

**PROBATION DEPARTMENT  
ADULT MANUAL**

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<b>Issue Date:</b>	11/01/77
<b>Revised:</b>	12/26/19

**Notes and  
References**

**FINANCIAL PROCEDURES – SUPERVISION**

- I. General: The Probation Officer is expected to address the financial obligations of a probationer as they relate to the grant of probation. Probationers may be ordered to pay restitution, fines and/or fees as a condition of probation, as indicated on the Court orders.

Misdemeanor Fines: Misdemeanor fines are to be paid directly to the Superior Court.

Felony Fines: Felony fines are to be paid as directed by the Probation Officer, through the Revenue Recovery Unit.

Restitution: Restitution is to be paid as directed by the Probation Officer, through the Revenue Recovery Unit.

Court Security Fees: Court Security fees are to be paid through the Revenue Recovery Unit for felony offenses and through the Superior Court Financial Division for misdemeanor offenses.

Booking fees: Booking fees are on the Court order; however, the County Sheriff's Department bills and collects booking fees on their own.

Domestic Violence Shelter fees: Probationers are to pay the shelter directly for these fees. The Probation Officer is to verify the payment has been made.

- A. The Revenue Recovery Unit (RRU) collects fines, fees and restitution on behalf of the Probation Department. The Revenue Recovery Unit uses Columbia Ultimate's Revenue Results software program for the collection of accounts referred to their office. Collectors with RRU send letters, statements and call clients regarding their accounts.

1. Establishing a collections account:
  - a. Revenue Recovery Unit Revenue Results accounts are established by completing a PRO-129 form, with fines, fees and restitution amounts, (i.e., restitution + 15% surcharge) and submitting it to RRU electronically within 30 days of

§1203.097 (11)(A)  
PC

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- sentencing. The Pro-129 will be submitted by the Investigations Officer, should the case be one in which an Investigation report has been prepared. In all other cases, the Intake Officer will submit the Pro-129 to the Revenue Recovery Unit electronically within 30 days of sentencing.
- b. If there is a victim restitution order, the PRO-129a form is completed and submitted with the victim name, address and amount, and submitted electronically to the RRU via IMPACT and Outlook. Do not fax or brown mail Pro-129 and/or Pro-129-A's to the RRU.
- c. Cases with codefendants owing restitution are to be set up as "responsible person" accounts (Section B5).
- d. A copy of the PRO-129 may be given or mailed to the probationer. They do NOT get a copy of the PRO-129A due to the confidential victim information contained therein. The Pro-129 and Pro-129A are submitted to Prob129 via email, as an attachment.
- The subject line of the Pro-129 email should read 'open,' or 'change,' PIN #, and the defendant's last name.
  - The subject line of the Pro-129A email should read 'open,' or 'change,' PIN #, defendant's last name and **129A**.
2. Ability to pay: The probation officer is expected to enforce the court order and to collect all imposed *restitution, fines and fees*, prior to the expiration or termination of probation. The supervision officer shall assess the defendant's ability to pay, and set up a payment plan with a payment amount.
- a. The payment amount can be determined by dividing the *total* amount owed by the number of months remaining on probation.

Pro-129a  
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Intranet>  
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- b. If the probationer doesn't have the ability to pay the entire amount, prior to the termination of probation, a smaller payment amount can be established by dividing the *restitution* and *fine* amounts by the number of months remaining on probation.
- c. If the probationer has a low income and can only make minimum payments, the payment amount can be established by dividing the *restitution* only by the number of months remaining on probation.
- d. The probation officer can use the "ability to pay" tool to establish a payment amount.
- e. Once a payment amount has been determined using the "ability to pay" tool and the defendant states he/she is unable to make that minimum payment, it will be the defendant's responsibility to provide additional documentation that would support lowering the payment amount. The probation officer will direct the defendant to provide pay stubs, income tax returns, monthly bills and outstanding debt, and any other financial documentation needed to evaluate his/her current financial status.
  - A home visit will allow the officer to observe the defendant's living situation and confirm information provided by the defendant. Attention should be given to excessive discretionary or luxury items, and the defendant should be advised by the Probation Officer to forgo those expenses until he/she is able to meet their obligation to the court.
  - If the defendant fails to comply, and fails to make the minimum payment, it will be necessary to return the defendant to court if the payments apply to restitution or fines.

Ability to pay tool. Go to Probation Intranet> Ability to Pay Worksheet Pro-256

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- f. It shall be presumed the defendant does not have the ability to pay under any of the following circumstances:
- The defendant is homeless, lives in a shelter, or lives in a sober living/transitional facility
  - The defendant receives need-based assistance.
  - The defendant is very low income as defined in Section 50105(a) of the Health and Safety Code and Section 8 of the United States Housing Act of 1937
- g. Once a monthly payment is agreed upon, the defendant shall be directed that it is his/her responsibility to report and provide supporting documentation within 2 weeks in the event there is any change in their reported household income or nondiscretionary debt. Upon receipt of this information, their monthly payment amount can be increased or decreased based upon their change of circumstance.
- They shall be advised if they fail to report any increase in household income during the term of probation and fail to make a commensurate increase toward their restitution or fine obligations as directed, this will be interpreted as an unwillingness to pay to the best of their ability and their matter returned to Court for violation proceedings.
  - In the absence of any change in financial circumstance, the defendant is to be advised that they are expected to make the initially agreed-upon monthly payment for the entire term of probation or until their debt is satisfied. It is important that this directive be clearly documented in a case chrono as a basis for any future violation.
- h. If an ATP hearing was not held at sentencing, the Supervision DPO will meet with the defendant to review the CR-115/FL-150, within 30 days from the defendant's release from custody, and obtain the defendant's signature on the ATP Advisement/Waiver (Pro-108). If the defendant does not waive his/her right to an ATP hearing, the Supervision DPO will request the defendant provide additional financial

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documentation, if necessary in order to calendar an ATP hearing. Once documents have been provided, the DPO will calendar an ATP hearing with the sentencing judge and file the ATP Court Memorandum (Pro 106) and CR-115/FL-150. The officer should note on the memo a statement to support the submitted recommendation. If the matter is calendared for a day where a CHO is present, the CHO will appear in court for the hearing. Otherwise, the assigned unit will be responsible to cover or arrange coverage

The Revenue Recovery Unit should be notified of changes by submitting a change PRO-129.

3. Payments may be made at the Probation office cashier, calling the RRU telephone number or by mail. Payments made in person can be made by cash, check, money order, certified check, cashier's check or credit card, payments made by phone can be made by Visa or MasterCard.
  - a. Payments erroneously made payable directly to Probation Officers, named as the payee, should be endorsed immediately and delivered to the Probation Department cashier, who will further endorse the check or money order payable to the Probation Department. Probationers are to be instructed that future payments are to name the County of Santa Barbara Probation Department or the Revenue Recovery Unit as the payee.
  - b. Under no circumstances is Probation staff to accept a check, cash or money order from a client and remit it directly to a victim. If a client mistakenly makes out a check or money order to a victim, they will need to write another check or have the money order replaced.
    - Money order vendors have procedures for this process.

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- c. All checks, cash and money orders received by Probation staff for restitution are to be deposited by department cashiers into the County Treasury.
- d. With these internal controls and segregation of duties, we are able to provide documentation of victim payments made, checks cashed or stale dated and to protect our officers and staff from allegations of financial impropriety.
- 4. If a probationer fails to make regular payments, and the probation officer has determined that the probationer had the ability to pay, but chose not to, violation proceedings are to be initiated.
  - a. A client who has not paid in 90 days is considered to be delinquent; subject to violation proceedings.
- 5. If the amount of a probationer's monthly payment (payment plan) is being changed, the Revenue Recovery Unit must be notified. This can be accomplished by completing a Pro-129 and selecting change as the input type.
  - a. Demographic data changes such as changes in caseload, probation officer, addresses, phone numbers, probation grant dates, expiration date, warrant issued date, and warrant recall dates are now transmitted monthly from IMPACT directly to the RRU Revenue Results system. Do not complete or send Pro-129's for these items.
- 6. Fines
  - a. Payment of fines for felony convictions should be made according to a plan set up by the officer as follows:
    - i. The Court order may specify the rate of pay (ex. \$500.00 payable at \$50.00 per month). If the court orders a specific monthly payment amount, it is not negotiable without a Court modification.

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- ii. If the Court order does not specify the rate, the Probation Officer should suggest a payment plan that ensures all restitution, fines, fees and financial obligations are satisfied prior to the termination of probation.
- iii. *Only certain* fine obligations may, if authorized by the Court, be satisfied by Community Service Work (CSW).
  - a) If CSW is not on the original Court order, it is the probationer's responsibility to request a modification with the court.
  - b) CSW enrollment fees apply and are the client's responsibility.
  - c) If a probation violation is filed for failure to pay as directed, the Probation Officer may recommend CSW as an alternative.
  - d) Upon notice of completion of CSW for fine obligations, the Probation Officer completes and submits a Pro-129 reducing the fine amount for hours completed by authorized Community Service Work.
- b. Payment of fines for misdemeanor convictions should be made according to a plan set up by the financial officer of the Superior Court.
  - i. Non-payment of misdemeanor court fines may result in a bench warrant being issued by the court and additional fees imposed

Pro-46

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- B. Restitution:
1. General: Initially, the responsibility for determining restitution lies with the investigating officer in felony cases and the intake officer in misdemeanor cases. Subsequent adjustments of amounts or rates of monthly payments are the responsibility of the supervision officer (See Sec. 2 f).
  2. In instances where the amount of restitution is unclear or contested, the case will be calendared for a restitution hearing via a probation memorandum report. The defendant and the victim are to receive a notice of the hearing. A probationer can also request a restitution hearing be calendared through their attorney.
  3. Additional claims: If it is learned that there are subsequent victims, a claim form should be sent out. Upon return of the form by the victim, the supervision officer will complete a change form (Pro-129 and Pro-129a) and submit it to the Revenue Recovery Unit via Prob129 email with information including the amount of additional restitution, surcharge and the name and address of the victim.
    - a. If the original amount of restitution had been specified on the Court order, the matter must be returned to Court for a modification unless the court order also authorizes payment to be made in an amount “to be determined” and/or “as directed by the Probation Officer.”
  4. The probationer is to be notified of the following:
    - a. The amount of restitution to be paid.
    - b. The restitution amount may increase if subsequent claims are received for ongoing restitution expenses such as counseling.
    - c. The victim(s) have the right to take civil action.
    - d. Victim restitution is not discharged in bankruptcy or at the expiration of probation.

Pro-106

Pro-396



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5. Acknowledgment of the amount of restitution to be paid by signing and returning the PRO-396, Adult Restitution Letter Financial Obligation.
  - a. This document must be kept under the financial tab of the file, and is necessary for obtaining a CR-110 (See Section F.).
  - b. If the defendant does not agree with the amount of restitution determined by the Probation Officer and is unwilling to sign the PRO-396, the assigned DPO is to calendar a restitution hearing.
  
6. Joint and Several Restitution liability means more than one probationer is responsible for restitution to one or more victims.
  - a. Codefendants are joint and severally liable for the amount of restitution and each offender owes the total amount until restitution is paid in full.
  - b. See Responsible persons on probation intranet>reference> financial matters
  - c. Codefendant fields must be completed on Pro-129 and Pro-129-A for Joint and Several restitution accounts.
  
7. Victims Compensation and Government Claims Board (VCGCB).
  - a. Non-property crime victims can submit claims to the VCGCB for reimbursement.
  - b. Victims can file claims with the VCGCB up to one year after the offense.
  - c. The amount of the victim's claim will be increased to cover ongoing medical needs or counseling.

Responsible  
person's  
accounts

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- d. To find out if a victim has filed a claim with the VCGCB and the amount of the claim contact the District Attorney Restitution Specialist.
  - e. If the VCGCB has paid a claim for a victim, the VCGCB fund must be set up to receive victim restitution for the claim paid. The VCGCB Claim # is necessary on the 129A for VCGCB reimbursement.
- C. Information to Victims:
- 1. The investigation/supervision officer shall inform victims that they may obtain the advice of legal counsel and that:
    - a. The determination of the amount of restitution does not ensure payment.
    - b. Victims may be able to obtain reimbursement from the VCGCB for non-property losses.
      - i. Probationers will be ordered to repay the VCGCB for victim losses paid by the VCGCB.
    - c. The victim's right to civil action is in no way affected by the defendant's probation status and should be exercised within legislated civil lawsuit timeframes.
      - i. Information about the probationer, such as address and place of employment, should be provided to the victim, or their attorney when requested, for the purpose of collecting restitution via civil procedures.
    - d. The terms of payment may be subject to change.
    - e. The supervision officer must notify victims about any Court hearings which might impact the collection of restitution, especially those involving a modification of the restitution amount or payments.

Pro 211a/  
Victims Bill of  
Rights Act of  
2008, Marsy's  
Law pamphlet

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- f. The supervision officer must notify victims of any change in the probationer's status, i.e. death, revocation, CDC commitment, etc. which may cause restitution payments to cease.
- g. Victims should be encouraged to keep their addresses current with RRU so that restitution checks or correspondence can be remitted to the correct address.
  - If the Probation Officer is notified of a victim address change, please submit a Change Pro-129A with the updated address.
- h. Restitution as a condition of probation is primarily for the rehabilitation of the probationer.
- 2. Payments to Victims:
  - a. If there is more than one victim, each is paid in proportion to their loss. Individual victim losses shall be paid prior to any VCGCB claim.
  - b. When restitution is owed on more than one case, the Revenue Recovery Unit will establish payment priorities by the respective grant expiration dates.
  - c. Victims' claims may include amounts paid by the victim's insurance reimbursement and amounts not paid by victim's insurance such as deductibles. If victims claim amounts paid by their insurance companies, then victims are responsible to repay their insurance companies in accordance with the subrogation clauses of their insurance policies.
  - d. An insurance company that has paid the crime losses of its insured under the terms of an insurance policy is not a direct victim of crime and has no right to restitution. However, when the defendant is convicted of submitting false claims to

Pro-212C

2009 Judges  
Bench Guide -  
sections 83.50,  
83.62 & 82.63

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an insurance company, the insurance company is considered to be a direct victim of the defendant's crime and thus entitled to restitution.

- e. The RRU issues victim checks bi-weekly and mails them directly to the victim. The RRU's collections system, REVENUE RESULTS, provides an accounting record of the payments made by the clients and the checks issued by the RRU. Checks issued to victims can be reissued by the RRU if the victim misplaces it or loses it. Uncashed (stale dated) checks are transferred to the District Attorney Victim/Witness program for victim services after skip tracing by the RRU.

D. Welfare Fraud cases

- 1. These cases generally involve CalWORKS overpayment and/or food stamp fraud.
- 2. The supervision officer should be aware of the probationer's status with the Department of Social Services. Some probationers will remain on aid with restitution being paid via grant adjustment.
  - a. The supervision officer should notify the probationer's Department of Social Services (DSS) case worker of the probationer's status on probation and request notification if and when the probationer stops receiving aid.
  - b. If the probationer does not have a grant adjustment in place, the probation officer must contact social services to determine the current balance owed, and set up RRU account for restitution to DSS.

E. Non-sufficient Funds Cases

- 1. Restitution in these cases is generally per Court order and handled by the District Attorney Non-Sufficient Funds Program (NSF).

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2. Payments are monitored by the District Attorney NSF program and the total amount owed includes the amount of the non-sufficient funds check, a returned check fee, and a diversion class fee.
  3. If payments are not received by the NSF program, notification should be made to the probation officer.
  4. Upon receipt of information from the NSF program, the probation officer should proceed in the same manner as they would in other failure to pay situations.
- F. CR-110
1. In cases where probation will expire within the next 120 days, prior to the full amount of restitution being satisfied, the probation officer shall obtain a CR-110 for the victim(s).
  2. The unit supervisor should be consulted prior to the initiation of the CR-110 proceeding
    - a. A PRO-396 form signed by the defendant or the court orders with victims and amounts specified are necessary as documentation for the CR-110.
- G. Bankruptcy
1. Bankruptcy proceedings do not relieve the probationer of restitution ordered as a condition of probation in a criminal case. (*Kelly vs. Robinson (1986) 479 US 36, People vs. Moser 50 CA 130 1996*).
  2. If a probationer has provided proof of a filing in Bankruptcy Court, the probation officer shall:
    - a. Send the client a letter stating that fines, restitution and amounts ordered on criminal cases cannot be relieved through bankruptcy.

CR-110

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- b. Notify the Revenue Recovery Unit, by e-mailing a copy of the scanned bankruptcy filing. Collection efforts by the RRU are suspended in accordance with federal bankruptcy law for a certain period.
- c. Clients may still pay on their accounts and are encouraged to do so as victim restitution and fines cannot be relieved by bankruptcy.
- d. When the bankruptcy is finalized, notify the RRU by sending a copy of the notification, so that collection efforts can resume.

H. Documentation

- 1. Financial information should be included on probation modifications and violation reports. The information should include the balance due, date and amount of last payment and the balance due on restitution and fines.
- 2. IMPACT chronos should include the following information under the sub-heading financial:
  - a. The amount of restitution owed.
  - b. The amount the probationer is required to pay each month.
  - c. Information about the probationer's employment, i.e., employer's name, wages, wage garnishments, etc.
  - d. Changes in income or expenses that may temporarily interrupt or increase the payment amount.
  - e. Documentation of payments received at the Probation office.

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- K. Closing Cases:
1. When a case is closed by the Court, close the case in IMPACT the same month as Court date if possible. The monthly supervision fee update interface with IMPACT will replace the expiration date with the terminated/Close/Expiration date on the Revenue Recovery account.
  2. A close Pro-129 is not necessary if the case is closed in IMPACT in the same month as the Court date and there are no financial changes on the Court Order.
  3. Submit a change Pro-129 only if there are financial adjustments to be made to the account, such as:
    - a. If closing the case for the previous month, RRU will need to know to reduce the supervision fee
    - b. Transfer to other counties via 1203.9 PC
    - c. Victim restitution adjustments for additional claims, adding victims, Court ordered increases, VCGCB adjustments
    - d. Victim restitution adjustments for defendant's insurance payment, Victim Restitution hearing, VCGCB adjustments
    - e. Fine reduction for Community Service Work or per the Court Order
    - f. Sentenced to Prison and the Court orders fines on the Abstract of Judgment

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