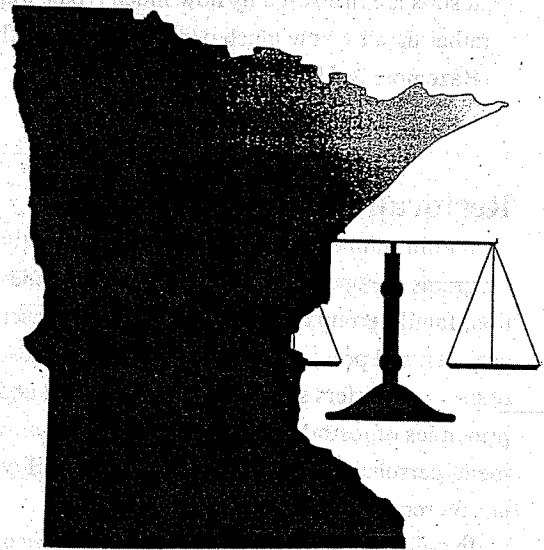


Restorative Justice in Minnesota

by Kay Pranis



In Minnesota and elsewhere, advocates of restorative justice—a new way of thinking about crime and punishment—are embracing more creative, effective measures to reduce juvenile crime and delinquency. Young people in trouble, whether living in urban, rural, or suburban settings, are sitting down with their families and those they have hurt, taking responsibility for their actions, and helping to decide how they can best make amends for their behavior.

Under the restorative justice philosophy, a variety of processes are evolving that provide families with an opportunity to be involved in significant decisions that traditionally have been made by justice personnel or the courts. These processes are more democratic; produce plans specific to individual needs and context; encourage the formation of supportive relationships; build on individual, family, and community strengths; place decisions in the hands of those with the greatest stake in the outcome; and enhance the community's ability to work through family and social problems.

What is Restorative Justice?

The concept of restorative justice maintains that someone who commits a crime “incurs an obligation to restore the victim—and by extension the community—to the state of well-being that existed before the offense” (Freivald, 1996, p. 1). Restorative justice seeks to repair harm to victims and to the community “through processes

of negotiation, mediation, victim empowerment, and reparation” (Bazemore & Umbreit, 1994, p. 6). Youths are held accountable for their offenses and must accept responsibility for the harm that they have done.

The principles of restorative justice as they relate to juvenile justice, outlined in OJJDP's 1998 “Guide for Implementing the Balanced and Restorative Justice Model,” include the following:

- Crime hurts individual victims, communities, and juvenile offenders and creates an obligation to make things right.
- All parties should be part of the response to the crime, including the victim (if he or she wishes), the community, and the juvenile offender.
- The victim's perspective is central to deciding how to repair the harm caused by the crime.
- Accountability for the juvenile offender means accepting responsibility and acting to repair the harm done.
- The community is responsible for the well-being of all its members, including both the victim and the offender.
- Restoration—repairing the harm and rebuilding relationships in the community—is the primary goal of restorative juvenile justice.

- Results are measured by how much repair was done rather than by how much punishment was inflicted. (Bazemore & Umbreit, 1998, p. 5)

Restorative Justice in Action

Within Minnesota, several types of restorative justice programs are operating, such as victim-offender mediation; family group conferencing; community service projects; and peacemaking circles. Although each type of program differs structurally, all adopt the underlying principles of restorative justice—community involvement, personal accountability and responsibility, and focus on repair of harm.

In collaboration with the Minneapolis Police Department and the YMCA, the Hennepin County Attorney's Office has developed a program for children under 10 years of age whose behavior would be considered delinquent if they were over age 10. A meeting is held at which the YMCA youth worker has the children draw pictures of their offense and discuss who was affected by it. The adults convene in a separate room with a facilitator to consider appropriate expectations for the child to make amends for his or her behavior. At the end of the first session, each child, their parents, and the assigned police officer/prevention worker team agree upon a restitution plan that the child will complete before the second discussion session. Upon completion of the discussion sessions, the police officer/prevention worker teams informally contact their assigned child and the parents for 3 months. The program is designed to support the parents in taking appropriate action to hold the child accountable for the behavior rather than substituting an institutional response. It also provides parents with the opportunity to talk about concerns, experience a peer group struggling with the same problems, and think through with others how they might respond.

Victim-offender mediation programs, which are available in several counties for juvenile offenses, provide an opportunity for the juvenile and his/her parents to play an active part in resolving the offense by meeting face to face with the victim in the presence of a trained mediator, hearing the victim's story, answering questions, and coming to an acceptable agreement about restitution and other activities to make amends.

All metropolitan counties and a large number of rural counties in Minnesota have programs using the *family*

group conferencing process to resolve delinquent offenses (see the article by Murray Levine in this issue for more information about family group conferencing). Family group conferencing is a carefully structured meeting, conducted by a trained facilitator, that brings together offenders, victims, and their respective families, friends, and support systems to identify the harm caused by the offender's behavior and create an agreement that will repair that harm. The process is used by community groups, police, schools, and probation. It explicitly acknowledges the harm to the family *and* the family's responsibility for disapproving the behavior, constructing a way to make amends, and helping the offender fulfill the obligations of the agreement. The family has responsibility and a voice. The process recognizes the impact on siblings as well as parents for both victims and offenders and gives them a voice and an opportunity to work through the emotional effects on them.

The Washington County Victim Offender Conferencing program has developed a process, *large group conferencing*, that deals with conflicts between groups of youth that involve harassment and/or assault. These conflicts often are of a racial nature and usually surface in schools. Rather than engage the court, the process brings together representatives from both sides of the conflict to engage in dialogue about feelings, issues, and possible solutions. The process allows parents and other family members to listen to the representatives from both sides of the conflict talk through the issues and to submit questions for those representatives to answer.

In Forest Lake, a rapidly growing community in the Twin Cities metropolitan area, the Youth Service Bureau learned about restorative justice and redesigned its program based on restorative principles. Emphasizing the importance of youth accountability to the community in the context of family, the program requires that a parent accompany the youth at intake. Parents are required to participate in any classes that the youth attends and to participate in a *community service project* with the youth. The youth's contract with the Bureau typically requires researching what the offense cost the community, including such things as insurance and police time. Toward the end of the contract, the youth meets with a panel of community members to discuss how the offense affected the community and to report on his or her activities to make amends. The panel also expresses support and interest in the youth and facilitates connec-

tions to informal community resources related to the youth's needs or interests. While the youth meets with the community panel, the parents participate in a session to learn skills that will help them to develop the youth's assets.

The Faribault County Local Coordinating Council includes key decision makers from education, human services, corrections, private providers, and law enforcement. The *coordinating council* does case planning and case management for juvenile cases from all participating agencies through a process that includes meeting monthly with the juvenile and at least one parent. The parents and child are equal players in the process. Cases range from youth who are having difficulty in school to youth who are returning to the community from an out-of-home placement. The council meets monthly to handle all current cases. Relationships with the family may be confrontational in the beginning, but can and have developed into supportive relationships. Occasionally, parents have asked to have their meetings continued even after the council was prepared to close the case, because it had become a source of support to them.

A Native American community in the center of the state is using the *peacemaking circle* process to work through critical issues in some juvenile delinquency cases (see the article by Carl Holman in this issue for more information on circle sentencing). The process includes separate healing circles for the victim and the offender, and a circle to determine the disposition of the case. The victim, the offender, family and friends of each, and other community members participate with justice system representatives and other resource professionals to discuss all the effects of the offense and to determine the steps necessary to promote healing and prevent further offenses. The process allows exploration and problem-solving about underlying causes, including family problems which would not be addressed in court. All voices are equal in the circle process, and decisions are made by consensus. Consequently, families are given significant power over their own problems and solutions, but that is done within the context of community support, community reflection on the nature of the problems, and community contributions to the solutions.

Circle sentencing is not limited to use in rural, Native American settings. For example, an African American community in North Minneapolis is conducting circles with juveniles who have committed property offenses.

Shortly after taking its first two cases, the circle group was asked if they would like to work with a case involving armed robbery with a gun in which the disposition had already been determined. The group seized the opportunity to try the process with a more serious crime. Although the disposition was already determined and the juvenile was in a juvenile corrections facility, there was a need for both healing and to develop a plan for the juvenile's return to the community upon release.

The case involved a White man who was severely traumatized because the gun had been held to his head, and he believed he would be killed. The victim and his family felt fearful and isolated and planned to move out of the neighborhood. The juvenile's family felt isolated, confused with his behavior, and fearful for his future. Separate healing circles were held for the victim and the juvenile. Then a joint circle brought the victim and his support system and the juvenile and his family together with members of the circle group. The victim described the trauma of the crime and its impact on his life. The juvenile and his family expressed their regret and concern for the victim. Community members expressed support for both families and a hope that the community could come together to strengthen the neighborhood.

About 20 people participated in the circle. After everyone had a chance to speak, the victim asked to speak again. He looked at the juvenile and said, "When you get out of Red Wing, I'd like to take you out to lunch."

When a break was called later, the juvenile approached the victim's son, who was the same age as he, with an outstretched hand. The son rose from his chair and hugged the juvenile. The juvenile then approached the victim and his wife, who also hugged him.

The circle process was able to break the cycle of isolation and fear. It gave participants a sense of hope about their future as a community beyond this individual case. The dialog of the circle also surfaced important perspectives not often heard. The juvenile's father and older brother emphatically denounced guns. The juvenile's older brother spoke eloquently about the struggle of growing up as a young Black male. Giving voice to these perspectives and raising community and system awareness is an important outcome of the circle process.

A separate circle project involving the African American community in North Minneapolis works with cases of child abuse and neglect referred by Hennepin County Children and Family Services. Families struggling with

the problems and responsibilities of child rearing meet with the circle group to identify issues, seek support, and develop a plan to resolve the problems. Circle members have helped mothers and grandmothers in such activities as getting a car from the impound lot, cleaning the house, respite care, finding appropriate counseling, and advocacy in court to avoid out of home placement. The most important service that the circle provides is a place where caregivers can share their problems with people who will listen and care.

Creating Restorative Justice Programs

Hard work, time, commitment, and an open, collaborative attitude are key to creating successful commu-

nity-based and community-driven restorative justice initiatives. Defining what citizens want must be understood as a work in progress. There is a continual process of adding new information 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 is to gather a group of interested people around a particular event or issue, engage them in defining what they would want, share that information broadly so others can respond to it, and keep the process open for debate and refinement so that voices can come in at any point to help shape the community's direction.

This comprehensive set of community-based programs was developed within a setting that was already

Possible steps in getting community involved in a restorative justice program

- Gather information about restorative justice and possible models.
- Learn about the target community by reading newspapers, attending community gatherings, talking with residents, and identifying credible leaders.
- Assess potential support within the criminal justice system, and teach them about restorative justice.
- Work with community leaders to explore community interest in establishing a program. Invite participation by victims' representatives.
- Recruit volunteers who would like to be involved in creating the program.
- Create a task force or steering committee of community members, victims representatives, and key system representatives to explore program options that are appropriate to the community.
- Take time to identify underlying values of the group, and discuss the shared values that will guide the community-based process. Shared values will become the foundation for working together from very different perspectives.
- Identify existing processes or resources that are conducive to restorative justice techniques and could assist new programs, thus preventing them from having to "reinvent the wheel."
- Continue to gather community input and expand the committee until all key stakeholders are represented.
- Provide training to community members on the justice system, restorative justice, conflict resolution, and community building.
- Choose strategies or processes that will be piloted in the community, and develop a plan to implement them.
- Share the plan with the community, get feedback, and revise it accordingly.
- Train criminal justice staff and community members in the processes chosen to be implemented.
- Outline the referral process and protocols, and clarify each party's responsibilities.
- Pilot several cases and refine procedures based on what has been learned.
- Share stories with the community.
- Work to reduce conflict between the community and criminal justice system.

re-examining the role that communities play within the traditional legal system. Though guided by a vision, there is no comprehensive plan or systematic planning process for developing these new programs. Minnesota has deliberately encouraged using a value-based approach and providing information about multiple models that exemplify it. Ultimately, implementation depends upon local energy and initiative, which may come from a variety of directions—schools, neighborhood groups, civic organizations, churches, law enforcement, prosecution, judges, defense bar, corrections, or social service providers.

This has not been a linear, directed, or predictable process. This change process is chaotic, has its own energy, and in most places finds its own path, if we do not try to force it into a preconceived path or impose a preconceived order. This kind of change requires space, permission to try new ideas, openness, ongoing dialogue with others who are trying new things, and permission to re-examine and change original plans. Despite the lack of a plan, there are several possible steps that can be taken.

Administrative and Political Realities

Because implementing restorative justice programs has generally not required elected bodies to make major policy changes, high profile political debate has been avoided. There have been no specific political opponents. Grassroots political lobbying by community members involved in these processes is increasing legislative awareness of restorative programs in their own districts. Legislators are being educated about restorative justice programs primarily through stories from their own communities rather than through policy papers.

Although politicians have not been key leaders in this effort, state agency support has been critical in moving restorative programs forward in Minnesota. The Department of Corrections created the position of Restorative Justice Planner, devoted entirely to promoting and supporting restorative practice in all arenas, and allowed two full-time people in that position to work across professional and community lines. The Department of Children, Families, and Learning published a booklet promoting the use of a restorative approach to discipline in schools. Several state agencies with grantmaking functions have included restorative justice goals in their existing grant process for community-based intervention

and prevention programs related to violence or crime. The State Court Administrator's Office has supported education and information to judges about restorative justice.

The state agency role in this process is an unusual one. State agencies are promoting system- and community-wide changes to address social and family problems without having to use formal authority or statutory power. Instead, they are engaging all stakeholders in a voluntary, respectful process that uses an alternate vision and allows local communities to control how, when, and at what pace specific changes will happen.

The most innovative processes in the restorative justice movement create a radically different relationship between the judicial system and the community. Roles are reversed. The community becomes the primary responder to family and social problems and the judicial system operates in support of the community in its problem-solving efforts. Restorative justice provides a clear conceptual basis and guiding principles for engaging the community and building judicial system activity around a core of community activity.

For the most part, the system changes are being made by risk takers operating within their span of control in quiet ways. The changes are sometimes initiated by line staff and sometimes by administrators. Some changes have been implemented in a single agency in a few months, others have taken a year or more of developmental work with a broad group of participants from various perspectives.

Meeting Community Needs and Responsibilities

When crimes occur, communities want to express their outrage directly to the perpetrator(s), ensure that community members are safe and healthy, reaffirm the community's norms, understand why crime happens in order to prevent future occurrences of it, and help resolve crimes constructively to re-establish a sense of efficacy and control over community life.

The formal legal system has done little to help communities with those needs and responsibilities. For example, communities cannot express their fears, pain, and outrage directly to the offender. Instead, members channel those feelings through opinion polls, talk radio, or politicians.

Because the legal system has so few roles in which community members can act constructively, it heightens

Reconnecting the Judicial System to Community Priorities: Lessons Learned from Restorative Justice

Passion, Patience, and Persistence

Lessons learned regarding linking the community with the judicial system.

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

the sense of helplessness they feel about crime. The legal process does not offer communities a way to deal with underlying problems. It attempts to confirm community norms, but has little impact because it is technical, abstract, and poorly monitored.

Restorative justice techniques, which can be applied in communities nationwide, are better suited to serve a community's needs and responsibilities because they give members a forum to express their feelings directly to the offender and a chance to participate in identifying the problem, as well as suggest solutions in which they can take part. Furthermore, restorative justice programs grapple with the underlying community problems that

contribute to crime by discussing and developing action plans that address them.

Finally, the restorative justice process affirms a community's norms and expectations for behavior. Restorative justice builds stronger connections between people and fosters community consciousness.

Kay Pranis is the restorative justice planner for the Minnesota Department of Corrections. She is a consultant and trainer for the National Institute of Justice, the National Institute of Corrections, and the Balanced and Restorative Justice Project of the Office of Juvenile Justice and Delinquency Prevention.

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