

Restorative Justice in the 21st Century: A Social Movement Full of Opportunities and Pitfalls

by Mark Umbreit, Betty Vos and Bob Coates

Pitfalls and Unintended Negative Consequences

The restorative justice movement is grounded in values that promote both accountability and healing for all affected by crime. It emphasizes positive human development, mutuality, empathy, responsibility, respect, and fairness. Yet the principles and practices of the restorative justice movement are not inherently benign, incapable of doing harm. In fact, as in so many other movements and interventions grounded in lofty values and good intentions, reports of unintentionally harmful consequences or outcomes surface periodically.

In large part, the pitfalls derive from the inherent difficulty of attempting to balance so many valid needs: needs of victims, needs of offenders, needs of their community, and ultimately the needs of the state that has come to represent them. Small programs that are accountable to a finite and immediate constituency may be less prone to such errors than large institutions and governments, but even so, examples of unintended harm abound.

Sometimes the problem arises from inattention to some of the basic principles and guidelines that have by now become well established and widely known. For example, well intentioned judges in two different states took the opportunity during the civil portion of trials involving negligent homicide from drunk driving to refer the offender and the family survivor of the victim to a mediation process – on the surface, a positive restorative option for both. However in each instance there was no separate preparation of the involved parties, and the persons responsible for facilitation the meetings had no

specific training in victim-offender dialogue.

In one of these cases, the judge adjourned the civil portion of the trial to allow the defendant and the wife of the husband who was killed to go into the jury room in order to empower the victim to determine, with the defendant, what type of settlement would be the most helpful to her. This victim had no preparation and even her victim advocate with her did not object to this process. Her experience was one of intense fear and re-victimization in spite of the good intentions of the judge. In the other case a judge referred a defendant in a negligent homicide drunk driving case to a very experienced local mediation program that focuses on civil court disputes and involves attorneys quite extensively in the process. This organization had not even done a victim offender mediation in a petty vandalism, yet they were now faced with facilitating a mediation/dialogue in a homicide case, with no training or experience in this area.

It is not just well-intentioned individuals who make such errors. A nationally recognized exemplary offender re-entry project that receives large federal grants to support restorative group conferencing invites victims at the last moment with no preparation, no support, and little involvement. The net

result is a feeling of re-victimization by those crime victims who participated.

In many jurisdictions there are well intended juvenile justice officials and judges who mandate young offenders to meet with their victims if the victim is willing to do so, even if the defendant does not own up to the offense or would prefer not to do this type of intervention. Two documented cases occurred in a mid-western state in both a victim offender mediation program and a family group conferencing program. In both cases the victims and their support people felt re-victimized by the process because of the attitude projected by the offender who was mandated to attend against his will. The victims themselves reported feeling coerced into the mediation or conference, despite the good intent of the highly committed restorative justice advocates who were responsible for their participation in the process.

Some of the reported problems are a result of insufficient attention to training volunteers and monitoring their performance. One participant in a peacemaking circle process reported being required to attend, receiving no preparation, and finding that the facilitator not only monopolized the process but in fact identified with and openly supported the other party in the disagreement. And observers in an-

RJ in the 21st Century
continues on page 14

IN THIS ISSUE

Restorative Justice in the 21st Century.	1
Restorative Justice: The Gap Between Vision and Practice.	3
E Makua Ana Youth Circles: A Transition Planning Process for Youth Exiting Foster Care	5
New Resources for the Practice of Restorative Justice	6
Restoring Schools: A Case of School Accountability Boards	7
Book Review: Historical Accounts of Restorative Justice.	11

VOMA Connections

VOMA Connections is published four times a year by the International Victim Offender Mediation Association.

The Mission of VOMA is promoting and enhancing restorative justice dialogue, principles, and practices. Our mission will be achieved only with a commitment to full diversity and equality of participation for all people. VOMA holds this commitment as central in its work.

VOMA welcomes contributions, including short articles, literature reviews, case studies, program news, and other interesting information. Photos and graphics are also welcome.

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Reflections

Restorative Justice: The Gap Between Vision and Practice

by Harmon L Wray

Starting about 25 years ago, I was excited to discover the early writings of Paul Wahrhaftig, Ginny Mackey, Howard Zehr, Kay Harris, and Mark Umbreit on an emerging paradigm that came to be called "restorative justice." Soon I was able to make their personal acquaintance, and through their influence I became even more excited by the potential of this way of thinking, of being and of doing justice.

I first began to advocate for restorative justice in my own limited circles when I realized that it had the potential to become a radical alternative to the adversarial, lawyer-dominated, vengeance-oriented, racist criminal justice system within which -- and against which -- I had been working since 1972, a system which I had come to regard as fundamentally illegitimate.

In its "common sense" focus on identifying and working to rectify harm done, and on problem-solving, the restorative justice vision was consistent with my view of what a social response to crime (blue- and white-collar, individual and corporate) and to those persons most impacted by it, ought to look like. In its promise to return the conflict and the power to adjudicate it back over from the state to the primary stakeholders ("victims", "offenders," and local communities), it fit my decentralist, left-populist, and participatory democratic politics. In its lifting up of restitution as a basic goal, it lent itself well to a focus on larger socio-economic issues of distributive justice and social justice as well as criminal justice, which was and is a strong interest of mine. It also gave promise of challenging, at some level, the easy identification of just who is a victim and who is an offender in our criminal justice calculus, although this was not evident in most of the discourse in the literature or in the nomenclature of most typical programs.

In its definition of crime as a deliberate or negligent violation of some people by other people or institutions, a restorative justice model seemed supportive of a policy of decriminalizing (and otherwise regulating) negative and unwise behaviors inappropriately treated as crimes -- like drug abuse, gambling,

and prostitution -- where one (and one's consenting partners) is one's own primary victim. This also fit well into my strong civil libertarian orientation. In its redefinition of accountability from passive acceptance of punishment to active taking of responsibility and seeking to "make it right", the restorative justice vision offered a healthy, respectful, and realistic response to those identified as offenders and the promise of concrete reparations, at several levels, to crime victims by their violators themselves. Finally, in its understanding of the presence of good and bad within all persons, and in its emphasis on the virtues of truth-telling, repentance, confession, restitution, healing, redemption, and -- sometimes -- reconciliation, restorative justice was consistent with my own Christian faith orientation.

Strategically speaking, as a longtime advocate for decarceration, alternatives to incarceration, and services to both crime victims and those identified as victimizers in particular cases, I felt that restorative justice held out the promise of helping to break down the mythology that there are two kinds of people, the innocent victims and the guilty criminals, and that one could only be -- or care about -- one or the other, but not both. Since our adversarial legal system, our political culture, and our mass media all foster this mythology by pitting the designated victim and the designated criminal against each other, the natural reaction of the ordinary citizen (wanting desperately to believe in his or her own virtue and law-abidingness, and fearful of being violated by the "other") is to identify with "the victims" and to stick it to "the criminals", then to wash his or her hands of any concern about the long term consequences for either party, much less for the local community and the larger society.

I saw a restorative justice approach, if it was actually practiced widely, as gradually chipping away at, and slowly demythologizing, this simplistic paradigm, which does not match up with the way the world really is. For me, this approach represented pretty much the only hope for any progressive change in criminal justice policy in this country in

the foreseeable future. If somehow this restorative justice vision, as articulated conceptually and in practice, could identify common ground between the impulses and values behind the "conservative" victims' rights movement and those behind the "liberal" defendants' or offenders' rights movement, then radical, progressive change in this economically, politically, and morally bankrupt system might be possible.

So, in 1989, with some reservations about its name, I helped to start a Victim Offender Reconciliation Program in my home city, Nashville, Tennessee. Like many such efforts, it was primarily supported by government money, was dependent on court personnel for case referrals, had primarily low-level cases referred to it, and saw far more juvenile cases than adult cases. Our staff and volunteer mediators mediated many relatively minor, mostly juvenile cases, and established a pretty good numerical track record of "successful" mediations. (I found out late in the game that a typical contract settling a case of assault by one juvenile against another was an agreement for the two of them to have no future contact -- hardly a reconciliatory outcome!)

We were able to get refunded for a number of years, and it is clear that just in occasionally helping mostly young persons experience another way to deal with conflict, we performed an important service. But as the years rolled on, it became equally clear that we had had absolutely no discernible effect on either jail or prison admissions, or on the modus operandi of the local criminal or juvenile justice system, or the public climate vis-à-vis crime and punishment.

With support from a couple of local board members, in the late 1990s I ratcheted up my efforts to find a way for this outfit to become something other than just another social service agency doing, on the cheap, the work that government agencies cannot or will not do, meanwhile offering no real alternative vision or challenge to the government or to the public.

RJ: Vision and Practice
continued from page 3

Having helped to provide what we called an "alternative experience of justice" for roughly 2500 persons identified as "victims" and "offenders" over the course of existence, our VORP should, I reasoned, set about contacting these folks and trying to organize some of them to join us (the VORP board, staff, and volunteers) in developing a strategy to put pressure on the established local criminal justice powers-that-be to change the system in a more restorative direction. In other words, I wanted our VORP to start seeing our "clients" as a potential political constituency instead of just passive recipients of our presumably enlightened and benevolent mediation services, and to begin seeing political struggle and systems change as part of our vocation.

We couldn't get to first base in persuading the majority of the board, staff, or volunteer mediators to join us this effort. Most people either didn't "get it," were afraid we could not find our old clients, did not want us to do anything different, or seemed afraid of losing funding or cases if we stepped outside the box, as we were urging. The few like-minded board members and I soon resigned in an effort to cut our losses. The VORP struggled along for awhile, lost its director, lost most of its cases to another local mediation agency, lost most of its funding, changed its name, and eventually folded a year or two ago. Except for a few good innovations for which we cannot claim credit, like a drug court and a mental health court, the local system blithely continues on its retributive, adversarial, costly, and overly incarceration-reliant way, meanwhile helping some survivors of violent crime as long as they cooperate with the retributive political agenda of the law enforcement and prosecutorial powers. Needless to say, I came away from my most sustained experience with the programmatic practice of restorative justice with a great deal of disappointment.

Meanwhile, as I continue to read, listen, talk, and write about restorative justice, and to advocate for it, it has been striking to me that in the literature and practice of restorative justice, at least in this country, I seldom see restorative justice advocates paying much explicit attention to a number of major current issues that, it seems to me, basic re-

storative justice principles ought to have a lot to say about (a notable exception has been the work of Dennis Sullivan and Larry Tifft). Among these issues are the following:

- The War on Drugs, which not only defines institutional racism in new and frightening ways, but also operates on the basis of premises about the nature of crime and of human nature that are in direct contradiction to a restorative justice vision;
- Sentence-enhancement "hate crime" laws, which continue to operate with what restorative justice considers to be illegitimate currency (time in a cage as legitimate retribution and deterrence of others);
- Reparations (to slave descendants, Native Americans, et al.) understood along the lines of the principle of collective, systemic restitution or restoration for collective, systemic, historic violations;
- Other distributive justice issues, such as Third World debt, growing economic disparity in the US, and the vastly inequitable (based on lost earning power) monetary settlements offered to families of New York's 9/11 victims;
- The "tort reform" movement, in which right-wing Republican political forces are seeking to destroy the ability of plaintiffs in civil courts who are victims of non-criminalized corporate and medical crimes to be fairly recompensed by those persons and institutions which have violated them;
- The way in which private, for-profit prison corporations exploit public fear, low-income communities, and greed to make prisoners and prison workers alike mere commodities, driving up incarceration figures and poor prison conditions with limited legal or political accountability;
- The common practice (historically and politically rooted in old-fashioned racism) of disenfranchising persons convicted of felonies, even after they have "done their time" and "paid their debt to society", thus making it clear that even on its own retributive premises the current system is not fair and does not really believe in the possibilities for rehabilitation, change, restoration, and growth;
- The death penalty and the growing use of Life Without the Possibility of

Parole as an "acceptable" alternative to it, despite the fact that both options -- aside from being racist, unnecessary, incredibly costly, and demonstrably unfair -- effectively deny the basic restorative justice principle of the possibility of personal change and growth on the part of all individuals; and

- How restorative justice principles and practices might be able to improve our society's characteristic policy responses to the "hard cases," such as murder and terrorism. Here I have in mind something beyond the commendable and growing practice of prison-based mediations initiated by victims' families. The good work of Murder Victims Families for Reconciliation and Murder Victims Families for Human Rights is an exception here.

Finally, based on these experiences and observations, it appears to me that restorative justice will never become "transformative justice" (see Ruth Morris's work) in practice as long as our programs are dependent for funding and case referrals on the very systems that the original vision of restorative justice holds itself out as an alternative to, and on the good graces of politicians. This is why I would be very excited to see more examples of a kind of underground, guerilla approach to doing restorative justice: volunteer, neighborhood-based, seat-of-the-pants community dispute centers which can function with low overhead and limited funding, and which operate parallel to (not as an adjunct to) the formal system and are dependent on local community folk themselves ("victims" and "offenders" and others) for generating cases. This is the very sort of approach that Paul Wahrhaftig advocated for back in the mid- and late-1970s.

Such a model is very hard to get going and to keep going. This strategy of building alternative, independent, local institutions would need to be complemented by a strategy of ongoing political education and revisioning of possibilities on the part of all -- "victims", "offenders", practitioners, and neighborhood residents in general -- and by the willingness to be engaged in creative, risky political struggle. Short of a turn in this direction in what we consider the restorative justice "movement", I am afraid that I see little hope

E Makua Ana Youth Circles: A Transition Planning Process for Youth Exiting Foster Care

by Loren Walker

"My proudest accomplishment since I've been a foster child is I'm graduating from high school and I got accepted to Western Oregon University," says the teenager, with a bright smile and warm brown eyes, as she looks at the facilitator. She will be 17 years old in two months and has lived in foster care for most of her life. It is June 2004 and she is sitting in one of the first *E Makua Ana Youth Circles*. Also sitting in the Circle are her aunt who has raised her for the last several years, a close cousin, her best friend, her maternal grandmother, a social worker from a shelter she lived in previously, her current state child protective services social worker, and the Circle facilitator. An empty chair in the Circle is in between her aunt and grandmother signifying the teen's absent mother who is in prison. A woman — the Circle recorder — stands with an easel and with different colored markers recording information on large sheets of butcher paper.

Background

E makua ana is the translation of *becoming an adult* into Hawaiian. In Hawaii, over 130 *E Makua Ana Youth Circles* have been held for teens emancipating out of foster care. Former foster children are one of the most vulnerable groups of young people in our country (Wald and Martinex, 2003). Former foster children make up a hugely disproportionate share of people who are unemployed, on welfare and in prison (Roberts, 2002). *E Makua Ana Youth Circles* are one of Hawaii's attempts to deal with this serious problem.

Hawaii's Youth Circle process, which is based on San Jose, California's *Emancipation Conference* and John Braithwaite's *Youth Development Circle* (Braithwaite, 2003), gives teenagers the opportunity to determine and voice their goals, and to generate or maintain a social support system. A *solution-focused* approach, as developed by Berg and de Shazer (see De Jong & Berg, 2002), guides the *E Makua Ana Youth Circle* process beginning with the initial referral.

Pre-Meetings with Referred Youth

The Youth Circle process begins with a referral to Effective Planning and Innovative Communication (EPIC) 'Ohana Conferencing, the non-profit agency that developed the program, for foster youth from the Hawaii Department of Human Services (DHS). The referral form is one page, and it contains only general information about the youth. Because the Youth Circle uses the solution-focused approach, EPIC does not conduct in-depth background research of the youth or of her or his family. Instead, facilitators perform a "surface assessment" of the youth at a pre-circle meeting, noting the teenager's observed strengths; facilitators complement the youth on these strengths at the meeting. "Effective solution-focused assessment requires the facilitator to stay on the surface, avoiding any 'deep' assumptions about why people are behaving as they are at a given moment and instead focusing on the value of any given presentation" (Lee, Sebold & Uken, 2003, p. 25).

The facilitator calls the youth and asks for an appointment with him or her to describe the Youth Circle process. In rare cases, teenagers will be adamant that they do not want to participate in a Circle. The teenager's decision is respected. Most teenagers, however, want to have further information before deciding whether they want a Youth Circle and they are willing to meet with the facilitator.

After meeting with the youth and describing the Circle, the facilitator asks the youth, "Are you interested in having one?" Most of the foster youth that EPIC has contacted have said they want a Circle. For those teenagers who do not want a Circle, the facilitator asks if she or he may contact them again in three to six months.

For the teenagers who want a Circle, the facilitator asks who she or he wants to invite. The teenager is the sole person who determines who will be invited to the Circle, except that their state social worker must also be invited. Biological parents whose

rights have been terminated may be invited to the Circle if the youth chooses and they have often participated in the Circles with much success.

For teenagers who claim to know no one who would want to attend, the facilitator probes further with questions such as "Who could you call if you were really in trouble?" or "Who do you like to spend time with the most in life?" until at least one person is named. At least one person, not including the DHS social worker or another paid professional, must be identified as a supporter of the youth for a Youth Circle to be held.

At the pre-circle meeting, the facilitator gives the youth a brochure about the Circle, using it to prepare them for the Circle. The teenager is told she or he will need to think of at least five goals to discuss at the Circle. The facilitator tells the youth to think of something she or he or is especially proud of that they have accomplished while being a foster child. They will be asked this at the Circle.

The teenager is asked to think of a way she or he wants to open the Circle. Suggestions have included poems, music, songs or prayers. The facilitator tells the youth that if she or he does not find a way to open the Circle, a moment of silence will be used to open the Circle to thank someone who helped each of the Circle participants.

Finally, the teen is asked what type of food they want served after the Circle. Pizza and Hawaiian food are popular selections.

Convening the Circle

After meeting with the teenager at the pre-circle meeting, the facilitator finds a location for holding the Circle that is convenient for the youth. Often Circles are held in churches, community centers or the EPIC offices.

The facilitator calls or personally contacts all of the people who the

*Resources***New Resources for the Practice of Restorative Justice**

by Russ Immarigeon

Conferecing & Sentencing Circles

Three new books, all recently published this past season, offer intriguing investigations and insights into the theory and practice of "conferencing" and "sentencing circles":

In **Will the Circle Be Unbroken? Aboriginal Communities, Restorative Justice, and the Challenges of Conflict and Change** (University of Toronto Press, 269 + xii pages), Canadian criminologists Jane Dickson-Gilmore and Carol La Prairie examine the concept of "community" within restorative justice practice, with emphasis gained from years of experience working with Aboriginal communities. Dickson-Gilmore and La Prairie focus on the use of conferencing, sentencing circles, and healing circles through the lens of urban as well as rural patterns of daily life, agency, conflict and disorder. The book is divided into three parts: defining the challenges of community and justice (including the rise of restorative justice within the context of the appearance of disproportionate rates of conflicts in Aboriginal communities), the Aboriginal aspects of the theory and practice of restorative justice, and the current state of restorative justice evaluation research, plus an overview of the use of restorative justice in Aboriginal communities in other nations, especially Australia and New Zealand. Overall, this intelligent assessment of restorative justice's impact on peoples and communities is well-worth reading for it asks the critically important questions that should be asked of new approaches to justice. A paperback copy of this book is available for \$29.95 from University of Toronto Press, 2250 Military Rd., Tonawanda, NY 14150, (716) 693-2768.

In **Justice as Healing: Indigenous Ways** (Living Justice Press, 459 + xlii pages), editor Wanda D. McCaskin creates a valuable resource for the field of restorative justice, bringing together in one volume close to 40 articles that originally appeared in the vibrant, but relatively little-known publication, **Justice as Healing: A Newsletter on Aboriginal Concepts of Justice**, over a ten-year period (1995-2004). Published under the auspices of the Native Law Center of Canada at the University

of Saskatchewan in Saskatoon, **Justice as Healing** gives valuable voice for practices that "decolonize criminal justice" and nurture communities and peoples. The articles in this volume are divided into three major parts: speaking the truth, being a good relative, and relying on our own ways. Within this context, individual articles cover such topics as engaging a healing context, the reclamation of healing circles, resisting certain justice processes, renewing the fabric of life, defining traditional healing, respecting community, evaluating the quality of justice, community peacemaking, sentencing circles, protecting traditional and indigenous knowledge, and "shape-shifting systems." A paperback copy of this book is available for \$25.00 from Living Justice Press, 2093 Juliet Ave., St. Paul, MN 55105, (651) 695-1008, (website) www.livingjusticepress.org.

In **Juvenile Justice Reform and Restorative Justice: Building Theory and Policy from Practice** (Willan Publishing, 386 + xiv pages), Florida-based criminologists Gordon Bazemore and Mara Schiff examine the broad fit between restorative justice practices and the juvenile justice system. Bazemore and Schiff lament the weakness of federal support for restorative justice and the division of labor (not to mention decision making) involved with the responses of 50 state, several territorial, and many more local governments. In this sizeable report, the authors describe the national, state and local context for much restorative justice theory and practice and argue for "principle-based" research evaluations of restorative justice. Bazemore and Schiff make a crucial effort to align restorative justice principles with "grounded" intervention strategies. They report results from their National Survey of Restorative Conferencing Programs. And they describe the results of a much-needed qualitative investigation of how practitioners apply restorative justice principles and values, including the repair of harm, stakeholder involvement, and the transformation of community-governmental relationships. Paperback/hardcover copies of this book are available for \$37.50/ \$64.95 from Willan Publishing, c/o. ISBS, 920 NE 58th Ave.,

Suite 300, Portland, OR 97213-3786, (503) 287-3093.

Conference Proceeding(s)

In **New Directions in Restorative Justice: Issues, Practice, Evaluation** (Willan Publishing, 310 + xxiv pages), Canadians Elizabeth Elliot and Robert M. Gordon have gathered 15 articles, originally delivered at the 6th International Conference on Restorative Justice, which was held at Simon Fraser University in Vancouver, British Columbia in June 2004. The articles are divided into four sections: youth and restorative justice; Aboriginal justice and restorative justice; victimization and restorative justice; and evaluating restorative justice. In this significant volume, Elliot and Gordon offer articles that describe efforts that attempt to utilize restorative justice to its fullest potential. While the editors do not make any conclusions based on their assessment of these articles, it is clear they support restorative justice generally, and a critical approach to its implementation and evaluation. Many of the authors of these articles are probably unfamiliar to American readers, but their work purposefully stirs the mix of restorative justice practices. I especially liked Don Clairmont's review of Nova Scotia's effort to instill restorative justice throughout its criminal justice system, and several articles based on Belgium and Canadian data and experiences that examined the use of restorative justice with serious offenses. A paperback copy of this book is available for \$39.95 from ISBS, 920 NE 58th Ave., Suite 300, Portland, OR 97213-3786, (503) 287-3093.

Restorative Justice Handbooks

Publishing companies continue to support comprehensive reviews of restorative justice. By the end of this year, Routledge will publish, **Handbook on Restorative Justice**, a major compendium on restorative justice theory and practice edited by Dennis Sullivan and Larry Tifft. Next year, Willan Publishing will release a similarly titled, but completely different **Handbook of Restorative Justice** that is being edited by Daniel Van Ness and Gerry Johnstone. I will write more about both of these volumes in subsequent issues of **VOMA Connections**.

Practice & Research

Restoring Schools: A Case of School Accountability Boards

by Sandra O'Brien, Ph.D.

Restoring Schools

As increased student enrollment, behavioral issues, and alcohol and drug problems plague school communities, administrators and teachers are faced with resolving conflict, while addressing the needs of the youth, in an expeditious and peaceful manner. Community restorative justice offers an alternative method to address the standards of discipline in schools. Restorative practices, as related to educational disciplines, provide schools with an opportunity to present their approach to justice and facilitate a forum for the peaceful resolution of conflicts. Such prevention programs are effective tools in reducing the re-occurrence of disruptive behavior in school communities, ultimately reducing the demand on limited juvenile justice resources.

Community Restorative Justice

Community justice refers more generally to a preference for neighborhood-based, more accessible, and less formal justice services (NIJ, 1996) that shifts the locus of the justice response to those most affected by crime (Clear & Karp, 1999). This approach offers a balanced emphasis along the continuum of juvenile justice services from prevention and intervention through commitment and aftercare (O'Brien et al, 2003). Restorative justice refers specifically to viewing crime as harm to victims and communities, and justice as a means to repair the harm. A community restorative justice intervention engages the community, victims, and offenders in problem-oriented and preventative, rather than simply reactive responses, and attempts, to the greatest extent possible, to turn responsibility for justice solutions back to communities. To do this, community restorative justice redefines the role of justice agencies as one aimed at strengthening the capacity of citizens and community groups to carry out these responsibilities and supporting them in doing so (Barajas, 1995; Bazemore & Schiff, 1996, 2001; O'Brien, et al, 2003).

Community restorative justice focuses on repairing harm to the victim and community and improving the pro-social competencies and accountability of the offender in response to an offense or occurrence (Bazemore & Washington, 1995; Van Ness & Strong, 1997; Zehr, 1990; Dunlap, 1998). Restorative justice, built upon a commitment to a distinct set of values with prescribed goals and performance outcomes, provides a vision for juvenile justice reform. Its standards reflect a set of principles, with fewer adherences to a set of practices or programs (Bazemore and Walgrave, 1999) that may orient the response of a justice agency to juvenile crime. The three core principles of restorative justice are:

- *Repair harm.* Justice requires that victims, offenders and communities be healed following the injury that resulted from the crime.
- *Involve stakeholders.* (i.e., victims, offenders, and communities). Stakeholders should be extensively involved in the reparative process.
- *Change roles.* The relationship between community and government should be transformed with the community taking an active role and responsibility in the restorative response to the criminal offense (Van Ness and Strong, 1997; Bazemore and Walgrave, 1999).

A restorative approach to juvenile justice can provide the conceptual framework for fundamental application and reform.

Community restorative justice has been viewed as the new vision of the justice system (Bazemore & Walgrave, 1999). A significant number of states and local juvenile justice systems are setting policy for the development and implementation of innovative practices based on restorative principles. A notable finding of a study by O'Brien (2000) is that the majority of states articulate restorative justice principles in one or more policy documents, in-

cluding state statute or codes, policy statements, mission statements, program plans, or evaluation reports (the study did not require that restorative justice be stated explicitly in any policy document, only that the fundamental principles of restorative justice were articulated). Further, the study identified that community restorative justice has been applied in adult criminal justice systems and juvenile justice systems. (Twenty-three states have implemented community restorative justice in both adult criminal justice systems and juvenile justice systems. Twenty-two states have implemented this approach in juvenile justice systems with five states in adult criminal justice systems.) More recently, practices have ventured to schools as a much needed prevention tool for at-risk youth.

Application to Educational Settings

While the community restorative justice movement continues to evolve throughout our country, school administrators and teachers have become attracted to the principles, values, and potential benefits that it holds for dealing with crime, behavior problems, and disturbances in schools. States, such as, Florida, Illinois, Pennsylvania, and Colorado, have successfully embraced restorative practices in school communities. These school initiatives seek to identify at-risk youth, to provide early intervention for an over burdened juvenile justice system, to increase student participation, and to empower principals with an available option for providing discipline and restorative consequences.

School communities across the country have begun to explore the use of restorative practices as an alternative method, part of a more comprehensive approach to school discipline. Restorative practices may be considered as a prevention strategy (i.e., conflict resolution training and anti-bullying

Restoring Schools continued from page 7

strategies) and intervention mechanism (i.e., peer mediation, victim offender mediation, family group conferencing, accountability boards, and peacemaking circles) once a violation has occurred. Rather than suspending or expelling students for violence, behavioral problems, minor crimes, or victimization such as bullying, members of the school community hold the youth accountable for their negative actions. Stakeholders (i.e., school administrator, school resource officers, teachers, and students) determine a comprehensive case plan based on individual strengths and needs.

Anecdotal evidence and preliminary evaluation of restorative practices have proven in various realms of the justice system that schools have begun to integrate them into their disciplinary action program. Teachers and school administrators cite that the program is an effective tool used for encouraging offenders to be accountable and to repair the harm caused by their actions, while providing student participants with proactive leadership, decision making, and conflict resolution skills. Officials have been impressed with the way in which this approach has assisted schools with disruptive and insubordinate behavior. In essence, the principal initiative of the program is to encourage these troublesome students to take responsibility for their actions by hearing from the victim(s) about the consequences of their behavior.

Several conferencing models are utilized in schools, i.e., conferencing in Colorado and Pennsylvania, circles in Minnesota (Riestenberg, 1998; 1999), school accountability boards in Florida (O'Brien and Hansen, 2003).

School Accountability Boards

Schools have consequently integrated community conferencing models to deal with occurrences at school. Most of the cases that appear before a conferencing model in an education setting are characteristically with an offender who has committed a minor,

nonviolent offense, including disputes, insubordination, disruptions, vandalism, and theft. The offenders are consequently given the opportunity to be accountable for their crime as well as being provided with an alternate way to restore the victim and "make things right." In turn, more and more stakeholders of the juvenile justice system are using these types of models as an alternative method to formal juvenile court processes.

Jorge is a twelve year old, seventh grader. The dean referred him to the SAB because of his insubordinate behavior to his teacher. He slammed a door in the teacher's face, "flicked her off," used abusive language, was disinterested in school, and didn't complete his schoolwork. Upon inquiry, the SAB exposed that Jorge's father was absent from his life, he had no afterschool activities other than playing computer games, and at first, didn't realize that what he did was wrong. The SAB initially decided to refer Jorge for a mental health assessment. After a few follow-up sessions with Jorge, the Coordinator decided to have the SAB revisit his case. The SAB revised the conditions of the case plan to include participation in homework club and in the local church youth group. While attending the youth group, a young male member of the church became a mentor to Jorge. Since this time, Jorge's attitude has completely changed. His teacher expressed her complete satisfaction in the process and outcome. He looks forward to school, completes his schoolwork, has improved his grades, and attends youth group every week.

The School Accountability Board (SAB) model implemented in Collier County, Florida is adapted from Reparative Boards originally implemented in Vermont (Dooley, 1995) and Neighborhood Accountability Boards operated in Florida (O'Brien and Hansen, 2003). The SABs are currently implemented in two middle schools that include sixth, seventh, and eighth grade middle school students. (The SABs are currently implemented in East Naples

Middle School and Immokalee Middle School. The project is set to expand to Corkscrew Middle School, Golden Gate Middle School, Manatee Middle School, and Immokalee High School.) The program will expand to three additional middle schools and one high school next year. These schools were chosen based on referral rates and need.

The purpose of the program is to identify at-risk youth while incorporating restorative justice principles into the implementation of SAB and the youth's case plan. The overall mission is to identify at-risk youth and provide early intervention in an over-burdened juvenile justice system, to increase student participation, and to empower principals with an available option for providing discipline and restorative consequences. The SAB aims to address referred student's behavioral problems in order to provide prevention and early intervention services.

Upon meeting with the SAB, the student will receive an individually tailored case plan that will address his/her particular behavioral or school offense as well as provide assignments and or services according to the particular needs of the child. For example, beyond correcting poor behavior through an apology letter or service-oriented project, the SAB may also assign a mentor to the child or a program that assists the child with his/her schoolwork. In turn, the child is, not only, learning from his/her mistakes but is "caught" before declining into a juvenile delinquent path. The case plan, moreover, is issued to assist the child and correct behavior for long-term success, not simply considered "punishment." Detention, in-school suspension, or out-of-school suspension alternatives may not provide adequate behavior modification. The SAB case plans serve not only as a tool to recognize behavioral issues, but also allow the child to "start anew" with the support of school administrators, teachers, student board members, school community, and the at-large community.

Restoring Schools
continued from page 8

The SAB serves as a prevention program utilizing a panel of five students/peers (chosen from a pool of approximately 15 students) from the school, a School Resource Officer and Faculty Facilitator to address students referred to the SAB for behavioral problems and school offenses. All students referred to the SAB program will participate in a conference with representatives of the school community in which the resolution of their school-based behavior infraction will be decided. During the conference the rule violator will be presented with the impact of his or her behavior infraction on any victims, friends, the offender's family, and the school community. After discussion of the impact of the incident, all participants in the conference will contribute in a problem-solving process to determine how the rule offender might best address the harm he or she has caused. Conference participants will sign an agreement outlining their expectations and commitments. The SAB will develop a comprehensive case plan to address the risk factors and needs of the referred student. The individualized comprehensive case plan will include the following components: mentoring, community service projects, academic standards supervision/improvement, victim restoration, and sport/hobby. The offender is monitored by the SAB Coordinator who ascertains progress and assesses whether further assistance or intervention is needed.

Completed case plans are then put into effect with corresponding deadlines for the youth to follow/comply. The case plans are then placed within the student's permanent file. The ultimate goal is to demonstrate that the SAB is a cost effective and efficient program that successfully provides early intervention to at risk youth with positive, long-term benefits to the youth and surrounding community by implementing restorative practices.

Program Evaluation

The evaluation of this program is essential in assessing the need, documenting program implementation,

measuring results, comparing alternative programs in terms of the best results and the most needed services, providing information to maintain and develop quality, and refining program activities, if applicable. The evaluators and the clients benefit by examining the process whereby a service leads to the expected outcomes. However, rather than measure success based upon the amount of punishment inflicted upon an offender, it measures how harm has been repaired or prevented.

Three distinct but overlapping activities that use both quantitative and qualitative measures are part of the evaluation process:

- *Measurement* of the progress toward the program's numerical objectives. This will be supplemented by documentation of the planning process and key program events and activities that led to the successful completion of the outlined objectives;
- *Assessment* of the immediate impact of restorative justice training, victim offender mediation and community group conferencing on the victims, juveniles, parents, school and community members; and
- *Monitoring* of the long-term impact of the services on the victims, juveniles, parents, school and community members.

Immokalee Middle School

The School Accountability Board at IMS reviewed a total of 26 cases beginning February 9, 2005 and concluding May 16, 2005. The SAB was subsequently active throughout the IMS third and fourth academic quarters. The SAB was comprised of fourteen IMS students of varying socioeconomic status, ethnicity, sex, nationality, grade level, as well as academic and behavioral backgrounds. In addition, a Dean (who served as the Faculty Facilitator), a Youth Relations Deputy, and a SAB Coordinator (facilitator) comprised the remainder of the board. The board met weekly on Wednesday mornings.

There were 19 male and seven female offenders who appeared before the SAB. The largest number of cases was for insubordination and disruption (13), followed by six cases for confrontation/fighting, four cases for theft, two cases for truancy, and one case for destroying school property. The types of assignments included: writing an apology letter; restitution/replacement; attend mentoring and/or tutoring services; compose essays, journals or poems; complete Power-Point presentations; attend Boys and Girls/Youth Groups; community service; assisting other faculty and staff; as well as complete behavior modification/grade monitoring sheets.

In order to be deemed successful, the offenders were required to complete all assignments on time and in a professional manner as well as not reappear before the SAB. Twenty-six of the 26 cases were successful. Overall, the IMS SAB success rate was 100%.

East Naples Middle School

The School Accountability Board at East Naples Middle School reviewed a total of 24 cases beginning February 2, 2005 and concluding May 11, 2005. The SAB was subsequently active throughout the ENMS third and fourth academic quarters. The SAB was comprised of 14 ENMS students of varying socioeconomic status, ethnicity, sex, nationality, grade level, as well as academic and behavioral backgrounds. In addition an ENMS teacher representative/faculty liaison, one ENMS Youth Relations Deputy, and one FGCU SAB Coordinator (facilitator) comprised the remainder of the board. The board met weekly each Wednesday and Thursday morning and reviewed between two and four cases each week. The majority of the cases (excluding the two TEAM recommendations) were hand picked by the ENMS Deans.

There were 20 male and four female offenders who appeared before the SAB. Out of the 24 offenders, five were in sixth grade, 15 were in

Restoring Schools continued from page 9

seventh grade and four were in eighth grade. The largest offenses, 19 cases, were for Insubordination and Disruption, followed by two cases for abusive language and three cases for Breaking School Rules. Out of the 24 cases, 22 offenders appeared before the board because of a discipline referral and two appeared before the board because of a TEAM recommendation. The types of assignments included: writing an apology letter; restitution/replacement; attend mentoring and/or tutoring sessions; compose essays, journals or poems; complete PowerPoint presentations; attend Boys and Girls/Youth Groups; community service; assisting other faculty and staff; as well as complete behavior modification/grade monitoring sheets.

Twenty of the 24 cases were successful. In order to be deemed successful, the offenders had to complete and turn in all assignments on time and in a professional manner as well as not reappear before the SAB. Four cases were deemed unsuccessful as two students moved away prior to completing their assignments and two other students were removed from the SAB when they refused to complete their assignments after two mini-extensions. The board asked the students if they would ever complete the assignments and both students said no. The board voted unanimously to remove the students' indefinitely. The two students were then sent to the ENMS Dean's office to receive disciplinary action. Overall, the ENMS SAB success rate was 91%.

Summary

A total of 50 combined cases were referred to the ENMS and IMS SABs. Combined, there were 39 male referrals and 11 female referrals. The largest number of referrals, 32 cases, was for insubordination/ disruption, followed by six cases for confrontation and fighting, four cases for theft, three cases for broken school rules, two cases for abusive language, two cases for truancy, and one case for destroying school property.

Conclusion

Restorative justice provides an alternative "lens" for viewing and developing new responses to crime and occurrences. This alternative perspective may potentially have a profoundly, positive effect on the justice system by incorporating community participation, victim involvement and restoration (Dunlap, 1998; Zehr, 1990). Furthermore, adopting restorative policy and practices requires leadership, vision, and communication among system partners, including victims, offenders, and community. In its challenge to society, the journey requires a deep commitment to long-term systemic change that is grounded in a spirit of collaboration, renewal, and hope for future generations (Umbreit & Carey, 1995).

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Book Review

Historical Accounts of Restorative Justice

by Russ Immarigeon

Pioneers of Peace: The History of Community Justice Initiatives in the Waterloo Region, 1974-2004

by Gary Nyp

Community Justice Initiatives

\$15.00 (\$20.00 Canadian), 110 pages (2004)

Community Dispute Resolution, Empowerment and Social Justice: The origins, History and Future of a Movement

by Paul Wahrhaftig

NAFCM Press

\$19.95, 109 + xv pages (2004)

Reform movements often lose their original visions as they become enmeshed in the implementation of new practices. Terms such as "cooptation" or "mainstreaming" adequately describe various dimensions of this problem. Although reforms can in fact build or improve upon their original visions, frequently the opposite occurs – programs compromise themselves, lessening their impact not only on those they serve but also the entrenched systems they challenge. Both of these valuable volumes provide us with yardsticks to measure restorative justice's progress over the past few decades.

Restorative justice, as we now know it, started in practice, not theory. In **Pioneers of Peace**, Canadian journalist Gary Nyp describes the historical development – including the many ups and downs – of the Community Justice Initiative in the Waterloo region of Ontario. In 1974, Yantzi was a probation officer and Worth a Mennonite worker when they inched their way toward the first victim-offender reconciliation meeting, which involved two youth who committed serious vandalism against a string of local car owners. Yantzi and Worth, both exploring peace and justice, were not very far ahead of themselves when they established these first meetings, when they started walking up victim doorsteps – unannounced I believe – to ask them – on the spot – for a conversation with the young men who had damaged their property. Yantzi and Worth were surprised that the court had sanctioned such an approach and, over time, surprised at the development and growth

of victim-offender reconciliation and restorative justice.

Nyp's insightful coverage of the Community Justice Initiative suggests that hard work and persistence are part of the ability of restorative justice to "catch on." The many pictures in this account attest not just to the ordinary, modest means that the program pursued (e.g., fund-raising yard sales), but also to the skilled service providers, managers, board members and volunteers who enabled the program to last three decades. It should be noted, however, that the development and growth process was not without tensions and problems. As with many initiatives, these "barriers" were ever present, and they challenged the organization's ability to survive. Still, the organization, true to its roots, kept at the task of creating innovative approaches to difficult issues, including the use of restorative justice options with convicted sex offenders, which emerged during a time of financial instability.

In **Community Dispute Resolution, Empowerment and Social Justice**, Paul Wahrhaftig, an early advocate of bail reform and pre-trial release as well as community mediation, describes his work over 30 years. Mainly, Wahrhaftig covers his advocacy of a community empowerment model of mediation and his involvement with confronting diversity issues within the mediation field.

Wahrhaftig did not enter the field of mediation with a master plan. In fact, his introduction to the field was rather circumstantial. In the early 1970s, he gathered resources, wrote a lot, and was an advocate. It was not until 1980 that he was formally trained in mediation. A critical thinker, Wahrhaftig notes that an early problem in the field – one that plagues restorative justice too – was definitional blurring. He originally devised a three-part typology of court-, agency- and community-governed programs, which has now been simplified to court- and community-governed programs, as some of the distinctions have lost their meaning over time. Wahrhaftig keenly notes that the initial independence of many programs has succumbed, for better or worse, to

becoming "part of the system."

Wahrhaftig observes a series of impediments to mediation practice: inappropriate evaluations (based on the "wrong criteria" or "standardized data") that mainstream community-based programs into judicial service delivery systems; project proposals that are based more on funding agency interests (reduced caseloads, violence- or substance abuse-reduction) than community-based interests (empowerment, control over conditions that affect daily life), pressure to handle more cases over wider geographical areas, and the physical location of programs (in officious versus assessable spaces).

The last third of this valuable addition to the literature (too few reform advocates have written of their work) delves into diversity issues (the involvement of African-Americans and other racial, ethnic and nationality groups in participatory and decision-making roles). This, too, is an important matter for restorative justice programs, practitioners, and organizations. Wahrhaftig reports on developments over a series of national conferences organized through the National Conference on Peacemaking and Conflict Resolution (now called Peaceweb). Among other things, he shows that diversity concerns have been an important issue throughout the past three decades of mediation practice. From time to time it is addressed more effectively than not. But it is an issue that does not simply slip away. Diversity, like other program or practice issues, is a matter that over time requires steady attention, and even renewed energy and individual commitment.

Pioneers of Peace can be obtained from *Community Justice Initiatives*, 49 Queen St. No., Kitchener, Ontario N2H 2G9, Canada, (519) 744-6549, (e-mail) info@cjiwr.com, (website) www.cjiwr.com. **Community Dispute Resolution, Empowerment and Social Justice** is available from NAFCM, 1537 New Hampshire Ave., Washington, DC 20036-1236, (202) 667-9700, (e-mail) info@nafcm.orh, (website) www.nafcm.org.

Youth Circles

continued from page 5

teenager invited and explains the Circle process to them. The best date and time to hold the Circle is determined after speaking with the invited participants. Finding a date or time that fits the schedules of all participants can require many follow-up calls.

Convening a Circle takes far more time than conducting one.

Pre-Circle Calls

A few days prior to the Circle, the facilitator calls to remind the teenager about it and to learn if anything special will be needed, such as a boom box to play music or something else that is necessary for the youth to open the Circle. The teenager is also reminded to have five goals to discuss at the Circle, since they will be asked what accomplishments she or he or is especially proud of while being a foster child.

Youth Circle Process

A sign-in sheet is distributed for Circle participants to check or to write their addresses if it is not already listed. The facilitator sits participants in the Circle in assigned chairs, which are indicated with Post-it notes.

The youth sits on one side of the facilitator while the state social worker sits on the other side of the facilitator. The person with the closest relationship to the youth sits on her or his other side with a descending order of people closest to the youth sitting near him or her. Professionals in the youth's life normally sit further away from the youth because the youth's family and friends have closer relationships, but on occasion a professional who has a particularly close relationship sits near the youth.

The facilitator relies on the Circle agenda to conduct the process. The recorder has set up an easel to record the group's discussion during the Circle.

Welcome & Opening

The facilitator welcomes the participants and asks the youth to open the Circle. If the teenager does not have an opening, the facilitator asks the participants, "Please stand and hold hands. Please close your eyes if you feel comfortable with that and imagine

a person who helped you get where you are today in your life. Give a moment of silent thanks to this person." The group waits quietly for about 15 seconds during this opening until the facilitator indicates they may sit down. "Openings are intended to help us shift our focus from out separateness to our relatedness" (Pranis, Stuart, & Wedge, 2003).

The facilitator tells participants, "E makua ana" means becoming an adult.

We're here today to celebrate [youth's name] becoming an adult and to assist him/her to plan for his/her future independence. We don't expect them to ever be totally independent and not need people—we all need people in our lives. We assume everyone will speak one at a time in the Circle and respect confidentiality laws."

Youth's Strengths & Goals

The facilitator asks the teen, "What is something you are proud of that you've accomplished while with Child Protective Services (CPS) that you'd like people to know about?"

Beginning with the social worker, each person in the Circle states several of the youth's strengths. The youth is asked "What other strengths do you have not listed yet?" Most teenagers think of several more strengths.

The teenager tells the group five of her/his goals. Problems and concerns are only discussed at the Circle if the youth has a goal that conflicts with something that the youth indicates is a problem, such as if the teenager says she wants to get into Job Corps that has a strict drug free requirement and all applicants must test negative on a drug test. The use of drugs would be addressed because the youth says they want to get into Job Corps and has indicated that this is a problem.

Resources, Options and Transition Plans

Each participant in the group generates resources for the teenager in the areas of: housing, education, financial, employment, transportation, necessary documents (social security card, birth certificate, identification card), physical health, emotional health, and identifying their circle of support (youth indicates specific support persons during a "Time Alone" phase of the Circle).

After generating options under all the different needs, Circle participants take a break and are invited to eat some food and socialize. The youth alone, or with anyone she or he chooses, reviews the posted butcher papers prepared by the recorder and selects a Transition Plan that they want to pursue.

After the youth has chosen which options he or she wants to pursue, she or he tells the Circle participants about them. Everyone then applauds.

The facilitator reviews the Transition Plan selected by the teenager and asks the circle participants if anyone "wants to volunteer" to assist the youth apply for scholarships, find a room to rent, or conduct other activities in pursuit of the plan. Specific timelines are established for each assignment that a person volunteers to help the teen. A date is set for the completion of the task.

Re-Circles

The facilitator asks the group to determine the best follow up date for what is called the *re-Circle*. The re-Circles are much shorter and go over the initial Circle Summary. Any new changes are noted and a revised Circle Summary is prepared. With 16-year-old youth it is hoped three Circles will occur before and right after legal emancipation from state custody. However, most Circles have been held for youth closer in age to 18. Over 30 re-Circles have been held.

Circle Closing and Evaluation

Again a solution-focused approach is used and participants are asked to complement the youth on something they heard or learned about her or him during the Circle. Or, they may comment on anything else they want to tell the teen. The teenager then tells the group how the Circle process was helpful (or not) for him or her.

Each Circle participant is asked to fill out a prepared Circle survey. A different survey is given to the teenager; the other participants receive a non-youth survey. The surveys are filled out and collected at the Circle.

Whatever type of food chosen by the youth is provided for the group after

Youth Circles

continued from page 12

the surveys are filled out. Any leftover food is given to the youth to take home.

Post-Circle Duties

The facilitator prepares a Circle Summary listing all the youth's strengths, what she or he is most proud of having accomplished, their goals, and the Transition Plan. Copies of the Summary are mailed to all the participants. The facilitator calendars the date for the follow-up re-circle and contacts the youth prior to that date to find out who they want to invite, their food choice, and where the Circle would most conveniently be held.

Satisfaction Results & Areas for Improvement

E Makua Ana Youth Circle participants have consistently and overwhelmingly high levels of satisfaction with the process. A review sample of 48 Circles showed that each of the four types of participants (youth subjects; DHS social workers; family and friends of the youth; and non-DHS service providers) believe that the Circles were highly valuable experiences.

According to the surveys, the invitation process is one area where there could be improvement. Out of the 47 youth surveyed (one youth's survey was not provided), 13 (27%) took the time to write that the Circle would have been better if other people they had invited to the Circle had attended. Some teenagers mentioned specifically their parents, brothers and cousins. Still,

these teenagers found the Circle satisfying and were positive about its results. Of the 47 surveyed youth, only two found the Circle to be neutral and neither of these two mentioned any people missing who that they had invited. All other 45 youth found the Circles to be positive or very positive. None of the 47 youth found the process negative.

Conclusion

Providing foster youth with the opportunity to make concrete plans for a successful emancipation out of state custody should be encouraged and supported. Numerous studies show how hard it is for these teenagers to become successfully independent and attached to the community without support. The rates of incarceration, unemployment, and welfare dependence by former foster youth are alarming (Roberts, 2002; Toth, 1997).

The Youth Circle is a chance for at-risk foster youth to learn by engaging in and even by sometimes failing to make healthy and effective decisions. The re-Circle is valuable for the youth because it shows them that planning is an on-going process, and that failing to achieve something is not a reason to give up trying something else. The opportunity to learn that they have support and how their decisions can influence their lives can only have positive influences on their futures.

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RJ Vision and Practice

continued from page 4

for significant breakthroughs commensurate with the original promise of restorative justice. The institutional and cultural forces of inertia, greed, fear, revenge, racism, hatred of the poor, individualism, win or lose thinking, legal professionalism, and our deeply degraded political culture just might be too powerful, at least at this point, in our history and our national culture for such an initiative to succeed.

While I am pessimistic in the short run, I am not without hope, because -- on

my good days -- I believe in God, in a certain goodness in human nature, and in an open future. Moreover, I am aware that the scope of my vision is limited, and of the possibility that there is a groundswell of the sort of thinking and action for which I am calling. It may well be that I am just out of touch. I suspect that in Canada and in other countries, even in a few states like Minnesota, the experience with restorative justice programs in practice may be much more positive in terms of the radicality of its impact, and I would love to hear more about these and other models and to be persuaded that both the present and the future are brighter

than I suspect. I would also be very heartened to learn that many restorative justice practitioners are equally concerned about these issues, but thus far, I see little evidence of such concern, at least within the United States. And, like so much in our common life in these dark days, this makes me very sad.

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other program reported on a community accountability board that consisted of three elderly retired men who functioned more as arbitrators in their questioning and comments toward the young offender who appeared before them. In addition, this entire encounter took place without any victim presence or any mention of victim concerns and needs.

Some of these examples also derive from attempts by the formal criminal justice system to take over the movement and fashion it to meet the traditional needs of the system and its bureaucracy. As Zehr and Toews (2004) point out, such endeavors can threaten the soul of the restorative justice movement and neutralize its impact. A frequent shortfalling of this type is excessive focus on offender rehabilitation, to the exclusion of the needs of the victims and the community. Within the US, at least one state has adopted legislation to support restorative justice principles because of the restorative justice impact on reducing recidivism and prison overcrowding. A national legal reform organization deeply committed to restorative justice similarly articulates its rationale for such support based on the impact of restorative justice on rehabilitating offenders. And there is national legislation in one European country adopted in the name of restorative justice but which focuses entirely on offender orientated treatment and rehabilitation.

Opportunities for Expanding the Vision

In the face of these potential pitfalls, the restorative justice movement needs to remain passionately committed to its foundational vision of an entirely different way of understanding and responding to crime and conflict. This vision 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 could be followed at a later time with a much larger community intervention involving a peacemaking circle of perhaps twenty to thirty 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. Examples also include a more recent 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.*

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 this exist in the states of Minnesota, Washington, and Wisconsin.

4. *Applying restorative justice principles and practices in school settings from elementary level through college. Examples of this 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.*

5. *Expanding the use of restorative justice principles and practices in work place settings among co-workers.*

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 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, whether or not there ever is*

RJ in the 21st Century
continued from page 16

any direct engagement with the offender.

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 utilized 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.

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-base justice initiatives that provide opportunities for more frequent and meaningful contact with each other in activities that benefit all of society.

Questions for the Future

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, there remain numerous unresolved and often troubling issues. Many of these speak to the core integrity of the movement, while others pose questions about fair and effective implementation. We present the most salient of these in the following list:

1. 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. How does the restorative justice movement avoid becoming a micro-level intervention serving victims, offenders, and communities that has no macro-level impact the contributing factors to crime and delinquency in our communities, which are inseparable from the social injustice that permeates our society?

3. 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. How big is the tent under which policies and practices are considered to be part of the restorative movement? 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.

5. How can the restorative justice movement avoid the predictable co-opting of its philosophy?

6. The vast majority of crime victims never have their offenders apprehended and processed in the system. These victims are currently 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 peace-making circle or other related interventions?

7. Will restorative justice be marginalized through being essentially required to deal with only the most minor types of criminal and delinquent offenses, many of which would self-correct on their own?

8. 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. How will the restorative justice movement effectively deal with cases involving domestic violence? This is a tremendously controversial area and many different opinions exist in the field already. 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 carries a tremendous capacity for doing harm, despite good intentions. How can the dangerous territory of domestic violence be reconciled with the good intent of those involved with the restorative justice movement?

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

RJ in the 21st Century*continued from page 16*

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. 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 is having 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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