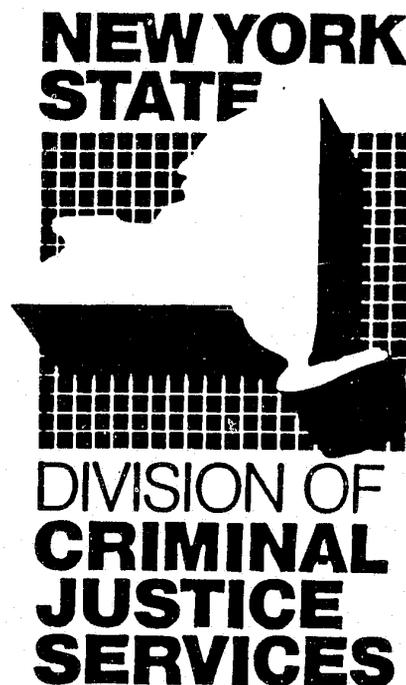


# OFFICE OF POLICY ANALYSIS, RESEARCH & STATISTICAL SERVICES

RESTITUTION 1985: AN ANALYSIS OF  
RESTITUTION REPORTED UNDER CHAPTER 965 OF THE  
LAWS OF 1984

MAY, 1986

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RESTITUTION 1985:  
AN ANALYSIS OF RESTITUTION  
REPORTED UNDER CHAPTER 965  
OF THE LAWS OF 1984.

MAY, 1986

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## SUMMARY AND RECOMMENDATIONS

The use of restitution as a criminal sanction has evolved from ancient times and has been advanced as benefiting offenders, victims, the criminal justice system, and the community in general. Restitution can be utilized at various stages of the judicial process: as a private settlement between the offender and victim; as a civil matter; as a condition of pretrial diversion; as a sentencing supplement; or, in combination with an incarcerative sentence. In New York State, restitution is typically ordered in conjunction with probation and conditional discharge sentences or as a condition of an Adjournment in Contemplation of Dismissal.

Chapter 965 of the Laws of 1984 added a new subdivision to the Criminal Procedure Law in order to formalize administering the restitution process. According to this law, restitution is administered by designated agencies (local probation departments, with the exception of New York City, where the Office of the Criminal Justice Coordinator has been designated). The Division of Criminal Justice Services is the central repository for restitution data received from the State Division of Probation and Correctional Alternatives and from the Office of the Criminal Justice Coordinator in New York City. DCJS is responsible for reporting the data as requested. The legislation indicates that the data collection and reporting system is intended to promote the use of restitution and encourage its enforcement.

Data for 1985 reported by local designated agencies indicated that 9,809 restitution orders were issued, 4,321 cases were satisfied, nearly \$11.5 million was ordered, \$2 million was collected, and the average restitution order was

\$1,167. Local probation departments continued to collect additional restitution on orders issued prior to November 1, 1984. Since this report covers the initial year following the implementation of the 1984 restitution law, there are no available data to use for comparable purposes.

Analysis of the 1985 data has shown that even though the data collection process meets the mandated minimum legislative requirements, the current system lacks sufficient information to support recommendations concerning the use of restitution. The unavailability of numerous data elements make it impossible to determine from the data reported how, or how well, the restitution process is operating in New York State. The creation of an enhanced data collection system would be required to provide decision makers with a more comprehensive overview of the restitution process.

Based on this analysis of the 1985 restitution data, it is recommended that:

1. more meaningful data be collected. The inclusion of basic data elements such as the identification of felony and misdemeanor cases would enhance the ability to determine how the restitution sanction is utilized in New York State.
2. the reporting requirement be transferred from DCJS to the Division of Probation and Correctional Alternatives (DPCA) which has collected and reported restitution data received from local probation departments for over ten years. Since the majority of restitution data are initially

reported to DPCA; DPCA could assume the mandated reporting function without undue difficulty. Moreover, DPCA is programmatically better situated to report on the restitution collection process, its limitations, and its impact on the quality of restitution data reported. This transfer should improve data reporting effectiveness and efficiency.

The Division of Probation and Correctional Alternatives supports the above recommendations and is examining the possibility of upgrading the future quality and analysis of the current reporting process through a redesign of the Probation Registrant System.

## INTRODUCTION

Restitution is a non-incarcerative sanction through which offenders make payment to victims of crime or society in the form of monetary reimbursement or community service. As New York State has increasingly focused on expanding alternatives to incarceration, the use of restitution as a criminal sanction has drawn considerable attention.

Restitution programs are designed to benefit offenders, victims, the criminal justice system, and the community at large. The major goals of current restitution programs include: offender rehabilitation and reduced recidivism, reducing the intrusion of the offender in the criminal justice process; victim repayment for losses suffered; relief of the over-burdened criminal justice system through a reduction in court cases and probation case loads; reducing the overcrowding in correctional institutions; and, reducing the costs of processing offenders through the system.<sup>1</sup>

In New York State, existing restitution programs offer one or more of the following options:

- o monetary restitution to the victim;
- o monetary restitution to the community, which involves the payment of money by the offender to a substitute victim (a public establishment);
- o victim service restitution, which requires the offender to perform a useful service for the victim; and,
- o community service restitution, which involves the offender in performing a useful community service.<sup>2</sup>

Most of New York's restitution programs involve local probation departments

<sup>1</sup>Worrall, J. Restitution Programming for Correctional Agencies: A Practical Guide. (College Park, Maryland: The American Correctional Association, August 1981), pp. 3-4.

<sup>2</sup>New York State Division of Criminal Justice Services, Restitution: A Historical and Legal Review (February 1985).

collecting restitution payments from adult and juvenile offenders. Some are run by private agencies, such as the Victims Services Agency of New York City. Restitution is typically ordered in conjunction with probation or conditional discharge sentences or as a condition of an Adjournment in Contemplation of Dismissal.

This report presents a statistical review of 1985 restitution data compiled by the localities and submitted to the State Division of Criminal Justice Services (DCJS) for review and reporting through the Division of Probation and Correctional Alternatives (DPCA) and the New York City Office of the Criminal Justice Coordinator. This report and the associated reporting system was mandated by Chapter 965 of the laws of 1984. The data contained in this report reflect the reporting system designed by DPCA and administered by DPCA and the New York City Office of the Criminal Justice Coordinator. The restitution reporting law became effective November 1, 1984. However, November and December 1984 data are excluded in this report because of delays in implementing reporting procedures. The data described in this report are limited solely to monetary restitution either to the victim or to a public establishment.

#### MAJOR RESTITUTION LAWS IN NEW YORK STATE

The criminal courts in New York State under Penal Law Section 65.10 have the authority to order restitution as a condition of probation or conditional discharge. This section provides that, courts may, as a condition of the above sentences, require that defendants make restitution or reparation, in an amount they can afford to pay. The courts must fix the amount, set the payment schedules, and specify the date restitution is to be paid in full prior to the

expiration of sentence.

Under Family Court Act Sections 353.6 and 758-A, monetary restitution or community services may be ordered as an adjunct to or condition of probation, suspended judgement, or placement for juveniles age ten to sixteen. The maximum amount of restitution which may be ordered was increased in 1985 from \$1,000 to \$2,000. In conjunction with orders of placement, courts can only recommend restitution. In all situations, courts can require services for the public good in conjunction with, or as a condition of, any of its orders.

In 1980, the availability of the restitution sanction was substantially increased. A new section was added to the Penal Law that authorized sentencing judges to require defendants to make restitution or reparation for the loss or damage caused, in addition to any other dispositions authorized under Article 60 of the Penal Law. Prior to this legislation, judges could not sentence defendants to a term of imprisonment in excess of 60 days and also require restitution. This situation was due to the fact that restitution could only be used as a condition of probation or conditional discharge, and such dispositions could only be ordered when defendants were sentenced to a term of imprisonment of 60 days or less. The 1980 law permitted the imposition of restitution as a sanction in cases where judges have discretion in determining the type of sentence. This legislation also contained restrictions in terms of the total amount of restitution courts could require. Specifically, the amount required by a court was not to exceed \$5,000 in the case of a felony conviction, or \$1,000 in a case of conviction for any other offense.

During the 1983 legislative session, a few changes in the existing

restitution provisions were enacted. Section 60.27 of the Penal Law was amended to allow restitution in excess of the amount established in 1980. As a result of this amendment, the amount of restitution which can now be ordered may include the return of the victim's property, including money or its equivalent value, as well as reimbursement for medical expenses associated with the conviction offense that was incurred by the victim prior to sentencing.

An additional change enacted during 1983 was the statement that it shall be the policy of New York State to encourage the use of restitution when a defendant is reasonably able to pay. The new provisions of Chapter 397 provided an affirmative position regarding restitution orders. Upon notification by victims that they are seeking restitution, the district attorney must advise the court at the time of sentencing of the victim's interest, the amount of restitution being sought, and the extent of injury, economic loss or damage incurred. The pre-sentence investigation report prepared by local probation departments generally contains financial data on an offender's ability to pay restitution. The court utilizes these data to determine whether a defendant is indigent and is, thus, incapable of making restitution payments.

#### THE 1984 RESTITUTION LAW (CHAPTER 965)

As noted, several laws have been passed recently to enhance the recovery of damages suffered by victims of criminal acts and to formalize the administration of the restitution process. Prior to 1984, centralized records were kept only for those restitution collections that were processed by local probation departments. Record keeping was inconsistent and lacked uniformity. Chapter

965 of the laws of 1984 added a new subdivision to Section 420.10 of the Criminal Procedure Law in order to standardize the reporting of restitution data (see Appendix A for copy of the law). This statute was enacted to encourage payment of restitution by financially able offenders to the victims of their criminal acts and to provide for a centralized data collection and reporting system.

The 1984 statute authorized local officials to designate an agency other than the district attorney to collect and disburse restitution payments. The State Division of Probation and Correctional Alternatives directly operates one local probation department and DPCA was authorized to designate this department as the collection agency. The law provides that in cases where restitution has been ordered, defendants must pay a 5 percent surcharge of the total amount of restitution to the designated agency to assist in defraying operating costs. County Chief Executives throughout the State designated their local probation departments to administer restitution in every jurisdiction except New York City, where the Mayor designated the Office of the Criminal Justice Coordinator. In New York City, the Probation Department and the Victims Services Agency actually collect restitution and report the data to the Coordinator's office.

According to the provisions of the restitution reporting law, each designated agency collects monthly data regarding the numbers of restitution orders issued and satisfied for each crime category. Outside of New York City, data collected by local probation departments are forwarded to the Division of Probation and Correctional Alternatives. DPCA checks and ensures the completeness and accuracy of the data and transmits the data to DCJS. Upon receipt of data from the New York City Probation Department and the Victims

Services Agency, the Office of the Criminal Justice Coordinator verifies the numbers and transmits them to DCJS. DCJS is required to compile and review the restitution data and to "make recommendations to promote the use of restitution and encourage its enforcement."

## DATA COLLECTION AND REPORTING PROCESS

### Description of the Process

In 1984, a reporting form and data collection procedures were implemented by DPCA for use by the designated agencies. The form (DP-30R) was designed to capture the legally required data elements, in addition to the amount ordered and collected and surcharges collected (see Appendix B for copy of reporting form).

Clerical staff from the designated agencies complete the forms monthly and transmit them to DPCA or in the case of New York City, directly to DCJS. DPCA insures the data they receive are complete and accurate and forwards them to DCJS. Upon receipt, DCJS compiles the data on a statewide restitution data base.

Since several counties submitted monthly reports after the file closing date of March 1, 1986, the unreported data are not reflected in this analysis.\* The data from these late reports included 78 restitution cases, \$44,217 ordered and \$12,513 collected.

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\*The counties include: Niagara (September, October, November, December); Ontario (May, June, July, August, October, November, December); Saratoga (December); and Tioga (December).

## LIMITATIONS OF THE REPORTING SYSTEM

The aggregate reporting system created by the Division of Probation and Correctional Alternatives clearly meets the mandated minimum legislative requirement. Even while the system was being designed, however, it was apparent that the information it produced would be inadequate to support recommendations about the expansion of restitution programs. For example, it is impossible to identify how much restitution has been ordered and collected for a specific offense, the type of arrest and conviction charge (felony or misdemeanor), or the courts which ordered the restitution. Information about the dollar amount of restitution ordered in each case would provide the data necessary for comparisons among counties and across crime types. Similarly, the linking of case-specific arrest charge and conviction charge information with restitution orders would permit analyses of the types of crimes and case processing situations in which restitution is typically imposed. Without case-specific data it is similarly impossible to examine what sentence types are associated with restitution orders. Data on defendants, including financial status and employment history, would be required to examine the judicial decision making process related to the restitution sanction.

In addition, the data reported suggest that all criminal courts may not be reporting restitution orders to the designated agencies. This potential violation of the law is illustrated by the low number of cases (61) reported for 1985 by Suffolk County, a large metropolitan jurisdiction. In contrast, Chenango County, a rural locality, reported 126 cases (a discrepancy in the amount of restitution reported collected on the criminal court statistical form -DP-30A and on the restitution form -DP-30R is discussed below). Finally, the current data is not transactional: there is no way of linking restitution

orders with subsequent actions or case closings. The data provided by the current system are so flawed as to make them virtually useless for examining the important issues related to restitution in New York State.

#### DATA ANALYSIS

A brief analysis of the available data is presented to indicate the nature and scope of restitution data reported. All of the analyzed data are derived from the DP-30R monthly restitution form for January through December 1985.

Table 1 summarizes the data submitted by each jurisdiction. The total number of restitution cases reported was 9,809. Of this total, New York City accounted for 44 percent (4,286). The Victim Services Agency reported 82 percent (3,501) of the New York City cases. The six other metropolitan areas reported 14 percent (1,379) of the total 1985 cases while the remaining jurisdictions processed 42 percent (4,144) of the total cases. Albany, Chemung, and Oneida accounted for 332, 253, and 253 cases, respectively. The relatively low number of cases (61) noted by Suffolk County raises a question of restitution orders unreported by the courts to the probation department. At the lowest end of the scale, Hamilton County listed just one restitution order. The relative numbers of restitution orders by county is graphically displayed in Figure 1.

In terms of restitution cases satisfied, (Column 2 of Table 1) the statewide total was 44 percent (4,321) of the number ordered. New York City satisfied 59 percent (2,548) of its 4,286 cases. The Victims Services Agency reported that it satisfied 64 percent (2,226) of 1985 restitution orders. This

TABLE 1

## 1985 RESTITUTION DATA SUMMARY

	Col. 1	Col. 2	Col. 3	Col. 4	Col. 5	Col. 6	Col. 7
COUNTY	TOTAL CASES	CASES SATISFIED	PERCENT SATISFIED	AMOUNT ORDERED	AMOUNT COLLECTED	PERCENT COLLECTED	AVERAGE ORDER
ALBANY	332	82	25	311,387	78,333	25	938
ALLEGANY	59	25	42	92,007	8,518	09	1,559
BROOME	156	15	10	148,402	30,501	21	951
CATTARAUGUS	37	10	27	25,631	6,518	25	693
CAYUGA	35	10	29	21,574	6,571	30	616
CHAUTAUQUA	96	26	27	85,250	8,708	10	888
CHEMUNG	253	118	47	151,609	51,311	34	599
CHENANGO	126	59	47	85,174	15,206	18	676
CLINTON	59	21	36	225,335	7,924	04	3,819
COLUMBIA	95	55	58	26,287	15,674	60	277
CORTLAND	53	31	58	17,838	10,673	60	337
DELAWARE	74	26	35	24,528	15,730	64	331
DUTCHESS	202	23	11	239,028	26,150	11	1,183
ERIE	326	94	29	331,436	31,633	10	1,017
ESSEX	35	13	37	35,443	18,940	53	1,013
FRANKLIN	38	27	71	67,416	7,720	11	1,774
FULTON	76	37	49	56,965	11,100	19	750
GENESEE	34	15	44	23,573	9,860	42	693
GREENE	18	10	56	14,557	10,953	75	809
HAMILTON	1	1	100	85	85	100	85
HERKIMER	46	13	28	39,184	5,778	15	852
JEFFERSON	161	76	47	116,147	27,831	24	721
LEWIS	25	17	68	4,702	3,976	85	188
LIVINGSTON	30	16	53	16,766	11,733	70	559
MADISON	143	104	73	52,156	19,993	38	365
MONROE	128	69	54	78,630	5,329	07	614
MONTGOMERY	31	18	58	11,729	2,700	23	378
NASSAU	397	28	07	477,585	20,073	04	1,203
NIAGARA	82	19	23	116,133	16,922	15	1,416
ONEIDA	253	109	43	224,789	34,176	15	888
ONONDAGA	310	73	24	299,573	49,318	16	966
ONTARIO	55	12	22	24,948	6,318	25	454
ORANGE	48	14	29	90,935	20,786	23	1,894
ORLEANS	48	13	27	30,420	6,053	20	634
OSWEGO	57	21	37	23,174	6,231	27	407
OTSEGO	68	18	26	30,568	2,618	09	450
PUTNAM	30	3	10	10,709	5,630	53	357
RENSSELAER	109	33	30	71,957	18,727	26	660
ROCKLAND	146	29	20	147,582	32,896	22	1,011

TABLE 1

## 1985 RESTITUTION DATA SUMMARY - continued

COUNTY	Col. 1 TOTAL CASES	Col. 2 CASES SATISFIED	Col. 3 PERCENT SATISFIED	Col. 4 AMOUNT ORDERED	Col. 5 AMOUNT COLLECTED	Col. 6 PERCENT COLLECTED	Col. 7 AVERAGE ORDER
ST. LAWRENCE	124	54	44	61,896	21,655	35	499
SARATOGA	73	5	07	41,101	17,525	43	563
SCHENECTADY	79	21	27	69,604	13,904	20	881
SCHOHARIE	25	7	28	9,417	3,833	41	377
SCHUYLER	32	14	44	9,103	3,334	37	284
SENECA	72	12	17	10,701	7,153	67	149
STEUBEN	128	87	68	50,833	10,566	21	397
SUFFOLK	61	0	0	141,368	22,877	16	2,318
SULLIVAN	56	1	02	69,768	8,335	12	1,246
TIOGA	26	3	12	32,787	6,931	21	1,242
TOMPKINS	124	42	34	81,300	19,368	24	656
ULSTER	86	18	21	133,245	31,964	24	1,555
WARREN	54	33	61	39,159	15,667	40	725
WASHINGTON	44	26	59	95,278	51,348	54	2,165
WAYNE	58	18	31	55,119	8,076	15	950
WESTCHESTER	157	34	22	485,130	138,705	29	3,090
WYOMING	18	5	28	19,325	6,458	33	1,074
YATES	34	10	29	55,397	2,340	04	1,629
UPSTATE TOTAL	5,523	1,773	32	5,311,743	1,060,135	20	962
NYC PROBATION	785	302	38	4,629,404	228,202	05	5,897
NYC VSA	3,501	2,246	64	1,504,406	799,233	53	430
NYC TOTAL	4,286	2,548	59	6,133,810	1,027,435	17	1,431
NEW YORK STATE TOTAL	9,809	4,321	44	11,445,553	2,087,570	18	1,167

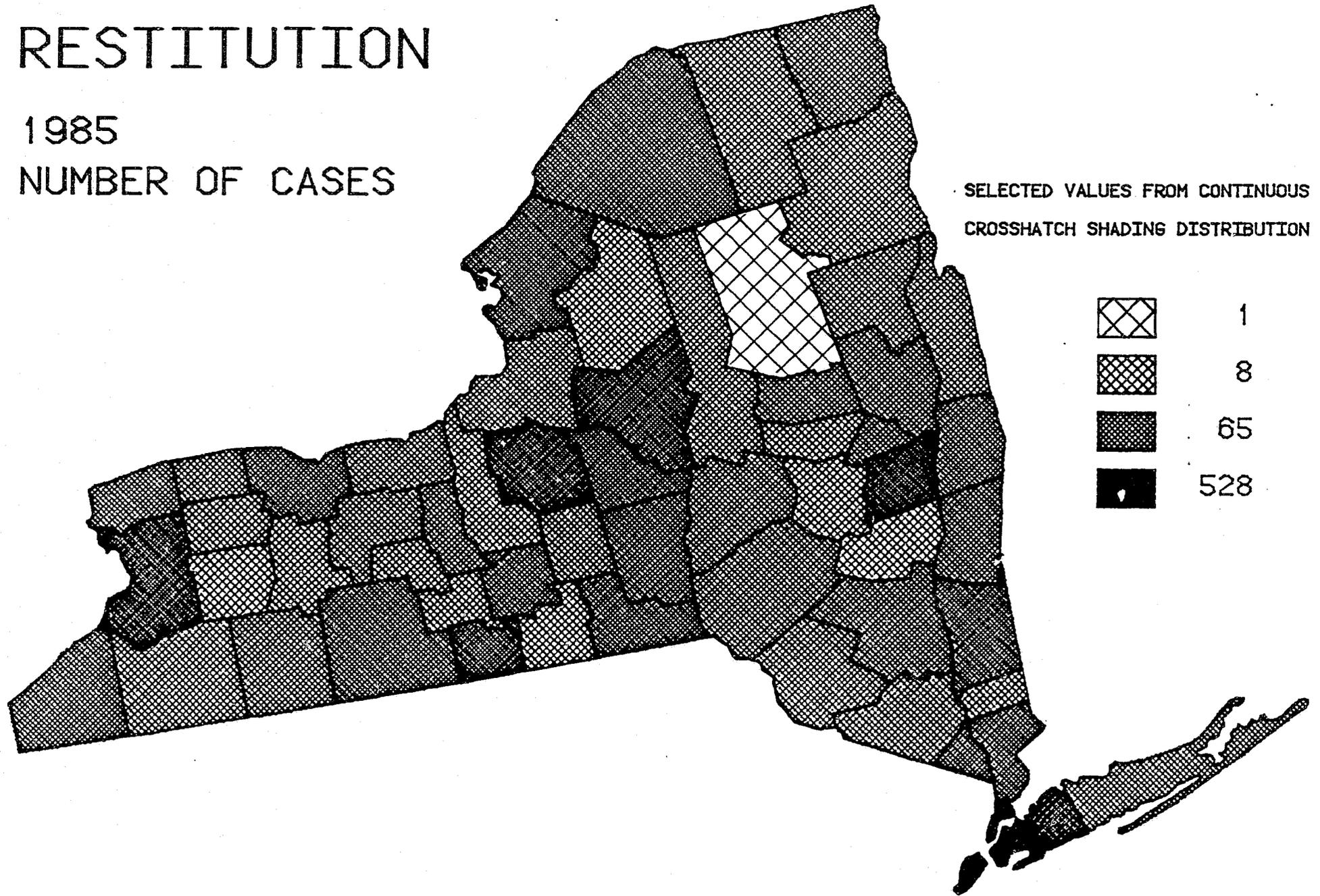
SOURCE: DP-30R

FIGURE 1

# RESTITUTION

1985

NUMBER OF CASES



relatively high case closing rate may be attributed to the full payment of restitution at sentencing and/or the large volume of ACOD cases (1,105) processed by this agency. Local probation departments outside of New York City managed to close 32 percent (1,773) of their total cases. Madison County reported the highest case closing rate - 73 percent (104). Suffolk County indicated that none of its 61 restitution orders were satisfied in 1985.

Approximately \$11.5 million in restitution was reported to have been ordered by the New York criminal courts during 1985 (Column 4, Table 1). Nearly 54 percent (\$6.1 million) of this amount was levied by New York City judges. Of the New York City amount, 75 percent (\$4.6 million) was ordered to be paid by defendants serviced by the Probation Department, which reported 785 cases. by contrast, the Victims Services Agency reported 3,501 cases, with orders amounting to \$1.5 million. Thus, it appears that the Probation Department is processing the larger individual restitution orders normally associated with felony convictions. However, because the data do not distinguish between felony and misdemeanor cases, this cannot be substantiated.

Judges in the six other metropolitan counties ordered approximately \$1.8 million to be paid by offenders. Westchester County ranked first among the metropolitan counties, with nearly \$.5 million ordered. The remaining upstate counties accounted for \$3.5 million of the total dollars ordered. The relative amounts ordered by criminal courts are graphically displayed in Figure 2.

Although laws exist in New York State authorizing the collection of restitution, the actual dollar amount that was reported as having been

FIGURE 2

# RESTITUTION

1985

AMOUNT ORDERED

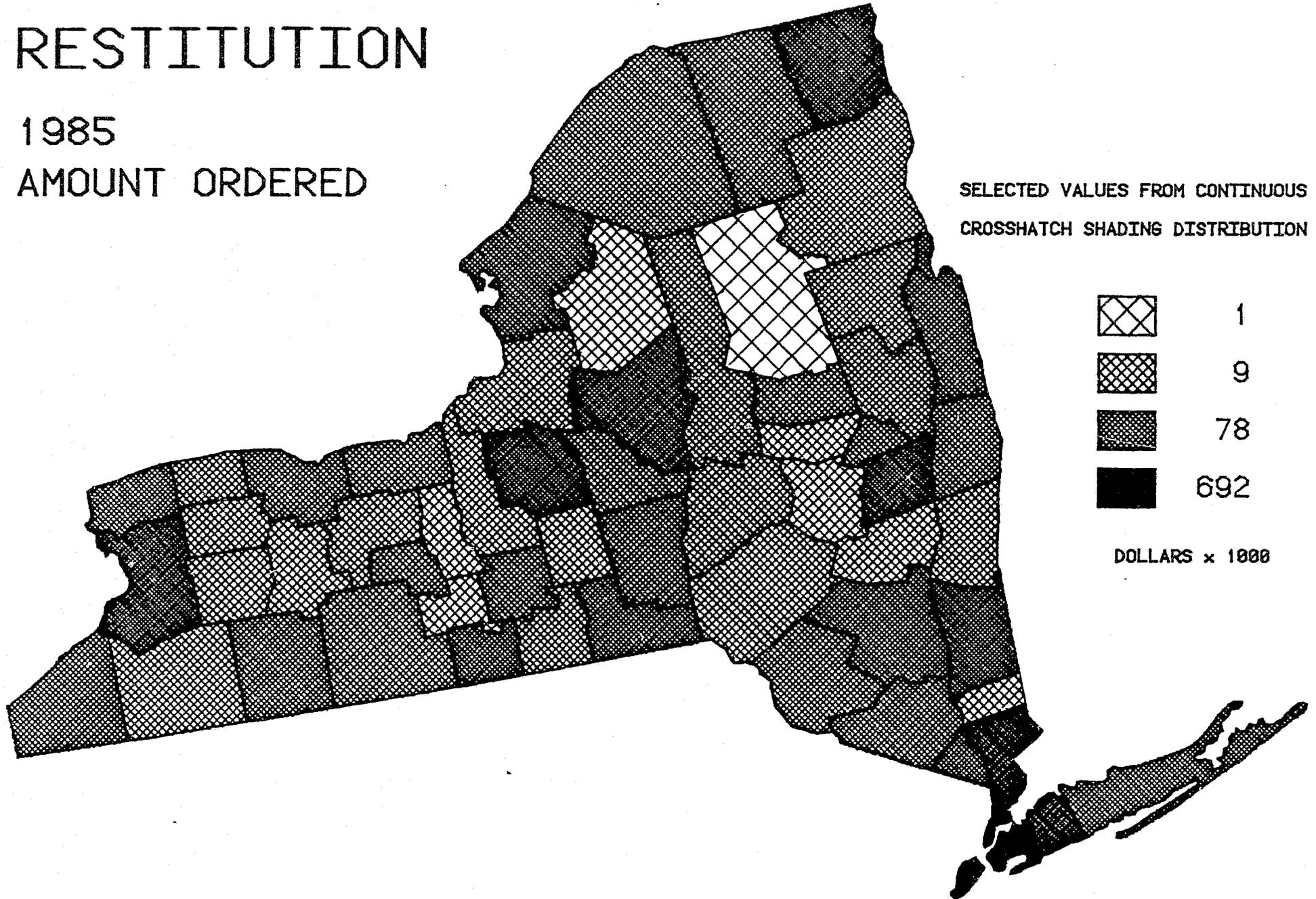
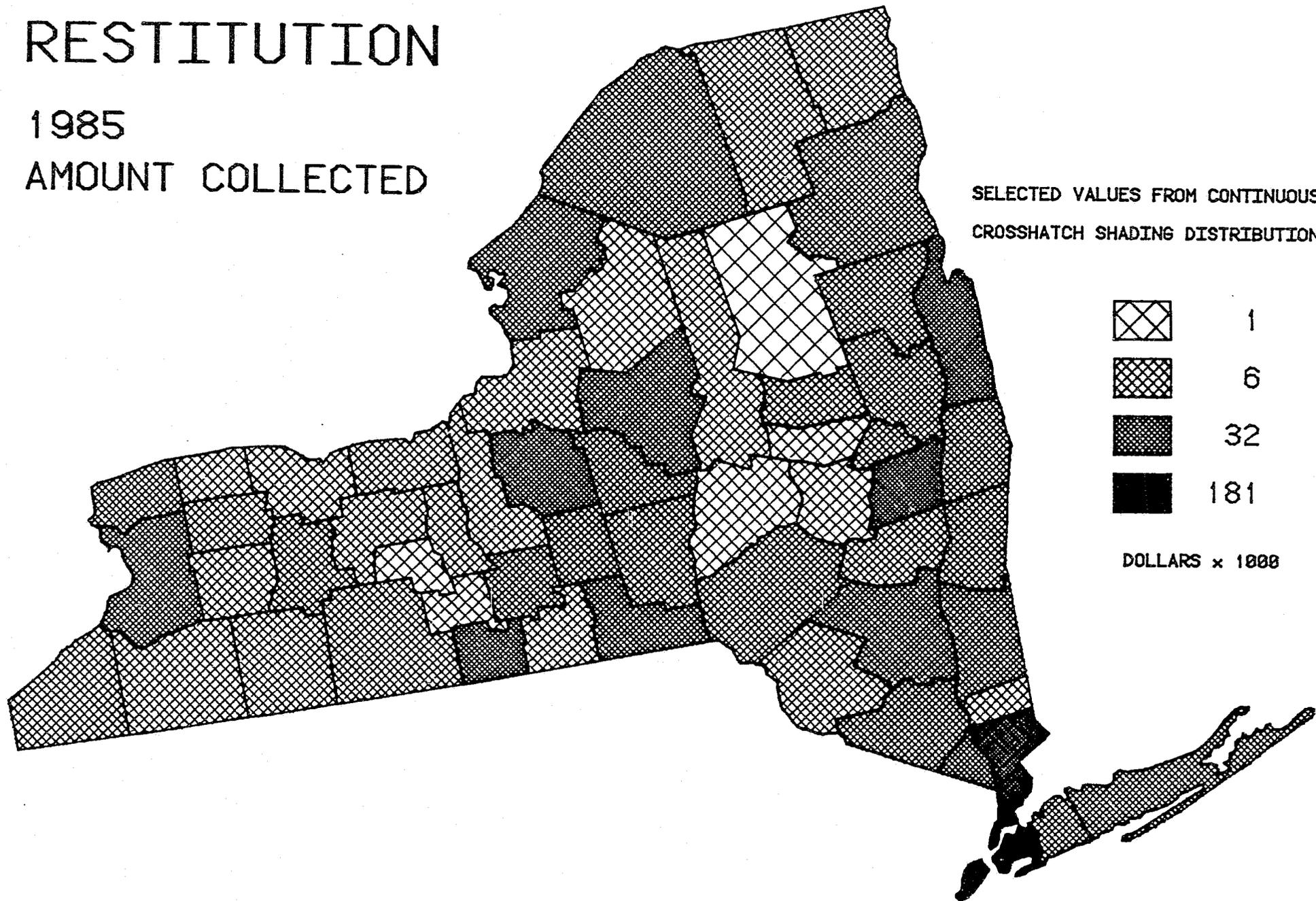


FIGURE 3

# RESTITUTION

1985

AMOUNT COLLECTED



collected in 1985 was not large (Column 5, Table 1). the Victims Services Agency of New York City collected nearly \$800,000 while Hamilton County collected just \$85. According to DPCA, local probation departments reported on the criminal court monthly statistical form (DP-30A) that they collected approximately \$5.4 million restitution ordered in 1985. This amount is \$4.1 million more than the amount (\$1.3 million) reported collected on the monthly restitution forms (DP-30R). This large difference may have resulted from continuing restitution collections on orders issued prior to November 1, 1984 and/or the failure of probation departments to use the DP-30R form to report all restitution orders received from the courts since November 1984. However, it is impossible to reconcile the difference due to the limitations of the existing reporting system.

The statewide collection rate, dollars collected (\$2 million) divided by dollars ordered (\$11.4 million) was 18 percent. These data are presented in Column 6 of Table 1. Green, Lewis, and Livingston Counties reported the highest percentage collected while Clinton, Nassau, and Yates had the lowest collection rates. All of the probation departments except New York City reported that they collected 20 percent (\$1 million) of the total amount ordered. The New York City Probation Department collected just 5 percent (\$.2 million). These collection rates suggest that most defendants are not able to fully meet this obligation at sentencing and, thus, may be paying in installments through their probationary terms (five years for felony convictions).

In contrast to the above collection rate, the Victims Services Agency collected 53 percent (\$.8 million) of the dollars ordered. It should be noted that this agency is involved primarily with minor misdemeanors and violations,

which generally call for smaller restitution payments than do felony probation cases. Therefore, the collection rate for such cases should be higher. However, based on the review of these data, it would seem appropriate for the State to examine local collection procedures in an effort to expedite collections and payments to crime victims.

The average 1985 restitution order was for \$1,167 (Column 7 of Table 1). However, this figure is misleading because several jurisdictions including Clinton, Allegany, and Washington, reported large individual restitution orders. Westchester County's average of \$3,000 per order ranked second in upstate counties, behind Clinton's \$3,819 average order. The New York City Probation Department reported that \$4.9 million restitution was ordered for 785 cases, an average of nearly \$5,900 per case. Although it is likely that these cases represented felony convictions, this could not be determined. In contrast, the average order of cases processed by the Victims Services Agency was \$430.

Table 2 presents a list of offenses for which restitution was reported to have been ordered in 1985. Article 240 cases (disorderly conduct/harassment) ranked first (1,832 or 19 percent) in frequency. Eight-one percent (1,476) of the Article 240 cases were ordered in New York City. Article 155 cases (larceny) ranked second with 17 percent (1,659) of the total count. Adjournments in Contemplation of Dismissal (ACOD) cases, processed primarily by the Victims Services Agency, constituted 12 percent (1,146) of the total orders. The remaining most frequently cited offenses included restitution for loss of personal property and/or damages suffered by victims of crime. A total of 55 separate categories for which restitution was ordered were submitted by the

TABLE 2

## 1985 RESTITUTION OFFENSES

<u>ARTICLE</u>	<u>CRIME/VIOLATION</u>	<u>NUMBER</u>	<u>RANKING</u>	<u>PERCENT OF TOTAL</u>
105	Conspiracy	2		
115	Criminal Facilitation	3		
120	Assault	564	(7)	06
125	Murder/Manslaughter	11		
130	Sex Related	20		
135	Kidnap/Coersion	2		
140	Burglary/Trespass	782	(5)	08
145	Criminal Mischief	883	(4)	09
150	Arson	21		
155	Larceny	1,659	(2)	17
160	Robbery	115		
165	Theft/CPSP	548	(8)	06
170	Forgery	311	(9)	03
175	Offering False Instr.	42		
176	Insurance Fraud	8		
180	Comm. Bribe Receiving	2		
185	Fraud	168		
190	Bad Checks/Imperson.	670	(6)	07
195	Official Misconduct	7		
200	Bribery	2		
205	Escape	14		
210	False Statement	1		
215	Criminal Contempt	1		
220	Controlled Substance	97		
221	Marijuana	35		
225	Gambling	2		
230	Prostitution	2		
240	Dis. Conduct/Harrass.	1,832	(1)	19
260	Endang. Welfare	9		
265	Weapons	20		
VTL 319	Oper. w/o Insurance	2		
VTL 500	Oper. w/o License	5		
VTL 600	Leaving Scene	27		
VTL 1120	Failure to Keep Right	1		
VTL 1180	Speeding	1		
VTL 1190	Reckless Driving	5		
VTL 1192	DWI/DUI	277	(10)	03
VTL 1211	Unsafe Backing	1		
YO	YO	271		
ACOD	ACOD	1,146	(3)	12
JD	JD	15		
SS Law	Social Services Law	72		

TABLE 2

## 1985 RESTITUTION OFFENSES - continued

<u>ARTICLE</u>	<u>CRIME/VIOLATION</u>	<u>NUMBER</u>	<u>RANKING</u>	<u>PERCENT OF TOTAL</u>
Labor Law	Labor Law	46		
ECL	Econ. Con. Law	2		
Jud. Law	Judicial Law	1		
	Time Served	1		
	Assigned Counsel	4		
	Missing Info (VSA)	59		
	Others	5		
Ag/Mkts.	Agri/Markets	2		
CD	Cond. Discharge	11		
City Ord.	Dog Laws	3		
	Dismissed	3		
	Court Ordered	2		
	Pre-Plea	14		
TOTAL		9,809		

SOURCE: DP-30R

designated agencies. Included in this listing were 30 Penal Law articles, eight Vehicle and Traffic sections, other laws and miscellaneous court actions.

Table 3 shows the most frequently reported restitution offenses in New York City and in the rest of the State. Disorderly conduct and ACOD cases comprise 60 percent (2,581) of the City's total count. All of these cases were processed by the Victims Services Agency. Outside of New York City, the crime of larceny prevailed, accounting for 20 percent (1,108) of all restitution orders issued by upstate judges. Article 190 cases (bad checks) are primarily upstate restitution offenses with 659 of the 670 cases reported by upstate agencies. Restitution for Article 120 cases (assault) ranked sixth in upstate localities and seventh in the statewide rankings.

A county-by-county breakdown of the most frequently reported restitution offenses is presented in Table 4. Disorderly conduct accounted for 1,476 cases in New York City as compared with 356 such cases in upstate jurisdictions. On the other hand, upstate larceny cases accounted for 67 percent (1,108) of the total larceny cases. Approximately 42 percent (326) of New York City Probation Department's total restitution cases were larcenies. As previously noted, restitution for ACOD cases resulted from orders issued by New York City judges and reported by the Victims Services Agency. Due to the current emphasis on drunk driving programs, DWI/DUI restitution orders are noted even though they constituted only 3 percent (277 of the total cases). Nassau County accounted for 33 percent (92) of the total DWI/DUI count. The five prevalent offenses plus DWI/DUI accounted for 67 percent (6,579) of the total restitution cases.

TABLE 3

RANKING OF 1985 RESTITUTION OFFENSES

<u>NEW YORK CITY*</u>		<u>REST OF STATE**</u>	
Dis. Conduct -----	1,476	Larceny -----	1,108
ACOD -----	1,105	Bad Checks -----	659
Larceny -----	551	Crim. Mischief -----	680
Crim. Mischief' -----	203	Burglary -----	624
Theft -----	163	Dis. Conduct -----	356
Burglary -----	158	Assault -----	394

\* These offenses constituted 37 percent of State total.

\*\*These offenses constituted 39 percent of State total.

SOURCE: DP-30R

TABLE 4

## 1985 RESTITUTION CASES FOR MOST PREVALENT OFFENSES

COUNTY	DIS. COND.		LARCENY		ACOD		CRIM. MISC.		BURG/TRESS.		DWI/DUI		OTHER		TOTAL CASES
	CASES	% OF CASES*	CASES	% OF CASES*	CASES	% OF CASES*	CASES	% OF CASES*	CASES	% OF CASES*	CASES	% OF CASES*	CASES	% OF CASES*	
ALBANY	34	10	59	18	24	07	32	10	22	07	6	02	155	47	332
ALLEGANY	4	07	8	14	0	0	4	07	4	07	0	0	39	66	59
BROOME	1	01	39	25	0	0	15	10	24	15	2	01	75	48	156
CATTARAUGUS	0	0	14	38	0	0	7	19	4	11	0	0	12	32	37
CAYUGA	1	03	11	31	0	0	3	09	5	14	0	0	15	43	35
CHAUTAUQUA	2	02	18	19	0	0	14	15	7	07	2	03	53	55	96
CHEMUNG	16	06	52	21	0	0	36	14	32	17	4	02	103	41	253
CHENANGO	10	08	30	24	0	0	28	22	3	02	0	0	55	44	126
CLINTON	1	02	18	31	0	0	10	17	6	10	2	03	22	37	59
COLUMBIA	10	11	7	07	0	0	10	11	5	05	1	02	62	65	95
CORTLAND	6	11	4	8	0	0	5	9	7	13	0	0	31	58	53
DELAWARE	4	5	10	14	0	0	12	16	13	18	0	0	35	47	74
DUTCHESS	9	5	64	32	0	0	17	8	21	10	6	3	85	42	202
ERIE	20	6	65	20	0	0	52	16	36	11	7	2	146	45	326
ESSEX	5	14	10	29	0	0	6	17	4	11	0	0	10	29	35
FRANKLIN	1	3	3	8	0	0	7	18	7	18	1	3	19	50	38
FULTON	19	25	20	26	0	0	7	9	7	9	1	1	22	29	76
GENESEE	0	0	11	32	0	0	2	6	0	0	2	6	19	56	34
GREENE	0	0	4	22	0	0	5	28	2	11	0	0	7	39	18
HAMILTON	0	0	0	0	0	0	0	0	1	100	0	0	0	0	1
HERKIMER	2	4	10	22	0	0	7	15	12	26	1	2	14	30	46
JEFFERSON	33	20	15	9	0	0	12	7	35	22	0	0	66	41	161
LEWIS	2	8	7	28	0	0	9	36	1	4	0	0	6	24	25
LIVINGSTON	0	0	10	33	0	0	9	30	2	7	0	0	9	30	30
MADISON	0	0	9	6	0	0	8	6	5	14	0	0	121	85	143
MONROE	1	1	20	16	0	0	11	9	15	12	1	1	80	63	128
MONTGOMERY	2	6	4	13	0	0	6	19	5	16	1	3	13	42	31
NASSAU	1	0	94	24	0	0	37	9	27	7	92	23	146	37	397
NIAGARA	0	0	16	20	0	0	13	16	5	6	1	1	47	57	82
ONEIDA	39	15	38	15	0	0	21	8	44	17	1	0	110	43	253
ONONDAGA	3	1	42	14	10	3	26	8	23	7	7	2	199	64	310
ONTARIO	0	0	20	36	0	0	4	7	11	20	0	0	20	36	55
ORANGE	0	0	18	38	0	0	6	13	11	23	2	4	11	23	48
ORLEANS	0	0	14	29	0	0	2	4	14	29	0	0	18	38	48
OSWEGO	4	7	14	25	0	0	5	9	10	18	3	5	21	37	57
OTSEGO	6	9	10	15	0	0	5	7	6	9	0	0	41	60	68
PUTNAM	2	23	4	13	0	0	6	20	6	20	0	0	7	23	30
RENSSELAER	9	8	18	17	0	0	31	28	12	11	2	2	37	34	109
ROCKLAND	15	10	21	14	0	0	27	18	5	3	5	3	73	50	146

TABLE 4  
1985 RESTITUTION CASES FOR MOST PREVALENT OFFENSES

COUNTY	DIS. COND.		LARCENY		ACOD		CRIM. MISC.		BURG/TRESS.		DWI/DUI		OTHER		TOTAL CASES
	CASES	% OF CASES*	CASES	% OF CASES*	CASES	% OF CASES*	CASES	% OF CASES*	CASES	% OF CASES*	CASES	% OF CASES*	CASES	% OF CASES*	
ST. LAWRENCE	18	15	29	23	0	0	11	9	9	7	0	0	57	46	124
SARATOGA	22	30	18	25	2	3	6	8	7	10	0	0	18	25	73
SCHENECTADY	4	5	18	23	0	0	16	20	12	15	6	8	23	29	79
SCHOHARIE	1	4	4	16	0	0	6	24	7	28	0	0	7	28	25
SCHUYLER	0	0	10	31	0	0	3	9	2	6	0	0	17	53	32
SENECA	0	0	8	11	0	0	8	11	1	1	0	0	55	76	72
STEBEN	3	2	22	17	0	0	19	15	11	9	0	0	73	57	128
SUFFOLK	0	0	22	36	0	0	9	15	10	16	2	3	18	30	61
SULLIVAN	0	0	14	25	0	0	4	7	5	9	3	5	30	54	56
TIOGA	0	0	8	31	0	0	5	19	1	4	1	4	11	42	26
TOMPKINS	6	5	29	23	0	0	18	15	13	10	4	3	54	44	124
ULSTER	2	2	19	22	0	0	8	9	20	23	1	1	36	42	86
WARREN	12	22	13	24	3	6	6	11	5	9	1	2	14	26	54
WASHINGTON	5	11	9	20	0	0	14	32	2	5	0	0	14	32	44
WAYNE	3	5	10	17	0	0	6	10	17	29	0	0	22	38	58
WESTCHESTER	13	8	32	20	2	1	18	11	23	15	5	3	64	41	157
WYOMING	0	0	11	61	0	0	1	6	2	11	0	0	4	22	18
YATES	0	0	1	3	0	0	5	15	8	24	8	24	12	35	34
UPSTATE TOTAL	356	6	1,108	20	41	1	680	12	624	11	181	3	2,533	46	5,523
NYC PROBATION	0	0	326	42	0	0	33	4	64	8	2	0	360	46	785
NYC VSA	1,476	42	225	6	1,105	32	170	5	94	3	94	3	337	10	3,501
NYC TOTAL	1,476	34	551	13	1,105	26	203	5	158	4	96	2	697	16	4,286
NYS TOTAL	1,832	19	1,659	17	1,146	12	883	9	782	8	277	3	3,230	33	9,809

\*Represents percentage of cases per offense per locality.

SOURCE: DP-30R

APPENDIX A

## RESTITUTION TO VICTIMS OF CRIME

## CHAPTER 965

Approved Aug. 6, 1984, effective as provided in section 5

AN ACT to amend the criminal procedure law and the penal law, in relation to providing restitution to victims of crime

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Legislative findings. The legislature hereby finds and declares that it is the policy of this state to encourage restitution by a person convicted of a criminal offense to the victims of his or her criminal activities in appropriate cases and to the extent that the defendant is reasonably able to do so. This act shall be interpreted and administered to effectuate this policy.

§ 2. Subdivision one of section 420.10 of the criminal procedure law, as amended by chapter two hundred ninety of the laws of nineteen hundred eighty, paragraph (e) as amended and paragraph (f) as added by chapter five hundred fifteen of the laws of nineteen hundred eighty-three, is amended to read as follows:

1. Alternative methods of payment. When the court imposes a fine[, restitution or reparation] upon an individual, it shall designate the official other than the district attorney to whom payment is to be remitted [and]. When the court imposes restitution or reparation and requires that the defendant pay a designated surcharge thereon pursuant to the provisions of subdivision seven of section 60.27 of the penal law, it shall designate the official or organization other than the district attorney, selected pursuant to subdivision seven of this section, to whom payment is to be remitted. The court may direct:

(a) That the defendant pay the entire amount at the time sentence is pronounced; or

(b) That the defendant pay the entire amount at some later date; or

(c) That the defendant pay a specified portion at designated periodic intervals; or

(d) Where the defendant is sentenced to a period of probation as well as a fine, restitution or reparation and such designated surcharge, that payment of the fine, restitution or reparation and such designated surcharge be a condition of the sentence; or

(e) When a court requires that restitution or reparation and such designated surcharge be made it must direct that notice be given to a person or persons to whom it is to be paid of the conditions under which it is to be remitted; the name and address of the public official or organization, to whom it is to be remitted for payment and the amount thereof; and the availability of civil proceedings for collection under subdivision five of this section. An official or organization designated to receive payment under this subdivision must report to the court any failure to comply with the order and shall cooperate with the district attorney pursuant to his responsibilities under subdivision five of this section; or

deletions by [brackets]

2693

(f) Where cash bail has been posted by the defendant as the principal and is not forfeited or assigned, the court at its discretion may order that bail to be applied toward payment of the fine, restitution or reparation.

§ 3. Section 420.10 of such law is amended by adding two new subdivisions six and seven to read as follows:

6. Undisbursed restitution payments. Where a court requires that restitution or reparation be made by a defendant, the official or organization to whom payments are to be remitted pursuant to subdivision one of this section may place such payments in an interest-bearing account. The interest accrued and any undisbursed payments shall be designated for the payment of restitution orders that have remained unsatisfied for the longest period of time. For the purposes of this subdivision, the term "undisbursed restitution payments" shall mean those payments which have been remitted by a defendant but not disbursed to the intended beneficiary and such payment has gone unclaimed for a period of one year and the location of the intended beneficiary cannot be ascertained by such official or organization after using reasonable efforts.

7. Designation of restitution agency. (a) The chief elected official in each county, and in the city of New York the mayor, shall designate an official or organization other than the district attorney to be responsible for the collection and administration of restitution and reparation payments under provisions of the penal law and this chapter; provided, however, that where the state division of probation provides for and delivers probation services pursuant to the provisions of section two hundred forty of the executive law the state division of probation shall have the first option of designating such agency as the restitution agency for such county. This official or organization shall be eligible for the designated surcharge provided for by subdivision seven of section 60.27 of the penal law.

(b) The restitution agency, as designated by paragraph (a) of this subdivision, shall be responsible for the collection of data on a monthly basis regarding the numbers of restitution and reparation orders issued, the numbers of satisfied restitution and reparation orders and information concerning the types of crimes for which such orders were required. A probation department designated as the restitution agency shall then forward such information to the director of the state division of probation within the first ten days following the end of each month who shall transmit such information to the division of criminal justice services. In all other cases the restitution agency shall report to the division of criminal justice services directly. The division of criminal justice services shall compile and review all such information and make recommendations to promote the use of restitution and encourage its enforcement.

§ 4. Section 60.27 of the penal law is amended by adding a new subdivision seven to read as follows:

7. The court shall in all cases where restitution or reparation is imposed direct as part of the sentence imposed upon a person convicted of an offense that the defendant pay a designated surcharge of five percent of the entire amount of a restitution or reparation payment to the official or organization designated pursuant to subdivision seven of section 420.10 of the criminal procedure law. The designated surcharge shall not exceed five percent of the amount actually collected.

§ 5. This act shall take effect on the first day of November next succeeding the date on which it shall have become a law except the designation of officials or organizations under section three of this act shall be made before such effective date.

APPENDIX B

RESTITUTION/  
REPARATION REPORT

PROBATION DEPARTMENT

REPORTING MONTH YEAR

Conviction Crime		Number of Orders	
ART.	TITLE	ISSUED	SATISFIED
120	Assault		
125	Murder/ Manslaughter		
130	Sex Related		
135	Kidnap/Coercion		
140	Burglary/Trespass		
145	Criminal Mischief		
150	Arson		
155	Larceny		
160	Robbery		
165	Theft/CPSP		
170	Forgery		
185	Fraud		
190	Bad chks/advtsg/ Imperson'n/usury		
180 200	Bribe (commer- cial & public)		
205	Escape (Contra- band)		
220	Controlled Substance		
221	Marijuana		
225	Gambling		
230	Prostitution		
240	Disorderly Conduct		
265	Weapons		
VTL 1192	DWI/DUI		
	OTHER		
TOTAL			

Monthly Total Dollar Amounts

ORDERED  
\$

COLLECTED  
\$

SURCHARGES  
\$

DIVISION OF CRIMINAL JUSTICE SERVICES  
OFFICE OF POLICY ANALYSIS, RESEARCH AND STATISTICAL SERVICES

RESTITUTION 1985: AN ANALYSIS OF RESTITUTION REPORTED UNDER  
CHAPTER 965 OF THE LAWS OF 1984

To help us evaluate the usefulness of this report, please answer the following questions. Then, fold the page on the dotted lines so that the address is on the outside, seal it with tape, and kindly return it to us.

1. Which of the following best describes your general opinion of this report?  
(Check one.)  
 Excellent       Very Good       Good       Poor       Useless

2. For each of the following use categories, to what extent will this report be useful to you or your staff?

	Very Useful	Of Limited Use	Not Useful
*As a source of data	[ ]	[ ]	[ ]
*As a teaching tool	[ ]	[ ]	[ ]
*As a reference for an article or report	[ ]	[ ]	[ ]
*As a tool for criminal justice planning	[ ]	[ ]	[ ]
*As a source of general information	[ ]	[ ]	[ ]
*Other (Specify) _____	[ ]	[ ]	[ ]

3. Please list specific aspects of this report (by subject and page number) that you would like to see treated in greater detail.

- a. \_\_\_\_\_  
b. \_\_\_\_\_  
c. \_\_\_\_\_

4. In what capacity did you use this report? (Check all that apply.)

- ] Researcher       ] Government Employee       ] Private Agency  
 ] Planner       ] Federal       ] College/University  
 ] Educator       ] State  
 ] Student       ] County  
 ] Criminal Justice Agency Employee       ] Municipal  
(Specify) \_\_\_\_\_  
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5. How would you change this report to make it serve your needs better?

- \_\_\_\_\_  
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Thank you for your cooperation.

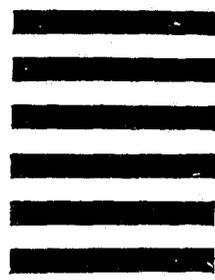
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