Who Should I Contact if I Have Questions?

While no one can give you legal advice, you can contact the following offices:

Update Your Address for Future Payments
Clerk of District Court, Financial Services
(865) 545-4228

Share Information about Defendant's Assets
U.S. Attorney's Office,
Financial Litigation Unit
(865) 545-4167

Assignment of Restitution
U.S. Attorney Office, Victim Witness Unit
(423)385-1341 for Chattanooga or Greeneville
(865)225-1616 for Knoxville

Any Payments Pending Disbursement
Clerk of District Court, Financial Services
(865) 545-4228

Obtain Abstract of Judgment
Clerk of District Court
(865)

Questions about Defendants on Supervision
U.S. Probation and Pretrial Services
(423)752-5193 Chattanooga
(423)638-8121 Greeneville
(865)545-4001 Knoxville

Inmate Locator
U.S. Bureau of Prisons
www.bop.gov

National Center for Victims of Crime
(800) 394-2255
www.ncvc.org

RESTITUTION

Frequently Asked Questions by Victims

The United States Attorney's Office
Eastern District of Tennessee

Chattanooga
Greeneville
Knoxville

www.usdoj.gov/usao/tne

What is Restitution?

In federal court, a convicted offender may be ordered to reimburse victims for financial losses incurred due to the offender's crime. This reimbursement is called "restitution." Additional restitution may be ordered for lost income, property damage, counseling, medical expenses, and funeral costs.

To determine the amount of restitution to be ordered, the U.S. Probation Office gathers financial loss information from victims prior to sentencing. Often this information is obtained by having each victim complete a "Victim Impact Statement."

At sentencing, the judge then enters an "Order for Restitution," directing the offender to reimburse victims for some or all of the offense-related financial losses. Compliance with the Order for Restitution automatically becomes a condition of the offender's probation or supervised release.

Will I Get Paid All the Money the Defendant Owes Me?

No one can promise that victims will be paid all of the money the judge finds they are entitled to receive as restitution. Sometimes the defendant simply does not have the money to pay restitution, or the assets may be held in a manner that bars enforcement action. Whether victims get paid depends largely on the financial resources the defendant has and how they are held.

Ordering vs. Receiving Restitution

Under federal law, it is mandatory for a defendant to pay restitution when there is a loss to a victim. Unfortunately, as a practical matter, a defendant who has no money or potential to make money in the future may be unlikely to ever make meaningful restitution.

What Happened to the Money Taken From Me?

Often, the defendants spend money from victims to support themselves or make luxury item purchases. By the time of indictment, these assets usually have been greatly reduced, if not completely dissipated. Defendants seldom possess bank accounts containing victim funds or other readily identifiable assets that can be seized for restitution purposes.

When Will I Get the Money Owed to Me?

Victims will often not receive the money taken from them for a very long time. Typically, there are many victims in fraud cases, and funds available for restitution are generally disbursed to victims on a pro-rata basis. That means each victim will only receive a portion of each payment. The judge sets a schedule of payments based on the financial resources of the defendant and whether the defendant has a dependent spouse or children. As a result, victims may not receive any restitution or only partial restitution paid over a long period of time.

How Long Will the Defendant Have to Make Payments?

Restitution judgments are generally enforced for 20 years after a defendant is released from incarceration. Therefore, even if the defendant does not have money to pay restitution initially, he or she may be able to make payments in the future. Thus, it is important that victims keep the Clerk of Court advised of address changes while they are owed restitution.

What is Being Done to Collect Restitution?

For various reasons, collection of court-ordered restitution in criminal cases is often difficult. Any information victims have about a defendant's assets, income, or employment can be helpful in collecting money.

Restitution payments are dependent upon the financial resources of the defendant and whether the defendant has financially dependent family members. If the defendant is not working or has zero assets, collection potential is limited. Often the defendant has spent all victim funds or has placed assets in hidden accounts.

If the defendant is not paying restitution as ordered by the judge, the Financial Litigation Unit at the U. S. Attorney's Office will attempt to locate assets and enforce collection. The Financial Litigation Unit conducts asset investigations, obtains financial discovery regarding the defendant's assets and liabilities, files liens on behalf of the identified victims, and establishes and monitors restitution payment plans. The Financial Litigation Unit may also garnish wages and bank accounts, offset federal tax refunds, and execute against real or personal property held solely by the defendant.

Due to privacy restrictions under Title 5, United States Code, Section 552a, the Financial Litigation Unit cannot disclose information about defendants.

Can Victims File a Lien Against a Defendant?

A victim may choose to request an Abstract of Judgment from the Clerk of Court, certifying that a judgment has been entered in the victim's favor in the amount specified in the judgment. A victim can file this document with the state Recorder's Office in any county where the defendant is believed to have assets. When recorded, the Abstract of Judgment becomes a lien against the property of the defendant in that county in the same manner as a state court judgment. The U.S. Attorney's Office will also file a lien on behalf of all the victims.

How is Restitution Collected While the Defendant is in Prison?

Every federal prison inmate who owes restitution is encouraged to participate in the Inmate Financial Responsibility Program ("IFRP"), which assists the inmate in developing a plan to pay his or her debts by earning compensation through institution work assignments. Fifty percent of any income earned through IFRP is applied toward restitution. An inmate's wages may be as low as 11 cents per hour, with the usual inmate restitution payment being $25 per quarter, which is then disbursed to the victims on a pro-rata basis.

Defendants are also ordered to pay a nominal special assessment to the court. This money is deposited into the Crime Victims Fund and is used to support victim assistance programs nationwide. Payment of special assessments have priority over any other debt, including restitution. Given these limitations, restitution payments made while the defendant is in prison may not be substantial.

What Happens During Supervised Release?

After a defendant's term of incarceration is complete, the defendant may be under "supervised release" by the U.S. Probation Office. While on supervision, the defendant's ability to pay restitution is reviewed and monitored by a probation officer. The defendant is required to report income, debts, and restitution payments to the probation officer on a monthly basis. A review of defendant's non-essential expenses is also done periodically throughout supervision to make sure the defendant is paying an appropriate amount of his or her income towards restitution.

If any restitution remains unpaid six months before the end of supervision, a report is submitted to the judge, summarizing the record of the defendant's restitution payments. The judge may conduct a review to determine if the defendant has made a good-faith effort to complete restitution, and, if not, the judge may extend the period of supervision.

How is Restitution Disbursed?

If a defendant is making payments ordered by the judge, the payments go directly to the Clerk of Court, who disburses the funds to the victims on a pro-rata basis unless the judge issues a different payment method. In general, the Clerk of Court will not issue checks for very small sums because it is not economically sound. For example, the clerk will not issue a check for $2.00 but, instead, will hold the funds until a check for $25, for example, can be issued.

Is There Something I Can Do To Make Sure I Receive Restitution?

After a defendant is sentenced, there are things victims can do to help make sure they receive restitution. First, victims must remember to keep the Clerk of Court advised of address changes. Second, they should ask the Clerk of Court to provide Abstract of Judgments, which can be filed where the defendant owns property. Third, they can call the Financial Litigation Unit at the U.S. Attorney's Office with information about the defendant's assets or employment. Fourth, they may wish to consider contacting a lawyer to advise them about their rights as creditors. If they do not have their own lawyers, they can call First Call for Help, the county bar association's referral line, or a local legal aid office. Fifth, they may enforce restitution orders as if they were civil judgments. Any collections recovered should be reported to the Clerk of Court.

What if I Receive One Payment from the Court and then Don't Get Another One?

As stated above, restitution payments tend to be quite small, and it may take some time for enough money to accumulate to send to victims. Thus, victims may receive one payment and then not receive another one for a couple of months. The defendant may also lose work and, as a result, cannot make payments, at least temporarily. Or, the defendant may just stop making payments.

For various reasons, collection of court-ordered restitution in criminal cases is often difficult. Any information victims have about a defendant's assets, income, or employment can be helpful in collecting money. Keep in mind that enforcement of the restitution order is limited by the defendant's economic circumstances and the manner in which assets are held.

What if I Don't Want Restitution?

You may assign your right to receive restitution to the Crime Victim's Fund for use by state and federal victim assistance agencies. If you wish to assign your right to restitution, please contact the U.S. Attorney's Office, Victim Witness Unit.

Additional Information.

An Order of Restitution is not dischargeable in bankruptcy. Nor is it a guarantee that a crime victim will actually receive any or all the money ordered by the court.