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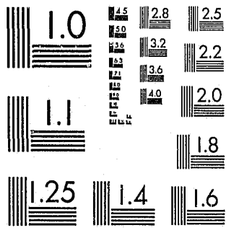

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National Evaluation of Adult Restitution Programs

RESEARCH REPORT #4

EVALUATION OBJECTIVES, EVALUATION METHODOLOGY AND ACTION RESEARCH REPORT

by

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I. Introduction

This is the fourth in a series of reports detailing the progress of the first phase of a national evaluation of adult restitution programs.[1] The national evaluation is funded by the National Institute of Law Enforcement and Criminal Justice as part of an action-research venture in cooperation with the Office of Criminal Justice Programs of the Law Enforcement Assistance Administration. Seven programs were funded by OCJP in October 1976, at which time funding also began for the national evaluation.[2]

Very briefly, Phase I of the evaluation encompasses programs at various stages in the criminal justice process in the states of California, Connecticut, Georgia, Maine, Massachusetts, and Oregon. Detailed descriptions of the six programs being evaluated are presented in an earlier report.[3] The present report explains the context in which the evaluation is set, reviews some of the previous research in the area, describes evaluation objectives and procedures, documents current progress towards those objectives, and attempts to generalize major implementation issues encountered.

II. Context and Perspective

A. Operational Definitions

In the past few years the use of restitution has not only aroused widespread academic interest, but it has also gained an extremely broad base of political support and approval among criminal justice agencies. The diversity of its proponents is matched by, and probably derives from, the many different meanings attributed to the term *restitution*. Each of the following has been considered a restitutive response to criminal behavior:

1. *To the actual victim,* the offender might attempt to atone for an offense in any of three major ways:

   a. *Return* of unlawfully obtained property;

   b. *Financial compensation* in an amount:

      (i) *Equivalent* to the victim's loss or injury; or,

      (ii) *Symbolic* of the victim's loss or injury, either in the form of partial payment, or punitive payment in excess of the amount of loss, usually some multiple of it.

   c. *Service performance* of a type that:

      (i) *Repairs* damage attributable to the victim's conduct; or is

      (ii) *Equivalent in value* to loss or injury sustained by the victim; or is a

      (iii) *Symbolic gesture* by the offender.

2. *To symbolic victims*, the offender's obligations might include:

   a. *Financial payment* to a designated third party, such as a fund from which uncompensated victims of other offenders could be paid, or to a charity of the victim's choice;

   b. *Service performance* of a type that is related to the offender's conduct; for example, an offender convicted of drunken driving might perform services in the road-accident ward of a local hospital.

3. *To the community,* the offender might perform a service of a type that is unrelated to the offense; service of this type is most often for a public agency such as a parks' service or human resource organization.[1]

By far the most frequently employed sanctions for offenders in the national evaluation were financial restitution, and, to a lesser extent, community service.[2] None of the programs being evaluated made systematic efforts to employ service placements that were symbolic of the offender's conduct.

B. Background

Although an in-depth analysis of the history of restitution remains to be produced, examples of restitution in the laws and customs of ancient societies have been repeated almost ritually in previous writings.[3] The widespread statutory authorization for the use of financial restitution as a condition of probation is also well-known, as are the extensive, if sporadic, collection practices of some probation departments in the United States.[4] Only in this decade, however, have specialized restitution programs begun to appear, undertaken almost exclusively with the backing of federal funds.[5]

The introduction of numerous federally-funded programs has helped to focus attention on financial restitution, and has also prompted a growing interest in the use of community service sanctions. Community service has achieved a high level of publicity and system-acceptance in the United Kingdom and its use is beginning to increase in the United States.[6] A further impact

of the growing number of restitution and community service programs has been to extend their application to a wide variety of criminal justice settings. Whereas restitutive sanctions previously were concentrated in the form of conditions of probation, new programs range from pre-trial diversion to parole.

Expansion in program activity is paralleled by a growing body of literature in the areas of restitution and community service.[7] Most recently, there has been a profusion of legislative activity, and massive efforts are underway to expand the use of restitutive sanctions in the juvenile justice system.[8]

C. Problem

Despite activity on so many fronts, a crucial component of criminal justice innovation has been almost entirely overlooked. Although the enormous sums of money expended to develop programs have succeeded in drawing attention to restitution and community service, past investments have rarely been accompanied by *evaluations* to ensure accountability and the development of a knowledge-base for future planning. Consequently, despite the proliferation of new laws and programs, there continues to be an almost total lack of empirical evidence in this country about the effects of restitution or community service upon offenders, victims, and the criminal justice system.

Although rough approximations have been made of the *amount* of restitutive activity, there is almost no information about the *quality* of service delivery or the *effects* that new programs may be having. More often than not, even the most basic descriptions of program goals and procedures have not been reported. Similarly, details about the program populations have been provided, if at all, in only the most superficial terms.[9] In addition, the sparse information that has been accumulated has usually been site-specific,

permitting very little comparison of experiences across programs.

A result of these unquestioning excursions into uncharted areas of restitution and community service has been that many questions about the effectiveness of such sanctions have been left unaddressed. Questions need to be answered about the impact of programs upon system problems such as overcrowded caseloads and institutions, as well as high processing costs; in particular, does restitution/community service operate *in addition* to normal sanctions, or does it serve a *diversionary* or mitigating role? Finally, effects upon offenders' recidivism, victims' satisfaction and even compensation, all remain to be tested.

III. Evaluation Objectives

Two principal objectives of the national evaluation are to *describe* in detail the six restitution programs, and to *assess their effectiveness* in a variety of ways related to offenders, victims, and the criminal justice system. Descriptions of the six programs and a synthesis of their practices are contained in a separate report.[1] The remainder of the present report focuses upon the current status of research procedures implemented to permit the assessment of program effectiveness. In combination, the aim is to develop a reliable source of guidance for current and future research and program planning, as well as to contribute to knowledge about the concepts of restitution and community service.

In addition to evaluating programs in relation to their own goals, which are quite often very narrowly defined, an objective of the national evaluation is to test effectiveness in the following respects, wherever relevant to particular programs:

1. *Restitution/Community Service* -- compared with pre-program experience, to what extent are restitutive or community service obligations imposed and met? Considerations include the amounts of restitution and community service provided, and late, partial and missed payments.

2. *Offenders* -- in relation to a comparable group of offenders (randomly selected) not participating in the program, how do offenders with restitutive or community service obligations compare in terms of:

a. *Processing* experiences -- do non-program offenders receive more severe dispositions and/or remain in the system longer than their program counterparts?

b. *Recidivism* -- do non-program offenders experience more, or more serious, subsequent law violations, rule infractions, and reprocessing through the criminal justice system?

c. *Social Stability* -- are program offenders more stable in their employment, residence, and family life?

d. *Attitudes* -- do offenders undergo changes in attitude towards crime, victims, and the criminal justice system during the course of their program experience?

3. *Victims* -- in relation to a comparable group of victims (randomly chosen) whose offenders do not participate in the program, how do victims in whose cases restitution or community service is imposed compare in terms of attitudes -- do victims undergo changes in attitude towards crime, offenders, and the criminal justice system during the course of their program experience?

4. *System* -- are system costs and/or specific problems, such as overcrowding, reduced through offenders participating in the program (see 2a above)?

Within each assessment category outlined above, more specific questions can be raised about *differential* effects, depending upon the type of offender, victim, and program involved. Are certain offender, offense, victim, and program characteristics related to success or failure along any of the relevant dimensions mentioned? And, is restitution or community service employed more effectively at some points in the criminal justice system than in others?

One of the most important objectives of the evaluation is an assessment of the interaction among the answers to the above questions. The interest at this level is on how effectiveness depends upon type of offender, type of victim, type of program, and the stage in the criminal process at which restitution arises. Do certain types of offenders do better in repaying certain types of victims? Are certain types of offenders more willing to repay via service than via money? Are certain kinds of victims more satisfied with a restitution program which involves repayment close to the time of the offense (e.g., a court-based program) rather than with a program which locates repayment at a more distant point in time (e.g., a work-release program)? For these and other questions of differential impact, an objective of the national evaluation is to address systematically the factors associated with outcome variations within each program and then, insofar as possible, to observe whether in other programs these same factors are associated with similar variations.

IV. Review of Previous Research

A. Introduction

Very few research studies exist to shed light upon the many claims, fears, and suppositions that have been raised in connection with the use of either restitution or community service.[1] The generating influence behind the growing number of programs appears to be one of intuitive optimism rather than demonstrated merit.

The few studies that have been conducted have fallen into three overlapping categories, covering a variety of criminal justice settings. Ranging from simple *surveys* to estimate the number and type of programs, to *evaluations* of specific sites, the studies have also included very basic *descriptive accounts* of existing practices. Among the three types of study, restitution has been examined for adult and juvenile offenders, probationers and parolees, misdemeanants and felons.[2]

Unfortunately, with noted exceptions, the only unifying links between the published studies are a very low level of metholodogical adequacy or sophistication and, as Hudson and Chesney point out, the fact that "*[m]*ost commonly, the research on restitution has not concerned itself with theory."[3] Following is a brief critical review of some of the studies concerning restitution by adult offenders. Accompanying the review is a comparative discussion of the research findings.[4]

B. The Studies

1. *Program Surveys*

a) *The Chesney, Hudson, and McLagen Survey:*[5] This most recent attempt to identify the number and type of restitution programs[6] in the United States took the form of a mail survey of 54 state planning agencies

and 82 state correctional agencies "or their equivalents." Fifty-one of the SPA's and 73 of the corrections agencies completed the mailed questionnaires (response rate of 94 percent and 89 percent, respectively). Although by no means inclusive of all programs,[7] the high response rate and the recency of this survey support the claim of the authors that "it is probably the best listing available."[8]

Questions in this survey were aimed mainly at identifying the program's administrative organization, its location in the criminal justice system, and the type of clients served, as well as whether the program was residential or not.

b) *The Hudson, Galaway, and Chesney Survey:*[9] Nineteen restitution programs known to the authors were contacted in this telephone survey, in the United States and Canada. Four of the programs were for juveniles only and three others handled both adults and juveniles. The authors make no claims for the overall representativeness of their survey:

> We do not know the total number of restitution programs, but our telephone survey clearly did not reach all of them. Thus, the information we gathered reflects tendencies which may or may not apply to all such programs.[10]

Questions in this survey concerned the nature of restitution, its relationship to other criminal sanctions, how the amount of restitution was determined, and the victim's role in the process.

c) *The Batelle Survey:*[11] One of the earliest attempts to identify the extent of restitution experience in the United States was by a mail survey conducted in 1974 for the National Institute of Law Enforcement and Criminal Justice. As described by the authors, the survey consisted of letters to all state planning agencies, "requesting information in regard

to programs involved with offender restitution to victims of crime. All agencies were informed that the purpose of the inquiry was to provide a preliminary overview of operating programs and identity benefits and problems which might be associated."[12]

A total of 32 agencies, or approximately two-thirds of those contacted, replied to the request for information.

2. *Program Evaluations*

a) *The Georgia Restitution Shelter Program:*[13] The Georgia Department of Offender Rehabilitation established four residential restitution shelters in late 1974 and early 1975. Designed for "marginal risk, second offense felons,"[14] the program accepted cases from direct probation sentences or following probation revocation, and from the parole board through direct parole grant or revocation. The four shelters each were reported to have a 20-40 inmate capacity and were intended, *inter alia*, to reduce prison overcrowding in the Georgia system. In addition to its availability to probationers as part of a court sentence, the Georgia program can be distinguished from its Minnesota predecessor (see p. 14) by its less victim/financial orientation; the Georgia program from the outset was more prepared to use symbolic or service restitution.

During the evaluation period - September 1, 1974 through June 30, 1976 - 413 offenders were referred to the program; 80 percent came directly from the courts on probation and the remaining 20 percent were referred by the parole board. Nine of the referred offenders were not placed in the program, 400 were accepted, and although random allocation of offenders had been planned as part of the evaluation,[15] only 4 cases were rejected randomly during the evaluation period. Consequently, the final evaluation presents simply a description of characteristics of program

clients and the performance of 274 offenders for whom at least partial data[16] were available at 18 months from release from the program. Victims are almost totally ignored in this report.

b) *The Restitution in Probation Experiment, Polk County, Iowa:*[17] The Restitution in Probation Experiment (RIPE) was implemented in September 1974 in response to new legislation in Iowa. Known as Senate File 26 [IOWA CODE s. 204 (197)], the new law established a state policy:

> . . . that restitution be made by each violator of the criminal laws to the victims of his criminal activities to the extent that the violator is reasonably able to do so.[18]

As offenders were assigned to the Department of Court Services from the district court of the State's Fifth Judicial District, a determination was made whether restitution under the law was in order. Some judges included restitution in the disposition; in other cases no mention was made in the sentence but the law was applied. Following assignment of restitution cases to a probation officer, or a counselor if the offender was sent to a community residential facility, the project provided for development and administration of restitution plans based upon face-to-face meetings between victims and offenders. Immediate payments could be made for small amounts of restitution, with the court simply being notified; otherwise the project required presentation of a formal plan for judicial approval.

During the evaluation period, from July 1, 1974 to November 1, 1975, a total of 102 program offenders had made restitution or were fulfilling an approved plan; 73 of these offenders were assigned to probation, while the remaining 29 were placed in residential facilities. Once again, however, for both programmatic and evaluation reasons, the information on these few cases is of very questionable value.

From a program standpoint, for example, the project's final report notes that:

> Reportedly, one important motive for the development of the project was to facilitate the expenditure of available LEAA dollars.[19]

and,

> The design and development of the project occurred without broad staff initiative. Neither staff nor administrative and management personnel appeared to possess the strong commitment to project objectives that is imperative for the success of a new program. The principal objective of the Department of Court Services in consenting to operationalize the project appears to have been the acquisition of additional staff.[20]

Similarly, although the original evaluation plan called for the use of an experimental design, the evaluators conclude that:

> Due to the late project implementation and the short-term nature of the evaluation, valid measures of major project effects such as correctional effectiveness (absence of recidivism) or social effectiveness (rehabilitation or social reintegration) were not possible.[21]

Consequently, the findings of the RIPE report are limited mainly to tallies of the number of victims and offenders, with some descriptive information about the process of preparing restitution plans.

c) *The Minnesota Experiment:*[22] The Minnesota Restitution Center was a community corrections residential facility established in 1972 by the state's department of corrections. The Center was the focus of a program designed to provide a diversionary residential alternative to the continued incarceration of selected offenders in the state prison. Within four months of admission to the prison, the program called for eligible inmates to be released on parole to the Center, after working out a restitution contract with the victim and the program staff. Program residents assumed parole status upon entry into the Center, and release depended upon completion of both restitution and parole obligations.

The evaluation design for the experiment involved random allocation of eligible offenders into experimental (Center population) and control (continued incarceration population) groups. During the 22-month evaluation period, from May 1972 through March 1974, a total of 144 prison admissions met the program criteria.[23] Sixty-nine men were assigned to the control group to complete a regular program of incarceration prior to parole or release. Of the 75 experimental offenders, 4 refused the program and 9 others were denied release by the parole board; the remaining 62 offenders were admitted to the Restitution Center.

Offenders were tracked for 24 months after initial release from prison to determine success or failure in the community for the two study groups. Success in the community was defined in terms of returns to prison for parole violations and new felony convictions.

Several limiting factors must be taken into consideration when interpreting any results of this study. First, the program entry sequence of randomization *followed by* volunteering on the part of the offender led to the possibility of bias when four experimental offenders refused to cooperate. Because no comparable drop-out point existed for the control group, the continued comparability of the two groups was placed in question. Similarly, the random assignment was further compromised by the insistence of the parole board that certain eligible offenders be denied entry into the program.[24] Again, no comparable fall-out decisions were made for control cases, introducing the possibility of further selection biases. Both of these threats to the integrity of the evaluation design are compounded by the small number of cases, resulting in a loss of more than 17 percent of the cases that were originally assigned experimental.

One further caveat to be observed with this study concerns the degree to which the experimental and control groups were treated differently in ways other than through the use of restitution. Not only was the level of parole supervision much greater for the experimental group, but as problem cases arose in the Center "the focus of attention tended to turn to more traditional 'treatment' methods while restitution was placed in a secondary role."[25] To the extent that this occurred, the question is raised whether the study tested the effects of restitution or the more dominant "traditional treatment methods."

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3. *Descriptive Accounts of Restitution Practices*

a) *The British Magistrates' Court Study:*[26] The most notable study of restitution published to date was begun in 1974 by the Research Unit of the British Home Office. Based upon a national sample of adult defendants convicted of six selected offenses by magistrates' courts,[27] the study assessed how and to what extent the courts were ordering offenders to pay restitution.[28] The three-stage study was implemented in September 1974 when police throughout England and Wales, during a one-week period, provided information about adult offenders on charges resulting in summary conviction for any of the six selected offenses. Data were submitted for 3,604 such charges on 3,552 convicted offenders.

The second stage of the research, in April 1975, required court clerks to provide data on the results of proceedings relating to the above-mentioned charges. For appropriate cases this included payment information within six months of sentence and any enforcement actions during that period. Usable data were received for 3,240 (91.2 percent) cases in the sample.[29]

The final part of this study occurred in April 1976. At that time court clerks supplied information about subsequent payments and/or enforcement actions, to provide for each offender an 18-month follow-up record from the date of sentence. Offender records were supplemented for analysis at each stage of the study by prior record information and background data of the type found in pre-sentence reports in the United States.[30]

The study focuses upon the extent to which restitution was ordered for different offense and offender classes and considers factors associated with both ordering and paying restitution. In addition to the principal reliance upon univariate analysis, multivariate analytical techniques

are employed to examine, for example, the interactive effects of sentence-type, employment status, and amount of loss when assessing the probability of restitution being ordered.[31]

In addition to the obvious comparability problems between this and American studies, several other factors must be taken into account when considering its findings in relation to the *general* use of restitution as a sentencing option. Besides truncating, by selection, the range of offenses for which restitution might be employed, the study further narrows its scope by excluding from analysis wounding and assault cases. The author suggests that restitution is rarely used in such cases in magistrates' courts because of "the difficulty of assessing the quantum of damages for various injuries" and because information about the effects of injury, such as loss of earnings, might not have been available to the court. The study becomes restricted, therefore, to the *selected property offenses* and, for the most part,"[n]o results are shown for wounding and assaults because the number of compensation orders was very small."[32]

Two final limitations of this study involve its very limited treatment of *victim* information, and its inattention to the major question of whether restitution mitigates or makes no difference to the harshness of other aspects of the offender's sentence. This question assumes particular relevance in the British system because of the new legislation discussed below (p. 20). If restitution is employed much more extensively under the recent law as one might expect, the question of what, if anything, the new sanction displaces in the sentencing hierarchy becomes critical. Questions such as whether offenders are being diverted from incarceration to pay restitution or whether trade-offs are being made against other sanctions are not addressed

in the Home Office study.

b) *The Minnesota Probation Study:*[33] This study attempts to describe the use of restitution as a condition of probation in Minnesota from October 1973 through September 1974. The study is essentially in three parts: a statewide *mail survey* of the clerks of county and district court; examination of *court records* and probation files for a sample of these courts; and *attitude surveys* with judges, probation officers, victims, and offenders.

In the court *survey*, 87 district court clerks were asked to list the number of (felony) offenders who received probation and the number for whom restitution was ordered as a condition of probation during the months of October 1973, and January, April, and July 1974. Eighty-seven county court clerks were asked to provide similar information for juveniles. Responses were received from 68 (78.2 percent) and 69 (79.3 percent) of the clerks for district and county court, respectively.

For the examination of *court records*, counties were randomly stratified by population and 17 (of 87) were selected at random within those strata: 3 metropolitan, 7 categorized as populous outstate counties, and 7 non-populous outstate counties. All cases in the 14 outstate counties and a randomly selected 15 percent sample of cases in the urban counties were then reviewed for the period October 1, 1973 through September 30, 1974. The net result was a sample of 525 cases in which restitution was ordered: 215 juveniles (41.0 percent), 219 misdemeanants(41.7 percent), and 81 district court (felony) offenders (15.4 percent).[34]

Although this part of the research is one of the better organized and presented studies available of restitution in the United States, its findings are subject to a number of very severe limitations. Because of

the small sample size, especially for adult felons, the author pools for analysis adult and juvenile offenders as well as misdemeanor and felony cases. Despite this, however, the resulting cell sizes are often inadequate to assess the significance of even the simplest comparisons. Similarly, although information on the outcome of the probated sentences was collected, no comparisons with non-restitutive groups were drawn. The consequent limitations of this part of the study are well expressed by the author:

> While there is a need to determine the relative outcome effects of restitution as a correctional tool, such an objective remains beyond the scope of this study. Such an inquiry would utilize comparisons between groups, using matched samples or a control group to approximate an experimental design. In contrast the data presented here are purely descriptive, listing the circumstances of cases and outcomes for essentially only one group of subjects, those who were ordered to pay restitution.[35]

As part of his research, Chesney also conducted brief standardized telephone interviews with judges, probation officers, victims, and offenders.[36] From a total of 75 judges and 82 probation officers in the target sample -- all those from the rural strata and 50 percent of those from the three urban counties -- participation rates were 96 percent (72 judges) and 100 percent, respectively. One victim was randomly selected from each of the case files of 172 offenders, who themselves comprised a stratified random sample of probationers from all court jurisdictions in the counties included in the study. One hundred thirty-three victims (77.3 percent) and 71 offenders (41.3 percent) were interviewed.

Judges were asked about the extent to which they used restitution, the factors they considered when deciding whether to order it, and the value they ascribed to it as a correctional tool. Similar questions were asked to rate the "fairness and workability" of restitutive dispositions

and to describe their role in the entire process. The primary questions put to victims and probationers concerned their assessment of the fairness of their restitution, and whether they approved of restitution as an alternative to other forms of punishment.

Because no serious claims are made about the general validity of this exploratory attitudinal survey,[37] the principal factor to be considered when interpreting the results is the structured nature of the interviews. Especially for respondents who have had little experience with restitution, and even for those who have, answers to particular questions about, for example, the rehabilitative effects of restitution can be misleading. An open interview, especially when conducted face-to-face might reveal that almost no respondent had *thought* about, for example, the rehabilitative potential of restitution, much less used it as a primary rationale for an award. However, a specific question about whether restitution could have such an effect might result in a high number of affirmative responses. The focus of the interview in this situation might not reflect the importance attached to any particular factor by a respondent when considering restitution. Accordingly, the author notes that some of the more interesting responses were given *despite* the wording of the question,[38] when respondents refused to be restricted to structured response categories and instead expressed their true preferences.

c) *The British Crown Courts Study:*[39] This study is based upon two samples of major property offenders sentenced by the Crown Court in London in 1972 and 1973, before and after the implementation of the Criminal Justice Act of 1972.[40] The purpose of the research was to test whether restitution orders in Crown Court in London increased after the Act, and to assess factors associated with the judges' decision to make an award.

In this latter respect the study is very similar to the later magistrates' court study described above.

Excluding all inchoate offenses and cases in which property had been totally recovered, the remaining samples consisted of 277 offenders in 1972 and 521 in 1973.[41] After documenting a sizeable increase in restitution between the earlier and later samples, the study report focuses exclusively on the larger second-year sample. For this group of offenders, the authors use techniques similar to those used in the magistrates' study to consider factors associated with restitutive dispositions.

This study shares many of the difficulties encountered in the subsequent magistrates' court research. Little attention is given to victim-related factors, and the analysis is once again limited to a selected group of property offenses. Violent offenses are excluded completely. One further qualification to the results of this study, however, is of particular importance when considering its assessment of factors related to whether restitution is ordered. For, as the authors point out, "the personal characteristics of the offender were not so well documented in the files as certain other aspects of the cases sampled and it might be that such factors carried more weight in court than the available evidence suggests.[42]

C. *Findings*

1. *Incidence of Restitutive and Service Sanctions*

One of the more general findings to have emerged from the above studies was a considerable amount of variation in the incidence of *financial* restitutive sanctions at different stages of the criminal justice process. By far the most usual context in which financial restitution was reported was probation, rather than in an institutional or other correctional setting.[43]

With the exception of the evaluation of the Minnesota Restitution Center, which housed a parole program, all of the remaining evaluative or descriptive studies reviewed were primarily in probation settings. Similarly, of 36 restitution program identified by Hudson, Chesney, and McLagen, 21 (58 percent) involved the use of probation and 7 (19 percent) used restitution in a parole setting; 4 programs operated in work-release and 4 were pre-trial; no programs were identified in which prison inmates made restitution from their earnings.[44]

It is by no means as clear that similar variation exists in the incidence of *service* obligations at different stages of the criminal justice process. However, most of the same programs surveyed indicated that both cash and service were used.[45] Among the programs studied in more detail, service obligations were reported in the Minnesota probation and parole studies, as well as in the Georgia Shelters. Only in the latter two residential programs, however, were both financial and service obligations reported for the same offender. Services to the actual victims of crime as well as the community were reported by an unspecified number of programs surveyed by Hudson, Galaway, and Chesney, and in the Minnesota probation study. In addition, services to the community were found in the Minnesota Center and Georgia Shelters.

Beyond such variation in the absolute incidence of restitution and service in different parts of the system, there were indications of further variation in the proportional use of each sanction from site to site. Chesney, for example, reported that in his 1974 Minnesota study restitution orders occurred in only 24 percent of the adult felony probation dispositions.[46] For only the completed *property* offenses resulting in loss included in the two British studies, the proportion of restitutive awards was much higher; in the Crown Court study, 44 percent of the non-incarcerated offenders were sentenced to pay restitution, while the comparable figure for magistrates' court was 72 percent;

in the latter two studies only 12 and 22 percent of custodial dispositions involved restitution, making sentence type the most predictive factor in the decision whether to impose restitution sanctions.[47]

The proportion of service obligations compared with financial restitution was reported in only three studies. Of the 629 adult and juvenile obligations identified by Chesney, only 37 (6 percent) involved service.[48] In the Minnesota Center, only 9 (14 percent) of the offenders had purely service obligations.[49] Only in the Georgia Restitution Shelters was there a significant proportion of service obligations; of the 400 offenders accepted for that program, 157 (39 percent) were ordered to perform services.[50]

Just as service obligations were few in comparison to financial restitution, so services to the actual victim of an offense were reported rarely in comparison to more general services to the community. Offenders in the Minnesota Center, for example, performed services primarily for human resources agencies,[51] while a similar community service focus was adopted in the Georgia Shelters, where "personalized symbolic restitution" was excluded as a matter of policy.[52] Of 19 restitution programs surveyed in 1976, it was estimated by 9 respondents that community service comprised at least 80 percent of all service restitution.[53] And, in the Minnesota probation study, service was ordered to only 15 actual victims (2 percent) and 22 "symbolic" victims (4 percent), usually the community.[54]

2. *Size of Restitutive and Service Sanctions*

For victims in cases of financial restitution, the prior studies revealed a marked tendency towards the requirement of full rather than partial or token repayment. In the 1976 program survey, of 17 programs

responding to an item concerning full and partial restitution, 13 stated that full restitution was required for more than 80 percent of the newly admitted offenders.[55] The 62 residents of the Minnesota Restitution Center were *all* required to make complete repayment,[56] and only 28 (4 percent) of the probation obligations identified by Chesney involved partial amounts.[57] Similarly, full restitution was reported in the British magistrates' study for all but 75 (12 percent) of the cases in which any restitution was ordered.[58]

In the case of service obligations, the emphasis upon full repayment was less clear. Although services could theoretically be equated with actual losses by employing, for example, a wage-rate formula for the hours to be completed, previous studies have included little detail about such operational policies. In the Minnesota Center, for example, it was not made clear how the policy of full repayment was operationalized in service cases that arose because "the victim suffered no out-of-pocket losses,"[59] nor was it evident from the Georgia study whether a similar policy existed in those cases in which service was used "because of the offenders' economic circumstances."[60]

Examination of specific amounts of restitution reported in prior research showed them mostly to be moderate, with no clearly discrepant findings from one study to the next. Chesney reported a mean restitutive probation condition of $167, the largest amount being $10,000.[61] In the Minnesota Restitution Center, 44 (83 percent) of the 53 offenders ordered to make financial restitution had obligations of less than $500; 53 percent had restitution obligations of under $200; and only 5 offenders owed more than $1,000 in restitution.[62] Amounts ordered in the British magistrates'

study were also low; only one-fifth of the offenders for whom restitution was ordered had to pay more than £50. Although the average amount ordered was £51.50, over one-half of the offenders ordered to pay restitution owed less than £17.[63] The highest figures appeared in the Iowa probation experiment, in which the average restitution plan called for $681 in restitution, the highest case being for $4,789.[64]

Unfortunately, information on lengths of service was not reported in most studies. For the few cases identified by Chesney, there was a range for community service from 10-48 hours ($\overline{X}$ = 23), and for direct service to victims a range of 10-300 hours ($\overline{X}$ = 152 hours).[65]

3. *Relationship of Reported Losses to the Imposition of Restitutive and Service Sanctions*

In the only study that gave details of the unrecovered losses of victims at the time restitution was considered, Softley found a high proportion of cases in which there was practically no loss or damage. For the sample of 2,872 offenders convicted of property offenses, 71 percent of theft cases, 51 percent of burglary cases, 26 percent of cases of obtaining property by deception, and 6 percent of criminal damage cases resulted in no loss or very trivial amounts (<25 p.). Only 1 percent of all offenses resulted in loss or damage greater than £400.[66] Nevertheless, as one might expect from the incidence of selective and partial use of restitution illustrated above, the overall level of restitutive obligations in the studies reviewed was considerably lower than the losses reported.

Comparison of property losses with the restitution amounts in Softley's study showed that the amounts offenders were ordered to pay

covered approximately one-half of the total loss. For criminal damage, offenders were ordered to pay approximately 69 percent of the total value of the damage reported by the police to be outstanding at the time of conviction; corresponding figures for theft, deception, and burglary were 59 percent, 50 percent, and 45 percent of the loss, respectively.[67] The discrepancy was due to the incidence of partial restitution in 12 percent of cases in which it was ordered, and to the non-imposition of restitution in approximately 30 percent of all property offenses resulting in loss.[68]

Although the contribution of partial or non-imposition of restitution to the overall discrepancy was not reported, it is noteworthy that whereas partial restitution occurred in relatively few restitution *cases* (12 percent), it may have accounted for a sizeable reduction in the overall *amount* imposed; more use was made of partial restitution as the value of loss or damage increased, rising from 5 percent of offenders in the 25p - £20 loss category to 41 percent in the £50-£400 group.[69] In addition, although only a slight correlation appeared between the decision to order restitution and the value of loss or damage ($r = .10$, $p < .001$), a stronger positive correlation was discovered between the value of unrecovered losses and the use of partial restitution ($r = .27$, $p < .001$).[70]

Similar results were reported in the Minnesota probation study. Although only 4 percent of the 629 restitutive obligations involved partial restitution, their impact was a discrepancy of 22 percent between the mean amount of restitution ordered and the mean loss amount. Whereas victims' losses in these restitutive cases ranged from $0 - $13,000, with a mean of $214, restitution ranged from $1-$10,000 with a mean of $167 or 78 percent of the corresponding loss figure.[71]

4. *Offense Characteristics*

Despite the wide variety of criminal justice settings in which financial and service obligations have been observed, there was a striking

homogeneity in the types of offense for which either has been required. First, there has been an almost exclusive focus upon *crimes with victims*. Victimless crimes were not included in the two British studies,[72] and they were excluded as a matter of policy from the Minnesota Restitution Center program.[73] In the Minnesota probation study, only one percent of the offenses for which monetary or service repayment was required could have been victimless crimes.[74] In the Georgia program all offenses involved victims, with the possible exception that 5 percent of program placements had committed "drug offenses."[75] Lastly, it seems likely that because of the financial focus of the Iowa program, and because the state law provides for restitution for "any person who has suffered pecuniary damages as a result of the criminal's activities," victimless crimes would not have been included.[76]

Second, *offenses against property* have been the crimes for which restitution has been ordered most frequently. The Minnesota Center restricted its intake exclusively to property offenses,[77] and the probation study in the same state found that property offenses accounted for 96 percent of all offenders sampled who were ordered to fulfill service or monetary obligations.[78] An equally low incidence of non-property offenses resulting in restitution was found in the British magistrates' study, in which woundings and assaults, the only personal offenses, accounted for less than four percent of the convictions for which restitution was required.[79] Approximately three-quarters of the offenders in both the Georgia and Iowa programs were reported to have committed property offenses (77 percent), whereas personal offenses accounted for only 18 percent and 5 percent, respectively.[80]

In addition to the dominance of property offenses and crimes with victims, previous studies have also reported that imposition of restitutive and service sanctions is most frequent for less serious offenses. Chesney's sample of Minnesota probation cases ordered to satisfy service or restitutive conditions contained only 81 cases (15 percent) from felony court, as compared with the much larger number of 219 misdemeanants (42 percent).[81] Even in the Minnesota Restitution Center, despite the fact that the offenders were accepted from prison, program criteria excluded all crimes of violence and offenses involving possession of a gun or knife.[82] However, the Iowa probation experiment dealt exclusively with felonies,[83] and the Georgia residential shelters involved a high proportion of them (87 percent); indication of the actual severity of these felonies was not reported.

In practically every study, the incidence of restitutive or service sanctions was accounted for almost entirely by property damage or trespass (most often in the course of burglary or attempted burglary), thefts, burglaries, and forgeries. Burglary and theft-related offenses were encountered most frequently, followed in most studies by forgeries. Comparisons across programs were made difficult by differing schemes for collasping specific offenses into general categories, and by the unique titles of some offenses.

If one turns from the absolute incidence of restitution *across* offenses to the proportionate use *within* categories of crime, one finds very little information presented in prior research. So few cases of victimless crimes were reported, for example, as to prevent consideration

of variation within that class.[85] Even comparing property and personal offenses, the studies offered little indication of the proportionate use of restitutive sanctions within each category. In the Iowa probation study, however, among offenders placed on probation, restitution seemed more likely to be invoked against property offenders than against those convicted of offenses against persons; whereas property offenses accounted for less than half (44 percent) of the conviction offenses among all probation clients, they represented more than three-quarters (77 percent) of the offenses for which restitution plans were developed.[86] In the only other study to report relevant findings on this question, Softley found that a much lower proportion of offenders convicted of wounding or assault were ordered to pay restitution than in any of the property offenses studied; although only 9 percent of offenders in the personal offense category of wounding or assault incurred restitutive obligations, corresponding figures for property crimes ranged from 58 percent for thefts to 90 percent for offenders convicted of criminal damage.[87] Comparable findings were not reported in any of the U.S. studies.

Within specific offenses in the British Magistrates' study the proportion of non-incarcerated offenders ordered to pay restitution within each property offense was generally comparable (burglary, 66 percent; deception, 63 percent; theft, 58 percent) with the glaring exception of criminal damage cases, for which 90 percent were so ordered.[88] Once again, comparable findings were not present in any of the U.S. studies reviewed.

Beyond the above findings concerning types of offenses and the incidence of restitutive and service sanctions, very little information

was found relating *amounts* of loss or obligations to those offenses. With the exception of the considerable variation from offense to offense discussed above in the British magistrates' study,[89] the remaining studies reported little or no offense-specific information on losses, or on the amounts of restitution or service imposed.

5. *Victim Characteristics*

The most general finding to emerge from review of prior restitution studies was considerable variation in the *operational definition* of victims from one program to the next.[90] A major difference was exemplified by the definitions adopted in the Minnesota parole program and in the Iowa program, which was more representative of the other probation programs reviewed. The study of the Minnesota Restitution Center, pointed out that the staff dealt only with "officially defined" victims and added:

> In fact, however, it should be noted that "officially defined" victims bear no necessary relationship to actual victims. There were a large number of other, actual, but not official victims directly associated with the 62 offenders released to the Center. Plea negotiations and lack of sufficient evidence will, in most cases account for the missing, actual victims.[91]

Unfortunately, no information about the number or characteristics of these missing victims was given.

In contrast to the exclusion of victims of plea bargaining and uncharged offenses by the Minnesota program, the Iowa probation study defined the victim more broadly, to include "*any* person who has suffered pecuniary damages as a result of the defendant's criminal activities."[92] As the authors noted: "Under the law, it is possible to require offenders

to make restitution for offenses of which they have not been convicted."[93] Victims of non-conviction offenses were also included among the restitutive and/or service sanctions in the Minnesota probation study, as well as in the British studies. Victim information was not reported in the Georgia study.

The only *documented* incidence of restitution for "bargained victims" was in the British magistrates' study; in the 1974 sample of 854 property offenders ordered to pay restitution, 81 offenders (10 percent) were ordered to pay restitution for "offenses taken into consideration."[94]

In addition to the dearth of information in prior research about the incidence of restitution for victims who were not connected with charges for which the offender was convicted, a similar paucity was evident concerning restitution to recipients who were not *direct* victims at all. Although fewer of the legislators polled by Hudson, Chesney, and McLagen favored restitution to the *insurance companies* of crime victims, for example, than to individual victims and small business firms,[95] actual experiences in this regard have gone unreported. Other possible "third party" victims, such as survivors of deceased victims, have also not been discussed in previous studies.

More specific focus upon the types of victims involved in restitutive dispositions revealed an overwhelming preponderance of organizational victims such as businesses and governmental agencies. In the Minnesota probation study, 179 (28 percent) of the victims of offenses for which restitution or service was required were individuals, 329 (52 percent) were businesses, and 75 (12 percent) were other governmental and non-profit agencies.[96] The highest proportion of individual victims reported

was among the 211 victims identified in the Minnesota Center program, where 79 victims (36 percent) were individuals, 133 (60 percent) were businesses, and 9 (5 percent) were other organizations such as schools and hospitals.[97] The lowest proportion of individual victims occurred in the Iowa study, in which only 38 (10 percent) of the 374 victims were individuals and the remaining 336 (90 percent) were classed as businesses.[98] Lastly, although directly comparable figures were not reported in the British studies, in the magistrates' courts 886 (31 percent) of the offenders convicted of property offenses committed offenses against individuals; 1,487 (52 percent) against commercial enterprises; and 397 (14 percent) against public bodies.[99]

The proportional use of restitution or service within victim categories has received little research attention. In the Minnesota Center, for example, although bargained victims were excluded, the actual effect upon the number of victims eligible for reimbursement was not reported. As we have seen in the British magistrates' study, although only 10 percent of the offenders were ordered to pay restitution for "offenses taken into consideration," the number of victims in this category was not reported. In the same study, however, examination of factors related to the imposition of restitution showed that individuals were slightly, though not significantly, more likely than corporate victims to be awarded restitution.[100] Whether further variation in the decision to impose restitution or service could be explained by reference to other specific victim types, such as insurance companies versus direct victims, is a question that has not been discussed in previous studies. One possible explanation of the low incidence of restitution in assault and wounding cases in Britain,[101] however, may be that readily quantifiable expenses such as medical bills are covered by

the National Health System; corresponding coverage in the U.S. would involve private insurance, which could increase the incidence of restitution, if insurance companies were defined as victims.

Examination of amounts of loss and corresponding restitution or service obligations in relation to victim characteristics was not generally possible from previous studies. The only concrete indication of the effect of expanding the definition of victims by including bargained offenses was in Softley's study; although the 81 offenders ordered to pay restitution for offenses "taken into consideration" only represented 10 percent of all offenders ordered to pay, the £7,163 in restitution ordered for these offenses was 17 percent of the total amount ordered for all the property offenses included.[102] Additionally, the Iowa Study reported that restitution for non-conviction offenses occurred most often in cases involving bad checks:

> While restitution is required for all of the known checks outstanding, convictions are seldom obtained for each separate offense.[103]

When this is taken together with a finding in the same study that one forgery case involved 90 victims,[104] the potential cost-impact of broadening the definition of victim in this way becomes apparent.

The effect upon restitution amounts from including third parties, such as insurance companies, was not addressed in previous studies; nor were loss or restitutive or service figures reported within other categories of victims such as individuals versus organizations. In addition, only the study of the Minnesota Center provided such a breakdown by offense. Whereas corporate victims were spread rather evenly across the three main offenses of burglary (28 percent), theft (27 percent), and forgery (34 percent),

individual victims were primarily associated with burglaries (51 percent), vehicle theft (18 percent), and other theft (12 percent).[105] No further victim breakdowns were reported.

6. *Offender Characteristics*

When one turns to the types of offenders being required to make restitution, comparisons are rendered difficult because of the extremely sketchy and varied reporting of offenders' characteristics in most of the studies reviewed. To the very limited extent that comparisons can be made, restitutive and service obligations were incurred, for the most part, by young, white, unmarried males with quite short prior records. The mean age, for example, of the adult offenders in the Minnesota probation study was 26 years,[106] which matches very closely the mean of 24 years for the Georgia Restitution Shelter clients, most of whom were also probationers.[107] In the latter program, 313 offenders (78 percent) were 27 years old or less,[108] and in the Minnesota Restitution Center 37 offenders (60 percent) were 30 years or under.[109]

The majority of offenders required to make restitution in studies in which race is reported were white, ranging from 56.8 percent of the Georgia offenders[110] to fully 92 percent of the probationers in Chesney's Minnesota study.[111] The samples were most homogeneous with respect to sex; Chesney reports a high percentage of males (82 percent) in his sample,[112] and the Minnesota Restitution Center and the Georgia Shelters were restricted exclusively to male offenders.

Offenders in the different studies are less similar in terms of marital status; 69 percent of the Minnesota adult probation sample were single,[113] compared with 54 percent in Georgia,[114] and only 26 percent in

the Minnesota Restitution Center.[115] In the latter program, however, another 24 offenders (29 percent) were separated, divorced, or living in a "non-legal association," and only 22 offenders (36 percent) were married.[116] Similarly, in the Georgia study, 23 percent of the referrals to the Restitution Shelter were married, and the remaining 23 percent reported being divorced, separated, or "other."[117]

Employment and income levels reported in the restitution studies revealed some surprises. A majority of offenders were employed at the time restitution was imposed in both of the studies reporting such information.[118] Similarly, although income levels were generally quite low, Softley reports that 59 percent of the magistrates' court offenders with very low incomes (<£10 per week) were nevertheless ordered to pay restitution.[119]

The prior criminal records of offenders ordered to pay restitution in these studies tended not to be extensive. Chesney reported that most offenders for whom information was available had had prior contact with the court, but that few had ever been convicted of a felony.[120] Softley grouped all types of prior convictions in his study of British magistrates' courts, with the largest proportion of offenders (39 percent) having no priors at all, 28 percent having 1-2 prior convictions, and 31 percent having 3 or more.[121] As might be expected, the parolees in the Minnesota Restitution Center had rather more serious records; 19 percent had 3 or more *felony* convictions prior to the commitment offense for which restitution was required and 44 percent had 1 to 2 previous felony convictions. Even here, however, more than one-third of the offenders (37 percent) had no felony convictions prior to their present commitment.[122]

Whether offender selection was based upon formal program policies, as in the Minnesota Center, or performed by criminal justice decision-makers in routine sentencing, there was little indication in most of the previous studies of the weight given to different offender characteristics in deciding upon a restitutive or service sanction. The only concrete indications came from the two British studies.

In the property offenses of theft, burglary, and forgery in the Crown Courts study, for example, type of sentence (non-custodial versus custodial) and value of unrecovered losses accounted together for 20 percent of the variance in the decision to impose restitution; all offender factors including age, income, employment, marital status, and dependent children accounted for only another 4 percent.[123]

In the study of magistrates' courts, although ordering restitution was related to the income of the offender, the correlation was quite weak ($r = .12$, $p < .001$); 59 percent of persons who were receiving no more than £10 a week were ordered to pay restitution, compared with 77 percent who were receiving more than £30 a week.[124] Similar findings were reported in the Crown Courts' study, in which 20 percent of offenders who were receiving £10 or less were ordered to pay restitution, compared with twice that proportion (40 percent) of offenders receiving £30 or more.[125]

Examination of the offender's employment status revealed results similar to those reported for income. In magistrates' courts, employment and the imposition of restitution were correlated ($r = .18$, $p < .001$), but more than half (59 percent) of the unemployed offenders were ordered to pay restitution, and almost a quarter (24 percent) of employed offenders were not ordered to do so.[126] In the Crown Courts, 31.3 percent of the

offenders known to be employed were ordered to pay restitution, compared with 21.4 percent of those not employed.[127]

Both of the above findings clash with the reported practices of the judges in Chesney's study in Minnesota; 40 of the 72 judges interviewed (56 percent) *reported* that the offender's ability to pay was the most important factor when determining whether restitution should be ordered.[128] Despite the apparent unimportance of employment and income factors in the decision to impose restitution in the British studies, however, in the Georgia program specific provision was made to use service rather than financial restitution in cases in which monetary repayment might have been difficult "because of the offenders' economic circumstances."[129]

If offender characteristics have not been shown to have much impact upon the decision to impose restitution or service,[130] there is even less evidence that they have influenced the amounts ordered. Probably the most relevant finding came from Softley's analysis of the extent of restitution (full versus partial) by offenders' incomes, showing no clear relationship even where loss or damage was quite high.[131]

More detailed differential analyses of restitution in relation to offender characteristics by offense and victim factors have not been reported in previous studies. Questions remain unaddressed concerning the frequency of offenses involving multiple offenders, and the ways in which restitution has been allocated in such instances. Similarly, questions about victim-offender relationships remain largely unanswered beyond simple victim-offender ratios. In the Minnesota Restitution Center, 211 victims were identified for 62 offenders, for a victim-offender ratio of 3.6 to 1.[132] An almost identical ratio of 3.7 to 1 was reported in the Iowa probation

study, in which 374 victims and 102 offenders were involved.[133] Chesney, however, found a much lower ratio of 1.2 to 1, with 629 victims for the 525 adult and juvenile offenders in his sample.[134]

Although such ratios may have some planning utility for estimating caseload size and time needed in a restitution program for loss assessments, they may be a misleading representation of the average number of restitutive obligations per offender. In the Iowa study, for example, despite the ratio of 3.7 victims to 1 offender, a substantial majority of offenders had only 1 victim. Of the 102 cases studied, 74 (72.5 percent) involved only a single victim, and, of the remaining 28 multiple-victim cases (27.5 percent), one particular forgery case accounted for 90 victims. The 74 single-victim cases involved 20 individuals and 54 businesses, whereas the 28 multiple-victim cases involved 18 individuals and fully 282 businesses.[135] Finally, comparison of the victim/offender ratios across programs is hazardous because of the varying definitions of victim discussed above.

7. *Processing Characteristics*

Procedures for determining loss are not well documented in most of the studies reviewed. Police estimates were relied upon in the British studies, and they were used in conjunction with probation estimates in the Georgia Restitution Shelters and for the vast majority of cases in the Minnesota probation study. However, in the 133 victim interviews conducted in connection with the latter study, 7 cases (5.3 percent) reported *face-to-face negotiations* with offenders.[136]

Of the 19 programs surveyed in 1976, only 5 "usually" involved offender-victim agreements, 9 stated that victim-offender involvement occurred "occasionally," and 5 reported that it never occurred.[137] In both

the Minnesota Restitution Center and the Iowa probation experiment there was programmatic emphasis upon involving the victim in loss determinations. In the Minnesota program, victims were generally found willing to meet with offenders, although during the first year of program operation 13 of 44 victims either refused to participate or could not be contacted.[138] In the Iowa program a vast majority of victims did not participate in direct negotiations with their offenders. Of the 374 victims in the study, only 32 (8.6 percent) had personal meetings with the offender and another 46 (12,3 percent) dealt with the offender through a representative (usually the employee of a victimized business). Compared with these 78 victims (20.8 percent) with whom the offender had some form of contact, 128 victims (34.2 percent) had no involvement at all, 108 (28.9 percent) were contacted by telephone only, and 60 (16.0 percent) dealt with program staff through an employee or other representative.

If one examines the use of victim-offender negotiations from the offender's perspective, the results look quite different. For example, although only 21 percent of all victims in the Iowa study were involved in face-to-face meetings with offenders, almost one-half of all offenders participated in such meetings; the discrepancy was due to a number of offenses involving multiple victims. Of the 102 offenders in the study, 20 (19.6 percent) met with the victim directly while another 125 (34.5 percent) met with representatives of victims. Viewed from this angle, only 15 cases (14.7 percent) were handled with no victim involvement, 22 (21.6 percent) were resolved through telephone contact with the victim, and 20 offenders (19.6 percent) had restitution determined by correctional agents in consultation with representatives of victims.[139] In total, 45 offenders participated in 78 meetings; 65 meetings (83 percent) were with business

victims and 13 (17 percent) were with individuals. Because some of the businesses were small individual proprietorships, 32 of the meetings were considered to be with the victim in person, while 46 involved representatives of the victim.[140]

Except for the few reported cases of victim-offender negotiation, the remaining procedures for determining loss and damage have not been clearly specified in previous studies. Whether victims or offenders were contacted at all, whether any victim culpability was taken into consideration, whether documentation of losses was required, and countless other questions of processing detail were not spoken to in the studies reviewed.

Similarly, previous research reported almost no information about the details of supervising restitutive or service obligations. Practices and policies concerning collection and disbursement of monies were not described, nor were comparable tasks for community service supervision.

D. *Summary*

The foregoing review of the findings of selected previous research into restitution demonstrates quite clearly that the practice of restitution is rapidly outgrowing the accumulation of knowledge about its purposes, its use, and its effects. Most of the laws and programs dealing with restitution were in the context of probation, where by far the dominant type of restitution seemed to involve cash rather than any form of service repayment. In the few cases in which service restitution was employed, community service was the most common type, with direct service to the victim being rare. Full rather than partial restitution was used in the vast majority of cases, and the amounts ordered were usually quite moderate.

Procedures for determining loss are not clearly documented in the studies reviewed. Very few programs utilized any form of negotiation between the offender and the victim; instead most programs have relied upon loss assessment by a third party, usually the police or a correctional agent, in contact with the victim. The studies show that whatever procedure was employed for loss assessment, investigations for most offenders involved only a single victim, but where multiple victims were involved the number was as high as 90 in one study.

The definition of victim was seen to vary in the studies reviewed, sometimes including only victims of offenses for which the offender was convicted, and sometimes including victims of charges that were never brought or were dropped or reduced through plea bargaining. However defined, the victims in all studies reviewed were mainly corporate entities rather than individuals.

Although comparisons of the characteristics of offenders being required to pay restitution were difficult to draw because of limited information in the prior studies, most tended to be young, white, unmarried males with quite short prior records. In the only two studies reporting employment information, the majority of offenders were employed at the time restitution was imposed. However, a sizeable proportion of unemployed and low income offenders were also ordered to pay restitution in at least one of the studies reviewed.

The types of offense for which restitution was examined in these studies consisted almost entirely of the property offenses of burglary, forgery, theft, and damage. Most offenses dealt with via a restitutive sanction in these studies have also tended to be relatively minor, involving a larger proportion of misdemeanants than felons, and excluding most types of violent crime and victimless crime.

The proportionate use of restitution was seen to vary enormously from offense to offense, although the main study examining factors related to the imposition of restitution concluded that, at least among property offenses, the same factors seemed relevant to all the offenses studied.

Not surprisingly the factor most related to whether restitution was imposed was the type of sentence; relatively few incarcerated offenders were ordered to pay restitution. Other factors positively related to whether restitution was imposed included the amount of loss, the offender's income, and his employment status. Using all these factors, however, the only two studies to have applied multivariate techniques to try to explain the imposition of restitution have accounted for only very small amounts of the variation in decisions whether or not to impose it.

From the very limited information available about the outcome of restitutive dispositions, most of the restitutive obligations in the studies reviewed had been met within two years. A sizeable proportion of offenders in each study, however, had not paid within two years; no information is given in any of the studies about the relative frequency of failure to make restitution versus other failures among the offenders being revoked from probation or parole.

Factors related to failure to pay restitution range from the amounts of loss to the length of the offender's prior record. Weak positive relationships, on the other hand, were found between the completion of restitution and the offender's employment at the time of disposition, as well as his occupational level and income. In no case was a strong relationship between restitutive outcome and any other factor found consistently across the different studies. Procedures for monitoring and

enforcing restitutive payments are almost totally ignored in prior research.

Finally, there is almost no indication, other than the perceptions of some criminal justice agents, that restitution has any effect on the offender's or the victim's subsequent attitudes or behavior. Nevertheless, a majority of all respondents whose attitudes have been assessed favored the use of restitution and thought its imposition had been fair in their jurisdiction or case. There is some indication, however, that a sizeable minority of victims, offenders, and criminal justice agents were dissatisfied with some aspects of restitution. Many of the offenders interviewed by Chesney, for example, thought that their restitution was too harsh, while many of the victims would have preferred to see more punitive action taken in addition to restitution. Similarly, most probation officers in ~~this~~ Chesney's study indicated that they would prefer not to have to collect restitution, and 13 (18.1 percent) of the judges interviewed said they thought in-kind restitution would be unconstitutional forced labor.

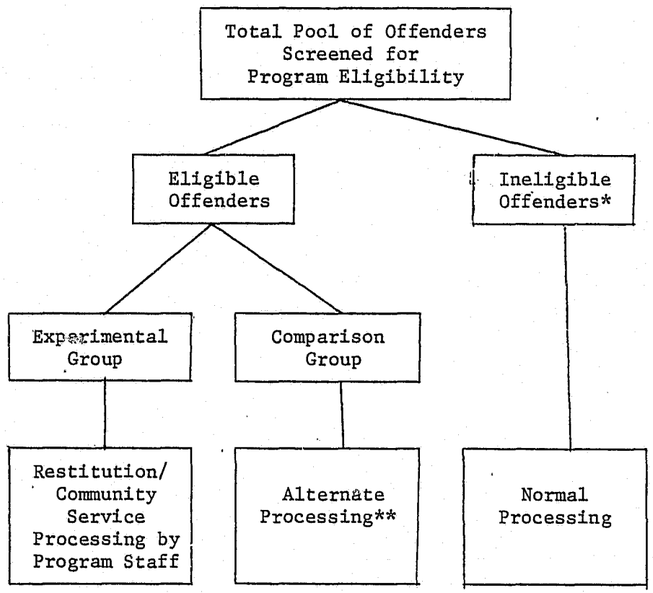
V. *Research Procedures*

A. *Research Design*

The evaluation designs for the six sites have a number of features in common. The overall design that shows this relative consistency in format across sites is presented in Chart A.

Chart A

General Evaluation Design



*Examples of reasons for estimated ineligibility: offense too serious, prior record too long, offense too trivial, considerable negative publicity, offender characteristics (psychological disturbance, heavy narcotics or alcohol use).

**Alternate processing was usually normal processing by criminal justice officials other than program staff; in some programs an alternate type of processing by program staff was employed.

In their most general form, the procedures used were:

First, persons eligible for participation in the program were defined in such a way as to differentiate them as clearly as possible from the total population of offenders. Selection criteria, formulated at each site, were applied to screen out offenders who were in inappropriate risk categories, beyond a program's jurisdiction, or otherwise unsuitable for a program's objectives. Criteria ranged from specified offense exclusions to voluntarism by offenders and more probabilistic assessments of risk by program staff or other criminal justice decision-makers. Screening procedures were monitored routinely by on-site evaluation personnel and periodically by national evaluation staff; the composition of eligible and ineligible groups was examined to confirm that the two groups actually differed along the specified dimensions. Offenders screened out as being ineligible were unaffected by remaining design procedures.

A second stage of the design involved the random allocation of offenders meeting a program's selection criteria into two subgroups: an experimental group processed toward a restitutive or community service sanction by the program, and a comparison group that was handled via an alternate processing route. As long as each group contained a sufficient number to assure the reliability of statistical techniques to be employed, the numbers in the subgroups were not required to be equal. Where it was perceived to be advantageous from the program administrator's perspective at each site, the size of the restitution (experimental) group was maximized.

The advantage of random allocation, of course, is to increase confidence that any differences discovered between the two groups at a later stage can be attributed to the experimental treatment (restitution), rather than to any initial differences between the groups. To assure faithful adherence to this crucial aspect of the evaluation design, on-site evaluation staff supervised and monitored the mechanics of randomization.[1]

A particular advantage of the design at this point is that the random assignment of offenders also results in random groups of victims. Consequently, inferences about comparisons and experimentals can be made for both offenders and victims with equal confidence that no selection bias has intervened.

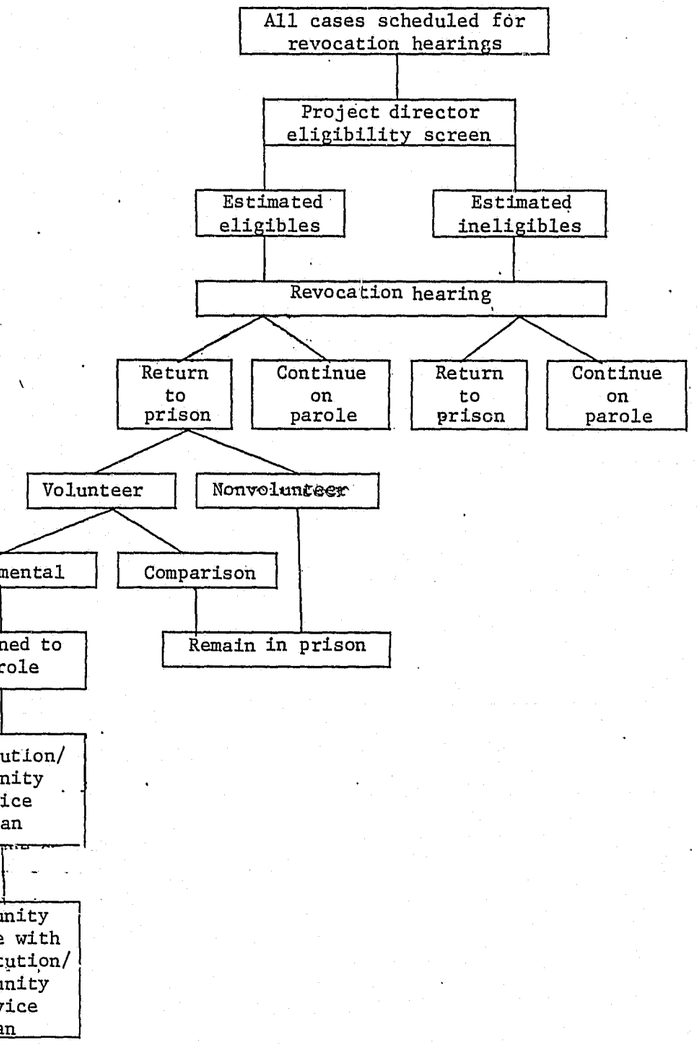
Following random allocation, the remaining steps in the design involve following offenders in the experimental and comparison groups through further processing stages of the system. For offenders released from the system during the course of the evaluation, records are checked for subsequent contacts with criminal justice authorities.

Variations on the general design were necessary to fit the different processing patterns at each site:

California Design: To identify potentially eligible cases, the program director screened files of cases scheduled for revocation-of-parole hearings, using a set of criteria agreed to by the parole board (see Chart B). Final eligibility depended on the offender being given a return-to-prison order by the board. Individuals declared eligible at this latter stage were read a short description of the program and asked whether or not

Chart B

Site-Specific Evaluation Design -- California



they wished to volunteer. Volunteers were randomly assigned to experimental and comparison conditions using a 3:1 ratio. The experimental subjects were returned to parole and a restitution/community service plan was developed; the comparison subjects were returned to prison.

Discussion: California corrections has a history of using random assignment procedures in experimental projects, and the design operated precisely as planned. Unfortunately, the program only operated for a short time and processed only 33 offenders (23 E's and 10 C's) before being terminated in December 1977. Termination came after a determination that the number of cases being designated as eligible for the project was too low to ensure the feasibility of both the program and the evaluation.

Primary responsibility for the program's difficulties rests with the enactment of determinate sentencing legislation on July 1, 1977; known as Senate Bill 42, the new law significantly altered the procedures governing the revocation process. Under the new legislation the maximum period of return-to-prison for revocation was six months. In addition, alterations in administrative procedures governing the revocation process resulted in fewer and fewer cases ultimately reaching the board. In the months immediately prior to enactment of the new legislation, the Adult Authority began to anticipate that a major impact of the new law would be to shorten the terms of many offenders under jurisdiction of the Department, hastening their release from parole or reducing the time available to serve if revoked. A great many cases received early discharges or were not revoked in anticipation

of their impending release from custody. When the legislation took effect, it decreased the number of offenders being released to parole generally and also decreased the numbers being ordered to return to prison.

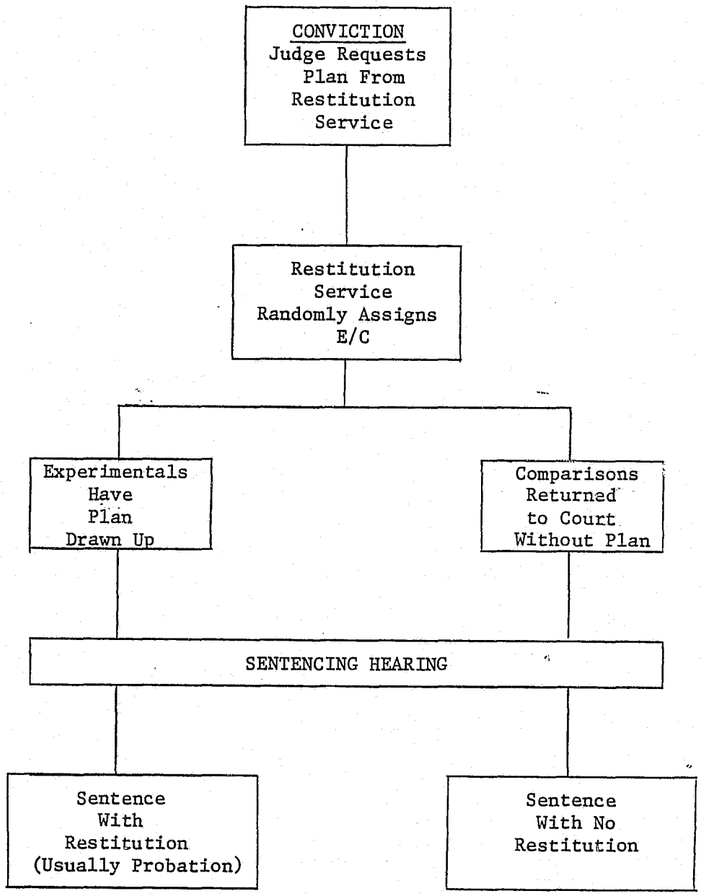
Finally, fewer cases than anticipated became available to the program because the program director interpreted the offender eligibility criteria very conservatively. Under pressure from the Parole Division, cases involving potential aggression were added to the list of excluded behavior already agreed to by the Paroling Authorities; this added restriction on eligibility, when coupled with the impact of S.B. 42, sealed the fate of the program.

Connecticut Design: As originally planned, judges of the Superior (felony) Court would make a formal request to the Restitution Service for a plan of restitution. Requests would be made at the time of conviction for offenders for whom the judges considered that a restitutive disposition might be possible.

Upon receipt of judicial requests, the program clerk would randomly assign cases into experimental and comparison groups on a 3:1 ratio. Comparison cases would be returned for sentencing without a restitution plan, with the expectation that without the program's service and in particular without documentation of requisite loss amounts, judges would sentence as they normally had done prior to the program.[2] Experimental cases would be subjected to loss investigation and plan preparation by program staff. The results of program activity would then be presented to the judge for possible incorporation into the ultimate sentence (see Chart C).

Chart C

Site-Specific Evaluation Design -- Connecticut



Due to inadequate program planning and implementation, caseflow from Superior Court proved to be almost nonexistent. Accordingly, a shift in program emphasis to the Common Pleas (misdemeanor) Court was executed, matched by a supplementary evaluation design. While still allowing judges in both courts the option of the referral procedure just described, the supplementary design also involved the participation of prosecuting attorneys. Under this approach, the prosecutor contacted the program early in the process to inquire whether a particular case could be handled by the program if referred by the judge.[3] Thus, the prosecutor knew in advance which cases would not have accompanying restitution plans prepared by the program. The prosecutor could then actively pursue restitution and recommend referral to the judge only for experimental cases.

Discussion: In practice, all of the procedures outlined above were rarely followed. Due in large part to the program's very limited utility to the prosecutor, only a handful of cases were processed via the prosecutor's inquiry route. In addition, of 188 referrals, over half (97) were made not after *conviction,* as planned, but after *sentencing,* when restitution had already been imposed. Because of this deviation from the program plan, these latter cases were not subject to random allocation and are of very limited utility for evaluation purposes due to the lack of any comparison group. Of the 62 cases that were randomly assigned, only 38 (31 E's and 7 C's) received dispositions consistent with design expectations.

The high incidence of cases not falling within program procedures or not receiving dispositions that were consistent with the design can be attributed to three related factors. First, the program director and planning staff were opposed to the use of an experimental design.

Second, and as a consequence, it is extremely doubtful that the design, its expectations, and its purposes were ever presented objectively to the relevant decision-makers by program staff. Also, by acquiescing in the unplanned procedures and program role changes imposed by the judges, the program director so changed the nature of the program as to render many of the program's objectives unattainable and the evaluation plans unworkable.

Finally, although the program director and some staff members were hired by February 1977, very little progress was made towards acquiring a program caseload until the Fall of 1977. Because of the delays in starting the program, and because of continual resistance by staff personnel to the implementation of the design, there was no opportunity to adapt the design to the altered operations of the program before it was terminated in June 1978.[4]

Georgia Design: Two designs were required in Georgia to accommodate differences in case processing patterns in the four judicial circuits in which the program operated (see Charts D-1 and D-2). Two of the circuits used a "pre-plea" design and two a "post-plea" design.

In the pre-plea circuits, cases scheduled for arraignment were screened by program staff and the district attorney on a variety of criteria, including present offense, residence, and prior record. The nature of the program was explained by staff to all offenders found eligible, and the offender was asked to volunteer. Volunteering took the form of a waiver by the offender allowing the release of information needed to conduct a restitution investigation prior to conviction. Ineligible offenders and non-volunteers were processed by the court, following "normal" procedures.

Chart D-1

Site-Specific Evaluation Design -- Georgia Pre-Plea Format
(Macon and Waycross Circuits)

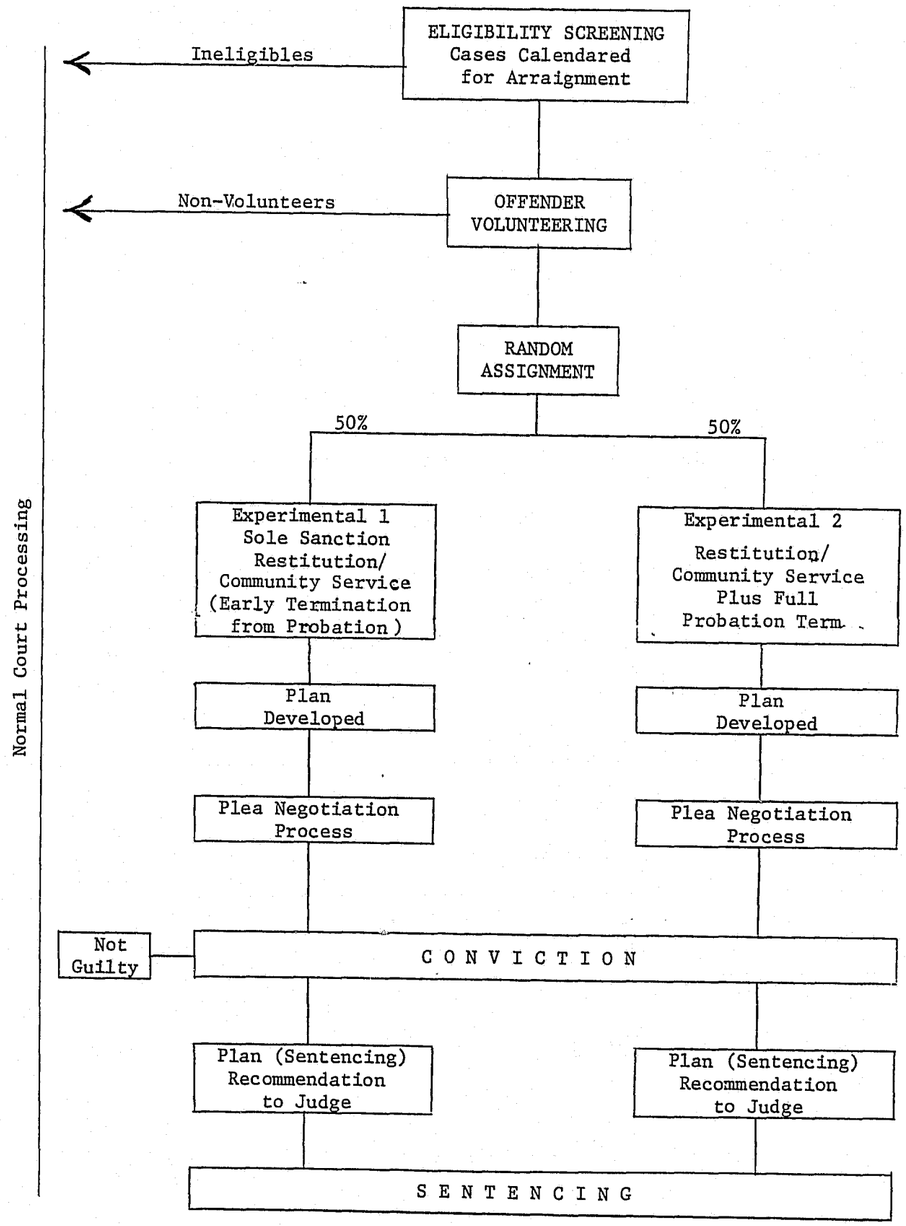
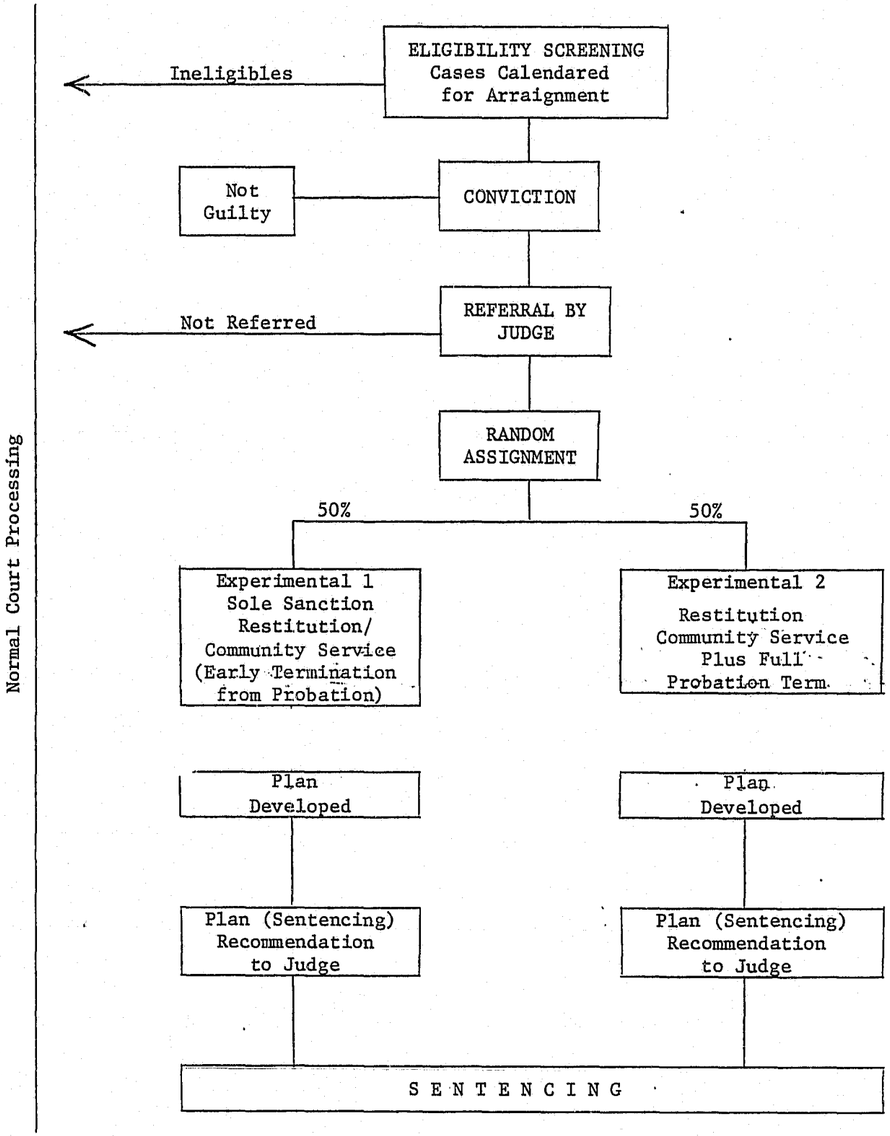


Chart D-2

Site-Specific Evaluation Design -- Georgia Post-Plea Format
(Alcovy and Houston Circuits)



Volunteers were randomly assigned on a 1:1 ratio to the program's two experimental conditions. Condition 1 involved "sole sanction" restitution/community service in which probation supervision was terminated upon completion of court-ordered financial obligations (e.g., restitution, fines, and court costs). Condition 2 presented the "traditional" processing of the court: restitution/community service with a full probation term. Aside from this single difference, offenders in both experimental conditions were processed identically through conviction and sentencing.

Based upon the staff investigation of losses and the offender's payment ability, a restitution/community service plan was developed. The plan specified an amount of restitution/community service and the type and schedule of payments. It was shared with the offender and the prosecutor and was utilized by them in the plea negotiation process. The plan was thus presented to the judge as a part of a sentencing recommendation.

In the post-plea circuits, cases were generally not available sufficiently far in advance of disposition to allow for a comprehensive restitution investigation before conviction. Based on the program criteria, the judge referred eligible cases to the program following conviction. After referral, staff randomly assigned offenders to the two experimental conditions and developed an appropriate plan prior to sentencing. Because of time constraints, investigations in these circuits were more cursory than in the circuits using the pre-plea design, and plans were less detailed. Plan recommendations were generally presented directly to the judge by staff, bypassing the prosecutor. In addition, because the investigation was conducted following conviction, voluntariness was not an issue. Criteria for screening and the random assignment

ratio and process were similar in both pre- and post-plea circuits.

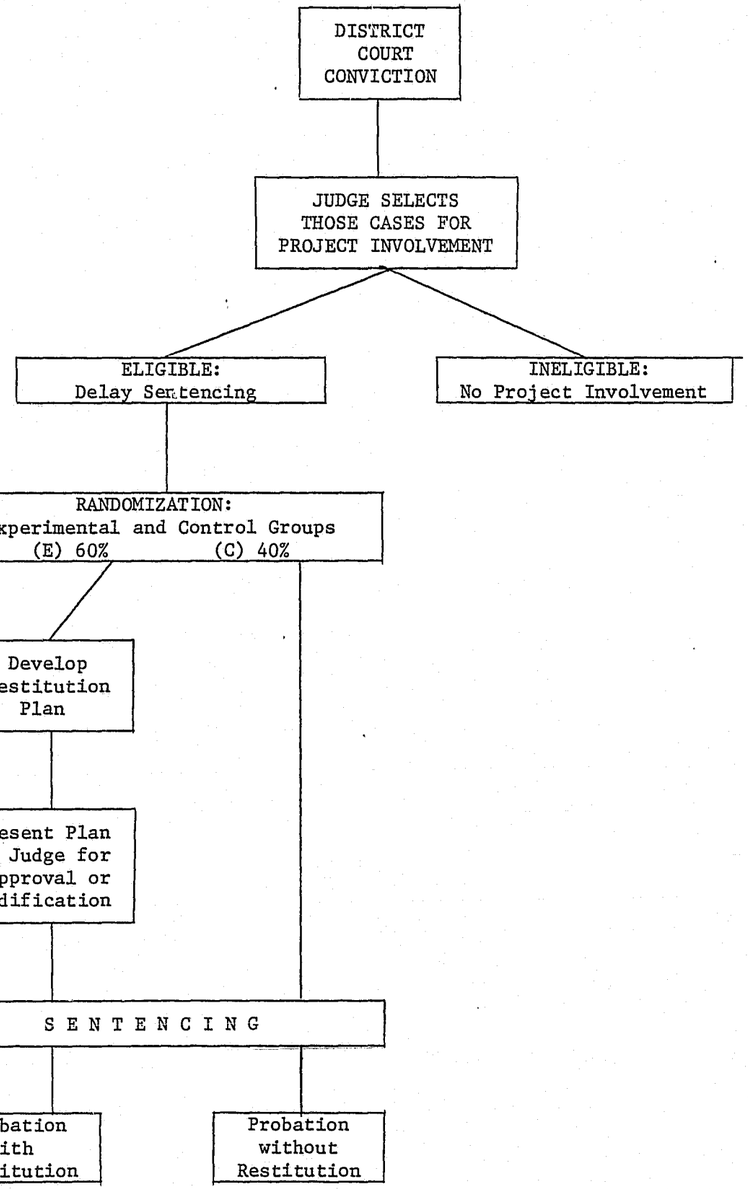
Discussion: Random assignment to restitutive and non-restitutive dispositions had been planned originally by the program staff. Only after spending some time in the field did staff discover that the types of offenders anticipated for the program had almost all been receiving restitutive dispositions before the project began. Since the use of restitution as a "sole sanction" (i.e., termination of supervision upon completion of restitution/community service) was not part of normal procedure, it was instituted as the special experimental alternative. The quality of data available from before the implementation of the program does not facilitate pre-post comparisons of the outcome of restitutive and community service dispositions.

A total of 531 cases were randomly assigned: 278 to the sole sanction restitution condition and 253 to the restitution plus probation condition. Of these 531 cases, 463 involved sentences including restitution.

Maine Design: Chart E shows the design employed in the District Court of the Greater Portland area. According to the plan, District Court (misdemeanor) judges identified eligible cases following conviction and referred them to the Maine Restitution Project. Project staff randomly assigned the cases to experimental and comparison groups on a 3:2 ratio. For experimental cases, a restitution plan was developed and presented to the judge. If the plan was acceptable to the judge, the case was sentenced to probation

Chart E

Site-Specific Evaluation Design -- Cumberland County, Maine



with restitution. Once a case was determined to be a comparison case, the judge was notified that the case could not be handled by the program. Typically, comparison cases were sentenced to probation without restitution.

Discussion: Thirty experimental cases and eight comparison cases were processed in accordance with the design. This meager caseload can be attributed for the most part to poor program planning. Originally, the program was designed to serve the Superior Court of Cumberland County which is a felony trial court. After two months of operation in that court, however, only four cases had been referred to the program. Discussion with Superior Court judges revealed that they thought most cases handled in their court were too serious for restitutive dispositions.

Because these judges were reluctant to order restitution for Superior Court cases, the program was moved to the District Court. However, District Court judges, were also reluctant to use the program, claiming that they heard few cases for which restitution would be appropriate. The few cases that were referred to the project involved trivial offenses (e.g., traffic violations) that were outside the original program criteria.

Despite repeated negotiations between national evaluation staff and the judges, and between program staff and the judges, contamination of the design was encountered: nine of the cases assigned to the comparison group were ordered to pay restitution and four of those assigned to the experimental group were not.

Massachusetts Design: Using criteria established in conjunction with participating institutions and the Massachusetts Parole Board, a program parole officer routinely screened lists of new jail commitments. Offenders who appeared to be eligible were contacted by the parole officer, who explained the program and asked whether the inmate chose to volunteer. Ineligible offenders and non-volunteers were processed through the institution with no further program contact. Volunteers were randomly assigned into an experimental (restitution) group and a comparison (no restitution) group at a 2:1 ratio until March 1978 and a 1:1 ratio until the program closed at the end of September 1978.

Offenders in both experimental (E) and comparison (C) groups proceeded through preliminary stages of formulating a contract, including treatment plans, work assignments, release dates and, for the experimental group, restitution plans. An incentive for this additional component of the contract was an earlier parole release from the institution.

Following preliminary screening of contracts by a panel of two Parole Board members,[5] a "final negotiation" was held before the full Board. Victims were invited to attend those portions of the final negotiation dealing with restitution. Successful negotiations resulted in a "sign-off" on the contract establishing the obligations of both the Board and the offender concerning conduct in the institution and on work release, special programs, dates of release, and, for experimentals, payment of restitution/community service. With the exception of restitutive obligations during the work-release component of the contract for E's (and the related accelerated parole release provision), contracts for E's and C's were not systematically required to

be different. Unsuccessful hearings could lead to renegotiation or exclusion of the inmate from further program participation.

The design in Chart F is specific to the Billerica House of Corrections (jail) which accounted for the largest number of program participants. The design operated in other jails with little variation.

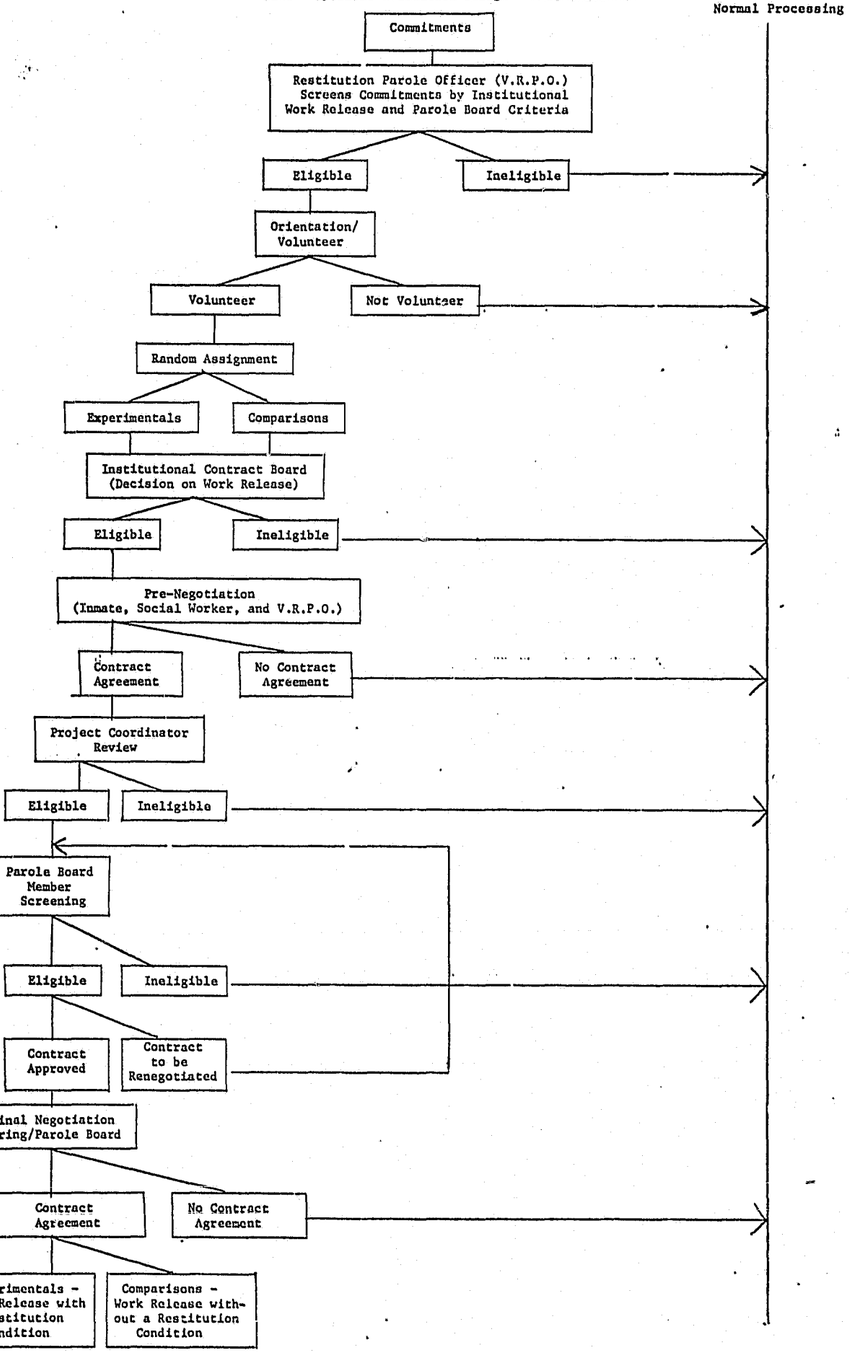
Discussion: A principal design weakness was the long interval between randomization and final negotiation; there were many points within this period at which an inmate could drop out of the program. Offenders could voluntarily withdraw or be removed as a result of negotiation failure, misbehavior in the institution or on furlough, or as a result of new information coming to light concerning, for example, outstanding warrants or detainers.

In the course of the program's first six months of activity, some of the staff parole officers did not conduct thorough initial program eligibility screenings, resulting in the loss of 22 cases during the contracting process. After the screening was tightened, similar loss continued at an average of slightly more than one case per month. Because of the very low total number of cases handled, the importance of restricting the incidence of such fallout was heightened. The low number of cases resulted from staff shortages that persisted throughout the program.

Fifty-nine cases were assigned to the experimental group and 43 to the comparison group. After accounting for fallout, the number of final negotiations were as follows: 34 E's negotiated contracts with

Chart F

Site - Specific Evaluation Design - Massachusettes



restitution; 25 C's negotiated contracts without restitution; 6 cases that were originally designated as C's ultimately negotiated for restitution due to assignment error or staff pressure to secure restitution in certain cases.

Oregon Design: Circuit Court (felony) cases were screened for eligibility by the program's intake clerk working within the Multnomah County District Attorney's Office. This initial screening of case files occurred immediately after preliminary hearing or arraignment and was designed essentially to include all cases involving loss or damage in which the defendant seemed likely to be given a term of probation.

Ineligible cases were processed by a deputy district attorney and received any of the traditional dispositions without restitution.[6] Eligible cases were randomly assigned into experimental and comparison groups. Because of the political sensitivity of employing such a procedure in a district attorney's office, and because of the high volume of cases being processed, a randomization ratio of 9 E's:1 C was used.

Following randomization, comparison cases were returned to the prosecuting deputy with the explicit understanding that restitution was not to be part of either plea negotiations or sentence recommendation. Any departure from this understanding (in politically sensitive cases, for example) was only to be made after the approval of the district attorney himself or the program director.

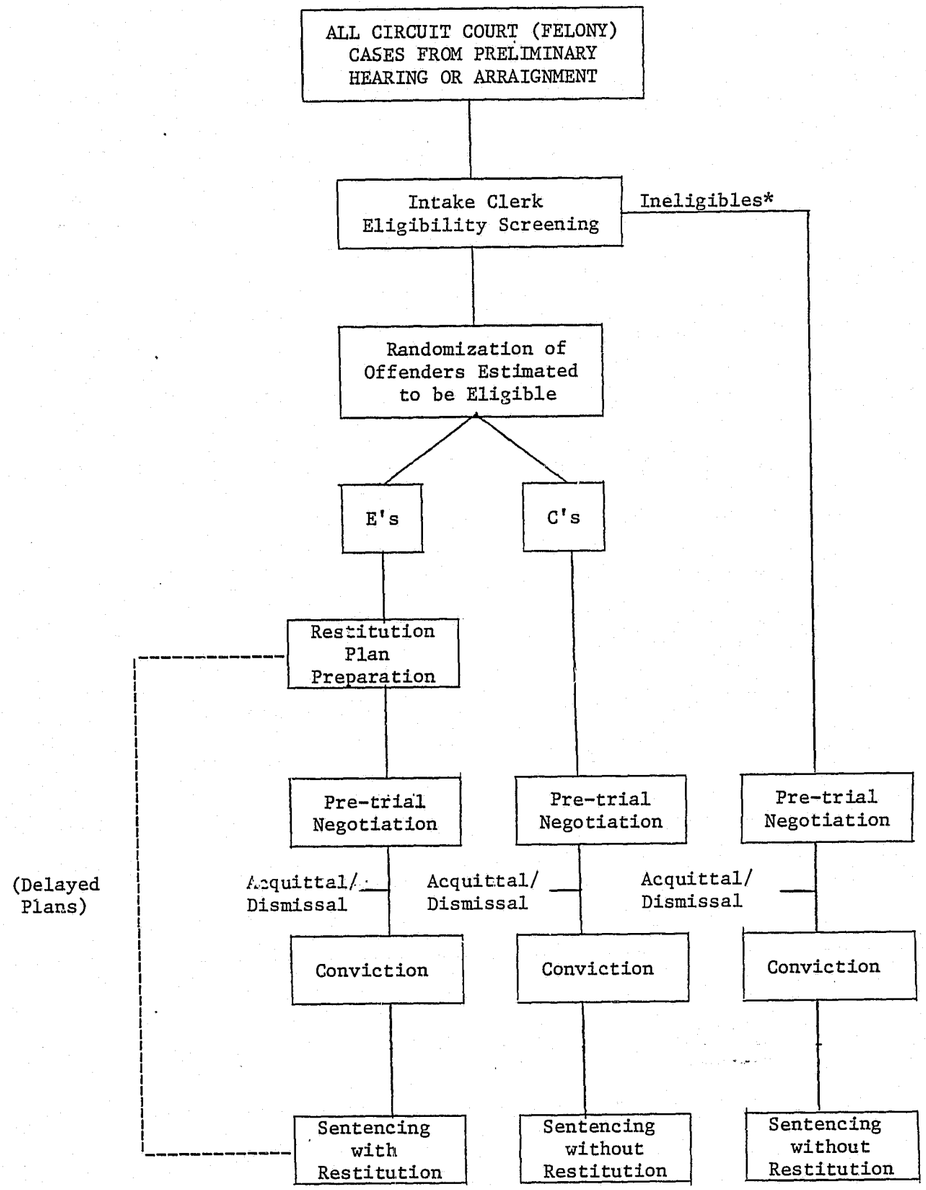
Experimental cases were investigated by program staff for losses, and the resulting documentation of loss assessment was made available to the prosecuting deputy for use in renegotiations with the offender and/or sentence recommendations[7] (see Chart G).

Discussion: Although it was anticipated that in some cases in which restitution was recommended the judge would not order it, the number was expected to be low due to traditional respect for such recommendations in the jurisdiction. It was also anticipated that in a small number of cases restitution would be ordered in the absence of a recommendation, because of some judges' strong personal preference to use restitution as widely as possible. In each of these situations, the number of cases was expected to be very low and, therefore, within tolerable limits given the large sample size.

Two factors combined to increase the number of cases estimated to be eligible for the program that did not receive dispositions expected under the design. First, the program staff member who was entrusted with routine monitoring of the random allocation forced several comparison cases into the experimental group; these cases involved higher loss amounts. The forced E's were all dropped from the design, as were the cases with which they had been replaced in the control group. The staff member responsible for the duplicity was dismissed by the program director.

Chart G

Site-Specific Evaluation Design -- Multnomah County, Oregon



*Murder, rape, sex offense, pornography, prostitution, gambling, escape II, robbery II, victimless offense, drug offense with no loss; career criminals, juveniles, cases in which probation unlikely.

A second and more pervasive influence on the design was the discrepancy between the program's estimates of cases that might be ordered to make restitution and the later decisions of the prosecuting deputy and the sentencing judges. Some judges, in particular, either do not permit sentence recommendations in their courtrooms or do not favor the use of restitution as frequently as the program recommends. Others order restitution in almost all cases involving loss, whether or not the program recommends it.

The result of these design difficulties is that of the 834 cases properly randomized by the program (727 E's and 107 C's), 297 were not sentenced as expected (263 E's and 34 C's). In the remaining group, 464 E's received restitutive dispositions and 73 C's did not.

Aggregate data concerning the level of restitution payments before and after the program are available in this site.

B. *Data Collection*

The development, organization, and format of data collection instruments used in the national evaluation are explained in an earlier report.[8] For the most part, data are comparable across sites and for experimental and comparison offenders. The instruments are designed to make maximum use of existing data sources at each site, limiting the extent to which program and evaluation resources are utilized in the time-consuming task of data gathering.

Two factors lead to the variety and quantity of data being collected in the project: (1) The objectives of the study include both description and evaluation. The descriptive needs require that all components of the programs (including offenders, victims, and program activities) be described through the course of the program. The evaluative needs require that data be collected on both experimental and comparison subjects and, to the extent possible, on a pre-post basis. (2) Claims for the benefits of restitution encompass its impact on offenders, victims, and the criminal justice system. Thus, although a particular agency may be interested in victim attitudes to the exclusion of offender impact, the overall requirements of program comparison justify the collection of data on all components in all sites.

Chart H presents the timing of the various data collection packets.

Sources of offender data include court and correctional agency records, interviews focusing on attitudes toward the crime and criminal justice processing (including restitution in the post-program assessment), and a psychological assessment inventory (Jesness). Sources of victim information include court records and interviews tapping attitudes toward the crime, the offender and criminal justice processing (again including restitution in the post-program assessment). Criminal incident data (based on charged offenses) are derived from records and are used to link specific offenders and victims. Information on program procedures and caseflow is based on a variety of sources, including formal program management documents, periodic site visits by national evaluation staff, and journals maintained by the site evaluators.

Chart H

Data Collection Timing*

Data Collection Point	Eligible Cases (Experimental and Comparison)
Intake	Offender record data Offender interviews Offender Jesness Inventory Victim interviews Criminal incident data Processing data (criminal justice and program)
At 90-day intervals until termination	Offender-based monitoring data
Six months after intake (Sample)	Offender interviews Offender Jesness Inventory Victim interviews
Beyond termination	Offender offense data via federal, state, and local statistics

*In addition to the data on eligible cases, the reasons why ineligible cases were excluded were recorded for each case. Also, aggregate summaries of program activities were collected on a monthly basis.

A problem in the collection of outcome data relates to the timing of data to be collected directly from offenders and victims. Record data are not a problem in this regard since the records continue to exist and can be reviewed retrospectively for time-relevant information at such routine intervals as 12 months or 24 months. But interviews and test instruments, in contrast, must be obtained at standardized time intervals. An ideal time for post-program assessment of offender and victim attitudes, for example, occurs for experimental subjects just at the time when the restitution obligations are met. There is no logical counterpart of this time point for comparison subjects, however. In addition, the various programs vary considerably in the length of time over which restitution is paid, with the permissible period in some sites being as long as the probation sentence of three or five years. A further consideration involves the short program-funding periods; i.e., at the end of the funding period for each program progressively fewer and fewer offenders have been in the programs for periods of 6 months, 12 months, and 18 months. In order to maximize the number of cases available for a second interview and, at the same time, to maximize the number of cases for which a significant proportion of the restitution had been paid, a 6-month interval between pre-assessment and post-assessment was chosen.[9]

The available sources of data vary considerably from program to program. Additionally, the personnel who collect and code the data vary in number and experience. In some programs, the offender data are available from records and are in a format readily transferable to our instruments. In other programs, however, the same information is available

only as self-report data from the offender. Consequently, the general form of data instruments is modified to meet the needs of particular sites.

C. *Data Analysis Plan*

The national evaluation is an attempt to begin developing a systematic empirical base which can serve as a foundation for future program and research efforts in the field of restitution. In order to do this, a two-stage analysis plan is needed. The first stage provides for a description of the programs, and the second for an assessment of the effects of restitution. The analysis plan developed can be applied to each of the programs with only minor modifications, because the data collected in each of the six sites are, for the most part, comparable.

1. *Descriptive Analysis*

The policies and procedures employed by each of the programs have been described in an earlier report.[10] This descriptive analysis is focused on the characteristics of program participants (i.e., offenders and victims) and cases (i.e., offenses, crime related losses, and restitution obligations). The intent of this analysis is to provide a systematic and comprehensive description of restitution in each of the programs. Data employed in the analysis are primarily record data collected during the intake stage of each restitution program's case processing. These data include offender and victim characteristics, offenders' prior record, characteristics of the offenses leading to program involvement, the dollar amounts of losses stemming from those offenses, details of the restitution obligations, and program and criminal justice system processing information.[11]

The first step in the descriptive analysis is to examine separately the populations of offenders, victims, offenses, and losses, as well as the restitution amount recommended and/or required of each offender for each intended recipient. Conventional demographic and prior record variables are being examined in describing the offender population. In addition, several variables thought from previous research and theory to be salient to restitution performance, such as income level, employment status, welfare status, and number of dependents, are being analyzed. The victim population is divided into organizational and personal victims. Organizational victim characteristics being considered are type and primary activity of the organization. Personal victims are being described in terms of age, sex, race, educational level, marital status, occupation, and employment status, to the extent that this information is available. The population of offenses is being described in terms of the offense type and class, i.e., felony or misdemeanor. Loss characteristics include types of loss, broken into the broad categories of property stolen, property damaged, work time lost, and medical expenses. In addition, the monetary value of the loss and any recovery of loss either by the police or through insurance are being analyzed for each loss category in some sites. Characteristics of the restitution obligations being examined include the type and amount of restitution required of the offenders, and the type and amount of restitution to be received by restitution recipients. This portion of the analysis is designed to provide a profile of the characteristics of cases being processed by each of the restitution programs, and serves as a jumping off point for the second step in the descriptive analysis.

Having identified the characteristics of the restitution components, the focus of the analysis shifts to an examination of the relationships between these components. In particular, the emphasis of this step in the analysis is on the interrelationships among offenses, losses, and restitution obligations, including proposed restitution plans and the actual restitution required. Each of these relationships is being examined in two ways -- as viewed by offenders and by victims.

Structuring the analysis to incorporate each of these viewpoints is necessitated by the fact that the restitution obligations are, in many instances, very different in appearance depending upon the starting point from which the obligations are viewed. For example, in a given case an offender may be obligated to make restitution to two victims. The total amount of restitution to be made by the offender to both victims may be less than the total amount of loss caused by that offender. However, the amount to be received by one of the victims could be for the full amount of the loss suffered by that victim, while the restitution to be received by the second victim could be for only half of the amount of the loss sustained by that victim. Clearly, the restitution obligation in the example looks very different from the perspective of each participant. Thus, analyzing the data from each of these perspectives is crucial to understanding the way in which restitution effects each of the participants.

Using tabular analysis with appropriate measures of association and tests of significance, the following relationships are being investigated. First, offense type is being examined in relation to type and amount of loss to uncover any patterns that might exist with respect to the kinds and magnitude of losses typically resulting from specific offense types. Next, offense

type is being correlated with the type, amount, and extent (i.e., full or partial) of both the restitution proposed by program staff and the restitution actually required of the offender. Finally, the amount and type of restitution proposed are being compared with the amount and type of restitution actually required of the offender.

Where data permit, analyses paralleling those conducted on cases involving directly injured victims are being conducted on those cases in which parties other than directly injured victims were deemed to be appropriate recipients of restitution. Included here are victims of bargained or dropped charges and parties indirectly injured, such as insurance companies and survivors of deceased victims.

2. *An Assessment of the Impact of Restitution*

The assessment of the impact of restitution is being conducted on two levels. One level is designed to assess the effectiveness of restitution relative to other criminal sanctions. The second level is aimed at examining the differential effects of restitution, i.e., for what types of offenders, victims, and offenses, and under what circumstances, does the effectiveness of restitution vary?

Cases used in the analysis to assess the relative effectiveness of restitution include all of the cases determined to be eligible for participation in the programs operating in Georgia, Massachusetts, and Oregon[12] that were randomly assigned to the restitution or non-restitution treatment groups. Only those cases involving restitution obligations are being used to address the differential effectiveness question.

Comparable data are available on both the restitution and non-restitution cases. For the most part, data are comparable across program sites as well. The data set includes: the intake data utilized in the descriptive analysis; offender and victim pre/post attitudinal information acquired through interviews; monitoring information on offenders including indicators of domestic, economic, and social stability during the time offenders were in the program or under criminal justice agency supervision; and follow-up data including police, court, and state criminal record information concerning new criminal activity and violations of conditions of supervision. In addition, detailed records of restitution performance, including payment schedules and the extent to which restitution obligations were met, are available on all offenders required to make restitution.

Criteria being employed in assessing the impact of restitution can be classified in three categories -- measures of recidivism, measures of social stability, and measures of restitution performance. Recidivism measures include the number and type of new arrests, the amount of time to each new arrest, the number and types of new charges and convictions, and the types and lengths of sentences imposed. Also included here are the number and types of technical violations and the actions taken in response to each violation. Measures of social stability include changes in domestic, economic, and social conditions, and attitude changes. Restitution performance measures include the proportion of the restitution obligation completed, the consistency of payments, and the reasons for nonpayment.

Measures of recidivism and social stability are being used in assessing the relative effectiveness of restitution. In examining the differential effectiveness question measures of restitution performance are being employed as well.

a. *Determining the Relative Effectiveness of Restitution*

An assessment of the relative effectiveness of restitution requires two comparable groups of offenders -- one group of offenders required to make restitution and one group of offenders not required to make restitution. These groups were to be generated through the experimental design introduced in each program. However, as indicated earlier in the report, within each of the programs a number of cases were not processed in compliance with the random assignment to treatment (restitution) and comparison (non-restitution) conditions. Accordingly, the assumption of an experimental design concerning the comparability of the groups is in question.

Before the analysis can proceed, therefore, it is necessary to examine the groups to ensure that they are comparable in spite of the deviations from the design. Comparability between the groups is being determined by testing for significant differences between the groups with respect to variables that have been determined to be important predictors of outcome. Where significant differences are found to exist, statistical controls are being employed to remove the extraneous variation between groups. Where these controls are used, the presentation of the results of the analysis must, of course, be accompanied by the necessary and appropriate cautions concerning their interpretation.

A variety of hypotheses are being tested using univariate and multivariate statistical techniques. It might be argued, for example, that offenders required to make restitution begin to reassess the benefits of criminal activity as a result of having to pay back victims. If offenders are affected by restitution in this way it might be expected that future

criminal activity would seem less attractive to offenders required to make restitution than to those offenders not so required. Conversely, the financial burden placed on offenders as a result of having to pay back victims may be sufficient to lead to more criminal activity to acquire money for restitution payments. Along these same lines, data are being examined to determine if the type of new criminal activity engaged in by offenders ordered to make restitution differs from that engaged in by offenders in the comparison group. If, for example, restitution does place a heavy financial burden on offenders, those offenders required to make restitution might commit more property crimes than offenders not required to make restitution.

It has been suggested that restitution instills a sense of responsibility in offenders not associated with other types of criminal sanctions. One test of this hypothesis is to examine the relative levels of domestic, economic, and social stability of the treatment and comparison groups. It might be expected that if restitution does instill a sense of responsibility, offenders required to make restitution will be found to have more stable home lives, more job stability, and less involvement with drugs and alcohol than their counterparts in the comparison group.

Using a modified cohort design in which specific time periods during and after program participation can be studied, the relative effects of restitution over time are being examined. For example, the effects of restitution on recidivism are being examined to determine if recidivism rates differ for the two groups depending on time at risk. That is, are offenders who are required to make restitution more likely than comparison offenders to commit any crimes within the first 3, the first 6, the first 9, etc., months of sentence? Additionally, are offenders who are required

to make restitution more or less likely than comparison offenders to commit more offenses within each of these time periods? Using the cohort design also makes it possible to determine other differences between the restitution and non-restitution groups -- for example, with respect to economic stability. Do unemployed offenders ordered to make restitution acquire jobs sooner after program entry than their comparison group counterparts? Do they hold jobs longer than comparison group offenders?

In addition the data are being examined to determine if the effects of restitution continue to exist once the restitution obligation is satisfied. If, for example, it is found that offenders required to make restitution commit fewer new crimes, further analyses will be conducted to determine if the recidivism rates increase for the restitution group once the restitution obligation is removed. If an increase is detected, this finding will be examined to determine whether the recidivism rates for the two groups are comparable once restitution is removed.

b. *Differential Effects of Restitution*

Using the data available on cases in which offenders were required to make restitution, this section of the analysis is aimed at answering the question, "For what types of offenders, victims, and offenses, and under what circumstances, does restitution work well and not well?" In pursuing the answer to this question, each of its various components are being examined separately and in combination to uncover the correlates of restitution success and failure.

Focusing first on offenders, analyses are being done to determine whether there are particular types of offenders who are more likely to make restitution than other types. For example, are males more likely to pay than females? Are older offenders more likely to pay than younger ones? Is the education, occupation or income level of the offender related to payment? What about marital status and number of dependents? Also of interest is the relationship between prior record -- especially prior dispositions involving financial penalties -- and the payment of restitution.

Victim characteristics are also being considered. Perhaps certain types of victims get paid more often than others. Personal victims, for example, may be less likely to receive payments than organizational victims, because the organizations have legal staff that constantly remind the criminal justice system authorities that they want their restitution. Consequently, efforts to get restitution to those organizations may be intensified under the principle that the "squeaky wheel gets the grease." Moreover, it may be that among organizational victims certain types of organizations (e.g., charities) are more likely to receive restitution payments than other types (e.g., municipal governments). Among personal victims, are male victims more likely to be paid than female victims? Is the age, race, or income of the victim related to completed payments?

Characteristics of the criminal incident may also affect whether or not restitution is paid. The likelihood of an offender paying restitution may be related to the type of offense, the number of victims, the presence of co-offenders, or the nature and/or amount of the loss.

In addition, the way in which an offender is processed through the criminal justice system may have an impact on the successful discharge of restitution obligations. We may find a high positive correlation between pre-trial detention and failure to pay restitution, e.g., as a result of being detained, the offender may lose his job and have no means of paying restitution. The criminal justice system may be setting up offenders to fail in other ways as well. One possibility relates to the way in which restitution is ordered. The amount of the loss may be far greater than the amount the offender can afford to pay. Regardless of the offender's ability to pay, the judge may order the full amount to be paid as a condition of probation over the length of the probationary period. In the face of unrealistic demands, the offender may decide there is no sense in trying to pay.

The questions raised here with respect to the analysis plan are illustrative of those being examined. As the analyses proceed a variety of new questions will undoubtedly arise, and, to the extent that the data permit, these questions will also be addressed. When appropriate data are not available, these questions will be noted in the reports as areas suggested for further research.

VI. Impediments to Design Implementation

As might be expected in any project that evaluates programs with broad variation in structure, jurisdiction, and intent, the task[5] of implementing and maintaining the research design procedures have been far from uneventful. Two categories of impediments to the use of the experimental design itself may be encountered. The first and most visible category contains what will be called *first-order* objections to the design; that is, situational challenges to the *propriety* and/or *practicality* of such a design for each particular program. The validity of first-order objections, and the corresponding difficulty, expense, and prudence of overcoming them vary from site to site. A more pervasive, *second-order* impediment arises, however, almost completely independent of either the propriety or practicality of the design; instead, issues of *political relevance* are raised, which extend more generally across jurisdictional and topical boundaries.

A. First-Order Objections

Although personnel at some sites were committed to an experimental approach from the outset, the initial response in a number of programs to the use of a random assignment design was one of acceptance in theory, but opposition in practice. Two related levels of objection were encountered: one involved issues of *propriety,* the other raised questions of *practicality.*

Challenging the Faith: The primary doubts about the propriety of the experimental model were usually couched in terms of fairness, ethics, or constitutionality (equal protection). Whatever the verbalization of this objection, it was most often based upon the underlying assumption or belief that the

imposition of the treatment (restitution) is a desirable course of action. "Evidence" of the merits of restitution offered by program administrators included: (1) offenders required to make restitution will receive less serious dispositions than they would absent restitution; (2) victims of crime will be compensated for crime losses and as a result they will be more satisfied with the response of the criminal justice system to their needs; and (3) as a result of diverting offenders from incarceration to restitution the costs of the criminal justice system will be reduced. Accordingly, to deviate from such a course to comply with the requirements of an experimental design, would be unfair, unethical, unconstitutional, or even foolish. Rephrased slightly, this objection might concede the value of an experimental design when asking *whether or not* restitution is an effective sanction, while rejecting it for a program in which effectiveness is presumed and the only question is *how effective.*[1] It was the implied assumption of *some effectiveness* that most often distinguished administrator and researcher.

Particularly in an area as uncharted as restitution programming, the potential effects of imposing a restitutive obligation upon an offender are so many and so diverse that there is clearly room for debate. Does a restitution alternative "widen the net" of the criminal justice system?[2] Does the restitutive experience have any reformative effects, through instilling new work habits and/or a sense of responsibility in the offender? Or, conversely, does it foster resentment or hostility toward the victim and the system, and even encourage new criminal behavior to gain money to meet restitutive payments? Does restitution mitigate other aspects of the offender's sanction? Or is it

simply added to the traditional dispositions imposed prior to the advent of the restitution programs?

Although these types of questions provided for lively debate, the lack of clear results in previous research, to support either positive or negative responses, led to a situation in which "the researcher's commitment to scientific decision-making procedures ran counter to the administrator's confidence and intuition."[3] On the administrator's part, as Mattick, *et al.* point out:

> *[T]*here exists what may be called an *implicit conspiracy of positive faith* that asserts that some good must be resulting from all the goodwill, public services and organizational effort that comprises *[the]* programs.[4] (emphasis added)

To the administrative believer, the evaluator's null-hypothesis and his investigative compulsions cast him in the role of skeptic.

Much has been written about the inevitable tensions that exist between the practitioner and the researcher, with a variety of strain-reducing methods proposed. In this case, however, the ultimate authority to require the experimental design rested with neither the evaluator nor the program administrator, but with the separate funding agency. The power of LEAA was invoked.

Even though the issue was settled, it was important to illustrate as clearly as possible for program staff the value of the experimental design. Wherever possible, local data was used to challenge the assumption of total positive impact of restitution. In one site the "widening of the net" was demonstrated to program staff by examining cases meeting program eligibility criteria that were processed in the year prior to program start-up. Inspection of these cases revealed that an overwhelming majority of them received non-

incarcerative dispositions. This exercise also placed in doubt the savings that was to accrue to the system as a result of reduced rates of incarceration of these offenders. In another site the belief that victims were being compensated for losses through restitution was dispelled by examining cases, from the year prior to program start-up, in which restitution had been ordered. Analysis of these data showed that less than 30 percent of the offenders ordered to make restitution had made even one payment. Previously held beliefs about the effects restitution would have on victim satisfaction were placed against a competing hypothesis that restitution orders might result in increased dissatisfaction with the system, because the expectations of victims might be unjustifiably raised by the prospects of receiving compensation for their losses, only to be dashed when the offender fails to comply with the restitution order. Obviously victims who were to receive restitution may tend to be less satisfied with the system than they would have been had restitution never been raised as a possibility.

It was also important to respond to the concern that revolved around equal protection issues. In this context, administrators argued that random assignment was unconstitutional because it arbitrarily deprived some offenders of entering the restitution program. With the widespread uncertainty over the way in which restitution would be used in the programs, however, and the concurrent uncertainty as to the effect(s) of restitution, determining which groups' (E's or C's) rights were being infringed is certainly open to debate. Throughout these discussions it proved particularly helpful to point to reactions of prestigious associates such as the following very strong statement by Judge Friendly in an analogous welfare case:

> A purpose to determine whether and how improvements can be made in the welfare system is as 'legitimate' or 'appropriate' as anything can be. This purpose is 'suitably furthered' by controlled experiment, a method long used in medical science which has its application in the social sciences as well...The Equal Protection clause does not place a state in a vise where its only choices...are to do nothing or plunge into statewide action. *Aguayo v. Richardson,* 473 F2d 1090 (2d Circuit 1973), cert. denied 414 US 1146 (1974).

Where discussion of the constitutionality of the design included local lawyers, these lawyers without exception concurred (although sometimes only after lengthy discussions) with the position that the design did not violate constitutional protections. It was more difficult, however, to convince non-lawyers, who tended to react to the design in Constitutional terms but stemming ultimately from a "gut" level "feeling" without support in a Constitutional framework.

Competing for Resources: Doubts about the wisdom of using an experimental design, stemming from an unquestioning faith in a program's value, led to logically predictable alternatives being suggested by program staffs. Preferences most often gravitated towards the *least intrusive alternative approach,* appealing to abstract as opposed to more directly measurable variables.[5] Such pleas for less intrusive research designs were often buttressed or replaced by questions of *practicality*.

In essence, objections to the research design at the level of practicality were, in large part, due to the perceived and actual demands placed upon programmatic resources in implementing and maintaining the design. Staff-time, and money were often thought to be better used on increasing caseflow, public relations and other expansionary activities, than on establishing and applying eligibility criteria, submitting eligible cases for randomization, and

monitoring and collecting data on comparison cases. Particularly avoided in some programs was the expenditure of time and effort needed to explain the design to criminal justice decision-makers, such as prosecutors, judges, and parole board members, to secure and sustain their vital cooperation. In one program for example, discussions with judges 18 months after program funding began, revealed that several of the judges knew nothing of the design requirements. One judge indicated that he was told by the program administrator that the design was being utilized but he, the judge, need not be concerned with it.

In addition to the reluctance to invest resources to explain the design to critical system actors, program administrators in several sites were especially reluctant to confront decision-makers who were not complying with the case outcomes dictated by the random assignment. In one site, this reluctance was carried to the extreme as evidenced by the overwhelming majority of cases handled by the program that were not only out of compliance with the design, but did not comport with program referral procedures either. The relatively *passive* study-posture of other approaches, especially *post-hoc* evaluations, would have been generally preferred by program staff over the *active* role required for the experimental design to operate most effectively.

One way of responding to the issue of practicality involved making every effort within the staffing constraints of each program to keep the research tasks in the hands of research staff. Special procedures, such as securing a provisional voluntarism statement from offenders prior to randomization, and checking for the random assignment outcome of each case, were made as unobtrusive on program staff time as possible. Data tasks were tied into program procedures at the most logical and simple places, and coding instruments were adapted to

serve program management needs wherever possible. National evaluation staff were available to explain and take responsibility for the design to judges and other decision-makers with power to affect the assignment. In addition, the federal program-monitor was extremely supportive of administrators faced with external pressures to compromise the integrity of the design. Unfortunately, at least one program director was unwilling to accept or permit assistance from either source.

B. Second-Order Objections

Discussion so far has been restricted to *first-order* objections to using an experimental design, or objections about which there is open debate on a study-by-study basis, and which should carry the day if sustained. A more pervasive impediment to experimental research in criminal justice, however, is a miscellany of *second-order* objections, which are less frequently made explicit and are more often rooted in less altruistic motives or in a very pragmatic construction of principles of accountability.

Lack of Notice: Almost independent of the ease or difficulty with which first-order objections could be handled, program staff at various restitution sites objected to the experimental design, as being "more than we had bargained for." At one level, this response was attributable to what has been described as a general policy failure on the part of LEAA to make evaluation planning coincide with program planning.[6] Funding arrangements for the restitution initiative provided for a simultaneous start, so that program proposals were funded without a full awareness of the data needs or the design expectations of the evaluation. And, although such expectations were clarified immediately

after funding began, there remained in some sites a sense of being duped.[7] In addition, even though such an objection says nothing about the *merits* of an experimental design, periodic implementation and maintenance difficulties aggravated residual resentment over the notice issue after the programs were underway.

In a more insidious form, the administrators' feeling that "we didn't know we would have to do this" was due *not* to the actual notice deficiency in this instance, *but* to incorrectly anticipated evaluation standards, based upon previous experience. Whatever evaluation 'requirements' were stipulated in advance, it was almost universally believed by program staff, at the time of seeking and accepting federal funding, that little or nothing would be done to see that such requirements were met. In one site this belief was encouraged by a planner from the State Planning Agency who, according to program staff, told the program administrator to "Tell them what they want to hear and then do as you please." Program staff from another site reported that a similar statement had been made to them by the Chairman of the Parole Board. Precedent for such beliefs was seen in general state and federal funding practices, previous encounters with evaluation studies, and standard operating procedures in other programs with the host-agency/jurisdiction.

The widespread use of "informal evaluations" was another source of resistance to the experimental design. Program staff, aware of these "softer" evaluation approaches, questioned the necessity of the experimental design. "After all," it was argued, "programs are evaluated around here all the time without going through the trouble of using an experimental design." That this was done frequently and without adverse consequences for the programs

evaluated in this way, was construed by program staffs as evidence that the experimental design was unnecessary. In two of the programs this precedent for so-called "process evaluations," and minimal ones even by that standard, continued to cause doubts about the necessity of the experimental design long after the design was implemented. These doubts were fueled by other program administrators within the same agencies who also cited many examples of such evaluations which had satisfied them and, in some cases, secured further funding. The minimal contribution to general knowledge about a concept or procedure typically provided by such evaluation was dismissed as being academic and, at best, secondarily important.

Some administrators were satisfied with explanations from the national evaluation dealing with the merits of the design, recognizing that other programs may: (a) never have tried to overcome the implementation difficulties of an experimental design, perhaps settling unnecessarily for a weaker approach; or (b) have tried and failed; or (c) have different study objectives that require a different design.

Other administrators persisted in the belief that rules were being changed in the middle of the game, and that previously tolerated and rewarded standards of evaluation were all that should be expected. Despite constant assurances by the LEAA program monitor that, indeed, the rules *had* changed, at least for this restitution experiment, administrators familiar with federal funding practices remained of the opinion that no enforcement action could or would be taken.[8] When reasoning and coaxing had failed repeatedly to secure cooperation with evaluation requirements, funding for the most obstructionist program was withdrawn by LEAA.

Competing with Public Relations: It seems clear that researchers and funding agencies interested in performing a rigorous evaluation first need to overcome the legacy of a widely recognized willingness to settle for less in earlier studies. This task involved persuading administrators to break with a precedent under which programs had flourished and had been institutionalized in areas in which they had neither encouraged empirical research[9] nor had been seriously encouraged to do so. Some administrators were skeptical of the personal, professional, and most importantly, the political return that their investment in an experimental design might show.[10] Isolated examples arose in which this type of objection to the design was clearly rooted in a more general desire to avoid the *potential for accountability* inherent in any rigorous, objective outcome-evaluation. Strict accountability was seen as a threat to future funding of the program, and in at least one case, to the professional reputation of the administrator in the host-agency.[11]

More often, however, the objection to the design was less from fear of its potential for harmful findings than from a lack of confidence in the ability of even positive findings to help "sell" the program in the future:

> In the broad terms an outcome evaluation can result only in a favorable, an inconclusive, or an unfavorable image of the program. If the evaluation is unfavorable or inconclusive, the image that the agency has worked so hard to achieve has been tarnished. Only a favorable evaluation is potentially useful to them. *But even a favorable evaluation says little more about the program (and probably less) than the program has already been saying about itself.*[12] (emphasis added)

Accordingly, the more experienced administrators seemed to sense intuitively what others have suggested after study: that the impact of research may be independent of, or even inversely correlated with, the rigor of the study design.[13] Not surprisingly, the question being asked under this type of

objection is the sensible inquiry: What's in it for me? Or, more charitably: What's in it for the program?

Attempts were made to meet this objection in lengthy discussions with program staff concerning the differential focus of the evaluation. The threat implied in unfocused success-failure conclusions was avoided by asking instead for what types of offender, with what types of victim, and with what type of program components does restitution work well and not well. In this way, and by defining "work" in a number of different ways, ranging from reduced recidivism and higher diversion rates, to cost savings and increased employment stability for offenders in the restitution program, at least some administrators began to see the possibility of "negative" results in one respect serving as support for modified or increased effort, or focus in more positively assessed areas:

> Administrators can then be more candid about the unsuccessful aspects of their programs...*[G]*ood evaluations will help administrators abandon unsuccessful social reforms and expand productive ones. Rather than using evaluations to justify programs to which they are committed, program administrators and researchers can instead use the results of evaluation to refine programs so that they become more effective in dealing with our complex social programs.[14]

Self Perpetuating Mediocrity: The low level of relevance widely attributed to rigorous outcome-evaluation, in the cycle of funding and refunding criminal justice programs, leads to predictable results:

> Federal guidelines for law enforcement assistance funds require that each request specify an evaluation design; however, this requirement has not been vigorously applied... Regional and state review panels are learning that proposals which provide for evaluation dependent upon: (1) staff assessments of the "positive" and "negative" behavior of program participants, (2) "attitudinal and behavioral indices," and (3) the degree to which "a community becomes involved" assure successful achievement of goals. In addition, they know that such evaluations will preface the request to expand the program during the second year of the project.[15]

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Where such "informal evaluations" continue to be the norm for program administrators, despite (and perhaps because of) the possibility of being grossly misleading,[16] reasons for accepting an experimental design approach are understandable viewed with skepticism. Moreover, sizable as the federal role may have been in the past in promoting weak evaluation efforts, it is bolstered by state and county legislators and policymakers, who often act in a hurry and are accustomed to working with crude, ambiguous information.[17] Under such circumstances, evaluation "findings" that are little more than public relations rhetoric cloaked in claims of scientific respectability may be all the experienced administrator needs to secure continuation and expansion funding. Public programs in particular often continue for years, regardless of their effectiveness.[18]

Researchers have also played an important role in contributing to an environment in which weak evaluative approaches have been encouraged by administrators and rewarded by funding sources and policy makers. The low status afforded evaluative research in academic communities, and the failure of researchers sufficiently to explain to administrators the intent and potential benefits of studies being proposed are documented in abundance in the evaluation literature.

One factor, encountered in the present study, and noted as an important source of local resistance to evaluation plans in the past,[19] has been the inability (i.e., lack of methodological expertise) of many in-house researchers to explain the purposes, mechanics and benefits of a random assignment design to their administrative supervisors. In fact a major source of administrative resistance to the design in one site of the present study resulted from a local evaluator who persisted in encouraging the program administrator to block

the design, insisting that there were alternative plans that would produce the same results as the experimental design. The program administrator placed his trust in the local evaluator and was convinced that the national evaluators were being unreasonable in their demands and inflexible with respect to the use of a particular experimental design. Only after almost two years of blocking and subverting attempts to implement the design, did the administrator finally really listen to what the original design proposal had been, and lamented belatedly that if he had understood it from the beginning he would have given it a try. Without such understanding and routine on-site expertise, the administrator will obviously have difficulty withstanding the kinds of pressures that arise from program staff and from other criminal justice actors in the system to ignore research design requirements. In this evaluation, pressure to abandon or subvert the design came from such diverse sources as judges, a program intake clerk, a state planning representative, deputy district attorneys, parole board members, and in at least one case, even a local evaluator:

> Such pressure is likely to make administrators reluctant to conduct truly experimental research projects in the near future. We suspect that this pressure has been a major impediment to such research in many of the states that have failed to evaluate correctional programs.[20]

Some have suggested that a further way in which evaluators have contributed to the precedent of weak research designs is by acquiescence to the unscientific standards tolerated by administrators, funding agencies and policy makers. In particular, the availability of millions of federal dollars for program evaluation has given rise to a proliferation of "profit-making groups[s] [whose] [a]ctivities were oriented to maintenance and expansion of the organization

and toward profit-making.[21] By securing evaluation funds through expert grantsmanship, expansion and profit-making can, too often, be achieved with little or no knowledge of the substantive concept to be studied or even the criminal justice system in which it is to be tested. As with the programs themselves, therefore, there exists little incentive, and possibly ability, to deal with the first-order objections to experimental research. Instead, non-threatening "informal evaluations" can be conducted to provide the type of reports criticized by Bailey:

> In this sample of reports apparently wishful thinking, when not subject to appropriate design controls, tends to be expressed in a resistance to negative results and indulgence in obscure generalities.[22]

As far as the national evaluation of the restitution programs was concerned, the most important aid to overcoming the second order as well as the first order objections to the research design was the strong position taken by LEAA in the restitution initiative. By supporting the principle of experimental design evaluation in such potentially important, but largely unexplored, areas as restitution, the message that unreasonable non-compliance with research promises can lead to termination of funds is a vital signal to administrators interested in securing future funding. It is also a source of support and encouragement for evaluators willing to invest the time and energy in action research to implement the tightest designs possible.

VII. Summary and Conclusion

In recent years the concept of restitution has drawn favorable responses from legislators, criminal justice practitioners, and funding sources. This rapidly growing interest in restitution is, perhaps, evidenced more graphically by (1) the introduction of numerous federally-funded programs operating at a variety of points in the criminal justice system, and (2) the introduction of new legislation authorizing its use.

Despite increased activity on these fronts, a component crucial to effective criminal justice innovation has been amost entirely overlooked. Typically, newly implemented restitution programs have been introduced absent evaluation. Thus, not only is there very little empirical evidence of the effects of restitution, but even the most basic descriptions of program goals, procedures, and populations are lacking. Even when program evaluations have been undertaken, they have been site specific, permitting little chance for comparison of experience across programs. Moreover, these attempts at evaluation, as well as other research efforts in the area of restitution, have been fraught with methodological deficiencies, resulting in research findings that are of little utility in assessing the effects of restitution.

The national evaluation is a response to the paucity of information about the use of restitution and its effects, and an attempt to begin to fill this void. As such, the national evaluation is aimed at describing the restitution programs in detail, assessing both the relative and differential effects of restitution, and contributing to the general body of knowledge about restitution.

A common evaluation design is utilized in each of the programs being evaluated, in order to maximize the payoff from this opportunity to study restitution in a variety of settings. Components of this general design include

the use of random allocation to experimental (restitution) and comparison (non-restitution) conditions, the collection of extensive data that are, for the most part, comparable across programs, and a uniform data analysis plan. Random allocation to treatment conditions facilitates the assessment of the effectiveness of restitution relative to non-restitution dispositions, in that it increases the confidence that any differences discovered between the two groups can be attributed to the experimental treatment condition -- restitution -- rather than to any initial differences between the groups. The collection of comparable data, and the application of a uniform analysis plan, make comparisons across programs possible.

A two-stage analysis plan is being used: one to provide a comprehensive description of each program and the second to assess the effects of restitution. At the descriptive level, analyses are underway to construct profiles of restitution case characteristics and to examine the relationships among restitution case components. The assessment of the effects of restitution is being performed on two levels. First, examining comparable groups of offenders, the effects of restitution relative to other criminal sanctions are being investigated. Then, using data on only those cases in which offenders were required to make restitution, the differential effects of restitution are being assessed.

Effectiveness assessments are being done in a variety of ways, including pre/post assessments of offenders' and victims' attitudes; monitoring indicators of offenders' domestic, economic, and social stability; and examining official records to detect any offender contact with the criminal justice system subsequent to program involvement. In addition, data on restitution performance are being collected to assess the degree to which offenders are in compliance with requirements set for the amount and schedule of restitution required.

In the course of conducting the national evaluation a number of impediments to using the experimental design have been encountered. Two categories of objections were raised. First-order objections include challenges based on the propriety and/or practicality of the design. Second-order objections focus on issues of the political relevance of using the design and the findings resulting from its use. National evaluation staff placed a great deal of importance on explaining the design and responding to the various objections to its use that were raised. For the most part, the objections by program administrators were laid to rest through lengthy discussions and an experimental design was implemented, with varying degrees of success, in each of the six programs.

The national evaluation was expanded in 1978 in an attempt to learn more about the complexities of the concept, and the impact of the use, of restitution. Three restitution programs funded by LEAA in the Fall of 1978, as well as the Colorado program originally funded as part of Phase I, are included in Phase II of the evaluation. Building upon their Phase I experience, the national evaluators expanded the data requirements in Phase II in order to address some specific issues surrounding restitution. Unlike any of the Phase I programs, two of the Phase II programs are designed as pre-trial alternatives to prosecution. By repeating the analyses conducted in Phase I with the data from these programs, knowledge about the relative and differential effects of restitution will be gathered from yet another, earlier point in criminal case processing.

Phase II provides an opportunity to investigate the effects of another dimension of restitution programming, i.e., face-to-face victim/offender contact in assessing restitution obligations. One of the Phase II pre-trial programs relies exclusively on face-to-face mediations in arriving at restitution settlements. The mediation sessions are conducted by local citizens trained

as mediators of community disputes. Mediation sessions are being observed by evaluation staff and questionnaires about the sessions are being administered to offenders, victims, and mediators at the close of each session.

Two additional issues raised during Phase I are being explored in Phase II. One of these involves the urgently needed clarification of the multitude of legal issues surrounding the use of restitution. Many of the requests for information during Phase I came from legislators and actual, or prospective, program administrators wishing to know "the law" concerning restitution. Moreover, the dramatic increase in the use of restitution over the last few years had raised questions concerning its purposes, as well as spawning new legislation and litigation regarding the practices employed in its imposition and enforcement.

In response to the growing concern to know "the law," the national evaluators are conducting a comprehensive analysis of the constitutional, statutory, case-law, and administrative interpretations of the use of restitution in the United States. Beginning with a complete compilation of relevant statutory provisions from each of the fifty states and the federal jurisdiction, a variety of legal research methods are being employed to isolate recurrent themes about the purposes of restitution; to categorize indications of preferred types of offenders, offenses, victims, and procedures; to identify specific problems that have been raised in connection with the use of restitution dispositions; and to document the range of operating mandates and constraints for consideration by legislators, program planners, and administrators.

The other area in which the national evaluators perceived a great deal of interest among program planners and administrators, legislators, and other researchers relates to the differential effectiveness theme. More

specifically, the interest is in knowing upon which types of offenders restitution programs should focus. Two approaches have been designed to supplement the information being compiled from Phase I.

The first approach is the construction of experience tables. Experience tables, in the context of this evaluation, are instruments that combine a variety of client and program attributes to provide estimates of the varying degrees to which offenders are at risk of failing to complete restitution. Because experience tables can be constructed using a variety of methods for selecting and combining variables, low caseloads present less of a problem here than for other types of analysis. Attributes to be included in developing such tables include any factors that appear to affect outcome, e.g., offender, victim, and program characteristics, and even normal criminal processing. Data to be utilized in constructing the experience tables are those routinely collected by program staff for the evaluation. Experience tables will be constructed for each site in which follow-up data collection is pursued. In addition, an attempt will be made to compare the results of the analyses across programs in an effort to develop a general equation for assessing an offender's potential for successful completion of restitution.

The second differential effectiveness approach is based on assumptions that certain personality dimensions are relevant to whether or not an individual will successfully complete a restitution program. The dimensions being considered in these discussions are those attributes that develop during a person's psychological growth and development. Two theories of ego development are being utilized -- the theory of interpersonal maturity (I-Level) and Kohlberg's theory of moral development. Both theories suggest that, at any point in a

person's life, an assessment of the individual's stage of development can be made. The stage of development identified will provide information about the ways in which the person perceives and interprets his/her world. Descriptions of the characteristics of the various stages strongly suggest that offenders who have reached specific levels of development will differ in their conceptions of and attitudes toward restitution.

Being national in scope and encompassing programs operating at a variety of points in the criminal justice system, Phases I and II of the evaluation represent, for the first time, an opportunity to examine empirically the concept of restitution within a framework of widely differing theoretical expectations and legal constraints. The programs being studied vary considerably in the assumptions made about restitution, the goals and procedures set, and the type of restitution used. Because of this, and the common evaluation design being employed, many of the broader questions about restitution that could not be addressed in previous research can be examined in the context of this evaluation. While it may not be possible, with the available data, to answer definitively any or all of the questions raised, it is anticipated that this evaluation will provide a wealth of new knowledge about restitution, specify areas in need of further research and generate specific hypotheses to guide future research and program planning.

NOTES

I. Introduction

[1]Earlier reports dealt with the implementation stages of the evaluation and the restitution programs, the formulation and refinement of data collection instruments, and descriptions of the six sites being evaluated (see National Evaluation of Adult Restitution Programs, Research Report #1, *A Description of the Project;* Research Report #2, *Selected Data Instruments;* and Research Report #3, *Restitution Programs in Six States: Policies and Procedures*).

[2]The seven programs funded were located in California, Colorado, Connecticut, Georgia, Maine, Massachusetts and Oregon. However, the Colorado program is not considered as part of Phase I. For a variety of reasons, including the failure of the State to provide the necessary match money, the Colorado program did not begin operation until October 1977, a full year after the grant was awarded. As a result of the late start, the program was allowed to continue operations until June 1. 1979, nine months after the scheduled closing date of the other Phase I programs. It was decided, therefore, to include the Colorado program in Phase II of the evaluation for purposes of data analyses and reporting. In addition to the Colorado program, Phase II involves three programs funded in the Fall of 1978.

[3]See Research Report #3.

II. Context and Perspective

[1]Service to the community and to symbolic victims can both be related to the offender's conduct by calculating the *amount* of service in terms of the losses or injuries sustained by victims. Alternatively, the amount of service may be based upon a fixed scale derived, *inter alia*, from the severity of the offense.

[2]In all reports growing out of the national evaluation, it will be noted that we routinely mention both restituion *and* community service, rather than subsume the second under the first. The reason for this separation is that the two types of programs are different in some important respects. In a restitution program, an offender pays back for the specific loss his/her behavior has caused to a specific victim. In a community service program, the offender does not repay the victim, nor does the service provided have any necessary connection to the offense committed. Thus, at the level of psychological meaning to the offender and with respect to the meaning to the victim, the two programs are clearly distinguishable.

[3]See, for example, Hudson, Joe and Burt Galaway. *Considering the Victim.* Springfield, Illinois: Charles C. Thomas Publisher (1975).

[4]See, for example, Carter, Robert M. and Leslie T. Wilkins. *Probation, Parole, and Community Corrections.* New York: John Wiley and Sons (1976).

[5]See, for example, Chesney, Steven, et al., "A New Look at Restitution: Recent Legislation, Programs, and Research," *Judicature* 61(8):348-357 (1978).

[6]See, for example, Pease, K., et al. *Community Service Assessed in 1976,* Home Office Research Study No. 39. London: HMSO (1977).

[7]For an extensive bibliography on the subjects of compensation and restitution, see Harland, Alan, and Chuen-Jim Sheu, *Restitution and Compensation to Crime Victims: A Bibliography* (1977).

[8]A national evaluation of juvenile restitution programs is being conducted by Peter and Anne Schneider, Institute of Policy Analysis, Eugene, Oregon.

[9]Each of these areas is covered for the six programs in the national evaluation in Research Report #3, *Restitution Programs in Six States: Polices and Procedures.*

III. Evaluation Objectives

[1]See National Evaluation of Adult Restitution Programs, Research Report #3, *Restitution Programs in Six States: Policies and Procedures.*

IV. Review of Previous Research

[1]Although there is a growing body of research on the British community service experience it is not reviewed here. Community service in the United Kingdom is not generally considered to be a restitutive sanction and has not been studied as such (see Pease, K., et al., *Community Service Assessed in 1976,* Home Office Research Study No. 39. London: HMSO (1977)).

[2]Chesney, Steven, Joe Hudson, and John McLagen, "A New Look at Restitution: Recent Legislation, Programs and Research," *Judicature* 61(8)348-357 (1978).

[3]Hudson, Joe and Steven Chesney. *Research in Restitution: A Review and Assessment.* Paper presented at the 2nd National Symposium on Restitution (1977), p. 23.

[4]Research in the area of restitution by juveniles is even more sparse than its adult counterpart. Some examples include: Schneider, Peter et al., *Restitution Requirements for Juvenile Offenders: A Survey of the Practice in American Juvenile Courts.* Eugene, Oregon: Institute for Policy Analysis. (1977); Galaway, Burt and William Marsella. *An Exploratory Study of the Perceived Fairness of Restitution as a Sanction for Juvenile Offenders.* Unpublished paper. Duluth: University of Minnesota (1976).

5 *Supra* note 2.

[6]A survey of restitution and community service programs is currently being conducted by Burt Galaway and Joe Hudson at the University of Minnesota at Duluth.

[7]In the Battelle survey discussed below, for example, some planning agencies failed to identify restitution programs *known* to exist within the state by the authors. See Edelhertz, Herbert. *Restitutive Justice: A General Survey and Analysis.* National Institute of Law Enforcement and Criminal Justice, NI-99-0055, January 1976 at p. 50.

[8]*Supra* note 2 at p. 352.

[9]Hudson, Joe, Burt Galaway, and Steven Chesney, "When Criminals Repay Their Victims: A Survey of Restitution Programs," *Judicature* 60(7):312-316 (1977).

[10]*Id.* at p. 312.

[11]Edelhertz, Herbert, et al., *supra* note 6.

[12]*Id.* at p. 48.

[13]Flowers, Gerald T. *The Georgia Restitution Shelter Program.* Georgia Department of Offender Rehabilitation. (September 30, 1977).

[14]*Id.* at p. 12.

[15]Random selection was not to be used until the centers reached 90 percent of capacity, to accelerate program growth. By fiscal year 1977 the program was still only operating at 85 percent capacity. See Flowers, *supra* note 13 at pp. i and 14.

[16]In the evaluator's words: "The recidivism analysis is based on data supplied by the Georgia Crime Information Center (GCIC) of the Georgia Bureau of Investigation. Two hundred seventy-four offenders had data records filed with GCIC. GCIC did not provide data on those offenders arrested or convicted out-of-state. Some data records provided by GCIC were incomplete and, because the number of arresting authorities maintaining on-site offender data records, the task of file verification was beyond the resources available to the evaluator. In addition, the lack of complete offender case records at the respective centers limited the available data. *Id.* at p. 25.

[17]Steggerda, Roger O. and Susan P. Dolphin. *Victim Restitution: Assessment of the Restitution in Probation Experiment.* Polk County, Iowa: Polk County Department of Program Evaluation Fifth Judicial Department of Court Services (December 1975).

[18]*Id.* at p. 8.

[19]*Id.* at p. 24.

[20]*Ibid.*

[21]*Id.* at p. 53.

[22]Minnesota Department of Corrections. *Interim Evaluation Results: Minnesota Restitution Center.* Unpublished mimeo (May 1976).

[23]The major criteria for program eligibility were: (1) state prison commitment from the St. Paul-Minneapolis metropolitan area; (2) all present offenses involved property loss to another (excluding crimes against the person or victimless crimes); (3) no felony convictions for crimes against the person during the preceding five years in the community; (4) no gun or knife possession during present offense; (5) no detainers; and (6) present admission not for parole violation.

[24]Denials were based, among other things, upon "factors of political sensitivity, adverse community sentiment, and the nature of the offender's criminal activity." *Exemplary Project Field Report: The Minnesota Restitution Center.* National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration (January 1974), p. 2; quoted in Edelhertz, *supra* note 7 at p. 72.

[25]Edelhertz, *supra* note 7 at p. 70.

[26]Softley, Paul. *Compensation Orders in Magistrates Courts.* London: HMSO (1977), p. 5.

[27]Burglary, theft, obtaining property by deception, criminal damage, wounding or assault with bodily harm. These were selected as being crimes resulting in loss, damage, or injury. *Id.* at p. 6.

[28]Under section 1 of the Criminal Justice Act 1972 (effective January 1, 1973), Britian's magistrates' courts were empowered to order restitution up to a maximum of $400 for each conviction offense. Under the Criminal Law Act 1977, the maximum was raised to $1,000.

[29]Data were received on an additional 97 offenders who were committed to a higher (Crown) court for sentence and were, therefore, excluded from the final sample.

[30]In magistrates' courts such "antecedents," including the defendant's living arrangements, financial background, and employment history are prepared for most cases by the police as a service to the court.

[31]Softley, *supra* note 26 at pp. 20-22.

[32]*Id.* at p. 14; "compensation" is the term used throughout the British studies to describe what is more often called "restitution" in the United States where the former term is more often reserved for state-funded, rather than offender-based, remunerations to crime victims.

[33]Chesney, Steven. *The Assessment of Restitution in the Minnesota Probation Services.* Summary Report: Minnesota Department of Corrections (January 1976).

[34]*Id.* at pp. 9-11. Jurisdiction was unknown for the remaining 10 cases.

[35]*Id.* at p. 16.

[36]One further attitudinal study is not reviewed here, due to its very narrow focus upon only *voluntary* restitution by offenders. See, Gandy, John. *Community Attitudes Towards Creative Restitution and Punishment.* Ann Arbor, Michigan: University Microfiles International (1975).

[37]For judges in particular, the author notes that: "Not every judge was eager to be interviewed. It is an open question as to how much their attitudes affected the validity of these results." *Id.* at p. 19.

[38]*Id.* at p. 25.

[39]Tarling, Roger and Paul Softley. "Compensation Orders in the Crown Court," *Criminal Law Review* 422-428 (1976).

[40]*Supra* note 28.

[41]Cases were sampled from police files for the month of July 1972 and the same period in 1973. Because of delays in sentencing, many of the cases in the 1972 sample became part of the 1973 sample because they were sentenced after the implementation of the Criminal Justice Act. Tarling and Softley, *supra* note 36 at p. 423.

[42]*Id.* at p. 427.

[43]Restitution has also been used in connection with pre-trial diversion. No such program is included in the present evaluation, however, therefore discussion will be restricted to post-conviction use of restitution.

[44]Hudson, Chesney, and McLagen, *supra* note 2 at pp. 352-3.

[45]*Id.* at p. 354. The survey was concerned exclusively with restitution. It is likely that the incidence of community service is much wider, but that it has not always been equated with restitution. In the United Kingdom, for example, widespread use of community service exists that is not usually considered to be a form of restitution, See, for example, Pease, K., et al., *supra* note 1.

[46]Chesney, *supra* note 33 at p. 10.

[47]Tarling and Softley, *supra* note 39 at p. 425; Softley, *supra* note 26 at p. 21.

[48]Chesney, *supra* note 33 at p. 15. Most of these were for juveniles.

[49]Minnesota Department of Corrections, *supra* note 22 at p. 26.

[50]Flowers, *supra* note 13 at p. 45.

[51]Minnesota Department of Corrections, *supra* note 22 at p. 27.

[52]Flowers, *supra* note 13 at p. 4.

[53]Hudson, Galaway, and Chesney, *supra* note 9 at p. 314. It is assumed, although not clear from the study, that the remaining 20 percent were services to victims.

[54]Chesney, *supra* note 33 at p. 15.

[55]Hudson, Galaway, and Chesney, *supra* note 9 at p. 317. A distinction should be made between full amounts for each instance of restitution and full amounts for each offender. Because the definition of victim varied from study to study full restitution may have been imposed for each *victim* awarded restitution but the *offender* may still only have been ordered to make partial restitution because other "victims" did not receive awards.

[56]Minnesota Department of Corrections, *supra* note 22 at p. 26.

[57]Chesney, *supra* note 33 at p. 14.

[58]Softley, *supra* note 26 at p. 13. Cases which had only trivial (< 25 p.) or extensive (£400) restitution were not included in this computation. Four hundred pounds was the maximum allowed by law at the time of the study.

[59]Minnesota Department of Corrections, *supra* note 22 at p. 27.

[60]Flowers, *supra* note 13 at p. 4.

[61]Chesney, *supra* note 33 at p. 14.

[62]Minnesota Department of Corrections, *supra* note 22 at p. 26.

[63]Softley, *supra* note 26 at p. 23.

[64]Steggerda and Dolphin, *supra* note 17 at p. 33.

[65]Chesney, *supra* note 33 at p. 15.

[66]Softley, *supra* note 26 at p. 9.

[67]*Id.* at p. 12 (excludes plea-bargained offenses).

[68]*Id.* at pp. 10-13.

[69]*Id.* at p. 13.

[70]*Ibid.*

[71]Chesney, *supra* note 33 at p. 14.

[72]But see note 1, *supra*.

[73]Minnesota Department of Corrections, *supra* note 22 at p. 19.

[74]Chesney, *supra* note 33 at p. 12. These six offenses (1 percent) were traffic offenses such as careless driving and leaving the scene of an accident; each offense may or may not have involved a victim.

[75]Flowers, *supra* note 13 at p. 21.

[76]Steggerda and Dolphin, *supra* note 17 at p. 35. However, 18 percent of the restitution offenders were described as having committed neither crimes against property nor against persons; 12 percent were offenses against public health, peace, safety, and justice; 5 percent were motor vehicle offenses, and 1 percent were miscellaneous other. *Ibid.*

[77]Minnesota Department of Corrections, *supra* note 22 at p. 19.

[78]Chesney, *supra* note 33 at p. 12.

[79]Softley, *supra* note 26 at p. 21 .

[80]Flowers, *supra* note 13 at p. 21; Steggerda and Dolphin, *supra* note 17 at p. 35.

[81]Chesney, *supra* note 33 at p. 11. The remaining cases, it will be remembered, were juveniles.

[82]Minnesota Department of Corrections, *supra* note 22 at p. 13.

[83]Steggerda and Dolphin, *supra* note 17 at p. 35.

[84]Flowers, *supra* note 13 at p. 21.

[85]The scarcity of victimless crimes reflects the *restitutive* rather than *community service* emphasis of most of the programs reviewed.

[86]Steggerda and Dolphin, *supra* note 16 at p. 35. Offenses against persons were committed by 8 percent of the general probation population compared with 5 percent in the restitution group. *Ibid.*

[87]Softley, *supra* note 26 at p. 10.

[88]*Ibid.*

[89]See pp. 16 and 17 , *supra*.

[90]Although the definition of eligible victims will usually be defined statutorily or in case law, actual practice will depend, of course, upon the discretion of program managers and criminal justice decision-makers imposing restitutive sanctions.

[91]Minnesota Department of Corrections, *supra* note 22 at p. 23.

[92]Steggerda and Dolphin, *supra* note 17 at p. 35 (emphasis added).

[93]*Id.* at p. 60.

[94]Softley, *supra* note 26 at p. 11 (note 1).

[95]*Supra* note 2 at p. 10.

[96]Chesney, *supra* note 33 at p. 13. An additional 46 victims were uncategorized or classed as "other." *Ibid.*

[97]Minnesota Department of Corrections, *supra* note 22 at p. 24.

[98] Steggerda and Dolphin, *supra* note 17 at pp. 36-40. It seems probable that the term business in this study was used generically to include different types of organizational victims such as those noted in other reports.

[99] Softley, *supra* note 26 at p. 7. It should be noted that these figures covered all property offenses in the sample, whether or not restitution was subsequently ordered.

[100] *Id.* at p. 22.

[101] *Id.* at p. 10.

[102] *Id.* at p. 11.

[103] Steggerda and Dolphin, *supra* note 17 at p. 60.

[104] *Id.* at p. 29.

[105] Minnesota Department of Corrections, *supra* note 22 at p. 25.

[106] Chesney, *supra* note 33 at p. 13.

[107] Flowers, *supra* note 13 at p. 18.

[108] *Id.* at p. 17.

[109] Minnesota Department of Corrections, *supra* note 22 at p. 21.

[110] Flowers, *supra* note 13 at p. 19.

[111] Chesney, *supra* note 33 at p. 14.

[112] *Ibid.*

[113] *Id.* at p. 13.

[114] Flowers, *supra* note 13 at p. 19.

[115] Minnesota Department of Corrections, *supra* note 22 at p. 21.

[116] *Ibid.*

[117] Flowers, *supra* note 12 at p. 19.

[118] Chesney, *supra* note 33 at p. 13; Softley, *supra* note 6 at p. 17.

[119] Softley, *supra* note 26 at pp. 16-17.

[120] Chesney, *supra* note 33 at p. 14.

[121] Softley, *supra* note 24 at p. 27.

[122] Minnesota Department of Corrections, *supra* note 22 at p. 19. In the Minnesota Restitution Center there was a programmatic criterion excluding offenders with any felony conviction for a crime against the person during the preceding 5 years in the community. *Id.* at p. 13.

[123] Tarling and Softley, *supra* note 39 at pp. 426-427. It is not clear whether prior record was included.

[124] Softley, *supra* note 26 at p. 17.

[125] Tau = 0.13, $p < .01$. Tarling and Softley, *supra* note 39 at p. 426.

[126] Softley, *supra* note 26 at p. 17.

[127] $X^2 = 14.2$; d.f. - 1; $p < .001$. Tarling and Softley, *supra* note 39 at p. 427.

[128] Chesney, *supra* note 33 at p. 20.

[129] Flowers, *supra* note 13 at p. 4.

[130] In the Minnesota Center, however, offenders with "a recent history of violent offenses" were systematically excluded from the program. Minnesota Department of Corrections, *supra* note 22 at p. 4.

[131] Softley, *supra* note 26 at p. 12.

[132]Minnesota Department of Corrections, *supra* note 22 at pp. 23-25.

[133]Steggerda and Dolphin, *supra* note 16 at p. 17.

[134]Chesney, *supra* note 33 at pp. 11-13.

[135]Steggerda and Dolphin, *supra* note 17 at pp. 29 and 37. The other studies reviewed do not permit comparable breakdowns.

[136]Chesney, *supra* note 33 at p. 23.

[137]Hudson, Galaway, and Chesney, *supra* note 9 at p. 320. Seventeen of the 19 programs also reported that they made no attempt to modify restitution by consideration of possible victim culpability. *Id.* at p. 321.

[138]Hudson, Joe and Burt Galaway (eds.). *Considering the Victim.* Springfield, Illinois: Charles C. Thomas Publisher (1975).

[139]Steggerda and Dolphin, *supra* note 17 at pp. 29-30.

[140]*Id.* at pp. 38-39.

V. Research Procedures

[1]Additional monitoring was performed by staff of the national evaluation during routine site visits to each program. For an example of the need for such careful monitoring, see p.63 .

[2]Research by the Connecticut Judicial Department's research and planning unit showed that only a handful of cases had been ordered to pay restitution in the year prior to the program.

[3]This information could be provided by the program clerk because cases were randomly assigned according to the last two digits of the case docket number.

[4]There was not time, for example, to identify and isolate individual judges who were not adhering to the intended operational and evaluation plans. The program was terminated by LEAA for consistent failure to generate even a minimally adequate caseload to justify grant expenditures, especially in view of the previously uncooperative stance shown towards satisfying evaluation requirements.

[5]Contracts were reviewed for completeness and adherence to program and Board eligibility standards. Specific problems were renegotiable, but eventual failure to reach agreement could result in ineligibility.

[6]If information subsequently came to the attention of the prosecuting attorney that indicated that restitution might be appropriate (i.e., a screening oversight), the option existed of referring the case to the program for loss investigations. Such cases were not included in the pool of offenders subject to randomization.

[7]An office police required deputies to request restitution in all documented cases in which the offender received a probation sentence.

[8]The standardized forms for data collection are contained in a separate report, entitled, National Evaluation of Adult Restitution Programs, Research Report #2, *Selected Data Instruments* (1977).

[9]During the two-year program funding period, interviews were conducted by program staff or the local evaluation specialist at each site. Following termination of program funding, a smaller number of follow-up interviews is being conducted by national evaluation staff.

[10]See National Evaluation of Adult Restitution Programs, Research Report #3, *Restitution Programs in Six States: Policies and Procedures*.

[11]See National Evaluation of Adult Restitution Programs, Research Report #2, *Selected Data Instruments* (1977).

[12]Because of the small number of cases processes within the experimental design in California, Connecticut and Maine, monitoring and follow-up data collection were not pursued beyond the closing dates of these programs. Therefore, data necessary to assess the effects of restitution are not available from these sites.

VI. Impediments to Design Implementation

[1]For the view that random assignment is not generally problematic if there is no indication of whether the proposed treatment is or is not effective see Zeisel, H., "Reducing the Hazards of Human Experience through Modifications in Research Design," *Annals New York Academy of Sciences* 169:475-486 (1970).

[2]See Gorelick, J. S. "Pretrial Diversion: The Threat of Expanding Social Control." *Harvard Civil Rights - Civil Liberties Law Review* 10:180-214 (1975) and Zimring, F. E. "Measuring the Impact of Pretrial Diversion from the Criminal Justice System." *University of Chicago Law Review* 41:224-241 (1974).

[3]See Caro, F., "Evaluation Research: An Overview." In Caro, F. ed. *Readings in Evaluative Research*. New York: Russell Sage Foundation (1971).

[4]Mattick, H. W. and B. E. Reischl. *Some Problems in the Evaluation of Criminal Justice Programs*. Center for Research in Criminal Justice. University of Illinois at Chicago Circle p. 10 (1975).

[5]Compare the discussion of false criteria of causality by Hirschi and Selvin in Hirschi, T. and H. C. Selvin. *Principles of Survey Analysis*. New York: The Free Press (1967).

[6]Chelimsky, E. *The Need for Better Data to Support Crime Control Policy*. Mitre Corporation, Metrek Division p. 4 (1976).

[7]None of the program administrators who complained of the lack of notice offered to withdraw from the funding initiative when they realized the strong evaluative emphasis being made by LEAA.

[8]The strength of these convictions in the impotence of LEAA may be gauged by the application of one program for extension of federal funding *after legal proceedings had been initiated by LEAA to terminate the program for noncompliance with programmatic and evaluative grant requirements*.

[9]See Waldo, G. P. and T. G. Chiricos. "Work-Release and Recidivism: An Empirical Evaluation of a Social Policy." *Evaluation Quarterly* 1(1):87-107 (1977).

[10]The administrators' wall of faith may not only block the implementation of evaluation research, but it may also deter the utilization of results by ignoring them in favor of intuitive reactions (see, e.g., Caro *supra* note 2).

[11]Reluctance to permit close evaluative scrutiny in isolated cases was highly and directly correlated with the vigor with which professions of belief in the value of the program were made in the "faith" category of objections to the design.

[12]*Supra* note 4 at p. 20.

[13]See Adams, S. "Evaluative Research in Corrections: Status and Prospects." *Federal Probation* 38:14-21 (1974) and I. N. Bernstein and J. Cardasia. "Strategies and Designs for Criminal Justice Evaluation." Paper presented at the Seventieth Annual Meeting of the American Sociological Association, San Francisco, August 25-29, 1975.

[14]*Supra* note 9 at p. 240.

[15]Ward, D. A. "Evaluative Research for Corrections." In Ohlin, L. E. (ed.) *Prisoners in America*. Englewood Cliffs, N.J.: Prentice Hall. 184-203 (1973).

[16]Adams, S. "Evaluating Research in Corrections." *Federal Probation* 38:14-21 (1974).

[17]Adams, S. "Evaluating Correctional Treatments." *Criminal Justice and Behavior* 4(4):333 (1977).

[18]Rutherford, A. and G. Bengur. *Community-Based Alternatives to Juvenile Incarceration*. National Institute of Law Enforcement and Criminal Justice. Law Enforcement Assistance Administration. U.S. Department of Justice p. 23 (1976).

[19]Conner, R. F. "Selecting a Control Group." *Evaluation Quarterly* 1(2):233 (1977).

[20]*Supra* note 9 at p. 103.

[21]Szabo, D. and S. Rizhalla. "Conducting Evaluative Research and Implementing its Results: Dilemmas for Both Administrators and Researchers." *International Journal of Comparative and Applied Criminal Justice* 2(1):21 (1978).

[22]Bailey, W. "Correctional Outcome: An Evaluation of 100 Reports." *Journal of Criminal Law, Criminology and Police Science* 57(2):159 (1969).

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