



# **Rights, Roles, and Responsibilities**

A Handbook for Fraud Victims Participating in  
the Federal Criminal Justice System

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## Introduction

As the victim of a federal fraud crime, you may suffer financial and emotional harm and even medical problems relating to your victimization. And you are not alone. As many as 24 million people in the United States are victims of fraud crimes each year, according to a 1994 Department of Justice research report. The estimated cost of those crimes is more than \$45 billion annually.

**What is fraud?** Fraud occurs when a person or business intentionally deceives another with promises of goods, services, or financial benefits that do not exist, were never intended to be provided, or were misrepresented. Typically, victims give money but never receive what they paid for.

**Who are the victims of fraud?** Virtually anyone can fall prey to fraudulent crimes. Con artists do not pass over anyone due to such factors as a person's age, finances, educational level, gender, race, culture, disability, or geographic location. And they do target certain groups based those factors.

**Why are fraud crimes underreported?** Although fraud victims are not alone, they often suffer their losses alone and in silence. Shame, guilt, embarrassment, and disbelief are among the reasons that only an estimated 15 percent of the nation's fraud victims report their crimes to law enforcement. Other reasons include victims' doubt about their own judgment, a sense of betrayal, and fears about how their family members, friends, and business associates will react. Some victims feel their losses are not large enough to report, do not want to get involved, think law enforcement agencies will not take the crime seriously, or think nothing will result from reporting the crime. Many victims feel they have only themselves to blame. In reality, calculating, skilled perpetrators are to blame for these criminal acts.

**Who commits fraud crimes?** Like their victims, fraud criminals vary educationally, socially, geographically, and financially.

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The image of fly-by-night con artists depicted in the news media does not describe most fraud criminals. Most con artists make a career of their criminal activities. Some even join professional organizations to legitimize their schemes and project a respectable front.

**What makes your case a federal matter?** Fraud crimes can be prosecuted at either the state or federal level, depending on a number of factors:

- Type of fraud scheme and amount of money stolen
- Laws violated (federal, state, or both)
- Method of operation
- Use of public services (such as the U.S. Postal Service, telecommunications systems, and Medicare) that fall under federal or state regulation and authority
- Location of the crime (within a state or across state or national borders)

**What are some common types of fraud?** The weapon of choice for fraud criminals is not a gun or a knife. Rather, it is most often a telephone, letter, glossy publication, or brochure offering free vacations, merchandise, investment opportunities, or services. Not all frauds involve the direct selling of goods to consumers. Some frauds target institutions or businesses.

These are examples of federal fraud crimes:

- Telemarketing fraud (telephone solicitation for phony goods or services)
- Mail fraud
- Health care and insurance fraud
- Pension and trust fund fraud
- Credit card and check fraud (including fraud by impersonation resulting from theft of mail or credit cards)
- Fraud related to securities, commodities, and other investments
- Banking fraud
- Embezzlement

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- Pyramid schemes
  - Advance fee schemes
  - Internet fraud

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## Emotional Impact of Fraud Victimization

The federal criminal justice system recognizes that you, as a victim of a federal fraud crime, want information about the justice process, you have an important role to play in that process, and you possess rights that must be honored and may need referrals to support services. This handbook has been developed to address your needs and provide you with important information. In addition, the handbook answers questions commonly asked by fraud victims and lists resources that may be of help to you.

Fraud crime is a personal violation. Your trust in your own judgment, and your trust in others, is often shattered. You may feel a sense of betrayal, especially if the perpetrator is someone you know.

You may have hesitated to tell family members, friends, or colleagues about your victimization for fear of criticism. If they then were exploited by the same fraud, you might feel guilty and suffer a sense of isolation.

Fraud crimes can destroy your financial security and sometimes that of your loved ones. If you are elderly, disabled, or on a fixed income—and you lack opportunities to recover your losses—you may face additional trauma, even the loss of your independence.

You may experience feelings about:

- *Yourself* for the part you played in the crime
- The *fraud criminal* for taking financial advantage of you, betraying your trust, and jeopardizing your financial independence and security
- Your *family, friends, and colleagues* for blaming you, being upset over what they perceive as your lack of judgment, or withdrawing financial or emotional support

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- The *investigative* and *prosecutorial phases* of the justice process, especially in cases that progress slowly or do not result in financial outcomes favorable to you
  - The *news media* for failing to warn the public about fraud schemes or for exploiting victims when fraud crimes are reported
  - *Consumer protection agencies* for failing to protect your interests
  - *Creditors* who don't understand your dire financial circumstances
  - *Community, state, and federal agencies* if their resources are limited or they do not have the authority to help you

You might find the criminal justice process intimidating and stressful due to several factors:

- Unfamiliarity with the justice process, your role and rights in it, and services available to you
- Fear of confronting the person who defrauded you
- Fear of others' judgmental attitudes and actions
- Fear of public disclosure, especially if you have not told anyone close to you about the crime

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## Services Available to Help You

The victim/witness coordinator on the investigative or prosecutorial phase, case agent, and federal prosecutor will work to become aware of your needs, feelings, and concerns and to answer questions you may have about participating in the case. Services they commonly provide include:

- Referrals to mental health, financial, or social services
- Security/protection information and referrals
- Information about the federal criminal justice system and your rights and roles as you participate
- Assistance with employers and creditors
- Notification about dates, times, places, and outcomes of court proceedings
- Information about how you can submit a victim impact statement or, where permissible, speak at sentencing
- Restitution

If you are named as a victim in the case and are required to testify, these services may be provided to you:

- Information about being placed “on call” for court attendance, an arrangement that lets you stay at home or work until you are actually needed to testify
- Arrangements to help you travel to and from court, especially if you live out of state
- Escort to court proceedings

The victim/witness coordinator may also be able to help you retrieve property of yours that was taken into evidence and tell you how to enroll in the Bureau of Prisons Victim Notification Program. Under that program, if the accused is found or pleads guilty and is incarcerated, you can be notified of the offender’s target release date.

If you have additional needs, contact the victim/witness coordinator to determine what additional services may be available. *The address and phone number are listed on the back cover of this handbook.*

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## **Your Role in the Federal Criminal Justice Process**

Your role in the criminal justice process varies depending on the case. Usually, victims and witnesses must provide information, both written and oral, that is relevant to their case. Some victims and witnesses may also be required to attend court-related proceedings. The justice system cannot operate without victims and witnesses who come forward to report crime and participate in the prosecution of a case. Your involvement is vital.

In addition to providing written and oral information about the case, you will be required to show documentation of your financial losses. *You should save all paperwork relating to the crime, including such items as letters of solicitation, prospectuses, canceled checks, cash receipts, receipts for cashier's checks or money orders, bank statements, investment statements, or medical statements.* If your case proceeds to trial and a conviction is secured, the judge will need this documentation to determine whether the offender will be ordered to repay you for your losses.

It is important that you tell the case agent, victim/witness coordinator, and federal prosecutor handling your case about any changes in your contact information (mailing address and telephone number). That is the only way you can be kept informed and involved.

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## Overview of the Federal Criminal Justice System

A federal fraud case typically involves several different court proceedings. You may or may not be required to appear at those proceedings—it all depends on the number of victims and the federal prosecutor's approach to the case. Often the decision on who is needed to testify is not made until shortly before the trial begins. If you are needed at any court proceeding, the victim/witness coordinator or federal prosecutor will contact you. Even if you are not needed at court proceedings, you are still entitled to receive support services and information about the status of the case.

The U.S. Constitution provides certain rights to persons who have been accused of violating a federal law. Accused persons (also called *defendants*) have the right to:

- Be represented by legal counsel
- See the evidence that is brought against them
- Confront their accusers
- Have their case heard by a judge and jury

As a victim of a crime, you may be required to participate in one or more of the following proceedings:

### Preliminary Hearing

The preliminary hearing is held to determine whether the evidence the federal prosecutor has collected shows good reason to proceed with charges against the defendant. Normally, the defendant's attorney (called the *defense attorney*) will not present any evidence, and the defendant will not testify. At some preliminary hearings, only law enforcement officers testify. At others, both law enforcement officers and witnesses testify.

If you are required to testify at a preliminary hearing, the federal prosecutor will issue a written command (a *summons* or *subpoena*)

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for you to appear at a certain time and place to present evidence. The federal prosecutor or victim/witness coordinator will provide you with additional information about the hearing and what you can expect to happen.

### **Grand Jury Hearing**

Next, a panel of 23 citizens (a *grand jury*), randomly selected and residing in the same judicial district (*jurisdiction of the court*), meets privately with the federal prosecutor to examine the evidence against the defendant. The federal prosecutor may require law enforcement officers and witnesses to testify. The defendant and his or her attorney are not present and are not allowed access to the information or testimony given.

The grand jury then determines whether formal charges should be brought against the defendant and whether the case should go to trial. If so, a *true bill* or *indictment* (a formal complaint against the defendant listing the specific criminal charge) is issued. If not, the grand jury dismisses the case by issuing a *no true bill* (also called a *no bill*). That means the defendant is not charged or required to stand trial.

### **Arraignment**

This is a formal court hearing to determine whether the defendant is guilty of the crime as charged. Sometimes a defendant will enter a plea of guilty or accept a plea agreement offered by the federal prosecutor before the trial starts. If that happens, no trial is held and you will not be required to testify.

### **Trial**

If a trial is held, law enforcement officers, witnesses, and other persons with knowledge of the crime may be required to appear in court and testify. If you are required to testify at the trial, you will be notified by subpoena and contacted by the federal prosecutor and victim/witness coordinator. After the federal prosecutor has presented evidence that shows the defendant committed the

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crime, the defense attorney may present evidence to show the defendant did not commit the crime.

When the federal prosecutor and defense attorney have presented all their legally admissible evidence, a judge or a jury considers the evidence and then determines whether the defendant is guilty beyond a reasonable doubt or not guilty. If the defendant is found not guilty, the charges are dismissed and nothing further happens in the case. The federal prosecutor and victim/witness coordinator can tell you the outcome of the trial or plea agreement.

### **Submitting Victim Impact Information**

If the defendant in your case is found guilty or pleads guilty, you have the right to submit a written statement about the crime's emotional, financial, and physical effect on you, your family, or your business for the court's consideration before sentencing. That statement, commonly called a *victim impact statement*, allows you to tell the court how the crime has hurt you—information only you know.

Additionally, if the court orders the U.S. Probation Department to complete a pre-sentence investigation report on the defendant, a pre-sentence probation officer may contact you to inquire about the impact of the crime and to verify your financial losses.

You may also have a chance to appear in court and speak directly to the judge at the time of sentencing. For more information about submitting a written statement or speaking at the time of sentencing, contact the victim/witness coordinator or federal prosecutor.

### **Sentencing Hearing**

If the defendant is found guilty or pleads guilty, a hearing is held to determine an appropriate punishment. In the federal criminal justice system, the judge bases the defendant's punishment on pre-determined guidelines for each violation. Before selecting a punishment, the judge orders the U.S. Probation Department to complete a *pre-sentence investigation report*. That report details the defendant's personal background and criminal history and the crime's emotional, physical, and financial impact on you.

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Punishments may include a jail or prison sentence (followed by a period of supervised release); *probation*, where the defendant is allowed to remain in a community under supervision; or other options. The judge may also require the criminal to pay fines, assessments, or court costs and to repay you for the financial losses you suffered. (Repaying victims is called *restitution*.)

### **Post-Sentence Notification**

If a defendant is convicted and receives a prison term, you have the right to be kept informed of his or her projected release date. This service, available from the U.S. Bureau of Prisons (BOP), also notifies you if the convicted defendant, now called an inmate:

- Dies
- Escapes
- Is *furloughed* (released for specified periods of time for reasons such as a death in the family)
- Is transferred to a community corrections center
- Is paroled

If you want to be kept informed of such developments, submit a written request (once the defendant has been sentenced) to the federal prosecutor in the jurisdiction in which your case was handled. The victim/witness coordinator will provide you a request form and then forward it to the BOP Victim-Witness Program. The inmate does not have access to this personal information.

Be sure to update BOP if your address or telephone number changes. Send changes to the Victim-Witness Program, U.S. Bureau of Prisons, Room 539, 320 First Street, N.W., Washington, DC 20534.

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## **Your Rights as a Federal Crime Victim**

You have a number of rights that must be recognized by the criminal justice professionals involved in your case. As a federal crime victim, you have the right to:

- Be treated fairly and with respect for your dignity and privacy
- Be reasonably protected from the accused offender
- Be notified of court proceedings
- Attend all public court proceedings related to the offense, unless the court determines that your testimony would be materially affected if you heard other testimony at the trial
- Confer with the attorney for the government
- Request and receive an order of restitution
- Prepare a victim impact statement about the crime's emotional, financial, and physical impact on you for inclusion in the pre-sentence investigation report, which the court may order if the defendant is found or pleads guilty
- Receive information about the conviction, sentencing, imprisonment, and release of the offender
- Receive information and referrals to programs that can help you

If you have been identified as a federal crime victim of an FBI case, the FBI's victim/witness coordinator can provide you with additional information concerning your rights and assist you as a liaison regarding employment and credit issues. Each federal prosecutor has a victim/witness coordinator who can provide you with additional information about your rights and the services available to you and help you take advantage of them.

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## Restitution

Your greatest concern in the justice process may be the defendant's responsibility to repay your financial losses. Unfortunately, the chance of recovery is usually small. Many defendants will have spent your money and will not have sufficient assets to repay you. Additionally, restitution payments may be delayed if the defendant is sentenced to jail or prison. (Most restitution payments begin only after the defendant is released.)

The federal criminal justice system has made repayment to crime victims a priority. Here are some of your legal options.

**Court-Ordered Restitution.** The court must order restitution for federal fraud crimes committed after April 24, 1996, regardless of the defendant's ability to pay. (For crimes committed on or before that date, the judge may consider the defendant's ability to pay.) The court sets the amount of restitution, the order in which victims will be paid (if there are multiple victims, usually those with the most pressing financial needs are paid first), and conditions for repayment. You will be required to submit a documented account of your financial losses before the judge orders restitution. (That account can be submitted as part of the pre-sentence investigation report or the victim impact statement.)

Losses that can be considered for restitution include:

- Money lost directly in the fraudulent act
- Expenses for travel to and from court proceedings (except for travel expenses reimbursed by the government)
- Lost wages
- Payments for medical or mental health treatment for conditions caused by the crime

Some financial losses are not eligible for restitution. Among them are:

- State or federal taxes, interest, penalties, or fines assessed as a result of the fraudulent act
- Expenses for private legal representation relating to personal or business legal issues raised by the crime

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- Fees for tax advisors, accountants, or other professionals
  - Legal expenses for the the civil recovery of financial losses

If you do not have access to all financial loss information at the time of sentencing, or if you incur additional losses not known at the time of sentencing, you may petition the court for an amended restitution order within 60 days of discovering those losses.

The victim/witness coordinator, federal prosecutor, and U.S. Probation Department will help you decide which financial losses to include in your request for restitution.

**Restitution Payment Plan.** The court will consider several issues before determining a restitution payment plan for the defendant:

- The total amount of restitution payable to all victims
- The number of victims
- Real or personal assets of the defendant that can be liquidated, seized, or forfeited to satisfy the restitution order

If the court finds the defendant lacks sufficient assets to satisfy the restitution order, it may allow restitution through a payment plan monitored by the U.S. Probation Department. If the defendant fails to make the payments, the court can take several steps:

- Revoke the defendant's probation or other supervised release
- Modify the terms of the defendant's probation or supervised release
- Hold the defendant in contempt of court
- Order the sale of the defendant's property
- Adjust the defendant's payment schedule

**Seizure and Forfeiture of Assets.** Within the federal prosecutor's office, the Financial Litigation Unit (FLU) works to uncover any assets the defendant may have that could be sold, seized, or forfeited to satisfy the restitution debt. All identified assets are brought to the court's attention so that a legal ruling can be made either to liquidate the assets or to place an attachment (*lien*)

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against them until restitution is paid in full. These liens are enforceable for 20 years from the time a defendant is released from prison. During that time, the FLU will continue to monitor the defendant's ability to repay his or her court-ordered costs. It is important to keep the federal prosecutor's office, especially the FLU, apprised of any changes in your contact information until you have been paid in full. If you have other questions about court-ordered restitution, contact the federal prosecutor and victim/witness coordinator.

**Civil Recovery.** Civil recovery is another option for recovering your financial losses, especially those not considered in the criminal justice system. Civil recovery is an action separate from the criminal prosecution, and filing a civil action does not preclude you from requesting restitution in the criminal case.

Civil cases are private matters. You have to initiate the action and hire a lawyer at your own expense. Sometimes a fraud case is pursued in both criminal and civil courts. To learn more about your civil options, contact an attorney with experience in civil law, or contact your local bar association for referrals. Be aware that civil cases must be filed within a specified time frame (legally defined as *statute of limitations*). Therefore, contact an attorney as soon as possible to find out the applicable statute of limitations in your state. If you proceed with civil recovery, notify the federal prosecutor or victim/witness coordinator.

If your loss is small, you may want to investigate filing a claim in small claims court. The amount of damages for which you can sue varies from state to state, as does the time frame you have for initiating a small claims court action. Contact the local clerk of the court to learn your jurisdiction's filing instructions, costs, damage limits, and time frames. Suits filed in small claims courts do not usually require the services of an attorney. To locate the clerk of the court, see the government section of your local phone directory.

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## Addressing Credit Problems

Being a crime victim does not excuse you from paying debts you incurred before or as a result of the crime. One of the unfortunate effects of fraud is that it could hurt your credit rating. However, you have some options that may help.

First, you may wish to consult with the law enforcement victim/witness coordinator for guidance and assistance before contacting a consumer counseling service. Such services typically provide:

- Negotiations with creditors to consolidate or reduce payments or interest, especially on unsecured debts such as credit cards and personal loans
- Development of payment plans based on your ability to pay
- Advice about other options to repair credit, such as documenting your victimization in your credit record

Although some consumer counseling services charge high fees, many others are operated by nonprofit organizations and charge little or nothing. To find a nonprofit credit counseling service near you, contact the Better Business Bureau or a local credit reporting agency for a referral. (The Consumer Credit Counseling Service can be reached at (800) 388-CCCS. For addresses of affiliate offices near you, check your local phone directory.) Also, some universities and military bases provide those services to their students and personnel.

Second, send credit reporting agencies a written statement of your victimization for inclusion in your credit record. While explanations of payment difficulties do not result in the removal of negative credit ratings, they do provide creditors with information for future credit decisions. (Make sure to file your statement with both local and national credit reporting agencies, since they do not always share files.)

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Third, if you choose not to work with a credit counseling service, contact your creditors directly to advise them of any changes in your ability to pay. Do not neglect collection notices or avoid contact with creditors. Often, creditors will work with you to reduce or modify payments.

Here is a list of the largest national credit reporting agencies. Each provides copies of credit reports and maintains a credit card fraud unit to help consumers avoid credit card fraud.

Equifax

P.O. Box 740256

Atlanta, GA 30374

Fraud Assistance Unit (800) 525-6285

Internet address: <http://www.equifax.com>

Experian (formerly TRW, Inc.)

P.O. Box 949

Allen, TX 75013

Consumer Fraud Assistance Unit (800) 682-7654

Internet address: <http://www.experian.com>

Trans Union Corporation

P.O. Box 6790

Fullerton, CA 92834

Fraud Assistance Unit (800) 680-7289

Internet address: <http://www.tuc.com>

To find local or state credit reporting agencies, refer to your local phone directory or Better Business Bureau.

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## Frequently Asked Questions

### **What if I am harassed or threatened by the defendant?**

Intimidating victims and witnesses is against the law. Such intimidation is rare, but if you are harassed or threatened by the defendant or someone acting on his or her behalf, immediately contact the law enforcement official handling your case, the victim/witness coordinator, and the federal prosecutor. If possible, document the harassing or intimidating behavior. For example, make copies of correspondence you received from the defendant, telephone records, etc.

### **Can the defendant be released from jail before the trial?**

In most cases, yes. However, the defendant may have to post a *bond* (an assurance to the court that he or she will appear as required at all court proceedings). The court may impose other restrictions to ensure the defendant's appearance.

### **Why is it taking so long for the case to be prosecuted?**

Fraud crimes can be extremely difficult to investigate and prosecute because of a number of factors:

- Violation of multiple federal laws
- Need to locate hundreds or thousands of victims and verify their losses
- Difficulty in identifying and locating the defendant
- Finding the defendant's financial assets for possible seizure or forfeiture
- Coordination among multiple federal jurisdictions and law enforcement agencies in cases where fraudulent acts are committed across jurisdictions
- Research into all legal opportunities in prosecuting the case

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Each factor can cause a significant delay in obtaining the evidence needed to make arrests or secure a conviction. Your concerns about delays are understandable, and your patience is appreciated. For more information, contact the victim/witness coordinator or federal prosecutor, who can also tell you about other court delays that may occur once a case is set for a hearing or trial.

### **What if I can't get time off from work to participate in case proceedings?**

If you have to attend a court proceeding, your employer is required by law to let you come. If you have received a subpoena, show it to your employer. If you still have trouble, contact the victim/witness coordinator, who can help explain the situation to your employer.

### **Am I entitled to witness fees?**

Yes. Federal witnesses are paid a standard fee for each day their testimony is required. In addition, witnesses are entitled to reimbursement for parking, mileage, and other travel-related costs as permitted by law. If you have special travel needs or if you have to travel from out of state, contact the victim/witness coordinator for help.

### **Can I receive notice of court appearances and outcomes at an address other than my home?**

Yes. Simply provide the victim/witness coordinator with the address and telephone number (preferably in writing) at which you wish to receive correspondence and personal contacts.

### **What can I do if my rent or utilities are due and I have no money to pay them?**

In many communities, there are agencies—including nonprofit and religious institutions—that provide emergency assistance on an as-needed, case-by-case basis. Usually, funds are limited and offered once only. Contact your victim/witness coordinator or a local victim assistance program to locate such help.

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### **What if I am contacted by someone claiming to be able to help me recover my financial losses?**

To recover financial losses due to a federal fraud crime, you must use either the criminal justice or civil justice system. If you are contacted by someone who is not employed by the federal government, *report the person immediately to the law enforcement agency that handled your case.* If the individual is not a representative of the federal government, he or she may be engaging in an illegitimate practice, especially if you are asked to front a fee for the service. The federal criminal justice system does not sell its services to consumers—they are provided as a matter of law. Likewise, nonprofit consumer protection organizations do not solicit opportunities to assist in the recovery of financial losses or the delivery of services.

**Warning!** The person offering to help may be a confederate of the criminal who defrauded you in the first place. It is not uncommon for fraud criminals to pass along their list of fraud targets to other fraud criminals—especially victims who have suffered severe financial losses and may be in dire need. These criminals may convincingly claim to be aware of the fraudulent acts because they represent a consumer organization or government agency. Many fraud criminals operate in organizations with names that sound like those of government agencies. If you are contacted, get help from someone you know to be legitimate, like the federal prosecutor, victim/witness coordinator, or case agent.

### **Are my losses deductible on my state and federal income tax returns?**

Usually not. But because tax laws are complicated, consult a qualified tax advisor to find out for sure.

### **Why are convicted defendants allowed to keep personal or financial assets that could be used to repay victims?**

When a person is arrested for a fraud crime, the government makes exhaustive attempts to locate and, when allowed by law,

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seize the offender's assets. However, some fraud criminals place their money or other assets in offshore accounts, making it hard for the government to get them. Sometimes, fraud criminals hide accounts in other names or give the money to persons who can access the funds without detection. *If, during or after conviction, you learn of any changes in the defendant's financial status, report that information to the federal prosecutor who handled the case or to the Financial Litigation Unit housed in the federal prosecutor's office.*

**Can convicted defendants file for bankruptcy to keep from paying court-ordered restitution or civil judgments?**

No. Under federal law, defendants cannot file bankruptcy to discharge their legal obligation to pay court-ordered restitution or civil judgments.

**What happens if I die before the full payment of restitution or a civil judgment?**

Restitution payments can be paid into your estate. However, your executor must notify the court and provide documentation (such as a copy of a death certificate or will) before such a payment is allowed. Your executor should contact the victim/witness coordinator or the Financial Litigation Unit in the federal prosecutor's office for more information.

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## Protecting Yourself Against Fraud

As a fraud victim, you have a strong motivation to avoid being defrauded again. The following recommendations may help. Remember, of course, that not every organization that calls you or sends you mail is involved in fraud—most are not. Still, if you encounter any of the techniques described below, use caution before buying, investing, or making donations.

### Avoid Identity Fraud

- Never provide personal or financial information, such as your Social Security number, mother's maiden name, savings or checking account numbers, or credit card numbers or expiration dates, to a person or agency with whom you are not familiar, especially over the telephone or Internet.
- Don't imprint your Social Security number or driver's license number on checks. When filling out checks, avoid using pencil or light-colored ink, which can be altered easily.
- Remove mail from your mailbox as soon as possible. Also, it's better not to place mail in your mailbox for postal pickup—take it directly to the post office.

### Review Financial Dealings

- Investigate all referrals from family, friends, colleagues, or acquaintances concerning financial investments or purchases, especially if you are unfamiliar with the vendor. Your local Better Business Bureau (BBB), consumer protection agency, and local, state, and federal licensing agencies may be able to help you verify the vendor's business license and professional credentials or any complaints filed against the vendor or his or her business. (Unfortunately, many fraud organizations close business before complaints reach the BBB.)

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- Carefully document all transactions related to your finances or business, including dates and the names of individuals you dealt with.
  - Never send money orders or checks to a post office box unless you are sure of the recipient. When in doubt, contact your local Better Business Bureau or consumer protection agency.
  - Be wary of ads claiming that bad credit is no obstacle to obtaining a car loan, secured credit card, or other service. Many businesses that market to people with bad credit charge exorbitant interest rates or require an advance fee to apply for credit that may not be available. Check with your local Better Business Bureau or consumer protection agency first.
  - Be cautious of lenders who use 800 or 900 numbers. You may call an 800 number only to be directed to a 900 number, which you pay to use, allowing the vendor to profit from the call while giving you little or nothing in return.
  - Be wary of individuals or companies that require you to send contracts, payments, or other items through non-postal delivery systems, such as overnight couriers. Many fraudulent companies and individuals use such delivery systems to avoid detection and prosecution by the U.S. Postal Service.
  - For personal services and repairs, always obtain several estimates and compare costs. Don't sign any contract you don't fully understand, and don't advance any money for services or repairs until you have thoroughly investigated the individual or company.
  - If you are making investments through a bank, make sure you understand whether they are insured by the federal government.
  - Before buying any product or service, find out the company's refund and cancellation policies. Check with your state or local consumer protection agency to see if the

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product or service you are buying has automatic cancellation rights, such as a cooling-off period. Be sure to get all refund and cancellation policy information in writing.

- Always be careful about making any loan agreements over the telephone.

### **Check on Company Background**

- Check a company's or individual's record with your local Better Business Bureau; Attorney General Consumer Protection Unit; local, state, and federal licensing agencies; or other consumer protection agencies.
- Advertising through recognized media outlets or on-line services does not ensure a company's legitimacy. Newspapers, television stations, magazines, and other media are not required to verify the legitimacy of their advertisers.
- If you have not conducted business with a company or individual in the past, never pay in advance without a thorough investigation.
- Be wary if a charitable organization asks to come to your home to pick up money. Ask for written information about all charities before deciding whether to contribute.
- Verify business addresses and telephone numbers through the phone company. Many fraud criminals do not stay in an area long enough to be included in directory assistance data banks.
- Check professional credentials and licenses through organizations like the county medical society, state or local bar associations, or other professional licensing associations, such as the Association of Licensed Financial Planners.
- Franchises and some other business opportunities are required to give detailed written disclosures before asking consumers for payment. Read them carefully and check all references.

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- Contact the National Fraud Information Center to educate yourself about current scams and tips on how to avoid becoming a victim. You can also report fraudulent activities to the NFIC, which will notify the appropriate law enforcement or other government agencies. The NFIC can be reached at (800) 876-7060.

### **Promotional Material**

- When in doubt, ask for information in writing. If they don't supply it, don't buy.
- Be suspicious of all mail, phone, or computer promotions that require you to act quickly to receive goods or services.
- Beware of checks for small amounts that are mailed as prizes. Often, if you cash them, you will authorize a charge for services or items you did not want.

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## **Additional Victim Assistance**

One way to reduce fraud crime is to report attempts or successful completions of fraud to the appropriate federal or state agencies. If you would like to file a complaint or receive information about the legitimacy of a business or individual, you may contact one of the agencies listed below. In addition, many of the agencies listed provide free publications or consumer alerts about fraudulent practices. However, this is only a partial list of such agencies. Please refer to your local telephone directory for other federal, state, or local agencies in charge of licensing, reporting, or investigation.

### **Licensing, Reporting, and Investigation**

Federal Trade Commission (202) 326-2222  
Public Reference Section  
Division of Marketing Practices  
600 Pennsylvania Ave., N.W., Suite 130  
Washington, DC 20580  
Internet address: <http://www.ftc.gov>  
*Provides information on ways to avoid consumer fraud.*

Commodity Futures Trading Commission (202) 418-5000  
3 Lafayette Center  
1155 21st St., N.W.  
Washington, DC 20581  
Internet address: <http://www.cftc.gov>  
*Describes conduct that violates federal commodities law and offers a questionnaire form for reporting possible violations.*

Securities and Exchange Commission (202) 942-7040  
Public Information Office  
450 Fifth St., N.W.  
Washington, DC 20549

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Internet address: <http://www.sec.gov>  
*Offers "Investor Alerts" announcing SEC enforcement actions and warnings about widespread fraud schemes.*

U.S. Postal Inspection Service (312) 983-7900  
Fraud Complaints Section  
433 West Harrison St.  
Chicago, IL 60669-2201

Internet address: <http://www.usps.gov/fyi/welcome.htm>  
*Provides consumer protection information, files and investigates crimes involving the use of postal services, and provides information on mail-related complaints filed against businesses and individuals. The Internet site offers excellent descriptions of different types of fraud.*

Council of Better Business Bureaus, Inc. (703) 276-0100  
4200 Wilson Blvd., Suite 800  
Arlington, VA 22203-1838  
Internet address: <http://www.bbb.org>  
*Provides referrals to local Better Business Bureaus, along with information on services available.*

### **National Hotlines**

National Foundation for Consumer Credit (800) 388-2227  
Internet address: <http://www.imon.com/cccs>  
*Offers free and confidential budget and debt counseling and debt management plans.*

National Fraud Information Center (800) 876-7060  
Internet address: <http://www.fraud.org>  
*Takes reports of telemarketing and Internet fraud; refers those reports to law enforcement agencies; maintains a database on fraud schemes and reported crimes; and provides information on avoiding fraud.*

National Futures Association (800) 676-4632  
Internet address: <http://www.nfa.futures.org>  
*Maintains the registry of professionals registered with the Commodity*

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*Futures Trading Commission; serves as a clearinghouse for consumer complaints and federal regulatory action; and provides information about investing.*

National Insurance Crime Bureau (800) TEL-NICB  
Internet address: <http://www.nicb.org>  
*Takes and investigates complaints of insurance fraud (excluding Medicare and Medicaid), including medical and vehicular. Also provides consumer protection information.*

Online Public Education Network Project (800) 466-OPEN  
(Project OPEN)  
Internet address: <http://isa.net/project-open/priv-broch.html>  
*Offers the free brochure "Protecting Your Privacy When You Go Online" for consumers concerned about privacy in cyberspace.*

Securities and Exchange Commission (800) SEC-0330  
Consumer Hotline  
Internet address: <http://www.fedworld.gov>  
*Maintains a registry of professionals registered with the SEC; provides information on complaints filed against investment firms and individuals and on federal regulatory actions; and provides consumer investment information.*

U.S. Department of Health (800) HHS-TIPS  
and Human Services  
Office of the Inspector General  
Fraud Division  
Internet address: <http://www.os.dhhs.gov>  
*Takes and investigates reports involving Medicaid, Medicare, Social Security, home health care, Food and Drug Administration, welfare, food stamps, and other programs administered by HHS.*

U.S. Postal Service Crime Hotline (800) 654-8896  
*Takes reports of and investigates crimes that involve the U.S. Postal Service, including mail fraud, pornography, and drug transactions by*

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*mail, and also provides information on complaints filed by consumers against businesses or individuals.*

### **Victim Assistance**

The following national victim advocacy organizations provide referrals to federal, state, and local victim assistance services and programs.

National Organization for Victim Assistance (800) TRY-NOVA  
1757 Park Road, N.W.  
Washington, DC 20010

Internet address: <http://www.aoa.dhhs.gov/aoa/dir/184.html>

National Victim Center (800) FYI-CALL  
2111 Wilson Blvd., Suite 300  
Arlington, VA 22201

Internet address: <http://www.nvc.org>

### **Additional Resources**

American Association of Retired Persons (202) 424-3410  
601 E St., N.W.  
Washington, DC 20049

Internet address: <http://www.aarp.org>

*Serves as an advocate for the rights of the elderly and provides numerous services, including financial information programs.*

Mail Preference Service Telephone Preference Service  
PO Box 9008 PO Box 9014  
Farmingdale, NY 11735 Farmingdale, NY 11735

*Removes your name from most national mailing and phone lists if you so request in writing.*

Privacy Rights Clearinghouse (619) 298-3396

Internet address: <http://www.privacyrights.org>

*Provides information and referrals for technology-related privacy issues.*

State attorneys general and state and local consumer protection agencies may also be able to provide consumer information about

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fraudulent practices and, in some cases, investigate complaints of fraud. Some even have victim assistance units or specialized fraud units, though they might not be able to provide services to victims of federal crimes. To learn more, please contact the victim/witness coordinator.

In addition, some local and state bar associations have volunteer legal programs to assist low-income or elderly victims. Consult your local phone directory for contact information.

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## Glossary of Legal Terms

This glossary is provided to help you understand the more commonly used legal terms in the federal criminal justice system. If you need to learn the meaning of a legal term not defined below, contact the federal prosecutor or the victim/witness coordinator.

**Abstract of judgment** - A certification from the U.S. District Court clerk that a judgment of restitution was entered against the defendant owing to the victim. If the defendant inherits, owns, or sells real property or holdings, these assets can then be attached at the state and local levels as well.

**Acquittal** - A legal finding that the criminal defendant has not been proven guilty of the charge beyond a reasonable doubt.

**Action** - The case, cause, or controversy before the court.

**Affidavit** - A written statement of facts made under oath before a notary or court officer.

**Affirmed** - A legal finding by a higher court that the ruling or order of a lower court is valid and left to stand.

**Appeal** - A formal, written request to a higher court for relief from findings, decisions, or actions of the trial court.

**Arraignment** - The first court hearing for a person accused of a crime. In the arraignment, the accused is advised of all pending charges, is asked to plead guilty or not guilty, and is advised of his or her rights in the justice process.

**Arrest** - Taking physical custody of a person by lawful authority.

**Asset** - Anything of value, including any interest (equity) in real or personal property. Assets can be used to satisfy an order for restitution, fines, assessments, or other costs imposed by a court.

**Asset forfeiture (or attachment)** - A procedure by which a person's property is seized to pay judgments levied by the court.

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**Assistant U.S. Attorney** - A federal prosecutor who represents the U.S. government and its citizens when a federal statute has been violated.

**Bail** - An assurance, usually backed by money, that a defendant will come to court as required if released from jail before trial.

**Bankrupt** - Being declared unable to pay one's debts.

**Bond** - Another word used for bail in the criminal justice system.

**Case** - Any proceeding, action, cause, or lawsuit initiated through the court system by filing a complaint, petition, information, or indictment.

**Charge** - A formal, written accusation that a person violated a law.

**Civil forfeiture** - The loss of ownership of property used to conduct illegal activity.

**Clerk of the court** - An officer of the court who is in charge of the court's administrative work.

**Complaint** - A formal accusation to the court that a person violated a law.

**Continuance** - A postponement, for good cause, of a scheduled court event.

**Conviction** - A judgment of guilt against a criminal defendant.

**Damages** - The monetary compensation recovered in the courts by a person who has suffered loss to his or her person, property, or rights through the unlawful act or negligence of another.

**Defendant** - A person formally accused of violating a law.

**Defense attorney** - A lawyer who legally represents the interests of a defendant.

**Deposition** - Oral statement made by a person before an officer authorized by the court to administer oaths.

**Dismissal** - The dropping of a case by the judge without further consideration or hearing.

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**Docket** - A list of cases on the court's calendar.

**Evidence** - Any kind of information from witnesses, records, or documents that purports to show the accused did or did not commit the crime.

**Extradition** - The formal process of delivering an accused or convicted person from authorities in one state to authorities in another state.

**Financial Litigation Unit** - A division of the civil section in the U.S. Attorney's Office responsible for the collection of fines and restitution.

**Fraud** - Intentional deception resulting in injury to another.

**Grand jury** - A panel of citizens who hear evidence collected by the federal prosecutor or his or her agent and then decide whether the evidence is sufficient to believe that a defendant violated a certain law and that the defendant should be formally charged.

**Guilty** - The finding given by the court or jury in a criminal trial when the evidence presented shows "beyond a reasonable doubt" that the defendant committed the crime.

**Hearing** - A formal proceeding with one or more legal issues to be agreed upon or determined.

**Indictment** - A formal, written accusation by the grand jury that there is enough evidence to believe the defendant has committed a crime. An indictment is sometimes referred to as a true bill.

**Information** - The formal written accusation charging a particular crime, brought by the federal prosecutor rather than by the grand jury.

**Jurisdiction** - The power or authority of a court to hear and decide a case.

**Jury** - A panel of citizens who listen to evidence presented at a trial and decide whether it proves the defendant violated a law or is financially liable.

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**Lien** - A claim or charge put on property for payment of a debt or performance of an obligation or duty.

**Motion** - A written application to the court requesting an order or a ruling in favor of the applicant.

**No true bill (also called a no bill)** - A legal procedure to dismiss charges against a defendant when the grand jury does not find enough evidence to charge the defendant with violating a law.

**Not guilty** - The finding given by the court or jury in a criminal trial when the evidence presented does not show "beyond a reasonable doubt" that the defendant committed the crime.

**Order** - A written direction of the court.

**Plea** - The defendant's answer (guilty or not guilty) to the charge made against him or her.

**Plea agreement** - An arrangement between the federal prosecutor, the defense attorney, and the defendant in which the defendant agrees to plead guilty in exchange for special considerations.

**Pre-sentence investigation report** - A formal, written report prepared by the U.S. Probation Department for the court, before the sentencing hearing, that provides the judge with information about the defendant's background, the crime he or she has been convicted of, and the emotional, financial, or physical impact the crime had on the victim.

**Pretrial conference** - An informal meeting between the federal prosecutor and the defense attorney to clarify issues and, where applicable, to attempt to work out a settlement before any further court filings and proceedings.

**Pretrial interview** - An informal discussion, before the trial, between the federal prosecutor or the defense attorney and witnesses to discuss their knowledge of the crime.

**Probable cause** - A reasonable ground for belief that the offender violated a specific law.

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**Probation** - A form of punishment that allows the defendant to live in a community under the supervision of the court and a probation officer after he or she is found guilty or pleads guilty.

**Probation Officer** - An officer of the court who monitors the defendant's behavior to ensure that the defendant obeys all conditions of probation.

**Remand** - A legal ruling by a higher court to send a case back to the lower court for further action.

**Restitution** - The court-ordered payment of money by the defendant to the victim for damages caused by the criminal action.

**Sentence** - The length and conditions of punishment given by the court if the defendant is found guilty or pleads guilty.

**Statute of limitations** - The specified period during which a civil action or criminal charge can be made.

**Subpoena** - A written command for a person to appear at a certain place and time to give evidence in court about a crime or other legal matter. Also called a summons.

**Summons** - Another word for subpoena used by the criminal justice system.

**Testify** - To answer questions under oath in a legal proceeding.

**Testimony** - Evidence given by a witness under oath.

**Trial** - A court proceeding in which testimony is presented to a judge or jury to determine whether the defendant is guilty of committing a crime.

**True bill** - Another word for indictment.

**Venue** - The place where the trial will be held (normally in the district in which the offense was committed).

**Victim** - A person who has physically, financially, or emotionally suffered from the commission of a crime by another.

**Victim Impact Statement** - A written or spoken statement by the victim or his or her representative about the physical,

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emotional, and financial impact of a crime on the victim. The statement is given to the court before sentencing.

**Victim/witness coordinator** - A person who provides information about the justice process to victims and witnesses of crime. In the federal system, victim/witness coordinators are employed by some law enforcement agencies and all U.S. Attorneys' Offices.

**White-collar crime** - A nonviolent criminal act involving deceit, concealment, subterfuge, or other fraudulent activity.

**Witness** - A person who has knowledge of a crime and provides that information to law enforcement officials.

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## Important Case and Contact Information

Defendant's name: \_\_\_\_\_

Case number: \_\_\_\_\_

### Law Enforcement Agency

Agency name: \_\_\_\_\_

Case agent or victim/witness coordinator: \_\_\_\_\_

Phone: ( ) \_\_\_\_\_

### Prosecuting Agency

Agency name: \_\_\_\_\_

Victim/witness coordinator: \_\_\_\_\_

Phone: ( ) \_\_\_\_\_

Federal prosecutor: \_\_\_\_\_

Phone: ( ) \_\_\_\_\_

Financial Litigation Unit: \_\_\_\_\_

Phone: ( ) \_\_\_\_\_

### U.S. District Court

Case docket number: \_\_\_\_\_

Clerk of the court: \_\_\_\_\_

Phone: \_\_\_\_\_

### U.S. Probation Department

Probation officer: \_\_\_\_\_

Phone: ( ) \_\_\_\_\_

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**Record information in this area only if the defendant is sentenced to prison:**

**U.S. Bureau of Prisons**

Offender's prison identification number: \_\_\_\_\_

Victim-Witness Program contact: \_\_\_\_\_

Phone: (800) 359-3267

Date request for notification filed: \_\_\_\_\_

Date of projected release: \_\_\_\_\_

**Use this section to record other contact information:**

Name: \_\_\_\_\_

Agency: \_\_\_\_\_

Phone: ( ) \_\_\_\_\_

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## Documenting Financial Losses

*Please use these tips to begin documenting your fraud losses.*

Courts can usually order restitution for money lost *directly* in the fraudulent act, expenses for travel to and from court proceedings, child care, lost wages, and payments for medical or mental health treatment for conditions caused by the crime.

Financial losses that usually *cannot* be included in a restitution order include state or federal taxes, interest, penalties, or fines; unpaid or promised interest; expenses for private legal representation; and fees for tax advisors, accountants, or other professionals. You should still track those expenses, as you might be able to recover them in another way, such as through civil litigation.

Specifically, you should save or obtain:

- Receipts for cash, stocks, bonds, etc.
- Bank and investment statements
- Insurance and mortgage premiums
- Money orders, cashier's checks, and canceled checks
- Travel-related bills for court appearances
- Statement of lost wages from employers
- Bills for medical care and counseling
- Any correspondence from the defendant that would verify the scheme or losses
- Statement that you do not have insurance or other means to recover the amount of the loss sought, if that is the case

Also, you should document:

- Amount of money lost
- Details about the crime, how you became a victim, your form of payment (cash, checks, traveler's checks, credit cards), and how it was sent (U.S. mail, Federal Express) to the alleged perpetrator. Save all account and receipt numbers.

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