calculus developed for determining means-based fines when fines were used in combination with other sanctions.

IV. Imposing Structured Fines - Setting the Fine Amounts

The first order of business under the new grant brought representatives from the four counties together with OCJC staff to establish a three-step protocol for setting fine amounts. This protocol established a uniform "grid" upon which individual fining decisions would be based.¹⁰

- Step 1. Assess the number of penalty units for the crime of conviction;
- Step 2. Use information on the financial means of the offender to assign value to the penalty unit; and
- Step 3. Multiply the number of penalty units by the determined penalty unit value.

Step 1: Assigning Units to Crimes

The structured fines program proposed replacing the fixed or tariff fine system with one using units of punishment or "penalty units", determined by the relative seriousness of the offense.

Penalty units for specific offenses were expressed as a range of units. The center point in the range established the presumptive number of units considered to be appropriate when a fine would be the sole or primary sanction. The sentencing judge could move up or down within the range should the facts of the case dictate a result other than the mid-point.

Where fines would be used in conjunction with other conditions such as probation, the number of penalty units could be reduced to reflect the punitive value of the total sanction package.

Step 1a: Felonies

The unit structured fines for felony offenses conformed to the felony sentencing guidelines grid and, as such, were intended to be coordinated with probation sentences. Unit ranges were constructed according to crime seriousness levels and extent of criminal history. Three of the pilot counties adopted five penalty unit ranges for felony offenses. Malheur used an eight penalty unit range because that site wanted to more closely conform to the established felony guidelines. See Appendix

Although unlikely, the sentencing court could elect to use a fine as a sole sanction. More likely was the use of fines in conjunction with custody units to structure a probationary felony sentence. In so doing, the court would assign a number of penalty units for fines according to the placement of the offense

on the felony sentencing guidelines grid. The remaining units could be used to assess other conditions of probation for sanctioning violations of probation conditions. Again, the midpoint of the range is the presumptive number of units to be assigned.

The protocol allowed for custody units to be discharged through payment of the fine at a ratio of 3:1. That is, for every three penalty units paid, one custody unit would be satisfied. Should there be a subsequent probation violation, the court could use the remaining custody units to sanction the violation.

Step 1b: Misdemeanors

Misdemeanors were the prime target for use of structured fines as a sole sanction. Four penalty unit ranges were constructed for misdemeanors based on type and severity of the offense. These conformed with the misdemeanor guidelines proposal since those guidelines overlapped with the already adopted felony sentencing guidelines. See Appendix ____.

Step 2: Valuing the Penalty Unit

A schedule was devised in which each penalty unit was assigned a dollar value, based on the offender's income and financial responsibilities. The schedule took into account the number of dependents and the relative hardship that fines would impose upon offenders with the lowest incomes.

Step 2a: Gathering Means Information

With each court already having an Indigent Verification Officer (IVO), it was not necessary to hire additional staff to gather means information. Take-home pay would be determined through the completion of an affidavit of indigence in the case of offenders who requested court-appointed counsel. For defendants not requesting court appointed counsel, a brief interview would be conducted by the IVO to acquire information necessary to calculate a structured fine. If an offender was reluctant to divulge income but the occupation was known, the 1991 wage figures for 350 occupations compiled by the Oregon Employment Division could be used to estimate income. For retired people who had no income but who had substantial assets, a calculation was made based on the value of the assets. (See appendix ____.)

For persons with no known income, minimum wage amounts were calculated. This was partially based on the assumption that illegal or undeclared income exists for most offenders.

Step 2b: Calculating the Value

The value of each penalty unit was calculated by dividing the total amount of take-home income by the number of days in a payment period. For example, a net weekly paycheck amount would be divided by 7. Net daily income would be adjusted by subtracting five percent for each dependant, up to four individuals. Fifteen percent was also subtracted for self-support. See Appendix ____.

The structured fines schedule for calculating the penalty unit value was devised to eliminate the need for the court to perform calculations at the bench, although some judges chose to do so. The program, as conceived, would enable the judge simply to determine the punishment based on penalty units that could be allocated for fines, probation, etc. Then, the other court staff would determine the dollar value of the units after judgement was rendered.

V. BASELINE INFORMATION BY COUNTY

At the beginning of the demonstration project, each county participating in the structured fines study completed a detailed survey. The survey examined the flow of cases through each court and asked questions about when, under what circumstances, by whom and how fines were imposed. The data compiled from these surveys is generally based on 1991 information.

This section reflects data gleaned from each county's survey response and from each county's structured fines proposal.

A. Coos County

Located on the southern Oregon coast in the town of Coquille, the Fifteenth Judicial District serves a population of 60,000 people and is a general jurisdiction trial court handling both felony and misdemeanor trials. State funds pay the salaries of four full-time judges, a full-time court administrator and a staff of 30.

Pretrial services staff interview defendants prior to trial to gather information for release decisions. Probation services in the county are available only for persons convicted of felonies.

In 1991, 15,725 cases were filed and approximately 11,800 defendants were sentenced in the Coos county court. (Sentencing figures are approximate.) Of these, about 4% of filings (695) and 5% of sentences were felonies; 18% of filings (2,826) and 16% of sentences were misdemeanor state law violations; 71% of filings (11,192) and 72% of sentences were motor vehicle moving violations; and 6% of filings (1,012) and 7% of sentences were miscellaneous other violations.

As is true of all four sites, most defendants are poor and unable to obtain private counsel. Approximately 97% of all defendants in Coos county require appointment of public defender and/or legal aid services.

Approximately 11,000 fine sentences (including traffic) were levied in Coos county in 1991. In eighty percent of the sentences, fines were the only sanction and not imposed in conjunction with any other non-monetary penalty. Coos county employs the fine ranges for levels offenses as specified in the Oregon statutes.

Twenty-five percent of the felony cases received prison sentences, 70% received a combination of jail and probation and 5% received probation. Although 5% also received fines in conjunction with other sanctions, no cases received fines as a sole felony sanction.

Among the misdemeanor state law violations, 100% received fines with 18% of these receiving fines as a sole sanction. Motor vehicle violators received fines as a sole sanction in 100% of cases. Among the non-motor vehicle/nonparking violation cases, 100% received fines, with 95% accounting for fines as the sole sanction.

When a fine is imposed in the court for a misdemeanor, additional assessments such as penalty assessments, victim compensation and attorney fees are almost always imposed concurrently. Fines for motor vehicle and other miscellaneous misdemeanors also usually have additional assessed costs.

What makes Coos county unique among the four counties is an accounts receivable collections system already in existence before the structured fines program began. In 1990 in response to a general order of the court, the Coos county court initiated a fine payment tracking system to ensure compliance with court-ordered fines. The system employs the OJIN case tracking and OJIN financial information assistance system (FIAS) to track obligations and payments. In calendar year 1990, after implementation of the collections program, revenue collections increased 26% over the amount collected in 1989 (from \$799,337 in 1989 to \$1,005,794 in 1990). At the time Coos county applied to OCJC to participate in the structured fines program, revenues through September 1991 were \$1,135,855.

Primary responsibility for collecting fines levied by the court rests with the court administrator's office, with the probation department and the district attorney also sharing responsibility.

Fine revenues are designated for State, county and municipal general funds, State and county special funds and for police training.

At the time the data was reported, 50% of the fines imposed in 1991 were paid in full, 35% were still being collected and 15% were in default. Only 2% of offenders paid in full on the day the fine was imposed. However, 50% eventually completed payments within the time set by the court.

A letter or notice sent by mail is the first action taken by the court when an offender fails to make a payment. If the offender continues to fail to make payments the next most frequently taken actions by the Coos county court are to set a show cause hearing, issue an arrest warrant and, finally, to turn the matter over to DOR or to a private collection agency.

When an offender is brought before a judge because of nonpayment of a fine, the most frequent action taken by the Coos county court is to extend the time for payment. After that, the options in order of priority are community service, imprisonment and/or probation revocation.

B. Josephine County

The Josephine county seat is in the southwestern town of Grants Pass, approximately 50 miles from the California border. The Fourteenth Judicial District is a general jurisdiction trial court handling both felony and misdemeanor trials. Its jurisdiction extends to approximately 66,000 people. State funds pay the salaries of four full-time judges, a full-time court administrator and a staff of 10.

Pretrial services staff interview defendants prior to trial

to gather information for release decisions. Probation services in the county are available for persons convicted of both felony and misdemeanor offenses.

In 1991, 15,719 cases were filed and 12,054 defendants were sentenced in Josephine County. Of these, about 4% of filings (658) and 5% of sentences (626) were felonies; 12% of filings (1,915) and 9% of sentences (1,129) were misdemeanor state law violations; 81% of filings (12,662) and 84% of sentences (10,129) were motor vehicle moving violations; and 3% of filings (484) and 1% of sentences (170) were for other non-traffic violations.

Approximately 94% of felony defendants were represented by public defender and/or legal aid services. A comparatively lower number - 69% - of misdemeanor defendants were so represented. Twenty percent of misdemeanor defendants were represented by private counsel.

Fines are imposed in conjunction with other sanctions at all levels of offenses in Josephine county. For motor vehicle violations and non-motor vehicle/non-parking violations, fines are typically the only sanction. Josephine County employs the fine ranges for levels of offenses as specified in the Oregon statutes.

When a fine is imposed in the court for a misdemeanor, additional assessments such as probation fees, penalty assessments, victim compensation funds, attorneys fees and court costs are included in the total. The only additional assessments are court costs.

The Josephine county court administrator, the court clerk and the probation department share the responsibility for fines collection. Primary responsibility rests with two staff in the county clerk's office. At the time of program start-up, Josephine county was installing the OJIN FIAS to manage and enforce collection of court receivables.

At the time information was solicited, no figures were available on the amount of fines collected. The county did not have a formal system for fines collection, since the OJIN FIAS was not fully installed. The court's recordkeeping system did not provide for periodic reports on fines payments.

Despite the lack of formal collection system, the court estimated that 43% of the fines imposed in 1991 had been paid in full, 57% were still being collected at the time of the survey and 10% were in default.

At the time the survey was completed, less than 1% of criminal offenders paid their fines in-full on the day the fine was imposed. Thirty-percent eventually paid in full within 12 months. No special collection fees or surcharges were levied on unpaid fines and there was no notification system to let offenders know when payments were due.

A letter or notice sent by mail is the first action when the court is apprised that an offender has been out of compliance with the court's sentence. If the offender continues to fail to make payments, the next action is to issue an arrest warrant. When an offender is brought before a judge because of failure to

pay a fine, the most frequent action taken is to extend the time for payment. Next, the offender may receive community service and, finally, probation revocation.

At the time of program start-up, Josephine county was planning to use the FIAS automated accounts receivable system to track traffic infractions, especially concerning failure to appear and failure to pay, and to track criminal money judgements. If the system proved that monetary sanctions could be effectively collected, Josephine county planned to consider applying monetary equivalents as sentencing sanctions.

C. Malheur County

With a population of approximately 27,000 within a 9,926 square mile area, Malheur county is the least populated of the four sites. The Ninth Judicial District is located in the easternmost portion of central Oregon, in the town of Vale, less than one hour's drive from Boise, Idaho. The county is comprised of a diverse, but predominately Hispanic population that relies heavily on seasonal, agriculturally-based employment. Thus, one of Malheur County's interests in constructing a structured fines program was seasonal ability to pay and enforcement tactics that took this fact into account.

Malheur county is a trial court of general jurisdiction handling both felony and misdemeanor trials. State funds pay the salaries of two full time judges and one trial court clerk. This small court does not have a designated court administrator.

Several jail staff are designated as pretrial services officers to aid the court in making release decisions. County probation services are available for both felony and misdemeanor offenders.

In 1991, 1,292 cases were filed in the Malheur county court. Of these, approximately 36% (461) were felonies; 61% (787) were misdemeanors; and 3% (38) were other violations. At the time of the survey, data on sentencing was not available for comparison.

Ninety percent of felony and misdemeanor defendants are in need of public defender and/or legal aid, with 2% retaining their own private counsel and 8% receiving some other assigned counsel.

Fines imposed for criminal and non-criminal cases in 1991 amounted to \$355,163. In that year, \$120,905 was collected for both criminal and non-criminal cases. Other monetary penalties included \$66,217 for court costs and \$64,267 in restitution. The court clerk and probation department have primary responsibility for collecting fines levied by the court. Fine revenue collected by Malheur county is designated for state, county and municipal funds.

If an offender fails to make a payment on a fine, a letter will be the first action of the court. If the offender still fails to pay, the offender is called in for an informal payment review. If this proves unsuccessful, a show cause hearing is set and/or a formal proceeding to revoke probation is undertaken.

At the time of the survey, Malheur county relied on the OJIN system to keep track of felony and misdemeanor cases. Payments were tracked by a mix of manual and automated systems coordinated between the court and community corrections. These systems were unable to provide periodic reports to assess overall system performance.

As Malheur county's structured fines proposal stated, the system for collecting delinquent court ordered payments was fragmented due to limited resources to coordinate the efforts of the court and community corrections.

Malheur county proposed hiring a part-time enforcement specialist to work with the court clerk and probation to identify delinquent offenders and to use letters and direct phone contact to track collections. The OJIN FIAS system was to be the principle data base for financial tracking.

D. Marion County

At the time of the survey, Marion county's population was 228,000 - the most populated of the four sites. The Third Judicial District is located in Salem, the State Capitol and is approximately 50 miles from Portland, Oregon's largest city.

State funds paid the salaries of eleven full-time judges, a full-time court administrator and 48 employees. A pretrial services unit conducts defendant interviews to aid in release decisions. The probation department's services are available to both felony and misdemeanor offenders. Marion county relies upon OJIN to track felony and misdemeanants' compliance with sentences.

There were 16,847 cases filed in the 1990 calendar year in Marion county. Among these, 10% (1,697) were felonies; 42% (7,103) were misdemeanors; 47% (7,837) were motor vehicle violations; and less than 1% were other violations. Sentencing data for the same period was unavailable for comparison.

As is true of the other counties, most defendants are indigent. Over 90% of felony and misdemeanor defendants are represented by indigent defense counsel or other appointed counsel. Less than 10% use privately retained counsel.

Marion county has a comprehensive continuum of intermediate sanctions. However, it lacked an integrated policy of monetary sanctions.

In fiscal year 1991, of 2,675 misdemeanor cases in Marion county, 55.5% were sentenced to a combination of probation and jail as the most severe sanction; approximately 40% received probation only. Although none received fines as the most severe sanction, fines were typically used in combination with other sanctions, with the exception of motor vehicle violations which received fines as the sole sanction 100% of the time.

When a fine is imposed by the court for felonies and misdemeanors, additional assessments typically include: probation fees, attorney fees, court costs, penalty assessments, and victims' compensation fund assessments.

At the time of the survey, data was not available on collections. Primary responsibility for collecting fines rested with the court administrator, with the court clerk and probation department also involved. One full time staff person was involved with fine collection and enforcement.

When an offender fails to make a payment, first actions depend on the level of probation supervision the offender is under. For supervised cases, a "verbal acknowledgement" is given. For non-supervised cases, no action is taken. If an offender continues to fail to make payments, a letter may be sent to a non-supervised offender. A supervised offender may receive a letter, a phone call and/or an arrest warrant.

When an offender is brought before the judge because of non-payment of a fine, the most frequent actions taken are extension of the time of payment, resentencing to community service, referral to community service and/or probation revocation, in that order.

In response to budgetary constraints, state policy had limited the use of community corrections for non-misdemeanant offenders. The increased volume of felony/high risk cases making demands on the continuum of sanctions system displaced lower risk (most misdemeanor) cases to "no supervision" status. Therefore, Marion County's goal for the structured fines program was to improve the use of monetary sanctions in lieu of either no sanctions or to replace other less effective or expensive responses.

VI. PROGRAM OPERATIONS

Although each county's implementation of the structured fines project was unique, the overall operation of the program may be considered in two parts: fines imposition and fines collection. Most of the work of the project focused on integrating the concept of structured fines into an existing court environment, accommodating it to daily management and adapting it to court policy or vice versa. That is, getting the project up and running. The experience of each court in the imposition of the structured fine concept is the major focus of this project.

All pilot sites followed the same general steps for imposing structured fines: Before the defendant's appearance in court, the means of the defendant was derived by the indigent verification officer using the worksheet. After the judge's sentence was imposed, the indigent verification officer employed the worksheet schedule to determine the fine amount by units. If a fine was the sole sentence, the case would be referred either to probation or to the court for collection.

Collections was the second step and its outcome among the four sites is varied. Generally, developing a collections process in each county required several starts and mid-stream corrections to refine the process as it went along. The sites experimented with several approaches to collections, finally adopting what worked and discarding what either did not work or was not compatible to their jurisdictions and offender populations.

The balance of this section reflects the experience of each pilot site in instituting the concept of structured fines - getting the program up and running - and reports of their experience with adopting and adapting a collections process.

A. Coos County - Structured Fines Operations

Although Coos county has an accounts receivable collections system, the court's participation in the structured fines program was scanty. While Circuit Court Judge Richard Baron appreciated the idea of a reasonable means-based fine, he was concerned that the judges in Coos county were not given adequate training and were not sufficiently convinced of the value of structured fines as a sole sanction.

Judge Baron suggests that a major shift in the legal culture is required for structured fines to be a useful sanction. The public's perception that incarceration is the only meaningful sanction stands in the way of fully integrating structured fines. He recommends that a major educational effort needs to be made to convince the public that "law and order" is also served by fines.

District Court Judge Michael Gillespie, who came to the bench in a year after the program started, participated in the program and still uses the structured fines grid to set fines. Although positive about the concept, Judge Gillespie echoed a

common theme among all program participants. That is, most people charged with criminal offenses have such little income - about 90% of defendants are indigent - that setting a fine, even at the lowest amount allowed by the grid, still leaves an offender with a fine he or she cannot pay or has extreme difficulty paying.

[This concern, raised in all of the sites, is discussed in both the conclusion section and recommendations sections.]

Indeed, the Indigent Verification Officer, Gavin Warren suggested that because the grid floor, or lowest fine level, is still too high, structured fines was not a fair alternative to tariff fines, even for people who can pay. While the fine amount includes assessments, even this arrangement tends to leave the fines too high for marginal and low income individuals.

Release Officer Andy Levin indicates that while collections have continually improved due to the county's collections process, the court can only collect from offenders who can afford to pay. If an offender cannot afford to pay, community service can be employed at the exchange of one ten-hour day for \$50.00 in fines (\$5.00 per hour).

Mr. Gavin said that the time and effort involved to calculate the structured fines amount typically took 5 to 10 minutes and that the accuracy was high because the defendants know that the information is verified by the court. Therefore, it was a simple and efficient process to collect information to impose a structured fine in Coos county.

Judge Gillespie uses structured fines on a case-by-case basis, especially for those offenders who are not candidates for jail. Typically, such persons are convicted of Theft II and III, harassment and trespass. Frequently probation and fines are imposed together, with probation as the "hammer" to ensure payment. When the offender pays the fine, probation is terminated. If the fine continues to go unpaid and the offender is on probation, a probation violation hearing may be held and another sanction imposed.

Jail is a real threat in Coos county and jail space is carefully managed. The Coos county jail has the capacity to house 180 adults, including 30 beds for women. The county can also accommodate up to 40 people in its jail-associated work release program. Few misdemeanants go to jail, except for some drunk driving convictions or persons at risk of physical harm to others.

While adequate jail space is useful as a back-up sanction to fines, it also may act as a disincentive to use fines as a sole sanction. Jail is cheaper for the court than holding a contempt proceeding for non-payment of fines, with its additional administrative costs. And, in the current political climate, a jail sentence is acceptable to the public.

Driving under the influence of intoxicants convictions (DUII) require a mandatory \$90 evaluation fee and participation in a DUII program. A DUII offender may not receive his or her driving license back unless these requirements are met. Thus,

structured fines are not a particularly appropriate sanction for DUII offenses in Coos county and are unlikely to be used in these cases.

Structured fines can be a viable concept, according to Judge Gillespie, if it is used consistently, if there are more opportunities for judges to depart from the grid range and/or if the scale could be revised to reduce the lower range of fine amounts. Structured fines, he notes, are most appropriate for district court cases where there are fewer sanction options for the less serious offenses. If a fine is imposed at a reasonable amount, people are more likely to pay. And, if the offender is indigent, an alternative work program at a fair exchange rate would be appropriate.

The "Coos County Accounts Receivable Collections Manual" states, "It is the policy of the Fifteenth Judicial District that the court has a responsibility to collect court fines, fees, assessments and restitution."¹¹ This manual establishes a standard process for "appropriate and timely collection action . . . on those accounts which are delinquent".¹² When a case appears as delinquent, the clerk verifies this fact before coercive action is initiated. The clerk applies a license suspension on delinquent traffic infractions cases and sends a delinquency notice to the offender on other case types. Licenses may be suspended for up to five years, pending administrative review. If an offender does not reply to a delinquency letter after 30 days, the clerk refers the case to the sentencing judge for a show cause hearing if the amount is over \$250.00 or the case may be referred to DOR for collection. If the total amount due is under \$250.00, the clerk automatically refers the case to the DOR for collection.

According to Ms. Sherry Grotting, the Collections Supervisor, 60% to 70% of the fines are paid in full within the probationary period. Ms. Grotting suspects that there are probably many structured fines that are imposed but not recorded as such in the accounting system. The biggest problem, according to Ms. Grotting, is that many defendants cannot afford to pay even the lowest level of fines.

Court staff interviewed tended to agree that the structured fines concept was fair. And, in order to make structured fines viable in Coos County, their suggestions clustered around education for all court staff, especially judges, district attorneys and the local bar; that an agreement be elicited from judges to use the program; that the court staff be well-versed in how to make structured fines work operationally; and that structured fines be imposed only on lower-level offenses.

B. Josephine County - Structured Fines Operations

In this county, misdemeanor defendants were given the option of accepting a structured fine in lieu of jail. In 146 cases, structured fines was selected during the project period. Structured fines was not employed in felony cases.

During the project's planning and implementation phase, first offender property misdemeanors (theft, criminal misdemeanors, criminal trespass) were targeted as the prime recipients for structured fines. Initially, District Court Judge William Mackey, who was involved in the planning process along with Circuit Judge Gerald C. Neufeld, believed that 20% to 25% of these cases would opt for the program. As it turned out, only about 5% of the misdemeanor cases received structured fines.

This was due to several factors: poor understanding of the program and a lack of agreements to participate by judges, district attorneys, defense counsel, and court staff; the local jail is normally at capacity and therefore the threat of jail was not realistic; structured fines were not considered appropriate for indigent persons; and for retired people living on a fixed income, the fine was disproportionately high. Those who selected structured fines tended to be middle income employed defendants who were able to pay and for whom even 24 hours in jail was too much and others who were willing to try something besides jail.

[The need for better education and training was pointed out in several of the counties and is discussed in the conclusion and recommendations sections.]

Defendants also have the option, in Josephine County, of working off most of their fine for \$5.00 an hour through the probation department. However, Judge Mackey notes that even offenders assigned to work crews who don't show up know that they will not go to jail because of jail overcrowding.

Circuit Court Judge Gerald C. Neufeld agreed that the program received sparse participation because although in the beginning there were meetings with district attorneys and judges who exhibited interest in the concept, these early meetings were not followed-up and commitments to participate did not materialize. At the same time, there was a sense among the key court players that fining alone was insufficient punishment. This impression existed alongside the knowledge that the threat of jail in this county was not meaningful.

Judge Neufeld also indicated that economic sanctions are difficult to apply in Josephine County due to the high unemployment rate among the criminal defendant population.

Despite these rather negative impressions of the Josephine county court staff, there was marked improvement in collections over what was reported in the county's 1991 survey response. In that report, an estimated 43% of fines imposed had been collected.

In contrast, among the 146 cases in which structured fines were imposed, 63% were in some stage of compliance: 12% paid in full on the day of sentence or within 30 days and 12% paid within one year. Of the remaining 76%, 16% were not yet delinquent at the time of this report, 17% were making regular payments, 6% chose to work the fine off. The remainder were either referred to DOR for collection or were returned from DOR as uncollectible. The 146 cases amounted to approximately \$70,000 in fines. As of June 1994, just under \$48,000 or 67% was still outstanding.

This improvement may be partly due to a new automated collection procedure adopted in Josephine county in which the county prints its own coupon payment books upon conclusion of sentencing.

For offenders who receive fines and probation, the probation department is delegated the responsibility for establishing a payment schedule. According to Judge Neufeld, the probation department would prefer that the court set the payment schedule as enforcement of offender financial obligations does not appear to be a very high priority for probation. Judge Neufeld indicated that more work needs to be done between the court and the county probation department to better coordinate collection efforts.

Josephine County relies on the OJIN system to track criminal justice data, including fines and collections. However, according to Terry Galedrige of the Accounting Department, the OJIN system is not accurate regarding delinquencies. If an offender pays a portion of the fine, the OJIN system may indicate that the account is not delinquent when, in fact, a substantial delinquent balance may exist. Galedrige indicates that the new OJIN accounts receivable system will correct this deficiency and will be able to provide better information on payments and delinquencies.

Gathering information to verify income and using the structured fine schedule to set a fine is a simple process, according to Katherine McCartney, Josephine County's Indigent Verification Officer. After the financial analysis is completed, Ms. McCartney makes a recommendation concerning the minimum, middle and maximum fine for the offense, and places the necessary documentation into the case file for the judge's review and decision. She suggests that meaningful sanctions for non-payment be established and that the county may wish to consider levies on personal property in particularly recalcitrant cases.

Everyone interviewed agreed that the structured fines program could be an excellent alternative to sending offenders to jail or could provide extra sanctions compatible with probation. Most were quick to point out that the problems with the program's implementation in this site may have been due to the county's marginal efforts and not the concept itself. They generally agreed that the concept of structured fines was reasonable and could work under different circumstances.

Through the experience of the structured fines program much was learned in Josephine County about how to improve and reintegrate fines and collections into the overall system of sanctions. Suggestions for future improvements included redesigning the work program to include structured fines in such a way that one would reinforce the other; improving coordination with the probation department's functions; making the fine amount more affordable; improving the tracking and collections system; and, most important, on-going training for the judiciary, prosecutors and defense counsel in the program's concept and operations.

C. Malheur County - Structured Fines Operations

Malheur County used its structured fines program to improve collections procedures by identifying delinquencies, building a fines and fees data base and initiating a formal collections process for all fines and fees imposed at conviction. Grant monies primarily were used to subcontract for the services of a part-time fines enforcement specialist.

While the structured fines concept was intended to apply to about 2,000 misdemeanors per year and to some felonies, the ability of the court to set means-based fines was limited because of several factors: there was only one part-time person devoted to collections and that the mandatory imposition of assessments and fees in excess of the fine amount made the fines very high

Public Defender Mark S. Rader cited as an example of the latter, a case of assault IV/harassment, for which the fine could be as high as \$500. For this offense, the fine might be suspended pending completion of an anger management class costing \$75. However, fees for such a conviction could also include: \$45 for the unitary assessment (an automatic conviction fee), a jail fee of between \$15 and \$60, victim's fee of \$15 and supervisory probation fees. In addition, restitution, discovery, attorney and mandatory DUII fees could also be assessed. For other cases, fees for alcohol and mental health counseling may also be imposed. Mr. Rader indicated that because the final costs were so high, the program could serve to impoverish people. And, he expressed concern that this situation removes the judges' discretion to tailor sentences to individuals.

[The issue of assessments over and above the fine amount is also discussed in the conclusion and recommendations sections.]

The use of fines as the sole sanction was used occasionally for some felonies but appeared to work best with traffic offenses and for fish and game offenses in which the defendant has the money to pay, according to District Attorney Patricia Sullivan. Supportive of the program, Sullivan says that structured fines have typically been used in combination with work crew assignments, drug and alcohol evaluations and associated school programs. Sullivan also suggests that fines only sanctions can reasonably be applied in cases of theft with no restitution (shoplifting under \$50), check kiting, disorderly conduct and non-domestic assault.

According to Presiding Circuit Judge Frank Yraguen, the structured fines was not usually employed as a sole sanction because if the defendant does not pay, the court must initiate a contempt proceeding in order to enforce the sanction. Whereas, coupling the structured fine with another sanction such as bench probation or regular probation enables the court to maintain control without having to initiate a new action. If the offender pays the fine, the probation order is then discharged. Thus, for this county, probation and a fine could be considered a "fine only" sanction.

District Judge J. Burdette Pratt considered the structured fines program useful with modifications such as increasing the hunting violations amounts and lowering the amounts for other offenses. Judge Pratt suggested that restitution, the unitary assessment and other fees under the authority of the courts could be combined into one amount. However, he doubted that fees for alcohol evaluations and drug and alcohol treatment fees could be included since those are not under the court's control.

The district attorney's office in Malheur operates a Reduce Impaired Driving (RID) Program, under a U.S. Department of Transportation grant. The RID officer, Mr. Albert Quintaro, works closely with the court to reduce failure to appear rates for DUI offenders and to increase the fine and fee payment compliance in these cases. Because many DUII defendants are Spanish speaking migrant workers, Quintaro works to bridge the gap between Hispanic and Anglo cultural differences that arise around drunk driving offenses and he is able to adjust payment schedules to accommodate seasonal work. Quintaro reports that although collections for DUII offenses have improved, his work load is extremely heavy, with over 160 cases.

[Mr. Quintaro identifies an important aspect of the structured fines experience: That collections is a labor-intensive process requiring the investment of staff and resources. This point is also discussed in the conclusions and recommendations section.]

Similar to Josephine County, the threat of jail in Malheur county is not great due since the 27 jail beds are usually occupied with serious offenders such as pretrial felony defendants, sex crime defendants, serious assault convictions and with failure to appear cases. In the case of female offenders, several beds must be vacated to provide enough space to segregate the sexes, further limiting the jail's capacity.

When the intention of the court is to deprive an offender of his/her liberty, the county uses court room confinement to make up for the jail limitation. Unlike county work crews or community service, an offender cannot work off a fine by spending a determinate number of hours in the courtroom.

Considering the limitations of implementing the program's concept, Malheur county used the structured fines program to improve fines collections and the collection of other financial obligations imposed on individuals convicted of felonies and misdemeanors.

During the project period, the old manual accounting system was replaced by the OJIN FIAS. In addition, Malheur adapted automated collection procedures developed by Jackson & Josephine counties in which the county prints its own coupon payment books immediately upon conclusion of sentencing. Collections have gone from approximately \$13,000 in January of 1991 to \$25,500 in May of 1992 when the program started, to \$35,000 in September 1992 when the mailing of delinquent notices began. Collections as of May 1994 were in excess of \$38,000.

Judge Yraguen notes that the increase in overall collections has been an unanticipated collateral benefit of the program. Whereas the collection of fines for crimes targeted for structured fines were expected to go up, it was not anticipated that collections for all fines would increase.

According to the Malheur County final report on the structured fines project, the principle detrimental feature of the project was the commitment of resources to implement and carry out the program. However, this is an extremely small court with few staff. Therefore, it was a more labor-intensive task to implement and carry out the program compared to the other sites where there were more staff to shoulder the work.

Malheur county attempted to employ structured fines as a sole sanction. However, without bench conditions, the court would have had to initiate a separate action to address those offenders who did not pay their fines. Although Oregon law allows the District Attorney to initiate separate contempt proceedings in response to nonpayment, such actions additionally tax the court's already tight staff resources. Therefore, Malheur coupled structured fines with standard bench conditions of probation to enable the court to retain authority in the case and more easily initiate show cause proceedings for nonpayment as well as issue warrants in cases that could not be resolved through this process. Thus, Malheur county's structured fines only sentences always involved a fine and standard bench conditions.¹³

The report also discussed the issue of assessments and fees. The court deducted the unitary assessment and jail assessment from the structured fine amount, as determined by the Penalty Unit Value Worksheet. However, other financial considerations such as mandatory statutory minimum fines, discovery fees, attorney fees, restitution obligations, mandatory evaluation and treatment program fees and witness fees tended to push the final amount to a relatively high figure for the average defendant who, like in the other counties, is poor.

[A commonly cited problem, this issue is discussed in the conclusions and recommendations sections.]

In a positive vein, the structured fines program in Malheur County provided a process to improve collections and to monitor bench probation cases in a way that had not been done before. In addition, the project afforded court personnel the opportunity to be in contact with other jurisdictions and to share information. In fact, the court is developing a graduated structured sanctioning model based on that used in Marion county which will coordinate work crews, community service, treatment requirements and structured fines.

Suggestions for other future directions and improvements included revising the grid to bring the fine levels down, combine the fine and fees into one amount, and leave room for judges to depart from the scale as necessary.

D. Marion County - Structured Fines Operations

The largest of the four demonstration sites, Marion County attempted to integrate structured fines into its intermediate sanctioning system as an additional condition of probation. Structured fines as a sole sanction was not adopted in this county. The county's initial goals concentrated on enforcing court orders and implementing improved collection procedures.

To periodically assess the implementation and operation of the program, Marion county constituted a structured fines working group composed of judges, district attorneys, staff from the court, from community corrections and from the defense bar. In fact the District Attorney's office re-wrote the internal pleas policies to better integrate structured fines into the process.

It is difficult to objectively assess the progress of the program in Marion county during its first two years of operation since the technology to gather and analyze information was not in place. Data is not available on the rate of imposition of structured fines, the amount of fines assessed and collected and the number of persons jailed on probation violation warrants for nonpayment of fines. There were minimal efforts at enforcing and tracking collections in the initial two years of the program.

While there was an increase in the jail population during this period, it is not possible to determine if it was in any part a result of the adoption of the structured fines program.

Initially, the structured fines program was applied to all Class A misdemeanors, other than DUII, driving while suspended, person crimes, fourth time offenses and offenders on supervised probation. Now, the program is applied to all misdemeanors.

The first two years of the program were devoted to establishing the system within the court through a trial and error process. In addition to the lack of technical support, several personnel changes also took place. Staffing evolved from one structured fines officer to three full-time employees, two of these have been on staff less than one year. However, the experience of implementing structured fines within the case flow process was very instructive in this court. In a large volume court such as this, systems and guidelines evolve through a trial and error process. Anecdotal reports from Marion county staff indicate that the process of integrating the structured fines program improved not only collections but also revealed places within the system that needed attention.

One of Marion county's first program products was written guidelines outlining the policies and procedures to be followed by court staff after a fine had been imposed by the court. The guidelines indicate that when the court imposes a monetary sanction, the defendant is expected to pay immediately, if possible. If the defendant is unable to pay at that time, installment payments may be arranged with the structured fines officer who has determined the fine unit value prior to the defendant's appearance in court. After sentencing, a formal

payment process is developed with the defendant who is then required to sign an Acknowledgement of Payment Obligation.¹⁴

The guidelines specify that a large initial payment should be obtained as a first step in the defendant's commitment to fulfilling his or her financial obligation to the court. The installment period is kept to the shortest period - 6 months is preferable - to forestall collections problems. The guidelines make allowances for time spent in jail or time in a treatment program.¹⁵

The guidelines further delineate procedures for taking action on delinquent accounts. These include license sanctions, written notification, initiating probation violation proceedings or bench warrants.

Marion County has been unique among the four demonstration sites by its attempt to integrate several of its intermediate sanctions with structured fines. For example, a fine could be "worked off" through community service or through completion of a treatment program. In this way, the possibility exists in Marion county for a fine to be exchanged for work or for completion of treatment based on the penalty unit standard. The community service may be exchanged for fines at a rate of \$7.50 per hour. This exchange was considered an attempt to ameliorate the problem of high fine levels.

However, if the court's orders include community service and a fine, that portion of the community service that is ordered by the court may not be used as an exchange for the fine. For example, if the court orders 40 hours of community service and a fine of \$250, the offender must first complete the 40 hours of community service and then arrange for additional community service hours in exchange for any or all of the fine amount.

If treatment is ordered by the court, the fine may be held in abeyance subject to completion of the program. The fine may then be reduced or removed at that time. Although other sites have allowed offenders to work off a fine through community service, none have structured the process according to penalty units.

While the county submits that "thousands of dollars have been converted to community service work",¹⁶ they also note that many defendants have not completed the total number of community service hours and some have not reported for this program at all. Unfortunately, data is unavailable on the number of persons entering into this type of agreement or on the relative success or failure of these arrangements. However, the guidelines do specify a process for addressing non-compliance with community service and/or treatment.

In November 1993, the penalty unit valuation table was revised to lower the fine amounts, as these had been determined to be too high by the structured fines working group. Since that time, there has been a decrease in the dollar amount of fines imposed. As a result, the court has become more cognizant of determining a defendant's ability to pay at the time of

sentencing. There have even been instances where the court will go below the guidelines, if warranted.

Fees and assessments in Marion county have been accommodated by deducting these from the structured fine amount assessed to the offender. This system prevents the accumulation of additional costs that can drive a means-based fine beyond the ability of the offender to pay.

Since January 1994, the structured fines program has focused on collections. Hardware and software was purchased and staff were designated to perform the collections task. Staff has spent considerable time correcting inconsistencies in recordkeeping and in developing a tracking process. Efforts were made to collect on pre-1994 accounts and, as of June 1994, nearly \$70,000 had been collected without resorting to warrants. These amount were generated by warning letters and telephone calls.

A statewide plan for installing the OJIN FIAS collections receivable data system has been in development. With a projected start date of January 1995, this system will enable not only Marion county, but all of the courts to improve its knowledge of fines imposition and collection. With the implementation of this program, Marion county and all of the other courts will have the capability of tracking data and producing detailed reports on almost every aspect of the program.

Marion county's structured fines program has matured beyond its initial start-up problems. The program has lowered the fine unit values, decreased the issuance of warrants for non-compliance resulting from the staff's emphasis on collections, has increased its use of community service as an exchange for penalty units, and all or some of a fine can be suspended upon completion of treatment. In some cases, all or some of the fine amount has been suspended upon completion of other substantive conditions of probation.

The structured fines collections staff works to exhaust all avenues of collection before sending a delinquent case to court for review and the court staff is monitoring probation compliance before issuing warrants.

"Even though it has been a painstaking experience to get to this point, it seems that with education, training and research, the structured fines program will endure and prosper."¹¹

VII. Conclusions *¹

A. Lessons Learned¹¹

The basic concept of structured fines - setting a fine amount through a process that takes into account both the seriousness of the offense and the financial circumstances of the offender - can be a viable one in Oregon. However, in order to make structured fines work effectively, attention must be given to several factors. The most serious of these is that the state's current laws regarding payment of fines and fees have the effect of imposing a relatively high "floor" of mandatory payments on virtually every defendant. With these high floors in place, much of the potential for increased fairness through use of structured fines is lost. In addition, at least in part because the floors are so high, many poor defendants simply do not pay anything at all. The result is that even the revenue-production objective is undermined by the current legal structure.

Ultimately, fundamental questions about the role of monetary sanctions in the administration of criminal justice will have to be addressed if structured fines - or any other type of monetary sanction - is to be effective. The most important of these: Is the objective of a fine simply to raise revenue? Or, is it to impose appropriate punishment for a criminal offense and perhaps to deter future misconduct, by creating financial punishment and disincentives.

If the objective is to achieve criminal justice sanctioning purposes, then it would be useful to consider eliminating flat assessments in favor of using a single sanction incorporating the basic concept of structured fines and emphasizing modern collection and enforcement techniques. This approach, in addition to giving the sanction greater credibility, would also likely produce more net revenue to the current system.

B. Operational Feasibility¹¹

Operationally, it is possible to make structured fines work in Oregon. Four key elements to effective operations are being or can be met:

1. Information about a defendant's financial circumstances can be obtained without great difficulty. All of the sites had an indigent verification officer to collect the information and the process seems to have worked effectively.

¹ The following two sections are the contribution of Mr. Barry Mahoney of the Justice Management Institute. Mr. Mahoney serves as a consultant to the overall national project and was a member of the site visit team.

2. It is easy to calculate the fine once the information about a defendant's financial circumstances is obtained. The penalty unit value scale and the prescribed calculations can be done either by staff or by the judge.

3. The system is understandable to practitioners if time is devoted to education and training. All of the judges interviewed and most of the other staff knew how structured fines worked operationally. However, there was widespread feeling that many other key actors - principally prosecutors, defense attorneys and probation officials - did not really understand either the theory or the mechanical operation of the system because insufficient time and effort had been devoted to educating them and obtaining their cooperation.

4. Fines are collectable if administrative staff efforts are devoted to this task, if the requisite information is available to support such an effort and if fines are set at amounts that can be reasonably paid. Certainly progress has been made in all of the sites to improve collections over what it was before.

C. Practitioner's Attitudes Toward Structured Fines¹¹

All of the judges interviewed endorsed the basic concept of structured fines as fairer than the traditional tariff fine system. All thought it could be a useful tool in sentencing. However, their main concern was that under the grid system now in use, many structured fines were simply too high for unemployed defendants to pay.

Several judges also took note of the need to educate the public to the idea that structured fines could be a meaningful punishment over jail. The court's perception that the public believes that fines were simply not "enough" punishment seems to have created hesitancy to incorporate the program more fully. This was particularly true in Josephine county.

The district attorneys and defense lawyers interviewed also liked the concept because of its greater rationality and fairness. However, the public defenders, in particular, felt that the existing grid system produced fine amounts that were beyond the ability of most defendants to pay.

Court staff members' views were more mixed. Most liked the basic concept because it was fairer. However, they were not sure that it could be made to work in practice because of the high proportion of very poor people in the defendant population, who were receiving fines under the program that they could not pay.

Efforts to integrate structured fines with other intermediate sanctions, particularly in Marion county, are noteworthy. The establishment of a penalty exchange system in which work, community service, completion of probation or a

treatment program could be exchanged for specific fine amounts, had appeal as even high fines had the possibility of being paid off in an in-kind fashion while maintaining the integrity of the court. How well or whether the exchange system is working at all is unknown since no systematic evaluation of this component has been done.

D. Impact on Jail Population and Probation Caseloads¹¹

It is doubtful that the structured fines program had any impact on jail populations. With Malheur and Josephine counties operating under strict jail population limitations, the defendants receiving structured fines in those counties are definitely not jail-bound. In Coos County, where jail space is available, the defendants receiving structured fines are ones for whom jail was not a suitable sanction.

All four counties used structured fines predominately in district court cases for which formal probation is not usually an option. Thus, there was probably little or no alleviation of probation caseloads as a result of the program. In fact, the program highlighted the need for the courts and probation to better coordinate efforts to ensure that court-ordered fines are paid.

Courtroom confinement, as used in Malheur county, is an interesting middle ground between no supervision and formal probation. However, it raises questions of administrative jurisdiction. Does the court have the authority to operate its own probation program?

Although there is no supporting data, it is probably safe to say that the principal sanction structured fines displaced was the tariff fine in those cases where structured fines were applied.

VIII. The Future of Structured Fines in Oregon

A. Considerations for Further Implementation²²

1. Fine levels are too high.

The most obvious concern, noted in all of the final site reports and mentioned in many ways by almost every person interviewed for this report, is that the fine levels are exorbitant in relationship to the means of the defendant population. There is a general sense that, at least as the unit scales and valuation formulas are presently constructed, that the use of structured fines results in imposing fines that are beyond the ability of these defendants to pay, even when installment payment systems are used. Three factors are particularly important here:

a. The existing grid, based on a unit scale ranking offenses by seriousness and a formula that values each unit in terms of net daily income, produces fine amounts that are regarded as unreasonably high for many offenses and offenders.

b. The policy of attributing minimum wage amounts to persons who have no known income may produce artificially high net income valuations for these defendants.

c. Statutory mandatory minimum fines and assessments produce a monetary "floor" that is apparently beyond the ability of many defendants to pay. The floor is raised still further when a structured fine combines with an order requiring an alcohol or drug evaluation, in which a separate fee is required, and/or compulsory enrollment in a substance abuse program or other programs that require additional fees.

Related to this topic is the problem of different practices among the sites with respect to setting the amount a defendant actually has to pay when a structured fine is imposed. In Coos, Josephine and Marion counties, a total amount is set, using the penalty unit valuation table, and the various mandatory assessments are included in that amount.

2. The relationship between structured fines and other sanctions is unclear.

The correlation of structured fines to other sanctions, both monetary and non-monetary, is indistinct. For example, in Marion County where the possibility exists to exchange fines for other non-monetary sanctions, it is also the case that structured fines may be used in addition to other sanctions for the same case.

Such sanctions are most often probation conditions that include participation in programs requiring payment of a fee which adds to the economic burden on the defendant.

When the penalty unit valuation table was devised, the exchange of penalty units among fines and other sanctions was valued as a 1:1 ratio. This put fining on an equal footing with custody conditions. However, as the exchanges have been imposed, it appears that a ratio of 3:1 in favor of custody units has been employed. Such a disproportionate practice raises questions of fairness since the person with financial means pays at the 1:1 ratio. The person who cannot render monetary payment, pays instead over three times that unit amount in his or her time in a custody condition.

Although a structured fine in combination with other sanctions is obviously more onerous than a structured fine alone for the same offense, none of the sites have, as yet, developed a systematic way of adjusting the fine amount to take into account the impact, on both earning capacity and on personal liberty, of compliance with the other conditions. Moreover, coordinating structured fines with other sanctions presents rather complicated management problems for the courts and for probation which involve policy changes and time and staff resources. Effective coordination will also require more sophisticated technology than that which is currently available.

In all counties, traditional tariff fines are being used side-by-side with structured fines without clear guidance as to when a structured fine should be used. In DUII cases, according to statute, certain fines are mandatory and cannot be altered to become a structured fine. And, in some counties, one judge will use the structured fine concept while another judge in the same court will use the established tariff fine.

3. Collections practices need improvement.

It should be recognized, however, that all of the sites are doing a far better job in collections than they were doing as recently as five or six years ago. Every site reported that until a few years ago, no active collections efforts were being made whatsoever. Especially notable is the collections system that has been developed in Coos county.

On a system wide basis, aspects of collections that need attention are:

a. Automated information systems.

The Oregon Judicial Department is working on developing an automated accounts receivable software that would significantly improve the monitoring of open accounts, pro-active follow-up on delinquencies and would permit aggregate case analysis (by court and across the system) to identify both problem areas and good practices. Implementation of this system will be extremely important for improvement in collections.

b. Staffing

Effective collections work is moderately labor intensive, but is likely to pay off in terms of substantially higher collections. Automation is important, but open accounts need to be "worked" by people. Trained staff need to know how to analyze data from the automated system to identify problems and develop solutions and a senior staff person should have clear responsibility for effective collections.

c. Techniques

Lengthy installment payment periods seem to be the norm, usually with \$25 as a standard monthly payment. Collections effectiveness could probably be enhanced if payment plans were more carefully tailored to defendants' individual circumstances. Where possible, a significant payment amount should be collected immediately and payment schedules should be as short as possible. This is more difficult, of course, when fine amounts are high.

d. Back-up Sanctions

The lack of jail space is an obvious problem in Malheur and Josephine counties. However, it is possible to use other sanctions - including community service, other work program alternatives, day reporting centers and electronic monitoring - if defendants fail to pay their fines. In this connection, it would be important to develop a system that would provide a viable and fair alternative when a defendant cannot or will not pay a fine. The unit scale that underlies the structured fines should provide a basis for developing such a system.

It will also be important to involve the governmental unit responsible for administering the alternative sanction (e.g., probation department, community corrections agency, sheriff's office) in the planning.

Another approach, one that has had some success in England, is to develop procedures for seizure (or a credible threat of seizure) of a defendant's property for willful non-payment of a fine amount. Again, inclusive planning will be important in using this technique effectively.

B. Recommendations¹¹

Clearly, a great deal of valuable experience and knowledge has been acquired through the four Oregon experiments. Everyone interviewed for this report wanted to see further experimentation with the concept. The following recommendations focus on ways Oregon might continue to work on developing structured fines as a sentencing option:

1. Plan to conduct a Phase II project, including at least two of the Phase I sites.

In planning and conducting the project, use a steering committee that includes persons actively involved in the Phase I experiments, including judges, court staff involved in courtroom and collections operations, prosecutors, defense lawyers, probation/community corrections department leaders, Judicial Department senior staff responsible for trial court operations and information system development and representatives from law enforcement agencies.

2. Develop a unitary structured assessment system.

If possible, obtain authorizing legislation that would enable the pilot sites to develop a unitary structured assessment system based on structured fines principles and incorporating all fines and assessments, and if possible, all fees. Language such as the following (drawn from the California legislation authorizing a pilot day-fine project) could be used:

"Notwithstanding any other provision of law, if a person is convicted of a misdemeanor [optional: or infraction which could have been charged as a misdemeanor], any fine or other monetary assessment [except restitution] shall be imposed in accordance with the provisions of the unitary structured monetary assessment plan developed by the pilot county . . ."

Obviously, the legislation would need to be developed further, but the idea of a pilot project not subject to other provisions of law requiring imposition of mandatory assessments is a key ingredient.

A related matter also requiring authorizing legislation is the possibility that an added incentive for effective collections is to enable each court to retain some of the monies collected (perhaps 10%) for their own operations instead of requiring that all funds collected be deposited in the state treasury.

3. For the pilot counties, all monetary sanctions should be imposed as structured assessments.

At the very least, all fines should be structured fines. The current situation in some of the sites,

where both structured fines and tariff fines are being used, is confusing to everyone and gives an impression of arbitrariness in the choice between the two approaches. Further, it undercuts the rationale for using structured fines.

It may be desirable for the Phase II pilot project to set a minimum amount for the structured assessment. If so, it should be low enough so that most defendants could pay (e.g., \$50 - \$150).

4. Target structured assessments for use in particular categories of cases and for offenders with particular characteristics.

First offenders convicted of minor property crimes are obvious candidates, but there is probably a much wider range of offenses and offenders for whom the structured assessment is appropriate. District court is the most likely choice where the concentration may be on high-volume less serious cases.

5. Use structured fines or structured assessments principally as a sole sanction.

A structured fine is especially appropriate in situations where a defendant does not have a substance abuse problem requiring treatment and does not really need on-going supervision that could be provided by probation. However, it may be desirable to place the offender on bench probation, with payment of the assessment as the sole condition of probation, in order to simplify case processing if the offender fails to pay. Judges and court staff find it quicker and more efficient to manage non-payment as a violation of probation than to initiate a separate contempt proceeding.

6. Develop a system of exchange rates.

Exchange rates should be devised for structured fines, or structured assessments, in relation to other sanctions including community service, other work programs, electronically monitored home confinement, day reporting centers, half-way houses and jail. The exchange system could be used in two types of situations: for imposition of back-up sanctions in cases where a defendant cannot or will not pay and for situations in which it is appropriate to use both a structured assessment and another sanction.

7. Install the OJIN Accounts Receivable system prior to project implementation.

Staff should already be well-trained in the system before beginning the program and the court should be adequately staffed to undertake the collections work necessary to make the project function effectively.

8. Develop and implement plans for education and training of practitioners who will be involved in the project.

The education and training can take a variety of forms, but is clearly a crucial ingredient for effective operations. It should take place prior to project start-up and periodically thereafter.

Everyone involved in the project needs to know what the project seeks to accomplish, why it is being undertaken and how it will work. Commitments are needed from the judges, trial court staff, prosecutors, defense lawyers, community corrections/probation, state court administrators office and other appropriate individuals.

Because of staff turnover in all of the institutions and agencies and because circumstances will change during the implementation of the pilot, education and training sessions and periodic evaluation meetings should continue through the life of the project.

9. Develop a technical assistance capacity that makes use of knowledgeable Oregon-based practitioners and "outsiders".

There are now a number of persons in Oregon who are knowledgeable about structured fines or about particular aspects of court operations, such as collections. This knowledge is crucial for program effectiveness. Outsiders, including practitioners from courts in other states as well as national consultants, can bring new perspectives and knowledge about how particular problems have been handled elsewhere.

10. Recommend to the Bureau of Justice Assistance that Structured Fines be included in the list of "purposes" for which the Law Enforcement Block Grant to the States may be used.

Structured fines would logically fit under the Block Grant's section on intermediate sanctions and corrections options. The rationale for this inclusion is that although structured fines does not directly address drug and violent crime cases, its use among the states would free-up resources now devoted to less serious offenses, thus enabling states to more effectively deal with violent and drug crimes.

NOTES

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3. McDonald. pg. 1
4. McDonald. pg. 2
5. Winterfield, Laura A. and Hillsman, Sally T. The Effects of Instituting Means-Based Fines in a Criminal Court: The Staten Island Day-Fine Experiment. Vera Institute of Justice, NY, NY. September 1991.
6. "The Courts of Oregon". Office of the State Court Administrator. Oregon Judicial Department. September 1987.
7. "Integrating Structured Fines with a Statewide Sentencing Guidelines System: An application for funding under the Structured Fines Program of the Edward Byrne Memorial State and Local Law Enforcement Assistance Program." May 20, 1991.
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9. Memo. OJIN-U-140. Oregon Judicial Department. Information Systems Division. March 5, 1992.
10. Oregon Structured Fines Project Workbook. OCJC, Date?
11. Coos County Accounts Receivable Collection Manual. Coos County Circuit and District Courts. 1991. pg. IN-2.
12. Ibid.
13. Ibid.
14. Structured Fines / Collections Program Summary. Marion County, OR
15. Ibid.
16. Ibid. pg. 5
17. Structured Fines Final Report. June 1994. Marion County Courts. Salem, Oregon. pg. 5

18. July 13, 1994 memorandum from Barry Mahoney, The Justice Management Institute, to David Factor and Jody Forman.

19. Ibid.

20. Ibid.

21. Ibid.

22. Ibid.

23. Ibid.