

Financial Recovery: A Victim's Guide to Restitution



A Publication of CalVCP and CDCR's Office
of Victim and Survivor Rights and Services
www.calvcp.ca.gov | www.cdcr.ca.gov

Table of Contents

What is Restitution?.....	3
Restitution Fines and Orders	4
Determining Victims' Losses.....	5
Losses Covered by Restitution.....	7
Collection of Restitution	8
Offenders in Prison	10
Offenders on Parole or Probation.....	11
After Parole or Probation.....	12
Restitution Hearings	14
CalVCP - Financial Assistance for Crime Victims....	15
Other Victim Resources and Contacts.....	17



A Victim's Right to Restitution

The Victims' Bill of Rights Act in the California Constitution includes the right to restitution among 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 certain out-of-pocket crime-related expenses if you have not yet been reimbursed from any other 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.

A **Restitution Fine** is a criminal offender's *debt to society*. State law requires judges to order the offender (adult or 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 \$140 to \$10,000 for adults. (Beginning in 2014 the minimum adult fine increases to \$150.)

Restitution fines go into the State's Restitution Fund, a crucial funding source for CalVCP, which helps victims pay for expenses resulting from violent crimes. 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?

The judge will need information from you about your losses in order to determine the correct amount for a restitution order. Make sure you give loss information to your victim advocate, deputy district attorney and/or county probation office before the sentencing hearing. The district attorney (DA) will tell the judge the amount of your expenses so the judge can order restitution.

Occasionally, the offender's sentencing hearing happens before you submit your bills. In these cases, you may not know what the total of your losses will be, so restitution may be ordered with an amount "To Be Determined" (TBD).

Once you know your expenses, you will need to contact the DA's office or the county probation department and request that a "restitution hearing" or a "restitution modification hearing" be put on calendar (scheduled court hearing) by the DA's office. The judge should then modify your restitution amount to include those losses. **Restitution cannot be collected until a definite dollar amount is set.**

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

If possible, follow these steps:

1. Give copies of loss information to your victim advocate, deputy district attorney and/or probation office before the sentencing hearing.
 - Your **victim advocate**. Every county has a Victim Witness Assistance Center. An advocate 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 DA's office sends 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 to present your losses to the judge before sentencing occurs.
 - 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 or send you a written request for your loss information in order to complete their report to be presented in court.
2. Have the crime report number (given to you by the police), and the name of the offender.
3. Keep copies of bills, receipts, expenses and any insurance information related to your crime. Always keep a copy of paperwork you submit to the DA, victim advocate or probation office.

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 and income 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 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 or court supervision) 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 to the appropriate agency 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. Your contact information will never be given to the offender.

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

Note: If the defendant was in state prison but is now under county supervision, the case will still remain with CDCR for collection purposes.

How is Restitution Collected from a State Prison Inmate?

Once restitution is imposed and CDCR receives a certified copy of the restitution judgment, then CDCR can assist in the collection of restitution from offenders.

When an offender arrives at prison, 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 take up to 50% to pay towards his/her restitution. **For those offenders who have a restitution fine and a restitution order, the restitution order obligation (debt to victim) will be paid first.** 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, as this can be a slow process. Money may accumulate through deposits to an inmate's trust account by family and friends. Other inmate income may come from a job within the prison. 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 that the inmate won't receive any deposits into his/her account while incarcerated and no restitution collections can be made.

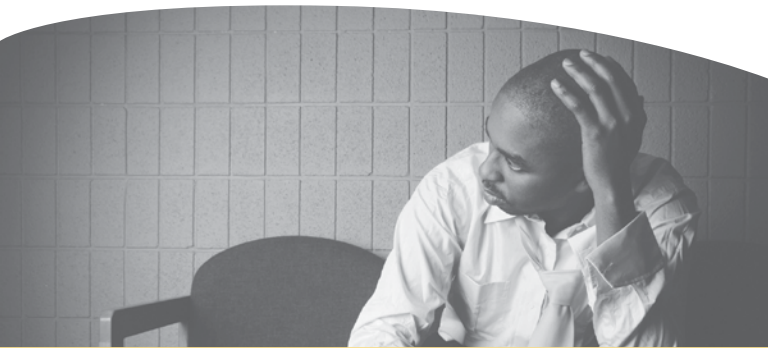
How is Restitution Collected When the Offender Leaves Prison?

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 that their restitution debt has been transferred to the FTB by calling the OVSRS at 877-256-6877. The FTB is authorized to use several collection methods including wage garnishment, bank liens, and payment plans in order to collect your restitution debt.

Your confidential information is never released to the offender or the FTB during any part of this process.

Prison Litigation Reform Act (PLRA)

The PLRA allows CDCR to collect restitution from court judgments or settlements gained by inmates or parolees in cases against the state. Victims will receive restitution first from a settlement before an inmate or parolee receives any funds.



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 probation department can assist you in obtaining restitution from the offender.

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 brochure "Enforcing Criminal or Juvenile Court Restitution Orders as Civil Judgments" at www.sdcda.org/files/enforcement_brochure.pdf

You can also consult 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. Even if you haven't received a recent payment, be sure to update your contact information since restitution is a lifetime debt and money may be collected at a later date. In some cases it may take years for the offender to be able to repay the entire debt. 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 requested by the district attorney, 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.

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.

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.



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

The collection of restitution from the offender is a different process than 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 a “payer of last resort” and provides financial assistance to victims of crime when certain losses and expenses cannot be paid by other sources like health insurance or worker’s compensation.

Note: CalVCP cannot cover costs of property damage or theft. If CalVCP provides financial assistance to you before sentencing, the judge may order the offender to repay the program. A victim can receive compensation through CalVCP even if restitution was ordered for the victim but cannot be collected immediately from the offender.

CalVCP can cover crime-related expenses, like:

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

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 other victims.

For More Information, Contact CalVCP:

Phone: 800-777-9229

E-mail: info@vcgcb.ca.gov

Online: www.calvcv.ca.gov

What Other Resources Can Help Me With My Losses?

Be sure to check out alternative resources that may be able to help with your losses:

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

You Can Also Get Help From:

- Your local Victim Witness Assistance Center
(See pages 18-19)
- California State Corrections Victim Services
Restitution Section
877-256-6877 | www.cdcr.ca.gov/victims
For adult offenders sentenced to state prison
- California Attorney General's Office
of Victim Services
877-433-9069
*Provides victims with appeal information
on adult offenders sentenced to life in prison*
- Victim Resource Center
McGeorge School of Law
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
916-262-0896

California Restitution Laws

PC § 1202.4 Restitution Sentencing Law

PC § 1202.45 Parole Revocation Law

PC § 1202.46 Reserving Jurisdiction Over Restitution

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

PC § 11177.22 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.....	530.642.4760
Fresno	559.600.2822
Glenn.....	530.934.6510
Humboldt	707.445.7417
Imperial.....	760.336.3930
Inyo.....	760.873.6669
Kern.....	661.868.4507
Kings	559.852.2640
Lake	707.262.4282
Lassen.....	530.251.8281
Los Angeles City	213.978.2097
Los Angeles County	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.....	760.924.1717
Monterey.....	831.755.5072
Napa	707.299.1414

Victim Witness Assistance Center:

Nevada	530.265.1246
Orange.....	949.975.0244
Placer	916.543.8000
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	805.568.2408
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.....	559.636.5471
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



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.**