



DEPARTMENT OF JUSTICE

Restitution Research Overview

**National Victims of Crime Awareness Week
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This overview of research will cover:

- 1) Restitution in the *Criminal Code*
- 2) Restitution data available from Statistics Canada
- 3) Overview of research





Restitution in the *Criminal Code*

- Under the *Criminal Code*, a judge can currently order an offender to pay the costs of any easy-to-calculate financial losses up to the date of sentencing, but not for any future losses. A judge can order restitution for financial losses related to:
 - Damaged or lost property due to the crime;
 - Physical injury or psychological harm due to the crime;
 - Physical injury due to the arrest or attempted arrest of the offender;
 - Costs for temporary housing, food, childcare and transportation due to moving out of the offender's household (this only applies if a victim has moved because they had been physically harmed or threatened with physical harm due to the offence, arrest, or attempted arrest of the offender); and,
 - Costs incurred by a victim of identity theft to re-establish their identity, and to correct their credit history and their credit rating.

- Different types of restitution orders - Stand-alone, as a condition of a probation order, as a condition of a conditional sentence



Victims Bill of Rights – The Right to Restitution

The *Canadian Victims Bill of Rights* would create a right for a victim to have the court consider making a restitution order against the offender and, where that order is not paid, to have that order enforced as a civil debt. Legislative amendments to the *Criminal Code* include:

- Court would be required to:
 - consider imposing a restitution order in all cases;
 - inquire if victim is seeking restitution, and if not, Court could adjourn;
 - provide reasons when restitution is not ordered.
 - Offender's ability to pay is not determinative in making order.
 - New standardized form.
 - The Court can:
 - order a payment schedule;
 - make the order payable to multiple victims and designate priority between these victims.
 - Provinces and territories can designate a public body to assist in the collection of restitution orders.
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Total National Guilty Cases and Restitution Orders, 1997/98-2011/12

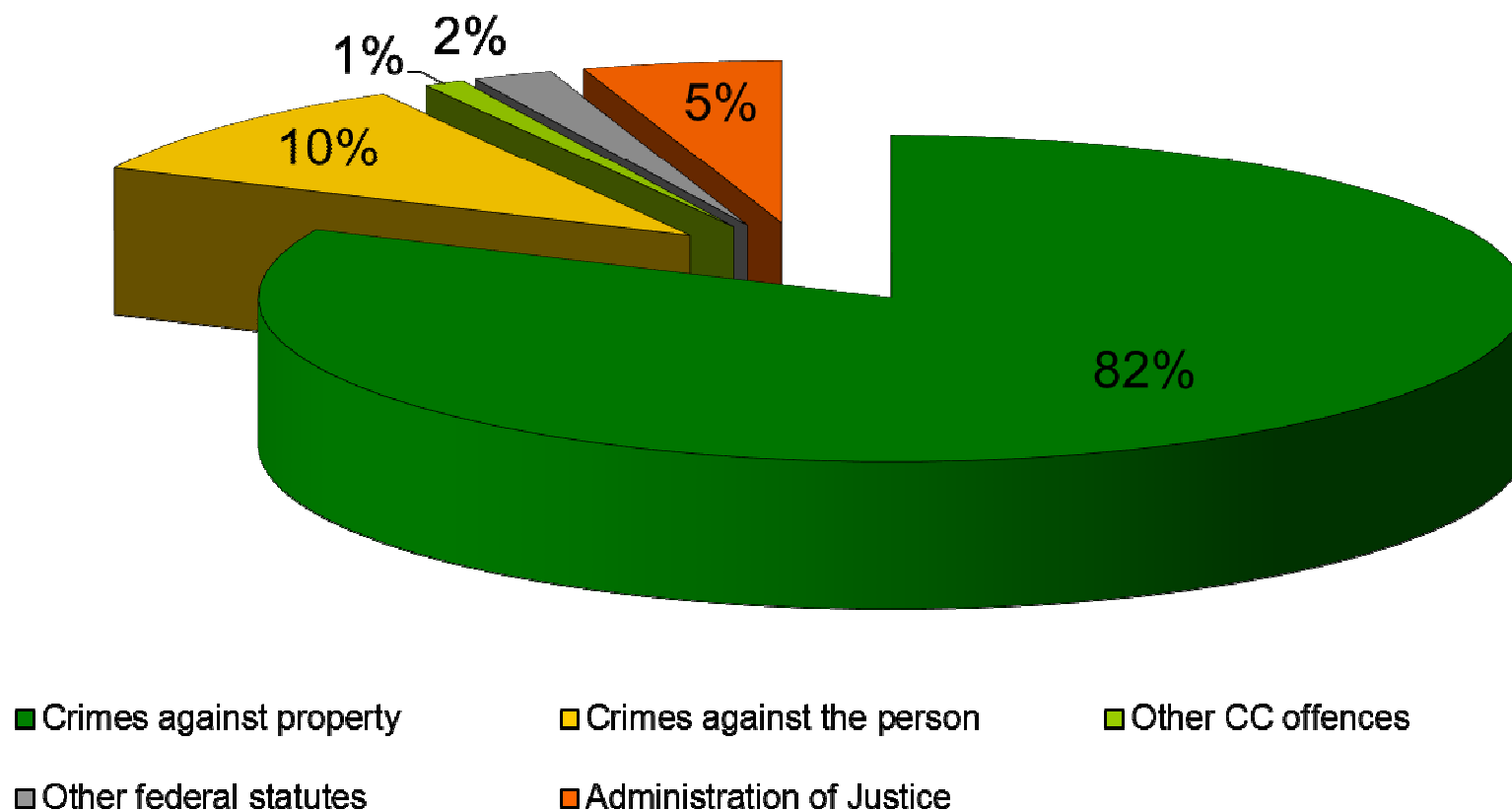
Fiscal year	Total guilty (Total offences excluding traffic)	Total Restitution Orders	% receiving restitution orders
2011/2012	135,331	5,533	4.09%
2010/2011	142,006	6,176	4.35%
2009/2010	148,086	6,261	4.23%
2008/2009	147,834	6,277	4.25%
2007/2008	144,336	6,389	4.43%
2006/2007	141,799	6,488	4.58%
2005/2006	142,063	7,316	5.15%
2004/2005	143,116	8,134	5.68%
2003/2004	138,086	8,255	5.98%
2002/2003	145,493	8,777	6.03%
2001/2002	142,302	8,854	6.22%
2000/2001	137,918	8,237	5.97%
1999/2000	137,116	9,095	6.63%
1998/1999	142,459	9,503	6.67%
1997/1998	146,032	10,250	7.02%

Source: Adult Criminal Court Survey (ACCS), Canadian Centre for Justice Statistics (CCJS), Custom tabulation prepared by Department of Justice. Eight jurisdictions are included: NL, PE, NS, QC, ON, SK, AB, and YK. These eight provinces and territories have reported to the adult component of the Integrated Criminal Court Survey (ICCS) since 1994/1995.





National Total Restitution Orders by Offence Category, 2011/12



N=6,163

Source: Adult Criminal Court Survey (ACCS), Canadian Centre for Justice Statistics (CCJS), Custom tabulation prepared by Department of Justice.





Restitution Ordered in Fraud Cases, 2010/11

Jurisdiction	# of Guilty Fraud	# of Rest Orders	% of Fraud Cases where Restitution Ordered
Newfoundland and Labrador	145	33	23%
Prince Edward Island	34	12	35%
Nova Scotia	174	76	44%
New Brunswick	187	14	7%
Quebec	1,885	34	2%
Ontario	3,398	757	22%
Manitoba	140	0	0%
Saskatchewan	324	162	50%
Alberta	1,003	195	19%
British Columbia	791	106	13%
Yukon	8	1	13%
Northwest Territories	8	0	0%
Nunavut	4	1	25%
Total	8,101	1,391	17%

Source: Adult Criminal Court Survey (ACCS), Canadian Centre for Justice Statistics (CCJS), Custom tabulation prepared by Department of Justice.





US Research

- **“Victim Restitution: A Review of the Literature” (Sims 2000)**
 - The paper examines both adult and youth restitution programs as well as restorative justice programs, looking at: a history of victim restitution in the US; problems with restitution programs; and, components of successful restitution programs.
 - Key Components of Success include:
 - ♦ A consideration of offenders’ ability and willingness to pay;
 - ♦ A formal program for the administering of restitution orders;
 - ♦ Communication among all agencies involved in the ordering and collecting of restitution
 - ♦ An effective means of ensuring compliance with restitution orders, usually accomplished by strict attention to enforcement procedures and process.
 - **“The Miracle of the Cells: An Experimental Study of Interventions to Increase Payment of Court-Ordered Financial Obligations” (Weisburd et al. 2008)**
 - Probationers assigned to a program designed to increase payment of fine and restitution sanctions through a combination of intensive probation, community service, and threats of probation revocation and incarceration were more likely to fulfill their obligations than those assigned to regular probation.
 - The outcomes of one treatment group indicate the main cause of fine payment was the deterrent effect of possible incarceration.
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Canadian Empirical Research

Nova Scotia Study (2002)

- Barriers identified with respect to accessibility of restitution orders

Multi-Site Study (2005) http://www.justice.gc.ca/eng/rp-pr/cj-jp/victim/rr05_vic1/index.html

- Spoke to criminal justice professionals, victims, advocacy groups

Awareness Study (2010) <http://www.justice.gc.ca/eng/rp-pr/cj-jp/victim/rd4-rr4/index.html>

- 45% of Canadians surveyed had no knowledge at all about restitution

Criminal Justice Professional Study (2013)

- “How familiar would you say you are with restitution?”

47% Police, 76% Crown, 55% Victim Services responded 4&5 on a scale of 1-5



Restitution Research in Saskatchewan – Key Learnings

Restitution is most successful for victims and offenders when there is/are:

- 1) At imposition, a consideration of offenders' ability and willingness to pay;
- 2) A formal program for the administering of restitution orders;
- 3) Communication among all agencies involved in the ordering and collecting of restitution;
- 4) Different ways to address the information and assistance needs of victims.

Restitution Civil Enforcement Program

Strengths:

- ♦ Coordination between branches and institutions
- ♦ Limited resources are required to administer the program
- ♦ Offering services to individuals in remote and rural communities

Weaknesses:

- ♦ Program uptake/Contacting victims
- ♦ Limited information/outreach activities
- ♦ Limited documentation



For more information

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