

County of Santa Clara  
Department of Correction

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**FILED**

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Chief Executive Officer/Clerk  
Superior Court of CA County of Santa Clara  
BY BRITNEY HUELSIG DEPUTY



John Hirokawa  
Chief of Correction

Date: August 5, 2014

To: Gary Graves, Chief Operating Officer

From: John Hirokawa, Chief of Correction

JH1957

Subject: Response to Santa Clara County Civil Grand Jury Report "Victim Restitution  
– Promises Unfulfilled"

The Civil Grand Jury recently released a report titled: "Victim Restitution – Promises Unfulfilled." The Department of Correction (DOC) would like to thank the Civil Grand Jury for their review of this subject and welcomes the recommendations contained within the report. The DOC's response to the recommendation is as follows:

**Finding 10**

"The Department of Correction has not implemented a system to deduct a portion of money deposited into an Inmate Personal Fund account of every inmate ordered to pay victim restitution to be applied to victim restitution."

**Recommendation 10**

"The County should direct to the Department of Correction to implement a system to deduct a percent of the money deposited into an Inmate Personal Fund account of every inmate ordered to pay victim restitution."

**DOC Response**

The DOC does not concur with this recommendation for several reasons.

*Deposits May Decrease Significantly*

The funds sent to inmates while incarcerated can be used for commissary purchases and telephone calls, and is provided by family members and friends with the intent to provide

comfort to their loved ones. While inmates are awaiting adjudication or serving their sentences, by law they are supplied 3 dietary regulated meals each day and basic toiletries. Having a positive balance in their accounts affords inmates the opportunity to purchase comfort food and additional toiletries. The availability of commissary and telephone calls greatly reduces tension among the inmate population and eases the time spent incarcerated. These deposits from family and friends for commissary and telephone calls may discontinue if DOC adopts Recommendation 10 and deducts a percentage of funds deposited from those inmates who are ordered to pay restitution. Additionally, the friends and family members are the ones who will suffer and be penalized if their monetary deposits are used to satisfy the inmates' restitution orders. There is no doubt that once they discover their money is not being used for its intended purpose, they will stop depositing money into the inmate's account. Public policy favors imposing restitution as part of a sentence to force the inmate to answer directly for the consequences of the crime, if the Grand Jury's recommendation is adopted the inmate's family and friends and not the inmate would be answering for the consequences of the inmate's crime. Clearly, this is not the intent or purpose of restitution. The resulting burden on the family and friends and the creative "work arounds" that would most certainly emerge, would result in far more serious consequences than delayed restitution.

#### *Circumventing the Process*

Inmates would perceive this new process as burdensome, and will find a way to circumvent the process. When this process is applied to inmates with ordered restitution, the impacted inmate may then locate another inmate without ordered restitution and have their family and friends deposit funds into this individual account instead. This would create several new problems for the DOC. Recipients of the monies may attempt to extort the intended recipient for all or some of the money. This would only result in increased violence and jeopardize public and staff safety.

#### *Revenue Impact*

If adopted, the new policy could significantly impact revenue to the Inmate Welfare Fund (IWF), which provides services and equipment to benefit the inmates. If telephone and commissary receipts drop due to the negative perception from friends and family, then current programs or other benefits to the inmate, such as sport equipment and hot water pots, may have to be discontinued.

*Staffing Impact*

The existing Fiscal staff would need to track, monitor, and collect these funds. The staff time needed to conduct this process far outstrips any value to the victims resulting from the process. On average, 65% of the inmates receive \$50.00 or less from each deposit. The median amount on an inmate's account is approximately \$24.00, and half of the inmates in custody are considered indigent (\$2.00 or less in their accounts.)

cc: Sheriff Laurie Smith  
Skip Shervington, Assistant Sheriff  
Martha Wapenski, Director of Administrative Services  
Captain Troy Beliveau