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Restorative Justice: Crime is a violation of people & relationships, not just a violation of law



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"I've never believed that the court system was wrong or broken," says Chief Leonard Wetherbee (Ret.) Concord, Mass., "but restorative justice is the piece of the puzzle we have been missing."

Working previously as a patrol officer, detective and prosecutor, Wetherbee felt frustrated in the mid-1980s because "90 percent of cases we had were handled through District Court. I had a toolbox full of hammers. And the court had sledgehammers. We got a victim impact statement, but never really asked the offender, 'Why did you do what you did?' Angry victims, left empty by the court process, would say, 'Thank you, I'll never call you again.'"

Retributive vs. Restorative Justice

The criminal justice system asks: What law was broken? Who broke it? What punishment is deserved? Restorative justice asks: What harm has been done and to whom? What needs to be done to repair the harm? Who's responsible for repairing the harm?

The retributive justice system implies that pain will vindicate. The restorative justice process implies that what truly vindicates is acknowledgement of victims harms and needs, combined with an active effort to encourage offenders to take responsibility, right the wrongs and address the causes of their behavior.

*Example:*An elderly woman woke on the first anniversary of her husband's death to find his last woodworking project, a mailbox, smashed in her front yard by boys with baseball bats and an unthinking need for excitement. Had she been targeted? Would something like this happen again? In a traditional justice system she might never find answers to those questions.

With restorative justice, offenses are resolved collectively and collaboratively. Charged with confidentiality, victims, offenders and representatives of the community brainstorm a plan of action by which the offender makes amends.

The Five-Stage Process

There are five stages in the restorative justice process:

1. **Referral:** Having presented the restorative justice option to those affected by the crime, police partners refer to the circle, cases where adults or youth face criminal charges. Typical examples are breaking and entering, fifth-degree assault and battery, graffiti, trespassing, larceny, illegal substances and malicious destruction of property.
2. **Intake:** As preparation for the circle process, victim, offender, family/supporters, community members meet to learn about the incident.
3. **Opening circle:**At a time and place of the victim's choosing the circle convenes. The offender tells the story of what happened, the victim speaks about the impact of the crime; the group works by consensus towards a plan of repair, customized to address the offender's part in the wrongdoing and to what s/he needs to learn. Nothing is state-mandated.
4. **Agreement phase:** The offender is paired with a facilitator a volunteer offering support as obligations (e.g., apology letters, restitution, service) are met. The victim may request progress reports.
5. **Closing circle:** Approximately two months after the Opening Circle, the offender reflects on what s/he has learned; the victim and other community members acknowledge the work done. If all are satisfied, the matter is closed and returned to the police.

A Message for Skeptics

When Det./SRO Matthew Pinard of Littleton, Mass., became a police officer in 1995, he viewed his job as "arresting the bad guys," but courtroom experiences have modified his initial perception.

"We've all seen simple shoplifting cases, the postponed hearing dates, the lawyer who does the thinking and talking, the kid who makes \$25 restitution, but gets nothing out of it but a slap on the wrist. With restorative justice, the offender sits five feet from the victim, who has a face and a voice. The circle process makes the offender think for himself and take responsibility. The victim's attitude toward the system changes as well."

"Restorative justice still can be a hard sell for police officers," Wetherbee adds, "but magic happens in these circles that has to be witnessed."

Won't Police Lose Authority?

Restorative justice in no way replaces the criminal judicial system. As another tool in the box, it

complements it.

The victim, as well as the offender, must agree to the restorative circle option. If the victim wants to press charges, the police do so.

All cases received by the community-police partnership are police referrals, based on their criteria.

A Get Out of Jail Free Card?

A high school student's party in his empty house involved drinking and marijuana. Offered a choice between court and restorative justice, he chose what he considered a kind of get out of jail free card, until he fulfilled his agreement with the circle: six therapy sessions, three 12-step meetings, an opportunity to educate peers about risky behaviors, reflection and decision-tree exercises, weekly check-ins with his facilitator and circle meetings. "It's not my accomplishments that make me who I am," he concluded. "It's the mistakes I've made and what I've learned from them."

Is Restorative Justice Effective?

As Professor Howard Zehr explains, "Restorative justice has not got all the answers. It's a compass but not a map."

Not every criminal matter is appropriate for the process, and not every appropriate case is successfully resolved.

Nevertheless, evidence indicates that it reduces recidivism, cuts costs and increases victim and citizen satisfaction with the justice process.

Implementation

Restorative Justice is not a single, off-the-shelf software package ready for installation, but, rather, a community set of principles that give rise to process and practices in a wide variety of settings.

Among the online resources are Restorative Justice Online, The Center for Restorative Justice at Suffolk University, and U.S. Department of Justice guide on restorative justice and community policing. To establish a community-based partnership, law officers might best look to their community leaders, particularly those who have been victims or connected to victims.

Elizabeth Eidlitz is an English teacher, columnist for The Metrowest Daily News and a freelance writer who has published in multiple newspapers, magazines and anthologies. She serves as a facilitator for the offender in C4RJ (Communities for Restorative Justice) circles in Concord, Mass.

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