

Crime Doesn't Pay ...But Soon it Will

by *Kevin M. Oeffner*
Circuit Court Administrator



No one knows to whom the phrase “crime doesn’t pay” is attributable, but according to the *Dictionary of Popular Proverbs and Sayings*, published by Random House in 1996, the phrase gained popularity due to its frequent use in the 1930s hit radio show “The Shadow.” For those who know their radio history, do you remember the famous introduction? “Who knows what evil lurks in the hearts of men? The Shadow knows!”

I wasn’t around when “The Shadow” was broadcast on CBS radio in 1931, but several employees in my office told me how they would huddle around their Philco radios on Sunday evenings to learn how The Shadow would solve yet another caper. (Should any of my employees read this, I’d better get back to the topic at hand before the hole I’m in gets deeper.)

With all due respect to “The Shadow” and its writers, the Circuit Court wants to render the axiom that “crime doesn’t pay” a thing of the past. A movement is afoot to launch a pilot program aimed at increasing the collections rate of court-ordered fees, fines and costs. The program is expected to begin on December 1.

Michigan Court Rule 1.110 provides that “Fines, costs, and other financial obligations imposed by the court must be paid at the time of assessment...” Notice the word “must.” The reality is that collecting fees, fines and costs at the time of sentencing doesn’t typically happen. The usual scenario involves a visit to the Reimbursement Office by the defendant some time after sentencing, at which time he or she provides financial and employer information and a payment plan is devised. The usual scenario is about to change.

We understand that the court’s obligation is to provide a forum in which disputes may be heard and justice meted out. We also understand that the court is a public institu-

tion and, as such, inherently possesses a fiduciary obligation. In that vein, it is appropriate for the judiciary to use its power and authority to enforce its orders, and that includes orders pertaining to fees, fines and costs.

Also, in the hierarchy of financial obligations on the part of sentenced offenders, at the top is the obligation to pay restitution. The Crime Victim Rights Act requires the first 50 percent of every payment to be applied to victim restitution. Should this pilot program be successful in elevating the collections rate, crime victims will be the first to benefit.

Participating judges in this pilot program are Chief Judge Wendy Potts, Judge Steven Andrews, Judge Edward Sosnick, Judge Rudy Nichols, and Judge Colleen O’Brien. Beginning December 1, these judges will inform defendants who plead or are convicted, and who have the ability to pay, that they will be expected to make at least a partial payment of court-ordered assessments on the day of sentencing.

Probation liaisons will inform defendants, at the time of their pre-sentence interviews, of the minimum amount due at sentencing. Pre-sentence reports will include the minimum amount due. The amount due on the date of sentencing is ultimately at the discretion of the court.

On sentencing day, prior to the imposition of the sentence, the judge will ask the defendant if he or she is prepared to make payment. If so, the judge will proceed with sentencing and instruct the defendant as to the required payment. Judges will reassess sentencing options if defendants are not prepared to make payment.

The court will instruct defendants to go to the Reimbursement Division immediately after sentencing to make payment in accord with the court’s order. Payments made in cash, money order, check or credit card will be accepted.

The sentencing courts will send copies of the short sheets to Reimbursement upon conclusion of each criminal call. The court clerks will make notations on the short sheets regarding those who were sentenced and the amount to be paid as ordered by the court. While in court, defendants will be given a brightly colored sheet of paper that will remind them to immediately go to Reimbursement to make payment. The sheet of paper will also contain directions to the Reimbursement Office.

Signs will be posted in the courthouse in the same color as the sheets of paper given to defendants at sentencing. The color-coordinated signs should make it easy for defendants to find the Reimbursement Office. Once there, Reimbursement personnel will check the list of sentenced offenders against the list of those who made payment. Those who do not make payment will be in violation of a court order. Their names will be provided to the court

administrator's office and to Judge Andrews.

Court administration will issue show causes to those defendants via mail service. Defendants will be instructed to appear before Judge Andrews on Wednesday mornings (after motion call) within 7-10 days of their sentencing dates. Defendants who receive show cause notices may make payment at the Reimbursement Division prior to their show cause dates. In such instances, they should deliver a receipt to Judge Andrews' chambers so that their names may be stricken from the show cause calendar.

That's it in a nutshell. We hope that criminal law practitioners who appear before the aforementioned judges on or after December 1 will assist the court in this effort. Please stress to your clients the importance of paying assessments in compliance with court orders. Your anticipated cooperation is appreciated.

Until next time...

Bad Weather...

*...but it has to be filed at
the courthouse – TODAY?*



Just use the OCBA File-by-Fax Service!

Circuit Court Mediation Summaries • Praecipes • Acceptances/Rejections • Witness Lists
Appearances • Briefs • Motions • Civil Actions • Driver's Restoration • *AND MUCH MORE!*

Phone: (248) 858-1585 – Fax: (248) 338-9540

Copies only 10 cents/page • Fax services discounted for OCBA members • We bill you for copies & faxes