

Restorative Justice: Principles, Practices, and Application

By Sandra Pavelka O'Brien, Ph.D.

A modern-day movement is transforming the way that communities and justice systems think about and respond to crime and wrongful occurrences. This response implements a holistic continuum of services, providing for prevention, intervention, diversion, commitment, probation, reentry, and aftercare. This approach—known as restorative justice—seeks to balance the needs of the victim and the community with consequences for the offender, and requires that each should be actively involved in the process to the greatest extent possible. This article will define restorative justice, outline its core principles, and present practical models and application for justice and educational systems.

Restorative Justice Defined

In response to the failure of the treatment and retributive models reflected in recent punitive trends, advocates offer a model which views the problem of crime through an alternative lens. This alternative lens is called restorative justice and it offers a new framework to guide a rational movement toward new solutions. However, restorative justice is not new. It is based on ancient values and practices that have been at the core of justice, religious, and ethical traditions in virtually all societies world-wide (Zehr, 1990; Bazemore, 1998).

As Zehr (1990) originally stated, "Crime is a violation of people and relationships. It creates obligations to make things right. Justice involves the victim, the offender, and the community in a search for solutions which promote repair, reconciliation, and reassurance" (p. 181). Marshall (1996) later defined restorative justice as a "process whereby the parties with a stake in a particular offense come together to resolve collectively how to deal with the aftermath of the offense and its implications for the future" (p. 37). Bazemore and Walgrave (1999) chose a simple, yet explicit, definition of restorative justice as "every action that is primarily oriented toward doing justice by repairing the harm that has been caused by crime" (p. 48).



Core Principles

Restorative justice provides a vision for juvenile justice. It is based on a set of principles designed to orient the response of a justice agency or community to the crime or wrongful occurrence. The three core principles of restorative justice are:

- 1. Repair Harm.** Justice requires that victims, offenders, and communities be healed following the harm which resulted from the crime or wrongful occurrence.
- 2. Reduce Risk.** Provide for the utmost protection of the community and its citizenry, with the prevention of future harm emphasized.
- 3. Empower Community.** Involve the community to be transformed by having the community take an active role and be responsible in the restorative response to the offense (Van Ness & Strong, 1997). Stakeholders (such as victims, offenders, justice system partners and communities) should deal collectively with the impact, consequences, and reparation.

The principles of restorative justice define crime as an injury and recognize the need for actions to repair that injury, plus a commitment to involve all those affected in the response to crime. Restorative justice responds to crime at the micro-level by addressing the harm that results from the offense and by giving priority to victim reparation. It also focuses on the need to build safer communities at the macro-level. Government and community play complementary and collaborative roles in this response to crime, with the government responsible for establishing order and the community responsible for restoring and maintaining peace (Bazemore & Umbreit, 1995; Van Ness & Strong, 1997; Zehr, 1990).

Table 5.1

Restorative Justice: Three-Dimensional Collaboration

Victims

- Receive support, assistance, compensation, information, and services.
- Receive restitution and/or other reparation from the offender.
- Are involved and encouraged to provide input at all points in the justice process, including direct input into how the offender will repair the harm done.
- Has an opportunity to face the offenders and tell their story to offenders and others, if they so desire.
- Feel satisfied with the justice process.
- Provide guidance and consultation to professionals on planning and advisory groups

Offenders

- Complete restitution to their victims.
- Provide meaningful service to repay the debt to their communities.
- Face the personal harm caused by their crimes by participating in victim offender mediation, if the victim is willing, or through other victim awareness processes.
- Complete work experience and tasks which increase skills and improve the community.
- Monitored by community adults as well as justice providers, and supervised to the greatest extent possible in the community.
- Improve decision-making skills and have opportunities to help others.

Families and Community Members

- Are involved to the greatest extent possible in offender accountability and rehabilitation, and in developing community safety initiatives.
- Work with offenders on local community service projects.
- Provide support to victims.
- Provide work for offenders so they can pay restitution to victims.
- Provide service opportunities that allow offenders to learn skills and make meaningful contributions to the quality of community life.
- Assist families to support young offenders in their obligation to repair the harm and increase competencies.
- Play an advisory role to courts and corrections and/or play an active role in disposition through one or more neighborhood sanctioning process.
- Act as mentors to assist offenders with developing competencies, including completing job applications, studying for GED or school tests, and becoming productive members of society.

Adapted from: O'Brien and Bazemore, 2005.

Restorative Justice is a three-dimensional collaborative process which seeks to meet the needs of each participant—the victim, the offender, and the community—in the healing response to the crime or wrongful occurrence (See Table 5.1). The victim dimension involves victims in the case, provides input through victim impact statements and case disposition, and provides restitution or other forms of reparation. The objective of the community dimension is to offer a sense of security and safety to neighborhoods, to engage the community as a participant in the sanctioning process, and to involve the community in offender reintegration to provide an opportunity for restoration and crime prevention. The offender dimension obligates the offender to be accountable in fulfilling his/her responsibility to repair the harm caused to the crime victim and the victimized community. This dimension also develops offenders' competencies and social skills so they can lead a productive life and avoid future wrongful occurrences (Bazemore, O'Brien, & Carey, 2005; Hahn, 1998; O'Brien et al., 2003).

Restorative Justice in Practice

Community decision-making models, otherwise known as community conferencing models, involve a range of restorative options for justice and educational systems. The community conferencing models implemented nationally include circle sentencing, group conferencing, reparative boards, and victim offender mediation. The models seek to identify what happened, determine the impact, and discuss a mutual agreement for resolution and repair of the harm. The process may take place at various points in the judicial system (e.g., diversion, commitment, aftercare). The focus of these processes is to provide a means of healing the victim and offender by empowering the victims and allowing the offender to make amends for the consequences caused by the crime or occurrence.

Circle Sentencing

Circle sentencing is a version of traditional practices used by aboriginal tribes in Canada and American Indians in the United States. A wide range of community or "circle" members, such as victim, offender, families, justice and social service staff, community residents, and law enforcement, all participate in a consensual discussion for the sentencing plan. The circle keeper or facilitator uses a talking piece which is passed around the circle to the individual speakers. The strategy is to address their concerns in repairing the harm caused by the criminal act process within a holistic, integrative context.

Group Conferencing

Group conferencing (or family group conferencing), is based on the Maori Tribal dispute resolution tradition in New Zealand. It involves those persons most affected by the occurrence, such as the victim, the offender, family, friends, and key supporters. A trained facilitator guides discussion on how the affected parties have been harmed by the offense and how the harm may be repaired. Participants are involved in the resolution of the wrong-doing.

Reparative Boards

Reparative boards are a community sanctioning response to crime, known by such terms as, community panels, neighborhood accountability boards, or community diversion boards. Most reparative boards primarily handle nonviolent, minor offenses. Trained community board members conduct face-to-face meetings with offenders who have been diverted from the formal justice process. Victims are encouraged to provide a statement to the board either in person or by a victim impact statement. The board develops assignments and case plans for the offender, monitors compliance, reports on case completion to the court and, in some cases, provides aftercare and reintegration services to the offender (Bazemore & Umbreit, 2001; Umbreit et al., 2005). Justice system stakeholders (for example, judges and prosecutors) are increasingly utilizing these restorative practices as diversion and alternative sanction methods to the formal juvenile court process.

Victim Offender Mediation

Victim offender mediation is the most common and broadly accepted of these practices in the United States (Bazemore & Umbreit, 2001; O'Brien, 2000). Victim offender mediation programs are increasingly being referred to as victim offender dialogue, victim offender reconciliation, or victim offender dispute programs. These programs may not be applicable in all cases and are most commonly used in less serious crimes as an alternative sanction or part of a diversion program. The process, however, is increasingly being used for serious and violent juvenile and adult crimes. A trained mediator/facilitator brings the victim and the offender together in a safe, structured setting to discuss the crime or occurrence. The victim and offender are able to relate the impact of the crime and include the families of the victims and offenders. A final settlement is reached at the end of the mediation process (Bazemore & Umbreit, 2001; Umbreit et al., 2005).

Conclusion

Restorative justice is a social movement which promises to do justice differently and perhaps better. Moving a justice system to prevent crime and transform to a restorative response to crime or wrongful occurrence is a viable option for justice and educational systems by actively involving system partners, victims, offenders, and community. ↩



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