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CREATIVE RESTITUTION:  
A STUDY OF DIFFERENTIAL RESPONSE PATTERNS

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ABSTRACT

Creative restitution offers considerable potential to the field of criminal justice. The concept is of historical significance for it has been an important element in a variety of cultures. Yet, the notion of restitution or permitting an offender to make amends is not a significant element in our society. This paper explores the responses of a variety of populations to creative restitution. A number of findings were of significance including strong support for and acceptance of the concept by diverse groups.

For years a call has been made to criminal justice professionals and writers in the field, develop new alternatives and directions, for what we have been doing in the past does not work! Creative restitution is such an alternative.

Although restitution has been known for hundreds of years, its significance as an alternative and sanction in criminal justice is a rather recent development. Restitution has been a significant concept over the centuries and has had a vital place in a variety of cultures. Restitution has been a concept of prominent importance, historically, to our system of law and criminal justice. A primary foundational support for the concept of restitution is its concern for the motivations and psychological dynamics of the offender. Evidence for this concern in "primitive" criminal law can be found in Germanic law, Roman law, Babylonian and ancient Persian law, as

well as in contemporary primitive laws.

An indication of the extremely limited utilization of restitution is manifested by the number of programs in operation. A program which is related to creative restitution is that of Community Service Volunteers in England. Juveniles identified as delinquents function as volunteers and are placed in a variety of programs and projects in the community with their volunteer work comprising an important element of their own institutional or school program.<sup>1</sup>

One of the few programs which utilized restitution in the United States is described as follows:

The Minnesota restitution program is the first systematic attempt to apply the idea of restitution to a community-based correctional center. The program has two distinct phases -- the negotiation of contracts for restitution, which takes place at the prison, and implementation of restitution, which occurs after the offender is released to the center.<sup>2</sup>

Thus, its use is limited although the potential appears well substantiated.

Creative restitution,

is a process in which an offender, under appropriate supervision, is helped to find some way to make amends to those he has hurt by his offense.<sup>3</sup>

It refers to "...payments in either goods, services, or money, made by offenders to the victims of their crimes."<sup>4</sup> Creative restitution, as it is conceptualized here also refers to services provided by the offender to the community and to the general "community good." Thus, it may take three forms: monetary payments to the victim, service to the victim, and service to the general community. While it is not mandatory that the offender make restitution directly to the victim, where this is possible it is considered. Creative restitution is concerned with the individual offender's responsibility and reform, the focus being on the offender as well as the victim.

The characteristics of the creative restitutional act have been described as follows:

1. It is an active effortful role on the part of the offender.
2. This activity has socially constructive consequences.
3. These constructive consequences are related to the offense.
4. The relationship between offense and restitution is reparative, restorative.
5. The reparation may leave the situation better than before the offense was committed.<sup>5</sup>

The contractual relationship between the offender and the victim is an important element in creative restitution. It is through this contract that the amount, as well as the form, of the restitutorial act will be decided upon. This contractual relationship, in bringing together the two parties, serves as the vehicle for possible dynamic behavior change. The relationship which is developed between the offender and the victim offers a great deal of potential to both parties.

It is felt that two forms of creative restitution, service to the victim and service to the community, may offer the greatest potential to the offender, i.e., symbolic restitution. Monetary payments could possibly lack the level of social investment and involvement that might be present in the other two forms. An issue in the literature is that of full payment in a symbolic fashion. In the development of the restitutorial contract there are a number of variables which contribute to the determination of the form as well as the amount of restitution. There should ideally be some parity between the damage of the offense and the subsequent restitution. It does not necessarily follow that monetary payment is the best way to fulfill this obligation. The service performed for the victim by the offender is limitless, although ideally it should be related to the offense. In many cases, such as victimless crimes, lack of victim participation in a restitutorial contract, or in the case of groups of institutionalized offenders, it is not possible for the offender to provide a direct service to the victim. In this situation the offender would provide a service to the larger community which might ideally, but not necessarily, be related to the offense; yet the restitutive act would be of social value. Critical elements in creative restitution are that the restitution be related, when possible, to the offense and that the restitution not be imposed on the offender, but developed through a contractual relationship between the offender and the victim. The offender cannot be forced or made to become involved in the creative restitution process by criminal justice personnel. It should, in effect, be voluntary on the part of the offender, as far as this is possible in the criminal justice system.

Creative restitution offers significant potential because it relates to, and has implications for, a variety of personal dynamics and processes including self-respect, self-esteem, self-concept, individual basic needs, guilt, anxiety, responsibility, treatment interventions or therapy, and the victims themselves.

### Methodology

Since a primary concern of the present study was the determination of differential attitudes toward the innovative approach of creative restitution, this factor helped to determine the research methodology. The overall study sample was comprised of six populations, which was an important dimension of the research. The populations included police, second year social work graduate students, members of a women's community service organization, probation officers, juvenile parole officers, and parole officers. The writers felt that by utilizing various subsamples, the variety of attitudinal patterns was of greater significance. Because of the very nature of criminal justice, a number of community groups were of importance in achieving an increased understanding of attitudes in relation to creative restitution.

One subsample which is not often included in such research studies is the police. It was felt that since the police represent such a significant population in the criminal justice system, their inclusion in the study was important. The rationale for studying second year social work graduate students was two-fold. The inclusion of some element of the professional community in the human services was needed. This population, in general, could be described as being "outside" of the criminal justice system, although of primary importance in the human services area. Since second year students, at the time of data collection, were very near graduation and entrance into the professional community, their inclusion in this study was felt to be justified. A third subsample included in the present study was that of members of a women's community service organization. The inclusion of a population which tended to reflect general community attitudes was quite important to incorporate into the study. Due to sampling problems which would be encountered if the general population was utilized, it was decided to use a population which was assumed to tend to represent the broad general community. The fourth subsample included in the present study was a State Probation Department. This subsample was significant to incorporate into the present study, in part, because of the wide

diversity which was present in the terms of the officers, as well as their duties and responsibilities. Also, since probation is a primary service delivery system in criminal justice, its incorporation into the present study was needed. An additional subsample consisted of juvenile parole officers. It was felt that juvenile parole officers were an important element in the criminal justice system and represented a distinct subsample which needed to be studied if a comprehensive approach was to have been undertaken. The sixth subsample was comprised of adult parole officers. The rationale for including this subsample was two-fold. First, parole represents an integral element in the criminal justice system and, in addition, this particular subsample represented a different geographical section of the country than the other subsamples.

With one exception, i.e., the women's community service organization, the entire population of subsamples were utilized in the research sample. Random sampling was utilized in relation to the women's community service organization subsample. Seven hundred and five data collection instruments were distributed, of these, 427 were returned and utilized in the study. The percentage of return which was utilized ranged from 34.1 to 76.3 for the subsamples, while the percentage of return for the over-all study sample was 60.5.

The entire data collection instrument was developed by one of the writers. The research instrument which was used to operationally measure creative restitution was the Creative Restitution Questionnaire.<sup>6</sup> Pilot tests and a pretest were utilized in the development of the data collection instrument. The creative restitution questionnaire was developed as an operational measure of creative restitution. Factors such as the rudimentary knowledge level regarding creative restitution and the need for an over-view of attitudes and reactions to the concept indicated that a questionnaire was the most appropriate type of data collection instrument. In order to obtain "wide-ranging" data and information, a number of dimensions were incorporated. These dimensions concerning creative restitution included: its potential value; use as a rehabilitative approach; appropriateness with various offender types; familiarity with the concept; the concept as a substitute for imprisonment; the contractual relationship; its limited utilization; reactions to type of forms of creative restitution; use in phases of the criminal justice system; level of interest in the concept; and open-ended questions relating to comments regarding creative restitution.

Reliability and validity measures were conducted in the development of the instrument. The test-retest method of reliability was used which incorporated the Spearman rank-order correlation test. The coefficient in measuring the test-retest score was .71, significant at the .01 level. Validity measures which were used included logical validation and predictive validity of the concurrent type. Descriptive statistics were computed as was the Kruskal-Wallis one-way analysis of variance and content analysis.

A primary purpose of the study was a determination of community attitudes toward the innovative approach of creative restitution. In addition, attitudes toward various dimensions of the concept were of interest. The research hypothesis was:

Attitudes held toward creative restitution will vary according to the specific subsamples.

#### Findings

The demographic data revealed that the study sample was relatively young, that is, the majority were 35 years of age or younger. Most of the respondents were male and were predominantly married with religious preference being Protestant. The vast majority were Caucasian. The study sample ranked high in educational level, that is, the vast majority were at least college graduates with a large percentage having taken some graduate work, in the process of completing graduate work, or having completed graduate work. The high educational level was obviously associated with the nature of the subsamples or populations.

A related, although not primary, focus of the present paper was the inclusion of five punishment subscales related to dimensions of punishment. The dimensions include retribution, deterrence, social defense, rehabilitation, and the impact of imprisonment.<sup>7</sup>

Initially, a descriptive analysis of the attitudinal variable, creative restitution, was conducted. The median statistic was computed for the creative restitution variable in relation to each subsample and is presented in Table 1. The median score values which were obtained were evaluated in relation to a theoretical or hypothesized median.<sup>8</sup>

Each of the six subsamples scored considerably higher than the theoretical or hypothesized median. This reflected one of the most

TABLE I  
 The Median Statistic for the Attitudinal Study Variable,  
 Creative Restitution, for Each of the Subsamples and  
 the Over-All Study Sample

	Police	Second Year Social Work Graduate Students	Members of Women's Community Service Organization	Juvenile Parole Officers	Parole Officers	Probation Officers	Overall Study Sample
Creative Restitution	61.50	72.75	72.58	72.17	69.00	70.79	70.14



important findings of the present study, the acceptance of and strong support for, the concept of creative restitution. All six of the study populations reflected such support, including the police and the members of the women's community service organization. This reflects a strong base of support and general endorsement of the concept of creative restitution.

The Kruskal-Wallis one-way analysis of variance was utilized to test the hypothesis that the subsamples or community groups will respond differentially to creative restitution. The Kruskal-Wallis one-way analysis of variance was computed in relation to the attitudinal variables and the six subsamples with the results presented in Table 2. The average rank scores indicated significant difference at the .001 level among the six subsamples as to creative restitution. Therefore, the hypothesis was accepted.

TABLE 2

The Study Populations and the Attitudinal Variable, Creative Restitution, by Average Rank Scores

	Creative Restitution <sup>a</sup>
Police	316.99
Second Year Social Work	
Graduate Students	180.19
Juvenile Parole Officers	177.95
Parole Officers	232.61
Probation Officers	204.97
Members of a Women's Community	
Service Organization	172.16

<sup>a</sup>H = 57.20; 5d.f.;  
p .001, significant

An important finding of the study was that the six populations responded differentially to creative restitution. The women's service organization reflected the highest level of support for creative restitution, followed by juvenile parole officers, social

work students, probation officers, parole officers, and police. Of considerable importance was the finding that the women's service organization, representing some degree of general community attitude, demonstrated the highest level of support for creative restitution.

The previously discussed findings, when considered in relation to related findings, are indeed of importance. One finding of interest was that all of the punishment scales, with the exception of rehabilitation, were negatively correlated with creative restitution.<sup>9</sup> The rehabilitation scale was positively correlated with creative restitution. Although negative correlations existed between the punishment scales and creative restitution, positive support for creative restitution was present as was indicated by previous findings. A related additional primary finding was that people in favor of and supporting the traditional concepts of punishment respond positively, but less positively, toward creative restitution than people holding favorable attitudes toward rehabilitation.

Several individual items were of particular importance in the present discussion. The overwhelming majority of the study sample indicated that creative restitution is of potential value to the criminal justice system and would be quite useful as a rehabilitative approach. The respondents felt that restitution would be most appropriate with property offenses, such as auto theft, shoplifting, income tax evasion, and possibly drunk driving and burglary. Conversely, restitution was viewed as inappropriate for offenses against persons, such as rape, manslaughter, armed robbery, and assault. The study sample indicated that restitution could be a substitute for imprisonment with some types of offenders. In general, the respondents viewed as realistic the development of a contractual relationship between an offender and victim. Monetary payments and service to the community were considered to have somewhat greater potential than service to the victim. The vast majority of the respondents were interested in the concept of restitution.

Because of the utilization of several open-ended items in the study instrument, content analysis was incorporated. This type of analysis concerned four items, the responses being studied in relation to various study populations. The first question to be considered asked:

Why do you think that creative restitution has not been utilized or implemented to any greater extent than it has

in the criminal justice system?

Content analysis was applied to this item with the results in Table 3. The three probation and parole subsamples were combined into one population, while the second population utilized in this analysis consisted of the police.

TABLE 3

The Application of Content Analysis Regarding the  
Utilization or Implementation of Creative  
Restitution

	Police		Probation-Parole	
	Number	Percent	Number	Percent
Administrative Difficulties (Individualization, Time, Money, Personnel)	12	20.7	48	20.7
Public Resistance	8	13.8	6	2.6
Criminal Justice System Punishment Oriented and Resistant to Change	14	24.1	65	28.0
Lack of Education and Awareness of the Concept	2	3.4	28	12.0
Victims and Criminals Resistant to Creative Restitution, Criminals Not Responsible--No Concern for the Victim	11	19.0	35	15.1
No Answer	11	19.0	50	21.6
Total	58	100.00	232	100.00

Both populations identified the criminal justice system's punishment orientation and resistance to change as the primary reason why creative restitution has not been utilized or implemented to any greater degree than it has, while administrative difficulties were cited by both populations. The third reason cited was that victims and criminals would be resistant to creative restitution. A higher percentage of probation-parole officers than police indicated that a lack of education and awareness of the concept was responsible for the lack of utilization and implementation.

Several quotes are presented which reflect response to this item:

Difficulty in contracting and supervising such programs. Each is, or should be, unique, and therefore require considerable effort to establish and supervise. Community is not generally aware of restitution, it would take community education.

A probation officer stated:

Because it is a very personalized approach and would take time and involvement by public and criminal justice system. The criminal justice system has been slow to adopt a treatment oriented philosophy rather than a punitive one.

A police officer indicated that:

For the same reasons many other innovations haven't been implemented; lack of concern, politics, lack of enforced "punishment," a general feeling of frustration, and economics.

Finally, a parole officer suggested that:

The criminal justice system has not been and is not aggressive in the establishment of new programs, and is resistant to change. Both criminals and victims might be resistant to the concept.

An important finding related to this item was that both police and probation-parole officers perceived the criminal justice system's punishment orientation and resistance to change as the reason for the lack of utilization or implementation. Apparently,

there was some agreement regarding the orientation and resistance of the system. Related to this finding was the relatively large percentage of both populations who cited administrative difficulties as reason for the lack of utilization or implementation.

The second item to be described and considered by content analysis was as follows:

Please make any comments you wish regarding the concept of creative restitution; such as its application to the criminal justice system, the appropriateness of the development of such a program, your reactions to the concept, etc.

Content analysis was applied to this item with the results presented in Table 4. The probation and parole officer subsamples were combined, while the second population utilized consisted of the women's community service organization.

The vast majority of both populations supported creative restitution without qualification, while a sizable percentage reflected support with qualifications, such as: it depends on the community; limited potential, that is, it is expensive, difficult to administer, control and implement; applicable for only some offenders, that is, first offenders, juveniles, and nonviolent; and need for research. With these qualifications in mind, the overwhelming majority supported and agreed with the concept. A higher percentage of members of the women's community service organization supported creative restitution without qualification than probation-parole officers, while a higher percentage of probation-parole officers felt creative restitution was applicable for only some offenders, i.e., first offenders, juveniles, and those classified as nonviolent.

Several representative responses to this item are presented below:

I feel and have felt for some time that restitution is the most meaningful part of probation, but that it has not been treated with sufficient respect. The more direct the connection there is between offense and court action, the more meaning it has for the offender and the less expensive it is for the state.

TABLE 4  
The Application of Content Analysis Regarding the  
Concept of Creative Restitution

	Women's Community Service Organization		Probation-Parole	
	Number	Percent	Number	Percent
Support the Concept	59	74.7	135	58.0
Disagree with the Concept	1	1.3	5	2.2
Depends on the Community	3	3.8	11	4.6
Limited Potential; Expensive, Difficult to Administer, Control, and Implement	2	2.5	14	6.0
Applicable for only Some Offenders; 1st Offenders Juveniles, Nonviolent	10	12.7	47	20.2
Need for Pilot Program, Research	2	2.5	5	2.2
No Answer	2	2.5	15	6.8
Total	79	100.00	232	100.00

A member of the women's community service organization stated that:

It would take a massive education process to convince the general public and all who deal hostilely with prisoners (prison employees) that creative restitution would work, but I feel it is well worth the effort. Our present way of dealing with offenders is hopelessly inadequate in view of modern life.

A primary finding of this study was reflected by response to this item, that is, overwhelming support for the concept of creative restitution. An important finding was that, not only was community support as represented by the community service organization at a high level, but in fact, it exceeded the support of criminal justice personnel. This finding indicated that very strong support for the concept was present, with minimal qualification.

The third item to be described and considered by content analysis is as follows:

In your opinion, what do you think is the best way to change offenders' criminal behavior?

Content analysis was applied to this item with the results presented in Table 5. Probation and parole officer subsamples were again combined, while the second population utilized consisted of the police. Considerable difference was present with regard to the responses of the two populations. Police officers, to a much greater extent than probation-parole officers, indicated that behavior change is best achieved by a standardization and uniformity in court processes. A considerable percentage suggested that a differential approach of punishment and rehabilitation was the best way to change offender behavior. A large percentage of probation-parole officers indicated that rehabilitative efforts changed criminal behavior, followed by a differential approach of punishment and rehabilitation, and then community based corrections programs.

Several quotes are presented which reflected response to this item:

First, the offender has to be made aware that he is responsible for his action. Creative restitution is right in line with this. Plea bargaining is at odds with this. The court process needs to be more swift

TABLE 5  
The Application of Content Analysis Regarding  
Offender Behavioral Change

	Police		Probation-Parole	
	Number	Percent	Number	Percent
Rehabilitative-Therapeutic Efforts, Counseling, Education, Job Training, etc.	10	17.2	70	30.2
Standardization, Uniformity; Court Processes, Definite Sentences, Punishment Fit the Crime, etc.	20	34.5	20	8.6
Prevention; Alleviate Social Conditions Which Produce Crime	2	3.5	15	6.5
Rehabilitation and Punishment	12	20.7	35	15.1
Responsibility for Actions, Motivations	1	1.7	10	4.3
Community Based Programs	2	3.5	25	10.8
Change Prison Environment, Humanize the System, Reduce Caseloads	1	1.7	20	8.6
No Answer	10	17.2	37	15.9
Total	58	100.00	232	100.00



and definite.

A police officer commented:

Standardization and uniformity in sentencing; fear of quick and meaningful punishment; elimination of plea bargaining, so offenders know what to expect.

Finally, another respondent stated:

Remove the social evils that lead to criminal behavior (Preventative): Poor education, unemployment, slum housing, boring and uncreative work, etc. Keep first offenders removed from contact with repeaters. Provide services, such as counseling, education, supervision, job training, etc.

An important finding related to the felt need for standardization and uniformity in court processes as a way to change criminal behavior. Responses to this item suggested that standardization and uniformity is not present, but that it was felt that it could lead to offender behavior change. Rehabilitative and therapeutic efforts were suggested as methods of behavior change by both populations as was a differential approach consisting of both rehabilitation and punishment. Thus, three orientations were considered primary in criminal behavior change, which indicated a lack of consensus regarding the changing of criminal behaviors.

The fourth and final item to be considered by content analysis is as follows:

In your opinion, what changes, if any, need to be made in the penal system in this country?

Content analysis was applied to this item with the results presented in Table 6. Probation and parole officer subsamples were again combined, while the second population utilized was the women's community service organization. Only slight difference was found concerning the responses of the two populations. Both populations identified standardization and uniformity as primary changes that should be made in the penal system. This was followed by a need for community based corrections and increased rehabilitative and therapeutic orientation.

TABLE 6  
The Application of Content Analysis Regarding  
Changes in the Penal System

	Women's Community Service Organization		Probation-Parole	
	Number	Percent	Number	Percent
Standardization, Uniformity in Court System, Definite Sentences, Less Plea Bargaining, etc.	25	31.6	60	25.9
Increased Rehabilitative Therapeutic Orientation	16	20.3	40	17.2
Community Based Corrections; More Alternatives for Offenders	20	25.3	40	17.2
Modernize the System; Better Facilities, Better Trained Staff, More Money, etc.	3	3.8	24	10.4
Abolish Penal System and Start Over	0	0.0	12	5.2
Prevention	5	6.3	20	8.6
No Answer	10	12.7	36	15.5
Total	79	100.00	232	100.00

Several quotes are presented which indicate response to this item:

Drastic changes need to be made. Perhaps we still need to shut up some serious offenders, but the majority should stay in the community with positive efforts to help them overcome their anti-social behaviors. Also, I would like to see community residences for 8 - 15 people, providing treatment services, but community based.

A probation-parole officer stated:

There are too many inconsistencies in sentencing, there should be less plea bargaining, and more strict enforcement of the laws.

Finally, a member of the women's community service organization indicated:

More therapeutic and rehabilitative services in the penal system and community based programs to aid in the reintegration and return of the offender back to the community.

An important finding related to this item was the similarity and commonality of response patterns of these two rather diverse populations. As previously discussed, both identified standardization and uniformity in the court system as the primary change needed, followed by community based corrections and increased rehabilitative orientation. An important finding was the felt need for rehabilitative services as well as the community based corrections programs.

#### Study Implications

The most significant finding of the present research study was the strong support for, and acceptance of, creative restitution. Often, initial reaction to such a criminal justice concept is that it will not be accepted within the criminal justice system or outside of the system because it is too idealistic and not focused to the reality of the situation. Support did vary somewhat in relation to the study populations, although strong support was present in each of the populations. The finding that creative restitution was supported by the police and members of the women's community service organization had considerable meaning. The very nature of police

work would appear to be conducive to skepticism and criticism of such offender rehabilitation programs, especially one concerned with offender-victim and offender-community contracts. Many times offender rehabilitation programs are viewed as too idealistic or not in keeping with reality, yet this attitude was not present. Not only did this suggest that police are supportive of creative restitution, but that police can continue to function in their role in the community, yet agree with such a concept.

A related finding of considerable importance concerned the support for, and acceptance of, creative restitution by the community group included in the study sample. Members of a women's community service organization demonstrated such support. As was previously discussed, this was only suggestive of some community attitudinal patterns as well as that of community leadership. Because of the criminal justice system's sensitivity to, and awareness of, community or societal attitudes, frequently a preconceived expectation limits program implementation or the testing of a potentially significant concept. However, the present study indicated that, at least, this community group supported the concept of creative restitution.

Thus, populations both within and outside of the criminal justice system which might be perceived to disagree with a concept such as creative restitution, in fact, according to the study sample, supported it and indicated it had considerable potential. Therefore, it is suggested that implementation of creative restitution programs may arouse less resistance and, in fact, be supported by significant groups both within and outside of the criminal justice system as reflected by the study population.

The significance of the previously discussed findings must be considered in relation to a finding concerning the support for creative restitution even though support was present for the traditional concepts of punishment, i.e., retribution, deterrence, social defense, rehabilitation, and impact of imprisonment.<sup>10</sup> Support for these concepts was found to be present even though creative restitution was also supported. The most revealing was the support for retribution. Police and other groups may tend to have a retributionist orientation, yet at the same time, support creative restitution. It must be assumed that creative restitution is perceived and conceptualized differentially by various groups. Thus, police and other groups viewed creative restitution as an element of punishment or containing aspects of punishment. It can be concluded that the

concept has great appeal to traditionally conservative elements in the population. Liberals support restitution since it entails more than merely imprisonment; conservatives are attracted to the concept because it forces offenders to be responsible for their actions and pay for their crimes.<sup>11</sup> It is further suggested that restitution also serves deterrence and rehabilitation.<sup>12</sup> It can be concluded that creative restitution programs would appear to not only be accepted but also supported by divergent elements of society.

In analyzing the findings, implications are inherent for further programming. Even though research appears to indicate strong support for creative restitution, implementing the concept may meet with some resistance. Implementing a restitution program might be aided by several findings which reflect differential responses to the concept. Restitution was viewed as more appropriate for property offenders than for offenses involving persons. Restitution as a substitute for imprisonment with some types of offenders was supported. Creative restitution is strongly supported as a supplementary rehabilitative tool. Although some hesitancy was present, support was evident for the contractual relationship element of creative restitution. Even though monetary restitution was perceived as most appropriate at the present time, strong support was found for community service as well as service to the victim. From these findings it can be concluded that support would be greatest for a restitution program if it was limited to property offenders, used in combination with other criminal justice programming, involved the contractual relationship which was closely supervised, and consisted of preferably monetary restitution to the victim or service to the general community.

Although not a focus of the present discussion, support has been found for reconceptualizing restitution as a dimension of punishment.<sup>13</sup> This further supports the finding that people appear to support creative restitution while also supporting different aspects of punishment. Attitudinal patterns appear to be inherent in such a finding.

The open ended items produced findings in agreement with the previous discussions. The criminal justice system's punishment orientation and resistance to change was perceived as the reason for the lack of utilization or implementation of restitution. Perceived lack of community support was not given as a primary reason, which is of interest to note. The implementors of creative restitution programming would be confronted with this perceived difficulty, i.e., resistance to change and punishment orientation.

A high level of support for creative restitution was found, although some qualifications were noted. Thus, successful implementation might rest upon consideration of preferred aspects of restitution, previously discussed. Findings also conducive to restitution implementation were the felt need for standardization and uniformity in court processes as well as rehabilitation.

An important area for future study concerns the need for further explicating the dimensions which may be present within the concept of creative restitution. As has been previously discussed, it would appear that creative restitution may be perceived differentially by various individuals. In other words, individuals may respond differentially to various elements that are contained within the concept. Greater understanding is needed regarding the variety of meanings which may be attributed to the concept of creative restitution.

It would be helpful if additional data on more populations could be secured. It is suggested that populations such as offenders, prison personnel, judges, legislators, as well as a cross-section of the general community, be included in future research. This would contribute to a greater understanding of attitudes which are held by significant populations within the community toward such a concept of possible importance to the administration of the criminal justice system. If broad based support was found in future research, this finding would have important implications for program implementation and the possible incorporation and utilization of creative restitution.

The present research lends support to the previously held notion that creative restitution is multi-dimensional. It appeals to a wide and varied audience. Liberals and conservatives, police and social work students perceive value in it. Although certainly not a panacea for the problems inherent in the criminal justice system, creative restitution is a viable alternative. The time has arrived for further integration of creative restitution programming in the criminal justice system!

## Appendix A<sup>14</sup>

### Creative Restitution Questionnaire

This questionnaire concerns your attitudes toward creative restitution. The first several pages provide an explanation of the concept of creative restitution; examples are also included. Following this are a number of items relating to creative restitution. Unless otherwise noted, creative restitution should be considered as a general term, encompassing its various forms. Also, unless specific types of offenders are noted, the term offender refers to the general category of individuals who have been convicted of violating the law.

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Creative restitution is "a process in which an offender, under appropriate supervision, is helped to find some way to make amends to those he has hurt by his offense."<sup>15</sup> It refers to "payments in either goods, services, or money made by offenders to the victims of their crimes."<sup>16</sup> Creative restitution also refers to services provided by the offender to the community and to the general 'community good.' Thus, it may take three forms: monetary payments to the victim, service to the victim, and service to the general community. While it is not mandatory that the offender make restitution directly to the victim, where this is possible it is considered.

Creative restitution requires active participation by the offender in the restitutive act and has socially constructive outcomes. This is especially true of creative restitution acts consisting of service to the victim and service to the general community. The relationship between the offense and the restitutive act is restorative, especially in the form of monetary payments to the victim or service to the victim.

The service performed for the victim by the offender is limitless, although ideally it should be related to the offense. In many cases, such as victim-less crimes, lack of victim participation in a restitution contract, or in the case of groups of institutionalized offenders, it is not possible for the offender to provide a direct service to the victim. In this situation the offender would provide a service to the larger community, which would ideally, but not necessarily, be related to the offense; yet the restitutive act would be of social value. Critical elements in creative restitution are that the restitution be related, when possible, to the offense

and that the restitution not be imposed on the offender, but developed through a contractual relationship between the offender and the victim. The offender cannot be forced or 'made' to become involved in the creative restitution process by criminal justice personnel. It should, in effect, be "voluntary" on the part of the offender, as far as this is possible in the criminal justice system.

The following are programmatic examples of creative restitution:

1. An offender convicted of burglary at a private residence subsequently formed a contractual relationship with the victim and began making monetary payments of \$16.00 a week to the victim to cover the damage that was done.
2. In a rural area two boys killed a calf and in lieu of commitment to a juvenile institution repaid the owner of the calf by working on his ranch for several weekends.
3. An offender originally convicted of burglary worked with the police department in burglary prevention programs and community education programs; thus utilizing his experience for the 'public good.'
4. An individual convicted of drunk driving worked with and assisted an ambulance crew, responding to highway accidents.

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1. In your opinion, is there any potential value for the use of creative restitution programs with the criminal offender?  
Check one.

\_\_\_\_\_ Yes                      \_\_\_\_\_ No                      \_\_\_\_\_ Not sure

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If your previous answer was "No" please stop here and do not respond to any other items in this section.

2. In general, how do you respond to the concept of creative restitution as a rehabilitative approach in corrections?  
Check one.

\_\_\_\_\_ Very favorably      \_\_\_\_\_ Favorably      \_\_\_\_\_ Unfavorably  
\_\_\_\_\_ Very unfavorably      \_\_\_\_\_ Not sure



3. In your opinion, for which group of offenders would it be most appropriate to use creative restitution? Check one.

\_\_\_\_\_ Juveniles      \_\_\_\_\_ Adults      \_\_\_\_\_ Both  
\_\_\_\_\_ Inappropriate for both      \_\_\_\_\_ Not sure

4. In your opinion, how appropriate would creative restitution be with the following offense categories? Check the response which most clearly reflects your opinions for each item.

Appropriate	Not Sure	Inappropriate
_____	_____	_____ 1. Property offenses
_____	_____	_____ 2. Offenses Against Persons
_____	_____	_____ 3. Victim-less crimes

5. In your opinion, how appropriate would creative restitution be with the following criminal offenses? Check the response which most clearly reflects your opinion for each item.

Appropriate	Not Sure	Inappropriate
_____	_____	_____ 1. Burglary
_____	_____	_____ 2. Auto theft
_____	_____	_____ 3. Shoplifting
_____	_____	_____ 4. Drunk driving
_____	_____	_____ 5. Income Tax Evasion
_____	_____	_____ 6. Involuntary Manslaughter
_____	_____	_____ 7. Rape

5. (Continued)

Appropriate                      Not Sure                      Inappropriate

\_\_\_\_\_ 8. Armed Robbery  
\_\_\_\_\_ 9. Assault

6. How familiar were you previous to this questionnaire with the concept of creative restitution? Check one.

\_\_\_\_\_ Very familiar                      \_\_\_\_\_ Familiar                      \_\_\_\_\_ Somewhat familiar  
\_\_\_\_\_ Unfamiliar

7. In your opinion, do you think a creative restitution program might replace the need for imprisonment with some types of offenders? Check one.

\_\_\_\_\_ Yes                      \_\_\_\_\_ No                      \_\_\_\_\_ Not sure

If "Yes" -- what "type" of offenders do you think?

8. In your opinion, could creative restitution be utilized as the sole rehabilitation approach taken with some offenders?

\_\_\_\_\_ Yes                      \_\_\_\_\_ No                      \_\_\_\_\_ Not sure

If "Yes" -- what "types" of offenders do you think?

9. Generally, should creative restitution be combined with supplemental rehabilitation services such as counseling, job training, and education, in your opinion? Check one.

\_\_\_\_\_ Yes                      \_\_\_\_\_ No                      \_\_\_\_\_ Not sure

Comments?

10. Do you think restitution should be limited to financial payments to victims? Check one.

\_\_\_\_\_ Yes                      \_\_\_\_\_ No                      \_\_\_\_\_ Not sure

If "Yes", why?

11. In general, how do you view the development of a contractual relationship between an offender and the victim? Check one.

\_\_\_\_\_ Very realistic      \_\_\_\_\_ Realistic      \_\_\_\_\_ Unrealistic  
 \_\_\_\_\_ Very unrealistic      \_\_\_\_\_ Not sure

Comments?

12. Why do you think that creative restitution has not been utilized or implemented to any greater extent than it has in the criminal justice system?

13. In your opinion, which one of the following forms of creative restitution presents the greatest potential for programmatic use in the criminal justice system? Check one.

\_\_\_\_\_ Monetary Payments      \_\_\_\_\_ Service to the victim  
 \_\_\_\_\_ Service to the general community      \_\_\_\_\_ All three would  
    be equally  
    appropriate  
 \_\_\_\_\_ Not sure

14. In your opinion, what would be the reaction of the following groups, in general, to the concept of creative restitution? Check the responses which most clearly reflects your opinion for each item.

Strongly in Favor of the Concept	In Favor of the Concept	Not Sure	Against the Concept	Strongly Against the Concept	
_____	_____	_____	_____	_____	Judges
_____	_____	_____	_____	_____	Police officers
_____	_____	_____	_____	_____	General Public
_____	_____	_____	_____	_____	Lawyers

14. (Continued)

Strongly in Favor of the Concept	In Favor of the Concept	Not Sure	Against the Concept	Strongly Against the Concept
_____	_____	_____	_____	_____ Prison Officials
_____	_____	_____	_____	_____ Social Workers
_____	_____	_____	_____	_____ Probation and Parole Officers

15. In your opinion, for which of the following situations would creative restitution be most appropriate? Check one or more than one.

- \_\_\_\_\_ Prior to sentencing (deferred sentence)
- \_\_\_\_\_ In conjunction with probation
- \_\_\_\_\_ In conjunction with a prison sentence
- \_\_\_\_\_ Equally appropriate for all three
- \_\_\_\_\_ Not sure

16. How interested are you in the concept of creative restitution? Check one.

- \_\_\_\_\_ Very interested      \_\_\_\_\_ Interested      \_\_\_\_\_ Disinterested
- \_\_\_\_\_ Very disinterested      \_\_\_\_\_ Not sure

17. Please make any comments you wish regarding the concept of creative restitution; such as its application to the criminal justice system, the appropriateness of the development of such a program, your reactions to the concept, etc.

18. In your opinion, what do you think is the best way to change offenders' criminal behavior?
19. In your opinion, what changes, if any, need to be made in the penal system in this country?

NOTES

<sup>1</sup>Clementine L. Kaufman, "Community Service Volunteers: A British Approach to Delinquency Prevention," Federal Probation, XXXVIII, no. 4 (December 1973) pp. 35-41.

<sup>2</sup>Joe Hudson and Burt Galaway, "Undoing the Wrong," Social Work, XIX, no. 3 (May 1974) p. 314.

<sup>3</sup>Albert Eglash, "Creative Restitution: Some Suggestions for the Prison Rehabilitation Programs," American Journal of Correction, XX (November - December 1958) p. 20.

<sup>4</sup>Hudson and Galaway, op. cit., pp. 313-314.

<sup>5</sup>Eglash, op. cit., p. 20.

<sup>6</sup>John T. Gandy, "Community Attitudes Toward Creative Restitution and Punishment," (Unpublished Doctoral Dissertation, University of Denver, 1975) See Appendix A for the Creative Restitution Questionnaire.

<sup>7</sup>Ibid.

<sup>8</sup>The theoretical or hypothesized median is an "idealized" mid-point dividing relative high and low scores on an attitudinal scale. The theoretical or hypothesized median for the creative restitution instrument was 42.5.

<sup>9</sup>Gandy, op. cit., pp. 147-148. John T. Gandy, "Attitudes Toward the Use of Restitution," paper to be presented at the Second International Symposium on Restitution, St. Paul, Minnesota, November 1977.

<sup>10</sup>Ibid.

<sup>11</sup>Philip Brickman, "Let the Punishment Fit the Crime," Psychology Today, May 1977, p. 29.

<sup>12</sup>Ibid.

<sup>13</sup>Gandy, "Attitudes Toward the Use of Restitution," pp. 18-19.

<sup>14</sup>Copyrighted

<sup>15</sup>Eglash, op. cit., p. 20.

<sup>16</sup>Hudson and Galaway, op. cit., pp. 313-314.