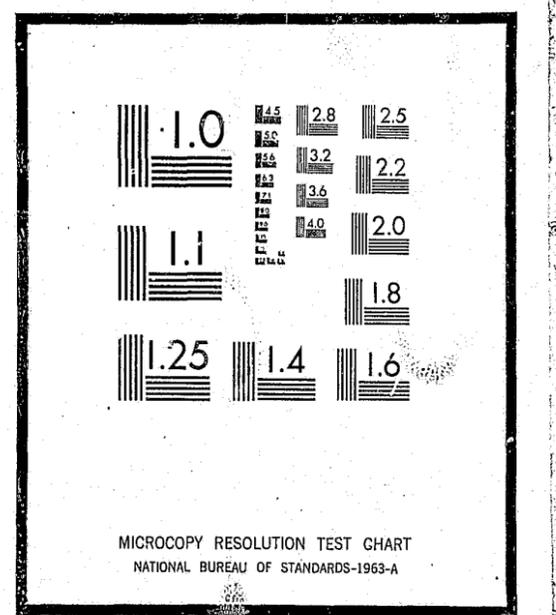


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VICTIM COMPENSATION AND OFFENDER RESTITUTION

A Selected Bibliography

by

Marvin Marcus
Robert J. Trudel
Robert J. Wheaton

National Criminal Justice Reference Service

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INTRODUCTION

Victim compensation and offender restitution are receiving increased attention from the public and from professionals within the criminal justice community. Although the concept of the offender making restitution by compensating the victim dates back to ancient times, our present-day criminal justice system has all but ignored these old ideas in favor of reparation to the state in the form of a prison sentence or a fine.

In one respect the rejuvenation of this concept represents society's attempt to balance the rights of victims with the rights of offenders. It is also felt by some authorities that restitution by the offender may be of importance in his resocialization.

Today, payment-to-victim plans take two basic forms: state compensation or offender restitution, or a combination of them. No two nations' or states' programs are exactly the same. The documents listed in this bibliography reflect a broad spectrum of laws and authoritative opinions on the subject. Basic questions are posed, such as: What is the history of compensation and restitution? If it was used successfully, why was the system changed? What modern societies have adopted compensation and restitution formulas? Should a state compensate an injured victim? If so, to what extent? Is offender restitution a viable form of victim compensation? Should such restitution be part and parcel of the rehabilitative process? Should compensation come from insurance, public and/or private? Should crimes against property be covered as well as crimes of violence? Should offender restitution be a part of the sentencing structure?

The material presented here is a selected portion of significant literature, rather than an exhaustive collection in which these questions are discussed. It is arranged alphabetically by author; the subject index will help the reader to locate documents appropriate to his information needs.

These documents are NOT available from the National Criminal Justice Reference Service. To obtain these documents see the instructions on the following page. Many of them may be found in local, college, or law school libraries. A list of the publishers' names and addresses appears in the Appendix.

HOW TO OBTAIN THESE DOCUMENTS

The documents listed are NOT available from the National Criminal Justice Reference Service, except those indicated by the words LOAN or MICROFICHE. Many of them may be found in public, college, or law school libraries. The publisher of a document is indicated in the bibliographic citation, and the names and addresses of the publishers are listed in the Appendix.

- Those documents marked LOAN followed by the NCJ number, can be borrowed from the National Criminal Justice Reference Service by submitting a request through a library utilizing the Interlibrary Loan system. For example:

U. S. NATIONAL COMMISSION ON THE CAUSES AND PREVENTION OF
VIOLENCE. v. 13, Crimes of Violence. Washington, U. S. Government
Printing Office, 1969. 754 p. LOAN (NCJ 571)

- Documents marked MICROFICHE: A microfiche copy of the document may be obtained free of charge from the National Criminal Justice Reference Service. This indicates that the document is NOT available for distribution in any other form. Microfiche is a sheet of film 4 x 6 inches that contains the reduced images of up to 98 pages. Since the image is reduced 24 times, it is necessary to use a microfiche reader, which may be available at a local library. Microfiche readers vary in mechanical sophistication. A sample microfiche entry follows:

Crime — Cause and Cure — Conference Held at Liverpool University, September
28-30, 1973 — Conference Report. Liverpool, England, Liverpool and Bootle
Constabulary, 1973. 91 p. MICROFICHE (NCJ 14860)

1. ALASKA. Violent Crimes Compensation Board: Annual Report. Juneau, Alaska, Department of Health and Social Services, Published Annually.

These annual reports contain data on the experiences for a particular year of the Violent Crimes Compensation Board. The report covers a period from 1 January to 31 December of the year in question and includes an administrative background, which discusses problems encountered during the year on administrative matters; statistical and analytical information about cases processed during the year; projections for the future; general policy, intent, and philosophy; and on the method of processing an application. One entire section is devoted to claims that have been finalized and those pending and includes case histories.

2. AMELUNXEN, CLEMENS. Das Opfer Der Straftat — Beiträge zur Viktimologie (Victim of Crime — A Contribution to the Study of Victimology). Hamburg, Kriminalistik, 1970. 127 p. (NCJ 14835)

Typology of potential victims, discussion of conditions under which they become victims, and recommendations for a proposed reform of the West German criminal code are the main topics of this document. The position of the victim under the law in history and in fiction is traced, with a number of examples being provided. A typology of the most likely victims of crime is presented. Special attention is given to instances where the victim himself provokes or encourages the commission of the offense. The author recommends that, in the process of reforming the West German criminal code, consideration be given to victim behavior toward the offender, victim involvement in the offense, victim defense of his property, confidence in the offender, and victim vulnerability. Furthermore, he recommends that the criminal code include a new offense — inducement to commit suicide — to protect the weak-willed. He also recommends definitions covering the ethics of the medical profession in the doctor-patient relationship concerning the patient's consent to an operation. A discussion of victim compensation is presented. Numerous citations from other writers on victimology are included and a bibliography is provided. (In German)

3. BEST, JUDAH and PAUL I. BIRZON. Conditions of Probation: An Analysis. In Carter, R. M. and L. Wilkins, Eds. Probation and Parole: Selected Readings. New York, John Wiley and Sons, 1970. p. 407-431. (NCJ 3436)

This article covers the general topic of probation, including the probation process and conditions of probation, with emphasis on costs, fines, bonds, support, banishment, imprisonment, and restitution. The restitution discussion details the differences between it and reparation. The rationale articulated for the imposition of the restitution and reparation conditions is the reformatory effect the imposition of such a responsibility will have upon the probationer's character. The author states that making reparation a condition of probation might unduly complicate the probation process. Thus, payment and rehabilitation, desirable without relation to a specific context, may yet be in conflict with the due process and equal protection safeguards of the Constitution.

4. BROOKS, JAMES. Compensating the Victim of Crime — Should "Criminal Offense" Be Defined. New York State Bar Journal, v. 45, no. 8: 561-565. December, 1973. (NCJ 12954)

There are three ways of defining crimes for compensation plans — general definition, list of crimes in plan, and list of crimes from the penal code. The author describes these methods, and reviews the experiences of various jurisdictions. The study concludes that in practice, any one of the three definitions would adequately cover the crimes under which compensation has been claimed. Death, stabbing, and assaults account for practically all claims filed. The esoteric case that is debated when plans are established is rarely encountered.

5. _____, Crime Compensation Programs — An Opinion Survey of Program Administrators. Criminology, v. 11, no. 2: 258-274. August, 1973. (NCJ 11564)

The preferences and opinions of the program administrators surveyed closely mirrored the provisions of their respective programs. Results seem to indicate an inclination on the part of each administrator to accept, for the most part, the particular arrangements and provisions of his program as being ideal and to equate them with "model" recommendations. Numerous tables of data are presented.

6. _____, How Well Are Criminal Injury Compensation Programs Performing? Crime and Delinquency, v. 21, no. 1: 50-56. January, 1975. (NCJ 16848)

This is an overview of victim compensation programs in several states and foreign countries. The first decade of experience with criminal injury compensation programs has been a period of evolution and innovations, during which nearly 30 jurisdictions have adopted such programs. This article analyzes those program features thought to provide the best clues to performance and adequacy and emphasizes the operational practices of those jurisdictions that have had substantial experience. Program performance appears, for the most part, to be realizing general objectives.

7. CANADIAN CORRECTIONS ASSOCIATION. Compensation to Victims of Crime and Restitution by Offenders. By W. T. McGrath. Ottawa, 1968. 20 p. (NCJ 28564)

This report states the case for restitution and compensation and defines both. It is suggested that compensation may overcome public apathy in relation to both the victim and the criminal and may help law enforcement by encouraging the laying of criminal charges. "Fear is sometimes expressed," the article states, "that the availability of compensation might remove the inhibition some potential criminals feel about stealing from the individual." "But," it goes on, "the small potential dangers are outweighed by large known benefits." The report reviews recent developments, and ten recommendations are made for a compensation program in Canada.

8. CHAPPELL, DUNCAN and L. PAUL SUTTON. Evaluating the Effectiveness of Programs to Compensate the Victims of Crime. In Drapkin, Israel and Emilio Viano, Eds. Victimology: A New Focus. v. 2, Society's Reaction to Victimization. Lexington, Massachusetts, Lexington Books, 1974. p. 207-220. (NCJ 30596)

The rationale and need for objective testing of alternative victim compensation models and the dilemmas posed for those wishing to conduct evaluation research in the field of victim compensation are discussed in this paper. The paper attacks the problem from the standpoints of rationale and need, determining the goals of victim compensation programs, evaluation as a function of program objectives, and operationalizing variables. This article aims at exposing the scarcity of evaluation programs in this area and at stressing the need for such programs. It also explores a number of issues that will be involved in the development and implementation of any design to evaluate compensation programs.

9. CORNIL, P. La Notion de Victimologie et sa Place Dans la Criminologie (Notion of Victimology and Its Place in Criminology). Revue de Droit Penal et de Criminologie, no. 6: 573-580. March, 1974. (NCJ 14455)

A renewed interest over the last 25 years in victim compensation and in the role of the victim in the cause and execution of crime is noted. Experimental victim compensation legislation has been adopted in England, New Zealand, and some parts of Canada and the United States. These programs are limited to victims of crimes of violence and each case must be examined by a court or commission to meet such standards as victim need and absence of provocation of the criminal by the victim. Briefly mentioned are several American studies of the behavior, personality, and social traits of victims. (In French)

10. COUNCIL OF EUROPE. Compensation for Victims of Crime. Strasbourg, France, 1975. 80 p. (NCJ 28507)

This document was published by the Council of Europe to show the results of a meeting to exchange information on recent or proposed reforms to penal codes concerning compensation for victims of crime. A memorandum of the subject prepared by the Secretariat lists certain principles and questions that might arise. It is a summary of various ideas on compensation and contains rationale of new methods, other planned new methods, the operation of a compensation fund, and the relationship between new and traditional methods. The national reports include existing or proposed plans from Austria, Cyprus, Denmark, France, West Germany, Iceland, Ireland, Italy, Luxembourg, Netherlands, Norway, Sweden, Switzerland, Turkey, and the United Kingdom.

11. Crime — Cause and Cure — Conference Held at Liverpool University, September 28 - 30, 1973 — Conference Report. Liverpool, England, Liverpool and Bootle Constabulary, 1973. 91 p. MICROFICHE (NCJ 14860)

This report contains a discussion of legal, social, and personal implications of crime; recommendations for crime control, and six addresses presented at a conference at Liverpool University. Causes for crime, violence, local and community responses, and some countermeasures to crime were discussed. One syndicate proposal generated at the conference included suggestions to increase victim compensation.

12. EDELHERTZ, HERBERT and GILBERT GEIS. Public Compensation to Victims of Crime. New York, Praeger Publishers, 1974. 324 p. (NCJ 13352)

This document is an overview of victim compensation programs in the United States and abroad, as well as a discussion of the key procedural and ideological issues involved. Its basic aim is to provide the kind of information and analysis about current compensation schemes considered useful for blueprinting further efforts. Contemporary compensation programs are placed in their historical perspective as the volume reviews the subject from the Code of Hammurabi of ancient Babylonia to the most recent developments.

13. _____ and others. Public Compensation of Victims of Crime — A Survey of the New York Experience, Part 1. Criminal Law Bulletin, v. 9, no. 1: 5-47. January - February, 1973. (NCJ 13081)

The background of crime-prevention compensation, outlining reasons for its creation, and discussing and evaluating its practical application in New York are the main topics covered in this document. Presented are a detailed legislative history, study committee findings, initial legislation, and final revisions. The study details the operations of the crime victims compensation board, formed as a result of the legislative effort. Certain evaluative data such as work load, expeditiousness, and limits of possible recoveries are included.

14. EDWARDS, J. LI. J. Compensation to Victims of Crimes of Personal Violence. Federal Probation, v. 30, no. 2: 3-10. June, 1966. (NCJ 5949)
This article also appears in Dinitz, Simon and Walter C. Reckless, Eds., Critical Issues in the Study of Crime. Boston, Little Brown, 1968. p. 207-214. (NCJ 2001)

This document examines the important issues underlying a state system of victim compensation by examining the statutory and administrative principles applied in the New Zealand and British systems and adopted by many other jurisdictions that have revealed their own legislative proposals. The author concludes that... "our penal system would not only provide a more effective deterrent to crime, but would also find greater moral value, if the concept of personal reparation to the victim were added to the concepts of deterrence by punishment and of reform by training."

15. ENKER, ARNOLD N. A Comparative Review of Compensation for Victims of Crime. In Drapkin, Israel and Emilio Viano, Eds. Victimology: A New Focus. v. 2, Society's Reaction to Victimization. Lexington, Massachusetts, Lexington Books, 1974. p. 121-138. (NCJ 30589)

The author reviews a number of issues on victimization, including the victim's right to compensation, the rationale for state compensation, some present situations in various countries throughout the world, the types of crimes covered by compensation.

the kinds of damages to be covered, reimbursement of the state by the offender, and some administrative and procedural matters. The author submits that the idea of state compensation for victims of crime has expanded from limited compensation in narrowly defined circumstances to the establishment of a broad sophisticated program assuring compensation to almost all victims.

16. FEENEY, THOMAS G. Pity the Criminal Less, More His Innocent Victim. Canadian Society of Forensic Science Journal, v. 6, no. 1: 11-18. March, 1973. (NCJ 9415)

The author makes suggestions for better ways of providing compensation to victims of crimes and of compelling the criminal to assume his responsibility for his crime. He recommends that victim restitution could aid in the dual purpose of criminal law-deterrence and rehabilitation. The author suggests that if criminals were forced to repay victims, crime would be less profitable and therefore be deterred, and that compensating victims could have a rehabilitative effect on the criminal.

17. FLOYD, GLENNE E. Victim Compensation: A Comparative Study. Trial, v. 8, no. 3: 14-16, 18-19 and 27. May - June, 1972. (NCJ 4238)

This document studies the approach taken by different state compensation plans in the U. S. and Great Britain with relation to selective problems that have arisen. Problem areas examined include determination of crimes and victims which should be compensated, the victim's conduct, minimum claims, criteria for awards, and degree of proof.

18. FOGEL, DAVID, BURT GALAWAY, and JOE HUDSON. Restitution in Criminal Justice — A Minnesota Experiment. Criminal Law Bulletin, v. 8, no. 8: 681-691. October, 1972. (NCJ 7473)

The development and implementation of a proposed restitution plan which will be integrated into a community-based correctional facility is discussed in this document. The plan calls for participants to be randomly selected from adult male and female property offenders upon their admission to prison. These offenders would be offered the option of living in a community correctional center and making restitution as an alternative to penal incarceration. Basic to this restitution proposal is a contractual process of reconciliation entailing a negotiated settlement of grievances by the parties involved, mediated by a representative of the correctional system.

19. FOONER, MICHAEL. Victim-Induced, Victim-Invited, and Victim-Precipitated Criminality: Some Problems in Evaluation of Proposals for Victim Compensation. In Drapkin, Israel and Emilio Viano, Eds. Victimology. Lexington, Massachusetts, Lexington Books, 1974. p. 231-233. (NCJ 30600)

The author warns that although compensation schemes are gaining wide-spread acceptance, legislators should be alert to possibilities that some compensation schemes may contribute to the growth of crime and add unwarranted complications to the administration of criminal justice. He states three issues that need to be dealt with if a coherent system of victim compensation is to be created: (1) Does the

victim's behavior in connection with the crime still entitle him to compensation? (2) Is a victim's entitlement to compensation determined by apprehension and conviction of an offender? and (3) Will compensation contribute to a temptation/opportunity pattern in victim behavior?

20. GALAWAY, BURT and JOE HUDSON. Restitution and Rehabilitation — Some Central Issues. Crime and Delinquency, v. 18, no. 4: 403-410. October, 1972. (NCJ 7697)

Restitution, in the form of payment by the offender to the victim of the crime, is considered in this article for its rehabilitative effect on the offender. The article considers whether restitution is more effective when it is voluntary or when it is required, whether there should be offender-victim interaction within a restitution scheme, and whether the offender should be responsible for making restitution in victim-precipitated crime.

21. GEIS, GILBERT. Compensation for Victims of Violent Crimes. In U. S. National Commission on the Causes and Prevention of Violence. v. 13, Crimes of Violence. Washington, U. S. Government Printing Office, 1969. p. 1559-1597. (NCJ 4916)

This review of programs to provide financial redress for criminally inflicted injuries places the concept of victim compensation in historical perspective. The experiences of existing programs in New Zealand, Australia, Great Britain, and Canada are examined. The authors detail specific provisions of state legislation and evaluate their results. An extensive bibliography is provided on victim compensation topics.

22. ———. State Compensation to Victims of Violent Crime. Task Force Report: Crime and Its Impact — An Assessment. The President's Commission on Law Enforcement and Administration of Justice. Washington, U. S. Government Printing Office, 1967. p. 157-177. LOAN (NCJ 494)

This article reviews extensively the reasons and history of compensation to the victims of crime. Modern programs given particular attention include those in New Zealand, England, and various states of the United States. In general, these are just reviews of existing programs. The conclusions and summary, however, review some of the thinking on compensation and some of the problems that have occurred. A few aspects of the programs presented earlier in the article are commented on. The author concludes... "experience and research should come to offer a substantiated body of data that will allow more knowledgeable consideration of substantive and procedural matters."

23. GLATFELTER, RALPH. For the Victims of Crime: A New Approach. In Drapkin, Israel and Emilio Viano, Eds. Victimology: A New Focus. v. 2, Society's Reaction to Victimization. Lexington, Massachusetts, Lexington Books, 1974. p. 139-146. (NCJ 30590)

The author states that it is time that the victim is considered as well as the offender. Since law enforcement cannot be 100 percent effective, there are going to be victims; these victims individually suffer more than society as a whole, losing sometimes

their homes, health, and jobs. The alternatives available to the victim through the private sector — private insurance, restitution, and civil actions — the author labels non-alternatives and carefully states his reasons. The answer is state-backed compensation that will assure the people that their government is concerned with the ruinous consequences of crime, and as a by product it will encourage citizen participation with law enforcement.

24. GOLDFARB, RONALD L. and LINDA R. SINGER. After Conviction. New York, Simon and Schuster, 1973. 741 p. (NCJ 10437)

Criticisms of the existing American correctional system, with proposed changes which would make it almost entirely a community-based system, are given in this document. "No one has questioned the idea of caging men, only how to perfect the cage." These words echo the authors' sentiments that current reforms of the correctional system in America are merely futile mutations of an already far too imperfect concept. Critical analyses are made of the many facets of the criminal justice process — sentencing, probation, prison architecture, institutions, convicts' rights, clemency, parole, and community programs. One suggestion for reform is implementation of a program for compensation for the victims of crime. At various places throughout the text, the authors refer to compensation in relation to reparation. A brief history and modern adaptations are cited.

25. GOLDSTEIN, NAOMI. Reparation by the Offender to the Victim as a Method of Rehabilitation for Both. In Drapkin, Israel and Emilio Viano, Eds. Victimology: A New Focus. v. 2, Society's Reaction to Victimization. Lexington, Massachusetts, Lexington Books, 1974. p. 193-205. (NCJ 30595)

This paper shows that the network of processes by which the victim may obtain reparation for an injury sustained by a criminal act is still deficient in ensuring the total rehabilitation of all victims, despite the introduction of state compensation boards. The paper also attempts to show how reparation by the offender might remove some of these deficiencies. This method might also be beneficial to the offender in his rehabilitation process. Reparation by the offender need not be financial and should be carried out while the criminal remains in the community.

26. HASSON, UZY and LESLIE SEBBA. Compensation to Victims of Crime: A Comparative Survey. In Drapkin, Israel and Emilio Viano, Eds. Victimology: A New Focus. v. 2, Society's Reaction to Victimization. Lexington, Massachusetts, Lexington Books, 1974. p. 103-120. (NCJ 30588)

A brief historical review of compensation is presented in this article, followed by some modern compensation schemes throughout the world, including New Zealand, Australia, Northern Ireland, England, and the United States. An appendix gives a survey of some sample cases of compensation in the state of Israel. The authors conclude that most of the schemes discussed have some basic weakness; for example, they take into effect only crimes of violence, minimum and maximum limits should be abolished, compensation for crimes within the family should be included, and emergency compensation should be available in cases of need.

27. HAWAII. Criminal Injuries Compensation Commission: Annual Report. Honolulu, Department of Social Services and Housing, Published Annually.

This annual report reviews the experiences of the Criminal Injuries Compensation Commission of the State of Hawaii. It presents a statistical analysis of awards, decisions by types of crimes, average award, awards reduced and lapsed, and collateral sources. A special report is included on certain legal proceedings arising out of a claim filed by a widow for compensation for herself and children because of the death of her husband in an auto accident. Actions through the legislature also are covered. There are ten appendices that cover a table of awards, claims denied, applications withdrawn, commission budget, legislative proposal, procedure for compensation application, and copies of Supreme Court decisions on denied compensation cases.

28. JACOB, BRUCE R. Reparation or Restitution by the Criminal Offender to His Victim: Applicability of an Ancient Concept in the Modern Correctional Process. Journal of Criminal Law, Criminology and Police Science, v. 61, no. 2: 152-167. June 1970. (NCJ 5303)
This article also appears in Drapkin, Israel and Emilio Viano, Eds. Victimology. Lexington, Massachusetts, Lexington Books, 1974. p. 215-220. (NCJ 12281)

The article reviews the historical background of the concept of reparation or restitution and then discusses both concepts in the modern criminal process. Other items discussed include reparation or restitution as a means of rehabilitating the offender and reparation as a philosophical aspect of penology. Existing victim compensation plans are examined with a discussion of arguments for including reparation in victim indemnification schemes. The article also considers possible ways to increase the earnings of convicted offenders so as to make practicable the incorporation of the concept of reparation in existing victim indemnification plans or in future legislation to provide financial assistance to victims of crime.

29. JOHNSON, JOAN H. and others. Recidivist Victim: A Descriptive Study. In Criminal Justice Monograph, v. 4, no. 1; 1973. Huntsville, Texas, Sam Houston State University, Institute of Contemporary Corrections and Behavioral Sciences. 83 p. (NCJ 9447)

The social, medical, and criminal characteristics of normal gunshot and stab wound victims in Austin, Texas are distinguished in this publication from those of recidivist victims. The concept of the recidivist victim emerged from local hospital experience with patients who were admitted not once, but several times for treatment resulting from an act of violence. The results of the study, summarized in a series of profiles, show that recidivist victims tended to be older than other victims, to have a more prominent pattern of alcoholism and drug abuse, and to have a longer history of arrests and jail sentences. The text includes a review of literature on victimology and summaries of various domestic and foreign victim compensation plans.

30. KNUDTEN, RICHARD D., Ed. Criminological Controversies. New York, Appleton-Century-Crofts, 1968. p. 307-309. (NCJ 2414)

This selection by the editor states the history and cases for and against compensation for victims of crime. One side of the case states "...if government has preempted the right of the individual to seek reparations or compensation...it must also assume responsibility for the victim." The other side of the case says, "A Government plan to reimburse victims of crime may increase rather than decrease physical violence." The introduction to this section cites such authorities as Margery Fry, Marvin F. Wolfgang, Gerhard O. W. Mueller, James Starrs, and Stephen Schafer.

31. KOLE, JANET. Arbitration as an Alternative to the Criminal Warrant. Judicature, v. 56, no. 7: 295-297. February, 1973. (NCJ 16140)

The author reveals how the American Indian compensated for crimes rather than punish the offender. For example, if a man murdered another, he was adopted into the family of the murdered man to compensate for the loss. The reason was that if vengeance were allowed and the killer punished by death, their society would simply lose one more worker. This same concept is at the root of an innovative program at work in the urban communities of Philadelphia. It is a 4-A Program of the American Arbitration Association's National Center for Dispute Settlement. The program's aim is to provide an effective alternative to the issuance of private criminal warrants, using mediation, fact-finding, and arbitration to improve relationships between groups in a conflict situation. Experience of the group has shown that the process of private arbitration can more effectively serve basic public policy and goals.

32. KUTNER, LUIS. Crime Torts — Due Process for Crime Victims. Trial, v. 8, no. 3: 28-30. May - June, 1972. (NCJ 4234)

This is a proposal for legal action by crime victims to sue government agencies for compensation for their losses. The action would be brought in either a tort or contract and would be based on the argument that the government has failed to adequately police society. Other types of compensation programs for victims are discussed.

33. MCCLEAN, J. D. and J. C. WOOD. Criminal Justice and the Treatment of Offenders. London, Sweet and Maxwell, 1969. 344 p. (NCJ 10925)

Review of British treatment facilities and programs for adults, young offenders, women, and mentally disordered offenders is covered in this document. While the majority of offenders are fined, there exists a broad spectrum of other non-custodial measures as well as a variety of treatment institutions. The authors discuss the use of monetary penalties, probation, and the British custom of discharge. All types of offenders are subject to imprisonment, but young offenders may be sentenced to less harsh confinement before reaching the stage in their criminal careers where institutionalization is the only alternative. Women are subject to the same treatments used with their male counterparts. The mentally ill offender can be sent to a secure or open treatment facility. The document discusses the problem of victim compensation by reviewing present legal alternatives — civil action — and finally detailing the provision of state supplied compensation as practiced in England. The English scheme is reviewed, exploring its background and general stipulations.

34. MACNAMARA, DONAL E. J. and JOHN J. SULLIVAN. Making the Crime Victim Whole: Composition, Restitution, Compensation. In Thornberry, Terence P. and Edward Sagarin, Eds. Images of Crime: Offenders and Victims. New York, Praeger Publishers, 1974. p. 79-90. (NCJ 30606)

Three different approaches to the task of making the victim whole after suffering from a crime are discussed in this article. These areas are composition, restitution, and compensation. Comparisons are made and some brief case histories are offered. The authors feel that crime victim compensation must be retained and expanded into jurisdictions where such legislation has not been adopted. They feel that there is great potential in a mandatory crime victims insurance scheme.

35. MORAN, RICHARD and STEPHEN ZEIDMAN. Victims Without Crimes: Compensation to the Not Guilty. In Drapkin, Israel and Emilio Viano, Eds. Victimology: A New Focus. v. 2, Society's Reaction to Victimization. Lexington, Massachusetts, Lexington Books, 1974. p. 221-225. (NCJ 30597)

The case for compensation to the not guilty — those charged with a crime and found not guilty — is taken up by the authors of this article, who feel that the expenses incurred because of a criminal trial, when the person is acquitted, should be compensated for. After all, in the cases of indigents, the public defender is paid by the state whether or not the defendant is adjudged guilty. "Thus, although the defendant is presumed innocent until proven guilty," state the authors, "he is nevertheless punished unless compensated." A parallel is made with civil tort law where the unsuccessful party bears the cost of bringing suit. Compensation is also seen as a means for helping safeguard the criminal justice system from being used for political purposes — trials to discredit political enemies often are far more expensive for the defendant than a regular criminal proceeding. The authors conclude that the not guilty are victims without crimes and the judiciary should recognize its responsibility to compensate them.

36. MORRIS, ALBERT. What About the Victims of Crime? Correctional Research, no. 16: 1-15. November, 1966. (NCJ 9680)

This discussion shows the relationships between offense, the perpetrator, and victim. Some crimes, such as car or property theft, are encouraged or precipitated by careless owner behavior. The key to prevention is increased citizen awareness. Crimes against the person sometimes result from longstanding or intimate relationship between the victim and offender. Here, prevention is more complex and difficult. There may be some value in compensating the victims of both types of crime, either by a public fund or by offender restitution.

37. MUELLER, GERHARD O. W. Compensation for Victims of Crime: Thought Before Action. In Knudten, Richard D., Ed. Criminological Controversies. New York, Appleton-Century-Crofts, 1968. p. 321-329. (NCJ 30602)

This article constitutes the dissenting side of the argument on compensation for the victims of crime. Mueller writes, "The very question — why not pay the victim of crime? — seems appealing to anyone with a social conscience... We are, however, faced with considerable social risks if a topic as serious and significant as

victim compensation becomes the playball of public emotions and possibly even a premature political campaign slogan." Mueller states that the rise of compensation schemes grew out of the new concept that in a crime there were two new parties, the offender and the victim; previously there were two different parties, the offender and the state. He attempts to point out the enormous difficulties, in terms of behavioral unknowns, which stand in the way of implementing any victim compensation schemes.

38. _____ and H. H. A. COOPER. Civil Alternatives for Victims of Crimes. New York, New York University, 1973. 27 p. (NCJ 11455)

Three topics are covered in this document: a review and critique of alternative means of crime victim compensation, a review of historical considerations, and a comparison with other penal approaches. Two basic alternatives are considered: civil action and compensation on the insurance principle. The advantages and disadvantages of each are noted. The authors recommend and discuss various practical compensation means. These include restitution as a probation or parole condition, levying of fines to compensate victims, civil attachment of prison or non-institutional earnings, combination of civil and criminal proceedings, private or public insurance on a pre-determined actuarial basis, and the administrative assessment of loss immediately following criminal trial. Whatever solution is tried, the authors recommend that it must be simple, effective, and available at little or no cost to the victim.

39. _____, Society and the Victim: Alternative Responses. In Drapkin, Israel and Emilio Viano, Eds. Victimology: A New Focus. v. 2, Society's Reaction to Victimization. Lexington, Massachusetts, Lexington Books, 1974. p. 85-101. (NCJ 30587)

This article presents some historical consideration and alternatives of victim compensation, including: a civil action for compensation and compensation on the insurance principle. Some recommendations made include restitution or reparation by the defendant as a probation or parole condition, a system of fines with diversion of part of these to compensate the victim, correctional labor or day-fine system, civil attachment of prison earnings, civil attachment of non-institutional earnings, combining civil and criminal proceedings, private insurance compensating the victim, public insurance, and trial of the criminal issues followed by an administrative adjustment of the loss. The author concludes that the different principles discussed can be combined, as circumstances dictate, to establish a satisfactory balance between the public and private interests and to ensure a prompt and effective remedy for the individual victim.

40. NEW YORK. New York Crime Victims Compensation Board, Annual Report. Albany, New York, Executive Department, Crime Victims Compensation Board, Published Annually.

This document indicates minimum requirements to make a claim for state compensation, who may file a claim and typical claims, reasons for denial and appeals. The Compensation Board's workload is described, and an explanation is given of why the number of claims received and filed does not truly reflect the board's actual workload. Open claims are described, as well as the types of crimes that are not covered. The effect of civil actions and/or workman's compensation claims on the

victim compensation claim is dealt with. The New York state law provides that if the victim of the crime contributed to his own victimization (not an uncommon occurrence), the compensation award may be reduced, or the claim may be rejected altogether. The New York State "Good Samaritan Law" is described and ties in with victim compensation payments. Other states have adopted similar laws. The discussion also covers the Federal Crime Victims Compensation Board legislation.

41. POLISH, J. Rehabilitation of the Victims of Crime — An Overview. UCLA Law Review, v. 21, no. 1: 317-355. October, 1973. (NCJ 11976)

This overview analyzes the weaknesses of current victim compensatory remedies, and proposes a government-financed plan to aid victims of violent crime. Victims of crime are rarely compensated for losses. Private suit and restitution by the offender is limited by the offender's ability to pay while private insurance and tax deductions are either unavailable or inadequate for low income victims. State compensation, when available, is severely limited in scope and effect. The Federal Government proposed plan would cover job training and education, where appropriate; out-of-pocket expenses caused by injury; and recovery of earnings and compensation for pain and suffering, with an upper limit. Property losses would not be paid.

42. QUINNEY, RICHARD. Who Is the Victim. Criminology, v. 10, no. 3: 314-323. November, 1972. (NCJ 8278)

The legal definition of crime victims, the victim as a reflection of society's character, patterns of victimization, and victim compensation are discussed in this article. Compensation is reviewed briefly and historically, and the pros and cons of compensation are considered.

43. RICH, VERNON. Law and the Administration of Justice. New York, John Wiley and Sons, 1975. 430 p. (NCJ 16257)

This is a textbook for students of justice administration, covering such topics as the behavioral, philosophical, and historical setting of American law, a broad view of common law, and theories of justice. The role of criminal law in social order is first investigated by identifying the fundamental concepts guiding change in law. A comparative study of criminal law and the origins and premises of Anglo-American criminal law are also presented. Elements of criminal liability, and offenses against person, property, habitation and occupancy are discussed. Defenses to charges of criminal liability are examined, and rights of the victim, the inmate, and the juvenile offender are considered as well. Restitution and compensation are reviewed both historically and in the light of modern practices and theories.

44. RUBIN, SOL. Law of Criminal Correction. (2d ed.) St. Paul, West Publishing Company, 1973. 854 p. (NCJ 13723)

This is a treatise on the law of corrections, including sentencing, probation, parole, imprisonment, fines and restitution, and prisoner's rights. In this second edition, the author examines the revival of the eighth amendment prohibition of cruel and

unusual punishment and its offspring, the Supreme Court declaration that the death penalty is unconstitutional. The treatise reviews the historical development of the law of criminal corrections, and outlines the sentencing, imprisonment, punishment, probation, and parole processes. The treatment and rights of misdemeanants, felons, and recidivists, as well as youthful and mentally ill defendants, are discussed. The discussion on restitution is not involved with any new legislation to compensate the victim, but with the provisions of existing statutes. There are already laws that provide for restitution to be fixed by the court but not to exceed the loss or damage as established by the prosecution. Restitution for rehabilitation is used to support a healthy attitude by the offender. Often restitution is imposed as a condition of probation, but it is not an authorized sentence unless made so by statute.

45. SCHAFER, STEPHEN. Compensation and Restitution to Victims of Crime. (2d ed. enl.) Montclair, New Jersey, Patterson Smith, 1970. 211 p. (NCJ 10822)

The author states that he has approached his study from two angles in an attempt to serve not only the ideas of victimology, but the tasks of penology as well. Restitution should help not only the victim, but at the same time it should refine the practical concept of punishment. Schafer's approach differs from past solutions in which restitution appeared almost entirely as a criminal retribution. Schafer studies the common past of restitution and punishment and the decline of restitution from a historical perspective. He then covers legislation in various countries of Europe, the Americas, the Middle and Far East, Australia, Africa, and Communist territories. Special emphasis is given to the United Kingdom. Punishment and restitution are examined from the standpoints of restitutive concept of punishment, punitive concept of punishment, and justification of compensation and correctional restitution. Developments in victim compensation to 1970 are examined for New Zealand, the United Kingdom, and the United States. The appendix contains a survey questionnaire that served as a basic starting point for further investigation and statutes on governmental compensation for the states of California, Hawaii, Maryland, Massachusetts, and New York, and a proposed Federal bill (S.9).

46. ————. Compensation of Victims of Criminal Offenses. Criminal Law Bulletin, v. 10, no. 7: 605-636. September, 1974. (NCJ 16518)

Schafer begins his article by reviewing briefly the historical experience of both restitution and compensation. He then makes a comparative summary of victim compensation systems, among which are civil damages, civil restitution, civil restitution as part of penal procedures, civil compensation, and neutral compensation. He also discusses the restitutive concept of punishment and state participation. In this area he lists arguments for state compensation. The trend of compensation in America is also reviewed. Finally, the idea of correction restitution is discussed, which is different from civil restitution since it must be carried out by the offender and should be equally burdensome and just for all criminals, whether they be poor or wealthy. He concludes by giving five ways of operating a restitution program.

47. _____, The Correctional Rejuvenation of Restitution to Victim of Crime. In Reckless, Walter C. and Charles L. Newman, Eds. Interdisciplinary Problems in Criminology: Papers of the American Society of Criminology. Columbus, Ohio; the Ohio State University, 1965. p. 159-168. (NCJ 30603)

In this article the author stresses that restitution to victims of crime should find its logical place in the universalistic operation of the criminal law. That restitution to victims of crimes deserves a place in the settlement of the criminal case should be evident if only because without the crime which is being tried, the victim would not have suffered the damage for which he seeks restitution. He degrades levying of fines as a substitution, since it would degrade restitution to a position and role outside the scope of judgment of crime and correction of the criminal. He also reports research soundings to support his case and discusses the possibility that restitution should replace punishment.

48. _____, The Proper Role of a Victim-Compensation System. Crime and Delinquency, v. 21, no. 1: 45-49. January, 1975. (NCJ 16847)

Compensation to the victim of a criminal injury is not effective, states the author, if it consists merely of financial remedy supplied by the state rather than punitive restitution. This must come from the offender's resources (either money or service), and it must be part of the criminal court sentence by being tied to whatever reformatory plan is contemplated. Correctional restitution goes a significant step further than compensation by requiring the offender to maintain a relationship with the victim until the victim's pre-injury condition has been restored to the fullest extent possible. It compensates the victim, relieves the state of some burden of responsibility, and permits the offender to pay his debt to society and to his victim. Thus, it makes a contribution to the reformatory and corrective goals of criminal law and finds its proper place in the criminal justice system.

49. _____, Restitution to Victims of Crime — An Old Correctional Aim Modernized. In Knudten, Richard D., Ed. Criminological Controversies. New York, Appleton-Century-Crofts, 1968. p. 310-320. (NCJ 30601)

This article constitutes the affirmative side of the argument on compensation. Schafer states, "The case for restitution to victims of crime has rested on two obligations: an obligation of the criminal perpetrator who inflicted personal or property harm and also an obligation of society which failed to protect the victim. In either case, compassion for the victim has prompted proposals for compensation schemes. "However," he states, "there is really no adequate compensation now on the books anywhere in the world," which may have been the case in 1968. Schafer briefly reviews the past and recent history of compensation or restitution and discusses some modern alternatives.

50. _____, Victim and His Criminal — A Study in Functional Responsibility. New York, Random House, 1968. 178 p. (NCJ 10816)

This document is an introduction to the study of criminal-victim relationships, and contains a history of victimology and the practice of victim compensation. The criminal-victim relationship as a crime factor is covered. A survey is included of Switzerland, New Zealand, and the United Kingdom countries which provide some

form of victim restitution. Mention is made of American efforts to provide compensation through state legislation and in academic publications. A final chapter deals with the problem of determining responsibility in the case of both criminal and victim.

51. SCHOREIT, ARMIN. Entschädigung der Verbrechenopfer als öffentliche Aufgabe (Compensation to Victims of Crime as a Public Function). Berlin, J. Schweitzer Verlag, 1973. 112 p. (NCJ 27230)

This document is a discussion of the factors that should be considered in preparing victim compensation legislation for West Germany. Also included is an estimate of the probable costs. English legislation is described as a model, and English case histories and statistics are provided. A list also is provided of eleven other states that have similar legislation. In preparing legislation the author discusses the need to distinguish between three possible cases: the offender should be required to make compensation, the state should be required to make compensation, no compensation should be given because the victim contributed to or brought about the offense. (In German)

52. SCHUMACHER, MARY. Violent Offending — A Report on Recent Trends in Violent Offending and Some Characteristics of the Violent Offender. Wellington, New Zealand, New Zealand Department of Justice, 1971. 62 p. (NCJ 14049)

This study confines itself to eight categories of violent offending — common assault, aggravated assault, robbery, aggravated robbery, wounding with intent, assault by a male on a female, rape, and attempted rape. Demographic characteristics of both offenders and victims are compared, with the resulting discovery that more than thirty percent of the victims knew their offenders. Under the New Zealand Criminal Injuries Compensation Act, provision is made for recovery from the offender of amounts awarded to the victim.

53. SERRILL, MICHAEL S. The Minnesota Restitution Center. Corrections Magazine, v. 1, no. 3: 13-20. January-February, 1975. (NCJ 25292)

The compensation plan as described in this article for the State of Minnesota was designed to aid not only the victim of the crime but also to rehabilitate the offender. In order to qualify for the program, the offender must not have committed a violent crime nor have a history of violence for at least five years. His earning ability also must be within the requirements of the restitution. For example, a dishwasher could not qualify for \$50,000 restitution. The program operates outside of prison at a special restitution center where the offender pays room and board. The offender works at full time employment and signs a contract to repay the victim in installments. The program encourages face to face meetings between offender and victim. Where this has taken place, the offender often has come away feeling guilty for having hurt "such a nice person." The victim has left with empathy for the offender and his problems, which is one of the objectives of the program. Administrative problems and experiences of the program are cited.

54. SETHNA, MINOCHER J. Compensation of Victims of Offenses. In Drapkin, Israel and Emilio Viano, Eds. Victimology: A New Focus. v. 2, Society's Reaction to Victimization. Lexington, Massachusetts, Lexington Books, 1974. p. 167-174. (NCJ 30593)

While the need for sufficient and expeditious compensation for victims of crime is discussed, the main thrust of this article is toward insurance against injury or loss through victimization by crime. The types of insurance discussed include life insurance, fire insurance and protection of property, insurance against deceit, insurance against damage by mischief, insurance against injuries by accident, insurance providing personal safety, and insurance against loss or damage by such offenses as defamation, infringement of copyright, etc. Although applicable in only a few cases, insurance as a means of compensation would be a great boon to victims of offenses, claims the author.

55. STARRS, JAMES E. A Modest Proposal to Insure Justice for Crime Victims. In Reckless, Walter C. and Charles L. Newman, Eds. Interdisciplinary Problems of Criminology: Papers of the American Society of Criminology. Columbus, Ohio; the Ohio State University, 1965. p. 181-189. (NCJ 30605)

Despite criticisms voiced by many authorities against insurance as a means of compensation for the victims of crime, the author plunges ahead with his idea for just such a system. He claims that because there is a deep chasm between state compensation and public acceptance of it, it is wrong to denounce private insurance in cavalier terms, since it does injustice to victims of crimes. The author suggests that the payment structure and insurable class be broadened to include legislation prohibiting exclusion of crime victims from benefits of existing coverage, the issuance of a major occupational policy to complement a basic accident policy, and the drafting of a pain-and-suffering rider to be attached to almost any existing policy.

56. U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT. Federal Insurance Administration. Federal Crime Insurance Program -- Revised Quick Reference Rate Tables and Simplified Manual. Washington, 1973. 36 p. (NCJ 11225)

This is a guidebook used by insurance companies who administer the Federal Crime Insurance Program, which covers both residential and commercial policies. The duties of the insurance agents and brokers are explained, and the general operating procedure of the program is described. Included are illustrations and descriptive material on protective devices required of policy-holders, tables of commercial insurance rates, and a list of servicing companies participating in the program.

57. U. S. LAW ENFORCEMENT ASSISTANCE ADMINISTRATION. Analysis of S. 2994: Victims of Crime Act of 1972, Staff Study. Washington, U. S. Law Enforcement Assistance Administration, 1972. 39 p. (NCJ 2745)

This analysis provides estimates and information relevant to the annual costs of a nationwide Victims of Crime Program. Data was developed on the basis of cost patterns experienced in Maryland and New York, two states which were then operating compensation programs. The proposed legislation, S. 2994, would establish a National Violent Crimes Compensation Board. Those eligible include the victim,

dependents in case of death, others where loss results from victim's injury, and anyone suffering pecuniary loss. The plan is restricted to \$100 minimum loss plus undue financial hardship and provides a \$50,000 limit on award. It provides civil means for recovering from the offender and allows certain attorney fees.

58. _____, National Criminal Justice Reference Service. Criminal, Society, and the Victim. By Gerhard O. W. Mueller and H. H. A. Cooper. Washington, 19 p. MICROFICHE (NCJ 10927)

Historical foundations, present status, and alternative proposals for victim compensation are explored in this document. Proposals discussed for compensating victims of crimes include restitution as a condition of probation, portion of fine to the victim, day fine systems, attachment of prison earnings or non-institutional earnings, combining civil and criminal procedures, private and public insurance, and post criminal trial monetary adjustment.

59. _____, National Institute of Law Enforcement and Criminal Justice. Crime Victim Compensation Laws and Programs. Prepared by the Center for Criminal Justice and Social Policy, Marquette University. Washington, U. S. Government Printing Office, 1976. 67 p. LOAN (NCJ 30324)

This report addresses the present status of victim compensation legislation and programs in the United States. Attention is also given to a review of the American Bar Association's proposed Uniform Crime Victims Reparation Act. The scope of current bills pending in Congress is examined along with the variable characteristics of state programs of victim compensation. The pertinent characteristics of each of the state programs are presented in a standard format in the Appendix. The strengths and weaknesses of existing laws are discussed along with a model for legislation.

60. _____, Office of Operations Support. Victims of Crime Act of 1972 -- Staff Study. Washington, 1972. 51 p. MICROFICHE (NCJ 12140)

This study provides background and statistics on the effect of proposed legislation S. 2994 in terms of costs of implementing the Victims of Crime Act. The Senate bill proposed to provide grants to states for the payment of compensation of innocent victims of crime in need, to authorize an insurance program and death and disability benefits for public service officers, and to provide civil remedies for victims of racketeering activity and similar offenses.

61. U. S. NATIONAL COMMISSION ON THE CAUSES AND PREVENTION OF VIOLENCE. v. 13, Crimes of Violence. Washington, U. S. Government Printing Office, 1969. 754 p. LOAN (NCJ 571)

This is a search for the causes of violence and the means of prevention. Selected topics analyze crimes of violence by women; the relationship of violence to organized crime; American juvenile gangs, drugs, and accidents; and various theories of violence.

62. VAN HONSTE, V. La Réparation par l'Etat du Dommage Subi par les Victimes de Certaines Infractions (Compensation by the State for Damages Suffered by Victims of Certain Crimes). Revue de Droit Penal et de Criminologie, no. 5: 403-472. February, 1974. (NCJ 14456)

This discussion covers the concept, rationale, and procedures for compensation, mentioning features of existing and projected programs in Europe, North America, and New Zealand. Reference is made to programs in England, New Zealand, Northern Ireland, Sweden, Austria, the Netherlands, Canada, and the states of New York and California. The rationale behind these programs is that the damage suffered by individuals from certain crimes is a social evil for which the state assumes liability on the basis of the socialization of the risks taken by all. In all countries compensation is limited to crimes of violence. Also, most programs consider the role of the victim in the crime when determining eligibility for compensation. The programs differ, however, in whether or not to consider the victim's nationality or financial means, in how they determine the amount of compensation, and in what kind of organization is charged with deciding whether or not to grant it. Included in the article is a brief discussion of program costs. Extensive references as well as descriptions of the Dutch and English programs, in their respective languages, are appended. (In French)

63. WALLER, LOUIS. Compensating the Victim of Crime in Australia and New Zealand. In Drapkin, Israel and Emilio Viano, Eds. Victimology: A New Focus. v. 2, Society's Reaction to Victimization. Lexington, Massachusetts, Lexington Books, 1974. p. 175-192. (NCJ 30594)

The main discussion of this paper covers the compensation statutes of New Zealand and Australia. The reasons for compensation statutes are reviewed and the differences and stipulations of the various laws are covered. Despite the differences, however, all statutes provide limited compensation from state funds for personal injuries or death resulting from criminal acts. The compensation schemes in practice and the amounts paid out for various offenses, and the prospect of changes or additions to the existing laws also are discussed.

64. WILLIAMS, DONALD B. Compensating Victims of Crimes of Violence: Another Look at the Scheme. In Drapkin, Israel and Emilio Viano, Eds. Victimology: A New Focus. v. 2, Society's Reaction to Victimization. Lexington, Massachusetts, Lexington Books, 1974. p. 147-153. (NCJ 30591)

The article discusses compensation to the victim under English law, which covers England, Scotland, Northern Ireland, and British vessels and aircraft, without regard to nationality. It is restricted to claims of personal injury or death attributable to crimes of violence. The author discusses the procedure for filing a claim, some major criticisms, as well as some suggestions for improvement.

65. WILLIAMS, VERGIL L. and MARY FISH. A Proposed Model for Individualized Offender Restitution Through State Victim Compensation. In Drapkin, Israel and Emilio Viano, Eds. Victimology: A New Focus. v. 2, Society's Reaction to Victimization. Lexington, Massachusetts, Lexington Books, 1974. p. 155-165. (NCJ 30592)

This article reviews the history of compensation and restitution and makes comparison between the two in the light of modern thinking. Restitution is looked at as being both therapeutic and compensatory. The author concludes that victim compensation programs and the use of behavior modification techniques are quickly developing in the field of corrections as is concern for offender restitution. The use of token economy is discussed. The authors indicate that the state compensates the victim with money and requires reimbursement by the offender with points earned. Token economy is used by institutionalized offenders, while contracts with offenders can be used by probation officers, parole officers, and managers of half-way houses.

66. WOLFGANG, MARVIN E. Victim Compensation in Crimes of Personal Violence. In Reckless, Walter C. and Charles L. Newman, Eds. Interdisciplinary Problems in Criminology: Papers of the American Society of Criminology. Columbus, Ohio, the Ohio State University, 1965. p. 169-180. (NCJ 30604)

The purpose of this paper is to explore and to support the principle that society has a responsibility to compensate the victim of a criminal assault. Examples of compensation are given in primitive cultures, in early western civilization, and to some extent in criminal law. The author states that... "repayment may be, in some cases, an excellent psychological impetus to reformation." He states precedents for restitution in workman's compensation laws and the Swedish penal code. He raises procedural problems, but only from the standpoint of principle. An epilogue is included, reviewing new ideas and legislation that occurred since the paper was first written. It discusses the need for some system of measuring harm so that proper compensation can be granted.

APPENDIX
LIST OF PUBLISHERS

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Juneau, Alaska 99801
2. Kriminalistik Verlag
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3. John Wiley and Sons, Inc.
605 Third Avenue
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51. J. Schweitzer Verlag
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