United States General Accounting Office

GAO

Report to the Honorable
Byron L. Dorgan, U.S. Senate

May 1995

NATIONAL FINE CENTER

Progress Made but Challenges Remain for Criminal Debt System

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GAO

United States
General Accounting Office
Washington, D.C. 20548

Accounting and Information
Management Division

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May 25, 1995

The Honorable Byron L. Dorgan
United States Senate

Dear Senator Dorgan:

This report provides the results of our review of the Administrative Office of the United States Courts' (AOUSC)[1] efforts to centralize criminal debt accounting and reporting within the National Fine Center (NFC). Pursuant to the Criminal Fine Improvements Act of 1987,[2] AOUSC was required to establish a criminal debt accounting and reporting system. The legislative history of the act indicated that the system was expected to automate and centralize criminal debt processing for all 94 judicial districts. This system was to replace the existing fragmented approach for receiving criminal fine payments and alleviate long-standing weaknesses in accounting for, collecting, and reporting on criminal monetary penalties imposed on federal criminals.

Because of concerns you raised about AOUSC's ability to implement the NFC system, you asked in your capacity as Chairman of the Special Task Force on Government Waste, that we (1) provide information on AOUSC's latest efforts to establish NFC and centralize criminal debt accounting and reporting and (2) determine additional actions AOUSC needs to take to complete implementation of NFC. Appendix I includes additional information you requested regarding project funding and staffing.

Results in Brief

Since April 1994, AOUSC has (1) established a process for centralizing and maintaining federal criminal debt accounts, (2) developed a formal training program for judicial district staff,[3] (3) selected an off-the-shelf accounting system which became operational in April 1995, (4) installed an inexpensive interim software package that was used through March 1995 until the selected system became operational, (5) begun processing new criminal debt information for 25 of the smaller judicial

[1]AOUSC is the administrative arm of the federal judiciary, which is composed of federal courts throughout the United States.

[2]Public Law 100-185, 101 Stat. 1279.

[3]Judicial district staff consist of judicial branch personnel in the Clerk of the Court's office and probation office and executive branch personnel within the Department of Justice's U.S. Attorney's Office.

districts, and (6) begun converting criminal debt information from the interim to the off-the-shelf system.

AOUSC is slightly ahead of its April 1994 schedule in establishing NFC and implementing a system to centralize federal criminal debt. However, only a small fraction of criminal debt accounts are currently on the NFC system, and an extensive amount of planning and implementation effort remains. Before NFC can begin receiving new criminal debt information from the larger judicial districts, a number of enhancements to the selected off-the-shelf accounting system will be required to automate certain manual processes—such as the calculation of interest and penalties—so that NFC can efficiently and effectively handle the increased volume of accounts.

The more significant challenges still facing AOUSC and the Department of Justice (DOJ) include (1) ensuring that account data for the estimated $4.5 billion in existing criminal debt resulting from years of fragmented recordkeeping are reliable before entering the information into the NFC system and (2) determining the collectibility of both new and existing debt so that NFC can reliably report on the amount of debt that is likely to be collected. In addition, while AOUSC has indicated that it plans to further enhance the system to increase user access to NFC information and improve management reporting within the next 3 to 5 years, it still needs to identify the specific enhancements that will be required and determine how to accomplish them.

Background

Approximately 50,000 criminals are convicted in federal courts each year. Federal courts may impose one or more of the following four monetary penalties upon conviction.

- Fines: amounts the court sets as punishment. Fines may accumulate interest, and those that are not paid promptly may result in additional penalties.
- Restitution: amounts paid to identifiable crime victims that are entitled to compensation.
- Special assessments: fixed amounts, ranging from $5 to $200, assessed for each count upon which the defendant is convicted. The courts are required to impose special assessments on each offender convicted of a crime.
- Reimbursement of costs: an amount equal to the court and legal costs of the trial.

Following enactment of numerous laws relating to the imposition and collection of monetary penalties during the 1980s, federal courts have imposed criminal fines and ordered monetary restitution in greater amounts. According to DOJ, an estimated $1.5 billion in monetary penalties were assessed against persons convicted of federal crimes in fiscal year 1994. DOJ also estimated that, as of the end of fiscal year 1994, about $4.5 billion in criminal fines, restitution, special assessments, and court costs were outstanding for persons convicted of federal crimes.

Criminal debtors have been allowed to make payments directly to victims or to local offices of one of three different agencies within judicial districts—the Clerk of the Court, probation office, or U.S. Attorney's Office (USAO). For example, criminal debtors may make payments based on the monetary penalties routinely imposed by federal courts as follows.

- Debtors may pay the courts directly.
- Debtors may pay the local USAO, which forwards receipts to the Clerk of the Court or deposits the receipts in DOJ lock boxes.[4]
- Incarcerated debtors may pay their debts through the Inmate Financial Responsibility Program.[5]
- Debtors may periodically pay their debts through probation officers, who are members of the federal court staff.
- Debtors may pay restitution directly to victims or through the courts or their USAO.

This has created a fragmented process for tracking and collecting criminal debt and resulted in a lack of standardized procedures, discrepancies among agency collection records, and duplication of effort.

The Criminal Fine Improvements Act of 1987 transferred responsibility for the processing of criminal fines and assessments from DOJ to AOUSC. The House Judiciary Committee's report on the act set forth the expectation that AOUSC was to establish a centralized and highly automated system capable of receiving all criminal debtor payments; processing fines,

[4]Several commercial banks contract with the Department of the Treasury to provide services for agencies which collect large numbers of payments. The banks use post office boxes—or lock boxes—to collect the payments, which are then deposited into government accounts.

[5]DOJ encourages incarcerated offenders to participate in this program, which allows inmates to make contributions toward their financial obligations. Voluntary deductions from inmates' wages are made monthly, quarterly, or semiannually.

restitution, forfeiture of bail bonds and collateral,[6] and special assessments; and retrieving up-to-date information on the status of any obligation covered by the system for all 94 judicial districts. By using this centralized debt system and relieving DOJ of recordkeeping responsibilities, it was expected that additional DOJ resources would be available to perform debt collection enforcement and, therefore, collect more of the outstanding debt. The Executive Office for United States Attorneys (EOUSA), within DOJ, is responsible for providing direction and administrative support over debt collection activities. U.S. Attorneys' staff within each judicial district are responsible for enforcing collection of delinquent or defaulted criminal debts.

However, because implementation of the NFC system is still in the early stages, DOJ has continued to perform much of the recordkeeping as well as debt collection enforcement functions. After the system becomes fully operational in all districts, DOJ is expected to be relieved of the recordkeeping function but will retain responsibility for enforcing legal collection actions on delinquent and defaulted criminal debt.[7] DOJ will be one of the primary users of the NFC system because the system will identify delinquent and defaulted accounts that require legal enforcement action.

After receiving initial funding of $2.2 million in 1990,[8] AOUSC initiated an NFC project in Raleigh, North Carolina, and began developing a prototype automated information system to centralize criminal debt for one judicial district. However, in an August 1993 report[9] on the Raleigh Fine Center, we concluded that the project would not be operational by its 1995 target date due to difficulties in reconciling debtor accounts and training staff. We also raised concerns about the lack of computer systems security controls to prevent unauthorized access to sensitive information contained in the NFC database. As a result of our report and a program

[6]Bail bonds and collateral are forms of guarantees used to secure a defendant's temporary release until required to appear in court. Failure of a defendant to appear in court may result in forfeiture of collateral or a bail bond.

[7]If offenders do not make criminal debt payments as required, the debts are to be referred to the USAOs. The USAOs are responsible for taking legal collection actions on delinquent or defaulted criminal debts, such as filing liens on debtor properties, requesting garnishment of debtor wages, coordinating collection activities with probation officers, and providing names of criminal debtors to the Internal Revenue Service (IRS) for the purpose of offsetting tax refunds.

[8]The Congress originally provided that the NFC system would be funded annually from excess deposits to the Crime Victims Fund. Excess monies were not available from the Fund until 1989, and AOUSC received initial funding in 1990. In 1992, the Congress revised the NFC funding method to ensure more stable funding.

[9]National Fine Center: Expectations High, but Development Behind Schedule (GAO/GGD-93-95, August 10, 1993).

review performed subsequently by AOUSC, in October 1993, AOUSC discontinued development efforts in Raleigh. According to AOUSC officials, the project would have been too difficult and costly to expand to the remaining 93 judicial districts primarily because of the inadequately developed and documented computer software. The system continues to operate in the Raleigh location only.

In April 1994, AOUSC began its current two-phased implementation approach that emphasized using an off-the-shelf accounting system which could be enhanced rather than developing a system totally in-house. Under phase I, AOUSC plans to install an off-the-shelf accounting system to support establishing debtor accounts, billing debtors, recording receipts, paying victims, and reporting on a limited scale for new criminal debts. Also, AOUSC officials plan to enhance the off-the-shelf system to automate certain processes, most of which are now performed manually. For example, they plan to automate the calculation of interest and penalties that are to be assessed on criminal fines. Phase I was also to include reconciling existing criminal debt accounts and entering agreed upon balances into the NFC system.

By phase I's scheduled completion in September 1996, AOUSC expects that all 94 judicial districts will be providing new criminal debt information to NFC. To minimize the impact on NFC and judicial district staffs caused by the need to manually perform some processing and billing functions, AOUSC decided to add low volume districts—those generally having fewer than 200 convicted criminals annually—first. Larger districts would be added later as planned system enhancements became operational. See appendix III for a table showing proposed time frames for adding judicial districts to NFC.

Once the selected system is fully operational under phase I, AOUSC plans to expand the system during phase II to improve users' access to NFC information and increase management information reporting capabilities. During phase II, which is projected to be completed within 3 to 5 years, AOUSC intends to either further enhance its selected off-the-shelf accounting system or perform a completely new procurement. AOUSC officials have been unable as yet to provide information, including cost estimates, on specifically how they will accomplish phase II.

Scope and Methodology

Our review focused primarily on AOUSC's efforts to centralize criminal debt in its NFC system under its phase I implementation. We were unable to

analyze the AOUSC's phase II implementation due to the lack of specificity at this stage as to what AOUSC planned to accomplish. We reviewed available project and systems planning documentation for phase I, including systems and functional requirements, and discussed project and systems status with NFC, EOUSA, and judicial district officials. We also reviewed (1) training documents used to orient and instruct judicial district staff on the process for submitting data to NFC, (2) the NFC implementation schedule for adding judicial districts to the NFC system, and (3) the AOUSC's draft reconciliation strategy. In addition, we observed data entry and processing of judicial district input data on the interim NFC system and reviewed monthly reports generated by the system. We also discussed with AOUSC officials their strategy for selecting an off-the-shelf accounting system for later use.

Further, we reviewed documentation and discussed with Raleigh Fine Center personnel lessons learned from the prior systems development effort and observed operation of the system with Raleigh personnel. We reviewed current and planned NFC staffing needs and obtained NFC budgetary and expenditure data. We performed our review from August 1994 through January 1995 in accordance with generally accepted government auditing standards. A detailed description of our scope and methodology is in appendix II. The Director, AOUSC, and the Director, EOUSA, provided written comments on a draft of this report. These comments are presented in appendixes IV and V, respectively.

AOUSC Has Begun Centralizing Criminal Debt

Since April 1994, AOUSC has progressed in implementing phase I of its NFC approach. AOUSC officials have (1) established a process for centralizing and maintaining federal criminal debt accounts, (2) developed a formal training program for judicial district staff, (3) selected an off-the-shelf accounting system which became operational in April 1995, (4) installed an inexpensive interim software package that was used through March 1995 until the selected system became operational, (5) begun processing new criminal debt information for 25 of the smaller judicial districts, and (6) begun converting criminal debt information from the interim to the off-the-shelf system.

AOUSC officials selected an off-the-shelf accounting system that could be modified to meet unique billing and disbursement needs. AOUSC officials told us that they selected this accounting system based on published external evaluations of commercially available microcomputer accounting

software[10] as well as AOUSC's internal evaluations of several software packages. This decision was consistent with Office of Management and Budget (OMB) Circular A-130 guidance[11] that encourages agencies to purchase off-the-shelf financial systems rather than develop their own.

However, because the latest version of the selected system was still under development by the vendor, AOUSC bought and started using an inexpensive (about $200) interim accounting software package having limited capability and processing capacity so that implementation for some of the smaller districts could begin in August 1994. AOUSC officials told us that the interim software package would accommodate processing requirements for the 23 judicial districts that they expected to have implemented through March 1995. According to the AOUSC Director, the selected off-the-shelf accounting system, which was received in October 1994 and began operating in April 1995, is replacing the interim system and is to provide the capability for processing criminal debt information for all 94 judicial districts by September 1996. Efforts to convert criminal debt accounts from the interim system to the off-the-shelf system are to be completed by May 1995.

AOUSC has also established a process for obtaining and updating debt information. Once implemented, Clerk of the Court staff in judicial districts are to manually complete standardized account establishment forms for newly convicted criminals, that include the monetary penalties imposed by the courts, along with (1) personal debtor data, such as address, date of birth, and social security number, (2) payment requirements, and (3) information on any restitution payments to be made to those harmed by the crime. In addition, judicial district staffs in the Clerk of the Court's office, probation office, and U.S. Attorney's Office also are to submit manually prepared account maintenance forms to NFC when information about the debtor or the account changes, such as a change of address. Under this process, once NFC staff receive completed forms, they are to enter data into the automated accounting system.

The NFC accounting system generates monthly billings to debtors, who, in turn, are to remit payments to NFC. NFC staff manually determine, based on payments received from debtors and the terms set forth in the sentencing documentation, any applicable amounts that are to be paid to crime

[10]The evaluations were contained in Sheldon P. Needle, A Guide to Accounting Software for Microcomputers, Fall 1993 Edition (Rockville, Maryland: Computer Training Services, Inc., 1993).

[11]The Judicial Branch, of which AOUSC is a part, is not required to follow OMB guidelines. However, AOUSC has determined that the NFC system will comply with OMB circulars because DOJ, which is required to follow OMB guidance, is a primary user of the NFC system.

victims. The NFC system also generates monthly statements to the judicial districts showing individual debtor account balances.

AOUSC has developed and begun conducting a formal training program at judicial districts aimed at defining the roles and responsibilities of staff in the Clerk of the Court's office, the probation office, and U.S. Attorney's Office who compile and submit criminal debt information to NFC. The primary goals of the training are to (1) promote effective communication among the entities involved in criminal debt activities and (2) ensure that complete and accurate standardized data are provided to NFC. This training is provided to judicial district personnel prior to the district sending criminal debt information to the NFC system.

According to AOUSC's Director, as of April 1995, NFC implementation in the judicial districts was slightly ahead of schedule. On August 1, 1994, the NFC began receiving criminal debt information on new accounts from two judicial districts—Vermont and Maine. As of December 1994, 13 judicial districts were sending information on new criminal debt accounts to NFC. The NFC was expanded to 25 judicial districts as of April 1995, which was 2 more than the 23 AOUSC had initially planned in April 1994.

Our analysis of the criminal debt data received by NFC for the initial 13 districts showed that these new accounts amounted to about $6.4 million, which represented about 6 percent of the 13 districts' criminal cases with outstanding balances, and about one-tenth of one percent of DOJ's estimated $4.5 billion in total debt. We did not perform similar analysis for the 12 additional districts recently brought onto NFC.

Actions Needed to Complete NFC Implementation

Extensive planning and implementation effort remains if AOUSC is to fully implement a system to account for and report on criminal debt for all 94 judicial districts. Currently, only a small fraction of criminal debt accounts are on the NFC system. Before the larger courts are added, software enhancements will be needed so that NFC can effectively support certain billing, payment receipt, and disbursement functions, most of which NFC staff now do manually.

In addition, some of the larger challenges facing AOUSC and DOJ involve (1) ensuring that data for existing debtor accounts are reliable before entering the information into the NFC system and (2) developing a methodology for determining, tracking, and reporting the collectibility of new and existing debt. Further, while AOUSC has indicated that it will

enhance the system to increase user access to NFC information and improve management reporting during phase II, it has not yet determined what specific enhancements will be made to NFC or how it intends to accomplish them.

Enhancing Software Capabilities

During phase I, in addition to replacing the interim software package with the selected off-the-shelf system, AOUSC plans to develop several software enhancements to automate certain functions, most of which are now performed manually by NFC staff. For example, one enhancement will automate the calculation of interest and penalties. While the selected off-the-shelf system—an accounts receivable/accounts payable package—has standard capabilities, legislation that calls for calculation of interest and default penalties for fines requires additional capabilities. Specifically, there are several statutes that specify interest rates and penalties that are to be calculated for fines. The applicable statute is determined by the date of the debtor's offense. Automating such interest and penalty calculations would save staff time and eliminate errors inherent in manual calculations.

Another enhancement involves developing an automated interface to enable judicial districts to provide account establishment and maintenance data to NFC in automated formats. This improvement would reduce manual data entry tasks now performed by NFC staff and the corresponding risk of errors. Other enhancements include (1) automating transaction data from debtor payments sent to lock boxes and payments made through the Bureau of Prisons Inmate Financial Responsibility Program and (2) establishing an interface between NFC and a DOJ system to allow DOJ staff increased access to account information.

Ensuring Data Quality Before Recording Existing Debt Accounts

While AOUSC has begun entering new account information, a major challenge will be reconciling existing criminal debt accounts and entering the resulting amounts into the NFC system. NFC will not contain complete criminal debt information for its users and the Congress until it also includes complete and reliable data on the estimated $4.5 billion in existing criminal debt.

Separate records maintained by judicial district staffs within the Clerk of the Court's office, probation office, and U.S. Attorney's Office will need to be reconciled. Within a judicial district, each of these entities is responsible for receiving payments and maintaining accounting records,

and they may not balance or update their records at the same time. Another reason that accounts may not agree is that the U.S. Attorney's Office is generally the only entity within the judicial districts that calculates and applies interest and penalties on accounts. Accordingly, AOUSC must coordinate with these entities to develop and implement a reconciliation approach to identify differences among the accounts, determine reasons for the differences, and ensure that agreed-upon corrections are made.

AOUSC officials recognize the difficulties of reconciling existing debt records, and the magnitude of effort that will be needed to reconcile about 100,000 debtor accounts, nationwide. During the Raleigh National Fine Center project, judicial district staff took over a year to reconcile about 2,500 accounts. In our August 1993 report, we stated that the reconciliation, eventually completed in 1992, took longer than expected because judicial district and U.S. Attorney staffs had difficulty agreeing on account balances. This difficulty occurred despite the use of procedures directing that (1) account balances differing by $500 or less be considered reconciled because further reconciliation would not be cost-effective and (2) differences remaining would be decided in favor of the debtor.

A separate but related problem that occurred during the Raleigh reconciliation effort is likely to resurface during AOUSC's future account reconciliation attempts. In Raleigh, although the team performing the reconciliation eventually reconciled all account balances under the procedures previously described, it found that many accounts lacked current addresses and social security numbers. Such information is critical since NFC cannot bill debtors without correct addresses.

AOUSC has begun preparing a strategy to guide the upcoming reconciliation process. This draft strategy, in part based on the reconciliation performed in Raleigh, identifies the roles and responsibilities of staff who are to perform the reconciliation and sets forth steps in the reconciliation process. However, the strategy has not yet been accepted by AOUSC, DOJ, and judicial district officials. AOUSC has not established time frames for beginning and completing reconciliations in each of the remaining 93 districts or estimated the resources needed to perform the process. In addition, the reconciliation strategy does not set forth steps to be followed if addresses and/or social security numbers are missing from debtor account information.

Determining Collectibility of Criminal Debt

While not specifically addressed by the Criminal Fine Improvements Act of 1987, a critical area that AOUSC and DOJ have not yet addressed is that of determining the collectibility of criminal debt accounts. Currently, AOUSC records all new criminal debt in its NFC system as accounts receivable without a determination by AOUSC or DOJ as to whether it appears collectible. Also, AOUSC officials have not established within the NFC system an allowance for doubtful or uncollectible receivables[12] to properly account for and report on those receivables determined to have a low probability of collection. Without such allowances, decisionmakers, including the Congress, may be led to believe that substantially greater amounts are collectible.

Also, AOUSC officials recognize that, during the reconciliation process, there is a need to identify accounts that are no longer legally enforceable and have included procedures in AOUSC's draft reconciliation strategy to address these instances. Accounts that are no longer enforceable include special assessment cases when the 5-year statute of limitations on collecting the debt has expired or when a debtor has died. These accounts would not be transferred to NFC.

AOUSC will need to work with DOJ to ensure that realistic determinations of collectibility are made on new criminal debts as the accounts are established, based on available information, and on those that have become delinquent or are in default.[13] In addition, there is a need to assess existing debt accounts that are legally enforceable, but may be uncollectible. Although AOUSC has no authority to make adjustments to accounts or to write off debts, it could categorize certain debts as uncollectible for accounting purposes. We have worked with various agencies to develop methodologies for determining collectibility and, in some instances, have assisted them in applying the methodologies to their accounts receivable balances. Reliably estimating an allowance for uncollectible receivables requires consideration of both historical collection experience and current economic conditions. Also, a December 1992 standard recommended by the Federal Accounting Standards

[12]Uncollectible accounts are those fines, restitutions, special assessments, and court costs that should not be considered as valid accounts receivable for financial reporting purposes. The allowance for doubtful or uncollectible receivables account represents those receivables that are unlikely to be collected and results in a decrease to the accounts receivable account balance. This allowance would be for financial reporting purposes, and would not affect the enforceability of the debts.

[13]A fine becomes delinquent if a debtor's payment is more than 30 days late. A fine is in default if a payment is delinquent for over 90 days.

Advisory Board,[14] and approved for use for fiscal years ending September 30, 1994, and thereafter, states that such an analysis should be performed on groups of accounts with similar collection risk characteristics and should include an evaluation of individual accounts to determine a debtor's current ability to pay.

Court officials told us that sufficient information is often available at the time of sentencing to determine the offender's ability to pay and, therefore, whether or not a monetary penalty imposed is likely to be collected. For example, in the 1993 bombing of the World Trade Center in New York City, each of the four defendants received 240 years in prison and $250,000 in fines. Although $1 million of outstanding fines resulted from this case, DOJ and AOUSC officials believe the probability of collecting these fines is low. Currently, however, the DOJ records these debts as being fully collectible.

It will be important for AOUSC to work cooperatively with DOJ to develop a methodology for determining collectibility. By not distinguishing between collectible and uncollectible criminal debt accounts, NFC will be unable to accurately report on the composition of the outstanding criminal debt balance. Similarly, users who are responsible for collecting debts will not have the ability to effectively target collection resources and realistically assess their performance unless information is available to identify which debts possess the best likelihood of collection, and thus, should be rigorously pursued.

Defining Phase II Objectives

AOUSC recognizes that the NFC system established during phase I will have to evolve to a more sophisticated financial information system during phase II so that it can be used to improve management of criminal debt collection activities. AOUSC officials told us that they have begun working with DOJ and other system users to define the necessary information and reporting requirements. They plan to address this more fully during phase II and, at the time of our review, had not yet determined what additional enhancements and capabilities will be needed to complete this phase.

[14]The Federal Accounting Standards Advisory Board is charged with recommending new federal accounting standards. The Board is composed of nine members, including representatives from GAO, the Office of Management and Budget, and the Department of the Treasury. The Board recommends standards to the Comptroller General, the Director of OMB, and the Secretary of the Treasury, who jointly approve the standards that are applicable for the federal government.

According to AOUSC officials, at the end of phase II, the NFC system is to

- provide a repository of national statistical information on criminal debt collection;
- produce reports to accommodate management information needs of the Congress, the judiciary, the executive branch, and other entities;
- provide the Clerk of the Court offices, probation offices, U.S. Attorneys' Offices, and the Bureau of Prisons with easy access to account information so that the maximum level of debt collection can be achieved; and
- provide a means to account for the collection of bail bond and collateral forfeiture actions, as required by the Criminal Fine Improvements Act of 1987.

AOUSC officials believe that a successful implementation of phase II will enable them to fully meet the requirements of the act.

Conclusions

The two-phased NFC implementation approach chosen by AOUSC has enabled AOUSC to begin centralizing new criminal debt information in 25 of the smaller judicial districts. AOUSC has also purchased an off-the-shelf accounting system that, together with planned enhancements, should enable it to expand the NFC implementation to additional districts and more effectively accommodate information from the larger districts. The timely completion of these enhancements is important to the future efficient operation of NFC.

AOUSC and DOJ also face significant challenges that will require extensive planning, as well as coordination among other NFC system users, if AOUSC is to successfully implement the required system. These challenges include reconciling the estimated $4.5 billion in existing debt and developing a methodology for determining the collectibility of new and existing debtor accounts. It is also critical that AOUSC determines specifically how it intends to proceed beyond phase I to increase user access to NFC account information and improve management reporting. AOUSC will need to address these issues to fully centralize criminal debt for all 94 judicial districts and improve the government's ability to collect what is owed.

Recommendations

As part of its efforts to complete the planned implementation of the NFC system, including enhancements such as the one needed to perform interest and penalty calculations, and various interfaces to facilitate the

exchange of information between NFC and its users, we recommend that the Director, AOUSC,

- work with DOJ to finalize a reconciliation strategy to include time frames and resources for reconciling existing criminal debt accounts at judicial districts and entering the reconciled information into the NFC system and
- fully define a strategy for addressing additional actions needed to enable the NFC system to (1) provide a repository for national criminal debt statistical information, (2) produce reports to accommodate management information needs, (3) facilitate communication between NFC and its users, and (4) account for bail bond and collateral forfeiture actions.

We also recommend that the Director, AOUSC, and the Director of DOJ's EOUSA, work together to develop and implement a methodology for determining the collectibility of all criminal debt.

Agency Comments and Our Evaluation

In written comments on a draft of our report, AOUSC's Director generally agreed with our findings and recommendations. However, the Director said that DOJ, by virtue of its criminal debt collection responsibilities, should assume the lead role for reconciling existing criminal debt accounts and for determining the collectibility of all criminal debt. Accordingly, the Director stated that these recommendations should be directed to DOJ, not AOUSC. Based on our discussions with both entities, DOJ and U.S. Attorneys are the primary parties who will ultimately determine whether or not criminal debt accounts are collectible. However, AOUSC also needs to ensure that the NFC system contains reliable information for reporting on the composition of the outstanding criminal debt balance. Therefore, we have revised our recommendation regarding developing a methodology for determining collectibility of criminal debt to place this responsibility with both AOUSC and DOJ.

While we agree that DOJ and the U.S. Attorneys have a major role in reconciling existing criminal debt account balances, it is AOUSC's responsibility to ensure that the NFC system contains complete and reliable data on all criminal debt, including existing unreconciled accounts. As stated in our report, AOUSC had already prepared a draft reconciliation strategy and had provided it to DOJ for coordination. We have modified our recommendation regarding reconciling existing accounts to state that AOUSC should work with DOJ to finalize a reconciliation strategy.

In addition, the AOUSC Director stated that the draft report did not give AOUSC sufficient credit for the progress in implementing the NFC system. We updated the report to reflect progress through April 1995, but wish to point out that only a small percentage of new criminal debtor accounts are on the system. As noted in the report, we believe that AOUSC and DOJ still face significant challenges in their joint effort to reconcile existing debtor accounts and to report collectible amounts.

The AOUSC Director also provided a number of suggested clarifications that we have incorporated as appropriate. The AOUSC Director's comments and our response are included in appendix IV.

DOJ's Office of the Director, EOUSA, commented that the report should have placed more emphasis on the NFC's lack of procedures, policies, and plans for developing the system. Our report describes the status of the NFC system implementation effort and indicates throughout the report that extensive planning and coordination will be needed to fully implement the NFC system. Nonetheless, progress is being made to enhance the reliability of accounting and reporting of criminal debt information. During our review, AOUSC officials recognized that additional planning would be required to ensure the NFC system would meet the needs of its users, and said that they were in the process of preparing formal plans. DOJ's continued involvement in the NFC project is critical to ensuring that the NFC system is developed to meet the needs of all stakeholders, especially in light of DOJ's responsibilities for enforcing the collection of criminal debt.

Also, the Director, EOUSA, stated that reconciliation of existing criminal debt accounts does not represent a major challenge to the NFC as we had reported. There are several factors, in addition to the experiences of the Raleigh reconciliation, which we used to conclude that the reconciliation effort will be a major challenge. First, at the time of our review, AOUSC had not finalized a reconciliation strategy for use by judicial district staff, of which the U.S. Attorney's Offices are a part, including establishing time frames for performing the reconciliations and estimating the resources needed to perform the process. Second, AOUSC officials and some judicial district officials—representing small districts that were already providing new criminal debt information to NFC—stated that reconciliation of existing accounts would be a time-consuming and large undertaking. Third, discussions with the former Associate Director, Financial Litigation Unit, EOUSA, indicated that special assessments alone, which are applied to each count of a conviction and represent about 46 percent of criminal debts, would create a large amount of work during the reconciliation

process. The comments from the Director, EOUSA, and our response are included in appendix V.

As agreed with your office, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the date of this letter. At that time, we will send copies of this report to the Director, Administrative Office of the United States Courts; the Director, Executive Office for United States Attorneys; the Attorney General; and interested congressional committees. Copies will be made available to others upon request. Please call me at (202) 512-7487 if you have any questions concerning this report. Other major contributors to this report are listed in appendix VI.

Sincerely yours,

Linda D. Koontz
Associate Director, Information Resources
Management/General Government Issues

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Abbreviations

AOUSC	Administrative Office of the United States Courts
DOJ	Department of Justice
EOUSA	Executive Office for United States Attorneys
IRS	Internal Revenue Service
NFC	National Fine Center
OMB	Office of Management and Budget
USAO	U.S. Attorney's Office

Status of NFC Project Funding and Staffing

NFC Project Funding

AOUSC has received a total of $19 million from the Crime Victims Fund[1] to support NFC development and operations since its inception through fiscal year 1994. An additional $6.2 million is to be made available to AOUSC in fiscal year 1995. Initially, AOUSC was to receive $2.2 million annually after the Fund had exceeded collections of $125 million through fiscal year 1990 and $150 million thereafter. However, because Crime Victims Fund deposits did not exceed these levels in some years, AOUSC was not provided funding for NFC. In 1992, legislation was enacted to ensure more funding stability for NFC, and $6.2 million was to be provided annually for fiscal years 1992 through 1995. Thereafter, the Fund was to receive $3 million annually.

As of September 30, 1994, about $6.7 million is reported to have been expended or obligated since the inception of the project. AOUSC officials estimated that an additional $4.2 million will be expended or obligated for fiscal year 1995. To date, the majority of the project's total reported costs have been for personnel compensation and benefits, travel, and automation related expenditures. Table I.1 summarizes NFC's reported funding activity.

Table I.1: National Fine Center Funding Activity

Dollars in millions

Category	Reported through fiscal year 1994	Estimated for fiscal year 1995	Estimated through fiscal year 1995
Expended or obligated	$ 6.7[a]	$4.2	$10.9
Unobligated	$12.3	$2.0	$14.3
Total available	**$19.0**	**$6.2**	**$25.2**

Note: Funding activity data are based on information provided by AOUSC officials as of November 8, 1994. We did not verify the accuracy of AOUSC's information.

[a]This includes reported expenditures and obligations for the Raleigh National Fine Center project.

NFC Project Staffing

NFC staffing is being accomplished in several ways—transferring staff from the Raleigh Fine Center project, reassigning individuals within AOUSC, hiring new employees, and detailing staff from various components of the

[1]The Crime Victims Fund was established by the Victims of Crime Act of 1984 (Public Law 98-473, 98 Stat. 2170). Virtually all criminal fines, special assessments, and bail bond forfeitures are deposited into this fund. The Fund is administered by the Office for Victims of Crime in the Department of Justice. Ninety percent of the Fund is distributed to states in the form of compensation and grants. Crime victims compensation programs administered by the states (for example, rape crisis centers and child abuse centers) provide financial assistance to victims and survivors of victims of criminal violence.

federal judiciary and the Department of Justice. According to NFC project management officials, long-term staffing requirements have not been determined. As of November 1994, 23 full-time staff were assigned to the NFC project. At that time, AOUSC officials had proposed that another 11 staff would be added by the end of March 1995 to provide increased support for accounting related activities and systems analyses. Table I.2 summarizes current and proposed NFC staff by position description.

Table I.2: Reported National Fine Center Staffing as of November 8, 1994

Position description	Current staffing	Proposed staffing
Managers	4	4
Accounting technicians	2	6
Accountants	6	8
Senior accountants	3	3
Programmers	2	2
Systems analysts	0	3
Management analysts	2	2
Trainers	2	2
Justice's legal staff[a]	1	2
Secretaries	1	2
Total	**23**	**34[b]**

[a]Salaries for Department of Justice staff are reimbursed by NFC.

[b]As of May 1995, 4 of the 11 proposed staff had been assigned to the project.

Scope and Methodology

Our review focused primarily on AOUSC's efforts to centralize criminal debt on its NFC system under phase I implementation. We were unable to analyze AOUSC's phase II implementation due to the lack of specificity at this stage as to what AOUSC planned to accomplish. To obtain information on the status of the NFC's systems implementation, we reviewed available project and systems planning documentation. We also discussed project and systems status with cognizant NFC management and staff, EOUSA officials, and various officials within the Clerk of the Court's office, probation office, and U.S. Attorney's Office in several judicial districts that are currently providing criminal debt information to the NFC system—the District of Vermont, District of Maine, and Western District of Wisconsin. To determine what percentage of the 13 judicial districts' outstanding criminal debt caseload was on the NFC accounting system, we obtained criminal debt case information from U.S. Attorney's Offices for those districts and compared it to NFC caseload information.

To determine how the current system development approach differed from previous efforts, we reviewed available documentation, discussed prior system development efforts with judicial district personnel, and observed the operations of the prior Raleigh Fine Center system. Since the NFC began processing new criminal debt cases in August 1994, we observed data entry and processing of judicial district standard input data on the NFC accounting system and reviewed monthly reports generated by the system. We reviewed an NFC functional requirements document and discussed system needs with DOJ and EOUSA officials, and various judicial district staffs.

We discussed with AOUSC officials their strategy for selecting an off-the-shelf system for later use. We also reviewed an August 1994 draft of the AOUSC's reconciliation strategy. In addition, we reviewed training documents used to orient and instruct judicial district personnel on the process for submitting data to NFC and reviewed the NFC implementation schedule for adding judicial districts to the NFC system. We also obtained information on current and planned NFC staffing levels, obtained budgetary and expenditure data for fiscal years 1990-1994, and estimated funding activity for fiscal year 1995. We performed our review from August 1994 through January 1995 in accordance with generally accepted government auditing standards.

Planned NFC Implementation Schedule by Judicial District and Expected Annual Accounts Through August 1996

Stage	Implementation dates	Number of districts to be brought onto the NFC system	Expected annual number of new accounts[b]
1	April through December 1994	13[a]	2,081
2	January through April 1995	12[a]	3,098
3	May through August 1995	15	6,975
4	September through December 1995	20	8,345
5	January through April 1996	20	16,215
6	May through August 1996	14	15,051
Total		**94**	**51,765**

[a]According to NFC project management officials, these districts are submitting new account information to NFC.

[b]AOUSC officials provided us data on the expected number of annual new accounts from statistical information they had compiled on the number of convicted federal offenders for the period September 1992 to September 1993. We did not verify the accuracy of AOUSC's statistics.

Comments From the Administrative Office of the United States Courts

Note: GAO comments supplementing those in the report text appear at the end of this appendix.

L. RALPH MECHAM
DIRECTOR

CLARENCE A. LEE, JR.
ASSOCIATE DIRECTOR

ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS

WASHINGTON, D.C. 20544

April 16, 1995

Mr. Gene L. Dodaro
Assistant Comptroller General
Accounting and Information Management Division
U.S. General Accounting Office
Washington, D.C. 20548

Dear Mr. Dodaro:

We appreciate the opportunity to review and comment on your draft report on the National Fine Center.

First, from an overall perspective, we generally agree with the detailed findings and recommendations in your report. Nevertheless, we have two major problems with the report; these are summarized below:

See comment 1.

- Report Conclusion: We believe the "headline" for your report should be "Implementation of National Fine Center Project is Ahead of Schedule". Instead, your report title is "Challenges Ahead for Criminal Debt Collection System". Perhaps a combination of the two would be appropriate, e.g., "National Fine Center Project Implementation is ahead of schedule, but there are major challenges ahead for the Criminal Debt Collection System".

See comment 2.

- Agency Responsibilities: We believe your report fails to state clearly the role and responsibilities of the Department of Justice (DOJ) in criminal debt collection. The law clearly states that DOJ is responsible for criminal debt collection and provides DOJ with numerous powers to enforce its collection responsibilities. By law, the Judiciary has an administrative function. Accordingly, we believe DOJ has the lead responsibility for reconciling pre-existing criminal debt records and for determining the collectibility of all criminal debt. Your report suggests that the Director of the AO should have the lead role in both of these areas; we disagree emphatically.

Mr. Gene L. Dodaro
Page 2

Accordingly, we have organized our comments along these lines; detailed comments are attached.

National Fine Center Implementation

I believe your report would be improved by incorporating the following comments:

See comment 3.

(1) Revise your executive summary, "Results in Brief", to state in the first sentence that "the National Fine Center implementation effort is ahead of schedule". This responds to the primary question that Senator Dorgan raised at the end of the hearing last June when your report was commissioned, i.e. he wanted GAO to monitor the AO's progress in the implementation phase because of concern that the AO may not succeed. To accurately respond to that concern, the single main point of your report should be that "the AO, to date, has delivered on the promises it made at your hearing". In fact, we met or beat each of the project implementation milestones.

See comment 4.

(2) Related to the preceding point, most of the work on your report was completed by December, and the project's status, with respect to courts on the Fine Center, is as of December 1, 1994. I am told that your staff wants to update your report to reflect the current status of our project, and I strongly endorse this. It is essential that readers understand that the NFC project is "on target" and that we have met our implementation promises. For example, effective April 1, 1995, 25 courts are being processed in the Center. This compares with our objective of having 23 courts in the Center by April 26. Two schedules are attached showing project milestones and our progress to date.

Further, we are successfully converting the Center's processing software from Peachtree to Solomon IV. As of April 1, 12 of the 25 courts are being processed on the new Solomon IV system, and we plan to convert the remaining 13 courts (brought into the Center earlier on Peachtree) to Solomon during the next month.

Now on p. 1.

See comment 5.

(3) In general, your report emphasizes that we have a lot more to do, e.g., your proposed headline "Challenges Ahead for Criminal Debt Collection System" and the text in the "Results in Brief" beginning on page 3. While this is true, your emphasis can easily be misinterpreted by readers. The implication could be that the project is "behind schedule", or progressing slowly, when, in fact, we have accomplished everything we committed to do and are ahead of schedule. We are aware of the challenges ahead and have plans to address them, but many of the challenges are part of our Phase II effort which is not scheduled to begin until September 1996. For now, we are focusing all of our time and resources -- correctly, we believe -- on meeting the aggressive milestones we established to get all 94 courts into the National Center as quickly as possible, which

Mr. Gene L. Dodaro
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is by August 26, 1996 -- two years after the first court came into the Center. We intend to address the challenges you describe, primarily as part of our Phase II effort in line with our original plan (or sooner if Phase I progress permits), but we must first focus on and succeed with our court implementation effort.

(4) We believe your report should be revised to include, in the "Results in Brief" section, a summary of our overall strategy and policies for Phase I of the implementation effort as summarized below:

- Our overriding objective is to get courts into the National Processing Unit as quickly as possible.

- To accomplish this overriding objective, we made the following decisions to permit us to begin bringing courts into the Center at the earliest possible date, gaining experience as we go, and adjusting and improving our processes as we grow:

  - Start with smaller courts and focus on basic functions using simple processes.

  - Begin with manual interfaces; automate as we go.

  - Use "off-the-shelf" software, and minimize modifications.

  - Begin with new cases; add older, existing cases only after cases are reconciled and accurate.

  - Defer broader management information requirements until basic functions are operating effectively. This is the Phase II effort, scheduled to begin in September 1996.

See comment 6.

Agency Roles and Responsibilities

(1) DOJ is responsible for collecting criminal debts; the Administrative Office's role is to provide administrative support to the Congress, DOJ, and other appropriate parties. We believe this should be stated in the "Results in Brief".

See comment 7.

(2) Your first recommendation "That the Director, AOUSC, finalize a reconciliation strategy" is not appropriate because we believe DOJ and the U.S. Attorneys in the districts have the lead responsibility for reconciling existing criminal debt accounts. Within the Judiciary, we will encourage the clerks of court and probation officers to

See comment 8.

Mr. Gene L. Dodaro
Page 4

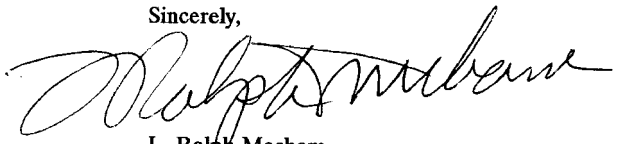
work with the U.S. Attorneys' offices in a joint effort to complete these reconciliations on a timely basis, but we believe DOJ must take the lead responsibility because it is responsible for collecting criminal debt. In line with this approach, we have been working with DOJ since last fall on debt reconciliation for pre-existing cases in those courts already being processed in the Center. We recently notified DOJ that the Center will now accept reconciled pre-existing cases for courts on the Center. This was made possible by successful introduction of Solomon IV.

See comment 9.

(3) "Determining collectibility": With respect to your second recommendation, that NFC officials "work with the DOJ's Executive Office for U.S. Attorneys to develop and implement a methodology for determining collectibility of all criminal debt", we also believe DOJ must take the lead role. We will do everything we can to support that DOJ effort, including providing administrative support, working with judges and probation officers and making recommendations. But, we strongly believe that the U.S. Attorneys, who have the authority to seize assets, file liens, garnish wages, attach federal payments (e.g., tax refunds, various benefits, etc.) and who have the responsibility for criminal debt collection are in the best position to identify collectibility. DOJ also is best positioned to recommend any appropriate "write-offs" of debt believed to be uncollectible.

I appreciate your incorporating our comments in your report.

Sincerely,



L. Ralph Mecham
Director

Attachment

The following are GAO's comments on the letter from the Director, Administrative Office of the United States Courts, dated April 16, 1995.

GAO's Comments:

1. This issue is discussed in the "Agency Comments and Our Evaluation" section of the report.

2. See comment 1.

3. We have modified the Results in Brief and other sections of the report to reflect that 25 districts are providing new criminal debt account information for input into the NFC system and that the NFC implementation is slightly ahead of schedule.

4. The report has been modified to reflect the recent additional progress made by AOUSC. We have further updated the report to indicate that AOUSC (1) has begun converting criminal debt accounts from its interim accounting software package to the new off-the-shelf accounting system and (2) is planning to complete conversion efforts for all 25 districts by May 1995.

5. AOUSC is correct in its characterization of our report as emphasizing that much more needs to be done to completely implement the NFC system. We have modified the report to reflect that, as of April 1995, AOUSC was slightly ahead of schedule in implementing the NFC system.

6. We believe the discussions of AOUSC's overall strategy and policies for the phase I NFC implementation effort are appropriate.

7. We have modified the Results in Brief section to reflect that AOUSC and DOJ should work together to determine the collectibility of criminal debt. We have further clarified that DOJ is responsible for enforcing the collection of delinquent and defaulted criminal debts.

8. See comment 1.

9. See comment 1.

Comments From the Executive Office for United States Attorneys

Note: GAO comments supplementing those in the report text appear at the end of this appendix.

Now on p. 4.

U.S. Department of Justice

Executive Office for United States Attorneys
Office of the Director

Washington, D.C. 20530

APR 19 1995

Mr. Gene L. Dodaro
Assistant Comptroller General
Accounting and Information
Management Division
General Accounting Office
Washington, D.C. 20548

Dear Mr. Dodaro:

Thank you for giving us the opportunity to review and comment on the General Accounting Office's (GAO) March 1995, draft report on the National Fine Center (NFC) entitled NATIONAL FINE CENTER: Challenges Ahead for Criminal Debt Collection System. As the report states, the Department of Justice (DOJ) "will be one of the primary users of the NFC system." (pps. 7 and 8) The DOJ, therefore, has a large stake in ensuring that the system meets the needs of the various DOJ components which must rely upon the NFC system to enforce and collect criminal debts.

Our comments on the draft report are separated into three general categories:

1. The NFC's lack of established and documented procedures, policies, and plans is not recognized as a major deficiency in the implementation and development of the system.

2. The report gives inappropriate importance to the "reconciliation" process.

3. The report fails to distinguish between uncollectible and unenforceable debts and requires collectibility determinations at the wrong point in the transfer process.

2

1. **The NFC's lack of established and documented procedures, policies, and plans is not recognized as a major deficiency in the implementation and development of the system.**

The drafters of the report state that they were unable to analyze the Administrative Office for United States Court's (AOUSC) phase II implementation because the AOUSC officials were unable to provide information regarding phase II development. This lack of planning and documentation also exists to a lesser extent in the current phase I implementation.

See comment 1.

The AOUSC's lack of established and documented plans and strategies for the development and implementation of both phases of the NFC system has seriously hampered the coordination of debt collection responsibilities as envisioned by Congress. Without established short-term and long-term plans for development and implementation, the AOUSC has placed all users of the system in a position of reacting to the NFC proposals rather than being able to proactively plan and prepare for anticipated developments.

See comment 2.

The report indicates that its drafters reviewed "available project and systems planning documentation for phase I, including systems and functional requirements. . ." as well as training documents, an implementation schedule and a draft reconciliation strategy. Very little planning documentation, however, has been provided to the DOJ. Most of the information obtained by the DOJ regarding the NFC plans and procedures has either been provided as part of the individual district training sessions or is voiced during meetings between the NFC and the DOJ staffs.

In February 1994, a requirements document was jointly adopted by the AOUSC and the DOJ. This document set forth plans for the implementation of the NFC system and addressed the concerns of the users of the system. During the fall of 1994, the AOUSC informed the DOJ that this requirements document was no longer guiding the development of the system. The DOJ has been informed that it will not be given "on-line interactive" access to the NFC data, contrary to the provisions of the jointly agreed upon requirements document. The absence of "on-line" access to the NFC data may require the DOJ to develop a computer system to down load data from the Fine Center to perform efficient debt collection in an automated manner without duplicating the data entry function already performed by the NFC personnel.

See comment 3.

The absence of "interactive" access requires the development of a substitute method for the DOJ to transfer data to the Fine Center. It is inconceivable, considering the present state of technology, that the DOJ should be required to update data in a computer system by filling out a form and mailing it to the NFC. That, however, seems to be the plan.

3

Although the AOUSC now has withdrawn from the agreements reached in the jointly developed February 1994, requirements document, the AOUSC has not developed substitute requirements to assist the DOJ in planning for the enforcement phase of collections. Nor has the AOUSC communicated to the DOJ any long range plan to interface with the NFC, if it has such a plan.

2. **The report gives inappropriate importance to the "reconciliation" process.**

Now on p. 14.

The report identifies the reconciliation of existing criminal debt accounts as a "major challenge" and makes finalization of a reconciliation strategy its first recommended action for the NFC (p. 27). This recommendation recognizes that transferring existing debts onto the NFC system is an important goal if the AOUSC is to fully satisfy its duty to account for, process payments, and report on all criminal debt for the 94 judicial districts. Nevertheless, the report places too much emphasis on "the difficulties of reconciling existing debt records, and the magnitude of effort that will be needed to reconcile about 100,000 debtor accounts, nationwide." (p. 19)

Now on p. 10.

See comment 4.

Reconciliation of account balances will not be as great a concern as anticipated, especially in the smaller districts. Agreements were reached between the Executive Office for United States Attorneys (EOUSA) and the AOUSC in early 1989 that the United States Attorneys' offices (USAOs) would continue to be responsible for the record keeping functions involved in criminal collection matters until the AOUSC automated those functions. These agreements were recognized in a directive to the Courts by the AOUSC's Director, L. Ralph Mecham, dated April 21, 1989, and a memorandum to the USAOs from EOUSA's former Associate Director of the Financial Litigation Staff, Katherine Deoudes, dated April 27, 1989. Copies of these two memoranda are enclosed.

As a result, within each district, the Clerk of Court, Probation Office, and USAO have continued to work together to assure accurate records. In many districts, these offices agree that the debt balance maintained at the United States Attorney's office is correct. The USAO's data can be transferred electronically to the NFC, with little, if any, supplementation to establish these accounts.

The concern over the magnitude of the reconciliation process was apparently generated from difficulty experienced with the transfer of existing debts in the Raleigh pilot program. The Raleigh criminal debt database includes many debts which are not tracked or enforced by most USAOs because they are under the $100 threshold provided in 18 U.S.C. §3612, or because the AOUSC's Central Violations Bureau (CVB) handles the collection. Thus,

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the criminal debt database which was attempted to be "reconciled" is not representative of the existing criminal debts nationwide.

See comment 5.

The AOUSC has maintained in promoting its "reconciliation strategy" that it cannot account for debts if it does not have information such as debtor's addresses or social security numbers. The draft report appears to adopt this philosophy as well by stating that "information [such as current addresses and social security numbers] is critical since the NFC cannot bill debtors without correct addresses." (p. 20) This conclusion would be true if the NFC had been intended as a simple billing system. Instead, to accurately report and account for all criminal debt within the 94 judicial districts as Congress intended, the NFC must be able to initially account for all criminal debts imposed by the Courts, and then separately track whether those debts are collectible or not. The problems associated with insufficient billing information do not reflect on the "reliability" of the data, but instead should be reviewed as part of a "collectibility" indicator.

Now on p. 10.

3. **The report fails to distinguish between uncollectible and unenforceable debts and requires collectibility determinations at the wrong point in the transfer process.**

Now on p. 11.

The report indicates that "AOUSC officials recognize that, during the reconciliation process, collectibility of each account must be assessed before it can be transferred to NFC." (p. 21) Although collectibility determinations with respect to old debts are vital to any accounting system, collectibility determinations need not be made prior to acceptance of these cases on the NFC system. The determination of whether a criminal debt is collectible changes over time. To demand that collectibility be determined prior to inclusion of the debt in the Fine Center database unnecessarily postpones the inclusion of all debts in the Fine Center system.

See comment 6.

Now on p. 12.

Despite the report's statement at page 23 that "Court officials told us that sufficient information is often available at the time of sentencing to determine the offender's ability to pay," the DOJ's experience shows that such financial information is too rarely available at the time of sentencing. New debts should be opened on the Fine Center. Any determination of their collectibility can and should be made only after complete analysis of the conditions for payment of the debt set out by the judge at the sentencing and the defendant's financial condition.

See comment 7.

Moreover, the report incorrectly includes unenforceable debts in the category of uncollectible debts. We agree that unenforceable debts should not normally be transmitted to the Fine Center. In discussing the uncollectible debt, the report at page 21 cites as an example of uncollectible debt those debts whose statutory period of enforceability has expired. A debt

Now on p. 11.

5

where the liability to pay has expired is unenforceable. For example, special assessments may only be collected for five years, fines for 20 years. Once the statutory period has expired these debts are unenforceable and routinely closed by the USAOs. These debts will not be transferred to the Fine Center.

See comment 8.

Uncollectible debts are legally enforceable and are to be transferred to the Fine Center even if the DOJ is currently unable to obtain payment toward their satisfaction. Most often this is because the defendant has no resources beyond the bare necessities of life that can be devoted to payment of the criminal debt. These uncollectible but enforceable debts must be maintained on the system and periodically reviewed to determine whether they are currently collectible. Enforceable criminal debts are court orders which cannot be closed or written off merely because they are currently uncollectible. The DOJ may request a court to remit a fine or special assessment but many courts will deny requests for remission and prefer to keep these debts on the books for the statutory period of enforcement in the event the defendant later acquires assets that may be used to pay the debt.

Finally, some debts are unenforceable for certain periods of time due to repayment instructions given by the judges during sentencing hearings. These temporarily unenforceable debts also must be opened in the Fine Center and maintained there until such time as they become enforceable.

Now on p. 14.
See comment 1.

The report recommends that the NFC officials work with the DOJ to develop and implement a methodology to determine collectibility (p. 27). First, the DOJ already has such a methodology in place. Second, the DOJ is the agency charged with the enforcement responsibility and it is the agency best equipped to determine whether the debt is collectible.

Conclusion

The DOJ aging reports show that at the end of Fiscal Year 1994, 81% of the unpaid criminal debts were less than five years old and over 46% of the total debts were less than one year old. These statistics suggest that since the great majority of the unpaid debts are relatively new debts, the difficulties suggested by the AOUSC regarding collectibility and reconciliation may be overstated.

Now on p. 2.

The concept of the development of a centralized National Fine Center system continues to be supported by the DOJ. Although the AOUSC has made progress in establishing the NFC accounting system and in training the district courts in implementing the system, as pointed out at page 3 of the report, "an extensive amount of planning and implementation effort remains to satisfy the congressional intent."

If you have any questions regarding our response, please contact Iden Martyn, Deputy Director for Programs, on (202) 616-6444.

Sincerely,

Carol DiBattiste
Director

Enclosures

cc: Gerald M. Stern
Special Counsel
for Financial Institution Fraud

Vickie L. Sloan
Director
Audit Liaison Office
Justice Management Division

The following are GAO's comments on the letter from the Director of DOJ's Executive Office for United States Attorneys dated April 19, 1995.

GAO's Comments:

1. This issue is discussed in the "Agency Comments and Our Evaluation" section of the report.

2. The available project and systems planning documentation we reviewed consisted of (1) a draft project plan, (2) the February 1994 functional requirements document, (3) training documentation presented during training sessions, (4) the judicial district implementation schedule included in our report as appendix III, and (5) a draft reconciliation strategy. AOUSC had coordinated these documents with DOJ.

3. At the time of our review, we were informed by both the NFC Project Manager and the former Associate Director, Financial Litigation Staff, EOUSA, that a decision had not been made as to how DOJ would be provided access to NFC data. Our report points out the need for AOUSC to complete system enhancements to automate certain functions, including establishing an interface between NFC and DOJ. Also, during our review, AOUSC was in the process of developing automated account establishment and maintenance forms to transfer criminal debt data from judicial districts to NFC. The fact that DOJ staff are working closely with AOUSC staff to implement the NFC system should help ensure that DOJ's user needs are being met.

4. See comment 1.

5. Although NFC could enter reconciled amounts into the system without addresses and social security numbers, our report points out that the lack of this information was a problem during the Raleigh reconciliation. This information would be needed before collection of criminal debt could take place in other districts.

6. We have revised the report to clarify that AOUSC's draft reconciliation strategy requires judicial district staff only to identify those existing debt accounts that are no longer legally enforceable because, for example, the defendant's obligation to pay has expired or the defendant has died. These cases would not be transferred to NFC. The methodology for determining collectibility that we have recommended AOUSC and DOJ develop should address (1) steps to determine the collectibility of legally enforceable

existing debt and (2) guidance as to when these accounts should be entered into the NFC system.

7. We have revised the report.

8. We agree that uncollectible debts may still be legally enforceable and as such, should be transferred to NFC. As stated in our report, uncollectible accounts should not be considered as valid accounts receivable for financial reporting purposes, however; AOUSC needs to account for these receivables for enforcement, compliance, and tracking purposes.

Major Contributors to This Report

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