

ALASKA LEGISLATURE COMMITTEES 1903-1904

2442 HJ HB 212 - HB 221

consist of a series of statements concerning threshold eligibility, such as "The incident occurred in Texas." The applicant could only receive a claim form after responding affirmatively to each of the statements on the declaration of eligibility form. Each form should also include a warning to the applicant that it is a class A misdemeanor knowingly to respond falsely to the questions posed in the form.¹⁶⁸ The use of the declaration of eligibility form would screen out the obviously ineligible applicants, and thereby facilitate the use of the media by preventing a deluge of frivolous claims from reaching the administrative stage. In addition, this procedure should lower administrative costs and thus increase the availability of funds to victims.

Efforts directed toward publicity are likely to have a direct effect on the success of the Texas program, and the Texas Act reflects recognition of that fact. The publicity provisions of the Act must be administered with a strong hand, however, and the attorney general should consider adopting a procedure for police publicity and application distribution similar to that of California. Moreover, the Board should take advantage of the mass media to assure full exposure and to help increase police cooperation. The adoption of a declaration of eligibility claim form would ease the extra administrative burden that media exposure can cause.

V. THE SON OF SAM PROVISION

Immediately prior to the final passage of Senate Bill 21,¹⁶⁹ sections 16 through 18 were added to the Act by a house floor amendment.¹⁷⁰ The

- 9. This claim is being filed within 180 days of the incident.
 — 10. The person whose death or injury gives rise to this claim was a Texas resident at the time of the crime.

I hereby swear that all of the above statements to which I have attested are true, and understand that I will be guilty of a class A misdemeanor for any false statement I have made in connection with this declaration of eligibility.

Signature

168. Although the Act does not expressly provide a penal sanction for falsification of application forms, such a falsification would qualify as a violation of TEX. PENAL CODE ANN. § 37.10 (Vernon 1974).

169. 1979 Tex. Sess. Law Serv., ch. 189, §§ 1-19, at 402-10 (Vernon).

170. House Floor Amendments, Apr. 26, 1979, amendment No. 3, added the following sections to the Act:

Escrow account

Sec. 16. Every firm, person, corporation, association, or other legal entity contracting with a person or the representative or assignee of any person, accused or convicted of crime in this state, with respect to the reenactment of the crime in a movie, book, magazine article, tape recording, phonograph record, radio or television presentation, live entertainment, or from the expression of the accused or convicted person's thoughts, feelings, opinions, or emotions regarding the crime shall submit a copy of the contract to the board and pay to the board any money that would otherwise by terms of the contract be owing to the accused or convicted person or his representatives. The board shall deposit the money in an escrow account.

Funds available to victim

Sec. 17. Money placed in an escrow account is available to satisfy a judgment against the accused or convicted person in favor of a victim of the crime

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 172. Victim compensatio
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173. See notes 185-90 *in*

174. TEX. REV. CIV. STA
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 See Comment, *supra* note 1

175. TEX. REV. CIV. STA

176. *Id.* § 17.

177. *Id.* § 18. The five-ye
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 Board, was sued for assault

enactment of these sections establishes in Texas a modified version of New York's controversial "Son of Sam" law.¹⁷¹ These sections are inappropriate in a victim compensation statute because they create no new substantive rights or remedies for victims.¹⁷² Instead, the Son of Sam sections prevent the criminal from disposing of assets received from his crime-related literary efforts so that the victim will be able to pursue an ordinary civil remedy with the assurance that the defendant will not be judgment proof. Underlying this practical consideration is the sentiment that criminals should not profit from their misdeeds. Despite the admirable motives behind these sections, the Son of Sam provision presents potential constitutional problems.¹⁷³

Sections 16 through 18 provide that any person contracting with an accused¹⁷⁴ or convicted criminal with respect to the reenactment of the crime in a book, movie, or other medium, or merely with respect to the criminal's thoughts or feelings about the crime, must pay the Board the money that would otherwise be paid to the criminal under the contract.¹⁷⁵ The Board is then to establish an escrow account with that money, which will be available for the satisfaction of any civil judgment awarded to a victim for damages caused by the crime.¹⁷⁶ Unless the money is used to satisfy a judgment for the victim, it will be returned to the criminal after five years.¹⁷⁷

if the court in which the judgment is taken finds that the judgment is for damages incurred by the victim caused by the commission of the crime.

Maintenance of escrow account

Sec. 18. The board shall pay money in an escrow account to the accused person if he is acquitted of the crime. The board shall pay the money in the account to the accused or convicted person if five years elapse from the date when the account was established and the money has not been ordered paid to a victim in satisfaction of a judgment.

171. N.Y. EXEC. LAW § 632-a (McKinney Supp. 1972-1979). Section 632-a is commonly referred to as the Son of Sam law because the proposal of the bill was directly motivated by the series of random murders committed by a person calling himself Son of Sam and the willingness of publishers to pay large amounts of money for the murderer's story. See Comment, *Compensating the Victim From the Proceeds of the Criminal's Story—The Constitutionality of the New York Approach*, 14 COLUM. J.L. & SOC. FRON. 93, 94 n.6 (1978) (statement of justification by sponsor of § 632-a).

172. Victim compensation programs distribute funds directly to the victims, thus creating an alternate source of recovery. The Son of Sam sections merely impose upon the criminal's rights by preventing him from disposing of the profits from his crime related literary efforts, thereby ostensibly augmenting the victim's chances for traditional civil recovery.

173. See notes 185-90 *infra* and accompanying text.

174. TEX. REV. CIV. STAT. ANN. art. 8309-1, § 16 (Vernon Supp. 1980). There is no definition of the term "accused" in § 16. The problems of free speech and due process mentioned later in this Comment are aggravated by the inclusion of accused persons in § 16. See Comment, *supra* note 171, at 114.

175. TEX. REV. CIV. STAT. ANN. art. 8309-1, § 16 (Vernon Supp. 1980).

176. *Id.* § 17.

177. *Id.* § 18. The five-year time limit specified in § 18 may be interpreted as establishing not only an escrow period, but a new cause of action, because in most cases the statute of limitations will have expired long before the five-year deadline. The Appellate Division of the New York Supreme Court took this position in *Barrett v. Wojtowicz*, 66 A.D.2d 604, 414 N.Y.S.2d 350 (1979). In *Barrett* a bank robber, whose profits from the movie "Dog Day Afternoon" had been put into escrow by the New York Crime Victims Compensation Board, was sued for assault and false imprisonment by one of his hostages. Although the

The New York statute, upon which the Texas provision is based, has been the focus of much controversy.¹⁷⁸ The constitutionality of the statute has been questioned by the Library of Congress' legal research service, a House Judiciary subcommittee staffer, and the New York Civil Liberties Union,¹⁷⁹ but at this date, the New York statute still stands. The adoption of the Texas provision may be attributed to the several victim compensation bills introduced into Congress during the last few years.¹⁸⁰ At one time a strong possibility existed that one of the prerequisites for federal subsidization of state victim compensation programs would be a Son of Sam act in the state.¹⁸¹ The 1979 bills,¹⁸² however, are based generally on a conference committee compromise of the 1977 bill,¹⁸³ in which the conference committee recognized that since the constitutionality of the Son of Sam act was uncertain, a bill conditioning state subsidization on the adoption of such a statute was undesirable.¹⁸⁴

At least two aspects of the provision present constitutional difficulties. First, sections 16 through 18 contain no provisions for a hearing of any kind. No procedure is provided to determine whether a criminal's efforts come within the scope of the section, and the individual obligated to pay the criminal must decide at his own risk whether to pay the Board instead.¹⁸⁵ Because the Act may effectively deprive the criminal of his property without a hearing, it is in potential contravention of the due process requirements of the fourteenth amendment.¹⁸⁶ The second area of possi-

suit was brought long after the statute of limitations had run, the court refused to dismiss the suit, holding that N.Y. EXEC. LAW § 632-a (McKinney Supp. 1972-1979) established a new in rem cause of action with a five-year limitation. 414 N.Y.S.2d at 357. The New York statute, however, states that money from the account will be paid provided that the "victim, within five years of the date of the crime, brings a civil action" and recovers a judgment. N.Y. EXEC. LAW § 632-a(1) (McKinney Supp. 1972-1979). The Texas statute does not link the five-year limit with the victim's civil recovery, but treats each in a separate section. TEX. REV. CIV. STAT. ANN. art. 8309-1, §§ 17-18 (Vernon Supp. 1980). This distinction may prove crucial in the interpretation of the effect of the Texas Act on the statute of limitations.

178. See, e.g., Comment, *supra* note 171; Comment, *Criminals-Turned-Authors: Victims' Rights v. Freedom of Speech*, 54 IND. L.J. 443 (1979).

179. Smith, *Briefs*, in JURIS DOCTOR, Nov. 1977, at 6.

180. See generally note 18 *supra*.

181. See, e.g., H.R. 7010, 95th Cong., 1st Sess. § 4(7) (1977).

182. See, e.g., H.R. 957, 96th Cong., 1st Sess. (1979). For treatment of past and present federal victim compensation legislation, see note 18 *supra*.

183. H.R. 7010, 95th Cong., 1st Sess. (1977).

184. H.R. REP. NO. 1762, 95th Cong., 2d Sess. 10 (1978).

185. TEX. REV. CIV. STAT. ANN. art. 8309-1, § 16 (Vernon Supp. 1980), places the burden on the individual contracting with the criminal to decide if the contract falls within the provisions of the statute.

186. The due process ramifications of prejudgment seizures are still unsettled; the Supreme Court has alternatively expanded and contracted the process that is due a debtor under state prejudgment garnishment or replevin statutes. See *North Ga. Finishing, Inc. v. Di-Chem, Inc.*, 419 U.S. 601 (1975); *Mitchell v. W.T. Grant Co.*, 416 U.S. 600 (1974); *Fuentes v. Shevin*, 407 U.S. 67 (1972). Although the Supreme Court has shifted its view of the precise requirements of due process in such situations, most notably with regard to the timing of a hearing, the Court has uniformly held that a hearing is essential to due process when property is seized before judgment. E.g., *North Ga. Finishing, Inc. v. Di-Chem, Inc.*, 419 U.S. 601, 606 (1975). TEX. REV. CIV. STAT. ANN. art. 8309-1, §§ 16-18 (Vernon Supp. 1980) operates so that the escrow account can be established and dispersed without an op-

ble difficulty involves sponsor of the New York don't stop a prisoner of a criminal's literary year escrow account intent that the criminal insofar as he attempts statute, the public will example, a criminal's mission of a capital effect of capital punishment effect both on the criminal know.

The Texas version of problems than it will constitutional challenge amendment issues made available to victims. federal subsidization of sion, sections 16 through

The Texas Crime Act of recovery for the victim ineffectual alternative legislature has taken the victim, and this provides substantial public benefit the Act had the opportunity desirable in the light of in this selection procedure

portunity for a hearing of ment, *supra* note 171, at 9

187. Smith, *supra* note

188. See Comment, *supra*

189. The Supreme Court members of an organized society Grosjean v. American Press 105-09.

190. Comment, *supra*

191. From a practical standpoint. To the extent that criminal collect profits, there will be Thus, the opportunities for that the legislature probably ment, *supra* note 171, at 1

192. The number of victims public attention to merit a case sponsor of the New York Act Smith, *supra* note 179, at

ble difficulty involves the first amendment. Although Senator Gold, the sponsor of the New York bill, was technically correct in stating that "[w]e don't stop a prisoner from writing,"¹⁸⁷ a statute authorizing the publisher of a criminal's literary efforts to pay money owed the criminal into a five-year escrow account is a clear disincentive for the criminal.¹⁸⁸ To the extent that the criminal will refrain from seeking publication of his work, or insofar as he attempts to confine his efforts to topics not prescribed by the statute, the public will be deprived of the right to be informed.¹⁸⁹ For example, a criminal's expressions of his thoughts at the time of the commission of a capital crime could be valuable to the study of the deterrent effect of capital punishment.¹⁹⁰ Thus, the statute appears to have a chilling effect both on the criminal's right to free speech and on the public's right to know.

The Texas version of New York's Son of Sam act is likely to cause more problems than it will solve.¹⁹¹ The provision is certain to encounter strong constitutional challenges, and the litigation of the first and fourteenth amendment issues may devour more state funds than the statute will make available to victims.¹⁹² Because there is no longer a serious threat that federal subsidization will be contingent upon the existence of such a provision, sections 16 through 18 should be repealed.

VI. CONCLUSION

The Texas Crime Victims Compensation Act creates a practical means of recovery for the victims of violent crimes, supplementing the relatively ineffectual alternatives of civil recovery, insurance, and restitution. The legislature has taken strong action in attempting to alleviate the plight of the victim, and this progressive legislation has the potential to bring about substantial public benefits. By taking a hybrid approach, the drafters of the Act had the opportunity to select the provisions that have proven most desirable in the light of experience. For the most part, they were successful in this selection process; of particular merit are the provisions for distribu-

portunity for a hearing of any kind. For a comprehensive treatment of this issue, see Comment, *supra* note 171, at 99-105.

187. Smith, *supra* note 179, at 6.

188. See Comment, *supra* note 171, at 110-11.

189. The Supreme Court has indicated that it is "the heart of the natural right of members of an organized society . . . to . . . acquire information about their common interests." *Grosjean v. American Press Co.*, 297 U.S. 233, 243 (1936); see Comment, *supra* note 171, at 105-09.

190. Comment, *supra* note 171, at 109.

191. From a practical standpoint, the statute may even prove to be somewhat self-defeating. To the extent that criminals are discouraged from writing because of their inability to collect profits, there will be less money available to satisfy the judgments held by victims. Thus, the opportunities for victim recovery actually may be reduced by the statute, a result that the legislature probably did not consider when it hurriedly enacted §§ 16-18. See Comment, *supra* note 171, at 109.

192. The number of victims whose injuries result from a crime that attracts enough public attention to merit a contract with the criminal is extremely small. Senator Gold, the sponsor of the New York act, estimated that his act might affect one person every two years. Smith, *supra* note 179, at 6.

tion of applications and information, the lack of a minimum claim requirement, and a high maximum award. Several provisions were included, however, despite widespread acknowledgment of their detrimental capacity.

Perhaps the main weakness of the Act is the financial stress requirement. The financial stress test imposes a substantial administrative burden on the Board and involves an unwarranted invasion of the victim's financial privacy. The investigation of financial stress is neither fiscally justified nor related to the primary goal of loss-spreading.

Another flaw in the Act is the household exclusion, because the exclusion of victims living in the same household as the criminal responsible for their injuries results in substantial injustices when applied to innocent children. The arguments advanced to justify the household exclusion are vitiated by the presence of provisions that prevent fraud and the compensation of victims partially to blame for the crime. The unjust benefit exclusion of the Uniform Crime Victims Reparations Act is an adequate alternative to the household exclusion.

The Son of Sam provision raises constitutional problems that may consume more funds through litigation expenses than the provision will make available to crime victims. Although the provision serves the noble purpose of preserving the criminal's crime-related profits for the victim's civil recovery, the means adopted to serve this purpose may violate the first and fourteenth amendments to the Constitution. While the lack of due process may perhaps be remedied by the provision for a hearing, the Son of Sam provision's chilling effect on speech cannot easily be alleviated.

Notwithstanding these imperfections, the Texas Crime Victims Compensation Act is a laudable effort that ranks among the best of the state victim compensation acts. If the program is sufficiently publicized and adequately staffed, the Act promises to benefit substantially the criminally injured. States that have not yet enacted victim compensation legislation would be well advised to follow the progress of the Texas program and to adopt the most successful provisions for their own acts.*

* Author's Note: At the time this Comment went to print, the Board was able to report the following statistics, covering the period between January 1 and April 10, 1980:

| | |
|---------------------------------------|-----------|
| Claims filed | 306 |
| Claims finalized | 38 |
| Awards made | 13 |
| Total amount awarded | \$32,094 |
| Amount collected in Fund | \$151,000 |
| Claims rejected | 25 |
| Grounds for Rejection: | |
| Failure to cooperate with authorities | 9 |
| No financial stress | 7 |
| Behavior of victim | 6 |
| Participation in event | 2 |
| Residing in same household | 1 |

The only publicity efforts made by the Board at present are the statutorily required distribution of posters and forms to hospitals and physicians, and responses to media inquiries. Telephone conversation with Bud Donnelly, examiner for Crime Victims Compensation Division of the Board, April 22, 1980.

EQUAL PRO ANALYSIS

At common law, illegitimate children have no rights' according to the putative father, other parents or adoption statute. Illegitimate children are not sufficient . . . a father of the child. Most states have limited rights with Supreme Court. Putative fathers, have fitness as a parent. The decisions

1. See *Barrington v. Stanley*, 13 J. FAM. L. 11 (1979). See also

2. 1 W. BL. *Illegitimate Child* 231, 235 (1971), where mother of the child and mother was no n

3. Putative father. BLACK'S LAW DICTIONARY refers to a know

4. For a list of cases see *Protecting the Putative Father*, 13 J. FAM. L. 11 (1979).

5. OR. REV. STAT. (1977). An Illinois case, *Zepeda v. Zepeda*, 945 (1964). In that case, the tort committed

6. See, e.g., *Putative Father's Increased Sensitivity to Paternity Test or Was Married*, 13 J. FAM. L. 11 (1979).

7. *Stanley v. Stanley*, 441 U.S. 441 (1979).

8. 441 U.S. 441 (1979).



**Georgia's
Residential
Restitution
Centers**

GEORGIA'S RESIDENTIAL RESTITUTION CENTERS

By
J. Robert Weber

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EXECUTIVE SUMMARY

Restitution, both monetary and public service, is an age-old procedure widely used in a variety of ways by both juvenile court and criminal court judges. Restitution does not have to be combined with a residential program to be valid. Some offenders, however, can gain more benefits from a residential restitution program than from incarceration in a prison. From a cost point of view, restitution centers are in the state's interest because incarceration costs are usually less than for prisons.

The Georgia restitution centers are offender-focused rather than victim-focused. Thus, they differ from state victim compensation programs. Victim compensation refers to money or services provided to a victim by the state, whereas restitution refers to money or services provided to the victim by the offender.

In Georgia, 10 restitution centers serve designated judicial districts. The district court judge makes the decision to place an offender in a restitution center rather than a prison. The centers serve as an alternative to prison incarceration, not as an alternative to probation supervision. Georgia's restitution centers have relieved prison overcrowding.

The preferred method of intake, after an offender has been sentenced to a term of imprisonment, is for center staff members to interview offenders in the county jail while they await transportation to the state prison. If the offenders and center staff members believe a restitution center program would be appropriate, a recommendation is made to the sentencing judge who may then modify the original sentence to placement in a residential restitution center as a condition of probation.

The centers' programs operate 24 hours a day, seven days a week. Offenders are employed and relinquish their paychecks to center staff members for division according to a contract. Restitution includes monetary payment for damages and public service activities.

A typical participant in the program is a 19-year-old offender who was convicted of a property offense, and who has been on probation for an earlier offense. Average length of stay in the center is about four months.

A major cost benefit of Georgia's restitution centers program is the short-term leasing of center facilities. Uneconomical tourist courts located on state highways now bypassed by interstate highways are favorite lease locations.

The key to successful operation of a correctional residential restitution center is community acceptance. The restitution center needs to be viewed by community leaders as *their* program.

I. A SEARCH FOR ALTERNATIVES

The steadily rising crime rate during the past decade has prompted a variety of responses from all levels of government across the nation. Funding for criminal justice agencies has increased, and the federal Omnibus Crime Control and Safe Streets Act provided millions of grant-in-aid dollars to state and local agencies. Some state legislatures have enacted new laws that mandate determinate and sometimes longer prison terms for a variety of crimes. Many judges, responding to increased public agitation about crime, are issuing stiffer prison sentences.

Nationwide, the prison population has grown dramatically. In 1977 over 275,000 prisoners were incarcerated—an increase of 25,000 over 1976 (see Table 1). Various theories have been advanced to explain this increase in prison populations. The depressed state of the economy, longer prison sentences, better law enforcement and prosecution, and the "baby boom" are factors often cited for the increased prison population. Whatever the cause, rapid growth has placed enormous pressure on existing state correctional facilities. Lack of beds, proper sanitary facilities, and recreation areas are only a few of the conditions often found in overcrowded prisons. Conditions in some state prisons have become so bad that federal judges have issued orders preventing the state from accepting new inmates until conditions are improved.

Traditionally, state legislators have been reluctant to allocate funds for prison construction. But, the continued growth in prison population and the resultant overcrowding of old, outdated facilities have forced a number of states to initiate the planning and building of new facilities. The construction and maintenance of a new prison, however, is an expensive undertaking. The National Clearinghouse for Criminal Justice Planning and Architecture in 1977 calculated that the construction of a typical prison costs about \$30,000 per cell. Add the initial capital expense to the Clearinghouse's estimated annual cost for operating a prison, usually between \$1 million and \$2 million for a 400-bed facility, and it readily becomes apparent that prisons are not cheap.

Most state officials recognize the need for prisons in order to protect society from habitually dangerous individuals, but many also realize that committing every individual convicted of a crime to prison is not economically feasible or socially desirable. Certain offenders, due to the nature and circumstance of their crime, could benefit from some form of punishment other than incarceration. While probation is an alternative for many offenders, its effectiveness sometimes is limited. Probation staffs are usually overloaded with cases, and the supervision they offer each individual is minimal. In cases where something more than probation is advisable as a criminal sanction, in many states the only alternative is incarceration.

An Alternative

Community-Based Correction

Growing skepticism among correctional administrators and elective officials about the likelihood of rehabilitating offenders in large, oppressive prisons, and the increasing costs of constructing and maintaining these institutions, have prompted state officials to search for alter-

Table 1

1977 Corrections Magazine Survey of Inmates in State
and Federal Prisons

| State | Number of Inmates | | % Change |
|------------------------|-------------------|------------------|----------|
| | 1/1/76 | 1/1/77 | |
| ALABAMA | 4,420 | 3,096(2,300)** | -22*** |
| ALASKA | 349 | 543 | +56 |
| ARIZONA | 2,712* | 3,072 | +13 |
| ARKANSAS | 2,336 | 2,445 | + 5 |
| CALIFORNIA | 20,007 | 20,914 | + 4 |
| COLORADO | 2,039* | 2,324 | +14 |
| CONNECTICUT | 3,060 | 3,180 | + 4 |
| DELAWARE | 701 | 953 | +36 |
| D.C. | 2,330* | 2,617 | +12 |
| FLORIDA | 15,709 | 18,229(373)** | +18*** |
| GEORGIA | 11,067 | 11,423(533)** | + 8*** |
| HAWAII | 366 | 413 | +13 |
| IDAHO | 593 | 725 | +22 |
| ILLINOIS | 8,110 | 10,002 | +23 |
| INDIANA | 4,292 | 4,430 | + 1 |
| IOWA | 1,857 | 1,956 | + 1 |
| KANSAS | 1,696 | 2,126 | +25 |
| KENTUCKY | 3,257 | 3,659 | +12 |
| LOUISIANA | 4,774 | 4,695(1,714)** | +34*** |
| MAINE | 643 | 622 | - 3 |
| MARYLAND | 6,606 | 6,860(1,070)** | +20*** |
| MASSACHUSETTS | 2,278 | 2,701 | +19 |
| MICHIGAN | 10,882 | 12,462 | +25 |
| MINNESOTA | 1,630* | 1,684 | + 3 |
| MISSISSIPPI | 2,429 | 2,135(125)** | - 7*** |
| MISSOURI | 4,130 | 4,748 | +14 |
| MONTANA | 377 | 500 | +33 |
| NEBRASKA | 1,259 | 1,339 | + 6 |
| NEVADA | 893 | 953 | + 7 |
| NEW HAMPSHIRE | 302 | 297 | - 1 |
| NEW JERSEY | 5,277 | 5,987(200)** | +17*** |
| NEW MEXICO | 1,118 | 1,359 | +22 |
| NEW YORK | 16,056 | 17,791 | +11 |
| NORTH CAROLINA | 12,486 | 13,261 | + 6 |
| NORTH DAKOTA | 205 | 242 | +18 |
| OHIO | 11,451 | 12,626 | +10 |
| OKLAHOMA | 3,435 | 4,106 | +19 |
| OREGON | 2,442 | 2,848 | +17 |
| PENNSYLVANIA | 7,054 | 7,584 | + 7 |
| RHODE ISLAND | 400* | 544 | +36 |
| SOUTH CAROLINA | 6,100 | 6,985 | +14 |
| SOUTH DAKOTA | 572 | 521 | +40 |
| TENNESSEE | 4,569 | 5,350 | +17 |
| TEXAS | 18,934 | 20,708 | + 9 |
| UTAH | 696 | 827 | +19 |
| VERMONT | 343* | 386 | +12 |
| VIRGINIA | 6,092 | 7,001(1,375)** | +11*** |
| WASHINGTON | 3,063 | 3,767 | +23 |
| WEST VIRGINIA | 1,213 | 1,216 | — |
| WISCONSIN | 2,992* | 3,340 | +12 |
| WYOMING | 384 | 355 | - 7 |
| TOTAL STATES AND D.C. | 225,908 | 247,913(7,090)** | +12*** |
| U.S. BUREAU OF PRISONS | 24,134 | 27,665 | +15 |
| TOTAL U.S. | 250,042* | 275,578(7,690)** | +13*** |

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natives to institutionalization. One avenue being examined by various states is community-based correction. (For example, see Dick Howard and Mike Kannensohn: "A State-Supported Community Corrections System: The Minnesota Experience," The Council of State Governments, February 1977.) Community-based correction advocates stress that keeping offenders within the community increases the chances of re-orienting them to society's values. Continued residence in the community strengthens the offender's family ties, enhances vocational and educational opportunities and provides treatment for any psychological and emotional problems in a community setting.

Restitution

Corresponding with the interest in establishing community-based corrections programs has been an increased awareness of the plight of crime victims. This concern has led to legislation in a number of states which compensates or provides restitution to victims. While compensation and restitution often are used interchangeably, they do have different basic definitions. Victim compensation refers to money or services granted a victim by the state, whereas restitution refers to money or services provided to a victim by the offender.

Restitution is a sanction becoming increasingly a part of community corrections programs. Restitution most frequently is used by judges as a condition of probation, in connection with the use of a suspended sentence, or as a part of the program of community corrections centers. Restitution performed before sentencing is considered a mitigating circumstance in the final imposition of sentence by most courts. In some instances, restitution is used in pretrial diversion programs. Restitution is seldom used with offenders sentenced to security institutions. The limited opportunities for earning income because of low or nonexistent inmate wages in most security institutions generally preclude the use of monetary restitution in most jurisdictions.

Recently, several states have enacted statutes establishing standards and guidelines for restitution. In 1973, Iowa made restitution a condition of a deferred sentence or probation (Senate File 26, 65th General Assembly, 1973, State of Iowa). In 1976, Colorado permitted courts to order restitution in conjunction with fines, probation, imprisonment or parole. (Colorado Crime Victim Restitution Act, Second Regular Session, 50th General Assembly, 1976).

In Minnesota and Georgia, the idea of merging the concept of restitution with a community-based residential program has been implemented. The Minnesota Restitution Center Program was initiated in 1972. In 1975, Georgia instituted a community-based restitution program in four cities as an alternative to prison incarceration.¹ * Table 2 presents descriptive data on a number of restitution programs.

The Need for Change in Georgia

The condition of Georgia's correctional system was described by one state official as "bleak and disheartening." In 1975, the Georgia Department of Corrections and Offender Rehabilitation (DCOR) identified major problems as "over-crowded conditions, a high recidivism rate, a lack of adequately trained staff, a need for expanded, centralized coordination, and a lack of objective data for program planning and evaluation."² By 1977, Georgia's prison population was over 11,000 and was projected to reach 16,000 by 1980. The percentage of individ-

*See footnotes at end of report.

Table 2
A SURVEY OF SELECTED RESTITUTION PROGRAMS

| <i>Name of program</i> | <i>Level of system</i> | <i>Clients</i> | <i>Type of program</i> |
|--|----------------------------------|---------------------------|---|
| Albany Restitution Center Albany, Georgia | Probation and parole | Adults only | Residential |
| Arbitration as an Alternative to the Criminal Warrant New York, New York | Pretrial diversion | Usually adults only | Nonresidential |
| Atlanta Restitution Center Atlanta, Georgia | Probation and parole | Young adults (ages 17-25) | Residential |
| Community Accountability Program of the City of Seattle Seattle, Washington | Pretrial diversion and probation | Juveniles | Nonresidential |
| Community Arbitration Program Annapolis, Maryland | Pretrial diversion | Juveniles | Nonresidential |
| Macon Restitution Center Macon, Georgia | Probation and parole | Adults only | Residential |
| Minnesota Restitution Center Minneapolis, Minnesota | Parole | Adults only | Residential |
| Night Prosecutor's Program Columbus, Ohio | Pretrial diversion | Adults | Nonresidential |
| Pilot Alberta Restitution Center Calgary, Alberta | Pretrial and probation | Adults only | Nonresidential |
| Pima County Attorney's Adult Diversion Project Tucson, Arizona | Pretrial diversion | Adults | Nonresidential |
| Restitution and Effective Diversion from the Criminal Justice System Milwaukee, Wisconsin | Probation and parole | Adults | Nonresidential |
| Restitution in Probation Experiment Des Moines, Iowa | Probation | Adults | Residential and nonresidential components |
| Restitution Work Program Salt Lake City, Utah | Pretrial diversion and probation | Juveniles | Nonresidential |
| Rideau-Carlton Restitution Project Ottawa, Ontario | Provincial jails | Adults | Residential |
| Rome Restitution Center Rome, Georgia | Probation and parole | Adults | Residential |
| Seventh Circuit Court Victims' Assistance Program Rapid City, South Dakota | Pretrial diversion and probation | Adults and Juveniles | Nonresidential |
| Victims' Assistance Program Las Vegas, Nevada | Pretrial diversion and probation | Juveniles | Nonresidential |
| Victim-Offender Reconciliation Project Kitchener, Ontario | Pretrial diversion and probation | Juveniles and Adults | Nonresidential |
| Washington County Restitution Center Hillsboro, Oregon | Probation and parole | Adults | Residential |

Source: Hudson, Galaway, and Chesney, "When Criminals Repay Their Victims: A Survey of Restitution Programs," *Judicature*, Vol. 60, No. 7, February 1977, p. 319.

uals 18-44 years of age in prison represents the highest per capita incarceration rate of all 50 states.³

The problems of a large prison population in overcrowded and inadequate facilities were compounded by the condition of the probation and parole programs. In 1976, the total probation/parole caseload was over 33,000 and the average caseload was 132 per counselor. (In 1977, parole supervision was removed from the DCOR and established in a separate and autonomous agency—the Parole Board. This, however, did not solve the problem of large caseloads; it just transferred the responsibility.) In the past five years, the probation/parole caseload has increased 83 percent. Due to the size of caseloads handled by counselors, judges became increasingly reluctant to place some offenders on probation. If an offender was not placed on probation, the only alternative a judge had was incarceration, but incarceration only exacerbated the overcrowding in state correctional facilities.

After identifying and examining the problems confronting the Georgia correctional system, the DCOR developed a long-range plan called Operation Performance which was designed to correct deficiencies in the system and to make offenders directly responsible for the consequences of their own behavior. One part of the plan was development of a network of community-based residential restitution centers.

II. ESTABLISHING COMMUNITY RESTITUTION CENTERS IN GEORGIA

The initiation of community restitution centers in Georgia followed the general reorganization of state government in 1972. An Executive Reorganization Plan created the Department of Corrections and Offender Rehabilitation (DCOR) and authorized it to "administer the supervision of parolees, probationers, and other offenders who are being treated outside correctional institutions." In addition, the Georgia Probation Act (1968) states: "The courts shall determine the terms and conditions of probation and may provide that the probationer shall remain within a specific location and shall make reparation or restitution to any aggrieved person for the damage or loss caused by his offense in an amount determined by the court. . ." (Ga. Laws 1968, p. 324).

On the basis of the above statutory language, in October 1975 the DCOR established the community restitution center program by making residence at a center and participation in the program a special condition of the probation order. Initially, four community restitution centers were established with financial support from the Law Enforcement Assistance Administration. In addition to the restitution centers, the state also was developing five community-based adjustment centers. These residential adjustment centers were used to house probationers, and the program design had a rehabilitation focus with a strong emphasis on counseling. The restitution centers influenced the adjustment centers. The adjustment centers began using restitution as the core of their program. As federal support of the restitution centers diminished, the two programs were merged and the state legislature voted to begin funding the restitution centers in the 1977 fiscal year in addition to the adjustment centers which were reprogrammed as restitution centers. Currently, there are 10 restitution centers in the state, the tenth having opened in early 1978 at Thomasville.

Organization of the Georgia Corrections System

The Georgia Department of Corrections and Offender Rehabilitation is composed of two administrative and three field divisions. The DCOR Community Facilities Division administers the residential restitution program and several other community-based programs (e.g., pre-release centers, transitional centers, work release centers).

Although the Community Facilities Division is responsible for the operation of the centers, the success of the program depends on the assistance of a number of individuals inside and outside the DCOR. The cooperation of judges, probation officers, local officials and community residents is necessary to establish and maintain a restitution center. Judges are responsible for selecting offenders who will reside at the center and for determining the amount of financial restitution. Many judges also monitor the performance of offenders they place in a center. Probation officers, who are DCOR employees, oversee the activities of an offender discharged from a center. Local officials advise the department in selecting a center location. Local officials and community residents sit on restitution center advisory boards and help locate and provide resources needed by the residents. The size of the boards varies

from one center to another. They perform a valuable function in advising the center director about problems and in conveying information to citizens in the community about the center. The boards provide both a public relations function and an advisory function to the center director. Some centers have a formalized community advisory board while others rely on ad-hoc arrangements according to need. Although forms, contracts, case folders, and other items are similar in content for all centers, they vary in format according to the style of the director.

Location of Restitution Centers

The 10 community restitution centers in Georgia are located in Albany, Athens, Atlanta (2), Augusta, Cobb County, Gainesville, Macon, Rome and Thomasville.

Eventually, the DCOR hopes to establish one community restitution center in each of the state's 42 judicial districts. Selecting the location and establishing management procedures for the first four centers, however, raised certain procedural and intergovernmental questions. The DCOR had no previous experience with a residential restitution program and there was a lack of information concerning methods and standards. In addition, the department had not determined the formal agency and governmental linkages required to maintain and operate a center. Consequently, the first year was a period of development and experimentation. Each center developed in its own way resulting in differences in operation. On the positive side, these differences reflected the uniqueness of the communities. From this experience, the DCOR was able to develop and standardize specific policies and procedures where increased uniformity was considered desirable.

In locating the first four facilities (Albany, Atlanta, Macon and Rome), the department selected judicial districts in which judges had expressed a strong interest in the restitution concept. Once a center was established in a judicial district, the center staff concentrated on serving the offenders from that district. Judicial and community support of the original centers prompted citizens and judges in other districts to seek the establishment of a restitution center in their communities. Presently, the demand for new centers is greater than the funds available to the DCOR for meeting the requests.

Center Size and Staff

All 10 restitution centers operate 24 hours a day, seven days a week. Maximum residential capacity ranges from 20 to 40 offenders, with an average capacity of about 36 (see Table 3). Because an offender usually resides at a center for only four or five months, each center can serve between 112 and 130 offenders per year. For fiscal year 1978, the legislature allocated \$1,140,460 to operate eight centers. The other two centers are financed with federal funds. For fiscal year 1979, the DCOR is requesting \$2 million for 10 facilities, an average of \$200,000 per center.

All the facilities used to house the residents are leased by the department. Motels, vacant dormitories, and large houses are among the types of buildings that have been converted into restitution centers. The department has discovered that old, unprofitable motels on secondary highways offer excellent accommodations. Usually, only minimal alteration is required. In many cases a center is located in an area that is a mixture of residential and commercial or light industrial uses. While DCOR officials prefer a center that has central kitchen facilities, a few

centers are located in buildings that are not equipped to prepare meals. Alternate arrangements are made for food service.

State DCOR staff members vary from 8 to 15 per center. A typical staffing pattern would include one superintendent, one business manager, one clerk typist, one probation supervisor, one counselor and four counselor aides or correctional officers. Centers with kitchen facilities also employ a cook. The cook works on a split shift and prepares breakfast and a bag lunch for those who work during the day, and then returns to prepare dinner. Administrative staff work the 8 a.m. to 5 p.m. shift while most residents are at work. Counselors are available to provide education and counseling services in the afternoon and evenings. Security is supplied by a night duty correctional officer. Supervisory staff are present and share cooking responsibilities with the residents on the weekends.

In order to supplement the basic counseling staff, a number of centers use Comprehensive Employment and Training Act (CETA) employees, VISTA workers, student interns and citizen volunteers to provide supervision and program assistance. These individuals enable a center to provide additional educational and counseling services it is not financially able to provide. Community residents who volunteer to assist the center staff also form a valuable contact between the community and the center.

Table 3
OPERATING BUDGET AND CAPACITY OF RESTITUTION CENTERS

| CENTER | OPERATING BUDGET FISCAL YEAR 1978 | MAXIMUM CAPACITY |
|--|--------------------------------------|---------------------|
| Albany Restitution Center | \$135,775 | 28 |
| Athens Adjustment/Restitution Center* | 230,271 | 40 |
| Atlanta Restitution Center | 131,897 | 30 |
| Augusta Restitution Center | 222,722 | 40 |
| Cobb Adjustment/Restitution Center* | 241,963 | 40 |
| Gainesville Adjustment Restitution Center | 184,603 | 40 |
| Gateway Adjustment Restitution Center (Also in Atlanta) | 222,985 | 40 |
| Macon Restitution Center | 118,604 | 35 |
| Rome Restitution Center | 123,874 | 32 |
| Total State and Federal | \$1,612,694 | 325 |
| Total State | \$1,140,460 | 242 |

*These centers are financed with federal funds. In fiscal year 1979 the state will assume responsibility for funding the centers. The Thomasville Center opened in early 1978, thus figures are not included.

III. OPERATING A RESTITUTION CENTER

The procedure for selecting individuals to participate in the residential restitution program and the service provided to an offender vary to some degree from center to center. The DCOR has established operational standards and policies, but department officials recognize the need for each center to have a certain amount of flexibility. Staff capabilities, the needs of a constantly changing offender population, and the physical environment of a center all will have an impact on the type of program operated by a restitution center.

Selecting Participants

The requirements for admission to the residential restitution program vary slightly among the 10 centers. Most of these variations reflect the different conditions in the judicial districts where centers are located. One policy area in which they do not differ is that none of the centers accept offenders who have been convicted of committing a violent crime. In addition, due to the lack of facilities and drug treatment programs, a center will not admit an individual who has a history of drug addiction or alcohol abuse. A typical participant in the program is 19 years old, has been convicted of a property offense, and has been previously placed on probation for an earlier offense. The following are criteria used by the staff at many of the centers to identify offenders eligible to enter the program:

- Offender would have otherwise been incarcerated, had the program been unavailable,
- Offender has committed a property crime not involving the use of a weapon or any act of violence and has not been arrested for a violent crime for the preceding five years,
- Offender's crime involves the victim in a fashion whereby restitution can be made using a payment schedule compatible with the amount of restitution to be paid and the time he is to serve at the facility,
- Offender is 17 years of age or older,
- Offender is not regarded as a professional criminal (to be determined by his previous record of offenses),
- Offender's level of intelligence is not below a point (usually I.Q. 60) precluding employment and participation in the center's program, and
- Offender is willing to enter into a contract with the center establishing objectives which must be achieved before release.

In addition to the above criteria, center staff members employ several subjective indicators for screening out offenders who would not benefit from the restitution program or who would pose a threat to the community. At most district courts the screening process takes place between conviction and sentencing and is part of the pre-sentence investigation process conducted by probation personnel. Some offenders are eliminated from further consideration after this investigation because they do not meet the previously stated objective requirements of the center. Other cases may be excluded as inappropriate for the restitution program after discussion with the local district attorney and the

offender. The remaining cases are then presented to the court with a restitution recommendation and with a proposed restitution plan. The judge can accept, modify, or reject the restitution recommendation and levy another type of sentence. An offender who is sent to a restitution center is placed as a condition of probation and is under the jurisdiction of the court. If the offender fails to make satisfactory progress or repeatedly violates the center's rules, the offender can be returned to the court for probation revocation. In nearly every revocation case the offender is sent to a state prison.

In one judicial district, Cobb County, the selection process is slightly different, reflecting the preferences of the presiding judge. Program staff reviews the cases of all offenders after they have been sentenced to prison from the Cobb Judicial Circuit Court and while they are awaiting jail transportation to the prison. Based on an examination of the offender's record and interviews with the district attorney, defense attorney, probation personnel, family, employer, and the offender, the center staff members select for program participation the nondangerous offenders who can be safely supervised in a community facility environment. The judge is then asked to amend the sentence to probation conditional upon the offender successfully completing the Cobb Center program. This program has the added merit of insuring that restitution is used as a substitute for incarceration since participation is at the instigation of the DCOR, though the judge makes the final decision.

The Program Contract

Once accepted in a restitution center, the offender enters a two-week orientation period. During this time a contract is negotiated between the staff and the resident. The amount of restitution occasionally is determined between the prosecuting attorney and defense attorney and approved by the judge at the time of sentencing.

Rarely does a resident have a job prior to admittance to the restitution center. During orientation, obtaining a job is the primary task. Each center has access to daily job listings issued by the Georgia Department of Labor. In addition, each center has developed its own "job bank" from staff contacts with employers. The resident is referred to job openings. When accepted for employment, the amount of pay is determined. The contract that is developed between the staff and the resident addresses the division of the resident's paycheck. DCOR policy calls for the resident to pay \$4 a day for room and board. This amount was set administratively in 1975 before the DCOR had any experience with the program. It has not been changed. It does not cover the cost of room and board. The contract determines the amount to be deducted from each paycheck for restitution. The contract includes an amount to be deducted for savings and an allowance for the resident's weekly expenses. The contract also designates the program activities the resident will participate in during his stay in the center.

All paychecks are turned over to center staff. The dollars are divided according to the contract. In general, restitution dollars will accumulate until the offender completes the program. The amount of restitution collected is then submitted to the court for transfer to the victim. On occasion, there is face-to-face encounter between the offender and victim and payment is made direct. This is an exceptional practice, however, and is done only when deemed a therapeutic experience for both victim and offender.

Another aspect of the contract is public service restitution. The resident agrees to serve a specified number of hours in public service in

addition to the monetary restitution. During fiscal year 1977, more than 8,000 hours were spent in public service restitution activities.

Some examples of community service activities in which offenders participate include: helping in mental hospitals and health centers, repairing the houses of elderly pensioners to prevent condemnation, maintaining the grounds for youth recreation groups, assisting civic and charity organizations in money-making projects, constructing playground equipment for church and neighborhood child care centers, collecting and repairing toys for needy children at Christmas, and conducting community clean-up projects.

Daily Life in the Center

The basic program is essentially the same for each center but there is variation. Some centers allow residents access to automobiles while others do not. The type of classes taught at the restitution centers generally depends on a center's access to volunteers.

A typical day for a resident begins with room cleaning. Breakfast is then served and the resident picks up a sack lunch. The resident will provide some service in the upkeep and maintenance of the center during the day. This might occur in the morning or after he returns from work. The resident then goes to work. In some centers residents drive their own automobiles to work; in others, the resident relies on public transportation. Upon return from the job, the resident may have some recreation time or may be assigned to a work detail. After the evening meal, the resident participates in an evening program of group discussion, counseling, classes, or tutorial sessions.

Evening classes may involve GED preparation, tutoring, or orientation to the world of work. The schedule for a particular resident is part of the negotiated contract.

A point system for reward and discipline also is employed in the centers. Points are received for room inspections, punctuality and attendance at assigned programs, and satisfactory completion of work details. Points are also earned by residents for meeting the obligations of their contracts. Points are deducted for disciplinary reasons, for not complying with contracts, or for an altercation with another resident. The points earned result in specified numbers of hours for weekend passes. Weekend passes range from 12 hours to an entire weekend. All residents on passes return to the center Sunday evenings. On an average, a resident will spend four months in the center before resuming regular probation supervision. Release to regular probation supervision is decided by the judge on the recommendation of center staff.

IV. ASSESSMENT

Importantly, citizens in the communities view the state-operated restitution centers as their own community programs. Judges see the centers as extensions of court services—a sentencing alternative to incarceration. Police have been cooperative and amicable. Even colleges see the center as a resource for intern learning experiences. Although the centers maintain low profiles, clearly center directors devote a good deal of time to cultivating and maintaining good relationships with key persons in the community. Many restitution centers view the judge as the key. "He can make us or break us," one center director said. Some centers serve more than one circuit court and in these instances, the director must maintain relationships with several judges. As noted earlier, the demand for new centers is greater than the funds available to the DCOR for this purpose.

Some centers maintain a structured community advisory group with quarterly meetings. This device provides information to the community and permits the center program to tap community resources.

State probation staff support the restitution centers, but some negative feelings by probation staff were reported. These persons criticized the centers for not keeping offenders long enough. When offenders return to regular probation supervision before restitution is fully paid, an additional assignment for the probation officer is to supervise the collection of restitution. Probation officers believe they have enough to do without these additional responsibilities.

How do you measure success? In general, the DCOR staff decided to reject the idea of recidivism, however defined, as a criteria of success.

The original goals for a residential restitution center were to:

- (1) Reduce the projected increase in prison population by diverting eligible offenders to the restitution program,
- (2) Involve citizen volunteers in the rehabilitation of offenders from their local community,
- (3) Demonstrate various effective methods of offender restitution, and
- (4) Determine the cost/benefit factors associated with a residential restitution program.

To a considerable extent, the objectives were met. In 1976, Georgia had the highest percentage of prison inmates in the 18-44 age bracket of all 50 states.⁴ Over two-thirds of the admissions to the restitution centers successfully avoided prison incarceration. Although the prison population was not reduced, it would have increased even more without the centers. During the first year of operation, Cobb County, for example, reduced the number of prisoners sentenced to prison by 51 percent.

Volunteers were recruited, trained, and involved in center activities, but citizen involvement varied from one center to another.

During the 12-month period ending June 30, 1977, \$128,437 in restitution was paid to victims. The other method of offender restitution used to date, community service, has resulted in 8,372 hours of work. It is difficult to put a value on this time, but at the minimum wage of \$2.65, it totals \$22,185.

The cost/benefits are more difficult to assess. The per-diem cost of

prison incarceration and center residency is essentially the same, excluding capital construction costs for prisons and rental fees for the centers. If these figures were added to the per-diem cost, the centers would be considerably cheaper. Another cost factor is the turnover of population in a center compared to the turnover in a prison. In a center, the average stay is about four months. For similar offenses, prison stays are at least 12 months, and average closer to 15 months before parole. Thus, total costs of care per individual are much cheaper for the center than for the prison.

There are other cost/benefits. The offender is employed, paying taxes, and supporting his family. There is a savings in welfare costs. A total of \$164,472 was paid in state and federal taxes for the 12-month period ending June 30, 1977. Income to the state in the amount of \$206,880 was paid during this period for room and board. Further, during this same period of time, an estimated \$208,922 was spent in the community by residents for clothing, transportation, recreation, and personal items (see Table 4).

The DCOR estimates that 35 percent of new admissions to the Georgia prison system meet the objective criteria for entrance into a restitution center and the state does plan to expand the number of restitution centers.

Transferability

The Georgia restitution center concept should have wide appeal to other states which have overcrowded prisons and are looking for alternatives to prison incarceration. Even with county-operated probation departments, a state could subsidize county-operated restitution centers as a strategy to reduce population. It is important, however, to remember that the residential restitution program is offender-focused rather than victim-focused.

In the fall of 1977, the second National Restitution Symposium was held in St. Paul, Minnesota. Several speakers at this conference warned of the undesirable effect of "widening the nets" with restitution programs. Kenneth Schoen, Director of the Minnesota Department of Corrections, cautioned that "restitution may have the unintended effect of 'widening the net' of control by the system over the offender." In Georgia, if a restitution center is used as an alternative to a suspended sentence or probation, this would be an example of "widening the net" of control. Thus, of major importance in any state's consideration of restitution centers are built-in safeguards against inappropriate intake into a residential setting when alternative sanctions are less expensive and more appropriate to the offense.

The Georgia experience has illustrated that the best safeguard against inappropriate intake into restitution centers is an intake decision which is made after the judge has already sentenced the offender to a period of time of imprisonment. The Cobb County Restitution Center is illustrative of this practice. Sentenced prisoners in the county jail waiting to be picked up and transferred to the prison comprise a pool of potential residents for the restitution center. The center staff members interview prisoners, study case files with particular attention to the pre-sentence investigation report compiled by the probation staff, and, when deemed appropriate for entry into the restitution center, make recommendations to the judge who sentenced the prisoners. The judge rarely disagrees with such recommendations and new court orders are issued changing sentences to placement in the restitution center as a condition of probation. Again, Georgia's Cobb County pro-

| <i>Center</i> | <i>Gross Earnings</i> | <i>Taxes and Other Deductions</i> | <i>Net Earnings</i> | <i>Room and Board Assessments</i> | <i>Food, Clothing, Medical, Personal Items, Transportation</i> | <i>Mandatory Savings</i> | <i>Financial Assistance to Families</i> | <i>Court Ordered Restitution Fines</i> | |
|---|-----------------------|-----------------------------------|---------------------|-----------------------------------|--|--------------------------|---|--|--|
| | | | | | | | | <i>Monetary Restitution and Fines</i> | <i>Compulsory Public Service (Hours)</i> |
| Albany Restitution Center | \$110,737 | \$15,789 | \$94,948 | \$12,526 | \$41,572 | \$4,597 | \$5,175 | \$33,882 | 410 |
| Athens Adjustment/Restitution Center | 108,667 | 18,902 | 89,764 | 26,891 | 15,671 | 9,149 | 3,417 | 8,178 | 2,178 |
| Atlanta Restitution Center | 60,165 | 10,154 | 50,011 | 20,783 | 10,675 | 2,730 | 3,728 | 3,809 | 1,650 |
| Augusta Adjustment/Restitution Center | 116,429 | 24,405 | 92,024 | 27,459 | 27,959 | 22,399 | 5,663 | 8,844 | 12 |
| Cobb Adjustment/Restitution Center | 128,350 | 19,798 | 108,552 | 34,735 | 15,796 | 5,775 | 25,707 | 16,433 | 1,240 |
| Gainesville Adjustment Restitution Center | 110,039 | 21,153 | 88,885 | 18,625 | 17,512 | 6,646 | 4,223 | 9,899 | 263 |
| Gateway Adjustment/Restitution Center | 75,595 | 13,774 | 61,822 | 28,916 | 11,916 | 2,240 | 1,700 | 1,302 | 4 |
| Macon Restitution Center | 99,439 | 20,817 | 78,623 | 21,988 | 33,689 | 4,107 | 8,652 | 13,424 | 848 |
| Rome Restitution Center | 116,112 | 19,680 | 96,432 | 14,957 | 34,132 | 4,750 | 890 | 32,666 | 1,767 |
| TOTAL | \$925,533 | \$164,472 | \$761,061 | \$206,880 | \$208,922 | \$62,393 | \$59,155 | \$128,437 | 8,372 |

*Rounded to nearest dollar. No figures presently available for Thomasville.
Source: Georgia Department of Corrections and Offender Rehabilitation.

TABLE 4
RESTITUTION CENTER OFFENDER CUMULATIVE EARNINGS
AND DISBURSEMENTS*
July 1976 - June 1977

gram insures that judges do not use the restitution program as an alternative to probation. There is some indication that in some of the other districts offenders who would otherwise be placed on probation sometimes are placed in restitution centers. There are other economic reasons for insuring that restitution is not used as a substitute for probation. In a paper prepared two years ago, Bill Read of the General Services Division of the DCOR explained:

The importance of diversion certainty for a residential diversion-from-incarceration program can easily be seen by considering a few basic cost figures. The annual cost of operating a 30-resident restitution center has proven to be approximately \$116,000.* The annual cost of supervising 30 offenders on probation... (\$205/offender/year) is \$6,150. The annual cost of incarcerating 30 offenders (\$4,045/offender/year) is \$121,350. It is, therefore, quite clear that a residential restitution center cannot be basically cost-effective if it serves offenders diverted from probation. For example, a restitution center serving 50 percent divertees from probation and 50 percent divertees from incarceration would have a basic comparative cost-effectiveness of \$116,000 versus \$63,750 (\$3,075 for field supervision cost plus \$60,675 for incarceration cost). In short, the restitution center would not be cost-effective. Therefore, a primary objective in diversion from incarceration programs is an offender selection method which guarantees 100 percent diversion certainty (i.e., post-sentence selection method using either a judicially amended sentence or a conditional parole).⁵

One of the major cost savings of Georgia's restitution centers is the short-term leasing of facilities in contrast to capital cost outlays in purchasing or constructing a community residential facility. Uneconomical tourist courts located on state highways now bypassed by interstate highways are to be found in most communities of any size. The Georgia experience has demonstrated high utility of these tourist courts as well as downtown hotels.

Although per diem costs in Georgia between prisons and restitution centers are about the same, the shorter turnaround time of an individual offender in a restitution center also represents a cost savings in contrast to the longer amount of time an incarcerated offender spends in prison. Mr. Read also mentioned this aspect of restitution centers in his previously cited paper:

The importance of the offender turnover rate can also be easily seen by again considering the previous basic cost figures. If we make the fair assumption that most property criminals who are sentenced to prison will normally serve a minimum of 12 months, it is clear that a restitution center can dramatically increase its basic cost-effectiveness by increasing its turnover rate. For example, since the annual cost of operating a 30-resident center will remain essentially constant, a center with an average turnover rate of six months can serve 60 offenders in 12 months at a cost of \$116,000. However, assuming 100 percent diversion from incarceration, the comparative cost of incarcerating these 60 offenders for 12 months is \$242,700. Likewise, comparative figures for a center with an average three-month turnover rate are \$116,000 versus \$485,400 for incar-

*Present restitution center costs are projected at \$200,000 annually.

ceration. Obviously then, an increased turnover rate represents a substantial increase in cost-effectiveness. Thus, another primary objective of a residential restitution program is an offender selection method which allows program staff to be somewhat selective of referral eligibles. In this way, program staff can use priority selection criteria which would operate to increase the total percentage of offenders who could be stabilized relatively quickly and could finish making their restitution on a non-residential basis.

The Georgia restitution centers have been successful in attracting resources from other state and federal programs for both core services and supplemental resources supported by state appropriations. VISTA volunteers, CETA employees, and library services are just a few examples of some of these resources. Volunteers are valuable in the program. Service clubs are attracted to sponsor certain aspects of the restitution program. These resources also exist in other states.

The key to the successful operation of a correctional residential facility is community acceptance. Key community leaders, particularly judges, must be involved in the beginning stages of planning for a restitution center. The restitution center needs to be viewed by community leaders as *their* program. And by making the program voluntary, the state corrections agency avoids trying to implement a restitution center in a community where it is not wanted. Additionally, the public service restitution aspect of the program has large appeal to community agencies, organizations, and political leaders. The concept of restitution itself has appeal to persons with both conservative and liberal political views. The former like restitution as a means to secure justice for the victim; the latter also appreciate its quality as an alternative to incarceration. Although for different reasons, it would seem that in selling the concept of a restitution center to a community, the concept itself goes a long way toward selling itself. In Georgia, in several communities with restitution centers, there is now a demand for a center for women.

Another lesson learned from the Georgia experience is that the state agency must allow each center flexibility in its operations and procedures as each community differs, political structures vary, judges have different views as to how offenders should be treated, and job markets are not the same. For the center to be adopted by the community as its own, the center program must reflect the uniqueness of that particular community. The availability of employment opportunities is a key factor in deciding on a site location of the center. Without the income derived from employment, offenders' restitution to victims is not possible. Thus, placement of restitution centers in remote areas may not be advisable. Of course, if public transportation is not available, alternative transportation modes must be considered. Georgia officials restrict travel to jobs to within the metropolitan area where the center is located. In Atlanta, this sometimes means a distance of 15 miles; in smaller towns, much less.

The need to find jobs for offenders; the need to locate other community resources such as volunteers, assistance from service clubs, library services, counseling; and the need to work closely with community leaders, especially judges, are important considerations in staffing residential restitution centers. Georgia's experience suggests that the center directors should have community organization skills, and such skills are probably more important than penology/criminal justice expertise. In this connection, Georgia-type restitution center advisory boards can also be quite useful.

Obviously, a state interested in establishing restitution centers must

determine if enabling legislation is required or if existing statutes allow for establishment of restitution centers. In recent years, most states reviewing their criminal codes specifically have listed restitution as a legitimate sanction. Residential centers that emphasize restitution as a key component of their programs seldom are specified in the statute. Many of the statutes, however, are broadly conceived and can easily be construed to include a residential center.

Conclusions

Restitution is an increasingly popular concept both as a sole sanction and as a condition of probation. Residential centers are not necessary for a restitution program, but those states with prison overcrowding might consider this alternative. Residential centers are viewed as an alternative to incarceration and a cost-effective response in reducing prison population.

FOOTNOTES

1. Other states reporting restitution programs are: California, Colorado, Connecticut, Florida, Iowa, Minnesota, Mississippi, Ohio, Oklahoma, South Dakota, Tennessee, Utah, and Washington. For the most part, these restitution programs are not combined with residential programs. In the past , three more states passed statutes allowing restitution—North Carolina, Texas, and Virginia.

2. *Operation Performance: Six Year Action Plan for Corrections* (Executive Summary), Georgia Department of Corrections and Offender Rehabilitation, July 1975, p. 2.

3. *Prison Population and Policy Choices, Vol. I*, ABT Associates, National Institute of Law Enforcement and Criminal Justice, 1977, p. 27.

4. Ibid.

5. A paper on the Georgia Restitution Center Program, prepared for the Southern Conference on Corrections, February 25-27, 1976, Tallahassee, Florida.

When criminals repay their victims: a survey of restitution programs

by Joe Hudson, Bert Galaway and Steve Chesney

Restitution to crime victims is an concept that is receiving new attention in the criminal justice system today. The idea itself, of course, was part of a variety of pre-modern legal systems,¹ and among its proponents include such writers as Sir Thomas More, Jeremy Bentham, Herbert Spencer, Raffaele Garofalo and Margery Fry.²

Recently, the idea has received endorsement from the National Advisory Commission on Criminal Justice Standards and the American Bar Association.³ The

1. Nader and Elaine Combs-Schilling, *Restitution: A Cultural Perspective* in Joe Hudson, *RESTITUTION IN CRIMINAL JUSTICE*, (St. Paul, Minnesota: Minnesota Department of Corrections, 1973).

2. Thomas More, *UTOPIA* 23-24, (J. C. Collins, 1954).

3. Bentham, *THE WORKS OF JEREMY BENTHAM*, 5th Edition, COLLECTED, UNDER THE SUPERINTENDENCE OF HIS EXECUTOR, JOHN BOWLING, Part 2, Edinburgh, Scotland: William Tait Publishers, 1843.

4. Spencer, *ESSAYS: SCIENTIFIC, POLITICAL, AND ECONOMIC*, Volume 3, 152-191 (New York: D. Appleton and Company, 1892).

5. Garofalo, *CRIMINOLOGY* (Boston: Little, Brown, 1914).

6. *THE ARMS OF THE LAW* (London: Victor Gollancz, 1934).

7. National Advisory Commission on Criminal Justice Standards and Goals, *CORRECTIONS* 150 (Washington: Government Printing Office, 1973).

8. American Bar Association Project on Standards and Goals for the Criminal Justice System, *STANDARDS RELATING TO SENTENCING ALTERNATIVES AND PROCEDURES* (New York: Council of Judicial Administration, September, 1970) and *STANDARDS RELATING TO PROBATION* (New York: Council of Judicial Administration, 1970).

American Law Institute,⁵ The Model Sentencing Act,⁶ the 1972 Annual Chief Justice Earl Warren Conference on Advocacy in the United States,⁷ and the Law Reform Commission of Canada.⁸ And two states, Iowa and Colorado, have already enacted laws emphasizing the importance of restitutive sanctions. In 1974, Iowa made restitution a condition of a deferred sentence or probation,⁹ and in 1976, Colorado said courts could order restitution in conjunction with fines, probation, imprisonment or parole.¹⁰

Most important, perhaps, the idea of restitution has become a reality through formal restitution programs in a number of places across the country. The prototype for many restitution programs, the Minnesota Restitu-

5. MODEL PENAL CODE, *Article on Suspended Sentences, Probation and Parole*, 1962, § 301.1 (2) (h).

6. Council of Judges of The National Council on Crime and Delinquency, *Model Sentencing Act, Second Edition*, 18 CRIME AND DELINQUENCY 356-359 (October, 1972).

7. Annual Chief Justice Earl Warren Conference on Advocacy in the United States, A PROGRAM FOR PRISON REFORM 11 (Cambridge, Massachusetts: Roscoe Pound-American Trial Lawyers Foundation, 1972).

8. Law Reform Commission of Canada, Working Paper No. 3: The Principles of Sentencing and Dispositions (Ottawa: Information Canada, 1974) at 7-10; Working Papers Nos. 5 and 6: Restitution and Compensation; Fines (Ottawa: Information Canada, 1974) at 5-15.

9. Senate File 26 of the 65th General Assembly, 1973, State of Iowa.

10. COLORADO CRIME VICTIMS RESTITUTION ACT, Second Regular Session, Fiftieth General Assembly, 1976.

tion Center, was established in 1972 by the Minnesota Department of Corrections.¹¹ The residents, who have all committed property crimes, become part of the program only when they have completed four months of their sentence in prison. They live in the center, work in the community and make the agreed-upon restitution. In 1975, Georgia opened four restitution shelters for probationers and parolees.¹²

We recently completed a survey of nineteen restitution programs in the United States and Canada, mainly through telephone interviews. We do not know the total number of restitution programs, but our telephone survey clearly did not reach all of them. Thus, the information we gathered reflects tendencies which may or may not apply to all such programs. (We will also present information from a recent study of restitution as a condition of probation.)

We think that unless critical attention and careful investigation is given to the most appropriate way to implement restitution, the classes of offenders from whom to require it, and its effects on victims and offenders, this practice could become another in a long line of criminal justice sanctions which promises more than it delivers.

At least four major questions should be asked about any contemporary restitution program: What should be the nature of the restitution? How should the amount of restitution be determined? What should be the relationship of restitution to other criminal justice sanctions? And should the victim be involved in the restitution decision? This article will address each of these questions in turn.

Nature of restitution

Two areas of confusion arise in defining a restitution sanction—first, confusion between restitution and victim compensation and, second, confusion about the various forms which restitution may take. Victim compensation usually involves a state-

administered form of insurance designed to provide at least partial reimbursement of a specified class of crime victims for their losses. The arrest or conviction of an offender is not a prerequisite for compensation payments, and such schemes usually operate outside the criminal justice system.¹³ Restitution, as distinct from victim compensation, involves the offender paying the victim, either directly or through third parties, as redress for damages.

Restitution may take diverse forms. In victim compensation schemes, a restitution program provides benefits to crime victims. But restitution is generally not an efficient mechanism for providing compensation to crime victims because most crimes are solved by an arrest, and many do not result in convictions. Even when convictions are secured, restitution may not be an appropriate sanction. In short, restitution is likely to provide compensation for only a very limited number of crime victims.¹⁴

Most of the operational restitution programs we surveyed appear to recognize this fact. Ten of the nineteen programs stated that their primary purpose was offender rehabilitation, and only four indicated providing reparations to crime victims as their major aim.

While restitution most commonly takes the form of money, many programs offer service restitution, in which offenders provide either the crime victim or larger community. Community service restitution is more common than direct service restitution by offender to the crime victim. Nine of the nineteen restitution programs estimated that community service was required in at least 80 per cent of all service restitution cases.

Community service restitution schemes commonly require the offender to provide services to public or private social welfare agencies. Typical services include repairing homes for the elderly, working with youth in organized recreational programs.

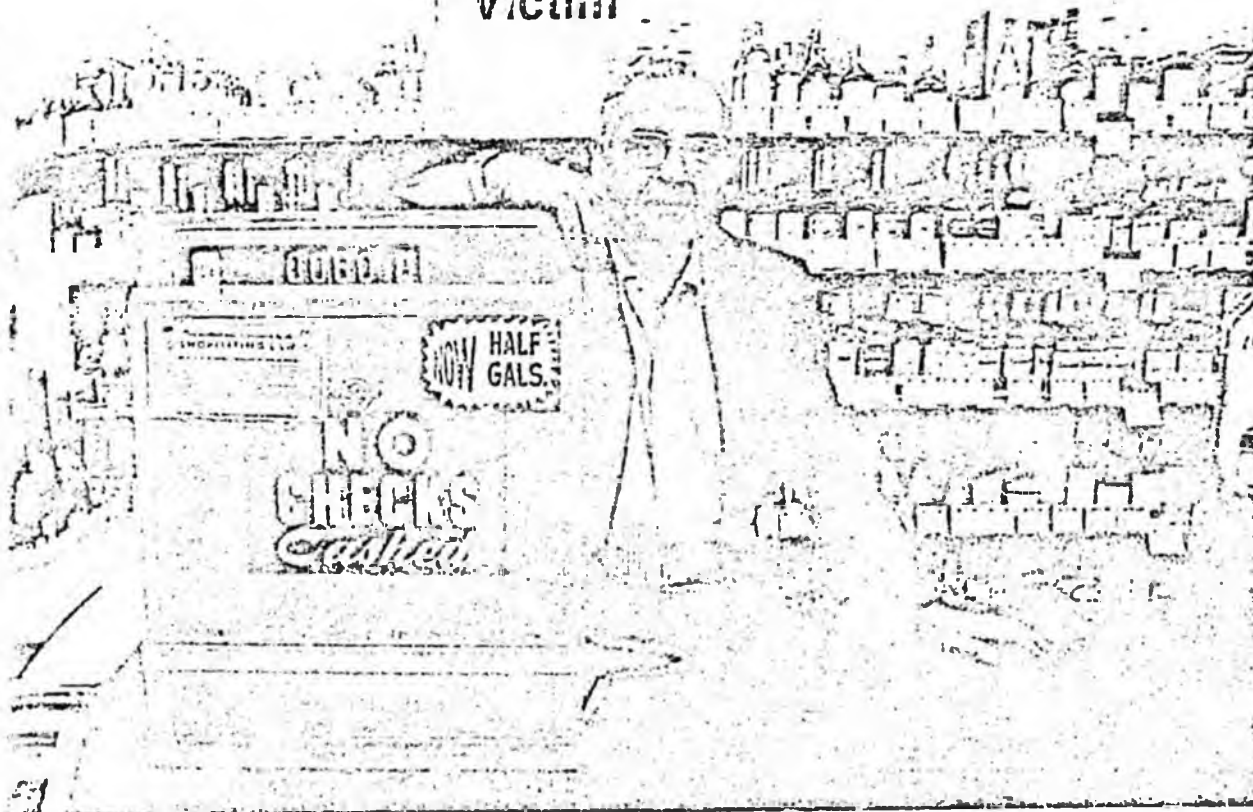
13. Joe Hudson and Burt Galaway, editors, *Helping the Victim: Readings in Restitution and Victim Compensation* (Springfield, Illinois: C. C. Thomas, 1975.)

14. John A. Stookey, *The Victim's Perspective* in Hudson, *supra* note 1, at 4-12.

11. Joe Hudson and Burt Galaway, *Undoing the Wrong*, 19 *SOCIAL WORK* 313-318 (May 1974).

12. Bill Read, *The Georgia Restitution Program*, included in Hudson, *supra* note 1 at 216-227.

Victim



Offender



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and volunteer counselling work with drug abuse programs. Direct service restitution to victims could take several forms, such as a vandal repairing the damage he did.

Amount of restitution

Restitution programs usually require some procedure for determining the amount of restitution to be made. An obvious problem in using service restitution is equating the value of the services with the damages done. This is most often accomplished by using minimum wage rates or the hourly wages the offender might command in legitimate employment.

A second problem is assessing the accuracy of the damage claims reported by victims. Programs commonly report concern that victims may inflate their claims and almost unanimously note problems in determining and validating the amount of restitution to be made. This concern is shared by offenders and, in the case of juvenile offenders, their parents.¹⁵

While victims may inflate their losses, however, offenders may tend to underestimate the extent of loss, either out of ignorance or self-justification. A recent study of juvenile offenders found that the damage estimates of parents, victims probation officers and police officers were relatively consistent, but the juveniles themselves tended to report substantially lower loss estimates.¹⁶

Two procedures are commonly used to determine the required amount of restitution. One is to use a third party such as a probation officer, judge or other criminal justice official to weigh the different claims and arrive at a fair determination. The other is to bring the victim and offender together in a negotiation process with an agent of the criminal justice system acting as a mediator to arrive at a loss figure. The Minnesota Restitution Center has had considerable success in directly involving victims with offenders in face-to-face negotiations over

15. Burt Galaway and William Marsella, *An Exploratory Study of the Perceived Fairness of Restitution as a Sanction for Juvenile Offenders* (paper presented at the Second International Symposium on Victimology, Boston, Massachusetts, September, 1976.)

16. *Id.* at 18.

How one judge uses alternative

In states that lack formal restitution programs, some judges promote a similar through "alternative sentencing" in which the offender must help others as a condition of probation. Here's one example.

In an appropriate case, alternative sentencing can be imaginative and just.

In an embezzlement case, for example, a defendant in San Francisco had taken somewhere between \$1000 and \$4000 from the government by falsifying overtime bills. He resigned a career civil service position as a result of the conviction. The court ordered that his sentence be suspended and that he be placed on probation for five years under these conditions:

1. He must pay a fine of \$5000. (He did so by selling much of his furniture and household furnishings.)

2. In lieu of one year in the county jail, he must work four hours a day, five days a week for one year at St. Anthony Dining Room. (He did.)

St. Anthony Dining Room is run by a gentle and compassionate Franciscan priest, the Reverend Alfred Boelddeker, and a

the extent of damages. Once the parties concur, they develop a written agreement and if the parole board approves it, the offender is released on parole to the program.¹⁷

In addition to the question of determining the amount of damages, there is the question of whether 100 per cent restitution should always be required. Are there circumstances in which the required restitution should be less than the total damages? Or are there circumstances in which it may be fair to require restitution exceeding the amount of damages?

Most existing programs appear to require full restitution and try to equate the restitution with the actual extent of damages.

17. Hudson and Galaway, *supra* note 13.

Judge uses alternative sentencing

by Francis McCarty

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...Street" because it never runs out of

...endants assigned there have worked as
...s, handymen, dishwashers, waiters
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...ing. "It is a good lesson," said the
...nd Boeddeker. "It's better than let-
...hem sit in jail."

...institutions to which defendants
...been assigned for community service
...the Senior Citizen Center, the Youth
...ance Center, the Veterans' Hospital,
...ighthouse for the Blind, the Recrea-
...Center for the Handicapped and the
...gency Hospital.

...s difficult to set down exact and precise
...lues for the use or nonuse of alterna-
...sentencing. The judge must make his
...sion in relation to the particular facts of
...se. Obviously, crimes of violence and
...s involving the use of lethal weapons
...ot proper subjects of such sentencing.

The value of such sentencing is fourfold.

1. It is a benefit to the people served, such as the poor, the ill, the severely handicapped and the mentally retarded.

2. It makes the defendant realize that many are less fortunate than he. He serves his fellow man.

3. It saves taxpayers the cost of food, clothing, bedding, cleaning and medical services at the county jail, where the daily cost of maintaining a prisoner is about \$27.

4. Because of these benefits, it makes for a closer attainment of pure justice—the ultimate objective of our judicial system.

Alternative sentencing does not make sentencing easier, but it could make punishment a more worthwhile experience for the offender and a less costly one for society. And through alternative sentencing, the offender can return to society knowing that in some sense his efforts entitle him to reassume his place there.

Properly used, imaginative sentencing is good for all of us. □

FRANCIS McCARTY is a judge of the San Francisco Superior Court.

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...seventeen programs responding to an
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...been stated that full restitution was re-
...ted for more than 80 per cent of the
...ly admitted offenders. Only one pro-
...demanded partial restitution in the
...rity of cases, and three programs indi-
...ed that roughly equal proportions of full
...partial restitution obligations were re-
...ted.

...but theorists in social psychology gen-
...support the use of full restitution.
...reason that wrongdoers experience an
... "distress" at having benefited from an
...act. People relieve this distress either
...compensating their victim or by justify-
...their crime. Experiments show that peo-
...are more likely to make restitution when
...can give back an amount equal to what

they have taken.¹⁸ If they can give back only an excessive amount (or an insufficient amount), they tend to justify their original conduct.

A different perspective on this issue has been raised by Stephen Schafer¹⁹ and Kathleen Smith²⁰ who have recommended that

18. Elaine Walster, Ellen Berscheid, G. William Walster, *New Directions in Equity Research*, 25 JOURNAL OF PERSONALITY AND SOCIAL PSYCHOLOGY 151 (1973).

19. Stephen Schafer, COMPENSATION AND RESTITUTION TO VICTIMS OF CRIME 117-129 (Montclair, New Jersey: Patterson Smith, 1970); *The Proper Role of a Victim-Compensation System*, 21 CRIME AND DELINQUENCY 45 (January, 1975).

20. Kathleen T. Smith, A CURE FOR CRIME: THE CASE FOR THE SELF-DETERMINANT PRISON SENTENCE, (London: Gerald Duckworth and Company, 1965); *Implementing Restitution Within a Penal Setting: The Case for the Self-Determinant Sentence*, in Hudson, *supra* note 1 at 228-245.

restitution should exceed the damages done. Schafer has advocated the explicitly punitive use of restitution on the grounds that restitution as the sole sanction might allow some serious offenders to purchase their freedom with a relatively mild sanction. Similarly, Kathleen Smith's concept of the self-determinant sentence involves a restitution requirement supplemented by a discre-

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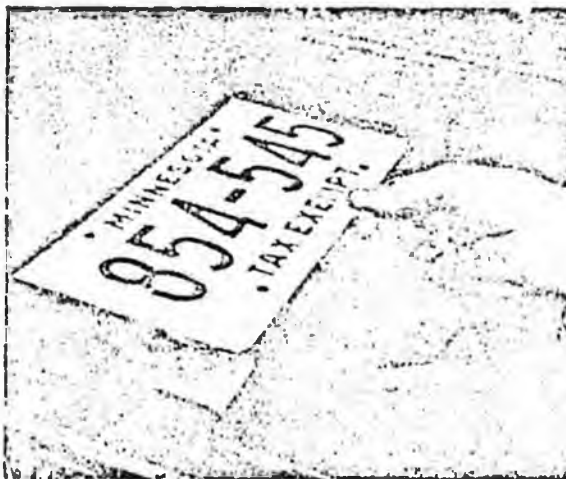


PHOTO BY BILL POWERS

tionary fine imposed by the court. To the extent that they are used in conjunction with restitution, fines have the effect of requiring excessive restitution—the offender is required to repay both the victim and society.

It can be argued, however, that in some cases where exceedingly large dollar losses resulted from the offense, full restitution may impose such undue hardships as to be unjust. Several policy proposals and standards have recommended partial restitution on such grounds. Clearly, however, most of the available evidence concerning the amount of loss resulting from criminal victimizations suggests that full restitution would not impose an undue hardship for most offenders. For example, the 1974 Uniform Crime Reports indicates that the average dollar loss in a burglary was \$391 while the average value of property stolen in a theft was \$156.²¹

A related issue concerns the specific criminal offenses for which the individual is to be held officially responsible. Should resti-

21. CRIME IN THE UNITED STATES, 1974 (Washington, D.C.: U.S. Government Printing Office, November, 1975) at 29, 31.

tution be limited to offenses for which the offender was found guilty? If so, resti-
might not cover a wide range of
settled by plea bargaining or ones
not proceed through adjudication for
ever reason. From the victim's perspective,
least, the result would be partial resti-

Alternative sanctions

What is the appropriate relationship of restitution to other criminal justice sanctions? To what extent does restitution interfere with the use of other sanctions and objectives of the criminal justice system? Available evidence suggests that while probation officers and judges in Minnesota tend to think that restitution helps rehabilitate the offender, there is concern that restitution may reduce the offender's ability to care for himself and his family.²² In this instance, restitution works against the rehabilitative objectives of corrections programs. But since fines and restitution against property result in such limited savings, it seems legitimate to ask whether in most cases restitution is a sufficiently effective sanction.

Although restitution is occasionally imposed as a sole sanction, most jurisdictions appear reluctant to use it except in conjunction with other sanctions and treatments. The survey of Minnesota probation programs suggests that victims desire sanctions in addition to restitution.²³ Similarly, Galaway and Marsella found that when given a choice of a single sanction, victims, probation officers and police overwhelmingly preferred supervised probation to restitution. When asked to combine sanctions, the respondents overwhelmingly chose supervised probation with restitution.²⁴

Similarly, most operational restitution programs tend to add restitution to existing sanctions or treatments. For example, restitution is most commonly employed in conjunction with supervised probation as a condition of pretrial diversion programs or

22. Steven L. Chesney, *An Assessment of Restitution in the Minnesota Probation Services*, included in *Restitution*, *supra* note 1 at 159-161.

23. *Id.* at 165.

24. Galaway and Marsella, *supra* note 15 at 22.

Restitution programs surveyed

| Program | Level of system | Clients | Type of program |
|---|-------------------------------------|------------------------------|---|
| Restitution Center Georgia | Probation and parole | Adults only | Residential |
| Program as an Alternative to Criminal Warrant New York | Pretrial diversion | Usually adults only | Nonresidential |
| Restitution Center Georgia | Probation and parole | Young adults (ages 17-25) | Residential |
| City Accountability Program of the City of Seattle Washington | Pretrial diversion and probation | Juveniles | Nonresidential |
| City Arbitration Program Maryland | Pretrial diversion | Juveniles | Nonresidential |
| Restitution Center Georgia | Probation and parole | Adults only | Residential |
| Restitution Center St. Paul, Minnesota | Parole | Adults only | Residential |
| Prosecutor's Program Columbus, Ohio | Pretrial diversion | Adults | Nonresidential |
| Restitution Center Edmonton, Alberta | Pretrial and probation | Adults only | Nonresidential |
| County Attorney's Program on Project Arizona | Pretrial diversion | Adults | Nonresidential |
| Program and Effective Program from the Criminal Justice System Milwaukee, | Probation and parole | Adults | Nonresidential |
| Program in Probation Department Des Moines, Iowa | Probation | Adults | Residential and nonresidential components |
| Program Work Program Salt Lake City, Utah | Pretrial diversion and probation | Juveniles | Nonresidential |
| Carleton Restitution Program Ottawa, Ontario | Provincial jails | Adults | Residential |
| Restitution Center Georgia | Probation and parole | Adults | Residential |
| Circuit Court Assistance Program Sioux Falls, South Dakota | Pretrial diversion and probation | Adults and Juveniles | Nonresidential |
| Assistance Program Las Vegas, Nevada | Pretrial diversion and probation | Juveniles | Nonresidential |
| Offender Reconcilia- tion Program Kitchener, Ontario | Pretrial diversion and probation | Juveniles and Adults | Nonresidential |
| Wilson County Restitution Program Wilson, Oregon | Probation and parole | Adults | Residential |

community-based corrections program. In each case, the usual pattern is to impose participation in some form of treatment activity such as group or individual counseling in addition to the restitution requirement.

The relative benefits of restitution as a sole sanction or in conjunction with other sanctions is an important question requiring serious examination. The increasing cost and questionable effectiveness of presently available criminal justice sanctions suggest the need to explore alternative sanctions for specified classes of offenders. Restitution may be one practical alternative.

The victim's role

Another set of questions concerns the appropriate role of the victim in a restitution scheme. Some approaches avoid making the victim part of the decision-making process for restitution; others encourage participation.

In the Minnesota probation services, victims generally do not become involved with offenders in restitution schemes, and in a substantial number of cases, victims were not even aware that they would receive restitution.²⁵ The probation officer apparently arranged for restitution without the victims' knowledge and, when ultimately collected, the restitution would be forwarded to the victims. Of the nineteen restitution programs we surveyed, only five usually involved the victim with the offender in developing a restitution agreement. Nine programs stated that such involvement occurred only occasionally, and five stated that it never occurred.

Data from the study of Minnesota probation practices indicate that direct victim-offender contact is overwhelmingly discouraged by judges on the grounds that such a practice would be against the wishes of the victims or might lead to further victimization.²⁶ Contrary evidence can be found to suggest that personal contact between victim and offender can minimize the offender's use of rationalization concerning the

harm that he has done.²⁷ In short, arguments can be made for or against victim involvement in restitution programs. Empirical evidence exists to support either position. It is known, however, that many restitution programs emphasizing victim-offender contact and involvement in the development of restitution agreements. No major problems have been reported. No program forces victim involvement, although we do not know the extent to which victims may feel pressure from the program to deal with the offender.

Another question concerns the weight to be given the views of the victim on whether the offender should be offered an opportunity to participate in a restitution plan. This becomes particularly important if restitution is perceived as a less severe sanction than the alternative. For example, the Pima County Attorney's Adult Diversion Program in Tucson has instituted the principle of victim approval as a prerequisite for the use of restitution.²⁸ Apparently, victims can veto the admission of offenders into the program. It is not clear, however, what cases likely to be vetoed are screened by program staff.

Our survey of restitution programs found that only four programs allowed victims to exercise veto power. In general, then, the pattern is one of not providing victims with the power to veto and substituting community service restitution in those cases where victims do not wish to receive restitution or be otherwise involved.

To what extent will the fairness and appropriateness of the restitution requirement vary with the nature of the victims? Should restitution be limited to situations in which the victim is an individual, or should it

27. Steward Macaulay and Elaine Walster, *Structures and Restoring Equity*, 27 JOURNAL OF PERSONALITY AND SOCIAL PSYCHOLOGY 173 (1971); Ellen Berscheid and Elaine Walster, *When Does a Harm-Doer Compensate the Victim?* 6 JOURNAL OF PERSONALITY AND SOCIAL PSYCHOLOGY 425 (August, 1967); J. L. Freedman, Wallington, and E. Bless, *Compliance Without Assurance: The Effect of Guilt*, 7 JOURNAL OF PERSONALITY AND SOCIAL PSYCHOLOGY 117 (October, 1967).

28. David A. Lowenberg, Pima County Attorney's Adult Diversion Project's Second Annual Report, 1973 through September, 1975, (unpublished research report, October 29, 1975).

25. Chesney, *supra* note 22.
26. *Id.* at 63.

When victims are large business insurance companies? If so, is it larger that the restitution requirement lead to the victimization of the

Nader has expressed concern that it will perpetuate a pattern of "industrial imperialism" in which individuals are held accountable for restitution to corporate victims without corresponding requirement that offenders make restitution to individual victims.²⁹ The obvious solution to practice, of course, is to make both parties responsible for making good financial damages.

Issue of the relative extent to which victim is functionally responsible for victimized is receiving increased attention and raises further questions about the role of the victim in a restitution scheme. In the past several years, a considerable amount of evidence has accumulated to suggest that the criminal act can most fully be understood as resulting from the behavior of victim and offender.³⁰ Either through negligence or culpability, individuals may be responsible for their own victimization. To what extent should such considerations influence decisions regarding the amount and type of restitution to be made?

Question has been largely neglected in national restitution programs; seven of nineteen programs said they made no mention of victim responsibility in arriving at either the form or the amount of restitution. Similar findings were reported in the survey of Minnesota probation practices.³¹

Implications of victim culpability are complex. It is reasonable to suggest however that in situations provoked by victims, individuals should choose from among a variety of alternative behaviors and should therefore

be held accountable for the behavior that is chosen.

Conversely, program managers might consider using the concept of contributory negligence to permit reduction of restitution in relation to the culpability of the victim. Victim compensation programs generally provide that compensation payments can be decreased or denied on the basis of victim culpability.³² At the same time, however, administrators of compensation programs note great difficulty in assessing culpability and report few denials or reductions of payments on this basis.

In this article we have identified and discussed several major questions arising from the use of restitution within criminal justice programs: the nature of the restitution sanction, the amount of restitution to be ordered, the role of the victim in a restitution scheme, and the relationship of restitution to other criminal justice sanctions. Gaps are apparent in both the operational use of the idea and in the evaluation and assessment of it. Given the limited amount of research evidence available, we simply lack an adequate basis for assessing the utility of the idea.

While a host of program and research needs are apparent, several areas deserve immediate attention. First, we must clarify what we mean by restitution. In particular, we need case studies of how restitution is implemented in different programs. Second, we need information and assessment of the use of restitution as the sole sanction, not supplemented by other treatments and criminal justice sanctions. Finally, we must develop ways in which victims can participate in restitution schemes and assess the benefits of their involvement for the victim, the offender, and the system of justice. □

32. Burt Galaway and Leonard Rutman, *Victim Compensation: An Analysis of Substantive Issues*, in Hudson and Galaway, *supra* note 13 at 427-428.

29. Nader and Combes-Schilling, *supra* note 1.
30. E. Wolfgang, *PATTERNS IN CRIMINAL BEHAVIOR* (Philadelphia: University of Pennsylvania Press, 1958).
31. David J. Pittman and William Handy, *Criminal Aggravated Assault*, *JOURNAL OF LAW, CRIMINOLOGY AND POLICE SCIENCE*, October, 1964; Menachem Amir, *Patterns in Crime* (Chicago: University of Chicago Press, 1964).
32. Chesney, *supra* note 25 at 159-160.

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STEVEN CHESNEY is a research analyst for the Minnesota Department of Corrections.

A new program helps offenders "make good" the losses they have caused—and regain their place in society. **How**

PHOTO BY BILL POWERS

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How restitution works in Georgia

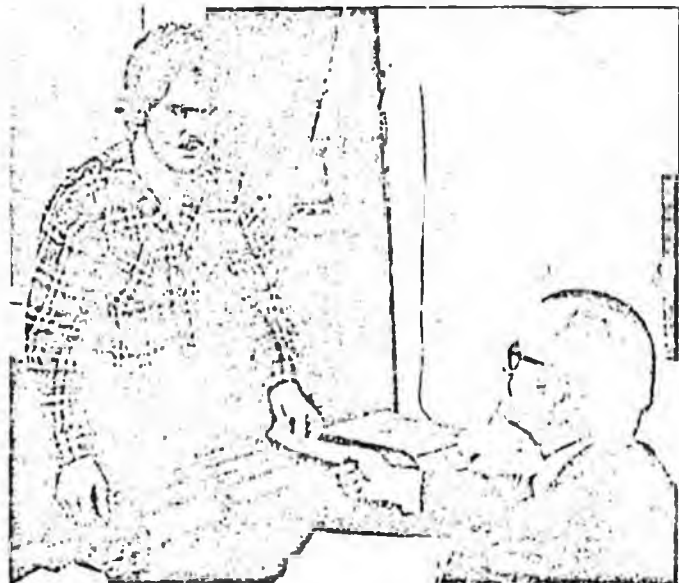
By Bill Read

In most states, Georgia has traditionally used the restitution sanction through unstructured local programs. Restitution in Georgia has most frequently been used as a condition of probation or in connection with a suspended sentence and is administered by the judiciary and the Adult Probation Division.

Although recommendations regarding the appropriateness of restitution are often made by district attorneys and probation officers in presentence investigation reports, the judiciary has historically received little or no state-level guidance in making restitution decisions. Before 1975 there were no formal programs within which to use restitution.

In the last two years, the Georgia Department of Corrections/Offender Rehabilitation (DCOR) has begun to formally structure the use of the restitution sanction and to experiment with residential and nonresidential restitution programs. In 1975, DCOR initiated a two-year, LEAA-funded, pilot residential restitution program designed to divert offenders from incarceration. This program allows courts and the parole board to require

- 1. A Minnesota offender signs a restitution agreement.
- 2. An offender in one of Georgia's residential restitution centers turns in his paycheck to the center's business manager. The offender receives a weekly living allowance and the business manager supervises regular restitution payments to victims via check. The rest of the paycheck goes for room and board at the center, support and savings.



offenders to make financial and/or community service restitution while living at the restitution center under close supervision.

This program proved so popular both with citizens and criminal justice personnel that the Georgia legislature voted—in a year of austerity budgeting—to assume state funding of the program beginning in fiscal 1977. Most of the DCOR's other residential community facilities have since been modified to incorporate the restitution program policies and procedures developed by the pilot grant.

The second restitution program, also funded by a two-year LEAA pilot grant, is intended to develop a formal, research-based, nonresidential restitution system. This program draws heavily upon experience gained from the residential program. It is applicable to a wide variety of offenders, it can be implemented at any time from presentence to post-incarceration, and it can be easily expanded in Georgia or replicated in other states.

Residential restitution

The original two-year discretionary grant established residential centers in four metropolitan areas: Albany, Atlanta, Macon and Rome. The goals of the program were (1) to reduce the prison population by diverting eligible offenders to the restitution program; (2) to involve citizen volunteers in the rehabilitation of offenders from their own community; (3) to demonstrate effective methods of offender restitution; and (4) to determine the cost-benefit factors of residential restitution.

Offender eligibility: The program is open to "any male offender whom the judiciary or the parole board would normally incarcerate in lieu of program participation and for whom restitution would be appropriate." Referrals are obtained through direct court sentencing, direct parole, and revocation proceedings. Thus, the restitution program is a diversion from prison for eligible probationers and parolees.

The Restitution Center Program began under the legal auspices of existing legislation which enabled the DCOR to make participation in the restitution program a spe-

cial condition of the probation order or parole decree. If an offender fails to cooperate satisfactorily in the restitution program, his parole or probation may be revoked and he may be imprisoned.

Program administration: The four centers have capacities ranging from twenty to thirty-three offenders. The total residential capacity is 120. Each center has a base staff of nine—usually a superintendent, a business manager, a typist, a probation supervisor, a counselor, and four court clerks, aides and/or correctional officers.

This core staff is supplemented by many volunteers, student interns, and citizen volunteers. Citizen volunteers take on a variety of responsibilities. Individuals provide direct one-to-one contact with offenders, schools, churches, and civic organizations give general support and sponsorship of the restitution center program.

Each restitution center is encouraged to develop specific treatment programs based on the needs and abilities of their residents and staffs and the resources of their communities. Staff members help offenders to find jobs in the community and to develop a realistic budget. The offender must turn in all his pay checks to the business manager who disburses the money into special budget category accounts against which the offender draws on a regularly scheduled basis.

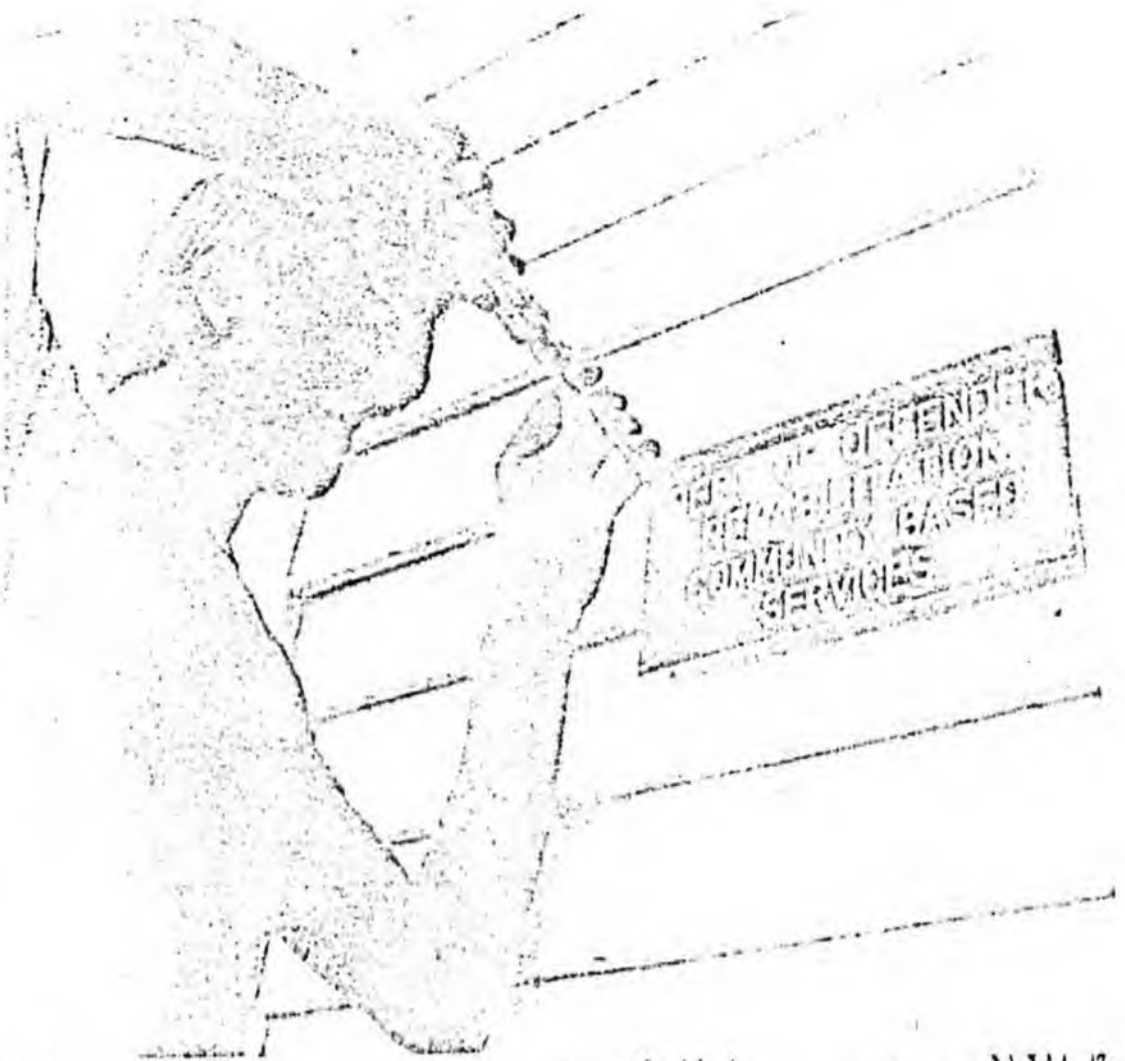
Close surveillance of an offender's behavior and activities continues throughout his residence at the center. He must sign out each time he leaves the center, report his destination and return to the center at a specified time. He can visit his family one night periodically if he has obeyed the rules and satisfactorily participated in the programs.

Each offender receives basic counseling.

Above: An offender resident installs the new Athens, Georgia, Restitution-Adjustment Center.

Below: The Athens center is located in a renovated suburban house. It typifies the community facility the Georgia Department of Corrections and Offender Rehabilitation is using to promote.

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from center staff, and he can get specialized help from community resource agencies. Also, citizen volunteers are actively involved in in-house educational and informational programs and in helping individual offenders in a variety of ways. Every effort is made to involve the local community in the treatment and rehabilitation of local public offenders and to increase the offender's awareness of community responsibility.

Mechanisms of restitution: The Restitution Center Program uses both financial and community service restitution. With probationers, the judge determines whether the probationer must make full or partial financial restitution. The probationer then begins residence at the restitution center and allots a certain amount of each paycheck toward restitution. Sometimes he is required to live at the center until the total restitution has been paid. More often, however, a probationer who has demonstrated adequate stability and responsibility for several months will be allowed to complete his restitution on a non-residential basis. Probationers may be required to make community service restitution in lieu of or in addition to financial restitution.

Eligible parolees are typically required by the parole board to live at the restitution center for a specified period of time, to maintain stable employment, and to participate in unpaid community service after work on evenings or weekends. The center staff determine the actual nature and extent of the community service to be required. To date, numerous forms of community restitution have been used. Residents have worked in mental hospitals and health centers, repaired the houses of aged pensioners to prevent condemnation, worked with children in recreational programs, assisted in volunteer counseling with juvenile offenders, and conducted community clean-up projects.

Victim involvement: The extent of victim/offender contact in the Restitution Center Program has been minimal. Most victims prefer simply to recover their losses without meeting the offender. Consequently, the victim typically is sent a letter explaining that the enclosed check represents

financial restitution being made by the offender. In occasional cases in which confrontation is feasible and is deemed important, center staff will arrange for the offender to repay the victim face-to-face.

Every effort is made to involve the community in the treatment and rehabilitation of local offenders.

Most such confrontations have been received by both victims and offenders.

Professional reactions: Professional reactions to the Restitution Center Program have been extremely positive. Judges like the program because it gives them an intermediate sentencing alternative stronger than probation and less harsh than prison. The parole board likes the program because it can release eligible parolees to a transitional experience in the community—a better alternative than regular parole supervision or release without supervision at the end of sentence. Probation/parole supervisors like the program because it is a meaningful alternative which they can recommend to the judge in lieu of revocation to incarceration. And the supervisors who work directly with the Restitution Center Program enjoy the opportunity to work intensively with offenders. Social workers like the Restitution Center Program because it doesn't disrupt the family relationship; the social worker can help the offender and his family in the local community, and the offender can continue to support his family so he does not become dependent upon welfare.

Community reaction: Community reaction to the Restitution Center Program concept has also been strongly positive. Citizens particularly appreciate the fact that the Restitution Center Program may be the only possible for them to obtain either

restitution of the victim. The working community partially contributes to rehabilitation. Restitution is a response to the state's spending on idleness. Most offenders appreciate an opportunity to avoid an unacceptable direct and

statistics: In the Restitution Center Program, property offenses are reduced. Eighty-five percent of the committed felonies require restitution. Two percent of the parolees. Fifty-three percent of the accepted inmates. 76, 120 remain. Have left the state. Of these were believed released. Supervisory negative termination. They absconded. In 1976, office residential center. \$62,500 to \$172,500.

earned \$256,800 (room at \$336,300). Living expenses, transportation, and \$113,100 for fines, thus a total of \$61,600 are released from effectiveness: about the process. These

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restitution concept as a much more
response to crime than prisons
the state spends money to support
virtual idleness.

over, most offenders seem to genu-
appreciate an opportunity to redress
initial unacceptable behavior through
direct and relevant positive be-

gram statistics: Almost all offenders
in the Restitution Center Program
are property offenders. The most
offenses are burglary, theft, and
Eighty-five per cent of the residents
committed felonies; 15 per cent are
restitution for misdemeanors.
Two per cent are probationers; 18 per
cent parolees. Fifty-seven per cent are
black. Of the 504
accepted into the program through
1976, 120 remain in residential status,
384 have left the program. Sixty-three
of these were positive terminations
(achieved release or release to non-
residential supervision), and 37 per cent
negative terminations (they were re-
leased or they absconded).

In 1976, offenders making restitu-
tion at residential centers:

- Paid \$62,500 to victims.
 - Paid \$172,500 in state and federal
fines.
 - Returned \$256,800 to the state in proj-
ection (room and board maintenance
costs).
 - Spent \$336,300 in the local communi-
ty on living expenses such as food, cloth-
ing, transportation, and personal items.
 - Paid \$113,100 for financial support of
families, thus reducing state welfare
costs.
 - Returned \$61,600 as nest eggs to use when
released from residential supervi-
sion.
- Effectiveness: Three basic factors di-
rectly affect the program's overall cost-
effectiveness. These factors are diversion

certainty, turnover rate and efficiency rate.
All figures used here are based on current
DCOR statistics.

1. *Diversion certainty.* The importance of
diversion certainty can easily be seen by
considering a few basic costs. The annual
cost of operating a thirty-resident restitution
center is about \$116,000. The annual cost of
supervising thirty offenders on probation or
parole (at \$205 per offender per year) is
\$6,150. The annual cost of imprisoning thir-
ty offenders (at \$4,045 per offender per year)
is \$121,350.

Therefore, a residential restitution center
cannot be basically cost-effective if it serves
only offenders diverted from probation.
Thus, a restitution center in which half the
residents are divertees from probation and
half are divertees from prison will cost
\$116,000—far more than the \$63,750 that
usual sanctions cost (\$3,075 for field super-
vision cost plus \$60,675 for incarceration
cost).

Therefore, a primary objective in
diversion-from-prison programs is to ensure
that the method of selecting offenders guar-
antees that program participants are people
who would otherwise be imprisoned. Such a
method would either have judges subse-
quently amend the prison sentence of those
chosen for the program or have parole
boards give parole conditional upon partici-
pating in the program.

2. *Turnover rate.* A restitution center can
dramatically increase its basic cost-
effectiveness by increasing its turnover rate.
For example, since the annual cost of operat-
ing a thirty-resident center will remain es-
sentially constant, a center with an average
turnover rate of six months can serve sixty
offenders in twelve months at a cost of
\$116,000. If we make the assumption that
most property criminals who are sentenced
to prison will normally serve a minimum of
twelve months, then the comparative cost
of imprisoning those sixty offenders is
\$242,700. Thus, another primary objective
of a residential restitution program is to
select offenders who could be stabilized
relatively quickly and could finish making
their restitution on a nonresidential basis.

3. *Efficiency rate.* The efficiency rate, or

the percentage of program successes versus program failures (revocations and absconders), is another important factor in cost-effectiveness. Program failures reduce both diversion cost-effectiveness (failures are imprisoned, thus reducing comparative imprisonment cost-savings) and turnover rate cost-effectiveness (failures consume space and time, thereby reducing the number of successful program participants who can flow through the program). Here again, one important key to increasing program efficiency is to ensure that the program staff controls admissions of eligible offenders to

the center. Efficiency should increase not only because of increased selectivity, but also because of a greater staff commitment to working with those offenders who are personally selected.

Of course, reality is much more complex than these examples. These three factors interact constantly, and there are many other factors, both subtle and overt, that influence the ultimate cost-effectiveness of the program. But a residential restitution program which ignores these three basic factors is probably never to be cost-effective and is courting fiscal disaster.



These restitution center residents are working on a community service project—repairing the fence of aged pensioners to prevent their condemnation for building code violations. The construction materials are either donated by charities or supplied by the homeowners.

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Residential restitution

The nonresidential Sole Sanction Restitution Program began in fiscal 1977 as a research grant to the DCOR from the Department of Corrections. The goals of this grant program are (1) to develop a research-based restitution program which realistically addresses and meets the needs of the criminal justice system, victims, and offenders; and (2) to conduct research into the costs and benefits of such a program.

In this program, restitution is the sole condition of probation supervision continues until restitution has been made. The program emphasizes citizen-supervised community service restitution for indigent offenders, and it redefines the role of the probation supervisor as a community organization manager.

Program administration: The Sole Sanction Restitution Program is being implemented at both the sentencing and post-sentencing levels in four of Georgia's judicial circuits and involves a total of seventeen. At the state level, the program is coordinated by a planner, a reporter, and a secretary. They are responsible for the overall planning, development, and implementation of both program and research objectives and they work with field personnel, the parole board, and the courts to accomplish grant goals.

In each of the four judicial circuits, three people implement the program—a restitution specialist, a correctional casework aide, and a typist. They develop the program in the field and help collect research data. They work directly with offenders, victims, and the criminal justice system.

At the field prison level, the program is coordinated by one restitution specialist and a typist who serve as liaisons between the parole board, the DCOR, and field circuit personnel. They screen incoming prisoners from the four experimental circuits at the Georgia Diagnostic and Classification Institute and develop restitution plans which the parole board will review.

Offender selection procedure: Admission to the program is restricted to those offenders in the four experimental judicial circuits who have committed non-violent

crimes for which restitution is suitable and who can realistically complete restitution within eighteen months. Grant personnel conduct presentence or post-incarceration investigations on all offenders who meet program consideration criteria and work with the offender to develop a proposed restitution plan to submit to the court or parole board. Random selection is used to generate comparable experimental and control groups.

The restitution plan: The restitution plan consists of a performance agreement which specifies the extent of restitution—both the amount and the type—which the offender agrees to make. The restitution specialist develops this plan with the offender and submits it for court or parole board approval, at which time the restitution specialist acts as an offender advocate. If the court or parole board modifies the plan in a way the offender will not accept, he can choose not to participate in the program. (For probationers, the restitution agreement is made a part of the conditions of probation.)

Once his restitution plan is approved, the inmate receives a conditional reprieve from the parole board, and his parole depends upon completing restitution. Normally, the performance agreement specifies that completing restitution will end the offender's involvement with the criminal justice system. Monthly progress reports on the offender's progress go to the court or parole board, and any offender who fails to keep his agreement is returned to the criminal justice system for appropriate disposition.

Financial restitution: Full financial restitution is paid by those offenders who have the earning power to make such restitution and still meet their financial obligations. Those offenders who can afford to make only partial financial restitution must complete the remainder of their obligation through community service restitution. The restitution specialist helps the offender in budget planning, debt consolidation, and vocational counseling, including agency referrals.

Community service restitution: When an offender cannot make full financial restitution, he can substitute community service restitution—unpaid work for the good of the

general local community. The dollar value of restitution owed is converted to equivalent hours of service restitution based on the type of service performed, in a manner which reflects fair market value. Service restitution may be either "in-kind" or general service restitution. "In-kind" restitution is

Through service restitution, the public offender becomes a community resource, rather than a community liability.

an activity related to the original offense (working on a community beautification project after a conviction for littering); general service restitution is an activity unrelated to the original offense (working on community beautification after a conviction for disorderly conduct). To avoid the risk of further victimization or lawsuits, offenders never make service restitution directly to victims.

The restitution specialist organizes citizen advisory committees of local community leaders from all walks of life—businessmen, labor officials, ministers, members of volunteer and charitable organizations, and others. The committees identify suitable tasks which offenders can perform to benefit the local community. Since people recognize the value of these tasks, the public offender becomes a community resource and asset rather than a community liability.

All community service activities are formally sponsored by local community organizations. A "key volunteer" member of each organization works along with the offenders to supervise the tasks. Supervision may be continuous, intermittent, or nominal, depending on the nature of the task. It is

only necessary that a few people in service organization know the offender's status; he himself need not reveal his status to anyone. This arrangement eliminates stigma so that community service can be a positive experience for the offender. The program tries to find offenders who have shown an interest in performing a particular type of community service as a means of making restitution. Then they try to ensure he realizes that the community values his efforts.

Victim involvement: After determining the nature and extent of restitution to be made, the restitution specialist notifies the victim by letter of the outcome of the program and what restitution he can expect. While the offender is making restitution, the victim is kept informed of the offender's progress. If the offender is making financial restitution, his payments serve as the program's progress reports. If the offender is making service restitution, the restitution specialist sends the victim quarterly progress reports about the activities. If the offender defaults upon his agreement, the restitution specialist tells the victim what happened and what to expect (delayed payment, revocation proceedings, etc.). Each victim, of course, can withdraw at any time from further contact with the restitution program.

Potential impact: Like all pilot programs, this grant program is small in relation to Georgia's total problems and has had little initial impact on the problems facing the DCOR. But, a well-planned experimental program, like a tiny acorn, can lead to an impressive outcome in a fertile environment.

This grant program could reshape and revitalize the traditional use of the restitution sanction in Georgia. By making the probation supervisor a community organizer or citizen manager who ensures restitution by offenders, the supervisor acquires a vehicle to enlist citizen support of community correctional efforts. If a truly effective means of offender restitution can be developed through this program, the presently local and varied use of the restitution concept in Georgia can be consistently structured statewide as the program concept expands into

circuits. And, if self-determinant, non-restitution proves effective, caseloads would probably be a result of faster, more rehabilitative turnover. The restitution program could then become the norm in non-custodial sentencing and community-restitution facilities could continue to manage the ebb and flow of offenders from halfway house supervision.

Restitution for prisoners

Restitution has not been used to any great degree with Georgia prisoners because of legal limitations placed on prisoners and low or non-existent inmate wages. A viable prison industries program could make restitution as successful with prisoners as it is with probationers and parolees. For example, inmates could earn earlier consideration by making restitution for damages in prison industries. Some of the inmate salaries could be returned to victims and some could be retained by the offender to receive when he is released. The restitution sanction has considerable potential usefulness for the entire criminal justice system—both fiscally and philosophically.

Future directions

Georgia DCOR is already expanding its restitution programming. We hope to eventually establish one restitution program in each of Georgia's forty-two judicial circuits. Obviously such expansion will require time, money, and local community support. To obtain that support, we plan to emphasize that the community can participate in the program. The DCOR has already begun to utilize local civic and community leadership on Citizen Advisory Boards for county correctional programs in their counties. We are also encouraging the establishment of Community Correctional Associations in local communities to help generate support for improved community correctional programs of all types. We also plan to increase the use of community service restitution both alone and in combination with financial restitution. The

typically low earning power of the offender and his frequent inability to make full financial restitution is the primary reason for this shift in program emphasis. Furthermore, community service restitution appears to be the area within which the rehabilitative potentials of restitution programming can best be realized.

Finally, we plan to use ongoing research to improve the efficiency of specific restitution programs. We need to determine the costs and social benefits of these programs so that future programs can maximize services while minimizing costs. Research will show what kinds of participants benefit most from each type of restitution program. Thus, we will know whom to select for each program and what results to expect.

The Georgia DCOR—grappling with excessive probation caseloads, seriously overcrowded prisons, and a narrow range of sentencing alternatives—is presently acknowledged to be largely ineffective. But DCOR administrators are dedicated to providing the leadership required to correct deficiencies in the current system and to make each offender directly responsible for the consequences of his own behavior. This long-range plan emphasizes pretrial diversion programs, a broad range of specialized alternatives to traditional criminal justice sanctions, a positive and objective system of contracting with inmates whereby they must earn their release from prison, and pre-release/aftercare programs designed to reintegrate ex-offenders into society.

Thus, restitution programming is only one aspect of the comprehensive system which Georgia is building. Since the DCOR firmly believes that offenders must be held responsible and accountable for their behavior, the development and expansion of meaningful restitution programs as an integral part of the improvement of the criminal justice system in Georgia seems inevitable. □

BILL READ is a program development specialist with Georgia's Department of Corrections/Offender Rehabilitation. He has written more about "The Georgia Restitution Program" in the anthology Restitution in Criminal Justice.

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: HB 212 Date on Bill: 2/17/83
 Title: An Act relating to crime victim compensation; providing effective date
 Sponsor: Pestinger and Clocksin
 Requestor: HOUSE JUDICIARY

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

| | FY 83 | FY 84 | FY 85 | FY 86 |
|-----------|-------|-------|-------|-------|
| Capital | | | | |
| Operating | 120.4 | 333.6 | 351.1 | 362.1 |
| Total | 120.4 | 333.6 | 351.1 | 362.1 |

b. Revenues:

| | | | | |
|---------|--|--|--|--|
| Revenue | | | | |
|---------|--|--|--|--|

2. Source of funds to offset fiscal impact of bill:

Not indicated by sponsors of bill

3. Assumptions:

If the proposed legislation is enacted, it is anticipated there would be an increase of approximately 50 claims. It is estimated we would receive 40 assault claims (the statute covers only Assault I and II) of which we estimate 26 claims would receive compensation, and we would receive 10 death claims and 5 would be awarded, including 2 claims with one dependent per incident and 3 claims with multiple dependents. There will be additional hearings as with the change in the statute, the Board will want to be certain the offender will not receive any of the compensation.

4. Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Nola K. Capp, Administrator *nikc* Phone: 465-3040
 Division: Violent Crimes Compensation Board Date: 2/22/83
 Approved by Commissioner: *[Signature]* Date: 2/25/83
 Department: PUBLIC SAFETY

5. Distribution:

- Original to Legislative Finance
- Copy to OMB
- Copy to Sponsor
- Copy to Requestor

2/15/83

FISCAL NOTE DETAIL
BILL NO. HB 212

| EXPENDITURES | | FY 83 | FY 84 | FY 85 | FY 86 |
|-----------------------|----------------------|-------|-------|-------|-------|
| 100 | Personal Services | 8.9 | 26.6 | 28.2 | 29.9 |
| 200 | Travel | 2.6 | 7.9 | 8.4 | 8.9 |
| 300 | Contractual | 10.7 | 9.6 | 10.2 | 10.8 |
| 400 | Commodities | | | | |
| 500 | Equipment | 2.5 | | | |
| 600 | Land & Structures | | | | |
| 700 | Grants, Claims, etc. | 95.7 | 287.0 | 304.2 | 322.5 |
| 800 | Miscellaneous | | | | |
| TOTAL | | 120.4 | 333.6 | 351.1 | 372.1 |
| FUNDING | | | | | |
| General Fund | | 120.4 | 333.6 | 351.1 | 372.1 |
| Federal Funds | | | | | |
| Program Receipts | | | | | |
| Inter-Agency Receipts | | | | | |
| Other | | | | | |
| POSITIONS | | | | | |
| Full Time | | 1 | 1 | 1 | 1 |
| Part Time/Seasonal | | | | | |
| Non-Perm | | | | | |
| Months | | 4 | 12 | 12 | 12 |

ANALYSIS:

If the proposed legislation is enacted, it is anticipated there would be an increase of approximately 50 claims. It is estimated we would receive 40 assault claims (the statute covers only Assault I and II) of which we estimate 26 claims would receive compensation. The average award is \$4500.00 per claim so 26 claims would total \$117,000. It is estimated the program would receive 10 death claims and 5 would be awarded: 2 claims at one dependent per incident would be \$50,000 and 3 claims for multiple dependents would be \$120,000 for a total estimated grant money of \$287,000.

Because there will be an increase of claims, it is determined it will be necessary to have one more board meeting at a cost of \$1500.00. Because of the repeal of the statute it is anticipated there would be 8 hearings at \$800 for travel per hearing. The reason for more hearings is because of the change in the statute, the Board will want to be certain the offender will not receive any of the compensation and because of circumstances in some cases, they may order a hearing prior to a final determination by the Board.

The current staff for the Violent Crimes Compensation Board consists of two persons. This change in the statute would necessitate the addition of a clerk typist (range 8) and associated costs, including equipment.

(continued)

Under contractual services, there would be a need for a terminal only for the IBM displaywriter at \$3000.00 per year. There would be the cost of hearing officers' fees for 8 hearings at \$700 per hearing and a total cost of \$5600. Since this will be a major change in the statute, the public must be made aware through TV spots, radio and newspapers. Production of the TV spots will be a one time expense as will the radio spots. These spots should cost around \$6500 plus another \$1000 for public notices in newspapers around the state.

The costs are assumed to begin 3/1/83.

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| 1. | POSITION TITLE Clerk-Typist III | | | RANGE/STEP OB | BARG. UNIT G | FORM 12 PAGE/LINE | GOV. | APPROV. | DISAPP. |
| 2. | TYPE OF POSITION PFT | STAFF MONTHS 12 | RP NUMBER | PCN NUMBER | BRU PRIORITY | LOCATION Juneau | ELECTION DISTRICT 4 | LEG. | |
| 3. | CONTINUATION LEVEL | ADDITION | | JUSTIFICATION | | | | | |
| 4. | TYPE OF EXPENDITURE | | | AMOUNT | | | | | |
| | 1 | 2 | | 3 | | | | | |
| | PERSONAL SERVICES | | | | | | | | |
| 5. | Salary | 19,176 | | | | | | | |
| 6. | Benefits | 3,367 | | | | | | | |
| 7. | Supplemental Benefits | 1,175 | | | | | | | |
| 8. | Fixed Benefits | 2,880 | | | | | | | |
| 9. | TOTAL PERSONAL SERVICES | 01 | | 26,598 | | | | | |
| 10. | Travel | 02 | | | | | | | |
| 11. | Contractual | 03 | | | | | | | |
| 12. | Commodities | 04 | | | | | | | |
| 13. | Equipment | 05 | | 2,484 | | | | | |
| 14. | Other | | | | | | | | |
| 15. | TOTAL COST | | | 29,082 | | | | | |
| | RECEIPT CODE | FUNDING SOURCE | | | | | | | |
| 16. | | Federal Receipts 1002 | | | | | | | |
| 17. | | G.F. Match 1003 | | | | | | | |
| 18. | | General Funds 1004 | | 29,082 | | | | | |
| 19. | | I-A Receipts 1005 | | | | | | | |
| 20. | | Program Receipts 1028 | | | | | | | |
| 21. | | Other | | | | | | | |
| FOR B&H USE ONLY | | | | | | | | | |
| 4A KEY NUMBER _____ | | | | | | | | | |

The number of claims received annually by the Violent Crimes Compensation Board has doubled since 1976 and is projected to double again during the two-year period ending 6/30/84. Yet the program has only the same two-person staff it had in 1973.

It is anticipated the change in the statute will increase the number of claims by 50. This increase, on top of the existing understaffing, will necessitate the addition of a clerk-typist and associated costs, including equipment.

Since this is a major change in the statute, all the applications, brochures and posters will have to be redone. The public must be made aware of the changes through TV, radio and newspapers, again much clerical work. There will be an increase in hearings, which must be transcribed verbatim.

The equipment costs include a desk, chair, file cabinet, table, calculator and transcriber.

13 REQUEST FOR NEW POSITION

AGENCY Department of Public Safety

PROGRAM Crime Identification & Apprehension

BRU Violent Crimes Compensation Board

COMPONENT _____

FY 84

Page 1 of 1

Revised Date 2/22/83

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: HB 212 Date on Bill: 2/17/83
 Title: An Act relating to crime victim compensation: providing effective date
 Sponsor: Pestinger and Clocksin
 Requestor: _____

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

| | FY 83 | FY 84 | FY 85 | FY 86 |
|-----------|-------|-------|-------|-------|
| Capital | | | | |
| Operating | 120.4 | 333.6 | 351.1 | 362.1 |
| Total | 120.4 | 333.6 | 351.1 | 362.1 |

b. Revenues:

| | | | | |
|---------|--|--|--|--|
| Revenue | | | | |
|---------|--|--|--|--|

2. Source of funds to offset fiscal impact of bill:

Offender Programs

3. Assumptions:

If the proposed legislation is enacted, it is anticipated there would be an increase of approximately 50 claims. It is estimated we would receive 40 assault claims (the statute covers only Assault I and II) of which we estimate 26 claims would receive compensation, and we would receive 10 death claims and 5 would be awarded, including 2 claims with one dependent per incident and 3 claims with multiple dependents. There will be additional hearings as with the change in the statute, the Board will want to be certain the offender will not receive any of the compensation.

4. Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Nola K. Cobb, Administrator *nkc* Phone: 465-3040
 Division: Violent Crimes Compensation Board Date: 2/22/83

Approved by Commissioner: *Robert S. Long* Date: 2/24/83
 Department: _____

5. Distribution:

- Original to Legislative Finance
- Copy to OMB
- Copy to Sponsor
- Copy to Requestor

2/15/83



REPRESENTATIVE DON CLOCKSIN

Alaska House of Representatives

ASSISTANT MINORITY LEADER

1527 H STREET
ANCHORAGE, ALASKA 99501
(907) 278-4188

WHILE IN JUNEAU:
POUCH V
JUNEAU, ALASKA 99811
(907) 465-3704

MEMORANDUM

TO: Rep. Charlie Bussell
Chairman
House Judiciary Committee

DATE: March 17, 1983

FROM: Rep. Don Clocksin

SUBJECT: HB 104 - Violent Crimes
Compensation

I've enclosed backup material for HB 104. Please note that this information refers to bills filed in 1982. Also attached are the two memos I have previously sent to you on HB 104.

The material can also be used as backup for HB 212.

DC:JR:blg

cc: Rep. Sam Pestinger

Attachment

VIOLENT CRIMES COMPENSATION BOARD
POSITION PAPER
ON
HB 869 (HALFOKD & CLOCKSIN)

"An Act relating to crime victim compensation; and providing for an effective date."

The majority of the Board (one member was unavailable for comment) supports this bill, with the exception of 18.67.130(a)(2) and 18.67.135, to which they are opposed. The Board feels these two amendments would unfairly penalize certain claimants, who because of fear of the offender, may move to dismiss criminal charges. This is particularly true in cases where both parties reside in a small, isolated community and the offender is expected to receive an extremely light sentence or will be released on bail, a common occurrence.

The Board presently has the discretion to deny claims in cases where the victim does not cooperate in prosecuting the offender, and would prefer to retain this discretion so that those few victims who can show just cause for dismissing charges are not arbitrarily denied. While the Board agrees compensation should not be awarded on a "revolving door" basis to victims of domestic violence, they feel it would be inappropriate to make a blanket exclusion such as these amendments.

The Board would prefer 18.67.135 be amended to delete the portion dealing with dismissal and forfeiture of awards, while retaining the restriction on subsequent incidents involving the same offender when the victim initiates dismissal of criminal charges.

It should be emphasized, however, that this position does not include the opinion of the Chairman of the Board, who is the member unavailable for comment prior to the hearings on this bill.

The Department of Public Safety supports in concept HB 869.

Recommended by

Sue C. Johnson
Sue C. Johnson
Acting Administrator
Violent Crimes
Compensation Board

Date

2-24-82

Approved by

William R. Nix
William R. Nix
Commissioner
Department of Public
Safety

Date

2-24-82

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF PUBLIC SAFETY

POUCH N
ROOM 312, GOLDSTEIN BUILDING
JUNEAU, ALASKA 99811

PHONE:

COUNCIL ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT

February 23, 1982

POSITION PAPER

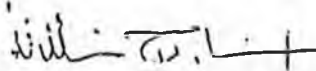
HOUSE BILL NO. 869

AN ACT RELATING TO CRIME VICTIM COMPENSATION

This Bill would amend the present Violent Crimes Compensation Act in order to include family members.

The Council on Domestic Violence and Sexual Assault agrees that innocent victims should be compensated no matter what their relationship is to the assailant. Therefore, the Council supports this Bill

The Council believes that Sec. 3 (a) (2), line 25 is a reasonable protection for the use of state funds and may be an incentive for people not to initiate dismissal of criminal charges.



William R. Nix, Chair

POSITION PAPER/Department of Health & Social Services

POSITION PAPER
ON
CS FOR HOUSE BILL NO. 345 (HESS)

"An Act relating to compensation for victims of violent crimes; and providing for an effective date."

The Department's former concern that legislation was necessary so the perpetrator did not receive the compensation has been resolved by the compensation being paid directly to the provider in domestic violence crimes. Section 3 (c) limiting compensation to \$25,000 per victim per incident also seems reasonable.

The Department of Health and Social Services supports the Committee Substitute for House Bill No. 345.

Recommended by: Elizabeth Muktarian
Elizabeth Muktarian
Director
Division of Adult and
Aging Services

Date: 4/6/81

Approved by: Helen D. Beirne
Helen D. Beirne
Commissioner
Dept. of Health and
Social Services

Date: 4/18/81

MEMORANDUM

TO: Representative Charlie Bussell

DATE: February 9, 1983

FROM: Representative Don Clocksin

SUBJECT: HB 104 Violent
Crimes Compensation

This memo is to request action on HB 104.

Basically, the bill allows victims of domestic violence to receive compensation under the Violent Crimes Compensation Program. The present law prohibits compensation where the victim lives with the attacker or is related to him. See AS 18.67.130 (b) (1) and (2).

The present exclusion for domestic violence victims is unfair, and denies to victims of these crimes the funds necessary to pay for treatment of their injuries. Protection from fraudulent claims is provided in this bill by the provision allowing vander payments, e.g. directly to the hospital to pay the emergency room charges.

The bill expands the rights of victims of crime, and is, in my opinion, good public policy.

We have requested a fiscal note and will provide it to you as soon as possible. Last year the Violent Crime Compensation Board and the Department of Public Safety supported a similar bill.

Thank you.

DC:JR:blg

M E M O R A N D U M

TO: Rep. Charlie Bussell
Chairman
House Judiciary Committee

DATE: March 9, 1983

FROM: Rep. Don Clocksin

SUBJECT: HB 104-Violent Crimes
Compensation

On February 9 I sent you a memo requesting action on HB 104 and indicating that I would provide a fiscal note to you as soon as it is available. Attached is the fiscal note provided by the Violent Crimes Compensation Board.

That fiscal note is too high.

For an almost identical bill filed by me in 1982, the same person estimated a fiscal impact of \$199,800. The fiscal note for HB 104 is \$333,600. Included in the fiscal note is almost \$50,000 in additional staff and equipment. This bill does not necessitate those expenditures. My bill should not be used as an excuse to increase the budget of the Violent Crimes Compensation Board because of other, unrelated workload problems.

DC:blg

Attachment

bcc: Co-Sponsors:
Rep. Davis
Rep. Goll
Rep. Koponen
Rep. Malone
Rep. Zharoff

H

B

2/4

HB 590 cont'd

"It is the intent of the Legislature that the superior court judgeship in Wrangell shall not be filled until the Supreme Court eliminates the Wrangell-Petersburg district court judgeship".
Valdez

HB 694

The Labor and Commerce Committee considered CS FOR HOUSE BILL NO. 694 (L&C) (Alaska Municipal Bond Bank Authority) and a majority of the committee recommends it do pass. The report was signed by Senator Mulcahy, Chairman and concurred in by Senators Ziegler, Anderson and Fahrenkamp.

CS FOR HOUSE BILL NO. 694 (L&C) was referred to the Finance Committee.

HB 835

The Labor and Commerce Committee considered CS FOR HOUSE BILL NO. 835 (FIR) am (health and safety) and recommends it be replaced with SENATE CS FOR CS FOR HOUSE BILL NO. 835 (L&C), entitled:

"An Act relating to the Alaska Safety Advisory Council."

and reports it back as follows: Senator Mulcahy, Chairman and Senator Fahrenkamp signed "do pass". Senators Ziegler and Anderson signed "no recommendation".

CS FOR HOUSE BILL NO. 835 (FIR) am was referred to the Finance Committee.

SB 777

The Rules Committee considered SENATE BILL NO. 777 (legislative professional staff loan program) and recommends it be replaced with CS FOR SENATE BILL NO. 777 (RLS) and be placed on the May 4 calendar. The report was signed by Senator Kelly, Chairman and concurred in by Senators Ziegler and Ferguson.

The above bill appears on today's calendar.

SB 794

The Rules Committee considered SENATE BILL NO. 794 (dividing certain areas as units of the state mail system) and recommends it be placed on the May 4 calendar with the Finance CS. The report was signed by Senator Kelly, Chairman and concurred in by Senators Dankworth and

The above bill appears on today's calendar.

CS 206

The Rules Committee considered CS FOR HOUSE BILL NO. 206 (termination of rental agreements of mobile home park tenants) and recommends it be placed on the May 4 calendar with the following amendment:

Page 1, line 11: After "provision" insert ", enforceable under AS 34.03.130."

The report was signed by Senator Kelly, Chairman and concurred in by Senators Ziegler and Ferguson.

CS FOR HOUSE BILL NO. 206 (JUD) appears on today's calendar.

CS 318

The Rules Committee considered CS FOR HOUSE BILL NO. 318 (control of bee disease) and recommends it be replaced with SENATE CS FOR CS FOR HOUSE BILL NO. 318 (RLS) and be placed on the May 4 supplemental calendar. The report was signed by Senator Kelly, Chairman and concurred in by Senator Ferguson.

CS FOR HOUSE BILL NO. 318 (RES) appears on today's calendar.

CS 386

The Rules Committee considered HOUSE BILL NO. 386 (incorporations) and recommends it be replaced with CS FOR HOUSE BILL NO. 386 (RLS), entitled:

"An Act relating to business corporation reinstatement of certain dissolved Alaska Native Claims Settlement Act village corporations to corporate status; and providing for an effective date."

LAW OFFICES

HAGANS, BROWN & GIBBS

A PROFESSIONAL CORPORATION

310 K STREET, SUITE 704

ANCHORAGE, ALASKA 99501

CHARLES HAGANS
KEITH E. BROWN
SANFORD M. GIBBS
LINDA M. O'BANNON
LIAM J. MORAN
ROY W. MATTHEWS III

TELEPHONE 276-5294
AREA CODE 907

WILLIAM J. MORAN
OF COUNSEL

April 13, 1983

Representative Charlie Bussell
Alaska State Legislature
Pouch V (MS 3100)
Juneau, AK 99811



Dear Sir:

This is in regard to a matter which greatly concerns me and a number of other attorneys practicing in the Third Judicial District, containing Anchorage and the surrounding area.

There is a very real problem with flooded court calendars, overworked judges, and trailing calendars. The problem is that each judge in Anchorage is assigned over 900 cases and because of the work load, the judges are putting in many more hours than they should be expected to. This has also created a crisis in court calendaring in the sense that major civil cases are now being calendared up to 12 months from the time of the pre-trial conference. This results in clients who become angry with the inordinate length of time in resolving civil disputes, and when they ask us why, we tell them that we don't have enough judges in town to try the cases.

This is a request then, for a legislative appropriation which would permit the Alaska Court System to fund the creation of two additional superior court judgeships. As you may recall, the last superior court judgeships to be created in the Third Judicial District was three years ago, in 1980. In that interim three-year period, we have seen a phenomenal growth in the population of the Municipality of Anchorage, along with increased commerce, business, and crime. The increase in crime has resulted in superior court judges assigned to try the felony case load who have been unable to absorb these additional criminal cases which have been spread out among the superior court judges assigned to try civil cases. I would therefore request your help in securing funds to allocate two additional superior court judgeships in the Third Judicial District.

April 13, 1933
Page 2

Thank you for your attention to this matter, and
please contact me if I may provide any further information.
With kindest personal regards, I remain,

Very truly yours,

A handwritten signature in cursive script, appearing to read "Roy W. Matthews III", written in dark ink. The signature is fluid and includes a long horizontal flourish extending to the right.

Roy W. Matthews III, J.D.
Attorney & Counselor at Law

RWM/mc

Alaska State Legislature

HOUSE OF REPRESENTATIVES

POUCH V
JUNEAU, ALASKA 99811
(907) 465-4990

Committee on Judiciary

Charlie:

Proposed answer to Roy Matthews, a personal friend. Perhaps it would be wise NOT to include the 4th and 5th paragraphs herein, but rather than I should call him and sound him out.....Joe

POUCH V
JUNEAU, ALASKA 99811
465-4990

PO BOX 4-1325
ANCHORAGE, ALASKA 99509
248-1515



Judiciary
CHAIRMAN *Reginald*
HOUSE JUDICIARY COMMITTEE
MEMBER
HOUSE RESOURCES COMMITTEE *(G)*
MEMBER *(Hunt)*
SPECIAL COMMITTEE ON FISHERIES
MEMBER
LEGISLATIVE COUNCIL
MEMBER
ALASKA CODE REVISION COMMISSION

Representative Charlie Bussell

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES

April 27, 1983

Mr. Roy W. Matthews, III, Esquire
HAGANS, BROWN & GIBBS
310 "K" Street
Anchorage, Alaska 99501

Dear Mr. Matthews:

Thank you for bringing to my attention the very serious matter of the overcrowded calendar of court cases in the Anchorage area. In general, I believe the public is well aware that an adequate number of judicial officers are needed under the conditions of population increase, crime increase and back-logged civil cases that you describe.

This year the Alaska Court System did not request any additional judgeships be created as you perhaps know. However, Representative Bette Cato of Valdez introduced a bill, HB 214, that would elevate the position of District Court to that of Superior Court in her area. This measure was passed out of the House Judiciary Committee on April 8th and is now in the House Finance Committee.

Without denigrating any need for more far-reaching judicial services in Valdez, your letter points out that the real crunch appears to be in the Anchorage area. I am having my staff look into this matter more closely and perhaps staff counsel will be in touch with you.

Incidentally, would you be adverse to the idea of creating a single-level trial court in this State? I understand there is more than one way that can be accomplished, such as (1) increasing the jurisdiction of District Court Judges to both civil and criminal cases; and (2) elevating all District Judges to a position with some new name or designation, such as "Associate Superior Court Judges."

Under (1) above, it might be that more District Judges would have to be added, but they could assist in the criminal area and in the civil backlog if they were to have the same jurisdiction (for example, perhaps by assignment for

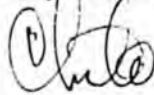
Mr. Roy W. Matthews, III, Esquire
April 27, 1983
Page No. 2

hearing felony cases or civil matters beyond their present jurisdictional limit of \$10,000 as the amount in controversy). Under (2) above, an "Associate" Superior Court Judge could be assigned to hear felony matters from start to finish including trial and sentencing and to civil matters of great impact as well.

Please let me know your further thoughts on these matters that could be of assistance to me and/or the Committee.

Thank you for involving yourself in the legislative process.

Very truly yours,



Representative Charlie Bussell
Chairman, Committee on Judiciary

CB:lyn

LETTER OF INTENT

HOUSE JUDICIARY COMMITTEE
April 8, 1983

It is the intent of the House Committee on Judiciary that the superior court judgeship in Valdez shall not be filled until the Supreme Court eliminates the Valdez district court judgeship.

April 8, 1983

HB 214--By Rep. Cato

Statistics phoned in from Anchorage today:

In the past 16 months, to date, there have been 9 trips from Anchorage by Superior Court judges to hold court sessions in Valdez and Cordova. (Four trips to Cordova, Five to Valdez)

Five different Superior Court judges of Anchorage were involved in handling the nine trips.

Total number of days scheduled for them was 36 working days, although one of the 5-day schedules was canceled, making 31 actual days expended by a judge away from Anchorage.

For May, June & July, 1983, there are three five-day trips scheduled, two to Valdez and one to Glennallen, for a total of 15 projected work days. (These will be handled by Judge Cutler, out of Palmer).

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

I. REQUEST

Bill/Resolution No.: HB 214
 Title: Number of Superior Court Judges
 Sponsor: Cato
 Requestor: Judiciary & Finance

II. FISCAL DETAIL

Agency Affected: Alaska Court System
 Program Category Affected: Justice
 BRU, Program of Subprogram(s) Affected: Alaska Court System

EXPENDITURES/REVENUES: (Thousands of Dollars)

| | FY 83 | FY 84 | FY 85 | FY 86 | FY 87 | FY 88 |
|-------------------------|-------|-------|-------|-------|-------|-------|
| OPERATING | | 21.4 | 21.4 | 21.4 | 21.4 | 21.4 |
| 100 PERSONAL SERVICES | | | | | | |
| 200 TRAVEL | | | | | | |
| 300 CONTRACTUAL | | | | | | |
| 400 COMMODITIES | | | | | | |
| 500 EQUIPMENT | | | | | | |
| 600 LAND & STRUCTURES | | | | | | |
| 700 GRANTS, CLAIMS, ETC | | | | | | |
| TOTAL OPERATING | | 21.4 | 21.4 | 21.4 | 21.4 | 21.4 |
| CAPITAL | | | | | | |
| REVENUE | | | | | | |

FUNDING: (Thousands of Dollars)

| | | | | | | |
|------------------------|--|------|------|------|------|------|
| GENERAL FUND | | 21.4 | 21.4 | 21.4 | 21.4 | 21.4 |
| FEDERAL FUNDS | | | | | | |
| OTHER (Specify Source) | | | | | | |

POSITIONS:

| | | | | | | |
|-----------|--|--|--|--|--|--|
| FULL-TIME | | | | | | |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Robert G. Fisher, Fiscal Officer Phone: 264-0561
 Division: Alaska Court System, Administration Date: 3/31/83
 Approved by Commissioner: _____ Date: _____
 Department: _____

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for Legislature introduced bills)
- Copy to Department (for Governor introduced bills)
- Copy to Sponsor
- Copy to Requestor (if different from Sponsor)

3/8/83

FY 84 COST OF IMPLEMENTING HB 214

PERSONNAL SERVICES:

| | |
|--|------------------|
| Salary (Superior Court Judge - Valdez) | \$ 82,368 |
| Benefits (Retirement, variable & fixed) | <u>80,129</u> |
| Total Cost of Superior Court Judge | \$162,515 |
| Less: Budgeted funds for exisiting District Court Judge position. | <u>141,157</u> |
| Net cost of upgrading Valdez court to superior court level. | <u>\$ 21,358</u> |

ANALYSIS:

This bill would upgrade the district court judge position in Valdez to the superior court level. The fiscal impact is limited to the increased costs of salary and benefits. There appears to be adequate clerical support in Valdez at the present staffing level.

While it would be beneficial to the court to add a law clerk (\$38,000/year total cost) this is not requested at this time.

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: HB 214 Date on Bill: 2-21-83
 Title: "An Act relating to the number of superior court judges;..."
 Sponsor: Cato
 Requestor: House Judiciary

1. Estimated fiscal impacts on: No fiscal impact is anticipated.

a. Expenditures:

(Thousands of Dollars)

| | | | FY 83 | FY 84 | FY 85 | FY 86 | |
|-----------|--|--|-------|-------|-------|-------|--|
| Capital | | | | | | | |
| Operating | | | | | | | |
| Total | | | 0 | 0 | 0 | 0 | |

b. Revenues:

| | | | | | | | |
|---------|--|--|--|--|--|--|--|
| Revenue | | | | | | | |
|---------|--|--|--|--|--|--|--|

2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

4. Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Francis G. Allan *G.C.A.* Phone: 269-5691
 Division: Alaska State Troopers Date: 2-24-83
 Approved by Commissioner: *[Signature]* Date: 3-1-83
 Department: Department of Public Safety

5. Distribution:

- Original to Legislative Finance
- Copy to OMB
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- Copy to Requestor

2/15/83

APR 7 1983

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

I. REQUEST

Bill/Resolution No.: HB 214
 Title: "Superior Court Judges"
 Sponsor: Rep. Cato
 Requestor: House Judiciary Committee

II. FISCAL DETAIL

Agency Affected: Department of Law
 Program Category Affected: Adm. of Justice
 BRU, Program of Subprogram(s) Affected: Prosecution

EXPENDITURES/REVENUES: (Thousands of Dollars)

| | FY 83 | FY 84 | FY 85 | FY 86 | FY 87 | FY 88 |
|-------------------------|-------|-------|-------|-------|-------|-------|
| OPERATING | | | | | | |
| 100 PERSONAL SERVICES | | | | | | |
| 200 TRAVEL | | | | | | |
| 300 CONTRACTUAL | | | | | | |
| 400 COMMODITIES | | | | | | |
| 500 EQUIPMENT | | | | | | |
| 600 LAND & STRUCTURES | | | | | | |
| 700 GRANTS, CLAIMS, ETC | | | | | | |
| TOTAL OPERATING | -0- | 15.0 | 15.9 | 16.9 | 17.9 | 19.0 |
| CAPITAL | | | | | | |
| REVENUE | | | | | | |

FUNDING: (Thousands of Dollars)

| | | | | | | |
|------------------------|-----|------|------|------|------|------|
| GENERAL FUND | -0- | 15.0 | 15.9 | 16.9 | 17.9 | 19.0 |
| FEDERAL FUNDS | | | | | | |
| OTHER (Specify Source) | | | | | | |

POSITIONS:

| | | | | | | |
|-----------|-----|-----|-----|-----|-----|-----|
| FULL-TIME | -0- | -0- | -0- | -0- | -0- | -0- |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not specified by sponsor.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services Division Date: April 5, 1983
 Approved by Commissioner: Richard I. Pegues / for
Norman C. Gorsuch, Attorney General Date: April 5, 1983
 Department: Department of Law

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for Legislature introduced bills)
- Copy to Department (for Governor introduced bills)
- Copy to Sponsor
- Copy to Requestor (if different from Sponsor)

HB 214
Analysis

This bill would establish a superior court judge position in Valdez, Alaska. The prosecution of criminal cases in Valdez is currently handled through the maintenance of a small office staffed by a paralegal in Valdez, and the services of an attorney from the District Attorney's office in Palmer. An assistant district attorney now travels to Valdez approximately once a month, and stays there for about one week. If a superior court judge were permanently assigned to Valdez, it is estimated that the increased workload would require that this assistant district attorney travel to Valdez twice a month for about a week each time.

Caseload statistics indicate that the Palmer District Attorney's office can satisfactorily service the Valdez area through periodic visits. Some members of the Valdez community have expressed a desire for a fully staffed district attorney's office located in their area, however. At a minimum, the opening of a complete district attorney's office in Valdez would require the addition of one full-time prosecuting attorney, one full-time secretary, more office space, and basic legal research materials.

HB 214
Fiscal Analysis

It is estimated that the establishment of a superior court in Valdez will increase district attorney travel to Valdez from one week each month to two weeks per month. Current annual travel expenses for Valdez are estimated at \$15,000 including witness subsistence expenses. A doubling of this effort would require an additional \$15,000 in travel funds. This is the total amount being requested in this fiscal note.

Caseload statistics indicate that the Valdez area can be satisfactorily serviced from other offices until such time as the caseload warrants a full-time resident prosecutor. At the present time Valdez is being handled by our two attorneys from the Palmer office where Valdez cases represent only 20% of their total caseload.

Creation of a full service prosecutor's office at Valdez would require the addition of one Attorney V and one Legal Secretary I, as well as associated support costs for expanded office space, equipment, word processing, a small law library, and increased communications. The following additional costs would be incurred to establish such an office on a 10 month year start-up basis:

| | |
|---|----------------|
| Personel Services | 94.2 |
| Travel | 7.5 |
| (single time transfer cost) | |
| Contractual | 10.0 |
| (expanded office space & communications) | |
| Commodities - on-going | 4.0 |
| Commodities - single time | 6.0 |
| Equipment - single time | 17.5 |
| Total | <u>\$139.2</u> |

H B

217

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

I. REQUEST

Bill/Resolution No.: House Bill No. 217
 Title: "An Act relating to estab. of pris. fac."
 Sponsor: Reps. Cato & Lindauer
 Requestor: House HESS

II. FISCAL DETAIL

Agency Affected: Health & Social Services
 Program Category Affected: Adm. of Just. BRU, Program of Subprogram(s) Affected: Adult Confinement

EXPENDITURES/REVENUES: (Thousands of Dollars)

| | FY 83 | FY 84 | FY 85 | FY 86 | FY 87 | FY 88 |
|-------------------------|-------|-------|-------|-------|-------|-------|
| OPERATING | | | | | | |
| 100 PERSONAL SERVICES | | | | | | |
| 200 TRAVEL | | | | | | |
| 300 CONTRACTUAL | | | | | | |
| 400 COMMODITIES | | | | | | |
| 500 EQUIPMENT | | | | | | |
| 600 LAND & STRUCTURES | | | | | | |
| 700 GRANTS, CLAIMS, ETC | | | | | | |
| TOTAL OPERATING | -0- | -0- | -0- | -0- | -0- | -0- |
| CAPITAL | -0- | -0- | -0- | -0- | -0- | -0- |
| REVENUE | -0- | -0- | -0- | -0- | -0- | -0- |

FUNDING: (Thousands of Dollars)

| | | | | | | |
|------------------------|-----|-----|-----|-----|-----|-----|
| GENERAL FUND | -0- | -0- | -0- | -0- | -0- | -0- |
| FEDERAL FUNDS | | | | | | |
| OTHER (Specify Source) | | | | | | |

POSITIONS:

| | | | | | | |
|-----------|-----|-----|-----|-----|-----|-----|
| FULL-TIME | -0- | -0- | -0- | -0- | -0- | -0- |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not applicable.

V. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Roger C. Lange *Roger C. Lange* Phone: 465-3376
 Division: Adult Corrections Date: March 29, 1983

Approved by Commissioner: Robert London Smith, Ph.D. *Robert London Smith, Ph.D.* Date: 3/30/83
 Department: Health & Social Services

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for Legislature introduced bills)
- Copy to Department (for Governor introduced bills)
- Copy to Sponsor
- Copy to Requestor (if different from Sponsor)

3/8/83

COMMITTEE REPORT

HOUSE

579

JUDICIARY

FURTHER:

2/21/83

Date:

5/6/83

Mr. Speaker:

The Committee on H.E.S.S. has had HB 217

An Act relating to the establishment of prison facilities."

under consideration and reports it back as follows:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for HB 217 (pass) same title
- new title
- and recommends passed with attached amendments
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation Zero Fiscal Note Attached
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Mr. Tschur No Rec

John Lee Don't Pass

Bill H. Fitz

Mr. H. H. ... No Rec

Atala Koponen No Rec

William ... No Rec

Co - Mr. Tschur
CHAIRMAN

Co - ...

H B

2 2 1

Teens tried as adults in House measure

The Associated Press

JUNEAU — The House has approved a measure requiring some juveniles accused of violent crimes be tried as adults.

The measure would let 16- and 17-year-olds accused of such crimes as murder, rape and arson be tried in adult court.

Rep. Don Clocksin, D-Anchorage, on Friday tried to have the bill (CSHB109) amended so that the charge on a 16- or 17-year-old would not dictate that the person automatically would be sentenced as an adult if convicted of a lesser offense.

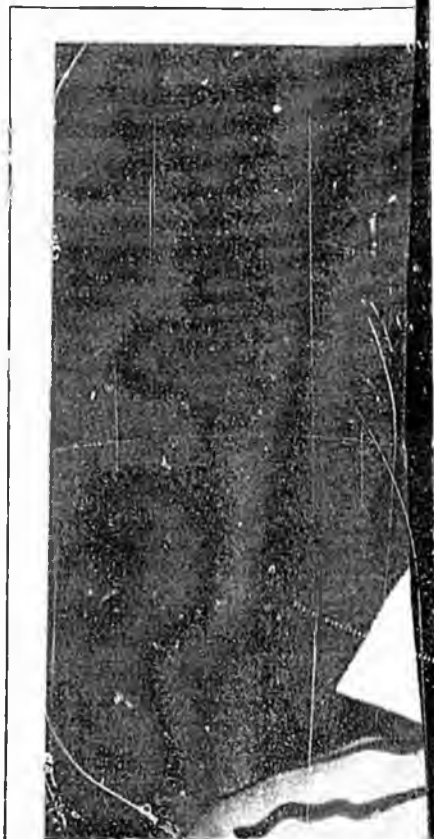
But bill sponsor Rep. Sam Pestinger, R-Anchorage, said a section of the bill gives a judge discretion on whether to sentence someone as an adult.

House Minority Leader Mike Miller, D-Juneau, said that one of the laudable things about the judicial system is that persons are innocent until proven guilty and the bill would destroy that.

Miller said that if a jury or judge finds the teen-ager guilty of a lesser crime, then the state shouldn't want to sentence as an adult.

House Majority Leader Ramona Barnes, R-Anchorage, said that the section giving the judge discretion also precludes presumptive sentencing.

Clocksin, after his amendment failed on a 17-20 vote, said the



Bill would send home stranded

By Bill White
Times Juneau Bureau

3-30-83

Juneau — Stranded Outsiders may get one-way tickets out of Alaska courtesy of the state under a bill approved by the House Judiciary Committee Tuesday.

The bill would create an office under the attorney general whose staff would seek out and identify stranded nonresidents who might request assistance and whose immediate departure is in the best interests of the state."

Before the stranded alien could get

aid, a judge, magistrate or police chief must consent, under the bill.

The proposal is an "effort to save the state a lot of money and at the same time help some people who may be in desperate need or help," said Rep. John Lindauer, R-Anchorage, the bill's sponsor.

Lindauer has offered a companion bill that would let the governor pardon a released prisoner if that person leaves the state within 14 days of release and doesn't return to Alaska for

See Bill, page A-

Bill offers way out

Continued from page A-1

three years.

Rep. Charlie Bussell, the committee chairman, said the second bill didn't move today because the panel is waiting for information on the measure's cost.

Lindauer's bill was endorsed by the head of Alaska Psychiatric Institute and by officials of the Salvation Army in Alaska.

Dr. Harold Conrad, head of API, said that one year 121 of the patients referred to his hospital had been in Alaska less than a year. And 42 of them were in the state less than a month.

The average stay in API is 30 days, which costs about \$6,000, he said. The cost of shipping out those who want to leave the state is about \$500 each, he added.

Capt. David Clitheroe of the Salvation Army in Anchorage said the bill "is something that is

definitely needed." He averages 30 requests a month for one-way tickets Outside, none of which he can grant unless a private donor gives the money, he said.

Capt. Floyd Bacon of the Salvation Army in Juneau said he gets six to 10 such requests a month.

Rep. Don Clocksin, D-Anchorage, said told his fellow committee members he didn't "think the bill is necessary. The only thing that's necessary is some money."

The Department of Law, which would run the program, apparently is lukewarm to the idea.

"Grant funds to return just 1,000 stranded nonresidents would cost \$330,000. This number of stranded nonresidents may seem excessive, but it may prove very low once the state signals that it is willing to subsidize the cost of job hunting to the unemployed living outside the state," Richard Pegues, budget chief for the Law Department, said in a note that estimates the effort will cost \$740,300 next year.

But Lindauer said the requirement that a judge or police chief approve the aid is enough to avoid abuse.

"I'm referring to the young man who came up here thinking he's going to work in construction or up at Prudhoe Bay," Lindauer said. "He loses his job, cannot find another one and holds up a Qwik Stop (store). He's caught in a vicious cycle of poverty and degradation — no place to stay and live, stays out on the streets, gets in trouble, goes to jail, gets involved in narcotics or other problems, gets back on the street — is caught in this vicious cycle. It's a way to break this vicious cycle, allow the people who wish to leave the freedom to leave," he said.

Island

Continued from page A-1

And according to Sohio Intercom, the firm's employee newspaper, the gravel doesn't surrender easily. In permafrost, it is being blasted loose, plowed with ripper blade-equipped tractors, then loaded onto the trucks for the 14-mile haul.

The first six of those 14 miles are over a tundra ice road that is at least six inches thick. After the trucks reach the coast, the haul is on an ice road scraped on the surface of the frozen Beaufort Sea.

Sohio exploration manager Roger Herrera said \$100 million will be spent in building Mukluk, including erection of a portable camp near Oliktok for equipment operators and support staff.

'Get-out-of-state' bill faces legal questions

by Bill White
Times Juneau Bureau

4/13/83

Juneau — A second House committee has approved a bill to give some stranded Outsiders one-way tickets out of Alaska despite a warning that the proposal might be unconstitutional.

The Finance Committee Tuesday voted to send the bill to the Rules Committee so it can be scheduled for a floor vote.

The bill would create an office under the attorney general whose staff would "identify stranded non-residents who might request assistance and whose immediate departure is in the best interests of the state."

Before the state would buy a ticket for a stranded Outsider, a judge, magistrate or police chief must consent, under the bill.

Rep. John Lindauer, sponsor of the proposal, lauded its virtues.

The bill could cut the crime rate, ease overcrowding of prisons, save the state money and help people who want to leave but can't afford to. Anchorage has a similar program for getting stranded villagers back home, he said.

But the Department of Law said the bill also could be unconstitutional.

The department also warned that the program could lure to Alaska job hunters who might request a free trip home. The annual cost of the program

was pegged at \$740,000.

Rep. Joe Flood, R-Anchorage, said he was concerned that "we're going to get a reputation as Alaska's boat people."

But Lindauer asked, "Why should we at our own expense spend a fortune helping a person who doesn't want to be helped?"

The bill offers an opportunity to "break the vicious cycle of poverty and degradation" that infects the lives of some people in Alaska, Lindauer said.

It would "let these young people on Fourth Avenue and comparable areas be able to return to their home instead of going out to Eagle River (rehabilitation center) or holding up a Qwik Stop or deteriorating into some kind of social problem," he has said.

Salvation Army officials have testified in favor of the proposal. Capt. David Clitheroe of the Salvation Army in Anchorage said he averages 30 requests a month for one-way tickets Outside, none of which he can grant unless a private donor gives the money.

Dr. Harold Conrad, head of the Alaska Psychiatric Institute, also has endorsed the bill. The average stay in API is 30 days, which costs about \$6,000, he said. Airplane tickets home might cost \$500 and do the patient a lot of good, he said.

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: HB 221 Date on Bill: 2-23-83
 Title: "An Act relating to...stranded nonresidents"
 Sponsor: Lindauer
 Requestor: H. JUDICIARY

1. Estimated fiscal impacts on: No fiscal impact is anticipated.

a. Expenditures:

(Thousands of Dollars)

| | FY 83 | FY 84 | FY 85 | FY 86 |
|-----------|-------|-------|-------|-------|
| Capital | | | | |
| Operating | | | | |
| Total | 0 | 0 | 0 | 0 |

b. Revenues:

| Revenue | FY 83 | FY 84 | FY 85 | FY 86 |
|---------|-------|-------|-------|-------|
| | | | | |

2. Source of funds to offset fiscal impact of bill:

3. Assumptions:

4. Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Francis C. Allan *F.C.A.* Phone: 269-5691
 Division: Alaska State Troopers *MIC* Date: 3-2-83
 Approved by Commissioner: *[Signature]* Date: 3/8/83
 Department: Public Safety

5. Distribution:

- Original to Legislative Finance
- Copy to OMB
- Copy to Sponsor
- Copy to Requestor

2/15/83

Alaska State Legislature

Representative John Lindauer
District 10-A
3933 Geneva Place
Anchorage, AK 99508



White in Juneau
Pouch V
Juneau, AK 99811
465-3709

House of Representatives

March 4, 1983

TO: House Judiciary Committee

FROM: Representative John Lindauer *JL*

RE: House Bill 221: "An Act relating to the creation of a program for stranded nonresidents."

People tend to become stranded nonresidents when they run out of work and money. These are the people who may turn to crime.

We have a social duty and financial interest in helping those who request our assistance to return to their homes and families.

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: HB 221 Date on Bill: 2/23/83
 Title: "An Act relating to the creation of a program for stranded nonresidents."
 Sponsor: Representative Lindauer
 Requestor: _____

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

| | FY 83 | FY 84 | FY 85 | FY 86 |
|-----------|-------|-------|-------|-------|
| Capital | | | | |
| Operating | | 740.3 | 790.5 | 837.9 |
| Total | | 740.3 | 790.5 | 837.9 |

b. Revenues:

| Revenue | | | | |
|---------|--|--|--|--|
| | | | | |

2. Source of funds to offset fiscal impact of bill:

No information provided.

3. Assumptions:

This bill would establish a program in the Office of the Attorney General to provide aid, in the form of transportation to Canada or to the other states, to stranded nonresidents. The bill requires that the department seek out, identify and screen stranded nonresidents, and that the department staff and administer the program with an Assistant Attorney General. The bill's primary criteria for eligibility is that a nonresident lacks or is otherwise unable to obtain the resources to return to Canada or the other states, requests the state's assistance, and that it is in the best interests of the state that he or she immediately depart.

4. Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services Division Date: 3-10-83
 Approved by Commissioner: Norman C. Gorsuch, Attorney General Date: 3-10-83
 Department: Department of Law

5. Distribution:

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- Copy to Requestor

2/15/83

Assumptions
HB 221
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The funds necessary to operate such a program could be considerable. In addition to an Assistant Attorney General, support staff and other resources would be necessary to handle outreach and public information efforts, establish and maintain eligibility controls and to provide grants-in-aid accounting services.

There is no accurate means of determining the number of people who might be eligible for the assistance that the bill would provide. It is easily supposed, however, that the promise of a free trip home will encourage a large number of job seekers from the other states, which are now experiencing the most unemployment since the great depression. A survey of airfares between Seattle and Alaska employment centers such as Anchorage, Fairbanks, Juneau, Ketchikan, Kodiak, Dillingham, and Unalaska reveals that the average one-way airfare is \$330. Grant funds to return just 1,000 stranded nonresidents would cost \$330,000. This number of stranded nonresidents may seem excessive, but it may prove very low once the state signals that it is willing to subsidize the cost of job hunting to the unemployed living outside the state.

The department therefore recommends that a minimum amount of \$500,000 be provided for relocation grants if this bill becomes law. The department cautions that if this amount is insufficient, a supplemental appropriation may be necessary during 1984 Legislative Session.