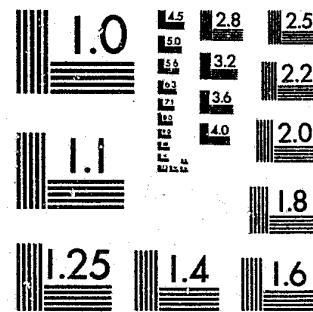


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RESTITUTION AS AN
ALTERNATIVE DISPOSITION FOR
SERIOUS JUVENILE OFFENDERS*

By

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December 1982

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RESTITUTION AS AN ALTERNATIVE DISPOSITION FOR
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Introduction

Restitution as a sanction for crime typically is reserved for relative nonserious property offenders, for several reasons (Schneider, 1977; Chesney, 1976). First, it is more likely in property cases that restitution would be considered a satisfactory solution to the dispute (Gandy & Galaway, 1980). Second, it is easier and more straightforward in property cases to determine the amount of restitution required (Hudson & Galaway, 1981). Third, non-serious offenders are presumed, with reason, to be more likely to complete restitution and less likely to commit another offense (Schneider, 1982). And fourth, serious and especially violent offenders are more likely to be incarcerated, thus destroying their ability to make restitution (Harland, 1980), while nonserious offenders are more likely to be treated informally and placed in community-based programs (Cohen, 1944; Hamparian, 1978).

As a result, serious offenders rarely are required to make restitution or, if restitution is ordered, it is in conjunction with other penalties that cripple his earning power or otherwise reduce incentives. The Office of Juvenile Justice and Delinquency Prevention took steps toward broadening the use of restitution to include more serious offenders with the national juvenile restitution initiative. It did so by requiring that juveniles be formally adjudicated in order to be eligible for the projects it funded, and by stipulating that restitution be used as an alternative to incarceration.

The extent to which restitution actually was used as an alternative to harsher disposition is subject to interpretation. The criteria judges use in deciding whether to incarcerate vary enormously across jurisdictions,

and even within jurisdictions, objective criteria, such as offense seriousness and number of priors, are relatively poor indicators (Hamparian, 1978; Kowalski & Rickicki, 1982). Moreover, OJJDP subsequently relaxed its eligibility standards in order to enlarge the pool of potential referrals (OJJDP, 1979). Even so, an agency spokesman, in testimony before Congress, estimated that at least 20 percent of the first 16,000 referrals to initiative projects would have been "prime candidates for incarceration" (Dodge, 1980).

This paper will focus on those referrals to OJJDP-funded restitution projects that would be considered serious offenders according to a definition involving both offense seriousness and chronicity. Drawing upon data collected as part of the national evaluation of the juvenile restitution initiative, it will address two questions of importance to judges and juvenile justice policy makers: First, if restitution is ordered as a disposition for serious offenders, can they be expected to complete the requirements? Second, are serious offenders who make restitution more or less likely to commit other offenses than serious offenders who receive more traditional dispositions?

The Serious Offender: Definition and Characteristics

When fully operational, the national juvenile restitution initiative involved 85 projects in 26 states, Puerto Rico, and the District of Columbia. During their first two years of funding, these projects accepted 17,354 referrals. Through a uniform management information system (MIS) implemented prior to project start-up, data were collected at both intake and case closure on each referral. Included in these data were details of the offense, number of prior court contacts, socioeconomic characteristics of the offender,

amounts of restitution ordered and paid, and so forth. These data were compiled, updated, and circulated monthly, and summaries were published at six months and two years.¹

These data were used to assess offense/offender seriousness as follows: First, type of offense was combined with monetary loss to produce a scale of offense seriousness. This procedure is similar to that employed by Sellin and Wolfgang, and follows their suggested cutpoints (Sellin & Wolfgang, 1964). Second, the offense seriousness scale is then arrayed against the number of prior or concurrent offenses known to the juvenile court. This produces a two-dimensional scheme for classifying juvenile offenders (see Table 1).

For the purposes of this paper, it is suggested that a serious offender is one who (a) is referred to the court for an offense scaled as "very serious personal;" (b) is referred to the court for an offense scaled as "serious property" or greater and has at least two prior or concurrent offenses; and (c) is referred to the court on any charge, but has at least five prior or concurrent offenses. Table 1 displays the number and percent of serious offenders in each category. By totaling the entries in the various cells, it can be seen that about 47 percent of these juveniles were referred for offenses scaled as "very serious property" or greater, and about 48 percent had four or more prior or concurrent offenses. The 4,032 referrals classified as serious offenders represents about 23 percent of all the referrals to OJJDP-funded restitution projects.

The socioeconomic characteristics of these offenders, their performance in restitution programs, and the outcomes of the unsuccessful cases are presented in Table 2. Compared with all of the offenders in the initiative

TABLE 1. OFFENSE CATEGORIES AND PRIOR OFFENSES OF SERIOUS OFFENDERS IN THE NATIONAL JUVENILE RESTITUTION INITIATIVE

SERIOUSNESS OF REFERRAL OFFENSE	PRIOR AND CONCURRENT DELINQUENT OFFENSES KNOWN TO COURT OFFICIALS						
	0	1	2	3	4	5	TOTAL PERCENT
<u>Victimless:</u> Includes traffic accidents or tickets, status offenses, drugs, alcohol, gambling, prostitution, and probation violations.						(17) 0.4%	(18) 0.4% (35) 0.9%
<u>Minor Offenses:</u> Minor offenses not easily classified as property or personal, such as disorderly conduct.						(6) 0.1%	(17) 0.4% (23) 0.6%
<u>Minor Property:</u> Any property offense with loss/damage of \$10 or less except burglary and arson.						(57) 1.4%	(116) 2.9% (173) 4.3%
<u>Minor Personal:</u> Resisting or obstructing an officer, coercion, hazing, other similar UCR PART II offenses.						(7) 0.2%	(26) 0.6% (33) 0.8%
<u>Moderate Property:</u> Burglaries and arsons with loss/damage of \$10 or less and any other type of property offense with loss/damage of \$11 to \$250.						(110) 2.7%	(294) 7.3% (404) 10.0%
<u>Serious Property:</u> Burglaries and arsons with loss/damage of \$11 to \$250 and any other property offense with loss/damage greater than \$250.			(533) 13.2%	(332) 8.2%	(218) 5.4%	(134) 3.3%	(261) 6.5% (1,478) 36.7%
<u>Very Serious Property:</u> Burglaries and arsons with loss/damage of \$250 or more.			(89) 2.2%	(51) 1.3%	(24) 0.6%	(18) 0.4%	(37) 0.9% (219) 5.4%
<u>Serious Personal:</u> Unarmed robberies and nonaggravated assaults with loss of \$250 or less.			(368) 9.1%	(210) 5.2%	(143) 3.5%	(94) 2.3%	(267) 6.6% (1,082) 26.8%
<u>Very Serious Personal:</u> Unarmed robberies and non-aggravated assaults with losses exceeding \$250 and all UCR PART I personal crimes including rape, armed robbery, aggravated assault.	(290) 7.2%	(108) 2.7%	(73) 1.8%	(43) 1.1%	(27) 0.7%	(19) 0.5%	(25) 0.6% (585) 14.5%
TOTAL PERCENT	(290) 7.2%	(108) 2.7%	(1,063) 26.4%	(636) 15.8%	(412) 10.2%	(462) 11.5%	(1,061) 26.3% (4,032) 100.0%

TABLE 2. CHARACTERISTICS AND PERFORMANCE OF SERIOUS OFFENDERS IN RESTITUTION PROJECTS

Characteristic		(N)
Average Age	15.7	3,990
% Male	93.2	4,017
% White	67.6	3,971
Median Ann. Household Income	10,400	2,355
% Not in School	28.8	3,873
<u>Performance</u>		
% Reoffend	14.7	3,921
% Unsuccessful	19.5	3,093
Outcome of Unsuccessful Cases (%)		604
Probation	41.6	
Secure Facility	35.9	
Awaiting Court Review	11.4	
Nonsecure Facility	5.5	
Waived to Adult Court	2.2	
Warrant Issued	2.5	
Other	.9	
TOTAL CASES		4,032

(Schneider, et al., 1982), these are older, more likely to be male, less likely to be white, poorer, and more likely to be out of school. About 15 percent committed new offenses while still in the restitution program, and less than 20 percent were ultimately closed out as unsuccessful cases. While these percentages are higher than those in the initiative as a whole-- in which about nine percent reoffended and only 14 percent were unsuccessful at completing restitution--they remain impressive. In probabilistic terms, serious offenders referred to restitution projects are very likely to complete the requirements of the disposition, and very unlikely to fail by reoffending. Moreover, the lower successful completion rate among serious offenders may be due entirely to their more costly offenses, and consequently higher amounts of restitution. In a separate study of successful completion rates, the size of the restitution order (a function of the amount of loss) consistently was shown to be of greater importance than the number of prior offenses (Griffith, et al., 1982).

Data on the outcomes of the unsuccessful cases provides an indication of the extent to which restitution was used as an alternative to incarceration for these youths. About 42 percent were continued or placed on probation, 36 percent were incarcerated in a secure facility, and about six percent were housed in a nonsecure facility. Apparently, these outcomes are less severe than the offenders feared. In interviews conducted while some of the offenders were still making restitution, 73 percent of those who had not yet finished said that failure to finish would result in some form of detention.

Official Recidivism: Comparisons Among Experimental and Control Groups

In the remaining sections of this paper, attention is focused on serious offenders referred to experimental and control groups in five intensive

evaluation sites: Oklahoma County; Washington, D.C.; Dane County (Madison), WI; Ventura County, CA; and Ada County (Boise), ID. Experimental research designs were established in these sites to permit comparisons between groups of youth who were ordered to make restitution and groups of youth who received other types of dispositions. The designs also permit comparisons among groups of offenders who make restitution under different types of conditions.

In these sites, data were collected on a wide range of variables, including official delinquency (offenses contained in official court records); self-reported delinquency; and attitudes of both offenders and victims. This study, however, will focus on official delinquency and compare official recidivism rates across experimental and control groups. The method used to calculate recidivism rates, controlling for time at risk, is survival analysis. This procedure generates a "survival rate," which actually is the cumulative proportion of cases that have not yet failed, or recidivated, at each of many different time lags beyond referral (Berecochea, et al., 1972). Thus, this method produces a nonreoffense rate for one or more months beyond referral, and the recidivism rate can be determined by simply subtracting the proportion of nonreoffenders from 100 percent.

Restitution vs. Incarceration

The experimental research designs in Ventura and Boise provided for a comparison between groups of youths who were incarcerated and groups who were ordered to make restitution as an alternative. In Ventura, youths for whom incarceration was recommended were randomly assigned into two groups. The members of one group were incarcerated in secure residential facilities, and the members of the other group were ordered to make restitution while

being housed in a nonsecure facility. In Boise, all offenders sentenced to be incarcerated in either a state corrections institution or the county detention center were likewise assigned into two groups, with one group making restitution as a condition of probation and the other serving the original sentence.

Table 3 displays official recidivism rates for these offenders at six months and 12 months. The first set of entries in the table is for all new offenses, while in the next three columns the offenses are broken down into categories of personal, property, and minor. Only serious offenders, as defined earlier, were included in these analyses.

The data reported in this table clearly indicate that youths who were incarcerated have lower rates of recidivism than those placed in restitution programs. While this finding is not inconsistent with those reported in similar studies, most notably the controversial evaluation of the effects of the Unified Delinquency Intervention Services, or UDIS (Murray & Cox, 1979), it must be emphasized that none of the apparent differences in recidivism rates attained statistical significance. Consequently, the null hypothesis that there is no difference between the experimental and control groups cannot be rejected. Moreover, in Ventura at least, the apparent differences dampen out after one year until the observed rates are virtually the same.

Restitution vs. Probation

Restitution as an alternative to standard probation was examined in Ventura, Washington, D.C., and Oklahoma County. In these sites, offenders were randomly assigned into probation or into the restitution project, where

TABLE 3. OFFICIAL RECIDIVISM RATES FOR RESTITUTION AND INCARCERATION GROUPS IN VENTURA AND BOISE

Site and Evaluation Groups	(N)	6-Month Rates			
		All Offenses	Personal	Property	Minor
<u>Boise</u>					
Restitution	(10)	.40	.00	.12	.12
Incarceration	(10)	.30	.00	.10	.00
<u>Ventura</u>					
Restitution, Placement*	(51)	.53	.00	.18	.24
Control, Placement	(24)	.45	.00	.17	.36
<hr/>					
12-Month Rates					
<hr/>					
<u>Boise</u>					
Restitution	(10)	---**	---**	---**	---**
Incarceration	(10)	---**	---**	---**	---**
<u>Ventura</u>					
Restitution, Placement	(51)	.70	.02	.32	.31
Control, Placement	(24)	.69	.04	.43	.42

* Youths in restitution project were placed in a residential, but nonsecure, facility.

**Insufficient time points for analysis.

they were required to make restitution as a condition of probation. In Oklahoma County, those assigned to the restitution project were again distributed into two groups, with the members of one group making restitution as a sole sanction, and the members of the other group making restitution as a condition of probation. Those groups were combined for this portion of the analysis.

Official recidivism rates for the restitution and standard probation groups are presented in Table 4. Again, the restitution groups appear to have higher rates of recidivism, but again the differences are not statistically significant.

It is interesting to note that while the recidivism rates for the Ventura probation group are lower than the rates for the Ventura incarceration group, the rates for the two restitution groups in Ventura are about the same. Offenders in Ventura were not randomly assigned into probation and incarceration groups and, hence, comparisons between those groups would be invalid. However, it appears that there is not additional risk involved in ordering restitution for youth who otherwise would have been incarcerated.

Restitution as a Sole Sanction vs. Restitution as a Condition of Probation

The random assignment of restitution project referrals in Oklahoma County into sole sanction and restitution plus probation groups was undertaken to test the notion that restitution alone might constitute a sufficient deterrent to subsequent delinquency. The data, displayed in Table 5, are once more not significant statistically, but suggest that the sole-sanction group is less likely to commit new offenses. This finding, if valid, is consistent with a finding based on the MIS data that offenders making resti-

TABLE 4. OFFICIAL RECIDIVISM RATES FOR RESTITUTION AND PROBATION GROUPS IN VENTURA, WASHINGTON, D.C., AND OKLAHOMA COUNTY

Site and Evaluation Groups	(N)	6-Month Rates			
		All Offenses	Personal	Property	Minor
<u>Ventura</u>					
Restitution, Nonplacement	(107)	.57	.03	.28	.15
Control, Nonplacement	(44)	.37	.02	.07	.20
<u>Washington, D.C.</u>					
Restitution, Alt. to Prob.	(58)	.33	.10	.20	.05
Probation	(48)	.25	.07	.12	.05
<u>Oklahoma County</u>					
Restitution	(37)	.44	.03	.25	.17
Control	(10)	.40	.00	.27	.10
12-Month Rates					
<u>Ventura</u>					
Restitution, Nonplacement	(107)	.67	.06	.44	.25
Control, Nonplacement	(44)	.54	.07	.28	.25
<u>Washington, D.C.</u>					
Restitution, Alt. to Prob.	(58)	.42	.12	.40	.07
Probation	(41)	.42	.14	.30	.07
<u>Oklahoma County</u>					
Restitution	(37)	.56	.17	.31	.21
Control	(10)	.40	.00	.27	.10

TABLE 5. OFFICIAL RECIDIVISM RATES FOR RESTITUTION/SOLE SANCTION AND RESTITUTION/PROBATION GROUPS IN OKLAHOMA COUNTY

Site and Evaluation Groups	(N)	6-Month Rates			
		All Offenses	Personal	Property	Minor
Restitution, Sole Sanction	(24)	.42	.04	.27	.24
Restitution, Probation	(13)	.48	.00	.22	.08
12-Month Rates					
Restitution, Sole Sanction	(24)	.58	.11	.27	.24
Restitution, Probation	(13)	.69	.25	.34	.17

tution as a sole sanction are more likely to complete their requirements and less likely to reoffend while under project supervision (Schneider, et al., 1982).

Restitution Project vs. Probation Department Restitution

In Dane County (Madison), WI, a randomized experiment was designed to determine whether a formal restitution project could be more effective than informal restitution supervised by probation officers. In that site, all offenders ordered by the court to make restitution to their victims, or to perform community service, were randomly distributed between the OJUDP-funded restitution project, which was operated outside the court by a nonprofit agency, and the probation department.

Official recidivism rates for the two groups are shown in Table 6. Apparently, serious offenders who were in the formal project are less likely to commit new offenses than those supervised by probation officers, but both rates are high. Completion rates, however, vary substantially: about 92 percent of these offenders in the formal project completed restitution successfully, while only 44 percent of the serious offenders in the probation department group did so.

Attitudes on Selected Questions

Offenders in all the experimental and control groups were interviewed upon the closure of their cases to assess their reactions to their different dispositions. The data from three selected questions are shown in Table 7; they are presented here to help illuminate some of the findings.

Contrary to expectations, youth who received restitution as a disposition are no more likely to perceive that disposition as any more fair than

TABLE 6. OFFICIAL RECIDIVISM RATES FOR EXPERIMENTAL AND CONTROL GROUPS IN DANE COUNTY: FEDERALLY-FUNDED RESTITUTION PROJECT VS. RESTITUTION SUPERVISED BY PROBATION DEPARTMENT

Site and Evaluation Groups	(N)	6-Month Rates			
		All Offenses	Personal	Property	Minor
Restitution, Program	(30)	.47	.03	.30	.13
Restitution, Probation	(21)	.55	.05	.35	.23
		12-Month Rates			
Restitution, Program	(30)	.57	.03	.37	.17
Restitution, Probation	(21)	.65	.05	.50	.33

TABLE 7. PERCEPTIONS OF FAIRNESS, RESPONSIBILITY AND LIKELIHOOD OF
RECIDIVISM AMONG SERIOUS OFFENDERS IN RESTITUTION PROJECTS

Site and Evaluation Group	(N)	Compared with the people who do similar things, how do you feel you were treated by the court, fairly or unfairly?	Did the things that hap- pened to you at the court make you feel responsible for your actions?	What are the chances you would commit this kind of offense again in the next year?
		(% Fairly)	(% Yes)	(0 = Definitely Will Not 100 = Definitely Will; Group Average)
<u>Ventura County, CA</u>				
Restitution, Placement	(44)	81		
Control, Placement	(23)	100	56	18
Restitution, Nonplacement	(94)	53	83	7
Control, Nonplacement	(34)	75	75	13
			25	8
<u>Washington, D.C.</u>				
Restitution, Alt. to Prob.	(24)	83	72	14
Control, Probation	(14)	90	56	13
<u>Oklahoma County, OK</u>				
Restitution, Sole Sanction	(23)	100		
Restitution, Probation	(12)	100	100	11
Control, Nonrestitution	(10)	80	109	17
			100	3
<u>Ada County (Boise), ID</u>				
Restitution	(7)	100		
Incarceration	(8)	71	100	13
			86	14
<u>Dane County (Madison), WI</u>				
Restitution, Fed. Program	(35)	78	78	12
Restitution, Nonprogram	(16)	73	73	4

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those who were incarcerated or placed on probation. Moreover, apparently, they were no more likely to feel any more responsibility for their actions, and, if anything, seemed more inclined to believe that they might reoffend. These data are puzzling when viewed from the perspective of one who believes restitution to be less harsh than traditional dispositions, but makes sense if restitution is considered more severe and more difficult. These offenders, it appears, may have resented having to make restitution.

Conclusions

These data seem to suggest that restitution or community service, for serious offenders, is less effective in terms of preventing future delinquency than traditional dispositions. However, such a conclusion is premature at best and misleading or wrong at worst. First, none of the apparent differences attained statistical significance. They were, however, consistent and, in that sense, must be accepted as indicative. With the passage of time, and hence the collection of more data, the picture may become clearer. A second problem with an overview of this type is that more attention is paid to the dependent variable--recidivism--than to independent variables, i.e., the treatments in each of the sites. Even if the restitution treatment is consistent across sites, the alternative almost certain is not.

It is fairer, perhaps, to accentuate the positive: serious offenders can, in fact, perform restitution when required to do so; the successful completion rates are only slightly less than those of all offenders. Moreover, the outcomes--in terms of recidivism--may be no worse than those resulting from traditional dispositions and, at least, victims and communities are being compensated for the damages done to them by the offenders.

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