

Uncollected Inmate Debt: What are Florida County Jails Doing About it?

Yuberky Almonte

Abstract

Charging inmate fees is not a new concept in Corrections. The practice has been in existence and can be traced back to the 12th century in England. During the 12th century many inmates paid for their incarceration stay, their release and for meals. Michigan enacted the first correctional fee law in 1846. The concept is brilliant, you break the law, and as a result, you pay the consequences by not only losing your freedom but also held responsible for a portion of the incarceration cost. Incarceration should not be a free ride at a cost to tax payers who are law abiding citizens. Through this research, we explore if all Florida County jails are charging inmate fees, how much the inmate population is paying back for the fees charged, how much is owed, and what programs are implemented (if any) in an effort to collect the unpaid fees.

Introduction

Today, inmate fees are still charged in jails throughout the United States to offset service rendered to the inmate and to offset operational costs. Due to budget restraints and economic challenges, jail officials have focused on exploring ways to recuperate a portion of the expenses in housing inmates by charging inmates additional fees. Jails currently charge inmate fees ranging from, but not limited to, booking fees, medical fees, subsistence daily fees, hygiene item fees, program participation and supervision fees, drug and alcohol testing fees and commissary or debit card fees. However, it needs to be noted that charging inmate fees has been a forum of controversy throughout the years with inmate advocacy groups, legislators, the public and the inmate population.

Literature Review

The decision to charge inmate fees and what type of fees to charge differ from jail to jail and state to state. Examples of the types of fees are: intake booking process, per diem for daily subsistence, weekend inmate program, hygiene kits, co-pay for medical services and cost to replace or repair damages caused by the inmate. Research conducted in 2005 by the U.S. Department of Justice, National Institute of Corrections identified the fees that jails are best able to collect and considered most effective by staff administrators were: work release fees, booking fees, telephone fees, medical fees and per diem fees (Krauth & Stayton, 2005).

Agencies are becoming creative in the types of fees charged to inmates. In 2004, the Florida Department of Corrections (DOC) started collecting a \$4 fee from the inmates' banking accounts, even if they had no money at all. All Florida Department of Corrections inmates are required to have a bank account (Associated Press, 2004). During the same year when the DOC began implementing the banking fees, a class action suit was filed in Tallahassee by the Florida Justice Institute to stop the DOC from collecting the monthly fee. Inmates and lawyers filing the suit argue that the fee is unfair, as it targets funds deposited into the inmate's accounts by their families. (Voyles, 2004).

In the State of Florida, the authorization for charging inmates subsistence fees originated in 1996 with the implementation of Florida Statute 951.033, which recognized the need for jails to off-set the expenses of incarcerating prisoners.

The statute is specific in identifying a prisoner's cash account, and prisoner's sources of income and assets outside of the facility. Assets may include bank accounts, inheritances, real estate, social security payment, veteran's payment, and other types of financial resources. The chief correctional officer may seek payment for the prisoner's subsistence costs from the prisoner's cash account on deposit at the facility or by issuing a civil restitution lien on the prisoner's cash account on deposit at the facility or on other personal property. A civil restitution lien may last for a period of three years (F.S.S. 951.033). With the statutory authority given to jail administrators to charge inmate fees and to provide direction in regards to how reimbursement can be sought for those fees, several questions arise. How aggressive are jails in pursuing the fees owed by prisoners?" Are prisoners notified of what they owe upon being released from custody? Are prisoners informed of what actions can be taken against them due to the unpaid fees? Do jails have any procedures, programs or investigative means in place to determine if prisoners have sources of income and assets outside of the facility in order to pursue the fees owed as authorized by the statute?

The current trend is for jails to collect inmate fees through deposits made into an inmate's account. In Polk County, if an inmate owes money, any money coming into the account will automatically go toward their balance. In Orange County, if an inmate owes money, 50 percent is deducted from the account, leaving funds for canteen purchases and medical expenses (Walter, 2009). In recent years, jail administrators have taken a more aggressive approach in collecting unpaid inmate fees. In Florida in 2010, the Hillsborough County Sheriff's Office filed a law suit against a former inmate for \$60,550. The cost was derived from the 1,211 days the inmate spent in custody, with a \$50 cost per day allowed by the state. Few counties actually file suits seeking payment; however, the Hillsborough County Sheriff has occasionally sought to recoup costs of housing but has never actually collected anything (Morelli, 2010). The Hillsborough County Sheriff's lawsuit filed against the former inmate is pending disposition as of March 2013.

A similar approach as the Hillsborough County Sheriff's Office was taken in 2010 by the Attorney General in Lake County, Illinois. The Attorney General sued a former inmate for \$82,800 for care and services. In this case, after an investigation took place, it was found that the former inmate had assets which could pay for part or all of the cost he incurred during his incarceration. Meanwhile, Michigan is among the states that have become more aggressive in gaining prisoner reimbursement through lawsuits filed

by Attorney General Mike Cox. Since 2003, Michigan has filed more than 1,000 suits against ex-felons believed to have the financial means to pay for their prison stays (Susnjara, 2010).

In 2012, in an effort to recuperate a significant amount of uncollected former inmate

jail fees, the Houston County Board of Commissioners in Wisconsin voted to contract and hire a collection agency for one year (Schuldt, 2012). In Washington DC, the Benton County Sheriff's Office, in an attempt to collect more than \$1 million of former jail inmate debt, has in recent years mailed out bills regularly to inmates upon release (Schilling, 2013).

A key issue is whether correctional fees are a cost effective source of revenue. Many inmates are indigent and can be poor payment risks however, so can non-indigent offenders. Collection costs could exceed fee revenues generated. Establishing efficient policies and administrative practices, fees can be a substantial cost-effective revenue source. The actual cost of collecting correctional fees remains uncertain. Practitioners who use fees believe that they are a cost-effective source of revenue, but they lack hard data on the real costs involved. (Parent, 1990).

Methods

The methodology utilized for this research consisted of a written survey (see appendix A) sent out to each county jail in Florida. The survey was sent out to each county jail's finance department supervisor or manager. Prior to the survey being sent out, telephonic and/or electronic mail contact was made with each jail to ensure the survey was being delivered to a valid email address, fax and current finance supervisor. It was found that although pre-survey preparations were done in order to maximize respondents, additional calls or electronic messages were necessary. Various target recipients advised via phone that the electronic survey was never received, although various attempts were made and sent. Due to this delay in the survey process, I opted to fax the survey to those recipients who were willing to participate in taking the survey. For those surveys completed via fax, the data was manually inputted for data collection.

It needs to be noted that the data collected is not inclusive of Florida jail facilities such as juvenile detention centers, state or federal facilities. This research posed a challenge to some of the survey respondents as it required rhetorical financial information. Some of the agencies that responded did not have such rhetorical financial information available or a program in place that would allow them to provide the information.

The questions on the survey pertained to the total amount of fees charged to inmates, the total amount of fees collected, total amount of uncollected fees and what (if any) actions the jails have taken in an attempt to collect. In addition, the last question on the survey allowed the supervisor or manager to elaborate on any initiatives or innovative ideas on ways to collect the inmate debt.

The survey collected data on inmate debt specific to Florida county jails with a purpose to provide insight as to the amount of monies uncollected, and if any avenues are being explored to collect or resolve the debt. Uncollected inmate debt has a

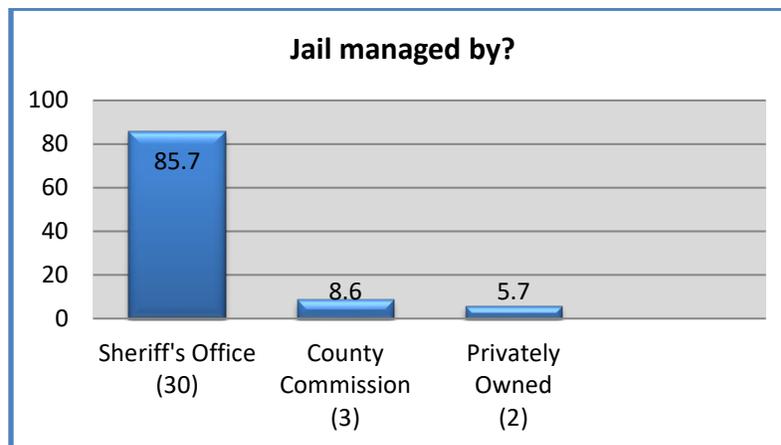
potential revenue source; however, most agencies do not have follow up procedures in place to collect upon the inmate's release. As leaders and managers our economy and fiscal challenges demand we take a look into ways or possibilities to offset the cost of incarceration.

Results

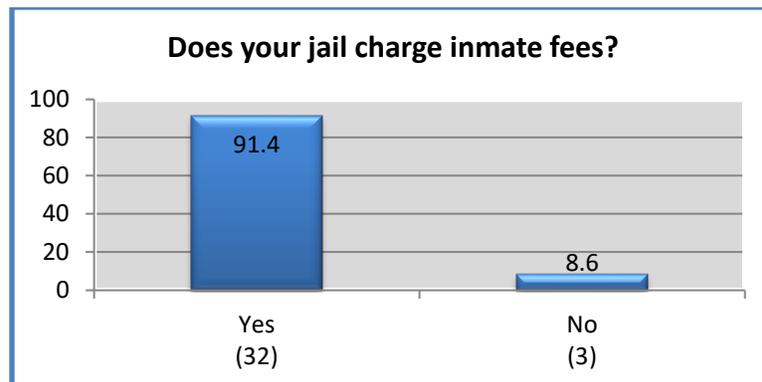
The survey created was sent out to each one of the sixty seven (67) Florida Counties jail finance supervisor. Thirty-five (35) completed the survey, which translated into a Fifty-two percent (52%) survey response rate.

Question 1 asked the name of the County Jail and it was geared to identify the counties that responded to the survey. The counties that responded to the survey are shown in the following Florida map identified by a green dot within the county line.

Question 2 asked each agency who their jail was managed by. The majority, 30 (85.7%) jails, are managed by the Sheriff's Office, 3 (8.6%) are managed by the County Commission, and 2 (5.7%) are privately operated.



Question 3 asked whether the jail charged inmate fees (i.e: subsistence, medical, booking etc.) 32 jails responded yes to charging inmate fees and 3 responded no.



Question number 4 inquired in regards to the combined total amount of inmate fees charged for 2011 and 2012 calendar years. Based on the survey results:

- 24 (68.57%) agencies provided a monetary answer which totaled **\$30,735,560.00**. The lowest reported amount was \$1.00 and the highest amount was \$5,634,854.05.
- 9 (25.71%) agencies did not provide a monetary answer to this question.
- 2 (5.71%) agencies reported zero amounts of inmate fees charged.

Question number 5 inquired in regards to the combined total amount collected from inmate fees for the 2011 and 2012 calendar years. Based on the survey results:

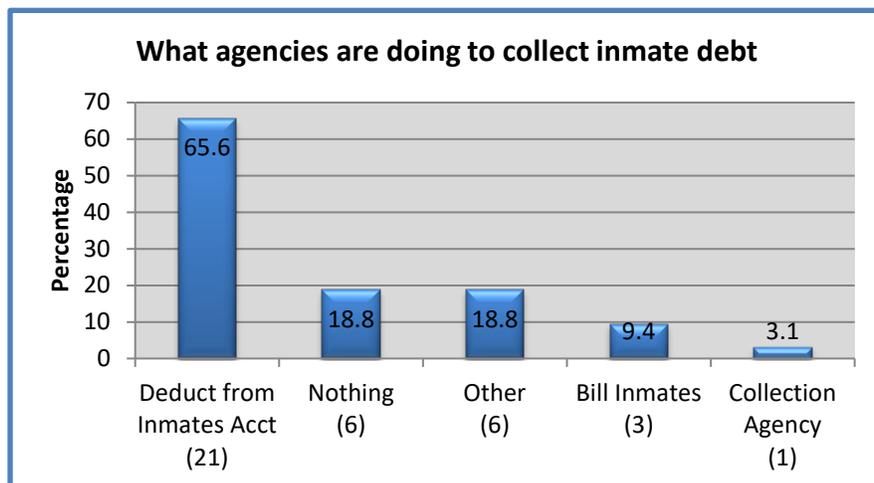
- 25 (77.14%) agencies provided a monetary answer which totaled **\$10,885,000.00**. The lowest reported amount was \$1.00 and the highest amount was \$1,236,594.00.
- 5 (14.28%) agencies did not provide a monetary response.
- 3 (8.57%) agencies reported zero amounts collected.

Question number 6 inquired in regards to the combined total amount of uncollected inmate fees for the 2011 and 2012 calendar years. Based on the survey results:

- 19 (54.28%) agencies provided a monetary answer which totaled **\$17,682,419.00**. The lowest reported amount of uncollected inmate fees was \$34,809.42 and the highest amount was \$4,049,790.04.
- 10 (28.57%) agencies did not provide a monetary answer to this question.
- 3 (8.57%) agencies skipped answering this question.
- 3 (8.57%) agencies reported zero amounts of uncollected inmate fees.

Question number 7 allowed the responding agencies to select multiple answers in regards to what their agencies are doing in an attempt to collect inmate debt. Based on the survey results:

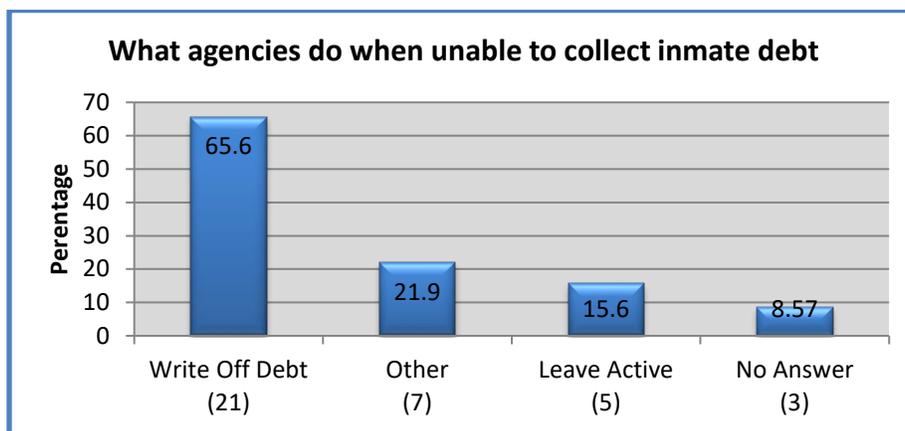
- 21 (65.6%) agencies deduct a percentage from monies deposited into an inmate’s account during their incarceration
- 6 (18.8%) agencies do nothing in attempt to collect inmate debt
- 3 (9.4%) agencies bill inmates upon release
- 1 (3.1%) agency utilizes a collection agency
- 6 (18.8%) agencies selected “other” (5 collect money if any upon re-entry to the jail and 1 is pursuing utilizing the collection agency, “Pay My Jailer”)



There was an additional option to choose from for this question, which was “filing a civil restitution. None of the responding agencies selected “filing a civil restitution” on an inmate’s personal property such as bank account, inheritances, real estate, social security payments, veteran’s payments, or other types of financial resources as a response.

Question number 8 allowed the responding agencies to select multiple answers as to what the agencies do when they are unable to collect inmate debt. Based on the survey results:

- 21 (65.6%) agencies write-off the inmate debt after three years as per Florida Statute 951.033
- 5 (15.6%) agencies leave the inmate debt active indefinitely
- 3 (8.57%) agencies did not provide an answer to this question
- 7 (21.9%) agencies selected “other” as a response; This selection required the respondent to provide an explanation (3 agencies did not elaborate on their response, 3 agencies elaborated that they leave the debt active and continue to attempt to collect and 1 agency responded that the debt is written-off upon the inmate’s release).



Question number 9 asked about the total amount written-off due to uncollected inmate debt during 2011 and 2012. These would have been fees charged in 2008 and 2009 calendar years, and would be eligible for write-off under Florida Statute. Based on the survey results:

- 17 (48.57%) agencies did not provide a monetary answer to this question. Some agencies reported not having the capability to provide this information or having an inaccurate financial system.
- 10 (28.57%) agencies provided a monetary answer which totaled **\$5,787,506.90**. The lowest reported amount written-off was \$17,458.28 and the highest amount written-off was \$1,863,080.75.
- 5 (14.28%) agencies responded with zero written-off.
- 3 (8.57%) agencies skipped this question when they responded to the survey.

Question number 10 inquired about any initiatives or innovative ideas the agency has discussed or implemented to satisfy the inmate debt instead of writing-off the debt. Based on the survey results:

- 23 (65.71%) agencies did not provide any initiative or innovative ideas in the works or in place.
- 6 (17.14%) agencies have discussed or are in the process of utilizing a collection agency.
- 3 (8.57%) agencies skipped this question.
- 2 (5.71%) agencies (one agency had recently initiated taking only ½ of funds deposited into the inmate account for the payment of fees and allowing the inmate use of the other ½ and to encourage people to deposit money into their accounts knowing the inmate will be using ½ for personal use. This same agency has installed a lobby kiosk and on-line capabilities for deposits into inmate accounts. The second agency discussed not allowing the inmate to purchase commissary items unless the debt is paid in full).
- 1 (2.85%) agency has considered placing a lien on the inmate's property.

Discussion

The results of the survey indicate that most of the Florida County jails are managed by the Sheriff's Departments. In addition, not all Florida county jails currently charge inmate fees which help to off-set the cost of incarceration. Of the county jails that do charge inmate fees, none pursue the collection of inmate debt with filing a civil restitution on an inmate's personal property as allowed by Florida Statute 951.033. It would be interesting to find out why none of the agencies have made it a practice to pursue this option; although, assumptions can be made that it would be a costly and lengthy process to pursue legal recourse for the debt. The common practice with county jails is to deduct a percentage of monies deposited into an inmate's account during the inmate's incarceration; few bill the inmates upon release or utilize a collection agency to assist in the collection process. Again, it was interesting to find that the collection of inmate debt centralized only in collecting a percentage of the debt while the inmate was incarcerated and it heavily depended on the monies being deposited into the inmate's account by others. I believe this process is flawed in that the concentration of collection should be more aggressive upon the inmate's release as they gain employment or receive benefits.

Recommendations

One recommendation is for Florida County jails to explore inexpensive ways to attempt to increase the amounts collected from inmate debt. One idea to explore is to provide inmates with a bill at the time of release. The bill could include verbiage from Florida Statute 951.033 as it pertains to filing a civil restitution on the inmate's personal property and/or having the debt forwarded to a collection agency if payment arrangements are not made.

A second recommendation is for agencies to formulate some form of contract agreed to upon between the agency and the inmate to settle the debt in lieu of monetary payment, such as some form of voluntary community service for the county to settle the debt. This second option will require legal research before implementation to ensure if it is plausible. This alternative seems to be a positive return to tax payers and the community rather than writing-off the debt.

A third recommendation would require some type of notification from the State to the County jails when an ex-offender who still has an outstanding debt gains employment to possibly garnish wages.

Yuberky Almonte obtained her Bachelor's Degree in Criminal Justice from Trenton State College in 1994. She began her career in 1995 at Monroe County Jail in Stroudsburg, Pennsylvania and transferred to Lehigh County Prison in 1997. In 1999, she relocated to Florida and began working at Osceola County Corrections Department in 2000. Yuberky is an active Field Training Officer, and a CJSTC Certified Instructor. She has held various positions during her career in corrections, including Corrections Officer, Classification Counselor, Case Manager, Senior Case Manager, Internal Affairs Investigator, Corporal, Sergeant, and Lieutenant. In 2010 she was promoted to Captain. She currently manages the Internal Affairs Unit.

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Appendix A

UNCOLLECTED INMATE FEES AND WHAT ARE FLORIDA COUNTY JAILS DOING ABOUT IT?

1. Florida County jail name:
2. Jail managed by (select one):
 - Sheriff's Department
 - County Commissioner
 - Private Operated jail
 - Other: (explain)
3. Does your jail charge any inmate fees? (Example: subsistence, medical co-payments, booking fees, etc.)
 - Yes
 - No
4. What was the combined total amount of inmate fees charged for the 2011 and 2012 calendar years?
5. What was the combined total amount collected from inmate fees for the 2011 and 2012 calendar years?
6. What was the combined total amount of uncollected inmate fees for the 2011 and 2012 calendar years?
7. What does your agency do in an attempt to collect inmate debt? (Check all that apply):
 - Bill inmates upon release
 - Utilize a collection agency
 - Deduct a percentage from monies deposited into an inmate's account during the inmate's incarceration
 - A civil restitution on an inmate's personal property (bank accounts, inheritances, real estate, social security payments, veteran's payments, or other types of financial resources)
 - Nothing
 - Other: (explain)
8. What does your agency do when unable to collect inmate debt? (Check all that apply)
 - Write-off the inmate debt after three years as per Florida Statute 951.033
 - Leave the debt active indefinitely
 - Other: (explain)

9. What was the total amount written-off due to uncollected inmate debt during 2011 and 2012? (fees originally charged in 2008 and 2009 calendar years)
10. Provide any initiatives or innovative ideas your agency has discussed or implemented to satisfy the inmate debt instead of writing-off the debt?