



NUNAVUT JUSTICE COURT SERVICES OPERATIONAL DIRECTIVE

FINES/RESTITUTION

I. PURPOSE:

Court Services must maintain an accurate record of all fine and restitution orders issued as accounts receivables and administer the collection process in association with prosecutorial and enforcement agencies. The purpose of this operational directive is to ensure the accurate recording of outstanding criminal fines and restitutions, to facilitate collection procedures and to set out the terms and conditions for archiving un-collectible outstanding monies. For the purpose of this directive, fines will include victim fine surcharges.

II. PROCEDURE:

A. **Tracking:** Court Services administration shall record all fines and restitutions clearly showing accounts receivable outstanding.

B. **Filing:** Outstanding Fine and Restitution orders (payable through the Clerk of the Court) will be filed separate and apart from other operational files in a clear and specific manner.

C. **Collection (Restitution):**

Background: The Criminal Code, *Section 741(1)*, indicates that when a restitution order is not paid forthwith, the person to whom the amount was ordered to be paid, may file the order in a civil court as a judgment.

Procedure:

- i) Upon the court ordering restitution, the Clerk of the Court will prepare the order and serve upon the offender a copy of the order.
- ii) A copy of the order will be mailed to the judgment creditor with a notice explaining the process of collecting the debt. *Notice in form: **JUST.CRT.CRIM 1.1**
- iii) Only those restitution amounts that are directed payable through the Clerk of the Court will be tracked by court administration. Restitution amounts ordered paid directly to the judgment creditor will not be tracked.

D. **Collection (Fines):**

Background: The Criminal Code, *Section 734*, outlines the procedures regarding fine issuance and collection procedures. If an offender is in default of payment of a fine the government may: 1) restrict/suspend licences, permits etc... held by the offender, *Section 734.5ccc* 2) file the order in a civil court as a judgment and proceed to collection, *Section 734.6ccc* OR the court may: 3) issue a warrant of committal upon default of payment of fine where it is satisfied that alternative mechanisms of collecting the fine are not appropriate in the circumstances, *Section 734.7ccc*.

Procedure:

- i) Upon the court ordering a fine, the Clerk of the Court will prepare the order and serve upon the offender a copy of the order. Upon a fine being ordered ex-parte, the order will be mailed to the offender's last known address.

NUNAVUT JUSTICE
COURT SERVICES OPERATIONAL DIRECTIVE

- ii) Upon 30 days expiration of the court ordered time for payment of the fine, where full payment has not been received, the Clerk of the Court will issue a notice of default by mail to the offender and copy the appropriate prosecuting and enforcement agency and office of the Sheriff. *Notice in form: **JUST.CRT.CRIM 1.2**
- iii) If directed by the appropriate enforcement agency, overdue fine orders will be forwarded to Federal and Territorial licensing agencies for registration against licenses, permits, etc.
- iv) Upon submission of the appropriate enforcement or prosecuting agency for an application on default of fine payment for a warrant of committal, *Section 734.7ccc*, the Clerk of the Court will set up a court hearing.
- v) Upon receipt of any subsequent payment of fines relating to those fines that notice of defaults have been served, the Clerk of the Court will notify the appropriate prosecuting and enforcement agency and office of the Sheriff.

E. Archive:

Background: Fine and restitution orders do not expire and are therefore receivable indefinitely. It is reasonable to assume, however, that not all fines are collectible. Therefore, files should be archived after a reasonable length of time to streamline the administration of Justice and reflect the reality that not all monies will be collected.

Procedure:

- i) Upon 2 years expiration of the fine due date, where full payment has not been received, the Clerk of the Court will issue a notice of intention to archive by mail to the appropriate prosecuting and enforcement agency and office of the Sheriff. After 30 days of this notice being issued and without receipt of written objection from any party; all applicable active collection procedures will cease, warrants of committal will be recalled, financial tracking will be noted as un-collectible and the file will be archived.
- ii) In the event that a written request or objection to archiving the file is received, the fine collection will remain active for a further 2-year period. *Notice in form: **JUST.CRT.CRIM 1.3**
- iii) Fines and Restitutions that are archived and noted as un-collectible are to be considered “unpaid” for all purposes including Pardon applications, and they remain receivable and are not to be considered “written-off”.
- iv) As fines remain receivable indefinitely, the Clerk of the Court will accept payment of archived fines and restitutions, and will re-activate the financial tracking record of the same and in the event of a partial payment of an archived fine or restitution; the collection procedure will remain active for a further 2 years from the date of payment.
- v) Restitution orders payable through the clerk’s office will be archived after 2 years without notice to any party. Notice is not required since the Judgment Creditor has already been served with instructions to proceed in the civil courts, including a notice that the Court will not be involved with the collection of their judgment. A notation in the accounting records will be made as un-collectible for these orders.

APPROVED BY: _____
Director of Court Services

Date