

Restorative Justice in Everyday Life: Beyond the Formal Ritual

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Punishment in response to crime and other wrongdoing is the prevailing practice, not just in criminal justice systems but throughout most modern societies. Punishment is usually seen as the most appropriate response to crime and to wrongdoing in schools, families and workplaces. Those who fail to punish naughty children and offending youths and adults are often labelled as "permissive."



Figure 1:
Punitive-Permissive Continuum

This punitive-permissive continuum (Figure 1) reflects the current popular view, but offers a very confined perspective and limited choice—to punish or not to punish. The only other variable is the severity of the punishment, such as the amount of the fine or the length of the sentence. However, we can construct a more useful view of social control by looking at the interplay of two more comprehensive variables, control and support.

We define "control" as discipline or limit-setting and "support" as encouragement or nurturing. Now we can combine a high or low level of control with a high or low level of support to identify four general approaches to social control: neglectful, permissive, punitive (or retributive) and restorative.¹

We subsume the traditional punitive-permissive continuum within this more inclusive framework. The permissive approach (lower right of Figure 2) is comprised of low control and high support, a scarcity of limit-setting and an abundance of nurturing. Opposite permissive (upper left of Figure 2) is the puni-

tive (or retributive) approach, high on control and low on support. Sadly, schools and courts in the United States and other countries have increasingly embraced the punitive approach, suspending and expelling more students and imprisoning more citizens than ever before. The third approach, when there is an absence of both limit-setting and nurturing, is neglectful (lower left of Figure 2).

The fourth possibility is restorative (upper right of Figure 2), the approach to social control that brings us all together at this conference. Employing both high control and high support, the restorative approach confronts and disapproves of wrongdoing while supporting and valuing the intrinsic worth of the wrongdoer.

In using the term "control" we are advocating high control of wrongdoing, not control of human beings in general. Our ultimate goal is freedom from the kind of control that wrongdoers impose on others.

This social control window can be used to represent parenting styles. For example, there are neglectful parents who are absent or abusive and permissive parents who are ineffectual or enabling. The term "authoritarian" has been used to describe the punitive parent while the restorative parent has been called "authoritative."² Further, we can apply John Braithwaite's terms to the window: "stigmatizing" responses to wrongdoing are punitive while "reintegrative" responses are restorative.³

A few key words—NOT, FOR, TO and WITH—have helped clarify these approaches for our staff at the Community Service Foundation's schools and group homes. If we were neglectful toward the troubled youth in our agency's programs, we would NOT do anything in response to their inappropriate behavior. If permissive, we would do everything FOR them and ask little in return. If punitive, we would respond by doing things TO them.

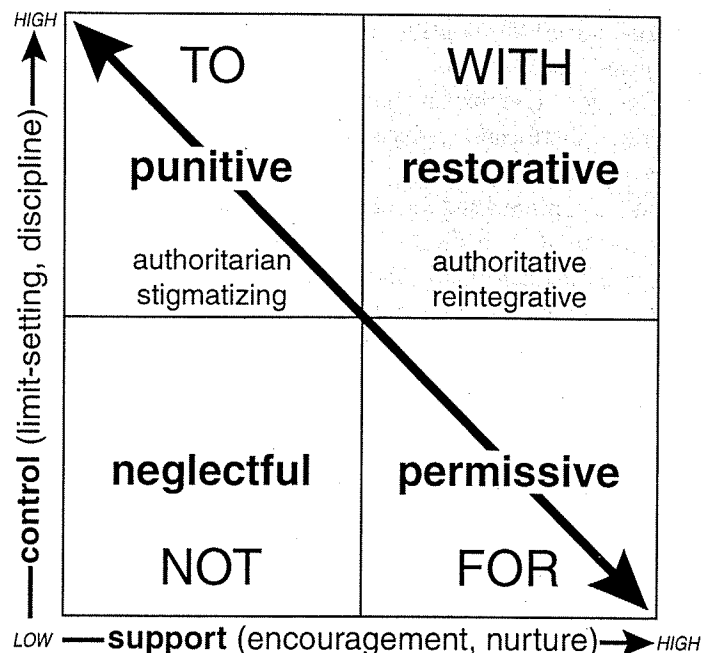


Figure 2: Social Control Window

But responding in a restorative manner, we do things WITH them and involve them directly in the process. A critical element of the restorative approach is that, whenever possible, WITH also includes victims, family, friends and community—those who been affected by the offender’s behavior.

Although the restorative approach to social control expands our options beyond the traditional punitive-permissive continuum, the implementation of restorative justice to date has been narrowly restricted. Our concept of restorative justice is confined to a few programs like community service projects designed to reintegrate offenders and formal rituals such as victim-offender mediation, sentencing circles and family group or community accountability conferences.

John Braithwaite, in his keynote address at the first North American Conference on Conferencing, asserted that “restorative justice will never become a mainstream alternative to retributive justice unless long-term R[esearch] and D[evelopment] programs show that it does have the capacity to reduce crime.”⁴ If that is so, then I fear that restorative justice is doomed to a peripheral role at the fringes of criminal justice and school disciplinary systems. We have all sorts of evidence that victims, offenders and their respective supporters find restorative justice rituals satisfying and just, but we have yet to conclusively demonstrate that any restorative justice ritual significantly reduces re-offense rates or otherwise prevents crime.

Although a conferencing advocate, I would be naive to think that a single restorative intervention can change the behavior and mindset of the delinquent and high-risk youths who participate in our agency’s counseling, educational and residential programs. Yet we do experience significant positive behavior change from these young people when they attend our programs. This is because, as Terry O’Connell, the police officer who developed the scripted model of conferencing, remarked when he first visited one of our schools in 1995, “You are running a conference all day long.” It has

taken me several years to fully appreciate his comment. Although we had never used the term “restorative justice,” we now recognize that we have created an environment characterized by the everyday use of a wide range of informal and formal restorative practices.

The term “restorative practice” includes any response to wrongdoing which falls within the parameters defined by our social control window as both supportive and limit-setting. Once we examine the possibilities, we see that they are virtually unlimited. To illustrate, we offer examples from everyday life in our schools and group homes and place them along the restorative practices continuum (Figure 3). Moving from the left end of the continuum to the right, the restorative interventions become increasingly formal, involve more people, more planning, more time, are more complete in dealing with the offense, more structured, and due to all of the those factors, may have more impact on the offender.

On the far left of the continuum is a simple affective response in which the wronged person lets the offender know how he or she feels about the incident. For example, one of our staff might say, “Jason, you really hurt my feelings when you act like that. And it surprises me, because I don’t think you want to hurt anyone on purpose.” And that’s all that is said. If a similar behavior happens again, we might repeat the response or try a different restorative intervention, perhaps asking, “How do you think Mark felt when you did that?” and then waiting patiently for an answer.

In the middle of the continuum is the small impromptu conference. I was with our residential program director a few weeks ago, awaiting a court hearing

about placing a 14-year-old boy in one of our group homes. His grandmother told us how on Christmas Eve, several days before, he had gone over to a cousin’s house without permission and without letting her know. He did not come back until the next morning, just barely in time for them to catch a bus to her sister’s house for Christmas dinner. The program director got the grandmother talking about how that incident had affected her and how worried she was about her grandson. The boy was surprised by how deeply his behavior had affected his grandmother. He readily apologized.

Close to the far right of the continuum is a larger, more formal group process, still short of the formal conference. Two boys got into a fistfight recently, an unusual event at our schools. After the fight was stopped, their parents were called to come and pick them up. If the boys wanted to return to our school, each boy had to phone and ask for an opportunity to convince the staff and his fellow students that he should be allowed back. Both boys called and came to school. One refused to take responsibility and had a defiant attitude. He was not re-admitted. The other was humble, even tearful. He listened attentively while staff and students told him how he had affected them, willingly took responsibility for his behavior, and got a lot of compliments about how he handled the meeting. He was re-admitted and no further action was taken. The other boy was put in the juvenile detention center by his probation officer. Ideally, he will be a candidate for a formal family group conference.

We often create informal restorative interventions simply by asking offenders questions from the scripted formal conference. “What happened?” “What were

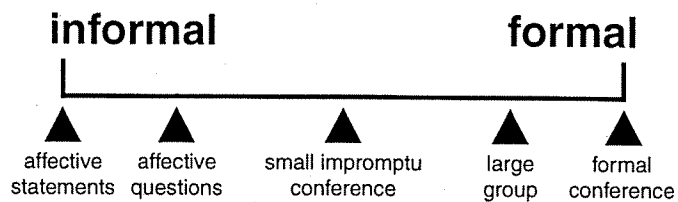


Figure 3: Restorative Practices Continuum

you thinking about at the time?" "Who do you think has been affected?" "How have they been affected?" Whenever possible, we provide those who have been affected with an opportunity to express their feelings to the offenders. The cumulative result of all of this affective exchange in a school is far more productive than lecturing, scolding, threatening or handing out detentions, suspensions and expulsions. Our teachers tell us classroom decorum in our schools for troubled youth is better than in the local public schools. But interestingly, we rarely hold formal conferences. We have found that the more we rely on informal restorative practices in everyday life, the less we need formal restorative rituals.

Restorative justice is a philosophy, not a model, and ought to guide the way we act in all of our dealings. In that spirit the Community Service Foundation uses restorative practices in dealing with its own staff issues. As director, I strive for an atmosphere in which staff can comfortably express concerns and criticisms of me and other supervisors. I also take ownership for inappropriate behavior on my part and address problems with staff in a restorative way.

Last year several employees became engaged in a squabble that was disrupting our workplace. I felt removed enough from the situation to act as facilitator in a conference to deal with the spiraling conflict. In this conference there was no clearly identified wrongdoer. Rather, when I invited the participants to the conference, I asked each of them to take as much responsibility as possible for their part in the problem and assured them that I was asking everyone else to do the same. I was pleased to find a lot of self-disclosure and honesty in my preliminary discussion with each participant and felt confident that the conference would go well. In fact, it exceeded my expectations. Not only did a great deal of healing taking place while we met, but several individuals made plans to get together one-to-one to further resolve their differences. To the best of my knowledge the conflict is now ancient history and no

longer a factor in our workplace.

Restorative practices are contagious, spreading from our workplace to our homes. A new staff member recently told me how she, her husband and her younger son restoratively confronted her young adult son, who had just entered the world of work. They told him how annoyed they were with his failure to get himself up on time in the morning. Mom and Dad expressed their embarrassment

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that their son had been late to work at a company where they knew a lot of his co-workers. They insisted that they were stepping back. If their son lost his job, it was not their problem, but his. As a result of the informal family group conference, the young man now sets three alarm clocks and gets to work on time.

A police officer who was trained in conferencing shared how he confronted his little boy, who had torn off a piece of new wallpaper, with questions from the conference. The youngster became very remorseful and acknowledged that he had hurt his mother, who loved the new wallpaper, and the workman he had watched put up the new wallpaper. Dad felt satisfied that the intervention was far more effective than an old-fashioned scolding or punishment.

A police officer ran a variation on a family group conference with a dispute between neighbors about a barking dog; another held an impromptu conference on the front porch between a homeowner and an adolescent prankster who stole a lawn ornament. Still another police officer held a conference for the families of two run-aways, helping the teenagers' understanding of how hurtful their actions were, although they had not committed a crimi-

nal offense that would typically require the officer's involvement. An assistant principal made two teenagers, on the verge of a fight, tell each other how they were feeling and brought them to quick resolution. A corrections officer addressed an inmate's angry outburst with a conference. A social worker got family members talking to each other in a real way about a teenager's persistent truancy and got the youth to start going to school. Beyond the formal criminal justice ritual, there are an infinite number of opportunities for restorative interventions.

For restorative practices to be effective in changing offender behavior, we try to do the following:

1. Foster awareness. In the most basic intervention we may simply ask a few questions of the offender which foster awareness of how others have been affected by the wrongdoing. Or we may express our own feelings to the offender. In more elaborate interventions we provide an opportunity for others to express their feelings to the offenders.

2. Avoid scolding or lecturing. When offenders are exposed to other people's feelings and discover how victims and others have been affected by their behavior, they feel empathy for others. When scolded or lectured, they react defensively. They see themselves as victims and are distracted from noticing other people's feelings.

3. Involve offenders actively. All too often we try to hold offenders accountable by simply doling out punishment. But in a punitive intervention, offenders are completely passive. They just sit quietly and act like victims. In a restorative intervention, offenders are usually asked to speak. They face and listen to victims and others whom they have affected. They help decide how to repair the harm and must then keep their commitments. Offenders have an active role in a restorative process and are truly held accountable.

4. Accept ambiguity. Sometimes, as in a fight between two people, fault is unclear. In those cases we may have to accept ambiguity. Privately, before the con-

ference, we encourage individuals to take as much responsibility as possible for their part in the conflict. Even when offenders do not fully accept responsibility, victims often want to proceed. As long as everyone is fully informed of the ambiguous situation in advance, the decision to proceed with a restorative intervention belongs to the participants.

5. Separate the deed from the doer.

In an informal intervention, either privately with the offenders or publicly after the victims are feeling some resolution, we may express that we assume that the offenders did not mean to harm anyone or that we are surprised that they would do something like that. When appropriate, we may want to cite some of their virtues or accomplishments. We want to signal that we recognize the offenders' worth and disapprove only of their wrongdoing.

6. See every instance of wrongdoing and conflict as an opportunity for learning. The teacher in the classroom, the police officer in the community, the probation officer with his caseload, the corrections officer in the prison all have opportunities to model and teach. We can turn negative incidents into constructive events—building empathy and a sense of community that reduce the likelihood of negative incidents in the future.

I am not speaking theoretically or hopefully. I am speaking about my direct experience with our schools and group homes. Juvenile courts and schools from four counties send us 250 of their more troublesome young people at any one time. Thanks to restorative practices, they change their behaviors, cooperate, take positive leadership roles and confront each other about inappropriate behavior.

I lacked an adequate way of expressing why these changes occur until I encountered the concept of restorative justice. We are currently undertaking a research project to evaluate more specifically how our agency's restorative practices impact young people, what specifically changes and to what extent those changes are sustained after our students and clients leave us. But I can assure you

that something positive is happening as a result of systematic implementation of restorative practices in what might otherwise be a very negative and challenging environment.

The Community Service Foundation is the sponsoring agency for the Real Justice program internationally and has subsidized its efforts for the last four

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years. Having trained more than 3,000 people in conferencing, we find that many trainees never actually conduct conferences. Some hesitate to facilitate a formal conference because they are afraid. Many do not have the authority to bypass existing procedures and sanctions, like zero tolerance policies in schools. So a large number of people have implemented restorative practices informally in the ways I have described above.

In recent months Real Justice has added the concept of restorative practices to its trainings, specifically encouraging people to try less formal interventions when they cannot do conferences. The idea has been well received. For example, educators who claim that they do not have time to pull together a full-blown conference are enthusiastic about more spontaneous restorative strategies. Real Justice is also working directly with a local school district to train teachers in informal restorative practices that they might use with daily classroom disciplinary problems.

We all know that the world will change only very slowly and very imperfectly. We cannot afford to be unrealistic or utopian. We must be flexible and experimental.

Some people think that police officers should not be facilitating conferences as part of their professional role and

others believe that volunteers are the only ones neutral enough to facilitate criminal justice conferences or mediations. Surely these people hold such views for what they believe are the best of reasons, but our experience with restorative justice has been too brief to adopt such fixed boundaries. We must allow ourselves to move beyond the limited framework of the formal ritual and recognize the wider possibilities, allowing everyone to use restorative practices freely in their work.

If systems are not innately restorative, then they cannot hope to affect change simply by providing an occasional restorative intervention. Restorative practices must be systemic, not situational. You can't just have a few people running conferences and everybody else doing business as usual. You can't be restorative with students but retributive with faculty. You can't have punitive police and restorative courts. To reduce the growing negative subculture among youth, to successfully prevent crime and to accomplish meaningful and lasting change, restorative justice must be perceived as a social movement dedicated to making restorative practices integral to everyday life.

Endnotes

- ¹ Adapted by Paul McCold and Ted Wachtel from Daniel Glaser, *The Effectiveness of a Prison and Parole System*, Indianapolis, Indiana: Bobbs-Merrill, pp. 289-297, 1969.
- ² Diana Baumrind presenting an ongoing study at the 1989 American Psychological Association annual meeting, New Orleans, Louisiana, as reported by B. Bower, "Teenagers reap broad benefits from 'authoritative' parents," *Science News*, Vol. 136, Aug. 19, 1989.
- ³ John Braithwaite, *Crime, Shame and Reintegration*, New York: Cambridge University Press, 1989.
- ⁴ John Braithwaite, "Linking Crime Prevention to Restorative Justice," presented at the First North American Conference on Conferencing, Minneapolis, Minnesota, August 6-8, 1998.

Related web sites

www.realjustice.org

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