

**JUDICIAL PROCEEDINGS PANEL  
REQUEST FOR INFORMATION SET # 1**

**V. Compensation / Restitution**

**Adequacy of Compensation and Restitution for Crime Victims Under UCMJ:** An assessment of the adequacy of the provision of compensation and restitution for victims of offenses under chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), and develop recommendations on expanding such compensation and restitution, including consideration of the options as follows:

- Providing the forfeited wages of incarcerated members of the Armed Forces to victims of offenses as compensation.
- Including bodily harm among the injuries meriting compensation for redress under section 939 of title 10, United States Code (Article 139 of the Uniform Code of Military Justice).
- Requiring restitution by members of the Armed Forces to victims of their offenses upon the direction of a court-martial. (*FY 14 NDAA*)

**53. Services: Provide the Services’ definitions of, and distinction between, “compensation” and “restitution” as those terms relate to victims of criminal offenses. Please provide a copy of (or hyperlink to) source regulations, instructions, directives, etc. for these definitions.**

<b>USA</b>	<p>The Army is unaware of any regulation, instruction, or directive that defines “compensation” and “restitution” as those terms relate to victims of criminal offenses. However, those terms are referenced in Article 139, UCMJ, AR 27-20, DA PAM 27-162, AR 27-10, 10 U.S. Code §1059, AR 608-1, and RCM 1107. Links for these documents are provided in the response to RFI 54. The Army follows the Department of Justice definition of compensation <a href="http://www.ovc.gov/">http://www.ovc.gov/</a> and routinely refers to the Department of Justice and State Compensation programs <a href="http://www.nacvcb.org">www.nacvcb.org</a> for resources. Victim Witness Liaisons are instructed on State victim compensation statutes and required to familiarize themselves with programs in their areas.</p>
<b>USAF</b>	<p>Victims have the right to receive restitution as provided in law pursuant to Article 6b, UCMJ. AFI 51-201, para. 7.11.6. DD Form 2701, <i>Initial Information for Victims and Witnesses of Crime</i>, also notifies victims of the right to available restitution.</p> <p>Restitution may be available from, or offered by, an accused as a condition in the terms of a pretrial agreement, during the sentencing process, as a part of post-trial mitigation under RCM 1105, or as a term or condition of parole or clemency. AFI 51-201, para. 7.12.4.1.</p> <p>Transitional compensation, waiver of mandatory forfeitures, and possible entitlement to a portion of the active duty member’s retirement benefits may be available to victims of intra-familial abuse offenses, to include sexual assault. AFI 51-201, para. 7.12.5.</p> <p>Additionally, the Victim and Witness Assistance Program provides information to</p>

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	<p>victims on possible compensation from local, state or federal crime victim funds, to include the procedures for applying for such funds.</p> <p><u>References:</u></p> <ul style="list-style-type: none"> <li>- AFGM to AFI 51-201, <i>Administration of Military Justice</i> <a href="http://static.e-publishing.af.mil/production/1/af_ja/publication/afi51-201/afi51-201.pdf">http://static.e-publishing.af.mil/production/1/af_ja/publication/afi51-201/afi51-201.pdf</a></li> <li>- DD Form 2701, <i>Initial Information for Victims and Witnesses of Crime</i> <a href="http://www.dtic.mil/whs/directives/infomgt/forms/eforms/dd2701.pdf">http://www.dtic.mil/whs/directives/infomgt/forms/eforms/dd2701.pdf</a></li> </ul>
<b>USN</b>	<p>Compensation typically refers to reimbursement for expenses incurred by a crime victim, this may be paid from the Crime Victims Compensation fund or similar source; whereas, restitution would be paid by an accused. Although a victim has a right to receive restitution, as provided by law, under Article 6(b), the military does not have either compensation or restitution built into policy or law.</p>
<b>USMC</b>	<p>Neither term is explicitly defined by the Marine Corps. However these terms are discussed in: Article 139, UCMJ; Rules for Courts-Martial 705(c)(2)(C), concerning a “promise to provide restitution” in a pre-trial agreement; in the Marine Corps’ Victim Witness Assistance Program Order, that a victim has the right “to receive available restitution,” see MCO 5800.14; and in the Federal Transition Compensation for Abused Family Members (TCAFAM) program, found in 10 U.S.C. § 1059, and implemented in the Marine Corps in the Family Advocacy and Counseling Program, <a href="http://www.marines.mil/Portals/59/Publications/MCO%201754_11">http://www.marines.mil/Portals/59/Publications/MCO%201754_11</a>.</p>
<b>USCG</b>	<p>Those terms are not defined in service regulations or instructions. The service defines those terms based on their meaning in law. Compensation is defined in <i>Black’s Law</i> to mean “remuneration and other benefits received in return for services rendered, especially salary or wages.” Restitution is defined in <i>Black’s Law</i> to mean “compensation for loss; especially, full or partial compensation paid by a criminal to a victim, not awarded in a civil trial for tort, but ordered as part of a criminal sentence or as a condition of probation.” The distinction between restitution and compensation is that restitution is paid to the victim by the convicted servicemember so that the victim may recover economic losses suffered at the hands of the guilty party. Compensation is paid by the government.</p>