Money Laundering and Asset Forfeiture: Taking the Profit Out of Crime

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As all investigators quickly learn, the majority of crimes committed have financial gain as their motive. This article will explore modern means utilized by criminals to launder the proceeds of their crimes, investigative techniques available to locate and seize those proceeds, and legal issues associated with those efforts.

One common theme throughout all financial investigations is that they must be started as early as practicable. To whatever extent time can be on the side of the investigator, it will be an extremely valuable ally. For this reason, the majority of the techniques set forth in this article can be utilized while the investigation is still in a covert stage.

I. Money laundering: the law

Simply put, money laundering is the act of taking criminal proceeds and moving them in a prohibited manner. Specifically, a criminal or someone acting on a criminal’s behalf generates proceeds, in the form of money or property, as a result of committing a designated crime known as a Specified Unlawful Activity (SUA). The entire catalog of these violations is located at 18 U.S.C. § 1956(c)(7), which also incorporates other criminal statutes.

The criminal then moves that money, often with the intent to disguise the nature, location, source, ownership, or control of the funds. Such movement is known as “concealment money laundering.” The movement can be as simple as the handing of money from one party to another. See 18 U.S.C. § 1956(c)(4) for the full definition of “financial transaction,” which encompasses most forms of transfer, including physical ones.

Alternatively, the criminal moves the money to reinvest it in criminal activities. This type of movement is known as “promotion money laundering.” Either theory will suffice for a charge of money laundering. 18 U.S.C. § 1956(a)(1) (2013). Concealment and promotion are the two most common money laundering theories and will therefore be the focus of this article. The less frequently prosecuted theories involve the movement of money to either: (1) evade taxes, 18 U.S.C. § 1956(a)(1)(A)(ii), or (2) avoid transaction reporting requirements, 18 U.S.C. § 1956(a)(1)(B)(ii).

Fortunately, most profit-based crimes are designated as SUAs. Thus, the movement of any of those SUA proceeds for the purpose of either concealing them or promoting the same or a different SUA will establish the foundation needed for a money laundering charge. Importantly, it is not necessary to prove that the money launderer had knowledge of the specific SUA from which the proceeds were generated. All that needs to be proven is that the person laundering the money believed it was dirty. This standard often permits the investigator to prove the knowledge element entirely through circumstantial evidence by showing that the manner in which the launderer received or handled the money was inconsistent with an innocent money transfer. Juries can relate to this evidence remarkably well. In sum, the elements needed to prove a basic charge of money laundering, under 18 U.S.C. § 1956, are (1) SUA
proceeds, (2) knowledge that the proceeds are from some type of felony, and (3) a financial transaction intended to conceal the proceeds or promote an SUA. See, e.g., United States v. Persaud, 411 F. App’x 431, 434 (2d Cir. 2011); United States v. Frazier, 605 F.3d 1271, 1282 (11th Cir. 2010); United States v. Gallardo, 497 F.3d 727, 737 (7th Cir. 2007); United States v. Pizano, 421 F.3d 707, 723 (8th Cir. 2005).

The specific elements needed to prove other money laundering violations are set forth below.

A. International money laundering

Provided that money is moved to or from the United States in order to promote an SUA, there is no requirement that the money be dirty. In other words, even clean money that is sent internationally to promote an SUA is enough to charge money laundering. 18 U.S.C. § 1956(a)(2)(A) (2013). Thus, the only elements that must be proven are (1) the movement or attempted movement of funds, (2) to or from the United States, (3) with the intent to promote an SUA. There is also a provision for charging the international movement of money for concealment, but to prevail on that theory the funds must be SUA proceeds and the actor must know that the funds are derived from unlawful activity. Id. § 1956(a)(2)(B)(i).

B. Reverse money laundering

The “Money Laundering Sting provision” provides that money launderers can be charged so long as they believe the funds that they are moving are SUA proceeds, even if the money is actually case funds or other government property. Subject to availability, the Department of Justice (the Department) Assets Forfeiture Fund may be used to fund reverse money laundering transactions. See 28 U.S.C. § 524(c) (2013). The Treasury Forfeiture Fund has similar authority. See 31 U.S.C. § 9703(a)(2)(B)(i) (2013). Investigators should contact their headquarters’ components to apply for forfeiture funds when needed to carry out a money laundering sting. This opportunity regularly presents itself when undercover employees or confidential human sources are introduced to money launderers during the course of their covert roles. Similarly, undercover investigators or informants can represent themselves as seeking professional money launderers. In either case, law enforcement can engage in a reverse money laundering transaction with these criminals, who can then be charged with money laundering. Proceeding in this manner can reveal the network of individuals and bank accounts involved in a professional money laundering network, which can lead to large-scale asset forfeiture.

The elements necessary to charge reverse money laundering are (1) conduct or attempt to conduct a financial transaction, (2) of funds believed to be SUA proceeds, (3) with intent to conceal the proceeds or promote an SUA. 18 U.S.C. § 1956(a)(3) (2013). Also, if criminals move money represented to be SUA proceeds in order to avoid transaction reporting requirements, they may be similarly charged. Id. § 1956(a)(3)(C).

The maximum sentence for violating 18 U.S.C. § 1956 is 20-years imprisonment. Id. §1956(a).

C. Money spending

In addition to the money laundering violations in 18 U.S.C. § 1956, there is a second, often-overlooked money laundering charge found in 18 U.S.C. § 1957. Known as the “Money Spending Statute,” this provision sets forth a 10-year maximum penalty for knowingly engaging or attempting to engage in a monetary transaction with proceeds of an SUA in an amount greater than $10,000 by, through, or to a financial institution. 18 U.S.C. § 1957(b)(1) (2013). Two important facts must be remembered about the Money Spending Statute, both of which inure to the benefit of the investigator.

First, unlike the money laundering violations in § 1956, there is no need to prove any intent to promote an SUA or conceal the proceeds thereof. The simple fact that the transaction has occurred is all that is required to charge a criminal under § 1957. For this reason, it is important to charge § 1957 along
with § 1956 whenever there is proof to support both. A judge or jury disagreeing with proof of intent to conceal or promote will have to dismiss or acquit on the § 1956 count but will still be able to convict on the corresponding § 1957 charge. Section 1957 is not a lesser included offense of § 1956. Thus, a jury can convict on both charges. *United States v. Huber*, 2002 WL 257851, at *4 (D.N.D. Jan. 3, 2002); *United States v Caruso*, 948 F. Supp. 382, 390-91 (D.N.J. 1996).

Secondly, the definition of “financial institution” is extremely broad and goes well beyond banks and credit unions. Indeed, it includes most merchants through which a criminal would ordinarily spend criminal proceeds, such as dealers in precious metals, stone, or jewels; car and boat dealerships; casinos; travel agencies; pawnbrokers; and many others. 31 U.S.C. § 5312(a)(2) (2013).

The elements required to charge a violation of § 1957 are (1) transfer of SUA proceeds in a monetary transaction over $10,000, (2) involving a financial institution, and (3) knowledge that the proceeds are dirty. 18 U.S.C. § 1957(a) (2013).

D. Money laundering conspiracy

Each act of money laundering must be charged as a separate offense. *United States v. Prescott*, 42 F.3d 1165, 1166-67 (8th Cir. 1994). In order to charge money laundering as a continuing course of conduct, it must be charged as a conspiracy. *United States v. Robertson*, 67 F. App’x 257, 269 (6th Cir. 2003). Additionally, there is no need to prove that the conspirator knew the precise SUA that generated the proceeds being laundered. All that is necessary is that two or more criminals intended to launder dirty money. *United States v. Threadgill*, 172 F.3d 357, 367 (5th Cir. 1999).

Venue for a money laundering conspiracy is in any district where the agreement to launder money took place or where any act in furtherance of the conspiracy occurred. *United States v. Angotti*, 105 F.3d 539, 541-42 (9th Cir. 1997). However, unlike most conspiracies, no overt act is necessary to charge a conspiracy to commit money laundering. *Whitfield v. United States*, 543 U.S. 209, 209-10 (2005).

II. Presenting a money laundering case to the prosecutor

As formulated by U.S. Attorney John Vaudreuil, Western District of Wisconsin, there are four questions that the investigator must be able to answer to establish a viable money laundering prosecution:

1. What is the transaction? There must be an example of money going between people, businesses, bank accounts, etc.

2. Where does the money come from? The proof must identify, through either direct or circumstantial evidence, the SUA from which the proceeds were generated. Notably, while the type of SUA must be proven, the specific crime need not be. For example, cash spent by a drug dealer may be proven circumstantially to be drug proceeds without having to demonstrate the particular drug transaction that produced them. This can be accomplished with evidence that the money launderer was a drug dealer and had no legitimate source of income. See, e.g., *United States v. Shafer*, 608 F.3d 1056, 1067 (8th Cir. 2010).

3. How did the money launderer know the money was dirty? As set forth above, the proof need only show that the money launderer knew it came from some kind of unlawful activity, but not necessarily any particular SUA.

4. What was the subject trying to do with the money? The answer to this question will be one of the purposes described above, such as concealment of SUA proceeds, promotion of an SUA, or, in the case of 18 U.S.C. § 1957, merely the movement of an amount over $10,000 into or through a financial institution.
III. Asset forfeiture

Federal asset forfeiture laws permit the Government to take title to money and property belonging to criminals, based on proof that can often be developed in conjunction with the overall investigation. Unfortunately, asset forfeiture is often neglected or misunderstood, thereby allowing criminals to enjoy the fruits of their crimes even after being convicted. For this reason, the types of asset forfeiture and the procedure for each are set forth here, along with a few common misconceptions. For a full review of federal asset forfeiture by the preeminent scholar in this area of the law, see STEFAN D. CASSELLA, ASSET FORFEITURE LAW IN THE UNITED STATES: A TREATISE ON FORFEITURE LAW (2d ed. 2012).

A. Common asset forfeiture misconceptions

Property seized for evidence can automatically be forfeited: This common error results in many missed opportunities for forfeiture. Each type of forfeiture set forth below contains strict time limits. Once missed, the Government is prohibited from commencing forfeiture under the time-barred provision. For this reason, it is critical for investigators to consult with their asset forfeiture personnel regarding any item that they do not wish to return to the person from whom it was seized.

All property owned by a criminal is subject to forfeiture: On the contrary, asset forfeiture is purely a creature of statute. While there are numerous federal laws providing for forfeiture, there are also some crimes that do not have a corresponding forfeiture statute. Other crimes have only limited forfeiture provisions.

Asset forfeiture and restitution are mutually exclusive: Actually, asset forfeiture relates to the amount of proceeds generated by a crime and, in some cases, the actual property used to commit a crime, while restitution relates to the amount of losses caused by a crime. By statute, judges are required to order both when applicable. See Fed. R. Crim. P. 32.2(b)(1)(A) (forfeiture); 18 U.S.C. § 3556 (2013) (restitution). The main benefit to the investigator who achieves asset forfeiture is that there is no time limit for amending an order of forfeiture, so that subsequently acquired property of the defendant found years later can still be forfeited. Furthermore, the discovery provisions for enforcing an order of forfeiture are far easier to utilize than the provisions that are available to enforce an order of restitution, which basically involves filing a separate lawsuit under the Federal Debt Collections Act. 18 U.S.C. § 3664(m)(1)(A) (2013).

B. Types of asset forfeiture

State and local law enforcement officers can benefit from federal asset forfeiture law through the adoption process, whereby federal law enforcement processes a seizure originally made by state or local law enforcement officers. This system permits the state or local agency to make an equitable sharing request. Subject to approval by the Department, those agencies can receive up to 80 percent of the net forfeiture to be used by their agencies for enumerated law enforcement purposes. The FBI Asset Forfeiture and Money Laundering Unit (AFMLU) manages the FBI’s Money Laundering and Asset Forfeiture Programs and can facilitate any adoption for which FBI assistance is sought. The main number for AFMLU is 202-324-8628.

There are three types of asset forfeiture under federal law:

Administrative: Many federal law enforcement agencies have authority to forfeit certain types of lawfully seized property, without the need for any court proceedings, provided that the forfeiture is uncontested. See 18 U.S.C. § 983(a)(1), (2) (2013); 19 U.S.C. §§ 1602–1631 (2013).

Any amount of cash can be forfeited administratively. Other personal property can only be forfeited if it is worth $500,000 or less, unless it is a conveyance used to traffic narcotics, such as a car, truck, or airplane, in which case there is no limit on the value. Real property cannot be forfeited
administratively. Often, criminals will not contest an administrative forfeiture because of the requirement that they swear to their interest in the property under penalty of perjury. However, the agency must send notice within 60 days after seizure or the administrative forfeiture is time-barred. If the property was seized by state or local law enforcement during a state investigation and adopted by federal law enforcement, then the notice deadline is increased to 90 days. 18 U.S.C. § 983(a)(1)(A)(iv) (2013). There is a provision for delayed notice if notice would jeopardize an ongoing investigation. Id. § 983(a)(1)(B), (C), (D). If the notice results in timely submission of a claim by the owner of the property, then the matter must be referred for prosecution as a criminal or civil forfeiture, or else the property must be returned.

Criminal: Commenced by adding a forfeiture allegation to an indictment or information, only the interest of a convicted defendant can be forfeited, and only if the defendant is convicted of a violation for which forfeiture is permitted. Thus, property belonging to uncharged third parties cannot be forfeited criminally. The forfeiture allegation is extremely simple and need only advise the defendants that, upon conviction of the charges in the referenced counts of the indictment, the Government will seek forfeiture as part of the sentence. Fed. R. Crim. P. 32.2(a). Specific property not named in the indictment or information can be listed in a bill of particulars and served on the defendants. However, if no forfeiture allegation is ever put into the indictment or information, the court will be without jurisdiction to enter an order of forfeiture. Provided that the forfeiture is properly alleged and the defendant is convicted by a jury on a charge for which forfeiture is permitted, either the defendant or the Government can retain the jury. If this is done, the jury hears any new evidence presented and then deliberates to decide the forfeiture. Id. 32.2(b)(5). Because forfeiture is part of the sentencing phase, the Government’s burden of proof is only a preponderance of the evidence. Lastly, criminal forfeiture is the only means through which the Government can get a forfeiture money judgment, which is a finding by the court or jury as to the total dollar amount of proceeds generated by the defendants’ crimes. Upon entry of an order of forfeiture containing a money judgment, the Government may then execute on any property traceable to the defendants, even though it is unrelated to the crimes for which they were convicted. Id. 32.2(e). The general statute referencing crimes for which criminal forfeiture is available is 18 U.S.C. § 982. All crimes for which civil forfeiture is available may also serve as predicates for criminal forfeiture. 28 U.S.C. § 2461(c) (2013).

Civil: Regardless of whether there is a criminal conviction, a civil forfeiture complaint can be filed against any specific property, real or personal, that is subject to forfeiture based on the underlying criminal activity. See generally Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions, 28 U.S.C. app. (2013). Civil forfeiture can even be used against a defendant who has been acquitted of criminal charges. United States v. Ursery, 518 U.S. 267, 277 (1996). However, if a criminal defendant was convicted of a crime but prevailed during the forfeiture phase of the trial, principles of res judicata would preclude a subsequent civil forfeiture action. Anyone with an ownership interest in the property can challenge the civil forfeiture by filing a notice of claim, followed by an answer to the complaint. Either the Government or claimants can demand a jury. See Fed. R. Civ. P. 38. The Government has the burden of proving the forfeitability of each property by a preponderance of the evidence. Once this burden is satisfied, all interests in the property are forfeited unless claimants can prove, by a preponderance of the evidence, that they were an innocent owner. 18 U.S.C. § 983(d) (2013).

To prevail on this defense, claimants who owned the property during the time period alleged in the complaint must prove that they either had no knowledge of the conduct giving rise to the forfeiture, or that they took all reasonable steps to terminate the illegal conduct. Id. § 983(d)(2). Claimants who took title to the property after the criminal activity occurred must prove, by a preponderance of the evidence, that they were bona fide purchasers for value without knowledge of the prior criminal activity. Id. § 983(d)(3)(A). One of the main concerns of bringing a civil forfeiture action is the broad discovery involved, which far exceeds the boundaries of criminal discovery. See Fed. R. Civ. P. 26-37. For this reason, motions to stay a civil forfeiture are routinely made by the Government where the discovery is
likely to adversely affect a related pending criminal case. See 18 U.S.C. § 981(g) (2013). The general statute referencing crimes for which civil forfeiture is available is 18 U.S.C. § 981.

C. Asset forfeiture theories

Proceeds: Most federal crimes giving rise to forfeiture do so under the proceeds theory, whereby any money or property traceable, directly or indirectly, to the underlying crime is subject to forfeiture. Thus, if the funds earned while committing a predicate crime were used to buy a home or car, that property would then be subject to forfeiture.

Facilitating property: A select group of federal crimes also provides for the forfeiture of any property used in furtherance of committing those crimes, regardless of whether the property was purchased with criminal proceeds. An example of facilitating property would be a vehicle used to transport cocaine. Another would be clean money in a bank account used to conceal criminal proceeds that were laundered into the account. The most common examples of crimes for which facilitating property is subject to forfeiture are (1) money laundering, (2) narcotics trafficking, (3) human trafficking, (4) unlicensed money remitting, (5) racketeering, and (6) trafficking in counterfeit goods.

Terrorist assets: The broadest forfeiture permitted under U.S. law is in terrorism violations, for which all property owned by a terrorist is subject to forfeiture, without the need for any tracing or connection of the property to criminality. See 18 U.S.C. § 981(a)(1)(G) (2013).

IV. Investigative techniques

The following is a list of investigative techniques that have been used effectively to investigate money laundering and asset forfeiture cases.

1. Bank Secrecy Act reports. Currency Transaction Reports, Suspicious Activity Reports (SARs), Foreign Bank Account Reports Form 8300, and similar documents are required to be filed with the Financial Crimes Enforcement Network (FinCEN) by financial institutions, including casinos and some merchants, and can help investigators connect the dots on laundered or concealed assets. SARs are a tremendous source of intelligence, often actionable, and can be used proactively to launch new investigations. They also assist investigations reactively by identifying accounts, assets, previously unknown associates, and other information that can prove useful in an investigation. SAR Review Teams exist around the country, enabling multiple agencies to examine SARs with prosecutors and choose viable targets. Importantly, financial institutions are required to provide the supporting documentation behind a SAR upon request from law enforcement. No subpoena is required. 31 C.F.R. § 103.18(d) (2013).

2. Egmont. This network consists of the financial intelligence units of over 130 countries and permits law enforcement to request data in support of a significant money laundering or terrorist financing investigation, which at a minimum will include the requested country’s equivalent of SARs filed on the subjects of the request. No subpoena, prosecutor, or court involvement is needed, and law enforcement makes the request through FinCEN.

3. Mutual Legal Assistance Treaties. A formal request for records or enforcement action by a foreign country is made through the Department’s Office of International Affairs. The best way for an investigator to begin the formal process or to decide if it is worthwhile to proceed with a formal request is to contact the Office of International Affairs by calling 202-514-0000 and ask to speak to an attorney assigned to handle the country where the request will be sought.

4. Federal Reserve. The New York Federal Reserve Bank has a team of investigators that can provide research assistance which can often reveal previously unknown beneficiaries and
accounts. Their help can be sought by sending a letterhead request to the Federal Reserve, 33 Liberty Street, New York, NY 10045.

5. **Clearing House Interbank Payment System (CHIPS).** A subpoena can be served to search the CHIPS network, which is used by many financial institutions to process international wire transfers. CHIPS subpoenas are served by mail to 100 Broad Street, New York, NY 10004.

6. **Mail covers.** A request through the Postal Inspection Service will reveal the information on the outside of envelopes sent to the requested address. This information will often identify financial institutions with whom the subjects of the investigation are dealing, as well as shell corporations, virtual offices, and phone companies.

7. **Tax returns.** Through a court order obtained by a U.S. Attorney’s office, the investigator can examine relevant tax returns, which will often yield the location of accounts as well as front companies and shell corporations through which the subject is laundering money. The U.S. Attorney must personally approve an application for tax return orders. The investigator must show reasonable cause to believe that (1) federal criminal violations have been committed, (2) relevant evidence will be found in the tax returns, and (3) the evidence cannot reasonably be obtained from other sources or the tax returns will provide the most probative form of evidence. 26 U.S.C. § 6103(i)(1)(B) (2013). Investigators or prosecutors working with a subject who is cooperating or proffering can request the subject to sign IRS Form 8821, which will authorize the release of the subject’s tax records without the need for a court order.

8. **Patriot Act 314(a) search.** Likely the most important money laundering tool available, the Patriot Act 314(a) search allows investigators to request that FinCEN post the names of any individuals or entities that are the subjects of a significant money laundering or terrorist financing investigation on a secure Web site. All U.S. financial institutions are then required to advise the requesting investigator of any accounts in the names of the requested subjects, along with contact information for service of a subpoena. This method is far superior to serving a subpoena on credit bureaus, as the investigator will learn of all domestic accounts, and not just those linked to some form of credit. No subpoena, prosecutor, or court involvement is needed, and law enforcement makes the 314(a) request through FinCEN. However, if positive results come up as a result of the search, a subpoena will be needed to get the documentation.

9. **Correspondent bank accounts.** Virtually all foreign banks maintain correspondent accounts in the United States in order to conduct U.S. dollar transactions on behalf of their customers. These are simply accounts opened at U.S. banks in the name of a foreign financial institution. Even without jurisdiction over a foreign bank, investigators can serve a grand jury subpoena on the U.S. correspondent account and require production of records of any checks or wire transfers that cleared through the U.S. correspondent account on behalf of the foreign bank. Investigators can learn the location of a foreign bank’s U.S. correspondent account by consulting the Bankers Almanac. AFMLS keeps current editions of this volume and can be consulted at 202-514-1263. Also, Thomson’s Global is a commercially available service that provides this information. Their Web site address is www.tgbr.com. By learning the senders or beneficiaries of these transactions, the investigator will be able to determine the likely beneficial owners of the foreign account, as well as other foreign and domestic accounts involved in the money laundering cycle. Finally, where laundered funds are traced to a financial institution in a country that will not cooperate with the United States, the Department can authorize the use of 18 U.S.C. § 981(k), a Patriot Act provision, which permits the seizure from a U.S. correspondent account of a sum equivalent to the amount of criminal proceeds laundered to the foreign bank. The U.S. correspondent bank relinquishes the money and provides the foreign bank with the seizure warrant so that the foreign bank can recoup the amount seized from its correspondent account by taking the same sum from its account holder. The foreign bank is usually not complicit in the money laundering but is
subject to the seizure based on its role in holding the money launderer’s funds overseas. A more in-depth discussion on 981(k) is included in the international asset forfeiture article in this issue of the Bulletin.

V. Conclusion

The 21st century has ushered in a wave of technologically savvy professional money launderers. While the challenges in apprehending them are apparent, an investigator familiar with the money laundering and asset forfeiture tools and laws will find the means to disrupt and dismantle any criminal activity done for profit. This activity includes transnational criminal enterprises, whose survival depends on earning and moving large sums of money.

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Restrainting and Forfeiting Assets for Crime Victims

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I. Why bother with forfeiture in a victim case?

Is it really necessary to pursue the seizure and forfeiture of assets in a fraud or embezzlement case when the Government will seek restitution for victims? If the defendant is ordered to pay restitution, isn’t the victim going to receive compensation anyway? Who will get credit for compensating victims? Why bother seeking forfeiture or restitution?

These are questions frequently asked by prosecutors who are pressed for time and want to successfully convict the defendant who has committed fraud. Before we answer these questions, two important concepts need to be addressed: forfeiture and restitution. Forfeiture is the taking away of the profits generated from the criminal activity. Restitution is providing recompense to the victim for the loss incurred as a result of the defendant’s criminal activity. In short, forfeiture focuses on what the defendant gained from their crime and restitution focuses on what the victim lost. See, e.g., United States v. Navarrete, 667 F.3d 886, 887-88 (7th Cir. 2012); United States v. Taylor, 582 F.3d 558, 566 (5th Cir. 2009); United States v. Browne, 505 F.3d 1229, 1281 (11th Cir. 2007); United States v. DeFries, 129 F.3d 1293, 1315 (D.C. Cir. 1997).

It is also important to know that forfeiture and restitution are both mandatory components of a sentence for most federal crimes. The federal forfeiture statutes that apply to most fraud offenses use mandatory language:

The court, in imposing sentence on a person convicted of an offense in violation of section 1956, 1957, or 1960 of this title, shall order that the person forfeit to the United States any property, real or personal, involved in such offense, or any property traceable to such property.


If the defendant is convicted of the offense giving rise to the forfeiture, the court shall order the forfeiture of the property as part of the sentence in the criminal case . . . .


A wide variety of case law supports the notion that criminal forfeiture is mandatory and that the court may not decline to order forfeiture. E.g., Alexander v. United States, 509 U.S. 544, 562 (1993) (“A RICO conviction subjects the violator not only to traditional, though stringent, criminal fines and prison
terms, but also mandatory forfeiture under § 1963.”); United States v. Monsanto, 491 U.S. 600, 607 (1989) (“Congress could not have chosen stronger words to express its intent that forfeiture be mandatory in cases where the statute applied . . . .”); United States v. Newman, 659 F.3d 1235, 1240 (9th Cir. 2011) (“The mandatory nature of that phrase [*shall order* in the criminal forfeiture statutes] is clear: When the government has met the requirements for criminal forfeiture, the district court must impose criminal forfeiture, subject only to statutory and constitutional limits . . . Criminal forfeiture is separate from the discretionary sentencing considerations under 18 U.S.C. § 3551. Unlike a fine, which the district court retains discretion to reduce or eliminate, the district court has no discretion to reduce or eliminate mandatory criminal forfeiture.”) (internal citations omitted).

Likewise, the mandatory nature of restitution is embodied in the title of the statute: the Mandatory Victims Restitution Act. 18 U.S.C. § 3663A (2013). The Act requires that a court imposing a sentence for most federal crimes, and notwithstanding any other provision of law, “shall order, in addition to . . . any other penalty authorized by law, that the defendant make restitution to the victim of the offense.” Id. § 3663A(a)(1). The court must order restitution in the “full amount of each victim’s losses” without regard to the defendant’s economic circumstances. Id. § 3664(f)(1)(A); e.g., United States v. Roper, 462 F.3d 336, 338 (4th Cir. 2006) (making clear that district court is required to order restitution to victim in the full amount of victim’s loss).

While forfeiture and restitution serve different purposes, these purposes converge when the Attorney General exercises discretion to restore forfeited funds to victims. In criminal cases, restored funds are generally credited against the defendant’s restitution obligation in order to avoid double recovery for victims. See Taylor, 582 F.3d at 567-68; United States v. Smith, 297 F. Supp. 2d 69, 72-73 (D.D.C. 2003). But see United States v. Davis, 706 F.3d 1081, 1083-84 (9th Cir. 2013) (defendants not entitled to offset their forfeiture orders by the amount of their restitution orders even though forfeiture went to Department of Justice (DOJ) and restitution went to FBI; there was no double recovery since forfeiture and restitution serve different goals); United States v. Bright, 353 F.3d 1114, 1119 (9th Cir. 2004) (“[E]ven if the money were eventually restored to the victims, reducing Bright’s loss calculation by the amount seized would distort the magnitude of his crime[.]”). Accordingly, the possibility of restoration may give the defendant additional incentive to accept forfeiture as part of a plea agreement or stipulation. E.g., United States v. Fenner, 2011 WL 2014939, at *1 (M.D. Pa. May 23, 2011) (defendant’s plea agreement included civil forfeiture of a boat and a provision stating that the Government would “recommend that funds recovered through the civil forfeiture be applied to victim restitution”). However, a plea agreement or stipulation may not commit the Attorney General to granting restoration. It may only state that the U.S. Attorney will request that the Attorney General grant restoration in this particular case. See, id. at *2 (Government’s agreement to recommend application of funds to victim restitution is not binding on Attorney General). The final decision regarding remission or restoration always rests with the Attorney General. 21 U.S.C. § 853(i)(1) (2013); 28 C.F.R. § 9.1(b)(2) (2013) (remission authority has been delegated to the Chief of the Asset Forfeiture & Money Laundering Section); 1997 ATT’Y GEN. ORDER NO. 2088-97 (June 14, 1997) (remission authority has also been delegated to the Chief of the Asset Forfeiture & Money Laundering Section; see United States v. Pescatore, 637 F.3d 128, 137 (2d Cir. 2011) (Attorney General has discretion to choose between restoration of forfeited funds to victims and retention of funds); CRIMINAL DIV., DEP’T OF JUSTICE, ASSET FORFEITURE POLICY MANUAL, Ch. 3, Sec. 4, 76 (2012).

As set forth in the 2011 Attorney General Guidelines for Victim and Witness Assistance (AG Guidelines), all DOJ employees shall, pursuant to the Crime Victims’ Rights Act (CVRA), “make their best efforts to see that crime victims are . . . accorded the rights contained in the CVRA (18 U.S.C. § 3771(c)(1)),” that is, the “right to full and timely restitution as provided in law.” 18 U.S.C. § 3771(a)(5), (c)(1) (2013); AG Guidelines, Article V.B.1. Therefore, it is important in victim cases that prosecutors pursue the seizure and forfeiture of the defendant’s assets. When Congress passed the Mandatory Victims Restitution Act of 1996 (MVRA), it did not provide for the restraint or seizure of the defendant’s assets.
prior to conviction. While the MVRA provides the Government with an extensive array of statutory tools to pursue the defendant’s assets for restitution post-conviction, these tools can be labor-intensive and require years to collect from the defendant. Experience tells us that most defendants dissipate their assets during the criminal case if the assets are not restrained and/or seized using the forfeiture tools. Without the use of forfeiture early in these cases, the victim is often left with no recovery because the defendant’s assets are unavailable at the conclusion of the case. See CRIMINAL DIV., DEP’T OF JUSTICE, ASSET FORFEITURE POLICY MANUAL, Ch. 11, Sec. 2, 154-55 (2012) (discussing the interplay between restitution and forfeiture).

The government can and should request restitution payments through the Inmate Financial Responsibility Program and seek garnishment of the defendant’s wages. However, for the victim, this generally means minimal payments over a long period of time. In fact, under the MVRA, wage garnishment can extend to 20 years. See 18 U.S.C. § 3613(b) (2013). There is also no incentive for the defendant to be cooperative after sentencing and identify any additional assets for restitution.

On the other hand, the pretrial preservation tools of the asset forfeiture statutes are the single most important technique for ensuring that a criminal defendant does not dissipate assets, and they fill the legislative gap in the restitution statutes that provide no mechanism for preserving assets for restitution until after sentencing. In the forfeiture arena, the prosecutor has numerous statutory provisions, both civil and criminal, to restrain and seize the defendant’s assets prior to conviction. See, e.g., 18 U.S.C. §§ 981–982 (2013); 21 U.S.C. § 853 (2013); 28 U.S.C. § 2461 (2013). Civil and criminal forfeiture statutes permit the pretrial restraint of the proceeds of most fraud offenses. When the Government successfully seizes and forfeits the defendant’s assets, the proceeds from the liquidation of those assets, minus costs and expenses, are available to the victim following the criminal case through the restoration or remission process discussed below. See, e.g., United States v. $7,599,358.09, 2011 WL 3611451, at *4 (D.N.J. Aug. 15, 2011) (fraud victims who lack standing as unsecured creditors may file remission petitions with the Attorney General); United States v. 8 Gilcrease Lane, 641 F. Supp. 2d 1, 6 (D.D.C. 2009) (reliance on remission process instead of granting standing to fraud victims prevents forfeiture from becoming “forum[] for general civil litigation”); United States v. Kline, 199 F. Supp. 2d 922, 927 (D. Minn. 2002) (where plea settlement included forfeitures and court declined to grant restitution, claimants may pursue a civil judgment and then petition the government for remission).

In civil forfeiture, prosecutors can obtain civil restraining orders for bank accounts and real property in lieu of taking physical custody of the assets. However, for those assets that are easily moved, such as cash, cars, and jewelry, physical seizure may be necessary. See United States v. 2005 Mercedes Benz E500, 2012 WL 761689, at *5 (E.D. Cal. Mar. 6, 2012) (where property is an automobile, risk that it will be concealed or rendered unavailable is great, making it difficult for claimant to show that the hardship outweighs the risk). Generally, the Government may seize bank accounts, cars, boats, aircraft, jewelry, and other items of value pursuant to a warrant after proving that restraining the property would not be effective. In addition, some investigative agencies have seizure authority for forfeiture (for example, DEA, FBI, IRS-CI) and may institute administrative forfeiture proceedings, which do not require judicial action unless a third party claim is filed with the agency. See 18 U.S.C. § 983(a)(3) (2013). A civil forfeiture action may be stayed pending the conclusion of the criminal case. See United States v. Contents of Nationwide Life Ins. Annuity, 2008 WL 1733130, at *4 (S.D. Ohio Apr. 10, 2008); United States v. $247,052.54, 2011 WL 2009799, at *2 (N.D. Cal. June 6, 2007); United States v. All Funds on Deposit in Suntrust Account Number XXXXXXXXXX8359, 456 F. Supp. 2d 64, 64-65 (D.D.C. 2006).

In criminal forfeiture, a forfeiture allegation should be included in the indictment. See Fed. R. Crim. P. 32.2(a); United States v. Dolney, 2005 WL 1076269, *4 (E.D.N.Y. May 3, 2005) (if the Government wishes to seek forfeiture, it must include forfeiture allegations in indictment). Specific assets can be identified in the indictment, as well as the inclusion of a money judgment in the amount of the fraud proceeds. See Fed. R. Crim. P. 32.2(a) (indictment may, but need not identify the property subject
to forfeiture or specify the amount of money judgment that the Government seeks). The Government may seek a restraining order for the proceeds of fraud offenses pursuant to 21 U.S.C. § 853(e), as incorporated by 18 U.S.C. § 982(b). A pre-indictment restraining order is good for 14 or 90 days. See 21 U.S.C. § 853(e)(1)(B), (e)(2) (2013). A post-indictment restraining order is good indefinitely. See id. § 853(e)(1)(A); see also United States v. Kirschenbaum, 156 F.3d 784, 791-93 (7th Cir. 1998) (post-indictment ex parte restraining order remains in effect through trial). Criminal forfeiture also allows the court to order the indicted defendant to repatriate assets held overseas. See 21 U.S.C. § 853(e)(4) (2013); United States v. Adams, 782 F. Supp. 2d 229, 234-36 (N.D. W. Va. 2011) (repatriation order issued post-indictment under § 853(e)(1) and (4) does not require notice and a hearing and does not expire before the conclusion of the criminal case); DEP’T OF JUSTICE, UNITED STATES ATTORNEYS’ MANUAL §§ 9-13.526, 9-111.700 (2010). Thus, the defendants can no longer move assets overseas in the hope of evading the court and their restitution obligations to the victims.

What does all of this mean for the victim? Assets are available for victim recovery at the end of the case. There is also greater incentive for defendants to cooperate with the Government post-conviction but prior to sentencing because more assets available to the victim may lessen their sentences. See DEP’T OF JUSTICE, UNITED STATES ATTORNEYS’ MANUAL § 9-113.000 (2010).

What if the prosecutor does not pursue forfeiture and restitution is not ordered in the case? Although fines and penalties are assessed against the defendant, fines and penalties go to the Crime Victims Fund, which supports victims programs nationwide. However, it does not provide compensation directly to individual victims, who will receive no recovery unless they pursue a separate civil action against the defendant. The best possible outcome in a criminal case is when a defendant’s assets are forfeited; the defendant is ordered to pay restitution, fines, and penalties assessed in the case; and the forfeited assets can be used to make the victim whole.

II. Transfers to victims: remission and restoration

Once assets have been forfeited, only the Attorney General has the authority to direct their ultimate disposition. Although a court cannot order that forfeited assets be applied to restitution or transferred directly to victims, over $3.5 billion in forfeited assets have been disbursed to victims since the year 2000 under the Attorney General’s discretionary authority.

As a matter of DOJ policy, victims of crime have first priority of forfeited funds over law enforcement and equitable sharing with federal, state, and local agencies. CRIMINAL DIV., DEP’T OF JUSTICE, ASSET FORFEITURE POLICY MANUAL, Ch. 12, Sec. 1, 171 (2012). Thus, in cases involving victims, every dollar of forfeited funds, less government expenses, is returned to victims who can demonstrate a pecuniary loss and otherwise meet the regulatory requirements for remission.

Once the defendant’s illegally obtained assets are forfeited, two principal procedures are available to return them to victims: remission and restoration. In remission, the Attorney General, acting through the Asset Forfeiture and Money Laundering Section (AFMLS) or the seizing agency, exercises discretion to compensate persons who have incurred a pecuniary loss from the offense underlying the forfeiture. In restoration, the Attorney General transfers forfeited assets to a court to be applied toward satisfaction of a criminal restitution order.

A. Petition for remission process

Remission is available to “victims,” a term defined as any person who has suffered a specific and identifiable pecuniary loss as a direct result of the crime underlying the forfeiture or a related offense. 28 C.F.R. §§ 9.2, 9.8(b) (2013). “Persons” include individuals, partnerships, corporations, joint business enterprises, estates, or other legal entities capable of owning property. Id. § 9.2. To receive remission in criminal or civil judicial forfeitures, a victim must complete a petition for remission and submit it to the
U.S. Attorney for the judicial district where the forfeiture was completed. Id. § 9.4(e). If the assets were forfeited administratively, the seizing agency is responsible for adjudicating the remission petition.

The definition of a victim for purposes of remission is generally narrower than the definition of a victim for purposes of criminal restitution under the MVRA, 18 U.S.C. § 3663(a)(2) and 3663A(a)(2). The following types of losses cannot be compensated through remission:

- Losses not directly resulting from the underlying offense or a related offense (for example, time lost from work)
- Interest forgone
- Collateral expenses incurred to recover lost property (for example, attorneys’ fees and investigative expenses)
- Physical injuries or damage to property

28 C.F.R. § 9.8(b)(1), (c) (2013). Further, a person cannot qualify for remission as a victim if he:

- Knowingly contributed to or benefited from the offense underlying the forfeiture or was willfully blind to it
- Has been compensated or has recourse to other reasonably available assets or compensation (for example, litigation or insurance), or
- Seeks recovery for torts that are associated with the offense but are not the bases for the forfeiture

Id. § 9.8(b), (c).

Following the seizure or forfeiture of property, the U.S. Attorney’s office (USAO), in cooperation with AFMLS and the investigating agency, makes an effort to identify all potential victims and provides them with notice of the opportunity to file a petition for remission. Potential victims known to the Government are notified in writing via postal or electronic mail, while other victims may be notified by publication via traditional media or the Internet.

A successful petition for remission requires documentary evidence demonstrating a direct pecuniary loss. As noted above, indirect losses such as investigative costs or time lost from work are not compensable. Acceptable evidence of loss includes cancelled checks, receipts, bank statements, and invoices. Losses may also be substantiated through records seized by the Government during the investigation. In calculating a victim’s pecuniary loss, any money previously returned to or recovered by the victim must be accounted for and deducted.

If a remission petition is denied, the petitioner may request reconsideration from AFMLS or the seizing agency within 10 days of receipt of the denial notification. Id. § 9.4(k). A request for reconsideration must present evidence not previously submitted or a basis upon which the original denial was erroneous. Reconsideration requests are reviewed and decided by officials different from those who reviewed and decided the original petition.

In multiple-victim cases, if the forfeited funds are insufficient to fully compensate all victims who file a petition, the funds are generally distributed on a pro rata basis in accordance with the amount of loss suffered by each victim. Id. § 9.8(f). However, the Ruling Official has discretion to give priority to particular victims in appropriate circumstances. Id. The Government’s administrative expenses incident to the forfeiture, sale, or other disposition of the property are deducted from the amount available to the victims. Id. § 9.9(a). Victims have priority over federal official use or equitable sharing with law enforcement agencies. Sharing is available only if all known victims have been fully compensated and additional proceeds remain in the forfeiture fund.
B. Restoration

A USAO, in its sole discretion, may request that AFMLS apply forfeited funds toward satisfaction of a criminal restitution order through a process called “restoration.” After consultation with the seizing agency, the USAO must certify that the victim or victims listed in the restitution order (1) are the only known victims of the offense underlying the forfeiture, (2) suffered a specific monetary loss directly attributable to the crime, (3) have no reasonable access to other sources of recovery, and (4) were not complicit in the offense or willfully blind to it. If there is more than one victim, the restitution order must generally specify that funds are to be distributed pro rata. However, private victims may take priority over government victims in accordance with 18 U.S.C. § 3664(i). Direct victims also take priority over an insurance company or other source that provided compensation for a loss in accordance with 18 U.S.C. § 3664(j)(1). If the forfeited assets are not sufficient to restore the victims’ losses in full, the defendant remains liable to pay the unpaid balance of restitution.

Restoration eliminates the need for each victim named in the restitution order to file a petition for remission. Thus, restoration generally leads to faster and more efficient disbursement. The restitution order must, however, include all known victims and comply with the remission requirements. Inaccurate or incomplete restitution orders will result in AFMLS denying restoration. If the USAO does not request restoration, or if restoration is denied by AFMLS, a victim may still petition for remission.

C. Which process to use: remission or restoration?

In criminal cases, the USAO may need to choose between initiating remission or restoration. Restoration is generally preferable in simpler cases in which the victims and their loss amounts are reliably reported in the restitution order. Restoration reduces the burden on the victims, who will not be required to submit a petition, and benefits the Government by eliminating the need to review petitions and distribute funds directly to the victims. In addition, funds forfeited in administrative, civil, or criminal forfeiture matters can all be included in a single restoration request and transferred at once to the clerk of court.

If, on the other hand, there is no criminal case or restitution order or the restitution order is not complete or subject to change (for example, additional victims may come forward after sentencing), remission is the appropriate vehicle to ensure the victims receive compensation. Because remission is not subject to time constraints imposed by the Federal Rules of Procedure or by the court, a thorough search for potential victims and more deliberate review of the petitions is generally possible. In large multiple-victim criminal cases, it may be more efficient to request that the court approve a remission process in lieu of restitution pursuant to 18 U.S.C. § 3663A(c)(3)(A). See infra Part IV.

Many large-victim cases have assets forfeited both administratively and judicially. Administrative remission decisions should await DOJ decisions on remission to ensure consistency and simplify disbursements. In criminal cases, the USAO and case agent should coordinate with AFMLS regarding determinations of restoration and/or remission.

III. Interest of justice transfers

In addition to remission and restoration, the Attorney General has authority to “take any other action to protect the rights of innocent persons which is in the interest of justice and which is not inconsistent with the provisions of this subsection.” 21 U.S.C. § 853(i)(1) (2013). This provision is applicable to forfeitures in most criminal offenses through 18 U.S.C. § 982(b)(1). The text and legislative history of § 853(i) suggest an authority of the Attorney General to remit forfeited property to innocent persons where the regulatory requirements for remission or mitigation are not met but the interest of justice would be served. AFMLS has applied the interest of justice provision sparingly and usually in the
context of innocent owner claims against specific forfeited property. In addition, this provision may not be applicable in civil forfeiture cases.

IV. Large-victim cases

With the advent of the Internet and other technological advances in communications, criminals may easily victimize hundreds or thousands of victims in a single scheme. In such cases, in-house noticing of victims, petition review, and disbursement to victims may not be feasible. Consequently, in 2012 DOJ/AFMLS entered into a contract with three private claims administration firms to provide support for petition processing in larger cases. These firms are experienced in mass class-action litigation and have worked extensively with federal regulatory enforcement agencies such as the Securities and Exchange Commission and Federal Trade Commission. The contractor assists the USAO and AFMLS with the design of notices and petitions, handles all contact with victims through toll-free hotlines and Web sites, processes petitions, makes remission recommendations, and distributes funds to victims.

USAOs handling a civil or criminal forfeiture involving a large number of victims (generally 100 or more) should contact AFMLS early in the forfeiture case to determine the potential need for and availability of claims administration support. AFMLS will provide a questionnaire to fill out regarding the underlying facts, amount and nature of assets, number of potential victims, status of forfeitures, etc. When appropriate, AFMLS will award a contract to a claims administration vendor through a competitive bid process. The vendor’s fees are deducted from the forfeited assets prior to distribution to victims, pursuant to 28 C.F.R. § 9.9(c).

In large cases, information must be managed so that the contractor, seizing agency, USAO, and AFMLS do not receive hundreds of inquiries from victims seeking information or provide contradictory information regarding the remission or restoration process. Important do’s and don’ts to keep in mind include:

- **DO** keep victims advised of remission status through contractor Web site, USAO Web site, mailings, and/or other communications. Provide as much detail as possible, for example, “Department of Justice is reviewing requests for reconsideration.”

- **DO** tell victims that claims processing is time-consuming in large cases and that distribution will likely take one year or more after the petition deadline has passed.

- **DO** assure victims that all forfeited money will be returned to victims after deduction of government expenses.

- **DO** ask AFMLS for help and guidance in large or complex cases.

- **DON’T** tell victims that they will receive a specific dollar amount or particular percentage of their loss. The amount of the victims’ recovery is not known until all petitions are processed and the funds are ready to be distributed.

- **DON’T** tell victims to expect remission payments by a particular date. Unforeseen factors can delay distribution (for example, discovery of additional victims).

- **DON’T** try to do everything in-house. Attempting to handle a large, multiple-victim case with limited government resources can actually delay remission. Most victims would prefer faster recovery as opposed to receiving a slightly increased payment because contractor costs were minimized through in-house process.

V. Asset tracking

With the increasing number of seized and forfeited assets, and multiple options for asset disposition, it is imperative that all assets are properly tracked. The DOJ maintains the Consolidated Asset
Tracking System (CATS) to track the activity and “lifecycle” of assets as they move through the forfeiture process. Every asset seized for forfeiture by a DOJ Asset Forfeiture Program participant or included in a judicial action in one of our 94 districts is entered into CATS and assigned an asset identification number that can be referenced by anyone with access to the system. CATS currently contains information for over 1.1 million assets.

When the forfeiture program began in the 1980s, federal law enforcement components maintained separate asset tracking systems. The need for a centralized system quickly became apparent because many different entities take actions that affect a single asset. A typical case involves a law enforcement agency seizing the asset, a USAO filing a forfeiture complaint against the asset, the U.S. Marshals Service (USMS) coordinating the auction of the asset, and AFMLS reviewing a petition for remission or restoration request that affects disposition of the asset. To address this need for centralization of information, the DOJ began the process of creating a consolidated asset forfeiture database. By the early 1990s, CATS was accessible to users via stand-alone terminals placed throughout the various DOJ agencies. In 2005, the system received a major upgrade and became available on a user’s desktop through an Internet browser. Today, CATS interacts with several DOJ and Department of the Treasury databases and feeds data to several other programs that have become integral to the forfeiture community, such as www.forfeiture.gov, the Internet publication Web site.

CATS contains information for both administrative and judicial forfeitures and tracks the seizure, forfeiture, custody, and disposition of each asset. Users from any participating agency can access this data, which includes updates on the forfeiture status, custody location, and accounting transactions related to the asset. Each component is responsible for maintaining current records on an asset’s status.

USAOs update forfeiture information, including the date of filing for a complaint or indictment and date of the forfeiture order, generate the advertisement for Internet publication, and enter disposal instructions for the USMS on assets for which judicial forfeiture is being pursued. If no updates are entered on assets included in a forfeiture case, a Division or Section will not be able to initiate Internet publication, which is generally required prior to forfeiture. In addition, although an agency may have successfully forfeited an asset, if the forfeiture decision is not recorded in CATS, the asset may never be transferred from the DOJ Seized Asset Deposit Fund (SADF) (the holding account for assets pre-forfeiture) to the DOJ Assets Forfeiture Fund (AFF) or liquidated at auction.

Neglecting updates to CATS may seem inconsequential, but the reality is that a few missing screens of data can cause the Government to expend significant amounts of money managing assets that should have been liquidated. Incomplete updates also cause significant delay in processing payments to victims through remission and restoration or payments to our state and local law enforcement partners through the Equitable Sharing Program. Funds that are not transferred from the SADF to the AFF are not available to support the Forfeiture Program’s financial obligations.

CATS also provides controls that prevent the inappropriate disposition of assets if a victim matter is pending. The USAO and the seizing agency have the ability to place a hold on assets to indicate future victim recovery. It is imperative that both the USAO and seizing agency enter these holds and other information on petitions for remission or restoration to ensure that the asset is not prematurely equitably shared or otherwise transferred before the victims are fully compensated.

If the assets were seized by an agency from the Department of the Treasury (IRS-CI, USSS, ICE, or CPB), although the asset may have been entered in CATS for the purposes of publication, it is important to note that those agencies do not access CATS and do not track seizures through this system. Accordingly, the holds and disposition controls available to DOJ agencies cannot be used effectively to ensure asset preservation. The Treasury seizing agency must be contacted and instructed to oblige the funds for future victim compensation. If the USAO does not request obligation, the assets will not be available for distribution to victims.
In addition to tracking assets, CATS also serves as a reporting tool for DOJ. Every year, the data from CATS is compiled into a report to Congress detailing the status of the Assets Forfeiture Fund (http://www.justice.gov/jmd/afp/02fundreport/). The report contains information on assets on hand, equitable sharing distributions, and deposits to the AFF. Important statistics regarding victim compensation are also available from the system. In addition, each quarter, every USAO is provided with updated statistics regarding pending and completed matters, forfeiture deposits, and victim compensation paid since the beginning of the fiscal year.

If attorneys from a DOJ component or federal agency other than a USAO pursue a matter in which assets are seized, the attorneys must contact AFMLS to ensure that the assets are properly entered in CATS. If a case results in the entry of a money judgment, AFMLS must also be contacted to ensure the judgment is properly recorded in CATS, even if no tangible assets have been seized. The USMS recently placed Deputy U.S. Marshals whose primary mission is to collect unsatisfied money judgments in USAOs across the country. If the judgment is not entered in CATS, the USMS will not have the information necessary to pursue collection.

In recent months, AFMLS located multiple assets that the Government successfully forfeited, but were either pending auction or being held in the SADF because the forfeiture updates were not completed in CATS. If an agency is currently handling a forfeiture matter without the assistance of a local USAO, that agency should contact the AFMLS Program Operations Unit to ensure the assets are properly tracked, published, and liquidated. For general information regarding compensation for victims, please contact AFMLS.

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