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Understanding Victim Experiences with Restitution

Research ToolKit

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Table Of Contents

Report	2
Introduction	2
Initial Visioning	3
Who's Going to Do it?	4
Funding	5
Ensuring Safety of Research Participants	5
Introducing the Data Collection Tools	6
Conclusion	9
Interview Protocol	10
Restitution Survey	12

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All points of view in this report are those of the author alone.

Introduction

This toolkit is for any local government/justice agency or community-based organization interested in reform related to victim restitution and compensation. While there have been numerous successful reform efforts related to other monetary sanctions (e.g., fines and fees) in the criminal legal system across the US, restitution has largely remained outside the scope of those efforts. That omission is understandable, given the different rationales and intended audiences of those monies. That is, fines and fees are primarily oriented towards the person charged with the crime: fines are meant to serve as a ‘punishment’ for the offense (e.g., speeding ticket for driving too fast) while fees are for ‘using’ various aspects of the legal system, including paying for counsel, incarceration stays, or probation supervision. In contrast, restitution is meant to provide funds to the victims who have been harmed by the crime. In that sense, it is harder to argue for reducing or eliminating restitution orders for people charged with the crimes if they cannot pay, especially if it means the victims do not get those monies, than it is to show how excessive amounts, additional interest and surcharge policies, and haphazard administrative processes related to fines and fees make it harder for people to ever pay off the debt.

That conundrum is the motivating factor for this toolkit: engaging in restitution reform efforts often requires a different set of logics and perspectives than the current ones used for fines and fees reform. That distinction is largely related to the different recipient of restitution funds: victims. As such, the process outlined in this toolkit offers two data collection tools – interviews and surveys – to capture both the victims’ voices and the community’s views regarding restitution reform. Given how justice policies can vary from jurisdiction to jurisdiction (or even applied differently among various communities within one same jurisdiction), these two data collection tools can help parse out those nuances to better inform local reform efforts.

One disclaimer before getting started: this toolkit is **not** meant to be a comprehensive guide about all aspects of doing this kind of research. Rather it is meant to help individual jurisdictions and agencies consider how research can be used to help identify what is working (or not) and possible solutions that have the most ‘buy-in’ from their own communities.

Initial Visioning

To make this process as efficient and effective as possible, it would be helpful to start by posing some vision questions to your team such as:

1

Focus Area

What aspects about restitution do you want to address?

- a. The experience of victims about restitution and/or compensation? The community's views of restitution in general?
- b. Are you focusing on victims of specific types of offenses (nonviolent/violent; juvenile vs adult, misdemeanor/felony)?



2

Goals

What are your goals for this process? Is it to increase your understanding of restitution in your community? Or is it geared to identifying areas to improve?

3

Intended Outcome

What are your intended outcomes of this process? Is it a policy evaluation documenting the strengths and weaknesses in your current programs with an eye to change procedures as needed? Or is it a broader more structural reform that requires a change in legal statute at the local or state level?

Depending on your answers, you could use one or both data collection tools in this toolkit. For example, if you only want to understand how victims experience the restitution process, the interview protocols would be sufficient. If you are interested in thinking about how to mount a reform campaign in your community, the survey would be useful to identify how to frame your efforts.

If you are not certain about which avenue to take, I would suggest starting with a small pilot study of interviews with victims about restitution. That way, you can assess the scope of the problems and areas in the process to pinpoint. Even if you are familiar with the challenges, it is still helpful to ask the victims themselves about their experiences, as they might offer more ideas as to where the system might be improved and in what ways that are meaningful to their healing.

Who's Going to Do it?

Research takes time, money, and flexibility that many justice practitioners and community organizers do not have in their everyday jobs. Even agencies with research departments often do not have the resources to take on these kinds of projects. Yet despite those limitations, you could consider different ways to do this research.

1 Internal research department: you could see how to add these tools to existing projects or at the very least, administer an adapted shortened version of the interviews and/or surveys. If you have an existing internship program, perhaps you could consider expanding it temporarily to have the staffing required for this line of research.

2 Collaborate with other agencies: you might consider pooling resources across justice agencies and/or community-based organizations, allotting partial time of various staff to do the project.

3 Partner with a local university: you could contact one of several departments in a university (e.g., sociology, criminology, public policy, law school) where a professor, graduate student or even an upper-division undergraduate could spearhead this effort. If it was a sociology department, a graduate student might want to do this as part of their master's work; alternatively, a professor might have an undergraduate or graduate course whose students could work on it together as a class project. Law students in a law clinic might also be interested.

Funding

These types of projects do involve some costs beyond just staffing. The main ones would be participant incentives (\$20-\$50 for an interview; \$5-10 for the surveys depending on where you are doing the study), transcription services for the interviews (\$1 to \$1.50 per minute)¹ and possibly a fee to companies to administer the survey on your behalf (ranges depending on the number of cases and complexity of your sampling strategy).

Ensuring Safety of Research Participants

There are many ethical issues to consider when interviewing people about their experiences, especially victims of crime. In recruiting subjects, how do you ensure they do not feel coerced into participating, even if the study is technically voluntary? How do you make sure to protect their confidentiality at all stages of the research process? In explaining the study, how do you make sure they understand and are able to give informed consent? During the interview, how do you ask the questions in a way that does not trigger negative psychological responses and how do you deal with those moments? While the public opinion survey is less complicated in this regard, you still need to ensure that people know what the survey is, the types of questions that they will be asked and how you will protect their confidentiality.

Ideally, if you have partnered with a local university, you would go through their Institutional Review Board (IRB) to secure human subjects approval. If you are doing this internally or across agencies, you might look to see if any have a similar IRB and go through that one. It is important to go through those review processes to ensure that the research participants (especially the victims) are not further traumatized by participating in the interview. But if none of those options are available to you – please remember that at the very minimum, you need to explain clearly the following to any research participant:

- what the purpose of the study is
- how long it will take
- what information will be asked of them
- how the information will be used
- how their participation is completely voluntary and that they can opt out at any time
- how their confidentiality will be protected.

¹ You might be able to reduce this cost by using AI-generated transcription companies and/or having a smaller number of interviews that interns or students could transcribe as part of their projects.

Introducing the Data Collection Tools

There are two data collection protocols in this toolkit: an interview guide for victims and a public opinion survey about restitution. In this section, I offer some tips to think about how to administer them correctly and effectively.

Interviews with Victims

The attached interview guide is designed to take 45 minutes but could sometimes take longer, depending on the victims' stories and their desire to talk. While the first section does ask about the crime that they experienced, the interview is mainly designed to ask their experiences in seeking restitution or not for that crime. Three main points to reiterate to the participants are:

1

You will be asking some general questions about the crime but that the focus of the interview is on their experiences with restitution.

2

The person has a right to not answer any question if they prefer. They can also tell you to not use something they previously said.

3

The person can choose to stop the interview at any time.

Here are a few other issues to consider:

- A. Recruiting participants can take time: You should conduct a short screening to determine a person’s willingness and eligibility for the project. Willingness entails fully explaining the scope of the project so that they can understand what they would be asked to discuss in the interview and that the study is completely voluntary. Eligibility entails making sure they have had some experience in seeking restitution; if they have just started the process, it might be too soon to ask them to reflect on it (and also they haven’t finished the process yet).

- B. Protecting the participants’ confidentiality: interviewing victims requires a constant vigilance in protecting their confidentiality at all steps of the interview, including the initial screening. For example, when reaching out to potential participants, you should use general language like “I’m returning your call about the study” versus “I’m calling you about the study on victim experiences” until you are sure you are speaking to the intended participant in a private setting (e.g., not on speakerphone if there are other people who can hear your conversation). Doing the interview requires similar considerations: conducting it in a coffee shop may not be appropriate if other people can hear your conversation.

- C. Respecting their experience: As mentioned in the previous section, these interviews can be difficult for the person to do. You are asking them to relive a difficult time in their lives for which they still may be recovering. Just as with any delicate conversation you might have someone, pay attention to how they are responding to your questions, in what they say and what they don’t say, how they say it, and their body language (closed arms or averted eye contact). Check in with them at various points of the interview to see how they are doing, if they want to pause or stop or continue. Thank them throughout for doing the interview as well, encouraging them to share their story in the way they want to do so.

- D. Taking care of yourself: These interviews can also be hard on the interviewer to do. The amount of pain and cruelty that victims experience can be indescribable and beyond comprehension. If possible, do not schedule too many interviews in a row to allow yourself time to process each one. Take a short walk outside or call a loved one – anything to recenter yourself. If you are doing this project with others, make sure to debrief regularly with each other as a form of support as well.



Public Opinion Survey

This survey is designed to take 10 minutes to complete. Below are some tips:

A. Identifying your target sample: surveys are helpful to get a general snapshot of many peoples' opinions, versus the nuanced stories of a few obtained through interviews. But having a larger number of surveys (say 1000) compared to interviews (20) does not necessarily mean you have captured the sentiments of the entire community. You need to be strategic in how you administer the survey: whether it is to ask the opinions of a specific subgroup or the entire general population in your community.

Any social science researcher can assist with that step; if you are not working with one directly, you could seek out a consultant to advise you on this process. For example, at Arizona State University, there is a biostatistician center that charges an hourly rate for such services. There also might be a nonprofit justice research firm that would consider doing the same.

B. Changing the vignettes: the vignettes are written based on the experiences of victims I interviewed (2023)². So if you are doing interviews too, you might consider revising the vignettes based on those findings, using these three tips:

- Gender neutral names
- Simple sentences
- Short paragraphs

You could also offer different treatment options of the survey (if you can get a large enough sample size) based on factors of interest to you (e.g., the age and relationship to the victim of the person charged with the crime).

C. Pretesting: Even if you keep the survey tool as is, pretest it with a select group of people in your target sample. Get their feedback on these questions:

- 1) How long did it take you to complete it?
- 2) Was there any particular question that you found confusing? In what ways?
- 3) Were the vignettes too detailed? Or not detailed enough for you to answer the questions?
- 4) Did the vignettes appear different enough from each other?
- 5) Was there a topic and/or option to a question that you wished the survey asked but didn't?

² Paik, Leslie, Brittany Romanello, and Aaron Thompson. 2023. "Victim Experiences with Restitution and Compensation." https://thesanfordschool.asu.edu/sites/default/files/2023-11/Victim-Experiences-with-Restitution-Compensation_2023.pdf

Conclusion

This toolkit is meant to introduce two data collection tools that you could use to conduct your own feasibility study for restitution reform in your jurisdiction or community. The attached interview and survey guides were designed to help reveal the complexity of the restitution process, both from the perspectives of the people who are supposed to receive (e.g., victims) and from the people whose support can help to convince policymakers to pass any reform effort (e.g., public).

It is important to reiterate here that this toolkit only offers some general tips in administering those tools. It is not meant to be the only resource you use in undertaking such a project. Partnering with a local researcher who is familiar with interviewing and survey methods will help ensure you are addressing ethical concerns in interviewing victims and/or sampling issues to obtain usable survey data for analyses.

Another caveat here is a missing voice to this puzzle: the experiences of people charged with restitution. I have done that work in previous projects (2019)³ and found many organizational reasons for why they are not paying restitution largely related to poor communication, bureaucratic snafus, confusion, on top of the system assessing other (and often excessive) forms of legal debt. For a more complete picture of restitution reform, their voices also must be included (especially since in many instances, they have also been victims in other cases).

In conclusion, it is my hope that you find these data collection tools useful to inform your approaches to restitution reform to help make the process more effective and meaningful to all involved: the victims, people charged with restitution, and the broader community.

³ Paik, Leslie and Chiara Packard. 2019. "Impact of Juvenile Justice Fines and Fees on Family Life: Case Study in Dane County, WI." Philadelphia, PA: Juvenile Law Center.
<https://debtorsprison.jlc.org/documents/JLC-Debtors-Prison-dane-county.pdf>

Interview Protocol

1. Introductions and Demographic Information

- A. Reviewing consent script/confidentiality procedures
- B. Please tell me your age, gender, race

2. General Questions about Your Experience

Next, I am going to ask you a few questions about your experience as a victim. They are very general but please know that you do not have to answer any questions that make you feel uncomfortable. I am more interested in understanding how you feel about what should be done about it, versus what happened.

- A. What was the crime that happened to you?
- B. Do you know the age of the person who committed the crime?
- C. Do you know the person or his/her family?
- D. If you know, what was the offense(s) that the person got arrested for and/or charged for by the prosecutor?
- E. Did you experience physical injuries or emotional harm from the crime? Or any other negative impact?
- F. If you know, what happened in court?
 - 1. Did you feel you have a good understanding of what went on in court?
 - 2. Were you informed about what was going on in the case?
 - 3. If you were in the court, did you feel comfortable asking questions of the judge or other staff? If not, why?
 - 4. Did you feel you had a voice in what happened in the court? Did you have to testify in court?
 - 5. If there was a court decision, did you feel it was fair or unfair? Why?
- g. If you didn't decide to pursue a court case, can you explain why?

3. Victim Restitution/Compensation

A. Were you informed of the possibility of getting victim restitution and/or victim compensation?

1. If so, by whom and when?
2. What information was it (e.g., brochure, verbal instructions, document)
3. Did you feel they gave you enough information?

B. Did you file for this restitution and/or compensation? If so, for how much?

C. Did you receive those funds? When?

D. Did you feel the funds you got were enough to cover any costs associated with recovering from the crime?

1. If not, how much do you think you should have gotten?

E. If the person charged with your crime could not pay for restitution, how would you feel?

F. How would you feel about that person doing something besides paying into restitution (if they cannot pay)? Say if they wrote a letter of apology or did community service, would that be satisfactory to you?

G. How else could the person make amends for what they did?

4. Closing Questions

A. Do you have any questions for me? If not, thank you!

Restitution Survey

This survey is about restitution, or money that a court orders a person to pay a victim for the harm they caused. Restitution is meant to help the victim(s) heal, cover expenses related to the crime, and make amends.

The survey will first ask some general questions about the criminal justice system and restitution. It then will present three vignettes about restitution. Everything will be completely confidential.

Part 1: General Questions about Criminal Justice

1. How would you categorize the criminal justice system in the US?

- Highly effective, needs no reform
- Mostly effective, needs some reform
- Mostly ineffective, needs a lot of reform
- Highly ineffective, needs to be entirely reformed
- Unsure

2. To what extent do you agree or disagree with the following statement?

The US criminal justice system treats everyone fairly, regardless of race, gender or socioeconomic status.

- Strongly agree
- Agree
- Neither agree or disagree
- Disagree
- Strongly disagree

3. Have you ever been a victim of a crime?

- Yes
- No
- Prefer not to say

4. If yes to question 3, have you requested any financial restitution?

- Yes
- No
- Do not remember

5. If yes to question 4, have you received any financial restitution?

- Yes, received full amount
- Yes, received partial amount
- No
- Prefer not to say
- Do not remember

6. Have you ever been arrested for a crime?

- Yes
- No
- Prefer not to say

7. If yes to question 6, have you ever been ordered to pay restitution for that crime?

- Yes
- No
- Do not remember

8. If yes to question 7, have you paid the restitution?

- Yes, fully paid
- Yes, partially paid
- No
- Prefer not to say
- Do not remember

Part 2: General Views of Restitution

Now we'll ask you some questions about your opinions on restitution. Again, restitution is money that a court orders a person to pay a victim for the harm they caused. It is meant to help the victim(s) heal, cover expenses related to the crime, and make amends. There are two types:

1. **Direct restitution**: person who commits crime pays the victims for their losses
2. **Indirect restitution**: the government compensates victims for some of their losses, such as medical expenses and lost wages.

For the following questions, we are asking only about restitution for situations where the victim is an individual experiencing a crime committed by another person, NOT cases involving businesses, corporations or state entities.

1. What do you think victims should be compensated for? (Select all that apply)

- Medical expenses
- Dental expenses
- Property damage/loss
- Rehabilitation services
- Lost income
- Funeral costs
- Legal fees
- Counseling services
- Other: _____

2. What aspect of restitution do you consider to be the **most** important? (Rank in order of importance, with 1 being the most important and 4 being the least important):

- Repair harm caused to victim
- Have person who committed the crime make amends to victim
- Hold person who committed the crime accountable for the crime they committed
- Keep community safe
- Other: _____

3. Is there another goal of restitution not mentioned in the previous question that you feel is important?

- Yes: _____
- No

4. States have victim compensation funds to reimburse victims for some expenses. Which of the following sources should be used to fund those programs? (Select all that apply)

- Existing state funds (e.g., general funds)
- New state funds (e.g., new tax or bond)
- People convicted of **any** crime (e.g., through court-imposed fees that are separate from restitution)
- People convicted of crimes **only involving victims** (e.g., through court-imposed fees that are separate from restitution)
- Other: _____
- None of the above

5. If there was a government-funded restitution program for victim expenses (separate from victim compensation), would you support either of these measures to ensure that the funding doesn't run out every year?

- Limit the amount that victims could get in total, even if it is less than their actual expenses.
- Limit the amount that victims could get per year; renewable every year until their total expenses are paid
- Both of these
- Neither of these (please explain): _____
- No opinion/not sure

6. If you were a victim seeking restitution, which source of funds would be more meaningful for your healing?

- Directly from the person who committed the crime against you
- From a state victim compensation or restitution fund
- Whichever source (person or state fund) pays faster
- Not sure/No opinion

In many cases, victims do not receive the court-ordered restitution (or it takes years to receive the funds and/or is only partially paid). If the people who committed a crime cannot afford to pay that restitution, it is often due to having insufficient employment/assets; it is NOT because the people do not want to pay or are trying to avoid paying it. The following non-financial forms of restitution are currently offered by some courts:

- **Community service**
- **Letter of apology**
- **Self-improvement activity (educational class, counseling, job application)**
- **Meeting with victim (only if both parties agree and with a trained facilitator to discuss harms that victim experienced and ways the person could take accountability)**

Given that context, please answer the following two questions:

7. If the person convicted of a crime cannot afford to pay the restitution, what other forms of restitution would **you** find acceptable? (Select all that apply)

- Community service
- Verbal or written apology
- Self-improvement activities (educational class, counseling, job application)
- Meeting with victim
- Other: _____

8. Which of the following crimes do you believe non-financial forms of restitution would be acceptable, if the person convicted of the crime cannot pay? (Select all that apply)

- Property crime
- Financial crime
- Other nonviolent crime (e.g., car theft)
- Personal injury
- Domestic violence/sexual violence
- Other violent crime (e.g., robbery)
- Any crimes committed by youths
- None of the above

Part 3: Specific Scenarios for Restitution

Now we'll present you with three different scenarios involving people who have committed crimes against other people. As a reminder, restitution is money that a court orders a person to pay a victim for the harm they caused. It is meant to help the victim(s) heal, cover expenses related to the crime, and make amends. But many of the people who commit the crimes cannot afford to pay the restitution, leading victims to not get the restitution, or only get partial or delayed restitution. In each scenario, we'll ask about your support for non-financial restitution, assuming the person cannot pay the restitution.

Scenario A: While Jay was out of town for a work trip, a group of burglars broke into Jay's home and stole \$4,000 worth of merchandise (that amount includes an estimate for an irreplaceable family heirloom, a wedding ring of Jay's grandmother). Only one person, Shawn, was arrested after trying to sell one of Jay's pieces of art. The court sentenced Shawn to 2 years in prison; the court also ordered Shawn to pay \$4000 in restitution and an additional \$2,000 in court fees and criminal fines. Jay no longer feels safe in the house, constantly watching out for unfamiliar people and cars outside the house.

1. How would you rate your level of support for **non-financial** restitution in this situation if Shawn cannot pay the restitution? (Circle one)

1	2	3	4	5
Strongly support	Support	Neutral	Against	Strongly against

2. Which, if any, of these non-financial restitution options would be most appropriate in this case? (Select all that apply)

- Community service
- Letter of apology
- Self-improvement activity (educational class, counseling, job application)
- Meeting with victim (only if both parties agree and with a trained facilitator to discuss harms that victim experienced and ways the person could take accountability)
- None of the above
- Other: _____

Scenario B: Casey stole Jordan’s car one night. The court ordered Casey to serve 3 years on probation, as well as to pay restitution for the damages to Jordan’s car (\$3000) and \$2000 in criminal fines and court fees. Jordan has had to rely on public transportation and paid rideshares as the car was not drivable, all while still having to pay monthly insurance fees. Jordan also had to pay fees to get the car out of the tow yard where the police took it after finding it a month after it was stolen. At this point, Jordan is unable to afford to fix the car.

1. How would you rate your level of support for **non-financial** restitution in this situation if Casey cannot pay the restitution? (Circle one)

1	2	3	4	5
Strongly support	Support	Neutral	Against	Strongly against

2. Which, if any, of these non-financial restitution options would be most appropriate in this case? (Select all that apply)

- Community service
- Letter of apology
- Self-improvement activity (educational class, counseling, job application)
- Meeting with victim (only if both parties agree and with a trained facilitator to discuss harms that victim experienced and ways the person could take accountability)
- None of the above
- Other: _____

Scenario C: Dani was physically assaulted by Charlie. Dani had to spend two nights in the hospital due to a concussion and broken arm. The court sentenced Charlie to 1 year in prison and ordered Charlie to pay \$3000 in restitution for Dani's medical and counseling fees and \$3000 in criminal fines and court fees. Due to ongoing psychological trauma and chronic physical injuries from the incident, Dani has spent an additional \$2,000 on counseling and medical treatment that is not part of the court-ordered restitution. Dani has become distant from friends and family since the incident. Dani may not be able to continue to afford counseling while also trying to make ends meet.

1. How would you rate your level of support for **non-financial** restitution in this situation if Charlie cannot pay the restitution? (Circle one)

1	2	3	4	5
Strongly support	Support	Neutral	Against	Strongly against

2. Which, if any, of these non-financial restitution options would be most appropriate in this case? (Select all that apply)

- Community service
- Letter of apology
- Self-improvement activity (educational class, counseling, job application)
- Meeting with victim (only if both parties agree and with a trained facilitator to discuss harms that victim experienced and ways the person could take accountability)
- None of the above
- Other: _____

Thank you for completing this survey!