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.