

PROMISING PRACTICES IN COMMUNITY JUSTICE: RESTORATIVE JUSTICE

Kay Pranis

Restorative Justice Planner
Minnesota Department of Corrections

Community-based and restorative-minded practices serve to remove the insulation between the system and the public in a meaningful way. They directly involve the public. These practices seek to restore the harmony at the community level. They may even access the community's resources to bring about restorative changes. Most importantly, the process goal is not to bring the community to the justice system, but to bring the justice system to the community.

Mark Carey, 1997

WHAT EXACTLY IS RESTORATIVE JUSTICE?

Restorative justice is creating a space in which criminal justice professionals and community members can affirm values of universal human dignity and mutual responsibility - a space in which caring and accountability go hand in hand. The system and communities are learning to talk together and work together to find ways to respond to crime that focus resources on repairing harm and strengthening community bonds for all members, including victims and offenders.

If chosen as the vision for an agency, jurisdiction or community, restorative justice becomes the guiding framework providing direction to every aspect of the work of probation and parole. The values and principles of restorative justice set parameters within which all actions and processes are assessed including case planning, program implementation, hiring, performance evaluation, priorities for practice, and resource allocation.

Relationship between Community Justice and Restorative Justice

There is a great deal of overlap between current conceptualizations of restorative justice and community justice, but the concepts are not interchangeable in their present usage. Restorative justice is a value-based approach. All activities and decisions are guided by a set of values and these values pertain in all circumstances - in the community, in facilities, everywhere. Among its values are the resolution of harm in the community and community responsibility for all its members, both of which require community involvement. Consequently, restorative justice depends upon and promotes community empowerment and community development.

Community justice also values community involvement and the community as the location of processes but does not always hold as its goal repair of the harm and promotion of healing for all. Justice in the community can be restorative, but it also can be retributive. Historically, many forms of community justice were outrageous. Even today, many justice efforts labeled "community" are isolating, alienating, intended to inflict pain or get even, or to drive undesirables out of the

community, and may give no voice to the victim or the offender in the process. Interventions intended to be humiliating and punitive do not comply with restorative values, which call for respectful treatment of everyone and a focus on healing.

Values matter. Intent matters. Restorative justice is clear about values and intent. Community justice may sometimes share those values but does not preclude values or intent which are incompatible with restorative values. The term "community justice" as currently used does not clearly define what values will guide decisions and activities.

Restorative justice sets out a clear set of values and a vision for how we respond to harmful behavior. These values provide affirmative direction for strategies maximizing the opportunity to learn and to strengthen relationships. Values also limit what strategies can be used, and they set priorities among competing demands. For example, the restorative value related to repairing harm to the victim prioritizes restitution over financial obligations to the state. Among the principles of restorative justice is one which says that those affected by the event should have a voice in crafting a resolution. Since every crime has an impact the community as a whole, that principle clearly establishes community participation as a key element of a restorative approach.

Greater community involvement in the justice process is clearly a goal of community justice as well. But what values should guide community involvement and community decision making in the justice process? Restorative justice is a values based approach to shaping our response to crime, which is highly compatible with the goal of greater community involvement, access and responsibility in the response to crime. Community justice based on restorative values directs community involvement toward efforts that strengthen the community fabric and build relationships based on a vision of a caring, self-regulating, and self-healing community.

Concepts Of Restorative Justice

Dan Van Ness and Karen Heeterdicks Strong (1997) summarize restorative justice with this statement: "Crime is a wound, justice is healing." Howard Zehr and Harry Milka (1997) developed the following outline of the concepts of restorative justice.

1. Crime is fundamentally a violation of people and interpersonal relationships.
 - 1.1 Victims and the community have been harmed and need restoration.
 - 1.2 Victims, offenders, and the affected communities are the key stakeholders in justice.
2. Violations create obligations and liabilities
 - 2.1 Offenders' obligations are to make things right as much as possible.
 - 2.2 The community's obligations are to victims and to offenders and for the general welfare of its members.
3. Restorative justice seeks to heal and put right the wrongs

3.1 The needs of victims for information, validation, vindication, restitution, testimony, safety, and support are the starting points of justice.

3.2 The process of justice maximizes opportunities for exchange of information, participation, dialogue, and mutual consent between victim and offender.

3.3 Offenders' needs and competencies are addressed.

3.4 The justice process belongs to the community.

3.5 Justice is mindful of the outcomes, intended and unintended, of its responses to crime and victimization.

Restorative justice is about relationships - the way relationships are harmed by crime and the power of relationships to promote recovery and healing for all in the wake of crime. Restorative justice is characterized by honoring individual human dignity, respecting relationships, promoting healing for all, allowing those most affected to have a voice in decision making, and focusing on problem solving for a good path forward.

Restorative justice is not a program or a specific set of programs, it is a way of thinking about how to approach the problem of responding to crime, a set of values that guides decisions on policy, programs, and practice. Restorative justice is based on a redefinition of crime as injury to the victim and community, rather than as an affront to the power of the state. The primary purpose of the criminal justice system in the restorative framework is to repair the harm of the crime to the degree possible. Victim involvement or perspective (through surrogate victims or advocates when a victim does not wish to participate) is essential to define the harm of the crime and to identify how the harm might be repaired.

Restorative justice prioritizes support for victims, opportunities for victim input, offender understanding of the human harm of the behavior, offender involvement in repairing the harm where possible, and community involvement in all aspects of resolving a criminal incident.

Restorative justice also assumes that communities are responsible for their members and that community health depends upon constructive responses to crime which increase mutual interdependence and mutual responsibility. Restorative justice provides an approach which refocuses our attention on community and our mutual responsibility to one another while communicating clear limits on behavior.

FORCES FOR CHANGE

The central ideas of restorative justice are not new. They are in fact quite ancient. Throughout most of recorded human history, across many cultures, the response wrong doing in a community focused on restitution or repair of the harm of the offense. The modern legal system, however, focuses on symbolic punishment on behalf of the state, rather than on accountability targeted toward repair of the harm.

Several forces have converged to give momentum to the interest in restorative justice. In the past twenty years the victims' movement has increased awareness of the shortcomings of the modern criminal process for victims. From a victim

perspective, the structure of the criminal process makes no sense. Why is it a crime against the state? Why are obligations to the state often prioritized over obligations to the victim? Why does the process so often overlook the victim? Victim perspective has raised some very fundamental questions about underlying assumptions of the criminal justice system.

At the same time, there has been increasing public frustration that the resources spent in the criminal justice system are not producing the results expected. The public has lost confidence in the ability of the criminal justice system to produce justice or safety in the community. Dissatisfaction is giving rise to an interest in new ways of approaching the problem.

The feminist movement raised challenges to the very conceptualization of justice. The modern legal system is based on a rights/rules model of justice in which justice is codified by rules and regulations and expressed through a hierarchy of power based on an objective logic. A feminist perspective proposes an understanding of justice based on a care/response model which is characterized by attention to the network of relationships and mutuality based on the context of the situation and is more compatible with restorative justice than with current practice.

Increased awareness of cultural differences and a newly awakened respect for indigenous cultures and their processes of justice also contributed to the growth of interest in restorative justice. Key models which fit restorative values have emerged from indigenous practices.

Supportive Trends In Probation and Parole

Certain practices within probation and parole provide a natural foundation for building a restorative response. The past 20 years have witnessed an increased emphasis on restitution and community service and increased contact by probation and parole agents with victims for input into the process. The community corrections movement emphasized the importance of community involvement and the need to reconnect the offender with the community. Restorative justice builds naturally on those trends within probation and parole. Many probation and parole agents have been individually guided by similar values in their work. Restorative justice is providing a common language and a comprehensive framework which give legitimacy and coherence to the innovative work of these probation and parole agents.

Next Step In the Evolution

Though restorative justice builds naturally on the community corrections movement-it requires pushing our understanding of the relationship between the community and the justice system to a new level.

Restorative justice takes several of the concepts of the community corrections movement one step further. The community corrections movement in the 1970s was based on three key ideas (Pranis 1997, p. 36):

- Corrections should attend to the relationship between the offender and the community.
- The community should assist in the work with the offender.

- This approach should be used with property offenders. Under the restorative justice philosophy those three ideas have evolved to the following:
 - The criminal justice system should attend to all of the broken relationships between
 - the offender and the community,
 - the victim and the community, and
 - the victim and the offender.
 - The community should be the leader in the resolution of the criminal incident - not just a helper.
 - The philosophy of repairing harm and attending to victims should apply to all offenses.

The understanding of the relationship between community and the justice system in contemporary criminal justice has undergone significant change and continues to evolve (Pranis, 1997, p. 36 - 37). Typically this relationship can be identified in one of five levels:

Level One: Justice system operates independently of the community

- Expert model, "We (the justice system) have the answers."
- Community contact is a nuisance and gets in the way of the real work:
- Professional system defines and solves the problem.

Level Two: Justice system provides more information to the community about its activities

- Expert model, "We (the justice system) have the answers."
- The community is viewed as a client with a right to know what the professional system is doing.
- Professionals define and solve the problems but keep the community informed about what they do.

Level Three: Justice system provides information to the community about its activities and asks for intelligence information from the community to help do its work

- Expert model: "We (the justice system) have the answers."
- The community is viewed as a client and as a good source of information for the expert work.
- Professional system defines the problem and solves the problem with useful information provided by the community.

Level Four: Justice system asks for guidance, recognizes a need for community help, and places more activities in the community

- Modifies expert model: Experts provide leadership, but the contribution of the community is valued.
- The community is cooperative, but the justice system still leads.
- The community is asked to help define problems but the justice system is still chief problem solver, with help from the community.

Level Five: Justice system follows community leadership while monitoring community process

- Experts are support systems.
- The justice system supports the community in achieving community goals while protecting rights of individuals and ensuring fairness.
- The community defines and solves problems with help from the justice system.

Good community corrections programs have generally operated at level four. Several models emerging in the restorative justice framework, such as circle sentencing, operate at level five.

Importance Of Community Involvement

Crime is, in fact, a community problem - not just a system problem. In the past 20 to 30 years, there has been the tendency to send community problems to professional systems and wait for professionals to fix the problem. It turns out that it does not work. Communities must be intimately involved in solving their own problems - with the help of professionals, but with a much greater community hand in shaping and implementing solutions.

The criminal justice system cannot deliver improved public safety without the active involvement of the community. The community has tools that the system does not have. The community has resources that the system does not have. The community has power that the system does not have. Criminal justice activity needs to be built around a core of community activity.

The criminal justice system can exercise enormous power over the bodies of offenders, but it is relatively powerless in affecting the minds and hearts of offenders. The behavior change wanted from offenders comes primarily from the heart and mind. Communities do have significant power to change the hearts and minds of offenders. Communities influence the behavior of their members through caring and setting limits.

The community is the source of moral authority. The criminal justice system exercises legal authority. Moral authority is grounded in the power of personal connection and a sense of common fate, in mutual commitment to resolution, to finding harmony. Moral authority is rooted in relationships not in statute books. Legal authority that is not clearly grounded in the community's moral authority, as demonstrated by active community involvement, is hollow and ineffective.

RESTORATIVE JUSTICE: THE SCOPE

If the role of the criminal justice system is to facilitate repair of the harm of crime where possible and to organize interventions of support for victims and support and accountability for offenders which strengthen communities, then restorative values and principles need to be applied to all kinds of crime.

Restorative justice is more concerned with asking the right questions and involving the affected parties in answering those questions, rather than having the right answers to the justice system. Key questions posed by restorative values include the following:

- How can we support the victim and bind up the wounds?
- How can we increase the opportunity for victim involvement in defining harm and potential repair?
- How can we increase offender awareness of injury to the victim?
- How can we encourage offender acknowledgment of wrongness of behavior?
- How can we involve the offender in repairing the harm?
- How can we acknowledge victim harm and confirm that the victim is not responsible for what happened?
- How can the community send messages of disapproval while not banishing offenders?
- How can the community provide opportunities for the offender to repair the harm?
- How can the community be involved in the process of holding offenders accountable?
- How can we ensure that the offender leaves the system more competent to function effectively in the community?

How can we increase connections between the offender and conventional community members? These questions are clearly applicable for all kinds of offenses. For what kinds of crimes would services and support for victims be provided? For what kinds of crimes would offenders understanding the way in which their behavior-harmed human beings not be desired? For what kinds of crimes would the community want to be involved? These questions seem relevant and productive for every kind of harmful act. Consequently, restorative values and goals apply to all crimes.

However, no specific restorative process or program is appropriate for all kinds of cases. Some cases are not appropriate for any form of face-to-face contact between the victim and the offender. Some cases are not appropriate for allowing the offender free movement in the community. For example, in cases of violent predatory behavior, part of the harm of the crime is the damage to the sense of safety in the community. It is not possible to repair the community fabric if violent predators are free in the community. To repair the community fabric violent predators need to be restricted, which generally requires secure custody. Nonetheless, the offender remains a member of the community and the community retains responsibility for staying in relationship with the offender and attending to the welfare of that offender. The purpose of custody is not punishment, but safety. Restorative values can still be applied in the way secure custody is carried out.

Moving Toward A Restorative Vision

Restorative justice involves shared leadership, shared decision making and collaborative problem solving that includes all stakeholders. Consequently, there can be no blueprint for creating a restorative system. All stakeholders working together in an inclusive, respectful process must create the path. Restorative justice is not a program or a cluster of programs. It is a way of working with victims,

offenders, and communities to achieve the goal of repairing the harm to the degree possible.

Change toward a more restorative system occurs at multiple levels. The individual probation officer changes practice, the probation organization changes organizational structure and policy, and the community changes its relationships and involvement. These changes all interact with one another. It is a messy and unpredictable process that requires continual communication among participants and frequent checking against the larger vision. Shared vision is absolutely essential to ensure that all activities and processes at the various levels and in various sectors are mutually reinforcing and synergistic.

Directed Change

In some places, this change process may proceed in a directed fashion with a comprehensive plan and a well-defined step-by-step process. The development of the Reporative Board program in Vermont is a good example. The process was led by the Vermont Department of Corrections and began with market research about community expectations and desires and data analysis of current practice and resource allocation. Based on that information, a new practice - reparative panels - was designed to involve community members and reduce the use of unfocused probation supervision for low level offenders. New roles were created for the professionals who would work with the community panels. The new model was tried in a few pilot sites. After testing, the model was implemented statewide.

The reparative panel model was created by the Department of Corrections and was implemented unilaterally. However, its success depends upon cooperation of prosecutors, defense bar, judges, and community volunteers. Those players were engaged at the implementation stage and have had varying degrees of commitment to the process. Though the community was not directly involved in creating the reparative model, the community has received it very well. The reparative board model continues to change as it expands and as it incorporates learning from other restorative practices and models. For example, the original plan did not involve victim participation in the panel process. Upon examination of other models, the Department of Corrections began encouraging local boards to involve victims in their process. Though the Department of Corrections created the model, a significant amount of autonomy has been given to local boards.

The Vermont experience is an example of a linear, top-down process that intentionally moved toward sharing power, giving communities real decision-making authority concerning obligations of offenders. But the process is never as orderly as it appears on paper. While the Vermont Department of Corrections has created a significant shift in the role of the community and its relationship to corrections across the entire state, the outcomes do not always fit the vision held by the Department. Some of the boards operate more like parole boards, sitting in judgment on others, than like community peers engaged in problem solving with one of their own members. Other boards have incorporated more restorative values as they discover new possibilities.

This process has been dependent upon leadership from the top and extra outside

resources through grants. Its advantages include a clear path for implementation, clear expectations, faster dissemination of a particular program, and systemic impact within corrections.

Guided Change

In some locations, movement toward a more restorative approach has been guided by a vision but without a specific action plan or directed process. Change in Minnesota is largely characterized by this approach. The Department of Corrections has provided a position to support change across the state in multiple sectors of the community, but has not attempted to implement any particular program or chart a particular sequence of actions toward restorative justice. Consequently, restorative approaches have developed in a piecemeal fashion in schools, neighborhoods, police departments, prosecutors' offices, courts, probation, juvenile facilities, and prisons, based on local interest and energy. General education is provided on the broad philosophical framework and on multiple examples of restorative practices. Local initiatives, then, often develop a customized approach, drawing on one or more of the practice models. No program or practice has been implemented statewide; but a wide variety of approaches are being tried in many different settings, and strong local ownership characterizes them because they are locally designed.

This approach depends less upon leadership from the top, involved no new legislation and no major grant funds. It is more difficult to monitor and document impact. It also is more difficult to project the future path of this effort. This approach, however, is more responsive to unexpected opportunity.

Leadership For Change

Leadership for change can come from a variety of directions. Leadership can come from a judge, probation staff, law enforcement, community groups, a prosecutor, a victim advocate, or the faith community. Initial steps may come from management or line staff. Wherever the effort begins, it is important to expand to the key stakeholders (victim, offender, community, and other parts of the criminal and juvenile justice system) as soon as possible. Outreach to key stakeholders may begin with education, information, and an invitation to participate in planning and development.

RESTORATIVE PRACTICES

Different priorities in a restorative approach lead to emphasis on practices which increase victim input, community involvement, offender awareness of the injury to the victim, community and themselves, and relationship building. In a restorative approach, every intervention of the system is assessed for its impact on community strength. Does the intervention leave the community stronger than it was before the crime happened?

Processes which strengthen community are those which:

- create new positive relationships or strengthen existing relationships,

- increase community skills in problem solving or conflict resolution,
- increase the community sense of capacity and efficacy in addressing problems - the self confidence of the community,
- increase individual awareness of and commitment to the common good, and
- create informal support systems or safety nets for victims or offenders.

Emerging And Expanding Practices

Several specific, structured programs or practices that address the priorities of restorative approach are emerging or expanding into mainstream practice. The include

- victim offender mediation,
- family group conferencing,
- community panels or boards,
- peacemaking or sentencing circles,
- victim impact panels, and
- victim impact classes.

Detailed descriptions of each of these practices may be found later in this chapter.

Traditional Practices

Two very common traditional practices, which make a significant contribution to restorative outcomes if implemented in a restorative fashion, are restitution and community service.

In a restorative system, restitution has a very high priority because it is one of the most direct and visible ways to repair the harm of the offense to the victim. To increase the likelihood of payment, restitution can be supported with work opportunities, careful tracking and reporting, and a clear message from the criminal and juvenile justice system about the importance of repaying the victim. Restitution determined in a face-to-face process between the victim and offender has a high probability of being paid. Many offenders consider all payments to the court to be for the court. It is important to make a concrete connection for the offender between the payments and repairing harm to the victim. In a restorative system restitution clearly takes priority over other financial obligations to the court.

Community service has great potential to achieve restorative outcomes, but it is unlikely to be restorative if not guided by values of respect and dignity and the importance of assigning work which is valued by the community. If the intent of requiring community service is to make amends to the community, the offender's experience will be quite different than if the intent of the community service is to make the offender suffer or to humiliate the offender. To be effective as a way to create a new positive relationship with the community, it is important for the offender to understand acceptance in the community as a possible outcome of his/her efforts. Potential restorative outcomes of community service:

- Provide an opportunity for the offender to make amends to the community.
- Add value to the community through the work contribution of the offender.
- Place the offender in a position where the community can see that person's capacity to contribute. Changes the community's perception of the potential of the offender.
- Increase the offender's investment in the community. The more invested community members are, the less likely they are to cause harm.
- Develop work skills for the offender.
- Provide positive role for the offender.
- Create relationships which strengthen the fabric of the community.

Community and victim input in choosing work projects for community service can increase the restorative impact. Celebrating completion of community service and providing feedback to offenders about the benefit of the service to the community also can increase the positive impact. Community work service projects, which involve ordinary community members working side by side with offenders, are particularly effective.

There are important lessons from the community service learning experience in schools that could be applied to community service in probation. Community service learning practitioners emphasize the importance of a reflection component to maximize the learning potential of the experience. The potential impact of community service may be increased by asking offenders to reflect on why they are doing community service and what difference the service makes to themselves and the community.

Mutual responsibility between individual and community is the loom on which the fabric of community is woven. Crime represents a failure of responsibility -- sometimes only on one side, but often on both. Our response to crime needs to emphasize and reestablish mutual responsibility. Restorative community service creates the opportunity to reestablish mutual responsibility between the offender and community.

Weaving Restorative Values Into Daily Practice

Creating a restorative system requires more than programs. It is the cumulative effect of hundreds of small acts on a daily basis. It requires reexamining all activities and interactions from a restorative perspective. Do existing practices ignore the harm caused by the offender to others by focusing just on the offender's needs or on punishment? Do probation staffs understand the full impact of victimization so that they can communicate that to the offender? Are probation staffs trained to respond to victim contacts in a sensitive way? Do probation staffs engage the support community of the offender in managing the offender's behavior? When concerns arise do probation staff facilitate problem solving by the offender and the community?

Individual probation agents are finding ways to take small steps which move toward restorative values. Some agents inform the victim of the community service done by the offender. Other agents have created ways to acknowledge completion of service or other obligations by the offender. Still others have become involved in community collaborations working on prevention.

Accountability in a Restorative System

Accountability is defined as taking responsibility for your behavior and taking action to repair the harm. Offender accountability/responsibility has these components:

- Understanding how that behavior affected other human beings - not just the courts or officials.
- Acknowledging that the behavior was a choice, which could have been made differently.
- Acknowledging to all those affected that the behavior was harmful to others.
- Taking action to repair the harm where possible.
- Making changes necessary to avoid such behavior in the future.

Community accountability/responsibility has these components:

- Attending to the wounds of the victim - both in the short-term and the long-term.
- Participating in a resolution to the incident that does not further harm a of those affected.
- Affirming community expectations and norms for all members without severing bonds.
- Identifying and addressing underlying community conditions that may have contributed to the behavior.

Criminal justice system accountability/responsibility has these components:

- Ensuring that there is a response to harmful behavior that does not increase risk to the community and the victim.
- Ensuring fairness in the response to harmful behavior.
- Facilitating victim and community involvement in resolving a crime.
- Providing resources and support to a constructive resolution to the crime.
- Sharing power with all affected parties.

Characteristics of restorative accountability strategies for offenders include:

- Making repair of harm to the victim a high priority.
- Ensuring amends are made to the community.
- Assisting offenders in gaining a greater understanding of how the incident affected others.
- Encouraging an apology and expressions of remorse.
- Involving the victim and the community in determining the accountability

measures.

In a restorative approach incarceration is not an accountability strategy. Incarceration, in some cases, may be a necessary strategy for public safety, but it does not repair the harm of the crime. Effective accountability strategies require an understanding of the impact of the crime on the victim. It is very important for probation agents as well as the offender to understand the harm to the individual victim in order to craft meaningful steps toward accountability.

Because relationships are a powerful force for shaping behavior, restorative justice requires combining accountability with support. The public discourse around crime has confused caring and condoning. It is possible and useful to disapprove certain behaviors and set limits on behavior while caring about the offending person. The most powerful messages of disapproval are those that come from the people who care most about the offender.

Support without accountability leads to moral weakness. Accountability without support is a form of cruelty (Basler, 1996, p. 47).

TRANSFORMED ROLE FOR PROBATION AND PAROLE AGENTS

Restorative justice changes

1. the focus of the criminal justice process,
2. the relationship between the system and the community,
3. expectations of the offender, and
4. the role of the victim.

Each of these dimensions of change has implications for a new role for probation/parole agents. Aspects of this new role include:

- Agents work with victims and communities as well as offenders.
- Agents facilitate processes, which engage the community in the criminal justice process.
- Agents engage in problem solving with other agencies and community groups.
- Agents share decision making power with other key stakeholders.

Probation agents work at two levels in the restorative process, the individual level and the community development level.

Individual Case Planning

According to Howard Zehr (1990) in the restorative model, individual case planning revolves around the three questions posed by in the aftermath of a crime:

- What is the harm?
- What needs to be done?
- Who is responsible?

Community and victim input are important in answering those three questions. Probation agents are responsible for facilitating the process to develop a case

approach which adequately addresses the three questions and provides victim and community opportunity for Involvement. At the individual case level, the probation agent's role shifts from a primary focus on directly managing the offender's behavior to facilitating community processes which manage the offender's behavior.

Community Development

A key role of probation agents in restorative justice is to assist in building the community capacity to solve its own problems and to manage its own members. Examples of developing the infrastructure include:

- Building relationships with good community work service projects.
- Organizing community meetings to build community interest in justice issues.
- Organizing training for community volunteers to facilitate victim offender mediation, family group conferencing, or other conflict resolution processes.
- Organizing community and victim involvement in decision-making structures for sentencing or disposition.
- Engaging the business community to provide job opportunities for offenders to earn money for restitution.
- Initiating collaborative prevention efforts based on the knowledge and experience of probation.

Skills and knowledge needed by probation agents include:

- Understanding of the victim experience.
- Conflict resolution and mediation skills.
- Knowledge of community organizations, leaders, processes.
- Facilitation and communication skills.
- Knowledge of job opportunities and the business community.
- Ability to supervise and support community members who work with offenders.
- Ability to identify support networks for victims and offenders.
- Ability to initiate change and then pass leadership to others.

Restorative justice calls for a different relationship among communities, victims, offenders and the system. In a restorative approach, probation staff facilitate processes in which community members work with offenders and sometimes victims. Traditional case management focuses on the relationship between the offender and the probation agent. Restorative justice focuses on the relationship between the offender and the community and the victim. In a restorative approach corrections professionals are challenged to understand how their work can contribute to repairing harm for the victim and the community. To work effectively probation agents need to understand victimization more thoroughly; they need to know community resources; they need to have skills in organizing community involvement.

Role of the Community

The community has a significant role to play at every level. The community has

a role in determining sentences or dispositions, in implementing those sentences, in supporting victims, in maintaining relationships with offenders. In custody, in policy development and in building community capacity to prevent crime. The following are examples of the roles that communities might undertake in the implementation of a restorative model of justice:

1. Role of the community in determining the "sentence" or terms of accountability.
 - Sentencing circles to decide what the resolution to a criminal incident should be. Originally developed in native communities, the circle process has been found to be useful in urban, suburban, and rural communities among a variety of cultural groups. The circles are open to all affected parties including any interested community member. All participants are decision makers. The outcomes are nearly always community-based sanctions.
 - Vermont's reparative probation uses community boards to develop an agreement with the offender regarding the terms of probation based on four restorative goals (repair of harm to victim, repair of harm to community, understanding of how behavior harmed the community and avoidance of offending behavior in the future).
 - The Community Response to Crime Program in Benifidi, Minnesota, uses a community intervention team to meet with the offender to communicate how the behavior affects the community, community expectations for making amends and support for the offender in making amends.
 - Family Group Conferencing involves the community of people most affected by the crime (family and friends of the victim and family and friends of the offender) along with the victim and offender in deciding the resolution to a criminal incident. This can occur in a diversionary process or in an adjudicated process.
 - Community Conferencing involves the victim, offender, and several community members, along with the support system of the victim and offender, in deciding what the offender must do to make amends. This process is used with both juveniles and adults.

These processes generally result in an agreement with the offender that specifies the offender's obligations for making amends. However, in each of these approaches the emphasis is not primarily on a technical process to decide the requirements placed on an offender. Each emphasizes a process of establishing a relationship of mutual responsibility—a process of human interaction. That is the critical nature of these efforts. The power is in the process rather than in the agreement itself. The meeting of the offender with community members is one of the most meaningful forms of accountability. Also it is a powerful process for communities to engage in to affirm its cultural norms. These processes give real meaning to the idea of answering to the community for your behavior.

All of these approaches leave the community stronger after the criminal justice intervention than it was before the crime happened. Most of these processes require some training or community education before implementation.

2. Role of the community in implementing the terms of accountability.
 - Community Service: Providing sites for community service that is valued by the community, supervising completion, providing affirmation to offenders for successful completion (e.g., ceremonies of closure).
 - Providing work opportunities so that offenders may earn money to pay restitution (e.g., Century Club, Deschutes County, Oregon, and Minnesota DOC grant Program, Youth Repay, Dakota County, MN)
 - Volunteer probation officers.
 - Community mentors or sponsors (e.g., Genesee Justice, Genesee County, N.Y.).
 - Volunteer mediators for victim offender mediation.
 - Community support for treatment programs.
 - Community involvement in self help or support groups for offenders.
 - Provision of programs that build offender competencies (e.g., GED, cognitive behavioral programs).
3. Role of the community in supporting victims.
 - Church based volunteer assistance (e.g., Neighbors Who Care).
 - Volunteer victim advocates.
 - Community involvement in self-help or support groups for victim
 - Mothers Against Drunk Driving, Parents of Murdered Children
 - Volunteer mediators for victim offender mediation
 - Police chaplaincy programs for victims
 - Healing circles for victims.
4. Role of community in staying in relationship with offenders who are in custody.
 - Prison and jail ministry programs.
 - One-to-one friendship programs (e.g., AMICUS, Minnesota).
 - Volunteer consultants who offer special programs in prison (e.g., cultural groups, job preparation, life skills, literacy).
 - Inclusion of inmate teams in a sports league.
 - Provide community service opportunities to offenders while in custody.
 - Jaycees and Toastmasters chapters in prison partnered with community chapters.
5. Role of community in policy development.
 - Advisory boards at every level (e.g. program advisory boards, county level community corrections advisory boards, statewide advisory boards for particular initiatives).
 - Input through public forums to get community perspective on existing and proposed approaches.
 - Input through surveys of community.
 - Community participation in prevention and social policy development.
6. Role of community in building community capacity to prevent crime.
 - Neighborhood mediation programs
 - Children First, based on the Search Institute asset building model, St. Louis

Engaging The Community

Defining what citizens want must be understood as a work in progress. There must be a continual process for adding input and gathering new information to fill out the picture of what citizens want in their communities. It is difficult to engage an entire community and, in most cases, the resources are not available to do a comprehensive community planning process. What is possible, however, is to gather a group of interested persons around a particular event or issue, engage them in defining what they would want, share that information broadly for others to respond to, and keep the process open for challenge and refinement so that voices can come in at any point to help shape the direction the community is taking.

Lessons learned regarding linking the community with the criminal and juvenile justice systems include:

- Shared vision is critical. It is important to take time to explore and discuss the shared vision.
- Passion and spirit drive the most fundamental change. Passion and spirit need to be fed and encouraged.
- Open, inclusive processes that remain open to critics will produce the most responsive and resilient partnerships.
- Process is critical at all levels. The values of the shared vision must be reflected in every process.
- Procedures for raising difficult issues and working toward resolution must be clear to all participants.
- Community justice system partnerships are enriched by the presence of people who have been through the criminal justice system, both victim and offenders.
- Each community must find its own path.
- When one door is closed, try another.
- Storytelling is one of the most powerful ways to communicate your message.
- Shared leadership and shared decision making are awkward but uncomfortable. It's a messy business.
- It is very important to proceed through an elicitive process, in which local community knowledge and wisdom are tapped and used as a foundation for new processes and approaches.
- Move forward one step at a time. Stay flexible and responsive. If you map out a definitive path it is likely that you have imposed an agenda on others secondary successes and impact.
- Healthy linkages between the community and the criminal justice system benefit from their spending some time together that is not task focused.
- Be prepared to make mistakes.
- Watch for, acknowledge, and celebrate secondary successes and impact.

Cautions/Concerns Regarding Implementation Of Restorative Justice

Though restorative justice holds promise for more constructive responses to crime, there are many risks as well. There are many ways that restorative justice could be

misunderstood, distorted, or poorly implemented resulting in harm to victims and offenders.

1. The deeply entrenched habits of thinking about criminal justice issues primarily in terms of the offender may be very difficult to overcome. Even people who are committed to restorative values often find it difficult to get out of an offender mindset. For instance, discussions about when to use certain kinds of programs or strategies nearly always frame that question around offender characteristics without taking any account of victim needs or interests.
2. It seems to be absolutely essential that the community's ability to manage behavior be reinvigorated - that is, exercise informal social control in appropriate ways. However, there is the possibility that people will picture that in terms of returning to the 1950s. The informal social control of the 1950s was overturned in the 1960s and 1970s for very good reasons related to the racism sexism, low tolerance of differences and humiliating interventions which characterized social control in the 1950s. If the same problems are reinvented they will simply have to be overthrown again in the future. It is an enormous challenge to encourage community members to hold one another accountable in ways that are deeply respectful of every individual in the community. It will not be a smooth path and will require the courage of talking about loving one another. There is a tragic shortage of political leadership that has the courage to talk about loving one another in real concrete ways - attending to real human needs, not just using nice words or saying prayers.
3. Tendency of system people, even reformers, to do planning without involving community and victims representatives.
4. Tendency of both community members and the criminal and juvenile justice system to think of solutions in terms of professional services - over dependence on professionals.
5. Perception that restorative justice is a particular program or set of programs.
6. Lack of knowledge about the dynamics of victimization that might result in well-intentioned people revictimizing victims.
7. Risk of establishing trust with victims or offenders in one part of the system through a restorative approach, making that person more vulnerable to harm from non-restorative processes in other parts of the system.
8. A cultural addiction to linear plans and processes to be applied universally with little discretion makes it extremely difficult to shift to flexible, relational problem solving that creates as it goes along and requires individual decisions to be made. There is a cultural affinity to figuring it all out, drawing blueprints and then following strictly the directions of the blueprint. The process of creating restorative responses to crime is necessarily holistic, circular, shaped by those closest to the problem, responsive to the specifics of the environment (no universal), and messy! It also requires attention to values and philosophy Culturally, there is not much patience for discussions of values and the intentional application of values on a daily basis to guide decisions within a space of options available.
9. Because restorative processes encourage attention to emotional needs and

expression of feelings, participants may become more vulnerable than in traditional processes. Process managers or facilitators therefore face significant responsibilities in creating safe spaces for both victims and offenders. Failure to do so may put participants at increased risk.

10. Restorative justice calls for community accountability for the welfare of all its members, victims and offenders both. There is no clear language for this concept, much less mechanisms for holding communities, or the larger society, accountable and, therefore, there may be an inability to implement a key aspect of restorative justice.

11. There is a risk that restorative approaches will be seen as only appropriate for low level offenses and the result will be no significant change in criminal justice in this country. Another risk is that restorative approaches will only be seen as appropriate for certain portions of the population, resulting in continued disparity for the most disadvantaged groups.

12. If community processes are created without being carefully grounded in restorative values, communities may act in ways that are less fair and more harmful than the current system.

13. Restorative processes are more democratic in their decision making. However, traditional framing of democracy in the United States emphasizes majority decision making. Powerless groups are not well-protected in majority processes. Both victims and offenders often are in a powerless status and vulnerable. Consensus processes provide greater protection to invisible or powerless voices, but most communities do not have extensive experience with consensus decision making and are skeptical about its viability.

Every step of the way, the process and product must be assessed against the values and principles of restorative justice. The best protection against the risk of unintended consequences is the active involvement of all stakeholders in planning and implementing restorative approaches. If everyone affected by decisions has a voice, then the risk of causing harm is greatly reduced.

Guidelines For The Journey

- There is no single path to restorative outcomes.
- Be really clear about your vision. A positive vision appealing to humane values is very powerful.
- Energy is most effectively expended supporting those who are interested, not in trying to convince those who are not.
- Watch for opportunities, remain flexible. Be prepared to change short-term plans because of unexpected opportunities or obstacles.
- Take the path of least resistance as long as it heads toward your goal.
- Expect to learn and evolve (don't be surprised if you feel slightly embarrassed by things you said two years ago - that's okay).
- Be careful about getting hung up on "plans."
- Keep a low profile when possible.
- You do not have answers for others; you have ideas to offer if they are interested.

- It is very important to be patient and listen to the objections being raised, especially concerns expressed by victims.
- All restorative justice practitioners should become knowledgeable about victimization.
- Make your process safe for dissent. Listen, listen, listen.
- Return regularly to a discussion of underlying values and philosophy.

CONCLUSION

Justice professionals are in an excellent position to provide the initial leadership necessary to engage communities in managing the behavior of their members through restorative processes. The formal justice system can provide support to a new community role by sharing power, helping the community build the necessary skills to handle conflict, developing models with the community, and providing resources to support volunteer involvement.

Government and professional systems cannot build strong communities. Community members - individually and collectively - build strong communities by acting on one another's behalf. Government and professionals have an important role to play in reducing barriers to community building, facilitating community building processes, ensuring fairness in community relationships, and reinforcing values and vision. But ultimately, community members must take responsibility for creating and maintaining a strong, vital, and safe community.

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