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Office of Justice Programs
Bureau of Justice Assistance

PROGRAM BRIEF

Restitution By Juvenile Offenders

PREPARED IN CONJUNCTION WITH
REGULATIONS IMPLEMENTING THE
JUSTICE ASSISTANCE ACT OF 1984

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July 1985

PROGRAM BRIEF

Information Guide for the Development of Juvenile Restitution Programs

RESTITUTION BY JUVENILE OFFENDERS

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I. INTRODUCTION

A. Problem Addressed

Juvenile crime in America affects everyone at one time or another. The traditional responses of the juvenile justice system have not always proven to be effective deterrents to crime. Juvenile courts, probation services, and correctional facilities have not been able to provide the individualized justice that is needed. Similarly, they have not provided most victims of juvenile crime with any redress for their losses. Consequently, public confidence in the juvenile justice system has decreased.

This disillusionment with the system has sparked an intense search for new and innovative interventions for juvenile offenders. Restitution has emerged as an effective disposition which addresses both offender accountability and victim reparation.

B. Possible Answer

In recent years, restitution has received renewed interest and attention. This renewed interest is based on general disillusionment with traditional dispositional alternatives, a greater contemporary concern for victims, and a desire to better balance the offense and the sanction.

Victimization data have consistently shown the majority of juvenile crimes to be property offenses. Restitution offers an appropriate means through which juveniles can be held accountable for their actions; a means which is in direct proportion to the severity of the offense. Further, it provides some redress to victims for their losses.

Restitution as a concept is simple. An offender injures a victim in some way, a value is placed on the injury or the loss, and the offender pays the victim for the loss or to heal the injury. However, a variety of program and legal issues (such as organizational placement of restitution programming within the juvenile justice system, due process considerations, Thirteenth Amendment (involuntary servitude) issues, wage subsidies, etc.) must be analyzed and resolved before implementation can occur at the local and state levels.

C. Program History

In 1978, after considerable research, the Office of Juvenile Justice and Delinquency Prevention (OJJDP), Office of Justice Programs (OJP), instituted a program effort to support projects encompassing restitution as a sanction for juvenile offenders. Originally, 41 grants representing 85 sites were awarded for two-year periods. Six of these grants supported statewide projects. Of the original 41 grants, 36 were continued for a third year because of their successful achievement of program goals and objectives.

The projects were located in nonprofit agencies, local government agencies, and various administrative units within juvenile court services, including probation. The scope of their activities varied. Approximately one half of them provided ancillary services for victims and/or offenders.

At the end of the three-year Federal funding period, approximately 70 per cent of the projects funded for the full three years received local and/or state funding to continue their efforts. One statewide project expanded its services to include additional counties, and one local project was expanded to statewide coverage with local funding.

The commitment of local and state funding to support restitution is an indicator of practitioners' confidence in restitution as an effective sanction for juvenile offenders.

An evaluation of the first two years of project implementation provided some interesting data and information.

- 17,354 juveniles were referred to the restitution projects.
- \$1,532,996 was returned to victims.
- 259,092 hours of unpaid community service were worked.
- 4,061 hours of direct victim service were provided.
- The overall rate of successful completion of restitution requirements was 86 per cent. (Even the most serious and repetitive offenders successfully completed their restitution requirements at a rate of 75 per cent.)
- Fewer than one juvenile in ten reoffended while participating in a restitution program.
- In most instances, willful failure to comply with the restitution order resulted in incarceration.
- Almost all of the projects assisted juveniles in locating jobs through which they could earn the money needed to pay their restitution orders.
- 84 per cent of the projects provided some victim service.

II. PROGRAM GOAL AND OBJECTIVES

A. Goal

The primary goal of this program is to foster and enhance the use of restitution as an effective disposition in juvenile courts. The underlying goal is to hold juvenile offenders accountable for their offenses. While there may be some variation among jurisdictions as to the precise definition of restitution, there is general agreement on its potential for enhancing the capability of juvenile courts to hold offenders accountable in a manner which is directly proportional to the seriousness of their offenses, and to furnish reparations to victims of juvenile crime.

B. Objectives

The program has three major objectives.

1. To provide some redress for the damages or loss suffered by victims of juvenile crime.

For the past several decades, the primary focus of criminal justice has been the offender. Society assumed the role of victim in the adjudication process to the exclusion of individual victims. Restitution provides an opportunity to repay both individual victims and society for damages and losses. Individuals can be repaid directly for damaged or stolen property. In lieu of monetary restitution, the offender can provide specific services to the victim for a specified length of time, but only if the victim gives an unqualified consent to interaction with the juvenile offender. At no time should victim/offender interaction be a precondition to restitution. Communities can be repaid for time and manpower expended in identifying and processing the offender via a commensurate number of hours of unpaid community service provided by the offender. Unpaid community service is also appropriate in cases which do not involve a specific victim or if there are no actual out-of-pocket losses. No one affected by the offense need go without some redress.

2. To reduce recidivism of juvenile offenders.

Evaluation results indicate restitution offers promise as a means to reduce recidivism.

3. To increase community confidence in the juvenile justice system.

Restitution programs can make the juvenile justice system more visible and responsive to the general community. When victims are active participants in the restitution process, i.e., assisted in documenting their losses, regularly informed of the status of their cases, and involved in determining the amount and form of restitution set, they feel the system is working for them. They are more satisfied with the system than individuals who have not been substantively involved. Citizens in general will feel more positive about the juvenile justice system if they can actually see and benefit from the results of unpaid service provided by juvenile offenders.

In some jurisdictions, particularly those where juvenile facilities are limited or overburdened, restitution can also serve as an alternative to incarceration. This is particularly applicable in instances of serious property offenses. However, care should be exercised to ensure that the juvenile is held accountable through imposition of a restitution order which accurately and fairly reflects the severity of the offense and its consequences.

III. CRITICAL ELEMENTS (KEY PROGRAM FEATURES)

Although there are a number of different approaches to restitution programming, there are several key elements which must be in place in all programs prior to implementation.

A. Commitment of Court and Juvenile Justice System Personnel

Restitution programming, whatever the goals and objectives, can succeed only if the court -- the judges who will utilize it as a disposition and the administrative staff responsible for follow-up -- actively supports the concept of restitution and makes a firm commitment to utilize it whenever appropriate.

B. Planning

Careful planning will facilitate the integration of restitution into the regular court process. Initially, four key decisions must be made.

1. Placement in the System

Restitution orders may be imposed at various stages of the juvenile justice process, depending on the jurisdiction's intended use of the program. Restitution is imposed at the pre-adjudication stage if it is intended as a diversion from formal processing. As an alternative to incarceration, restitution is most appropriately imposed at the post-adjudication stage, either as a sole sanction or as a condition of probation. Restitution may also be ordered post-incarceration as a consequence of violent or serious personal offenses which also involved property theft or damage.

Precise definition and understanding of the goals and objectives of the restitution program will determine the appropriate stage of the juvenile justice process for imposition of restitution.

2. Target Population

Criteria for the inclusion and exclusion of juvenile offenders must be established. If restitution is utilized as a diversion from formal juvenile justice system processing, the appropriate target population would be first offenders who have committed offenses such as vandalism, shoplifting, and other similar offenses. If restitution programming is to be utilized effectively, it must be compliant with the Justice Assistance Act of 1984, and the regulations as promulgated in the Federal Register, Vol. 50, No. 104, dated May 30, 1985.

Juveniles who have been adjudicated and found guilty of murder, rape, sodomy, armed robbery, burglary, child molestation, sexual and aggravated assault, manslaughter, or arson should not be eligible to participate in restitution in lieu of incarceration. However, such juveniles could be considered for participation in a post-incarceration restitution program if the court felt such participation was appropriate.

3. Type and Amount of Restitution

Jurisdictions may have the option to decide whether they will require monetary restitution, unpaid community service, direct victim service, or various combinations of all three. A clear understanding of the goals and objectives will again facilitate this determination. If a jurisdiction's primary concern is compensating victims for their losses, monetary restitution would be the most efficient means to attain this goal. Direct work for the victim could also be authorized, depending on the nature of the offense, and the unqualified acceptability of such an arrangement to the victim. Unpaid community service would be appropriate in cases which do not involve individual victims or in cases where there is no actual out-of-pocket loss.

With regard to type and amount of restitution, it is important to remember that restitution is not a substitute for victim compensation. Victim compensation is generally awarded as a result of physical injuries sustained by a victim, and that award is generally in the form of a lump sum payment. (Payments can also be made to compensate for lost wages, medical expenses, and even funeral expenses.) Restitution is primarily employed in the case of property loss or damage and may be paid by the juvenile offender in installments over a period of time, depending on the amount of restitution ordered and the means by which the juvenile offender will earn money to make payments to fulfill the order.

Existing legislation must be examined to determine if there is authority to impose restitution, and if any types of restitution are prohibited. For example, monetary restitution was prohibited in South Carolina until new legislation was passed in 1980. In South Carolina and certain other states, a ceiling is placed on the amount of restitution which can be ordered and/or the number of hours of unpaid service which juveniles can provide. Even if there are no legislatively mandated ceilings, jurisdictions must determine whether or not a ceiling will be imposed and at what level.

4. Victim Assistance and Participation in the Court Process

In the recent past, the primary focus of restitution programming was on the offender. Because of this, the most appropriate use and effectiveness of victim services in conjunction with restitution programming have yet to be determined. Three basic assumptions concerning victims may be made.

- a. Whenever possible, victims should be repaid for their losses.
- b. Some victims want to participate in the decision-making process used to determine the form and amount of restitution to be made.
- c. Most victims who do actively participate in the restitution process are more satisfied with the juvenile justice system than those who do not participate.

Victim involvement can take various forms. At the very least, it should include regular contact from the court to provide information on the status of the case. It should also include assistance in documenting the amount of the loss and involvement in setting the form and amount of restitution. In addition to these basic services, it may also include victim/offender interaction through mediation or direct services provided to the victim by the offender, but only if the victim freely chooses to be directly involved with the juvenile offender. Ancillary services ranging from transportation to and from the courthouse to psychological counseling may also be provided to the victim.

The assistance actually provided will depend on the individual victim. Some victims who have suffered no actual out-of-pocket losses may choose to have very little to do with the process. Others, because of the trauma or circumstances resulting from the offense, may require extensive assistance. In either case, the level and types of victim assistance which are available must be determined prior to actual implementation of restitution programming, realizing that staffing patterns and organizational development must accommodate the assistance offered.

Restitution programs need not provide all services to victims. However, the restitution program staff must be aware of all local victim service and compensation programs and make that information available to all victims.

C. Administration

To be effective, juvenile restitution programs must be well structured and tightly managed. Staffing patterns must provide for liaison with the court, referral/intake procedures, case management, job development and placement, community service placement, supervision of juveniles at the job site, and assistance to be provided to victims and offenders. As a general rule, the more specialized services provided for victims and offenders require a more specialized staffing pattern.

D. Community Involvement

If juvenile offenders are ordered to make restitution, whether monetary or symbolic (unpaid community service), they must have access to jobs. Local businesses, government agencies, school districts, parks and recreation departments, service organizations, etc., must be willing to provide work opportunities for these juveniles.

IV. IMPLEMENTATION STEPS/ISSUES

A. Definition of Purpose

The key to successful implementation of restitution programming is a clear definition and thorough understanding of the purpose of the program. No effective action can occur until this has been accomplished. Answers to three important questions may help in clarifying the purpose.

1. Who or what is intended to benefit most from restitution?

The offender, the victim, the community, and the juvenile justice system itself are all potential beneficiaries. While more than one beneficiary may be served, there may be conflicts of interest. If a combination of beneficiaries are served, staff time, resources, and objectives must be proportionately allocated to each.

2. Which juvenile offenders are eligible for the program?

Written eligibility criteria, specifying the types of offenses most appropriate for the program, and other selection factors should be developed prior to acceptance of any referrals.

3. What are the objectives to be achieved?

The objectives will flow from the purpose. Objectives relating to offenders may include an increase in accountability, reductions in recidivism, and successful completion of restitution and community/victim service orders. Objectives relating to victims may include the amount of restitution, repair of damage, and satisfaction with the juvenile justice system. The objectives should be measurable and well defined. They can then:

- a. Help provide a framework within which daily operational decisions can be made;
- b. Establish performance criteria for monitoring purposes; and,
- c. Serve as a basis for evaluation of the program success.

B. Procedures Manual and Flow Chart

Once the purpose has been defined, a procedures manual should be developed. The procedures manual will provide a framework within which the staff can carry out their daily responsibilities. The first step in developing this manual is the construction of a detailed operational flow chart which isolates all functions of the restitution process from beginning to end. It should include:

1. All significant processing and actions involved;
2. The procedures required to perform them; and,
3. Key staff positions necessary to carry out the program.

The flow chart provides the basis for the procedures manual. The manual will expand upon the procedures outlined in the flow chart and provide additional information necessary to perform all tasks associated with the restitution program. Samples of all forms and contracts utilized in connection with the restitution program should be included in the manual.

C. Data Collection and Evaluation

There are three significant reasons to include limited data collection and analysis as a component of restitution programming.

1. It provides a means to measure the achievement of program objectives.
2. It can highlight potential trouble areas requiring modification.
3. It provides a basis for management and progress reports which may be required by administrative agencies.

The data collected need not be extensive, but should include some basic information.

1. The number of offenders participating in the restitution program and the types of offenses.
2. The total amount of money returned to victims and/or the number of community/victim service hours provided by offenders.
3. Recidivism rates of program participants.
4. Completion rates for restitution and community/victim service orders.
5. Incarceration statistics prior to and following implementation of the restitution program.

A written plan specifying the data to be collected and analyzed, time frames, forms, and staff responsibilities should be developed to ensure consistency and timely reporting. (See Section VI, Performance Indicators.)

D. Legal Concerns/Safeguards

Constitutional problems may be posed by different methods of restitution. Both offenders' and victims' rights must be guaranteed. Scrutiny of state laws and codes as well as the policies relating to juvenile offenders and court procedures will assist in avoiding such problems. Local attorneys and law students are excellent resources upon whom to draw for assistance. The entire restitution process, as outlined in the procedural flow chart, from point of client selection to termination, should be examined to determine the appropriate legal safeguards for both offenders and victims. All staff connected with the restitution program should be trained appropriately to ensure that legal rights are respected.

E. Liability/Insurance

Because restitution programs utilize various locations and types of employment for juvenile offenders, a number of questions arise concerning program liability and accident insurance.

1. Who is responsible for injuries to victims or offenders as a result of restitution agreements?
2. How can implementing agencies reduce the risk of potential injury?

3. What is the individual or collective liability of work sites or support agencies?
4. What type of workmen's compensation coverage is available? Is it required? Who provides such coverage?

There are a number of steps which can be taken to ensure that accidental injuries to any parties involved in the restitution process will be covered by insurance.

1. Determine if the court structure with which the restitution program works has liability/compensation insurance which adequately covers restitution staff, subcontractors, victims, offenders, and support service providers.
2. Determine the availability and applicability of existing liability/compensation insurance coverage provided by the relevant level of local government under whose oversight the restitution program operates (city, county, or state).
3. Contact local attorneys, state insurance commission members, or other government agencies operating juvenile work programs for options and/or information.
4. Contact various insurance carriers to obtain the best insurance coverage and rates.

F. Staff Orientation and Training

To ensure that restitution programming operates at the optimum level, staff must fully understand all aspects of the program, including the purpose and objectives, the eligibility criteria, all relevant statutes and legal codes, legal safeguards for victims and offenders, and staff roles and responsibilities. A formal orientation at the initiation of the program, and in-service training as modifications are made in any program areas or staffing, should be provided. Staff familiarity with program issues will facilitate implementation.

G. Public Information

Restitution programs can generate considerable interest in communities as their activities and results become known. Pamphlets and easily read information packages about the program which highlight its place in the juvenile justice system, its purpose and objectives, its major components and how they operate, the benefits to the community, etc., can be very effective in garnering community support and involvement.

Jurisdictions may discover that there are additional issues which must be addressed which are unique to their region or state. A thorough examination of all factors which may impact upon the implementation of restitution and all potential results of such a program will prevent legal complications and unforeseen obstacles to establishment of restitution programming.

V. SOURCES FOR FURTHER INFORMATION AND ASSISTANCE

A. Reference Resources

1. A detailed reference document, "Topical Search - Juvenile Restitution," has been prepared by the Juvenile Justice Clearinghouse, National Criminal Justice Reference Service (NCJRS). It includes abstracts of 31 of the most representative citations on the subject of juvenile restitution. A copy of this annotated bibliography, including much of the information cited in this Program Brief, is available from the following source.

National Restitution Resource Center (NRRC)
Juvenile Justice Clearinghouse/NCJRS
Box 6000
Rockville, Maryland 20850
Telephone: Toll Free (800) 638-8736

2. "The Juvenile Restitution Program Guide" is a publication which provides a comprehensive guide to all aspects of juvenile restitution programming. It covers in detail all of the critical elements which were briefly described in this Program Brief, drawing from a 1985 survey of nearly two hundred juvenile restitution programs. Issuance of the "Guide" is scheduled for July, 1985, and will also be available through the National Restitution Resource Center, NCJRS.
3. "The National Restitution Program Directory" will soon be available to provide information on specific types of restitution programs operating throughout the country. It is anticipated that this directory will be published as a supplement to "The Juvenile Restitution Program Guide" and will be available through the NRRC.

B. Technical Assistance

1. **The Restitution Education, Specialized Training, and Technical Assistance (RESTTA) Program**

The RESTTA Program, managed by the Office of Juvenile Justice and Delinquency Prevention (OJJDP), is a comprehensive program designed to promote the use of restitution efforts in juvenile courts. The program offers six services designed to provide individualized training and custom-tailored information for different community needs. Most of these services are available without charge. Information regarding this program is available from the following source.

RESTTA Program
OJJDP - U.S. Department of Justice
633 Indiana Avenue, N.W.
Washington, D.C. 20531
Telephone: (202) 724-7573

2. National Restitution Resource Center

The Resource Center is part of the Juvenile Justice Clearinghouse/ NCJRS. It serves as a clearinghouse to disseminate information on every aspect of restitution programming. The Resource Center can assist you or direct your inquiry to the appropriate organization in the RESTTA consortium to provide direct assistance. (See No. A-1 of this Section for toll free number and address.)

3. National Training Seminar Program

Three upcoming workshops will be conducted which will cover all aspects of juvenile restitution. The workshops will feature demonstrations and round table discussions, in addition to formal instruction. The workshops are: San Francisco (July 21-24, 1985); Kansas City (October 20-23, 1985); and, Atlanta (February 9-12, 1986). For more information and registration, contact the following source.

Mr. Richard Van Duizend
National Center for State Courts
600 Langster Lane
Falls Church, Virginia 22046
Telephone: (703) 237-7209

4. Mini-Seminars Program

These specialized training seminars are conducted for individual states and/or cooperating jurisdictions and deal with restitution issues in depth. Local restitution officials and RESTTA Program faculty also focus on regional issues. For more information, contact the following source.

Ms. Cynthia Diehm
National Association of Counties
440 First Street, N.W.
Washington, D.C. 20001
Telephone: (202) 393-6226

5. Host Site Program

Six meritorious juvenile restitution programs have been selected to provide intensive on-site training. The program sites are: Ventura, California; Waterloo, Iowa; Prince Georges County, Maryland; Quincy, Massachusetts; Charleston, South Carolina; and, Dallas, Texas. For further information on this program, contact the following source.

Mr. H. Ted Rubin
Institute for Court Management
National Center for State Courts
1331 17th Street, Suite 402
Denver, Colorado 80202
Telephone: (303) 293-3063

6. Technical Assistance Voucher Program

This program provides local jurisdictions and juvenile courts with resources to initiate or improve local restitution programs. Vouchers of up to \$1000 each are available through the RESTTA Program. For further information and application packages for technical assistance vouchers, contact the following source.

Dr. Peter R. Schneider
Pacific Institute for Research and Evaluation
1777 North California Boulevard
Walnut Creek, California 94596
Telephone: (415) 939-6666

C. Federal Program Contact

Restitution by Juvenile Offenders Program
Bureau of Justice Assistance
U.S. Department of Justice
633 Indiana Avenue, N.W.
Washington, D.C. 20531
Telephone: (202) 272-6838

VI. PERFORMANCE INDICATORS

During implementation of the program described in this Program Brief, sponsoring agencies or organizations should find it useful to track and maintain certain program information in order to provide some indication of program performance. While basic in nature, this information will not only provide an indication of program progress and performance, but will also serve as a benchmark for continued program implementation and allow for comparison with similar program efforts in other jurisdictions. Attached is a suggested reporting form listing several performance indicators which should be helpful in tracking program performance.

PERFORMANCE REPORT

(Please type)

Program Category:

Restitution by Juvenile Offenders

Project I.D. No.:

(Limited to 10 characters)

Implementing Agency:

Address:

Report Date:

____/____/____

Period Covered:

____/____/____ through ____/____/____

Performance Indicators: In order to gather basic information regarding project implementation, please provide responses to the following performance indicators.

(1) Number of staff assigned to project:

(2) Average restitution case load per restitution/probation officer:

(3) Number of juveniles who participated in the project, by type of offense:

(4) For each restitution alternative, number of juveniles assigned and the total amount of restitution ordered:

(A) Monetary restitution (sole sanction):

(B) Monetary restitution as a condition of probation:

(C) Community service (sole sanction):

(D) Community service as a condition of probation:

(E) Monetary restitution and community service (sole sanction):

(F) Monetary restitution and community service as conditions of probation:

(G) Other types of restitution:

(5) Number of victims affected, by type of offense:

- (6) For each alternative, number of victims receiving restitution and the total amount/value of loss/injury suffered:
- (A) Monetary restitution:
 - (B) Community service:
 - (C) Monetary restitution and community service:
 - (D) Other types of restitution:
- (7) Number of juveniles ordered and number successfully completing their restitution orders:
- (8) Total amount of restitution ordered/collected:
- (9) Number of juveniles that received restitution-related employment, and number retaining same following completion:
- (10) Total amount of Federal/non-Federal expenditures annually:
- (11) Operational costs per case:

- (12) Number of juveniles rearrested during the program:
- (13) Number of juveniles incarcerated as a result of a rearrest or program failure:
- (14) Indicators of victim involvement and satisfaction with the program:
- (15) Additional comments/information: