The Collection of Restitution: An Often Overlooked Service to Crime Victims

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THE COLLECTION OF RESTITUTION: AN OFTEN OVERLOOKED SERVICE TO CRIME VICTIMS

LINDA F. FRANK*

The emphasis of the criminal justice system on victims’ rights has increased significantly in recent years. Unfortunately, crime victims continue to be mistreated and neglected within the very system that should provide them with support, information, and assistance. Crime victims everywhere deserve the right to be informed about their role within the criminal justice process, the right to be present at all critical judicial proceedings, and the right to be heard during all phases of the process. Crime victims not only deserve, but require, more careful consideration from all facets of the criminal justice system, particularly community corrections. Probation and parole professionals are in a unique position to assess the actual impact of crime upon victims. Coupled with their ability to be “in the know” regarding offender status, probation and parole agencies must become more responsive to the needs of victims, and thereby enhance the image and credibility of community corrections.¹

In October 1990, the American Probation and Parole Association (“APPA”), in cooperation with The Council of State Governments, was awarded a grant to conduct the Offender Supervision and Victim Restitution Project (the “Project”). Funded by the Office for Victims of Crime (“OVC”), the grant provides for training and technical assistance on issues specific to crime victims involved in the community corrections process. In October 1991,

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¹ Community corrections refers to a system of legal sanctions which are used for supervising offenders who are placed in the community. The mission of community corrections is to assist the court and/or parole board in assessing candidates’ suitability for community placement; and once offenders are placed in the community, to enforce court-ordered sanctions, protect the community, assist offenders with changing their ways, and support the rights of their victims.
and again in April 1993, funding for the project’s continuation was awarded.

I. PROJECT GOALS AND OBJECTIVES

The primary goal of the Project is to improve the manner in which probation and parole professionals respond to the needs and concerns of crime victims. The Project has furthered this goal by helping agencies incorporate victim services into actual case management systems, with an emphasis on the collection of restitution. By providing training and technical assistance to community corrections agencies, the Project has helped ease the victim’s transition from the services provided by the prosecutors’ offices to the assistance offered by probation and parole agencies. Another objective of the Project is to develop ways in which crime victims can be kept “in the know” regarding their cases and the restitution due them. This includes awareness of community supervision of the offender, and, more specifically, knowledge of the offender’s release from the criminal justice system.

Two critical components of a victim services program are victim notification and restitution collection. The Project encourages probation and parole officers to realize the importance of their role in the victim’s life and how their responses affect the victim’s opinion of the community corrections process. Through the training curriculum, the Project sensitizes and educates probation and parole officers about the value of addressing crime victims’ needs and concerns.

Due to the author’s perspective and community corrections orientation, this article reflects upon the issue of restitution collection as a responsibility inherent in the supervision of offenders on probation or parole supervision. Professionals in the field of community corrections not only have responsibilities to offenders being supervised in the community, but they also have obligations to crime victims. The Project stresses community corrections’ responsibility to crime victims. One vital service to victims that is often overlooked by probation and parole professionals, the community, and crime victims, is the collection of restitution.²

² See James Stark & Howard W. Goldstein, The Rights of Crime Victims 148 (1985). Restitution may be defined as court-ordered compensation to crime victims for expenses, losses, or injury to persons or property. Id. It may require a criminal defendant to “return
II. Historical Perspective of Restitution

Restitution, or reparation as it is sometimes called, is one of the oldest criminal sanctions known. Under ancient Mosaic Law, "the penalty for highway robbery could include restitution up to five times the value of the goods taken." At least two books in the Bible specifically mention the concept of restitution as it is known today. Leviticus 6:4-5 states, "When one has sinned and become guilty, he shall restore what he took by robbery . . . or anything about which he has sworn falsely; he shall restore it in full, and shall add a fifth to it, and give it to him to whom it belongs." Exodus 22:1-3 establishes the victim-offender relationship by emphasizing that "[i]f a man steals . . . [h]e shall make restitution" and "[i]f the stolen [object] is found . . . in his possession, he shall pay double." Even the Greeks, according to the Ninth Book of The Iliad required offenders to pay "death fines" to the families of murder victims. As early as the eighteenth century B.C., the law code of Babylonian king Hammurabi provided for restitution and is remembered for its "eye for an eye" clause. For the most part, ancient criminal sentences consisted of banishment, corporal punishment, and compensation. As a way to avoid retaliations by the
victim's clan against the offender's clan, the Anglo-Saxon king Ethelbert mandated a system of "payments," known as the *Wergild*, in connection with a variety of crimes, including theft, adultery, assault, and murder. This code distinguished between restitution and fines as they are known today. A portion of these "payments" was made by the criminal's clan to the victim's clan (the *Bot*) and a portion went to the king for a violation of the "king's peace" (the *Wit*). Although mandatory, these payments "varied according to the social rank of the victim, the particular part of the body that was injured, whether property was lost or whether the victim died." The concept of a *Botless* crime was eventually established by Anglo-Saxon law and "was punishable solely because it was a breach of the king's peace." Thus, the victim began to play a secondary role in the criminal justice system while the state's welfare began to take precedence. As the concept of crimes against the state was introduced, the victim's role diminished to that of a witness. The use of restitution soon became nonexistent, forcing the victim who desired compensation to file for damages in a separate civil action.

In describing what has been the crime victim's plight for hundreds of years, Italian criminologist Enrico Ferri's words ring clear:

The State cannot prevent crime, cannot repress it, except in a small number of cases, and consequently fails in its duty for the accomplishment of which it receives taxes from its citizens, and then, after all that, it accepts a reward; and over and above this, it condemns every ten years some 3,230,000 individuals, the greater part of whom it imprisons, putting the expense of their maintenance on the back of the honest citizen whom it has neither protected from nor indemnified for the harm done by the crime; and all this in the name of eternal principles of absolute and retributive justice. It is evi-

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10 *STARK & GOLDSTEIN, supra* note 2, at 150.
11 *Id.; see BARKAS, supra* note 2, at 175. "In Saxon England, compensation for criminal offenses consisted of two payments: one to the victim's family (Wergild for homicide, Bot for injuries) and one to the ruler or king (Wite)." *Id.*
12 *STARK & GOLDSTEIN, supra* note 2, at 150.
13 *Id.; see BARKAS, supra* note 2, at 175-76 (crimes that breached king's peace eventually included private offenses, and entire fines went to king, leaving victim without any financial compensation).
14 *STARK & GOLDSTEIN, supra* note 2, at 150. "If a victim wanted compensation he was forced to initiate a separate civil suit against the criminal for damages." *Id.*
dent that this manner of administering justice must undergo a radical change.\textsuperscript{16}

Nearly 75 years after Ferri's words were spoken, his followers are still singing the same old song and the criminal justice system remains in a perpetual state of chaos.

With the enactment of penal laws permitting suspended sentences and probation, a resurgence of restitution as part of the American criminal justice system occurred.\textsuperscript{16} By the late 1930s, the courts in at least eleven states were specifically allowed to order restitution or reparation, within their discretion, as a condition of probation.\textsuperscript{17} Several factors have significantly contributed to the increasing use of restitution, with perhaps the most important being the public outcry for victims' rights.\textsuperscript{18} The victims' movement has produced a greater awareness of the needs and concerns of victims among all professionals within the criminal justice system. An increased discretionary use of restitution has been documented.\textsuperscript{19} Further, by 1988, at least twenty-three states had legislatively mandated the courts to order restitution in every criminal case in which an economic loss can be documented.\textsuperscript{20} If restitution is not ordered, judges must explain on the record the compelling reasons for not doing so.\textsuperscript{21}

Court-ordered restitution, based on the premise that no innocent victim of crime should suffer damaging economic loss, has long been a method of victim reparations.\textsuperscript{22} Judges have always had the authority to order restitution, but in order to provide statutory reinforcement of this authority, all fifty states have en-

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\textsuperscript{16} BARKAS, supra note 2, at 184.
\textsuperscript{16} See STARK & GOLDSTEIN, supra note 2, at 150 (describing origin of modern restitution).
\textsuperscript{17} Id.
\textsuperscript{16} Id. Other factors which have increased the use of restitution include federal funding for establishing and operating restitution programs, and a Model Penal Code provision calling for restitution sentences or the use of restitution as a condition of probation. Id.
\textsuperscript{19} Id.
\textsuperscript{20} See NATIONAL ORGANIZATION FOR VICTIM ASSISTANCE (NOVA), VICTIM LEGISLATIVE SUMMARY, SURVEY REPORT 13 (1988) [hereinafter NOVA SURVEY REPORT] (states with mandatory restitution include Alabama, Arizona, California, Delaware, Florida, Iowa, New York, and Washington).
\textsuperscript{22} NOVA SURVEY REPORT, supra note 20, at 12.
acted some form of restitution law.\textsuperscript{23} Legislation is more effective in some states and requires the court to mandate restitution for all convictions of felonies resulting in an economic loss.\textsuperscript{24} In at least twelve states, an order of restitution automatically becomes a civil judgment or lien, at least if it has not been paid in full before the expiration of a probationary or parole period.\textsuperscript{25}

III. Civil v. Criminal Matter

In most cases, recouping economic losses in our society has generally been a matter addressed in civil courts. However, when the economic loss is a direct result of a criminal action, the criminal courts have intervened, in an attempt to “right the wrong” through the use of restitution and community supervision. For the most part, restitution is ordered in criminal courts for direct, out-of-pocket expenses only.\textsuperscript{26} These expenses include property replacement or repair; medical expenses, such as hospital and doctor bills, prescriptions, laboratory tests, and X-rays; lost wages; deductible amounts required for insurance coverage; and reimbursement due to theft or fraudulent use of monetary funds.\textsuperscript{27} In some jurisdictions, insurance companies and other third parties are not eligible to receive restitution from an offender for any claims paid on a victim’s behalf.\textsuperscript{28}

Alan T. Harland and Cathryn J. Rosen stated in an article printed in Violence and Victims that civil courts are a “demonstrably slow, expensive and ineffective avenue of redress for the vast majority of crime victims.”\textsuperscript{29} Harland and Rosen therefore claim

\textsuperscript{23} Id.

\textsuperscript{24} Id.; see, e.g., ME. REV. STAT. ANN. tit. 17-A, § 1323(1) (“court shall . . . order restitution where appropriate”); WASH. REV. CODE ANN. § 9.94A.120(16) (“court shall order restitution whenever the offender is convicted of a felony that results in injury to any person or damage to or loss of property”).

\textsuperscript{25} NOVA SURVEY REPORT, supra note 20, at 13. An order of restitution becomes a civil lien in Alabama, Arizona, California, Indiana, Missouri, New Jersey, New York, Rhode Island, South Dakota, Utah, Vermont, and West Virginia. Id.

\textsuperscript{26} See Alan T. Harland & Cathryn J. Rosen, Impediments to the Recovery of Restitution by Crime Victims, 5 VIOLENCE & VICTIMS 127, 131 (1990) (restitution ordered in response to criminal activities is usually perceived as compensation to victims directly affected by crime for their injury, or loss).

\textsuperscript{27} See id. (restitution compensates for value of stolen or damaged property, or other tangible losses, such as medical expenses).

\textsuperscript{28} See id. at 134 (stating that it is unclear whether courts may order restitution for “insurers, family members, and other third parties who may have sustained emotional or pecuniary loss as a result of the defendant’s criminal activities”).

\textsuperscript{29} Id.
that “the victim’s interest has been simultaneously elevated and diminished by the following syllogism:

Civil courts have not been a meaningful avenue of recovery for the vast majority of crime victims; therefore:
It is more practical to handle their claims to restitution as part of the criminal prosecution; but:
Where it is inconvenient for the criminal courts to handle restitution, it should be left to the civil courts; however:
Civil courts have not been a meaningful avenue of recovery for the vast majority of crime victims; therefore:
The claims of crime victims that cannot be handled conveniently within existing criminal procedures are unlikely to be met at all.⁵⁰

IV. PRINCIPLE OF ACCOUNTABILITY

The concept of restitution may seem to those unfamiliar with the criminal justice system to be a panacea for making victims whole again. According to three advocates of restitution, Professor Burt Galaway and corrections specialists Joe Hudson and Robert Mowatt, four principal purposes and benefits of restitution can be stated as follows:

• a sentence of restitution or restitution as a condition of probation allows the court a way to circumvent more severe but permissible means of punishment such as a prison term;
• an order of restitution helps to renew the offender’s self-respect by holding him accountable for his actions;
• restitution as a criminal sanction and alternative to imprisonment is less expensive; and
• restitution can provide the victim with material realization and psychological satisfaction.⁵¹

Restitution from an offender, however, is contingent upon apprehension of the offender.⁵² Therefore, even though restitution

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⁵⁰ Id. at 134-35.
⁵¹ See BARKAS, supra note 2, at 182-83 (stating that restitution offers offender means of avoiding more severe punishment, helps restore offender’s self-respect, is less costly than imprisonment, and gives victim psychological and material satisfaction).
⁵² Id. at 182. “Restitution programs in the United States generally require the apprehension of the criminal.” Id.; see also STARK & GOLDSMITH, supra note 2, at 149 (“unlike victim compensation, restitution is impossible unless the perpetrator of the crime has been . . .
is a vital service to crime victims, its limits are real and defined. John Heinz, a proponent of victims’ rights, explained that “[s]ince less than 20% of all crimes lead to an arrest, less than 10% of the accused are ever prosecuted, and less than three per cent of those arrested are actually convicted, 97% of all victims would go unaided if restitution were their only means of assistance or retribu-
tion.” A strong believer in victims’ rights, Heinz recommends that victims be represented at every stage of the criminal justice process and “not just in the final pay-out, if it is ever reached.” Heinz is also concerned that victims and witnesses alike will de-
cline to participate in the criminal justice system if their treatment within the system designed to protect them is not greatly im-
proved, thus perpetuating a depressingly low conviction rate.

Monetary restitution and its derivatives, such as community ser-
vice, are tangible ways in which to compensate crime victims. However, criminal acts generally affect more than one victim. The adverse effects of victimization linger for days, months, some-
times years; and, in some cases, the damage is irreversible. Al-
though the receipt of restitution may satisfy a victim’s economic losses, such monetary restitution cannot heal the emotional or physical scars inflicted by the offender.

Improvements in the criminal justice process are slow, particu-
larly in areas where a crime victim is intimately involved. With the disappearance of vigilantes who took justice into their own hands, the state has essentially monopolized the prosecution of criminal violence and the offender’s “pay back.” In a modern society, this monopoly is crucial to public peace. Nevertheless, the state has replaced the victim. In other words, the state has taken over the role of the injured party, leaving the actual crime victim in limbo.

The victim’s role becomes even more unclear when the criminal

33 See Harland & Rosen, supra note 26, at 134. Inconsistent views and interpretations of the meaning of restitution by loss investigators and judges prevent greater use of restitution. Id. In addition, “although criminal courts have been given wide statutory discretion to require offenders to pay restitution, . . . the fact remains that vast numbers of offenses are never even cleared by arrest,” thus foreclosing the possibility of officially sanctioned restitution. Id.  
34 John Heinz, Victims’ Rights Laws Protect the Victim, in CRIMINAL JUSTICE 143, 148-49 (Bonnie Szumski ed., 1987); see REIFF, supra note 7, at 138 (stating that “an average of about 15 percent of reported violent crimes result in convictions”).  
35 Heinz, supra note 34, at 149.  
36 See id. (explaining limits of restitution).
act is prosecuted in the name of the state or government. For example, the *Commonwealth of Kentucky v. Joe Defendant* completely excludes the crime victim except to say that she or he was victimized in the state of Kentucky. More than one victim has wanted it understood that they were harmed, not the state. Since victims' names will probably remain excluded from titles of criminal actions, their role must become more clearly defined. Concurrently, the system must also become more tolerant and compassionate toward crime victims.

V. **Victim Compensation and Other Third Party Reimbursement**

Since restitution from an offender is a remote possibility in many cases, crime victims have had to resort to what aid society can give them. Intending to maintain order in our society, laws were enacted to protect the innocent from the guilty. Then, in response to these laws, additional legislation was passed to prevent the state from disregarding the rights of the accused. Unfortunately, the mere fact of having laws on the books does not preclude the innocent from falling prey to those inclined to inflict injury upon them.

Author Robert Reiff stated in his book, *The Invisible Victim*, that crime victims are no less worthy of receiving the social services that are available to other victims of tragic incidents.

Victims of violent crime are as deserving of our compassion and aid as are any victims of a catastrophe, natural or man-made. It would never occur to us to ask if the victims of a natural disaster have earned emergency and restitutive aid. Every citizen has that right. I believe that violent crime victims are disaster victims and have a right to a special status. Social justice requires that society take responsibility for making the victim whole again. Emergency financial assistance, medical care, legal services, and justice are the rights of every victim and the moral obligation of society.\(^7\)

South Florida was devastated by Hurricane Andrew in August 1992. There was never any doubt that these victims were entitled to emergency aid and the financial assistance necessary to return

\(^7\) *Reiff, supra* note 7, at 15-16.
their lives to some sense of normalcy. However, victims of crime are generally subject to inquiries that subtly question their innocence. Too often, crime victims must prove that they are deserving of governmental or community assistance.

For many years, our society has felt an obligation to protect its innocent citizens, but financial allocations have been minimal at best and resources for assistance have been limited. Sections 22 to 24 of the Code of Hammurabi (1728-1686 B.C.) reflect the ancient belief that a state should be responsible for the well-being of crime victims and their families.

If a man has committed robbery and is caught, that man shall be put to death. If the robber is not caught, the man who has been robbed shall formally declare what he has lost . . . and the city . . . shall replace whatever he has lost for him. If it is the life of the owner that is lost, the city or the mayor shall pay one maneh of silver to his kinfolk.8

Nearly 4,000 years later, the concept of victim compensation has been regenerated and victim compensation programs now exist in all but one state.3

The victim compensation programs in each state have varying eligibility requirements, but some of the most common characteristics of these programs include:

- the crime must have been committed in the state where the claim is being filed;40
- the claimant must be a resident of that particular state or have been injured in a state where there is no compensation program;41
- the crime must have resulted in physical injury, emotional trauma, or death of an innocent victim;45

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8 Id. at 134.
9 Telephone Interview with Dan Eddy, Executive Director of Nat'l Ass'n of Crime Victims Compensation Bds. (Mar. 18, 1993) (Maine will start compensation program in July 1993).
11 See, e.g., HAW. REV. STAT. § 351-31(a) (Supp. 1992) (providing compensation for private citizens injured or killed within the state or for any state resident injured or killed in another state lacking a compensation program).
12 See, e.g., ALASKA STAT. § 18.67.010 (1991) (compensation may be granted for expenses incurred as a result of personal injury or death of victim); MINN. STAT. ANN.
• the victim must not have contributed to the crime or caused his injuries in any way nor taken part in the events leading to the criminal offense;\textsuperscript{48}
• the crime must have been reported in a timely manner to the proper law enforcement authorities (usually within 5 days of occurrence);\textsuperscript{44}
• the claim must be filed within a specified period of time following the criminal incident, usually between six months and a year following the occurrence of a crime;\textsuperscript{46}
• maximum benefits awarded in any one claim, or in some states one criminal incident, range from $10,000 to $50,000;\textsuperscript{46} likewise, maximum awards for funeral and burial

\textsuperscript{48} See, e.g., ALASKA STAT. § 18.67.130(b)(3) (1991) (no award if victim violated state’s penal law and such violation caused or contributed to injuries); N.J. STAT. ANN. § 52:4B-18 (West 1986 & supp. 1992) (compensation board may reduce or reject award in accordance with determination that victim contributed to his injury); WIS. STAT. ANN. § 949.08(2)(a) (West 1982) (no compensation award for victims whose conduct contributed to their injury or death); see also BARKAS, supra note 2, at 188 (compensation may be denied if victims ruled ineligible because they are responsible for precipitating crime that caused their injury).

\textsuperscript{44} See, e.g., ALASKA STAT. § 18.67.130(a)(2) (1991) (requiring crime to be reported within five days of its occurrence or within five days of when reasonably possible to report); MINN. STAT. ANN. § 611A.53(2)(a) (West 1987 & Supp. 1993) (same); N.J. STAT. ANN. § 52:4B-18 (West 1986 & supp. 1992) (offense must have been reported to police within three months of its occurrence); WIS. STAT. ANN. § 949.08(1) (West 1982 & Supp. 1992) (requiring crime to be reported within five days of its occurrence or within five days of when reasonably possible to report); see also BARKAS, supra note 2, at 190 (most compensation statutes stipulate that victims report crime to police within certain time frame).

\textsuperscript{46} See, e.g., ALASKA STAT. § 18.67.130(a)(1) (1991) (compensation application must be made within two years after date of death or personal injury); HAW. REV. STAT. § 351-62(a) (1988 & Supp. 1992) (compensation application must be made within eighteen months after date of injury, or death, or property damage); MINN. STAT. ANN. § 611A.53(2)(c) (West 1987 & Supp. 1993) (no award given if claim filed after one year of victim’s injury or death); N.J. STAT. ANN. § 52:4B-18 (West 1986 & Supp. 1992) (compensation application must be made within two years after date of incident or within reasonable date for delayed filing); WASH. REV. CODE ANN. § 7.68.060(1)(a) (West 1992) (compensation claim must be filed within one year of date criminal act was reported); WIS. STAT. ANN. § 949.08(1) (application for compensation must be made within one year of personal injury or death).

\textsuperscript{48} See, e.g., ALA. CODE § 15-23-15(b) (Supp. 1992) (compensation may not exceed $10,000 in aggregate); ALASKA STAT. § 18.67.130(c) (1991) (no award in excess of $25,000 per victim, per incident, but for deceased victim having more than one dependant, total compensation award may not exceed $40,000); HAW. REV. STAT. § 351-62(b) (1988 & Supp. 1992) (maximum compensation award is $10,000); MINN. STAT. ANN. § 611A.54(3) (West 1987 & Supp. 1993) (no more than $50,000 to all claimants resulting from one injury or death); NEV. REV. STAT. ANN. § 217.200(3) (Michie 1992) (maximum award is $15,000); N.J. STAT. ANN. § 52:4B-18 (West 1986 & Supp. 1992) ($25,000 maximum compensation award); WIS. STAT. ANN. § 949.06(2) (West 1982 & Supp. 1992) (maximum award for any one injury or death is $40,000); see also BARKAS, supra note 2, at 188 (larger compensation awards usually go to victims who have suffered physical disabilities which permanently affect their earning power).
expenses range from $1,500 to $3,000;\footnote{See, e.g., Mo. Ann. Stat. § 595.030(3) (Vernon Supp. 1992) (providing for burial expenses of up to $2,000); Wis. Stat. Ann. § 949.06(1)(d) (West 1982 & Supp. 1992) (funeral and burial expenses not to exceed $2,000).} the victim must have fully cooperated with all law enforcement agencies and the victim compensation program;\footnote{See, e.g., Alaska Stat. § 18.67.130(a)(3) (1991) (applicant must have cooperated with police to receive award); N.J. Stat. Ann. § 52:4B-18(g) (West 1986 & Supp. 1992) (no award if victim fails to cooperate unless victim demonstrated compelling health or safety reason not to cooperate); Wis. Stat. Ann. § 949.08(2)(d) (West 1982) (no compensation or award if victim or claimant has not cooperated with law enforcement agencies); see also Barkas, supra note 2, at 190 (stating that most compensation programs require that victim cooperate with police).} and the victim must not have been engaged in any illegal activity at the time of the crime.\footnote{See, e.g., N.J. Stat. Ann. §§ 52:4B-18(f) (West Supp. 1992) (no award if victim convicted of crime and still incarcerated); Wash. Rev. Code Ann. § 7.68.070(3)(b) (West 1992 & Supp. 1993) (no compensation when injury occurred while crime victim was committing felony); Wis. Stat. Ann. § 949.08(2)(b) (West 1992) (no award if victim committed crime which caused victim's injury or death).}

None of the victim compensation programs provide reimbursement for damages to, or the loss of, personal property.\footnote{See, e.g., Mo. Ann. Stat. § 595.030(3) (Vernon Supp. 1992) (providing for burial expenses of up to $2,000); Wis. Stat. Ann. § 949.06(1)(d) (West 1982 & Supp. 1992) (funeral and burial expenses not to exceed $2,000).} Very few provide coverage for pain and suffering or attorney's fees.\footnote{See, e.g., Alaska Stat. § 18.67.130(a)(3) (1991) (applicant must have cooperated with police to receive award); N.J. Stat. Ann. § 52:4B-18(g) (West 1986 & Supp. 1992) (no award if victim fails to cooperate unless victim demonstrated compelling health or safety reason not to cooperate); Wis. Stat. Ann. § 949.08(2)(d) (West 1982) (no compensation or award if victim or claimant has not cooperated with law enforcement agencies); see also Barkas, supra note 2, at 190 (stating that most compensation programs require that victim cooperate with police).} Many of the victim compensation programs include a hardship clause in which the crime must have caused a financial hardship on the victim or the victim's surviving family in order for emergency benefits to be paid.\footnote{See, e.g., Mo. Ann. Stat. § 595.030(3)(g) (Vernon Supp. 1992) (providing for burial expenses of up to $2,000); Wis. Stat. Ann. § 949.06(1)(d) (West 1982 & Supp. 1992) (funeral and burial expenses not to exceed $2,000).} Several programs have a stated minimum loss before an award can be made.\footnote{See, e.g., Mo. Ann. Stat. § 595.030(3)(g) (Vernon Supp. 1992) (providing for burial expenses of up to $2,000); Wis. Stat. Ann. § 949.06(1)(d) (West 1982 & Supp. 1992) (funeral and burial expenses not to exceed $2,000).} For example, South Carolina's
State Office of Victim Assistance only provides coverage for claims with a compensable loss exceeding $100, with the exception of claims filed on behalf of victims 65 years of age or older.\footnote{\textit{See S.C. Code Ann.} § 16-3-1180(D) (Law. Co-op. Supp. 1992) ($100 limitation may be waived in “interest of justice”).}

In an ideal world, victim compensation programs would be available in every state with ample funds to meet the victims’ needs. Unfortunately, this is not the case. It is interesting to note that these programs are funded completely through financial assessments paid by federal offenders upon conviction. However, the amount of money collected from federal offenders does not equal the amount of money necessary to compensate all of the victims of violent crime who are in need of assistance. Staff workers at victim compensation programs often point out that these programs are only “fronting” the money which the offender should ultimately have to pay back to the programs through restitution.

Like many government-funded social service programs, victim compensation programs are losing ground in their effort to provide for the increasing number of victim claims. In fact, several victim compensation programs have educated probation and parole officers on the necessity of improved restitution collection. For example, the California State Board of Control, the administrative authority for that state’s victim compensation program, has developed and conducted workshops throughout the state to educate probation officers on the critical need for reimbursement to the program through the offender’s payment of restitution. As they should, many victim compensation programs are promptly paying the claims of victims even though these same victims may have judgments of restitution ordered in their favor. In these instances, offenders should be just as strongly encouraged to pay their court-ordered or parole board-ordered restitution so that victim compensation programs are reimbursed and benefits can be provided to other victims.

Since restitution is an attempt to make the victim “whole,” it seems reasonable that only direct out-of-pocket expenses, including the cost of mental health counseling and anticipated medical expenses, should be reimbursed. Because insurance companies are not victims themselves, many judges refuse to order offenders to
reimburse such third parties. This may cause revictimization of a victim when the insurance company raises the cost of their premium due to the payout of a claim. In some cases, judges may order the offender to pay only the victim's deductible on the insurance claim. Still other judges are more concerned about the victim's well-being and may order the offender to pay restitution to the insurance company, but only after the crime victim has been reimbursed for any losses incurred.

IV. INNOVATIVE COLLECTION STRATEGIES

A recent review of victim service and restitution programs across the country has revealed that many probation and parole agencies lack comprehensive restitution programs. Several agencies are aggressively managing the collection of restitution in a variety of innovative ways. However, the collection and enforcement of court-ordered restitution is still not considered a top priority among many probation and parole agencies. Numerous probation and parole line officers do not relate this task as a service to victims, but see it as just another part of their job (unfortunately, a minor part) in supervising a caseload. Furthermore, many of the services being provided to victims at the probation or parole level are not classified as part of a program per se. These services become part of a program only when, and if, a victim persistently requests such services directly from the line officer.

The management and collection of restitution is often correctly viewed as another enforcement responsibility of probation or parole supervisors. Unfortunately, some offenders manage to complete their supervision period without paying court-ordered restitution. There are generally few programs within probation and parole agencies specifically designed to address restitution issues. However, two probation departments in New York state have taken the initiative and established programs that emphasize the collection of restitution among their respective staffs.

The author conducted an informal review of probation and parole agencies and determined that many of these agencies monitor the collection of restitution. However, there are few formal programs with separate staff and resources.

The author conducted site visits to each of the two New York probation agencies cited. The contact person in New York City is Richard Shapiro, the Associate Commissioner for Planning of the Department of Probation. The contact person in Westchester County is Rocco Pozzi, Commissioner for the Department of Probation.
The New York City Department of Probation is currently making a concerted effort to improve its centralized restitution management process in order to increase the collection rate. The Central Restitution Unit is responsible for the collection and disbursement of victim restitution for all five boroughs and will become automated in the near future. Regardless of the fact that only probationers with an obvious ability to pay restitution are so ordered, restitution in an amount over two million dollars is currently processed each year through the Central Restitution Unit in New York City. A "Standard Operating Procedures" manual is undergoing its final review and will soon be distributed to each of the city's 1,600 probation officers. The manual provides a system of "checks and balances" to eliminate the number of offenders whose probationary period expires without fulfilling an order of restitution. A new focus on victims' concerns has made restitution collection a priority within the probation department and can be used as a tangible measurement when evaluating victim satisfaction.

The Westchester County Probation Department in White Plains, New York has made great strides in increasing the amount of court-ordered restitution that it collects. The Department established an Economic Sanctions Unit in 1990 which developed a computerized system of restitution collection at one location. The system sends letters automatically to both victims and offenders. Victims are routinely informed of the amount of restitution they will receive, and offenders are warned when they fail to make monthly restitution payments. Field probation officers can directly access system information, such as offenders' current account balances and payment history, through the computer. By making restitution collection a priority and creating a streamlined management system, the amount of money collected has skyrocketed. In the first half of 1991, the Economic Sanctions Unit collected almost a million dollars—more than triple the amount collected during that period in the previous year.

To address the issue of restitution enforcement, several states have legislation that allows for innovative means of collection. For example, in the state of Washington, the court has the statutory authority to retain jurisdiction over the offender for ten years for
the purpose of collecting restitution. In Maine, twenty-five percent of wages or other income received while on work release must be applied toward any victim restitution owed. At least six states have statutes allowing garnishment of an offender’s wages or other income for the purpose of collecting restitution. The state of Alabama even requires offenders to disclose assets when there is an outstanding restitution order.

In lieu of a formal program, enterprising legislation and creative case management can make a positive impact on the amount of restitution collected. Several means of collecting victim restitution available to probation and parole agencies are highlighted below.

A. Garnishment of Wages

Most states have laws allowing for the garnishment of wages in certain instances, such as for overdue maintenance or child support payments. However, circumstances are generally limited and the restrictions many. For offenders employed by businesses in which a paycheck is regularly issued and deductions taken, this type of restitution collection is ideal. A standard form signed by the sentencing judge is usually all that is required in many states for employers to automatically deduct an offender’s restitution payment from his net wages and forward it to the appropriate party for disbursement to the victim.


[90] See Ala. Code § 15-18-144 (requiring withholding, attachment, or transferring of asset or other income to pay restitution obligation); see also Minn. Stat. Ann. § 611A.04 (1)(b) (West Supp. 1993) (requiring affidavit of financial disclosure if restitution order is $500 or more).
B. Attachment of Assets

In several states, there are procedures for victims to legally file claims against the assets of an offender. Similar to the process by which state income tax refunds are redirected to someone who has an unfulfilled order of child support, tax refunds can also be attached and used to pay outstanding restitution orders. Arizona has another interesting restitution collection tool with the use of restitution liens. Restitution liens in this state are legal documents filed with certain governmental agencies giving the person to whom restitution is owed a claim on the offender's property. Examples of property subject to restitution liens are motor vehicles, real estate, and other assets such as farm crops, stocks and bonds, and securities. Once the lien is filed, the offender is unable to transfer title of the property until the restitution has been paid in full.

C. Restitution Centers

Restitution Centers, also known as Community Release Centers, have become instrumental in the collection of restitution. At least five states (Alabama, Mississippi, Nevada, South Carolina and Texas) utilize this option as an enforcement tool for ensuring restitution payments. Generally ordered to a 90-to-180-day stay, an offender resides at the Center and is released only for the purpose of employment or performing community service (or a combination of both). The offender then surrenders his paycheck to the Center to meet restitution and other court-ordered financial obligations.

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64 See, e.g., Tex. Crim. Proc. Code Ann. § 42.12(18)(a) (stay at restitution center cannot be more than 12 months or less than 3 months).
65 See id. § 42.12(18)(g) (such obligations include costs for stay at center, food, travel expenses to and from work, restitution to victims, and support of probationers' dependents).
D. Surrendering Paycheck

In Phoenix, Arizona, a unique restitution collection procedure exists within some of the Intensive Supervision Programs. During weekly visits with their officers, probationers are required to endorse their paychecks and sign them over to the probation department. Another check is then issued to the offender minus a payment toward victim restitution. This procedure seems to work well with the exception of the occasional check for insufficient funds from a probationer's employer.

E. Specialized Caseloads

In the adult probation department in Los Angeles, California, what began as an experiment resulted in the development of specialized caseloads dedicated to the collection of restitution. After observing that certain probation officers collected greater amounts of restitution than others, cases involving large amounts of restitution were assigned specifically to these few officers; it was hoped that restitution payments would increase and the relationship between the amount of restitution ordered would correspond more closely to that collected. Making victim restitution payments a priority has yielded such positive results that there is now a Restitution Officer in each of the probation offices in Los Angeles.

F. Victim-Offender Mediation

The use of Victim Offender Reconciliation Programs ("VORP") across the country, has become widely accepted as a means of resolving conflict between the two parties most intimately involved in any criminal offense. According to Dr. Mark S. Umbreit, a leading proponent of VORP, the primary goal of these programs is to provide a process by which conflict can be resolved in a manner that is perceived as fair by both the victim and the offender. Although appropriate in only selected cases, usually those of theft, burglary, and other property offenses, VORP can provide a sense of finality to the victimization when the victim and offender have an opportunity to meet face-to-face in a monitored setting. Many of the problems associated with restitution can be resolved through victim-offender mediation. VORP has been used successfully to determine restitution amounts and payment schedules that are fair to both the offender and victim.
According to Michael A. Insco, a former prosecuting attorney who is currently marketing a software package for the management of restitution collection and disbursement, nearly eighty-five percent of all probation and parole agencies are directly responsible for the collection of restitution. Thus, it is clear that the field of community corrections is providing a major service to crime victims everywhere.

V. Determining the Restitution Amount

As stated before, the recovery of restitution is tangible evidence to a victim that the offender was held accountable for his criminal behavior against the victim. Next to the feeling that they are on the "inside track" of the justice system by being kept apprised of the status of their cases, victims rely heavily on the hope that they will be financially compensated for the expenses incurred as a result of their victimization. In many jurisdictions, the probation agency is responsible for determining the amount of restitution that an offender owes. If asked, probation and parole officers do not generally seem to be aware that they provide services to crime victims. Among the many reasons for this is that their mind-set focuses on their service to offenders, or the community in general. When completing tasks related to restitution, the probation and parole officer concentrates on the offender's role (and what he owes) as opposed to what is due the victim.

Without hesitation, many probation and parole officers will attest that they intensely dislike the duty of determining restitution. Juvenile courts customarily expect their probation officers to determine the restitution amount, and this has become one of their major responsibilities. By the same token, there are some adult probation and parole agencies whose policies and procedures mandate the determination of restitution by their officers within the presentence investigation (PSI) reports. The task is then completed without complaint. On the other hand, many probation and parole officers feel that they get stuck with this time-consuming responsibility when it is not completed by the designated agency or department (usually the prosecutor's office). Adding to their already burdensome workload, these officers tend to become resent-

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66 The percentage figure is based on Mr. Insco's own observations and discussions with restitution programs.
ful of this obligation which is so critical to the ultimate satisfaction of crime victims who have incurred financial losses. The bottom line is that, if it is their responsibility, probation and parole officers do not have any more complaints about this task than they do about any of the duties that are expected of them. However, when the ball is dropped by the prosecutor's office, probation and parole officers dislike becoming responsible for this additional task.

Although crime victims should not be thought of as burdens, this dilemma places many probation and parole officers on the fence with regard to their responsibility to both offenders and victims. Due to the bureaucracy that controls many probation and parole agencies, providing victim services is often a cumbersome process. There is a trend toward equalizing victims' and offenders' rights, and probation and parole agencies have felt the effect. Several of the additional tasks necessary to accomplish this have filtered down and become the responsibility of probation and parole agencies. These services greatly add to a probation officer's extensive workload and may sometimes negatively affect the officer's opinion of providing services to yet another group of people vying for attention.

Due to the very nature of their job and association with violent criminals, probation and parole officers can become very cynical about what is good in this world. If not sensitized to the plight of crime victims and of the services they deserve, those in corrections simply lose sight of their job responsibilities. In implementing intermediate sanctions when they recognize a crisis situation, probation and parole officers are in a unique position to not only prevent further injury to current victims, but to prevent others from becoming victims. These services are often not properly acknowledged nor appreciated. Until probation and parole professionals begin to realize the significance that their day-to-day operations have on the general well-being of the community, which includes crime victims, it will continue to be difficult for victims to return the respect warranted for the criminal justice system.

VI. Assessing the Loss

Across the country, Victim Impact Statements ("VIS") are generally completed by victim advocates through prosecutors' offices.
A sense of the victim’s overall loss is portrayed in the VIS but, for the most part, proof of their loss such as receipts and copies of medical bills is not included. Documented evidence of each victim’s loss is imperative. The credibility of the process is at stake, along with the integrity of the entire criminal justice system. Instilling a belief in the offender that he should pay restitution is also necessary. If the offender is expected to make a sincere effort to pay the court-ordered restitution, he should not be given cause to believe that he is being taken advantage of by either the victim or the system.

Most agencies responsible for determining restitution, whether it is the prosecutor’s office or the probation office, have a standardized form that victims are required to complete. The basic sections of these “loss reports” include:

- the amount of all expenses required for medical care incurred as a result of an offender’s criminal behavior:
- expenses incurred for emergency transportation to hospital;
- all expenses related to hospital stay, including laboratory tests, medication, X-rays, medical supplies;
- expenses for care provided by physician(s), both inpatient and outpatient;
- medication and medical supplies;
- the amount of direct out-of-pocket expenses incurred as a result of an offender’s criminal behavior:
- funeral and burial expenses;
- repair or replacement of damaged or stolen property;
- miscellaneous expenses such as towing bill, service charges, etc.; and
- the amount paid by any third party such as an insurance company, worker’s compensation program, or victim compensation program.

Some “loss reports” request information on anticipated future medical expenses. In some jurisdictions, the expense of psychological care can be included in an order of restitution if the emotional trauma can be linked directly to the criminal offense.67 In one judicial circuit in Kentucky, a higher court judge ordered a

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sex offender to pay a sum of $500 to cover the future cost of mental health counseling, of which the victim could take advantage within twelve months, if she so desired. If she did not choose to benefit from counseling up to the extent that the $500 would cover, then the offender would be reimbursed for any remaining balance at the end of the year.

VII. CONSIDERING THE OFFENDER'S ABILITY TO PAY

The perennial issue that is debated concerning restitution is that of considering the offender's ability to pay. Should the offender be let off the hook just because he is unemployed at the time of sentencing? Since the offender is unlikely to earn more than minimum wage, should he decide to seek employment, is it worth the trouble to order restitution in the first place? Granted, the collection of restitution can be a time-consuming process; that is true even if restitution is paid in a timely manner and as ordered. The following scenario takes into consideration the people and time that would be involved in processing a typical case in which the order of restitution is willfully disregarded.

1. Over the course of several months, the probation officer has unsuccessfully tried to instill in the probationer the importance of paying his court-ordered restitution over the course of several months. The client, with only a sixth grade education, lost his job as a busboy due to his incarceration prior to sentencing; the officer placed him in a job readiness program. The probationer dropped out of the eight-week program since it "didn't pay nothin." The officer then referred the client to an employment agency which found the client a job at a fast food restaurant making minimum wage. After two weeks, the client quit that job because "it was only part-time to start and didn't pay enough anyway." Arguing that he would "hustle drugs" before he would waste his time working at "menial" labor, the probation officer's last resort was to refer the case back to the sentencing judge (40 hours).

2. The probation officer drafts an affidavit alleging the probationer's failure to pay. The officer's secretary types the affidavit and returns it for review. If no corrections are neces-

88 The author served as the victim's advocate in this case, Commonwealth of Kentucky v. Anderson, Case Number 90CR329 (Fayette Circuit Court, Sixth Div., 1990).
sary, the probation officer delivers the affidavit to the court clerk (2 hours).

3. The court clerk dates, records, and files the affidavit received from the probation officer before delivering it to the judge (¼ hour).

4. The judge reviews the affidavit prepared by the probation officer and determines that a preliminary revocation hearing is necessary. The judge then orders the offender’s appearance before him through a warrant for his arrest, a summons for his appearance or simply an order of appearance through the mail (¼ hour).

5. The court clerk responds to the judge’s instruction by preparing the order of appearance, or the warrant, or summons so the sheriff can serve it on the offender (1 hour).

6. The sheriff makes a trip to the offender’s residence as listed on the warrant/summons. As luck would have it, the sheriff finds him at home and is able to serve the warrant/summons on the first attempt. If the judge only issued a summons, the sheriff’s time with the offender is shortened by an hour since a trip to the jail is not necessary. Otherwise, the warrant is served and the offender is arrested and transported to the local holding facility (2 hours).

7. The booking/receiving staff at the jail receives the offender and begins the intake process which could last from fifteen minutes to several hours depending on the mandated procedures. The time of the jail staff during the routine incarceration is not taken into consideration since it is divided among so many inmates (1 hour).

8. The offender’s court date is then determined by either a set procedure or through arrangements with the jail, the court, and the probation officer (½ hour).

9. If in custody, the offender is transported to the courthouse by the staff for a preliminary revocation hearing (½ hour).

10. The preliminary revocation hearing finally takes place with the offender begging for leniency through a public defender whose time in preparing for the hearing cannot be determined and is, therefore, not considered. The judge once again releases the offender on probation supervision (avoiding the necessity of a final revocation hearing which would utilize even more of the court’s time) with the condition that
he begin paying restitution immediately and orders him to report to the probation officer the following day for assistance in gaining employment (1 hour minimum per person, judge, probation officer, jail staff, not including time incurred while waiting for case to be called).

11. Clerk of the court processes paperwork necessary for the offender to be released from custody (¼ hour).

12. Jail staff transport the offender back to jail to begin process for release from custody (1 ½ hours).

13. The probation officer completes the necessary paperwork detailing the results of the hearing (½ hour).

14. Offender reports to probation officer as scheduled only to inform him that he cannot do strenuous labor due to back problems or work any farther from his home than he can walk because he “don’t like to ride the bus.” The probation officer evaluates the impact of incarceration on the offender and finds little change in attitude (2 hours).

Approximately fifty-five hours of the public’s time, paid for by the state’s taxpayers, was used in this case example. When does the time it takes to coerce the offender into paying restitution outweigh the victim’s right to restitution? Although every effort should be made so as not to set the offender up to fail, the bottom line is that the victim is deserving of the court’s order of complete restitution for the amount equal to the victim’s loss that resulted directly from the offender’s criminal behavior. Regardless of the time involved by public officials in collecting a judgment of restitution, the victim is entitled to as much, if only as a member of the taxpaying public. To excuse an offender from paying restitution simply because “he doesn’t want to and isn’t going to anyway” is a slap in the face to the law-abiding members of society.

If the court, the probation and parole agency, or the restitution program simply wants to appear well-managed, then ordering restitution on the basis of the offender’s ability to pay is one way to do it. The process of collecting restitution is generally evaluated by comparing the amount of restitution paid with the amount of restitution that was originally ordered. As previously noted, the New York City Department of Probation, for example, collects well over two million dollars annually in restitution, even though only those probationers with an obvious ability to pay are ordered
to do so. This figure sounds good until the number of dissatisfied victims whose perpetrators were not even ordered to pay restitution are taken into consideration. Without discounting the tremendous effort made by New York City to enhance their collection process, the number of dissatisfied victims must also begin to matter if restitution is to effect a positive change in victims’ attitudes toward the criminal justice system.

VIII. Determining the Restitution Payment Schedule

Generally, the restitution payment schedule is determined in one or more of the following ways:

- by the prosecutor at the pre-trial hearing during the negotiation of the plea bargain;
- by the judge at the sentencing hearing;
- by the offender and his attorney at the sentencing hearing;
- by the probation or parole officer and the offender during the initial office visit before signing the conditions of supervision; and
- by the paroling authority.

In some jurisdictions, the prosecuting attorney (with the agreement of the defense attorney) will postpone the criminal proceedings in order to allow time for the offender to make full restitution, or at least a substantial partial payment, before recommending a certain plea agreement. Some judges even go so far as to refuse an offender’s desire to plead guilty to a lesser charge until restitution is made in full.

In other jurisdictions, provided that the restitution amount has been determined by the sentencing date, judges will determine the restitution payment schedule after imposition of a period of probation. For the most part, offenders are granted the entire probationary period to pay the restitution amount in full. Victims have most likely incurred their out-of-pocket expenses at least several months prior to the offender’s sentencing hearing; they do not always understand why offenders are granted such an extended period of time in which to repay them.

In some cases, the offender and his attorney will have discussed the matter of a reasonable restitution payment schedule. Since some states allow for either probation and restitution, or impris-
onment, defense attorneys will usually focus on the offender’s ability to pay restitution in a timely fashion as a means of encouraging the judge to impose a probationary sentence.

In some jurisdictions, the restitution payment schedule is not determined until the offender meets with the probation officer during the initial office visit. Some judges think the probation officer is in the best position to determine a reasonable payment schedule since the officer will be aware of the offender’s employment status, the total amount of restitution owed, and the length of the probationary period. Since most probation and parole officers are uniquely able to see the "big picture," many officers prefer to have the authority to adjust restitution payment schedules in response to their clients’ changing circumstances.

More and more often, paroling authorities are imposing restitution as a condition of parole supervision. In most cases, the amount of restitution owed was previously determined, either by the prosecutor or probation officer, prior to the offender’s incarceration or initial release on probation and subsequent revocation. If the total amount of restitution was never determined, the parole officer is generally responsible for determining both the amount and the payment schedule after the offender is released on parole with the condition to pay restitution.

IX. A Legal Complication

In a case that ultimately reached the Supreme Court, Hughey v. United States, a precedent was set which vastly affected the determination of restitution. Although he was alleged to have stolen and misused between twenty to thirty credit cards, Hughey was indicted for three counts of theft and three counts of unauthorized use of credit cards in 1986. During plea negotiations, Hughey agreed to plead guilty to only one count which alleged that he stole and misused one credit card. In exchange for this plea, the prosecutor agreed to dismiss the remaining counts, even though the issuer of the credit card, a financial institution, sus-

70 Id. at 412-13. The Supreme Court held that under the Victim and Witness Protection Act, Congress intended to “authorize an award of restitution only for the loss caused by the specific conduct that is the basis of the offense of conviction.” Id. at 413.
71 Id. at 413-14.
72 Id. at 414.
tained an additional financial loss. This during sentencing, the prosecutor obtained a restitution order for $90,431. This required the offender to reimburse the victim for losses sustained as a result of the offense underlying the conviction (the count accepted in the plea agreement), as well as for losses based on alleged misconduct for which the prosecutor did not obtain convictions.

Hughey objected to the amount of restitution ordered, on the grounds that the amount exceeded that lost by the victim ($10,412), who was represented in the one count to which he entered a guilty plea. The Court of Appeals affirmed the United States District Court's decision. However, the Supreme Court held that the restitution order was invalid since the Victim and Witness Protection Act of 1982 authorized an award of restitution only for the loss caused by the specific conduct that is the basis of the conviction.

The most serious implication posed by this case is that of the victim's inability to rely on the prosecutor to represent his or her interests during plea negotiations. Unlike the victim, a prosecutor does not always find it desirable to obtain a conviction for all counts stated in an indictment. Had the plea bargain in this case specified that restitution would be requested from the court on all counts, Hughey would have had the option of entering a guilty plea as stated or going to trial. In some cases, the prosecutor is not comfortable with taking a case to trial on every count for which an offender was indicted. Plea bargains in these cases (with limited conditions) are then advisable in order to obtain a conviction. Victims generally have a difficult time understanding the substantial burden of proof that a prosecutor must have in order to win a conviction. In some cases, the choice must be made between a plea bargain or a probable acquittal.

It should be understood that restitution covering any or all losses, for any amount stipulated, can be made a condition of a plea agreement. In the majority of states, the prosecutor's plea agreement is only a recommendation, thus leaving the amount of

73 Id.
75 Id.
76 Id.
77 Id. at 414-15.
78 Id. at 413.
restitution to the discretion of the court. There has been some discussion that this case will make offenders reluctant to enter guilty pleas if the amount of restitution includes all counts. However, to avoid the maximum sentence that could be imposed with convictions on numerous counts, offenders will most likely continue to accept plea bargains along with any conditions regarding restitution on all counts, both indicted and not indicted. With careful monitoring by the prosecutor, the Supreme Court’s ruling in Hughey poses very little threat to fair and decent treatment of crime victims when the criminal justice system operates properly on their behalf.

CONCLUSION

In a small way, reimbursement for economic losses can restore victims to their state of being prior to being victimized. However, as the only tangible way of "righting the wrong" suffered by the innocent victim of crime, restitution should be ordered, and the order should be upheld by all parties within the criminal justice system. It is apparent that the cooperation of all central players within the system (i.e., police, prosecutor, judge, paroling authorities, probation and parole professionals) can increase the likelihood of restitution to the crime victims. Furthermore, as a condition of community supervision, the issue of monetary restitution becomes one of accountability, not only on the part of the offender, but the probation and parole agency as well. It is with this in mind that the Offender Supervision and Victim Restitution Project is proceeding. In order to enhance the community's perception of the benefit, purpose, and necessity of probation and parole, the entire justice system must begin to equate the rights of victims with those already guaranteed to offenders.