STATE OF COLORADO
7TH JUDICIAL DISTRICT
DELTA, GUNNISON, HINSDALE, MONTROSE, OURAY & SAN MIGUEL COUNTIES

ADMINISTRATIVE ORDER 2018-02 (Effective March 2, 2018) Regarding Cost of Prosecution Coding and Reimbursement
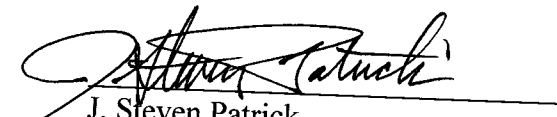
Section 18-1.3-701, C.R.S., authorizes the prosecuting attorney and law enforcement agencies to apply to the court for reasonable and necessary costs incurred as part of the prosecution of the defendant, including costs associated with collection and analysis of a chemical test and the costs of extradition. The State Court Administrator's Office discovered that in some cases throughout the state, costs of prosecution have been entered or ordered as restitution to law enforcement or district attorneys' offices. These cases now must be corrected as a result of the implementation of restitution interest in 2015. Law enforcement and the DA do not fall within the definition of victim for the purposes of restitution and now that interest is assessed on restitution, defendants are being charged interest on the additional costs of prosecution when they are coded incorrectly or, ordered as part of restitution. The law enforcement agencies may be inappropriately receiving restitution payments that should be applied to actual victims.

For a number of years there have been codes in Eclipse to allow for costs of prosecution to the DA, law enforcement and to the Sheriff for extradition. In some cases, these codes were not used while in others the court ordered "restitution" for the costs of prosecution. The Financial Services Division has identified these cases and has provided information to district administrators and clerks of court on how to review the cases. In those cases where it is determined that there was improper coding, the clerical mistake can be corrected pursuant to Crim. P. Rule 36.

Order

Each Clerk of Court in the locations in the 7th Judicial District shall correct the clerical mistakes noted on the spreadsheets as emailed from SCAO Financial Division on March 2, 2018. Each Clerk of Court in locations in the 7th Judicial District shall follow the instructions as provided by SCAO Financial Division for determining the cases where errors in coding have occurred and correct the clerical errors as determined after review of the case information. If it is determined that the Defendant has paid restitution interest in a case where the restitution was improperly coded, that amount of interest paid shall be reallocated to other outstanding balances owed by Defendant. If there still remains an overpayment, that shall be refunded to the Defendant.

Done this 10th day of April, 2018.

J. Steven Patrick
Chief Judge

XC:
7th JD Clerks of Court