



## Restitution Checklist

### *Start Early and Think Broadly*

#### *Preparing to Seek Restitution:*

- ❑ Research the scope of restitution.
  - How is “victim” defined for purposes of restitution?
  - What is the applicable standard of causation between the offense(s) and the losses?
  - What losses are eligible for restitution? Are there any explicit limitations?
  - What is the applicable burden of proof?

#### *Documenting Losses:*

- ❑ Compile available documentation. Examples include:
  - receipts
  - agreements
  - contracts
  - estimates
  - affidavits
  - cancelled checks
  - credit card statements
- ❑ Redact documentation to protect victims’ identifying information.
- ❑ Think comprehensively about losses, including future losses.
  - For sample citations addressing the broad range of losses that may be sought in restitution, including future losses, see Nat’l Crime Victim Law Inst., *Sample Cases: Thinking Broadly About Restitution* (last updated Feb. 2014), <https://law.lclark.edu/live/files/17596-11-0813-645-drftpub-pdf-sample-cases>.

#### *Requesting Restitution:*

- ❑ Confer with the prosecutor about restitution early in the case.
  - Be aware that plea agreements may impact restitution, and ask that the prosecutor include restitution for dismissed charges as part of any plea agreement.
- ❑ Confer with the individual responsible for preparing a presentence report that includes information about restitution.
- ❑ Consider submitting an independent motion for restitution and an accompanying memorandum to the court.
- ❑ Although restitution is generally ordered at the time of sentencing, there may be times post-sentencing when restitution can still be ordered. Be sure to act within the jurisdictional window, and consider requesting additional time for determining the amount of restitution, if necessary.

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to find:

- More resources to help protect victims’ rights in the *Victim Law Library*



- Additional tools in the *Toolkit*



- An online technical assistance request form

**Are you working on a case with a victims’ rights issue?**

NCVLI provides legal technical assistance to practitioners serving crime victims.