	<b>DEPARTMENT OF CORRECTIONS AND REHABILITATION</b> <b>CORRECTIONS ADMINISTRATION</b> <b>POLICY AND PROCEDURES</b>	<b>EFFECTIVE DATE:</b> January 01, 2024	<b>POLICY NO.:</b> COR.02.04
		<b>SUPERSEDES (Policy No. &amp; Date):</b> COR.02.04 of February 05, 2021	
	<b>SUBJECT:</b> <b>RESTITUTION COLLECTION</b>		Page 1 of 10

## 1.0 PURPOSE

To provide guidelines and standards governing the collection of court-ordered restitution deductions from Inmate Trust Accounts, the processing of all inmate payments for restitution, Crime Victim Compensation fees and for other court fines and fees, and the transmission of these payments to the Judiciary and the Crime Victim Compensation Commission.

## 2.0 SCOPE

This policy shall apply to all Department prisons and contract facilities.

## 3.0 REFERENCES, DEFINITIONS & FORMS

### .1 References

- a. Department of Corrections and Rehabilitation (DCR), Policies and Procedures (P & P), COR.02.12, Inmate Trust Accounts.
- b. P & P, COR.14.02, Inmate Work Program/Compensation
- c. P & P, COR 14.15, Inmate Furlough Program
- d. Hawaii Administrative Rules (HAR), Title 23, Department of Corrections and Rehabilitation, Subtitle 4, Criminal Injuries Compensation Commissioner, Chapter 604, Criminal Injuries Compensation Act.
- e. Hawaii Revised Statutes (HRS)§ 351-62.6, Compensation Fee
- f. HRS § 353-17, Committed Persons, Furlough, Employment
- g. HRS § 353-21, Withdrawals; Forfeitures, etc.
- h. HRS § 353-22.5, Garnishment to Cover Non-budgeted Costs
- i. HRS § 353-22.6, Victim Restitution
- j. HRS § 706-605(6), Authorized Disposition of Convicted Defendants
- k. HRS § 706-624(2), Conditions of Probation. Discretionary Conditions
- l. HRS § 706-651, Payments by Defendant, Order of Priority

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- m. HRS § 712A-18, Victim Restitution
- n. Inmate Trust Accounting Manual

.2 Definitions

- a. **Crime Victim Compensation Fee (Comp Fee):** A fee that is imposed by the Court as part of a sentence (but is NOT considered restitution) against every offender who is convicted of, or who enters a deferred plea (DAG/DANC) to a petty misdemeanor, misdemeanor, or felony pursuant to HRS§351.62.6.
- b. **CRMS:** CVCC's online restitution database ("Compensation and Restitution Management System")
- c. **CVCC:** Crime Victim Compensation Commission.
- d. **Free-Standing Order of Restitution:** An Order created by the Court that stands alone even after the incarceration period has elapsed and continues to be enforceable during and after incarceration until the order is satisfied.
- e. **Furlough Inmate:** An inmate who is continuously under the care, custody, and restraint of PSD regardless of the physical location, physical living quarters, or assigned location that is participating in a work furlough or extended furlough program.
- f. **Garnishment:** Action or claim against the committed person to cover non-budgeted costs.
- g. **ITA:** The "Inmate Trust Accounting System" is a database established to hold funds belonging to the inmate and maintained at a bank under the name of the facility for use by a group of inmates under the trust fund accounting system.
- h. **Manner of Payment:** The deduction rate or recurring amount of restitution to be paid as set forth by law or the court.
- i. **Other Court Fees & Fines:** All other fines and fees ordered by the courts which are NOT considered restitution.
- j. **Probation inmate:** An inmate who is serving a term of incarceration as a condition of probation.

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- k. RAVS: Restitution and Victim Services is a centralized office within PSD that oversees the deduction and collection of restitution from inmates.
- l. Restitution: Payment made to a victim as imposed by the Court, for financial losses resulting directly from the harm or damage caused by a criminal offender.
- m. Sentenced Inmate: An inmate sentenced by the court to be committed to the Department to serve a term of incarceration.

#### 4.0 POLICY

All sentenced inmates under the jurisdiction of the Department shall have their restitution obligations established in the Inmate Trust Accounting System (ITA). Monthly earnings and cash deposits shall be deducted for payment of victim restitution and transmitted once monthly, pursuant to HRS §353-22.6.

Furlough inmates who receive regular monetary compensation as a result of work or education activities shall be required to make regular payments toward the satisfaction of court-ordered restitution and fines, at twenty-five percent (25%) of their net earnings pursuant to HRS §353-17 and DCR, P&P, COR.14.15, Inmate Furlough Program.

- .1 DCR shall verify the amount of restitution ordered by the court and the current balance upon notification of a newly sentenced inmate (see section 5.2).
- .2 Restitution shall be entered into the department's ITA database upon sentencing and shall remain unchanged even if the offender is discharged or has reached their maximum term release date ("maxed-out").
- .3 Sentenced inmates shall have their restitution deducted from all moneys earned or deposited or credited to the inmate's ITA account pursuant to HRS §353-22.6. If an inmate's Court Order is filed **prior to** July 1, 2012, restitution shall be deducted from gross wages at the rate of 10%. If an inmate's Court Order is filed **on or after** July 1, 2012, **and prior to** July 12, 2016, restitution shall be deducted from gross wages and cash deposits at the rate of 25%, unless the court order specifies otherwise. If an inmate's Court Order is filed **on or after** July 12, 2016, notwithstanding any law or order to the contrary, 25% shall be deducted from gross wages and cash deposits. The monies collected shall be sent to CVCC within 60 days after the end of the month during which restitution was collected.
- .4 Restitution may also be collected from pensions, annuities, trusts, and tax returns, if the Court Order is filed **on or after** July 1, 2012, and the funds are deposited into

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the inmate's trust account. No deductions shall be made from Child Support, Social Security, and Veterans Administration (VA) income.

- .5 Probation inmates shall have restitution deducted, and the monies collected shall be sent to the Judiciary in the circuit from which the order was sent, only if the Court Order specifies that victim restitution payments while incarcerated be made to the Court.
- .6 Inmates on work furlough or extended furlough shall have their net income deducted at the rate of 25% as directed by P&P, COR.14.15.
- .7 Probation inmates on work furlough or extended furlough shall have their gross pay deducted at a rate of 30% in accordance with HRS §706-624(2).
- .8 Facility staff shall process voluntary lump sum restitution or court fee payments as requested or authorized by inmates. Case Managers shall assist inmates with voluntary payments and assist DCR staff with any inquiries for restitution or compensation fees.
- .9 Retroactive restitution deductions shall be taken by facility staff upon discovery that an error was made on the part of the facility.
- .10 If an inmate is returned to jail or prison and restitution is still owed, restitution will continue to be collected regardless of if the case has expired.
- .11 Funds remitted to CVCC for payment towards restitution shall be distributed proportionally to each restitution case.
- .12 Facility staff shall provide balance information and account summary reports to inmates upon request but not more frequently than once per month.
- .13 Upon the parole or discharge of an inmate, the department shall pay any money to which the inmate may be entitled. Upon the death of an inmate during incarceration, all funds shall be distributed as provided by law, provided that the funds shall first be used to satisfy any restitution order or any reimbursements to the State pursuant to HRS §353-21.
- .14 Inmate accounts shall be subject to garnishment, levy or any like process to cover non-budgeted costs for the cause of action or claim against the inmate, pursuant to HRS §353-22.5 (If sufficient funds are not available in the inmates' spendable account, the funds shall come from their restricted account).

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- .15 Funds or monies collected from inmates shall be applied to pay restitution first, then other court fees/fines as delineated in HRS §706-651.

## 5.0 PROCEDURES

### .1 Identifying Court-Ordered Restitution

- a. Copies of newly received sentencing documents that include restitution and/or compensation fees shall be forwarded to RAVS within 24 hours of receipt by the correctional facility. Documents to be forwarded shall include Judgments, Probation Judgments, Orders of Resentencing, Free-Standing Orders, Amended Judgments, Orders to Vacate Restitution, etc.
- b. RAVS shall review and interpret all court orders to identify the amount of restitution ordered and the manner of payment. RAVS shall also clarify any discrepancies or other issues with the restitution order or manner of payment.

### .2 Entering a Restitution Order in ITA

- a. Restitution - Specific transaction codes are to be used for restitution transactions. All facilities in Hawai'i shall use them for identification and consistency. Refer to the ITA Manual for more information.
  1. R – Restitution. This is the **account code** used to record the restitution amount.
  2. R – Restitution Payment. This **transaction code** is used whenever a new case is opened (i.e., R-R).
  3. RC - Restitution – Credit. This **transaction code** is used when adjusting for a reduction in the balance of a restitution case resulting from a subsequent manual payment or payments made to CVC but not posted in the ITA (i.e., RC-R).
  4. RD - Restitution - Debit. This **transaction code** is used when adjusting for an increase in the balance of a restitution case resulting from an understatement in the recorded balance (i.e. RD-R).
  5. WR - Withdrawal for Restitution. This **transaction code** is used when funds are manually withdrawn for payment of restitution, other than the

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automated 10% recovery from payroll and 25% recovery from payroll and deposit (i.e. WR-GA, WR-FA).

- b. Crime Victim Compensation Fees – Specific transaction codes are to be used for crime victim compensation fee transactions.
  - 1. VF - Victim Comp Fees. This is the **account code** used to record the victim compensation fee(s).
  - 2. VF - Victim Comp Fees. This **transaction code** is used whenever a new case is opened (i.e. VF-VF).
  - 3. VC - Victim Comp Fees - Credit. This **transaction code** is used when adjusting for a reduction in the balance of a compensation fee case resulting from a subsequent manual payment or payments made to CVCC but not posted in ITA (i.e. VC-VF).
  - 4. VD - Victim Comp Fees - Debit. This **transaction code** is used when adjusting for an increase in the balance of a compensation fee case resulting from an understatement in the recorded balance or overage in recovery (i.e. VD-VF).
  - 5. WV - Withdrawal for Crime Victim Compensation Fee - This **transaction code** is used when funds are manually withdrawn for crime victim compensation fee (i.e. WV-GA, WV-FA).

.3 Setting the Restitution Deduction Rate in ITA

RAVS shall enter the manner of payment (i.e. the rate or percentage of restitution to be deducted) in ITS pursuant to HRS §353-22.6.

- a. For deductions from inmate payroll wages/earnings, refer to DCR, P&P, COR.02.12, Inmate Trust Accounts 5.2b.
  - 1. If an inmate's court order is filed **prior to** July 1, 2012, restitution shall be deducted from gross wages at 10%, unless the court order indicates a different amount.
  - 2. If an inmate's court order is filed **on or after** July 1, 2012, **and prior to** July 12, 2016, restitution shall be deducted from gross wages at 25%, unless the court order specifies otherwise.

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3. If an inmate's court order is filed **on or after** July 12, 2016, notwithstanding any law or order to the contrary, restitution shall be deducted from gross wages at 25%.
    - b. For deductions from cash deposits/receipts, refer to PSD, P&P, COR.02.12 Inmate Trust Accounts 5.3a.
      1. If an inmate's court order is filed **prior to** July 1, 2012, no deductions shall be taken from cash deposits/receipts.
      2. If an inmate's court order is filed **on or after** July 1, 2012, **and prior to** July 12, 2016, restitution shall be deducted from cash deposits/receipts at 25%, unless the court order specifies otherwise.
      3. If an inmate's court order is filed **on or after** July 12, 2016, notwithstanding any law or order to the contrary, 25% shall be deducted from cash deposits/receipts for restitution.
- .4 Establishing an Account at CVCC

RAVS shall notify CVCC of all restitution cases where no account is open in CRMS. All account requests submitted to CVCC shall include the relevant sentencing documents needed to establish the restitution account and to verify the current balance, including but not limited to the judgment, order of resentencing, or free-standing order of restitution. If the current balance verified by CVCC is less than the court-ordered amount, RAVS shall update the balance in ITA.

.5 Remitting Monthly Restitution Deductions

- b. RAVS will prepare monthly cash receipts and payroll deductions batches in CRMS to request approval from CVCC to remit payments.
  1. RAVS will prepare monthly cash receipts and payroll deductions batches in CRMS to request approval from CVCC to remit payments commencing the 1<sup>st</sup> of the following month, to prepare the restitution batch in CRMS. RAVS will then submit the batch to CVCC via email for review and approval. When approved by CVCC, RAVS will inform the facility via email that the batch is accepted, and payment can be remitted to CVCC.
  2. Payroll Wages/Earnings - After inmate payroll is posted by the 15<sup>th</sup> of each month by facility staff, RAVS will utilize the ITA - Payroll

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Distribution Report to prepare the restitution batch in CRMS. RAVS will then submit the batch to CVCC via email for review and approval. When approved by CVCC, RAVS will inform the facility via email that the batch is accepted, and payment can be remitted to CVCC.

- b. Each facility Business Office shall reconcile the CRMS-approved batch reports with the Cash Receipts Journal and Payroll Distribution Report and manually post any adjustments for recoveries of restitution if necessary.
- c. Each facility Business Office shall print the approved batch report, assign the check number and post the corresponding check number in ITA. Two (2) checks shall be used each month to remit payments to CVCC – one for cash deposit deductions and another for payroll deductions. Additional checks may be sent for recoveries of restitution or requests by inmates who wish to voluntarily pay for restitution and/or compensation fees.
- d. Each facility Business Office shall mail payment to CVCC within 14 days of the restitution batch approval. Printed copies of the CRMS batch report shall accompany the restitution remittance to CVCC.

.6 Restitution Collections from Furlough and Extended Furlough Inmates (Refer to P&P, COR.14.15, Inmate Furlough Program)

a. Furlough Payments from External Bank Accounts

The inmate shall turn in their paystub/paycheck to their Case Manager's box or designated location by payday Sunday. The Case Manager shall retrieve the paystub/paycheck on the following Monday or next business day, calculate 25% of the net pay to be paid toward restitution owed, and send a request to the bank for processing of a cashier's check by Wednesday. The inmate shall go to the bank to retrieve the cashier's check by Friday and shall drop it off to the Case Manager's box or designated location by Sunday. The Case Manager shall forward the cashier's check to CVCC the following Monday with a completed payment submission form.

b. Furlough Payments from ITA Accounts.

Furlough inmates who are unable to open external bank accounts are required to deposit their paychecks into their facility ITA account. The Case Manager or Designee shall submit the paycheck/paystub to the Business Office staff for processing in the same manner as a cash deposit (Refer to ITA Manual). However, if there is a balance for restitution, the deposit shall be

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subject to 25% deduction in accordance with DCR, P&P, COR.14.15, Inmate Furlough Program.

**.7 Voluntary Lump Sum Payments for Restitution. Compensation Fees or Other Court Fees/Fines.**

- a. Inmates shall fill out an inter-unit request indicating his/her desire to make a payment with the case number and amount.
- b. Inmates shall submit the inter-unit request to his/her Case Manager for review and approval. The Case Manager may ask the Business Office for the balance of the inmate's account. If approved, the inmate and Case Manager shall sign and forward the request to the Business Office for processing. Refer to the ITA Manual.
- c. Business Office staff shall prepare a batch in CRMS and notify RAVS via email of the batch number and the amount that was manually deducted from the inmate's account. RAVS will then verify the batch and submit it to CVCC for review and approval. Upon approval, facility staff shall print the approved batch report, assign the check number, post the corresponding check number in ITA, and remit the restitution payment to CVCC.

**.8 Retroactive Restitution Deductions**

If DCR finds that restitution was not properly deducted from a previous payroll period or cash deposit, a manual restitution recovery shall be processed from the available funds in the inmate's account. Facility staff shall notify RAVS of the amount that was manually deducted from the inmate's account. RAVS will then submit a restitution batch to CVCC for review and approval. Upon approval, facility staff shall print the approved batch report, assign the check number, post the corresponding check number in ITA, and remit the restitution payment to CVCC.

**.9 Updating Restitution Balances in ITA**

RAVS shall update the balance of restitution in the ITA database when necessary.

- a. If the CVCC Account Summary shows a case number not yet recorded in ITA, CVCC or the facility staff shall inform RAVS so restitution can be posted in ITA.

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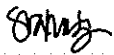
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- b. If it is discovered that an inmate transferring to a contract mainland facility has a Restitution order not recorded in ITA, the court order shall be sent to RAVS to be posted in ITA.
- c. Upon transfer from a mainland facility, the Mainland Branch Unit staff shall send RAVS a report from the mainland facility that details the amounts deducted from each returning inmate's restitution account. RAVS will reconcile amounts with the CVCC Account Summary and enter an updated balance in ITA. This shall be done in the same manner as other in-state facilities.

.10 Paid in Full Restitution

When restitution is paid in full, a copy of the CVCC Defendant Account Summary shall be filed in the inmate's institutional file under "Restitution" by the Case Manager or Designee.

APPROVAL RECOMMENDED:



JAN 0 1 2024

Deputy Director for Corrections

Date

APPROVED:



JAN 0 1 2024

DIRECTOR

Date

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