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This Issue in Brief

Restitution As Innovation or Unfilled Promise?—Author Burt Galaway discusses what we have learned about restitution since the establishment of the Minnesota Restitution Center in 1972 and in light of the early theory and work of Stephen Schafer. Noting that restitution meets both retributive and utilitarian goals for punishment, the author finds considerable public and victim support for restitution, including using restitution in place of more restrictive penalties. He cautions, however, that we must clarify the difference between restitution and community service sentencing and discusses challenges which exist for future restitution programming.

Parole and the Public: A Look at Attitudes in California.—Describing recent events in California, Author Walter L. Barkdull stresses the need for parole authorities to develop community support for the concept of parole. Public attitudes hostile to parole have been crystalized by the release of several notorious offenders at the end of determinate sentences. Community groups have discovered the power of organized action to thwart the state's ability to locate facilities and place parolees. Resulting court decisions have provided both the public and parole authorities with new rights, while legislation has imposed severe operating limitations.

Long-Term Inmates: Special Needs and Management Considerations.—Society's response to crime has contributed to a number of trends which have resulted in longer terms of incarceration for convicted felons. Determinant sentencing, modifications in parole eligibility criteria, enhanced sentences for repeat offenders, and longer terms for violent offenders have resulted in an increase in time served and a subsequent increase in the proportion of long-term inmates in state facilities. The incarceration of greater numbers of long-term inmates brings a number of programmatic and management concerns to correctional administrators which must be addressed. Using data on Kentucky inmates incarcerated as "persistent felony offenders," authors Deborah G. Wilson and Gennaro F. Vito identify the programmatic and management needs of long-term inmates and delineate some possible strategies to address this "special needs" group.

The Use of Counsel Substitutes: Prison Discipline in Texas.—Although prison discipline has changed significantly through internally and externally initiated reforms, it remains a critical aspect

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Restitution As Innovation or Unfilled Promise?*

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Introduction

SIXTEEN YEARS have elapsed since the establishment of the Minnesota Restitution Center in 1972. During this time requiring juvenile and adult offenders to make financial restitution to their victims has become an accepted practice in American criminal and juvenile justice. This article reviews what we have learned about restitution since 1972 and will consider restitution practices in light of early theory and work of Stephen Schafer.

In the 20th century, restitution was very scant prior to 1920. In 1944, Irving Cohen, chief probation officer for Manhattan, published what is still a sound conceptual piece, in which he argued that restitution "... should be a part of a casework program, not a hit-and-miss method of collection unrelated to the broader possibilities." Cohen perceived that restitution could be the basis for a relationship between the probationer and probation officer, could provide a greater awareness of the meaning of probation to the probationer, could provide a vehicle for resolution of inner conflicts arising from the forces within the offender rejecting restitution, could contribute to the satisfaction that the probationer would ultimately derive from a job well done, and could contribute to a decrease in tension and anxiety. In the late 1950's, Albert Eglash, a psychologist, wrote a series of brief articles, in which he also argued for the therapeutic benefits of what he called creative restitution (1958a; 1958b; 1959c; Eglash and Papanek, 1959; Keve and Eglash, 1957).

The most prolific writer and scholar on the subject was Stephen Schafer, who, beginning in 1960 and until his death in 1976, published a series of articles and books in which he argued for reintroduction of restitution into the justice system (1960, 1965, 1968, 1970, 1972, 1975). His arguments remained remarkably consistent over the 16 years of publication. He decried the loss of victim interests in the administration of criminal law, which he traced to the centralization of state responsibility resulting in a focus on state interest to the exclusion of victim interest, and the failure to recognize that victims, as well as the state, are harmed by offenses. He criticized the shift from victim harm to offender personality as the determinant of the gravity of the offense. Schafer argued that offenders should be made to understand that they have directly injured a victim, as well as the state, and that the noble way for offenders to make restitution is through the fruits of their own work. Restitution is a mechanism for reintegrating victim interest into the justice system, for contributing to the state interest in reforming offenders, and for providing a punishment for the offender. Schafer used terms like functional responsibility, restitutive concept of punishment, and punitive concept of restitution; restitution was described as a synethetic punishment which could unite all the objectives of corrections in a single method. Schafer developed an integrated concept of restitution; restitution provides a mechanism for integrating victim and offender interests and, second, provides a mechanism for integrating the purposes of punishment.

These two ideas provide criteria against which to compare current restitution programming. Does current restitution programming provide for integration of both offender and victim interest in the administration of juvenile and criminal justice? Schafer did not extend his argument as far as victim-offender meetings, a practice which was a part of the early Minnesota Restitution Center (Hudson and Galaway, 1974) and which is a key component of the victim-offender reconciliation projects (McKnight, 1981; Peachey, 1988) which were just emerging at the time of his death. This practice is consistent with Schafer's central position that the victim should be empowered to regain his or her historic role in the administration of justice.

The second criteria against which to weigh current restitution programs is the extent to which these programs explicitly fulfill a penal function—refor-

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mation, retribution, deterrence, or some combination thereof. Schafer was clear in regard to his concept of punitive restitution, as well as a restitutive concept of punishment. However, he also argued that restitution should not become the only penalty for any class of offenses because he was concerned that, within the class, there would be incidents for which restitution might not be a sufficient penalty to meet the state's need for punishment to symbolize the seriousness of the offense and, second, because of the possibility for wealthy offenders to buy their way out of punishment.

Restitution and Community Service

When Stephen Schafer used the term restitution, he had in mind money repayment by the offender to the victim. He did not push his analysis to the point of victim-offender contacts and, thus, did not consider the possibility of offender repayment in the form of service to the victim. And he certainly did not have in mind the possibility of offender repayment in service to the community. Albert Eglash, however, defined his concept of creative restitution broadly enough to include repayment through service to the community. Hudson and Galaway also accepted this broad concept in their early work and used the term symbolic restitution to refer to community service penalties (Galaway and Hudson, 1972). The National Juvenile Restitution Initiative continued the unfortunate practice of merging these two very distinct and different ideas, repayment to the victim and repayment to the community, under the ruberic of restitution. But it is time to correct past conceptual errors and to make a clear and sharp distinction between sanctions which are directed toward restoring victim losses (monetary restitution and personal service restitution) and sanctions which are directed towards restoring community losses (fines and community service). These sanctions can all be classified into a general category of reparative or restorative sanctions because they have in common the idea that the penalty imposed upon the offender should result in repairing the damage or restoring losses. Repairing community losses, however, is quite different than repairing victim losses. Figure 1 presents a typology of restorative sanctions. I will be limiting the term restitution to mean repayment by the offender to the victim as a part of the criminal justice process; the concept of criminal justice process is broad enough to include diversion agreements entered into by prosecutors. Restitution is of two possible types: monetary restitution, in which the repayment is made in cash, and personal service restitution, in which the repayment is made in service provided to the victim. Restitution of either type can be linked in a package of penalities to community service, just as restitution can be linked to a fine or to probation. Linking penalties together is quite different than using the same term to describe very different penalties. The linking of restitution to community service may be a useful mechanism to address Schafer's concern about restitution as the sole penalty for any given class of offenses.

There is one area in which the conceptual distinction between restitution and community service becomes murky. Restitution programs involving victim-offender mediation commonly find victims requesting the offender to complete service for the community rather than pay restitution directly to the victim. This is illustrated by the following agreement:

> Tom and one of his co-defendents met on February 26 with Mr. Jones from Riverview Construction Company. Repair costs for damages to the fence and window were waived because of the minimal cost of repairs. The value of two stolen walkie-talkies was $2,306.72. One was returned, so the total loss was $1,153.36. Tom is responsible for one-third, or $384.45, due to the presence of two co-defendents. Tom will perform 75 hours of community service. His time is valued at approximately $5.00 per hour. He will work at the Jonesville Neighborhood Improvement Association on Monday through Friday, starting May 13. He will work from 12:00 noon to 6:00 p.m. on Mondays, and 9:00 a.m. to 5:00 p.m. Tuesday through Friday. The work is to be completed by May 31.

In this case, the victim and offender were in agreement on the amount of damages; the victim was entitled to restitution in either money or service but chose to donate the service to a community agency. Does this constitute community service? Under these circumstances, the restitution has been converted to community service by decision of the victim; this possibility suggests the need for further conceptual work regarding community service. Figure 2 suggests four polar types of community service based on two dimensions. The first dimension is who assigns the community service—the victim through assignment of restitution due him to a community organization or an official of the criminal justice system. The second dimension is the nature of the community service which is conceptualized as two polar types. Community service may be individually designed and the offender placed at a site as an individual; this type of community service will often make use of the current network of volunteer services in a community. The second type is community service performed by offenders under group supervision, often supervised by criminal justice officials; examples include conservation, reclamation, and parks and road cleanup work. An extensive discussion of community service is not necessary for this article, although this

conceptual framework may be helpful as we later consider possible links between community service and restitution penalties.

Form	Recipient: *Victim*	Recipient: *Community*
Monetary	Monetary Restitution	Fine or Contribution to Charity
Service	Personal Service Restitution	Community Service

FIGURE 1. TYPOLOGY OF RESTORATIVE SANCTIONS

CJS Imposed / Victim Donation	Type Service: *Individual Placement*	Type Service: *Supervised Group*
CJS Imposed	*Type A* — CJS requires offender to complete an individually designed community service sentence	*Type B* — CJS requires offender to complete a community service sentence working alongside other offenders as part of a supervised work group
Victim Donation	*Type C* — Victim donates service restitution to a community agency; plan individually designed for offender	*Type D* — Victim donates service restitution to a community agency where offender works alongside other offenders as part of a supervised work group

FIGURE 2. TYPOLOGY OF COMMUNITY SERVICE

What Have We Learned?

Stephen Schafer argued for restitution based on his historical analysis and his belief that crime victims should be restored to a meaningful role in the criminal law. At that time, there were no reported experiences of contemporary restitution programs from which he could draw conclusions. In 1972, the Minnesota Restitution Center received its first offenders, who were paroled from the Minnesota State Prison after serving 4 months of their sentences. The ensuing years have been marked by study development of restitution programming within both the juvenile and adult justice systems and the emergence of an extensive literature on the topic, including a reasonable number of research studies (Galaway, Hudson, and Novack, 1983). Three conclusions can be drawn from the past 15 years of program development and research regarding restitution: (1) implementation of restitution in both juvenile and adult systems is feasible; (2) there is strong public and victim support for restitution; and (3) restitution may accomplish utilitarian goals of punishment as well as being defensible from a just deserts philosophy.

Restitution Can Be Implemented

Restitution programming can be implemented without undue difficulty in both the juvenile and adult justice systems. The Minnesota Restitution Center staff members were able to successfully implement restitution with serious adult property offenders within the context of a community corrections center; no difficulties were reported in negotiating restitution amounts, nor in securing compliance with the negotiated agreements (Galaway and Hudson, 1975; Minnesota Department of Corrections, 1976). Restitution programs have now been successfully implemented by dozens of juvenile and adult projects. The Office of Juvenile Justice and Delinquency Prevention National Juvenile Restitution Initiative funded 85 juvenile restitution sites which reported 15,829 admissions and 14,012 closures during the first 2 years of operation; 86 percent of the closures were successful, meaning that full compliance had been secured with the terms of the restitution requirements and that, while in the program, the young person had not reoffended in ways that became known to the police (Schneider, Schneider, Griffith, and Wilson, 1982). In 1979, the National Assessment of Adult Restitution Projects discovered 67 formal monetary restitution projects for adult offenders and conducted detailed studies of 11 of these projects (Hudson, Galaway, and Novack, 1980:68, 139-179); project staff members did not report difficulty implementing restitution activities, although several reported implementation difficulties securing support of criminal justice system officials and funding. The 11 projects reported successful offender project completion rates ranging from 52 percent to 91 percent with a mean of 74 percent. Early restitution program developers often encountered skepticism; beliefs were advanced that restitution amounts could not be fairly determined, victims would cheat offenders, offenders would refuse to participate, or restitution requirements were not enforceable. The experience of the past 16 years indicates unequivocably that the skepticism of the early 1970's was un-

founded. Restitution amounts have not been unduly difficult to determine, although, of course, there will be isolated cases where difficulties are encountered. Victims are not any more likely to inflate claims than offenders are likely to minimize damages; the hanging victim is relatively rare, although not entirely extinct, and, of course, the offender who will misrepresent is also not unknown.

Compliance with restitution orders is relatively high when efforts to secure compliance are systematically followed and the expectation that the offender will be responsible becomes a focus of work with the offender. Success at implementing a restitution program and securing compliance with restitution requirements relates more to the willingness of staff to focus on restitution activities, as contrasted with other activities, than any intrinsic difficulties implementing restitution. The Dane County, Wisconsin, Juvenile Restitution Program randomly assigned youth with restitution orders to an experimental condition in which a group of staff focused exclusively on the restitution activities and to a control group in which compliance with restitution obligations was monitored by probation officers, along with the many other activities in which probation officers engage. Eighty-eight percent of the youth in the program (experimental) group completed all restitution orders, compared to 40 percent of the youths in the ad hoc (control) group. Only 2 percent of the youth in the program group made no restitution at all, compared to 37 percent in the ad hoc group (Schneider and Schneider, 1985:539). The 86 percent compliance reported by the Juvenile Restitution Initiative may be higher than juvenile offenders' compliance with other requirements commonly associated with community sanctions, such as fines, curfews, driving restrictions, and even completion of probation orders. The issue of whether restitution can be implemented no longer needs to be debated. Skeptics may still be encountered, but they are either ignorant of the experiences of the past 16 years or are using the argument that it can't be done to disguise an opinion that restitution should not be required. Arguing that a practice is feasible is quite different, of course, from arguing that it is desirable.

The conclusion that implementing restitution programming is feasible extends also to programs which bring victims and offenders together to negotiate restitution amounts. The best developed examples of this programming thrust are the victim-offender reconciliation projects (VORP) which began in 1973 in Kitchner, Ontario (Peachey, 1988) and have now been replicated at over 100 locations in Canada and the United States (Gehm and Umbreit, 1985), as well as West Germany (Dunkël & Rössner, 1988) and Great Britain (Ruddick, 1988; Watson, Boucherat, and Davis, 1988). These are small projects, frequently operated outside criminal and juvenile justice systems, and are not as well known as some of the larger, more system-based restitution programs. They are consistently reporting, however, that victims are willing to meet with offenders, that when meetings occur agreements are normally secured, and that high agreement compliance rates are being secured. The VORP project in Minneapolis and St. Paul, Minnesota, has had 2 years experience serving juvenile offenders, primarily burglars, and their victims including 168 offenders and 173 victims. Fifty-five percent of the victims have agreed to participate, 95 percent of the meetings have resulted in agreements, and, at this time, 93 percent of the agreements have been successfully completed (Galaway, in press). Similar results are being reported by a national VORP information system, which, for the first year of operation ending in June 1986, reported that 60 percent of the cases resulted in a victim-offender meeting, 27 percent did not result in a meeting because of the victim declining to participate, and 13 percent did not result in a meeting for other reasons (Gehm, 1986). Victim-offender negotiation of the restitution amount and the terms and conditions of payment was a part of the program of the original Minnesota Restitution Center; during the first year of operation, 31 of 44 victims traveled to the Minnesota State Prison to meet their offenders and to negotiate restitution amounts, knowing that such activity would result in the offenders' serving shorter than usual sentences (Galaway and Hudson, 1975:359). Galaway and Hudson argued in 1972 that we should not make a priori assumptions about the willingness of victims to participate or the desirability of victim-offender meetings (Galaway and Hudson, 1972:409) but should be open to trying these ideas and learning from the experiences. Subsequent experiences suggest that assumptions should be made: more than 50 percent of the victims will be willing to participate, and victim-offender negotiation is a viable method for arriving at restitution amounts and will be a constructive experience for both victims and offenders.

Restitution and Penal Purposes

Schafer decried the historical shift from victim loss to offender personality traits as indicators of offense gravity and perceived restitution as a means for rebalancing the scales of justice. He believed restitution was a tangible method by which society could symbolize indignation about the offense; more recent

scholars have noted the potential for restitution to operationalize retributive or just deserts penal philosophy (McAnany, 1978; Watson, Boucherat, and Davis, 1988). Central to the retributive position is the concept of proportionality between the severity of the penalty imposed and the seriousness of the offense; proportionality can be thought to have occurred when key actors—victims, offenders, and the general public—perceive that the penalty imposed is fair. Fair means that the penalty is perceived as neither too harsh nor too lenient, given the seriousness of the offense.

Very limited research has been done regarding perceived fairness of a sentence. We are more likely to see research reports of victim or public satisfaction with a particular sentence rather than the perception of whether or not the sentence was fair. We do not know if satisfaction and fairness correlate highly with each other. The lack of attention to this concept is puzzling. Perhaps researchers and criminal justice system staff do not believe it is important to secure indications of victim, offender, and general public perceptions of the fairness of the sentences. Perhaps the concept is considered to be too global and inadequately operationalized, or perhaps measurement difficulties detract from its use. Measurement difficulties stem from asking people to report perceived fairness in abstract situations without grounding the question in a specific victimization incident. Mcguire (1982) and Doob and Roberts (1983) found that the general public markedly shifts its perception of fairness (becoming substantially less harsh) as the public is presented with detailed information regarding the victimization incident. Mcguire's research found that victims of burglary were harsher in their sentencing recommendations for burglars generally than they were for the specific person who burglarized their home. Both Thomson and Ragona (1984) and Galaway (1984) point to the need to present specific victimization incidents rather than global concepts in dealing with public perceptions.

There have been a few reported studies of the extent to which victims, offenders, and the general public perceive that restitution is a fair requirement. Kigin and Novack (1980) asked both victims and offenders in a juvenile restitution program in which negotiated restitution was the only requirement imposed on first-offense juvenile offenders if it were fair for the offender to pay restitution. Questionnaires were completed after the restitution amount had been determined and 6 months after the offender completed the program. Ninety-three percent of the 373 offenders reported pre-program that the requirement was fair, and 90 percent of 184 reported this post-program; victim measures were not reported for the pre-program group, but 78 percent of 124 victims post-program reported that they considered it fair for the offender to pay restitution (14 percent said they didn't know and 7 percent said no). Seventy-three percent of the offenders pre-program said that restitution was preferable to other penalties (16 percent said they didn't know), and 78 percent post-program reported that restitution was preferable to other punishments (15 percent said they didn't know). Forty-eight percent of the victims reported that restitution was preferable to other punishments pre-program (21 percent said they didn't know), and 37 percent post-program reported that restitution was preferable to other punishments (25 percent said they didn't know). The victims in the St. Cloud project were asked, "Given only one choice, which punishment would be fairest for your offender?" Sixty-nine percent selected reparative sanctions (29 percent monetary restitution, 3 percent personal service restitution, and 37 percent community service), 28 percent probation, and 3 percent selected jail or prison. Structured interviews were conducted with the youth, parents, victims, probation officers, and police for youth ($n = 16$) with restitution dispositions from the St. Louis County (Minnesota) Juvenile Court during four weeks in spring 1976. The majority of each group considered the restitution obligation fair for the youth, although youth, as a group, were less likely to report the obligation fair than were the other respondents (Galaway and Marsella, 1976). A sample of 101 offenders and 92 victims from 19 adult restitution programs found that 61 percent of the offenders and 60 percent of the victims thought the financial restitution requirements were fair; 37 percent of the offenders considered the requirements too harsh, compared to 3 percent of the victims (Novack, Galaway, and Hudson, 1980:66-67).

Restitution appears to be logically consistent with the notion of just deserts, and the limited available evidence suggests that restitution will generally be perceived as fair by victims, offenders, and the general public. But, as Anne Schneider has pointed out (1986), arguments that restitution balances the scales of justice may not win the necessary support for the practice from key political leaders and criminal justice officials who are likely to demand that a sanction be effective in accomplishing utilitarian goals. While restitution has been defended from deterrence theory (Tittle, 1978:15-31), I am unaware of any efforts to test the general deterrent impact of restitution.

A body of evidence is beginning to emerge to suggest that restitution has as much or more impact on recidivism rates than other sanctions to which it has

been compared. Whether this impact is being secured through the operation of specific deterrence or rehabilitation mechanisms is not presently possible to distinguish; often these two sets of mechanisms are difficult to separate. The Minnesota Restitution Center admitted a group of inmates randomly selected from a defined population pool of inmates admitted to the Minnesota State Prison. A followup study of this group, compared to a randomly selected control group from the same population, found no difference in the likelihood of return to prison between the two groups (Minnesota Department of Corrections, 1976). The restitution group, however, was somewhat more likely to have been returned to prison for technical parole violations, whereas the control group was more likely to have been returned to prison for a new offense. Another study, involving the same experimental group, compared the first 18 men released from the Minnesota State Prison to the Minnesota Restitution Center with a group of offenders released on conventional parole during the same time period, individually matched on age of first offense, number of previous felony convictions, age at release, type of release, and race. Each offender was followed for 16 months. The restitution group had fewer convictions and was employed for a higher percentage of the 16-month followup than the comparison group (Heinz, Galaway, and Hudson, 1976). A Canadian study (Bonta, Boyle, Motiuk, and Sonnichsen, 1983:277-293) of adult offenders sentenced to a community corrections center to participate in a restitution program compared to a group of adult offenders sentenced to the same center to participate in a work release program found a higher rate of in-program failures for the restitution when compared to the work release offenders. The two groups, however, were not comparable, inasmuch as the restitution program offenders were younger and had a more serious criminal history than the work release offenders. Both groups were followed for 2 years after release from the community corrections center; the restitution group had a slightly higher rate of reconviction than the work release group, although the differences were not statistically reliable. Guedalia (1979) studied 200 male juvenile offenders who had participated in a restitution program in the Tulsa Juvenile Court and concluded "... offenders who are living with the natural parents, are not failing in school, and make contact with their victim are the most likely not to commit additional offenses." Hofford (1981) reported an 18 percent recidivism rate for youth in a juvenile restitution program, compared with 30 percent for youth on regular probation.

The best evidence of the impact of restitution on recidivism compared with other sanctions is the research generated by the National Juvenile Restitution Initiative. Anne Schneider (1986) reports recidivism studies for four juvenile restitution projects in which offenders were randomly assigned to restitution, compared to other correctional programming, permitting several tests of restitution vis-a-vis other programs. One project compared restitution with weekend detention; another compared restitution with mental health counseling and with a group of offenders receiving a normal disposition in juvenile court; one compared restitution negotiated through a victim-offender mediation process with probation for a group of serious offenders; and one compared restitution as a sole sanction, with restitution plus probation, and with probation alone. In all of these studies, the youth in the restitution group did as well or better on recidivism measures than youth in the comparison groups. Another study in Dane County, Wisconsin (Schneider and Schneider, 1985) found that a programmatic approach placing emphasis on the restitution requirement was more likely to result in the completion of restitution and that youth who completed ordered restitution were less likely to recidivate than those who did not.

One should be cautious in arguing that any correctional program will have a long-term impact on recidivism rates; recidivism rates are more likely to be influenced by the overall response of the society and culture, including opportunities made available to offenders, than anything which happens during a time-limited correctional program. But the extent to which a correctional requirement may affect the nature of the relationship between the offender and his or her society may influence employment and other opportunities made available to the offender. The emerging evidence indicates that one does not have to be reluctant to defend restitution as having an impact on recidivism; the evidence suggests that it will have as great or greater impact than other penalties. Such a conclusion might shift the basis for selecting penalties to issues such as cost to the taxpayer and humaneness to both victim and offender.

The experience and evidence since 1972 suggest that restitution may be the synethetic punishment conceptualized by Schafer. The practice appears to be broadly perceived as fair, and the evidence to date suggests that it may have a positive impact on the offender as reflected in a reduction of recidivism. While the evidence points in this direction, these conclusions should be reached with more tentativeness than the conclusions regarding feasibility.

Public and Victim Acceptance of Restitution

There have been a series of studies over the past 15 years which tend to confirm the common-sense notion that the public generally, and victims as a subset of the public, will support the use of restitution as a penalty for offenders. Some of the studies go further than simply securing indication of support and provide evidence of public and victim support for the use of restitution as a substitute for other penalties, including jail or imprisonment.

A Minnesota poll (Metro Poll:1972) of adults in the Minneapolis-St. Paul metropolitan area found 87 percent of respondents favored ". . . letting the criminal work to repay the victim directly while living in a halfway house." John Gandy (1975) found strong support for the concept of creative restitution in his survey of Denver police, social work students, members of a women's service club, and probation and parole officers; Gandy made use of Eglash's concept of creative restitution, which includes monetary restitution, community service, and personal service restitution. Hudson, Chesney, and McLagan (1977a, 1977b) found strong support for restitution among state corrections administrators, legislators, and probation and parole officers. Eighty-nine percent of the judges, prosecutors, and defense counsel in the Bluestein et al. (1977) South Carolina study saw potential value for the use of monetary restitution and community service. Gandy and Galaway (1980) reported on a telephone survey of 500 randomly selected Columbia, South Carolina residents and found that these respondents saw restitution as a viable sanction for burglary, drunk driving, embezzlement, destruction of property, and shoplifting and found little evidence that the public wanted restitution used in conjunction with any other sanctions. Cannady (1980) reports that victims from both a juvenile restitution project and victims of regular probation offenders say that restitution is an appropriate penalty for juvenile offenders. Kigin and Novack (1980) asked their central Minnesota victims if a punishment other than restitution was preferable for their offender; 48 percent responded no (31 percent said yes and 21 percent did not know).

Galaway (1984) conducted a national survey in New Zealand to test the proposition that citizens would support reduction in the use of incarceration for property offenders if there were a concurrent increase in use of restitution. Two independent random samples were drawn from the electoral rolls; respondents were presented with six brief offense/victimization incidents, were asked if they thought the offenders should be sentenced to prison and, if not, were asked to recommend non-custodial penalties from a supplied list. The list of non-custodial penalties for the experimental group included restitution to the victim; this item was not included for the control group. For five of the six incidents, the experimental group was less likely to recommend imprisonment, with the difference reaching the .05 level of significance; the experimental group was also less likely than the control group to recommend imprisonment for the sixth incident, but the difference did not reach the .05 level of significance. These results support the conclusion that the public would accept the use of restitution as a mechanism for reducing imprisonment.

Shaw's (1982) survey of the British public found that 66 percent selected restitution as a preferred method for reducing the overcrowded prison populations; community service orders were selected by 85 percent. Similar results have subsequently been reported by Mayhew and Hough (1983, 1985) from their analysis of data in the British crime surveys.

Doob and Roberts (1983) asked a convenience sample of Toronto citizens what sentence they would favor for a "first offender convicted of breaking and entering into a private home and stealing things worth $250." Thirty-nine percent favored probation, 26 percent a fine, 3 percent a fine plus probation, 29 percent prison, and 3 percent said they didn't know. Doob and Roberts followed up with the question, "now instead of (the selected sentence) would you be in favor of having the offender being ordered by the court to do a certain number of hours of work beneficial to community or the victim or in some way pay back the victim for the harm done?" Eighty-eight responded affirmatively to this question, although those who had initially selected prison were less likely to tolerate a reparative sanction than were those who had selected other non–custodial sanctions.

Thomson and Ragona (1987) conducted a telephone survey of 816 randolmly sampled Illinois citizens age 18 and over. Respondents were presented with two hypothetical residential burglary cases involving an unarmed offender, first offense, entering an unoccupied house and taking $400; for one case, all property was recovered and returned to the victim; for a second case, no property was recovered, and the victim spent $300 on home security. Respondents were given four possible sentences from which to select—probation, probation and 80 hours of community service, 1 year of prison, 2 years of prison. After responding, the respondents were then given the information that probation would cost about $3,000, probation plus 80 hours of community service would cost about $5,000, 1 year of prison would cost about $15,000, and 2 years of prison would cost about $30,000, and were again asked to select a sen-

tence. They report these results:

Preferred Sentence	NO VICTIM LOSS		VICTIM LOSS OF $700	
	Before Sanction Cost	After Sanction Cost	Before Sanction Cost	After Sanction Cost
Probation	23%	39%	12%	23%
Probation & 80 hours CS	63%	54%	57%	58%
1 year prison	10%	5%	23%	14%
2 years prison	5%	3%	7%	5%

Only 15 percent of the respondents selected imprisonment for the no victim loss burglary, and 30 percent selected prison for the victim loss burglary without the cost information; the effect of cost information was to shift sentencing choices from incarceration to non-custodial sentences. The burglary scenarios presented to respondents represented factual situations which, under Illinois mandatory sentencing law, would have required a prison sentence. While this research does not explicitly relate to monetary restitution, it does suggest that Illinois citizens, in their response to burglary offenders, are less harsh than the law of their state and, given the general acceptance of restitution, lends support to the notion that restitution and other reparative sanctions might well be used in place of imprisonment.

Seventy-two percent of respondents in a recent North Carolina survey (Hickman-Maslin Research, 1986) selected strongly agree to the statement, "nonviolent offenders should be forced to work because they can earn money to pay restitution to their victims," and an additional 21 percent selected somewhat agree. Respondents were asked their views on community punishment, which was defined to include one or more of the following: community service work, victim restitution, following conditions of probation, receiving treatment for drug or alcohol addiction, and going to school. The question, "are community punishments a good idea?" was asked twice. Between the first and second asking, respondents were told that imprisonment costs an average of $1,000 per month, community punishment costs less than half the cost of prison, and judges may design community punishments to fit a particular crime. The responses were:

	First Asking	Second Asking
Very good	19%	52%
Somewhat good	28%	33%
Depends/don't know	10%	6%
Somewhat bad	26%	4%
Very bad	17%	3%

The available evidence indicates favorable public opinion for reparative sanctions and, specifically, for restitution and further suggests that both victims and the general public will support moves toward using reparative sanctions instead of other types of penalties. While the evidence should not be considered definitive, there is sufficient indication of public and victim support to suggest the advisability of moving planfully in the direction of substituting restitution for other non-custodial penalties and substituting restitution, perhaps in combination with other non-custodial penalties, for penalties of incarceration.

In summary, the experience since 1972 has established that restitution is feasible and can be implemented, strongly suggests that restitution will be perceived as a fair penalty and will have as positive an impact on offender recidivism as other penalties, and indicates public and victim support for substituting restitution for other penalties, including incarceration. Restitution has moved beyond the innovation stage and is in the process of being institutionalized as a part of criminal and juvenile justice procedures. But will the promise which Schafer saw in restitution be fulfilled? Are restitution programs being administered in ways which effectively integrate victim interest into the juvenile and adult justice system? Is restitution being used as a synethetic penalty?

Towards Fulfilling the Promise

Victim Interest

The emerging evidence suggests that what victims most desire is information regarding their offenders and the criminal justice response to their offenders (Shapland, Willmore, and Duff, 1985; Hinrichs, 1981; Forst and Hernon, 1985). Research confirms the experiences of victim-offender reconciliation projects; substantial numbers of victims—well over 50 percent of the victims of property offenders—show an interest in an opportunity to participate in the justice system. Seventy percent (31) of victims of the adult property offenders who participate in the Minnesota Restitution Center during the first year traveled to the Minnesota State Prison to meet their offenders and negotiate restitution agreements, fully aware that this would result in the offenders' early discharge from prison (Galaway and Hudson, 1975). Cannady reported that 15 of 17 victims of juvenile property offenders in Charleston, South Carolina, said they would be willing to meet with their offenders to negotiate a restitution (1980). Fifty percent of the respondents of Gandy and Galaway's survey of the adult population of Columbia, South Carolina,

reported that, if malicious damage was done to their house, they would be willing to permit personal service restitution by the offenders; 39 percent said they would not, and 19 percent were undecided (Gandy and Galaway, 1980). Thirty-two percent of the victims in the Miami, Florida, plea bargaining research appeared for conferences, despite the fact that their only contact was a letter of invitation; program staff indicated that there were many difficulties notifying victims because of inaccurate addresses, and many victims probably never received the letter of invitation (Heinz and Kersletter, 1979). In a survey of victims associated with 19 adult restitution projects, 46 percent reported that they would prefer to meet with their offenders, if victimized again, to work out a restitution plan; 36 percent said they would not want to meet, and 18 percent did not respond (Novack, Galaway, Hudson, 1980). The Kigin and Novack study in central Minnesota found 74 percent of the victims reported that they should be involved with their offenders in determining the restitution amount (1980). Seventy-one percent of the victims of juvenile offenders referred to a restitution program in the Tulsa, Oklahoma, juvenile court reported that they were willing to meet their offenders, 6 percent indicated they did not want to meet their offenders, and the file material failed to report victims' decisions for the other 22 percent of the victims (Galaway, Henzel, Ramsey, and Wanyama, 1980).

Restitution program managers need to carefully assess the extent to which their program designs are providing opportunities to provide victims with regular information regarding each case and providing victims opportunities to participate in the justice process to further the potential for integrating victim interest in the juvenile and adult justice systems. The programs which use victim-offender mediation provide models as to how opportunities can be extended to victims for participation and have documented that these procedures are feasible (PACT Institute of Justice, 1984; Peachey, Snyder, and Teichroeb, 1983). John Haley, in his analysis of Japanese criminal procedure, suggests that the emphasis on confession, repentence, and the seeking of forgiveness, through apology and restitution from the victim and victim's family, may contribute to the relatively low crime rates in Japan and are practices which may be transferable to western legal systems (Haley, 1988). Operating restitution programs in a manner which would make these processes possible will be a step in this direction.

A recent survey of probation and parole officers and victim service workers, with samples drawn for the membership of the American Probation and Parole Association and the National Organization for Victim Assistance, offers some interesting comparisons of professional attitudes regarding victim-offender reconciliation (Shapiro, Omole, and Schuman, 1986). Sixty-six percent of the probation officers, compared to 43 percent of the victim service providers, responded yes to the statement, "there is need for victim-offender reconciliation program"; 72 percent of the probation officers, compared with 55 percent of the victim service providers, responded yes to the statement of "communication between victim and probationer should be encouraged if either desires it." This survey suggests considerable probation officer support for providing victims with opportunities to participate in the justice system and the possibility of victim service providers reservations about this. One potential barrier to providing victims with opportunities to participate may be the self-interest of victim service providers who may perceive the need to maintain position and responsibility by doing things for victims, rather than providing victims with information and opportunities for participation. Providing services to victims and providing opportunities for victims are not the same. Leslie Sebba offers a useful conceptual framework for making this distinction (1982). Sebba conceptualizes two models—an adversarial-retribution model and a social welfare-social defense model:

> The key to the dynamics of these two models is in the following: whereas under the adversary-retribution model the state would provide the machinery for the victim to achieve the desired objectives, whether prosecution or compensation-restitution; under the social defense-welfare model the state would not only stand in the shoes of the victim in prosecuting the offender, but would also stand in the shoes of the offender in compensating the victim. The victim would then have no direct claim against the offender in the matter of punishment, which would be left exclusively to the state.

The social defense-welfare model is likely to be preferred by professional and civil service classes because this model will concentrate power and resources with these groups, but will also result in a reduction in opportunities for direct victim participation.

The conceptual confusion between monetary restitution and community service will also detract from the potential for restitution to provide victims with participation opportunities. So long as community service operates under the rubric of restitution, there will be a substantial number of situations in which victim interest may be simply ignored as criminal justice officials substitute community service for restitution. While restitution and community service are quite distinct sanctions, the two can be linked together in at least three ways. Community service

may be substituted for restitution. The victim may donate restitution to a community agency by asking the offender to do work for a community agency. Or, community service may be added to monetary restitution, if additional sanctions are necessaary to meet the demands of proportionality. The only threat to victim interest is in the first possibility; we should generally discourage substituting community service sentencing for monetary restitution unless the victim consents to having his or her restitution donated to a community organization.

Restitution as a Penalty

To Schafer, restitution was clearly a penalty and a synethetic penalty which could integrate the various purposes for criminal sanctions. An examination of sentencing and program policy and program operations is necessary to determine the extent to which restitution is administered as a penalty. Restitution as a penalty should replace other penalties; and, second, preference should be given to restitution, rather than penalties which do not hold open the possibility of opportunities for crime victims. Restitution as innovation may have required special projects to demonstrate feasibility. With feasibility established, it is time to integrate restitution with other criminal and juvenile justice practices. I have previously proposed that restitution become the focus for probation (Galaway, 1983; Galaway, 1985). Transforming probation so that restitution and other reparative sentences become the focus of probation work would move both probation and restitution into more central prominence as penalties.

With restitution defined as a penalty, a next step is to identify classes of offenses for which it may be the sufficient and sole penalty. There have been some efforts to use restitution as a sole sanction; Anne Schneider's research (1986) suggests that this can be effective. An early study from the National Juvenile Restitution Initiative found that restitution as a sole sanction was more effective in securing successful program completion than restitution and probation. The relationship between restitution and successful program completion held when controls were imposed for offense seriousness and for prior delinquent histories of the juvenile offenders (Schneider, P. and Griffith, 1980).

Finally, for restitution to achieve its prominence as a penalty will require concentrated policy and program development to use restitution, combined with other reparative sanctions, as a replacement for jail and prison for many, if not all, classes of property offenses. The promise of restitution as a lower-cost penalty, as a synethetic penalty, and as a penalty which addresses victim interest will be achieved as restitution is used to reduce reliance on prisons and jails which do nothing for victims, burden taxpayers, and return offenders to society less competent to live law-abiding lives and probably more dangerous than when they were admitted.

Stephen Schafer was influenced by a series of debates on restitution and criminal justice which occurred at a series of international penitentiary congresses between 1870 and 1901. A group of Italian criminologists, primarily Henri Ferre and Raffaele Garofalo, were strong advocates for restitution. Garofalo (1914) delivered a paper at the 1901 conference in Brussels titled "Enforced Reparation as a Substitute for Imprisonment." He argued that prisons were being filled with relatively minor, short-term offenders, that overcrowding made it impossible to keep serious offenders who may be a real threat to society long enough to effectively treat them (Garofalo was a positivist who was enamored with the potential of science, given sufficient time and resources, to change the behavior of wayward individuals), and that offenders sentenced to short terms of imprisonment should not go to prison but, instead, be required to work and from their earnings make restitution to their victims.

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