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## Pennsylvania Commission on Sentencing

# Research Bulletin

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## Restitution Orders in Pennsylvania

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There have been a limited number of studies examining how particular sentencing options affect crime victims, as victims were largely ignored until recent decades. Beginning in the late 1970's, however, the criminal justice system increasingly recognized crime victims' rights, especially with regard to compensation and victim impact statements. During the 1990's there was a trend toward making victims central to the processes of the criminal justice system, with a particular focus on victim restitution and holding offenders economically accountable for their actions.

This edition of the Research Bulletin presents findings from a study addressing the issue of victim restitution in Pennsylvania. While the study examines both the imposition and payment of restitution, this Bulletin focuses on the first phase of the study, which provides a statewide analysis of the factors that are related to the imposition of restitution orders.

### Restitution Law in Pennsylvania

From 1978 to 1995, Pennsylvania's restitution statute empowered, but did not require, judges to order restitution. In the imposition of restitution, courts were to consider the extent of the victim's injuries, in addition to other factors, including the offender's ability to pay. Courts could order restitution according to any payment schedule within the time limit set by the statute governing maximum sentence length.

In 1995, Governor Ridge, in his proclamation convening the Special Session on Crime, called for legislation that would result in an "...improvement of the delivery and scope of services and restitution to crime victims." In response, the Pennsylvania General Assembly passed several pieces of legislation regarding victims' rights, including a revision of the restitution statute, making restitution mandatory (18 Pa. C.S.A. §1106). Under the revised statute, victims [either individuals, businesses, or the state], whose property was stolen or damaged, or who suffered personal injury as a direct result of a crime, were entitled to restitution. Moreover, the statute explicitly stated that restitution awards were not to be reduced by any payments that had been made to the victim from such sources as the Crime Victim's Compensation Fund or insurance companies. That is, even if victims had received compensation, offenders still owed the total restitution amount, although the payments were to be made to the government agency or insurance company that had paid the victim. Finally, judges were to impose full restitution regardless of the offender's financial resources.

### Restorative Sanction Project

The research findings presented in this Research Bulletin are part of a larger study on restorative sanctions that is being conducted by **Dr. R. Barry Ruback**, who is a professor of Crime, Law, and Justice in the Department of Sociology at Penn State University and past director of the Center for Research on Crime, Law, and Justice [CRCJ] at the University. In 1998 the CRCJ and the Sentencing Commission received a grant from the National Institute of Justice to establish a research partnership. Dr. Ruback's project on restorative sanctions was one of the initial projects under the partnership umbrella. In 2000, Dr. Ruback received funding from the Pennsylvania Commission on Crime and Delinquency to extend his research in this area. This Research Bulletin is based on a paper written by Dr. Ruback in conjunction with two of his graduate students on the project, **Gretchen R. Ruth** and **Jennifer N. Shaffer**. If you are interested in obtaining a copy of the paper, please contact Dr. Ruback at (814) 865-1307 [voice] or [bruback@psu.edu](mailto:bruback@psu.edu) [email].

### The Current Study

**Research Questions.** The current study was a multiyear statewide analysis of restitution imposed in Pennsylvania that addressed three research questions: 1) what factors were related to restitution orders prior to 1995, when the imposition of restitution was totally discretionary, 2) what was the impact of the 1995 mandatory restitution law, and 3) what factors were related to restitution orders after 1995, when restitution was to be mandatory.

**Data.** The study primarily used data from the Pennsylvania Commission on Sentencing (PCS) for the years 1990-94 and 1996-98. Supplemental information was obtained from the 1990 U.S. Census, the 1990 *Uniform Crime Reports*, and *The Pennsylvania Manual* for 1992 and 1996. In order to control for the influence of various factors on the imposition of restitution, the following information was utilized in the analysis: legal variables [offense type, offense severity, prior record, and mode of conviction], offender demographics [gender, race, and age], county contextual variables [urban vs. rural, percent

**Table 1. Percentage of Sentences with Restitution Orders Before and After 1995 Mandatory Law.**

<u>Variable</u>	<u>Before Law</u> [1990-1994]	<u>After Law</u> [1996-1998]
<b>Offense type</b>		
Person	21%	49%
Property	41%	64%
<b>Offense severity<sup>a</sup></b>		
Low	36%	56%
High	33%	62%
<b>Prior record</b>		
No	37%	59%
Yes	32%	58%
<b>Mode of conviction</b>		
Plea	36%	52%
Trial	19%	59%
<b>Gender</b>		
Female	34%	58%
Male	38%	59%
<b>Race</b>		
Non-white	26%	55%
White	40%	60%
<b>Age (in years)<sup>a</sup></b>		
Young	38%	60%
Old	31%	56%
<b>County type</b>		
Rural	47%	58%
Urban	32%	58%
<b>Percent Republican<sup>a</sup></b>		
Low	33%	59%
High	40%	58%
<b>Percent living below poverty<sup>a</sup></b>		
Low	34%	62%
High	36%	51%
<b>Percent males age 15-24<sup>a</sup></b>		
Low	36%	56%
High	32%	62%
<b>Crime rate<sup>a</sup></b>		
Low	32%	64%
High	36%	56%
<b>Courtroom workgroup stability (in years)<sup>a</sup></b>		
Low	33%	55%
High	36%	61%
<b>Average probation caseload<sup>a</sup></b>		
Low	38%	59%
High	33%	58%
<b>Number of cases</b>	148,524	68,164

<sup>a</sup> These variables were divided at the median.

Republicans as a measure of consistency between local and state leadership, crime rates, extent of poverty, and courtroom workgroup stability, as measured by the length of time district attorneys and judges were employed within the same jurisdiction, and probation caseload].

**Sample Description.** As the study was interested in restitution as a sentencing option, only cases with an identifiable victim were included. Thus, drug offenses, driving under the influence offenses, and offenses not under Title 18 [Pennsylvania Crimes Code] were excluded from analysis. This resulted in a total sample of 216,688 cases. Overall, most offenders in the sample were male (83%), white (60%), with an average age of 29 years, and from an urban county [82%]. The majority of the offenders were convicted of property crimes [66%], had no prior record [57%], and had their cases disposed of via a plea [93%]. Offenders came from counties that, on average, were 38% Republican, and had an 11% poverty rate.

The sample was divided into two sub-samples, 1990-94 and 1996-98, to allow for the analysis of restitution orders before and after the 1995 mandatory restitution law. The sample from 1990-94 [which included 148,524 cases] was significantly different from the 1996-98 sample [which included 68,164 cases] in that there were more person crimes, more female offenders, and more cases determined via a plea in 1996-98 than in 1990-94. Further, over the two time periods, counties became more Republican and had lower poverty rates. The average courtroom workgroup stability increased by two and a half years.

## Findings

**Restitution Decisions Before the Mandatory Law.** Table 1 presents the percentage of cases receiving restitution for the 1990-1994 sample [before the mandatory law] and for the 1996-98 sample [after the mandatory law]. During 1990-94, when judges had complete discretion about whether or not to impose restitution, restitution was more likely to be imposed for offenders: convicted of property rather than person crimes [41% vs. 21%]; convicted for less serious rather than more serious offenses [36% vs. 33%]; who had no prior convictions compared to those with at least one prior conviction [37% vs. 32%]; who pleaded guilty rather than being convicted at trial [36% vs. 19%]. In terms of offender demographics, restitution was more likely to be imposed for males, whites, and younger offenders. With respect to county-level variables, restitution was more likely to be imposed in counties that were rural rather than urban [47% vs. 32%], and had higher rates of Republicans, individuals living below the poverty line, crime, and courtroom workgroup stability. Offenders were also more likely to have restitution imposed if they lived in counties that had lower rates of young males [age 15-24] and lower probation caseloads.

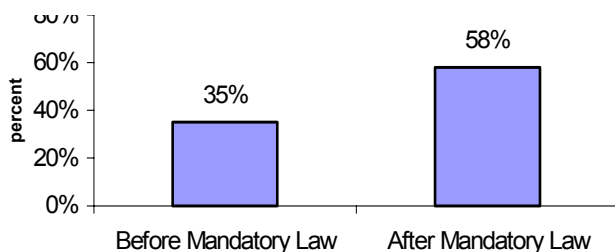
In order to control for the influence of the various factors included in the study, a multivariate analysis was conducted. Table 2 indicates that, for offenders sentenced prior to the mandatory restitution law [1990-1994], five factors remain significantly related to the restitution decision when controlling simultaneously for all variables included in the study. Restitution was significantly more likely to be ordered for offenders who were: younger, white, male, convicted of property crimes, and had no prior record. Additional analyses found that in urban counties, restitution was significantly less likely to be imposed for property crimes and more likely for males.

**Table 2. Significant Predictors of Restitution Before and After Mandatory Restitution Law**

	Before Law [1990-94]	After Law [1996-98]
Property Offense	yes	yes
Serious Offense	no	yes
No Prior Record	yes	yes
Male	yes	no
White	yes	yes
Young	yes	yes

**Impact of the 1995 Mandatory Restitution Law.** Figure 1 shows the percentage of cases receiving restitution orders before and after the implementation of the mandatory restitution law in 1995. As expected, there were higher rates of restitution ordered after the implementation of the law than before [58% vs. 35%]. However, this is far below full compliance with the revised statute.

**Figure 1. Percentage of Cases with Restitution Orders Before and After 1995 Mandatory Law**



**Restitution Decisions After the Mandatory Law.** Had there been 100% compliance with the 1995 mandatory restitution law, then none of the factors (i.e. offense type, prior record, gender, race, and age) that were significantly related to the imposition of restitution orders when judges had complete discretion should be significantly related to the imposition of restitution orders after 1995. That is, all offenders would be receiving restitution orders, which would eliminate any differences that previously existed in the imposition of such orders. However, as 42% of the cases had not received restitution orders after the passage of the mandatory law, the next question was whether the same factors that predicted restitution prior to the mandatory law predicted restitution after the mandatory law.

Table 1 shows that after the implementation of the law [1996-98], restitution was still more likely to be imposed for offenders who were young, white, male, and from rural counties though the differences with respect to age, race, gender, and county were narrowed. Similarly, while offenders with property convictions and no prior convictions were still more likely to receive restitution orders, the differences with respect to offense and prior record were also less pronounced. For two of the variables, offense severity and mode of conviction, there was a reversal, in that persons convicted at trial and of greater offense severity were more likely to receive restitution orders after the mandatory law change, while the reverse was true before the law change.

Table 2 provides the results of the analysis predicting restitution orders while controlling simultaneously for all of the variables. The findings indicate that there is a great deal of

consistency in the factors that predict restitution orders both before and after the 1995 change to the restitution law. During both time periods, when holding all factors constant, restitution was more likely to be ordered for offenders who: were white, were young, were convicted of property offenses, had no prior record, and pleaded guilty. In contrast to the results for 1990-1994, offenders sentenced during 1996-98 who were convicted of more severe offenses were significantly more likely to receive a restitution order while being male was no longer significantly related to the imposition of restitution. Additional analyses indicated that restitution was significantly less likely for property crimes in urban counties, which was consistent with the analyses for the 1990-1994 sample.

## Conclusion

This study examined restitution decisions in Pennsylvania from 1990-98 to determine: 1) factors that predicted the imposition of restitution orders and 2) the impact of the 1995 mandatory restitution law. While the percentage of cases receiving restitution increased from 35% to 58% after the mandatory law, this is less than the full compliance that was anticipated with the mandatory restitution legislation.

There are several possible explanations for the lack of total conformity in that judges: 1) may have ignored the statute, 2) may have been unaware of the statutory change, 3) knew that some offenders had made full restitution prior to sentencing, 4) were aware that certain offenders did not have the means to pay restitution, 5) perceived other economic sanctions [i.e., fines, fees, costs] as being more important, and 6) believed that there were insufficient resources to monitor and enforce the policy. Further, while the 1995 revision to the sentencing alternative statute under Title 42 stated the mandatory nature of restitution, the language governing 'Restitution for Injuries to Person or Property' under Title 18 had maintained the word 'may' rather than 'shall' in the reference to the imposition of restitution. Thus, judges may not have acknowledged the mandatory intent of the law until the Legislature changed the language in Title 18 to 'shall' in 1998. Future research can examine that possibility.

The factors that were significantly related to the imposition of restitution remained fairly consistent before and after the mandatory law. That is, restitution was more likely to be ordered for offenders who were younger, white, convicted of property offenses, and had no prior record. It is plausible that offenders fitting the profile of those who receive restitution are also more likely to be employed, but that information was unavailable for inclusion in the analyses.

Two differences in the imposition of restitution between the two time periods were with respect to gender and offense severity. Prior to the mandatory law, males were more likely to receive a restitution order while there were no gender differences after the law. After the mandatory law, offenders with more serious offenses were more likely to receive restitution while this was not the case prior to the law change. This pattern is consistent with the notion that the statutory change should make legally relevant factors [offense severity] more important and legally irrelevant factors [gender] less important in the imposition of restitution orders.

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The Pennsylvania Commission on Sentencing is an agency of the General Assembly located on the University Park campus of the Pennsylvania State University. The Commission was created in 1978 for the primary purpose of creating a consistent and rational statewide sentencing policy to promote fairer and more uniform sentencing practices.

## Major Findings

- ▶ While the 1995 mandatory restitution law resulted in a significant increase in restitution orders from 1990-94 to 1996-98 [35% vs. 58%], there was not total compliance with the law.
- ▶ There was a great deal of consistency in the factors predicting restitution orders both before and after the 1995 mandatory law. Restitution was significantly more likely to be ordered for offenders who were younger, white, convicted of property offenses, and had no prior record.
- ▶ There was some county variation in that property offenders in urban counties were less likely to receive restitution.
- ▶ Before the mandatory law, males were more likely to receive a restitution order while there was no gender difference after the law.
- ▶ After the enactment of the mandatory restitution law, offenders with more serious offenses were more likely to receive restitution orders, while this was not found before the law.

## Pennsylvania Legislation Relevant to Restitution

**Act 1995-8**      The Victim Advocate Law  
Establishes the office of Victim Advocate to represent the rights of crime victims before the Board of Probation and Parole and Department of Corrections.

**Act 1995-12**      Mandatory Restitution  
Amended sentencing alternative statute [42 Pa. C.S. §9721] to require court to order full restitution regardless of offender's ability to pay. Established priorities in payment.

**Act 1998-84**      Restitution Collection  
Mandated that no less than 50% of all monies collected be used to pay restitution to victims.

**Act 1998- 111**      Crime Victims Act  
Enacted crime victims' Bill of Rights.

**Act 1998- 121**      Amendments to 18 Pa. C.S. §1106  
[Restitution for injuries to person or property]  
The word 'may' was replaced with the word 'shall' in the mandatory restitution provision.