

2008 Statutory and Rule Changes Regarding Federal Restitution

I. 2008 Addition to 18 U.S.C.A. § 3663:

(6) in the case of an offense under [sections 1028\(a\)\(7\)](#) or [1028A\(a\)](#) of this title, pay an amount equal to the value of the time reasonably spent by the victim in an attempt to remediate the intended or actual harm incurred by the victim from the offense.

Notes:

◦ Added as the “Identity Theft Enforcement and Restitution Act of 2008,” Pub.L. 110-326, Title II, § 202, 122 Stat. 3561, which was a small part of the larger, Secret Service Protection for Former Vice Presidents Act

◦ This section was added only to § 3663, not to § 3663A. Under some facts, identity theft might qualify for mandatory restitution under § 3663A as a property offense or one committed by fraud or deceit

◦ This provision is unique in including intended as well as actual harm.

II. 2008 changes to the Federal Rules of Criminal Procedure based on the CVRA of 2004:

(new) Rule 1(b)(11)

“Victim” means a “crime victim” as defined in [18 U.S.C. § 3771\(e\)](#).

(modified) Rule 32(i)(4) (Opportunity to Speak)

(B) By a Victim. Before imposing sentence, the court must address any victim of the crime who is present at sentencing and must permit the victim to be reasonably heard.