

# **Improving Financial Justice for Victims of Crime**

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# Introduction

## Problem Statement

Crime victims have historically been unable to recover from the financial impacts they suffered as the result of a crime. In Hawai'i, this is due to many failures of the criminal justice system to order and collect the restitution required for the crime victim to fully recover financially. Section 706-605(1)(e), Hawai'i Revised Statutes (HRS), was enacted in 1975 to provide the courts with specific statutory authority to order defendants to make restitution payments to reimburse the economic losses suffered by the victims of their crime. In 2006, the legislature enacted HRS § 706-646 which made it mandatory for courts to order "restitution for reasonable and verified losses suffered by the victim or victims as a result of the defendant's offense when requested by the victim." However, the real promise of justice for victims envisioned by these provisions has not been fully realized. Not only is restitution due to victims not always ordered by the court, but in cases where restitution is ordered, many offenders fail to pay the restitution they owe.

According to a 2010 report by the State of Hawai'i Department of the Attorney General, 72.1% of crime victims surveyed in Hawai'i reported that they were financially affected by the crimes committed against them.<sup>1</sup> Forty-four percent (43.7%) of the survey respondents reported an annual income of less than \$50,000.<sup>2</sup> Only victims of violent crime are eligible to receive compensation from the State of Hawai'i Crime Victim Compensation Commission (Commission). All others, especially victims of property crimes, are currently underserved and must rely on court-ordered restitution for repayment of their financial losses. When offenders fail to pay

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<sup>1</sup> State of Hawai'i Department of the Attorney General, "Crime & Justice in Hawai'i: 2010 Household Survey Report" (August 2011), 25.

<sup>2</sup> State of Hawai'i Department of the Attorney General, "Crime & Justice in Hawai'i: 2010 Household Survey Report" (August 2011), 10.

restitution, it is victims who must suffer the financial consequences of the crime. These underserved victims rely on criminal justice agencies to enforce restitution orders and to uphold their rights as crime victims to be made financially whole.

Nearly fifteen years ago, the Commission initiated a pilot project to collect restitution from prison inmates and parolees (the “Restitution Project”). In the first six months (January – June 2003) of the Restitution Project, the Commission collected slightly more than \$22,000 and in the past fiscal year (FY2017), the Commission collected over \$500,000. From January 1, 2003 through June 30, 2017, the Commission opened over 8,000 restitution and crime victim compensation fee cases and collected over \$4 million to disburse to crime victims. The Commission believes that the significant increase in restitution collection over the life of the Restitution Project reflect the gradual institutionalization of restitution assessment by judges and of restitution enforcement by correctional facilities and parole officers. The continually increasing amount of restitution collected over the last few years has been enhanced by the Justice Reinvestment Initiative (JRI), a policy package adopted by the Hawai‘i State Legislature in 2012, which includes a comprehensive victim services component that prioritizes improvements to restitution collections as a way to better serve victim needs and to increase offender accountability.

There has been augmented collaborations between criminal justice agencies and notable progress in the improvement of restitution management since the onset of JRI in 2012.

However, there is still a significant amount of victim restitution owed, and a significant number of victims who have not received the court-ordered restitution that they are entitled to. For example, between 2006 and 2010, defendants placed on probation or other types of court supervision were ordered to pay \$21,574,596 in restitution, and of this amount, the defendants

paid \$6,819,728 or approximately 31.6% of the amount ordered, leaving \$14,754,868 unpaid.<sup>3</sup>

More needs to be done to improve the reliability, consistency and efficiency of restitution enforcement across all state and local agencies charged with collecting restitution from offenders. In sum, the promise of financial justice for victims is still not fully realized.

## Research Question(s)

In cases where the Commission previously provided compensation awards to crime victims for medical, mental health, or funeral costs, the Commission receives direct reimbursement of those funds through restitution, allowing more crime victims to receive assistance.<sup>4</sup> Because the Commission stands in place of our victims for the sake of restitution recovery in these cases, the Commission is uniquely positioned to examine the experience of a victim seeking to recover their financial losses through restitution, and to look at the question of whether or not restitution is consistently being ordered and collected as required by law. This project investigates restitution assessment and enforcement in cases where the Commission awarded compensation to crime victims and requested restitution from offenders in return. The data collected for this project comes from two cohorts of compensation cases -- claims that were closed in 2010 and 2014 -- which allows for a comparison of various metrics over time.

For this study, data collected and analyzed from compensation cases eligible for restitution focus on better understanding victims' experiences along the continuum of: (1) harms suffered, to (2) legal judgments/orders, and finally to (3) the restitution payments received. Within each of these stages of the process, the nature and extent of several indicators of completion are investigated. Moreover, the progression of victims' cases between these stages are analyzed.

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<sup>3</sup> Ken Kobayashi, "Convicts Scarcely Pay Harmed Innocents," *Star Advertiser* (June 26, 2011).

<sup>4</sup> Section 706-646(2), Hawai'i Revised Statutes, provides, in part, that "the court shall order restitution to be paid to the crime victim compensation commission in the event that the victim has been given an award for compensation under chapter 351."

This allows for an assessment of successful outcomes, (i.e. was restitution ordered and paid pursuant to state law and/or court order), but also provides important information on where the flow of cases break down, thus providing stakeholders with information on where to concentrate efforts for future restitution cases.

Finally, this project builds on past research efforts that only included inmates or parolees, as it also includes data about offenders on probation who were ordered to reimburse the Commission through restitution. This will be an extension of past findings, especially in terms of restitution assessment and payment/collection. It will also provide an opportunity to examine restitution management system-wide, including collections by the Judiciary and the Department of Public Safety/Hawai'i Paroling Authority.

## Methodology

The success of this project relies upon a new collaboration between the Crime Victim Compensation Commission and Research Partner, Dr. Joseph Allen, Associate Professor of Criminology and Criminal Justice at Chaminade University. To allow for a meaningful examination of restitution management over a period of time, the data set for this study is derived from compensation claims the Commission closed in 2010 and 2014. This study is an analysis of secondary data, ranging from victim demographic data to restitution payment data which was captured through May 1, 2018. The data were collected by the Commission and turned over to the researcher. The data were then made uniform and consistent for use in statistical analyses, namely simple frequencies, cross tabulations, and mean comparisons.

For this study, the variables examined within each stage of the restitution process were the following:

- *Harms Suffered* – (1) type of crime committed against the victim, and (2) types of crime-related losses submitted by the victim.
- *Legal Judgments/Orders* – (1) conviction status of the perpetrator, (2) restitution requests submitted to the judge, (3) sentencing outcomes, and (4) restitution orders.
- *Restitution Received* – (1) amount of restitution paid, (2) length of time for the victim to receive first payment, (3) custody status of the offender at the time of payment (e.g. probationer, inmate, or parolee), and (4) restitution paid-in-full/length of time for the victim to receive full financial restitution.

The data are also explored across the victims' ages, genders, and county/state of residence. This information provides insight into the levels of service experienced by various groups. Analyses of these variables provide a good overview of the current state of Hawaii's criminal justice processing mechanisms, specifically those related to victims and restitution. Further data mining addresses the lags or breakdown in the flow of cases within and between these major dispensation points to highlight potential obstacles encountered (e.g., via the system, the offender, or a combination of the two).

### Data Sources, Quality, & Addressing Issues

The data for this study were collected from a mix of hardcopy and digital sources, including: (1) the Commission hardcopy case files, (2) the Commission digital database -- Compensation and Restitution Management System (CRMS), and (3) the Hawai'i State Judiciary 'eCourt Kokua' public record website. Upon completion, the data collected were assessed to be accurate and largely complete. The data were often cross-validated with the researcher when analyses were

performed, providing numerous points of reconciliation and verification. This created opportunities to correct and/or input erroneous or missing data. Besides minor, though normal, issues of data reconciliation and cleaning, the data collection process was more protracted than initially anticipated. Due to the mixed sources used to complete incomplete records, usually hardcopy and digital, more effort was required to capture all necessary data elements.

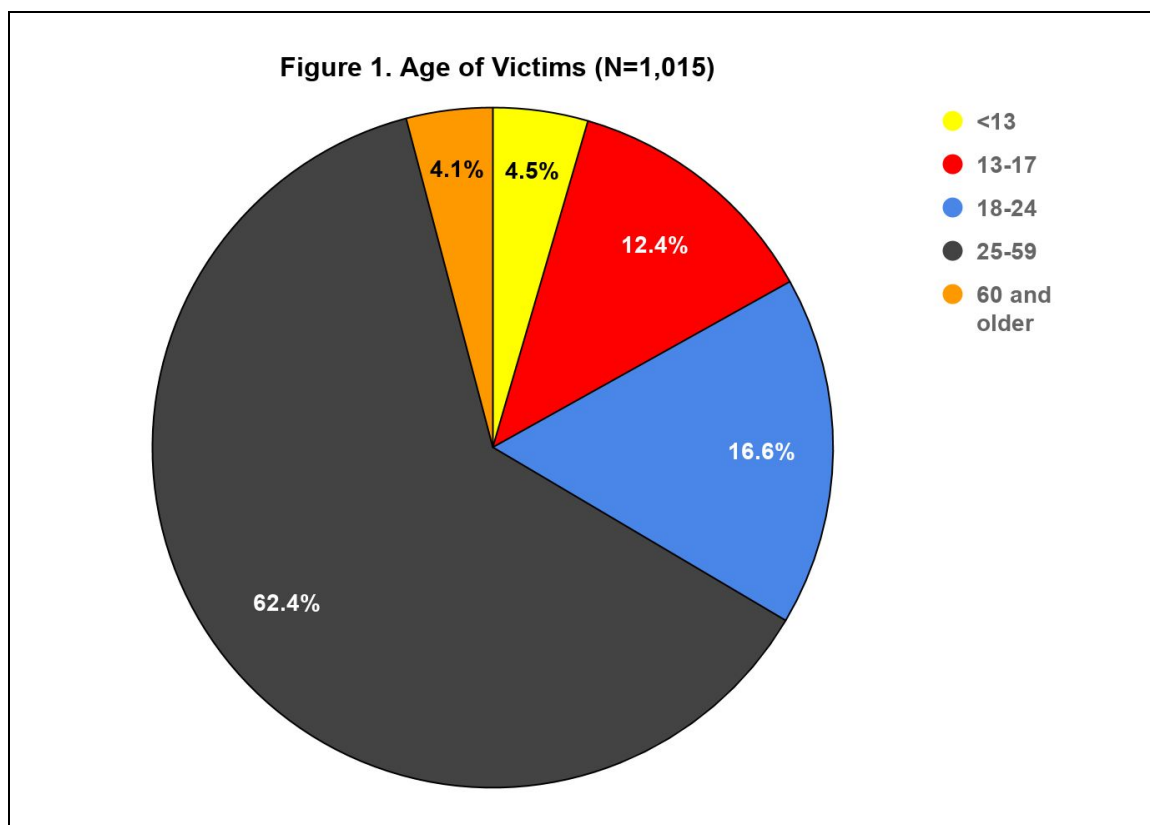


## Results

The following section reports the results of the data analyses. Within this section, there will be focus on (1) victim demographics, (2) offense types and sentence dispositions, (3) restitution requests, (4) restitution orders, and (5) collection of restitution payments.

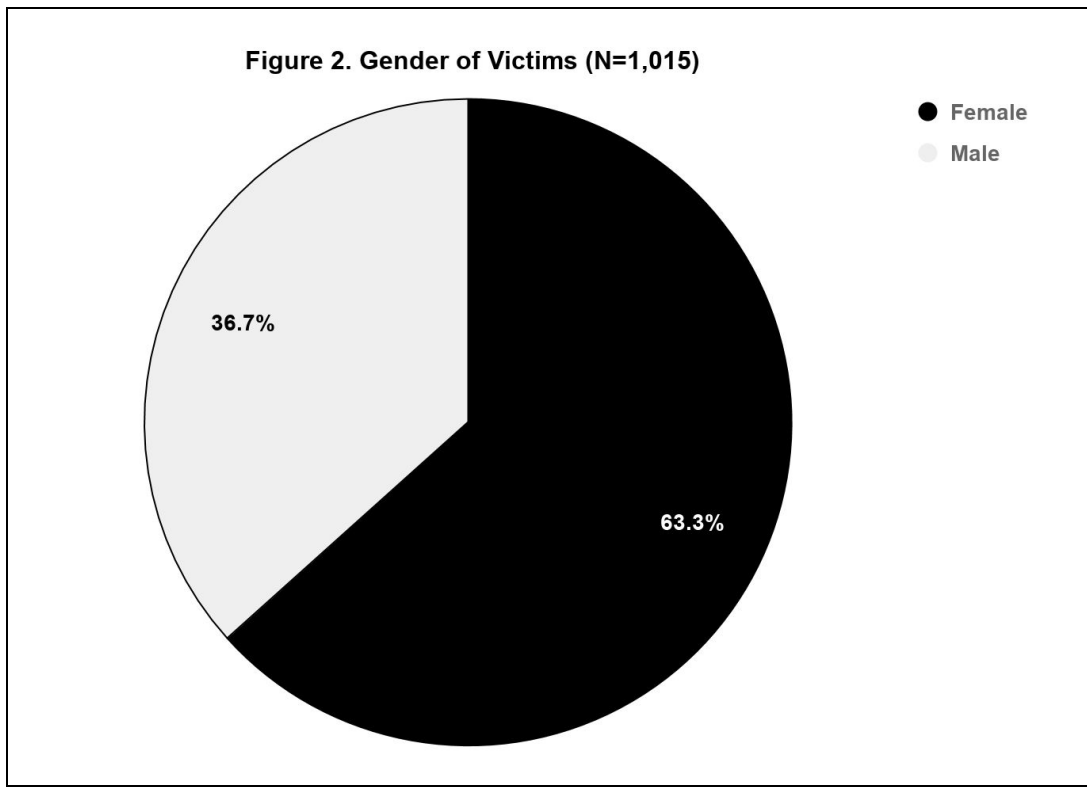
### Overview of Victim Demographics

Figure 1 displays the age breakdown of the victims for cases included in the study.



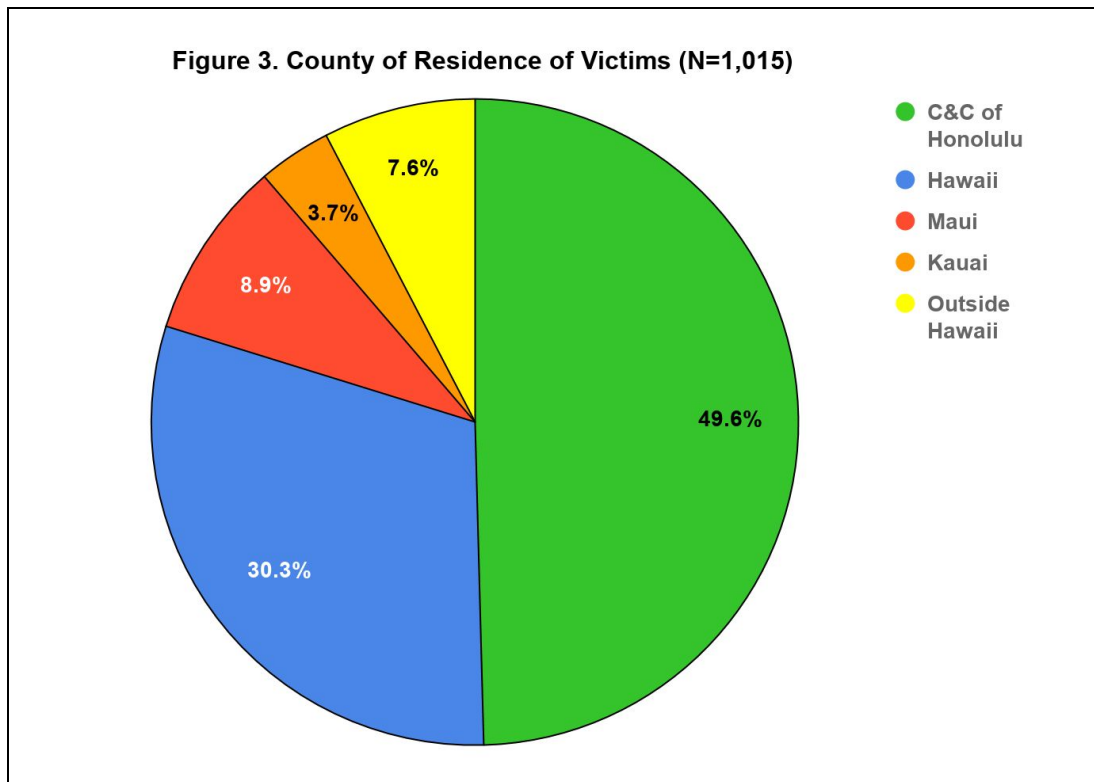
- The majority of victims were between the ages of 25-59 (62.4%). Seventeen percent (16.9%) of victims were minors, under the age of 18 years old. Overall, 21% of victims were represented by especially vulnerable age groups (i.e., minor or elderly).

Figure 2 displays the gender breakdown of victims for cases included in the study.



- The majority of victims were female (63.3%).

Figure 3 displays the county of residence of victims for cases included in the study.

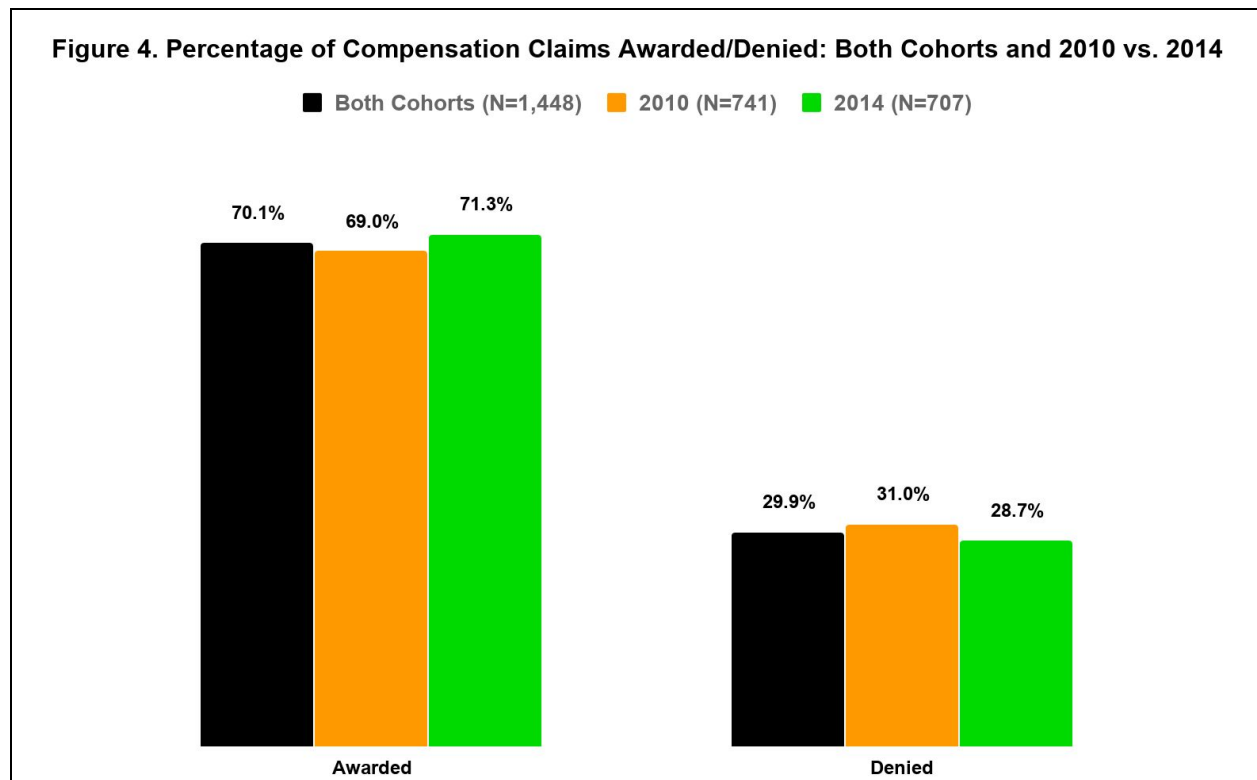


- One-half of victims (49.6%) indicated that their county of residence was the City & County of Honolulu; meanwhile, nearly one-third (30.3%) of victims indicated their county of residence was the Hawai'i County. Maui and Kauai counties represented 12.6% of victim residence, while 7.6% indicated that they lived outside of the state of Hawai'i.
- In March 2018, the U.S. Census Bureau estimated that the population proportions for the State by county were: City & County of Honolulu (69.3%), Hawai'i (14.0%), Maui (11.7%), and Kauai (5.1%)<sup>5</sup>

<sup>5</sup> [http://files.hawaii.gov/dbedt/census/popestimate/2016-county-population-hawaii/County\\_Pop\\_Fact\\_2016\\_Final.pdf](http://files.hawaii.gov/dbedt/census/popestimate/2016-county-population-hawaii/County_Pop_Fact_2016_Final.pdf)

## Compensation Awards

Figure 4 displays the percentage of compensation claims that were awarded or denied by the Commission for cases included in the study. Results are presented for both 2010 and 2014 cohorts, overall and separately.



- Roughly 7 out of every 10 claims submitted to the Commission were awarded compensation for all cases in the study (70.1%).
- Between 2010 and 2014, the percentage of claims awarded increased slightly by +2.3%.

Table 1 displays the percentage of award types granted for compensation claims awarded by the Commission for cases included in the study. Results are presented for both 2010 and 2014 cohorts, overall and separately.

<b>Table 1. Percentage of Compensation Awards Granted by Category: Overall &amp; 2010 vs. 2014</b>			
<b>Award Type</b>	<b>Both Cohorts (N=1,015)</b>	<b>2010 (N=511)</b>	<b>2014 (N=504)</b>
TOTAL AWARD	100.0%	100.0%	100.0%
Acknowledgement	95.2%	94.7%	95.6%
Medical/Dental	34.2%	38.0%	30.4%
Lost Earnings	8.6%	9.0%	8.1%
Mental Health	4.6%	6.1%	3.2%
Funeral	3.1%	3.3%	2.8%
Pecuniary	0.3%	0.4%	0.2%

- Nearly all compensation awards included an ‘acknowledgement’ award, roughly 95% of all cases.<sup>6</sup>
- The second most common compensation award was for ‘medical/dental’ expenses, roughly one-third of all awards (34.2%). Awards for medical/dental expenses decreased by one-fifth (7.6%) from 2010 to 2014.
- Compensation awards for ‘mental health’ expenses comprised about five percent (4.6%) of all case awards. This award type decreased by nearly half (47.5%) from 2010 to 2014, dropping -2.9% from 6.1% to 3.2% in 2010 to 2014, respectively.

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<sup>6</sup> Acknowledgment awards are awarded pursuant to section 351-33(4), Hawai‘i Revised Statutes, and are based on the facts and circumstances of each case to acknowledge a victim’s suffering. Acknowledgement awards are not intended to quantify physical and/or emotional loss.

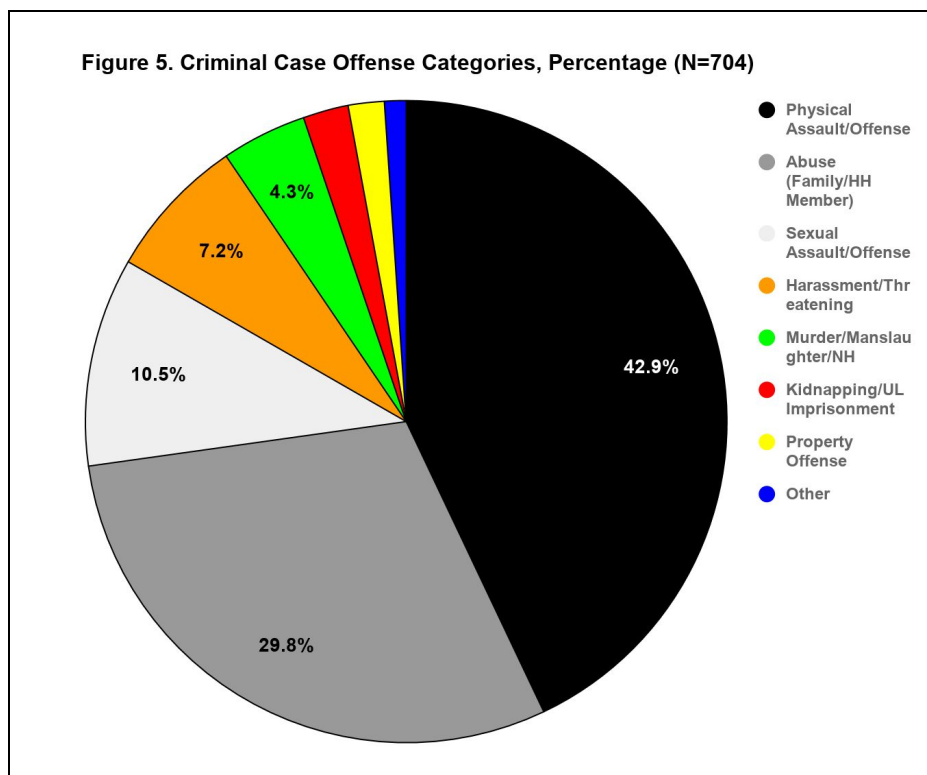
Table 2 displays the average monetary award by category for compensation granted by the Commission for cases included in the study. Results are presented for both 2010 and 2014 cohorts, overall and separately.

<b>Table 2. Average Compensation Award Granted by Category: Overall &amp; 2010 vs. 2014</b>			
<b>Award Type</b>	<b>Both Cohorts (N=1,015)</b>	<b>2010 (N=511)</b>	<b>2014 (N=504)</b>
TOTAL AWARD	\$1,112	\$1,250	\$971
Acknowledgement	\$226	\$273	\$178
Medical/Dental	\$1,822	\$2,044	\$1,540
Lost Earnings	\$1,266	\$1,032	\$1,529
Mental Health	\$1,694	\$738	\$3,544
Funeral	\$2,511	\$2,203	\$2,884
Pecuniary	\$3,403	\$913	\$8,382

- The average total award was \$1,112 per case for both cohorts. The average award decreased from \$1,250 to \$971 between 2010 and 2014, respectively; this is a -22% decrease.
- The most commonly occurring awards, acknowledgement and medical/dental, both decreased from 2010 to 2014 by -34.7% and -24.7%, respectively.
- As noted in Table 1, 'mental health' awards granted decreased by nearly half (47.5%) from 2010 to 2014. However, in terms of average award amount, they increased by +480% during this time, going from an average of \$738 to \$3,544.

## Overview of Criminal Cases

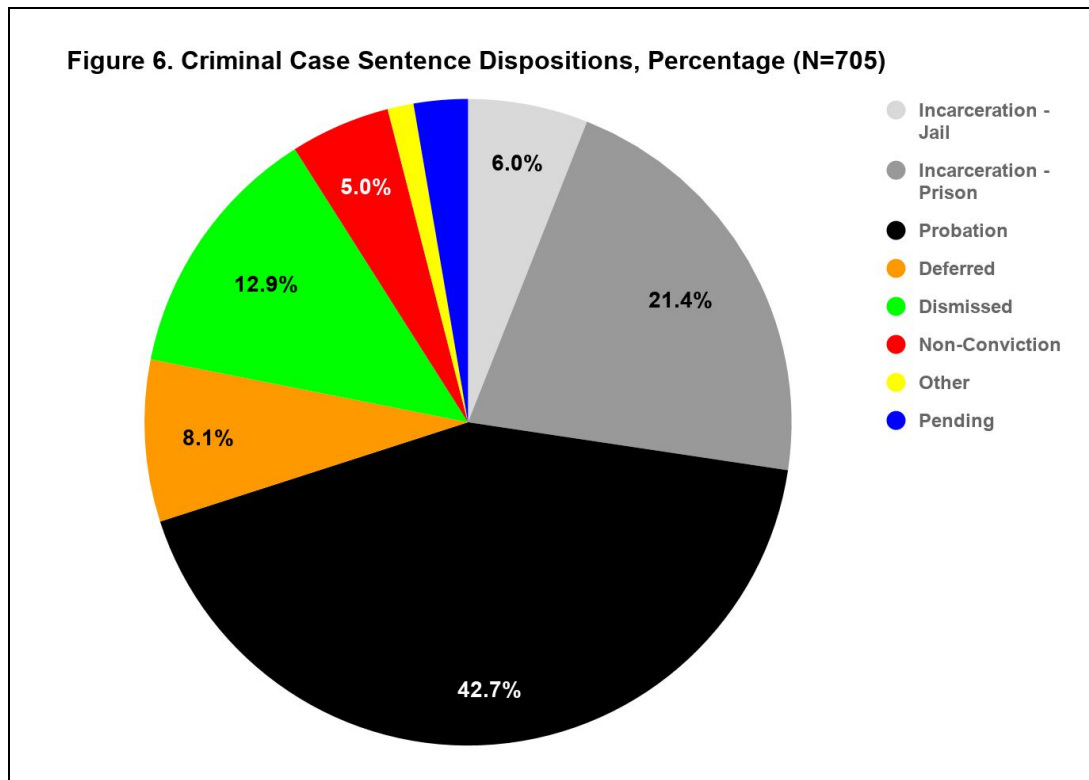
Figure 5 displays the final offense types charged to the offenders for the criminal cases included in the study. The categories were developed based on patterns seen across the specific offenses and the nature of the offense.<sup>7</sup>



- The most commonly occurring offense types committed were physical assault/offense (42.9%), abuse (29.8%), and sexual assault/offense (10.5%).
- Nearly all (97.1%) were person-focused (not property crimes).

<sup>7</sup> “Physical Assault/Offense” includes: (1) Assault, (2) Robbery, (3) Choking, (4) Negligent Injury. “Abuse (FAM/HHM/FEL)” includes: (1) Abuse of a Family or Household Member, (2) Felony Abuse, and (3) Endangering the Welfare of a minor. “Sexual Assault/Offense” includes: (1) Sexual Assault, (2) Accomplice to Sexual Assault, Continuous Sexual Assault of a Minor, and Promoting Prostitution. “Harassment/Threatening” includes: (1) Harassment, (2) Harassment (strike/shove/kick), (3) Terroristic Threatening, and (4) Violating an Order of Protection. “Murder/Manslaughter/NH” includes: (1) Murder/Attempted, (2) Manslaughter/Attempted, and (3) Negligent Homicide. “Property Offense” includes: (1) Theft, (2) Unauthorized Entry into a Dwelling, (3) Unauthorized Entry into a Motor Vehicle, (4) Criminal Property Damage, (5) Burglary, and (6) Arson. “Other” includes: (1) Reckless Endangerment, (2) Disorderly Conduct, and (3) Extortion.

Figure 6 displays the sentence dispositions for the criminal cases included in the study.

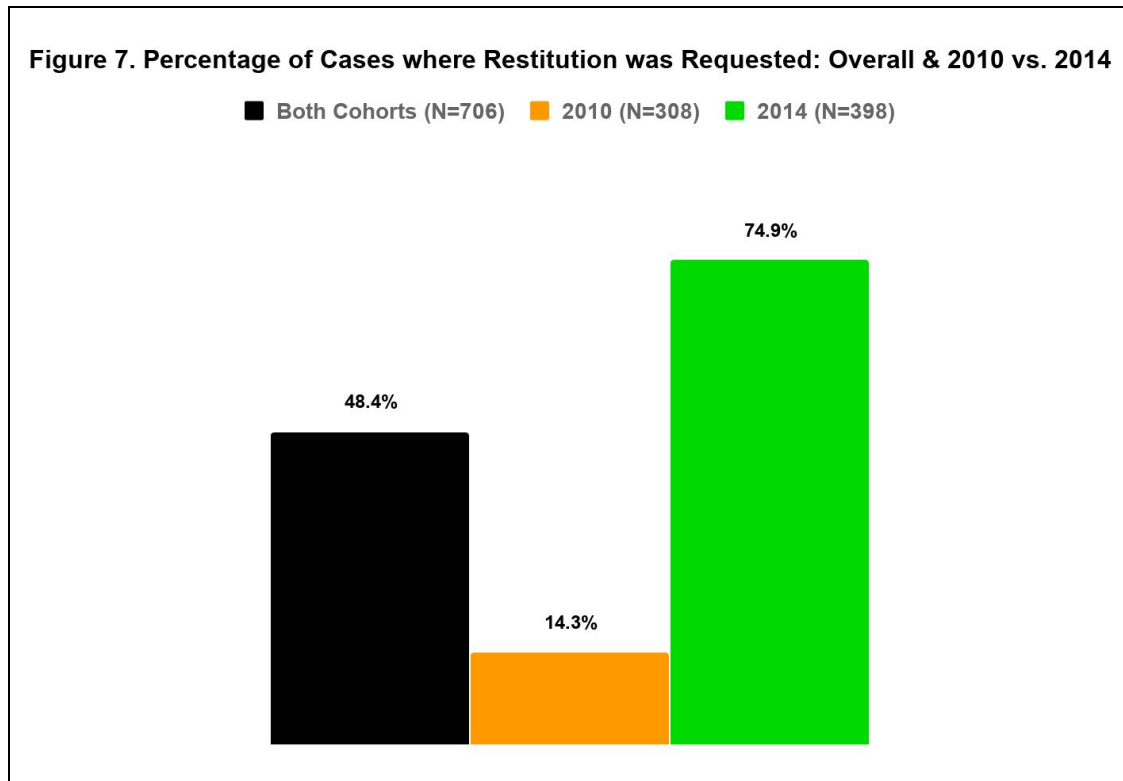


- Probation was the most commonly occurring sentence disposition (42.7%), followed by incarceration-prison (21.4%).
- Over two-thirds (78.2%) of the criminal cases resulted in a sentence of jail, prison, or probation; the remaining 21.8% did not receive a sentence.



## Restitution Requests

Figure 7 displays the percentage of criminal cases where restitution was requested by the Commission. Results are presented for both 2010 and 2014 cohorts, overall and separately.

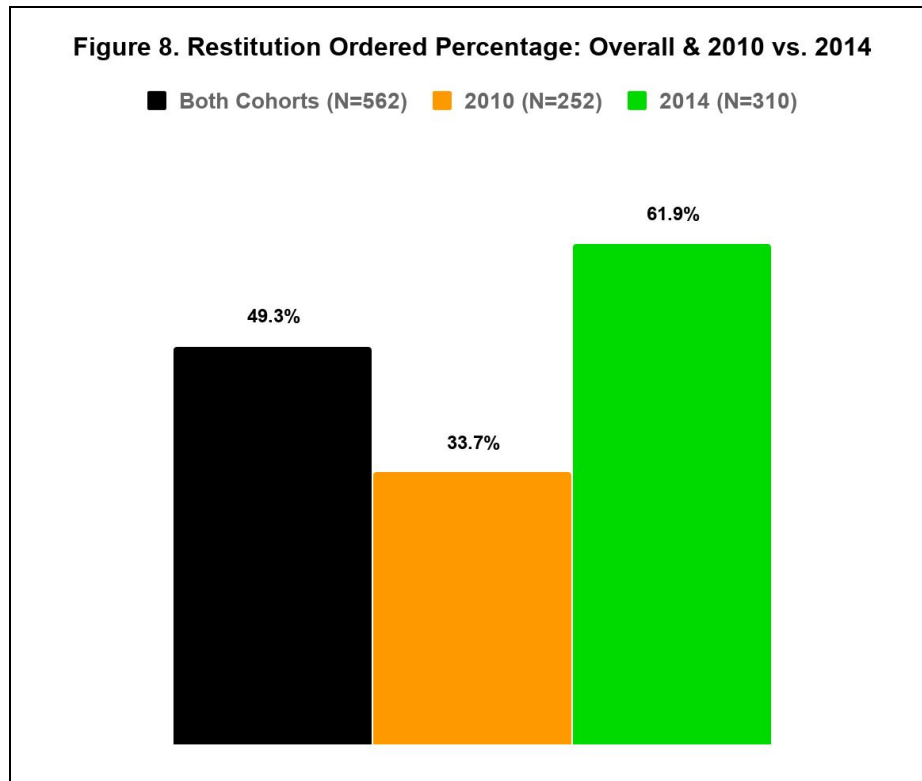


- Restitution was requested in about half (48.4%) of all cases.
- Restitution requests increased by +523% between 2010 and 2014 (from 14.3% to 74.9%, respectively). In whole-figure terms, this translates to 1:7 cases where restitution was requested in 2010 to 3:4 cases in 2014.

## Restitution Orders

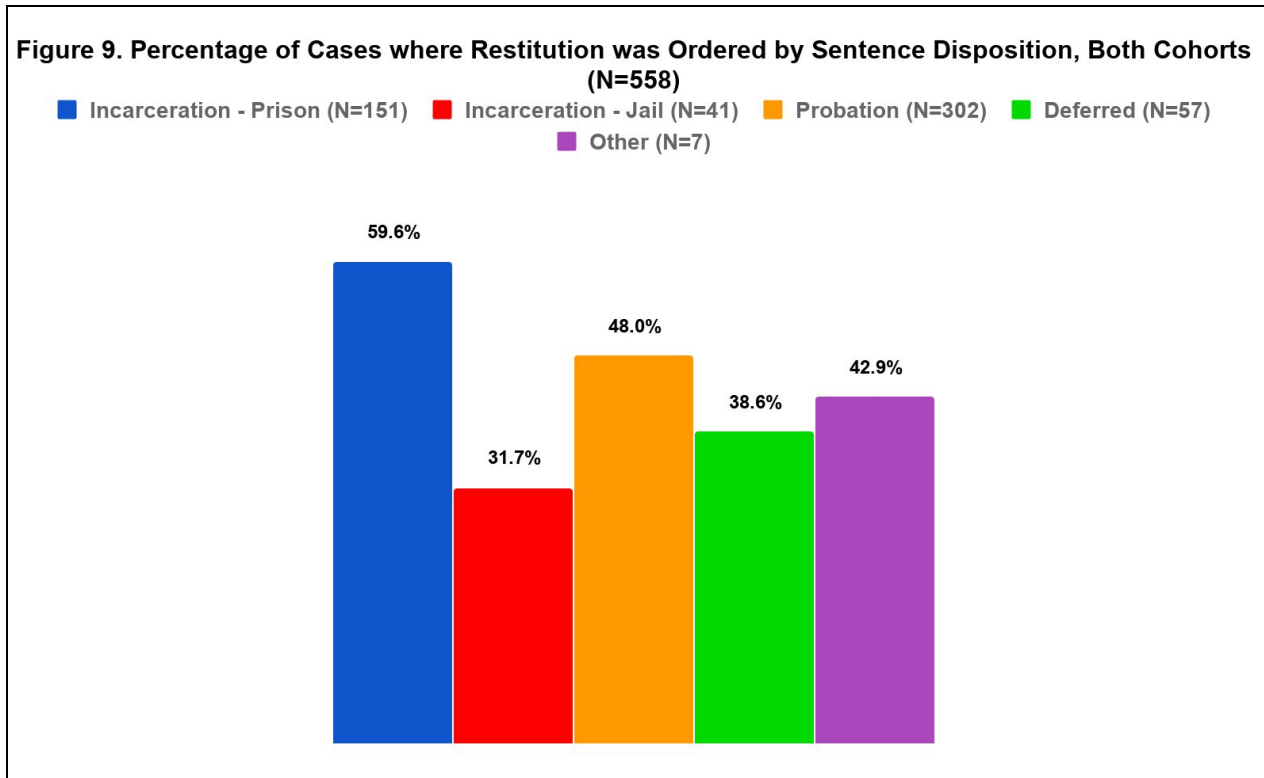
Figure 8 displays the percentage of criminal cases where restitution was ordered by the court.

Results are presented for both 2010 and 2014 cohorts, overall and separately.



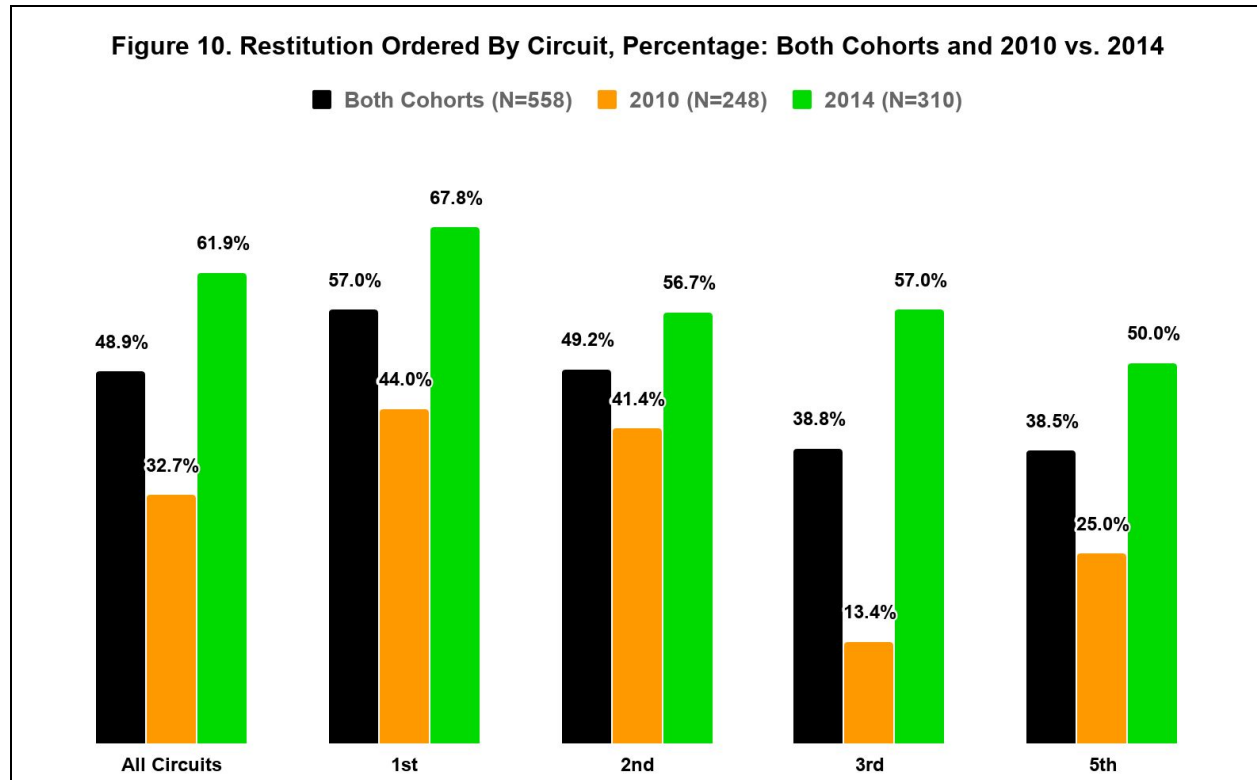
- Restitution was ordered in about half (49.3%) of all cases.
- Restitution orders increased by +184% between 2010 and 2014 (from 33.% to 61.9%, respectively). In whole-figure terms, this translates to 1:3 cases where restitution was ordered in 2010 to 3:5 cases in 2014.

Figure 9 displays the percentage of cases where restitution was ordered within each sentence disposition type.



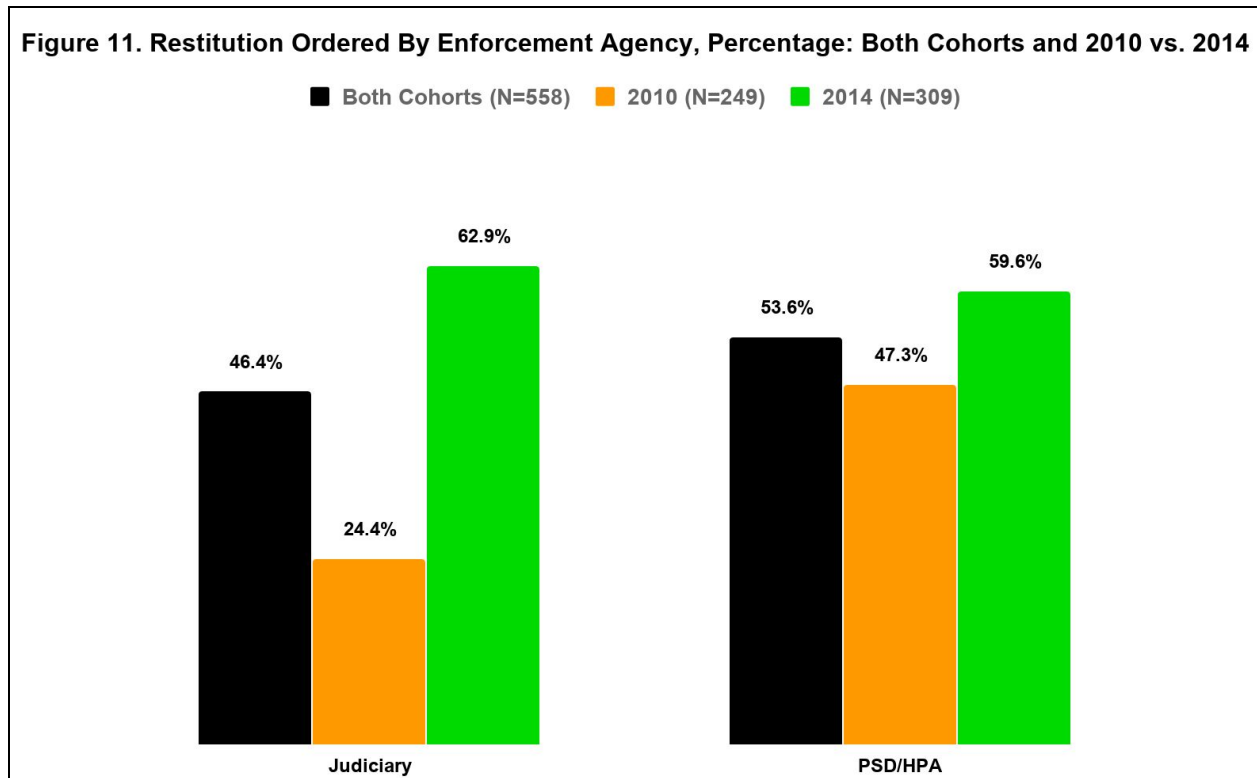
- Restitution was ordered most often in cases where the sentence disposition was 'incarceration-prison' (59.6%), followed by probation at 48.0%.
- Those offenders given jail terms were the least likely to have restitution ordered by the court, a little less than one-third of the time (31.7%), less than those cases where a sentence was not given (i.e. other - 42.9%).

Figure 10 displays the percentage of criminal cases where restitution was ordered by circuit. Results are presented for both 2010 and 2014 cohorts, overall and separately.



- Restitution orders increased across all court circuits between 2010 and 2014.
- For both cohorts/overall, the 1st Circuit court has the highest percentage of cases where restitution was ordered (57.0%).
- Comparing all the court circuits between 2010 and 2014, restitution orders increased the most in the 3rd Circuit (+325%), going from 13.4% to 57.0%.

Figure 11 displays the percentage of criminal cases where restitution was ordered by enforcement agency, the Judiciary or the Department of Public Safety/Hawai'i Paroling Authority (PSD/HPA). Results are presented for both 2010 and 2014 cohorts, overall and separately.



- Restitution orders increased for both enforcement agencies between 2010 and 2014.
- For both cohorts/overall, the PSD/HPA has the highest percentage of cases where restitution was ordered (53.6%).
- Comparing both enforcement agencies between 2010 and 2014, restitution orders increased the most for cases falling under the Judiciary (+158%), going from 24.6% to 62.9%.

## Restitution Payments & Collections

Table 3 displays the percentage of offenders, those ordered to pay restitution, who made payments and the percentage who paid their balance in full. Results are presented for both 2010 and 2014 cohorts, overall and separately.

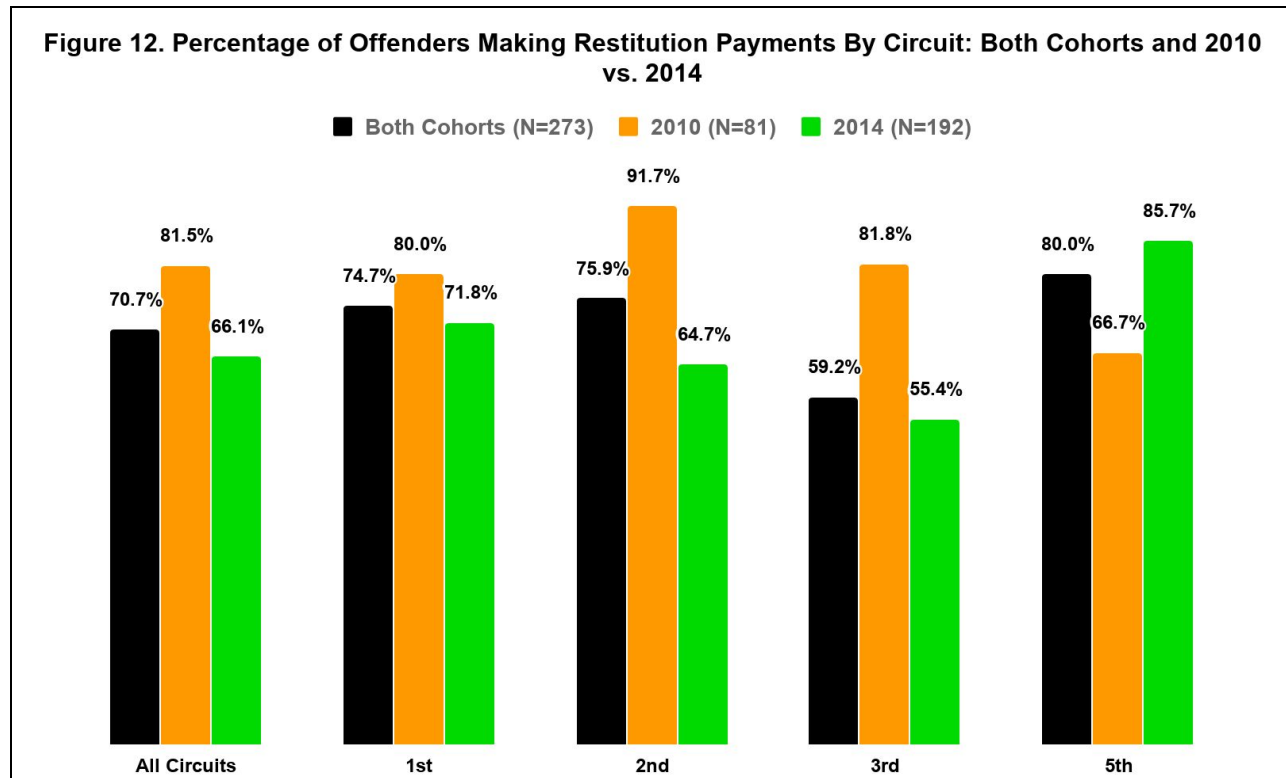
<b>Table 3. Percentage of Offenders Who Made Payments &amp; Percentage Who Paid in Full (of those Ordered): Overall &amp; 2010 vs. 2014 (N=278)</b>		
<b>Cohort</b>	<b>% Made Payment(s)</b>	<b>% Paid in Full</b>
Both Cohorts	71.2% (198)	41.4% (113)
2010	82.4% (70)	37.0% (30)
2014	66.3% (128)	43.2% <sup>8</sup> (83)

- For both cohorts, seventy-one percent (71.2%) of all offenders ordered to pay restitution made at least one payment.
- Between 2010 and 2014, this percentage of offenders who made a payment decreased from 82.4% to 66.3%.
- Forty-one percent (41.4%) of all offenders ordered to pay restitution paid their balance in full. This rate increased from 37.0% to 43.2% between 2010 and 2014.

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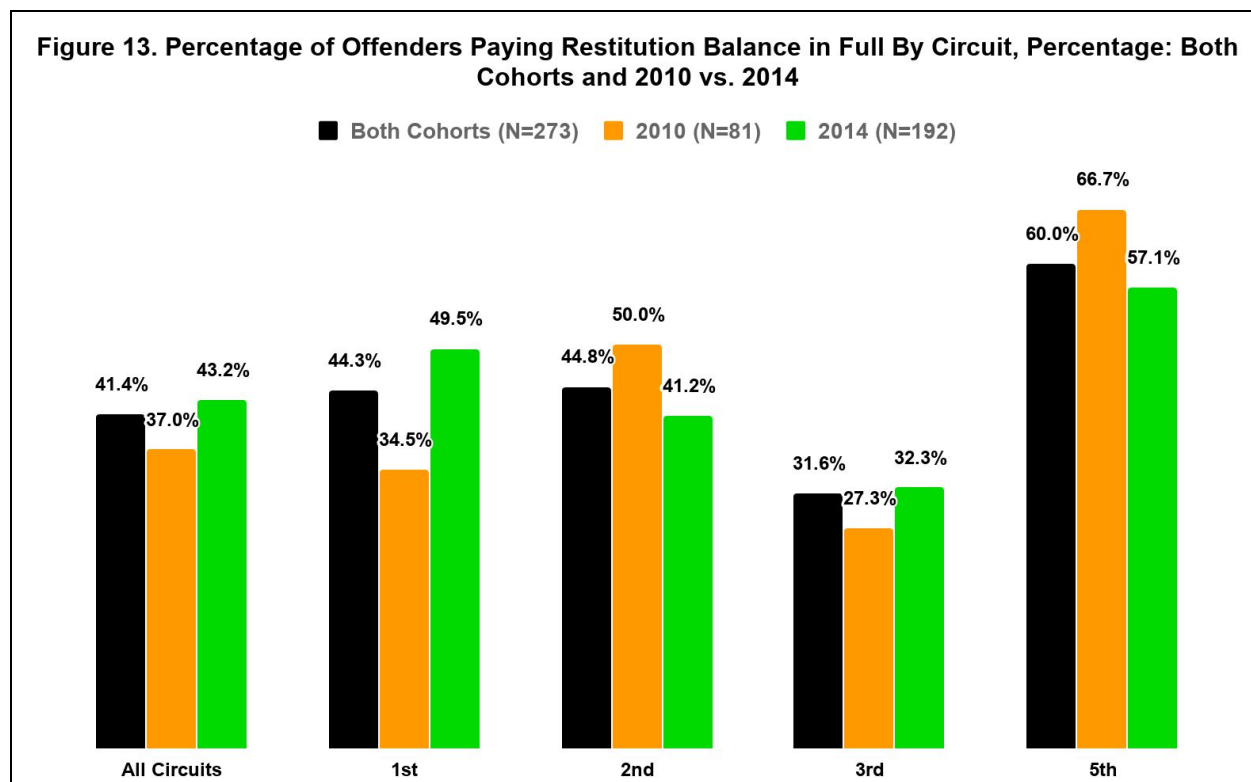
<sup>8</sup> These figures for 2014 may not be fully finalized since the offenders' sentences may not be completed to full term. As such, these figures may eventually increase slightly.

Figure 12 displays the percentage of offenders, those ordered to pay restitution, who made payments by court circuit. Results are presented for both 2010 and 2014 cohorts, overall and separately.



- The percentage of offenders making restitution payments decreased across all court circuits between 2010 and 2014, except for the 5th Circuit (66.7% to 85.7%).
- The 2nd and 3rd Circuit courts experienced the biggest decreases in offenders making payments between 2010 and 2014; the 2nd Circuit decreased from 91.7% to 64.7%, and the 3rd Circuit decreased from 81.8% to 55.4%.

Figure 13 displays the percentage of offenders, those ordered to pay restitution, who paid their balance in full by court circuit. Results are presented for both 2010 and 2014<sup>9</sup> cohorts, overall and separately.

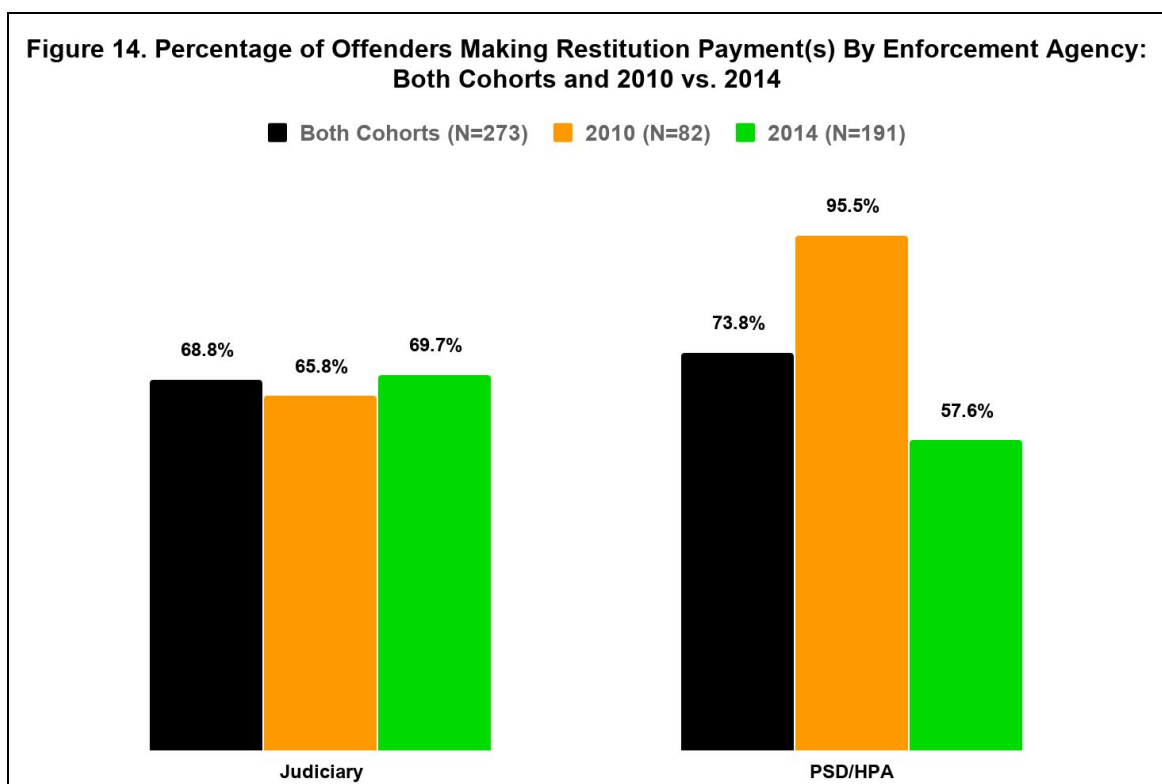


- Overall, the percentage of offenders paying their restitution balance in full increased between 2010 and 2014, though this increase was not across all court circuits.
- First (1st) and 3rd Circuit courts experienced increased percentages of offenders paying their restitution balance in full while 2nd and 5th Circuit courts saw decreases.
- The 5th Circuit courts have the overall highest rates of offenders paying their restitution balances in full (the only circuit where the majority of offenders pay their balance in full).

<sup>9</sup> These figures for 2014 may not be fully finalized since the offenders' sentences may not be completed to full term. As such, these figures may eventually increase slightly.

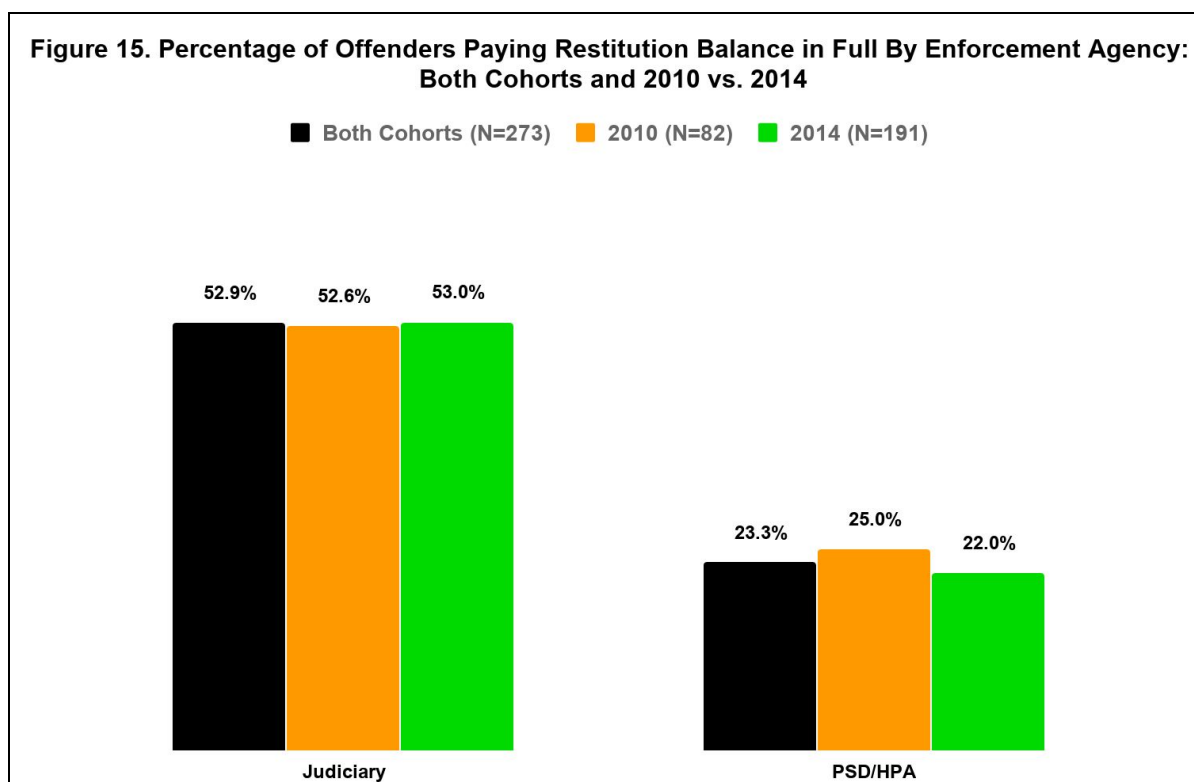


Figure 14 displays the percentage of offenders, those ordered to pay restitution, who made payments by enforcement agency, the Judiciary or the Department of Public Safety/Hawai'i Paroling Authority (PSD/HPA). Results are presented for both 2010 and 2014 cohorts, overall and separately.



- The percentage of offenders making restitution payments, overall/both cohorts, was higher for the PSD/HPA than for the Judiciary (73.8% and 68.8%, respectively).
- While the Judiciary's percentage of offenders making payments increased slightly from 2010 to 2014, the PSD/HPA decreased from 95.5% to 57.6% during this same time frame.

Figure 15 displays the percentage of offenders, those ordered to pay restitution, who paid their balance in full by enforcement agency, the Judiciary or the Department of Public Safety/Hawai'i Paroling Authority (PSD/HPA). Results are presented for both 2010 and 2014<sup>10</sup> cohorts, overall and separately.



- Overall, the percentage of offenders paying their restitution balance in full remained relatively unchanged between 2010 and 2014, though the levels of those who paid in full was not equal across enforcement agency.
- Roughly one-half of offenders under the Judiciary paid their balance in full versus about one-fourth of offenders overseen by the PSD/HPA.

<sup>10</sup> These figures for 2014 may not be fully finalized since the offenders' sentences may not be completed to full term. As such, these figures may eventually increase slightly.

Table 4 displays the average total paid, average number of payments, and average payment amount for offenders when they paid restitution. Results are presented for both 2010 and 2014 cohorts, overall and separately.

<b>Table 4. When Restitution Paid by Offender: Average Total Paid, Average Number of Payments, &amp; Average Payment: Overall &amp; 2010 vs. 2014 (N=197)</b>			
<b>Cohort</b>	<b>Avg. Total Paid</b>	<b>Avg. # of Payments</b>	<b>Avg. Payment<sup>11</sup></b>
Both Cohorts	\$482	12.0	\$77
2010	\$754	18.2	\$76
2014 <sup>12</sup>	\$332	8.7	\$78

- For offenders who paid restitution, the average total paid overall was \$482. Between 2010 and 2014 though, the average decreased from \$754 to \$332.
- For offenders who paid restitution, the average number of payments was 12.0. Between 2010 and 2014 though, the average decreased from 18.2 to 8.7.
- The average payment amount for offenders who paid restitution is \$77; this remained relatively unchanged between 2010 and 2014.
- [Note: These figures for 2014 may not be fully finalized since the offenders' sentences may not be completed to full term. As such, these figures may eventually increase slightly.]

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<sup>11</sup> N=193 for 'Average Payment' due to missing data.

<sup>12</sup> See note in bullet points.

Table 5 displays the average total restitution paid by offenders according to court circuit. Results are presented for both 2010 and 2014 cohorts, overall and separately.

<b>Table 5. Average Total Restitution Paid by Circuit: Overall &amp; 2010 vs. 2014</b>			
<b>Circuit</b>	<b>Both Cohorts (N=273)</b>	<b>2010 (N=81)</b>	<b>2014<sup>13</sup> (N=192)</b>
All Circuits	\$341	\$630	\$220
1st	\$307	\$414	\$250
2nd	\$904	\$1,564	\$438
3rd	\$106	\$187	\$92
5th	\$1,044	\$2,485	\$426

- Overall, the average total restitution paid by offenders decreased across all court circuits between 2010 and 2014. Second (2nd) and 5th Circuit courts experienced the largest percentage decreases in total restitution paid.

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<sup>13</sup> These figures for 2014 may not be fully finalized since the offenders' sentences may not be completed to full term. As such, these figures may eventually increase slightly.

Table 6 displays the average number of payments made by offenders when they paid restitution by circuit. Results are presented for both 2010 and 2014 cohorts, overall and separately.

<b>Table 6. When Restitution Paid: Average Number of Payments by Circuit: Overall &amp; 2010 vs. 2014</b>			
<b>Circuit</b>	<b>Both Cohorts (N=193)</b>	<b>2010 (N=66)</b>	<b>2014<sup>14</sup> (N=127)</b>
All Circuits	12.2	19.1	8.7
1st	13.0	18.3	9.8
2nd	17.0	25.0	8.8
3rd	6.7	9.3	6.0
5th	19.8	48.0	10.3

- Overall, the average number of payments made by offenders when they paid restitution decreased across all court circuits between 2010 and 2014.
- The 2nd and 5th Circuit courts experienced the largest decreases from 2010 levels in average number of payments, -35.2% and -21.5%, respectively..

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<sup>14</sup> These figures for 2014 may not be fully finalized since the offenders' sentences may not be completed to full term. As such, these figures may eventually increase slightly.

Table 7 displays the average total restitution paid by offenders according to enforcement agency, the Judiciary or the Department of Public Safety/Hawai'i Paroling Authority (PSD/HPA). Results are presented for both 2010 and 2014 cohorts, overall and separately.

<b>Table 7. Average Total Restitution Paid by Enforcement Agency: Overall &amp; 2010 vs. 2014</b>			
<b>Enforcement Agency</b>	<b>Both Cohorts (N=273)</b>	<b>2010 (N=82)</b>	<b>2014<sup>15</sup> (N=191)</b>
All Agencies	\$343 (273)	\$621 (81)	\$220 (191)
Judiciary	\$400 (170)	\$850 (38)	\$271 (132)
PSD/HPA	\$246 (103)	\$430 (44)	\$109 (59)

- Overall, the average total restitution paid by offenders decreased across both enforcement agencies between 2010 and 2014.
- In 2014, the Judiciary and the PSD/HPA were at 31.8% and 21.5% of the average total restitution paid levels experienced in 2010.

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<sup>15</sup> These figures for 2014 may not be fully finalized since the offenders' sentences may not be completed to full term. As such, these figures may eventually increase slightly.

Table 8 displays the average payment amount for offenders when they paid restitution according to enforcement agency, the Judiciary or the Department of Public Safety/Hawai'i Paroling Authority (PSD/HPA). Results are presented for both 2010 and 2014 cohorts, overall and separately.

<b>Table 8. When Restitution Paid: Average Payment Amount by Enforcement Agency: Overall &amp; 2010 vs. 2014</b>			
<b>Enforcement Agency</b>	<b>Both Cohorts (N=193)</b>	<b>2010 (N=70)</b>	<b>2014<sup>16</sup> (N=123)</b>
All Agencies	\$77	\$76	\$78
Judiciary	\$101	\$115	\$97
PSD/HPA	\$41	\$50	\$30

- Overall, for offenders who paid restitution, the average payment amount decreased across both enforcement agencies between 2010 and 2014.
- In 2014, the Judiciary and the PSD/HPA were at 84.3% and 60% of the average payment amount levels experienced in 2010.

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<sup>16</sup> These figures for 2014 may not be fully finalized since the offenders' sentences may not be completed to full term. As such, these figures may eventually increase slightly.

Table 9 displays the average time (number of days) from the offender being sentenced until the first restitution payment received by the victim. Results are presented for both 2010 and 2014 cohorts, overall and separately.

<b>Table 9. Average Time (Number of Days) from Sentencing to 1<sup>st</sup> Payment: Overall &amp; 2010 vs. 2014</b>	
<b>Cohort</b>	<b># of Days</b>
Both Cohorts (N=189)	406.7
2010 (N=66)	572.3
2014 (N=123)	317.8

- Overall, for both cohorts, the average time from the offender being sentenced to the victim receiving their first restitution payment was 407 days (about 13½ months).
- From 2010 to 2014, the time for victims to receive their first payment decreased from 572 days to 318 days, a difference of roughly -8½ months.



Table 10 displays the average time (number of days) from the offender being sentenced until the first restitution payment received by the victim by enforcement agency, the Judiciary or the Department of Public Safety/Hawai'i Paroling Authority (PSD/HPA). Results are presented for both 2010 and 2014 cohorts, overall and separately.

<b>Table 10. Average Time (Number of Days) from Sentencing to 1<sup>st</sup> Payment by Enforcement Agency: Overall &amp; 2010 vs. 2014</b>			
<b>Enforcement Agency</b>	<b>Both Cohorts (N=189)</b>	<b>2010 (N=123)</b>	<b>2014 (N=66)</b>
All Agencies	406.7	572.3	317.8
Judiciary	282.2	335.7	268.0
PSD/HPA	600.0	707.5	459.1

- From 2010 to 2014, the time for victims to receive their first payment decreased across both enforcement agencies.
- In 2014, the Judiciary and the PSD/HPA both received first payments sooner than in 2010; on average 68 days sooner for the Judiciary and 248 days sooner for the PSD/HPA.

Figure 16 displays a flowchart of compensation claim awards through the system to the point of offenders paying restitution. Raw figures and the percentage of compensation claims awarded are shown at each point. Results are presented for both 2010 and 2014 cohorts.

**Figure 16. Flowchart of Number & Percentage of Compensation Claims Awarded to Restitution Payment Made: 2010 vs. 2014**



- Compared to 2010, the number and percentage of compensation claim awards being processed increased along all points in the system in 2014.

- In 2014, 25.4% of compensation claim awards resulted in offenders paying restitution. This is nearly double the rate seen in 2010 (13.7%).

## Discussion of Findings & Implications for Policy & Practice

### Victim Demographics

The majority of victims were female (63.3%); meanwhile, in terms of age, 21% of all victims were represented by especially vulnerable groups (i.e., minor or elderly). The county of residence of the victims points to the City & County of Honolulu being underrepresented in the number of victims making restitution claims, while Hawai'i County is overrepresented (i.e., the proportion of state population percentage when compared to the percentage of victims making restitution claims was 69%:50% for C&C of Honolulu and 14%:30% for Hawai'i County). Unless offender and victim dynamics are extremely different for each county, this suggests that, proportionately, residents of Hawai'i County may be more aware of and/or willing to seek out compensation through the Commission than the other three counties.

### Compensation Awards

The rate of awarding compensation claims was about 70% with the remaining 30% being denied due to the availability of other collateral benefits, unmet eligibility requirements or duplicate claims. This rate remained steady when comparing 2010 and 2014 data. The rate of compensation for medical/dental and mental health expenses experienced notable decreases during this time frame. The average compensation award granted decreased overall by -22% between 2010 and 2014. Decreases in the rate of compensation awarded for medical/dental expenses accounted for the largest proportion of this overall decrease. This change can likely be attributed to the Commission's Medical Expense Reduction Project, which seeks to reduce and contain escalating medical expenses by working with medical treatment providers to accept a reduced amount as payment in full.

## Criminal Cases: Offenses & Sentence Dispositions

Overall, corresponding criminal cases were identified for 70.0% of the compensation claim awards in the study. For the remaining 30% of compensation claims, associated criminal cases could not be identified, possibly because the perpetrator was not apprehended, or criminal charges were not pursued. Because the Commission is statutorily authorized to award compensation to only victims of violent crimes, the vast majority of offense convictions in the criminal cases included in this study (83.2%) were physical, abusive, or sexual in nature. A full 70% of these criminal cases resulted in a sentence; 42.7% received probation, 21.4% incarceration-prison, and 6.0% incarceration-jail. This indicates that the large majority of those subject to paying restitution are being directly supervised or in the custody of criminal justice agencies in the state (i.e., Judiciary, Department of Public Safety, Hawai'i Paroling Authority).

## Restitution Requests

Restitution requests increased significantly from 2010 to 2014, going from a rate of 14.3% to 74.9%, respectively. Overall, for both cohorts, the rate was about half (48.4%). This finding points to increased efficiency in requesting restitution and possibly, secondarily, improved data collection within this time frame.

## Restitution Orders

Restitution ordered by the courts in these cases occurred about half of the time (49.3%). There was a sizable increase in the rate of restitution ordered from 2010 to 2014, going from 33.7% to 61.9%. A chief reason for this increase is likely due to an increase in restitution being requested initially, though the rate of increase in restitution requests is not fully reflected in the rate of increase in restitution ordered. The reasons for this difference needs to be explored further;

explanations could range from, or be a combination of, different restitution request dynamics between these two years to different decision-making regarding the ordering of restitution.

Looking at restitution orders more closely, it was found that nearly sixty percent (59.6%) of cases that resulted in a sentence to incarceration-prison included restitution as a part of the sentence. This was followed by probation cases (48.0%); meanwhile, incarceration-jail had the lowest rate (31.7%), which was lower than those cases where a sentence was not given (i.e., other-42.9%). Assuming normal case dynamics and restitution requests for these cases antecedent to sentence disposition, one would expect that the rate of restitution ordered as part of the sentence would be higher for incarceration-jail. The reason for the lowered rate of restitution orders for those sentenced to incarceration-jail should be investigated further.

The rate of restitution orders increased across all court circuits from 2010 to 2014. All circuits displayed a restitution ordered rate of less than half in 2010; subsequently in 2014, all circuits showed at least a 50% rate of restitution being ordered, with the 1st Circuit courts having the highest rate (67.8%). The largest percentage increases between 2010 and 2014 were for the 3rd and 5th Circuits (13.4% to 57.0% and 25.0% to 50.0%, respectively). When looking at restitution orders by the enforcement agency responsible for collecting payments, either the Judiciary or the Department of Public Safety/Hawai'i Paroling Authority (PSD/HPA), both agencies saw increases in the percentage of restitution cases falling under their purview (naturally due to an increase in requests and orders). Between 2010 and 2014, the percentage of cases ordered to pay restitution increased from 24.4% to 62.9% for the Judiciary and from 47.3% to 59.6%. This finding advances the conclusion that as the rate of restitution orders increase, these agencies need to be more efficient at managing restitution payments if current resources are not further expanded or developed.

## Restitution Payments/Collections

The great majority of offenders ordered to pay restitution made payments (71.2%). This percentage decreased though from 2010 to 2014, from 82.4% to 66.3%. A fair proportion of offenders ordered to pay restitution paid their balance in full (41.4%), with an increase in this regard from 37.0% in 2010 to 43.2% in 2014.<sup>17</sup> [Note for discussion in this section: the figures for 2014 in terms of total restitution paid, restitution balance paid in full, and average total restitution paid may not be fully finalized since the offenders' sentences may not be completed to full term. As such, these figures may eventually increase slightly].

When examining restitution payments by court circuit, all circuits except for the 5th experienced decreases in offenders making payments. Most were in the 80-90% range in 2010, but these generally fell to the 60-70% range in 2014. The 5th Circuit was the only circuit to experience an increase in the percentage of offenders making a payment between 2010 to 2014, going from 66.7% to 85.7%, respectively. In terms of the percentage of offenders paying restitution balances in full, overall this rate increased between 2010 and 2014<sup>17</sup>, though this increase was not across all court circuits. The 1st and 3rd Circuits showed increases between 2010 and 2014 (+15% and +5%, respectively), but 2nd and 5th Circuits decreased during this time frame (-8.8% and -9.6%, respectively). The 5th Circuit had the overall highest rates of offenders paying their restitution balance in full (about 60%). The reasons for these difference in levels and increases/decreases across court circuits when looking at restitution payments need to be explored further; explanations could range from, or be a combination of, available resources, allocation of resources, procedure (e.g., follow-up), etc.

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<sup>17</sup> These figures for 2014 may not be fully finalized since the offenders' sentences may not be completed to full term. As such, these figures may eventually increase slightly.

In regards to the percentage of offenders making restitution payments by the enforcement agency, either the Judiciary or the Department of Public Safety/Hawai'i Paroling Authority (PSD/HPA), for those cases under the purview of the Judiciary, the rate remained relatively unchanged between 2010 and 2014, a slight increase from 65.8% to 69.7%, respectively. However, the rate for those cases under the enforcement of PSD/HPA decreased significantly from 95.5% in 2010 to 57.6% in 2014. When examining the percentage of offenders paying restitution balances in full by enforcement agency, this rate remained relatively unchanged between 2010 and 2014<sup>18</sup> for the Judiciary and the PSD/HPA (52.6% to 53.0% and 25.0% to 22.0%). Most notably though was an overall difference between offenders paying their restitution balances in full by these agencies; roughly one-half of offenders under the Judiciary paid their balance in full versus about one-fourth of offenders overseen by the PSD/HPA. The notable decrease from 2010 to 2014 for the PSD/HPA in terms of percentage of offenders who paid restitution and the overall lowered level of restitution balances paid in full when compared to the Judiciary warrant further investigation. It is unknown if these patterns and trends are due to offender dynamics, lack of communication/effort/follow-up and if these seeming problematic issues can be addressed either organizationally or through increased support for efforts via expanded/more developed resources or reallocation of current resources.

Upon examination of the average total restitution paid and average number of payments by offenders, these rates decreased from 2010 to 2014<sup>18</sup> across all court circuits and both enforcement agencies. Generally speaking, the levels of average total restitution paid amounts and the average number of payments in 2014 were roughly half of the levels seen in 2010. This pattern of decrease was also seen in the average payment amount, though not to the same

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<sup>18</sup> These figures for 2014 may not be fully finalized since the offenders' sentences may not be completed to full term. As such, these figures may eventually increase slightly.

extent (about -20% to -30%). Again, it is not fully unknown if these patterns and trends are due to offender dynamics, lack of communication/effort/follow-up and if these seeming problematic issues can be addressed either organizationally or through increased support for efforts via expanded/more developed resources or reallocation of current resources.

When looking at the time (number of days) from sentencing to the victim receiving their first restitution payment, the results show that there was significant improvement. In 2010, it would take on average 572 days for a victim to receive their first restitution payment; this decreased to 318 days in 2014. Examining these data by enforcement agency, time to first payment for those under the Judiciary decreased from 336 days in 2010 to 268 days in 2014; meanwhile, the time to first payment for those under the PSD/HPA was more dramatic, decreasing from 708 days in 2010 to 459 days in 2014. These findings point to possible increased efficiency, communication, leverage, etc. of the system and with or upon the offender. While these figures are improving significantly, it is noted that these current levels of 'days to 1st payment' are still outside what one would normally expect. While there are likely numerous intervening factors not included herein, the discrepancy between the expectations via statute and what transpires in the system warrants further consideration.

Lastly, Figure 16 in the results section is an especially important overview of the flow of compensation claims that have been awarded and that ultimately end up at the point of an offender making a restitution payment. At all points within this flow of awarded claims through the system, the percentages increased from 2010 to 2014 -- and these increases were substantial. In 2014, 25.4% of compensation claim awards resulted in offenders paying restitution; this is nearly double the rate seen in 2010 (13.7%). What is also evident from this flowchart is the increased volume of restitution cases at all points in the system when comparing



2010 to 2014. These results are illustrative of an overall increased use of restitution and efficiency of processing cases within the system. That said, there is still a substantial amount of attrition; one-fourth of compensation claims that resulted in a restitution payment being made in 2014 is double that of the rate seen in 2010, but it also means that, still, 75% of claims awarded did not result in an offender making a restitution payment. While overall efficiency is increasing, there is marked room for improvement. The advancement of resources and attention paid to restitution cases will ultimately increase the number of victims realizing compensation for the harms they have suffered.

## Concluding Statements on Findings Discussion

In any research project, often as answers or directions to find answers are uncovered, more questions arise. These additional questions usually reside in deeper levels of analysis. Overall, some trends in restitution in the State show definite improvement, while there are areas that need to be strengthened. As this project concludes, more is now known about the target populations, trends/patterns in awards, sentencing/offenders, and trends/patterns in restitution orders and payments/collections. Additionally, we included a fuller spectrum of offenders, including probationers who were ordered to reimburse the Commission through restitution (when usually only those incarcerated have been focused on in previous studies). We also achieved insights into where strengths and deficiencies may reside, and this has pointed us to more specific questions to ask and analyze in order to root out the answers. So far, it is a mixed bag: restitution requests and orders have increased, though payment/collection is mixed (lowered rates of payment, lowered average payment amounts, but higher rates of balances paid in full). Meanwhile, the time to first payment has shortened significantly. Some of these trends and patterns present themselves across all court circuits and enforcement agencies. When this is the case, one needs to examine things at a systemic level. However, there are

some court circuits and enforcement agencies that buck negative trends in various areas -- these groups need to be looked at in earnest to see if their activities can be applied and adopted by those other circuits and enforcement agencies where things are not at levels that they would hope to be.

## Research Partnership & Future (Pathways)

### Ways Partnership can be Sustained

The partnership between the Crime Victim Compensation Commission and Chaminade University (CUH) worked quite well. Communication and follow-up were at high levels. Research tasks were completed with solid teamwork and when obstacles were encountered, they were minimal and overcome. The primaries on this research project at the Commission and Chaminade University have discussed the future of this partnership and feel that there are definitely areas where future collaborations would be beneficial to initiate. The groups have discussed performing further analyses of the data, exploring support for furthered research, and integrating CUH graduate students into the research and mission efforts put forth by the Commission.

### If/How the Project Strengthened the Relationship

Prior to this project, there was no working relationship between the Commission and CUH. Despite working in similar and sometimes overlapping areas historically, the primaries from both partners never worked directly on a project. This opportunity has cultivated this relationship.

### Informing Stakeholders of Findings/Results (Present & Ongoing)

The research project partners will be presenting the results of this research minimally to the commissioners and staff of the Crime Victim Compensation Commission, the State's Justice Reinvestment Initiative (JRI) workgroups, the Hawai'i State Legislature, and to leadership at involved agencies and departments, including but not limited to the: Department of Public Safety, Hawai'i State Judiciary, Hawai'i Paroling Authority, and County Prosecutors. The research may also be presented at professional conferences.