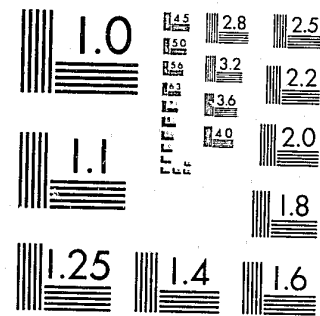


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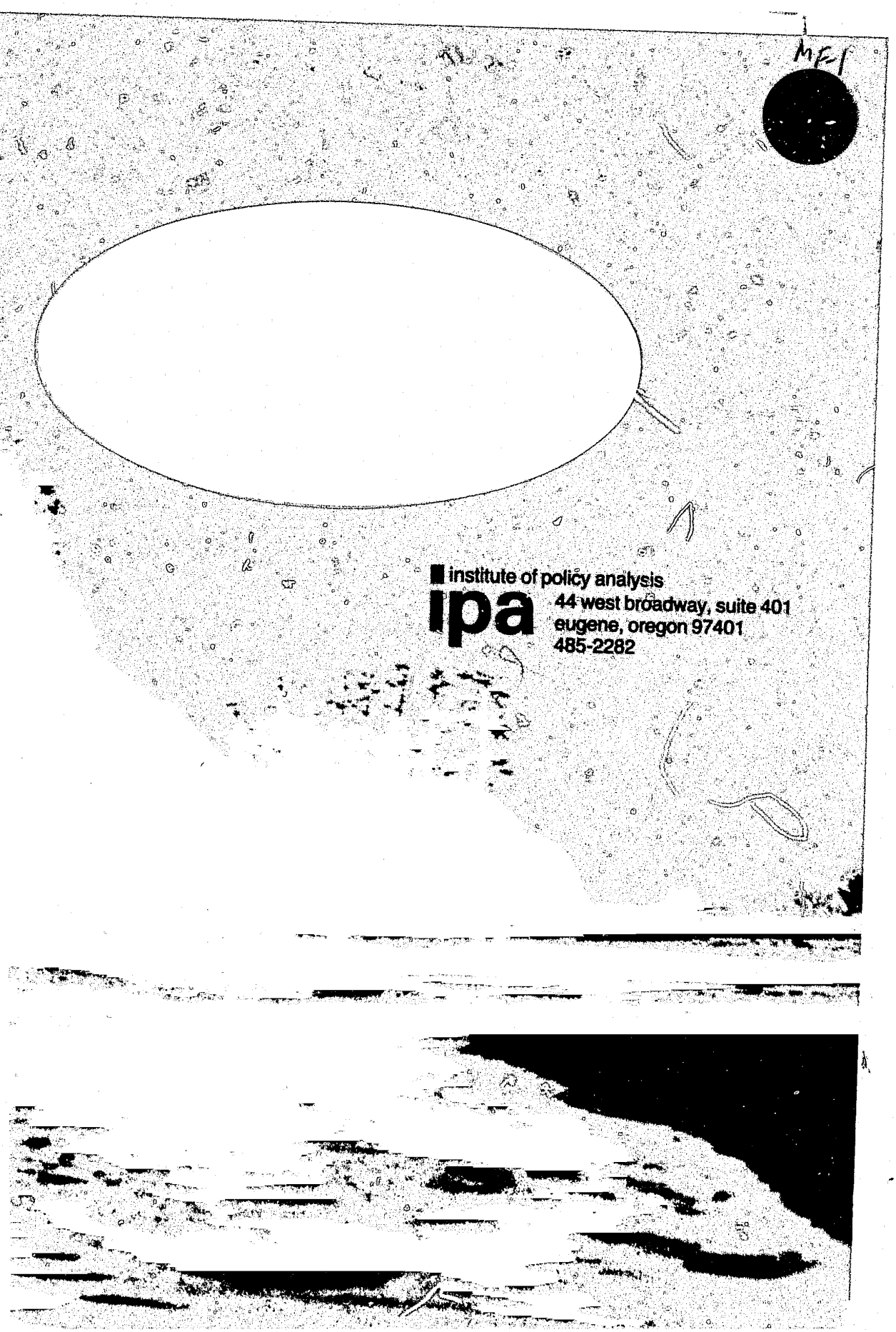
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JUVENILE RESTITUTION AS A SOLE SANCTION OR CONDITION

OF PROBATION: AN EMPIRICAL ANALYSIS

Peter R. Schneider, William R. Griffith, and
Anne L. Schneider

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A Research Report from the Institute of Policy Analysis
on the National Evaluation of the Juvenile Offender Restitution Program

Peter R. Schneider, Ph.D.
Principal Investigator

Anne L. Schneider, Ph.D.
Co-Principal Investigator

Institute of Policy Analysis
44 W. Broadway, Suite 401
Eugene, Oregon 97401
(503) 485-2282

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ABSTRACT

Judges frequently require that offenders, as a condition of probation make restitution to their victims. More rarely, restitution is ordered as a sole sanction with no additional penalties or requirements. This paper, based on data from more than 10,000 juvenile court cases involving restitution, compares the outcomes of cases in which offenders were sentenced to restitution as a condition of probation with those in which the offender was ordered restitution as a sole sanction. The data indicate that youths receiving restitution as a sole sanction are more likely to complete the order successfully and less likely to commit new offenses while under the jurisdiction of the restitution project.

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Introduction

An important issue in the use of restitution as a sanction for criminal offenders is whether it should be used alone or in conjunction with other sanctions, and, indeed, a number of writers have called for research in this area (Galaway, 1975; Galaway, 1977a; Galaway, 1977b; Hudson, Galaway, and Chesney, 1977a). While some model sentencing codes and proposed dispositional standards have expressly provided for the use of restitution as a sole sanction (NCCD, 1972; IJA/ABA, 1977), restitution is most commonly employed as a condition of probation and hence an "action" sentence (Bryson, 1976; Schneider, et al, 1977; Hudson, Galaway, and Chesney, 1977b; Schneider and Schneider, 1980).

Three arguments for the combination of restitution with other penalties, such as probation or even incarceration, can be found in the literature:

1. Restitution by itself may constitute "insufficient punishment." Perhaps the best known exponent of this point of view is Stephen Schafer (1970:126) who warns that if restitution were the only sentence for a crime "it might weaken the sense of wrongdoing attached to that crime . . . (reduce) the terror which potential wrongdoers might feel of committing the crime . . . expose criminal justice to the dangers of the criminal escaping punishment, and lead to social injustice in that . . . the wealthy, possibly professional, criminal could buy off his punishment with money . . ." Similarly, the framers of the IJA/ABA Juvenile Justice Standards worry that for instances in which the "gravity of the crime (is) substantial, the judge may feel that the restitutionary sanction alone will be inadequate to impress upon the juvenile offender the

consequences of his or her actions" (1977:48). Some support for these views was found in a survey conducted by Burt Galaway and William Marsella (1976): Of those interviewed, 67 percent of the victims, 80 percent of the police officers, and 100 percent of the probation officers felt that restitution alone was an insufficient penalty. However, 91 percent of the juveniles ordered to make restitution as a condition of probation--and 63 percent of their parents--disagreed.

2. For restitution to be "constructive," it needs to be "guided." This is a clinician's view of restitution; it holds, essentially, that restitution is a "treatment" and that an offender who receives restitution as a sentence needs to be helped along or guided in order to reap its full benefits. Without such guidance, it is believed, the offender may not make the connection between the harm done and the efforts to make the victim whole. "His initial thinking is in terms of avoiding or of enduring punishment, and of vengeance," writes Albert Eglash (1975:288). "His understanding of what is involved in restitution will not grow overnight. Like reparation, restitution is appropriately used in connection with probation." Eglash further argues that in-kind restitution, bearing direct relevance to the crime, would be particularly effective, and he suggests that probationary guidance may be easier with a group than with an individual: "In committing an offense, what a youth would not do alone he tackles when supported by his group. In making restitution, what a youth could not do alone he may tackle with the support of his group" (1975:289).

3. Unless restitution is made a condition of probation or some other sanction, it cannot be enforced. Alan Harland (1980) points out that an important distinction between restitution as a condition of probation or

suspended sentence and restitution as a sole sanction lies in the procedures for enforcement: If restitution is made a condition of probation, then it may be enforced through revocation and the imposition of an alternative sentence; if a sentence of restitution is the sole sanction, then it can only be enforced through contempt proceedings. Burt Galaway probably speaks for many law enforcement professionals when he states ". . . the criminal justice system must maintain the possibility of imposing a more severe sanction if the offender fails or refuses to meet the restitution obligations. While many offenders will undoubtedly meet their obligations out of a sense of duty, some will be evasive and means must be available to coerce those who wish to evade their responsibility" (1977c:6).

Arguments against the combination of restitution with probation and other sanctions fall generally into two categories. In one category are those arguments against the addition of restitution requirements to probation; and in the other category are those arguments against the addition of probation to restitution requirements. Specifically, the arguments are as follows:

1. Restitution should not be required as a condition of probation because it increases the likelihood of failure of probation, it is too costly and it places too great a burden on probation officers. Landis (1969) and Miller (1980), in separate studies conducted in California and Colorado, observed that the existence of a restitution order was more prevalent among the case histories of persons who failed probation than among those who were successful; thus the addition of restitution apparently increased the probability of revocation. Miller notes the additional time and effort required of probation officers to monitor

restitution requirements and suggests that restitutive sanctions may "cost more than they are worth." Similarly, Klein (1978) argues against the addition of restitution to probation requirements because, first, he doubts the utility of the concept, and second, probation officers are too busy to enforce it. During his experience as director of a restitution center in Canada, he reports, probation officers were too busy to monitor the fulfillment of restitution requirements and, when breaches were noted, too busy to return the person to court. ". . . (F)or a number of reasons," he writes, ". . . the enforcement of a restitution condition under a probation order is, indeed, problematic."

2. Restitution should be used as a sole sanction, where appropriate, because it is suitable for some offenders, it is cost-effective, and it will generate knowledge about the feasibility of restitution as a sentence on its own right. In the literature, support for sole sanction restitution is cautious and usually targeted at the less serious, nonviolent offender. For example, Karl Menninger (1968) has singled out check offenders as one group for whom restitution might be the only necessary sanction, and Hudson and Galaway (1975) suggest that sole sanction restitution would be appropriate for nondangerous offenders. For such offenders, restitution only could be cost effective in that, other things being equal, supervision would be minimized. The National Council on Crime and Delinquency, citing a shortage of probation services, has urged courts to use restitution as the whole sentence for those cases where supervision is not needed (1974). Finally, Galaway (1977b), and Hudson, Galaway, and Chesney (1977a) have promoted the use of sole sanction restitution under research conditions so that its unique effectiveness--apart from the impact of probation, for example--can be examined.

Clearly, the use of restitution as a sole sanction is an important issue--both theoretically and operationally--in the design and implementation of restitution programs. This paper will attempt to examine this issue empirically by comparing restitution as a sole sanction with restitution combined with other sanctions in terms of (a) the persons likely to receive such sentences and (b) the impact of the sentences on the offenders' behavior.

The Data

In February, 1978, the Office of Juvenile Justice and Delinquency Prevention announced a major initiative designed to promote and experiment with the use of restitution in juvenile courts (OJJDP, 1978). The objectives of these restitution projects, according to the program announcement, would be (1) to reduce incarcerations of juveniles; (2) reduce recidivism; (3) bring about a greater sense of responsibility on the part of young offenders; (4) help satisfy victims; (5) promote community confidence in the juvenile justice process, and (6) generate increased knowledge about the feasibility of restitution for juvenile offenders. It was clear, moreover, that the framers of the initiative wished to test the use of restitution as a sole sanction: The extent to which restitution was to be used as an alternative to traditional dispositions was named as a criterion for funding and as a focal point for study (OJJDP, 1978:111;15).

Following a two-stage application process, grants were awarded to 41 separate projects in 26 states, Puerto Rico, and the District of Columbia. Six of these grants were awarded to statewide agencies or organizations which in turn spawned a total of 50 projects at the local level. Altogether, 85 projects were funded by the initiative with a total commitment of approximately \$30 million over three years. The Institute of Policy Analysis

was selected national evaluator and the National Office for Social Responsibility was awarded a contract to provide technical assistance.

Data on every referral to the restitution projects are collected by project personnel both at intake, when the youth is referred to the project, and at the time the restitution portion of the youth's disposition is completed. These data are sent weekly to IPA for computerization and analysis. By the end of April, 1980, data on approximately 10,000 referrals--including more than 7,000 youths whose cases were closed--had been received at IPA. As these data were collected at about the mid-point in the life of the restitution initiative, they represent about one-half of all the referrals expected while the projects are receiving federal funding.¹

Youths referred to the OJJDP-funded restitution projects receive essentially three types of dispositions: Restitution as a sole sanction, restitution as a condition of probation, and restitution under a suspended sentence of commitment to a juvenile institution. The type of restitution required may be monetary, community service, direct service to victims, or any combination of those three. The data in Table 1 describe the referrals in terms of dispositions and the type and amount of restitution ordered. As might be expected, restitution as a condition of probation is the most common disposition ordered, but a large number of the referrals also receive restitution as a sole sanction. Forty-four of the projects in the initiative have at least some sole sanction restitution cases, and, in 16 projects, at least ten percent of the caseload have this type of disposition. Of the types of restitution ordered, monetary is most common, followed by community service and then combined orders of community service and monetary restitution. For these cases--which represent less

TABLE 1. TYPES OF DISPOSITIONS, TYPES OF RESTITUTION,
AND AMOUNTS OF RESTITUTION ORDERED

DISPOSITIONS	NUMBER	PERCENT
<u>Types of Disposition</u>		
Sole Sanction Restitution	1,284	12.9%
Restitution and Probation	6,933	69.8
Suspended Commitment Restitution	444	4.5
Other	1,277	12.8
<u>Type of Restitution</u>		
Monetary Restitution	4,973	53.6%
Unpaid Community Service	2,769	29.9
Direct Victim Service	76	0.8
Court Costs and Fines Only	179	1.9
Monetary and Community Service	1,218	13.1
Monetary and Victim Service	40	0.4
Community and Victim Service	11	0.1
Other	11	0.1
<hr/>		
<u>Amounts of Restitution Ordered</u>		
Monetary Restitution Ordered		\$1,565,601
Unpaid Community Service Ordered		203,138 hours
Direct Victim Service Ordered		4,311 hours

than half of those eventually expected to be in the initiative--judges had ordered over \$1.5 million in monetary restitution, more than 200,000 hours of community service, and more than 4,000 hours of direct service to victims.

Successful Completion of Restitution Requirements

Arguments for the combination of restitution with other sanctions focus on the need to impress offenders with the consequences of their actions, provide them with guidance, and enforce the payment of restitution or the successful completion of whatever the court has ordered. Youths who are ordered to make restitution as a condition of probation or under a suspended sentence of commitment receive harsher penalties, more guidance, and greater enforcement. It would be expected, therefore, that the juvenile offenders with combined dispositions would be more likely to complete their restitution requirements than those ordered to make restitution as a sole sanction.

In the national evaluation of the Juvenile Restitution Initiative, successful completion of restitution is defined as full compliance with the original or adjusted restitution order (Griffith, Schneider, and Schneider, 1980). If a youth has completed all restitution within the allotted time period, or has fully complied with an adjusted restitution order--i.e., one where modifications in the order were agreed to after the youth began making restitution--and there were no violations of any other condition of the disposition, the youth is considered a successful completion. Of the more than 7,000 youths in this study whose cases were accepted and later closed by the projects, about 83 percent were in full compliance with the original restitution requirements and five percent complied with adjusted requirements.

Table 2 shows the rates of successful and unsuccessful completion of restitution requirements for each of the three types of dispositions. Surprisingly, youths who receive restitution as a sole sanction demonstrate a markedly higher rate of successful completion than those with combined dispositions. The 95 percent successful completion rate for this group is even more impressive given the overall rate of about 88 percent. The gamma coefficient, which is appropriate as a measure of association between variables such as these, summarizes the strength and direction of the relationship: it indicates a moderately strong correlation between less restrictive degrees of court control and successful completion of court orders.

The relationship between rates of successful completion and restitution as a sole sanction is consistent across the different types of restitution judges most commonly order. As shown by Table 3, youths receiving any type of restitution as a sole sanction (monetary, community service, or a combination of both) are more likely to complete the disposition successfully.

The data in Tables 2 and 3 suggest that a sentence of sole sanction restitution somehow produces a higher completion rate than a sentence of restitution combined with probation or a suspended commitment. It is possible, however, that the apparent relationship is merely spurious, and in fact due to the influence of other factors which are statistically related to both the type of disposition and the rate of successful completions. For example, judges may know which youths need "guidance" and "enforcement" in making restitution, and sentence accordingly. Also, they may order restitution as a sole sanction in dealing with relatively small amounts of loss, and couple restitution with other sentences to encourage the payment of larger sums. Indeed, sentencing should not be random, and it would be

TABLE 2. SUCCESSFUL COMPLETION RATES BY DEGREE OF COURT CONTROL

CHARACTERISTICS	PERCENT SUCCESSFUL	PERCENT UNSUCCESSFUL	NUMBER OF CASES
<u>Degree of Court Control</u>			
Sole Sanction Restitution	95%	5%	939
Restitution and Probation	87	13	3,862
Suspended Commitment Restitution	87	13	282

P < .001

Gamma = - .32

TABLE 3. SUCCESSFUL COMPLETION RATES FOR SOLE SANCTION AND NON-SOLE SANCTION RESTITUTION BY TYPES OF RESTITUTION ORDERED

TYPE OF RESTITUTION	SOLE SANCTION	NON-SOLE SANCTION	GAMMA
Monetary	94% (N= 586)	88% (N=2578)	.34
Unpaid Community Service	96% (N= 282)	90% (N=1738)	.45
Monetary and Unpaid Community Service	97% (N= 95)	83% (N= 659)	.72

startling to learn that there are no discernible differences among juvenile offenders who receive different sentences.

To determine the types of youths most likely to receive restitution as a sole sanction rather than restitution combined with other sanctions, the type of disposition was dichotomized and cross-tabulated with a group of predictor variables that included socio-demographic characteristics, number of prior offenses, seriousness of the presenting offense, and size of restitution order.² The results, displayed in Table 3, indicate that the youths required to make restitution alone generally would be considered "better risks" than those receiving combined dispositions: They are older, have higher family incomes, are more likely to attend school on a full-time basis, usually have fewer prior offenses, and tend to have been referred to the juvenile court on less serious charges. Moreover, youths with smaller amounts of restitution to pay or community service hours to work were more likely to receive sole sanction restitution than those with larger orders. There were no statistically significant differences with respect to race and gender.

If certain types of youths are more likely to receive restitution as a sole sanction, are they also more likely to successfully complete the restitution order? The data in Table 4 suggest they are: While age does not seem important, the relationships of successful completion rate with family income, school attendance, number of prior offenses, seriousness of presenting offense, and size of restitution orders are substantial. The picture which emerges, then, is one of rational, calculating judges who know precisely what they are doing. They know that certain types of juvenile offenders are more likely to complete restitution requirements,

TABLE 4. SOLE SANCTION RESTITUTION BY BACKGROUND CHARACTERISTICS

CHARACTERISTICS	SOLE SANCTION	NON-SOLE SANCTION	NUMBER OF CASES
<u>Age</u>			
13 and younger	11%	89%	1,074
14	12	88	1,570
15	12	88	2,335
16	13	87	2,515
17	15	86	1,865
18 and older	18	82	456
	P < .001		
	Gamma = .09		
<u>Race</u>			
White	13%	87%	7,025
Non-White	12	88	2,701
	n.s.		
	Gamma = - .06		
<u>Annual Family Income</u>			
Less than \$ 6,000	14%	86%	1,163
\$ 6,000 - \$10,000	14	86	1,077
\$10,000 - \$14,000	11	89	1,205
\$14,000 - \$20,000	14	86	1,010
Over \$20,000	17	83	1,309
	P < .01		
	Gamma = .05		
<u>School Attendance</u>			
Full-time	14%	86%	7,130
Not in school	9	91	1,172
	P < .001		
	Gamma = - .23		

(continued)

TABLE 4. SOLE SANCTION RESTITUTION BY BACKGROUND CHARACTERISTICS (continued)

CHARACTERISTICS	SOLE SANCTION	NON-SOLE SANCTION	NUMBER OF CASES
<u>Total Number of Priors/Charges</u>			
0	15%	85%	4,427
1	11	89	1,943
2	10	90	1,106
3	9	91	702
4	9	91	415
5	8	92	283
6 and more	12	88	617
P < .001			
Gamma = - .17			
<u>Seriousness</u>			
Victimless	29%	71%	266
Minor General	16	84	156
Minor Property	11	89	1,150
Minor Personal	10	90	213
Moderate Property	16	84	2,695
Serious Property	12	88	2,817
Serious Personal	12	88	377
Very Serious Property	9	91	1,673
Very Serious Personal	9	91	326
P < .001			
Gamma = - .14			
<u>Sex</u>			
Male	13%	87%	8,854
Female	13	87	1,044
n.s.			
<u>Size of Monetary Restitution Order</u>			
\$ 1 - \$ 41	17%	83%	1,205
\$ 42 - \$ 90	15	85	1,199
\$ 91 - \$ 165	14	86	1,250
\$166 - \$ 335	14	86	1,291
\$336 - \$12,500	12	88	1,314
P < .001			
Gamma = - .09			

(continued)

TABLE 4. SOLE SANCTION RESTITUTION BY BACKGROUND CHARACTERISTICS (continued)

CHARACTERISTICS	SOLE SANCTION	NON-SOLE SANCTION	NUMBER OF CASES
<u>Size of Unpaid Community Service Order</u>			
1 - 16 hours	28%	72%	842
17 - 25	14	86	826
26 - 40	10	90	815
41 - 74	4	96	699
75 - 468	2	98	855
P < .001			
Gamma = - .55			

TABLE 5. SUCCESSFUL COMPLETION RATES BY BACKGROUND CHARACTERISTICS

CHARACTERISTICS	PERCENT SUCCESSFUL	PERCENT UNSUCCESSFUL	NUMBER OF CASES
<u>Age</u>			
14 and younger	89%	11%	1,461
15	87	13	1,353
16	88	12	1,468
17 and older	89	11	1,503
n.s.			
Gamma = - .00			
<u>Income (Annual)</u>			
Less than \$ 6,000	83%	17%	671
\$ 6,000 - \$10,000	88	12	649
\$10,000 - \$14,000	89	11	676
\$14,000 - \$20,000	92	8	607
\$20,000 and over	92	8	796
P < .001			
Gamma = .20			
<u>School Attendance</u>			
Full-time	91%	9%	4,247
Not in school	80	20	1,111
Other	82	18	242
P < .001			
Gamma = - .38			
<u>Total Number of Priors/Changes</u>			
0	92%	8%	2,743
1	89	11	1,092
2	87	13	644
3	81	19	407
4	81	19	228
5	86	14	159
6 and more	77	23	347
P < .001			
Gamma = - .29			

(continued)

TABLE 5. SUCCESSFUL COMPLETION RATES BY BACKGROUND CHARACTERISTICS (continued)

CHARACTERISTICS	PERCENT SUCCESSFUL	PERCENT UNSUCCESSFUL	NUMBER OF CASES
<u>Seriousness</u>			
Victimless	92%	8%	180
Minor General	90	10	98
Minor Property	90	10	755
Minor Personal	91	9	131
Moderate Property	92	8	1,688
Serious Property	87	13	1,643
Serious Personal	86	14	208
Very Serious Property	82	18	879
Very Serious Personal	84	16	159
P < .001			
Gamma = - .25			
<u>Size of Monetary Restitution Order</u>			
\$ 1 - \$ 41	95%	5%	866
\$ 42 - \$ 90	94	6	881
\$ 91 - \$ 165	89	11	839
\$166 - \$ 335	85	15	760
\$336 - \$12,500	76	24	617
P < .001			
Gamma = - .40			
<u>Size of Community Service Order</u>			
1 - 16 hours	97%	3%	673
17 - 25	95	5	608
26 - 40	91	9	566
41 - 74	85	15	468
75 - 468	74	26	476
P < .001			
Gamma = - .50			

and therefore less in need of supervision; thus, these youths receive restitution as a sole sanction while others, who seem to be greater risks, are given dispositions which combine restitution with other sanctions.

However, the picture is not yet complete. To reject as spurious the proposition that sole sanction restitution is predictive of successful completion, the relationship between these variables must disappear when the effect of other, competing, factors is held constant. If the originally observed relationship "washes out," then the weight of evidence is on the side of the competing explanation.

Table 5 displays the zero-order gamma coefficient between type of disposition and completion of restitution requirements, as well as first-order partial gamma coefficients with statistical controls for school attendance, family income, number of prior offenses, offense seriousness, and amounts of restitution ordered. The originally observed relationship between type of disposition and completion of restitution does not disappear, but in fact remains strong even when multiple controls are introduced. The earlier finding--that juveniles who are ordered to make restitution as a sole sanction are more likely to complete those requirements successfully--remains, and cannot be rejected as spurious.

Type of Disposition and In-Program Reoffense Rate

In addition to the rate of successful completions, another measure of an offender's performance while under an order from the court to make restitution is the in-program reoffense rate. This rate is important since a major goal of the restitution initiative is to reduce recidivism by rehabilitating juvenile offenders. In the 85 projects funded by the initiative, youths are automatically terminated from the restitution project if a new offense becomes known. Through the end of April, 1980, about

TABLE 6. EFFECT OF DISPOSITIONS ON COMPLETION RATES, CONTROLLING FOR OFFENSE SERIOUSNESS, AND OTHER FACTORS

	ZERO-ORDER RELATIONSHIP (gamma)	FIRST-ORDER PARTIAL (gamma)	FOURTH-ORDER PARTIAL (gamma)
<u>Relationship Between Successful Completion and Sole Sanction Restitution</u>	- .40		
controlling for offense seriousness		- .40	
controlling for number of priors/changes		- .40	
controlling for school status		- .36	
controlling for annual household income		- .36	
controlling for size of monetary restitution order		- .40	
controlling for size of community service order		- .40	
controlling for offense seriousness, number of priors/charges, school status, and annual household income			- .26

500 cases out of approximately 10,000 had been closed in this manner. The calculation of the in-program reoffense rate is complex as it involves the computation, over time, of the number of cases expected to be "at risk" and the proportion of cases expected to reoffend. The procedures for calculating the rate are explained in detail elsewhere (Schneider, Schneider, and Bazemore, 1980); in sum, about 1.36 percent of all the juveniles in the initiative can be expected to reoffend each month. This means that about eight percent of all the juveniles in the initiative for six months are likely to commit new offenses, with the rate growing cumulatively larger for each successive month of time at risk.

For a number of reasons, the type of disposition should be related to the probability of reoffending, since youths on probation or under suspended commitments are subjected to greater scrutiny, are more closely supervised, have "more to lose," and so forth. The observed relationship, once again, is in the opposite direction and parallels the earlier finding concerning successful completions. As shown in Table 6, the estimated monthly reoffense rate increases monotonically with what might be called the "degree of court control"--a scale ranging from sole sanction restitution (least control by court) to suspended commitment and restitution (most control). The table also shows the estimated proportion reoffending within six months, and the data from which the estimations were calculated.

As was done with the finding concerning successful completions, the in-program reoffense rate was cross-tabulated with the offenders' demographic characteristics, the number of prior offenses, the seriousness of the presenting offense, and the size of the restitution orders. The purpose of these analyses was to search for a third variable which might account for the relationship between type of disposition and probability of reoffending. Only the number of prior offenses seemed a likely

TABLE 7. REOFFENDING RATES BY TYPE OF DISPOSITION¹

	SOLE SANCTION RESTITUTION	PROBATION AND RESTITUTION	SUSPENDED COMMITMENT AND RESTITUTION
Estimated Monthly Reoffense Rate	0.98%	1.42%	2.32%
Estimated Proportion Reoffending Within 6 Months	5.7	8.15	13.2
No. of Referrals	1,228	6,735	434
No. of Offenses	44	429	44
No. of "Youth Months" of Risk Time	4,507	30,285	1,893

¹The monthly reoffense rate estimate is calculated as k/N_t where k is the number of offenses and N_t is the number of "youth months" of risk time for all referrals. The Proportion reoffending within six months is calculated as $Y = 1 - e^{-at}$ where a is the monthly reoffense rate described above and t is set at six months. (See Schneider, et. al., 1980).

TABLE 8. REOFFENSE RATES, BY PRIOR OFFENSES¹

N = 9,365	NUMBER OF PRIOR OFFENSES			
	NO PRIORS	ONE PRIOR	TWO PRIORS	THREE OR MORE PRIORS
Estimated Monthly Reoffense Rate	1.0%	1.4%	1.65%	2.4%
Estimated Proportion Reoffending Within 6 Mos.	6%	8%	9%	13%
No. of Referrals	4,356 (47%)	1,921 (21%)	1,089 (12%)	1,999 (21%)
No. of Offenses	184	119	78	217
No. of "Youth Months" of Risk Time	18,259	8,333	4,471	9,033

¹See note in TABLE 6., *infra*.

TABLE 9. REOFFENSE RATES BY TYPE OF DISPOSITION CONTROLLING FOR PRIOR OFFENSES¹

	SOLE SANCTION RESTITUTION	PROBATION AND RESTITUTION	SUSPENDED COMMITMENT AND RESTITUTION
	<u>% Reoffending</u>	<u>% Reoffending</u>	<u>% Reoffending</u>
<u>No Prior Offenses</u>			
Monthly Rate	0.79%	1.16%	2.04%
6-Month Rate	4.62	6.72	11.52
12-Month Rate	9.39	12.99	21.72
(N)	662	2,082	126
<u>One or Two Prior Offenses</u>			
Monthly Rate	.94%	1.52%	1.98%
6-Month Rate	5.46	8.7	11.2
12-Month Rate	10.63	16.7	21.1
(N)	322	2,249	157
<u>Three or More</u>			
Monthly Rate	1.95%	2.37%	3.01%
6-Month Rate	11.04	13.24	16.52
12-Month Rate	20.87	24.37	30.32
(N)	196	1,451	154

¹See note in TABLE 6., *infra*.

candidate for, as shown in Table 7, the estimated reoffense rate increases steadily as the number of prior offenses increases. However, when this variable was controlled, an astonishing but consistent pattern emerged: For each category of number of prior offenses, the in-program reoffense rate increased with the degree of court control exercised in the different types of dispositions. The data are presented in Table 8 and they suggest, once again, that juvenile offenders who receive restitution as a sole sanction are more likely to "succeed" --in terms of avoiding future crimes as well as completing their sentences--than youths who receive combined dispositions.

Also, the argument that sole sanction restitution is appropriate only for the less-serious offenders appears to be contradicted. The data clearly indicate that, even in the "most serious" category of offenders--those with three or more prior offenses--sole sanction restitution may be effective in reducing recidivism. While it is true that the reoffense rates for this category are greater, the rate for the youths on sole sanction restitution are slightly less than the rate for first offenders who were placed in restitution projects under suspended sentences of commitment.

Discussion

The findings reported in this paper are fascinating: On the one hand, they fly in the face of the popular notion that nothing, in the broad field of corrections, "works"; on the other hand, they challenge decades of practice in American juvenile courts. It has long been common for juvenile court judges to link specific sanctions with probation, and, even in a federal program in which sole sanction restitution is encouraged, judges favor combined dispositions by a margin of about four to one over restitution alone. Challenged, too, are the arguments propounded in the

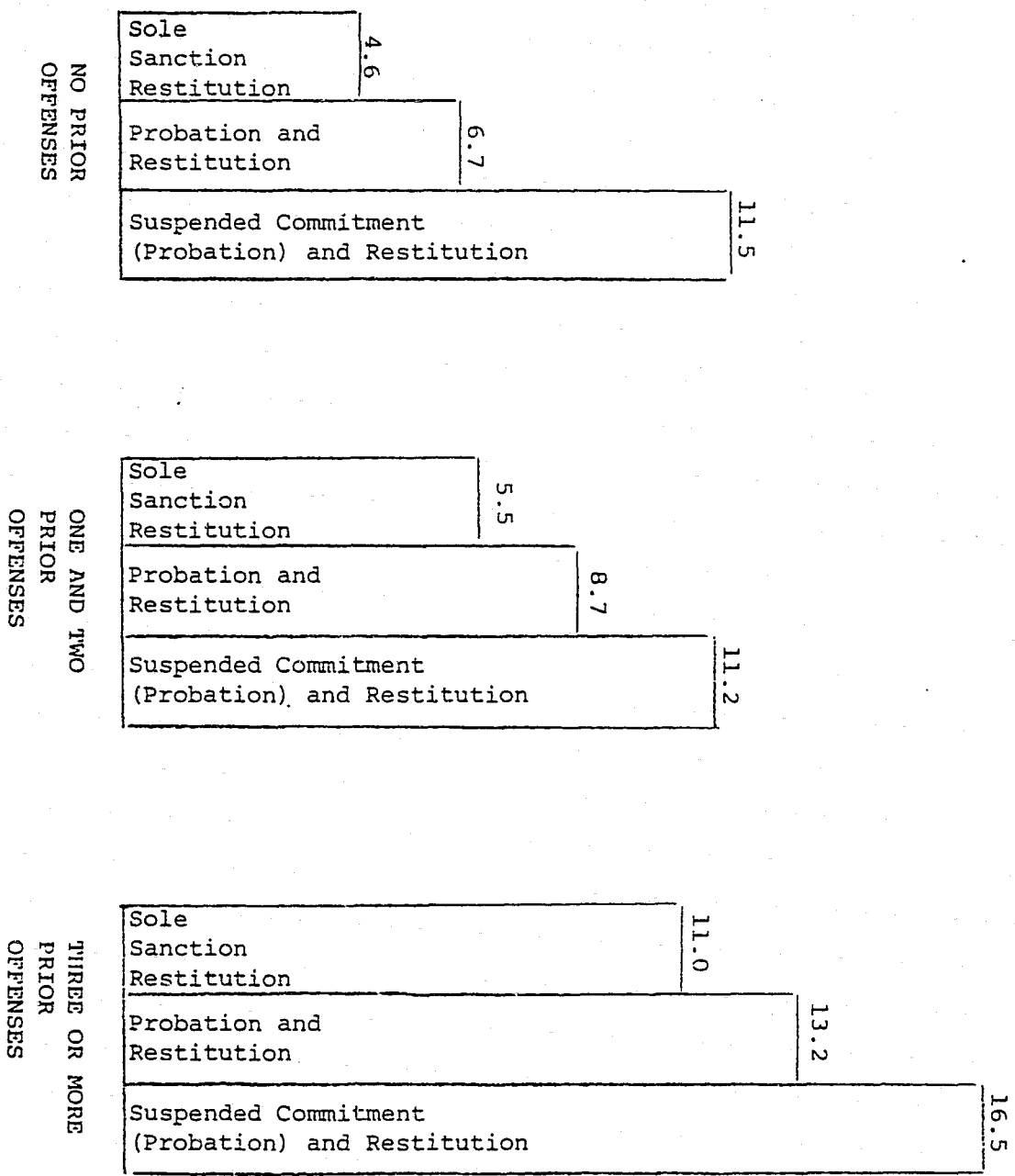


FIGURE 1. SIX MONTH REOFFENSE RATES BY TYPE OF DISPOSITION, HOLDING PRIOR OFFENSES CONSTANT

literature for the practice of making restitution a condition of probation. If persons making restitution as a sole sanction are less likely to reoffend, and more likely to complete their requirements, then the arguments that the sanction is by itself "insufficient," or that offenders making restitution need "guidance," or that probation is required for "enforcement," would seem to be invalid.

But while the finding is fascinating, it is not inexplicable nor, in a broader context, even unique. An almost identical result was obtained nearly 20 years ago by a group of Cambridge researchers in their study of attendance centers in England (McClintock, Walker, and Savill, 1961). The attendance center sentence is a court order requiring juvenile offenders to spend a given number of hours during weekends at a center that usually is administered by the police department. In addition, some offenders (about 50 percent) are placed on probation for one to three years. The researchers found that the offenders sentenced to the attendance centers as a sole sanction were less likely to fail (recidivate) than those who were placed on probation in addition to being required to attend the centers. The combined disposition, in other words, had a failure rate greater than that of the sole sanction.

Like ourselves, the Cambridge researchers suspected that the observed relationship between the sole sanction and greater success rate might be spurious and accounted for by the criteria judges use in sentencing offenders. They found, upon further investigation, that those who received combined sentences were, on the average, worse risks than the others in terms of prior delinquency and social status. However, when the background characteristics of the offenders were statistically controlled, the relationship remained the same. Moreover, another test of the relationship, using a different sample of offenders, yielded similar results.

As a potential explanation for their findings, the Cambridge researchers suggest that there are other, more subjective, factors that are related to both the offender's selection for probation and his probability of failure, such as the "attitude of the offender in court." The same explanation can be proffered for the results obtained in this study, and, indeed, it is worth noting. Campbell and Boruch (1975) suggest that this explanation--that of a "profound underlying confounding of selection and treatment"--invalidates most social experiments. Furthermore, if the real reason for selection into a particular treatment is (a) unknown and (b) highly related to the outcome, or "effects," of the treatment, then efforts to statistically control for the selection bias will be ineffective unless the control variables are nearly perfect surrogates of the "real" variable.

It is not highly probable, however, that this explanation can threaten the validity of the results obtained with either the restitution data or the attendance centers data. In appraising the Cambridge study, Leslie Wilkins (1969) avers that an explanation based on subjective estimates of an offender's success in a given program "would seem to ascribe almost divine insight to the magistrates concerned" (Wilkins, 1969:82). Rather, he suggests an interpretation based on the face value of the study's results: "(They) show a combination of treatments to be poor treatment It may be convenient to believe that two obviously good things together must be better than one singly, but the study's evidence is to the contrary." Wilkins proposes what he calls the "simplest" hypothesis: ". . . the least that it is possible to do with offenders, the better the outcome!" (emphasis in original). Moreover, he adds, from the standpoint of complexity, the simpler, the better: "Probation alone is more complex than attendance center alone, and probation plus attendance center is even more complex."

The same might be said for the juvenile offenders in the restitution initiative, and the lesson, possibly, is that as more requirements are placed on youths, the opportunities for failure increase.

Is it possible, too, that the effects from simpler treatments are more long-lasting? The data on the restitution program reoffense rate would seem to suggest they are, and the notion is buttressed by a study of traffic offenders in a California court (Owens, 1967). The study compared the effectiveness of combined sanctions--fine and probation, fine and driver's school, and fine, probation and driver's school--with the effectiveness of single (sole) sanctions. According to the study, assignment to the driver's school without probation appeared to be the most effective sentence in reducing reconvictions.

Proponents of labeling theory will note the similarity between Wilkins' admonishment to do "the least that is possible" with young offenders and Schur's (1973:155) injunction to "leave the kids alone wherever possible." Indeed, Lemert's (1967:77) hypothesis suggesting that stronger penalties lead to further deviation may offer yet another explanation for the findings reported in this paper. However, the data should not be pushed too far: it can be argued that all the youths involved in this study were "labeled" in that all were formally adjudicated delinquent. In addition, the use of these data in support of the labeling perspective would require evidence that those offenders sentenced to probation feel more stigmatized than those ordered restitution only.

Further research on the effectiveness of sole sanction restitution as compared with combined dispositions is forthcoming. As a part of its evaluation of the juvenile restitution initiative, the Institute of

Policy Analysis is conducting field experiments, involving random assignment, in six cities across the United States. One of these experiments is explicitly designed to test for differences, both short-term and long-term, among juveniles who received different types of dispositions. In the experiment, offenders are randomly assigned into three groups: Sole sanction restitution, restitution plus probation, and probation alone. An attitudinal questionnaire is administered to the youths in each group upon completion of their dispositions, and the youths are tracked for up to two years to assess their rates of recidivism. The knowledge gained from the experiment will inform, and either support or contradict, the findings of this study.

NOTES

1. What is referred to as the mid-point in the life of the initiative is not necessarily the same as the mid-point in the life of any given project. The projects were funded over a six-month period from September, 1978, to March, 1979, and many projects took several months to get started. Grants were awarded for a maximum of three years; funding for some of the projects will end as early as September, 1981, and for others it will continue through February, 1982. The total number of referrals to all projects is expected to be slightly more than 20,000.

2. For purposes of the analyses reported in Tables 3 through 5, the "type of disposition" variable was dichotomized by combining "restitution plus probation" with "restitution under suspended commitment." This was considered appropriate since there are no differences between these categories when this variable is cross-tabulated with completion of restitution requirements. The N-sizes in these tables will total less than 7,000 (the approximate number of closed cases available for analysis) because of missing data on some of the variables. While the socio-demographic variables (age, race, sex, family income, and school attendance) are straightforward, the others require definition. "Total number of priors/charges" is computed by adding prior offenses, which include any delinquent offense known to court authorities except those which were dismissed or screened out due to lack of evidence, and concurrent offenses, which are delinquent acts other than the referral offense which are listed on the petition or among the charges against the youth. "Offense seriousness" is a variable which combines the gravity of the offense (ranging from traffic violations through rape and armed robbery) with the amount of loss which

resulted from the crime. For example, burglary is coded a "moderate property offense" if the loss is \$10 or less; "serious" if the loss is between \$11 and \$249; and "very serious" if the loss is \$250 or more.

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