Wisconsin inmates seek John Doe probe into money withheld from prisoner accounts

Gina Barton , Milwaukee Journal Sentinel Feb. 20, 2017 |

An increasing number of Wisconsin inmates may never see any of the money sent to them by friends and loved ones for items such as stamps and hygiene supplies under an updated Department of Corrections policy at the center of a nonprofit's request for a John Doe investigation.

State law has long allowed the department to withhold money sent by inmates' families or from wages earned at prison jobs — which often amount to less than $1 per hour — for restitution, court surcharges or for "the benefit of the prisoner or resident."

If an inmate has multiple financial obligations, up to 100% of a gift from a friend or family member or from an in-custody job can be used to pay them rather than being placed into the prisoner's commissary account, Department of Corrections spokesman Tristan Cook said.

While that has happened in the past, it is becoming more common since last year, when the corrections department changed its policy to withhold more money and a new computer system came online, according to the Forum for Understanding Prisons, a nonprofit organization asking a Dane County court to investigate via a John Doe hearing on the inmates' behalf.

In the past, the department seized 25% of every deposit into inmates' accounts toward payment of restitution, according to Cook. In April, after changes in state law, officials increased the withholding to 50% — which they say qualifies as "a reasonable percentage" as defined by the new law.

In the petition for a John Doe, the inmates allege not only that the percentage is unreasonable, but also that money has been withdrawn from their accounts to cover fines they have already paid, restitution that was never ordered or fees not required to be paid until after they are released.

The petition blames the errors on the implementation of the new computer system, saying they began shortly after it was implemented late last year. Twenty-two inmates attached affidavits, many of them saying they haven't had money deducted from their accounts for 10 or 20 years because all their court-ordered balances have been paid.

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Cook said perhaps the prisoners may not have been aware of everything they owed. He would not say whether the types of mistakes cited by the inmates occurred.

He contended the glitches with the new computer system did not add new debts to inmate ledgers. Rather, the conversion to the new system inadvertently caused more than the 50% called for by the new department rules to be withdrawn for restitution.

As a result, the department temporarily stopped withdrawing money for that purpose so officials there could fix the process.

During that time, though, the system continued to remove payments for lower priority items that should have been paid after the restitution. As a result, some of that money was redeposited into the inmates' accounts, so payment to victims could be made first, as the April law requires.

The problem affected "a limited number of inmates' accounts," according to Cook.

"If they disagree with the money that we've taken from their accounts, they have the ability to complain about what was withdrawn," he said. "If we determine that money was taken outside of our policies, it can be refunded. We look at this on a case-by-case basis."

Several inmates who filed affidavits with the John Doe petition say the complaint process has not been effective.

Gregory D. Perkins, who has been in prison for 25 years, said the department recently started taking money to cover restitution and other debts that he paid off years ago. When he filed a complaint, officials told him to provide documentation of the prior payments.

"For them to sit there and tell me I have to prove that I paid it … How? When they are the only ones who have access to the system?" he wrote.

The petition also alleges the corrections department has taken money from inmates' accounts to pay the costs of probation or parole or to help pay public defenders.

The inmates say that's not allowed under state statute.

But in a letter to one of them, Marc Clements, assistant administrator for the Department of Adult Institutions, asserts that it is.

"Paying down an inmate's lawful debt certainly provides for the benefit of the prisoner," Clements wrote.

Lock 'em up, take their money/State prisons ramp up deductions from inmates who work or get outside help

by BILL LUEDERS **FEBRUARY 16, 2017**

Imagine your job pays just 35 cents an hour. After two 40-hour weeks, that comes to $28. Your workplace provides basic meals and living quarters, but you must buy incidentals like deodorant, shampoo, lotion, writing materials, envelopes, postage, clothing items like gym shoes, and any non-provided food items or snacks.

Now imagine reaching for that $28 to meet these needs and finding it's been cut to $6.45.

That's the experience Reo L. Covington, an inmate at Oshkosh Correctional Institution, relates in a November letter to Peg Swan, a prisoners rights advocate in Richland County. It is one of many such letters that Swan has received in recent weeks.

Across the state, Wisconsin prison inmates are crying foul about deductions being made to their trust accounts, which hold the money they make at prison jobs or is sent in by loved ones. They say the state Department of Corrections is abusing its new statutory authority to withhold money for restitution and other costs; the DOC has admitted that some deductions were made in error.

"It really clearly has a lot of people in prison very upset," says David Liners, state director of Wisdom, a faith-based advocacy group. "People are kind of desperate."

Molly Collins, acting executive director of the ACLU of Wisconsin, says her group has been hearing from inmates and will take a look at the new policy. But based on what she already knows, her assessment is harsh: "Is it horrible? Yes. Are they taking people's dignity and what little bit of self-determination they have in prison? Yes."

The deductions target a wide range of costs, from court fees, victim restitution and "victim witness surcharges," to supervision fees imposed by the DOC, to child support. Swan, a retired nurse's aide who corresponds with inmates all over the state, calls what is happening "a huge scam — the DOC is literally stealing money from inmate's accounts."

Early this week, Swan mailed a petition to Dane County Circuit Court seeking a John Doe probe into the deductions, alleging violations of law. The petition from her advocacy group, Forum for Understanding Prisons, includes testimonials from more than 20 state prison inmates.

The DOC has said in correspondence obtained by *Isthmus* that it is applying its new powers appropriately. But the agency knew beforehand that its conversion to a new computer accounting system would result in errors that would have to be sorted out after the fact.

"During recent testing, DOC discovered a distribution irregularity that affects fines, court costs and attorney fees," wrote Jim Schwochert, administrator of the DOC's Division of Adult Institutions, in an Oct. 3 memo to inmates. He asked for "your patience over the next few months while we roll out this new software system," adding, "Should new issues arise, we will work diligently to resolve them as quickly as possible."

New issues arose.

In prison-posted answers to frequently asked questions dated Oct. 14 and Nov. 3, the DOC provides mostly opaque answers to such questions as, "I paid off my obligation, why does it still show I owe?" The response: "If the court ordered you to pay restitution or court costs at the time of sentencing, then it is still an obligation you owe." The memo said steps were being taken to "reconcile the balances."

On Jan. 18, Schwochert posted a memo acknowledging that the new system had made some "improper deductions" that would be reversed. "We apologize for the confusion this process has caused," he wrote.

Agency spokesman Tristan Cook admits that, for a time, "additional money beyond the amount DOC prescribed was being taken from a limited number of inmates' accounts." The collection of restitution was temporarily suspended to resolve the issue, and now, Cook says, "the correct amounts are being withdrawn."

The confiscated money, Cook explains, goes to "the entity or person to whom it is owed." For instance, the subjects of court-ordered restitution are supposed to get those sums. Fees deducted for account overdrafts, loans or institution restitution go to the DOC.

Act 355, which passed the Legislature last year, amended state statutes to let prison officials "use a prisoner's money to be paid towards applicable surcharges, victim restitution, or the benefit of the prisoner," according to a Nov. 30 letter to Wisconsin Secure Prison Facility inmate Nate Lindell, who challenged the deductions.

The act also amended the state's restitution statute to empower the DOC "to collect, from the defendant's wages and from other moneys held in the defendant's prisoner's account, an amount or a percentage the department determines is reasonable for payment to victims."

But many state prison inmates contend the DOC is taking money for charges they don't owe. Roy J. Jones, an inmate at Stanley Correctional Institution, has records showing he paid off his assessed court costs as of September 2004. But prison officials deducted $22.56 for court costs, later explaining that an earlier deduction was wrongly applied to a different surcharge and needed to be paid again. Jones is among the petitioners seeking an outside probe.

In some cases, prison officials have acknowledged errors. A Nov. 28 information request from Matt Elliott, an inmate at New Lisbon Correctional Institution, stated: "You took 120 percent of $60 I just received!... It is extremely clear you do not know what you are doing." A prison official responded, "This was due to a computer glitch. Your disrespectful words are not appreciated!" In a follow-up exchange, the same official told Elliott, "That money has been distributed and we cannot give it back. We were not aware this glitch was happening."

Elliott, who provided these records to the Wisconsin Center for Investigative Journalism, expounded in an accompanying letter: "To me it seems like straight-up theft. If I were a store and I kept charging you $20 every week after you only made one purchase from me, then told me I won't refund your money because this has already been distributed or because there was a computer glitch, are you just going to roll over and say, 'Oh well, my loss'?"

DOC spokesman Cook says the agency "determined that 50 percent of wages and moneys held in an inmate's trust account is reasonable for the purposes of this statutory provision." But, he notes, "Inmates with multiple obligations may see 100 percent of their wages or moneys withheld." A Jan. 25 memo from an official at Columbia Correctional Institution calls the notion that 50 percent represents an upper limit for deductions a "common misbelief."

Swan says she's heard from inmates reporting that 100 percent of money sent in for them is being confiscated: "So you send $50 to your loved one and he gets zero." Some inmates have been informed they owe hundreds of dollars in debts and obligations going back more than 20 years.

Beverly Walker has stuck by a man who has been locked up for more than two decades. Now she's sticking up for him as well.

Walker says the money she sent her husband, Baron, an inmate at Oakhill Correctional Institution near Madison, used to be subject to just a 10 percent deduction — to a fund set aside for his eventual release. Suddenly last fall, the prison began withholding 60 percent, including a 50 percent deduction for restitution, she says.

"If I sent him $100, he would get $40," says Walker, a consultant on social justice issues for Wisdom and other clients. "I had to continually send in larger sums of money so he could meet his basic needs." Baron Walker buys much of his own food because, as a Muslim, he cannot eat pork.

Walker says Baron, convicted of armed robbery more than two decades ago, "was never assessed any fees for restitution. We still have not been provided with any explanation of where these fees come from."

Covington, in his letter to Swan, says he is "not unempathetic to victims who have suffered losses due to crime." He believes they should get "reimbursement or restitution." But he contends that his victim, a Madison bank he robbed in 2008, has never received any of the money deducted from his account.

Moreover, he argues, the DOC's new policy is "sabotaging the rehabilitative efforts" of state prison inmates. They can't win for trying, and now are pushed into criminal activity while incarcerated just to get the things they need to survive.

Shannon Ross, an inmate at Oakhill, says the new policy "just kind of chips away at morale" and "embitters" inmates, especially those who really need the money being taken. He says the change "expands the black market in here, which is not fruitful for corrections, as the word is meant."