

National Evaluation of Adult Restitution Programs

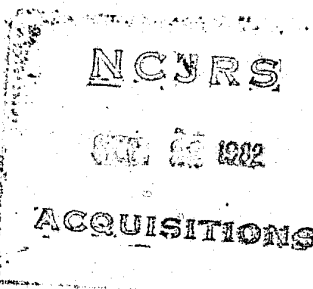
RESEARCH REPORT #3

RESTITUTION PROGRAMS IN SEVEN STATES:  
JURISDICTION, PROCEDURES, AND PARTICIPANTS

by

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### 1. CALIFORNIA

A. Program Name: California Restitution Project

B. Sponsoring Agency: California Department of Corrections, Parole and  
and Community Services Division

1. Criminal Justice Role: Parole supervision and provision of  
services for men and women released from state correctional  
facilities and for civilly-committed addicts.

2. Jurisdiction: The Parole and Community Services Division  
is responsible for the supervision of men and women throughout  
the State of California. This includes individuals residing in  
both state-run and privately operated community correctional  
centers and halfway houses. The Division itself operates 3  
community correctional centers, 2 psychiatric outpatient clinics,  
and a methadone maintenance clinic.

3. Workload and Organization: During the life of the California  
Restitution Project there were about 19,900 men and women under  
the Parole Division's supervision: approximately 13,900 male  
felons, 800 female felons, and 5,000 civil addicts (both male  
and female). Parole agents supervising felon parolees generally  
had caseloads of 50 men or women. Those supervising non-felons  
or civil addicts had caseloads averaging 33 individuals.<sup>1</sup>  
The State of California has been divided into 5 geographical  
regions each under the authority of a Regional Parole Administrator  
who reports directly to the Deputy Director, the chief administrative

officer of the Division. The regions contain a number of parole units providing supervision and services to approximately 300 parolees/releasees in a particular geographical area. Each unit, under a Unit Supervisor, typically consists of 7 parole agents and 2 clerical positions. For the location of the Project in the organizational structure, see Chart 1.1.

4. Prior Restitution Experience: Unknown.

C. Program Description

1. Start-up Date: The first case was processed by the California Restitution Program on April 28, 1977.
2. Staff: The California Restitution Project operated in the 2 major metropolitan areas of California, the Los Angeles basin and the San Francisco-Oakland Bay area (including Sacramento).

The Project Director and a clerical staff person were located in Department of Corrections offices in Sacramento. A contract negotiator for the Northern area operated out of Oakland. For the Southern area, the negotiator operated out of Los Angeles. The program evaluator was located at the CDC research section, operating out of the California Institution for Men at Chino, at the eastern edge of the Los Angeles metropolitan area.

In addition, the project relied heavily upon state-funded parole administrative and supervision staff in processing clients of the program.

All project staff were responsible to the Director for day-to-day program operations. The Director, in turn, was responsible to

the Deputy Director of Corrections through the Assistant Planning Director. In research matters the evaluator maintained an independent relationship to the Assistant Planning Director. Chart 1.1. depicts these staff relationships.

3. Purpose Classification

a. Offenders:

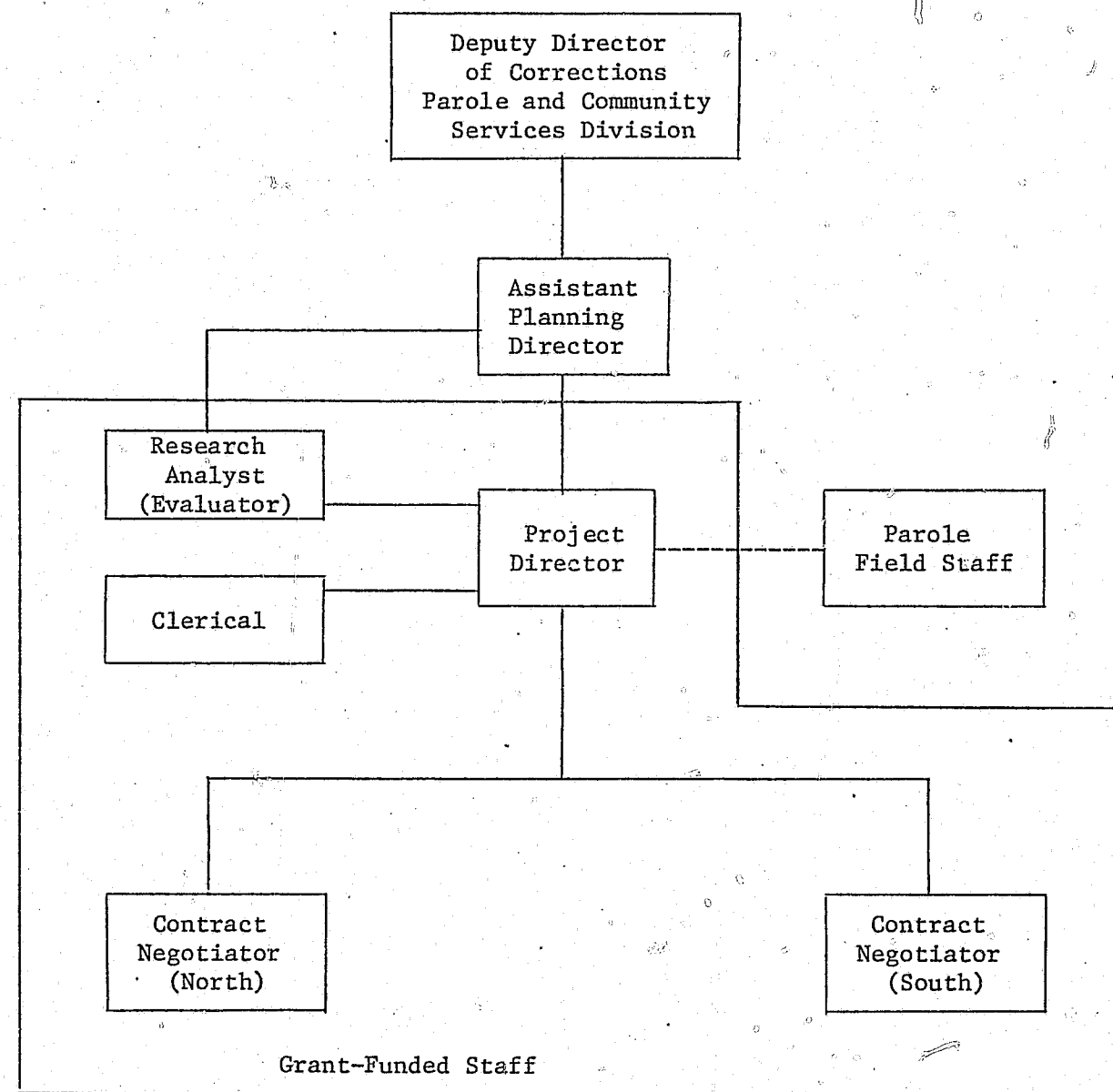
As reflected in the Goals and Objectives section to follow, the Project's primary purposes were offender-focused. By allowing violating parolees to remain on parole making restitution, rather than returning them to prison, the purpose of reducing the intrusiveness of criminal justice processing could be met.

b. Victims:

While the Project's goals and objectives clearly reflected a concern for victims, both with regard to their compensation and to improvement in their attitude towards offenders and the criminal justice system, the extent to which this concern was met in practice was limited. This resulted primarily from a counter-concern for the safety of the community which led to increasingly limiting eligibility criteria for offenders, and so reduced the number of eligible victims. With diminished numbers of eligible victims came the processing of greater numbers of victimless violations, and diminished victim benefits.

Chart 1.1

Organizational Structure -- California



c. System:

Concomitant with the hope for offender benefit was the potential benefit of cost reduction resulting from the return of fewer parolees to prison.

4. Goals and Objectives

As presented in project-related materials submitted to LEAA, the overall goal of the Project was to make compensation possible to victims of adult parole violators by providing a program for selected offenders to perform either financial or symbolic restitution as an alternative to return to prison.

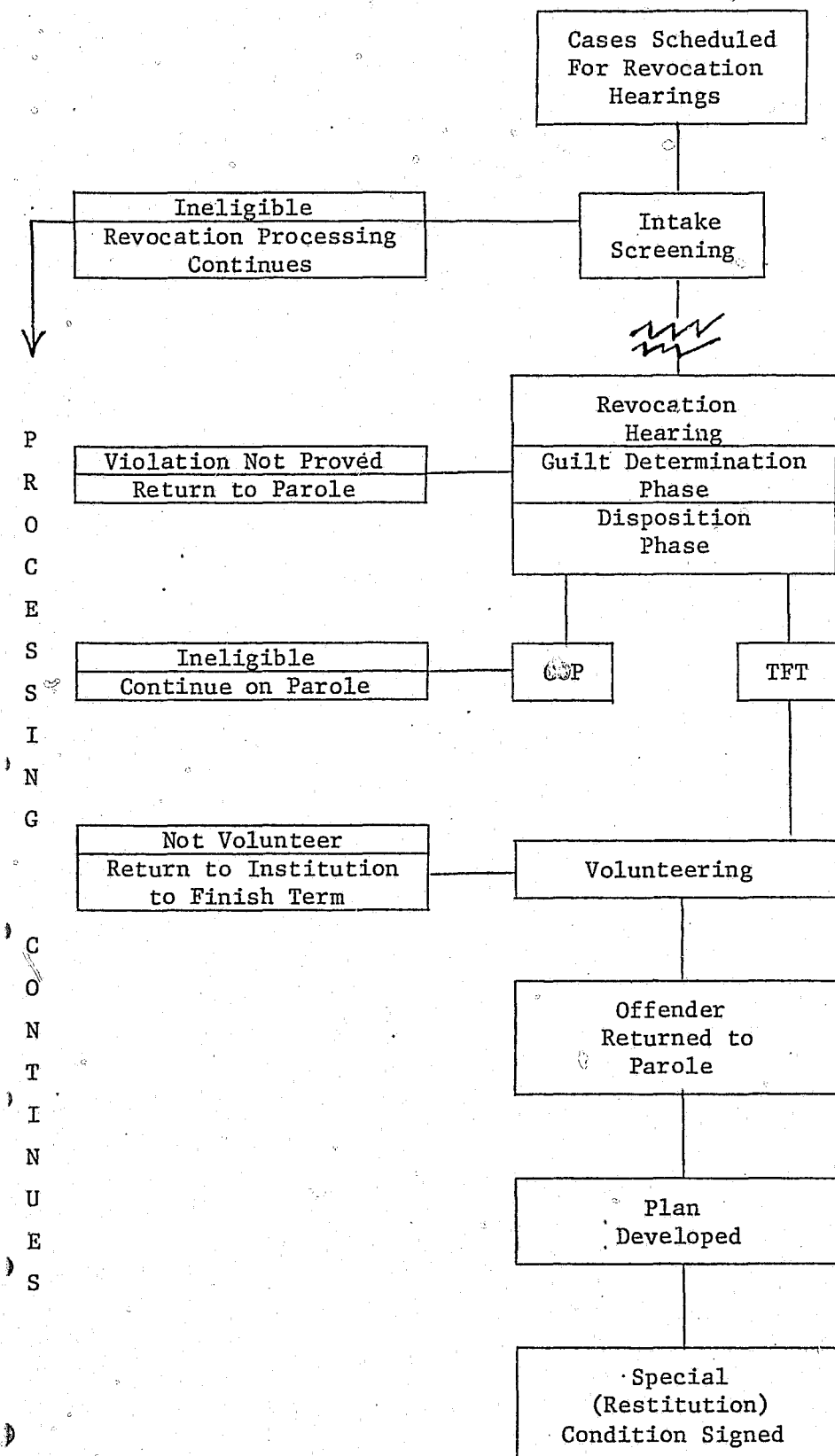
Specific objectives were:

- a completion rate of at least 40 percent for all service restitution agreed to by program offenders (i.e., offenders would successfully complete at least 40 percent of the service hours provided for in restitution agreements).
- a completion rate of at least 40 percent for all financial restitution agreed to by program offenders (i.e., offenders would pay at least 40 percent of the financial restitution provided for in restitution agreements).
- a return to prison rate of 15 percent or less for parolees required to make restitution in the program (through September 30, 1978).
- a savings of 110.9 man-years in prison time as a result of parolees remaining on parole to make restitution in lieu of return to prison (through September 30, 1978).



Chart 1.2

California Restitution Program Caseflow



- e. payment of \$6,750 in financial restitution to victims by offenders participating in the program (through September 30, 1978).
- f. provision of 11,543 man-hours of service restitution by offenders participating in the program (through September 30, 1978).
- g. improvement of the attitudes of victims toward offenders and toward the criminal justice system as a result of being assigned to receive restitution from an offender in the program.
- h. improvement of the attitudes of parole supervisors toward offenders making restitution in the program.

5. Procedures

The California Restitution Project integrated its processing of cases into the procedures utilized by California paroling authorities governing the revocation of offenders on parole.<sup>2</sup> Cases for which a violation of parole was alleged are reported to the appropriate California Paroling Authority.<sup>3</sup> After review, appropriate cases were scheduled for a revocation hearing which consisted of a violation phase (guilt determination) and a disposition phase (penalty assessment). Hearings were held in the field at a location near the parolee's residence or place of detention. They were conducted by a panel of 2 Board members or their designated hearing agents. Decisions of hearing panels are reviewed and validated by being countersigned by Board members in Sacramento.

Actual hearings were scheduled by field personnel but a log was maintained in CDC central offices in Sacramento of all upcoming hearings. Hearings were logged from one to three weeks in advance of the hearing date.

a. Intake Screening:

Each week the Project Director, assisted by the clerical person, screened cases scheduled for hearings in the geographic areas of the state covered by the program. In addition to the hearing log, parolee files maintained in the central office provided the necessary information for screening.

Cases were excluded if:

1. revocation was for drug treatment in the Controlled Substance Treatment Control Unit.
2. revocation was for psychiatric treatment.
3. the offender had absconded on at least two previous parole attempts with the aggregate time not under supervision amounting to six months.
4. the violation offense was:
  - a) homicide
  - b) manslaughter
  - c) attempted homicide
  - d) assault with a deadly weapon
  - e) aggravated assault
  - f) sex offenses with force
  - g) arson
  - h) robbery where weapons are used with intent to inflict physical harm.<sup>4</sup>

5. the violation offense involved sales of opiates, stimulants, or barbiturates having a street value of over \$500.

The Director notified each Contract Negotiator of the cases found eligible within their respective districts and the date and place of the hearing.

If the violation charges were supported in the guilt determination phase of the hearing, the hearing panel could dispose of the case by: (1) continuing the offender on parole (COP) or (2) returning the offender to an institution "to finish term" (TFT). Only eligible cases which were to be returned to prison TFT were considered for further program participation.

Immediately following the hearing the Contract Negotiator interviewed eligible TFT's to explain the restitution program. The offender executed a "volunteer form" if he wished to participate.<sup>5</sup>

The contract negotiator next would notify the Project Director by telephone of all eligible offenders who volunteered for the program. The Director in turn notified the Administrative Officer of the appropriate paroling authority. Through prior arrangement with the paroling authorities, the hearing panel's TFT order would be administratively modified to a COP

order with restitution as a new special condition of parole, before being countersigned by the Board. The Board Administrative Officer was responsible for effecting the change in the revocation order and for arranging for the offender's re-release to parole. Since the offender was generally detained following the hearing, arrangements to release the offender back to parole supervision were completed as promptly as possible.

b. Loss Assessment:

The majority of violation offenses did not involve victims (only 5 loss assessments were conducted in the 33 cases processed) and formal procedures for conducting loss assessments were never established.

c. Monitoring:

The few offenders who made financial payments to the victim did so by postal money order. Money orders were transmitted to the victim through the parole agent. Once again, because of the small number of cases, detailed accounting and disbursement policies were not formulated by program staff. Overall supervision of the offender on parole was the responsibility of the parole agent. The Contract Negotiator maintained contact with the case by monitoring (through contacts with the parolee and the supervisor) the terms of the special restitution condition.

d. Termination:

Upon successful completion of restitutive or community service obligations, formal notification was sent to the Paroling Authority; in most instances other parole conditions remained in force. No specific criteria were followed in making decisions about unsuccessful termination. Rather, such decisions were made by supervising agents on a case-by-case basis.

Revocation for non-payment was not usually considered if the offender was otherwise thought to be doing well on parole.

APPENDIX A

CALIFORNIA RESTITUTION PROJECT  
VOLUNTARY STATEMENT

The California Restitution Project is designed to study the result of restitution to victims of those parole violators ordered returned to prison to finish term.

Restitution, or compensation to the victim may be accomplished in three ways: 1) Financial payments to the victim; 2) Services to the victim or to the community (i.e., working at public works projects, social agencies, etc.); or 3) a combination of one and two.

The Restitution Project is voluntary. As a volunteer, you will have an opportunity, if selected, to make restitution to the victim as outlined above, in lieu of return to prison to finish term.

All persons selected must reaffirm that he/she is a volunteer by signing special conditions of Parole which will also have specific conditions regarding restitution to the victim.

If you are selected for the Restitution Project, you will have an opportunity to talk with a Contract Negotiator and discuss the details of the Restitution contract which will be added to your parole conditions as a Special Condition of Parole.

Attached is a statement for your signature indicating that you have read this document, understand it, and wish to volunteer for the California Restitution Project.

I \_\_\_\_\_, \_\_\_\_\_, have read the attached  
(NAME) (NUMBER)  
document and agree to volunteer for the California Restitution  
Project.

I understand that my signature is proof that I am willing  
to compensate any victims which may have been injured as a  
result of my behavior as charged and found guilty in the parole  
violation report.

I understand that this preliminary screening is to locate  
volunteers who may be selected to participate in the Project. If  
I meet the Restitution Project criteria and I am subsequently  
selected, special conditions of parole will constitute the final  
agreement.

\_\_\_\_\_  
Name

\_\_\_\_\_  
Number

\_\_\_\_\_  
Witness

cc: 1 copy parolee  
2 copies Contract Negotiator

APPENDIX B



State of California

## PAROLE BOARD

No. \_\_\_\_\_

THE PAROLE BOARD has granted you release on parole effective \_\_\_\_\_, 19\_\_\_\_. This parole is accepted by you, subject to the following agreement and conditions. Should you violate any conditions of this parole, you are subject to arrest and the Parole Board may modify, suspend or revoke your parole, order your return to prison and refix your secondary term. Whenever any problems arise or you do not understand what is expected of you, talk to your parole agent.

### AGREEMENT OF PAROLE

1. I agree to waive extradition to the State of California from any State or Territory of the United States, or from the District of Columbia, and also agree that I will not contest any effort to return me to the State of California.
2. Whenever it is determined by the Parole Board, based upon medical or psychiatric advice, that I am a danger to myself or others I understand the Parole Board may, if necessary for treatment, order my placement in a community hospital or my return to any facility of the Department of Corrections for up to 90 days.
3. I agree that I, my residence and any property under my control may be searched without a warrant at any time by any agent of the Department of Corrections or any law enforcement officer.
4. I understand that according to state and federal laws, I cannot own, use, have access to, or have under my control any type of firearm.
5. I have read or have had read to me, this agreement and the following conditions of parole. I fully understand them and I agree to abide by and strictly follow them. I fully understand the penalties involved should I violate this agreement or the conditions of parole.

\_\_\_\_\_  
Signature of Parolee

WITNESSED:

\_\_\_\_\_  
State Agent

\_\_\_\_\_  
Date

## CONDITIONS OF PAROLE

### 1. RELEASE, REPORTING AND TRAVEL

Unless other arrangements are approved in writing, I agree to report to my parole agent immediately upon release. I will not leave the State of California without prior written approval of my parole agent. I agree to inform my parole agent within 72 hours of any change in employment or residence.

### 2. PAROLE AGENT INSTRUCTIONS

I agree to comply with instructions which may be issued by a parole agent, including participation in anti-narcotic testing.

### 3. CRIMINAL CONDUCT

I will not engage in conduct prohibited by law (state, federal, county, or municipal).

### 4. SPECIAL CONDITIONS

I agree to the following special conditions: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

APPENDIX C

CALIFORNIA BOARD OF TERMS AND PAROLE (WBT&P)  
CALIFORNIA ADULT AUTHORITY (AA)  
CALIFORNIA COMMUNITY RELEASE BOARD (CRB)  
CALIFORNIA DEPARTMENT OF CORRECTIONS, PAROLE  
AND COMMUNITY SERVICES DIVISION (P&CSD)

The undersigned, hereby states to the WBT&P, AA, P&CSD, CRB that I have read the following provisions, that I understand them and that these provisions shall apply to me.

1. That I have voluntarily and without duress, agreed to participate in the California Restitution Project.
2. That I have been ordered by WBT&P, AA, P&CSD, CRB to return to prison to finish term.
3. That the order to return to prison to finish term has been recinded and that a Continue on Parole has been imposed with a Special Condition: Restitution.
4. I understand that the new imposed Special Condition: Restitution are not binding on any future parole violations submitted to the WBT&P, AA, P&CSD, CRB.
5. That I agree to the sum of (amount i.e.. \$300.00) negotiated by (name of Contract Negotiator) to be fair and just compensative to (name of victim).
6. The amount of (i.e., \$300.00) shall be paid of (name of victim) at the rate of (i.e., \$100.00) per month for three months, beginning January 5, 1977, and ending March 5, 1977.
7. The (i.e., amount \$100.00) shall be paid via (name of Parole Agent) with a U. S. Postal Money Order made payable to

(name of victim), no later than the fifth day of each calendar month at the (name of unit office).

I understand that (name of Agent) will make a copy of the U. S. Postal Money Order for placement in my file and will mail the payment to (name of victim) via registered letter. It is my responsibility to maintain proper U. S. Postal Money Order receipts as proof of payment.

9. That I desire to compensate in the form of time and services to (name of victim). I agree to the sum of (amount i.e., \$300.00) negotiated by (Contract Negotiator) to be fair and just compensation to (name of victim).
10. The amount of (i.e., \$300.00) shall be paid in time and services between (i.e., January 1 and March 31, 1977) at the rate of \$1.75 per hour (computed at \$2.50 per hour federal minimum wage minus 30% = \$1.75 per hour net pay).
11. The amount of (i.e., \$300.00) shall be compensated in the form of services to (name of victim) (explanation of what is to be done, time frames, to whom, how, when, and where).
12. That I desire to compensate in the form of time and services to (i.e., community, public works, social agency, etc.). The rate of compensation shall be computed at \$1.75 per hour.
13. The site of the services will be (i.e., community, etc.) and I will report to (name of work site supervisor) for X number of hours until (i.e., amount \$300.00) has been paid

time and services. (Explanation of what is to be done, time frames, to whom, how, and when.)

I also understand that in no way will I consider myself an employee of the Department of Corrections, Paroling Authority, nor anyone else as a result of time and services performed; nor do I intend to receive nor will make any claim for wages from any source as a result of time and services performed.

15. I hereby release all liability from the State of California, the Dept. of Corrections, the Paroling Authority, and any and all of their employees, for any bodily or personal injury that I may receive arising from and by reason of any and all, known or unknown, foreseen or unforeseen causes arising out of time and services performed, or any other consequences that may result from time and services performed.
16. I understand that failure to comply with these Special Conditions will be subject to review by WBT&P, AA, CRB, P&CSD.
17. I understand that at the completion of the specified compensation, a report will be submitted recommending removal of the Special Condition: Restitution.

Date

Signature

Number

Witness

cc: Victim  
Offender  
Supervising Agent  
Research Analyst  
Project Director  
Paroling Authority  
Regional Records

### Footnotes

<sup>1</sup>See General Information, Department of Corrections, April 20, 1978, State Office Building #8, 714 P Street, Sacramento, California 95814.

<sup>2</sup>See California Penal Code §3060. et. seq. For imposition of conditions see §3053.

<sup>3</sup>Prior to the enactment of the revised California Penal Code on July 1, 1977, there were 2 adult paroling authorities: the Women's Board of Terms and Parolees and the Adult Authority. After July 1, these bodies were combined into a single body, the Community Relations Board.

<sup>4</sup>In operation this criterion was broadened to exclude all offenders in possession of a firearm.

<sup>5</sup>See attachment A for a copy of the volunteer form.

### 2. COLORADO

A. Program Name: The Colorado Crime Victims Restitution Program

B. Sponsoring Agency: Awarded to the Office of the Governor, the grant is managed by the Division of Criminal Justice (DCJ) through the Department of Local Affairs (see Chart 2.1). For purposes of this report, DCJ is considered the sponsoring agency.

1. Criminal Justice Role: State Planning Agency.

2. Jurisdiction: Statewide.

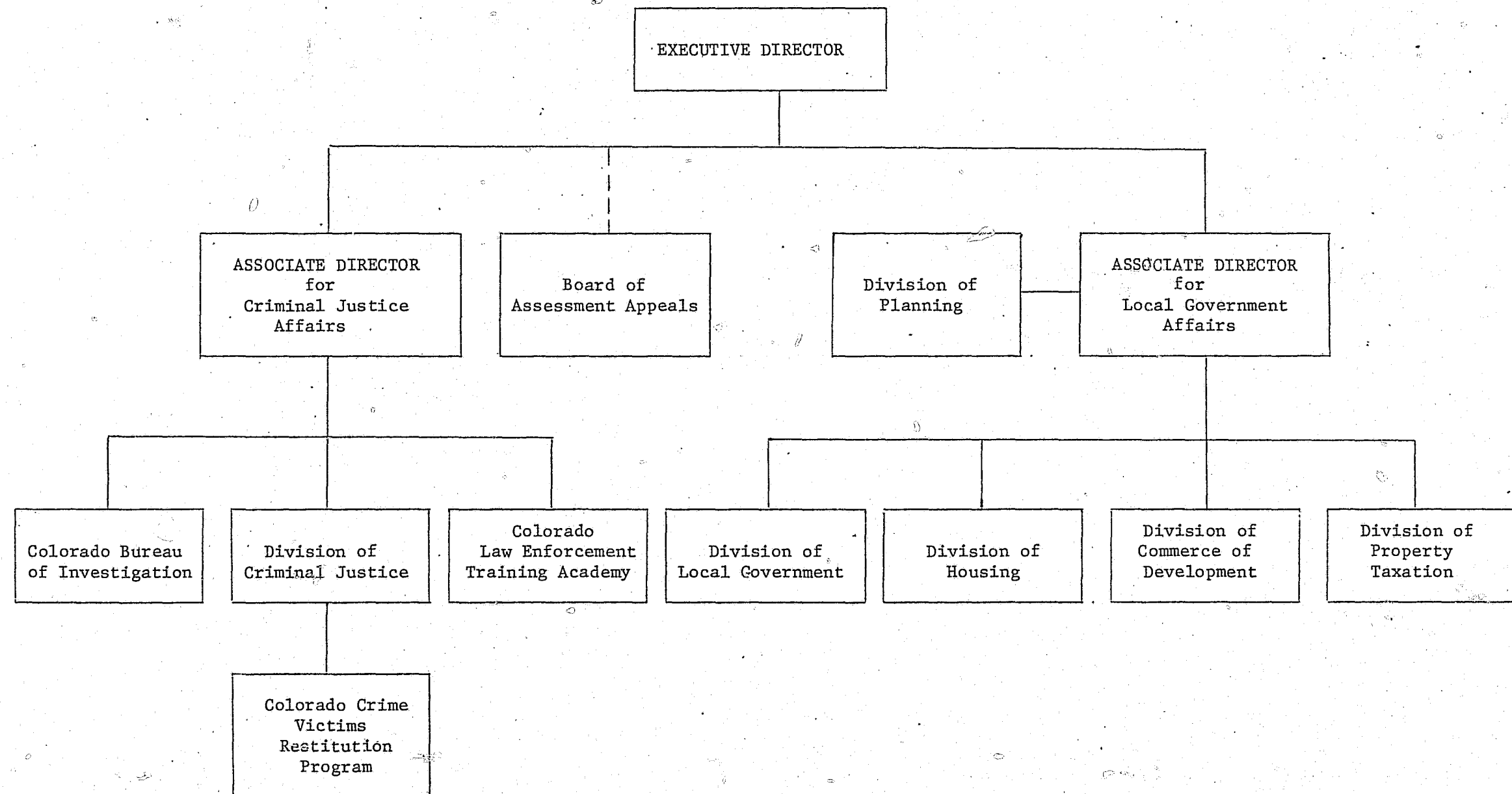
3. Workload and Organization: DCJ was created by executive order in 1968 in response to the Omnibus Crime Control and Safe Streets Act of 1968. Institutionalized in 1971 through legislative action, DCJ has responsibility for:

- a. The administration of federal monies from LEAA used to reduce crime and improve the state's criminal justice system.
- b. Analyzing the state's criminal justice system and planning to improve that system.
- c. Coordinating activities and planning related to the state's juvenile justice system.

Overseeing the activities of DCJ is the State Council on Criminal Justice composed of members appointed by the Governor. The Council is supported by a staff responsible for conducting the day-to-day business of the Division. DCJ central staff consists of a director; a number of program directors, including the Colorado Crime Victims Restitution Program

Chart 2.2

DEPARTMENT OF LOCAL AFFAIRS  
Organizational Chart





director; and personnel trained in a variety of disciplines including law enforcement, corrections, data systems, research and planning, financial administration, and law.

4. Prior Restitution Experience: Although DCJ has not been involved with restitution programming prior to the funding of this grant, the State of Colorado has a long history of using restitution. For the most part, restitution has been used as a condition of probation. Probation department records for the Denver District Probation Office show the use of restitution as early as 1933 with increasing use to the present time. In recent years restitution has been a condition of probation for nearly all property offenders placed on probation, i.e., approximately 50 percent of all offenders on probation have been ordered to make restitution.

#### C. Program Description

1. Start-up Date: The Colorado Crime Victims Restitution Program began processing cases in the Institutional Work Release component on November 10, 1977. On January 24, 1978, program services were expanded to include offenders who would be making restitution while on parole.<sup>1</sup>
2. Staff: Program staff include a program director, a program evaluator, a corrections specialist, 2 restitution specialists, a data collector, a part-time work-study student, and a clerk/secretary. An organization chart of the program is included in Chart 2.2.

#### 3. Purpose Classification:

##### a. Offenders:

The primary orientation of the Program is to benefit the offender through more rapid deinstitutionalization and reduced recidivism among parolees.

##### b. Victims:

The dominant focus upon benefitting offenders is followed closely by a concern for victim compensation and anticipated improvement in attitudes towards the criminal justice system.

##### c. System:

System benefits anticipated are primarily financial, in that reduced institutional populations may lead to reduced expenditures.

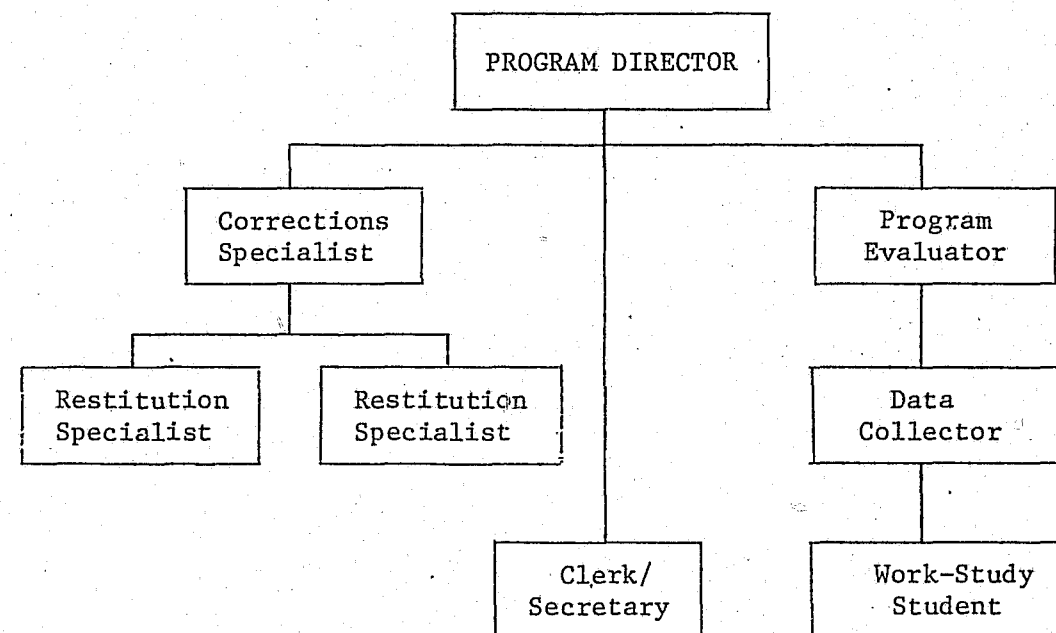
#### 4. Goals and Objectives

As indicated in documents submitted to LEAA, the program intended:

- a. To improve victim attitudes toward the criminal justice system.
- b. To improve offender attitudes toward the criminal justice system and society.
- c. To reduce recidivism of offenders making restitution on parole to 25 percent.
- d. To hasten the deinstitutionalization of program participants.
- e. To collect \$50,000 restitution from participants on work release or parole over the grant period.

Chart 2.2

Colorado Crime Victims Restitution Program  
Organizational Chart



5. Procedures

The Colorado Crime Victims' Restitution Program functions primarily as a mechanism for facilitating the release of incarcerated offenders to enable them to make restitution.<sup>2</sup>

Program participants are taken from the Colorado State Reformatory (CSR), the Colorado Women's Correctional Institution (CWCI), and various state operated honor camps.

a. Intake Screening:

Periodically restitution program staff visit each of the participating institutions to screen correctional files of those offenders who are approximately 3 months from work release or parole eligibility. Based on the contents of the file cases are screened on the following criteria:

(i) The present offense for which the offender is incarcerated must be a property offense, i.e., burglary, theft, theft by deception, forgery, arson, criminal trespass or mischief.

(ii) An actual out-of-pocket loss must be evident.

Having identified the potentially eligible offenders, the correctional specialist contacts each offender to explain the program and to ask the offender if (s)he wants to volunteer to participate. If the offender volunteers, a Voluntary Consent Form (see Appendix A) is signed by the offender.

Work release component: Offenders who meet the eligibility criteria and volunteer for the program but are not yet eligible for parole are encouraged to apply for community placement. If approved for community placement, the offender will be transferred to a residential community facility where (s)he will be engaged in a work-release program.

Applications for community placement by program eligibles are processed in the normal fashion with one difference. The voluntary consent forms of program eligibles are placed in the folder reviewed by the correctional review committee. It is hoped that the evidence of the offender's willingness to make restitution will be a positive factor in the decision to release the offender.

If the offender is approved for community placement,<sup>3</sup> a restitution plan is developed prior to the offender's release.

Once at the community placement facility, the offender is allowed several weeks for adjustment and finding employment before restitution payments begin.

Offenders denied community release are placed on a program inactive list. When the individual does become acceptable for community placement or eligible for parole the case is reactivated for the appropriate component.

Parole component: Processing for the parole component is similar to that for the work-release component. For those offenders who have met the eligibility criteria and volunteered to participate, a signed Voluntary Consent Form is placed in their file to be presented to the parole board. The knowledge that this form will be seen by the board when considering the offender's parole serves as one inducement to volunteer for the program. The Parole Board makes the decision to release the offender,<sup>4</sup> but actual release may be delayed as much as 2 weeks.

Offenders denied parole are placed on the inactive list to be reactivated prior to their next parole hearing.

b. Loss assessment:

- (i) Time Frame: Once released, the offender is allowed a grace period of several weeks before restitution payments begin. When the offender has secured employment and his/her ability to pay has been assessed, a payment plan is developed with the assistance of a restitution specialist. The signing of a restitution

contract follows an offender's release by an average of 6 weeks, and usually no more than 10. In most cases the signing of the restitution contract is followed 4 weeks later by the first restitution payment.

- (ii) Loss Assessment Style: Wherever possible, documentation of all losses is sought. Typically, program staff review pre-sentence investigation reports, and request receipts, estimates, etc., from victims. However, because of the time lapse between the offense and restitution payments typical in a corrections-based restitution program, determining the fair market value of items at the time of the offense is more difficult than it would be in a pre-trial or court-based program. Consequently, reliance upon negotiated settlements between victims and offenders becomes essential. Routinely, after volunteering and prior to release, offenders are required to recount the losses resulting from the criminal incident estimating the value of all cash and property stolen and property damaged. Similarly, the victim is contacted by phone and required to provide documentation of losses or, when documentation is no longer available, an estimate of the value of the loss. If no major discrepancies exist between offender and victim loss assessments a negotiation session is usually not necessary. Where major discrepancies

do exist, victims are asked to engage in negotiations with the offender to arrive at an equitable settlement. If the victim refuses to participate in the negotiations, the restitution specialist represents the victim's interest in negotiations with the offender and corrections specialist. Upon completion of the negotiations, the victim is notified of the outcome. If the victim(s) cannot be located or refuses restitution the offender is not excluded from the program. Instead, loss information contained in the police or pre-sentence report is taken as the value upon which restitution is based. The offender is given the option of selecting a charity of his/her choice and paying one-half of the loss amount to the designated charity. If the offender declines this option, (s)he is excluded from the program.

(iii) Types of Loss Investigated: "Restitution can only be paid for the victim's direct pecuniary loss. This includes money or property stolen, [or property] damaged or otherwise lost during the actual criminal incident. Loss to insurance companies, investigative costs, interest losses, court expenses and psychological impairments due to pain and suffering are not to be paid as restitution by the offender unless otherwise stated in a court order or mittimus." 5

- (iv) Types of Victims Investigated: Normally, correctional casefiles contain copies of the pre-sentence report and the sentence order. These documents, as well as any other pertinent documents in the file, such as police reports or the charging document, are reviewed to identify victims. Only victims involved in the conviction offense(s) are investigated by program staff for inclusion in the restitution contract.
- (v) Restitution Plan: The decision to release an offender into the community either on work release or parole is not conditioned on the content of the restitution plan. Hence, there is no need for program staff to make recommendations concerning restitution. Instead, program staff draw up a contract (see Appendix B) signed by the victim, the offender, and a witness. The contract stipulates the total amount of restitution to be paid and the payment schedule established. Other plan details such as an assessment of ability to pay and detailed documentation of loss typically found in restitution plans are not included in the contract. Nevertheless, in developing the contract, program staff investigate the offender's ability to pay, and loss documentation is sought. One consequence of investigating the offender's ability to pay is that the amount of

restitution to be made may be less than the amount of loss documented. Where the offender is not able to make full restitution, (s)he will be required to make as much restitution as possible.

c. Monitoring:

Once the contract is signed, and cooperation with the restitution program is made a condition of the offender's release, a copy of the contract is forwarded to the fiscal office of the Department of Corrections along with the victim's name and address and other pertinent information. On the date the contract becomes effective the accounting technician opens an account for the offender. Payments from work-release offenders are automatically deducted from the offender's work-release account and transferred to the restitution account. Offenders making restitution on parole are required to make payments in the form of a check or money order payable to the Treasurer of the State of Colorado. The check or money order is turned over to the supervising parole officer no later than the fifth day of every month. A receipt is given to the offender and the money order is turned over monthly to the fiscal office which credits the offender's restitution account. As payments to victims come due, the accounting technician issues a state check to the victim. All restitution transactions are documented in a separate restitution ledger. A copy of the ledger entries is sent to the program around the first of each month.

If an offender misses a scheduled payment the accounting technician flags the account and waits 2 weeks before taking any action. If the payment is not received within this 2-week period, a letter is sent to the supervising parole officer and the restitution program. Upon receipt of notification of delinquency the restitution specialist assigned to the case contacts the parole officer to find out the reason for the missed payment and to determine if a modification to the restitution plan is in order. Plan modifications are made where deemed appropriate and victims are notified of any changes.

If a reasonable explanation is not provided and future payments are missed the restitution specialist contacts the parole officer to determine what actions have been taken to rectify the situation. The specialist may also advise the parole board or correctional authorities of the offender's delinquency. Ultimately, if the paroling or correctional authority refuses to take action against the offender the program is powerless with respect to enforcing the contract conditions.



APPENDIX A

VOLUNTARY CONSENT FORM

The Colorado Crime Victims Restitution Program is designed to study restitution to victims of property crimes. As a volunteer, you are agreeing to participate in a program which has two different kinds of groups: one which pays restitution, and another which does not pay restitution. You will be assigned to one of these two groups on a random basis that allows sixty people to pay restitution for every one hundred that volunteer. Forty people in one hundred will be placed in the group which does not pay restitution. No matter which group you are assigned to, you will be part of the project, and your participation will be viewed with equal importance.

All restitution program participants must show their intention to pay back the victim by signing a contract. You will talk with a Corrections Specialist about the details of your contract if you are in the group which pays restitution.

Below is a statement for your signature stating that you have read this document, understand it, and wish to volunteer for the Colorado Crime Victims Restitution Program.

ATTENTION  
THIS INDIVIDUAL IS A PARTICIPANT  
IN THE  
COLORADO CRIME VICTIMS RESTITUTION PROGRAM

I, \_\_\_\_\_  
have read the attached document and agree to volunteer for the Colorado Crime Victims Restitution Program. I understand that my signature is proof that I am willing to compensate any victims who may have been injured or have had property damaged or stolen as a result of the behavior of which I have been found guilty.

I understand that this preliminary screening is to locate volunteers who may be selected to participate in the program. If I meet the program criteria and I am part of the paying group, a restitution contract will be developed. My signature to that contract will constitute my final agreement to pay the victim of my crime.

Name \_\_\_\_\_ Date \_\_\_\_\_

DOC # \_\_\_\_\_

APPENDIX B

COLORADO CRIME VICTIMS RESTITUTION PROJECT  
VICTIM AND OFFENDER NEGOTIATION CONTRACT

THE UNDERSIGNED HEREBY STATES TO THE  
COLORADO DEPARTMENT OF CORRECTIONS AND THE  
COLORADO CRIME VICTIMS RESTITUTION PROJECT  
THAT I HAVE READ THE FOLLOWING PROVISIONS,  
THAT I UNDERSTAND THEM AND THAT  
EACH SHALL APPLY TO ME

- I. I have voluntarily and without duress agreed to participate in the Colorado Restitution Project.
- II. I understand that in no way will I consider myself an employee of the Restitution Project, nor do I intend to receive, nor will I make any claim for wages from the above source for work done.
- III. I hereby release from all liability the State of Colorado, the Colorado Department of Corrections, and the Colorado Restitution Project and all of their employees or agents, for any bodily or personal injury that I may receive arising from and by reason of any and all, known or unknown, foreseen or unforeseen causes arising out of time and services performed, or any other consequences that may result from time and services performed.
- IV. I agree to pay monetary restitution under the following conditions:
  - IVa. I agree to pay the sum of \_\_\_\_\_ negotiated by \_\_\_\_\_ (amount) \_\_\_\_\_, as fair and just compensation to \_\_\_\_\_ (Restitution Staff) \_\_\_\_\_ (Victim(s)).
  - IVb. I agree to pay the monthly amount of \_\_\_\_\_ by deductions from my institutional account as long as I remain in a Department of Corrections facility. Withholding shall commence \_\_\_\_\_ and the victim(s) should expect their first payment \_\_\_\_\_ and every month thereafter.
  - IVc. I agree that upon my transfer to a work-release or other authorized external placement, I will pay the amount of \_\_\_\_\_ by deductions from my institutional account, with payment commencing the second month after my arrival.

IVd. I agree that upon my parole, I shall pay the amount of \_\_\_\_\_  
monthly by U. S. Postal money order no later than the fifth day  
of every month.

IVe. I agree that at such time the final sum stated in (IVa) is paid,  
I will no longer be responsible for any of the aforementioned  
payments.

V. I understand that failure to comply with these provisions will be  
subject to review by the Colorado Department of Corrections and  
the Colorado Restitution Project and may result in my removal from  
the project and forfeiture of any and all privileges or benefits  
associated with the project.

VI. I understand that at the completion of the specified compensation,  
a final report will be made by the Colorado Restitution Project  
to the Colorado Department of Corrections and the Colorado State  
Parole Board concerning completion of this contract.

VII. I understand that any time my financial situation changes, due  
to any reason, I may contact \_\_\_\_\_ and request  
Restitution Specialist  
that any of the above items in IVa through IVd be re-negotiated.

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Witness)

\_\_\_\_\_  
(DOC Number)

\_\_\_\_\_  
(Signature of Victim)

\_\_\_\_\_  
(Offender Account Number)

#### Footnotes

<sup>1</sup>The program was designed to provide services to the probation department  
as well. However, after a number of unsuccessful attempts to find victims  
who were willing to accept service in lieu of financial restitution, the  
probation aspect of the program was abandoned.

<sup>2</sup>This is in keeping with the spirit of House Bill 1237 which "(p)rovides  
that restitution by criminal offenders to their victims may be a condition  
of parole and may be given priority in disbursing an employed prisoner's  
earnings."

<sup>3</sup>At this point (i.e., after approval for community placement or parole),  
the offenders are randomly assigned to experimental (E) and comparison (C)  
groups for evaluation purposes. Offenders are assigned to E and C groups  
at the rate of 3 E's to 2 C's. Both E and C offenders are released to  
community facilities or parole but only E offenders make restitution.

<sup>4</sup>See footnote 3 above.

<sup>5</sup>Program policy as stated in the Colorado Crime Victims Restitution  
Program Procedural Manual, Mark Allen and Tom Miller, March 15, 1978, p. 5.

3. CONNECTICUT

A. Program Name: Connecticut Judicial Department Restitution Services

B. Sponsoring Agency: State of Connecticut Judicial Department

1. Criminal Justice Role:

Operation and management of the state court system.

2. Jurisdiction:

The Judicial Department has jurisdiction over all criminal and civil matters litigated in the state.

3. Workload and Organization:

During most of the grant period the Judicial Department included the Supreme Court, the Superior Court, the Court of Common Pleas, the Juvenile Court and the Courts of Probate.<sup>1</sup> All of these courts, with the exception of the Courts of Probate were maintained with state funds.

(Courts of Probate were maintained by local governments.)

These courts were presided over by 118 judges; 6 Supreme Court judges; and 6 Juvenile Court judges.<sup>2</sup> The organization of the Judicial Department is presented in Chart 3.1. In addition to courtroom responsibilities the Judicial Department maintains a personnel unit, an administrative services unit, a fiscal management unit, a data processing unit, and a research and planning unit.

As seen in Table 3.1 the Judicial Department processed over 1.1 million cases between 1974 and 1976. The pool of criminal cases of interest to the program comprised 18 percent of the total number of cases handled or 199,093 cases for the two-year period.

Chart 3.1  
Organizational Chart  
State of Connecticut Judicial Department

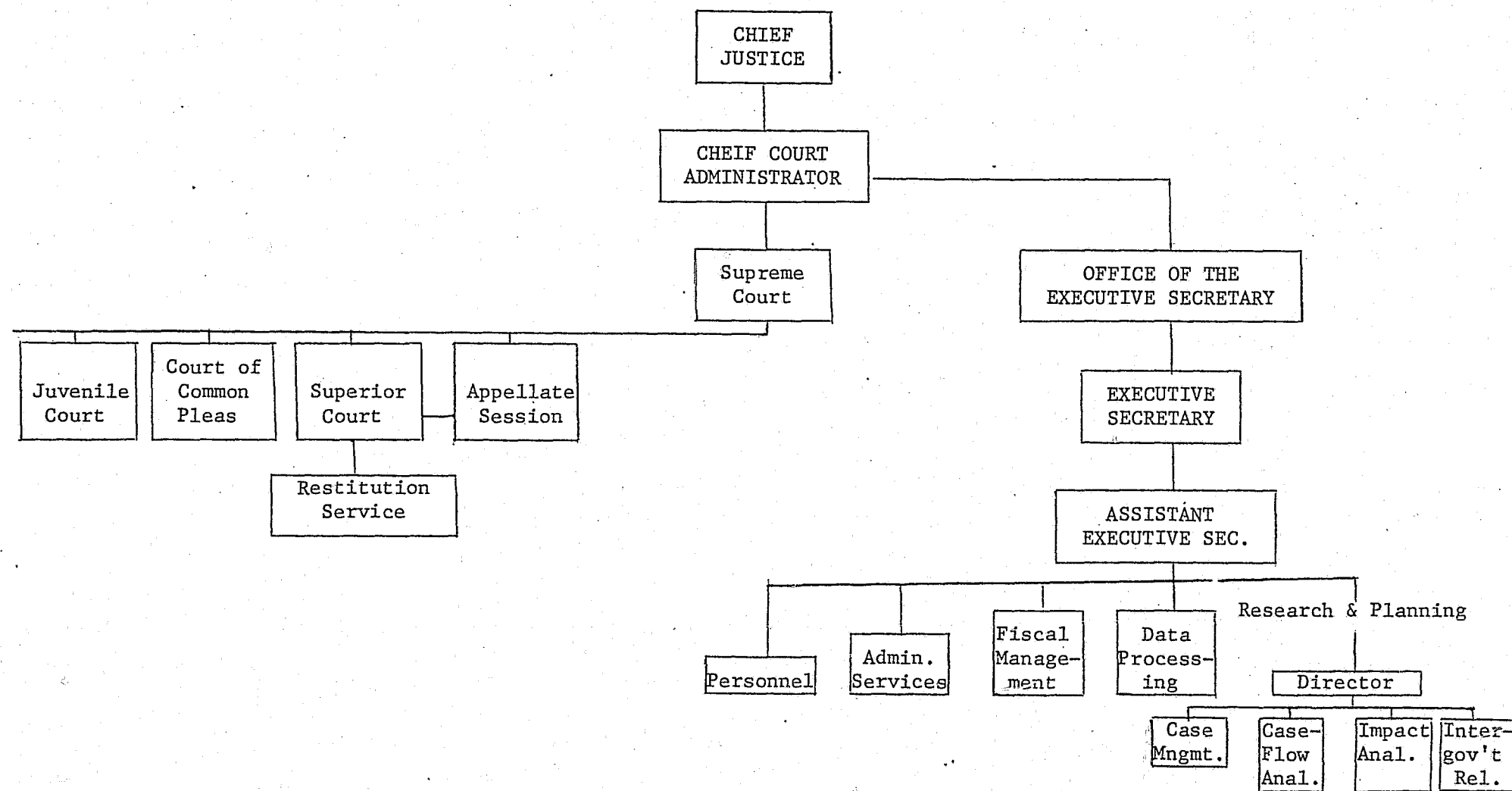




Table 3.1

State of Connecticut Judicial Department Caseload 1974-1976

	Dispositions 1974-1975	Dispositions 1975-1976	Total 1974-1976
Supreme Court	585	581	1,166
Superior Court			
Appellate	41	173	214
Civil	24,116	24,995	49,111
Criminal	3,773	4,100	7,873
Court of Common Pleas			
Civil	54,521	51,625	106,146
Criminal	95,313	95,907	191,220
Motor Vehicle	192,153	225,446	417,599
Small Claims	90,023 <sup>a</sup>	94,595 <sup>a</sup>	184,618
Juvenile Court	11,192	14,372 <sup>b</sup>	25,564
Probate	62,671 <sup>c</sup>	59,806 <sup>c</sup>	122,477
TOTAL	534,388	571,600	1,105,988

<sup>a</sup>The figures presented represent case filings not dispositions.

<sup>b</sup>The 1975-1976 figure presented is a linear projection of the number of dispositions for the year based on data collected during the first six months of the year.

<sup>c</sup>These figures represent all transactions handled through Probate Court.

4. Prior Restitution Experience:

Although statutory provisions for restitution have existed for some time in the state, the Connecticut Judicial Department had no formal restitution program prior to the inception of the Restitution Service in 1976. In the absence of formal programming, restitution was used as a condition of probation at the discretion of individual judges; loss amounts were not rigorously investigated or documented and payments were not monitored systematically. It was not possible to determine the extent of the use of restitution in the past because detailed records concerning restitution were not maintained.

C. Program Description1. Start-up Date:

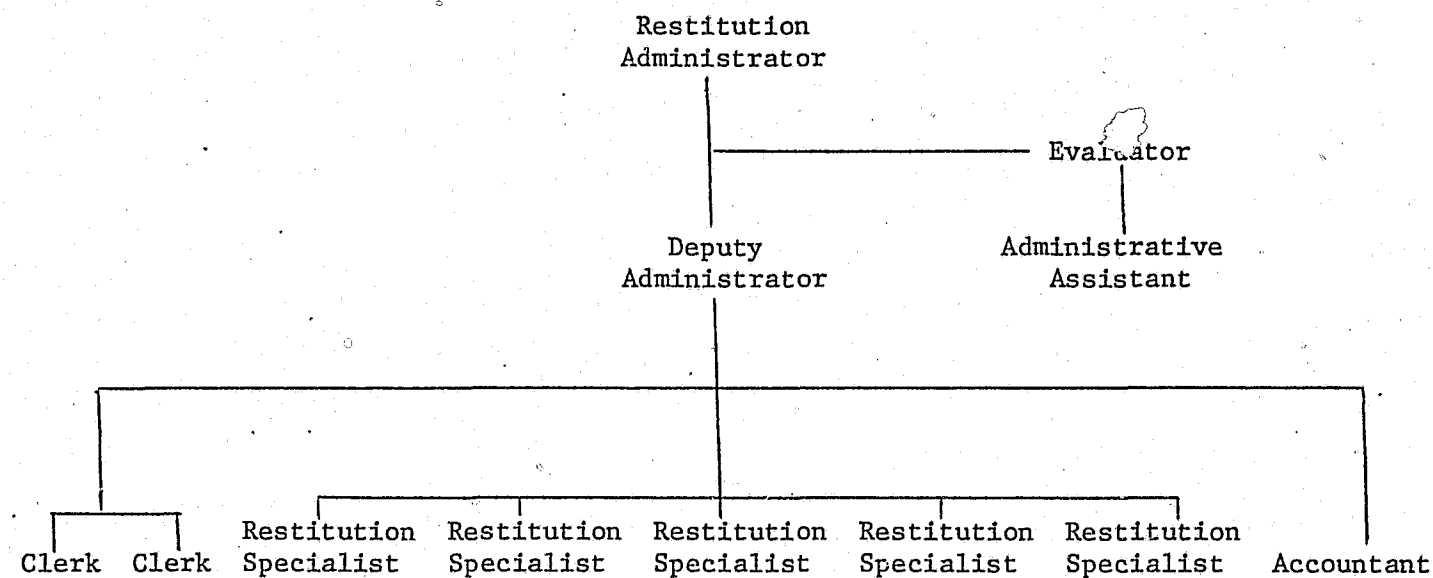
The Restitution Service began case intake on May 3, 1977. During the first four months of operation, program services were limited to cases referred from Superior Court. On September 5, 1977, program services were extended to selected Court of Common Pleas jurisdictions.

2. Staff:

Restitution Service staff consists of an administrator, a deputy administrator, an accountant, five restitution specialists, two clerical assistants, an administrative assistant and an evaluator. The organizational structure of the program is illustrated in Chart 3.2.

Chart 3.2

Restitution Service Organizational Structure



3. Purpose Classification:

a. Offenders:

Through preparation of restitution plans prior to sentencing, the program originally hopes to provide incentive for judges to divert offenders from incarcerative dispositions. Two factors combined to reduce the extent to which offender benefit could be pursued. First judges were unwilling to adhere to the program's planned procedures. Second, the program director was willing to compromise the original procedure and intent of the program in order to keep the program in existence. The end result is that offender-benefits sought through the program are, at best, vague hopes of occasional

diversion and possible rehabilitation; assumptions on which either hope is based have never been articulated by program staff.

b. Victims:

With respect to victims, compensation is a major purpose of the program. Increased satisfaction of victims as a result of any compensation received through the program is hoped for as a secondary purpose.

c. System:

The primary purpose of the program has come to be securing the continued existence of the program. All independent purposes of the program, such as diversion and provision of information to influence sentencing decisions, have been compromises to accomodate diverse ways in which judges have chosen to use the program; primary purposes adopted by the judges are provision of loss information and/or accounting for payments after offenders have been sentenced to pay restitution.

4. Goals and Objectives:

As stated in the Connecticut Restitution Service Revised Work Plan of August, 1977 the program's goals are.<sup>3</sup>

- a. To increase the use of restitution in Superior Court from 100 to 200 cases per year.
- b. To increase the use of restitution in the Court of Common Pleas.

- c. To decrease by 25 percent the rate of jail sentences handed down to eligible offenders.
- d. To have accepted by the court 90 percent of the restitution plans submitted without modification.
- e. To have at least 70 percent of all victims involved in the eligible cases agree to accept restitution in some form.
- f. To have at least 70 percent of all offenders sentenced to make restitution successfully complete their restitution obligations.
- g. To have at least 70 percent of all judges sitting in participating judicial districts during arraignments request at least one restitution plan from the Restitution Service.

5. Procedures:

The Restitution Service was conceived as an investigatory arm of the Judicial Department that would provide Superior Court judges with information to be utilized in making sentencing decisions concerning restitution.<sup>4</sup> Originally, Restitution Service activities were to be triggered by requests from judges for restitution plans after conviction but prior to sentencing. For a variety of reasons, program modifications were made to accommodate judicial preferences for referring cases after sentencing.

a. Intake Screening:

Three intake channels were used:

(i) Judicial Requests Post-conviction:

The process of case referral described in this section comports most closely to the original program design. Upon conviction the presiding judge decides if restitution is a likely sentencing alternative in the particular case. If the judge decides that restitution may be appropriate the clerk of the court completes a restitution referral form (see Appendix A) and sends it to the Restitution Service. Eligibility for program participation is determined by the judge in the absence of explicit criteria.

Upon receipt of the referral, the Restitution Service clerk logs and dates the referral and then passes it on to the program administrator for assignment to a restitution specialist.<sup>5</sup>

(ii) Judicial Request Post-sentencing:

Post-sentencing referrals differ from post-conviction with respect to the type and intensity of the investigation conducted by the specialist. Post-sentencing cases are received in one of two ways. Some cases are not only sentenced to make restitution, but the amount of restitution and the payment schedule are also determined

prior to referral to the Service. Restitution Service responsibility for these cases involves merely monitoring payments. Other cases referred after sentencing require the specialist to investigate loss amounts, determine a fair settlement and develop a payment schedule as well as monitor subsequent payments.

(iii) Prosecutorial Inquiry:

Under this approach, prosecutors screen cases to determine for which ones they think restitution might be appropriate. Once restitution cases are identified, the prosecutor consults with the defense attorney to make sure restitution is agreeable to the defense. If both parties agree to restitution, the prosecutor calls the Restitution Service to find out if the Service can take the case should it be referred by the judge.<sup>6</sup> If the case can be handled by the Service it is expected that restitution will be a factor in the plea negotiations. If the case can be handled by the Service, and restitution is agreed to by the prosecutor and the defense, the prosecutor informs the judge of the negotiated plea, and recommends the judge request the Restitution Service to work up a plan. At this point the referral process works as described in Section 5a(i) above.

b. Loss Assessment:

(i) Time Frame:

Typically, restitution proposals are completed and submitted to the judge within two weeks after a case is referred to the Service. Where a prosecutorial inquiry is made, specialists may begin preliminary casework at the time of the inquiry. However, contact with offenders and victims is not made until a formal request is made by a judge.

(ii) Loss Assessment Style:

Upon receipt of a case referral the restitution specialist secures copies of the police report and court documents. These are reviewed to identify victims involved in the offense and to obtain an inventory of reported losses. Victims are contacted by phone to verify the reported losses and to determine if there were any other losses that were not noticed at the time the police report was filed. Where possible, victims are required to provide written documentation of losses. Documentation typically includes repair bills, repair estimates, medical bills or receipts for articles replaced subsequent to the incident.

Victims are also asked about insurance claims; when they have been submitted, the name of the company is requested and the amount verified through a phone call to the company. Where documentation is not available, value determinations are made by the restitution specialists. Using procedures similar to those employed by insurance adjusters, losses are inventoried and pricing catalogs and depreciation tables are consulted. Occasionally, specialists are confronted with situations requiring expertise beyond their abilities. When such situations arise, the deputy administrator and/or the accountant are called on to assist in the value determination. This may be necessary, for example, where an audit of company books is necessary to determine the value of loss in a case involving embezzlement of company funds.

(iii) Types of Loss Investigated:

Specialists investigate all tangible losses associated with conviction offense(s). Typically losses investigated include cash and property stolen, property damaged, medical costs, unreimbursed worktime lost, rental costs, and monies spent by the victim in determining losses, e.g., the cost of an audit performed to determine the amount stolen by an offender.

(iv) Types of Victim Investigated:

Usually only victims involved in offenses for which the defendant is convicted are investigated for losses. However, when victims of offenses for which the charges against an offender have been dropped are identified in the course of a routine investigation, efforts are made to assess the losses incurred by these victims, and the information is included in the proposal submitted to the judge. In addition to actual victims of crimes, specialists also investigate losses suffered by insurance companies.

(v) Restitution Plan:

For each case, the Service prepares a Proposed Restitution Plan (see Appendix B), that includes a determination of the offender's suitability for restitution, a detailed statement of loss and a payment and/or Service schedule for making restitution. Typically, the Restitution Service makes no recommendation to the judge. Primarily, offender suitability is determined by assessing ability to pay. If the offender's monthly income exceeds his monthly expenses, he is assumed to have the ability to make restitution. If the offender is dependent on drugs and/or alcohol he is considered unsuitable for restitution.

Ancillary obligations, such as job counseling, are not included in the plan. Where multiple offenders are involved, each offender is held responsible for the full amount of loss, less any reimbursement from other cooffenders. Victim culpability is not considered in formulating the plan. Payment schedules included in the plan usually require offenders to make payments every two weeks.

Originally, specialists were to be present at the sentencing hearing for each case that they investigated to answer any questions posed by the judge, the prosecutor, or the defense attorney about the proposed plan. Because of the geographic dispersion of the Connecticut courts and the central location of program staff in Hartford, however, this approach was not manageable. Instead program staff, including the accountant, appear in court only when the program administrator decides that the case is particularly complex, or when requested by the presiding judge.

c. Monitoring:

If the judge orders the offender to make restitution, a notice is sent to the Restitution Service. At this

point the accountant assumes responsibility for the case. Upon receiving a case, the accountant opens an account for the offender indicating the due dates of each payment. As payments are made the accountant credits the offender's account, and sees that disbursements are made to restitution recipients. Generally disbursements to victims are made monthly. Each victim is paid equally, and actual victims are paid before insurance companies. Fines and other financial obligations of the offender are not handled by the program.

As long as the offender is making restitution according to schedule the accountant retains responsibility for monitoring the offender's payments. Should an offender be delinquent in making payments, however, the specialist originally assigned to the case is notified. The accountant sends a letter of delinquency to the offender informing the offender of the delinquency. At the same time the specialist tries to contact the offender to determine the reason for the missed payment. If it appears that the default situation will persist past the next scheduled payment date, notification goes to the judge and/or supervising probation officer. If the situation can be corrected, attempts are made by program staff to modify the restitution arrangements to prevent irremedial default.

Where such modifications are possible the judge is asked to amend the restitution portion of the sentence consistent with the proposed modifications.

#### Footnotes

<sup>1</sup>As of July 1, 1978, a court merger became effective, merging the Court of Common Pleas with the Superior Court to form an enlarged Superior Court.

<sup>2</sup>Figures are not available for the Courts of Probate.

<sup>3</sup>See State of Connecticut Judicial Department Restitution Service Revised Work Plan, August, 1977, pp. 2-7.

<sup>4</sup>Restitution was incorporated into the Connecticut General Statutes in 1969. Connecticut General Statute §53a-30a(4) authorized the use of restitution as a condition of probation or conditional discharge.

<sup>5</sup>Before cases are passed to the program administrator referrals are randomly assigned to experimental (E) and comparison (C) groups for evaluation purposes. Cases are assigned at the rate of 3 E's to 1 C. Cases assigned to the C group are not passed to the administrator. Instead these cases are returned to the referring court with a letter explaining that the cases cannot be handled.

<sup>6</sup>The Restitution Service bases its decision on the outcome of randomly assigning the case. If the case is randomly assigned to the experimental (E) group the prosecutor is told that the Service will handle the case. If the case is assigned to the comparison (C) group, service is refused.



APPENDIX A

STATE OF CONNECTICUT  
RESTITUTION SERVICE  
JUDICIAL DEPARTMENT



P.O. Box 6277, Station A, Hartford, Connecticut 06106

SUPERIOR COURT APPLICATION  
FOR PROPOSED RESTITUTION PLAN

From: Hartford County Superior Court

To: Connecticut Restitution Service  
75 Elm Street  
Hartford

The Court has ordered a restitution plan be proposed in the following case:

(Please print or type.)

Name of Defendant		
<input type="checkbox"/> Mr.		
<input type="checkbox"/> Ms.		
(last)	(first)	(middle)
Docket Number	Date of Conviction	
Judge	Date of Judge's Request for Plan	
State's Attorney	Date of Sentencing	
Defense Attorney	Date of this Application	

Application completed by:

\_\_\_\_\_  
Assistant Clerk

Instructions:

1. This application should be used in cases for which the Court has ordered a restitution plan to be proposed by the Restitution Service.

2. Send this application via Interdepartmental Mail to:

Connecticut Restitution Service  
75 Elm Street  
Hartford

# APPENDIX B

## STATE OF CONNECTICUT RESTITUTION SERVICE JUDICIAL DEPARTMENT



P.O. Box 6277, Station A, Hartford, Connecticut 06106

#78-130  
April 3, 1978

TO: Common Pleas Court Clerk  
G.A. #17 Bristol, Ct.,

### RESTITUTION PROPOSAL

Defendant's Name: Mr. A.  
Docket Number: CR CR

#### Suitability:

On March 1, 1978 the defendant plead guilty to the charges of Criminal Mischief in the first degree and Criminal Mischief in the third degree. As a result, the Honorable C. Perrie Phillips referred this case to the Restitution Service to determine the feasibility of restitution in this matter.

The defendant is currently employed as assistant service manager at Stephen's World of Wheels in Bristol. As a service manager, Mr. A is guaranteed a base pay of \$125.00 a week. Also, he averages \$125.00 a week in commissions which increases his average weekly income to \$250.00 per week. Thus, on the basis of earnings, the defendant has the ability to pay financial restitution.

#### Loss Assessment:

On February 4, 1978 the apartment of Mr. B and Mr. C which is located at 51 Foley Street in Bristol, was vandalized by the defendant. Extensive damage was done to the property in the apartment and to the 1973 Chevy Nova owned by Mr. C. A complete list of the damages is as follows:

#### Description:

Owner: Mr. C

1) Stereo Tape Deck		
serial #30602665	\$50.00	to repair
2) Westinghouse stove	\$15.00	to repair
3) Westinghouse refrigerator	\$ 5.00	to repair
4) 7 cassettes	\$15.00	to replace
5) Lamp Shade	\$ 5.00	to replace
6) Kitchen stand	\$ 5.00	to repair
7) Toaster	\$10.00	to repair
8) Palm Tree Plant	\$ 5.00	to replace
9) Assorted Frozen Foods	\$20.00	to replace
10) 1973 Blue Chevy Nova	\$361.84	to repair

#### Description:

Owner: Mr. B

1) Pioneer SX450 Stereo Receiver		
2 Magna Speakers	\$299.60	to replace
2) RCA VISTACOLOR TV		
serial #91CD8660	\$120.00	to replace
	\$419.60	TOTAL OUT-OF-POCKET LOSS

(2)

Consequently, Mr. C and Mr. B sustained out-of-pocket losses in the amounts of \$491.84 and \$419.60 respectively. Furthermore, Mr. A has agreed to recompense both victims for their losses.

On February 4, 1978 the defendant was accused of kicking an aluminum door at the Eagle's Club of 125 West Street in Bristol. However, our investigation disclosed that the aluminum door was already damaged on or about January 21, 1978 by another individual. According to Mr. A, an Eagle's Club Trustee, Mr. A should not be held responsible for the replacement of the aluminum door. Therefore, there was no out-of-pocket loss to the Eagle's Club as a result of this incident.

Restitution Proposal:

Should the Court deem restitution an appropriate sentence, then Mr. A should repay Mr. C \$491.84 and Mr. B \$419.60 for their out-of-pocket losses. The total amount to be restituted is \$911.44. On the basis of his earnings, the defendant can afford to pay \$50.00 a month. Thus, the defendant would have to make eighteen payments @ \$50.00 per month and a final payment of \$11.44 to pay the entire \$911.44. Payments will be due on the fifth day of the month, beginning May 5, 1978 and each month thereafter until November 5, 1979, providing the entire \$911.44 has been paid. The Restitution Service will collect each monthly payment and reimburse Mr. C and Mr. B accordingly.

Proposal prepared by:

*Raymond G. Williams*

Raymond G. Williams  
Restitution Specialist

Proposal approved by:

*Alan E. Green*

Alan E. Green  
Restitution Administrator

4. GEORGIA

A. Program Name: The Georgia Sole Sanction Restitution Program

B. Sponsoring Agency:

The Georgia Department of Offender Rehabilitation

1. Criminal Justice Role:

Statewide corrections agency responsible for operating secure and semi-secure (i.e., community) correctional facilities as well as for supervising offenders under probation or parole.

2. Jurisdiction:

The DOR is responsible for the implementation of court sentences of all public offenders over the age of 17.

3. Workload and Organization:

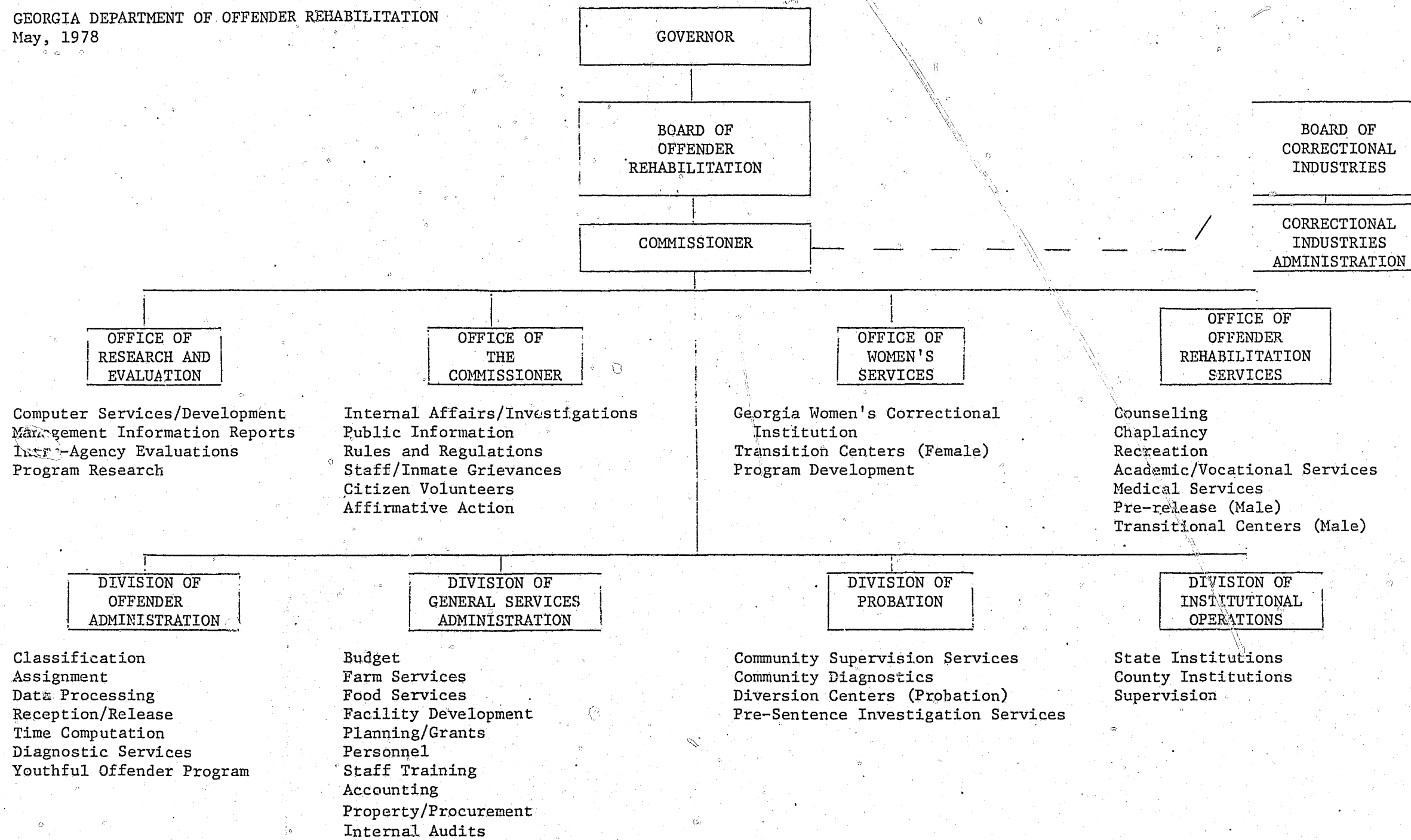
The work of the Department of Offender Rehabilitation is carried out by eight major divisions: Institutional Operations, Probation, Women's Services, Offender Rehabilitation Services, Offender Administration, General Services Administration, Research and Evaluation, and the Office of the Commissioner.

(Chart 4.1 Here)

According to the Fiscal Year 1976 Annual Report,<sup>1</sup> DOR employs approximately 2,700 persons -- 300 central office personnel and 2,400 field personnel. In fiscal year 1976, approximately 32,500 offenders were under community supervision in Georgia (2,800 of these were

Chart 4.1

GEORGIA DEPARTMENT OF OFFENDER REHABILITATION  
May, 1978



on parole, the rest on probation).<sup>2</sup> Typical probation/parole caseloads were in the range of 130 offenders per supervisor for this year.

4. Prior Restitution Experience:

The Georgia judiciary has a longstanding tradition of using restitution in conjunction with the sentencing of certain offenders. In addition, two LEAA-funded grants to the DOR have expanded and formalized the use of restitution in the state. One of the grants provided funding for the present Sole Sanction Program. The other, begun in 1974, aimed at diverting offenders from incarceration and requiring them to make restitution while living in a community corrections facility.

Information is not available allowing comparisons either between these grants or with experience before their implementation.

C. Program Description:

1. Start-up Date:

The Georgia Program began processing cases during February 1977.

2. Staff:

The Sole Sanction Restitution Program operates in four of Georgia's 42 judicial circuits (see Appendix A). In three of these (Alcovy, Houston, and Macon) staff consist of a restitution specialist, a correctional casework aide, and a clerical person. Waycross Circuit has 1 additional specialist and 1 additional aide position.

Program field staff are responsible to the Deputy Commissioner for Probation field services through circuit and district probation directors (see Chart 4.2).

Overall operation of the program is the responsibility of the Project Director located in DOR offices in Atlanta. The Director is a member of the Planning and Development section and reports to the Deputy Commissioner for General Services.

The Project Evaluator, also located in the DOR Atlanta office, reports to the Assistant Commissioner for Evaluation and Monitoring Services.

3. Purpose Classification:

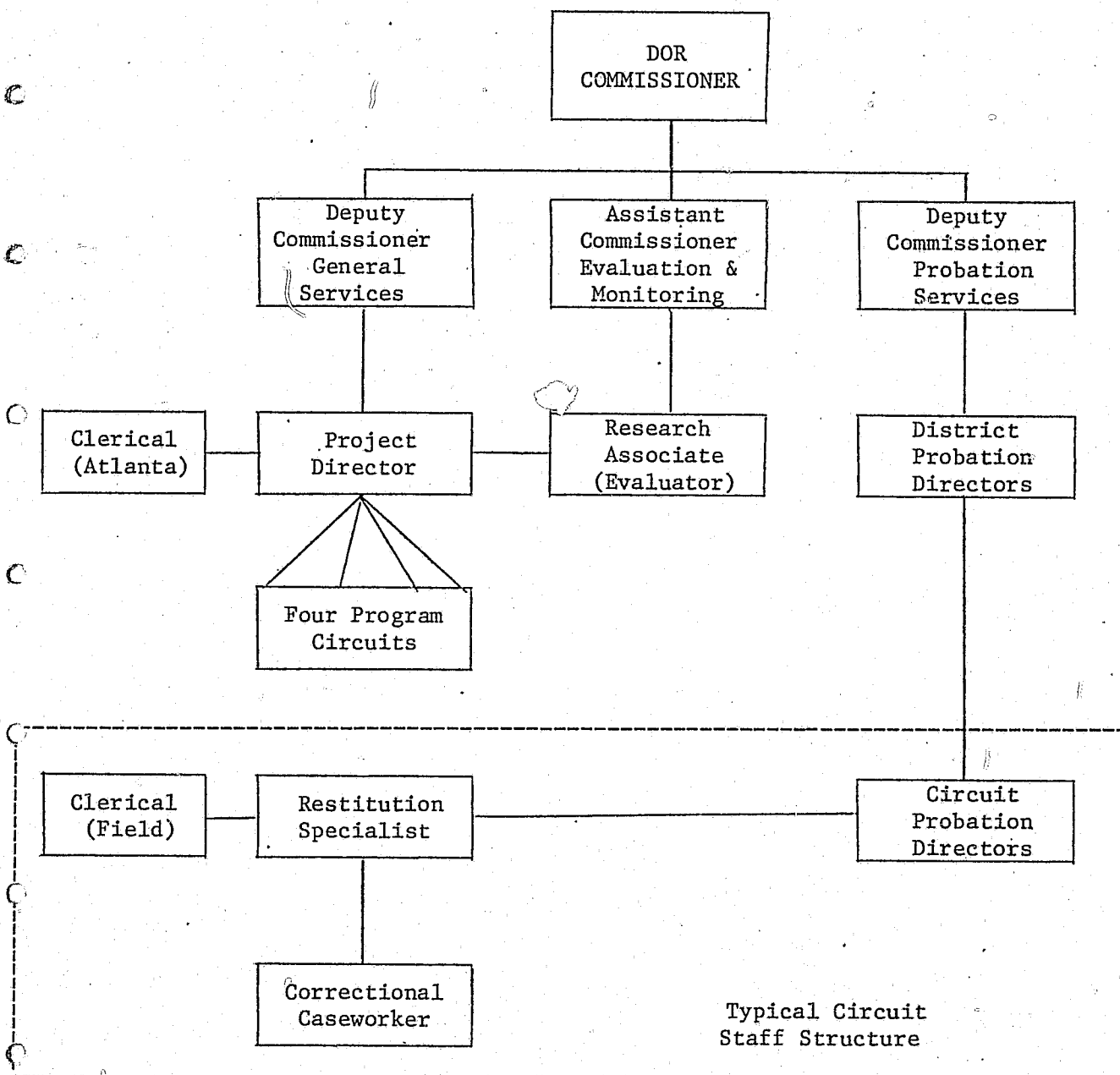
Program policies and procedures were never clearly elucidated. The perceived needs of individual judges varied, and because sentencing authority rested with these judges, program operations, expected to be probation based, were strongly determined by judicial decisions. As a result it is difficult to distinguish program purposes from ancillary consequences of program activities.

a. Offenders:

The program's purpose with respect to offenders is equivocal. Judges often impose restitution and fines together as a financial sanction. On the one hand the program offers service alternatives to offenders who might not be able to pay fines; on the other hand, such offenders are often allowed to meet their fine-obligations with good faith partial payments that may be less intrusive than service alternatives.

Chart 4.2

Organizational Structure -- Georgia



Only in a sub-program in Alcovy is there a clear indication that the service alternative is used to reduce intrusiveness, by offering it in lieu of possible revocation for non-payment of fines by offenders already on probation.

The intent behind the "sole-sanction" concept is to provide an incentive to meet the offender's financial obligations and to reduce the intrusiveness of the system by terminating probation supervision after financial obligations are worked off. Because the offender's probation status continues, however, (on an inactive basis) the offender is still under system control and subject to revocation.<sup>3</sup>

b. Victims:

The program's approach to victims is also ambivalent. Although victims benefit from whatever restitution may be paid, and any information provided by the program, rigorous loss assessments that would insure accurate compensation of victims are not usually conducted, except in the Waycross circuit.<sup>4</sup> A major purpose of the program is to benefit the community through provision of services by the offender.

c. System:

The principal purpose of the program has come to be the provision of information, services, and resources, especially from the community, to expand the dispositional alternatives at sentencing. In addition, in the Alcovy circuit, the revocation transfer aspect of the program allows the judge to avoid revocation for non-payment of fines, by transferring offenders to a community service

caseload. Finally, a subprogram in the Macon circuit provides less information and supervision for offenders diverted by the prosecutor, under contractual arrangements to make restitution; it is unclear whether these offenders would otherwise be diverted.

4. Goals and Objectives:

Program goals and objectives, as reflected in documents submitted to LEAA included the following:

- a. To demonstrate that the sole sanction restitution concept can be an effective criminal justice alternative at both pre-plea and post-plea points.
- b. To include a broader range of offenders by using monetary restitution and/or community service for both property and non-property offenders.
- c. To divert 500 offenders from traditional criminal justice sanctions into the program and to attain a 75 percent restitution completion rate with those offenders.
- d. To assist the courts by providing (a) information necessary for case referral decisions (b) a specific restitution plan for cases referred and (c) progress reports on offenders making restitution.
- e. To provide victims of crime with satisfactory restitution and with knowledge of the outcome of their cases.

5. Procedures:

The Sole Sanction Restitution Program performs investigative and monitoring duties, with respect to restitution as well as traditional probation supervision tasks. Among the four circuits in which the program operates similar procedures are used to investigate cases for the purposes of assessing restitution.<sup>5</sup> The most significant difference among the various courts within the circuits is the point at which loss investigations are conducted. Depending on local processing patterns, investigations may be conducted either pre-plea (prior to conviction) or post-plea (after conviction).

a. Intake Screening:

In all four circuits program staff apply a uniform set of eligibility criteria (see Appendix B). Offenders are excluded from the program on the following criteria:

- (i) 2 or more felony convictions
- (ii) Drug/alcohol addiction
- (iii) Mental or emotional instability
- (iv) History of societally dangerous behavior within 5 years of current conviction
- (v) Non-negotiable detainers/outstanding charges
- (vi) Present offense not on list of eligible offenses (see Appendix C).
- (vii) Professional criminal



In addition, offenders not excluded on the above criteria must reside in one of the four circuits in which the program operates, be willing to participate in the program, and be able to complete the restitution obligation within 24 months of sentencing.

Offense, residence and prior record information is obtained from police arrest reports and court records. Information on addiction and mental stability comes from the prior record and interviews of offenders.

In two of the circuits offenders are screened from the arraignment list, in a third the judge, based upon his understanding of the eligibility criteria, refers offenders to the program staff, and in the fourth the DA at his discretion refers offenders from the list of grand jury indictments. These offenders are then screened by program staff on the above criteria.

b. Loss Assessment:

Although basically similar, there are some timing and style differences between the way in which losses are assessed in the pre-plea and post-plea courts.

(i) Time Frame:

Pre-Plea: These loss assessments, depending upon circuit may take anywhere from one week to 30 days.

Post-Plea: These loss assessments involve brief conferences, at the time of the arraignment, between the offender and the program staff or the judge.

(ii) Loss Assessment Style:

Most often losses are assessed from information contained in the police report and the district attorney's case file as well as any information the offender may provide. Documentation is rarely required and victims are seldom contacted to verify amounts. Documentation is utilized in assessing losses only when it appears in the police report or the district attorney's file, where it may have been obtained as a result of routine investigations. Where the case is particularly complicated, more extensive loss assessments may be performed, including contacting victims and insurance companies to verify and document losses. This, however, is the exception rather than the rule.

(iii) Types of Loss Investigated:

Losses considered by the program include cash and property stolen, property damaged and medical expenses. Losses such as pain and suffering and inconvenience are not investigated for recovery.

(iv) Types of Victims Investigated:

In all circuits losses are investigated for victims involved in the offense(s) for which the offender is convicted. Insurance companies that have reimbursed victims for losses resulting from the conviction offense(s) are not investigated as a matter of course by program staff. Usually these losses are investigated after sentencing if the judge indicates in his sentencing order that restitution is to be made to the company. Losses suffered by injured parties in incidents for which the offender is not convicted are not considered by the program.

(v) Restitution Plan:

In the pre-plea courts the restitution plan is fully developed and presented to the judge at sentencing by the district attorney. The plan is presented in the form of a sentencing recommendation. Typically, the plan includes an assessment of loss as determined by program staff, an amount of restitution to be made by the offender and a schedule of payments. Restitution is always financial unless the victim agrees to accept service in lieu of financial payments; this has been the case in

some cases in which welfare agencies have been willing to forego financial repayment to see the offender perform community service. In all courts, except Waycross and Macon Superior Courts, offenders may be allowed to perform community service in lieu of fines and other costs excluding restitution. This will be done if it appears that these sanctions would place a severe financial burden on the offender. Often the plan includes a recommendation regarding other financial sanctions to be imposed, such as court costs and fines. Community service recommendations are submitted in the types of cases just mentioned, compounding the amount of service at the minimum wage until the fine is discharged. Program staff are present at the sentencing hearing to respond to any specific questions the judge may have about the content of the plan.

In one of the post-plea courts a preliminary plan is developed at the time of sentencing. It includes a statement of the amount of restitution to be made, an assessment of the offender's ability to pay determined through discussions with the offender, and a recommendation concerning the length of probation

and any fines and costs. This preliminary plan is presented to the judge verbally at the sentencing hearing. Once a sentence to probation is imposed, a specific payment schedule is developed as a condition of probation.

In other post-plea courts, the district attorney makes a sentence recommendation to the judge.

In addition to recommending a probation term and fines and restitution, the district attorney also recommends that the case be referred to the restitution program. This recommendation is based on a review of the case file and an informal discussion with program staff prior to conviction. Once the case is referred to the program, a specific plan is developed recommending a schedule of payment and the method (financial and/or service) of meeting the obligation. The judge sets the amounts of restitution and any fines or other costs to be paid.

In all post-plea courts program staff are available at the time of sentencing to answer a judge's questions concerning restitution in a particular case. Where financial restitution is to be made, payment schedules are usually arranged so that full payments are completed during the first half of the probation period.

c. Monitoring:

In all cases restitution/community service is imposed as a condition of probation. Program staff assume responsibility for monitoring payments as well as supervising all other aspects of the offender's sentence. Payments are made in the form of a check or cash to the program staff on a monthly or bi-monthly basis. Payments are usually delivered in person to the restitution office clerk, but in some cases they may be mailed. Community service performance is monitored directly by program staff in some instances, or more often, indirectly through periodic written and telephone contacts with work site supervisors.<sup>6</sup>

Disbursements to victims are made by the administrative clerk of the probation office in each circuit. In all but the Alcovy circuit, restitution payments are accumulated until the full amount due the victim(s) is collected. An account is set up for each victim and money is credited to the account as payments are received. In cases involving multiple victims, money is credited to each victim's account proportionate to the amount owed each victim. A check is mailed to the victim for the entire amount owed once it has been collected.

In Alcovy, payments are made to victims periodically.

In either case victims are notified by mail of the conditions of the offender's sentence and when payment can be expected. Where multiple financial sanctions have been imposed DOR policy specifies that disbursements of payments be made in the following order:<sup>7</sup>

1. Restitution
2. court costs and fees
3. attorney fees

No specific criteria exist governing actions to be taken when offenders fail to comply with restitution and community service orders. Discussion regarding these situations are at the discretion of individual program supervising staff. Generally, staff seek remedial solutions to problems, such as issuing warnings or revising payment schedules, before reporting delinquencies to the court and requesting a warrant to initiate probation revocation proceedings.

#### Footnotes

<sup>1</sup> Fiscal Year 1976 Probation Summary, Statistics Unit, Systems Development Section, Georgia Department of Offender Rehabilitation.

<sup>2</sup> *Ibid.*

<sup>3</sup> Typically felons are continued on an inactive status while misdemeanants' probation supervision is terminated.

<sup>4</sup> Accurate loss assessment is important not only to permit full compensation of victims, but also to avoid overpayment on the part of offenders.

<sup>5</sup> The Georgia Code authorizes the imposition of restitution as a condition of probation:

The court shall determine the terms and conditions of probation and may provide that the probation(er) shall . . .  
(7) make reparation on restitution to any aggrieved person for the damage or loss caused by his offense . . .  
[Ga. Code Ann. G27-2711(1972)].

<sup>6</sup> See Appendix D for an example of a community service time report utilized by work-site supervisors for reporting work hours to the program.

<sup>7</sup> Sections 3.74-3.76 Probation Operations Manual State of Georgia, Department of Offender Rehabilitation, Richard E. Longfellow, Deputy Commissioner, July 1978.

## APPENDIX A

### Descriptions of Program Circuits

#### ALCOVY

Alcovy consists of Walton and Newton counties and is primarily rural in character. Population centers are Monroe (Walton County), population 10,000 and Covington (Newton County), population 15,000. The two towns are approximately 25 miles distant.

A single Superior Court, hearing both felonies and misdemeanors, serves both counties. Until the last months of program operation all cases were handled by a single judge (Ridgeway); a second judge (Ellis) was assigned in March 1978 due to increased volume. Cases are prosecuted by a District Attorney in Covington. An assistant DA, located in Monroe, handles most prosecutions in Monroe.

#### HOUSTON

Houston circuit is comprised of a single county (Houston) in which are located Warner Robins (population 35,000) and Perry (population 10,000). With the exception of Warner Robins and an adjacent airbase the county is primarily rural in character.

A State Court (Judge Armitage) sits in Warner Robins and hears misdemeanors. Felonies are handled in a separate Superior Court (Judge Hunt) which sits in Perry. A Solicitor prosecutes cases in State Court and a District Attorney serves the Superior Court.

The majority of program cases came from the State Court in Warner Robins. This is largely due to personnel shortages which prevented the program from becoming established in Perry during the early stages of program development.

#### MACON

Macon circuit consists of three counties: Bibb, Peach, and Crawford. In Bibb County is located the city of Macon, the only truly urban area covered by the Georgia Project (Macon population 125,000). Peach and Crawford counties are rural.

Bibb County (city of Macon), Superior Court (felonies) -- Judge Bell. Misdemeanors are handled by a separate State Court in Macon which is serviced by a county probation service. Because these State Court cases did not fall under the jurisdiction of the DOR, they were not included in the Project.

Peach County (Fort Valley), Superior Court (felonies and misdemeanors) -- Judge Morgan.

Crawford County (Roberta), Superior Court (felonies and misdemeanors) -- Judge Culpepper.

Judges generally handle cases in the counties as noted above although both Morgan and Culpepper also sit in Bibb County. Judge Bell handles the majority of the civil cases in the circuit. All counties are served by the same DA based in Macon, although various assistants take responsibility for the cases in Peach and Crawford counties.

Because of the processing volume and constraints on staff travel to the outlying counties, most program cases in Macon circuit come from the Bibb Superior Court.

## WAYCROSS

Waycross circuit consists of six rural counties in south Georgia and is served by two judges in the Superior (felony) Court and three judges in the State (misdemeanor) Court. The population centers are Waycross (Ware County), population 19,000 and Douglas (Coffee County), population 10,000. Project personnel are divided between these towns which are approximately 40 miles apart.

Ware County (Waycross); Superior Court (felonies) -- Judges Holton and Hodges; DA, Pritchard.

State Court (misdemeanors) -- Judge Smith; Solicitor Minchew

Coffee County (Douglas); Superior Court (felonies) -- Judges Holton and Hodges; DA's Hayes and Strickland

State Court (misdemeanors) -- Judge Welchel; Solicitor, Williams.

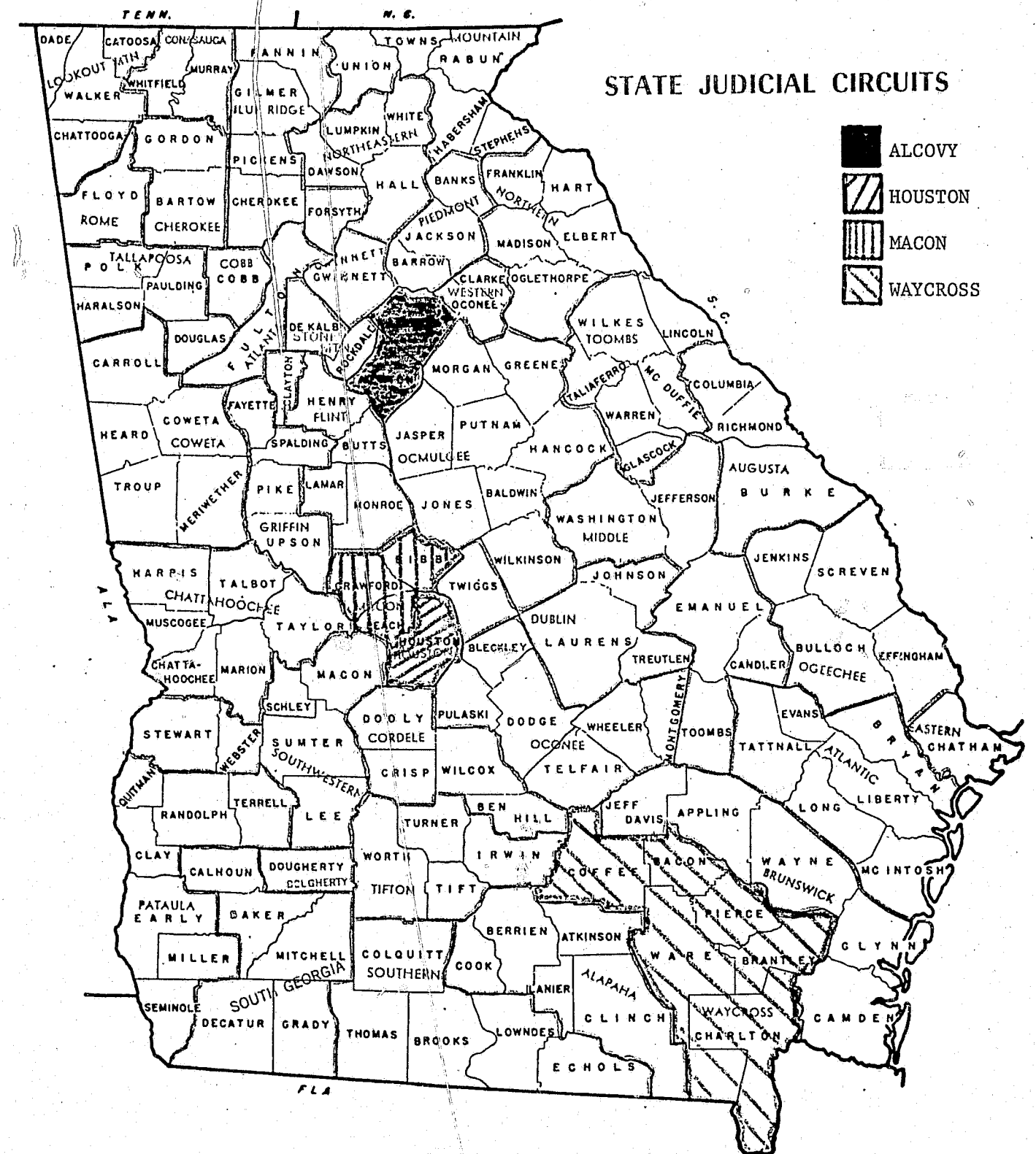
Pierce County (Blackshear); Superior Court (felonies) -- Judges Holton and Hodges; DA's Hayes and Strickland.

State Court (misdemeanors) -- Judge Houston; Solicitor, Strickland (no relation to DA).

Charlton (Folkston), Bacon (Alma), and Brantley (Nahunta) Counties; Superior Court (felonies and misdemeanors) -- Judges Holton and Hodges; DA's Hayes and Strickland.

As can be seen the same judges hear Superior Court cases in all counties. In three of the six counties, however, these courts hear misdemeanors as well as felonies. The same DA's prosecute cases in five of the counties, handling felonies and misdemeanors in three. Ware County has its own DA. Solicitors prosecute misdemeanor cases in the State Courts in the three larger counties only. Administrative court processing in all counties except Coffee is channeled through the Ware County courthouse in Waycross. Coffee County cases are processed through Douglas where a satellite office is maintained. The program is interacting with 9 courts, 5 judges, 3 DA's, and 3 solicitors in varying combinations.

Because of the higher processing volume most program cases in Waycross come from the Ware and Coffee County courts.





APPENDIX B

List of Program Eligibility Criteria

1. The offender must have no more than two felony convictions, inclusive of current conviction. More than one conviction stemming from the same act or series of acts shall be considered as one conviction.
2. The offender must show no evidence of being chronically addicted to alcohol, drugs, or any other chemical agent.
3. The offender must show no evidence of being psychotic, severely emotionally disturbed, or brain-damaged to such extent that out-patient treatment would be insufficient to meet his needs.
4. The offender must have no history of societally dangerous behavior within five years of the current conviction, as demonstrated by the absence of convictions for such offenses as felony assault, armed robbery, forcible sex acts, use of a dangerous weapon in the commission of a crime, etc.
5. The offender must have no non-negotiable detainers or other unresolved charges which would prevent his full program participation.
6. The offender must be a non-professional criminal. A professional criminal is defined as an individual who has chosen to earn his living outside the law with no demonstrated history of consistent attempts at lawful employment as a source of financial support, or who is identified as being involved with organized criminal activities.
7. The offender must be a resident of a county within the judicial circuit in which the program is functioning.
8. The offender must be willing to fully participate in the program.
9. The offender must be reasonably able to complete his restitution plan within a maximum of 24 months.
10. The offender's present primary offense must be on the following list of offenses.

# APPENDIX C

## Offenses Eligible for Program Consideration

### FELONY OFFENSES

#### GA CODE ANN. T26

#### Title

##### Homicide

1103 Involuntary Manslaughter

##### Damage of Property

1501 Criminal Damage 1st Degree  
1502 Criminal Damage 2nd Degree  
1504 Damaging, Destroying, or  
Deceptive Property to Defraud Another  
1505 Vandalism to a Place of Worship

##### Burglary

1601 Burglary  
1602 Possession of Tools for Commission of Crime

##### Deception Practices

1701 Forgery 1st Degree  
1702 Forgery 2nd Degree  
1705 Illegal Use of Credit Card

##### Theft

1802 Theft by Taking  
1803 Theft by Deception  
1804 Theft by Extortion  
1805 Theft of Lost or Mislaid Property  
1806 Theft by Receiving Stolen Property  
1807 Theft of Services  
1808 Theft by Conversion  
1809 Theft of Trade Secret  
1813 Theft of Motor Vehicle or Part of Component  
1814 Theft of Leased Personal Property

##### Robbery

1901 Robbery

##### Disorderly Conduct

2609 False Public Alarm  
2613 Criminal Interference With Government Property

**CONTINUED**

**1 OF 2**

MISDEMEANOR OFFENSES

All misdemeanor offenses are eligible for program consideration.

APPENDIX D

# SERVICE RESTITUTION TIME REPORT

RETURN TO: Offender Rehabilitation  
Restitution Program  
P. O. Box 348  
Covington, Georgia 30209

ATTENTION: Earl E. Eidecker  
Caseworker Aide

Please complete and return this report to the Restitution Program .  
Caseworker when schedule hours are completed. Thank you for your assistance.

Client \_\_\_\_\_

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Court ordered hours.

( ) has completed work assignment      ( ) has not completed work assignment

( ) work was completed satisfactorily( ) work was completed unsatisfactorily

Agency \_\_\_\_\_ Supervisor \_\_\_\_\_

TIME SCHEDULE:

[illegible]

5. MAINE

A. Program Name: Maine Restitution Project

B. Sponsoring Agency:

Maine Criminal Justice Planning and Assistance Agency (MCJPAA)

1. Criminal Justice Role: State Planning Agency.

2. Jurisdiction:

Statewide responsibility for the administration of federally appropriated State Block grants.

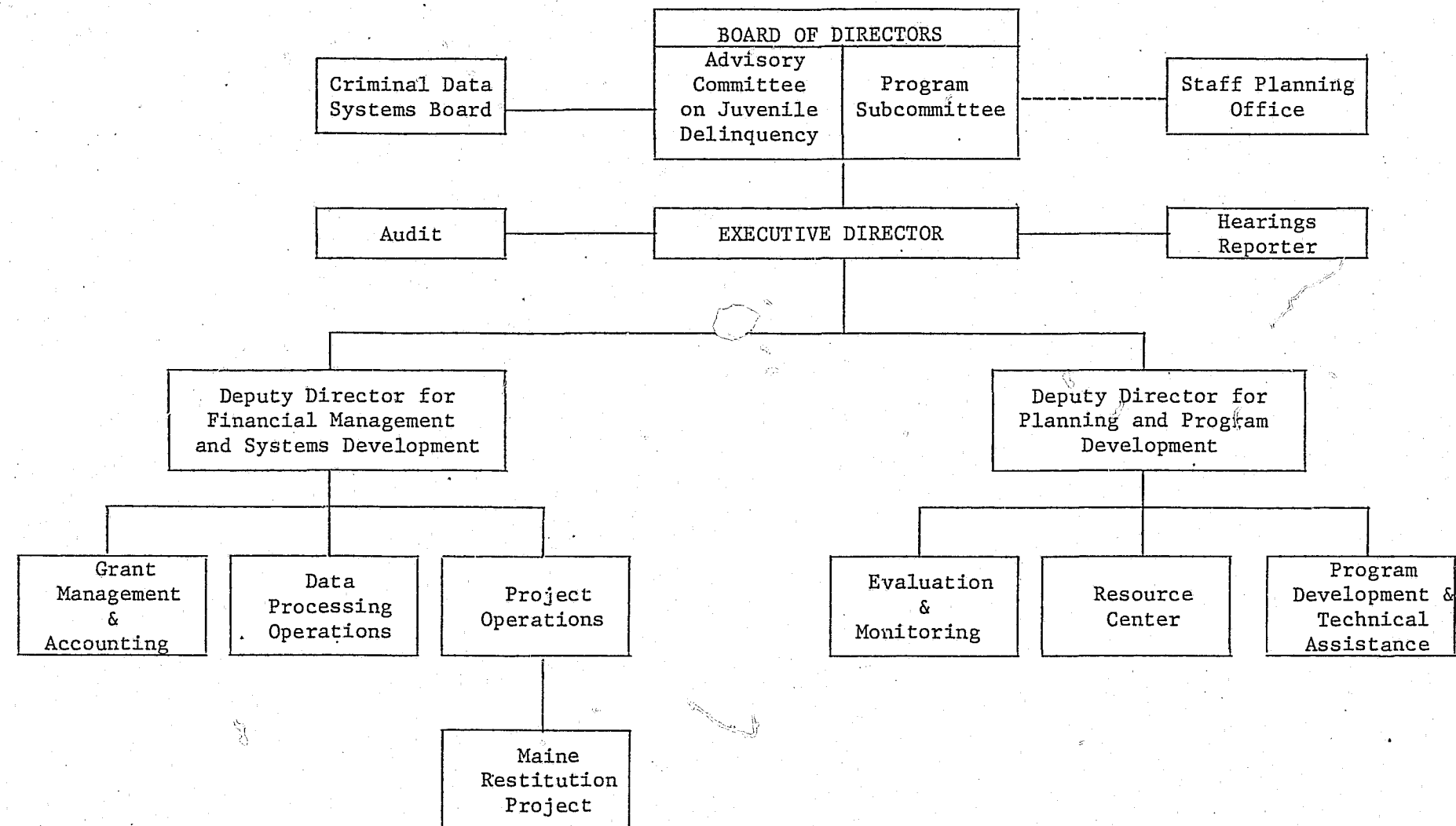
### 3. Workload and Organization:

Created in 1968 by Executive Order 5-69, the MCJPAA received statutory recognition in 1969 in PL1969 C465 of the Maine State Statutes. In order to carry out its responsibilities as outlined under the provisions of the Omnibus Crime Control and Safe Streets Act of 1968 and Juvenile Delinquency Prevention and Control Act of 1968 the agency has developed expertise in a variety of areas including grant administration, auditing, evaluation, technical assistance, data processing and management and program planning.

An Executive Director, who is appointed by the Board of Directors, is responsible for the day-to-day operations of the agency. Serving under the Executive Director are 2 Deputy Directors and their staff consisting of persons with expertise in these areas. An organization chart of MCJPAA is included as Chart 5.1.

Chart 5.1

Organizational Chart of the Maine Criminal Justice Planning and Assistance Agency



4. Prior Restitution Experience:

In the past, restitution has been used by judges but no formal program administered the investigation of losses or the monitoring of restitution performance. Systematic records of the use of restitution prior to the implementation of the Maine Restitution Project were not available.

C. Program Description:

1. Start-up Date:

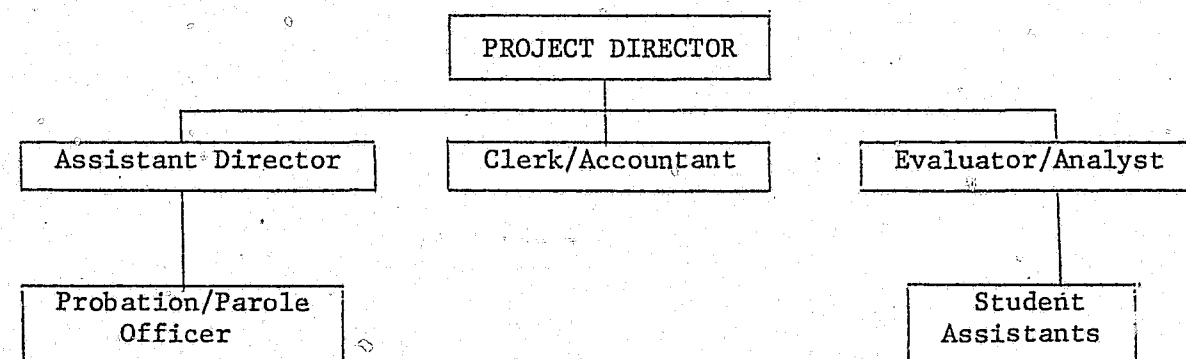
The Maine Restitution Project began processing cases in the Cumberland County Superior Court on April 4, 1977. Because of the meager caseload (2 cases) experienced during the first 2 months of operation, the program extended its services on June 13, 1977, to the District Court serving the greater Portland area.

2. Staff:

Program staff included a project director, an assistant director, a probation/parole officer, a clerk/accountant, an evaluator/analyst, and several part-time student assistants. The organizational structure of the project is depicted in Chart 5.2.

Chart 5.2

Maine Restitution Project Organizational Structure



3. Purpose Classification:

a. Offenders:

A major purpose of the program was to protect the offender from any undue hardship that might occur from the imposition of an unfair or unmanageable restitution amount. In addition, it was hoped that involving offenders in restitutive obligations might result in a reduction in recidivism among program participants; assumptions upon which this hope was based were not articulated.

b. Victims:

Compensating crime victims was also a major focus of the program, constrained only by a concern to reduce restitution in situations where it might impose a hardship on the offender. By otherwise manifesting a concern for as full an amount of restitution as possible, the program also anticipated increasing victims perceptions of the effectiveness and fairness of the system.

c. System:

In addition to trying to influence the court's restitutive sentencing practices, to make them as sensitive as possible to the offenders situation and victims' compensation claims, the program also hoped to develop a model for pursuing similar purposes throughout the state.



4. Goals and Objectives:

The goals and objectives listed below are a restatement of those found in the program's revised work plan submitted to LEAA.<sup>1</sup>

- a. To determine if ordering offenders to make restitution to victims reduces subsequent criminal activity.
- b. To determine if ordering offenders to make restitution to victims increases the victim's satisfaction with the effectiveness of the criminal justice system.
- c. To determine if restitution would be used by judges as an alternative to incarceration.
- d. To develop restitution plans through face-to-face negotiation involving victims and offenders.
- e. To provide a model program for implementing restitution in the Maine criminal justice system.

5. Procedures:

In accordance with the spirit of the Maine statutes "to encourage restitution in all cases in which the victim can be compensated,"<sup>2</sup> the Restitution Project functioned as an information service to District Court judges. The majority of cases handled were misdemeanors or local ordinance violations. As a result of the relatively trivial nature of cases heard in District Court, most cases were disposed of via guilty pleas entered at arraignment (initial appearance), usually held within 24 hours after arrest. For cases referred from District Court the program operated as follows:

a. Intake Screening:

With so little time between arrest, conviction, and sentencing for most District Court cases, it was not possible for program staff to screen cases for program eligibility. Instead, eligibility was determined by the judge at the time the defendant was found guilty.<sup>3</sup> Once a plea of guilty was entered the judge would decide if the case was suitable for restitution. Where restitution was determined to be an appropriate sentencing option the judge would continue the case for sentencing for up to 2 weeks. For those cases the judge would issue a court order (see Appendix A) directing the convicted defendant to appear at the office of the Restitution Project. A copy of this order was provided to program staff<sup>4</sup> conveying the judge's desire to see a restitution plan prior to sentencing.

b. Loss Assessment:

(i) Time Frame:

Typically Restitution Project staff had about 2 weeks from the time of conviction to the date of sentencing in which to conduct an investigation of losses. A report of the losses and other pertinent information was presented to the sentencing judge usually on the day prior to sentencing.

(ii) Loss Assessment Style:

Initially, program staff reviewed the complaint(s) and police report(s) to ascertain losses. At the time the offender appeared at the program offices his estimate of the loss was solicited. Victims were contacted, usually by phone, to ascertain their estimates of loss. If phone contact was not possible personal contact was made with victims. Where possible, victims were required to provide written documentation of losses. Typically, documentation included repair receipts, repair estimates, and medical bills. In addition, victims were requested to provide the program with the names of any insurance companies to which they had submitted claims and the value of the claim submitted. Claims were then verified by contacting the insurance company. If the victim was an organization, program staff contacted managerial or supervisory personnel and asked to be referred to the person most likely to be able to provide the necessary information.

When it was not possible to obtain written documentation and/or there were discrepancies between the offender and victims versions of losses, program staff arrived at a value

determination through negotiations. Negotiations took one of two forms; face-to-face sessions involving program staff, the victim, the offender, and counsel or indirect sessions in which the program staff acted in the offender's behalf in discussions with the victim and in the victim's behalf in discussions with the offender.

(iii) Types of Loss Investigated:

Virtually all types of tangible losses were considered by program staff. Typically staff investigated losses involving stolen cash or property, damaged property, work time and medical expenses incurred as a result of the crime. Not included in the loss investigation were losses for intangibles such as pain and suffering.

(iv) Types of Victim Investigated:

Routinely, program staff reviewed the formal complaint(s) and police report(s) for each case referred to obtain the identity and address of the victim(s) involved in the offense(s) for which the offender was convicted. Victims not involved in conviction offenses were not investigated by program staff. In addition to contacting victims involved in the conviction offense, program staff attempted to contact insurance companies who might have suffered losses as a result of the conviction offense.

(v) Restitution Plan:

Based on the program staff's determination of the value of loss, the offender's ability to pay and the victim's willingness to participate, a recommendation was made to the court.

Initially, program staff had to determine if restitution was possible given the offender's ability to pay. Considered in determining ability to pay were monthly expenses, including room and board, transportation and clothing.

The total of these expenses was compared with the offender's monthly income. If there was money remaining after paying routine monthly expense, the offender was considered to have the ability to pay restitution. If financial restitution was not possible, service restitution possibilities were investigated.

Where neither financial nor service restitution appeared feasible, a recommendation for no restitution was made. When either financial or service restitution was determined to be feasible, the program prepared a recommendation documenting the value of the loss, the offender's ability to pay, the parties to be paid, the amount due each party, a schedule of payment, and any comments necessary to clarify the recommendation for the judge (see Appendix B). In determining

the amount to be paid to victims, victim culpability was not considered. Where multiple offenders were involved, the amount to be paid to victims by each offender was determined by dividing the value of the loss equally among all offenders involved.

c. Monitoring:

Typically when restitution was ordered it was made a condition of probation. However, in several instances sentencing was deferred with the understanding that if the offender completed the restitution obligation by the time of the next sentencing hearing the case would be dismissed. Regardless of the judge's decision with respect to imposing sentence, when restitution was to be made responsibility for monitoring restitution performance, i.e., monetary payments or service performance, was assumed by the program's clerk/accountant. Where financial restitution was involved offenders were required to make their payments to the clerk/accountant or the supervisory probation officer in the form of a bank check or money order payable to the victim(s).

Payments were usually scheduled to be made on a weekly basis. Payments were logged in the program ledger and then forwarded to the victim(s) by the program or probation officer shortly after receipt.

Performance of service restitution was monitored through routine contacts with the service recipient(s) to insure that service was performed on schedule and satisfactorily. When an offender was found to be delinquent in meeting the restitution obligations program staff would try to determine the reason for delinquency. If a legitimate reason was provided by the offender the schedule of payments was modified to accommodate the offender's situation. Where satisfactory reasons were not provided, the clerk/accountant would notify the appropriate authorities<sup>5</sup> of the delinquency. No policy was articulated establishing procedures for determining when an offender was in default. Case-by-case determinations were the rule.

#### Footnotes

<sup>1</sup> See Maine Restitution Project "Work Plan" Revised, June 1, 1977, Section II.

<sup>2</sup> See Me. Rev. Stat. Ann. tit. 17-A §1151 (1976).

<sup>3</sup> Efforts were made to develop eligibility criteria with the judges. However, the judges preferred to act on a case-by-case basis, using their discretion in deciding which offenders were eligible for restitution.

<sup>4</sup> Once this order was received by the program cases were randomly assigned to experimental (E) and comparison (C) groups at the rate of 3 E's to 2 C's. This was done for evaluation purposes to allow comparisons between the E's who received restitution dispositions and the C's who received non-restitution dispositions.

<sup>5</sup> If the offender was on probation the supervising probation officer was notified. If the offender was not on probation the presiding District Court judge was notified of the delinquency.

APPENDIX A

SUPERIOR COURT

Portland, Maine

Docket No. \_\_\_\_\_

Date of Order \_\_\_\_\_

NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_ Tel. No. \_\_\_\_\_

\_\_\_\_\_ Date of Sentencing: \_\_\_\_\_

The above named is hereby ordered to contact the MAINE RESTITUTION RESEARCH PROJECT  
by telephone at PORTLAND, 774-5996, within twenty-four (24) hours from date of this order,  
for an appointment for a pre-sentence evaluation.

Hours for telephone contact are Monday through Friday, 8:30 A.M. - 5:00 P.M.

Clerk of Court \_\_\_\_\_

\_\_\_\_\_ Presiding Judge

APPENDIX B



Director  
Charles Sharpe  
Asst. Director  
~~Richard C. Spillman~~  
Analyst/Evaluator  
Kenneth Mellenthin

# MAINE RESTITUTION RESEARCH PROJECT

Room 607  
415 Congress Street  
Portland, ME 04111  
207-774-5996

TO: The Honorable Stephen L. Perkins

FROM: Nancy T. Arnold, Assistant Director

DATE: September 1, 1977

Offender: Mr. X, Docket 3466

Sentencing Date: September 2, 1977

Recommended Special Condition if Subject Should be Sentenced to Probation:

The Defendaht is to make restitution in the amount of \$484.21 to Mr. A Road, South Portland, Maine and \$66.67 to Co. B Taxi Service Inc., Street, South Portland, Maine. Restitution to be made within eleven (11) months of the date of this order according to the Maine Restitution Project plan under supervision of the Division of Probation and Parole.

For additional information, see attached report.

A CRIMINAL JUSTICE RESEARCH PROJECT  
of the  
MAINE CRIMINAL JUSTICE PLANNING & ASSISTANCE AGENCY



TO: The Honorable Stephen L. Perkins

FROM: Nancy T. Arnold, Assistant Director

DATE: September 1, 1977

I. Offender, Offense

Offender: Mr. X, Docket 3466

Offense: Failure to Keep Right

Date of Offense: February 11, 1977

Official Version: See State of Maine Police Traffic Accident Report

II. Restitution Reactions

Mr. X has made reimbursements for the truck he was driving and is reluctant to pay additional damages. However, he indicates he will comply with the order of the Court. The owners of the other vehicles involved would accept reimbursement for damages.

III. Offender Capability to Make Restitution

The defendant was recently discharged from the Navy and has been receiving unemployment checks in the amount of \$344 per month. A list of monthly expenses follows:

<u>Monthly Expenses</u>	<u>Amount</u>
Room and Board	\$120.00
Clothing (approximately)	60.00
Operating costs of car and motorcycle	40.00
Miscellaneous	60.00
Total Expenses	\$280.00
Monthly Net Income	344.00
Surplus	64.00

The figures do not include the amount which the defendant will pay toward restitution.

IV. Plan of Restitution

A. The defendant pled guilty to a charge of Failure to Keep Right as a result of an accident involving the following three (3) vehicles:

1. Truck owned by Mr. C of Bath, Maine. Mr. X allegedly was driving the truck with the permission of Mr. Y who had driven the truck to South Portland. Supposedly, Mr. C had not authorized anyone to drive the truck away from the Bath-Brunswick area. It has been verified that Mr. X has made full reimbursement for damages to the truck.
2. A parked car registered to Mr. A was struck and the estimate for repairs is \$1452.64 compared to an approximate market value of \$1000. Since two other parties were involved in allowing Mr. X to drive the truck it is suggested that he pay one-third (1/3) of the damage estimate or \$484.21 to Mr. A.
3. A taxi owned by Co. B was struck, and the police estimate of damages was \$200. It is suggested that Mr. X pay one-third (1/3) of this estimate, or \$66.67, to Co. B Taxi, or to that company's insurance company (recipient to be determined when the company's attorney can be contacted).

Using the above information, total amount of restitution would be \$550.88.

B. Suggested Payment Schedule

\$15 per week for 36 weeks	\$540.00
\$10.88 final payment	<u>10.88</u>
Total Amount	\$550.88

The 33rd payment will be \$4.21 to Mr. A and \$10.79 to Co. B Taxi or their insurance company.

C. Bank checks or money orders will be presented to the assigned probation officer to be forwarded to the payees with copies of receipts to be forwarded to the Maine Restitution Project.

## 6. MASSACHUSETTS

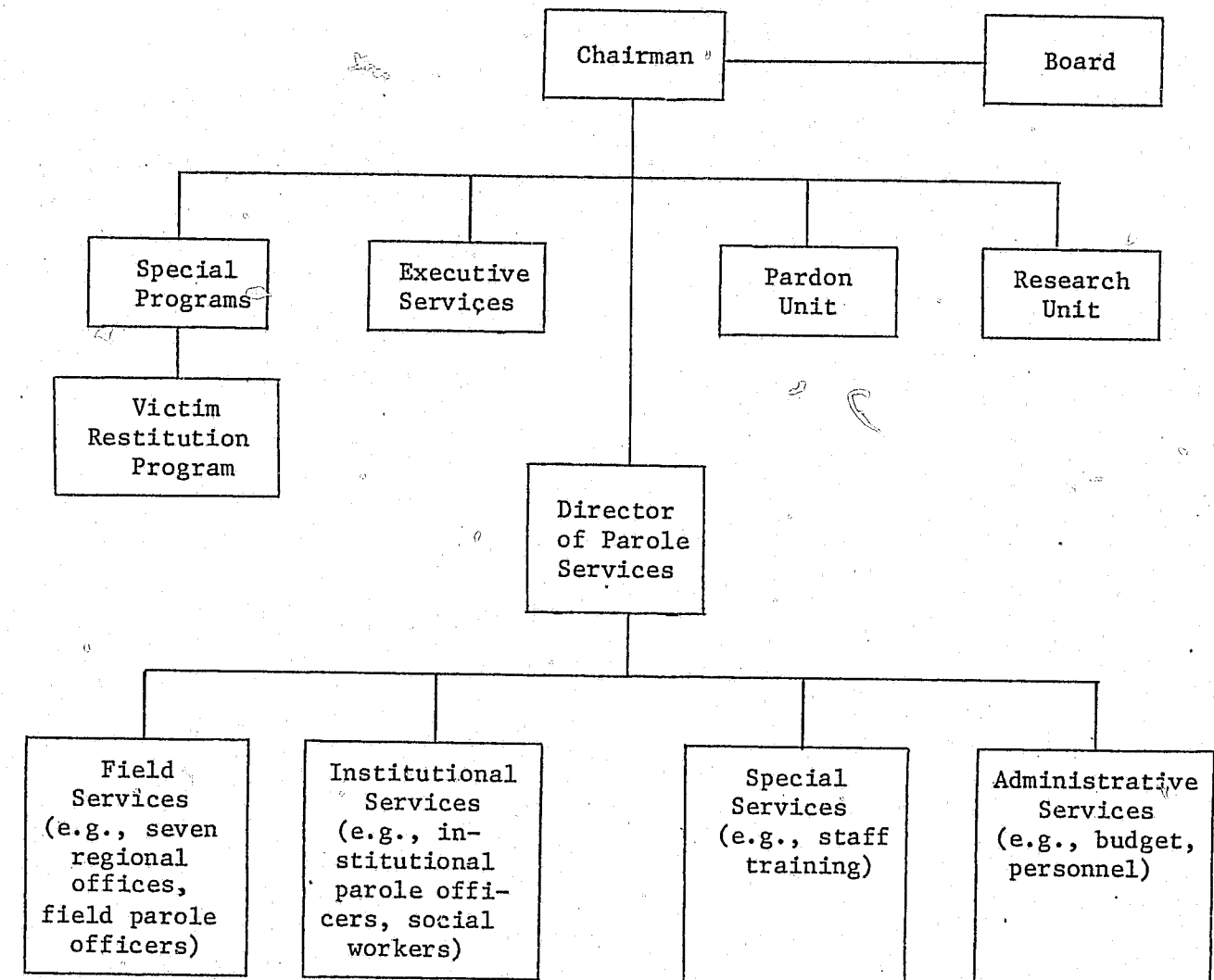
A. Program Name: Victim Restitution Program

B. Sponsoring Agency: Massachusetts Parole Board

1. Criminal Justice Role: Paroling and parole supervision authority for state and county correctional institutions and the Advisory Board of Pardons for the Governor and the Executive Council.
2. Jurisdiction: The parole board has paroling and parole supervision authority over all offenders incarcerated in state institutions, in county jails or houses of corrections sentenced by superior courts, and offenders sentenced to county jails or houses of corrections by district courts for a period of 1 year or more.
3. Workload and Organization: The Parole Board is located by statute within the Massachusetts Department of Corrections, but is not subject to its jurisdiction. Chart 6.1 depicts the organizational structure of the Parole Board and the restitution program's placement within that structure. Seven full-time members serve on the Board; one member acts as Chairman and is the administrative head of the agency. The Board exercises paroling authority over 8 state correctional institutions and 16 county jails and/or houses of correction. Parole was granted for approximately 2,100 inmates in 1977. Seven regional parole offices through the state are operated to provide parolee supervision. The offices are staffed by about 50 officers handling a combined caseload of approximately 3,800 parolees.

Chart 6.1

Organizational Structure -- Massachusetts Parole Board



#### Participating Institutions

##### Middlesex County Jail and House of Corrections, Billerica

Billerica is operated by the Sheriff's Department of Middlesex County. At Billerica there is the main institution, a dormitory, and a work release house. The main institution is divided into separate sections -- the jail and the house of corrections. Inmates awaiting trial are housed in the jail; those serving sentences are placed in the house of corrections. Inmates at the house of corrections evincing good behavior can be transferred to the dormitory. Inmates with successful adjustments at the dormitory can be transferred to the work release house, from which they can be released during the day to work in the community. [The Restitution Program picks up most of its Billerica clients while the inmate is still in the house of corrections and facilitates the inmates' transfer to the work release house. Work release earnings provide the source of restitution payments.]

The house of corrections has a capacity of approximately 200 inmates; the dormitory can handle 75; the work release house holds a maximum of about 50 inmates. A staff of approximately 100 serves the 3 institutions at Billerica.

##### Essex County Jail and House of Corrections, Lawrence and Salem

The Sheriff's Department of Essex County operates 2 correctional facilities. Similar to Billerica, each facility contains a jail for individuals awaiting trial and a house of corrections for

offenders serving court sentences. Capacity at Salem is 109; at Lawrence it is 120. The Correctional Alternative Center, located in Lawrence, functions as the work-release facility for both houses of corrections.

##### Massachusetts Correctional Institution, Framingham

Framingham is a minimum security correctional institution operated by the State Department of Corrections. It houses a maximum of 165 inmates; 133 females and 32 males. Framingham was the only institution participating in the program that housed female inmates.<sup>1</sup> Offenders participating in the program from Framingham were to be transferred to the Charlotte work-release center to fulfill work-release obligations.

#### 4. Prior Restitution Experience

The Victim Restitution Program was designed and operated on the MAP (contract parole) model developed by the American Correctional Association in 1972. Essentially, the MAP model entails the creation of a binding contract between the Parole Board and the inmate. The contract contains a fixed release date that is activated upon successful completion of other conditions of the contract.

In October 1975, the Parole Board instituted a pilot project at the Middlesex County House of Corrections, Billerica, in which restitution was utilized in the MAP process. Some inmates were required to pay restitution to victims as a condition of the contract. This program was the first systematic use of restitution in Massachusetts Corrections. Although few clients were processed, the program established basic working procedures which guided the implementation of the current restitution program.

### C. Massachusetts Program Description

1. Start-up Date: Although LEAA awarded the grant in October 1976, it did not become available for use by the program until February 1977 due to "routine" administrative delays within the state bureaucracy. In April 1977, the program began accepting cases and the first restitution contract was approved by the Parole Board in June 1977. The program terminated on October 6, 1978.

2. Staff: As depicted in Chart 6.2 central office staff consisted of a program coordinator, an information expeditor, a secretary, and a data evaluator. Field operations were conducted by 2 institutional parole officers assigned to the program.

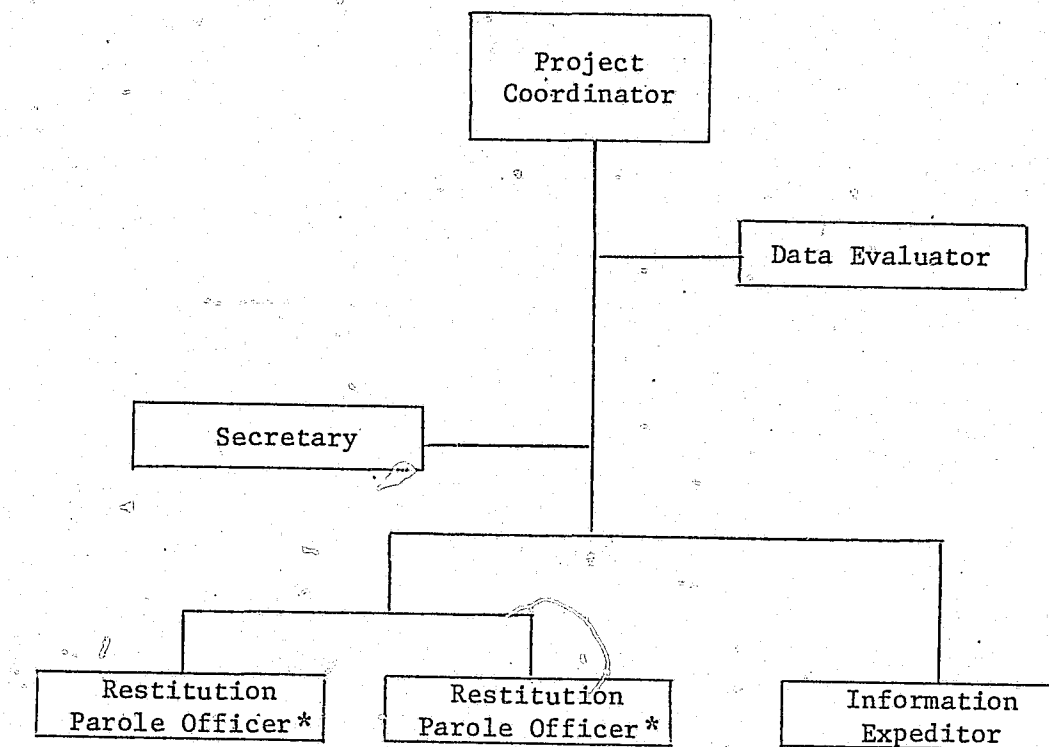
#### 3. Purpose Classification

##### a. Offenders:

The primary orientation of the Victim Restitution Program was the deterrence and rehabilitation of offenders. The restitution sanction was invoked as a disposition which would instill a sense of responsibility in inmates for their criminal actions. Also central to this responsibility theme was the program's use of the MAP (contract parole) model. Involving the offender in the decision-making processes of determining restitution amounts and other treatment conditions was designed to realize rehabilitative and deterrent effects. Although not explicitly projected, a reduction in recidivism was

Chart 6.2

Organizational Structure -- Massachusetts Victim Restitution Program



\*The Victim Restitution Program was designed to have 3 restitution parole offices. However, 1 position was never filled, and for the majority of the grant period the program operated with only 1 parole office. The project coordinator acted as parole officer to the extent that his administrative duties allowed. The principal cause of this staff shortage was the source of the funding of these positions; they were state-funded.

hoped for, through enhanced inmate responsibility. Another element of the program's offender orientation was a contracted reduction in the period of incarceration in return for completion of restitution; the reduction served both rehabilitative and humanitarian ends.

b. Victims:

Purposes deriving from a victim orientation received the least emphasis by the Victim Restitution Program. Compensating victims was not a primary goal, as shown by the acceptance of many inmates whose victims had suffered no loss, and the large number of victims whose losses were not investigated. In addition, an early program objective of influencing victim's attitudes towards offenders and the system through participation in the MAP process was not pursued rigorously; only a very small number of victims attended the final negotiation hearing on the offender's contract.

c. System:

From a strong system orientation, the restitution sanction was used as a device to reduce incarceration periods with the resultant savings of institutional costs. The program also came to serve implicit purposes by collecting previously unobtained information for use by the Parole Board in parole decision-making, by creating a link between the work release and the paroling processes (which are operated by separate agencies), and by implementing the MAP process in the Massachusetts correctional system.

4. Goals and Objectives

The following list of goals and objectives is constructed from proposals submitted to LEAA by the program:

- a. To provide inmates with the ability to compensate victims of crime by placement of the inmates on work release.
- b. To provide victims with financial restitution.
- c. To save institutional costs by reducing the period of incarceration after successful completion of restitution payments.
- d. To develop and implement an effective centrally-administered restitution program capable of expansion to additional correctional institutions.
- e. To increase the inmate's sense of responsibility by including him in the decision-making processes of choosing treatment, and by dealing directly with the victim to make the offender feel more personally accountable for the criminal offense.
- f. To effect a positive attitude change in victims toward inmates and the criminal justice system due to personal contact in the negotiation process.

5. Procedures

The general process utilized by the Massachusetts Victim Restitution Program was designed by the American Correctional Association in 1972 for MAP programs and revised by the Billerica MAP Victim Restitution Program (see Prior Restitution Experience above).

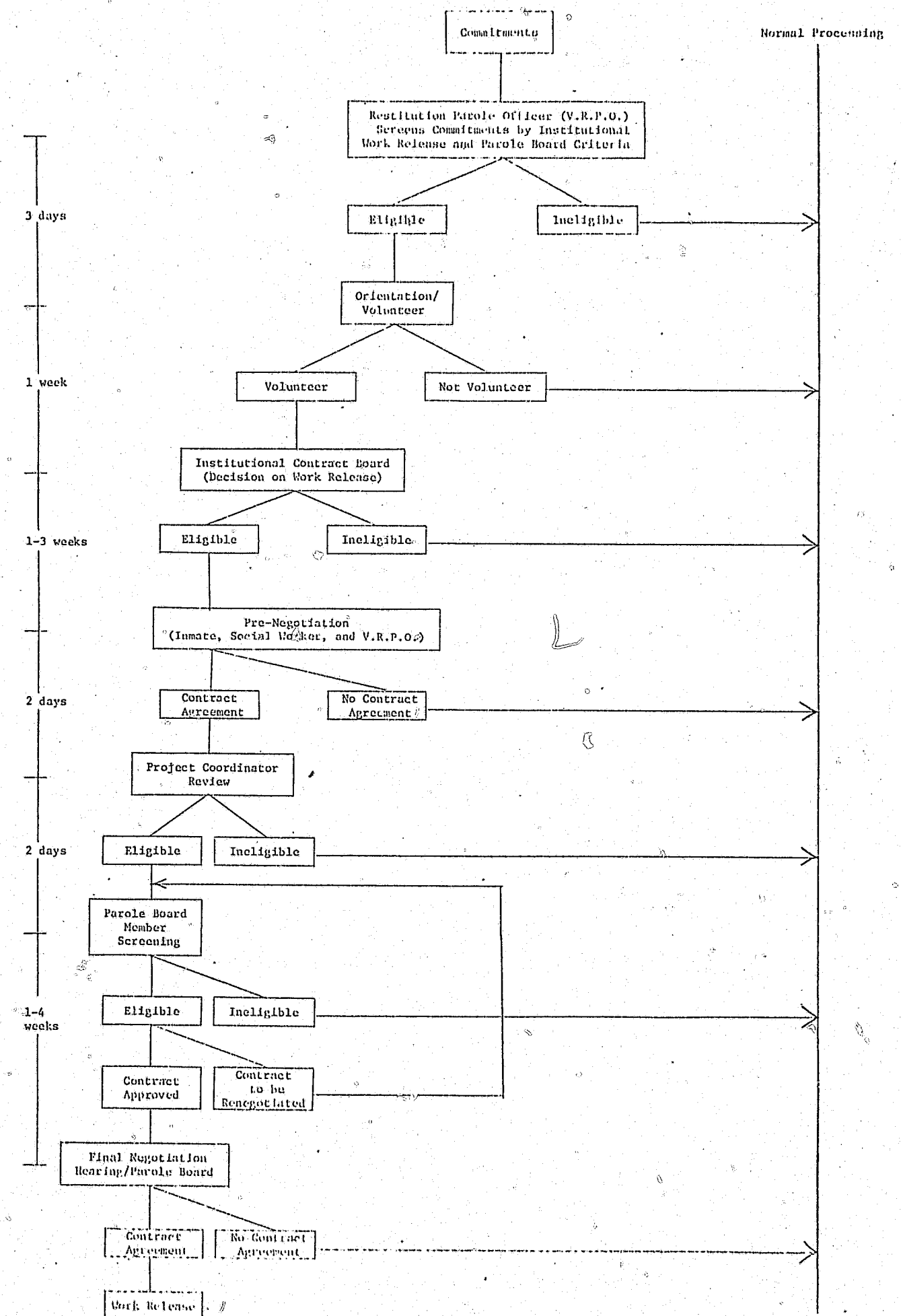
a. Intake Screening:

Several screening and negotiation steps involving the inmate, program staff, institutional staff, and Parole Board members were required prior to the performance of restitution. Procedures in the Billerica process are depicted in Chart 6.3.<sup>2</sup> They include:

Preliminary Screening: The program Victim Restitution Parole Officer (V.R.P.O.) reviewed the institutional folders of new commitments and screened cases by criteria developed by the restitution program governing program eligibility. The criteria created by the restitution program and accepted by the Parole Board were:

- (i) Inmates must have at least 3 months to serve prior to their earliest parole eligibility date.
- (ii) Inmates must not have a present commitment for a serious sex offense (not defined).
- (iii) Inmates must not have a present commitment for violation of public trust.
- (iv) Inmates must have no outstanding felony warrants, detainers, or charges.
- (v) Inmates must not be presently committed for drug sales.
- (vi) Inmates must be institutionally eligible for work release.

Chart 6.3 Victim Restitution Case Processing - Billerica House of Corrections





(vii) Inmates must not be serving a sentence on a Gun Law conviction (mandatory sentencing provisions apply).

(viii) Inmates may be considered for the VR program with any present offense except as mentioned above.

However, a heavier burden exists for that individual who exhibits an extensive history (not defined) of prior adult commitments for offense against the person.

Orientation: If the inmate was found to be eligible, (s)he was contacted within a few days by the V.R.P.O. and the restitution program was explained. The inmate's role in negotiations, the MAP contract process, the benefits to be expected from program participation, and the concept of restitution were discussed with the inmate. The inmate was then asked if (s)he wished to volunteer for the program. Those who declined to participate were processed without contracts.

For the volunteers, the V.R.P.O. contacted the program's information expeditor. The expeditor collected background information and information concerning the current commitment offenses for the V.R.P.O. to use in pre-negotiation. Sources of information were police reports, official complaints, "rap" sheets, and a listing of outstanding warrants.

Institutional Contract Board: Program volunteers were screened by the Billerica Contract Board for work-release eligibility. Guidelines for work release are:

- (i) Inmates convicted of sex crimes are ineligible.
- (ii) Inmates must have no outstanding warrants.
- (iii) Residents must have been incarcerated for at least 30 days.
- (iv) Inmates convicted of crimes of violence (not defined) are ineligible.\*
- (v) Time to be served before parole eligibility date must be less than 9 months.\*

If the inmate was declared eligible, a date was set by the Board for the inmate's transfer to the work release facility to begin his work assignment. Ineligible inmates were returned to normal process.

Pre-negotiation: If the inmate was declared eligible for work release, and once the expeditor's information was collected, meetings were arranged between the inmate, the institutional social worker, and the V.R.P.O. for the purpose of pre-negotiating a restitution contract. A pre-negotiated proposal emerging from this session included such items as treatment plans, work assignments, the amount of restitution or community service based upon the offender's version of loss or injury, and the desired release date. An incentive for paying restitution was an earlier release date than established by normal Parole Board guidelines. The general guide utilized by the V.R.P.O. was a minimum of one month reduction for each 6-month period that the offender had to serve prior to the parole eligibility date.

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\*The Contract Board may make exceptions to this rule.



A major consideration in establishing the desired parole-release date was what the inmate proposed to accomplish on work release. Participation in brief treatment programs and payment of a small restitution amount required less time on work release. During the creation of the proposal, the V.R.P.O. assessed the offender's ability to pay in relation to the offender's proposed restitution amount.

All points within the proposal were subject to negotiation by the participants and the inmate was returned to normal processing if disagreements could not be resolved. After pre-negotiation, the V.R.P.O. contacted victims to explain the program and invite them to participate. If a victim could not be located, or refused to participate, a charity was chosen to which the restitution money could be sent.

Project Coordinator Review: The pre-negotiated contract was forwarded by the V.R.P.O. to the Restitution Project Coordinator for his examination. The Coordinator reviewed the inmate's institutional file and the contract to verify that the conditions within the contract were written in objective, understandable terms and that the inmate was eligible by program/parole board criteria. Approval was usual at this stage unless new information which was not available at the pre-negotiation stage came to light (such as the presence of outstanding warrants).

Parole Board Member Screening: If the contract was approved and the inmate accepted as eligible by the project coordinator, the contract and the offender's case folder were forwarded to 2 parole board members. Using the joint program and parole board criteria, the 2 members first made a decision on program eligibility; if declared ineligible, the inmate was returned to normal processing. For eligible inmates, the contract was reviewed, approved, rejected, or returned to be renegotiated. A renegotiation was requested, for example, if the inmate's records described a history of drug use and a drug treatment program was not included in the contract. Renegotiated contracts were subsequently resubmitted for Parole Board Member Screening.

Final Negotiation: For inmates who had their contracts approved by the 2 board members, a hearing was scheduled before the Parole Board. Individuals present at the final negotiation hearing were: the inmate, the project coordinator, the V.R.P.O., a member of the institutional contract board, the parole board members, an attorney if the inmate desired, and the victim if (s)he wished. The victim could only attend those portions of the hearing pertaining to restitution and was excluded from the portions of the hearing pertaining to other aspects of the contract. As before, every aspect of the contract was subject to negotiation. If compromises were not possible, the inmate was

returned to the normal process. Once the contract was signed by the Parole Board members and the inmate, the inmate was transferred to work release to begin paying restitution.

Inmate Withdrawal: The inmate could voluntarily withdraw from the program at any time within either the negotiation phase or the performance phase of the restitution contract. The inmate suffered no penalty for exercising this option and retained his original parole eligibility date.

b. Loss Assessment:

(i) Time Frame:

The inmate's perception of loss was obtained during the orientation session. Following the orientation, validation or modification of this amount was usually required prior to the screening by Parole Board members which occurred within 3 to 6 weeks. In the event of investigative delays completion of the loss assessment could be deferred until the time the final negotiation session was scheduled; this occurred between 4 and 6 weeks after orientation.

(ii) Loss Assessment Style:

Determination of victim losses were usually achieved by obtaining offender perceptions and modifying the amounts if necessary after checking official reports and after telephoning the victims indicated

in these reports. Further documentation of losses was not attempted unless major discrepancies arose and the offender had the ability to pay more than the lower amount in dispute.

Although victim-offender contact was originally planned to occur at the final negotiation hearing, only 4 victims accepted the invitation of the program to appear.

(iii) Types of Loss Investigated:

Losses were investigated resulting from theft or damage to property, medical expenses, and loss of pay resulting from injury or court appearance.

(iv) Types of Victim Investigated:

Only victims of the offenses for which the offender was committed were investigated. Personal victims were given preference over organizations in cases in which the offender's ability to pay indicated that further investigation was pointless. Insurance companies which reimbursed crime victims were rarely investigated.

The amount of restitution to be paid was influenced more by the offender's limited earning capability in the time-limited work release setting than by a precise determination of losses for all victims.

Consequently, investigation of victims and loss assessment in general were neither rigorous nor consistent throughout the life of the project.

Monitoring: Upon transfer to the work-release facility, a restitution savings account was opened for the inmate. Each week the inmate delivered the restitution payment specified by the contract to the clerk of the work-release facility to be deposited in the inmate's restitution account. A bank check was then issued from the savings account and returned to the work-release clerk.

The work release clerk retained the checks until they equaled the total restitution amount. The clerk then notified the V.R.P.O. who forwarded the monies to the recipient specified in the contract. An accounting record of the inmate's weekly payments and amounts disbursed to recipients was maintained by the clerk. The V.R.P.O. supervised the inmate during the periods on his work assignment watching for violations of and difficulties complying with contract conditions. In addition, the V.R.P.O. reviewed the inmate's payment records maintained by the work-release clerk. Periodic meetings were held between the V.R.P.O. and the inmate to resolve difficulties. If violations or difficulties cannot be corrected, the V.R.P.O. can begin the process of renegotiating the contract or initiating revocation proceedings.

For any renegotiation required during the performance of the contract, procedures beginning with the Parole Board Member Screening were repeated. Money was sent to recipients only if the entire amount for all recipients had been accumulated. If insufficient funds to cover the restitution amount had not been recovered by the clerk, the inmate remained on work-release past his contracted release date. The inmate continued on work release until the restitution amount had been earned. If an inmate was terminated from work release prior to earning the whole restitution amount, monies were not disbursed. The funds were retained by the inmate and the recipient was notified of this termination.

The inmate was released to parole on his final negotiated release date if the conditions of the contract had been executed successfully. No additional hearing with the Parole Board was required.

### Footnotes

<sup>1</sup>Framingham was terminated as a participating institution in January 1978 because the eligible pool of offenders had dropped dramatically. Possible eligibles were being committed to another newly opened institution. Consequently, only 6 offenders were accepted by the program from Framingham. Of these 6, only 2 received final negotiated contracts.

<sup>2</sup>The processing steps used in other participating institutions vary only slightly from the Billerica Model, usually by the addition of further institutional screening stages. Lawrence and Salem Houses of Correction differ from the Billerica Model by allowing the inmate volunteers a second chance to decline participation and by providing 2 extra institutional screening steps. A classification board screens potential work-release candidates twice prior to the hearing before a screening board which makes the final decision concerning work release.

The processing at Framingham also has 2 additional institutional screening steps, one before and one after the initial screening by the V.R.P.O.; it also provides for 2 volunteering steps.

### 7. OREGON

A. Program Name: Project Repay

B. Sponsoring Agency: Multnomah County District Attorney's Office

1. Criminal Justice Role: Prosecutor's Office.

2. Jurisdiction: Primarily the prosecution of cases in the county's two criminal courts: the circuit court for felonies (> 1 year incarceration, > \$1,000 fine, or both), and the district court for misdemeanors. Multnomah County is coterminous with the 4th of the state's 20 judicial districts for the circuit court (see Figure 7.1). It contains the city of Portland, and, with a population in excess of half a million, it is the most densely populated county in Oregon.

3. Workload and Organization: The workload of the Multnomah County District Attorney corresponds with the location of the office in the state's largest city. The D.A.'s circuit court (felony) caseload in 1976 included 3,627 cases filed; the comparable district court (misdemeanor) figure was 8,883. The approximately twelve and a half thousand criminal cases filed in Multnomah County during 1976 accounted for about one-fourth of all criminal cases filed in the entire state. Beginning in 1971, a Chief Criminal Court (C.C.C.) was established in circuit court to handle all pre-trial motions, supervise pre-trial negotiations, and hold most of the plea and sentencing hearings in criminal cases. The C.C.C. judge sits for a two-month period and controls all trial dates before the case

calendar is sent to the presiding judge for assignment to a trial judge. The C.C.C. judge, the presiding judge (elected each year by other circuit court judges), and 11 other trial judges handle all felony cases processed in the county.

To handle the enormous number and diversity of cases processed by the office, the D.A.'s staff, comprised of approximately 50 attorneys, support personnel and interns, is organized into specialized units and programs. At the district court level, a three-person intake unit issues misdemeanors and some felony traffic offenses after consideration of facts presented by citizens and police agencies in Multnomah County. A district court unit of 12 attorneys and two interns handles the misdemeanors and traffic offenses filed in that court. Two separate units handle juvenile and child support cases.

In the circuit court, the D.A.'s staff is divided into five crime-specific trial units and a pre-trial unit of two attorneys who appear for routine daily arraignments, pleas, motions, and sentencings. These circuit court units handle cases assigned to them from intake or issuance of a complaint to case-closure, including trial, sentencing, and probation revocation. Unit responsibilities vary by offense type and the heaviest incidence of restitution cases occurs in the unit handling burglaries, forgeries, thefts, and welfare fraud.

In addition, in October 1976 an LEAA-funded "Career Criminal Unit" of five deputies began focusing upon certain classes of repeat offenders in an attempt to reduce the incidence of plea bargaining in such cases and to secure sentences of lengthy incarceration.<sup>1</sup>

Consistent with the D.A.'s philosophy of attempting, whenever possible, to afford victims the consideration due in a private client-attorney relationship, the staff of attorneys is supplemented by three victim programs. In addition to the restitution service of Project Repay, the office also maintains a Rape Victim Assistance Project to provide aid and counseling to rape victims from the time of the offense through each stage of the court process. A more general Victim's Assistance Project provides aid to victims and witnesses involved with the criminal justice system, informs them of the shifting status of cases, and locates and obtains community services that might be helpful.

4. Prior Restitution Experience: Although individual circuit court judges have made use of restitution for many years, systematic emphasis upon its documentation and recovery is quite a recent development in Multnomah County. After the present district attorney took office in 1972, individual deputies responded to his interest in restitution by trying to document losses themselves whenever possible. Because of high caseloads and time pressures, this approach proved to be less

than adequate, and, in July 1975, a special victim's assistance project in the office assumed responsibility for documenting losses. Restitution under the Victim's Assistance Project was only a fraction of the staff's responsibilities which include victim advocacy, community resource referral, and provision of information to victims about the processing of cases. Loss investigations were done on a referral basis from the prosecuting deputy. Even using a less systematic approach than Repay, the work of the Victim's Assistance staff played a role in the almost \$500,000 of restitution ordered between July 1975 and November 1976.

The initial impact of this restitution effort, coupled with the perceived need to implement monitoring and more extensive investigation services lead to the creation of Repay. The groundwork and early experience of the Victim's Assistance staff undoubtedly contributed significantly to the relatively smooth start-up phase of Project Repay.

#### C. Program Description

1. Start-up Date: Project Repay began processing cases within eight weeks of the funding date of October 1, 1976. Building upon the prior experience of the district attorney's office with restitution (see above), the Project procedures stabilized in time to begin routine data collection on February 1, 1977.

2. Staff: The core staff assigned to handle day-to-day project activities is illustrated in Chart 7.1. In addition, the district attorney is the project director, who is ultimately responsible for major policy decisions relating to the administration of the project.

#### 3. Purpose Classification:

##### a. Offenders:

From the standpoint of the offender the focus of Project Repay may be described as desert-oriented. Rehabilitative or deterrent potential, while desired, is not projected, nor are reductions in recidivism or recidivistic behavior. Extended control is expected by the imposition of a readily monitored condition of disposition. However, the fundamental program concern at this level is a straightforward exactment of what is considered due from the defendant rather than other suggested utilitarian uses of restitution.

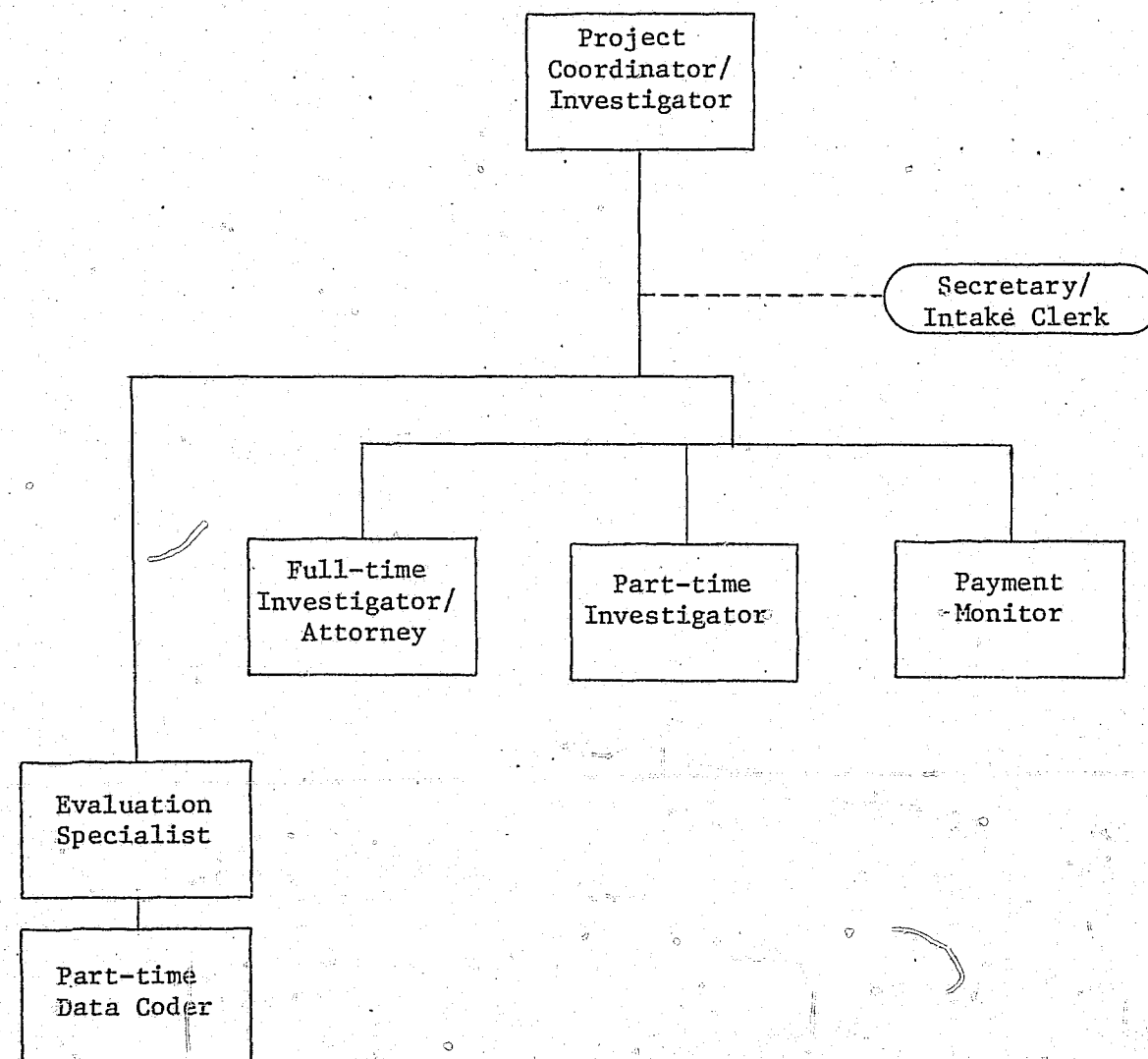
##### b. Victims:

The dominant focus of Project Repay centers upon compensating crime victims, stemming in part from the desert-orientation just mentioned, and in part from specific commitments on the part of an elected official, the district attorney, to champion the cause of crime victims. This almost exclusive victim focus is reflected in program goals to increase the number of offenders ordered to make restitution, to increase the proportion who successfully pay, and to increase the amounts paid.



Chart 7.1

Project Repay Organizational Structure



c. System:

The principal project roles in relation to the rest of the criminal justice system involve the provision of education and information. The project seeks to "increase awareness of the use of restitution in the criminal justice system" and to provide information to prosecutors and sentencing judges to be employed in consideration of an appropriate disposition. Beyond the restitution paid to victims, other cost factors, such as savings that might be achieved from diverting program offenders from incarceration, are not explicitly pursued. Restitution is only considered by Repay for cases in which a prior estimation leads program staff to expect that probation will be imposed.

4. Goals and Objectives

The following statement of goals and objectives covers the entire range of program activities in both district and circuit court cases. As such, it extends beyond the more narrow focus of the present evaluation upon the circuit court cases proactively screened (i.e., not referred to Repay) and processed.<sup>2</sup>

- a. To increase the proportion of offenders who successfully pay restitution (i.e., pay at least 80 percent of the amount ordered) from 35 percent before Repay to 45 percent by October 1978.
- b. To increase paid restitution amounts over the pre-program total of \$670,000 for 20 months to \$1 million during the period of February 1, 1977 to September 30, 1978.



- c. To increase the number of offenders ordered to make restitution from 1,040 for the 20 months preceding the project to 1,785 for the 20-month life of the project.
- d. To increase awareness of the use of restitution in the criminal justice system.

5. Procedures:

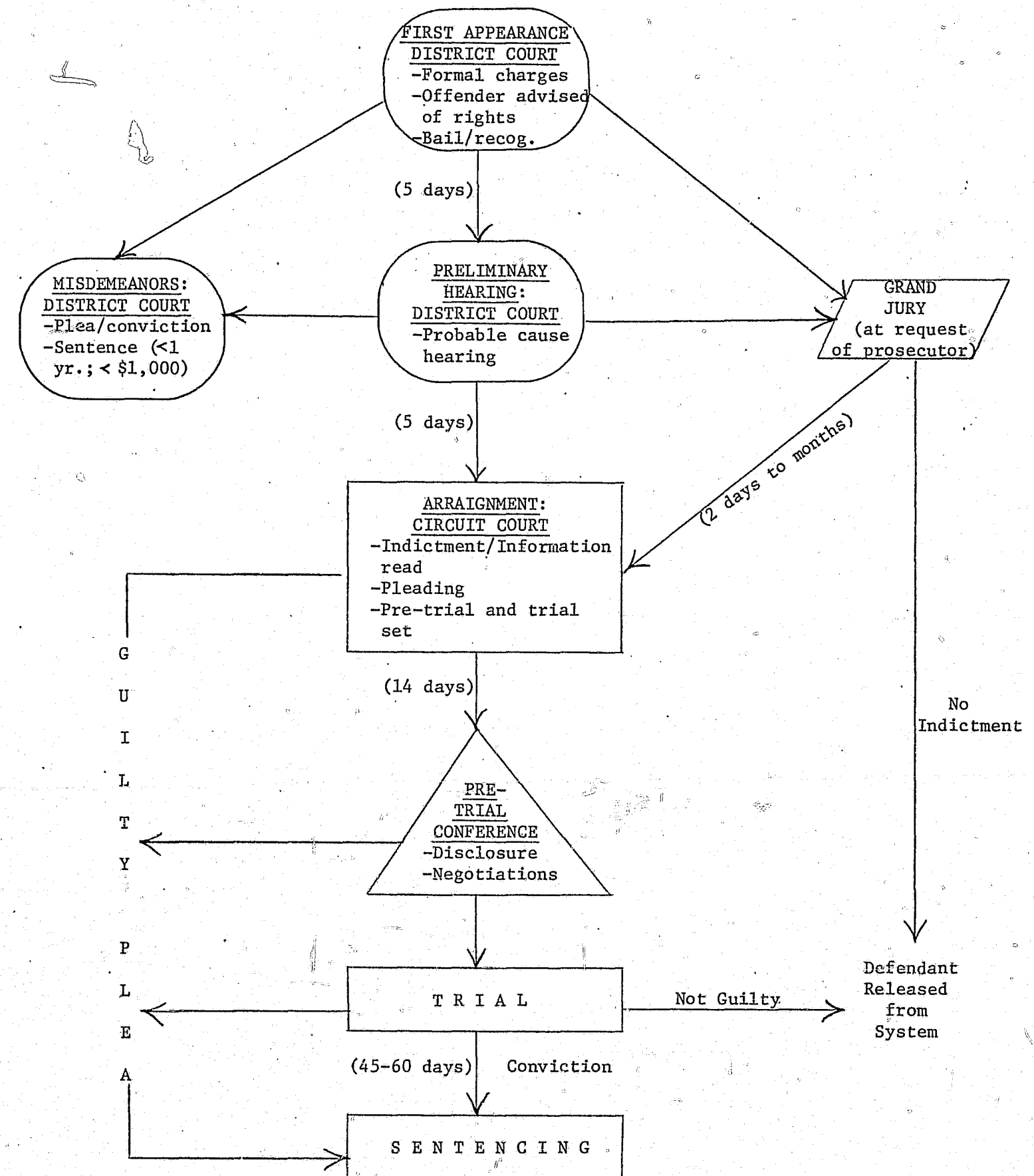
In large part, Project Repay operates as an investigative arm of the district attorney's office, to assess crime victims' losses and inform the prosecuting deputy for use in plea negotiations and sentence recommendations.<sup>3</sup> Both felony and misdemeanor cases are handled by the project, the latter group being referred by district court judges or deputy district attorneys in that court. For circuit court cases (felonies) the project operates as follows:

a. Intake Screening:

On a daily basis, all case files are screened by the project secretary/intake clerk immediately following preliminary hearing, or following arraignment if no preliminary hearing is held (see Chart 7.2). Based upon the contents of the file (police report, rap sheet, charging document), cases are screened out on the following criteria:

- i. juveniles
- ii. sex crimes<sup>4</sup>
- iii. pornography
- iv. prostitution

Chart 7.2  
Criminal Justice Processing for Defendants Charged with  
Felonies and/or Misdemeanors, Multnomah County, Oregon



- v. gambling
- vi. escape II
- vii. robbery I
- viii. victimless offenses
- ix. drug offense with no loss
- x. high likelihood of incarceration (judgment of intake clerk and other project staff in questionable cases, based upon prior criminal and mental health record).
- xi. "career criminal" cases<sup>5</sup>

Where a case is deemed eligible (basically, if there has been some loss and a sentence of probation seems likely), a Repay file is begun to include a copy of the materials in the main file which is then routed to the deputy who will prosecute the case. The Repay files for each day are then sent to the program coordinator who distributes them between herself and the two investigators for loss assessment.<sup>6</sup>

b. Loss Assessment:

i. Time Frame:

From the time that Project Repay accepts a case, there is approximately a three-week period from preliminary hearing (two weeks if from arraignment) to the pre-trial conference, at which time the prosecuting deputies would prefer to have the loss information for use in plea negotiations. If the complete loss figures for a particular case are not available by pre-trial,

project staff attempt to provide at least a tentative figure. In such a case the final loss assessment is provided prior to sentencing, which usually occurs within approximately five weeks of a guilty plea<sup>7</sup> or within two months of conviction after trial (see Chart 7.2 above).

ii. Loss Assessment Style:

Victim-offender negotiations are not used. The offender's estimate of the loss is not solicited.<sup>8</sup> Telephone contact with victims is the focal point of loss verification. Investigation by Repay staff includes a review of the charging document to identify the victim(s) of the crime(s) with which the defendant is being formally charged. In addition, victims may be identified in the police report for offenses with which the defendant will not be charged.<sup>9</sup> In both situations, if the police report indicates any possibility of loss, the victim will be contacted by telephone and/or, if necessary, by follow-up letter to obtain preliminary loss information. In the case of business victims, the security office or business manager will be contacted. The fair market value of property or services at the time of the crime is the rule, unless special circumstances can be documented that would boost or diminish the

amount. Wherever possible, written documentation is requested from the victim or relevant third parties such as hospitals, insurance companies, auto repair mechanics, and so on. If bills, receipts, or other types of documentation are not available, the victim may be asked to complete and sign a formal statement describing the value of stolen or damaged items, the age of those items, and the extent to which losses were covered by insurance. In addition, documentation of lost work time excludes leave for which sick pay was available and time spent in court appearances.

In either case, notice is given that false claims can be prosecuted as a crime under Oregon law.

In certain circumstances the documentation requirement may be waived by the investigator; for example, a minimal amount of loss might be involved, defense counsel may stipulate to an amount, a reputable firm such as a bank or insurance company may verify the amount, or the project's reference collection of retail catalogues and price indices can be used to verify claims. Conversely, in particularly complex cases, or cases involving considerable disagreement from the defendant, the documentation requirement may be supplemented by calling witnesses to the stand to testify under oath about the value of damages.

Step-by-step checklists are used to guide operations, documenting likely approaches and sources of information for specific offenses. In addition, formalized procedures for investigating the various types of loss or damage are utilized when contacting specific parties such as hospitals, city agencies, credit card companies, etc.<sup>10</sup>

iii. Types of Loss Investigated:

Only special damages to crime victims are documented for recovery by Repay investigators. These include the value of cash, stolen or damaged property, medical expenses for injuries attributable to the crime, expenses for unreimbursed time from work due to crime-related injuries, and rental costs arising out of the crime. General damages, such as pain-and-suffering, for which the victim might have a remedy in a civil action, are not documented for recovery by Repay.

iv. Types of Victim Investigated:

Losses are documented for victims of both formally charged offenses and offenses to which the defendant might admit in the course of plea negotiation. In addition, expenses are sought for insurance companies that have reimbursed their clients who have been victimized. Other "indirect" victims, such as the survivors of negligent homicide victims, may also be eligible for restitution under Oregon law.<sup>11</sup>

Besides leading to injured third parties who might be eligible for restitution, Repay investigations may also lead to discovery of further victims not mentioned in either the police reports or the charging documents. In a forgery case with stolen checks, for example, in addition to the loss sustained by the bank or store, contact with the original owner of the checks may reveal further losses sustained at the time the checks were taken. Additionally, contact with a central records department in connection with one check might reveal other false drafts attributable to the defendant.

v. Restitution Plan:

Throughout the life of the project, investigators have assumed different positions towards recommending restitution amounts. In general, project policy enumerates reasons for not recommending restitution, including an obvious inability on the part of the offender to pay and refusal to be involved by the victim. Similarly, on a loss assessment form submitted to the prosecuting deputy (see Appendix A), space is provided for the actual loss amounts and for a recommendation by Repay. While some investigators have made use of their discretion to make recommendations that differ from actual losses, most have

simply restricted themselves to reporting losses. The infrequent discrepancies have been based upon factors such as obvious inability to pay due to exorbitant losses, or because of an assessment by the investigator of fault on the part of the victim in the incident (victim culpability). Reductions are not made in cases involving co-offenders; all are made responsible for the full amount of loss minus anything paid by other co-offenders.

In addition to the amounts of restitution (and occasionally community service), investigators sometimes recommend a payment schedule based upon their estimate of the offender's ability to pay.

This is done infrequently due to the usual unavailability of this information to program staff.

Recommendations for ancillary obligations such as job counseling are not made nor are incentives for program participation or completion included. Once the Repay investigation is completed the loss assessment form is placed in the prosecuting attorney's file. Whether or not the form contains a recommendation by the Repay investigator, the actual amount recommended in court at the sentencing hearing rests with the prosecuting attorney.<sup>12</sup> The amount ordered, of course, is at the discretion of the judge.

After the loss assessment information is provided to the prosecuting attorney, Repay staff are available for consulting on particularly complex cases. If questions are raised in open court at the time of sentencing, Repay staff can be available to clarify and/or testify to items listed on the loss assessment form.

c. Monitoring:

If the judge orders restitution at the time of sentencing (usually as a condition of probation),<sup>13</sup> the Project Repay monitor assumes responsibility for tracking the offender's payments. Payments are usually to be made on a monthly basis to the administrative office of the circuit court. The court administrator processes payments and disburses checks to the victims on a monthly basis. Equal amounts are sent to each recipient. Restitution payments are disbursed before other financial payments by the offender, such as fines and court costs. Payment records are computerized in the court administrator's office, and printouts are provided to the Repay monitor.

If entries on the computer printout show the offender to be delinquent in the payments (> 45 days late), the monitor advises the appropriate supervising authority.

For offenders on bench probation, a call/memo is sent to the judge's chambers, advising of the offender's delinquency. The judge then has the option of issuing a show cause order to require the offender to explain why probation should not be revoked for nonpayment. For offenders on county or state probation, the Repay monitor contacts the supervising probation officer. Should there be a legitimate reason for payment delinquency (e.g., unemployment, medical problems, etc.), a record is made by the monitor and the case is checked at a later date. In cases where no legitimate reason is given, the monitor notifies the offender's attorney that revocation may result and advises the attorney to instruct his or her client accordingly. Finally, if no further payment has been made within 30 days, revocation proceedings may be initiated in cooperation with the probation officer.

#### Footnotes

<sup>1</sup>For more details about "career criminal" eligibility, see page below at footnote 5.

<sup>2</sup>Because of this narrower focus and the need to prioritize on-site evaluation tasks, it was not possible independently to verify the baseline figures used.

<sup>3</sup>In addition to their use by prosecuting deputies, Repay assessments are often sought by probation officers preparing pre-sentence reports.

<sup>4</sup>Sex offenses are handled by the Victim's Assistance Unit of the District Attorney's office.

<sup>5</sup>The Career Criminal Program began in the district attorney's office in October 1976 on a grant from LEAA. To qualify, an offender must have at least two felony convictions when arrested for a new felony offense. He may also be on parole, probation, or other form of supervision for a prior felony when the current felony is one of violence against a person or is a burglary in a dwelling. Other cases may be processed for compelling reasons with the approval of the Unit Chief.

<sup>6</sup>For evaluation purposes, cases are randomly assigned into two groups prior to distribution for loss determination. Those cases assigned to the experimental group are investigated by Repay; the remaining control cases are returned to the prosecuting deputy district attorney for normal handling.

<sup>7</sup>Legislation effective in October 1977 made pre-sentence investigations mandatory in all felony cases. Pre-sentence investigators are informed of amounts of loss by Repay investigators and encouraged to enter them in their reports to the sentencing judge.

<sup>8</sup>The offender's attorney and/or the offender may, of course, contest the amount assessed by Repay, either during pre-trial negotiation or at the time of sentencing.

<sup>9</sup>Restitution will usually be sought in such cases as part of a plea agreement in which the prosecutor agrees not to bring further charges or to drop existing ones in return for the defendant's agreement to pay restitution.

<sup>10</sup>See National Evaluation of Adult Restitution Programs, Research Report #5, *A Guide to Restitution Programming* (1979).

<sup>11</sup>But see page \_\_\_\_.

<sup>12</sup>In addition to financial restitution, Repay staff occasionally recommend that the defendant also perform some community service, e.g., in cases involving no loss or small loss.

<sup>13</sup>Under a new law passed in Oregon in 1977 (HB 2012) restitution may be ordered as an actual sentence rather than a condition of probation. The new provision has not been used widely.

## APPENDIX A

Date: \_\_\_\_\_

DA#

RESTITUTION  
-PT TR

By: \_\_\_\_\_

PROJECT REPAY

Defendant(s)

Charge(s) \_\_\_\_\_ DDA UNIT \_\_\_\_\_

DDA UNIT

Victim name & address	Damages	Loss	Pills attached

Total restitution recommended: \_\_\_\_\_

PLEASE NOTE:

# RESTITUTION



Phyllis Jo Baunach  
Tuesday,  
Nov. 25, 1980

NCJRS

NATIONAL INSTITUTE OF LAW ENFORCEMENT AND CRIMINAL JUSTICE

GRANT MANAGER'S ASSESSMENT REPORT **ACQUISITIONS**

12:00

4th floor conference room

Grant/Contract/IAA # 76-NI-99-0127

Grant/Contract Title	Grantee/Contractor/Agency Name & Address	
National Evaluation of Adult Restitution	Criminal Justice Research Center One Alton Road Albany, New York 12203	
Project Director, Address & Phone #	Funding Level This Phase	Total Lev.
Marguerite Q. Warren Alan T. Harland Criminal Justice Research Center One Alton Road Albany, New York 12203 518-456-7733	\$367,131.00	\$367,131.00
	Project Period This Phase	Total Per
	10/1/76 to 2/28/79	29 months

Products

Title & Author	Date Submitted
1. Alan Harland, Marguerite Warren, Edward Brown, et.al., National Evaluation of Adult Restitution Programs:	Dec '79
2#3 Restitution Programs in Seven States;	
3#4 Evaluation Objectives and Design Implementation	
4#5 A Guide to Restitution Programming**	
#6 Restitution in Criminal Law **	June, 1980

Project Monitors

1. Phyllis Jo Baunach	From 10/1/76	To 8/24/78
2. John Spevacek	From 8/24/78	To 9/18/79
3. Phyllis Jo Baunach	From 9/18/79	To Present

Outside Reviewers

Name and Title
1. Dr. Michael Kirby, Prof/Political Science - Southwestern University, (Memphis)
2. Dr. Forrest Dill, Prof/Sociology - SUNY - Stony Brook
3. Restitution in the Criminal Law, Report #6-- Penfield Tate, DOJ (review attached)

Staff Reviewers

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_

PUBLICATION RECOMMENDATIONS AND APPROVAL

Phyllis Jo Baunach  
Project Monitor

11-25-80  
Date

John Spevacek  
Division Director

11-25-80  
Date

W. D. Burkholder  
Office Director

2/18/81  
Date

## 1. Grant Managers Assessment Report

Provide a narrative assessment not to exceed 200 words describing the following: problem addressed and major objectives, accomplishments, activities undertaken, principal findings and documents produced. This report will be entered into the LEAA Grant PROFILE File (PROFILE) to be used by criminal justice planners and LEAA management and staff. For further clarification of the requirements, see LEAA Handbook HB Procedures for Administration of Categorical Grants, Chapter 6.

This volume is a manual of technical information on how to establish a restitution program. The information reported has been drawn from the experiences of several operating programs and covers such topics as identifying program objectives, identifying at which stage (pre-trial, post-conviction, post-commitment) differing types of restitution programs would be best located, and identifying such procedures for administering a program as assessing victim losses, selecting eligible offenders, accounting of disbursement, etc.

This report is a practical guide in restitution programming; thus it will be of particular utility to criminal justice program planners and administrators. It must be noted, however, that it is based on collective experience and opinion rather than research findings; thus the volume's recommendations must be viewed as tentative.

Restitution in Criminal Law: This volume addresses significant legal issues in the area of restitution. Legal issues and their implications for additional legal analysis are included.

## 2. Detail the major findings and recommendations.

N/A.. This is not a research report; rather it is a "how to" manual in restitution programming. While there are no formal "findings", there are a number of informative passages that are interesting (ie: victims generally wish to avoid contact with offenders, community service restitution programs have frequently "failed" due to low numbers of offenders sentenced to service, etc.). These almost incidental "findings" are of particular value in that they may convey a realistic picture of the limitations of restitution programs to planners and administrators who hold uninformed and unrealistic expectations.

3. Evaluate the report in terms of the soundness of the methodology, the validity and reliability of the data, the quality of the analysis and the appropriateness of the conclusions and recommendations. How do the results relate to other research results of which we are aware (e.g. do they contradict, modify, reinforce, etc.).

N/A. This is not a research report. There are deficiencies and omissions in this "practical guide" however, which are noted in question 4 on the following page:

4. Summarize the outside reviews and address any differences between your assessment and those of the reviewers.

Neither of the two outside reviewers recommend publication of this manual in its current form. Both are agreed that the report requires substantial editing and some further writing to include omitted topics (literature review, a unifying conceptual theme, etc.).

But the most serious criticism is that this manual is based on experience rather than empirical research. Thus readers may use this guide to establish practices and policies that subsequent research may indicate to be ineffectual. As one reviewer stated, "... much basic research on restitution practices and procedures remains to be done before any 'practical guide' can usefully be written."

The reviewers were not aware that the grantee is now concluding such "basic research" in a Phase II study (78-NI-AX-0074).

Restitution in Criminal Law: The reviewer from the Department of Justice overwhelmingly suggested publication of the volume. Substantive comments were not included. The only major revision suggested was that the grantee include cross-references to cases and laws cited.

5. List the members of the Research Utilization Committee.

6. Discuss the usefulness of this report in terms of the following issues:

A. Additional Research

What implications does the report have in terms of future research efforts?

None. This is not a research report.

RUC Comments

Concur: ORP/OE VB

Other:

OTT

Joe M. So.  
Paul C.

B. Program Development

What are the implications in terms of LEAA policy and future program development (i.e., technical assistance packages, prescriptive packages, training, further testing, demonstrations?)

This manual could be used for technical assistance, but the observations of the outside reviewers regarding the need for an empirically based manual are persuasive. It seems expedient to await the results of the Phase II study, due in January, 1981, before determining how this volume can best be used.

RUC Comments

Concur:

ORP/OE VB

Other:

OTT

Joe M. So.  
Paul C.

C. Utilization/Dissemination

Are there implications for operating agencies? If so, what strategy or strategies should LEAA employ to:

1. make appropriate agencies aware of the implications?
2. assist these agencies in deciding whether to implement the findings?
3. implement the findings?

1) None for the guide to restitution programming.

2) Restitution in Criminal Law: The DOJ reviewer as well as the grantee has indicated that publication of Report #6 would be a significant contribution to the field. As the grantee has received several offers from law journals, it would be most appropriate to allow private publication of this massive 180 page document.

RUC Comments

Concur:

ORP/OE 

OTT 

Other:

(Only required for final project closeout)

II. GRANTEE PERFORMANCE

1. Do the products listed on Page 1 meet all of the grant's objectives as presented in the proposal or as officially modified during the course of the grant?

YES ☒

NO ☐

Please explain any discrepancies

2. Rate the grantee/contractors compliance with the administrative reporting requirements of the grant/contract (submission of fiscal and progress reports, etc.)

☐ Excellent, attentive to requirements

☒ Adequate performance

☐ Inadequate - frequent difficulties encountered (Explain)

3. Rate the project director's overall management of the project and the staff independently from the LEAA reporting requirements in #2 above.

☐ Excellent

☒ Adequate - average number of problems

☐ Inadequate - serious and persistent problems encountered (please explain nature of problems on attached sheet, e.g., lack of coordination, frequent delays, excessive start-up time, lack of cooperation).

4. Is there anything about the performance of the grantee/contractor in accomplishing either the administrative or substantive requirements of the project that should be taken into account by LEAA staff in planning future projects with this grantee/contractor?

This project has been plagued with problems beyond the grantee's control, and consequently the research findings were not produced within the grant's time frame. These Phase I findings, however, will be reported in the Phase II report, due in Jan., 1981. It should also be noted that grantee produced three other reports under this grant, none of which are recommended to be published.

### III. PRODUCT DISSEMINATION

Grant/Contract # 76-NI-99-0127

1. List all written reports produced by the contractor/grantee intended for dissemination and write in next to each all the letters corresponding to the appropriate dissemination activities using the codes below. Note all that apply.

CODE I Availability and Publication of Report by Government	CODE II Private Publication by Grantee	CODE III Methods of Publicizing Reports and Findings
A. Reading Room	G. Commercial Printing	K. SNI
B. NCJRS Data Base (including Document Loan Program and Microfiche)	H. Publication by Research Firm	L. Flyer
C. Printing of Enough Copies for Direct Mailing to Specific Persons or Groups (no extra copies for sale)	I. Journal Article	M. Personal transmittal letter with direct mail copy
D. Printing of Sufficient Copies for Director Mailing and NCJRS Distribution	J. Article in Magazine or Periodical	N. LEAA Newsletter Article
E. Printing and Sale		O. Propose Press Release to PIO
F. NTIS		P. Press Conference
		Q. Briefing of Director
		R. Institute Seminar
		S. National Conference (NILECJ)
		T. Prescriptive Package
		U. Training Workshop
		V. Program Field Test
		W. Other (Specify)

Proposed Dissemination  
Activities

Report Title

1. A \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_

2. For each report above for which only A (reading room) was recommended, briefly summarize the reasons for that recommendation.

This volume should be re-evaluated when the Phase II report is available, as the Phase II findings may indicate substantial revision of this manual.

3. For each report above for which C, D, E, K, was recommended, please list mailing categories and number of copies required for each LEAA mailing list. (Instruction 1441.1B, September 1975). If any additional distribution is recommended, indicate number and attach mailing labels.

4. Are there any articles or privately published reports currently available or soon to be available which were produced under this grant.

X No

Yes (if book) Publisher's name:

Address:

Yes (if article) Name of Publication:

Volume # and date of Publication:



Is any further editing/revising required for the reports listed on p. 7.  
 (If so, indicate the names(s) of the report and the nature of the editing.  
 Has it been discussed with the grantee? How should the editing best be  
 accomplished?

None at this time.

## Memorandum

Subject Request RUC Approval for Grantee Publication of  
 Research Report #6, "Restitution in Criminal Law",  
 grant #76-NI-99-0127, "Evaluation of Adult Restitution  
 Programs, Phase I"

Date

11/24/80

To

RUC Committee Members

From

*Phyllis Jo Baunach,*  
 Grant Project Monitor

Last week, the DOJ review of the above-named report was sent to NIJ (copy attached). This review indicates that the manuscript should be published with only minor modifications.

Since the document is 180 pages in length, publication through NIJ would be very expensive. The grantee has indicated that several law journals have expressed an interest in publishing the document.

Given the overwhelmingly favorable review, costs in publication and our shrinking budget, it is my recommendation that the RUC approve publication of this document by the grantee through a law journal.

As the article should be published as quickly as possible to ensure that it is not outdated, I would appreciate your response as part of the overall RUC for this restitution project today.

My sincerest appreciation for your consideration of this matter.





U.S. Department of Justice

Office for  
Improvements in the Administration of Justice

Washington, D.C. 20530

November 7, 1980

MEMORANDUM

To: Charles Wellford

From: Penfield Tate

Comments on the Report on Restitution in Criminal Law

You asked that I review this paper and relay my impressions of it. In particular, you asked me to determine if I thought the paper was worth publishing. I believe that the paper is useful and would recommend its publication.

The paper is an exhaustive survey of the law of restitution, in the criminal context, as found in various state and federal courts. The paper reviews the systemic application and substantive nuances of criminal restitution. It begins with a historical overview and definitions section, proceeds to discuss the procedures for restitution in various court systems, and outlines the parameters of the substantive law. The paper concludes with a discussion of the different rationales used to justify criminal restitution, and offers areas for further study. These areas for further study also serve to alert the reader to the gaps existing in current research in the area.

The only addition I would recommend would be an appendix containing cross-references. This would enable the reader, with a particular interest, to quickly pinpoint the relevant provisions of the law in his jurisdiction.

Overall, I found the paper to be informative, succinct, and very well presented.

CRIMINAL JUSTICE RESEARCH CENTER

ONE ALTON ROAD  
ALBANY, NEW YORK 12203

NATIONAL EVALUATION OF ADULT RESTITUTION PROGRAMS

A Research Project Funded By

Law Enforcement Assistance Administration

National Institute of Law Enforcement and Criminal Justice

(518) 456-7733

MARGUERITE Q. WARREN  
Project Director

ALAN T. HARLAND  
Project Co-Director

November 12, 1980

John Spevacek  
National Institute of Justice  
LEAA  
633 Indiana Avenue  
Washington, D.C. 20531

Dear John:

The outside review comments on Reports 3-5 of the Restitution project just arrived and should be very useful in preparing the final reports of the project.

As the earlier reports were essentially "interim" in nature awaiting the collection and analysis of follow-up data (which is still continuing in some of the Phase II sites) the critical comments in the reviews will largely be taken care of with little extra work in the final reports.

When I first submitted the sixth report on the Law of Criminal Restitution you mentioned that it might be possible to have it reviewed quickly for publication, possibly in-house. I have received several offers from law-review editors to publish the report, so if the LEAA review/publication process is likely to be protracted, I would like to request that I be allowed to publish it now in a professional journal.

I look forward to hearing from you. Thanks again for the review comments.

Yours sincerely,

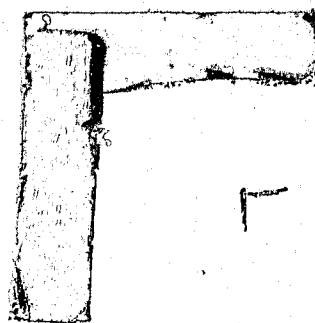
Alan T. Harland  
Director

ATH:es

CC: Phyllis Jo Baunach

When published,  
tell Kathy anything  
to put in JNE  
RUC document.  
Bob + Ann sign off on it  
+ Jane sign off on ODD

PT: I  
think he has  
the best idea - it  
it would be discussed  
What do you  
think?  
agreed!  
as long as  
acknowledged WFS  
in your closing  
if you  
work.



**END**