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## Reducing the Harm of Criminal Victimization: The Role of Restitution

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## **Reducing the Harm of Criminal Victimization: The Role of Restitution**

### **Abstract**

Restitution is a court-ordered payment by offenders to their victims to cover the victims' economic losses resulting from the crime. These losses can be substantial and can harm victims and victims' families both directly and indirectly. But most victims do not receive reparation for their injuries, both because judges do not always impose restitution and because of problems with collecting restitution payments, even if there is a court order to do so. In this article, we review the literature on restitution and suggest that this compensatory mechanism is necessary to restore victims to where they were before the crime occurred. But monetary restitution alone is not sufficient. Making victims whole requires not only financial compensation from the offender, but also procedural, informational, and interpersonal justice from the criminal justice system.

**Keywords: Crime Victims, Financial Compensation, Informational Justice, Interpersonal Justice, Procedural Justice**

## **Reducing the Harm of Criminal Victimization: The Role of Restitution**

In the United States in 2012 there were almost 20 million property victimizations and almost 7 million violent victimizations (Truman, Langton, & Planty, 2013). Crime victims suffer real harms – property loss and damage, physical injury, and emotional distress – that are generally not adequately addressed by the criminal justice system, despite reforms prompted by the victims’ rights movement and the recommendations of the President’s Task Force on Victims of Crime (1982). In particular, crime victims do not usually receive reparations for the financial costs of their victimization, and this failure means victims often have difficulty coping with the sequelae of the crime.

The financial costs of victimization include both direct costs, such as lost or damaged property, medical expenses, lost wages, mental health counseling, and drug/alcohol treatment, and indirect costs, such as increased insurance costs, moving, buying protection devices, and avoiding certain neighborhoods (Kilpatrick, Beatty, & Howley, 1998). Pain and suffering is often the largest intangible cost, although reduced quality of life and fear of crime can also be substantial. Cohen (2005) estimated victims’ tangible and intangible costs for a robbery with injury at \$19,000, for an assault with injury at \$24,000, and for a rape at \$87,000. Victims of non-violent crime also incur substantial economic costs; identity theft victims suffer annual losses of almost \$17.3 billion (Langton & Planty, 2010).

This review examines the effectiveness of victim restitution in restoring victims, financially and emotionally, to their pre-crime status. We discuss victims’ needs and the types of support available to them, followed by how victim restitution programs are designed, how they operate in practice, and what they mean for victims of crime. We discuss why these programs do not restore victims financially, explain why financial compensation alone may not be sufficient for making victims whole, and indicate why victims’ successful coping requires procedural, informational, and interpersonal justice from the criminal justice system. We conclude by suggesting ways restitution can be made more effective for reducing the harm of criminal victimization.

## **Needs of Crime Victims and the Support Available to Them**

The President's Task Force on Victims of Crime (1982) addressed the government's interest in and responsibility for helping crime victims recover. The report's recommendations were based on the assumption that meeting the needs of crime victims would make them more satisfied with the criminal justice system and therefore more likely to participate in the criminal justice process, leading to more successful prosecutions of offenders and lower crime rates (Hudson, 1984). Moreover, it was hoped that victims' involvement would lead to better psychological outcomes (Kilpatrick & Otto, 1987). Consistent with this assumption, analyses of the National Crime Victimization Survey from 1993-2009 (Langton, 2011) suggest that violent crime victims who received assistance from victim services agencies were more likely to have cases in which a formal complaint was signed, an arrest was made, and there was contact from a prosecutor or judge. According to Langton (2011), this relationship suggests that victims who receive assistance are also more likely to be involved in moving their case through the criminal justice system, that victims whose cases have moved further through the criminal justice system are more likely to receive assistance, or that both processes are operating.

In response to the Task Force's recommendations, practitioners, researchers, and policymakers have taken steps to address victims' informational, emotional, and tangible needs (Tobolowsky, Gaboury, Jackson, & Blackburn, 2010). Informational support refers to the provision of information intended to help victims cope with stress and to advice or guidance in dealing with problems. Examples include information about the criminal justice system (e.g., estimates of the likelihood that police will make an arrest and notification of important events in their case) and about the types of support available to them (i.e., social and mental health services) and advice about crime precautions. Emotional support refers to the expression of caring, concern, and reassurance toward the victim. It also involves providing victims with opportunities to vent their emotions. For example, efforts have been made to integrate victims in the criminal justice system (e.g., by granting them the right to be heard at various stages of the process,

including plea negotiations and sentencing). Tangible, or instrumental, support involves the provision of material resources, such as financial assistance in the form of compensation from the state and restitution from the offender.

Of the three types of support, practitioners and researchers have devoted the least attention to victims' tangible needs. Tangible losses can be direct (e.g., a stolen car) and indirect (e.g., losing a job due to a lack of transportation). Tangible needs are important in their own right, but also because they affect intangible harms, including psychological outcomes. For example, a study of women in a domestic violence shelter found that family and friends providing a place to stay (i.e., tangible support) was related to lower depression scores and to higher quality of life (Goodkind, Gillum, Bybee, & Sullivan, 2003). Some types of tangible support, like financial compensation, may be particularly important because they achieve multiple goals. For example, compensation provides tangible support (i.e., financial assistance) and emotional support (i.e., acknowledgment of the harm to the victim). Research suggests that even symbolic tangible support (e.g., restitution that is ordered but not paid) can be helpful; it has a "placebo value" because it creates the impression that something is being done and that victims' concerns are being taken into account (Walsh, 1986). From a logistical standpoint, however, informational support is also important because many victims do not know that compensation exists (Shapland, Willmore, & Duff, 1985; Smith & Hillenbrand, 1997) and therefore are unlikely to receive tangible support.

This paper addresses the lack of attention paid to victims' tangible needs by focusing on restitution. Restitution is important because it is the primary vehicle by which the criminal justice system responds to victims' tangible needs and may also improve victims' psychological outcomes. Interest in economic sanctions (i.e., restitution, costs, fees, and fines) more generally has focused almost exclusively on offenders ("Fees & fines," 2011; Harris, Evans, & Beckett, 2010; Rosenberg, 2011; Ruback, 2011). To address this gap in the literature, we focus on the effects of restitution on victims.<sup>1</sup>

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<sup>1</sup> We should note, however, that in addition to restitution, there is a second way, victim compensation, by which crime victims can receive money for their losses. Crime victim compensation refers to state-sponsored programs, funded primarily by state sources (Newmark, et al., 2003), designed to reimburse victims for various out-of-pocket costs associated with the crime.

## **Restitution**

### ***History and Function of Restitution***

Restitution is compensation paid by the offender to the victim for any quantifiable loss suffered as a direct result of the crime (Ruback & Bergstrom, 2006). Restitution was established at the federal level in 1982, following passage of the Victim and Witness Protection Act, and became mandatory in almost all federal cases in 1996 as a result of the Mandatory Victim Restitution Act (Dickman, 2009). Most states have statutory provisions creating a presumption that, at least for some crimes, the imposition of restitution is mandatory (Tobolowsky, et al., 2010). These laws authorize restitution as a condition of probation, an independent sentence, or both (Tobolowsky, 2000).

Restitution is widely supported because it addresses the needs of both victims and offenders (Ruback & Bergstrom, 2006). Specifically, restitution addresses victims' tangible and emotional needs. Victims' tangible needs are met by reimbursing them for any tangible costs incurred as a result of the crime. Restitution addresses victims' emotional needs by legitimizing, in an official and public manner, that what happened to the victim was wrong and should be rectified (*Making restitution real: Five case studies on improving restitution collection*, 2011). This acknowledgment may improve victims' psychological well-being by helping to restore their sense of fairness and self-worth. Restitution may also address victims' emotional needs because it holds offenders directly responsible for the harm they inflicted (i.e., by requiring offenders to make payments that go directly to the victim). Furthermore, restitution may restore the balance of power vis-à-vis the offender (Kilpatrick & Otto, 1987). Addressing both victims' tangible and emotional needs is important because victims report more favorable reactions when compensation is accompanied by relational concern (Okimoto & Tyler, 2007). Even symbolic compensation (i.e., that which is offered but not received) results in more positive reactions if it is perceived as sincere (Okimoto, 2008).

Regarding offenders, support for restitution derives from claims that it promotes a sense of responsibility and accomplishment in an offender, thereby reducing the risk of recidivism. For example, restitution can help offenders understand that a victim was harmed and that they were responsible for that

harm. Consistent with these ideas, studies of both adults (Heinz, Galaway, & Hudson, 1976; Outlaw & Ruback, 1999) and juveniles (Farrington & Welsh, 2005; Schneider, 1986) have shown that restitution payment is associated with lower recidivism rates.

Taken together, these findings are consistent with Shnabel and Nadler's (2008) needs-based model of reconciliation, which suggests that victims experience a threat to their status and power and offenders experience a threat to their moral image. Victims' and offenders' willingness to reconcile is contingent on whether an act of social exchange, such as an order of restitution, removes both of these threats (i.e., whether it restores the victim's sense of power and preserves the offender's sense of belongingness and social acceptance).

### ***The State of Restitution Law***

The *Final Report of the President's Task Force on Victims of Crime* (1982) dramatically increased states' concern with restitution to crime victims. Prior to the report, only eight states had mandatory restitution (Tobolowsky, et al., 2010). By 1995, 29 states had mandatory restitution (OVC, 1998). But this increased concern with restitution has not been uniform across the country; some states are more supportive than others of crime victims. To document those differences, we examined laws concerning restitution for all 50 states and the District of Columbia using the VictimLaw searchable database maintained by the Office for Victims of Crime (<https://www.victimlaw.org/victimlaw/start.do>).<sup>2</sup>

One indicator of support for victims concerns the number and types of laws relating to restitution. We examined six such indicators (Table 1). First, we examined whether a right to restitution is written in the state constitution. Twenty states give victims this constitutional right.<sup>3</sup> Second, we examined whether the statutory provision regarding restitution is mandatory ("shall") or permissive ("may"). Thirty-three states use the mandatory "shall" language, but three (Connecticut, Idaho, and North Dakota) introduce qualifications. Third, we examined whether the judge in setting the amount of restitution is to consider the defendant's ability to pay. The six states that prohibit judges from considering ability to pay

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<sup>2</sup> The laws listed in the database are current as of 2011.

<sup>3</sup> According to VictimLaw, the number is 18. We are relying on the judgment of Tobolowsky, et al. (2010, p. 157) and our own reading of the constitutions of Montana and Virginia.

are placing the victim's interests above those of the defendant, in that the court-ordered amount is dependent on the victim's actual losses rather than on the defendant's present and future assets and wages. Twenty-three states explicitly indicate that judges can consider the defendant's financial resources, in some cases stating that the judge must consider the impact of paying restitution on the defendant and the defendant's dependents. Twenty-two states do not have a law that addresses the issue of whether the judge is to consider the defendant's ability to pay, meaning that the judge can consider the defendant's ability to pay.

Fourth, we examined whether there is a state law regarding whether the payment of restitution is to be made prior to the payment of other types of economic sanctions (e.g., fines, fees, costs). Because most defendants have few financial resources, it is unlikely that victims will ever receive full restitution or that state and local governments will receive the fines, fees, and costs owed to them (Ruback & Bergstrom, 2006). Thus, placing restitution first in order of payment means that, if a defendant pays any money, the victim, rather than the state or local government, will receive it. Twelve states indicate restitution must be paid first. According to Georgia law, half of any payments must go to pay restitution. Five states list other economic sanctions as having priority over restitution, and the laws of 34 states do not address the question of the order in which the various economic sanctions must be paid.

Fifth, we examined whether there is a state law by which a restitution order automatically becomes a civil judgment, as this process makes it easier for crime victims to recover money if the defendant's supervision ends without full payment of restitution. Fourteen states have laws that convert restitution orders into civil judgments. Thirty-seven states do not have laws that address this question. Finally, we examined whether under state law a restitution order permits the seizure of assets or property or the garnishment of wages. Eight states have such a law.

[TABLE 1 ABOUT HERE]

Overall, then, there are clearly differences among states in their support for crime victims. States differ in whether victims' rights are addressed in the state constitution, in how they expect judges to impose restitution, and in how victims can receive the restitution they are owed. Although legal rights are

important, in that they are a clear statement of a state's view of the importance to be attached to the treatment of crime victims, by themselves they are not sufficient. For example, in their comparisons of two states with strong victims' rights to two states with weak victims' rights, Kilpatrick, et al. (1998) found that victims in the states with strong legal protection were more likely to be informed about their rights and to be notified of events in their cases. But more than a quarter of the victims in the states with strong legal protection were not satisfied with their treatment by the criminal justice system.

### ***Website Help with Restitution***

Because the existence of a law does not necessarily mean that it will be enforced, we examined another state-level indicator of concern that crime victims know about and receive the restitution they are due. For each state, we coded whether there was information available at the state's website for crime victims, directly or indirectly, through such headings as "victim rights." First, we noted whether there was a separate section on restitution. Second, we copied any material about restitution to a Microsoft Word document and then used the word count command to count the number of words devoted to restitution.

Eighteen states had no information relating to restitution on the website for crime victims (Table 1). Another 13 states had fewer than 25 words devoted to restitution, most commonly stating that victims have a right to restitution. The remaining 20 states had more detailed discussions, with Alaska, New York, and Wyoming having particularly detailed treatments. Delaware posts the form that victims must complete to receive restitution.

To examine whether victims' legal rights are related to the information available at a state's website for crime victims, we tested whether the number of words devoted to restitution varied as a function of the presence versus absence of each of the six legal rights coded earlier. For five of the legal rights, there was no effect. That is, whether there is a constitutional provision, restitution is mandatory or permissive, restitution must be paid before other economic sanctions, a restitution order is converted to a civil judgment, and a restitution order allows the attachment of property or the garnishing of wages was unrelated to the number of words related to restitution on the state website for crime victims (all  $t$ 's < 1).

However, for the sixth legal right, whether judges can take the defendant's ability to pay into account when setting the restitution amount owed, there was a marginally significant relationship. Specifically, the website material on restitution in the six states in which judges cannot take ability to pay into account was longer ( $M = 420.3$  words) than the website material on restitution in the states in which judges can take ability to pay into account ( $M = 138.6$  words),  $t(49) = 1.89$ ,  $p < .07$ . The effect was slightly stronger when the 18 states that had no restitution material on their website for crime victims were excluded. For this analysis, the website material on restitution in the four states in which judges cannot take ability to pay into account was longer ( $M = 630.5$  words) than the website material on restitution in the states in which judges can take ability to pay into account ( $M = 215.1$  words),  $t(31) = 1.89$ ,  $p = .06$ .

Our examination of the number of words devoted to restitution should only be considered illustrative of our general belief, consistent with the Kilpatrick et al. (1998) finding, that statutory recognition of rights is not the same as actual implementation. Our research in Pennsylvania suggests that victims who understand the process and who feel they are treated with respect are more likely to be satisfied with their treatment by the criminal justice system. Thus, our work would suggest that states may be better able to implement victims' rights regarding restitution if they describe the procedures victims are likely to experience, define terms that victims are unlikely to know, and give explicit information about what victims will need to do (e.g., finding receipts, completing forms, informing the district attorney) and where to go if things do not work out.

### ***Restitution in Practice***

Restitution is imposed on an offender at the time of sentencing. To receive an order of restitution, the victim must report the crime to the police, the offender must be identified, arrested, and convicted, and the victim must provide, in a timely manner and using the appropriate forms, information documenting any quantifiable losses suffered as a result of the crime. Although restitution cannot be ordered for pain and suffering<sup>4</sup>, it does cover medical bills, mental health counseling, replacement of lost

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<sup>4</sup> For damages that are more difficult to quantify, like pain and suffering, civil court options are available (National Crime Victim Bar Association, 2001).

or stolen property, and funeral expenses. There are no nationwide studies examining how victims find out about restitution or about which victims apply for and are awarded restitution. Instead, most of what we know comes from studies conducted in individual states, particularly Pennsylvania.

Restitution orders require that victims are aware both that there is the possibility of restitution and that there is a procedure for how to apply for it. Typically, this information comes from proactive measures from the criminal justice system. For example, among victims from two Pennsylvania counties who received orders of restitution, the criminal justice system was the primary source of information: 45% of victims learned about their eligibility from a victim witness advocate and 23% learned from the police (Ruback, Cares, & Hoskins, 2008). In one county the victim witness program used police reports of crimes involving a victim to obtain victim contact information; this information was then used to send letters to victims notifying them of the resources available to them.

Research focuses primarily on the imposition and payment of restitution, rather than on the types of victims who apply. Studies consistently find that even making restitution mandatory does not guarantee that it will be imposed. Following the implementation of a statutory change making restitution mandatory in Pennsylvania (18 Pa. C.S.A. §1106), it was imposed in only 64% of eligible cases (Ruback & Shaffer, 2005). One of the strongest predictors of receiving an order of restitution is the ability to estimate damages (i.e., restitution is more likely to be ordered when the losses are tangible and therefore easier to quantify; National Center for Victims of Crime, 2002; Outlaw & Ruback, 1999; Ruback, Shaffer, & Logue, 2004). Beyond that, the strongest predictors of imposition are outside the victim's control (i.e., case and offender characteristics).

When restitution is awarded, payment is a significant issue because the offender is responsible for making payment. The criminal justice system typically facilitates this process, such that when an offender makes a payment to the court (e.g., the clerk of courts, the probation office), it is then forwarded to the victim. Thus, whether the offender pays and how that payment is handled by the court (e.g., whether restitution is paid before other economic sanctions, how restitution is divided among multiple victims) has implications for the victim.

Restitution policies and practices differ across jurisdictions, and these differences affect how and when victims receive restitution. For example, Ruback and colleagues' (2006) analysis of six Pennsylvania counties found that, in one county, victims from older convictions were paid first, but in another county, payments were evenly divided across all victims, regardless of when the conviction occurred. In most counties, individual victims were paid before business victims, state victims, or insurance companies.<sup>5</sup> Pennsylvania law requires that the first 50% of all offender payments be applied to restitution and that other economic sanctions (fines, fees, costs) are paid after that. Some counties exceed that amount by requiring that 100% of payments be applied to restitution until it is paid in full. In contrast, one county was not in compliance with the law because it initially required that supervision fees and DUI course instructors be paid first.

### ***Restitution and Victim Needs***

How well is restitution meeting victims' tangible and emotional needs? Nationally, restitution is imposed in 18% of all state felony cases (Rosenmerkel, Durose, & Farole, 2009) and 13% of all federal cases (*2010 annual report*, 2011), but these numbers do not take into account whether restitution could be imposed in these cases. Considering only restitution-eligible cases, studies in Pennsylvania have found that restitution is imposed about two-thirds of the time (Ruback, Ruth, & Shaffer, 2005; Ruback & Shaffer, 2005).

Victims in these cases scored the symbolic victory of having the harm they experienced and the offender's responsibility for repairing that harm acknowledged. Although there is no guarantee that restitution will actually be paid, some scholars have suggested that perceptions of fairness may be more strongly affected by procedures than by outcomes, particularly if positive outcomes are not expected (Lind & Tyler, 1988). This acknowledgment may help meet victims' emotional needs by restoring their faith in the world as a fair place where those who are harmed are helped and those who do wrong are punished. The extent to which victims' emotional needs are met may depend on whether restitution was ordered in the full amount of their damages. According to one study of four programs, 56% of victims

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<sup>5</sup> In some counties, judges were not willing to order restitution for insurance companies.

reported that the amount of restitution ordered fell short of covering their losses (Davis, Smith, & Hillenbrand, 1992). Victims who receive orders of restitution that are lower than their reported damages may feel that the harm they experienced was not fully acknowledged.

When making decisions about restitution amounts, judges may be considering the offender's ability to pay, items may be devalued, or judges may feel that victims failed to demonstrate the full extent of their damages. Taken together, these considerations lead to significant variability in the amounts of restitution ordered. For example, one survey of victims who received orders of restitution found that the amounts ordered ranged from \$0 (some victims did not recall restitution being ordered) to over \$61,000, with a mean of over \$7,000 and a median of \$500 (Ruback, et al., 2008).

Because restitution is ordered only after an offender is convicted, it generally does meet victims' tangible needs at the time they most need it. Even if ordered, victims often believe that the amount awarded does not cover their losses (Davis, et al., 1992). Furthermore, once restitution is ordered, there is no guarantee that it will be paid soon, if at all. For example, since its inception in 2004, Vermont's Restitution Unit has an overall collection rate of only 24% (*Making restitution real: Five case studies on improving restitution collection*, 2011). Ruback and colleagues' (2006) study of six Pennsylvania counties found that two to four years after conviction, the average percentage of restitution paid ranged from 34% to 74%. They surveyed victims from two of the six counties and found that 24% of restitution orders were paid in full, 28% were partially paid, and 48% had not received any restitution payments (Ruback, et al., 2008). It is no surprise, then, that one study found that only 37% of victims were satisfied with the timeliness of restitution payments and only 33% were satisfied with the amount paid to date (Davis, et al., 1992).

### ***Restitution and Justice for Victims***

Restitution attempts to address both victims' tangible needs, by reimbursing them for crime-related costs, and their emotional needs, by acknowledging that they were harmed and deserving of reparation. The hope is that by meeting victims' needs in this way, they will be more satisfied and therefore more likely to cooperate with the criminal justice system in the future. The findings presented

above show that many victims receive at least some restitution. If the restitution process is unsuccessful, however, victims may perceive it as a second victimization. For example, victims may feel re-victimized if they are not kept informed about the process or if they expect restitution, only to have it not ordered, not ordered in the amount they requested, or not paid (in full or at all). The promise of restitution may artificially raise victims' hopes that the harm done to them will be repaired. For elderly victims, restitution recovery is one of the primary problems they face (Nerenberg, 2000).

If restitution is going to help victims, it is important that they have input in the process and be kept informed, especially if their tangible needs may not be met. Although prioritizing victim input is not a new goal (e.g., President's Task Force on Victims of Crime, 1982), it is a goal that is not always met. For example, one study found that only 27% of victims felt the court took their estimation of losses into account when determining the amount of restitution (Ruback, et al., 2006). In an earlier study of four programs, 91% of victims thought it was important to provide information about their loss before restitution was determined, but only 52% had been asked to do so (Davis, et al., 1992). The extent to which victims are being kept informed is even worse. Davis and colleagues (1992) reported that 52% of victims were contacted by someone in the criminal justice system after the award was made; 77% of those were informed of the amount of the award, and 40% were informed of when to expect restitution payments and who to contact for questions. Only 19% of victims in their study believed they were well-informed about restitution (Davis, et al., 1992). Ruback and colleagues (2008) also found that most victims did not feel they were kept up to date about restitution (49% strongly disagreed and 11% disagreed that they were kept up to date). Furthermore, victims reported contacting court and victim witness staff about restitution more often than they were contacted by those entities.

The low levels at which victims are being kept informed may have implications for how well victims understand the restitution process. For example, in a study of 238 victims, all of whom had had restitution imposed, only 62% recalled restitution being ordered in their case (Ruback, et al., 2008). Victims also reported that they did not understand the restitution process; on a 7-point scale of understanding, the mean was below the midpoint (Ruback, et al., 2008). Almost a quarter of respondents

(23%) reported that they did not know who had determined the amount of restitution owed to them (Ruback, et al., 2006), reinforcing the idea that levels of understanding are low.

Given victims' low levels of input, information, and understanding, how do they view the restitution process? Ruback and colleagues (2006) found that 71% of victims thought the procedures used to determine the amount of restitution were fair and 56% were satisfied with the amount of restitution ordered in their case. Those who understood the restitution process better were more likely to see the process and outcome of restitution as fair (Ruback, et al., 2008). Similarly, Davis et al. (1992) found that victims were more satisfied with the restitution process when they felt they were well-informed and were given someone to contact with questions. These studies highlight the importance of two goals the victims' rights movement has pushed for: victims being involved and informed. Ensuring that victims are involved in and informed about the process may help address victims' emotional needs by returning to them some control over their outcomes. Nevertheless, in cases where victims receive no restitution, there is a lingering concern that "for many victims restitution becomes a hollow promise" (Davis, et al., 1992, p. 746).

Restitution is important not only because of its ability to meet victims' tangible needs, but also because it may lead to greater victim satisfaction with the criminal justice system and therefore greater willingness to report future crimes to the police. Consistent with this rationale, a survey study of victims found that payment of restitution and understanding of the restitution process increased victims' willingness to report crimes in the future (Ruback, et al., 2008).

### ***Victims' Needs beyond Restitution***

Restitution is positively related to satisfaction with the offender's sentence and with the criminal justice system, especially if the percentage paid of the amount owed is higher (Davis, et al., 1992; Erez & Tontodonato, 1992). Although the financial outcomes victims receive are important, victims' perceptions of how fairly they were treated may be more strongly affected by the procedures they underwent than by the outcomes they received (Lind & Tyler, 1988). That is, procedural justice may matter more than distributive justice to victims. Distributive justice refers to the perceived fairness of decision outcomes.

In the context of victims, fair outcomes are those that respond to the victim's needs: people with greater need should receive higher outcomes (Leventhal, 1980). Thus, outcomes should be greater (e.g., restitution should be more likely to be ordered, the amount of restitution ordered should be higher) for victims who suffer greater financial loss, physical injury, or psychological harm as a result of their victimization. And, outcomes should be particularly high for poor victims, who have fewer resources with which to deal on their own with financial loss, physical injury, and psychological harm. In contrast, procedural justice refers to the perceived fairness of the procedures used to determine decision outcomes. Procedural justice is enhanced when victims are given voice during the decision making process and influence over the outcome (Thibaut & Walker, 1975). Thus, crime victims are more likely to believe that procedures are fair when they feel that prosecutors and judges consider their views during plea bargaining and sentencing (Erez & Tontodonato, 1992).

Procedural justice is important because it signifies that people are valued by the groups to which they belong and by the authority figures who are responsible for enacting the procedures (Tyler & Lind, 1992), values that are demonstrated in terms of three factors: standing (i.e., being treated with dignity and respect), trust (i.e., concern for the individual's needs and the authority's intention to act fairly), and neutrality (i.e., honesty, the absence of bias, and informed decision making based on the facts). Consistent with these notions of the importance of procedural justice, evidence suggests that victims are more interested in being treated with dignity and respect than in influencing the sentencing decision (Shapland, 1984; Shapland, et al., 1985; Wemmers, Van der Leeden, & Steensma, 1995). Procedural justice is also important because perceived procedural fairness affects how people react to their outcomes, a phenomenon known as the fair process effect. This effect, which occurs when people do not have information about others' outcomes, suggests that victims may view negative outcomes (e.g., nonpayment of restitution) more favorably if those outcomes were at least the result of fair procedures (Van den Bos, Lind, Vermunt, & Wilke, 1997).

In addition to distributive justice and procedural justice, two other types of justice (interpersonal justice and informational justice) are relevant to understanding how crime victims cope with their distress.

Interpersonal justice refers to the extent to which people are treated with respect and sensitivity, including displays of empathy and concern for the individual (Greenberg, 1993). Thus, victims are probably more likely to feel that they were treated fairly when police, victim advocates, prosecutors, and judges acknowledge the social, economic, and psychological impact of the crime on the victim. Consistent with this idea, Ruback et al. (2008) found that victims were more satisfied with the criminal justice agents they encountered earlier in the criminal justice system (e.g., the police) because these agents were more likely to listen to their ideas and opinions than were agents encountered later in the criminal justice system (e.g., the probation officer).

Informational justice refers to whether individuals receive complete and truthful explanations of the decision-making process. It also encompasses the validity of the information provided as the basis for decision-making (i.e., information that is verifiably correct and thus worthy of use in decision-making). Informational justice is greater when victims have sufficient information about the criminal justice process (i.e., about how the criminal justice system operates and about the victim's role at each stage of the process) and about the resources available to them (i.e., about victim compensation, restitution, and the availability of victim/witness assistance programs). Informational justice is important because it plays an important role in victims' perceptions of the criminal justice process. For example, Shapland et al. (1985) found that although most victims were satisfied with the police at the time of their initial meeting, their satisfaction declined over the course of the criminal justice process, in large part because of the lack of information they received about what was happening in their case.

For two reasons, research on distributive, procedural, interpersonal, and informational justice suggests that priority should be given to victims' informational and emotional needs. First, because most victims will not receive restitution, they are likely to judge the fairness of their involvement based on the way they are treated, that is, on procedural, interpersonal, and informational concerns rather than on outcomes (distributive justice). Second, informational support may be especially important because it is necessary for victims to learn about the rights and services available to them.

## **Discussion**

The United States has seen almost universal adoption of restitution; it has transitioned from a voluntary to a mandatory or presumptive sanction on offenders (OVC, 1998). Despite these advances, it seems that restitution has fallen short of expectations. Over the decades, many of the issues of implementation have persisted and many of the complaints of victims are the same. The criminal justice system still struggles with issues of imposition (e.g., even when mandatory, in many cases restitution still is not imposed) and collection (e.g., in spite of even targeted specialized efforts, rates of collection fall far below 100%), which means that even delayed satisfaction of victims' tangible needs is often incomplete. Simply put, many victims are not getting reimbursed for their financial losses. If financial losses remain unmet, this may increase stress for victims and make it difficult for them to address their emotional needs resulting from the crime.

Even given shortfalls in meeting tangible needs, restitution still holds the potential to meet victims' emotional needs by seeking their input, keeping them informed, and treating them fairly. There continue to be issues of limited victim inclusion in the process and a lack of information flow. Victims are often not told of the options for financial relief, are not kept up to date on the process, and feel that their input was not heard. All of this can reinforce a feeling of powerlessness, which does not help meet a victim's emotional needs and may even make those needs worse.

### ***Victims and Criminal Justice Solutions***

The criminal justice system may not be the best option for meeting victims' needs. The danger of victims relying on the criminal justice system is that efforts to meet their needs may be co-opted by the system's emphasis on efficiency of case processing and sanctioning of offenders. For example, factors related to how the criminal justice system operates, such as how long the judge and prosecutor have worked together (Haynes, Ruback, & Cusick, 2010), affect the imposition of restitution. The potential of restitution to help victims is compromised because it is rarely a stand-alone sanction (i.e., it is often combined with probation or incarceration) or even the only economic sanction an offender is ordered to pay. Instead, it is often one of many economic sanctions an offender must pay (Harris, et al., 2010;

Ruback & Clark, 2010), potentially lessening the likelihood that restitution will be paid. From our research collecting data in six counties, we cannot recall a conversation with those responsible for collecting restitution about any efforts to keep victims informed beyond sending payments out to them. In major part, this failure is probably because restitution was rarely collected separately from other economic sanctions and because collection and payment were typically handled by probation and court staff as one of their many responsibilities (with collection and payment not being the primary one).

What all of this suggests is that it is unlikely that the criminal justice system can meet victims' needs, particularly their emotional needs. It is, after all, the *criminal* justice system, with a primary focus on offenders. Once initiated, the criminal justice process is almost entirely out of the victim's control. Engaging with the criminal justice system via restitution may amplify victims' loss of control, rather than helping them regain a sense of control. An unsatisfactory outcome may also reinforce the idea that the world, via the criminal justice system, is not a fair place. After all, if it was fair, the state (in this case, the criminal justice system) would repair the harm done to its citizens. This raises concerns about the potential for negative consequences for victims. Victims of crime are more likely to develop substance abuse problems, post-traumatic stress disorder, depression, anxiety, and a host of other adverse mental health outcomes. When victims cannot restore a sense of control, a view of the world as a fair and just place, and a sense of self-worth, there is increased likelihood that these negative consequences can be more severe and last longer (Janoff-Bulman & Frieze, 1983). These are also individuals at increased risk for revictimization (Shaffer & Ruback, 2002). But if their experiences with restitution or victim compensation were negative, they may be less likely to call the police in future victimizations. Although individuals in the system may respond in a way that is supportive of and helpful to victims, this does not mean depending on the criminal justice system to meet victims' needs is a good idea.

Despite well-intentioned reforms, restitution is not meeting victims' tangible needs because victims often do not know these programs exist and because there are restrictions on both victims' eligibility and offenders' ability to pay. The situation is not hopeless, however, as research suggests that victims care greatly about both the way they are treated and their outcomes. Thus, it may be more

important for victim services to focus on victims' emotional and informational needs. However, this is not to say that the tradeoff between tangible and emotional support is equal. The point is that when victims' tangible needs are not met, emotional and informational support may be most important for helping victims make sense of their outcomes.

Restorative justice practices are based on the belief that crime is about harm and the justice process is about repairing that harm in a way that balances the needs of the victim, the community, and the offender (Bazemore & Umbreit, 1999; Van Ness, 1990). Because restitution emphasizes helping compensate victims for their losses and helping offenders learn the extent of the harm they caused and assume responsibility for repairing that harm, it is consistent with the goals of restorative justice.

Restorative justice includes both a formal process, administered by the government, and an informal process, administered by the community. The formal process focuses on accountability and reparation, whereas the informal process focuses on moving beyond restoration (Van Ness, 1990). The combined processes may offer a better way for both criminal justice professionals and clinicians to meet victims' informational, emotional, and tangible needs. Restorative justice approaches are particularly important because evidence suggests that they perform better than conventional justice approaches at reducing harm to victims. For example, face-to-face restorative justice conferences are associated with an increased likelihood that victims will receive an apology and that they will perceive it as sincere. Furthermore, evidence suggests that victims prefer an apology over other outcomes such as money or vengeance (Sherman et al., 2005). Restorative justice conferences are also associated with reductions in post-traumatic stress symptoms (Strang et al., 2006).

### ***Possible Reforms***

The Restitution in Pennsylvania Task Force (2013) made several suggestions about how to ensure that victims are awarded restitution and that offenders pay the amounts ordered. To make it easier for judges to understand the law and to issue restitution orders, the Task Force suggested that the State develop a toolkit for judges that clarifies and standardizes policies regarding the imposition of restitution, investigates the possibility of suspending state driver's licenses for offenders who do not pay, creating

restitution funds and restitution programs to reimburse crime victims for their economic losses, mandating Clerks of Court to file civil judgments when a case balance exceeds \$1,000, increasing means to collect restitution by directly taking money from the offending (e.g., attaching wages, attaching IRS refunds) or inducing the offender to pay through threats to restrict travel, limit eligibility for public assistance, and file contempt of court proceedings.

One problem with disbursing money to victims is that they are sometimes difficult to locate if they have moved. The Restitution in Pennsylvania Task Force (2013) recommended the establishment of a web-based system by which victims could easily update their contact information relating to the restitution order. The Task Force also recommended, based on surveys of victims (Ruback, et al., 2008), that victims be provided with more information about what restitution is and how it is imposed, collected, and distributed.

### ***Directions for Future Research***

Although restitution programs have been operating for decades, research on them is sparse and much of it focuses on offenders, underscoring the minor role these programs and victims play in the criminal justice system. The lack of research limits the field's ability to understand how well these programs are working, both for victims and for the criminal justice system more generally. For two reasons, future research should examine how best to implement restitution. First, restitution benefits offenders by promoting a sense of responsibility and accomplishment, thereby reducing their risk of recidivism. Second, restorative justice practices, like restitution, perform better than conventional justice practices at reducing harm to victims.

Research is also needed to examine the effects of restitution on outcomes such as fear, anxiety, post-traumatic stress disorder, depression, substance abuse, and re-victimization. For example, how do victims' perceptions of fairness (of their outcomes, of the process, of the way they were treated, and of the information they were given) affect these other outcomes? How does the extent to which victims' needs are met (e.g., whether or not restitution is paid in full) affect these outcomes? How important is the

speed with which victims' needs are met? Ideally these types of questions would be investigated via prospective, longitudinal designs.

Mental health professionals should also evaluate the effects of restitution on mental distress, pain, and suffering. For example, how does addressing victims' tangible needs affect victims' emotional needs? Are victims who do not receive restitution worse off than those who do? If the answer is no, mental health professionals may do a greater service by focusing on victims' informational and emotional needs. Rather than relying on the criminal justice system to meet victims' needs, mental health professions should also assess how best to serve victims when their tangible needs are met but their emotional needs are not, versus when their emotional needs are met but their tangible needs are not. Although mental health professionals may be better equipped to handle the first kind of case, they may be able to accommodate the second kind of case by meeting victims' informational needs. For example, they may be able to provide victims with information about non-criminal justice related sources of financial support.

Finally, future research should consider whether restitution should be expanded. In other words, are the restrictions on eligibility and award amounts justified? While expanding restitution may be difficult because offenders often do not have the ability to pay, expanding compensation is more feasible as some states have a surplus of these funds (Newmark & Schaffer, 2003).

### ***Conclusion***

Integrating victim-focused services into an offender-focused system is a challenge. Restitution does not need to be abandoned as a source of support, but it does need to be improved, especially in terms of communicating information to victims (Davis, et al., 1992; Ruback, et al., 2008). Victims need to be informed promptly about restitution, including the details about what is required of them and what they should expect from the process. Communication may be facilitated by locating victim-witness services within courthouses and integrating those services within prosecutors' and probation offices (Ruback & Shaffer, 2005).

One challenge that both criminal justice and mental health professionals must face is how to balance providing honest and realistic assessments of the process of applying for restitution and the likelihood of payment without discouraging victim participation. To help address that challenge, efforts to increase the amount and timeliness of payment are needed. However, the challenge for offenders is that, in many cases, they simply cannot afford to pay restitution, particularly in a timely manner. One solution to this problem may be to expand victim compensation programs so that the state assumes responsibility for the offender's restitution.

As efforts to improve compensation and restitution move forward, it may be helpful to think of less traditional approaches. Our focus here was on traditional criminal justice programs, but evidence suggests that rates of restitution payment may be higher in restorative justice programs (Latimer, Dowden, & Muise, 2005). Although research in this area is plagued by issues of sample selection bias (i.e., because participation in restorative justice programs is limited to specific subgroups of offenders and victims), restorative justice programs are capable of providing informational support (i.e., by discussing the criminal justice process and the rights and services available to victims), emotional support (i.e., by acknowledging the harm they experienced and giving them the opportunity to be heard), and tangible support (i.e., restitution). Thus, criminal justice and mental health professionals may do better to focus on these programs than on compensation or restitution alone.

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Table 1. Restitution Laws by State

<b>State</b>	<b>Constitutional Right to Restitution</b>	<b>Type of Statutory Provision Regarding Restitution</b>	<b>Consider Defendant's Ability to Pay</b>	<b>Restitution is Required to be Paid First</b>	<b>Restitution Order Becomes a Civil Judgment</b>	<b>Restitution Order allows Seizure of Assets, Property, or Wages</b>	<b>General Website for Crime Victims</b>	<b>Separate Section on Restitution</b>	<b>Number of Words Devoted to Restitution at the Website</b>
Alabama		Shall	Yes			Yes	Yes	No	9
Alaska	X	Shall	No		Yes		Yes	Yes	1833
Arizona	X	Shall	No	Yes	Yes		Yes	No	21
Arkansas		May	Yes				No	No	0
California	X	Shall		Yes	Yes		Yes	Yes	317
Colorado		Shall			Yes		Yes	No	43
Connecticut	X	Shall	Yes				Yes	No	70
Delaware		Shall		No	Yes		Yes	No	590
D.C.		May	Yes				Yes	No	19
Florida		Shall	Yes		Yes	Yes	Yes	No	0
Georgia		Shall	Yes	Yes			No	No	0
Hawaii		Shall	No	Yes			No	No	0
Idaho	X	Shall		No			Yes	Yes	180
Illinois	X	May	Yes		Yes		Yes	No	0
Indiana		May			Yes		Yes	No	0
Iowa		Shall		Yes	Yes		Yes	No	0
Kansas		Shall	Yes				Yes	No	58
Kentucky		May					Yes	No	0
Louisiana	X	Shall					Yes	No	0
Maine		May	Yes			Yes	Yes	No	12
Maryland		May	Yes				Yes	Yes	555
Massachusetts		Shall	Yes				Yes	No	38
Michigan	X	Shall	Yes		Yes		Yes	No	0
Minnesota		May	Yes	No	Yes		Yes	No	19

Mississippi		May	Yes			Yes	Yes	127
Missouri	X	May				Yes	No	21
Montana	X	Shall			Yes	Yes	Yes	1,068
Nebraska		May				Yes	No	0
Nevada		Shall				Yes	No	0
New Hampshire		Shall	No	Yes		Yes	Yes	76
New Jersey		May				Yes	No	17
New Mexico	X	Shall	Yes		Yes	Yes	No	19
New York		May	Yes	Yes	Yes	Yes	Yes	784
North Carolina	X	Shall	Yes	Yes		Yes	No	0
North Dakota		Shall	Yes			Yes	No	0
Ohio		May		No		Yes	No	0
Oklahoma	X	Shall	No			No	No	0
Oregon	X	Shall				Yes	Yes	187
Pennsylvania		Shall	No	Yes		Yes	Yes	592
Rhode Island	X	May			Yes	Yes	No	0
South Carolina	X	Shall	Yes	Yes	Yes	Yes	No	8
South Dakota		Shall				Yes	No	11
Tennessee	X	Shall	Yes		Yes	Yes	No	1
Texas	X	May			Yes	Yes	No	19
Utah		May	Yes			Yes	No	15
Vermont		May				Yes	No	68
Virginia	X	Shall		No		Yes	No	74
Washington		Shall		Yes		Yes	Yes	534
West Virginia		Shall			Yes	Yes	No	0
Wisconsin	X	Shall	Yes	Yes		Yes	Yes	289
Wyoming		Shall	Yes			Yes	Yes	1,087