

Restorative justice and the Indian community

by Robert Desjarlais

The power of circles is transforming... you see changes in the victim and offender. There is power in putting a face to a name and hearing the person's story. We don't often talk honestly to each other. Honesty is crucial regardless of the outcome. And that is spiritual," says an observer of the restorative justice system.

In restorative justice, parties with a stake in a specific offense resolve how to deal with the aftermath of the offense and its implications for the future.

After a long absence, restorative justice has taken center stage once again in the U. S. Historically, tribal codes of restorative justice were used to resolve conflict within Native communities. With the coming of the Europeans restorative justice was pushed aside in favor of Western style laws and codes. Restorative justice ceased to be an option as a means to resolving conflicts between Native communities.

The resurrection of the restorative justice system began in Ontario in 1974 when two young men pled guilty to 22 counts of property damage. Their probation officer and a colleague recommended to the court that the offenders meet with the 22 victims to gain

an understanding of the impact of their crimes. Three months later, the two offenders paid each victim for his or her loss.

Since 1997, the South Saint Paul Restorative Justice Council (SSPRJC) has adapted peacemaking circles as a restorative justice approach. These circles exemplify Native traditions that predate the Western criminal justice system.

Peacemaking circles are composed of local community members, making the circle community based and bringing victim and offender together. SSPRJ has implemented several types of circles, including application circles, circles of understanding, healing circles, support circles, and agreement circles.

Mark S. Umbreit, Ph.D., is the Director of the Center of Restorative Justice & Peacemaking at the University of Minnesota. Umbreit writes, "The principals of restorative justice draw upon the wisdom of many indigenous cultures from throughout the world, most notably Native American culture within the United States and Aboriginal/First

Nations culture in Canada... research has found restorative justice programs to have high levels of victim and offender satisfaction with the process and outcome, greater likelihood of successful restitution completion by the offender, reduced fear among victims, and reduced frequency and severity of further criminal behavior."

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—Stephanie Erickson, restorative justice planner

Stephanie Erickson (Cherokee) is the restorative justice planner for the Legal Rights Center in Minneapolis. In conjunction with Executive Director Gordon Stewart, Erickson designed and implemented the program three years ago.

"Our program works with Hennepin County cases," says Erickson. "We handle all types of offenses — misdemeanor, gross misdemeanor, property crimes, crimes of violence."

"The restorative justice concept is an alternative to case solution in overcrowded courts," Erickson continues. "In court, the victim does not have a place, rather the state treats the crime as a crime against

the state. Our program offers the opportunity for the victim and offender to deal with the problem directly with a trained facilitator."

In restorative justice, the victim and the offender make a social compact. The compact may call for the offender to perform a community service such as serving in a food line or mowing the grass for an elderly person. The compact may also stipulate that the offender pay the victim for their loss. In turn, the judge decides if the compact is acceptable punishment within the perimeters of the offense.

The Western world is beginning to embrace the concept of restorative justice as a more humane alternative to criminal justice systems. In July, 2000, the UN Economic and Social Council issued Resolution 2000/14 — Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters. If the resolution is accepted by a majority of member nations, restorative justice — a concept established by a peoples once considered "uncivilized" will become a standard of criminal justice worldwide.

"We are human and human beings make mistakes and it's okay to make mistakes," says a SSPRJ Circle Keeper. "Circles have a chance to fix those mistakes in a good way."

The Circle

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