

A VICTIM'S RESTITUTION GUIDE

Financial Recovery



CalVCP **50**
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California Victim Compensation Program



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TABLE OF CONTENTS

What is Restitution?	2
Restitution Fines and Orders	3
Determining Victims' Losses	4
Losses Covered by Restitution	5
Collection of Restitution	6
Offenders in Prison	7
Offenders on Parole or Probation	8
After Parole or Probation	8
Restitution Hearings	10
CalVCP Financial Assistance for Crime Victims	11
Other Victim Resources and Contacts	13
Need More Help?	15

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) assist 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 that have not and will not be reimbursed from any other source as CalVCP is a payer of last resort.



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 an 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. For juveniles, the judge will require the offender to pay \$0 to \$100 for a misdemeanor and \$100 to \$1,000 for a felony. Adult offenders are required to pay \$150 to \$1,000 for a misdemeanor and \$300 to \$10,000 for a felony.

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

(See page 11 for more information about CalVCP)

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 will 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.**

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 can also help with your CalVCP application.
 - The **deputy district attorney in charge of your case:**
In the event the DA's office sends you 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 losses. 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

5

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. To contact your local Victim Witness Assistance Center, visit us at: calvcp.ca.gov/localhelp.aspx or call CalVCP at: **800.777.9229**

If the offender is being sentenced to a **California state prison**, be sure that your current contact information is on file with the CDCR by completing a CDCR 1707 form. 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.**



6

You may contact OVSRS directly at **1.877.256.6877** or learn more at CDCR's website, **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.

HOW IS RESTITUTION COLLECTED FROM A STATE PRISON INMATE?

Once restitution is imposed and CDCR receives a certified copy of the restitution judgment from the court, 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 percent 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' orders are referred to the Franchise Tax Board (FTB). Victims may verify that their restitution debt has been transferred to the FTB by calling CDCR's Office of Victim and Survivor Rights (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.

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

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 obtained by inmates or parolees in cases against the state. Victims will receive restitution orders from a settlement before inmates or parolees receive any funds.



WHAT IF I DON'T GET PAID?

If the offender was sent to state prison, call CDCR's OVSRS 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: **sdcca.org/files/enforcement_brochure.pdf**

You can also consult the California Judicial Branch at: **courts.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 responsible for collecting your restitution 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 orders (and fines) 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 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, 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. 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 Victim Compensation and Government Claims Board (VCGCB). 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 Restitution Fund to assist other victims.

For More Information, Contact CalVCP:

Phone: **800.777.9229**

Email: **info@vcgcb.ca.gov**

Online: **calvcp.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





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

YOU CAN ALSO GET HELP FROM:

- Your local Victim Witness Assistance Center
- CDCR's Office of Victim and Survivor Rights and Services at: **877.256.6877** | cdcr.ca.gov/victims
- For adult offenders sentenced to state prison California Attorney General's (AG) Office of Victim Services at: **877.433.9069**
The California AG's Office of Victim Services provides victims with appeal information on adult offenders sentenced to life in prison.
- McGeorge School of Law, Victim Resource Center at: **800.Victims (800.842.8467)** | 1800victims.org
The McGeorge School of Law, Victim Resource Center provides a wide range of information and services to victims of crime.
- The California Judicial Branch at: courts.ca.gov
- Division of Juvenile Justice (DJJ) Victim Services at: **916.262.0896**

NEED MORE HELP?

Contact a victim advocate and find additional victim resources and services in your county by visiting our Local Help page: calvcp.ca.gov/localhelp.aspx





**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



California Victim Compensation Program

P.O. Box 3036
Sacramento California 95812-3036
800.777.9229
calvcp.ca.gov

Deaf and hard of hearing: Please call the
California Relay Service at 711.

