Financial Recovery: A Victim's Guide to Restitution

A Publication of CalVCP and CDCR's Office of Victim and Survivor Rights and Services

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A Victim's Right to Restitution

The Victims' Bill of Rights Act in the California Constitution includes the right to restitution amongst its many provisions:

"All persons who suffer losses as a result of criminal activity shall have the right to seek and secure restitution from the persons convicted of the crimes causing the losses they suffer."

"Restitution shall be ordered from the convicted wrongdoer in every case, regardless of the sentence or disposition imposed, in which a crime victim suffers a loss."

What Is Restitution?

Restitution is monetary compensation owed to you by the offender. As a victim of crime, you have a right to restitution from the offender when you have crime-related expenses.

This brochure explains restitution, how it is ordered, and how the California Department of Corrections and Rehabilitation's (CDCR) Office of Victim and Survivor Rights and Services (OVSRS) assists with restitution collection when the offender is sentenced to State prison.

This brochure also explains how the California Victim Compensation Program (CalVCP) can help with your out-of-pocket crime-related expenses if you have not yet been reimbursed from any source.

There Are Two Types of Restitution

One is called a **Restitution Order** and the other is a **Restitution Fine.**

A **Restitution Order** is an offender's debt to you, as, the victim. State law requires judges to order the offender to pay restitution in every case in which the victim has suffered an economic loss as a result of the crime. The judge must order the offender to pay restitution for the entire amount of your losses.

A **Restitution Fine** is a criminal offender's debt to society. State law requires judges to order the offender (adult and juvenile) to pay a restitution **fine,** set at the time of sentencing. The judge will require the offender to pay from $0 to $1,000 for juveniles and $100 to $10,000 for adults.

Restitution fines go into the State's Restitution Fund, a crucial funding source for CalVCP. CalVCP helps victims pay for expenses resulting from a violent crime and fines are very important in assuring that the Fund has enough money to help past, present, and future victims.

(See page 15 for more information about CalVCP.)

How Does the Judge Determine the Correct Amount for a Restitution Order?

First you must provide information about your losses. The district attorney's (DA) office or your county probation department should tell the judge how much the offender owes you.

Here are simple steps to follow so you can be paid by the offender:

1. Keep copies of bills, receipts and expenses related to your crime.

2. If possible, have the crime report number (given to you by the police), and the name of the offender.

3. Give copies of loss information to one or more of the following people before the sentencing hearing:

- Your **Victim Advocate**. Every county has a Victim Witness Assistance Center. The victim advocates will help make sure the information about your losses gets to the judge. They also can help with your CalVCP application. (See pages 18 and 19 for a list of county centers.)
- The **deputy district attorney in charge of your case.** In the event the district attorney's (DA) office should send you any questionnaires or forms to complete concerning losses you may have incurred, it is critical that you complete and return all forms as soon as possible. Often the DA is dealing with a very short window of opportunity.

How Does the Judge Determine the Correct Amount for a Restitution Order? (Continued)

- Your **county probation office**. The probation office is often in charge of gathering information about your expenses. In felony cases, a probation officer may call you if the judge has ordered an investigation to gather this information for the sentencing.

4. Always keep a copy of any paperwork you submit to the DA, advocates or probation office.

Occasionally, the offender's sentencing hearing happens before you submit your bills. Restitution may be ordered with the amount "To Be Determined" (TBD) if the amount of your losses is not known.

Once you do know your expenses, you will need to contact the DA's office or the county probation department. You may need to request that a "restitution hearing or a restitution modification hearing" be put on calendar (scheduled court hearing) by the DA's office. **Restitution cannot be collected until a definite dollar amount is set.**

The judge should then modify your restitution amount to include those losses.

What Are Some Examples of Losses Covered By a Restitution Order?

- Property loss – stolen or damaged property
- Medical and dental expenses
- Mental health counseling
- Funeral expenses
- Wage loss
- Relocation expenses
- Home or vehicle modifications
- Security system expenses
- Interest
- Attorney fees
- Possible future losses

A Judge Just Imposed a Restitution Order To Be Paid By the Offender. Is There Anything I Need To Do?

It's important to follow up with the appropriate agency to make sure they have your name, current address and possibly your phone number so they can forward any money collected from the offender to you.

If the offender is being sentenced to the **county system** (jail/probation), you need to be in contact with your local **county agency** such as the probation department, collections department, the courts, or whichever office is handling restitution collection. Who you will need to contact may vary depending on the type of case and how your county operates.

Your local victim assistance center will be able to direct you and provide you with contact information (see List on pages 18 and 19).

If the offender is being sentenced to a **California state prison**, be sure that your current contact information is on file with the California Department of Corrections and Rehabilitation (CDCR). CDCR automatically collects restitution from the offender, after receiving documentation from the county, but will not be able to send it to you without your contact information. Registering with the CDCR Office of Victim and Survivor Rights and Services (OVSRS) will allow you to not only give your current contact information, but also to ask for notifications such as parole hearing dates, release dates, etc. **It is important to notify CDCR each time you move**. You may contact the Office of Victims and Survivor Rights Services (OVSRS) directly at 1-877-256-6877 or learn more at CDCR's website, www.cdcr.ca.gov/victims.

Also, be sure to get a certified copy of the restitution order for your records.

Please understand that your contact information will never be given to the offender.

How is Restitution Collected From a State Prison Inmate?

CDCR assists in the collection of restitution from offenders incarcerated in State of California prisons once it is imposed and CDCR receives a certified copy of the restitution judgment.

Upon the offender's arrival at the CDCR, an inmate trust account is established. This trust account acts like a bank account to accept deposits and allow withdrawals while an offender is incarcerated. It is also designed to track any financial obligations that an offender may have, such as restitution fines and orders.

If the offender has money deposited into his/her inmate trust account', CDCR will garnish 50% to pay his/her restitution. For those offenders who have a restitution fine **and** a restitution order, the restitution order obligation will be satisfied first (debt to victim). Money collected from the inmate's trust account is transferred to the State's Restitution Fund for disbursement to the victim. Again, it is important that you register your current contact information with CDCR so you can receive any restitution collected.

Be patient. This can be a slow process. Money may accumulate through an inmate's receipt of deposits to his/her trust account by family and friends. Other inmate income may come from a job within the prison. But inmates typically make between $0.38 and $1.00 per hour and there are more inmates incarcerated than there are jobs available. It is possible, however, that while incarcerated, the inmate does not receive any deposits into his/her account and, therefore, no restitution collections can be made.

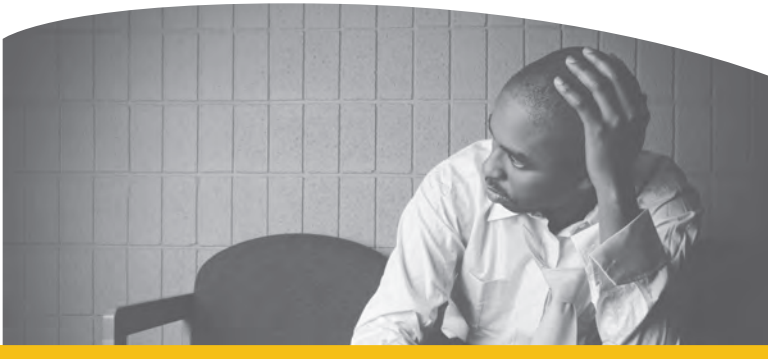
How is Restitution Collected When the Offender Leaves Prison?

When an offender leaves prison and restitution has not been paid in full, all victims' direct orders are referred to the Franchise Tax Board (FTB). Victims may verify referral of outstanding restitution debt to the FTB through the OVSRS (877-256-6877). The FTB is authorized to utilize several collection methods including wage garnishment, bank liens, and property liens in order to fulfill this debt.

- Note: Your confidential information is never released to the offender or the FTB during any part of this process!

PLRA (Prison Litigation Reform Act)

The PLRA allows CDCR to collect restitution from court judgments or settlements obtained by inmates or parolees from the State.



What If I Don't Get Paid?

If the offender was sent to State prison, call CDCR's Office of Victim and Survivor Rights and Services toll free at 877-256-6877 and let them know you are not receiving payment.

If the offender is on probation, talk to your local county probation department to ensure your current contact information is on file. Your local county probation department can then assist you in obtaining the restitution ordered.

Restitution orders never expire and cannot be discharged through bankruptcy.

What If I Want to Collect on My Own?

At any time after sentencing, you may collect a restitution order **as if** it were a civil judgment. For more information you can consult the following brochure "Enforcing Criminal or Juvenile Court Restitution Orders as Civil Judgments" www.sdcda.org/files/enforcement_brochure.pdf

Or you can consult the The California Judicial Branch at www.courtinfo.ca.gov

How Do I Receive Restitution Payments If I Move?

If your mailing address changes, please give your new address and phone number to the agency that is sending you payments, which may be CDCR, probation or another agency. A delay in the payment process will occur if your contact information is not current or accurate. It may take a long time for the offender to pay his/her restitution, so it is important to have your current mailing address and phone number on file with the agency that is sending you payments. Again, your address and other contact information will not be provided to the offender.

Can the Offender Ask For A Restitution Hearing?

Yes. If the offender disagrees with the amount of restitution ordered by the judge, he/she can ask for a hearing.

If the offender asks for a hearing, you may be asked to appear or provide more information concerning your claimed losses. Your victim advocate, district attorney's office or county probation department can help you if this happens.

Is Restitution A Life-Long Debt For the Offender?

Yes. Restitution does not go away until it is paid in full. Even if an offender moves out of state or files for bankruptcy, the restitution debt remains.

What If the Offender Cannot Pay At the Time of Sentencing?

Restitution fines and orders never expire. Even if the offender cannot pay at the time of sentencing, you may collect at a later date.

How to Receive Financial Assistance From the California Victim Compensation Program (CalVCP)

The collection of restitution from the offender is a different process from receiving compensation through CalVCP for being a crime victim.

Victims may be eligible for financial assistance through CalVCP even before the offender is sentenced and ordered to pay restitution. If you were injured or threatened with injury during the crime and have direct crime-related expenses you cannot pay for, ask your victim advocate about CalVCP.

CalVCP is the "payer of last resort" and provides financial assistance to victims of crime when your losses and expenses cannot be paid by other sources like health insurance or worker's compensation.

Expenses CalVCP covers include, but are not limited to:

- Medical and dental costs
- Mental health treatment
- Income or support loss
- Funeral/burial expenses
- Relocation expenses

If CalVCP provides financial assistance to you before sentencing, the judge must order the offender to repay the program. A victim can receive compensation through CalVCP even if restitution was ordered but cannot be collected immediately.

If you receive compensation from CalVCP and the offender or another source also pays for the same expenses, you are obligated to **repay CalVCP** so they may replenish the fund to assist future victims.

For More Information Contact CalVCP:

Phone: 800-777-9229

E-mail: info@vcgcb.ca.gov

Online: www.calvcp.ca.gov

What Other Resources Can Help Me With My Losses?

Alternative resources that may be able to help with your losses include, but are not limited to:

- Filing a civil lawsuit
- Workers' compensation benefits
- Auto insurance
- Life insurance policies
- Mortgage insurance
- Homeowner's or renter's insurance
- Disability (private or state)
- Veteran's benefits
- Social Security benefits
- Funeral insurance policy

Be sure to check out these alternative resources for help in paying for your losses.

You Can Also Get Help From:

- Your local Victim Witness Assistance Center (See pages 18 and 19)
- California State Corrections Victim Services Restitution Section at 877-256-6877 or visit http://www.cdcr.ca.gov/victims
  For adult offenders sentenced to state prison
- California Attorney General's Office of Victim Services at 877-433-9069
  Provides victims with appeal information on adult offenders sentenced to life in prison
- Victim Resource Center, Mc George School of Law at 800-Victims (800-842-8467)
  Provides a wide range of information and services to victims of crime.
- The California Judicial Branch at www.courtinfo.ca.gov
- Division of Juvenile Justice (DJJ) – Victim Services at 916-262-0896

California Restitution Laws

PC § 1202.4 Restitution Sentencing Law

PC1202.45 Parole Revocation Law

PC1202.46 Reserving Jurisdiction Over Restitution

PC § 2085.5 Authorization to Collect on Fines and Direct Orders by the CDCR

PC11177.22 Transferring Parole Out of State

Tax Code § 19280

WIC 730.6 Juvenile Restitution

For help, contact your county

Alameda	510.272.6180
Alpine	530.694.2971
Amador	209.223.6474
Butte	530.538.7340
Calaveras	209.754.6565
Colusa	530.458.0449
Contra Costa	925.957.8650
Del Norte	707.464.7273
El Dorado	530.6424760
Fresno	559.600.2822
Glenn	530.934.6510
Humboldt	707.445.7417
Imperial	760.336.3930
Inyo	760.878.0282
Kern	661.868.4535
Kings	559.582.3211 (ext. 2640)
Lake	707.262.4282
Lassen	530.251.8281
Los Angeles City	213.978.2097
Los Angeles Co.	800.492.5944
Madera	559.661.1000
Marin	415.499.6450
Mariposa	209.742.7441
Mendocino	707.463.4218
Merced	209.385.7385
Modoc	530.233.3311
Mono	760.924.1710
Monterey	831.755.5072
Napa	707.252.6222

Victim Witness Assistance Center:

Nevada	530.265.1246
Orange	949.975.0244
Placer	530.889.7021
Plumas	530.283.6285
Riverside	951.955.5450
Sacramento	916.874.5701
San Benito	831.634.1397
San Bernardino	909.387.6540
San Diego	619.531.4041
San Francisco	415.553.9044
San Joaquin	209.468.2500
San Luis Obispo	866.781.5821
San Mateo	650.599.7479
Santa Barbara	805.568.2400
Santa Clara	408.295.2656
Santa Cruz	831.454.2010
Shasta	530.225.5220
Sierra	530.993.4617
Siskiyou	530.842.8229
Solano	707.784.6844
Sonoma	707.565.8250
Stanislaus	209.525.5541
Sutter	530.822.7345
Tehama	530.527.4296
Trinity	530.623.1204
Tulare	559.733.6754
Tuolumne	209.588.5440
Ventura	805.654.3622
Yolo	530.666.8187
Yuba	530.741.6275

California Department of Corrections and Rehabilitation

Office of Victim and Survivor Rights and Services

P.O. Box 942883
Sacramento, CA 94283-0001

877-256-6877 | www.cdcr.ca.gov/victims

Cal VCP

Helping California Crime Victims Since 1965

California Victim Compensation Program

P.O. Box 3036
Sacramento, California 95812-3036

800-777-9229 | www.calvcp.ca.gov

Hearing impaired/TTY: Please dial the California Relay Service at 711.

(Rev 10/10)