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Federal Probation

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This Issue in Brief ACQUISITIONS

Guiding Philosophies for Probation in the 21st Century.—What does the future hold in store for probation? Authors Richard D. Sluder, Allen D. Sapp, and Denny C. Langston identify and discuss philosophies and goals that will emerge to guide probation in the 21st century. They predict that offender rehabilitation will become a dominant theme in probation but that it will be tempered by concern about controlling offenders to ensure community protection.

Identifying and Supervising Offenders Affiliated With Community Threat Groups.—Gangs and community threat groups have placed a new breed of offender under the supervision of U.S. probation officers. Are the officers adequately trained in special offender risk-management techniques to provide effective supervision? Author Victor A. Casillas analyzes gang and community threat group issues from a district perspective—that of the Western District of Texas. He defines and classifies community threat groups generally, relates the history of gangs in San Antonio, and recommends organizational strategies for identifying, tracking, and supervising offenders affiliated with community threat groups.

Community Service: A Good Idea That Works.—For more than a decade the community service program initiated by the probation office in the Northern District of Georgia has brought offenders and community together, often with dramatic positive results. Author Richard J. Maher presents several of the district's "success stories" and describes how the program has built a bridge of trust between offenders and the community, has provided valuable services to the community, and has saved millions of dollars in prison costs. He also notes that the "get tough on crime" movement threatens proven and effective community service programs and decreases the probability that new programs will be encouraged or accepted.

Community-Based Drug Treatment in the Federal Bureau of Prisons.—Author Sharon D. Stewart provides a brief overview of the history of substance abuse treatment in the Federal Bureau of Prisons and discusses residential treatment programming within Bureau institutions. She describes in detail the

community-based Transitional Services Program, including the relationship between the Federal Bureau of Prisons, the United States Probation System, and community treatment providers.

The Patch: A New Alternative for Drug Testing in the Criminal Justice System.—Authors James D. Baer and Jon Booher describe a new drug testing device—a patch which collects sweat for analysis. They present the results of a product evaluation study conducted in the U.S. probation and U.S. pretrial

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Fines and Restitution Orders: Probationers' Perceptions

BY G. FREDERICK ALLEN, PH.D., AND HARVEY TREGER*

THE LIMITATIONS of custodial facilities and the increased interest in addressing the plight of crime victims have increased the use of fines and restitution as criminal sanctions. Legislatively, the Criminal Fine Enforcement Act, Public Law 98-596, was created to make criminal fines more severe and to encourage more frequent use of fines as an alternative to imprisonment. The Act was based on the proposition that if a fine is to be an effective punishment, it must be collected promptly and in full.

Renewed interest in restitution came out of the President's Task Force on Victims of Crime in 1982. The task force found that victims were a forgotten group in the criminal justice process and deserved more recognition, participation, and compensation. As a result, restitution as a sanction was brought about legislatively by the Victim and Witness Protection Act enacted in 1982.¹ It was the intent of Congress to ensure that the Federal Government, through its court system, did everything possible, without infringing on the constitutional rights of defendants, to arrange for full compensation to victims.

The study described here was conceived out of concern for the lack of data regarding offender viewpoint on criminal justice programs. Previous research into offender viewpoints on probation as a sanction (Allen, 1985) and on community service as a condition of probation (Allen & Treger, 1990) emphasized that the offenders' perceptions of correctional programs are needed to make useful program modification.

The cost of incarceration is now a major political and economic concern. Courts need to use nonincarcerative sanctions such as fines and restitution as substitutes for incarceration. European courts have been successful in using fines and restitution extensively as sanctions (Carter & Cole, 1979; Gillespie, 1980, 1981; Casale, 1981; Hillsman, Sichel, & Mahoney 1984).

The potential efficacy of fines and restitution as criminal sanctions depends largely upon the ability of

the courts to bring about successful collection. If there is too large a gap between proposals and actualities and the fine cannot be collected because the offender ignores the sanction for one reason or another, then the application of fines and restitution becomes an empty gesture.

This article presents the findings of an exploratory descriptive study of fines and restitution orders in the Federal Probation System, specifically in the probation office in the Northern District of Illinois. It centers on the perceptions and experiences of probationers who received a fine or restitution as part of their sentences. The study focused on the following questions:

1. What are the characteristics of the sample of probationers who received court-ordered fines and/or restitution conditions?
2. How do these probationers perceive their fine or restitution orders and what outcomes are associated with these perceptions?
3. How do probationers perceive the fine or restitution as a sanction with respect to the philosophical perspectives or goals of rehabilitation, punishment, deterrence, or justice?
4. What impressions do probationers get from the court and their probation officers with respect to the expectations of payment?
5. What was the impact of the fine and/or restitution on the life of the probationer?
6. What suggestions do probationers have on improving fines and restitution as a sanction and making them more effective?

Data Collection Procedure and Research Sample

An interview schedule was developed to collect relevant data from probationers about their perceptions of the financial sanction, including biographical data from the probationers' case files and data from personal interviews with the probationers. Probationers were selected from a target timeframe. All cases scheduled for termination between March 1, 1992, and September 30, 1992, were selected for the research sample. A total of 110 probationers were identified. This method is based on the assumption that fines and restitution cases terminated randomly without any systematic bias.² Of the 110 offenders eligible for selection, 82 volunteered to participate and were inter-

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viewed, yielding a response rate of 74.5 percent. The 27 refusals all failed to satisfy their fines or restitution obligations. Some of the refusals expressed concern about possible post supervision action against them by the victims.

The sample contained 18 (22 percent) females and 64 (78 percent) males. The average age was 45 years, with a range from 22 to 78 years. The majority (57.3 percent) were married. The race distribution included 47 percent white, 40 percent black, 9 percent Hispanic, and 4 percent "other." For education, the majority of the sample fell between the 12th grade and some college. For occupation, the majority were classified as craftpersons (32.9 percent) with 31.7 percent in the categories of "Professional and Business" and "Managers, Officials, and Proprietors." For income bracket during the probation period, the highest category was "\$10,000 to \$14,999" with 68.3 percent clustering between \$7,000 and \$24,999. Only 8.5 percent earned over \$40,000. When socioeconomic bracket was examined, the majority (40.2 percent) were classified as "Working Class" with 21.9 percent classified as "Working Poor" and "Underclass" combined. Only 8.5 percent were classified as "Upper Middle" (7.3 percent) and "Upper" (1.2 percent).

The employment status of the sample shows that three-fourths were fully employed (73.2 percent) with 7.3 percent partially employed, resulting in almost 20 percent outside the work force. For offense, "Fraud" occupied 29.3 percent, followed by "Larceny and Theft" at 17.1 percent. Seventy-six percent of the offenses were property-related offenses, 17 percent related to public morals and decency, and 4 percent were drug-related. Government agencies were the main victims in 48 percent of the sample with 22 percent of offenses perpetrated against nongovernment institutions and 29 percent having no identified victims.

Thirty-nine percent received a split sentence that included some incarceration and 43 percent received probation and a fine or restitution. Over 80 percent (81.7 percent) received supervision periods of 25 to 36 and 48 to 60 months. A total of 42.7 percent received 25 to 36 months. Twenty-five percent (25.6 percent) were sentenced under the new Federal guidelines,³ with the remainder sentenced under old nonguideline sentencing structures. Sixty-three percent were ordered to pay fines or restitution below \$5,000. Only 18 percent received a fine or restitution over \$10,000.

Probationers' Perceptions

Purpose of Sanction

To gain insight into and understanding of the probationers' perspectives on fines and restitution, the researchers used four theoretical perspectives having

wide acceptance in the criminal justice system. The perspectives are rehabilitation, deterrence, justice, and punishment:

Rehabilitation - seeks to achieve positive changes in the behavior of probationers through programs involving various counseling techniques and programs of psychological, economic, medical, or educational improvements.

Deterrence - seeks to bring about conformity through the threat of punishment.

Justice - seeks to promote equity, fairness, and reconciliation; focuses on the seriousness of the offense and the amount of harm done.

Punishment - seeks to express society's disapproval by making probationers pay back society for the harm done.

Table 1 presents the probationers' views of fines and restitution based on responses to likert-type scale items. This scale asked probationers to agree or disagree to statements reflecting the four perspectives. An analysis of the data indicates that, based on "strongly agree" and "agree" responses combined, more than two-thirds of the sample probationers perceived their fine and restitution within a punishment perspective (70.7 percent), followed by a justice perspective (45.2 percent), a rehabilitation perspective (29.3 percent), and a deterrence perspective (25.6 percent).

Probationers were asked to reflect on the date of sentencing and to recall the impression they had of the judges' purposes in imposing a fine or restitution. Table 2 shows that probationers' impressions of the judges' purposes for ordering the fine or restitution were similar to their own. An analysis of the data, based on "strongly agree" and "agree" responses combined, indicates that probationers tend to view the sentencing judges' purposes in ordering the fine and restitution as within a punishment perspective (69.5 percent), followed by a justice perspective (36.6 percent), a rehabilitation perspective (25.6 percent), and a deterrence perspective (20.7 percent).

Probationers were asked to reflect on the interaction with their probation officers and to relate the impressions they had of the probation officers' perspectives as to the purpose of the fine or restitution. Table 3 shows that probationers' impressions of the officers' perspectives were different from theirs and also the judges'. An analysis of the data, based on "strongly agree" and "agree" responses combined, suggests that probationers see the probation officers as viewing the fine and restitution as deterrence (78.1 percent), fol-

lowed by rehabilitation (61.0 percent), justice (57.3 percent), and punishment (45.1 percent).

Open-ended items were included to gain additional perspective on how financial sanctions are viewed by offenders. The offenders' responses on the open-ended question about what they believe fines and restitution should be are somewhat different. Offenders list repayment of victims (51.2 percent) as most important, followed by punishment (40.2 percent), rehabilitation (6.1 percent), and deterrence (2.4 percent). Repaying victims may be analogous to the perspective of the justice model. In comparison to the closed-end items, the open-ended question shows a reversal with respect to punishment and justice. The closed-end items

placed punishment as the perceived goal, followed by justice. But, in terms of what offenders preferred, offenders believe the system should emphasize repayment of victims, although in their view the court emphasized punishment. Open-ended items are consistent with respect to rehabilitation and deterrence and received low support from offenders as sanctions. One probationer gave the following open-ended account:

Although the fine was only \$600, at first I was unable to make any payments because I was unemployed. Then I began to receive threatening letters from the officer. These letters threatened me with drastic collection, including going back to court. I became scared, found a job . . . and a second job to keep the payments up to date. I have to tell you that although the system created

TABLE 1.
PROBATIONERS' VIEWS OF FINES AND RESTITUTION ORDERS

Scale	Rehabilitation		Deterrence		Punishment		Justice	
Strongly Agree	8	(9.8)	10	(12.2)	36	(43.9)	18	(22.0)
Agree	16	(19.5)	11	(13.4)	22	(26.8)	19	(23.2)
Undecided	5	(6.1)	4	(4.9)	2	(2.4)	5	(6.1)
Disagree	28	(34.1)	26	(31.7)	14	(17.1)	19	(23.2)
Strongly Disagree	25	(30.5)	31	(37.8)	8	(9.8)	21	(25.6)
Total	82	100.0	82	100.0	78	100.0	82	100.0

TABLE 2.
PROBATIONERS' IMPRESSION OF JUDGES' VIEWS OF
FINES AND RESTITUTION ORDERS

Scale	Rehabilitation		Deterrence		Punishment		Justice	
Strongly Agree	7	(8.5)	5	(6.1)	41	(50.0)	16	(19.5)
Agree	14	(17.1)	12	(14.6)	16	(19.5)	14	(17.1)
Undecided	9	(11.0)	6	(7.3)	4	(4.9)	5	(6.1)
Disagree	30	(36.6)	29	(35.4)	15	(18.3)	25	(30.5)
Strongly Disagree	22	(26.8)	30	(36.6)	6	(7.3)	22	(26.8)
Total	82	100.0	82	100.0	78	100.0	82	100.0

TABLE 3.
PROBATIONERS' IMPRESSION OF PROBATION OFFICERS' VIEWS OF
FINES AND RESTITUTION ORDERS

Scale	Rehabilitation		Deterrence		Punishment		Justice	
Strongly Agree	13	(15.9)	29	(35.4)	11	(13.4)	21	(25.6)
Agree	37	(45.1)	35	(42.7)	26	(31.7)	26	(31.7)
Undecided	11	(13.4)	9	(11.0)	9	(11.0)	9	(11.0)
Disagree	12	(14.6)	29	(35.4)	19	(23.2)	13	(15.9)
Strongly Disagree	9	(11.0)	30	(36.6)	17	(20.7)	13	(15.9)
Total	82	100.0	82	100.0	78	100.0	82	100.0

psychological hardship for me, it really helped me get myself back on track by forcing me to find a job . . . a job I might not have found without the threats.

Table 4 shows the result of the open-ended responses.

TABLE 4.
PROBATIONERS' VIEWS OF THE MAIN FUNCTION
OF FINES AND RESTITUTION

Functions	Frequency	Percent
Punishment	33	40.2
Repaying victim	42	51.2
Rehabilitation	5	6.1
Deterrence	2	2.4
Total	82	100.0

Supervision Outcome

The researchers looked at offenders' perceptions (i.e., regarding rehabilitation, justice, deterrence, and punishment) and supervision outcome. In other words, is the manner in which the offender perceives the fine or restitution linked to whether the offender will make full payment or not? No statistical link was found to positive outcomes (full satisfaction of the financial sanction) and the reported perceptions of the probationers. Offenders' perceptions of the financial sanction as rehabilitation and full payment were not related ($\chi^2=18.4$, $df=16$, $p=.3006$). Similarly, the justice perception ($\chi^2=19.8$, $df=16$, $p=.2276$), deterrence perception ($\chi^2=17.4$, $df=16$, $p=.3571$), and the punishment perception ($\chi^2=6.8$, $df=16$, $p=.9766$) were not related to full payment.

Payment of Fine

Is there a relationship between the existence of a payment plan requiring specific payment and the outcome of the collection effort? For this study, the payment plan refers to the statement in the judgment and commitment order by the court that defines a specific plan of payment. When the court orders were examined, 24 percent had no specific plan for payment incorporated in the wording. In 20 percent, only the

offenders' "best effort" was required. In 48.8 percent, there were clear articulated expectations that full payment was expected. In 7.2 percent, the court required probation officers to exercise their discretion in the enforcement of the order with respect to payments. A statistical cross-tabulation between payment plan and outcome reflects that when full payment of the fine or restitution was articulated in the court order, there was a statistically significant ($\chi^2=28.6$, $df=16$, $p<.05$) higher rate of compliance. Conversely, when no plan was indicated or when "best effort" or "officer's discretion" were indicated, there was a low compliance rate.

A cross-tabulation of the speed of payment and outcome suggests that if the first payment is made within 30 days there is a higher probability of full satisfaction of the fine or restitution. Almost two-thirds of the sample (64.6 percent) satisfied the financial obligation in full. Table 5 shows the timing of payments. When the schedule of payments (within 30 days, 31-60 days, 61-90 days, and 91 days or more) were cross-tabulated with the outcome (rate of compliance), the study found a positive relationship between offenders who made their first payment within the first 30 days and the full satisfaction of the obligation ($\chi^2=47.7$, $df=12$, $p<.01$). The compliance rate decreased as the time increased between placement on supervision and the first payment. It is possible that the probationers' ability to pay might also be a factor influencing this finding.

Slightly over two-thirds of the probationers surveyed (67.1 percent) reported that at the time the sentence was imposed they were of the impression that if they failed to satisfy the financial obligation they would in all likelihood be sent to prison. Their assumption was that the law required incarceration for nonpayment (47.3 percent). Other reasons given were their interpretation of the judges' statements at the time of sentencing (34.5 percent) and other reasons such as defense attorneys' statements and a variety of nondefinitive bases (18.2 percent).

A small percentage (8.5 percent) believed their supervision would be revoked, but the court would consider other nonincarcerative sanctions such as extending or modifying the length and terms of payment. Eleven percent reported that they were led to believe that the

TABLE 5.
FIRST PAYMENT SCHEDULE

Timing of First Payment	Frequency	Percent	Cum. Percent
Within 1st 30 days	47	57.3	57.3
31 to 60 days	15	18.3	75.6
61 to 90 days	17	20.7	96.3
More than 90 days	3	3.7	100.0
Total	82	100.0	100.0

court only expected them to make a good faith effort to pay; 8.5 percent believed the court actually did not expect full satisfaction based on their explicit inability to pay at the time of sentencing and on the judges' own statements.

The data collected were also analyzed to gain some insight into the impression offenders have of the officer's perspective on sanctions for noncompliance. Only a small percent (14.6 percent) of the sample reported that they believed the probation officer would recommend incarceration for failure to satisfy the payment in full. Almost half (45.1 percent) reported that they believed the probation officer would report the payment default to the court but would not recommend incarceration. Slightly less than one-fourth of the sample (23.2 percent) thought the probation officer only expected them to make a good faith effort to satisfy the fine or restitution. Some (13.4 percent) believed the officer did not expect them to make full payment, with 3.7 percent providing "other" impressions. Most of the impressions received from the officers appear to originate from the type and nature of the relationship with the officer (50 percent) as well as statements the officers made to the offender (41.5 percent). Table 6 shows the offenders' report of their views at sentencing of possible court sanctions for nonpayment of the fine or restitution.

Impact on Probationers' Lives

Slightly more than one-half of the sample (52.4 percent) reported that the fine or restitution did not present any specific hardship. Offenders were generally quick to explain that they wished they did not have to pay a fine or restitution but that they were able to pay it without lowering the quality of life or depriving themselves in any significant manner. Approximately one-third of the sample (32.9 percent) reported that the fine or restitution presented significant hardship in that they experienced some deprivation in a specific manner. There were some (12.2 percent), however, for whom the fine or restitution resulted in severe deprivation to the point where they reported that payment resulted in the lowering of the quality of life.

The source of the funds for payment came from salaries (70.7 percent), with 11 percent coming from social benefit programs and 11 percent from loans. Table 7 summarizes the reported impact of the financial sanction on the lives of the probationers.

Probationers' Suggestions for Improvement

The probationers had several suggestions for making fines and restitution more effective:

1. Ability to pay should be more carefully considered. It should be based on the actual finding of the presentence investigation.

TABLE 6.
PROBATIONERS' VIEWS OF POSSIBLE COURT SANCTION
FOR NONPAYMENT

Offenders' Views	Frequency	Percent
Incarceration if not paid	55	67.1
Revocation but no incarceration	7	8.5
Only good faith effort required	9	11.0
Court did not really expect payment	7	8.5
Other	4	4.9
Total	82	100.0

TABLE 7.
IMPACT OF FINES/RESTITUTION ON PROBATIONERS

Impact	Frequency	Percent
No specific hardship	43	52.4
Significant hardship	27	32.9
Reduction in the quality of life	10	12.2
Other	2	2.4
Total	82	100.0

2. The court should be more careful to assign restitution more fairly. Offenders who benefit from the crime should be made to pay proportionately.
3. Probation officers should be more consistent in their collection efforts. As offenders transferred from different officers, they described being exposed to different expectations. One officer may waive, defer, or set a low payment rate while the next may demand higher payments based on a new set of criteria.
4. The probation department should improve collection accounting. Offenders claimed that at times reconciliation was difficult, particularly when payments were made in custody. Often it was difficult to have these payments credited.

Summary and Conclusion

The general findings of this study seem to support the notion that fines and restitution, if used appropriately and judiciously, can be an effective criminal sanction. Almost two-thirds of the sample satisfied the financial obligation in full. This confirms that fines and restitution can achieve the purpose intended. Offenders in this survey recognized financial sanction as punitive; therefore, this sanction is capable, as researchers have recognized in European systems, of making offenders accountable for their crimes.

An important finding is that offenders start out by assuming that the fine and restitution orders are real and that payment is required by law. However, their experiences in court or with their probation officer quickly demonstrate that this is not necessarily true. A well-drafted and enforceable judgment and commitment order, although critical to criminal fine and restitution collection, is not always available. A judgment and commitment order that requires offenders to make payment according to their ability is often translated to mean that payments are not important, not mandatory, and, in general, can be evaded. Similarly, orders that provide for payment to be made at the discretion of the probation officer lack the clarity needed for effective collection. At times, it is not clear whether in such instances the probation officer should use his or her discretion as to whether payment should be made or whether the officer should exercise his or her discretion as to how payment should be made.

The research found that fines and restitution as financial sanctions are imposed equally among offenders in the lower, middle, and upper socioeconomic brackets. The amounts of the fines and restitution were relatively low when the statutory parameters are considered. Although most Federal violations carry maximum fines of \$250,000 per count, only 4 percent

of the offenders in the sample were given fines or restitution above \$100,000.

Early payments appear to be related to positive satisfaction of the financial sanction. Judges and probation officers should emphasize that payment should begin within the statutorily required 30 days. Judges and probation officers should also be aware of the influence on behavior that statements made at sentencing or during supervision can have on the satisfaction of the financial obligation. It appears that offenders are forming impressions of and assessing the system. They observe the manner and the disposition of judges and officers and conclude that full satisfaction of the obligation is expected or desired or only requires a good faith effort. Accordingly, during the sentencing process judges should explicitly and intentionally provide the message that payment must be made. It is possible that articulating the possible sanction for willful nonpayment would also enhance the probability of full satisfaction of the obligation. Testing of this assumption would be desirable in a future study.

Implication for Probation Practice⁴

The fact that offenders tend to view officers more as helpers than as collectors may have some implications for probation practice. It appears that probation officers may have a bias toward the helping role. In order to avoid conflict in the dual role of helper and collector, it is important that this issue be addressed through training and recruiting. Hiring officers with accounting training and experience would provide some specialization in the supervision of offenders. This would make the collection process more effective and efficient. It would also head off possible future conflict between the "helper" versus the "enforcer" role of the probation officer. This is necessary to preserve the professional service delivery aspect of probation work. Otherwise, the issue as to whether the collection of financial sanctions should reside within the probation setting or be transferred to private or other alternate settings could become an unsettling one. This could also be an area for further inquiry.

Finally, while fines and restitution have been and will be major sanction mechanisms and options in the courts, the future will depend on the resolution of key questions. In response to the rising crime rate and the cost of incarceration, we have to clarify and identify specific goals that the courts should consider in imposing financial sanctions. Articulating and reaching a political and economic consensus as to why judges should impose these sanctions and under what conditions and limits will be necessary but difficult steps for the future. As for the present, this study indicates there is need to refine and fine-tune the fines and

restitution process. In recent years the emphasis has been largely victim-oriented. We now need to go to the next step to make the offender accountable. Such step will help the justice system ensure that fines and restitution serve the purpose for which they are intended.

NOTES

¹Public Law 97-271, 96 Stat. 1248-58, effective October 12, 1982 (originally 18 U.S.C. §§ 3579, 3580; renumbered by the Sentencing Reform Act as §§ 3663, 3664).

²Case file biographical data on the refusals were cross-tabulated with that of the research population, confirming the lack of bias. Hence, the refusals did not appear to be an intervening variable.

³New Federal sentencing guidelines went into effect on November 1, 1987, and apply to all offenses committed on or after this date. Guidelines require the sentencing court to select a sentence from within the guideline range unless the court presents reasons for departing from the prescribed guideline sentence.

⁴Note: The implications from this study must be tempered due to the size of the sample and the weakness of the statistical procedures.

REFERENCES

- Allen, G.F., & Treger, H. (1990). Community service orders in federal probation: Perceptions of probationers and host agencies. *Federal Probation*, 54(3), 8-23.
- Allen, G.F., & Treger, H. (1985). The probationers speak: Analysis of probationers' experiences and attitudes. *Federal Probation*, 49(3), 67-75.
- Administrative Office of the United States Courts. (1992). *Bringing criminal debt into balance: Improving fine and restitution collection*. Washington, DC: Author.
- Albrecht, H., & Johnson, E.H. (1980). Fines and justice administration: The experience of the Federal Republic of Germany. *International Journal of Comparative and Applied Criminal Justice*, 4, 3-14.
- American Bar Association. (1978). *Standards relating to sentencing alternatives and corrections*. Chicago: Author.
- Carter, J.S., & Cole, G.F. (1979). The use of fines in England: Could the idea work here? *Judicature*, 64(4), 154-161.
- Casale, S.S.G. (1981). Fines in Europe: A study of the use of fines in selected European countries with empirical research on the problems of fine enforcement (Working Paper No. 10). *Fines in sentencing*. New York: Vera Institute of Justice.
- Casale, S.S.G., & Hillsman, S.T. (1986). *The enforcement of fines as criminal sanctions: The English experience and its relevance to American practice* (Executive Summary). Washington, DC: National Institute of Justice.
- Cole, G. (1992). Using civil and administrative remedies to collect fines and fees. *State Court Journal*, 16(2), 4-10, 34.
- Cole, G.F., Mahoney, B., Thornton, M., & Hansen, R.A. (1987). *The practices and attitudes of trial court judges regarding fines as a criminal sanction*. Washington, DC: National Institute of Justice.
- Friedman, G.M. (1983). The West German day-fine system: A possibility for the United States? *University of Chicago Law Review*, 50, 281-304.
- Galaway, B. (1984). A survey of public acceptance of restitution as an alternative to imprisonment for property offenders. *Australian and New Zealand Journal of Criminology*, 17(2), 108-117.
- Gillespie, R.W. (1980). Fines as an alternative to incarceration: The German experience. *Federal Probation*, 44(4), 20-26.
- Gillespie, R. (1981). Sentencing traditional crimes with fines: A comparative analysis. *International Journal of Comparative and Applied Criminal Justice*, 5(2), 197-204.
- Glaser, D., & Gordon, M.A. (1988). *Use and effectiveness of fines, jail, and probation*. Los Angeles: University of Southern California, Social Science Research Institute.
- Greene, J.A. (1986). *Suggestions for a proposed day fine plan for Richmond County*. New York: Vera Institute of Justice.
- Hillsman, S.T. (1986). *Fines as a criminal sanction*. New York: Vera Institute of Justice.
- Hillsman, S.T. (1988). The growing challenge of fine administration to court managers. *Justice System Journal*, 13(1), 5-16.
- Hillsman, S.T. (1988). Tailoring criminal fines to the financial means of the offender. *Judicature*, 72(1), 38-45.
- Hillsman, S.T., & Mahoney, B. (1988). Collecting and enforcing criminal fines: A review of court processes, practices and problems. *Justice System Journal*, 13(1), 17-36.
- Hillsman, S.T., Sichel, J.L., & Mahoney, B. (1984). *Fines in sentencing: A study of the use of the fine as a criminal sanction*. Washington, DC: National Institute of Justice.
- McBrien, R. (1988). Tailoring criminal fines to the financial means of the offender: A Richmond County judge's view. *Judicature*, 72(1), 42-43.
- President's Task Force. (1982). *Victims of crime: Final Report*. Washington, DC.
- Sichel, J.L. (1982a). Report on visits to selected state and local courts (Working Paper No. 8). *Fines in sentencing*. New York: Vera Institute of Justice.
- Sichel, J.L. (1982b). U.S. district court fine imposition and collection practices (Working Paper No. 9). *Fines in sentencing*. New York: Vera Institute of Justice.
- Wheeler, G.R. (1990). Economic sanctions in criminal justice: Dilemma for human service? *Justice System Journal*, 14(1), 63-77.