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Restitution:

A Guidebook for
Juvenile
Justice
Practitioners

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U.S. Department of Justice
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Restitution:

A Guidebook for Juvenile Justice Practitioners

By

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Juvenile Justice Textbook Series

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First Printing—1983

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Prepared under Grant # 79-JN-AX-0016 from the Office of Juvenile Justice and Delinquency Prevention, Office of Justice Assistance, Research and Statistics, U.S. Department of Justice.

Foreword

As a long-time member of the National Council of Juvenile and Family Court Judges, and as Chairman of its Restitution Committee, I am honored to write this introduction to our Council's most recent addition to its textbook series.

I commend the Council and the individual authors for an outstanding contribution to the field of juvenile justice and would recommend it to every sitting juvenile and family court judge who has had thoughts of initiating, expanding or improving restitution and community service programs within his or her jurisdiction.

The Council, and its Restitution Committee, have been actively involved in stimulating and encouraging juvenile and family court judges and juvenile justice practitioners to implement restitution as a valid and viable dispositional alternative. Through its educational division, the National College of Juvenile Justice, the Council has initiated a series of training programs on Restitution issues. Through publications such as this, the Council continues to place Restitution high on its list of priorities for juvenile and family courts across the country.

Nonetheless, the torturous progress of any new initiative on its way to functioning reality is often slower than might be expected. Considering the validity and proven workability of the concept, the need for such a dispositional alternative, and the mood of the public — I can think of three reasons why restitution is so slow in coming to our juvenile and criminal justice systems:

Historical: Early in our legal history, crimes *were* punished by enforced victim compensation. As the power of the king increased, crimes became looked upon as offenses against the "peace and dignity of the *King*," rather than against the victim. As a consequence, we are still concerned primarily about the "*King*," or the "State" or the "People," and not about the victim.

Statutory: Our criminal codes are written in an all-or-none style: "Every person who . . ." By "all-or-none," I mean that incarceration (or threat of incarceration) is prescribed almost exclusively as a sanction for criminal conduct — thus excepting other sanctions, such as restitution.

Correctional: Treatment and rehabilitative models prevalent in juvenile justice focuses on the juvenile and not on the crime *or* the victim. Are we going to *treat* the juvenile offender — who beats us over the head and takes our money — and forget the victim of his predation?

Thus, all three (historical antecedents, obsession with incarceration, and the medical model) run contrary to victim compensation and restitution. We need a new paradigm — one which will not only consider the victim — but which will concentrate on speedy, certain sanctions rather than on draconian encagement. Rather than cut the thief's hand off, why not let him spend time working at some (perhaps low paying, perhaps embarrassing) job which will allow for compensation to the victim? Certainly such "restitution," based on an "accountability" model, would be as "rehabilitative" as expensive incarceration in a state training school. If the offender does not avail himself of the opportunity to make such restitution to the victim, then the traditional juvenile system "treatment" (read "punishment") can be imposed.

We as judges and practitioners, must attempt to go beyond the confines of the old paradigm — where the King (and later the State) become the sole party-at-interest against the accused; where criminal justice is based on retribution, punishment and

deterrence because of the public nature of the offense; where the emphasis continues to be on the criminal and not the crime and its victims; and where little concern is demonstrated for the accused's accountability to the victim.

Instead, we must concentrate our efforts toward developing and implementing a new program, based on *accountability*. The "People," the Adversary System and classic criminal justice must be brought into harmony with procedures which regard the victim. When victim restitution and community service provide adequate punishment and retribution to the offender, then justice *as well as* rehabilitation can occur.

Justice Charles E. Springer
Supreme Court of Nevada, Carson City

Authors

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Preface

"After I had committed the offense, I had heard people talking, you know. They didn't want their kids to be around me because you know, in fear that I would have them in trouble. [Restitution] gave me a chance to show that if given a chance, I could be just like anyone else. I am not one that was out looking for trouble. I just happened to run upon it at that time. It showed to myself that I could be anything I wanted to be. It depended upon what I wanted to make myself. So, really, it proved to the people around, and me, that I could make it in the world today, not as an inmate in a prison, you know, but going to work everyday, bringing home a paycheck."

Charles — Wisconsin Restitution Program

Restitution, within a philosophical context of accountability, gives us a new way of dealing with young offenders. Practice with restitution forces us to change our view of delinquent children. Whereas we previously responded to young offenders as social liabilities, with one form or another of diminished capacity — through restitution, we allow many of them to become assets to themselves and their communities. The message of accountability is a logical response to their inappropriate behavior.

Expansion in both the understanding and utilization of restitution in the juvenile justice system proved phenomenal during the national initiative sponsored by the Office of Juvenile Justice and Delinquency Prevention from 1978-1981. It was during that time, and through participation in the initiative, that the authors met. We quickly became aligned with a philosophy of accountability, which clearly has the potential for impacting juvenile justice significantly beyond the success achieved through restitution. What began as a concern for developing a viable alternative sanction has grown into a renaissance in juvenile justice. Our experience with the use of restitution has caused us to realize how great is the potential for positive change in our courts.

As the use of restitution grows, it becomes increasingly important to the lives of thousands of young people (as well as the future of the juvenile justice system) to insure that it is used consistently and with care. It is our intention to contribute practical knowledge that will make this possible. Over fifteen years of collective experience as restitution project directors, along with a variety of opportunities to design programs and train professionals across the nation, have led us to the conviction that certain applied principles will maximize the benefits available through restitution. The principles presented are based upon an historical perspective and a thorough review of current research, as well as our field experience. The first three chapters offer the reader an opportunity to acquire those perspectives. Four principles are presented as a framework around which a unique program can be designed to fit any community. Chapter Five, together with the appendices, provides a practical guide to some of the policies and programmatic issues which will arise. It is our hope that this collaboration will develop a common rationale and mission in juvenile justice which is logically connected to restitution theory and the philosophy of accountability.

We are indebted to all of our colleagues in the restitution initiative, particularly Donna Gilbeau, who was the catalyst for this effort. If Donna was the planter of the seed, then Jim Toner of the National Council of Juvenile and Family Court Judges was the sower who nurtured our efforts into fruition. Many thanks also to Troy Armstrong, who took on the gargantuan task of editing our diversely styled chapters into a useful primer.

The Jameson Group
June, 1983

Acknowledgment

Numerous people and organizations contributed to the realization of this text. We thank all of them for their support.

We are especially grateful to Doug Dodge at OJJDP, who kindled the notion for this work. His challenge to the authors, his advocacy for resources, and his vigil on production schedules guided us to this resulting publication.

Doug's invaluable participation in our book reflects his leadership in humane, yet accountable, youth policy for this nation's juvenile justice system.

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CHAPTER I

An Overview of Practices and Approaches in Reparative Justice

By TROY ARMSTRONG

INTRODUCTION

The juvenile justice system is currently in the midst of an intensive fascination with the concept of restitution. One can hardly read a newspaper, listen to radio, or watch television without some mention being made of a notable success being achieved somewhere in this country through the use of restitution with juvenile offenders. This development is rather ironic. Although restitution has played a major role over the centuries in the search for justice in a number of societies, it has been largely ignored in our own society as a way for redressing criminal misconduct. Now, suddenly the concept of restitution, considerably older than the pyramids, is being introduced with substantial impact into our continuing debate over appropriate ways of responding to the problems of delinquency.

Accelerating interest in restitution poses a major challenge to the entire justice community: administrator, planner, practitioner, and researcher alike since both positive and negative effects are certain to follow from the current high level of enthusiasm. On a positive note, the excitement being generated by this sanctioning approach almost surely guarantees its being fully institutionalized within a few years as a regular feature of the juvenile justice system. The concept not only is sound but also is exciting in its implications and should be used. Although not the "panacea" for all that ails the justice system, it provides an innovative way of dealing with old but persistent problems. In contrast, on the negative side of this picture looms the possibility that the faddishness of the current enthusiasm may result in the concept being rather poorly handled when put into a program context. There is the danger that translating restitution theory into practice will be a superficial process, resulting in less than adequate programs. Consequently, it is critical that the concept, its inherent strengths and weaknesses, its managerial complexities, and its range of programming variations be fully explored. In this vein, Hudson and Galaway (1977:1) have observed, "The concept is deceptively simple to state, but it presents enormous difficulties for operationalizing in programmatic form."

In this introductory chapter will be developed an overview of how the

concept has evolved through time and across different cultures into its present form. This review will provide a framework for placing in perspective the current set of program practices which have emerged in this country during the past few years. Finally, some of the problems and issues awaiting the next generation of restitution programs will be explored.

Before turning to the historical and cross-cultural records, it is important to examine some of the definitional issues which have caused lingering confusion in this field and must be clarified in order to reach a sense of common terminology and nomenclature. On the most general level, restitution can be viewed as *a process by which offenders are required to make amends to their victims who have suffered losses, damages, and/or injuries as a result of these crimes*. Under this system offenders are deemed responsible, or accountable, for their acts and are required to repair, in some way, the harm they have done.

Conceptually, restitution is best viewed as constituting a distinct principle of justice just as punishment, incapacitation, deterrence, and rehabilitation do. It consists of two essential elements: the offender's having to make amends to his victim, and the offender's being held accountable in a tangible fashion to his victim. Both *amends* and *accountability* are fundamental requirements and must be present if a particular sanctioning practice is to be called restitution. Regarding amends, restitution can theoretically be employed in any criminally-disrupted situation where damages, losses, or injuries have occurred. Regarding accountability, the offender is assuming responsibility for his criminal acts as a result of being forced to make amends. The extent to which the offender is required to make reparations will reflect the objectives of those individuals imposing the sanction. Depending upon the goals of the court and the restitution program, partial, full, or excessive repayment is possible.

Restitution has generally assumed three principal forms: monetary restitution, community service, and direct service to victims. Typically, programs employ a mixture of these forms of compensation depending upon the circumstances, abilities and illegal behavior of the individual offender. Individually, these three forms exhibit the following characteristics when administered in formal program settings.

Monetary restitution: Offenders repay their victims with funds which are in their possession, are being earned at jobs they already hold, or will be earned at jobs obtained through the program. Once the amount of loss or damage suffered by the victims has been assessed, offenders are ordered to pay a designated amount by the judge or other court personnel.

Community service: Offenders work without pay at a public or private, non-profit agency for a designated number of hours. Placement in this kind of assignment is usually made when a judge decides there are good reasons (age of offender, non-availability of salaried job, nature of the offense, etc.) for selecting voluntary public service instead of monetary restitution although statutory constraints may occasionally require such a placement. Since no direct victim is

involved in this reparative process, this activity is often referred to as "symbolic restitution."

Direct service to victims: Offenders work without pay for those individuals or corporate entities such as businesses against whom they have committed criminal acts. This form of restitution is usually made when the offense is a crime against property.

Collectively, these forms of compensation are felt to constitute a system of redress which should technically be referred to as "reparative justice." However, in this country it has been a common practice to group the various forms of reparative justice under the single term, restitution. As suggested, the essential themes underlying these sanctioning procedures is that each, in its own way, is requiring the offender to make some type of reparations to his victim, real or symbolic, and is resultingly holding the offender accountable for his crime. Although the way in which each form is administered, in which the amount of required labor and repayment is determined, and in which the kind of work activity is selected may vary substantially and pose the possibility of excessive or inappropriate penalties being exacted, good management practices should reduce any major obstacles to achieving the desired sanctioning effect regardless of the form of reparation utilized.

Care should also be exercised in defining restitutive justice in any of its major forms to distinguish the concept from another, closely related compensatory approach, "victim compensation." In practice, victim compensation as a system for repaying victims involves the State's making direct monetary payment regardless of the status or availability of the offender. In most cases, it is applied to personal harm or injury as opposed to property damage or loss. The distinction between restitution and victim compensation reflects the basic difference in goals and objectives of the two approaches.

If the overall aim is simply to provide financial aid to as many victims of crime as possible, victim compensation is a more suitable mechanism since such programs can provide payment whether or not an offender is apprehended. In contrast, restitution is based upon the idea of bringing the offender to justice by involving him/her in the reparative act and is used on a selective basis as a tool for achieving the ends of punishment, deterrence, or rehabilitation within the confines of the criminal justice system (Armstrong 1981:2).

Finally from a rather different definitional perspective arises the issue of the "multi-faceted" nature of restitution. Here, reference is being made to one of the most appealing qualities of restitution, its inherent versatility. This feature causes the sanctioning approach to have remarkable attraction for adherents of quite different philosophies of justice, regardless of whether they espouse punishment, deterrence, or rehabilitation. The point is that restitution can be tailored to fulfill a number of different purposes.

From the viewpoint of punishment, restitution can be seen as making offenders aware of the repercussions of their unlawful acts by assuming responsibility for what they have done. Restitution is most clearly punitive when offenders are required to make amends which exceed the amount of damages or losses for which they are responsible. This kind of penalty is often

imposed in the form of unpaid service hours as a symbolic gesture for harm inflicted upon the community at large. As a deterrent, restitution can be seen as discouraging offenders from future violative acts as a result of the graphic demonstration that they will be deprived of liberty and property by being forced to meet the requirements of restitution orders. For the purposes of rehabilitation, restitution offers a number of possible beneficial effects for the offender. These include: instilling a sense of accomplishment by completing the order, becoming involved in socially appropriate activities to express guilt and achieve atonement, and tailoring the sanction to the strengths of the offender, thereby assuring that he either has or can acquire the skills and abilities necessary to successfully complete the conditions of the agreement.

As a consequence of its versatility, restitution offers a clear political advantage to change agents hoping to introduce innovative correctional programming. This sanctioning approach can be simultaneously embraced by both conservative and liberal elements in the general population. Those individuals demanding tougher sanctions see restitution as an approach which punishes offenders by requiring them to compensate their victims in a tangible fashion while those individuals insisting that many offenders do not need to suffer the harmful effects of incarceration see restitution as an approach which provides offenders with an opportunity to engage in meaningful activities and to more quickly reintegrate themselves into the community. Gaining this kind of broad based support across a wide spectrum of public opinion may give the change agent the upper hand in negotiations if he is forced to function in an organizational environment where budget cuts are occurring and general fiscal constraint is being exercised.

II. THE EVOLUTION OF PRACTICES IN REPARATIVE JUSTICE

Much has been written about the evolution of restitution as a sanctioning approach. Collectively, practices requiring offenders to make amends to victims have exhibited a clear pattern of development across time and space.

A convincing argument has been made for the presence of culturally patterned and socially approved modes of compensatory behavior across much of human experience; such practices were structured to restore balance and equity to the social order when acts of misconduct against persons and property have occurred. These systems of response are, in the broadest sense, referred to as compensatory practices and have assumed a fascinating variety of forms (Armstrong 1981:8).

The following brief re-examination of the evolution of reparative justice will highlight those major developments which have occurred over time and have relevance for planning future activities in this field. Hopefully, some important ideas will be unearthed in this historical excursion.

As a general observation preceding this review of the historical and cross-cultural record, it is crucial to note that the widespread use of compensatory practices to obtain justice seems to reflect a powerful social predisposition toward seeking equity. This strain toward balance appears to characterize human interaction in all societies. An inherent tendency seems to exist in all

groups for restoring order to social relations disrupted by criminal misconduct and to demand reciprocity on the part of the offender for acts against the victim. This tendency is rooted in a calculus of exchange demanding the restoration of balance. Recent research in equity theory which "views social interaction as a process of reciprocal exchange, governed by a norm of distributive fairness" provides strong substantiation for this argument (Utne and Hatfield 1978:4).

In its earliest and most rudimentary form, restitution was practiced in small-scale preliterate societies as a prophylactic against the exacting of blood revenge by individual victims or their extended kin groups (Schafer 1968; Colson 1975; Ziegenhagen 1977). Here, compensatory systems utilized to provide material benefits to victims and their families generally exhibited a penchant for placing very severe demands on the offender. Often the requirements for repayment far exceeded the losses sustained in the original crime. This emphasis on the retributive aspects of restitution continued into historical times with many of the early codes specifying that each criminal act had to be compensated by the payment of damages amounting to many times the value of the original transgression. Such practices could be found both in the Mosaic Law of the Hebrews and in the Mesopotamian Code of Hammurabi. This custom of demanding excessive repayment persisted for several thousand years and could even be found in criminal codes of European societies as late as the 19th century (Wolfgang 1965:229).

The evolution of restitution in Western European societies can be traced to Germanic tribes on the Continent and to the Saxons across the English Channel on the British Isles (Bernstein 1972:40). Following the collapse of the Roman Empire, these groups were relying heavily on the use of restitution to intervene in violent acts of criminal misconduct as early as the eighth century A.D. From these roots much more elaborate compensatory systems, commonly referred to as "composition," emerged and reached a zenith in the European Middle Ages. These practices were especially noteworthy for the extent to which enormous time and energy was spent in developing a very detailed scaling of payments. To a very important degree this emphasis represented a change in praxis. Although excessive, punitive payments were still sometimes demanded, the use of composition in feudal societies was generally characterized by an attempt to make the penalty fit the crime. For example, in the early Anglo-Saxon Codes of Kings Aethelred and Alfred every part of the human body was assigned a compensable value (Armstrong 1980:11).

The use of restitution in the European Middle Ages as well as in numerous, non-western, preliterate societies came to serve largely as remedies for acts of physical violence against persons. In all of these settings settlement was encouraged between offender and victim for crimes such as homicide, rape, armed robbery, and other forms of personal injury. Key to the success of these practices which were distributed across many continents and persisted for many hundreds of years was the presence of standardized systems for elaborately scaling violent acts and converting them into monetary/material terms.

An intriguing example of this kind of scaling procedure can be found in Kroeber's description of dispute resolution among the Yurok Indians of Northern California where

. . . every possession and privilege, and every injury and offense could be exactly valued in terms of property must be exactly compensated. . . . For killing a man of social standing the indemnity was fifteen strings of dentalium, with perhaps red obsidian, and a woodpecker scalp headband, besides handing over a daughter. A common man was worth only ten strings of dentalium. A seduction followed by a pregnancy cost five strings of dentalium or twenty woodpecker scalps. . . . (Kroeber 1925, quoted from Bohannon 1967:9).

Such extreme concern for a detailed scaling of payments provided the necessary framework for ensuring that restitution functioned to maintain social order through a mutually agreed upon system of equity.

Following the decline of feudalism, systems of reparative justice began to disappear from European societies. The demise of these practices had nothing to do with their lack of effectiveness as a reasoned response to criminal acts but rather seemed to have resulted largely from the unintended consequences of the State's increasing control over the administration of justice.

With the rise of the State, a single, centralized authority came to monopolize punishment, and criminal transgressions came to be viewed largely as offenses against this power. As the ruler's authority increased, he assumed exclusive right to punishment and exacted fines which were retained by him (Armstrong 1980:12).

Arguments which surface from time to time insisting that the disappearance of restitution was directly related to its being an ineffective sanctioning approach in past societies are simply not supported by the historical record.

Only occasional calls for a return to reparative justice were made following its decline in the late Middle Ages. Important exceptions included Sir Thomas More, a noted 16th century English statesman, and Jeremy Bentham, an 18th century social philosopher. The former suggested that offenders work on public projects and make reparations to victims rather than to the king. The latter argued that part of the penalty for crime must entail substantive satisfaction being provided to the victim through the offender's making restitution for losses and damages.

With the coming of the 19th century, the calls for use of restitution began to increase. In 1847, Bonneville de Marsargy, a leading French criminologist and reformer, proposed a program of restitution for victims of violent crime. Similar proposals were offered by leading criminologists at a number of international conferences (Stockholm 1878, Rome 1885, St. Petersburg 1890, and Paris 1895) where one recurring theme was that a return to reparative justice should not only provide aid to the victim but also should help to rehabilitate the offender. However, authorities failed to act upon these recommendations, and interest in the concept waned and was not revived again until the middle of the present century when a prominent British magistrate and penal reformer, Margery Fry, began to advocate the approach.

In summarizing the principal developments in reparative justice which have emerged over time and across cultures, attention will be focused on that small set of issues relevant to current programming efforts. First, it should be emphasized that this approach has been an extremely effective mechanism for responding to criminal misconduct throughout history and in innumerable socio-cultural settings. Its rapid decline in Western European societies was not related to any inability to produce positive results but instead represented the ascendancy of a different paradigm of justice. Given its history as a powerful and versatile sanctioning approach, we are virtually obligated to give a long and hard look at the ways in which we may be able to adopt reparative justice practices to meet some of the current, pressing needs of our justice system.

Second, it is obvious from both historical and cross-cultural perspectives that restitutive practices can be tailored to achieve a number of different objectives. This multi-faceted quality of the sanction is reflected in the range of purposes for which it was used. In some settings, restitution was applied in a very punitive fashion to insure that offenders repaid victims far in excess of the monetary loss or damage caused by the crime; while in other settings, efforts were made to stress the rehabilitative and reconciliatory aspects of the sanction. Restitution settlements were equitable and usually did not exceed the losses or damages caused by the crime when rehabilitation was the principal goal. Under such circumstances steps were often taken to reconcile the offender with his victim and to generally reduce the estrangement of the offender from his community. This kind of shifting back and forth in purpose has continued into the present century. For example, Thorvaldson (1979:25) notes

. . . Garofalo and Del Vecchio, writing early in this century, emphasized the "repressive" (i.e. deterrent) role of reparation and its general moral influence on the public. . . [while]. In the late 1950's, however, we have Schafer and Eglash stressing the rehabilitative aspects of reparation and proposing the terms "correctional restitution" and "creative restitution."

Unquestionably, ideological and political factors which constantly influence how crime and criminals are perceived and dealt with play a significant role in the way restitution is practiced at any point in time.

Third, in contrast to contemporary practices which have restricted the use of restitution to offenders convicted of crimes against property, in the past reparative justice had been employed successfully in connection with almost every conceivable offense, ranging from petty property crimes to extremely serious crimes of violence against persons. Two principal arguments are used to support the current orthodoxy favoring the restriction of restitution orders to only property offenders: (1) all offenders who have committed crimes against persons are too dangerous to participate in these kinds of programs, and (2) too much uncertainty and confusion surround any attempts to affix either a monetary or a work service value to crimes entailing pain and suffering. Neither argument appears especially convincing. With regard to the former, a presenting offense entailing a crime against persons should not be

sufficient grounds for automatically excluding a youth from participation in a restitution program. The vast majority of juveniles who have committed a crime against persons are never charged again with a violent crime. With regard to the latter, the procedure for affixing monetary value should be no more complex than the sentencing process which supposedly reflects the severity of the criminal act. In addition, decisions about assessing the value of pain and suffering are made daily in civil courts.

III. RECENT INTEREST IN RESTITUTION

The recent growth of interest in the U.S. in the use of restitution as a dispositional option for the courts is tied to a number of factors including: (1) efforts in the 1960s and 1970s to introduce major reforms in the juvenile justice system, (2) the continuing search for innovative correctional programming, (3) renewed concern for the plight of the victim, and (4) the inherent appeal of this sanctioning approach as a means for restoring equity. Before examining these factors in any detail, it is important to note that restitution, as an operational concept, has long been known and applied in juvenile courts in this country, but that it has until recently been confined largely to the informal assignment of restitution orders by judges in occasional cases. This pattern of informal use has been well documented by Anne and Peter Schneider (1980). In a survey of 133 randomly selected juvenile courts, they found that over 85 percent of these courts employed restitution in some fashion. This situation has, however, begun to change over the past several years with the appearance of deliberate attempts to develop and implement formal restitution programs* throughout the country.

Perhaps the singularly most powerful initiator, though only indirectly involved in the move toward incorporating restitution as a regular feature of the juvenile justice system, was the conscious, nationwide effort to reform the total system during the late 1960s and the early 1970s. Steps to deinstitutionalize and divert adolescent offenders during this period represented the emergence of a correctional ideology which was a reaction to the excesses and failures of institutional, custodial care (Armstrong and Altschuler 1982; Klein 1979). Criticisms of these closed settings came from many quarters. The persistence of high recidivism rates among reformatory graduates created intense pressure for new solutions. In addition, a number of studies indicated that these settings served as mechanisms for socializing youngsters into long-term criminal careers. Furthermore, the notion that juvenile training

*This distinction between the informal use of restitution and formal programming has been aptly described in the following fashion.

What distinguishes formalized or institutionalized restitution from its informal uses is the systematic application of definite procedures for screening cases appropriate for restitution, determining amounts, organizing a restitution plan, and monitoring compliance by a separate administrative staff. Such a staff usually coordinates the restitution process and recommends options to the court. Informal efforts, on the other hand, are those in which a judge orders restitution, more or less spontaneously, with little subsequent attention to its compliance. (Hofrichter 1980:118).

schools were benign institutions where children were rehabilitated in a basically healthy environment was rejected.

The second factor favoring the use of restitution grew directly out of these reform efforts. The criticisms of training schools led to the evolution of a new set of ideas about appropriate treatment of juvenile offenders and favored the use of community-based alternatives as a major option to institutional care. The distinguishing feature in this search for innovative correctional programming was that the problems of the delinquent youth could best be confronted in the continuing context of family and community. Here, efforts could be made to strengthen relationships necessary in preparing for movement into normal adulthood. Related notions emerging from this perspective included: (1) community-based settings are generally more humane than large, warehouse-like institutions; (2) separating youngsters from their own social networks and support systems can exacerbate problems which underlie criminal behavior; (3) community-based services are less costly than institutional services; and (4) since program staff and clients are closer to meaningful community contacts in such programs, community-based alternatives will improve the probability of client reintegration. Restitution as an alternative sanction seemed to fit well with all of these assertions.

The third factor, renewed concern for the plight of the victim, has been a notable development in the criminal justice system during the past decade. Victim needs, sorely neglected in the past, have been brought to public attention by a variety of individuals, groups, and organizations. This shift in focus signals an abrupt reversal in a trend that has long dominated legal and administrative thought and practice in the justice system. The refocusing of attention on the victim was accompanied by the realization that all parties involved in and affected by the justice system — victims, offenders, criminal justice professionals, and the general public — appear to benefit from this practice. One consequence of this change has been the development of various mechanisms to ensure that victims of crime are fairly compensated for damages done. Restitution has emerged as one way for accomplishing this end. In fact, programs emphasizing the compensation of victims are scattered throughout this country.

The fourth factor, the inherent appeal of the sanction as a means for restoring equity, has already been alluded to in the preceding discussion of historical and cross-cultural perspectives on restitution. The concept of restitution addresses head-on the issues of fairness and equity which have long been pre-eminent themes treated repeatedly by Western legal philosophers struggling with the problem of establishing universal principles of justice. In describing this dimension of reparative justice, Harland (1978:196) refers to, "the evident rationality of the restitutive sanction." In this sense restitution appears to be a universal social mechanism available for restoring equity to criminally disrupted settings.

From a practical perspective the actual application of restitution in formal program settings to large numbers of juvenile offenders received a major

boost in 1978 when the Department of Justice decided to launch a nationwide research and development project designed to support and experiment with use of restitution as an alternative to traditional dispositions in the juvenile court. Designated "Restitution By Juvenile Offenders: An Alternative to Incarceration," this grant program represented the first large-scale, multi-jurisdictional attempt to test the appropriateness of restitution as a sanction for *adjudicated* juvenile offenders. When announced by the Office of Juvenile Justice and Delinquent Prevention, the effort was characterized as attempting, "to support sound cost-effective projects which will help to assure greater accountability on the part of convicted juveniles toward their victims and communities (LEAA 1978:i)."

The following six goals were set forth as constituting the major objectives of the project:

- (1) A reduction in the number of youth incarcerated,
- (2) A reduction in recidivism of those youth involved in restitution programs,
- (3) Provision for some redress or satisfaction with regard to the reasonable value of the damage or loss suffered by victims of juvenile offenses,
- (4) Increased knowledge about the feasibility of restitution for juveniles in terms of cost effectiveness, impact on differing categories of youthful offenders, and the juvenile justice process,
- (5) An increased sense of responsibility and accountability on the part of youthful offenders for their behavior, and
- (6) Greater community confidence in the juvenile justice process.

In retrospect, some of these goals as originally framed seem overly ambitious for a demonstration project. For example, it was somewhat naive for OJJDP to think programs operating with a number of untested assumptions would be used by juvenile judges as true alternatives to incarceration for large numbers of delinquent youths being referred to the courts. Research on this topic suggests that innovative programs functioning as dispositional alternatives have rarely been used for the purpose of keeping delinquent youngsters out of correctional facilities (Bengur and Rutherford 1975; Sarri and Selo 1975). Several other goals of the Initiative were clearly tied to various aspects of restitution as a multi-faceted sanctioning approach: (1) providing redress to victims for damages or losses suffered, and (2) an increased sense of responsibility on the part of the offender through meeting the conditions of the restitution order. Remaining goals such as cost effectiveness, reduction in recidivism, and increased public confidence in the juvenile justice system were in line with traditional concerns of juvenile justice authorities and reflected the kinds of objectives commonly set forth for most new correctional programming.

The National Juvenile Restitution Initiative emerged as a three-year, \$30 million effort in which 41 separate grants were awarded. This included six grants to state agencies for implementation of programs on a state-wide basis at a total of 50 separate sites and 35 grants to local agencies. Altogether 85

different restitution programs were implemented in 26 States, Puerto Rico, and the District of Columbia. In terms of organization and management these programs varied in a number of important ways. The majority were housed as administrative units within juvenile court services. However, other organizational arrangements were also utilized. Of the 85 program sites originally funded under the Initiative, 11 were part of court probation; 10 were part of the court administrative structure but not formally attached to probation; 18 were totally independent of the juvenile court. Among the independent programs there was a roughly even division between eight non-profit agencies and nine other programs embedded within government agencies other than the juvenile court.

Programs in the Initiative varied in the types of restitution assignments they provided for participants. Based upon program designs in the original proposals, most grantees intended to use all three forms of restitution (community service, monetary payments to victims, and direct service to victims). Monetary payment was ordered most frequently, followed by community service alone, then a combination of these two forms, and finally victim service was the least preferred order. More than one-half of the programs made arrangements with the juvenile courts in their jurisdictions to develop the restitution plans which were then presented at the dispositional hearings. The plans were submitted to the judges or referees as recommendations concerning the amount of restitution, types of restitution, and in some instances the actual schedule of payments as well as the proposed work site and job slot.

One of the most common problems facing these programs was that large numbers of offenders who were referred were unable to locate employment themselves. They possessed neither work skills nor experience. Of course, much of this difficulty resulted from the youthfulness of offenders being targeted by the Initiative. To cope with this situation programs devised several approaches: job development, job assistance, and subsidized work. A majority of the programs in the Initiative (51 programs or exactly 60 percent of the 85 sites) provided employment subsidy to ten percent or more of their referrals in order to aid the offenders in earning money to meet restitution orders. Use of subsidy has proven to be one of the most hotly debated steps taken in the Initiative. The principal arguments will be examined in somewhat greater detail in the concluding section of this chapter. Regardless of the approach, most programs make arrangements for employment to terminate with the completion of the restitution order.

The Institute of Policy Analysis (IPA) was assigned the task of conducting the national evaluation of the Initiative. Although all of the final results from this evaluation have not yet been made available, those reported to date offer a number of interesting findings (For a full listing of reports which have thus far been published by IPA, see Appendix A). A brief discussion of some of the more important findings reported to date are contained in Appendix B. This information is drawn from IPA's *Two-Year Report On The National Evalua-*

tion Of The Juvenile Restitution Initiative: An Overview Of Program Performance (1982).

Many of the findings of the National Evaluation, both relating to background characteristics of clients and program components and processes, will continue to be scrutinized in great detail and undoubtedly disputed by researchers over the next several years. Hopefully, the resulting dialogue will lead in the near future to the development and implementation of carefully constructed programs utilizing experimental evaluation designs. Only in this way can a number of important variables regarding program design, operation, and outcome be tested.

Another interesting though quite different kind of outcome has been the surprisingly high survival rate of programs launched by the Initiative. Twenty-four of the original 41 grantees are continuing to operate programs and have had the costs of their programs picked up either by other units of government — municipal, county, state — or by private funding. This represents a survival rate of approximately 60 percent, a laudatory achievement in the precarious enterprise of institutionalizing innovative alternative programs in the juvenile justice arena.

IV. ISSUES AND DIRECTIONS IN FUTURE PROGRAMMING

A number of issues of continuing interest in restitution programming need to be tested. In a recent federally-funded reassessment of the National Juvenile Restitution Initiative,* it became quite evident that only limited priority had been placed on the design of specific program components or constellations of components. The anatomy of these programs, in general, represented the culmination of an evolutionary process in which the needs and constraints of local jurisdictions largely determined program structure. In one sense, this situation was perfectly understandable and reflected the practical concern for tailoring programs to their social, economic, and political settings. At the same time, however, these kinds of pressures tended to eliminate those deliberations which produced program features designed to test the relationship between specific procedures and various intended outcomes.

Exactly how programs went about achieving the goals specified by OJJDP was largely left up to individual program directors and their staffs. Whether a program utilized a job skills component, tried to intervene with special client problems such as drug and alcohol abuse, operationalized restitution as a sole sanction, or provided additional services to victims was a matter of almost total discretion. As a result of this developmental pattern no systematic effort was made to link successful outcomes with specific program features. In the future this haphazard approach to structuring programs and their constituent elements needs to be transformed into a much more carefully

*The Office of Juvenile Justice and Delinquency Prevention funded Associates For Youth Development to conduct an intensive reassessment of the Initiative. In this study the role and performance of all principal actors — national evaluators, local evaluators, technical assistance providers, and program directors — were carefully re-examined.

controlled development effort for the next generation of restitution programs. Based upon the Initiative and its evaluation, enough is now known about programming options to pursue this goal in a more rigorous and logical fashion.

One of the most important directions in which program development must be pushed is the use of various forms of reparative justice with more severely delinquent youngsters (Armstrong 1982). A continuing hinderance to putting restitution into practice with this difficult offender population has been the commonly shared, but overly simplistic idea that this sanctioning approach works best when confined to its most elementary form, namely, a mechanism for insuring accountability and responsibility on the part of the offender without any pretense of providing additional support services to either victim or offender.

A "no frills" approach where offender accountability is the only goal can be justified as a perfectly reasonable way to structure restitution. However, when this sanction is viewed as constituting a discrete principle of justice, it can be folded into a number of formats and can easily augment a variety of different program components and features. These correctional models represent attempts to creatively meet the needs of quite diverse and difficult target populations. Such is the case when one moves to employ reparative justice with serious juvenile offenders. This goal can best be achieved by combining the approach with more complexly-organized, treatment-oriented sanctioning procedures. Although these kinds of multi-service restitution programs — specially designed for the serious offender — will be more expensive than pure accountability program models, these additional costs will be justified in the long run.

The impetus for planning and implementing specially-designed restitution programs for the serious juvenile offender is beginning to appear on a widespread basis for the first time. For example, discussions have been initiated in numerous jurisdictions about the feasibility of developing post-incarceration, early release models for this target population. One major impediment is the problem of surveillance posed by bringing together large numbers of severely delinquent youngsters in a single, community-based program setting. Public fears will demand the development of sound measures for insuring high levels of control and supervision where the use of mechanical restraints is not possible.

There are also a number of other important directions in which program development must be pushed. An especially important avenue of inquiry concerns further experiments in the use of restitution as a sole sanction. A number of crucial questions immediately arise regarding this practice. Is sole sanction restitution more effective than add-on restitution? If so, with what kind of offenders and under what circumstances is it more effective? What are the ways in which sole sanction can be employed without additional controls being imposed but with some assurance that adherence to the restitution order is being made? Would restitution orders used in conjunction with probation but which guarantee the termination of all ties of the offender with

the court at the point of completion be just as effective as the sole sanction procedure? These, as well as other aspects of the sole sanction issue, need to be more fully explored.

A re-examination of victim-offender mediation is certainly needed. This process has become one of the most controversial topics to have emerged in restitution programming. On a theoretical level, various arguments can be offered in favor of the practice. For example, to initiate this kind of negotiation is to set a healing process into motion; contact with the victim personalizes the cure for the offender and enhances the possibility for his assuming responsibility for his misconduct; mediation introduces a humanizing effect into the justice system since it contrasts markedly with other highly impersonal, more thoroughly bureaucratized procedures commonly found in criminal proceedings. On a practical level, a number of problems have emerged with attempts to use this process. For example, a victim's recontact with the offender may simply produce fear and additional anguish and constitute a double penalty; lingering hostility held by the victim may explode in anger at this negotiation and destroy any change of reaching a restitution agreement. All of these issues, pro and con, must be carefully reconsidered in trying to devise a practicable victim-offender mediation component.

The need also exists for a more critical look at the differential effectiveness of restitution with different categories of offenders. Although the indication is that the approach is quite effective across a wide range of offender types, this issue still needs to be examined in greater detail. Are youngsters with certain behavioral profiles more likely to succeed in programs with particular kinds of formats? Is it too much to expect some youths with special problems (e.g., chaotic family settings, educational and job skill deficiencies, and substance abuse difficulties) to complete their restitution orders without certain back-up services? A clearer sense of who might and who might not be suitable for referral to these kind of programs would provide added insight into the process of developing eligibility criteria and in designing program components.

Another valuable contribution to our programming knowledge could be gained through an intensive examination of the cost effectiveness of restitution in comparison with other modes of formal sanctioning such as incarceration, intensive probation and parole, and a variety of community-based interventions. In terms of program development this might entail experimenting with the wider use of volunteers and a greater dependency on and cultivation of in-kind services from other social service agencies. The option to broker many required activities such as remedial education, job skill development, counseling, and mental health treatment could dramatically cut the cost of operating a program. One example of recent inquiry into the possibility of defraying program costs has been the development of a "community reliance model" (Armstrong and Coates 1982).

Finally, the most radical program option is the transformation of court procedures into a mode of operation where restitution becomes the standard court disposition. Other options at the point of disposition would be viewed

as exceptions to the general rule of community-based sanctioning. Again, the key problem facing court personnel and judges would be the determination of what kinds of offenders/offenses are not amenable to a reparative intervention. In addition, instituting this level of change would obviously require rethinking and restructuring much of traditional court practice and would probably be met with considerable resistance from some quarters. However, a recent example of this transformation can be found in the American court system; the Earn-It Restitution Program in Quincy, Massachusetts, has been fully integrated into court services, resulting in restitution's having become the standard court disposition.

CHAPTER II

Why Reparative Justice — It Just Makes Good Sense

By DAVID STEENSON

I. RESTITUTION, COMMUNITY SERVICE AND THE JUVENILE COURT

The founding of the first juvenile court in 1899 provided a legal mechanism for establishing broadly-defined controls over a wide range of youthful behavior. In creating a separate court for children, the original "child savers" believed that the traditional judicial system had failed both to prevent crime and to remediate juvenile offenders. As a result of this perception, the sweeping decision was made to experiment with an entirely new approach for intervening with children in trouble. Due to their tender ages and greater malleability, youngsters were thought to deserve separate, more supportive handling than they had been receiving at the hands of the existing criminal justice system. To develop a special court for youth, one conceived with a different set of legal rules, was felt to be perhaps the best way of intervening with juvenile misconduct.

The Juvenile Court was originally envisioned to serve as a humanitarian institution dedicated to helping children in trouble. This role for the court has been aptly described by the Chicago Bar Association in the following fashion.

The whole trend and spirit of the [1899 Illinois Juvenile Court Act] is that the State, acting through the Juvenile Court, exercises that tender solicitude and care over its neglected, dependent wards that a wise and living parent would exercise with reference to his own children under similar circumstances (Quoted in Platt 1969:138).

Over the past 80 years large numbers of delinquency prevention and control programs operating under the auspices of the Juvenile Court have come and gone. In spite of a plethora of such programs designed to intervene in all kinds of ways with all kinds of youthful offenders, the courts have only rarely been able to point to notable success stories. Notwithstanding that certain techniques and aspects of these programs have proven to be helpful to some youngsters, many of the sanctioning options available to the courts have been shown to be rather ineffective and have often fallen into disfavor and disuse.

The perceived failure of the treatment/rehabilitative approach has resulted, in part, from the fact that numerous problems face the courts in

selecting and utilizing appropriate sanctioning options. Among these difficulties are the confusion experienced by the client and his/her parents in comprehending the nature of the sanction imposed, the public anger expressed over the court's responding to youth crime in a much too lenient fashion, the opposition voiced by reform elements in the community to an overreliance on harsh institutional dispositions, the general despair expressed by justice practitioners and the citizenry at large that nothing seems to work, and the widely held opinion among court personnel that insufficient resources are available to achieve the goals which have been established for the court.

For one reason or another, almost any course of action taken by the court in disposing of an adjudicated case has resulted in criticism. For example, the decision to place a delinquent youth without a viable family in a foster home and to seek various support services to aid in his rehabilitation is viewed very negatively by many observers. They feel this action constitutes excusing the offender from taking responsibility for his criminal behavior. Yet, at the same time, the decision to commit a youth to correctional services and to recommend that he be placed in a secure institutional setting is loudly criticized by others as being inhumane and only increasing the chances for additional, more serious criminal activities on his part. The recent, widespread use of various innovative techniques such as group homes, positive peer counseling, milieu therapy, and behavior modification has been subject to close scrutiny and has been shown in some instances to have little if any measurable impact on remediating delinquent behavior.

Perhaps the most bitterly attacked dispositional practice of the court has been probation. In a recent article which looks at this continuing dilemma for the courts, Judge Roger Kiley states

Almost every segment of society perceives a sentence of probation negatively. Victims of crime, witnesses, prosecutors, public officials, the public generally, and even some judges, all share this image of probation. The reasons for the negative reaction are many and complicated. However, one factor more than any other accounts for this poor image. People simply are convinced that probation really is no sentence at all. It is not seen as any form of punishment, as a deterrent to crime, or as having any rehabilitative value at all (1983:7).

It is not uncommon to meet a probation officer who, having spent 10 to 15 years on the job, will state in a puzzled fashion, "I'm not quite sure what my job is." The point is that the job responsibilities and goals of the probation officer frequently are poorly defined. The practice of probation tends to consist of a number of loosely organized activities such as having the client make periodic contact with the officer and having the officer voice occasional admonitions to the client to stay out of trouble. These activities are usually augmented with a small set of specific behavioral requirements for the offender such as "do not drink," "do not associate with other persons on probation," "observe an 8:00 p.m. curfew," and "attend school regularly."

An overriding problem with this approach to social control is that, given the large caseloads handled by most probation officers, it is virtually impossi-

ble to ensure the clients will assume responsibility for adhering to these rules. Even when probation services employ a dedicated, energetic staff and prioritize the management objective of counseling supervision, it is still difficult to accomplish the goals of probation. Complicating factors such as inadequate or improper training, ineffective administrative supervision, and poor communications with court officials only further exacerbate the problem with probation.

A common theme which seems to be woven throughout these criticisms of probation and other dispositional options has been that ultimately the offender is not being held accountable for his/her criminal misconduct. As a consequence, justice is not truly being carried out. One possible, corrective cause of action is a return to a "back to basics" approach in which major emphasis is placed on holding the offender accountable for his crimes. This notion of forcing the delinquent youth to be responsible for his behavior causes the concept of restitution to be especially attractive to the Juvenile Court.

The simple, direct message contained in the practice of restitution is so basic that it can be traced back to the beginnings of human society when the accountability cry was "an eye for an eye." Although heard by many as a harsh demand for cruel punishment, this Biblical concept of "lex talionis" can, in fact, be interpreted as a beseechment for justice. The idea of "an eye for an eye" can be seen as a fair and equitable response in which the sanction will be no greater than the crime and will, in addition, ensure that tangible amends are made to the victim for that crime.

II. ACCOUNTABILITY JUSTICE

In an article entitled, "Court Services: The Right Arm of the Juvenile Court" (1981), Judge Lindsay Arthur takes the strong position that the administration of the Juvenile Court, including probation services, must be placed under the direct supervision and control of the judiciary. He argues that this is necessary in order to avoid the many pitfalls which may arise in the highly bureaucratized management of these services. In addition, he suggests that ". . . [the Court] must hold others accountable to perform the services and render the treatment which they have undertaken." Feeling that Judge Arthur had not fully developed the concept of accountability, a reader of the article sent the following message to the Judge.

I have received my copy of *Major Issues in Juvenile Justice Information Training* put out by the Academy for Contemporary Problems. I read and enjoyed your article. Congratulations!

I do wish, however, that in the sections "Courts are accountable for their orders" and "The Court must monitor the disposition", you would have dealt more strongly with the issue of accountability for the Court. You accurately point out that the Court must hold tight reins on its staff and programs to ensure that its orders are being followed. Equally important, in my judgment, is the assurance that the Court will consistently and fairly enforce its own orders,

thereby creating increased credibility. The staff programs and institutions and, most importantly, the juvenile must be aware that the Court means what it says and will back up its orders with effective sanctions for non-compliance.

Accountability, it seems to me, is a two-way street.

The Judge responded immediately with the following written reply:

"Other than that, Mrs. Lincoln, I am glad you enjoyed the show. In the adult system no one holds our feet to the fire . . . which is why I miss the juvenile system."

Accountability has always been an important concept in criminal justice, but its application and general popularity have been subject to the same forces over time which affect all issues in the justice arena. Currently, the concept appears to be gaining considerable status among practitioners in the juvenile justice system. Before examining this trend it is necessary to state one major qualifier. Certain drawbacks always exist in using sweeping labels such as "accountability", "treatment", "rehabilitation", etc. Since definitions vary in meaning from jurisdiction to jurisdiction as a result of local perceptions, attitudes and policies, considerable confusion in the use of terms develops. In the case of accountability, some will argue that from a criminal justice perspective the concept only has significance when it is equated with incapacitation. In this sense, an offender is being held accountable only when he is incarcerated for his criminal act.

It is not necessary to extend the meaning of the concept of accountability to this literal extreme. Using *Webster's New Collegiate Dictionary*, one finds the term more generally defined simply as "being answerable." Thus, anyone who violates a law would be held answerable before the court. From this procedure should emerge a sense of responsibility and liability on the part of the offender. However, all too often the message of the court and the justice system in general is lost on the offender. For various reasons, many offenders are not equipped to readily assume responsibility for what they have done.

Inculcating the virtue of responsibility and accountability during childhood and ensuing adolescent years should be a primary function of the family. Unfortunately, this value is not always consistently taught or demonstrated. All too often, children are not required to be accountable for their behavior during this formative period in their lives. Either children are given the message that they simply do not have to worry about being responsible for what they have done or little attempt is made to show them a cause and effect relationship between their misconduct and the possible consequences. This deficiency often results in confused value judgments being made for the rest of their lives. Delinquent behavior is one of the behavioral manifestations of this faulty socialization process.

Combined with other social and environmental factors, this lack of effective family discipline and control appears to be a powerful contributing force to our current high rate of juvenile delinquency. The problem with mixed and confusing messages being conveyed to youths even extends to the institution of the Juvenile Court where a pattern of inconsistency, false threats, and

inappropriate responses to misbehavior contribute to the ineffective curtailment of delinquent behavior.

The realization that a lack of discipline and the absence of any sense of accountability are major contributing factors to the problem of delinquency is nothing new. In an interview with *U.S. News and World Report* (April 1965), the Gluecks, famous for their longitudinal studies of delinquent behavior, shared their views on this subject.

Question: What seems to be causing delinquency to grow so fast nowadays?

The Gluecks: There are many causes for this. For the most part, however, what we are seeing now is a process that has been going on since the Second World War.

First, you have more mothers going to work. Many have left their children more or less unattended, at home or on the streets. This has deprived children of the constant guidance and sense of security they need from their mothers in their early years.

Along with that change, parental attitudes toward disciplining their young have changed quite rapidly. At home and outside, the trend has been steadily toward more permissiveness — that is, placing fewer restraints and limits on behavior.

Question: How has that philosophy worked out in practice?

The Gluecks: Not very well, it seems. Life requires a certain amount of discipline. You need it in the classroom, you need it in the home, you need it in society at large. After all, the Ten Commandments imposes a discipline. Unless general restraints are built into the character of the children you can arrive eventually at social chaos.

Question: Did Juvenile Courts tend to be too soft on youngsters?

The Gluecks: Sometimes, yes, but more often there is inconsistency because Judges have a wide discretion; and they may rely on intuition and hunches rather than the use of predictive data which their staff could gather for them on each case.

Question: Then is stern punishment a deterrent for their crime?

The Gluecks: Certainty of punishment is definitely a deterrent. After all, fear is a primary emotion of man. It plays an important part in his training. We have gone rather far in the other direction, in letting the child feel that he isn't going to be punished for his misdeeds. Of course, it is wrong to rely exclusively on fear of punishment, but it is equally wrong to do away with this deterrent.

Question: Do you look for crime and delinquency to grow?

The Gluecks: Probably. Our own feeling is that, unless much is done to check the vicious cycles involved, we are in for a period of violence beyond anything we have yet seen.

Although these remarks were made almost 20 years ago, they are still highly relevant today. There is little to indicate any sustained effort to incorporate effective measures which might ameliorate the Gluecks' fears

about the shortcomings of many of our society's major institutions such as the family, the schools, the workplace, and the courts.

Hopefully, within the domain of the court this problem can begin to be addressed, at least in its more formal, legal aspects. The introduction of the restitutive sanction in which an offender is being held directly accountable for his/her criminal misconduct in a tangible manner holds great promise for re-establishing the vital link between crime and consequences. The reparative principal of justice which has been sadly missing in judicial deliberations as a formal dispositional option is beginning to be widely applied with juvenile offenders throughout the country. Restitution appears to be putting "justice" back into the juvenile justice system.

III. BENEFICIARIES OF RESTITUTION PROGRAMMING

One of the very positive aspects of reparative justice is that a number of different actors involved with the juvenile justice system stand to benefit from the appropriate application of this sanctioning approach. These actors include the *victim*, the *juvenile court*, the *justice practitioner*, and perhaps most importantly, the *juvenile offender*.

The Victim

An editorial from the *Minneapolis Star* written by a victim of juvenile crime undoubtedly represents the sentiments of large numbers of these individuals. This victim wrote:

Our Juvenile Justice System treats victims of crime like children, and that is just plain backwards. . . . People involved in our Juvenile Justice System know full well of its inherent absurdities. They understand that a law to protect children has become a shield for hardened offenders while doubling the victims' woes. They don't fully appreciate how the process of Juvenile Justice demeans the victim, turns the victim into a helpless child, a bystander to affairs touching his life directly.

Worst of all, the present statutes create a highly impersonal system. Victims seldom have contact with the criminal in a Court of Law. I think it is important for the young to face those they have wronged across the bar of justice and its restrained atmosphere. Some juveniles may be positively affected by confronting the human dimension, the human response to their act. Obviously, some incorrigibles could care less, but at least let their feckless attitude surface fully before Judge, family and victim. I don't have the answer, but I know from the victim's point of view that our Juvenile Justice System is lacking. It is impersonal, unattentive to the individual who has been wrong and fraught with stumbling blocks that deter restitution. Surely, there must be a way to improve the law.

While many victims may not be as articulate as the one quoted above, these comments certainly reflect the sentiments of many persons who have been victimized. Above all, these complaints are genuine and need to be heeded. Often, the experience of court personnel with this group has been to watch them sitting back in relative silence, grumbling, and "taking it on the

chin." As the invisible man in most judicial proceedings, the victim has been largely ignored or forgotten by the justice system. For a number of reasons, including the introduction of restitution, this situation now appears to be changing dramatically.

Many states are beginning to incorporate in their statutes "Victims' Bill of Rights," giving far greater recognition to the needs of the victim and insisting that the victim be included more fully in the justice process. Apparently, the victim's time has finally come. Given the magnitude of crime in this country, it is only surprising that a victim's revolt had not already occurred.

Without doubt the emergence of carefully designed restitution programs has played a significant role in helping victims to receive wider attention and to become more active participants in court proceedings. The following story exemplifies some of the additional benefits which accrue to victims through the use of restitution.

Mrs. Jones is 82 years old. She had been victimized by a 16-year-old neighbor youth who had broken her storm door and interior door and entered her home. Good investigation by the local police department resulted in the youth's arrest within a short time. However, the arrest did not necessarily help Mrs. Jones. Her mental anguish was obvious. Feeling defenseless, she was confused as to how to react to the youth, his family or to authorities who attempted to assist her.

A Restitution Investigator contacted Mrs. Jones to let her know that her offender was being dealt with by the Juvenile Court. Although Mrs. Jones was relieved to know that "something" was being done, she was probably more relieved that there was a concerned, empathic voice on the other end of the telephone. After 55 minutes of conversation, the Restitution Investigator, a representative of the local Restitution Program, not only received an accurate assessment of Mrs. Jones' financial losses but also a detailed description of her childhood, adolescence, ill-fated marriage, professional career and retirement. Additionally, she had had the opportunity to identify for the investigator many of the world's problems and their potential solutions.

The 16-year-old offender was ordered to repair, with the assistance of his father, Mrs. Jones' door. He was also ordered to perform an additional 40 hours of direct service for Mrs. Jones, including shoveling her sidewalks, grocery shopping and lawn mowing. Under the supervision of the Restitution Program and with the assistance of his supervising probation officer, the youth completed his work to Mrs. Jones' satisfaction. More importantly, Mrs. Jones had established contact with a caring person, the Restitution Investigator. For months thereafter, the Investigator could rely on receiving weekly calls from Mrs. Jones. Time consuming? Yes. Worthwhile? Undoubtedly so!

Victims, when defined as consumers, can be a difficult group for whom to provide satisfaction. Indications are that for some victims, "the more you offer, the more they want." Some victims even try to take advantage of their newly found opportunity in the justice system by "padding their losses." In some instances even more fraudulent means are utilized to obtain restitution settlements in excess of actual losses. However, the vast majority of victims are gratified simply with the opportunity to be advised that the juvenile justice

system is listening to them, is addressing their problems, and is providing an opportunity for them to recover part or all of their losses. Seldom do we observe victims who demand severe retribution once the offender has been apprehended. Rather, most victims are satisfied if they can be assured that the offender is being held accountable for the criminal act and that an effort is being made for the victim to be compensated for losses and damages.

Another benefit that reparative justice can offer the victim is an opportunity to see a positive response from the court itself. Previously, the victim had been apprised minimally about the operation of the Juvenile Court. This resulted partly from the statutorily-mandated requirements for confidentiality. In addition, the entire juvenile justice system had never been geared to respond to the victim's needs in timely fashion. Currently, many states and local jurisdictions are relaxing confidentiality requirements and at the same time increasing the victim's participation in the juvenile justice system. Victims now have an opportunity to see that the Juvenile Court is equipped to respond to the offender and his/her behavior in a meaningful way.

Through the sanction of restitution the court's response is shaped more objectively and is far more understandable to the victim. Even though the amount of restitution ordered may not equal the total amount of losses or damages, there is still a much greater potential for the victim to derive satisfaction from knowing that the offender is being held accountable by the system and that some efforts to provide compensation are being made. Many of the projects in the National Juvenile Restitution Initiative have experienced highly gratifying feedback from victims who informed judges, court administrators, probation officers, and program staff about their positive feelings from being involved in the restitutive process. This sense of justice being done has created an atmosphere for actors in the justice system to continue their work with juvenile offenders more vigorously and with greater personal commitment.

The Community

At best, the community at large has been indifferent to the responsibilities of the juvenile justice system and apathetic to its performance. At worst, the community at large has been intensely suspicious, even openly incensed at the apparent failures of this system and how its correctional tax dollars are being wasted. The "failures" of this system become most visible when they can be exploited by the media to sensationalize crime and its effects. Even the "over the back fence" communication system clearly picks up stories of failure with much greater rapidity than stories of success. Courts and court personnel are "bad mouthed" by a citizenry who have been disillusioned and offended by the unsatisfactory performance of the juvenile justice system. How can this dilemma be resolved? Answers seem to reside in two principal areas: communication and visibility.

The Juvenile Court has not been very effective at the job of communicating its goals, procedures, and results back to the community. In most jurisdic-

tions the inclination of judicial officials has been to maintain a "low profile." This decision has resulted in public misunderstanding and a lack of credibility. The opposite strategy should be employed by the court since the community has every right to be informed about what is being attempted and how well it is being done.

What was repeatedly demonstrated by projects in the National Juvenile Restitution Initiative is that when a concentrated effort was made to communicate effectively with the community, a heightened awareness of the positive aspects of the Juvenile Court's performance was transmitted to that community. However, the attempt to communicate is not always easy. Experience has shown that it is difficult to interest the mass media in stories documenting positive outcomes with juvenile offenders. Much of the news about restitution falls into this category. Consequently, it does not receive the banner headlines that a recounting of violent crimes committed by small numbers of youngsters will receive. Unfortunately, the bottom line is that horror stories make better copy and sell more newspapers.

Regardless of the continuing resistance of the media to report positive stories about court activities, persistent effort should be made to get the news to the public. There is a potential audience in the community which would be responsive to hearing about the use of cost effective sanctions such as restitution. Information about alternative dispositions which hold offenders accountable for their criminal behavior and provide a mechanism for offenders to make amends to their victims would be welcome news in the community. Among those ripe for receiving such information are citizens who: have had some contact with the Juvenile Court either as victims or as parents of children in trouble; are troubled by reports of escalating juvenile crime rates and wondering what is being done with delinquent youngsters; and finally are taxpayers concerned about how their money is being spent.

Equally important as a tactic for improving the image of the Juvenile Court is public visibility. Restitution provides an excellent mechanism through which the community can see in a tangible fashion the fruits of accountability justice. This process can be highlighted through news releases or periodic newsletters showing how juveniles are being held accountable through the use of monetary restitution or community service orders. Local communities seem to be interested in hearing facts such as total dollars collected, total hours of community service performed, average amount of monetary restitution or community service ordered by the judge, and the rate of successful completion. This information provides concrete examples of what juvenile offenders are being required to do in order to make amends for their criminal behavior.

Community service orders provide an especially graphic demonstration of what reparative justice can do for the community. This is not to suggest that delinquent youths should be put into a spotlight to atone for their crimes. Community service activities should be assigned, supervised, and carried out in an unobtrusive manner which maintains the dignity of the offender.

Among examples of community service orders which have contributed to the well-being of communities throughout the country are:

- (1) a half dozen churches being spotlessly cleaned each week in a small town in Maine
- (2) park buildings sporting shiny new coats of paint in Green Bay, Wisconsin
- (3) small groups of offenders spending up to eight hours a day on weekends at a nursing home operated by the State of Minnesota.

The level of personal involvement of these youngsters with the residents of the nursing home in Minnesota has had a dramatic impact upon the social climate of that facility. Many of the patients have been institutionalized for most of their lives and are reluctant to communicate with anyone. Recently, an almost miraculous story was recorded. One afternoon during the Christmas season, these youngsters were located at the end of a long ward corridor dressed in old choir robes which had been resurrected by a staff member of the home. Although the sounds of their caroling voices echoed from the sterile high ceilings, the patients remained impassive. However, as the youths continued singing, voices could be heard from the back of the room. Two of the previously unresponsive patients were raising their voices in near perfect harmony with these youngsters!

The Juvenile Court

The Juvenile Court is in a bind, a veritable Catch 22! How can it respond to the needs of victims in fulfilling its public role as "community protector" while at the same time addressing itself to the needs of the adolescent offender. The concept of "parens patriae" which has been embraced as central to the mission of the Juvenile Court movement has forced the court into the position of a substitute parent wanting to do what is supportive for the troubled adolescent. At the same time, however, pressures from the community anxious for retribution give rise to a situation of conflicting goals at the point of disposition. Can both interests be served simultaneously? Reparative justice seems to offer the Juvenile Court a way of solving this dilemma.

By employing restitution and community service as sanctioning options, the court is able to address the needs of youths in trouble and at the same time is able to respond in a forceful manner to the illegal actions which have led to referral. An added plus for the court is that many of the problems encountered in monitoring clients and assessing their progress through corrective programs are simplified by using restitution which is tangible and can be easily measured. Moreover, the court in its role as a public administrator concerned with the expense and effectiveness of its programs can satisfy critics on both counts. Those who are critical of the court for its overuse of secure custodial care can be shown that restitution programs can serve as effective alternative to incarceration. Those who are critical of the court for the high costs of programs operating under its auspices can be shown that restitution is an extremely cost effective approach.

Another interesting management feature of restitution is that it can be utilized as a "sole sanction" as opposed to being used as an add-on to other dispositional requirements. This option allows the court to immediately dismiss from its jurisdiction the youth who has satisfactorily completed his/her restitution order. Through the use of sole sanction restitution the length of time that a juvenile remains under the authority of the court can be dramatically reduced. It eliminates much of the red tape associated with processing youngsters through the courts and also reduces the size of probation caseloads.

Finally, the court's use of restitution creates a situation in which a "piece of the pie" can be given to all parties who are concerned about the outcome of the case. At the point of disposition the court receives pressure from a variety of actors including probation officers, prosecutors, defense attorneys, victims and the offender. All want to play a crucial role in determining what is done. With restitution the self interests of all of these actors can be addressed.

The Justice Practitioner

The staffs of both court and out-of-court agencies are often in important, yet frustrating positions with respect to the mandate and operation of the juvenile justice system. As representatives of the system in their interaction with the community at large, they serve as the "front line" in insuring that justice is done. As a result, they are very often held responsible, with or without justification, for the actions of that system. They are constantly under pressure to "do something with . . ." "cure," or "lock up" their clients. Simultaneously, these staffs are caught in the middle of any disputes or disagreements between the court and the community. They are required, on occasion, to serve as insulation against an angry community for the actions of the court. Just as quickly they can be cast in the role of "scapegoat" by the court.

These impinging pressures, coupled with the need to be "all things to all people," often result in the early onset of burnout, a syndrome seen all too often in the justice system. How, then, can restitution offer some relief to these actors without jeopardizing traditional, time-tested standards for accepting, assessing and supervising clients? An excellent example of this problem is provided by the probation officer who functions in a system where his mission is defined only in long-range terms based usually on the use of open-ended dispositional orders. Given this indeterminacy, it becomes almost impossible to measure with any degree of accuracy one's effectiveness and progress in working with clients. How does the probation officer know how much "probation" is enough? How can the probation officer determine when a client is adequately prepared for dismissal from the court's jurisdiction? How can the probation officer effectively manage a caseload which can very often include between 50 and 150 clients? Even the best educated guesses usually fall short in providing helpful guidelines for responding to these persistent questions.

The range of personality types and diagnostic problems found on any probation caseload reflects a wide variety of social histories, environmental circumstances, and control issues. The probation officer is faced with a number of tasks which include becoming acquainted with the temperaments and needs of his clients, ensuring adherence to specific court orders, and dealing with unexpected crises as they arise. While a fine diagnostic tool, the presentence investigation is conducted over a relatively short period of time and does not identify all of the specific problem areas with which the probation officer must be conversant in order to develop a holistic profile of the client. Further, the size of the average caseload spreads the amount of available time for addressing individual problems much too thin.

If one can assume that the composition of a standard caseload contains between 85 and 90 percent property offenders, restitution becomes an extremely attractive dispositional alternative. Whether used in combination with probation or as a sole sanction, restitution can be an effective and logical case management tool. Every restitution order contains a set of prescriptive instructions. For example, the court will order a specific number of community service hours or amount of monetary restitution. A time period within which the order must be completed will also be stated.

Once the client and probation officer have been duly informed about the nature of the order, it is the officer's responsibility to operationalize those procedures necessary to initiate the work activity and to monitor the client's progress. In the case of monetary restitution, the probation officer may require that a portion of the order be paid on a series of specified dates. Any deviations from complying with this schedule will serve as a clear signal that problems may be existing and should be investigated. The management of community service orders would proceed in a quite similar manner.

In monitoring their orders, probation officers obtain valuable feedback from the worksites regarding clients' over-all adjustment. This information will include observations on punctuality, on being amenable to supervision, and on ability to get along with others. Such feedback can be invaluable to both probation officer and client for assessing progress. Any problems in these areas can be immediately identified and hopefully resolved. In many instances the client will comply fully with the conditions of the restitution order and will require very little supervision. The time saved with these "low demand" cases can be used to assist other clients who are encountering problems.

The Juvenile Offender

Without question youngsters enmeshed in the juvenile justice system are being protected by the law in many ways. To some extent these youths are being shielded from many of the harsh legal realities faced by adult offenders in the criminal justice system. Often this protective screen is manipulated by the youthful offender to suit his own purposes. Youngsters who have put on faces of repentance in court frequently return to their communities only to

speaking and behaving without the slightest sign of remorse. Given the high rates of recidivism for those adolescents who pass through the Juvenile Court and are committed to correction programs, it could be strongly argued that the sanctioning procedures utilized by the court have little effect on large numbers of these offenders. Yet, restitution may offer some hope of "turning around" at least some of those youngsters by forcing them to re-examine their behavior.

They had just left the courtroom. In a crowded corridor the probation officer turned to his right to walk to the office. Theresa, a 16-year-old shoplifter, turned left to start her trip home. She suddenly turned and, above the din of conversation, yelled after her probation officer, "Goodbye, Cockroach!" The crowded corridor fell silent. The probation officer, remembering that respect for authority must be maintained, thought a brief moment, then answered, "That's *Mr.* Cockroach." She hesitated, looked around, and finally responded, "Okay, Goodbye, Mr. Cockroach."

Just prior to this episode this angry 16-year-old had been held accountable in a juvenile court for behavior which she had been getting away with for a long time. The judge had ordered her to repay the merchant for \$25 worth of jewelry she had stolen. In addition, she was ordered to complete 16 hours of unpaid community service in a public, non-profit agency. Probably for the first time in her life someone had been sufficiently concerned about her misbehavior to attach a set of concrete consequences to it. Her immediate response to this situation was hostile as suggested in the above vignette. Yet, the probation officer, realizing that she was having to come to grips with the consequences of her own behavior, responded very coolly with the knowledge that he had this situation completely under control.

The long-term impact on juvenile offenders who become involved in reparative justice activities and in the process begin to understand the consequences of their criminal misconduct is often very positive. The following brief account of Theresa's experiences subsequent to being ordered to make monetary restitution and perform community service illustrates this point.

Theresa complied with the court's order without any problems. In fact, on the day of her final payment (paid at a rate of \$5.00 per week) she decided to spend some time with the probation staff talking about the good experiences she had had while working with patients at the nursing home which had been her community service site. She told the staff that she had become so personally attached to some of the patients that she had decided to continue there in a volunteer capacity.

Although not all juvenile offenders required to make restitution have had the same kind of satisfying and redeeming experiences which Theresa did, her story is not atypical. At the community service site she could readily see the positive contribution she was making. She received considerable positive feedback from her supervisors and was able to see herself, for the first time, as a valuable resource rather than as a liability. She was also able to measure her progress in concrete terms. Theresa had learned the valuable lesson that she could control an important part of her life in a meaningful way.

In summary, restitution appears to possess the potential to begin changing much of the negative, conventional wisdom regarding the relative value and effectiveness of the juvenile justice system. Through an expanded and reasonable use of this versatile, yet logical sanctioning approach, the system can provide a means for achieving a number of desirable goals for handling juvenile offenders. Youngsters are made to see clearly the cause and effect relationship between their criminal misconduct and its consequences. In selected cases the length of time that juveniles spend under court jurisdiction can be substantially reduced. Victims become more actively involved in the justice process and may receive amends for their losses and damages. This helps to restore the community's respect for the justice system and to de-mystify the operating procedures of this system. Justice practitioners acquire much more effective management tools for monitoring and assessing the progress of their clients. Finally, reparative justice appears to be a very cost effective intervention in comparison with many other sanctioning approaches.

The Defensible Base — The Role for Restitution in Rehabilitation and Skill Development

By DENNIS MALONEY

As evaluation technology expands and improves in the field of juvenile justice, a wealth of information on the effective essentials of delinquency remediation has become available. As part of this examination of intervention approaches and techniques, juvenile restitution practices are being closely scrutinized by numerous evaluation firms, research centers, and governmental agencies. The findings of these inquiries will be especially important when one considers that frequently past experiments in program design and implementation at all stages in offender processing have been characterized by an indiscriminate mixing of strategies and approaches for delinquency prevention and remediation.

One particularly effective set of practices which have been identified for use in the treatment of juvenile offenders is skill development. This chapter will review existing research on the relationship between skill development and remediation of delinquency and will present an argument favoring the incorporation of skill development activities into juvenile restitution programs. The inherent link between restitution and work requires that serious consideration be given to providing offenders with sufficient training to have a reasonable chance of fulfilling the conditions of their restitution agreements.

I. THE JUVENILE JUSTICE SYSTEM AS AN ARENA FOR TREATMENT Rehabilitation, The Common Objective

Whether people involved in juvenile justice activities openly proclaim or privately acknowledge the fact, the basic goal of the system for the past 80 years has been to rehabilitate troubled youth. This was confirmed in an extensive survey carried out in the mid-1970s by the National Assessment of Juvenile Corrections Project (Levin and Sarri 1979). In this project a nationwide survey of juvenile justice professionals was undertaken to solicit their perceptions of the goals and objectives of the system. The survey used a scale questionnaire to determine whether the juvenile court's primary function was to punish or rehabilitate juvenile offenders. According to the response of

thousands of judges, law enforcement officials, probation officers and social workers, rehabilitation was, indeed, stated to be the principal goal of the system.

In a widely renowned and controversial research effort, Dr. Robert Martinson challenged the thrust of the entire criminal justice system by stating, "... with few and isolated exceptions, the rehabilitative efforts that have been reported thus far have had no appreciable effect on recidivism" (1976:25). Martinson based his conclusion on a review of 231 research studies. In subsequent analyses of these data, he identified the *lack of accountability*, the *irrelevancy of the disposition to the offense*, and the *lack of consistency in both case processing and dispositions* as being contributing factors to this lack of impact. Although opponents of these findings continued to argue for the need to provide individualized justice in juvenile court proceedings in order to serve the "best interests of the child," Martinson and others disagreed. They countered that such a "child-saving" attitude inappropriately stretched *reasons* for criminal behavior into *excuses* for such behavior — actually resulting in actions which compounded the original problem.

Anthony Platt in his book, *The Child Savers: The Invention of Delinquency* (1969), attributed the current shortcomings of the system to a period when all children under the jurisdiction of the Juvenile Court — those in need of protection, those involved in status offenses, and those involved in criminal offenses — were treated exactly the same. He concluded that, as a result of this confused situation, accountability for juvenile offenders charged and adjudicated for criminal offense was systematically abandoned. In fact, Platt demonstrated that two categories of youngsters regularly processed through the system, children in need of protection and status offenders, often faced harsher restrictions than juveniles adjudicated for criminal acts. Over time, accountability for criminal offenses became linked with punishment and was felt to be in apparent conflict with the philosophical undergirding of the Juvenile Court, i.e., to protect and nurture the troubled youth.

In citing the failure of efforts to achieve rehabilitation, Martinson and others agreed that accountability serves the best interests of the child as well as the best interest of the public. It would seem that even his most ardent critics would admit that any justice system which negates offender accountability for criminal acts and ignores the rights of victims is a system in serious trouble. Not only are criminal acts likely to be perpetuated but also the general public will eventually be moved to anger. This is precisely the predicament presently facing the juvenile justice system. The use of restitution seems to offer one route out of this dilemma. As a sanctioning approach, restitution meets Martinson's requirements that interventions must (1) hold criminal offenders accountable for their acts, (2) relate the disposition to the offense, and (3) enforce consistency with the juvenile justice system. In addition, by employing restitution, the court is far more likely not only to avoid the many pitfalls inherent in the "child-saving" philosophy but also to offer juvenile offenders a much better chance for rehabilitation.

The Observed Relationship Between Skill Deficits and Delinquent Behavior

One of the most convincing arguments for providing skill development as part of our intervention with young offenders is the body of research conducted by Dr. Robert Carkhuff at the Institute for Human Technology in Amherst, Massachusetts. After reviewing thousands of cases, Carkhuff developed an empirical base for predicting the likelihood of program success with delinquent youth. These findings are based upon an assessment of the level of skills youth achieve while participating in these programs.

Carkhuff's research was devoted primarily to answering a question with far-reaching implications for the treatment of delinquent behaviors: "Do juvenile offenders have the same skills as non-delinquent youngsters?" His principal hypothesis states that if delinquent youngsters lack certain skills, they could be taught those skills and as a consequence can avoid repetitive contact with the juvenile justice system (Carkhuff 1976).

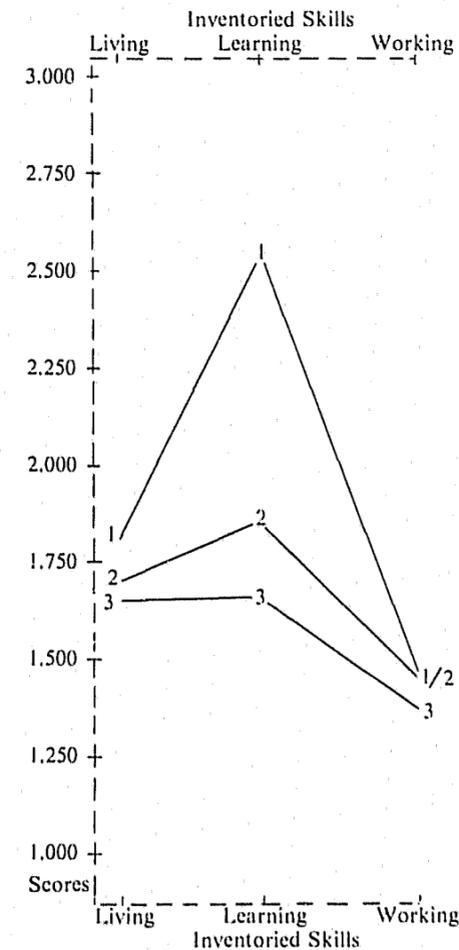
In one study, over 1,300 juveniles and 1,400 adults were inventoried by Carkhuff to determine levels of living, learning, and working skills development. The sample of juveniles included more than 400 youngsters from cities in a southwestern state. More than half had been adjudicated delinquent. The remainder were non-delinquent juveniles living in the same communities. From these non-delinquent youngsters was drawn a third group, recommended as "outstanding" by community leaders such as school principals, ministers, and recreational supervisors. A second sample included over 700 juvenile offenders residing in correctional facilities in the Southwest. A third sample included over 200 youngsters being provided services by community-based agencies in this same area.

All the youth in these three samples were interviewed with instruments assessing the levels of their *living*, *learning*, and *working skills*. Living skills included interpersonal, problem-solving and program development skills. Learning skills were assessed in terms of the individual's study skills, learning strategies, and computational and verbal skills. Working skills were assessed in terms of the respondent's ability to plan and survey the availability of jobs. (Carkhuff 1969, 1971; Carkhuff and Berenson 1976). The inventories were then scored "blind" by trained raters who had no knowledge of the sources of the inventories.

In examining Figure 1, it is clear that non-delinquent juveniles from the principal sample function at relatively higher levels of living, learning and working skills than delinquent juveniles. This finding suggests that a discernable difference in skill levels exists between delinquent and non-delinquent youth. However, these differences are not nearly so pronounced as those between outstanding youth and delinquent or non-delinquent youth. The differences between outstanding youth and other youngsters are especially pronounced in the area of learning skills.

In the second sample consisting of over 700 institutionalized youth, the patterns for youngsters in institutional settings but designated as outstanding

Figure 1. Inventoried Skills Levels of Community Youth



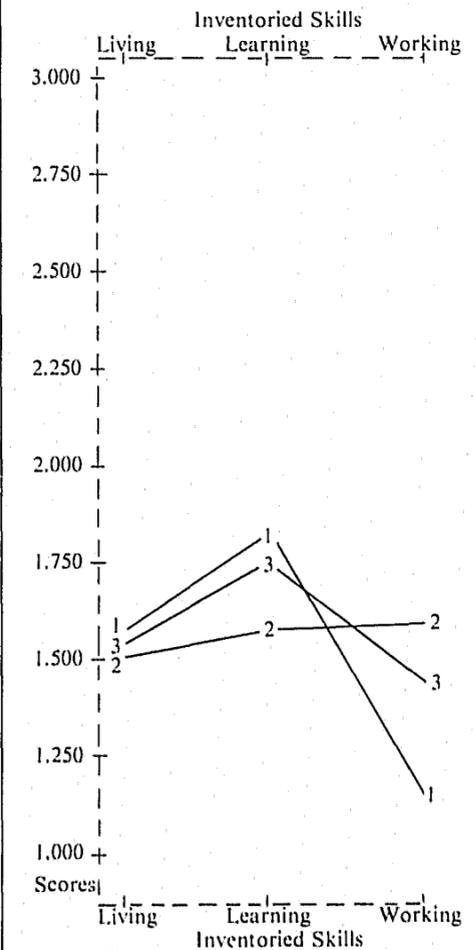
1=Outstanding Community Youth
2=Non-Delinquent Community Youth
3=Delinquent Community Youth

Living				
	NN	N	M	SD
1	76.00	72.00	1.79	0.26
2	86.00	72.00	1.73	0.28
3	311.00	246.00	1.67	0.45

Learning				
	NN	N	M	SD
1	76.00	76.00	2.55	0.60
2	86.00	77.00	1.83	0.61
3	311.00	284.00	1.65	0.55

Working				
	NN	N	M	SD
1	76.00	61.00	1.46	0.77
2	86.00	38.00	1.45	0.65
3	311.00	137.00	1.37	0.58

Figure 2. Inventoried Skills Levels of Institutional Youth



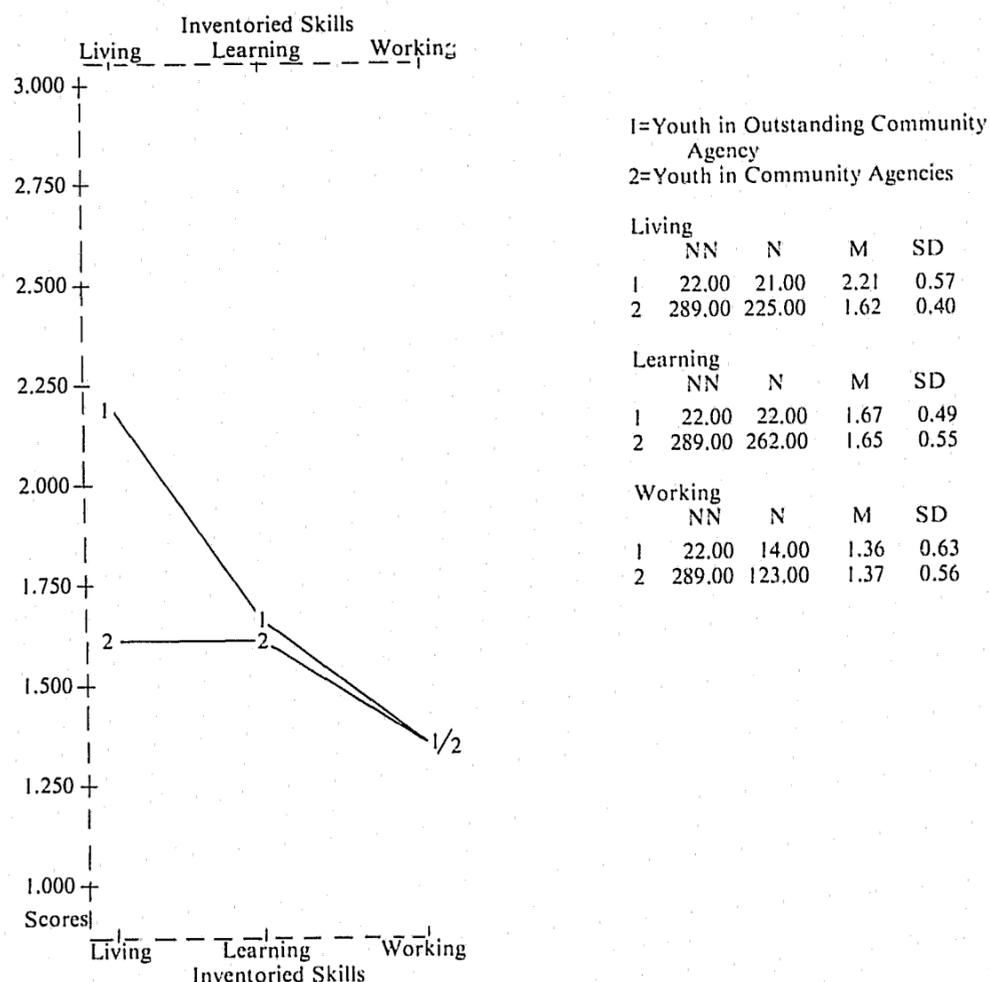
1=Outstanding Institutional Youth
2=State Home Youth
3=State Training School Youth

Living				
	NN	N	M	SD
1	89.00	85.00	1.60	0.37
2	277.00	260.00	1.50	0.34
3	508.00	451.00	1.55	0.78

Learning				
	NN	N	M	SD
1	89.00	84.00	1.81	0.46
2	277.00	258.00	1.59	0.47
3	508.00	459.00	1.70	0.50

Working				
	NN	N	M	SD
1	89.00	17.00	1.17	0.33
2	277.00	111.00	1.57	0.87
3	508.00	306.00	1.41	0.64

Figure 3. Inventoried Skills Level of Youth in Community Agencies



were found to follow the skill levels exhibited by non-delinquent youth living in the community (see Figure 2).

The sample of the over 200 youth being served by community-based agencies indicated that most of the youth have patterns similar to delinquent youth living in the community (see Figure 3). One exception to the general pattern presented by youngsters from this sample involved the level of living skills exhibited by juveniles participating in an outstanding diversion program. This program offered special training living skills.

Based upon these findings, we may infer that delinquent youth are experiencing difficulties, at least in part, because of their limited repertoire of skills. They simply do not possess those skills necessary to cope effectively with the demands of daily life. These deficits are especially troublesome in learning situations in schools. The most important implication is that young-

sters involved in delinquent activity, if provided with specific and applicable living, learning and working skills, can be "trained" out of delinquency. As Carkhuff says, "Teaching is Treatment!"

Attempts to put these findings into practice have occurred. One study has reported on a program designed and implemented by the Dallas Police Department. The program offered diversion for non-adjudicated juvenile offenders and provided training for these youth in living and learning skills. The program had a significant impact on clients and produced arrest-rearrest recidivism rates of 20 percent in comparison to base rates of 60 percent (Collingwood, *et al.* 1978).

There are important implications for this kind of intervention approach in terms of both preventive and rehabilitative goals. With respect to prevention, programs must be designed to provide all targeted youth with the opportunity to acquire those living, learning and working skills needed to avoid official contact with the juvenile justice system. With respect to rehabilitation, both institution and community-based youth service programs must, at a minimum, provide delinquent youth with those living, learning and working skills required for them to stay out of trouble in the future.

In summary, the Carkhuff research is significant for several reasons. Not only has its validity been established through two decades of work on a topic involving thousands of cases, but also its findings have led to the development of a set of specific recommendations. In addition, this work has broad implications for all segments of the juvenile justice system.

Two additional studies — one conducted by Dennis Romig and the other by the Center for Action Research in collaboration with the Westinghouse National Issue Center — independently reached the same basic conclusions found in Carkhuff's work. Both identified similar deficits which characterize our major social institutions and contribute to the occurrence of delinquent activities.

Romig published his findings in *Justice For Our Children* (1978). After reviewing the results of 829 evaluation studies over a five-year period, he isolated a smaller set of 170 studies which he felt were worth citing. The remaining hundreds were dropped from his sample due to their failure to meet experimental design criteria. In his review and analysis of these studies, Romig identified specific program modes which were thought to have an impact on delinquency, presented available research which supported or discredited these assertions, and then selected key ingredients on which to build an ideal program. His program analyses covered findings on casework, behavior modification, academic education, vocational and work programs, group counseling, individual psychotherapy, family therapy and therapeutic camping. Unfortunately, as Romig showed, most of these commonly utilized approaches failed to have any positive impact on delinquent behavior. In fact, in some cases, Romig was able to demonstrate that offenders held an increased likelihood of recidivism as a result of their involvement in specific treatment efforts. Furthermore, he identified those factors which seemed to

be primarily responsible for program failure: the lack of clear goals, lack of specificity in treatment, low-level relevance of treatment to offender's needs for skills, low-skilled and non-empathetic staff, and treatment unrelated to real life situations.

Most importantly, Romig gleaned out those elements of program design which seemed to produce favorable results. These program features included: assisting youth in setting specific and measurable goals; objectively diagnosing the youth's skill deficits; and concentrating on providing the youth with necessary and practical living, learning, and working skills. Romig's work strongly supported Carkhuff's research. The underlying argument in both studies is that youth who have committed offenses are, with rare exception, not socially ill and morally deficient, but simply lack the necessary skills to become viable members of the community.

The second study supporting Carkhuff's findings was a joint effort conducted by the Center for Action Research and the Westinghouse National Issues Center (1979). Funded by the Department of Justice, this project systematically reviewed current theory, research findings, and practical experiences in delinquency prevention. The goal was to select the most promising approaches for preventing delinquency and to promote their wider use. Tables 1 and 2 summarize the findings of both Romig's and Westinghouse's review of existing research on this topic. Although Romig concentrated on programs dealing with delinquent youths and Westinghouse focused on delinquency prevention programs, the two tables indicate almost identical conclusions about what does not work (Table 1) and what has questionable or limited results (Table 2).

The piece de resistance of both studies is that neither stops by documenting research findings to date — most of which have been negative. Rather, they go beyond the specific results and make some positive recommendations for the future direction of our work with juvenile delinquents. Again, Romig's recommendations are centered on programs which deal with delinquent youth and the Westinghouse recommendations are targeted at preventing delinquency. However, as Table 3 indicates, there are striking similarities in the overall approach which they both see as defensible and promising.

In Romig's words, "The present system is part of the problem" (1978:201). The authors of the Westinghouse document go even further: "There are arrangements and processes in contemporary social institutions that generate delinquent behavior" (1979:4). Both documents proceed to identify those elements in direct service programs which have helped to correct those deficiencies. Finally, both Romig and Westinghouse agree *that the most fruitful efforts for the future will be those which are targeted at selective organizational change in social institutions which deal with youth.*

Table 1
Solutions Which Have Consistently Failed

A. To Rehabilitate Delinquents— Romig*	B. To Prevent Delinquency— Westinghouse**
Casework	Casework
Individual psychotherapy	Individual psychotherapy
Group counseling	Group counseling
Family therapy	Family therapy
Behavior modification for complex behaviors	Behavior modification confined to treatment settings
Field trips	Recreation programs
Therapeutic camping	Wilderness program with no follow-up
Diagnosis with only recommendations or referrals	Personality testing
Manipulation of teacher expectations	Screening for socioeconomic status and family background
Work programs, job placement, vocational training, occupational orientation	Employment programs that merely consume time
More intensive supervision, reduced caseloads	Increasing severity of punishment for wrong-doing, admonishing
School attendance alone	Detached work in street gangs

*1978:112

**1979:93

Table 2
Solutions with Limited Benefits at High Cost

A. In Rehabilitating Delinquents— Romig*	B. In Preventing Delinquency— Westinghouse**
Parenting training problem solving and disciplining, family communication skills	Non-coercive parent training
Training in job advancement, career decisions; job training with education; follow-up help after job placement; education programs resulting in diploma	Providing individual youth with vocational skills and "middle class polish"
Group therapy, individual counseling behavior mod, education <i>all with qualifications</i>	Combining worthwhile "bits and pieces" of existing individualized treatment programs

*1978:113

**1979:93

Table 3
Recommended Responses Promising Broad and Lasting Benefits at Moderate Cost

A. Rehabilitating Delinquents— Romig*	B. Preventing Delinquency— Westinghouse**
Continuity and consistency of goals will result in a more effective system	Modify organizational practices in social institutions which reflect presumptions of undesirable traits among minority groups
Insure system interventions favorably affect youth	Broaden the range of conventional ties available to young people particularly in the areas of work and community service
Utilize principles of (1) specificity (2) measurable goals (3) skill development (4) practice in real life setting (5) differential reinforcement	Mainstream instruction of life skills Reduce youth perceptions of powerlessness
Train staff in common rehabilitation approach based on documented success	Provide opportunities for all segments of the student population to demonstrate usefulness and competence
Develop statewide juvenile justice system themes or missions	Improve perceptions of youth regarding law enforcement and justice system
Create effective diversion programs, responding to problems as early as possible	Modify school policies that generate inappropriate labeling
Develop common description of behavior, problems and success or failure	Reduce the flow of derogatory news between school, justice system and home
Utilize standard tests to measure progress of system	

*1978:110-111, 200-201

**1979:94

II. RESTITUTION AND SKILL DEVELOPMENT

Practitioners in juvenile restitution programming have been the fortunate beneficiaries of those inquiries exploring the relationship between skill development and the remediation of delinquent behavior. The research and evaluative activities carried out by Carkhuff, Romig, the Center For Action Research, and the Westinghouse National Issue Center have clearly demonstrated the need for human service providers working with delinquent youth to focus their attention on ways to transmit valuable living, learning, and working skills in formal program settings. A number of the programs in the National Juvenile Restitution Initiative made conscious efforts to design

program components and techniques which would provide clients with job training and other basic skills requisite to successful worksite placement. The national evaluation of the Initiative being conducted by the Institute of Policy Analysis will hopefully offer some insight into the advantages (measured in terms of successful completion rates and reduced recidivism rates) of having programs include job training and skill development in their array of services.

The Inherent Link Between Work Skills and Restitution

Practitioners charged with the task of developing restitution orders for juvenile offenders necessarily operate with the assumption that amends to victims can only be made through the successful completion of a specified work assignment. Accountability in restitution is only possible through the offender's satisfying the conditions of the order in full. The point is that this whole approach to sanctioning offenders is premised on the idea of an inherent link existing between achieving justice and the offender's having the skills to work effectively. This link operates as the basis for holding offenders accountable in a tangible fashion, but at the same time obligates the practitioner to take those steps which ensure that the offender has a reasonable chance of completing his part of the agreement. To require a youth to meet the conditions of a restitution order is to make an informal judgment that this youngster possesses adequate skills and knowledge to perform satisfactorily at the work site. Otherwise, the program is simply setting up this youth for another failure in a short life already marked by numerous other failures.

As suggested earlier, research on skill deficits indicates that large numbers of delinquent youth lack those skills necessary for competing successfully in the world of work. A direct consequence of this fact is that a minimal requirement for youngsters' participating in restitution programs should be for them either to demonstrate or to be given the opportunity to acquire the skills needed to complete work assignments. The demands placed on programs to assure that this occurs is probably not as great as one might imagine. A number of the juveniles being referred will already possess adequate skills to perform satisfactorily in their job placements. In some cases requisite skills can be learned at the work site as a part of on-the-job training. In addition, many of these work-related skills can be taught very readily at the program and without any great degree of formality. For example, teaching youngsters how to fill out job application forms, how to prepare for job interviews, and how to present oneself in the most positive fashion before a potential employer are skills which are easy to transmit. Of course, the range of procedures and techniques for imparting skills can become considerably more complex depending upon factors such as the offender's personal history, his behavioral/psychological profile, and the nature of work site assignments available to the program.

In proposing a research-based model for correctional programs which are employing restitution as a formal component, Romig (1982) offered the following suggestions for maximizing skill development.

1. Give the offender skills or other treatments which will help to modify or eliminate the causes of the offense behavior.
2. It is easier to hold the offender accountable if he knows how to acquire skills which are related to behaviors for which he is being held accountable.
3. Combining accountability requirements with treatment techniques offers a higher probability of remediating delinquent behavior than relying solely upon an accountability or a treatment approach.
4. Utilize *tell, show, and do* techniques, as well as feedback, high interest materials, and multisensory teaching in skill training.
5. Skill training should always be matched with the needs of the particular offender.
6. The impact of a skill upon an offender is greater the more often it is practiced in a problem-solving setting.
7. Providing skill training in non-program settings will encourage the transfer of acquired learning to situations the offender encounters in the community. Offenders must be encouraged to practice new skills under conditions simulating real-life situations.
8. Offenders who have undergone skill training must be held accountable for putting these skills into action.

Skill Development and the Design of Restitution Programs

The preceding discussion of the relationship between skill development and the remediation of delinquent behavior has important implications for those individuals interested in designing and implementing restitution programs. A number of principles essential for imparting living, learning, and working skills can be easily adapted for use in restitution programs. These procedures will, in turn, be useful in moving clients toward normalized community living.

Programs which hope to transmit various skills to their clients will be much better equipped to do this if program staff receive formal training themselves in ways to impart these skills. Staff training is a key to skill acquisition by clients.

Cultivating the perception among youngsters in the program that they possess the capability to achieve important goals will increase the likelihood these offenders will strive to meet the expectations posed for them. The tendency toward dependency and passivity must be eliminated as much as possible from the mindsets of youth participating in restitution programs.

Increasing the opportunity for bonding with significant others through an emphasis on the positive role models provided by supervisors at work sites will increase client attachment to conventional norms and will increase the stimulus for developing meaningful relationships with major societal institutions such as school, church, work place, and family.

Spelling out clearly the expectations of both staff and clients will greatly increase the probability of achieving the goals and objectives of the program.

The use of a written contract negotiated by all parties to the restitution orders aids in clarifying any confusion which might exist about expectations.

Providing mechanisms to facilitate positive feedback to clients when they are performing well at work sites will increase these youths' desire to continue behaving in a socially accepted fashion. In-program recognition and the presentation of awards such as letters of recommendation for future employers will also provide positive reinforcements to youngsters successfully completing restitution orders. Obtaining legitimate work credentials constitutes one of the most valuable and directly applicable benefits for an offender participating in a restitution program.

In conclusion, it is important to reiterate that restitution programs organized around the aforementioned principles and techniques for skill development and application stand a much better chance of effecting significant behavioral change in clients exhibiting major skill deficits. To ignore those lessons which have been learned about the relationship between skill development and the remediation of delinquency is to risk long-term failure with substantial numbers of juvenile offenders being referred to restitution programs. The inherent link between making restitution and possessing adequate work skills necessitates a careful examination of the program staff's obligation to ensure that clients are placed in work situations with a reasonable chance to succeed.

CHAPTER IV

Essential Principles

By MERRY HOFFORD

The philosophy of accountability set forth throughout this book constitutes the operational base for any effective restitution program. We would even venture to say that this philosophy is essential to any system of justice. Without accountability the concepts of restitution and justice are misnomers. For example, to order a juvenile offender to make restitution and then place the youngster in a program setting with a variety of social services but not forcing him to meet the conditions of his restitution order in full is not accountability justice. It is simply a version of social work in which alternative programming is being made palatable to taxpayers and victims by attaching the label of restitution to whatever services are being offered. Unfortunately, a great many of the earlier program experiments in restitution fell into this trap. Yet, this fact should not be the least bit surprising when one considers that the vast majority of practitioners in the field of juvenile justice are social workers.

The four social workers who contributed chapters to this book have wrestled for many hours with this dilemma of pursuing an accountable course of action in relationship to our personal lives, our careers, and especially our restitution programs. The principal result of this intense examination has been a solid commitment to the philosophy of accountability as the only cornerstone appropriate for restitution programming and more generally as the only truly meaningful approach to intervening with youngsters involved in the juvenile justice system. It is our collective perception that the vast majority of restitution programs which prove to be ineffective have failed because they did not consistently adhere to this philosophical base of accountability.

Restitution programs do not live by philosophy alone. There is always a need to engage the task of working through the "nuts and bolts" of any program design. This realization has led administrators and planners in the fields of human services and corrections to expend enormous amounts of time in carefully developing "model programs" and "exemplary projects." Yet, in exploring and discussing the similarities and differences exhibited by our programs in California, Minnesota, South Carolina and Wisconsin, we have become somewhat suspicious of the enormous emphasis always placed on this activity. Most variations in these programs seemed to result from our trying to tailor program structure and procedures to the needs and constraints of the

local jurisdictions. For example, in two cases strong community participation was a key to success, while the two programs virtually ignored the general community. Likewise, three programs avoided the use of job subsidies, but the other one had great success with this technique. The point is that there are innumerable program components and features which can be considered for inclusion in these models. In any program the decision has to be made eventually regarding what to incorporate and what to exclude. Yet, underlying this process are those principles which are essential to the successful operation of any restitution program. These principles provide the framework around which an infinite variety of program models can be designed. In this chapter the four fundamental principles which we have identified as underlying effective restitution programming will be delineated.

I. PRINCIPLE #1

Through criminal misconduct the offender has an obligation which must be fulfilled

This principle is the message of restitution. It is essential for everyone in the justice system planning to utilize restitution as a sanctioning option to understand and adhere to this message. Too often the assumption is made that the offender has learned a lesson but no proof of this having occurred is required. Of course, the major problem is that concrete evidence of having learned a lesson is often hard to find. With restitution the judge, court personnel, program staff, offender and parents need to be in complete agreement that an obligation exists and it will be met through one means or another.

Through a system of reparative justice the message to Johnny must be:

As a society we cannot tolerate your having broken into other people's homes. Consequently, since you have committed an act which is absolutely against our laws, you will be held accountable for your crimes and required to make amends.

This message must be transmitted unequivocally to the offender and cannot be interfered with through a series of rationalization such as:

Poor Johnny, we do not understand why you do these bad things — maybe it is because your father is gone. Maybe it is because your parents are poor. Do not worry — we will see what we can do to help to get you out of this unfortunate situation.

Ultimately, any help which is given to Johnny when he gets into trouble with the law will be useless unless he is taught what is and what is not socially acceptable. The reasons for unacceptable behavior must never be allowed to become the excuse for such behavior.

In a practical sense this principle of having incurred an obligation through misconduct is the easiest to implement in a program setting. Operationalizing this principle simply entails assigning and monitoring a restitution order which is accepted and understood by the offender. The restitutional order itself can assume any of the major forms of reparative justice. Hopefully,

when the order is imposed by the court, it will be a logical consequence for the particular act of criminal misconduct. For example, it would be difficult for Johnny to understand why he should make restitution for acts such as running away, violating curfew, or not attending school. Whom is he paying back and for what loss or damage? At the opposite end of the spectrum one also encounters problems in assigning restitution for heinous crimes such as murder and rape. The community at large is understandably resistant to allowing these kinds of crimes to be sanctioned simply through the use of restitution.

A critical aspect of this first principle is that the obligation "must be fulfilled." One of the most attractive features of restitution is that it is so easily understood. Another is that it is easily enforced. Everyone engaged in seeing that Johnny makes restitution has the responsibility for explaining in a clear fashion why this particular sanction is being imposed, for guaranteeing that the conditions of the order are fully met, and for insuring that additional sanctions are ordered if he does not comply with the agreement. As part of the process for making the offender assume responsibility, restitution programs should be structured so that the progress of the client can be monitored from the point of the initial agreement to closure of the case.

II. PRINCIPLE #2

The offender possesses the competence to fulfill the obligation incurred through criminal misconduct

Often, it is not in line with the professional outlook of social workers to accept the fact that kids are perfectly competent human beings. Frequently, when social workers intervene in the lives of young people, they treat these youngsters as if they were incompetent. This tendency is further exacerbated when the objects of attention are juveniles who have been in trouble with the law and possess personal histories of repeated failure. This point was extremely well made in the testimony of two restitution program graduates before the Congressional Oversight Hearings on Juvenile Restitution Programs (March 3, 1981).

Rep. Corrada: You said before that you have been twice incarcerated and also that you went through this program. What did you learn from this program that you did not learn from incarceration?

Jeff: I didn't find out about the program until the second time that I was incarcerated. Since I have been in this program, I have learned different numbers of skills and how to be trusted, you know. People pin a label on you when you're small. People tell you all you know how to do is steal, that is all you do. In this program, you learn how to trust people, you learn how to do different things, make meaningful with your life, turn around, do things that is right. Going down to jail, that don't rehabilitate you.

You have got to rehabilitate yourself. If you don't want to rehabilitate yourself, I don't care how many times they lock you up. You ain't going to be rehabilitated. You are just going to keep coming back. It is the point that you have got to make up your mind that you want to change, you want to be rehabilitated. If you make up your mind you want to do that you can do it with the help of this program and you need a start.

Rep. Corrada: Going to a restitution program — does that allow you to show that you can be trusted?

Jeff: Yes sir, because they give you freedom — they give you a certain amount of things to do and they trust upon you to do that. They can't do them for you, you have to do all this yourself. You have got to make up your mind that you're going to do it.

Rep. Corrada: I would like to ask Charles here to please tell us in what manner or form do you believe that being in this restitution program has helped you in becoming an individual who copes better with society and the group where you live?

Charles: Well, okay. After I had committed the offense, I had heard people talking, you know. They didn't want their kids to be around me because you know, in fear that I would have them in trouble. It gave me a chance to show that if given a chance, I could be just like anyone else. I am not one that was out looking for trouble. I just happened to run upon it at that time. It showed to myself that I could be anything that I wanted to be. It depended upon what I wanted to make myself. So really, it proved to the people around and me that I could make it in the world today, not as an inmate in a prison, you know, but going to work everyday, bringing home a paycheck.

In this testimony the reader is struck by a sense that prior to becoming involved in restitution programs these youngsters had definite perceptions of themselves as incompetent and incapable individuals. Regardless of where these ideas originated, we have the responsibility when intervening with these youngsters to change these damaging misperceptions. If we assume they are not willing to get or hold a job to pay their restitution orders, our assumption all too often becomes a self-fulfilling prophecy.

Giving youngsters the space they need to grow, make decisions, learn from their mistakes, and become responsible adults is a complex and difficult task. It seems so much easier to take them by the hand and to guide them carefully through these stages in personal growth. Yet, the end result is usually a confused youngster who at the point of entering the adult world is poorly equipped to make decisions and compete with his/her more highly skilled peers. A valuable lesson can be learned from this in managing the participation of youngsters in restitution programs. The least challenging route is for the program staff to do everything for the youthful client in order to ensure that he/she completes the restitution order and is not referred back to court for further sanctioning. However, this strategy only results in the youth not

comprehending the message of being held accountable and not being able to demonstrate the ability to successfully complete a significant task. The correct strategy is to give the responsibility for completing the task back to the youngster. Assume that these juvenile offenders *can* make reasonable decisions, *can* work on a consistent basis, and *can* adhere to the rules of the program. The result can be truly amazing.

An interesting example of how not to proceed at the outset in shaping client participation is provided by a program managed by one of the authors of this book. Prior to admitting the first juvenile offender, the program director and staff spent an inordinate amount of time discussing, strategizing, and agonizing over how best to guarantee that clients would go on a regular basis to their community service jobs. The false assumption was being made that these youngsters were not capable or mature enough to get there by themselves and needed the direct aid of staff to ensure their attendance. To resolve this supposed problem the staff devised a "master transportation plan" in which they arranged to get everyone to their work sites utilizing available resources which included city buses and a program van. Once the program began to operate, the program director and staff realized, much to their chagrin, that these youngsters were perfectly willing and able to accept the responsibility for getting to their work sites regularly and on time. The van was subsequently sold, and over the past three years less than 15 percent of youths participating in the program have had more than two unexcused absences from work.

Returning responsibility to clients and allowing them to exercise their own capabilities permits the staff to direct attention to other matters which should rightfully be consuming more of their working hours. An especially important area of concern in which staff may need to devote considerable thought and energy is skill development among clients. As Dennis Maloney suggested in the previous chapter, there appears to be a positive correlation between the development of various skills and the remediation of delinquent behavior. One of the major contentions of the authors of this book is that the combination of accountability and skills development or enhancement is, to a considerable degree, responsible for the success of restitution as a sanctioning option.

In one sense restitution can be envisioned simply as a catalyst in the gradual, broad shifting of techniques and strategies for dealing with the problems of juvenile delinquency. Instead of relying totally upon a medical or treatment model, practitioners are beginning to experiment with various ways for requiring juvenile offenders to assume more responsibility for changing their negative behavior. Restitution appears to offer a perfect opportunity to achieve this end. While the youngster is being held accountable to make amends, the obligatory job setting becomes a private laboratory for acquiring important work skills.

In facilitating the acquisition of skills, the staff must possess at the outset a clear understanding of the rationale behind and the value of job skills development. In this educative process they become the teachers, though often not

in the traditional sense. Many programs have developed formal training sessions during which the clients practice filling out job applications, going on job interviews, etc. In addition, throughout the work experience itself these youngsters should be receiving regular feedback from restitution counselors and work site supervisors about their performances.

It's great you've come in early three times this week; If you throw another temper tantrum about pulling weeds, you'll be fired; Thanks for calling and letting us know you were going to be late on Tuesday; Talk to your supervisor about taking time off for next weekend . . .

Accepting the second principle, i.e., an offender possessing competence, and then putting it into practice requires two major shifts in old ways of thinking about correctional programming. First, we must recognize and act upon the fact that juvenile offenders can be responsible for themselves. Second, in acknowledging that they are capable individuals, we must also realize that one of the major problems underlying delinquency is skill deficits. Through the use of restitution, the opportunity exists for developing certain living, learning and working skills under circumstances which link accountability to employing these skills in realistic job situations.

In testifying before the Congressional Oversight Hearings on Juvenile Restitution Programs (March 3, 1981), a 15-year-old restitution program graduate named Becky made the following comments about the skills she acquired through her participation.

For myself, okay, I got a good recommendation from that job. And I use it for everyone. They have called that job site every time and they said they gave me an excellent recommendation.

Okay, being fifteen when I committed a crime, there is no way I would have been able to pay off the debt that I had to pay. Who is going to hire a fifteen-year-old, especially one who is, you know, in trouble? Okay, so it helped me get the job. It showed me that I can do it. It gave me some skills to help out in future jobs. It showed me what was really the first job besides babysitting I had had, and it showed me what job supervisors are like, what interviews are like.

III. PRINCIPLE #3

In satisfying the offender's obligation the terms of the restitution order must be clear, measurable, and achievable

Restitution cannot be an effective sanctioning approach unless all parties involved in the agreement clearly understand what completion of the order entails. Specification of what constitutes successful completion represents one of the major advances in formal restitution programming of recent years over the informal efforts which have existed for decades. As part of the national evaluation of programs in the Initiative, IPA utilized an experimental design in Dane County, Wisconsin, to examine the level of successful completion when restitution was administered informally. The rate was 44 percent. This level of completion is strikingly low when compared to the successful completion rate of 86 percent which was achieved overall in the National Juvenile Restitution Initiative.

In expediting the restitutive process — the judge, program staff, offender and victim — all must agree what the conditions of the order are and what will constitute successful completion versus default. The offender must be informed precisely what actions will be taken to measure progress toward completion, what kind of activity qualifies as satisfactory progress, and what will happen if progress is perceived as not being satisfactory or if the order is not completed. The judge and program staff need to maintain regular contact about the status of individual cases and to make sure that they are making decisions which correspond to the possible courses of action agreed upon at the outset. By initiating a restitution order, those in authority are acknowledging that delinquent youngsters should be held accountable and that they are, in fact, capable of achieving positive results in this process. Unfortunately, court personnel and program staff frequently do not hold up their end of the bargain. Unless the case is carefully monitored and appropriate steps are taken to intervene when problems arise, this sanctioning approach does not deliver to the offender the powerful message which it has to offer.

The darker side of child-saving techniques among juvenile justice practitioners becomes pronounced when a problem arises requiring the imposition of tight controls on Johnny. The plea that "Johnny needs just one more chance," is too often heard in these situations. What Johnny actually needs is for someone to respect him enough not to change or bend the rules any further. To show him where the final line must be drawn on negative behavior and to allow him to decide whether or not to cross that line is the most helpful action which can be taken for Johnny. A major part of being an adolescent is discovering what the acceptable limits on behavior are. One key factor in delinquency having become an increasingly serious problem is that our society in recent years has not been very effective in setting these limits. A refocusing of attention on acceptable limits is an especially important task to undertake with young people who are becoming enmeshed in the juvenile justice system. They are clearly engaged in testing what these limits are.

Limits being set by justice practitioners have no meaning unless these limits are consistently enforced. Once again, restitution lends itself well to the application of this important principle. In putting this principle into operation, court personnel and program staff need to develop rules which are specific and enforceable. For example, staff can monitor client attendance at the work site on a daily, weekly, or monthly basis. Clear understanding can be reached regarding the acceptable number of unexcused absences. Arrangements can be made for the client to submit a specified portion of his salary to the court's clerk on each payday. A detailing of procedures to be used by staff in responding to non-compliance can be spelled out for the client. Rules covering all of these tasks can be tailored to meet the structure of the program, the size of the staff, and the requirements of the court.

The following set of general guidelines to aid program staffs in developing rules which fully incorporate the principle of accountability has been offered by Romig (1982)

1. It is important that the staff are strict in holding the offender responsible for completion of the restitution, community service, or other program expectations. Accountability will help the offender be more independent and more aware of his/her responsibility for future success or failure.
2. The accountability program should include some type of explicit verbal and experimental teaching by the staff member with the offender.
3. If an offender knows what is expected of him/her, the expectation will more likely be met. The staff should set clear expectations regarding activities and work which will serve to hold the offender accountable.
4. Knowing the consequences that will occur for certain misbehaviors act as a deterrent. The staff should set clear expectations regarding non-participation and rule breakage which serve to hold the offender accountable.

One of the best ways to specify rules and the consequences for breaking them is written contracts which are signed both by program staff and the client. A standard form can be used, or if desired, an individualized contract can be drawn up for each youngster. This contract should specify exactly how the restitution order will be carried out. It should also clearly note what will happen in the event the agreement is broken. Considerable emphasis should be placed on the importance of this document. It should not be signed in a routine fashion along with a variety of other forms. The offender must understand exactly what is being agreed to and how important compliance with the terms of the agreement is. Once the conditions of the restitution agreement have been set, it is crucial for the program staff to have clients adhere as faithfully as possible to these terms regardless of intervening factors which may arise unexpectedly. Only under exceptional circumstances should any deviations from the agreement be made for particular cases.

Being achievable (the remaining dimension of this third principle) is critically important in making it possible for the restitution order to be understood and accepted by the offender and to be enforced by the program staff. To try to hold youngsters accountable for completing tasks they cannot possibly hope to finish is a ridiculous enterprise. Program policies should be structured to prevent unrealistic expectations by the staff. These policies should include screening out offenders who cannot be held accountable for their behavior due to diminished mental, physical, or emotional capacity. In addition, a maximum number should be established on the hours or dollars a youngster is required to work or earn during a given time period.

Reasonable guidelines should be developed specifying the upper limits on the total number of community service hours and the total amount of monetary restitution which can be imposed on an offender for having committed any type of crime. Restitution must not be allowed to become an oppressive sanction. It must be viewed by offender and victim alike as fair and reasonable. The development of such policies and guidelines is not intended to curtail the authority and discretion of the judiciary. In fact, it would be most desirable to create this framework with the active participation of the judge and court personnel.

Much of the preceding discussion of the third principle has focused on problems which can arise in carrying out the terms of a restitution order. Yet, the reality of restitution program operation has been that only infrequently does the need arise to respond to non-compliance and default if good management practices are employed. As cited above, the successful completion rate for offenders participating in the National Juvenile Restitution Initiative has been extremely high. Ending on a positive note, we know with a considerable degree of certainty that the vast majority of young offenders have, in fact, made amends for their crimes when program expectations have been made clear, measurable, and achievable. As a final comment on these issues, positive performances by these youngsters should be rewarded at the point of program completion with a certificate or congratulatory exit interview. Ideally, upon completion of their restitution orders, these offenders should be released totally from the jurisdictional control of the juvenile justice system.

IV. PRINCIPLE #4

The justice system has a responsibility to the victim

Restitution programming can not, by definition, be an effective and meaningful sanction unless the victim is in some way actively involved in the overall process. This requirement demands a major reorientation of focus in the juvenile justice system which has over the past eighty years directed its attention almost exclusively to the needs of the offender. In commenting on this shift of emphasis, Gerald Caplan, a former general counsel for LEAA and ex-director of the National Institute of Justice, stated in *Corrections Digest* (May, 1981) that:

Until we can muster the kind of unified will that empathizes more with victims than with offenders and does not try to pass the crime problem off as an illegitimate offspring of other social ills, it is unlikely that government at any level can operate to reduce crime.

The groundswell for reintroducing the victim into the system indicates that Caplan is far from being alone in his sentiments and conclusions.

This fourth principle has important practical implications for both the offender and the victim in terms of each being restored to the more satisfactory status which existed prior to the offenses having occurred. Although it is impossible in many instances to cover completely victims' direct financial losses, the restitutive process can help to begin restoring their faith in society and in the justice system. This can often be achieved by the restitution staff providing victims with valuable information and offering empathy for their plight. Victims can also receive assistance in documenting their losses for the court, in being informed about available civil options for recovering losses, and in playing a role in determining the nature of the restitution agreement for the offender.

Valuable insight into the importance of the victim in the restitutive process is provided by the testimony of several juvenile offenders who appeared before the Congressional Oversight Hearings on Juvenile Restitution (March 3, 1981).

Mr. Corrada: Now let me ask you a second question. The fact that you were allowed to compensate, to pay back the victims — did this mean anything to you in terms of something that you wanted to do because it made you feel better — it meant anything in terms of your own personal dignity or not having that opportunity to pay back to the victim?

Jonathan: I felt better after I did it because then I felt like I had done my service for what I had done and it was to be repaid. So you know, I felt a whole lot better . . .

Jeff: I felt better after I paid the people back, you know. I felt that I didn't owe no one. I had paid back for what I had done to them. I paid them back. I felt that I no longer owed them anything, so it was a clean break. I paid them back and I helped the community.

Mr. Corrada: Becky?

Becky: After completing it, you feel good about doing it but before, definitely having to dominate definitely.

Mr. Corrada: Charles?

Charles: I would have to go along with Jeff. I paid some back, so I paid my debt but you know, that doesn't mean that they owe me something you know. I done what I was supposed to do and what was expected of me.

Mr. Corrada: Let me ask you, I understand that you were provided with a job but then from the monies that you earned by doing that job, you paid the victims out of your account. Is that correct?

Becky:

Jeff: Yes

Charles:

Jonathan:

Mr. Corrada: You took money that was paid to you from the work you did and gave that money to the victim. Is that correct?

Jeff: Yes

Becky: The check went directly to the victim. I didn't see any of it at all. I didn't get to give it to the victim myself.

Mr. Corrada: But you agreed to that arrangement?

Becky: You have to, that is it.

Mr. Corrada: What difference does it make for you to have the opportunity of having a job and taking money from what you received as compensation and paying the victims rather than putting the money in your pocket as you would have if instead of being in this program, you would have been on probation and gotten a job? Does it mean anything to you, the fact that there was this provision in your program that you could do that rather than getting a job, let's say being on probation and getting a job and not having to pay back?

Jeff: Well, my choice was this program, it was the only thing that was helpful to me at the time because other than the program, I had incarceration looking at me. That is what I knew—if I wouldn't have decided to get in the program, I would have been incarcerated for a certain amount of years.

Mr. Corrada: Do you have now a better idea what it costs to make six hundred dollars than you had when you did whatever you did to your victim? That that person lost six hundred dollars?

Jeff: The victim who I . . . they lost much more than six hundred dollars. That is just what the juvenile at that time would pay back — the highest in a restitution program that a juvenile could return. They settled for that six hundred dollars. So every time I got paid, I took a certain amount out of my check, got a money order and sent it to the victim . . .

This fourth principle for effective restitution programming converts the philosophy of accountability justice into a two-way street. It is presumptuous to assume that we can hold offenders accountable for their criminal misconduct without at the same time holding ourselves and the justice system we represent accountable. We must be accountable to the victims. Failure to address this issue either in terms of delivery of services or advocacy for victims can only produce programs which fall short of meeting the inherent mandate of reparative justice.

CHAPTER V

Doing It the Right Way

By CALVIN REMINGTON

A well-conceived plan of action is vital to the successful operation of any new program. Unfortunately, the planning process is often rushed, fragmented, or simply neglected. The end result is a poorly designed program that lacks direction, purpose, and is difficult to manage. As a result, it may be difficult to determine when success occurs and even more difficult for success to be measured. This problem is summed up succinctly by the contemporary author and philosopher, Ashleigh Brilliant, who writes, "One possible reason why things aren't going according to plan is that there never was a plan."

This chapter is designed to assist those interested in planning and implementing juvenile restitution programs. The information presented is organized to reflect a logical chronology of program planning and a description of the administrative steps necessary to begin a new restitution program. At each step in the process, an effort is made to present more than one option or planning strategy.

One complicating factor in presenting a planning strategy is that the range of variation in statutes across jurisdictions may force the adoption of quite different policies. For example, prior to 1981, the State of South Carolina prohibited the ordering of monetary restitution in Juvenile Court. In addition, it is not uncommon among states having restitution statutes which permit both monetary restitution and community service to differ widely in approach and application. Some states specifically provide that restitution be used as a term and condition of probation, while others provide for restitution to be used as an alternative sentence. Only a handful of states have specific provisions for restitution in the juvenile codes. Among the states that have adopted restitution laws are Arkansas, Colorado, Connecticut, Ohio, Idaho, Iowa, New York, Mississippi, South Carolina, Virginia, and Maine. Most states, however, do have provisions in the juvenile codes that allow the court to impose appropriate conditions, including restitution, upon disposition. A study conducted by the Institute of Policy Analysis entitled "Restitution Requirements for Juvenile Offenders: A Survey of the Practice in American Juvenile Courts" (1977) found that 86 percent of the Juvenile Courts randomly sampled supported the use of restitution.

Most juvenile courts, however, do not order restitution in a planned or systematic way. Consequently, the sanction is too often applied inconsis-

tently; when ordered, restitution may never be collected. Juveniles are not provided employment assistance, and restitution is generally seen as a low priority to the caseworker, probation officer, and court.

This chapter is divided into three parts. The first part will present issues related to pre-implementation planning while the second part discusses implementation and the third part focuses upon operational issues.

I. PROGRAM DESIGN

Planning is the process of ascertaining how a program will be structured, what its purposes will be, and how it will operate. Systematic planning prior to the beginning of a program will help to avoid problems later and may very well make the difference between the success or failure of a new program.

The first step in the planning process is to clearly identify both the need for and the concept underlying the new program. This procedure will answer the question of why the program is being developed and what purpose the program is expected to serve.

Determining Need

A need is defined in *Webster's New World Dictionary* as "an urgent requirement for something essential or desirable that is lacking." To identify is to point out or to describe. To assess is to measure and evaluate importance. In determining needs, it is important to identify the specific problems and to assess or evaluate the importance of each. Inherent in this process is the collection and analysis of data to insure accuracy and authenticity. Especially important are data relating to juvenile arrests, adjudications and dispositions. In analyzing these data, it is necessary to determine how many of the cases being processed through the juvenile justice system have victims, and how often and in what kind of situations is restitution being ordered. The amount of restitution being ordered, how much is actually being collected, and by what means is it being collected and disbursed to victims must also be determined. Another question which must be answered is whether cases involving restitution are being terminated without payment having been made. Finally, the prevailing attitudes of other actors in the juvenile justice system, professionals in other human service organizations, and representatives of community groups toward the concept of restitution need to be surveyed.

In collecting and analyzing these data, the planner will become more familiar with the needs of the juvenile justice system as well as the weaknesses and limitations on the sanctions presently available to the Juvenile Court. By discussing the proposed program prior to implementation and soliciting input from the various actors in the juvenile justice system, the program will receive greater support and acceptance once it is launched.

In discussing the proposed program with community groups, the goal is to stimulate their interest and commitment to the concept of restitution. These commitments may include political support from influential community

representatives and agreements on the part of business groups to hire juveniles participating in the program. Other community resources which may be available include work sites for placing clients in community service slots and volunteer workers who may perform a number of tasks essential to program operations.

Another important activity in assessing the felt need for such a program in the community is to analyze the existing relationship between the juvenile justice system and the victim. One should determine if victims are contacted routinely and if they are required to document their losses for purposes of ordering restitution. The planner must also discover whether victims are provided information regarding the outcome of the case, whether or not restitution was ordered, and whether victims know whom to contact if they have questions regarding the court process of their victimization.

When determining the level of need expressed by the community for the program, one must also decide how and where the program will operate. Will the program be an integral part of the formal system or will it operate outside the primary system? Currently, the majority of juvenile restitution programs are operating as part of the formal juvenile justice system. However, a number are also functioning as independent adjuncts to the court. Programs outside the court either are attached to other public agencies or operate as private, nonprofit organizations.

Last, the needs assessment should address what type of restitution sanction is most favored: monetary restitution, community service, direct service to victims, or a combination of these forms.

Determining Program Purpose

The question of what purpose the program will serve becomes easier to answer once the determination of need has been completed. Harlan et al. (1979) in "A Guide to Restitution Programming" cite three primary purposes for reparative justice: (1) to benefit the offender, (2) to benefit the victims/community, and (3) to benefit the criminal justice system. In some instances, these purposes may overlap and permit simultaneous pursuit of two, or even all three. However, determining which purpose has top greatest priority is critical. For example, if the primary purpose of the program is to benefit the victim, a greater emphasis will be placed on victim compensation and victim services. As a consequence, ordering the amount and type of restitution will probably not be based on what is most convenient or even reasonable for the juvenile to do. The nature of the order will reflect the victim's plight more than any consideration for the youth's age and earning power. The rationale for this approach is that restitution is "basic justice" where restoration of equity to the victim is the principal goal. Emphasis is placed on victim satisfaction with the justice system and an attempt to again make the victim "whole".

On the other hand, if the primary purpose is to benefit the offender, the goal will not necessarily be to make the victim "whole," but rather to hold the juvenile accountable for the delinquent behavior, develop a restitution order

which is both reasonable and achievable, and possibly provide additional services to aid in rehabilitating the youngster. The argument in this case is that the restitution obligation will hold the juvenile accountable, will increase his sense of fairness about the system, and will lead to a reduction of alienation and an increase in responsibility. This approach may also be seen as assisting in the full reintegration of the offender into the community through increased acceptance by society for being responsible in making restitution. These benefits would probably not accrue to the offender if the primary concern was simply victim compensation.

If the primary purpose of the program is system benefit, efforts are usually directed toward solving organizational problems such as glutted court calendars, unmanageable caseloads, and overcrowded correctional facilities. Restitution may also be used as a diversionary tool. In all of these areas it is viewed as a cost-reducing mechanism. Another possible application of restitution is as a sole sanction. This allows programs to process a large number of juvenile offenders at a relatively low cost per case.

As suggested, these purposes can be pursued alone or in combination. When pursued simultaneously, program purposes may produce conflicts. However, this possibility will not pose significant difficulties if the primary purpose of the program has been clarified and is understood by staff, clients, and victims.

Determining Goals and Objectives

Planning requires that a formulation of program goals be clearly specified. In this context these goals will set the direction for planning and indicate the general nature of the desired outcome. The goals will relate not only to the purpose of the program but also to the felt needs of the community and/or system identified earlier.

Program goals may or may not be measurable but certainly must reflect the philosophy or set of basic assumptions upon which the program has been constructed. Goals may be somewhat idealistic and broadly defined, e.g., increasing the juvenile offender's sense of self-esteem or strengthening the community's sense of confidence in the juvenile justice system. Once a decision has been made about selecting the most appropriate goal/goals, specific outcome measures of these goals can usually be identified for the purpose of measuring the effectiveness and performance level of the program. Clear outcome measures are vital since they are the primary indicators of whether or not the program is accomplishing what is expected. The rule of thumb to follow in determining program goals which provide the basis for identifying outcomes is to make them *specific, pertinent, obtainable, measurable, and observable*.

In contrast to goals which are concerned with ultimate program outcomes, objectives can best be defined as the more immediate means for accomplishing these goals. In selecting objectives, one is advised to look closely at the goals and determine what specific steps must occur for these

goals to be achieved. Objectives should be stated as results and not as activities. They should also specify the magnitude of the results sought and the target date for this being done. When objectives have been selected, determine whether the accomplishment of all objectives will result in the related goal having been achieved. Although all staff members may not participate in the selection of the program goals and objectives, it is vital for all program staff to have a clear understanding of what they are. When all program staff are working in concert toward achieving the specified goals and objectives, fewer conflicts will arise regarding policy decisions and program direction. Monitoring program operations regularly is important for determining whether objectives are being met on an ongoing basis. This provides a convenient way of "fine tuning" the program.

Objectives should be stated in a clear, simple, and measurable fashion. As suggested, they should be viewed as results and not as activities; they must always be related to the ultimate goals of the program. For example, if an intended effect of the program is to place juveniles in jobs, an appropriate objective would read as follows: "50 percent of all juveniles entering the program will be placed in jobs." In addition, if staff members are expected to provide the job sites, the associated objective would read as follows: "all staff members will make, at a minimum, five new employer contacts per week."

Determining Program Locus

If the new restitution program is being proposed by an existing criminal justice agency, placement in the system may not be optional. However, if there is flexibility in selecting program locus, several choices are available. Theoretically, programs can be placed at any one of a number of points in the overall processing of juvenile offenders through the system. For example, programs are currently operating at both pre- and post-adjudication stages in processing. Pre-adjudication programs are diversionary in nature. When these programs are being considered, it is particularly useful to examine state statutes regarding the legality of pretrial dispositions. Some state statutes do not allow this practice.

Most restitution programs now in operation are located at the post-adjudication stage in processing. At this stage, restitution is usually imposed as a condition of probation. However, in certain jurisdictions, restitution is being used in post-adjudication situations as a sole sanction. When restitution is imposed as the sole sanction, no other obligations are placed on the juvenile by the court. When the restitution obligation is met, the case is dismissed or terminated.

The other option available for program placement is to employ the sanction following commitment to a correctional facility. This would include ordering restitution as a condition of placement in a post-incarceration setting such as a work release or early release program. In these types of programs, job assistance is provided by staff, and participating juveniles are expected to obtain and maintain employment as a condition of the placement.

A predetermined percentage of wages earned by the juveniles go toward the payment of the restitution.

It is essential to realize that there is no ideal point in processing at which to locate a restitution program. Rather, the decision for selecting the most appropriate location depends on a number of factors: system needs, program goals, priorities of the host community, etc.

II. PROGRAM IMPLEMENTATION

Implementing a program consists of putting the design into operation using allocated resources and predetermined strategies. There are generally two steps to the implementation process, preparation and initiation. Issues surrounding the implementation process are general in nature and resultingly are common to most restitution programs regardless of purpose or type.

Enabling Legislation — Legal Issues

The first question to address is whether any legal authorization exists for initiating a restitution or community service program in a particular jurisdiction. The present trend in most states is to permit the use of one or several forms of reparative justice. However, this is not always the case. For example, until 1978, the use of restitution in Juvenile Court had been prohibited in Pennsylvania by a ruling of the State Superior Court in the case of *In re Trignani*, 24 A.2d 743 (Pa. 1942). This court held that a juvenile could be placed on probation, but in doing so, the Juvenile Court could only impose conditions which were "wholly in the interest of the child, looking toward his reform and not to make good the damages flowing from his illegal act." The Pennsylvania Appellate Courts consistently held that restitution has the effect of determining civil liability and enforcing civil damages. Consequently, Juvenile Courts should not have jurisdiction to enter such orders. This reasoning was also adopted in an opinion by the Attorney General of South Carolina who stated that Juvenile Courts do not have authority to order restitution since the sole purpose of the Juvenile Court is to rehabilitate and reform youthful offenders and not to punish offenders or secure satisfaction of civil damages.

Recently, state legislatures in both of these states have created statutes with provisions for the use of restitution in Juvenile Court. In 1978, the Pennsylvania Legislature provided for the Juvenile Court to have the authority to order probation that, "may include an appropriate fine considering the nature of the act and restitution, not in excess of actual damages caused by the child, which shall be paid by the earnings of the child, received through participation in a constructive program of service or education acceptable to the victim and the court." In 1981, the South Carolina Legislature created a statute allowing Juvenile Courts to order monetary restitution as compensation for the victim's loss. Although not often so specific, most states now allow the Juvenile Court to place a youth on probation under such terms and conditions as the court may deem appropriate. In addition, the vast majority of State Appellate Courts which have faced the issue of restitution, hold that

Juvenile Courts do have the authority to order restitution. The U.S. Supreme Court has also held that the Federal Youth Correction Act, 18 USCA, 3651 et. seq., permits the use of restitution.

Most courts seem to support the argument that restitution serves two principal purposes: making offenders realize the consequences of their criminal behavior and providing a tangible mechanism for amending the losses, damages, or injuries suffered by victims at the hands of their offenders. In the State of Maine, restitution may be a condition of any disposition imposed by the Juvenile Court. The court, in making an order of restitution, is mandated to consider a number of factors: the conduct of the victim, the victim's failure to report the crime within 72 hours without good cause, and the offender's ability to pay. In a similar fashion, the State of New York provides that juveniles may be required to make monetary restitution up to \$1,000 as a condition of placement, probation, or suspended sentence. The Juvenile Court in New York also allows juvenile offenders to perform community service work. In the State of Connecticut, the court may order the juvenile to perform community service work or make restitution to the victim. In the State of Mississippi, restitution is made to the victim out of the youth's assets through either monetary payments or direct services, or both.

Although many states have now enacted legal provisions allowing the use of restitution, practices are often limited in Juvenile Court to post-adjudicatory situations where the sanction is imposed in a formal dispositional hearing. In most cases, these same statutes do not apply to diversion or the process of channeling cases to noncourt hearings. However, when restitution is used at any diversionary stage, due process considerations demand that a youth make an informed decision with advice from counsel to waive the right to a formal adjudicatory hearing. If such a waiver does not exist in a particular court, substantial legal problems arise in regard to requiring a youth to pay restitution at this stage of legal proceedings. Constitutional concerns include the fact that the juvenile who is required to pay restitution is denied his property, i.e., is being forced to pay monies to victims of his crimes or some other third party, and is denied liberty, i.e., is being required to perform certain acts he otherwise would not have to perform, in order to meet the restitution requirement. The fifth and fourteenth amendments provide that persons will not be denied property or liberty without due process of law.

In many states, the consent process to waive a formal adjudicatory hearing has been explicitly defined either by court practice or state statute. For example, in Anne Arundel County, Maryland, youth may consent to participate in the Community Arbitration Program as an alternative to further court processing. One option available to this program is to have the youth pay restitution. However, the youth must sign a consent form before entering the program. In the State of Washington, diversion is authorized by statute which provides that

... diversion shall be a contract between a youth accused of an offense and a diversionary unit whereby the youth agrees to fulfill certain conditions in lieu of prosecution. Such agreements will be entered into only after the prosecutor has

determined that probable cause exists to believe that a crime has been committed and that the juvenile committed it.

The statute further states that a diversion agreement must include restitution which will be limited to the actual amount of loss incurred by the victim.

Questions of involuntary servitude may arise when a youth is required to work in order to comply with the restitution requirement prior to judicial determination of the youth's responsibility for having committed an offense. The argument can readily be made that the thirteenth amendment prohibits labor ordered as part of restitution when the youth has not been convicted of a crime or found to be legally responsible for committing an offense. This amendment states, "neither slavery nor involuntary servitude except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States or any place subject to their jurisdiction." The problem can be completely eliminated if restitution is ordered at a post-adjudication stage in processing.

Once the decision is made that the Juvenile Court has authority to order restitution, the next question to be addressed is whether due process issues apply to the ordering of restitution, and if they do, what procedure must be followed consistently to insure due process requirements. Since restitution in Juvenile Court involves deprivation of property and liberty, the threatened removal of these rights must be closely examined by due process considerations.

It is a difficult and complex task to determine what procedure must be followed when Juvenile Courts order restitution. In general, the best approach is to balance the State's interest in the orderly and efficient administration of justice with the youth's interest in not being oppressively sanctioned and in receiving constitutional safeguards. The State's interest consists primarily in having a dispositional process which can operate efficiently and effectively when ordering restitution. The youth's interest consists primarily in having the following issues resolved fairly: 1) the amount of damage, loss or injury for which he is being held responsible, 2) the youth's pro rata share of the amount of restitution when there are multi-offenders, 3) the method of loss assessment, 4) the method of repayment, and 5) the requirements imposed by the court to assure that the restitution order is complied with.

When restitution is ordered at the post-adjudicatory stage, due process procedures are generally guaranteed by the existing judicial guidelines of the Juvenile Court. In the case of diversionary restitution, it is imperative that the youth have the right to make an informed decision about whether to waive his right to a formal hearing. Program staff must make every effort to avoid any type of coercion in trying to force the juvenile to enter the program. The juvenile must be provided the opportunity to challenge participation.

Public Relations

It is impossible to overemphasize how important adequate public relations and information services are for a new restitution program. A carefully

planned promotional campaign should be organized and carried out to stimulate interest in the program. This step will aid in making the public aware of the need for the program and in providing a way for the public to develop a general understanding of the program's goal and purpose. An effective public relations campaign will present information through formal meetings, commercial television, radio stations, and local newspapers. A concerted effort must be made to reach and interact with members of the local power structure on a person-to-person basis. Establishing close working relationships with other actors in the criminal justice system is absolutely essential.

Once the program has become operational, it is important to produce and distribute a brochure to answer questions which may arise and to respond to any requests for information. This brochure can be developed easily from staff training material and should contain basic information about the project such as its name, location, phone number, and a contact person. In addition, the brochure should state the project's primary purpose, an understandable definition of restitution, a list of the project's advisory board members, and the project's funding sources.

Another important, yet simple, method of obtaining wide news coverage without cost is the press release. Press releases are employed solely to publicize solid news items and typically serve to 1) offer an opinion about an issue of recent interest, 2) supply background materials for a late-breaking story, or 3) announce a future event and invite media personnel to attend. When writing a press release, think in terms of what information will be of interest to the media rather than in terms of what is of importance only to the restitution project.

When issuing press releases, always send out a brochure and any other pertinent materials containing supplementary information on the program. Press releases should be mailed to all relevant media personnel in the jurisdiction. It is also a good idea to follow up all press releases with phone calls to persons who have received the release. This step helps to assess the impact of the press release and to provide additional information.

Feature stories are another way of obtaining wide press coverage without cost. Feature stories are more extensive in their coverage of news. They are designed to inform the public about various issues in an easily digested fashion. Typically, feature stories about restitution are developed by print or broadcast media personnel working in conjunction with program staff. Although program staff have little control over the content of feature stories, they can affect the nature of these news stories by informing newspaper personnel in some detail about program activities and by suggesting at appropriate times what constitutes reasonable stances on restitution-related issues.

Community Participation

Community participation is a key ingredient to a successful restitution program. If the community is supportive, it can assist programs in a variety of

ways including the provision of funds for program operation, and the identification of sites for community service work and private employers who are receptive to hiring juvenile offenders.

Perhaps the most important group to target in soliciting support is juvenile justice system actors. On a practical basis, the successful day-to-day operations of the program depend on a commitment by juvenile court judges to utilize this dispositional option in a manner which is consistent with its design and intent. In addition, support from other justice officials and personnel is crucial to the ongoing success of the program. Soliciting support, however, must not end with the justice system itself but must extend to the wider community.

Most restitution programs are developed with the implicit design requirement of obtaining community support in the form of monetary work sites and service placements for youth. These sites must be recruited from private and public organizations in order to insure an adequate level of placement possibilities. Site providers in both the public and private sectors must be convinced of the merits of the restitution project.

Various elements in the community such as community policy-makers, community action groups, youth-serving agencies, and community leaders can directly or indirectly exert influence over program performance. Consequently, program managers and staff must develop the support of these individuals organizations. One way of achieving this end is to establish an advisory board. This board should be comprised of individuals who possess a general knowledge of the juvenile justice system and have the competency for serving in an advisory capacity. It is also important for members of this group to represent a wide variety of interests and influences in the community. The advisory board should be expected to work toward achieving the program's goals and objectives as well as helping to build a support base in the community.

Program Staffing

One of the most important decisions that will be made about developing a new restitution program is the selection of staff. In the course of planning for the program, staff responsibilities and tasks should be identified. Beyond establishing staffing patterns, it is important to determine the program requirements in relation to qualifications of staff members. Once this framework has been developed, job descriptions for each staff position should be specified in writing. This task should be undertaken even if the program is going to be part of an established agency in the juvenile justice system. This step will allow all potential staff members to have a clear understanding of what their job functions will be and how they are expected to perform. This clarification of job roles and responsibilities at the outset will also simplify the management tasks of the program director once the program becomes operational.

After staff selection has been completed, staff development becomes a critical function. The success of the program will depend, in large measure, on

the way in which this activity is approached. All staff members should initially be trained thoroughly in the programmatic and philosophical aspects of the program. Too often, conveying this information and understanding rests solely with the program manager — who is expected to familiarize the staff with all aspects of the program utilizing an on-the-job training approach. This is usually neither efficient nor productive. It is much more effective if a training program is designed and initiated for all new staff prior to implementation. They need to be trained before their actual workload is assigned. Staff development should also include training activities which extend beyond the point of program start-up. Feedback mechanisms should be devised to assure that staff are approaching their jobs with a reasonable understanding of both the underlying philosophy and actual operations.

III. PROGRAM OPERATIONS

Eligibility Criteria and Intake Procedures

The remainder of this chapter will be devoted to a description of some of the nuts and bolts issues faced by restitution programs in their day-to-day operations. The first issues to be considered are intake procedures and eligibility criteria. One of the principal considerations in operating a restitution program is the determination of which offenders are eligible for participation in the program and what factors should be considered in establishing eligibility criteria. Programs must also determine how screening procedures are to be implemented to ensure that offender selection is consistent with eligibility criteria.

In selecting offenders for participation, the key issue is to match the client's characteristics, circumstances, and needs with the program's particular goals and objectives. Factors to consider include the presenting offense and prior criminal record, whether psychological disturbances might preclude the offender from meeting the restitution obligation, drug and alcohol history, and whether the juvenile has the ability or potential ability to pay.

The restitution program may decide that certain types of offenses will be excluded. Most programs exclude offenses which do not have specific and identified victims. However, some offenses directly involving victims are excluded due to the nature of the offense. Examples may include violent offenses against persons such as murder, aggravated assault, and rape. An argument can be made that offenders committing these types of offenses are in need of intervention approaches which are more highly structured and closely supervised than those provided by a restitution program. In addition, it may be political suicide to begin a new program with high risk offenders. A much better strategy might be for a new program to initially focus on lower risk cases to establish a base line of successful experience. Eligibility criteria could later be expanded to include cases with higher risk profiles. It should be noted, however, that a number of programs in the National Juvenile Restitution Initiative have been successful with high risk cases.

Since considerable emphasis is usually placed in restitution programs on holding the offender accountable, juveniles with severe psychological distur-

bances may be an especially difficult population to target for this particular approach. Consequently, it is crucial to identify what types of psychological factors or problems would likely preclude a juvenile's participation in a restitution program. Even if the decision is made to accept youngsters exhibiting certain forms of psychological disturbance, caution must be exercised in carefully assessing and measuring the level of the problem.

Juveniles with serious drug or alcohol history must also be carefully scrutinized before being admitted to the program. A history of alcohol or drugs usage should not, in itself, exclude a youth from participating in a restitution program. If a juvenile's usage of these substances is occurring at a level which requires intensive treatment on a frequent basis, careful thought should be given to whether the youth has a reasonable chance of meeting the conditions of his restitution order. If the problem is not so severe, a juvenile drug or alcohol abuser should be considered for participation.

The ability to pay is an issue which arises repeatedly in making program referrals. Most juveniles are not working, have few job experiences, and are still quite dependent on their families. Obstacles to work site placement are often posed by these circumstances. More serious, however, is the fact that ability to pay often becomes an issue involving whether the juvenile possesses the actual potential to work. If that potential exists, steps should be taken to insure that juveniles be allowed to participate in the program. This may entail providing specialized assistance necessary to meet the restitution obligation through employment or community service.

In addition to excluding from participation juveniles who have committed victimless crimes such as pornography, drug possession or sale, truancy, and runaway — other offenses which should be targeted for exclusion include situations where victims are identified but losses are minimal or non-existent. One variation of this would be cases where all stolen property had been recovered by the police.

Once eligibility criteria have been established, it is important to formalize the screening process. When eligibility criteria are clear and understandable, proper screening procedures can be handled easily by program staff or other justice actors responsible for referring cases to the program. However, in determining screening procedures, a clear decision must be made about what individual or group has the final authority in applying the eligibility criteria. Likewise, a decision must be made about what kind of document or form will be used in the process. It may be a rap sheet, police report, court documents, or probation and correctional reports. Careful screening at the outset can reduce unnecessary investment of valuable resources at later stages in the restitution process. If inappropriate application of eligibility criteria is allowed to occur, large numbers of unsuitable cases will enter the program.

Intake procedures and eligibility criteria should be tested for reliability and accuracy prior to the implementation of the new program. This can be accomplished by having those staff members and other justice system actors (who are responsible for applying these criteria) initiate the same procedures

with similar cases and compare the results. If the eligibility criteria are clear and understandable, the results should be similar.

Restitution Loss Assessment

The determination of victim loss is a simple matter in most restitution programs. For that reason, it is useful at the outset to determine who will be considered the official victim, what types of losses will be assessed, and what procedures will be used to set the restitution amount.

Restitution programs are often faced with a broad range of injured parties related to the offender's conduct in both direct and indirect fashion. The most easily defined victims are the direct victims, i.e., those parties suffering losses, damages, or injuries directly at the hands of the offender. For example, they would include individuals whose homes were burglarized, businesses where goods were stolen, or persons who were physically assaulted. Indirect victims would include insurance companies who pay claims on stolen or damaged property or for medical expenses, hospitals or doctors who provide emergency medical care, fire departments who provide service in connection with arson offenses, or police officers who are injured in connection with the arrest of the offender. As part of their investigation, program staff may also identify losses to other parties not included in the petition or complaint brought against the juvenile. These would include victims mentioned in the police reports whose charges were never brought by the prosecutor or whose charges were dropped in plea bargaining.

In many jurisdictions, there are prohibitions against ordering restitution for losses sustained by parties other than those associated directly with charges for which the offender has been convicted or committed. For example, victims from charges dropped or never filed as a result of plea bargaining may be legally ineligible to receive restitution. Consequently, it would be inappropriate and wasteful for program staff to initiate loss investigation for this group. Legislation and case law may also restrict the extent to which indirect parties such as insurance companies can be considered victims.

Another dimension in determining who will be an official victim for program purposes is to look at one's goals and objectives. For instance, if the purpose of ordering restitution is to hold the juvenile accountable for his delinquent acts, it may be more important to order the juvenile to repay an insurance company than if the goal of the program were strictly victim compensation. The same may be true in those cases where all of the victim's property was returned. Here, some programs decide that the community is the victim and order an amount of community service reflecting the severity of the crime or the total amount of property taken, even if recovered.

In determining which types of losses should be assessed, two types are usually considered. The most common and straightforward is material loss or damage on which a dollar value can easily be placed. The most difficult type of loss to assess are such losses as continuing medical expenses, lost work time, pain and suffering, or other claims for which no common standard of value

exists. Another type of loss which is difficult to assess is recovered property no longer having the same value as when stolen.

Generally, programs limit restitution orders to material losses and damages which can be documented and verified. The use of pain and suffering awards and other similar damages usually sought in civil courts have been neither widely explored nor accepted in criminal courts.

The procedures used for assessing loss assume one of three forms. The quickest and most convenient relies almost exclusively on criminal justice records, police reports, and informal discussions with the offender. There is usually minimal or no contact with the victim in this form of assessment. This approach is quite useful when time is limited, program resources do not permit extensive investigations, and restitution is being made only as a symbolic gesture. The major problem is incomplete information resulting in overestimation or underestimation of losses for the victim. This can result in offenders' not being held fully accountable and victims' feelings that the program is not being sensitive to their needs.

Another assessment approach emphasizes the victim. Here, victims are asked to make official statements for the court reports regarding their victimization. They are required to provide documentation and verification of the loss. To aid this process victims are provided with forms to document the loss and are contacted over the telephone or in person by program staff. This approach provides greater accuracy and is generally more consistent and fair to both offender and victim. Victims tend to report greater satisfaction as a result of having direct contact with program staff. In a negative vein, this approach is more costly in terms of program resources and is also more time consuming than the preceding approach.

The final approach to be discussed is called the negotiation model. Here, losses are assessed in an interactive process where the views of both victim and offender are presented. The goal of this meeting is that a mediated or arbitrated settlement regarding the loss is reached. The negotiation usually involves a face-to-face meeting between the offender and victim with a third party being present. If this arrangement is unacceptable to the principal parties, the mediator will conduct the arbitration separately with each party.

The advantage of this approach is the level of input into the assessment process resulting from the active involvement of both parties. This may increase the sense of fairness to both parties and decrease the level of fear, distrust, or misunderstanding by the victim. This approach is also very comprehensive in that the victim and the offender can negotiate the rate of payment, the offender's ability to pay, and the victim's possible interest in direct service as opposed to strictly monetary repayment. Problems include the complexities posed by holding face-to-face negotiations, the amount of staff resources needed to utilize this approach, and possible unwillingness on the part of both victims and offenders to participate in the negotiations.

Development of Restitution Plan

After the amount of victim loss has been determined and restitution has

been ordered, a plan for the juvenile must be developed. This will include determining the form of restitution and how the restitution payments or community service hours are to be completed. Generally, the amount of restitution or the number of community service hours will be specified by the Juvenile Court. However, it is useful to have all expectations regarding this order to be fully clarified. This can be most easily accomplished through the use of a written contract signed by the offender.

When a written contract is used, it should include a detailed listing of the offender's responsibilities for completing all obligations to the program. At the minimum, the contract must include the total amount of restitution to be paid or community service hours to be completed and the length of time in which the conditions of the contract must be performed. In addition, it should include how often payments are to be made as well as the way in which these payments will be made. It should specify how many hours of community service per week are to be completed and whether this will occur during the week, on weekends, during the day or in the evening hours. For community service hours the contract should also indicate where these hours are to be performed and how completion of the hours is to be verified.

On occasion, it may be necessary to re-negotiate contracts. If this is permissible, the juvenile should understand under what circumstances or conditions this step will be allowable. A good contract will not only advise the juvenile what constitutes successful completion but also what constitutes failure. Once the conditions are established, the contract may also specify sanctions for failure. These sanctions may simply be return to court or perhaps the extension of existing supervision conditions or the period of probation. Program staff may also want to specify incentives in the contract promoting the client's meeting all expectations and restitutive obligations. Incentives may include early termination from probation, a reduced level of probation supervision, or letters of recommendation to future employers.

In order to avoid problems later, it is imperative that the contract and the initial orientation provide the juvenile offender with clear expectations for success as well as failure. When a contract is used, both the minor and his parents should sign the contract. By clearly spelling out the consequences, tendencies to fall behind in payments or miss community service obligations may be reduced; by involving the parents in the process, chances of success may also be increased.

Determining Type of Restitution Payments

There are two types of restitution payments. These are monetary and services. Monetary payments may include a direct payment to the victim or to the project or organization responsible for supervising the juvenile. Direct payment to victims have certain programmatic advantages. This procedure clearly establishes restitution as the link between the juvenile offender and the victim. The juvenile offender must acknowledge that a person has suffered as the result of his delinquent act and that he is being held accountable in having to face the victim and repay the loss. There are also disadvantages to this

approach since victims generally do not want to confront the juvenile offender. Victims express fear of being harassed or victimized again by the same offender. When this approach is considered, the victim must first be contacted for permission. In addition, the juvenile offender should be accompanied by a staff member at the initial meeting. This meeting should take place in the staff office or somewhere other than the victim's residence.

Restitution payments are, in fact, usually sent to the program office or collected by the caseworker. This method provides easy monitoring and record keeping for all payments. The money is placed in a general fund, and the project or organization issues a check to the victim. In most cases the check will be sent through the mail. However, some restitution programs have their caseworkers deliver the check for purposes of public relations or in order to have additional contact with the victim.

When the juvenile offender provides services in lieu of monetary payment, the services are usually directed to the victim or to the community as the symbolic victim. Direct services to victims usually include restorative or reparative service to correct the actual damage caused by the delinquent act. Since this approach involves direct contact between the victim and offender, it has not been widely used. However, there has been some success with corporate victims or small businesses which have been willing to allow the juvenile offender to compensate for the delinquent act by working personally for the organization.

The most widely used service is community service directed toward governmental agencies or non-profit organizations as symbolic victims. The responses by these organizations have generally been very positive. Consequently, obtaining a variety of work sites for the restitution programs has not been a difficult task. Some programs have also used community service as a sole sanction. When a minor completes a specified number of community service hours, no further supervision is required. The advantages of this type of program is that it reduces intrusiveness into the system and is generally cost effective. Supervision can be provided by individuals at the work sites, or staff members can supervise large groups of juveniles participating in community service projects.

Determining the Amount of Payment

Following the determination of the loss assessment, a decision must be made about the amount of payment that the juvenile will be ordered to make. Most restitution programs have found that there should be a limit on how much restitution will be ordered. These limits generally range from approximately \$200 to approximately \$1,000. When the amount of loss exceeds the limit, the victim may choose to seek compensation from the juvenile's parents through the Civil Courts. Providing the victim with the appropriate information to take this action has been a problem in the past due to the laws surrounding the confidentiality issue for juveniles. More and more Juvenile Courts are beginning, however, to allow the information necessary for Civil Court action to be divulged to the victim.

Another consideration in determining the amount of payments to be made is whether there was a co-offender. If so, it is important to determine whether the determined amount of loss will be divided equally among the co-offenders or whether each will be held responsible for the whole amount. In the latter case if one co-offender does not meet the obligation, the other is still responsible for the total and complete loss. In determining the amount of payment, the ability to pay is a crucial issue. Most juveniles on the surface do not have the ability to pay. Experience has shown, however, that a very high percentage of juveniles meet their monetary restitution obligation. Consequently, ability to pay is not always a clear-cut issue. As a simple guideline, the juvenile offender's age and whether or not he is employed will help determine how much should be paid. Whatever the amount, it is very important for the caseworker to monitor the payments very closely and to contact the juvenile as soon as possible should a payment be missed. If the minor is having difficulty obtaining employment or appears to be procrastinating, the previously mentioned contract can be used as evidence that the minor is not living up to expectations.

When community service is used as a primary sanction for restitution or used in lieu of monetary restitution, it is important to build in a mechanism to ensure consistency. For those restitution programs which have used community services as the primary sanction, a matrix is usually developed to specify the number of community service hours that will be given for any specific offense. For example, all juveniles being processed through the program for a first-time burglary will receive forty hours, etc. On the other hand, if the minor is unable to make monetary restitution and community service is given in lieu of monetary restitution, the normal practice has been to convert the amount of outstanding victim loss to community service hours based on an arbitrary figure such as the minimum wage. Here, if the victim's loss amounted to \$335, it would be converted at \$3.35 per hour to a total community service obligation of 100 hours.

Guidelines for Program Completion or Termination

It is important for the juvenile offender to clearly understand the expectations and guidelines for successfully completing the restitution obligation as well as to understand the criteria for failure. This is important whether the restitution staff are criminal justice personnel or are non-justice personnel in private, nonprofit agencies. In either case, staff are expected to monitor cases and determine if the juvenile's termination will be successful or unsuccessful. As suggested, this determination must relate to the expectations and criteria established when the juvenile entered the restitution program.

It is important for the feedback system monitoring performance to provide information in a timely fashion. If the juvenile is to make payments every 30 days and fails to make the payment at the specified time, the assigned caseworker should immediately contact the client as soon as possible. Often, offenders will persist in their previous pattern of irresponsibility. Considerable prodding may be necessary to force them to understand that the obliga-

tion must be met. If the minor is doing community service under the supervision of someone other than program staff, continuous two-way communication must exist to allow program staff to take action quickly should the minor fail to meet the community service obligation.

Program staff must share a common notion of what constitutes a program failure. When the juvenile has failed to meet expectations and refuses to participate in re-negotiating the restitution obligation, he should be terminated and returned to the Juvenile Court or other legal body which exercises authority over the youth. When a minor is unsuccessfully terminated from the program, it is important to make contact with the victim and explain that additional restitution is not going to be made. Some programs will also provide the victim with the necessary information to take civil action against the parents of the juvenile. For those juveniles who are not able to make their restitution payments for reasons beyond their control, monetary restitution may be converted to community service hours. This option guarantees that no juvenile will fail to meet the restitution obligation unless he willingly chooses to do so.

Appendix A

LIST OF IPA RESEARCH REPORTS AND DOCUMENTS FROM THE NATIONAL EVALUATION

1. Schneider, P.R. and A.L. Schneider.
1978 Evaluating Juvenile Restitution Programs: A Preliminary Design.
2. Burcart, J.M.
1977 Measuring Delinquency Through Self-Report Instruments: A Bibliographic Essay.
3. Schneider, P.R., A.L. Schneider, P.D. Reiter, and C.M. Cleary.
1977 Restitution Requirements for Juvenile Offenders: A Survey of the Practices in the American Juvenile Courts.
4. Schneider, A.L. and P.R. Schneider.
1978 An Overview of Restitution Program Models in the Juvenile System.
5. Schneider, P.R. and A.L. Schneider.
1978 Evaluating Juvenile Restitution Programs: A Summary of the Preliminary Design for the National Evaluation.
6. Schneider, P.R. and A.L. Schneider.
1979 Implementation and Policy Issues in the National Juvenile Restitution Initiative: A Six-Month Report.
7. Schneider, P.R. and A.L. Schneider.
1979 The National Juvenile Restitution Evaluation: Experimental Designs and Research Objectives.
8. Schneider, A.L. and P.R. Schneider.
1979 Policy Expectations and Program Realities in Juvenile Restitution.
9. Feinman, H.F.
1979 Legal Issues in the Operation of Restitution Programs.
10. Feinman, H.F.
1980 A Review of State Laws Relevant to Juvenile Restitution.
11. Griffith, W.R., A.L. Schneider, and P.R. Schneider.
1980 Successful Completion of Restitution Orders in the Juvenile Restitution Initiative: A Preliminary Analysis.
12. Feinman, H.F.
1980 Theoretical and Practical Impact of Private Insurance on Restitution as a Sanction for Criminal Offenders.
13. Schneider, A.L., P.R. Schneider, and S.G. Bazemore.
1980 In-Program Re-Offense Rates for Juveniles in Restitution Projects.
14. Medler, J.F., P.R. Schneider, and A.L. Schneider.
1980 The Application of Statistical Power Analysis to Experimental Field Research: Some Examples from the National Juvenile Restitution Evaluation.
15. Schneider, P.R. and W.R. Griffith.
1980 Juvenile Restitution as a Sole Sanction or Condition of Probation: An Empirical Analysis.

16. Schneider, P.R.
1981 Critical Issues in the Juvenile Restitution Initiative: Some Preliminary Results from the National Evaluation.
17. Wilson, M.J.
1981 In-Program Re-Offense Rates: A Comparison of Experimental and Control Group Performance in Ventura, California.
18. Schneider, P.R., A.L. Schneider, and W.R. Griffith
1980 Measures and Predictors of Success or Failure in Juvenile Restitution: Some Preliminary Results from the National Evaluation.
19. Schneider, P.R. and S.G. Bazemore.
1981 Protecting the Integrity of Random Assignment Procedures in Field Experiments: A Description of Four "Successful" Implementations.
20. Feinman, H.F.
1981 Use of Random Selection Procedures in Program Evaluation in Court Settings: Legal and Ethical Issues.
21. Institute of Policy Analysis.
1980 A Compendium of Data Collection Instruments Prepared for the Evaluation of the National Juvenile Restitution Initiative.
22. Schneider, P.R., A.L. Schneider, W.R. Griffith, and M.J. Wilson.
1982 Two-Year Report on the National Evaluation of the Juvenile Restitution Initiative: An Overview of Program Performance.
23. Griffith, W.R., A.L. Schneider, and P.R. Schneider.
1982 Rates of Successful Completion of Restitution Requirements in Juvenile Restitution Projects: A Multivariate Analysis.
24. Schneider, P.R., A.L. Schneider, W.R. Griffith, and M.J. Wilson.
1982 Two-Year Report on the National Evaluation of the Juvenile Restitution Initiative: An Overview of Program Performance- Executive Summary.
25. Sumi, D.
1981 Implementing the National Juvenile Restitution Initiative in Six States: An Empirical Analysis of Intergovernmental Policy Adoption.
26. Griffith, W.R.
1983 Restitution or Rebate: The Issue of Job Subsidies in Juvenile Restitution Projects.
27. Wilson, M.J.
1983 The Juvenile Offender Instrument: Administration and a Description of Findings
28. Schneider, P.R.
1982 Restitution as an Alternative Disposition for Serious Juvenile Offenders.

Appendix B

DISCUSSION OF SELECTED FINDINGS FROM THE IPA NATIONAL EVALUATION

Perhaps the most dramatic finding of program performance involved successful completion rates. The level of successful completion for all referrals was extremely high, averaging slightly over 86 percent. The following background characteristics in descending order of importance were moderately related to this successful completion rate: school attendance, income, race, and number of prior offenses. The severity of the referring offense was only weakly related; age and sex of the offender showed no relationship.

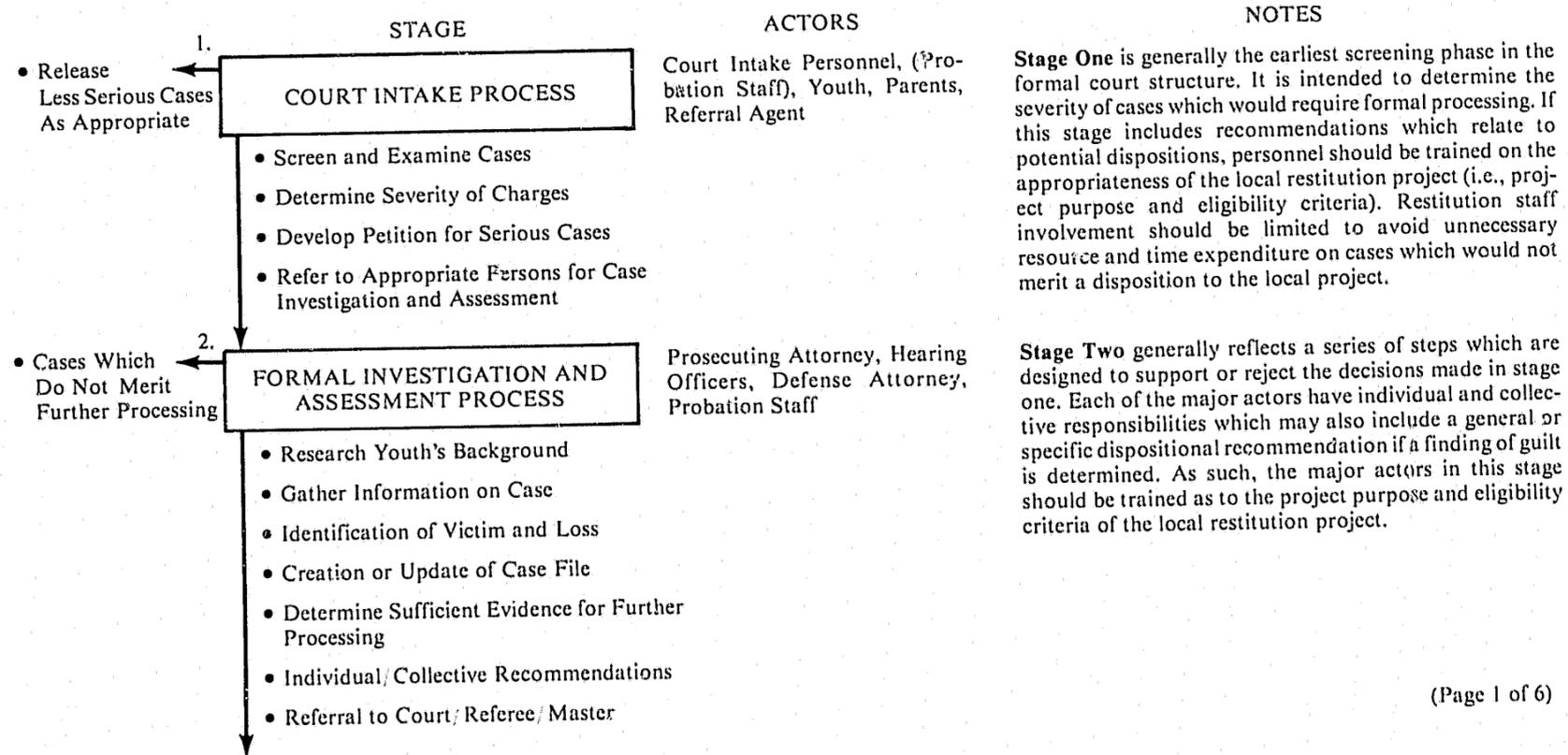
A closer examination of each background characteristic provides the following picture. Youngsters who were reported to be attending school on a full-time basis at the time of referral exhibited an approximately ten percent higher successful completion rate than youngsters who were not in school. Youngsters active in educational settings such as alternative schools, GED programs, or vocational schools exhibited successful completion rates only about 2.4 percent higher than youngsters who were not in school. Youngsters from the lowest income group (less than \$6,000) had the lowest level of successful completion (80.9 percent). Youngsters from the highest income category (over \$20,000) had the highest successful completion rate (91.5 percent). With regard to race, white youngsters had successful completion rates slightly more than seven percent higher than nonwhites. However, when IPA further analyzed this outcome measure, they discovered that income was strongly related to race. When income was controlled for, racial differences in the level of successful completion diminished for low income youth. With regard to the importance of previous offenses, the greater the number of priors, the lower the level of successful completion. Youngsters with no priors completed their restitution orders in more than 90 percent of the cases. Each additional prior reduced the level of successful completion by an average of 2.2 percent.

IPA also examined the relationship between successful completion rates and the use of particular program components and processes. They found that the requirements of the restitution order, the presence of employment subsidy, and the size of the restitution order were moderately related to successful completion. The proportion of earnings subsidized and the type of restitution ordered (monetary restitution, direct service to victims, community service) were not related to successful completion. Youths who were ordered to complete sole sanction restitution (not being used in conjunction with other sanctions) were more likely to complete their restitution requirements than youths ordered restitution and probation or youths ordered suspended commitment restitution. The difference between those youths successfully completing restitution in conjunction with other sanctions was approximately 10 percent. Youths who received employment subsidization had successful completion rates about six percent higher than unsubsidized youths. However, the proportion of earnings which were subsidized did not seem to have any effect on the rate of successful completion.

The size of orders, whether monetary restitution or community service, was significantly related to successful completion of restitution requirements. In the case of monetary restitution successful completion varied from 77.4 percent (\$336 or more) to 92.7 percent (\$41 or less) depending upon the amount ordered. In the case of community service, successful completion varied from 76.9 percent (75 hours or more) to 96.2 percent (16 hours or less).

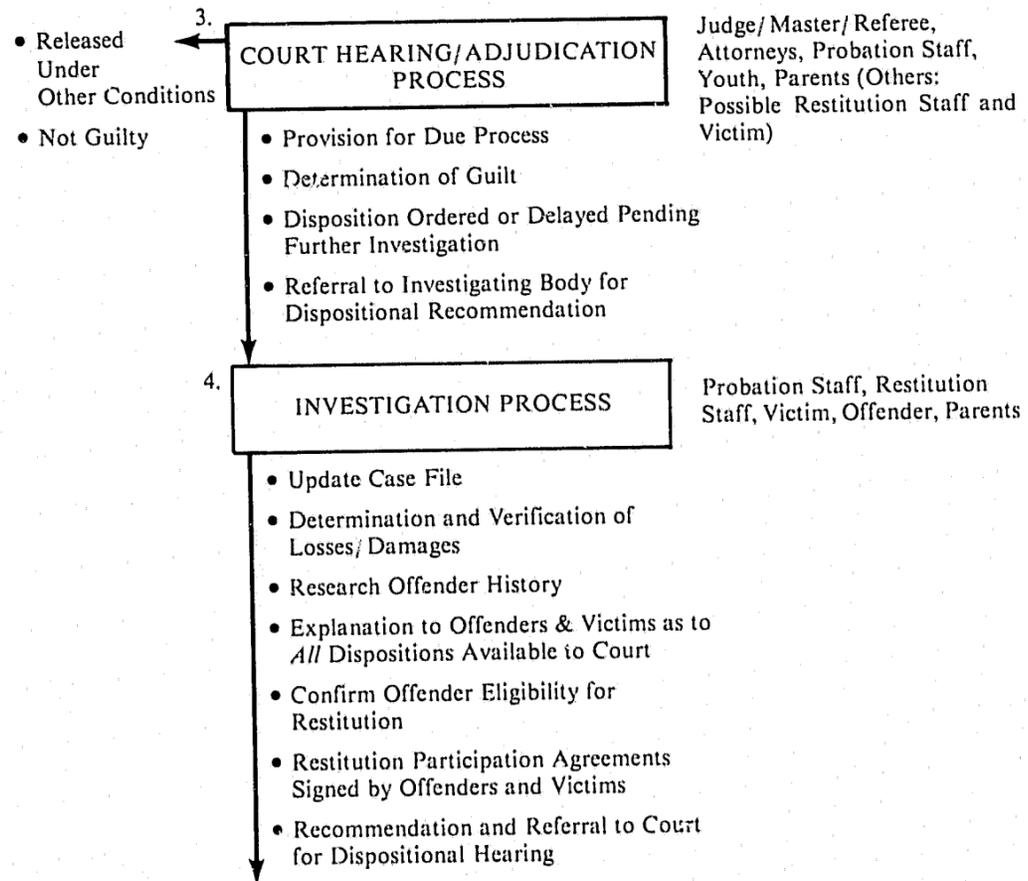
Appendix C

FLOW CHART FOR GENERIC RESTITUTION PROGRAM*



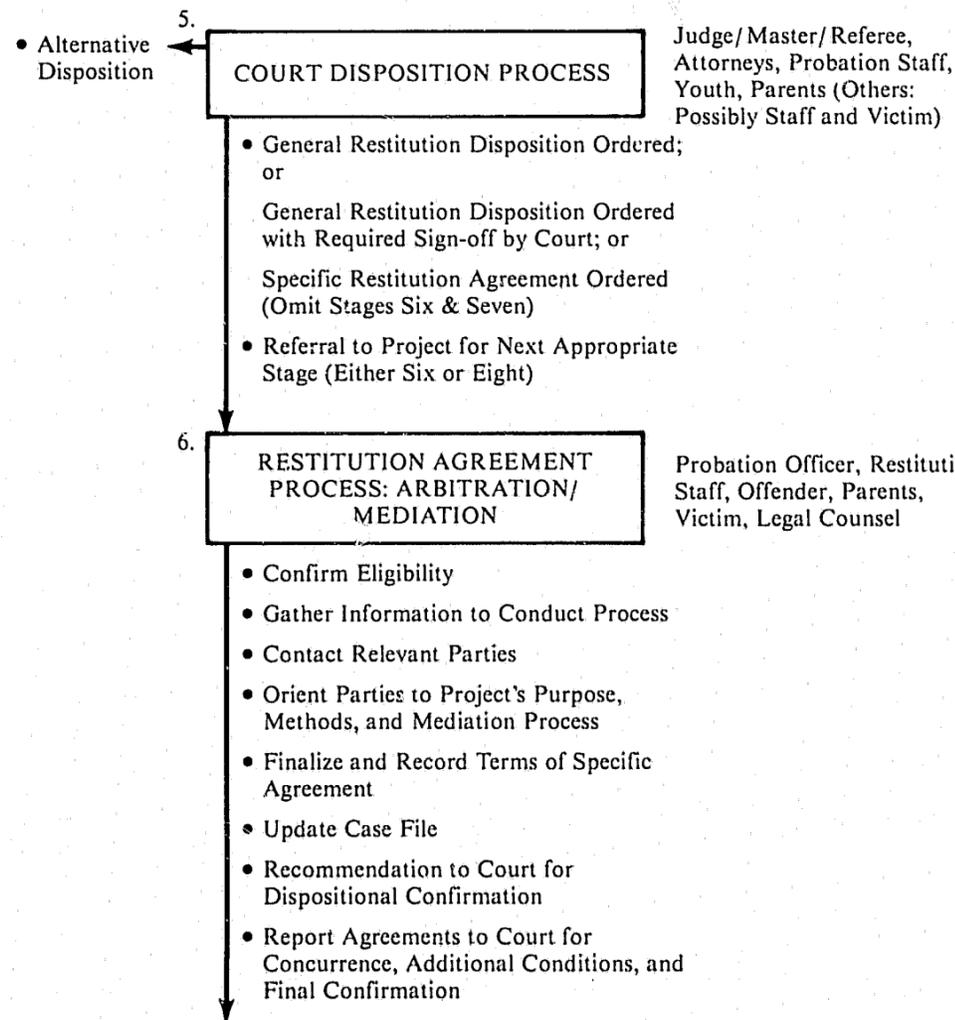
(Page 1 of 6)

*This flow chart was developed by the Minnesota Crime Control Board and appeared in the "Juvenile Restitution Technical Assistance Package" (April 1982). Prepared by Nancy Beck-Zierdt and Stephanie Shattuck.



Stage Three generally involves a determination of guilt or innocence and a process for safeguarding the legal rights of the parties involved. Some local jurisdictions may combine this stage with stages four and five. Such combinations may require a recommendation by restitution project staff as well as potential involvement of the victim. Regardless of these variations, the restitution project purpose, eligibility criteria, and methods must be understood by all major actors.

Stage Four is aimed at determining the most appropriate disposition. Depending on the local jurisdiction, this may be done solely by the probation staff or in conjunction with restitution project staff. Again, training on project purpose and eligibility criteria is required. Possible involvement with victims should ensure that unrealistic expectations are *not* raised during this stage.

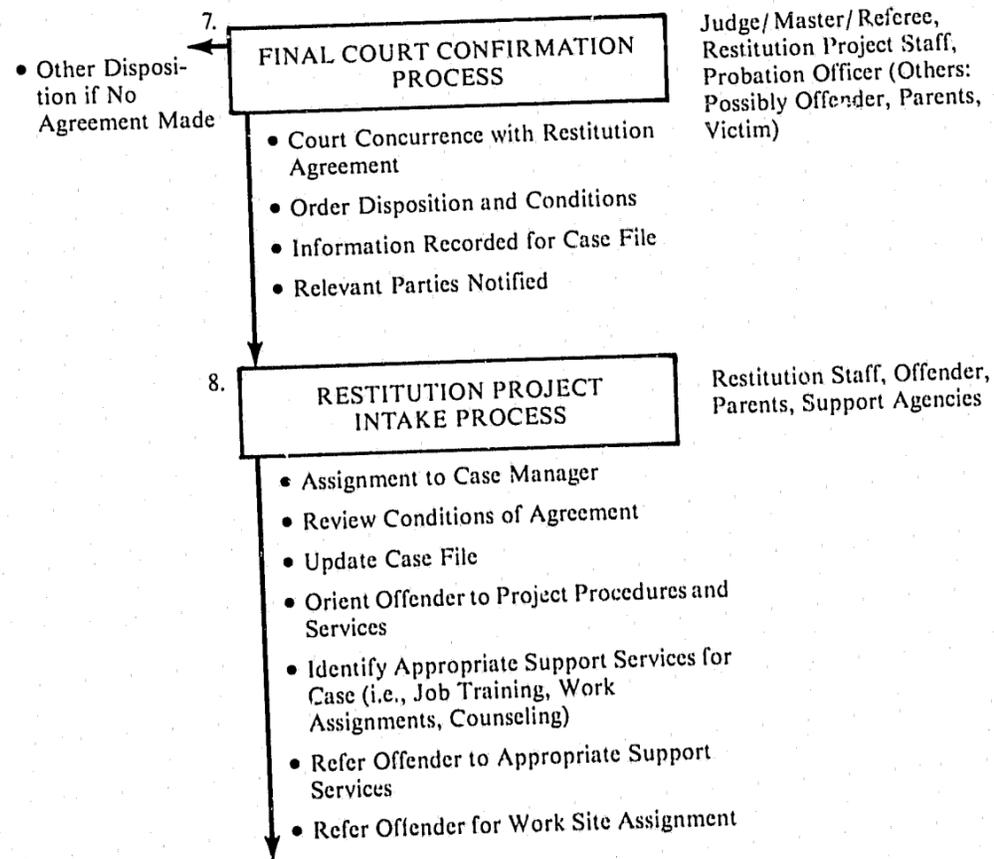


Stage Five is the court-ordered disposition phase. Orders may vary depending upon restitution project's authority to set conditions, as well as an earlier project involvement in previous stages. For example, a disposition which completely specifies the terms of restitution bypasses the necessity of completing stages six and seven.

Stage Six relates primarily to those procedures through which a specific agreement is determined between the victim, the offender, and the restitution project. These will vary depending upon the project's location to the court, its earlier involvement in preceding stages, and the types of restitution it utilizes.

CONTINUED

1 OF 2



Stage Seven involves court confirmation of the explicit terms of the restitution agreement. This may ensure that the court and all parties understand and agree as to the manner in which restitution will be made, how it will be accomplished, and the timing involved.

Stage Eight involves the first steps involved in the formal restitution process. At this point, the offender is oriented to the project's specific procedures and services (e.g., payment methods, work assignments).

9. WORK SITE ASSIGNMENT

Restitution Staff, Offender

- Determine Appropriate Work Site
- Notify Appropriate Parties As To Placement and Starting Date
- Update Case File
- Refer Case to Case Manager

Stage Nine involves the determination and assignment of an appropriate work site.

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10. CASE MANAGEMENT PROCESS

Restitution Staff, Offender, Parents, Support Service Agencies, Work Site Supervisors, Victim

- Supervise or Designate Supervision of Offender
- Monitor Offender Performance
- Track and Manage Funds in Monetary Restitution Agreements
- Track and Manage Time in Community Service Agreements
- Supervise All Direct Service to Victims
- Contact and Feedback to Appropriate Parties (i.e., Court, Offender, Victim, Work Site Supervisors)
- Update Case File
- Determine Successful Completion of Agreement
- Referral to Court Upon Completion of Agreement Terms

Stage Ten involves the procedures for managing a specific case as they relate to the offender, to the project, and to any support efforts. Non-Compliance issues are discussed in the narrative which follows this model.

RESTITUTION

11.

FINAL COURT HEARING PROCESS

Judge/Master/Referee,
Restitution Staff,
Offender, Parents

Stage Eleven involves the closure of the case for both the project and the court.

- Inform Major Parties as to Successful Completion of Agreement
- Termination of Restitution Agreement
- Termination of Probation
- Appropriate Closures on Case File

NON-COMPLIANCE ALTERNATIVES

- Informal Process:** Decision by case manager to handle the problem through an informal reprimand. The original agreement terms are not altered. Procedures include: 1) reprimand youth in an informal counseling session, 2) when appropriate, contact relevant parties concerning the youth's non-compliance and reprimand, and 3) update the case file.
- Formal Process:** Decision by case manager to meet with all relevant parties to discuss the youth's non-compliance and to formally reprimand the youth. The original agreement terms are not altered. Procedures include: 1) contact relevant parties to arrange meeting, 2) provide for legal safeguards, 3) reprimand youth during formal meeting, and 4) update the case file.
- Re-Negotiation Process:** Decision by case manager that non-compliance arises from the youth's inability to meet the original agreement terms. Procedures include: 1) contact all relevant parties to determine if re-negotiation is acceptable, 2) make recommendation to court to consider re-negotiation, 3) in the event of court concurrence, repeat stages six and seven above (otherwise use appropriate reprimand process and/or proceed under any new court mandates), and 4) update the case file.
- Termination Process:** Decision by case manager to terminate the agreement. Procedures include: 1) contact all relevant parties to determine if termination is acceptable, 2) make recommendation to court to consider termination, 3) in the event of court concurrence, refer case to court for termination hearing (otherwise choose another non-compliance alternative), 4) contact all relevant parties to arrange a court termination hearing date, 5) arrange for legal safeguards, and 6) in the event of termination, update and close case file (otherwise, case is referred back to project for another non-compliance alternative).

APPENDIX C

Appendix D

WALK-THRU OF MODEL PROGRAM

In order to provide the reader with some understanding of how philosophy, rationale, principles, research, and program components fit together into a coherent whole, we want to provide a look at a "model" juvenile restitution program. This particular model is located within the probation department and receives all of its referrals directly from the juvenile court. A special victim services component has been included to assist in the dissemination of information to victims and also to help in conducting investigations of monetary losses resulting from the crime.

This program operates as a centralized restitution unit. All of the restitution and community service functions are handled here. Since the court orders a youth to complete community service hours or to pay restitution, a form is completed by the officer of the court (i.e., probation officer, case aid worker, or prosecuting attorney) laying out the specifics of the order. A weekly computer listing of new restitution and community service orders provides a back-up and insures that the court's orders do not go unfulfilled.

Completed referral forms (see Form #1) are forwarded to the restitution unit where a logging process occurs and specific assignments can be made. The logging process is important since it allows internal tracking of individual cases to occur while simultaneously providing statistical data for periodic reporting or research purposes.

Following policies stated in the procedures manual, cases can be assigned to: (1) *the restitution investigator* if a victim is to be contacted or the amount of restitution is to be determined, (b) *the work coordinator* if the youth is to complete community service hours, (c) *the bookkeeper* if restitution has been ordered and the client will be supervised by a probation officer, or (d) *a case aid* if restitution is imposed as a "sole sanction" disposition. The case aid will make sure that an account is established with the bookkeeper.

Since the court at the point of disposition will have established a time deadline for the completion of the order, there is some urgency for staff to address the restitution and/or community service assignment. The likelihood of a positive impact from this sanction is greatly increased by having placement at the worksite occur as soon as possible after the offense has happened.

To aid in our program walk-thru, we will follow a hypothetical case in his progression through the program. Gary Owens is a 15-year-old youth who was apprehended in the course of burglarizing a home in his neighborhood. Following the arrest, the local police advised the homeowner/victim to contact the "Restitution Unit" to discuss the progress of the youth's case through the court and also to request restitution.

The following day, the restitution investigator received a call from the homeowner/victim. Using the case control number assigned by the police department, the investigator was able to contact the police and determine the identity of the boy. The computer tracking system quickly showed that the complaint had been received by the Intake Unit and was being reviewed by the prosecuting attorney. This information was conveyed to the victim and a preliminary loss estimate (See Form #2) was taken.

Within several weeks a formal arraignment was scheduled. Gary Owens admitted that the petition for an alleged burglary was true. The case was continued for a

disposition in three weeks; Gary was allowed to return to his home; and a pre-hearing investigation was scheduled.

Before the case file was given to the investigating probation officer, staff from the restitution unit reviewed the file. Finding that the admitted charge fell within the criteria for a restitution investigation, duplicate copies of the petition and police report were made. An official Restitution Unit case had been created. With the case logged into the unit, separate cards containing the victim's and offender's names and case numbers were made. These cards, when filed under "victim" and "offender," would form a valuable cross-reference in the future.

The restitution investigator to whom the case had been assigned determined that the victim had made an earlier contact with the Unit. The victim was recontacted, apprised of the status of the case, and allowed to "vent" his feeling regarding the trauma suffered as a result of the burglary. Since damages caused by the crime had already been repaired, receipts documenting the cost of repairs were available and were obtained by the investigator.

The restitution investigator's report, which is forwarded to the investigating probation officer and to the court, contains both subjective information regarding the victim's attitude and circumstances, and factual, documented data about the victim's monetary losses.

Simultaneously, a pre-hearing investigation was being prepared by the investigating probation officer. In Gary Owen's case, the probation officer concluded that there were sufficient strengths in his social environment to predict a relatively positive adjustment with low risk for further delinquent activity. Consequently, the decision was made that active supervision by the probation officer was unnecessary. However, the need for logical consequences and immediate accountability was strong. Therefore, the probation officer recommended that Gary pay restitution in the amount of the victim's total loss (in this case, \$147) and to complete 40 hours of unpaid community service. The restitution directly linked Gary to the victim and to the offense. The community service linked Gary to the repercussions of his offense: arrest, investigation, prosecution, supervision — all at the community's expense.

The court agreed with the probation officer's recommended disposition, found Gary delinquent, and ordered the restitution and community service. Both sanctions were to be completed in three months. In this case, the disposition was imposed as a "sole sanction." Gary would not be placed on active probation. Rather, the staff of the restitution unit would assume total responsibility to administer and monitor the completion of the court's orders. Strong consideration would be given to dismissing Gary from the court's jurisdiction if he completed the order before the deadline. However, Gary was admonished that serious consequences loomed (specifically, 2-3 days in detention) if he chose to ignore or not comply with the court's orders (See Form #3). The probation officer completed the specific conditions of the orders in the restitution referral form (Form #1) and forwarded it to the restitution unit. There, the supervisor reviewed the referral and assigned the case to the case aid who monitors "sole-sanction" restitution cases. The referral was directed first to the restitution investigator who immediately contacted the victim to report the results of the disposition hearing. Once the victim had been contacted, the referral was transmitted to both the worksquad coordinator and the restitution officer.

Upon receiving the case, the worksquad coordinator immediately placed Gary's name on a list of youths who would be assigned to work an eight-hour shift the following week. A letter (See Form #4), telling Gary when and where to report, was

mailed out. This was accompanied by a form (See #5) which explained the program's and the court's expectation of him while on the jobsite. Gary would be one of a group of ten youths (supervised by a paid, part-time, adult leader) who would be working with patients at a local nursing home.

While the youth was being introduced to his work assignment, the restitution officer reviewed the restitution order and set up an account with the unit's book-keeper. Restitution accounts are set up on the computer for accuracy and convenience of periodic reporting. A manual ledger card for each offender may be kept as a back-up. Using a form letter (See Form #6), the restitution officer reminds Gary of his restitution obligation and provides a schedule for making regular payments. A similar letter is sent to Gary's parents (See Form #7).

In Gary Owen's case, the restitution and community service orders were completed without incident. Gary worked at the nursing home on five consecutive Saturdays. During that time, he achieved a sense of working under supervision, working with other people, and the need for punctuality. Probably most importantly, Gary acquired a different view of himself. Through his weekly interaction with the nursing home patients, Gary began to see ability within himself to be of value to other people. He began to see himself as an asset, rather than as a liability. In fact, once his 40 hours of court-ordered work were completed, Gary found himself returning to the nursing home occasionally to assist, as a volunteer, with the patients.

Gary paid the full \$147 restitution (See Form #8) within two months using the wages he was able to earn from a part-time job at a local grocery store. The basic living and working skills he had acquired from his community service work experience proved to be invaluable assets in the grocery store job.

Since the monetary restitution and community service orders were satisfied prior to the court's deadline, the restitution unit staff recommended that Gary be released from the court's jurisdiction. Gary had violated the law, was apprehended, prosecuted, adjudicated, and fulfilled his court-ordered obligations. The victim was satisfied; Gary was held accountable and seemed to benefit from the experience. He did not languish indefinitely on a probation caseload, thereby achieving a cost savings for the court, and, ultimately, for the tax-paying community.

Of course, not all stories end as satisfactorily as Gary Owens'. For a variety of reasons some clients choose not to follow the court's orders. It is imperative that restitution and community service orders be aggressively and consistently supported by restitution unit staff, probation staff, administration and the court. Experience has demonstrated that, given this support, restitution and community service orders are likely to be completed. The resulting benefit to the victim, the community, the juvenile justice system and the juvenile offender are substantial, indeed.

Form #1

RESTITUTION PROJECT REFERRAL

R# _____

NAME _____ DOB _____ OFFENSE _____

ADDRESS _____ JUVENILE COURT # _____

CITY _____ ZIP _____

PARENTS/GUARDIAN _____ ADDRESS (if different) _____

PHONE _____ (if no phone, other phone possibilities, such as parents' employment)

PROJECT RECEIPT DATE _____ REFERRAL DATE _____

DISPOSITION ORDERS

Please indicate the Court's disposition below. Use the space provided for pertinent data, including progress report dates, location of commitment or other special information.

Supervision/Probation _____

Corrections Commitment _____

Residential Placement _____

Dismissal _____

Progress Report Date _____

MONETARY RESTITUTION

VICTIM #1 NAME _____ AMOUNT _____

ADDRESS _____ TELEPHONE # _____

Use additional paper, if necessary

TO BE PAID BY _____

COMMENTS _____

UNPAID COMMUNITY SERVICE

NUMBER OF HOURS COURT ORDERED _____

COMMENTS _____

Judge/Referee _____

Investigating Probation Officer _____

Supervising Probation Officer _____

PAID STIPEND PROGRAM

_____ Initial here if this youth

- 1) has been ordered to pay monetary restitution,
- 2) cannot find his/her own employment and,
- 3) the Restitution Project is to employ the youth to the extent of the monetary Restitution order.

Form #4

Dear _____:

The _____ Juvenile Court has ordered that you complete
_____ hours of Unpaid Community Service.

You are to report to _____

and every _____ thereafter until the hours have been completed.

A sheet has been attached which informs you of the rules and expectations of Community Service. You may bring a bag lunch. Dress for the weather.

As you were told in Court, there are penalties for failure to report. Additional hours of work will be assigned for the first unexcused absence. Any further problems could result in a return to Court for a Quick-Stop Hearing, resulting in up to 72 hours in detention.

If you have any questions, please feel free to call me.

Sincerely,

Case Manager

Form #5

The Community Service Work Squads are part of the Restitution Unit, Juvenile Division, _____ Court Services. Because the work has been ordered by the Hennepin County Juvenile Court, we must expect that those youth on the work squads behave in an acceptable way. Therefore, rules have been made. We expect that the rules will be followed. There are also consequences if you choose not to follow the rules. We have listed the rules and consequences below.

WORK SQUAD EXPECTATIONS

- _____ You are expected to report on the day, at the time, and at the place where you are told. Excuses, other than illness, are not acceptable.
- _____ You are expected to work the full work shift. (Either 4 hours or 8 hours.)
- _____ You are expected to bring or provide your own lunch.
- _____ You are expected to come dressed appropriately for the weather, because much of the work is performed outside.
- _____ You are expected to cooperate with the orders of work squad staff people.
- _____ You are expected to handle tools in a manner which is not dangerous to yourself or others.
- _____ You are expected *not* to engage in fighting.
- _____ You are expected *not* to use profanity.
- _____ You are expected *not* to use drugs or alcohol.
- _____ You are expected *not* to bring radios, electronic games, etc., to work.

WORK SQUAD CONSEQUENCES

- _____ An additional 4 to 8 hours (depending on the length of the work shift involved) may be given for poor work performance or lack of cooperation on the job.
- _____ An additional 4 to 8 hours (depending on the length of the work shift involved) may be given for the first unexcused absence.
- _____ If your behavior is unacceptable, you may be asked to leave the work site. No credit will be awarded for the entire work shift.
- _____ A Quick-Stop hearing may be required. This will result in a return to Court and a stay in detention for up to 72 hours.

Form #6

RE: _____

_____ appeared in _____ Juvenile Court on _____, 19____, and the Court ordered that restitution be made.

The amount to be paid has now been determined based on _____

Should you disagree with this determination you have the right to ask the Court for a review.

_____ is responsible for the payment of \$_____ on or before _____. Please make your payment by check or money order, payable to _____ Court Services. You may mail the payment to my attention, _____, for transmittal to the victim.

Again, your restitution was Court Ordered. Non-compliance with this order may lead to further court proceedings, which may include, among other things but not limited to, a Quick-Stop proceeding which could be detention in the _____ Juvenile Center for up to 72 hours.

If you have any further questions, please contact me at _____.

Sincerely,

Form # 7

Your _____ appeared in _____ Juvenile Court on _____, 19____, and the Court ordered that restitution be made.

The amount to be paid has now been determined based on _____

Should you disagree with this determination you have the right to ask the Court for a review.

Your _____ is responsible for the payment of \$_____ on or before _____. Please make your payment by check or money order, payable to _____ Court Services. You may mail the payment to my attention, _____, for transmittal to the victim.

Again, your restitution was Court Ordered. Non-compliance with this order may lead to further court proceedings, which may include, among other things but not limited to, a Quick-Stop proceeding which could be detention in the _____ Juvenile Center for up to 72 hours.

If you have any further questions, please contact me at _____.

Sincerely,

Form #8

Attn: _____

Re: _____

The Juvenile Court has ordered this juvenile to pay the amount of \$ _____.

Enclosed is a check in the amount of \$ _____;

which represents: _____ Partial Payment

_____ Full or Final Payment

If you have any questions please contact the undersigned at your convenience.

Sincerely,

Restitution Officer
 Juvenile Probation Services

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