

# 1. Restorative Justice as a Social Movement

*“For me, as a victim of home burglary, restorative justice did something very different than the traditional justice system which focuses on punishing the offender and leaving the victim on the outside looking in. In the restorative justice system, I was part of the process. I saw the offender face-to-face and we talked about the impact of the burglary on my life and his. From a victim’s perspective, voluntarily choosing to meet with the offender was crucial to my healing process, and crucial to the accountability and healing of the offender.”*

**T**he past four decades have seen an unprecedented rise in violence, a drastic deterioration of community fabric, and a growing sense of personal danger, which breeds fear, isolation, and estrangement from those who are different from us. As spectators to this vast social change, we watch more and more people get incarcerated for longer periods of time. We watch as crime victims retreat from their former full involvement in meaningful activities. We watch impoverished neighborhoods become home to feuding gangs and drug dealing.

These conditions leave us feeling overwhelmed and powerless, eventually promoting an apathetic attitude. It seems that there is little we can do to change things. Indeed, we are encouraged to rely heavily on external systems of control such as the police or to live in more secluded and protected communities. However, our predominant dependency on external systems has resulted in an overreliance on punishment to deter crime, physical separation to ensure safety, and surveillance to monitor danger and seems to have made little progress, if any, in solving the levels of crime and violence. Yet we persist in doing more of the same, fearful that if we stopped, circumstances might get worse.

While the increase in socially toxic conditions creates a generalized fear mentality, reactionary policies of protection, and broadly based punitive responses, there is a philosophically different and demonstrably effective approach to crime and violence that is becoming a groundswell. In contrast to

current negative trends, this approach generates hope, meaning, and healing through processes of seeking justice and personal accountability.

Restorative justice is a fast-growing state, national, and international social movement that seeks to bring people together to address the harm caused by crime, through empowerment of those involved. This important social reform has been developing alongside mounting social problems, escalating rates of incarceration, and the evidence that punishment-oriented policies are not very effective. Restorative justice views violence, community decline, and fear-based responses as indicators of broken relationships. It offers a different response, namely the use of restorative solutions to repair the harm related to conflict, crime, and victimization. In a very short time, restorative justice has grown from a relatively beginning ideology into a generative force that impacts the way we understand and respond to crime and conflict in diverse communities throughout the world. For example, it has spawned hundreds of individual programs in many countries, leading to a rising number of system-wide policies across various components of many justice systems.

Restorative justice is also gaining the increased attention of scholars throughout the world. It has established a rapidly expanding database from studies both in the United States and abroad that examine the processes and outcomes of restorative justice policies and practices. Restorative justice has also been increasingly applied to individual, community, and national healing in response to massive human rights violations, including countries in South America, Africa, the United Kingdom, and the Middle East.

This chapter provides an overview of the restorative justice movement in the twenty-first century. It describes the movement's accelerated growth over the past 30 years as it has moved from small outposts of activity to being an international presence with legislative support from countries like Canada and New Zealand and mandates from the United Nations for its use by member nations. As the movement's geographical scope has widened so has its range of practices both in addressing an ever-increasing range of social issues as well as its efforts to advance system-level changes. The rapid growth provides evidence that the use of restorative dialogue has been effective. The areas of its effectiveness include healing victim's pain, reducing offender recidivism, and increasing participants' satisfaction with the outcomes of meeting face-to-face. Another area of effectiveness is providing communities with a new direction for their citizenry to be meaningfully invested in the social health and well-being of their neighborhoods. Doing restorative justice work has a sleeper effect; in the aftermath of crime and other wrongdoing, participants discover its potential for healing but also realize that it has the power to renew and instill the kind of hope that can treat the toxicity of indifference that today's cynicism breeds.

The first section of this chapter contains a summary of the distinguishing characteristics of the restorative justice movement, its history and development, and the areas where it has been practiced with effectiveness. The chapter's second section focuses on restorative justice dialogue, which is the most widely practiced and extensively researched process of the restorative justice movement. The section covers the public policy support for such dialogue in settings across the United States. In the third section, opportunities for expanding the vision and questions for the future are discussed.

## OVERVIEW OF RESTORATIVE JUSTICE

In a groundbreaking study, Norwegian criminologist Nels Christie examined the circumstances that led to the deaths of 70% of prisoners incarcerated in a Norwegian prison camp during World War II (Rutherford, 1984). After interviewing 50 Norwegian guards convicted of killing or severely maltreating a group of captured Yugoslavian prisoners, he determined that those who had abused their prisoners were much more distant from them than those guards who had treated the prisoners as human and with consideration. He subsequently proposed that social distance was a necessary precursor to moral indifference based on his finding that those who had mistreated the prisoners experienced their "sickness, dirtiness, and incontinence . . . in a completely different way than had the guards who had gotten closer to the prisoners" (Cayley, 1998, p. 17).

This research suggests that if we move up close to the harm created by crime or other injustices, we experience it differently than if we remain distant from the offender and apply only cruelty and pain. Similarly, restorative justice is built on the significance of relationship and the belief that bringing together those most directly affected by crime or wrongdoing will produce a different outcome for all involved than would occur through maintaining the social distance, a nonrestorative focus toward the offender, and the primary use of punishment to achieve justice.

Restorative justice, on the other hand, offers a very different way of understanding and responding to crime. Instead of viewing the state as the primary victim of criminal acts and placing victims, offenders, and the community in passive roles, restorative justice recognizes crime as being directed against individual people. It is grounded in the belief that those most impacted by crime should have the opportunity to become actively involved in resolving the conflict. Repairing harm and restoring losses, allowing offenders to take direct responsibility for their actions, and assisting victims to move beyond

vulnerability and move toward some degree of closure stand in sharp contrast to the values and practices of the conventional criminal justice system with its focus on law violation, past criminal behavior, the need to hold offenders accountable through ever-increasing levels of punishment, and other state interests.

Moreover, actual crime victims and the harm done to them play little or no role in the traditional process. As one crime victim remarked about her family's experience within the contemporary criminal justice system, "[W]e were bystanders. While we could be a presence at [the trial] so the judge could see someone cared about the man who was killed, . . . we had nothing to do with this. I was just a spectator in a show. Completely left out" (Peterson, 2000). This statement reflects the marginalization that crime victims often experience because the crime is deemed an offense to the state rather than to the real victim. Crime victims, therefore, have generally no legal standing in the proceedings. Many crime victims experience the offender-driven nature of this process and the secondary concern of the criminal justice system for their distress as a subsequent injustice that victimizes them still further (Armour & Umbreit, 2007; Goodrum & Stafford, 2001; Miller, 2001; Tontodonato & Erez, 1994). In contrast, restorative justice is a victim-centered process that places the harm experienced by crime victims at the center of a restorative justice and elevates their position in determining what they need for their own restoration.

### **Antecedents to Restorative Justice**

Although the restorative justice movement is often portrayed as either on the fringe of legal practice or as setting a new direction, the principles and practices of restorative justice, although not named as such, were the dominant model of criminal justice in Western countries before the eleventh century and embedded in numerous indigenous cultures from throughout the world (see Figure 1.1).

Within the English-speaking world, roots of the prevailing focus on crime as a violation to the state can be traced back to eleventh century England when crime was viewed as a violation of one person by another with a focus on harmful consequences and liability to repair damage. Following the Norman invasion of Britain, a major paradigm shift occurred in which there was a turning away from the well-established understanding of crime as a victim-offender conflict within the context of community. William the Conqueror's son, Henry I, issued a decree securing royal jurisdiction over certain offenses (robbery, arson, murder, theft, and other violent crimes)

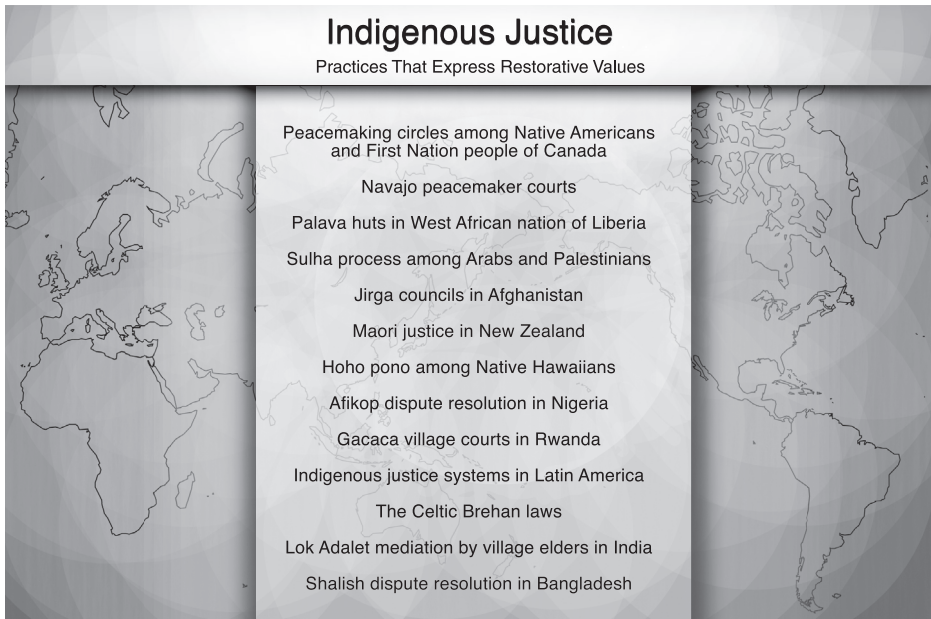


FIGURE 1.1

against the King's peace. This decree established that the fines that had been paid by offenders to their victims would now be paid to the state in the person of the king. These fines served a useful purpose because they became a revenue-generating system that supplemented unpopular taxes (Johnstone, 2002). The shift from the victim's right to restitution also pulled away the community's controls, including its ability to give offenders a sense of the magnitude of the harm and the opportunity to redeem themselves by repairing that harm.

Restorative justice values, principles, and practices also hearken back to numerous indigenous cultures from throughout the world. Many of these cultures are built on a deep understanding that all things are interconnected through relationships. When a violation occurs, it breaks the connections, thereby throwing the entire community into disharmony with itself. The first priority is the restoration of relationships between community members.

Navajo peacemaker courts use a respected community leader to bring together interested parties to resolve the dispute (Yazzie & Zion, 1996). The process is guided, in part, by a tradition that disallows the imposition of a decision on another. Consequently, the offender must voluntarily agree to participate and make things right in order for justice to proceed. Aboriginal/First Nations peoples of Canada employ elements of customary law and

traditional practices in response to wrongdoing. Peacemaking and sentencing circles are used in Canada and among Native Americans and others in numerous communities in the United States. The Hollow Water First Nation community used a 13-step community-based process to address the harm from longstanding sexual abuse (Griffiths & Hamilton, 1996). This initiative included rituals reflecting traditional culture, involved community elders, and maintained a focus on healing, spirituality, and responding to offenders holistically by considering many issues beyond the specific criminal behavior.

The Maori in New Zealand built their system of justice on the idea that we are all part of one another (Considine, 1999). The aim of the Maori justice process is to restore the *mana* or personal standing of the victim, the victim's family, and the family of the offender and to reestablish the social order of the wider community. A public hearing is used, subsequent to determining guilt, to hold the offender and his or her family accountable, followed by consultation with a volunteer panel to determine the measures necessary to heal hurts and restore things to normal again.

Other indigenous groups that use restorative practices include, among others, Native Hawaiians and various African tribal councils. The practices include the Afghani tradition of *jirga*, the Arab/Palestinian tradition of *Sulha*, and many of the ancient Celtic practices found in the Brehon laws.

The values of restorative justice are also deeply rooted in the ancient principles of Judeo-Christian culture (Zehr, 1990). Zehr notes that the unifying concept of *shalom* in the Old and New Testaments is particularly noteworthy because, among other things, it refers to the need to live in right relationship with one another and with God as well as the need for honesty or the absence of deceit in dealing with one another. The biblical concept of covenant also has application to restorative justice because it implies mutual responsibilities and commitments between people and with God and, as such, provides both the basis and a model for *shalom*. When wrongdoing occurs, therefore, both the Old and New Testaments set forth the obligation of offenders to directly repair the harm they caused to individuals, harm that has created a breach in the "Shalom community."

### **Defining Restorative Justice**

From disparate practices arrived at from different cultures over the centuries, a social movement applying a cohesive set of principles and practice has emerged. The most succinct and accepted definition of restorative justice is offered by Howard Zehr (2002), whom many consider to be the leading

visionary and architect of the restorative justice movement. His seminal book *Changing Lenses* (Zehr, 1990) provided the conceptual framework for the movement and has influenced policy makers and practitioners throughout the world. According to Zehr,

Restorative justice is a process to involve, to the extent possible, those who have a stake in a specific offense and to collectively identify and address harms, needs, and obligations, in order to heal and put things as right as possible. (2002, p. 37)

Core to restorative justice principles is the understanding that it is a victim-centered process. This means that the harm done to the victim takes precedence and serves to organize the essence of the interaction between the key players. Although victim centered, the process is not victim controlled. This allows the process to address the needs of all the various stakeholders. For offenders, therefore, this means that restorative justice, while denouncing criminal behavior, yet emphasizes the need to treat offenders with respect and to reintegrate them into the larger community in ways that can lead to their lawful behavior. Restorative justice, in this regard, views accountability as central to the rehabilitation of offenders. Indeed, restorative justice attempts to draw upon the strengths of offenders and crime victims and their capacity to openly address the need to repair the harm caused instead of focusing on the offender's weaknesses or deficits. Similarly, restorative justice believes communities, by pulling on their strengths, can be rebuilt despite crime.

From a restorative perspective, the primary stakeholders are individual victims and their families, affected communities, and offenders and their families. The state and its legal justice system also have an interest as a stakeholder, but in restorative justice, proceedings are removed from the direct impact of the crime and their focus instead is at the macro- rather than micro-level of engagement. Thus, the needs of those most directly affected by the crime come first. State institutions, however, are frequently called upon to provide support and space for forms of restorative justice dialogue between victims and offenders.

In its early years, the restorative justice movement, like many reform movements, focused on contrasting its values and principles with those of the status quo. Restorative justice was seen as an alternative paradigm to the dominant paradigm used by the criminal justice system. That paradigm was "retributive justice." It meant that offenders should get what they deserved or their "just deserts." In practice, retributive justice resulted in offenders receiving punishments that were commensurate with the seriousness of their crimes. The pain the offender felt was justified as an effective deterrent to

future lawbreaking (Umbreit, 1994; Van Ness, 1999; Wright, 1996; Zehr, 1985, 1990).

After more than 25 years of practice, research, and continuing analysis, Zehr (2002) has come to a different understanding: that a sharp polarization between retributive and restorative justice is somewhat misleading. Zehr's thinking is shared by the philosopher of law Conrad Brunk (2001) who argues that on a theoretical level, retribution and restoration are not the polar opposites that many assume. He notes that both actually have much in common: specifically, a desire to vindicate by some type of reciprocal action and some type of proportional relationship between the criminal act and the response to it. Retributive theory and restorative theory, however, differ significantly in how to "even the score," how to make things right. Retributive theory holds that the imposition of some form of pain will vindicate, most frequently through deprivation of liberty and, in some cases, even through loss of life. Restorative theory argues that "what truly vindicates is acknowledgement of victims' harms and needs, combined with an active effort to encourage offenders to take responsibility, make right the wrongs, and address the cause of their behavior" (Zehr, 2002, p. 59).

Even so, Zehr (2002) notes that restorative justice can be contrasted with conventional criminal justice along at least four key principles (see Table 1.1).

These two approaches also differ in the fundamental questions they pose in the search for justice. The conventional criminal justice system wants answers to three questions. What laws have been broken? Who did it? What do they deserve? From a restorative justice perspective, an entirely different set of questions are asked. Who has been hurt? What are their needs? Whose obligations are these? (Zehr, 2002)

**TABLE 1.1 Two different views of justice**

| Criminal Justice   | Restorative Justice  |
|--|--|
| <ul style="list-style-type: none"> <li>• Crime is a violation of the law and the state.</li> <li>• Violations create guilt.</li> <li>• Justice requires the state to determine blame (guilt) and impose pain (punishment).</li> <li>• <b>Central focus:</b> <i>Offenders getting what they deserve.</i></li> </ul> | <ul style="list-style-type: none"> <li>• Crime is a violation of people and relationships.</li> <li>• Violations create obligations.</li> <li>• Justice involves victims, offenders, and community members in an effort to put things right.</li> <li>• <b>Central focus:</b> <i>Victim needs and offender responsibility for repairing harm.</i></li> </ul> |



These questions suggest that restorative justice requires a radically different way of viewing, understanding, and responding to the presence of crime within our communities. As the movement has grown so has the interest in addressing broader, system-level applications of restorative justice principles. Among others, Braithwaite (2002) speaks of restorative justice in these larger dimensions:

Restorative justice is not simply a way of reforming the criminal justice system, it is a way of transforming the entire legal system, our family lives, our conduct in the workplace, our practice of politics. Its vision is of a holistic change in the way we do justice in the world. (p. 1)

Sullivan and Tift (2004) similarly speak of restorative justice in broad macroterms, noting that it requires a commitment to “create patterns of interaction among us all that take into account the needs of all from the very outset, structurally” (p. 117). These visions are nothing less than changing the way we do justice in the world.

Whether at the level of system-wide interventions or in individual programs, we are working toward restorative justice when our work meets the following criteria:

1. Focus on the harms of wrongdoing more than the rules that have been broken.
2. Show equal concern and commitment to victims and offenders, involving both in the process of justice.
3. Work toward the restoration of victims, empowering them, and responding to their needs as they see them.
4. Support offenders while encouraging them to understand, accept, and carry out their obligations.
5. Recognize that while obligations may be difficult for offenders, they should not be intended as harms and they must be achievable.
6. Provide opportunities for dialogue, direct or indirect, between victims and offenders as appropriate.
7. Involve and empower the affected community through the justice process, and increase their capacity to recognize and respond to community bases of crime.
8. Encourage collaboration and reintegration rather than coercion and isolation.
9. Give attention to the unintended consequences of our actions and programs.
10. Show respect to all parties including victims, offenders, and justice colleagues (Mika & Zehr, 1998).

The second section of this chapter focuses on restorative justice dialogue, the most widely practiced and extensively researched modality of the restorative justice movement, as well as the public policy support for such dialogue across the United States.

### **History and Development of the Restorative Justice Movement**

A small and scattered group of community activists, justice system personnel, and a few scholars began to advocate, often independently of each other, for the implementation of restorative justice principles and a practice called victim-offender reconciliation during the mid to late 1970s. These advocates in both the United States and Europe began establishing connections with one another, but they remained largely on the margins of the criminal justice system as a whole and were not initially connected with efforts to reform the system. Few of those involved in these early years would have ever thought that their modest yet passionate efforts to promote restorative justice would trigger a widespread social reform movement with international impact. These early thrusts, however, coalesced into what has become known as the restorative justice movement.

The first “child” of this birthing process was the Victim Offender Reconciliation Program (VORP) in Kitchener, Ontario, in 1974. This experiment involved two teenagers who pleaded guilty to 22 counts of property damage following a vandalism spree. After meeting individually with all the people they had victimized, the youth agreed to make restitution and within three months, handed each victim a check for the amount of his or her loss. From the late 1970s to the early 1980s, a number of experimental programs, modeled after the Kitchener program and built on restorative justice principles, were initiated in several jurisdictions in North America and Europe, with the first U.S. VORP started in Elkhart, Indiana, in 1978. VORP programs were rooted in the Mennonite experience and staffed, in part, by the Mennonite Central Committee (Cordella, 1991; Merry & Milner, 1995).

Through the mid-1980s, though introduced in many jurisdictions, restorative justice initiatives remained small in size and number. Consequently, they had little impact on the larger system. Indeed, few criminal justice officials viewed restorative justice programs as a credible component of their system. From the mid-1980s to the mid-1990s, however, the movement slowly began to be recognized in many communities as a viable option for interested crime victims and offenders, though still impacting a small number of participants. Indeed, England initiated the first state-supported Victim Offender Mediation Programs (VOM) during this period. VOM was

similar to VORP but used language to describe the restorative justice process that was secular and closer to conflict resolution or civil dispute resolution, rather than faith-based, for example, shalom, atonement, and forgiveness (McCold, 1999).

In 1994, restorative justice took a giant step forward to becoming mainstream when the American Bar Association (ABA) endorsed VOM. Although this recognition followed a year-long study and considerable skepticism, the ABA ultimately recommended the use of VOM and restorative dialogue in courts throughout the country and provided guidelines for its use and development. These guidelines included that participation by both offenders and victims be entirely voluntary, that offenders not incur adverse repercussions, and that statements and information shared are inadmissible in criminal or civil court proceedings (American Bar Association, 1994).

Victim organizations were initially skeptical about victim-offender mediation and other restorative justice initiatives, in part because they felt that the movement, in its early history, was not sufficiently victim driven. However, in 1995, the National Organization for Victim Assistance (NOVA) endorsed the principles of restorative justice through publishing a monograph entitled *Restorative Community Justice: A Call to Action*. NOVA's approval helped elevate the victim centeredness of the approach, and as dialogue programs and other restorative initiatives have continued to demonstrate a strong commitment to the needs and wishes of crime victims, victim organizations have become increasingly supportive.

The movement began to enter the mainstream in some local and state jurisdictions beginning in the mid-1990s, a development that has led to mixed consequences. On the one hand, recognition by and active collaboration with the formal justice system are vital to implementing the underlying vision of restorative justice. On the other hand, such widespread growth and impact have made the movement increasingly vulnerable to being subsumed and diluted by the very justice systems that were initially so critical of its existence. This issue is discussed in more detail in our concluding section.

Today, restorative justice policies and programs are developing in nearly every state, and they range from small, individual, and marginal programs in many communities to a growing number of state and county justice systems that are undergoing major systemic change. Examples of such systemic change initiatives are occurring in the states of Arizona, California, Colorado, Illinois, Iowa, Minnesota, New York, Ohio, Oregon, Pennsylvania, Texas, Vermont, and Wisconsin.

Restorative justice programs are being developed in many other parts of the world, including Australia, Canada, numerous European countries, Japan,

China, New Zealand, South Africa, several South American countries, South Korea, Russia, and Ukraine. The United Nations, the Council of Europe, and the European Union have been addressing restorative justice issues for a number of years. Meeting in 2000, the United Nations Congress on Crime Prevention considered restorative justice in its plenary sessions and developed a draft proposal for “UN Basic Principles on the Use of Restorative Justice Programs in Criminal Matters” (United Nations, 2000). The proposed principles encourage the use of restorative justice programming by member states at all stages of the criminal justice process, underscore the voluntary nature of participation in restorative justice procedures, and recommend beginning to establish standards and safeguards for the practice of restorative justice. This proposal was adopted by the United Nations in 2002.

The Council of Europe was more specifically focused on the restorative use of mediation procedures in criminal matters and adopted a set of recommendations in 1999 to guide member states in using mediation in criminal cases. In 2001, the European Union adopted a victim-centered policy in support of “penal mediation,” otherwise known as VOM. This policy stated that member states (nations) of the European Union should promote mediation in criminal cases and integrate this practice into their laws (Commission of the European Communities, 2001).

European nations have clearly outpaced American policy development and implementation in support of restorative justice practices, with Austria having established the first national policy commitment in the world to broad implementation of VOM in 1988. Numerous other European countries have now made strong policy commitments to restorative justice and, particularly, VOM. Germany, for example, has an exceptionally broad and large commitment to VOM, with more than 468 programs and 20,000 cases referred annually. Other European countries that have developed local VOM programs or national initiatives include Denmark, Finland, Sweden, Ireland, the Netherlands, Luxembourg, Switzerland, Albania, Slovenia, Romania, Poland, Bulgaria, Italy, Spain, and Ukraine. England has gone far beyond a focus just on VOM, with a national policy recommendation to implement restorative justice policies and practices throughout the country (Home Office, 2003).

In contrast to many previous criminal justice reform movements that have primarily dealt with fine-tuning the existing structure, the restorative justice movement has major implications for system-wide change in how justice is done in democratic societies. While initiating restorative justice interventions, such as victim-offender mediation, family group conferencing, peacemaking and sentencing circles, restorative community service, victim panels, and other forms of victim-offender dialogue or neighborhood dispute resolution, is important, restorative justice, as a movement, places heavy emphasis upon changing the current system. Already, there are

19 states in America that have introduced and/or passed legislation promoting a more balanced and restorative juvenile justice system. Thirty other states have restorative justice principles in their mission statements or policy plans. There are individual restorative justice programs in virtually every state of America, and a growing number of states and local jurisdictions are dramatically changing their criminal and juvenile justice systems to adopt the principles and practices of restorative justice (O'Brien, 2000). This institutionalization of restorative justice is further buttressed by the ABA who, in 2006, began a national survey of restorative justice programs and, in 2008, offered grants to its members to develop restorative justice initiatives in criminal law settings.

## RESTORATIVE JUSTICE IN PRACTICE

A wide range of restorative justice practices, programs, and policies are developing in communities throughout the United States and abroad. In this section, several different examples are briefly described, followed by a more detailed presentation of a system-wide change effort.

### Program Examples

In Orange County, California, a victim-offender mediation and conferencing program receives nearly a thousand referrals of juvenile offenders and their victims annually (Niemeyer & Shichor, 1996). This program is supported by a large government grant and provides needed support, assistance, and restoration for victims of crime, while also holding young people accountable to the victims and their communities for their misdeeds. By diverting these juveniles from further penetration into the justice system, if the victim's needs are met, the County also benefits from a significant cost reduction in the already overcrowded court system. The program in Orange County is part of a much larger network of more than 1,500 victim-offender mediation and conferencing programs in 17 countries, working with both juvenile and adult courts.

In several U.S. cities, prosecuting attorney offices routinely offer choices to victims of crime to actively participate in the justice system, including participation in restorative dialogue with the offender and others affected by the crime, and to meet other needs that victims are facing. A program in Indianapolis works closely with the police department in offering family group conferencing services where young offenders and their families meet the individuals they have victimized and work through dialogue with

each other toward repairing the harm, resulting in a significant reduction in recidivism among these offenders (McGarrell, Olivares, Crawford, & Kroovand, 2000).

Restorative justice principles and practices are increasingly being used in additional juvenile and criminal justice settings as well as in addressing larger issues of human rights violations and deeply entrenched national conflict and political violence. A dialogue-based format was creatively used in Eugene, Oregon, following a hate crime against the local Muslim community that occurred within hours of the September 11 attacks (Umbreit, Lewis, & Burns, 2003). The prosecutor's office gave the victimized representatives of the Muslim community a choice of either following the conventional path of prosecution and severe punishment or the restorative justice path of participating in a neighborhood accountability board, including face-to-face conversations with the offender and others in the community who were affected by this crime. The victims elected to meet in dialogue; together they were able to talk openly about the full impact of this hate crime and to develop a specific plan to repair the harm and promote a greater sense of tolerance and peace within the community.

In several jurisdictions, restorative justice procedures are being used to enable ethnic communities to access elements of their traditional means of handling infractions and breaches of trust among themselves. The Hmong peacemaking circles in St. Paul, Minnesota, receive referrals from local judges in cases involving Hmong participants so that the offense is handled in a more culturally appropriate way that fosters peacemaking and accountability (Allam, 2002, March 2). In Canada, aboriginal groups are using the circle-sentencing format of restorative justice dialogue to handle a wide range of offenses within the community (Lajeunesse, 1996).

Restorative justice dialogue responses are increasingly being offered to victims of severe and violent crime, driven by requests from victims for such opportunities. Departments of Corrections in Texas, Ohio, Pennsylvania, and more than 20 other states have initiated statewide victim-offender mediation and dialogue programs through their victim services units (Umbreit, Vos, Coates, & Brown, 2003). In such programs and in the wake of trauma caused by extreme violence, including homicide, victims meet in facilitated dialogue with the offenders who have harmed them as part of their search for meaning and some measure of closure. Extensive preparation of all involved parties is required in these cases. In a related program, a retired Wisconsin Supreme Court Justice facilitates dialogue groups in a state prison among prisoners and with several victims of severe violence in an effort to ingrain the full human impact of the prisoners' behavior upon victims and their communities.

Most recently, restorative practices are emerging as part of the healing process for victims of political violence. The Truth and Reconciliation Commission hearings in South Africa were established to foster national healing in the wake of severe violent political conflict as the apartheid system of racial segregation and oppression was dismantled (Dissel, 2000). The West African nation of Liberia has initiated a Truth and Reconciliation Commission to hold hearings in both Africa and Minnesota where the largest population of Liberian refugees reside and to incorporate restorative justice practices in the hearing process (The Advocates for Human Rights, 2008).

A victim-offender mediation was held in Israel between two Israeli-Palestinian youths and a young Israeli mother who had been assaulted and robbed; families of both the offenders and the victim were involved. Both the Jewish and the Palestinian communities actively participated and forged a path toward greater understanding, accountability, and mutual respect. Again within Israel, a restorative justice conference allowed the Arab victims of a Jewish hate crime and assault to meet face-to-face, talk about the full impact of the crime, and to develop a plan to repair the harm. In another case, a former prisoner who was an icon of the Irish Republican Army (IRA) movement in Northern Ireland met face-to-face with the daughter of one of the men he killed in their mutual search for greater understanding, meaning, and peace in their lives.

These are a sample of the increasing number of cases in which restorative justice dialogue is being used. These examples demonstrate the flexibility of using restorative justice in multiple settings from local to international to foster accountability and healing in the midst of severe criminal and political violence.

### **Systemic Change Examples**

As many advocates point out, restorative justice is a process not a program. Therefore, some proponents are hopeful that a restorative justice framework can be used to foster systemic change. Such changes are beginning to occur. For example, within Minnesota, the state Department of Corrections established a policy to handle letters of apology by prisoners to their victims in a highly restorative and victim-centered manner. First, the state agency encouraged and assisted prisoners who wanted to write such letters. Instead of sending the letters directly to victims, an act that could revictimize them, the letters were deposited in a victim apology letter bank in the central office for later viewing by victims should they choose to want to do this (Minnesota Department of Corrections, nd).

Broad systemic change initiatives have been undertaken in a number of other countries. In 1988, Austria adopted federal legislation that promoted the use of victim-offender mediation throughout the country (Van Ness & Heetderks, 2002). In 1989, legislation was adopted in New Zealand that totally restructured their youth justice system based on the traditional practices of their indigenous people, the Maori, and principles consistent with restorative justice (Daly, 2001). The largest volume of youth justice cases now go to family group conferences, rather than court. This has resulted in a significant reduction in both court cases and incarceration, with no evidence of increased recidivism. Finally, a nation-wide systemic change effort has been undertaken in the United Kingdom through its policy commitment to adopt restorative justice principles and practices throughout the country (Van Ness & Heetderks, 2002). These changes are focused on increased participation by crime victims, youth accountability boards, and different forms of victim-offender mediation and dialogue.

Washington County Court Services near St. Paul, Minnesota, is one of few jurisdictions in the United States that has explicitly undertaken system-wide change through adopting policies informed by restorative justice principles. Here is a summary of data gathered from a more extensive study from interviews with key system and community decision makers to document the change process and gather participant assessments regarding significant changes made (Coates, Umbreit, & Vos, 2004).

Often reform efforts in criminal justice are prompted by a crisis, for example, a jail riot or an offender suicide. This was not the case in Washington County. Instead, key leaders built upon long established relationships among criminal justice professionals and with community groups that started when the Community Corrections Act passed in 1973, giving counties more administrative control and resources for developing community-based programs for offenders. Washington County took advantage of the Act and chose to participate by providing services that were as community based as possible. It established a Community Corrections Advisory Board comprising citizens, judges, the County Attorney, the County Sheriff, and representatives from Probation, Community Services, Public Defenders, and Law Enforcement plus *ex officio* members, for example, County Board Commissioner. Growing out of a long tradition of providing prevention and early intervention services to youth, Court Services wrote a grant to develop and strengthen restitution programs, community service, and VOM. When VOM was cut, the staff for the program pushed for broad systemic change and a more open endorsement of movement toward a restorative justice philosophy. A variety of change strategies were adopted. The department staff began learning about restorative justice and became committed to a victim focus and using restorative



practices for their internal relationship issues. Criminal justice decision makers gradually signed on as they were more exposed to restorative justice principles and because of concerns for the unmet needs of victims. Community members and groups became involved as they were invited to participate on ad hoc committees, which increased communication, relationship building, and trust with Court Services.

There were also expected tensions around conflicting ideas or use of resources. Some community advocates felt, for example, that Court Services was not moving fast enough, while others felt that the staff was moving too fast or was directly or indirectly critical of what community-based providers had been doing for years. Some resisted the focus on offender's needing to understand the impact of their actions on victims and the community claiming that this added more to their workload. Still others felt that a restorative justice approach was not punitive enough.

However, Court Services also recognized that a restorative justice team-work increased options available to staff. For example, more consideration was given to the nature of reparations and how services provided by offenders could more meaningfully give back to the victim and community rather than just hours of work because the system ordered it. Peacemaking Circles as well became an additional option that builds on community partnerships and collaboration.

After a time of experience with some restorative practices, Washington County Court Services decided to revise its mission statement to incorporate the changes. This was accomplished by getting staff together to hash out a thoughtful vision, mission, and values statement along with reviewing policy and procedures with the restorative mission in mind. Attention was given as well to how best to measure the impact of their restorative justice programs. Each one of these developments has brought waves of reaction to possible change. For example, tensions arose among staff members as debate was carried out regarding next steps in a proposed idea, accountability measures, and the role of Court Services in the community and other justice system components. However, as one community participant said, "It takes time to establish an effective process. It takes a lot of time to establish relationships because the most effective restorative justice is a partnership and doesn't come from the top down. Nor does it come from the bottom up. It kind of grows together between community members and court services and everyone else."

The collective focus on offenders, victims, and community has provided a new foundation for thinking and action that applied to everything from writing case reports, to assessment, to new program development. In reviewing the change that occurred both in mindset and strategy, the director of court services often used a "seed planting" metaphor. To that end, it took

considerable time to provide the education and training necessary to switch gears. Likewise, seeds were planted through one-on-one conversations and through relationship building. When workers were asked about the development of restorative justice in the county system, most of the individuals interviewed identified mutual respect and relationship building as pivotal for this effort at reform to succeed.

The restorative justice frame, however, brought victim issues into focus, which resulted in an explicit broadening of the mission of the county to include victims along with offenders and community.

Indeed, community support was central in providing the impetus for change, a change that was not always appreciated. "It is the community piece that has some in the system reacting to restorative justice with resistance," the director said. He believed that systems changed primarily because of outside forces. In this instance, that was the community, including victim groups, as well as service providers. Community members participated on ad hoc department committees, as volunteers in victim-offender conferencing and peacekeeping circles, and as developers of private community-based services. This involvement was not without tension. Some community participants wanted the system to move further and faster than many key decision makers were prepared to do. A few long established community service providers were skeptical of some restorative practices. Yet it was this partnership among community participants, criminal justice decision makers, and court service personnel that formed the foundation for the reform and upon which the ongoing process depends.

Reform proponents point to specific changes reflecting a restorative justice lens as responsible for the county's success. These include the use of victim-offender conferencing and peacekeeping circles, case planning focused on victim and community needs as well as those of offenders, and assessment tools considering the impact on all three groups. Much work is left to be done to make these changes system wide and to help systems remain open to new restorative possibilities. Participants acknowledge that continuation of the reform will require risk taking and that this restorative process "is a marathon not a sprint."

## RESTORATIVE JUSTICE DIALOGUE

As a means of providing an in-depth examination of restorative justice practices, the focus turns to restorative justice dialogue. In so doing, we do not mean to imply that it is the best practice in all situations or the only practice worth examining. It is discussed here because it is the oldest, most widely

practiced, and most thoroughly researched of the various processes that fall under the broad umbrella of restorative justice.

## Description

Four general types of restorative justice dialogue are examined in this review. These include victim-offender mediation, group conferencing, circles, and “other.” All have in common the inclusion of victims and offenders in direct dialogue, nearly always face-to-face, about a specific offense or infraction; the presence of at least a third person who serves as mediator, facilitator, convener, or circle keeper; and usually, advance preparation of the parties so they will know what to expect. The focus of the encounter nearly always involves naming what happened, identifying its impact, and coming to some common understanding, often including reaching agreement as to how any resultant harm will be repaired. Use of these processes can take place at any point in the criminal justice process, including prearrest, precourt referral, presentencing, or postsentencing, and even during incarceration.

Victim-offender mediation (often called “victim-offender conferencing,” “victim-offender reconciliation [VORP],” or “victim-offender dialogue”) usually involves a victim and an offender in direct mediation facilitated by one or sometime two mediators/facilitators; occasionally the dialogue takes place through a third party who carries information back and forth, a process known as “shuttle” mediation. In face-to-face meetings between the victim and offender, support persons (such as parents or friends) for victims and/or offenders are often present; a 1999 survey of victim-offender mediation programs in the United States found that support persons, including parents in juvenile cases, were present in nearly nine out of ten cases (Umbreit & Greenwood, 1999).

Group conferencing (usually known as “family group conferencing” or “community group conferencing” or “restorative group conferencing”) routinely involves support persons for both victims and offenders as well as additional participants from the community. Many group conferencing programs rely on a script, though some are more open ended. The number of support persons present can often range from 6 to 10 to only a few, much like victim-offender mediation. Some group conferences can have well over 10 people.

Circles are variously called “peacemaking circles,” “restorative justice circles,” “repair of harm circles,” and “sentencing circles.” The numbers and types of participants gathered for circles are similar to those gathered for conferences, though sometimes there is even wider community member participation, either as interested persons, representatives of the criminal justice system, or as additional circle keepers or facilitators. The process involves

the use of a “talking piece” that is passed around the circle to designate who may speak.

“Other” refers to programs such as reparative boards and other community-based programs that invite victims and offenders to participate together in crafting an appropriate response to the offense.

Increasingly over time, distinctions across these categories have begun to blur, in particular between “mediation” and “group conferencing.” Thus there are programs that refer to their process as “family group conferencing” or “restorative group conferencing” but in fact convene only offenders and victims with few if any support persons and no outside community representatives. Similarly, many “victim-offender mediation” or “victim-offender conferencing” programs have moved towards more routinely including support persons and occasional additional affected community members.

Despite the overlap, there are differences in the relative importance of various stakeholders in each type of restorative dialogue. (See Figure 1.2.) For example, victim-offender mediation highlights the victim and offender as the primary parties in the offense and gives greater emphasis to storytelling and problem solving through dyadic dialogue (Bazemore & Schiff, 2005). Group conferencing puts a central focus on the role of the family and other support persons because those people have the best chance of

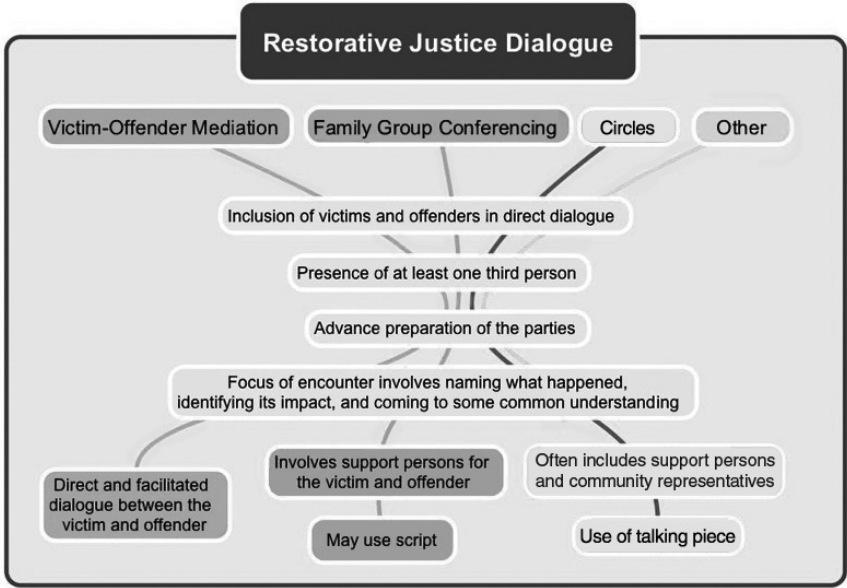


FIGURE 1.2

influencing the offender through the importance of their prior or ongoing relationship and the use of empathy, support, and respectful disapproval. Circles feature shared leadership and consensus-based decision making as core to the functioning of the group and the development of the group's process. Although the purpose of the circle may be to address the offender's behavior, circles also tend to place more attention philosophically on stakeholder and community needs. Boards operate under a small decision-making body of community volunteers that gives primary consideration to the offender and reparation. Boards underscore the citizenry's ownership of the criminal justice system because of the member's direct involvement in the justice process (Bazemore & Umbreit, 2003).

The present review attempts to maintain the distinction between these four types of restorative dialogue especially between victim-offender mediation (or victim-offender conferencing) and group conferencing (family group conferencing). However, it seems likely that knowledge building may be better served in the future by collapsing the categories. So doing would allow for participant responses and outcomes to be analyzed across actual variations in structure and format, rather than according to what the intervention is called. Zehr has also called for a reconsideration of the conventional typology, suggesting that restorative justice programs can be placed on a continuum from fully restorative to not restorative based on not dialogue type but the meeting of specific criteria including, among others, the involvement of the relevant stakeholders, the victim-centered nature of the process, and the adequacy of the restorative justice dialogue to deal with harms, needs, and causes (2002).

### **Humanistic Mediation**

Facilitation of restorative justice dialogues rests on the use of humanistic mediation. Contemporary mediation practice has been heavily undergirded by the legal profession, concerns about procedural fairness, and the need for settlement agreements. In contrast, humanistic mediation rests on client empowerment, recognition of each other's humanity despite the conflict, and the building of a deeper, mutually respectful relationship. It acknowledges that most conflicts develop within a larger emotional and relational context characterized by powerful feelings of disrespect, betrayal, and abuse. When these feelings about the past and current state of the relationship are suppressed or not aired in a healthy manner, an agreement might be reached, but the underlying emotional conflict remains. Little healing of the emotional wound is likely to occur without an opening of the heart through genuine dialogue, empowerment, and recognition of each other's humanity despite the conflict. Instead of being directive, therefore, humanistic mediation is nondirective and dialogue driven. It prepares

the parties, through separate premediation sessions with the mediator, so that they feel safe enough to have an opportunity to engage in a genuine conversation about the conflict, to experience their own sense of empowerment, and to express “compassionate strength,” including empathy for the other party in the conflict (Bush and Folger, 1994). It allows the parties to discuss the full impact of the conflict and to assist each other in determining the most suitable resolution. The art of mediation is found in connecting with people at a human level through the expression of empathy, warmth, and authenticity.

### **Evidence-Based Practice**

Restorative justice is more a process than a product. Consequently, the measurement of its success requires an evaluation of the factors that influence the process as much as its outcomes. Restorative justice research, therefore, has concentrated on participation rates and reasons, participant satisfaction, and participant perception of fairness as indicators of the health of the process as well as restitution and repair of harm, diversion, recidivism, and cost. Moreover, evaluations of restorative justice dialogue are extensive and, in relationship to youth, indicate a closer examination over a longer period of time than most other programs in the juvenile offender service, including cognitive behavioral treatment, juvenile drug courts, and family-based therapy programs (Aos, Miller, & Drake, 2006).

For example, over 85 studies have been conducted of various types of restorative justice dialogue including 4 meta-analyses, one of which was based on a sample of over 12,000 youth (Bradshaw & Roseborough, 2005). This research that has been generated over the past 30 years suggests that the restorative justice paradigm can make a substantial contribution to increased victim involvement and healing, offender responsibility for behavior change and learning from experience, and community participation in shaping a just response to law violations and destructive behavior.

Participant satisfaction has remained the most commonly studied outcome variable across all restorative justice approaches. Expression of satisfaction with victim-offender mediation is consistently high across sites, cultures, and offense severity for both victims and offenders. Indeed, those offenders who find the process satisfying also tend to display lower recidivism rates and are more likely to adhere to restitution agreements (Latimer, Dowden, & Muise, 2005). Typically, eight out of ten participants report being satisfied with the process and resulting agreement (Carr, 1998; Evje & Cushman, 2000; L. Roberts, 1998; T. Roberts, 1995; Umbreit, Coates, & Vos, 2001).

Restitution is regarded by many as an important by-product of bringing victim and offender together. Restitution or what is called reparation can be

quite varied and include direct compensation to the victim, community service, work for the victim, and sometimes unique paybacks devised between victim and offender. Apologies are also often included in program reports as a component of repairing the harm. In some settings, restitution amounts are established before cases are referred for a restorative justice intervention; in others, deciding whether the victim should receive restitution, the type, and how much are seen as important domains for the dialogue session.

Victim participation seems to contribute to the nature and willingness to meet the conditions of the agreement. For example, one study found that reparation occurred 42% of the time when victims were present compared to 29% across all cases that harmed victims (Maxwell & Morris, 1993). Moreover, when victims are present, work performed by offenders is more likely to be done for the victim than when victims are not present. There are no known studies of restitution for peacemaking circles. The Vermont Reparation Board program, however, reported that restitution was ordered in 69% of cases where material harm was identified. Of the victims surveyed, 66% indicated that their losses were addressed. Victim participation appears to be an important determinant as demonstrated by the fact that the percentage of apologies rose from 18% for all cases to 67% in cases where victims attended (Karp, Sprayregen, and Drakulick, 2002).

Recidivism studies are important indicators of restorativeness because a major objective in all restorative justice approaches is to change offending behavior. Moreover, desistance from crime indicates both individual and social well-being (Presser & Van Voorhis, 2001). Although studies indicate that victim-offender mediation and group conferencing have significant impact on reoffending, little is known, as yet, about the contribution peacemaking circles and reparation boards make to reducing recidivism or the durability of their imprint. Because peacemaking circles involve community members and therefore have a potentially wider effect, there is some evidence that this practice could also serve as a community control mechanism to prevent crime. For example, a study of the impact of “healing circles” on the Hollow Water First Nation community located in the Canadian Province of Manitoba suggests that the effect might be substantial. Hollow Water has had a recidivism rate of approximately 2% over a 10-year period (Native Counseling Services of Alberta, 2001).

Indeed, there is little research on the systemic impact of restorative justice. Those countries, however, that legislate the use of restorative justice provide opportunities to measure its influence more broadly. In Australia, for example, group conferencing reduced the total number of policy interventions involving youth and increased the proportion of cases handled through cautioning rather than in court (Moore & Forsythe, 1995). In New Zealand,

systemic changes made through the Children, Young Persons and Families Act of 1989 have dramatically reduced the court load from up to 13,000 cases per year to as little as 2,587 in 1990 (Maxwell & Morris, 1993).

Although the viability of restorative justice is dependent on the findings of evaluation research, the nature of its goals calls for future studies of process and outcome that are built, with greater precision, on a restorative justice base. These goals include considerations such as systemic social change; complexity of interactional processes that involve encounters between victims, offenders, and communities; and diversity of implementations. Presser and Van Voorhis (2001) identify three core restorative justice processes, namely dialogue, relationship building, and communication of societal values, and two overarching restorative justice outcomes, namely reparation and social well-being, as useful points of departure. Likewise, Bazemore and Schiff (2005) propose that future practice and research be tied to restorative justice principles that encompass both micro- and macrolevel objectives, for example, making amends, but they go further in suggesting that studies also examine more nuanced relationships between restorative justice and intervention theories such as social support and social exchange in order to understand the impact of short-term outcomes on long-term results. Both suggestions indicate that restorative justice research needs to be guided by a restorative justice framework in order to illuminate the full potential of what restorative justice can offer to victims, offenders, and the community.

### **OPPORTUNITIES FOR EXPANDING THE VISION**

The restorative justice movement is built on a foundational vision of an entirely different way of understanding and responding to crime and conflict. In some instances, restorative justice is seen as a replacement for the criminal justice system. In some instances, restorative justice is seen as an option to use when the current situation has failed to bring about its intended purpose. In other instances, restorative justice is viewed as complementary to the criminal justice system because it attends to issues that the traditional system neglects. Regardless of the position taken, the vision of restorative justice is grounded in values that are resonating with an increasingly broad range of individuals and communities throughout the world, presenting many opportunities for new and widened impact. A number of these opportunities are listed below; many others continue to emerge.

1. Initiating a system-wide commitment to providing local citizens who are victimized by all but the most serious violent crime the opportunity



to first choose a local community-based restorative justice response. Both parties would retain the legal right to go before the formal criminal or juvenile justice system if either felt that they were not treated fairly or were dissatisfied with the outcome of the restorative justice intervention. Such a policy would place restorative justice in the forefront of our collective response to crime, rather than consigning it to a marginal position as an option for only a select number of individuals. This policy would also result in huge cost savings.

2. Developing an increasing number of hybrids that integrate the strengths and limitations of each individual restorative justice intervention. For example, in more serious cases the use of victim-offender mediation on a small or intimate level could first be offered to the specific victim and offender. This could be later followed by a session involving a number of family members and support people, and then even this phase could be followed at a later time with a much larger community intervention involving a peacemaking circle of perhaps 20–30 individuals. Case examples of such combinations go all the way back to the experience of Genesee County, New York, in responding to a sniper shooting case in the early 1980s (Latimar, Dowden, & Muise, 2001). Examples also include a case in Dakota County, Minnesota, in which the response to a pipe bomb incident by students in a high school resulted in combining elements of victim-offender mediation, family group conferencing, and a community peacemaking circle (Adams, 1998).
3. Increasing the use of surrogate victim-offender community dialogue. Encounters with surrogates can be a partial response to the large volume of crime victims whose offenders are never caught. Such victims are equally in need of gaining a greater understanding of why people commit such crimes and letting others in the community know about the impact on their lives. Often they also find it beneficial to help hold other similar offenders accountable for their actions even though their own offender was never caught. Dialogue groups in prisons and other correctional facilities that include offenders, victims of similar crimes, and community members have been shown to benefit all who are involved at a relatively low cost. Examples of these practices exist in the states of Minnesota, Texas, Washington, and Wisconsin (Armour, Sage, Rubin, & Windsor, 2008; Burns, 2002; Helfgott, Lovell, & Lawrence, 1999).
4. Applying restorative justice principles and practices in school settings from elementary level through college. Examples of this possibility include the use of peacemaking circles to deal with student conflicts

in an entire school district in Minnesota and other schools throughout the country that use various forms of victim-offender mediation, peer mediation, family group conferencing, circles, or other types of restorative dialogue. Skidmore College (Karp & Conrad, 2003) and The University of Colorado at Boulder (Warters, Sebok, & Goldblum, 2000) are two institutions of higher learning that have developed and implemented a formal restorative justice program on campus.

5. Expanding the use of restorative justice principles and practices in work place settings among coworkers.
6. Increasing the use of restorative justice principles and practices to foster healing in the wake of severe political violence and in the context of national healing.
7. Building increased coalitions among unlikely allies within communities that focus on the real human impact of crime, the need for direct and understandable accountability of law violators, and the need to foster healing within the community.
8. Offering more support for victims of severe violence. This prospect would include greatly expanding the opportunities for victim-offender dialogue for those victims who seek to meet. It would also involve much wider use of victim intervention projects that respond to the needs of victims immediately after the crime, whether or not there ever is any direct engagement with the offender. Defense-Initiated Victim Outreach (DIVO) is an emerging restorative justice program that offers victim survivors in capital murder cases the chance to have their judicial needs met, especially those that can be addressed by the defense and the defendant (Redfield, 2006).
9. Developing strong legislative support for public resources being appropriated to support the restorative justice movement, based on evidence of its effectiveness in reducing recidivism, cutting costs, and increasing victim and citizen satisfaction with the justice process. Such initiatives would also involve building stronger alliances with the crime victim advocacy community through focusing on joint interests between restorative justice advocates and crime victim advocates.
10. Building ever-increasing bridges between the dominant culture and the many ethnic groups and communities of color within our society. One approach already being used is that of tapping into the ancient wisdom among many indigenous people who have for centuries practiced elements of what today is called restorative justice. Tribal Justice Exchange in Syracuse, New York, seeks to promote the sharing of information between state and tribal courts, assist tribal communities in enhancing their justice systems, and explore ways in which state courts can benefit from traditional tribal justice practices (Center for Court Innovation, 2008).

11. Using the principles of restorative justice to engage in a new framework for research on the public policy and human impact of the death penalty.
12. Strengthening the very fabric of community and civic responsibility through increasing involvement of neighbors and citizens in restorative community-based justice initiatives that provide opportunities for more frequent and meaningful contact with each other in activities that benefit all of society. A project in a poverty-ridden neighborhood in San Antonio, Texas, is using the underpinnings of restorative justice to improve the quality of life for area residents by addressing institutional and social structure problems (Gilbert and Settles, 2007).

## QUESTIONS FOR THE FUTURE

Restorative justice has made vast strides in the past quarter century. With growth, however, come new dilemmas that, despite the wide and increasing international acceptance of restorative justice principles and practices and despite the many opportunities facing the movement in the twenty-first century, present numerous unresolved and often troubling issues. Many of these speak to the core integrity of the movement, while others pose concerns about fair and effective implementation. We present the most salient of these questions in the following list:

1. The growth in restorative justice makes the concept increasingly ambiguous.
  - Is restorative justice in fact about developing an entirely new paradigm of how our criminal justice systems operate at a systemic level, or is it a set of processes, specific principles, and practices that can operate within our conventional criminal justice systems (Robinson, 2003)?
2. Restorative justice needs to influence the social injustice that permeates our society.
  - How does the restorative justice movement avoid becoming only a microlevel intervention serving victims, offenders, and communities?
3. Society is overwhelmingly focused on retribution.
  - Can restorative justice really be a victim-centered approach when the overwhelming emphasis and resources in the system are so heavily focused upon identifying, apprehending, processing and punishing, or even treating the offender?
4. As Susan Sharpe (2004) points out, there are at least two camps: the “purist” who would severely limit who is really in “the movement” and

the “maximalist” who would be so inclusive that it becomes hard to distinguish what makes the policy and practice uniquely restorative.

- How big is the tent under which policies and practices are considered to be part of the restorative movement?
5. Zehr argues that restorative and retributive justice are not in competition but rather need to work in concert with each other.
    - How can the restorative justice movement avoid the predictable co-opting of its philosophy as it seeks to mainstream itself within the criminal justice system?
  6. The vast majority of crime victims never have their offenders apprehended and processed in the system. These victims are largely ignored by the justice system—restorative or conventional.
    - How can restorative justice address the multitude of needs facing victims of crime whose offenders are never caught and who are never given the opportunity therefore to enter a mediation session or conference or peacemaking circle or other related interventions?
  7. Restorative justice has the potential for a broad reach in its ability to address harms related to a variety of social issues.
    - Will restorative justice be marginalized through being required to deal, in effect, with only the most minor types of criminal and delinquent offences, many of which would self-correct on their own?
  8. A variety of restorative practices are emerging.
    - Will restorative justice as a movement gravitate toward a “one size fits all” approach in which a specific intervention or approach will be viewed as appropriate for nearly all cases or all cases of a given type?
  9. A major pillar of the restorative justice approach is its emphasis upon the involvement of communities and respecting the needs of the community.
    - How will the restorative justice movement deal with the reality that many communities express a wish for policies and practices that are far from being restorative in nature? Will the movement be able to integrate respect for those positions while still advocating more restorative approaches?
  10. Some believe that domestic violence cases can be routinely referred to such programs as victim-offender mediation, while others are more cautious. In theory, restorative justice may have a great deal to offer to the field of domestic violence. In practice, however, it holds the potential for doing irrevocable harm, despite good intentions.
    - How will the restorative justice movement effectively deal with cases involving domestic violence?

- How can the dangerous territory of domestic violence be reconciled with the good intent of those involved with the restorative justice movement?
  - What changes are needed programmatically to assure the victim's safety?
11. Within the United States, the criminal justice system has a vastly disproportionate number of persons of color caught in its policies and practices.
    - How does the restorative justice movement avoid mirroring this same reality?
    - How many restorative justice policies and programs affect communities of color?
    - How many of these programs and policies actively engage people of color in leadership roles and service delivery roles?
  12. Concerns continue to be raised about the relationship between restorative justice and the current legal system that rests on an adversarial model of justice.
    - How can the informal nature of community-based justice that characterizes the restorative justice movement be reconciled with the protection of rights offered by our formal criminal and juvenile justice systems?
    - How can extensive and unfair disparity in sanctions and outcomes be avoided as individual victims and communities are given a wide range of options for holding the offender accountable?

## CONCLUSION

The restorative justice movement has an increasing impact upon criminal justice system policy makers and practitioners throughout the world. As a relatively young reform effort, the restorative justice movement holds a great deal of promise as we enter the twenty-first century. By drawing upon many traditional values of the past, from many different cultures, we have the opportunity to build a far more accountable, understandable, and healing system of justice and law that can lead to a greater sense of community through active victim and citizen involvement in restorative initiatives.

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