What is restitution?

Restitution is the recovery from an economic loss suffered as the result of the commission of a crime. Some examples of losses include:

- Medical Expenses
- Mental Health Services
- Property loss or damages
- Income Loss
- Funeral/Burial Expenses

What legal rights do victims have?

The California Constitution provides that restitution shall be ordered in every case where a person is convicted of a crime involving a victim who suffered a loss. "It is the intent of the Legislature that a victim of crime who incurs any economic loss as a result of the commission of a crime shall receive restitution directly from any defendant convicted of that crime." (Penal Code § 1202.4) If the offender is a juvenile, the parent or guardian is presumed to be jointly and severally liable for the restitution owed (Welfare & Institutions Code § 730.7)

Criminal Restitution is a permanent order that does not expire and is not dischargeable thru bankruptcy (Penal Code § 1214)

How do victims enforce restitution orders?

The first step in enforcing a criminal restitution order is to obtain an Order for Restitution and Abstract of Judgment (Form CR-110/ JV-790) from the criminal or juvenile court ordering the offender to pay restitution.

Order for Restitution and Abstract of Judgement. (CR-110/JV-790)

This document is the actual restitution order of the court, signed by a judge. It identifies you as the victim and identifies the person who owes you a specific amount of money. You can file it with the county recorder or request the assistance of an attorney, collection agent, or other representative to file it for you and avoid filling in the personal information required by the County Recorder.

How do victims collect?

If a criminal or juvenile offender is granted probation by the courts, restitution will be enforced by the Probation Department. The offender typically makes a monthly payment in an amount set by the court. That amount is collected by the Revenue Collections Unit and sent to the victim.

What if the victim does not receive full recovery through the criminal courts? (Civil Collections)

If a victim does not gain full restitution through the criminal courts, they can seek the assistance of a collection service or an attorney. They may also pursue the collections personally. Victims have access to all resources available under the law to enforce the criminal restitution order as a civil judgment.

Enforcement of Judgments

A criminal or juvenile Order for Restitution is enforceable as a civil judgment (Penal Code § 1214). The law establishes procedures for the enforcement of civil judgments. More detail is available along with statutory obligations in the California Code of Civil Procedure §§ 680.10 through 724.260.

Definitions

Garnishments:
When a person's salary is intercepted by a levying officer and is given to the judgment creditor to satisfy a judgment.

Judgment
A judgment, order or decree entered in court.

Judgment Creditor
The person in whose favor a judgment is ordered

Judgment Debtor
The person that the judgment is ordered against

Levy
A process to obtain property or cash from the judgment debtor to satisfy a court judgment

Levying Officer
The sheriff or marshal who is responsible for making levies under a Writ of Execution

Lien
A claim on property for payment of debt

Money Judgment
Part of a judgment that requires payment of money

Writ of Execution
A legal document issued by the court that permits a levy on the judgment debtor's property

Sister State Judgment
A legal document that allows a judgment issued in one state to be collected in another state, under the same laws established for conversion in that state

The defendant was sentenced to prison.

If the offender is sentenced to the California Department of Corrections and Rehabilitation (CDCR) or CDCR-Division of Juvenile Justice (formally California Youth Authority) you must fill out and submit a Victim Services and Restitution Collection Request form to CDC. Payments will be made to you from the offender's prison wages and trust account at the rate of 20-50%. To obtain CDC form 1707, you may contact the probation officer, district attorney, CDC's Office of Victims Services and Restitution at 1-888-256-6877, or download it from the CDC's website at: www.cdcr.ca.gov

Asset Discovery

If the defendant is unwilling to pay restitution, as ordered by the court, you will need to know what assets are available to proceed with civil action. The statement of assets (Form CR-115) from the defendant will assist you so that you may determine what types of collections to pursue. As a victim you are entitled to a copy of the CR-115 which lists the defendant's personal information, employment, assets, income, and liabilities. Request this form from the Criminal Courts Record Division. If the defendant has failed to file a copy of the CR-115, you are entitled to a copy of the defendant's financial affidavit that was filed in seeking the appointment of council. If a defendant has a remaining unpaid balance on a restitution order 120-days prior to the expiration of probation or parole, the defendant must complete a new CR-115 and file it with the clerk of the sentencing court no later than 90 days prior to release (Penal Code § 1202.4(f)(5)-(11)).

Collection Options

Liens

A lien is a legal claim against a defendant's property. Recording the Order for Restitution/Abstract of Judgment (Form CR-110) with the County Recorder establishes an automatic lien against the defendant's current or future real estate. It gives your judgment priority so that your order must be paid before the defendant can sell, refinance, or transfer property.

For liens against a defendant's business assets, it may be possible to file a statewide lien on personal property. To do so you will need to contact the California Secretary of State.

Wage Garnishments

(Earnings Withholding Order, Form 982.5(2))

A wage garnishment is a method to collect a portion of the defendant's wages directly from his employer. A maximum of 25% of the defendant's earnings over $700.00 per month may be attached. Forms and instructions are available at: http://www.courts.ca.gov/forms

Writs of Execution (Form EJ-130)

A writ of Execution allows the victim to attach the defendant's income or personal assets. To obtain a writ you must

1. Obtain and complete the form at http://www.courts.ca.gov/forms
2. Pay the fee and file the form with the sentencing court.

Once you have obtained the Writ of Execution, it must be delivered to the Levying Officer (County Sheriff or Marshal) with instructions identifying which property to levy. A fee is required. A levy will allow you to obtain property or cash that belongs to the defendant to satisfy your restitution order.

Enforcing Restitution Orders as Civil Judgments

Victim's Recovery Guide

County of Fresno
LISA A. SMITTCAMP
District Attorney

Fresno County District Attorney's Office
2100 Tulare Street
Fresno, CA 93721
(559) 600-3141

Revised 5-4-21

What is restitution?

Restitution is payment of money to cover financial losses caused by criminal activity. Restitution is ordered at the time of sentencing or as part of a conditional sentence to have criminal charges reduced or dismissed.

When can restitution orders be paid?

After sentencing, or agreement to a conditional sentence, the District Attorney prosecuting the case will request that an account be set up with RCU (Revenue Collections Unit) so that payments can begin to be made. Setting up an account takes some processing. *Accounts will be active in most cases within 3-4 business days after sentencing.*

How can restitution orders be paid?

Payments can be made in person, by mail, or via telephone (with a credit/debit card) at the RCU.

Please do not contact the District Attorney's Office in regard to making payments. Payments ***will not*** be accepted on the behalf of defendants.

Revised 5/4/2021

Questions or concerns about restitution orders should be answered by the defendant's attorney.
The District Attorney's Office represents The People of the State of California and cannot give legal advice.

Fresno County Public Defender's Office
2135 Fresno St. #100
Fresno, CA 93721
Telephone: 559-600-3546
Fax: 559-600-1570

Ciummo & Associates
2014 Tulare Street, Suite 300
Fresno, CA 93721
Telephone: 559-441-0114

Fresno Alternate Defense Office
2014 Tulare Street, Suite 310
Fresno, California 93721
Telephone: 559-264-8872

Where can restitution payments be made?

Restitution payments are made directly to RCU (***Revenue Collections Unit***). They accept cashier's check, money order, credit/ debit cards.

(Cash will be accepted in person only.)

Make sure to include the court case number on the check or money order.

Payments in Person
Hall of Records
2281 Tulare Street, Room 101
Fresno, CA 93721

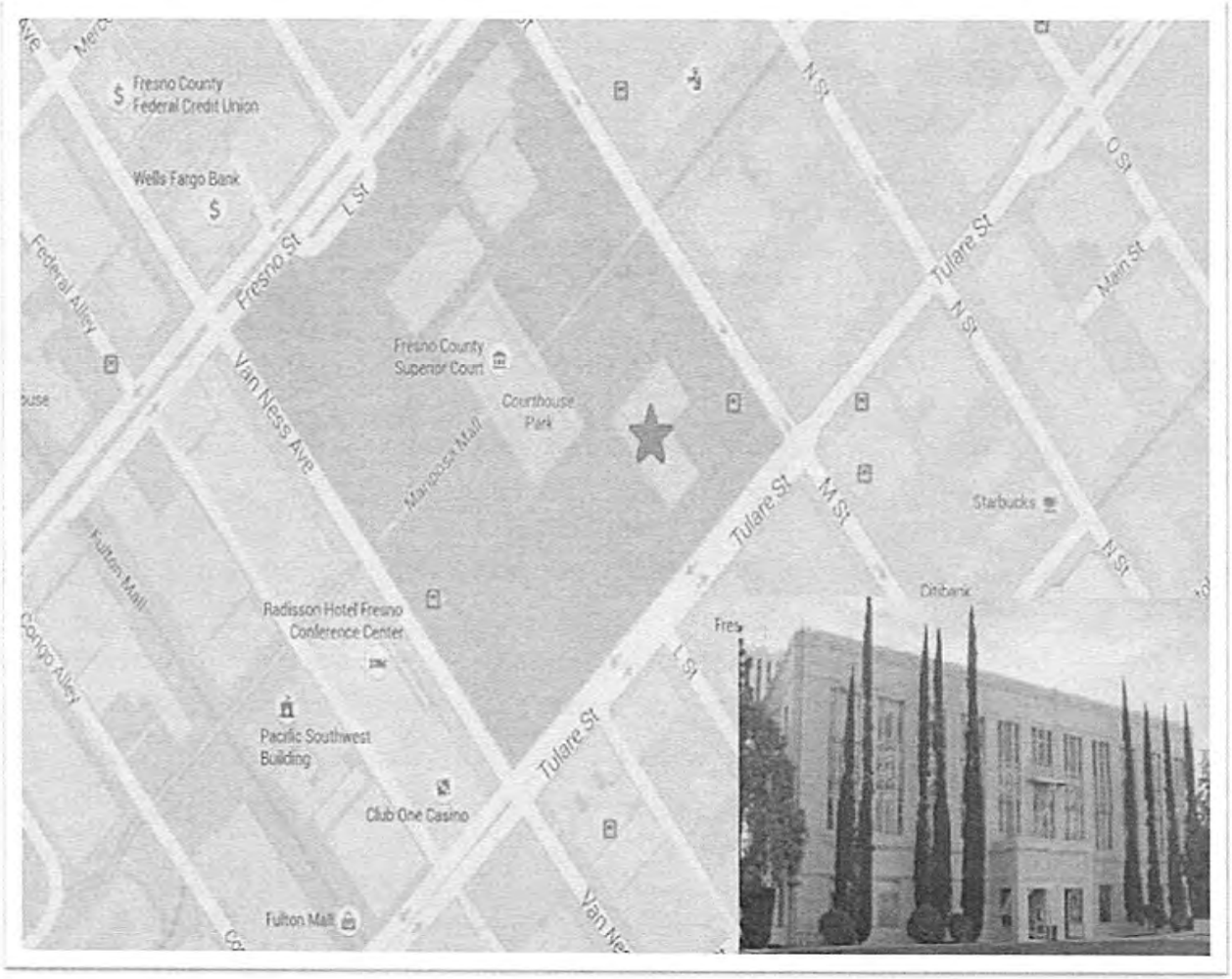
Payments by Mail **(Do not mail cash)**
Revenue Collections Unit
P. O. Box 226
Fresno, California 93708

Office Hours
Monday through Friday
8:00 a.m. - 5:00 p.m.

Contact
(559) 600-3815 Phone
(559) 600-1451 Fax
acttc-rcuwebmail@co.fresno.ca.us

Map to Revenue Collections Unit:

RCU is located on "Tulare Street" between Van Ness Avenue and "M" Street, South-east of the Fresno County Superior Courthouse.



Restitution Guide For Defendants

County of Fresno
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