

Determining Restitution

501.1 PURPOSE AND SCOPE

To set forth guidelines and procedures for determining responsibility in the setting of restitution. This policy applies to all designated personnel.

501.2 AUTHORITY AND REFERENCES

- Executive Committee;
- Penal Code §§ 1202.4, 1202.4(f), and 1203;
- Welfare and Institutions Code § 828;
- California Restitution Benchguide 83 (5) [§ 83.50];
- People v. Gemelli (2008) 161 Cal. App. 4th 1539, 1542-1543;
- California Evidence Code 813(a)(2).

501.3 POLICY

Reasonable efforts shall be made by the investigating officer to determine restitution prior to the sentencing/dispositional hearing. Post-sentencing/disposition, the Revenue and Recovery Technician shall determine restitution in all “Restitution to be Determined” orders made by the court.

501.4 VICTIM CONTACT

Immediately upon receiving a pre-sentence/dispositional investigation, officers shall enter the name and address of any victim(s) into the Juvenile and Adult Management System (JAMS) and send a “Statement of Loss” letter to each with a copy to be retained in the file. If a response is not received prior to the submission of the report, the officer shall attempt to contact the victim by telephone; any attempts to contact the victim, and the means thereof, shall be documented in the investigative report and in the JAMS.

Post sentencing/disposition, the Revenue and Recovery Technician shall confirm the name and address of any victim(s) in the JAMS and send a second “Statement of Loss” letter to each with a copy to be retained in the file. If a response is not received, telephone contact shall be attempted and documented in the JAMS prior to inactivating the victim restitution screen.

If there was an immediate disposition/sentence, the supervision officer shall complete the victim screens in the JAMS and determine if victim restitution was set. If it was “set” at a specific dollar amount or at “zero” by the court, the supervision officer must complete the victim screens in the JAMS and enter the amount set and the date of court order. If the victim restitution order is TBD, the Restitution Unit will be responsible for completing all victim screens and determining restitution.

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501.5 SETTING RESTITUTION

If the investigating officer is able to determine the amount of restitution prior to the completion of the Probation Officer's Report, said amount shall be included as part of the officer's recommendation. If supporting documentation has not been received, this should be noted in the probation report. Supporting documentation would include: receipts, estimates, bills, insurance payments, pictures, appraisals, police reports, etc. However, a restitution recommendation may be made based solely on the victim's credible representation of their loss.

If restitution cannot be determined prior to sentencing/disposition, the investigating officer shall recommend restitution be set in an amount and manner as determined by the Probation Department.

501.6 POST COURT DOCUMENTATION

Documentation received from victims subsequent to the court hearing shall be forwarded to the Revenue and Recovery Technician.

501.7 UNDETERMINED RESTITUTION

The Revenue and Recovery Technician will determine the amount of restitution on any undetermined restitution matters. Upon obtaining the necessary loss information, the Revenue and Recovery Technician will submit a restitution memorandum setting the appropriate restitution amount and detailing all findings to the court.

501.8 FINANCIAL MEMORANDUM

The Revenue and Recovery Technician must enter the dollar amount and date victim restitution was determined on the victim restitution screen in the JAMS. This triggers an automated financial memorandum. The automated financial memorandum shall be used to notify Enhanced Collections Division (ECD) of victim restitution being set and any changes, which could affect the collection of monies or payments to the victims.

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