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>FOREFRONT

THE POLITICS OF ATONEMENT

Finding Restorative Justice in Massachusetts



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Joel Turner was at home in his Dorchester apartment on January 31, 2001 when three men, one of them carrying a foot-and-half-long knife, broke in. As a driver waited in a van outside, the intruders made a decision that would tear all five lives apart. Turner was 19. He was stabbed to death.

It wasn't long, as Turner's mother Janet Connors puts it, before the streets began to talk. Up to that point, Connors had devoted her career — more than 40 years — to activism in the diverse, close-knit Boston neighborhood, campaigning to keep residents' heat on in the winter and organizing a prison busing program to help families stay in contact with incarcerated loved ones. Now she was grappling with the discovery that members of the Dorchester community she knew so well had taken her son's life.

The police eventually arrested all four assailants. Connors spent the next two years in and out of courtrooms, where all she could do was sit and watch as strangers decided the fate of the men

story of her son's murder. How to do that was the next question. For all intents and purposes the assailant who'd been acquitted was a lost cause — he'd managed to beat the system. The one hit with second-degree murder was in for at least 15 years and possibly life. But the two who'd accepted manslaughter charges would be out in eight to 10. They'd still be young men when they returned to the streets. "I knew that if they kept doing the dirt they were doing," Connors said, "they would dump it right back on us in the community again."

Connors then made an unprecedented petition to the Commonwealth. She asked to meet face to face with her son's murderers. The appeal succeeded and after some initial reticence, the first of the young men serving manslaughter sentences agreed to meet with her and participate in something called a restorative justice process.

In simplest terms, restorative justice is an alternative to the traditional U.S. criminal justice

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who took her son's life. Ultimately, two of them accepted manslaughter convictions in exchange for their testimony while a third received a second-degree murder conviction after refusing to cooperate with prosecutors. The fourth, the alleged ringleader, took his case to trial and was acquitted.

The verdicts did little if anything to heal the wound. "Even before we went to court, I wondered what justice was going to mean to me," Connors, now 63, said in a recent interview.

She knew all too well how the system worked. People went into correction facilities only to come out worse. She found herself pondering how her community had allowed these young men to reach the point where they chose to take another life. What could she do to stop the cycle of violence?

"I felt like I had to make my own justice," said Connors, whose voice still cracks when she tells the

system. Howard Zehr, the field's most prominent spokesperson since its modern emergence in the late 1970s, defines it as a victim-centered approach that focuses on addressing the harm caused and the victim's needs for repair. This alone stands as a radical departure from the current system, which tends to reduce victims like Connors to bit players in a bureaucratized theater directed by distant judges, sentencing standards and rushed lawyers. In this way, a restorative paradigm interrupts the arrangement that many critics of the traditional system believe turns a blind eye to the social realities that shape human relationships — racism and classism, for example — by including the voice and values of those directly affected within the decision-making process.

As a practical matter, restorative justice can take the form of a conference, a circle or mediation and can be performed in schools, social service agencies, in



lieu of a trial, as a sentencing tool or as a prison-based reentry process. The key feature is that parties affected by a crime voluntarily come together and talk about the problem and how they wish to solve it. Solutions can range from apologies to restitution to service to, in certain cases, a reduced sentence.

Connors and the young man were assigned a facilitator who spent nine months preparing them for mediation. They exchanged letters and completed assignments, all with an eye toward the meeting. Then, on a frigid January morning in 2006, Connors and the facilitator drove 50 miles to Souza-Baranowski, a supermax prison on the town-county line between Lancaster and Worcester. Before she left home, she got a word of caution from Shana, her 25-year-old daughter: “Don’t throw your pearls in the mud, mama.”

“I told him about how much he took from so many people,” Connors recalled of the meeting. “I shared pictures of Joel throughout his whole life. But

then we talked. We talked about being Irish American and growing up working class and the values we’d learned in our families and community and church. We talked about where he’d strayed from them and what he needed to do to get back to them.”

But the young man struggled to give her an apology. All he could really do was show her by changing his life. Simply saying he was sorry would be trite. Connors cut him off. “I said it is trite, but it’s all you got, so give it to me.”

They met a second time just before he was released. This time the murderer’s mother was there. She and Connors bonded. Both were single moms who’d struggled to raise troubled boys in a rough neighborhood on their own. Several months later, after their second and final meeting, the young man sent Connors a message through the facilitator. “Please tell Shana that her mother didn’t throw her pearls in the mud,” it read. “I wear them around my neck everyday

to keep me in check.”

The encounter with the first and eventually with the second man changed the trajectory of Connors’ life. Long a supporter of restorative justice, the experience made her a believer and then a practitioner.

In the seven years since those first teary meetings, Connors has become something of a folk hero in the Commonwealth. She’s facilitated restorative dialogues and circles all over the state. She’s helped other homicide victims find the courage to publicly share their stories. She’s keynoted conferences from Harvard University to state prisons where hard-eyed offenders know her as “Mama Connors.” In spring 2012, the men who took her son’s life, both released now, flanked her on a panel hosted by the Suffolk County District Attorney. The three shared their success story with an audience of judges, district attorneys, corrections officials, teachers and youth workers interested in restorative justice.

It was a full-circle moment for Connors. Her son’s death had prompted her to wonder whether her life’s work had been a waste. Eleven years later, her journey was being heralded a symbol of redemption and a catalyst for systemic change.

INCARCERATION NATION

Like most states, Massachusetts has seen crime rates steadily fall since peaking in the early 1990s. The decline in crime has not, however, produced what on its face would be an obvious corollary — lower imprisonment rates. Instead, there are three times more Massachusetts residents behind bars now than in early 1980s. Between 2005 and 2013 the prison population rose by 12 percent, and is projected to continue rising another 5 percent over the next seven years. At this point, the system is literally outgrowing itself. All 18 state correctional facilities are over capacity and the state has no idea how it will pay to build more. Meanwhile, the U.S. Supreme Court has twice ordered California to reduce prison capacity to 137 percent, a rate of overcrowding that MCI-Concord’s 217 percent occupancy dwarfs. Eight other prisons in Massachusetts are similarly more crowded than those in California that have attracted legal ire.

Several factors contribute to the mismatched

crime and imprisonment rates. Mandatory sentencing for drug and repeat offenders, the growing number of women behind bars, cutbacks in reentry programs. While salaries gobble up nearly 70 percent of the Department of Corrections’ annual price tag, programming for prisoners accounts for less than 2.5 percent and shrinking. As it stands, medium and max prisons account for two-thirds of the offenders released to the street each year, yet fewer than a quarter of them received parole supervision of any kind. It should come as no surprise that the Commonwealth’s 44 percent recidivism rate is one of the nation’s highest. According to a 2008 study, prisoners recidivated at a higher rate if they went through the DOC’s transition program (43 percent) than if they hadn’t (35 percent).

None of this comes cheap, either. Taxpayers in the Commonwealth foot annual corrections and court bills in excess of a half a billion dollars apiece. At the same time, public health, higher education and services for infants and children have absorbed double-digit cuts in recent years.

The burdensome costs of the state’s current criminal justice policies have exacted their biggest toll on a handful of urban communities across the state. Just 10 cities representing roughly 25 percent of state’s population produce 56 percent of the violent crime and two-thirds of the homicides in Massachusetts, recent FBI data shows. Compounding matters, these same 10 cities, many of which are regional economic engines, absorb 50 percent of the prisoners released from DOC facilities each year. Statistically, these formerly incarcerated will go on to earn 40 percent less annually than their counterparts who never went to prison. As a group, they will lose about three-quarters of a billion dollars in annual wages. The lost wages combined with the diminished long-term earning power drains local services, which in turn erodes everything from public education to property values, triggering stable families to leave those communities which, as we all know, bleeds cities of vital social and human capital and ripens another generation for entry into the criminal justice complex. It’s a viciously downward spiral, and one that a handful of states have already looked to restorative justice to help resolve.

Facing its own fiscal crisis in the early aughts, a state often criticized for operating the nation’s most antiquated justice system adopted a set of restorative

practices to address its ballooning corrections bill. Texas created specialized drug courts, brokered victim-offender dialogues and started its now-renowned “Bridges to Life” program, all to promote understanding and healing among offenders and those they’ve harmed. So far, these investments have paid off handsomely. The Lone Star State’s imprisonment rate has steadily declined, recidivism dropped a whopping 22 percent between 2000 and 2007, and corrections costs shrank by \$210 million in the 2008-2009 biennial budget.

Yet even as states that have been traditionally unprogressive in their criminal justice policies — Georgia, Pennsylvania and Louisiana, for example — have joined the DOJ’s Justice Reinvestment Initiative to reform wasteful criminal justice policies, adopt evidence-based practices and invest billions in measures that might actually work, Massachusetts, routinely touted as a bastion of social progressivism, has lagged. In 2008 the Department of Corrections commissioned MGT of America to study its organizational structure and performance. The consulting firm’s findings revealed a culture that “slows change and produces a very cautious approach to recognizing and addressing problems” that is “sometimes at the expense of sound correctional management approaches.”

In fairness, Massachusetts also has the unique and unfortunate distinction of being home to the most politicized criminal justice misfire in the last 30 years: the Willie Horton case.

Horton, who was serving a life sentence for murder, went AWOL during a weekend prison furlough in the mid-1980s. After eluding authorities for nearly a year he was captured in Maryland, but only after committing rape and armed robbery. Two years later, Lee Atwater’s famous campaign ad featuring Horton undid Massachusetts Gov. Michael Dukakis’ 1988 presidential bid and made the Commonwealth a symbol of soft-on-crime policies. Ironically, before Horton, the state’s 14-year-old furlough program had been hailed an innovative approach to reentry. It allowed offenders nearing release to look for work and reestablish family ties prior to permanently returning to their communities. After Horton, however, tough on crime became the default posture for anyone hoping to win office anywhere in the country. In Massachusetts, Dukakis and his successors passed a string of strident

mandatory minimum laws first aimed at clamping down on drug offenders and later at getting their hands on federal money tied to President Clinton’s draconian federal crime legislation.

It’s taken more than 20 years for state lawmakers to begin thinking about alternatives. They are finding them in restorative justice.

“People in Massachusetts are realizing that our mandatory minimums and drug laws are costing tax payers a lot of money and are literally devastating communities,” said state Sen. Jamie Eldridge. In January of this year, the 40-year-old Democrat, who represents towns in Middlesex and Worcester Counties, introduced a bill along with Bedford’s senator Michael Barrett that would enable law enforcement agencies and court personnel to use restorative justice in lieu of or in conjunction with the traditional criminal justice process. If SB 52 passes, Massachusetts will become only the second state in the nation to institute such a policy. Colorado was the first.

“Right now what exists in Massachusetts is a sort of a patchwork of certain cities where we have programs, but there’s no statewide law,” Eldridge said. “Therefore some district attorneys aren’t familiar with this and aren’t using it as an option. My bill would make this an option for every single officer, every single prosecutor and hopefully every single victim.”

SB 52 would allow government actors to refer juvenile and adult cases to partnering community organizations at any stage of the process, as long as the victim is interested. An 18-member advisory committee would study and track the use of referrals and establish practice guidelines and training standards. More than anything, it would give restorative justice a foothold in the system.

Eldridge embodies many of the progressive qualities Americans have come to associate with Massachusetts. A public interest lawyer whose other causes include the environment and economic justice, he represents Shirley, a town with two prisons, one of which is Souza-Baranowski. It was initially through his interactions with guards, prisoners and volunteers inside those prisons that he learned about restorative justice. Later, he visited a local program and got a deeper education on how it all worked.

“What was powerful for me was that it wasn’t just healing for the criminal or person who broke the

law,” said Eldridge, who’s additionally co-sponsoring a bill to reform the use of solitary confinement. “It was also a more satisfying process for the victim than going through a court process where you often don’t get to interact with the person who did the damage.”

Data is on Eldridge’s side. A 2007 meta-analysis of every restorative justice research study conducted between 1986 and 2005 found that the practice not only gave more satisfaction for victims and offenders, it also reduced recidivism in offenders, PTSD and revenge fantasies in crime victims, and the overall costs of administering criminal justice.

Still, Eldridge has an uphill battle ahead of him, and he knows it. That Massachusetts is still intent on tilling the tough-on-crime soil was made abundantly clear after Dominic Cinelli, another convicted felon out on parole, killed a 60 year-old Woburn police

out for a quick smoke. It was a bitter winter night, so Rourk huddled beneath a street sign. Not long afterward, an SUV sped around the corner. Rourk glanced up in time to see the barrel of a shotgun pointed in his direction. It fired and he ducked. The car sped away, but not before he got the tags. A rightfully angry Rourk called the police and within minutes, the vehicle had been stopped and the occupants — a couple of teenagers out shooting their BB gun at street signs — apprehended.

Two days later Rourk got a call from Leonard Wetherbee, then Concord’s police chief. The chief told him that he was prepared to charge the teens with multiple felonies if that was what Rourk wanted. Then he told him about an alternative restorative justice process and asked if he was interested. Rourk was still angry, but wasn’t ready to ruin two kids’ lives.

Rourk glanced up in time to see the barrel of a shotgun pointed in his direction. It fired and he ducked.

officer named John Maguire during a botched robbery in late 2010. The following January, a bipartisan group of 86 legislators revived a “three strikes” bill that had been languishing in committee for more than a decade, precisely because lawmakers knew it would dump more money into the bloated prison system and require greater cutbacks in other areas without any evidence of efficacy. The bill expanded the number of felonies eligible for life without parole and required anyone convicted of a third violent offense to serve the full maximum sentence of the triggering offense without the possibility of parole.

Despite documented evidence of a similar law’s disproportionate impact on the poor and men of color in California, the politics of perception carried the day in Massachusetts. Only seven state senators voted against the bill. Jamie Eldridge was one of them. Last summer Gov. Deval Patrick signed it into law.

THEY CALLED IT HUG-A-MUGGER

Tom Rourk was out enjoying a pint at the Colonial Inn in downtown Concord when he stepped

I asked him why.

“I would be able to confront them and tell them what my experience was and they would have to make restitution to the community and to me,” Rourk explained. “That was very important to me.”

A few days later Rourk got another call, this time from a non-profit called **Communities 4 Restorative Justice**. A volunteer explained that he would have a chance to talk to the teens who had shot at him. Sitting with the boys in a circle, he could express anything he wanted as long as it wasn’t a personal attack. As Rourk listened to the volunteer explain the process, he realized that he would have to come to terms with his own emotions about the event.

When the day finally came they all gathered — family, volunteers, the arresting officer, the two offenders and Rourk. The boys talked about having gotten the gun as a present and looking for places to play with it. Rourk told them about the terror and anger that he felt. The he talked about himself: His love of hockey, sailing and woodworking, about his time living abroad, all of which the boys found fascinating.

“I saw them come to understand what they did

and how it affected all kinds of people around them,” Rourke said. “And they found out that I wasn’t a random cardboard cutout standing on a corner. They got to know me.”

As the circle continued, the family members shared their experiences as well. In particular, the mothers talked about getting a call on a winter night from the police after their sons were an hour late coming home. They were horrified, and angry.

Then the arresting officer spoke.

He talked about not knowing what to expect when he pulled them over on a dark road. All he knew was that they were armed, he was alone and he’d never done a gun arrest. He said that before he left his squad car he pulled out a picture of his two young daughters and prayed he made it home to see them. The story shook up everyone in the room. Then the officer pulled out a bullet, a real one, and told the boys his tore through bodies. None of this would have happened in a courtroom.

Early on in its experiment, C4RJ’s founders — Wetherbee and a pair of Concord activists named Joan Bell and Jean Turner — noticed something interesting. When a circle began, the police officers would be stoic. But as it progressed, they literally loosened up. They leaned in more, even opened up about their own experiences. And without fail, the officers would hand the offender a business card at the end of the closing circle. This time was no exception.

The boys wrote Rourke apology letters and were assigned community service at an organization that served mentally disabled adults. Since the incident Rourke has run into to them from time to time. They talk about what’s going on in their lives and one went on to spend the next summer volunteering at a camp for disabled youth. He discovered that was something he enjoyed doing.

“It was positive for me and I could see it was being positive for them,” Rourke said.

Police are legally required to pursue certain serious offenses to the fullest extent of the law. But the overwhelming majority of offenses for which Americans are charged, convicted and sentenced each year — stuff like breaking and entering, theft, simple assault, property damage, minor possession — doesn’t get reported to prosecutors unless a victim agrees to press charges and the police sign a complaint. If

a complaint doesn’t get filed, then the case never enters the system, never appears on a record. Since the moment it was conceived back in late 1997, the idea behind C4RJ has been to divert offenses from the system before they enter.

“If you look at restorative justice as a cornerstone of the way we handle the initial phase, then over time you will have fewer people going into the system,” said Wetherbee, now police chief in Moultonborough, N.H.

Each department that joins Wetherbee’s group is expected to chip in \$1,000 annually in exchange for a seat on the advisory board. Offenders without economic hardships are charged a nominal fee to cover administrative costs. To keep costs low, C4RJ trains volunteers to work as advocates and keepers of the circle, managing tricky group dynamics. The way the process worked with Rourke is the standard order: The department offers the victim the restorative option in cases it considers appropriate for diversion. What determines the appropriateness depends on a range of factors including the level of the offense and the offender’s age and criminal history. If the victim is interested, the case is vetted within the department. Once it’s green-lighted internally, C4RJ gets a call. Volunteers then meet with the victim and offender in preparation. Within weeks of the offense, a case coordinator convenes a circle with the victims, offenders, members of the affected community and, most notably, the arresting officer.

Initially, this last part didn’t go over so well with Wetherbee’s officers. They called it a “hug-a-mugger” gimmick. There was also some concern about what affect the cop would wield over the circle. And what if the process failed and the victim chose to take the matter to court? Could the offender’s statements in the circle be used as evidence? The solution C4RJ came up with was to have everyone — the officer included — sign a confidentiality agreement. What was said in the circle, stayed in the circle.

“We have a role in putting people behind bars that is a little different than what we think,” Wetherbee said when asked why he felt officer involvement was so important in the first place. “We create some of these scenarios because of the labeling that goes on. The way we talk about offenders is all collected knowledge in the police department. You can take ‘knowledge’ out

and put in ‘bias.’ One officer’s bias becomes the bias of everyone else. Eventually, people play the role they feel they’ve been cast to play.”

Word about Concord’s experiment spread quickly after C4RJ opened its doors in 2000. It wasn’t long before Wetherbee’s phone started to ring. Other police departments wanted to partner with C4RJ and incorporate restorative justice circles into their procedures. The neighboring city of Carlisle was the first to sign up. Since then, 11 more have followed.

experience with the traditional criminal justice process. Ninety percent of volunteers reported having a positive experience.

In 2012 the Center for Peace, Democracy and Development at the University of Massachusetts-Boston published a second study of C4RJ’s impact, this one on costs and benefits. The study’s conservative estimates found that the C4RJ model was six times more cost effective than the traditional process. If the researchers had included equipment, facilities



So far, the data is overwhelmingly positive. A 2010 program analysis found that 89 percent of officers and 90 percent of volunteers who participated in circles were satisfied with the process and the outcome. The same analysis found that 89 percent of victims and 94 percent of offenders were pleased with their experience and the resolution. Nationally, only 57 and 78 percent respectively reported a favorable

and materials — costs they generously excluded because the state failed to supply accurate data — the difference would have been as much as 10 times. When comparing C4RJ’s recidivism rates over a nine-year period to the cohort of offenders released by the DOC in 2008, restorative justice resulted in 23 percent fewer repeat offenses. A closer look at the recidivism data showed the traditional justice system had a 12

percent higher rate for substance abuse offenses and a 57 percent higher rate for property offenses.

The success with juvenile offenders has led departments to entrust C4RJ with adult cases, which in the Commonwealth means any offense involving an offender over the age of 17. While not every department in the C4RJ network has bought into the idea, the 17-and-older crowd accounted for 70 percent of the organization's 2012 cases. The offenses ran the gamut: Breaking and entering, identity theft, larceny, vehicle theft, drug possession, malicious property destruction and vandalism.

Conventional wisdom says that C4RJ's inroads into the traditional justice system should be eyed with suspicion. Critics argue that, by definition, restorative justice has the decks stacked in its favor. Offenders have to accept responsibility and institutional decision-makers have to elect to make the referrals as preconditions of the process. Furthermore, the

from carpets to hosiery, offering early opportunities for women and immigrants seeking to realize their American dreams through factory work. Now it is among a cluster of designated "gateway cities" surrounding Boston that are struggling to keep pace with a changing economy and searching for ways to capitalize on their rich histories. Thirty-six percent of Lowell's population of 105,000 is poor or working poor and nearly 9 percent of residents are unemployed. Compounding matters, Lowell currently ranks among the Commonwealth's top 10 cities in violent crime, homicides and annual prison releases.

Youth in Lowell have borne the brunt of both deindustrialization and hyper-criminalization. A full quarter of its young people — many of them youth of color and recent immigrants — live in poverty and experience disproportionately high rates of contact with the justice system. Lowell's high school and college completion rates are both far below state

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sample size is both limited and skewed. In 2012, C4RJ worked with a total of 67 offenders and 43 victims. The communities served by the program are largely middle to upper-middle class suburbs. They're predominantly white, highly educated communities where crime is typically minimal in the first place.

I raised all of these issues with Wetherbee, who still sits on C4RJ's board though he retired as Concord's chief in 2010. "Everything gets judged by population," he said. "[Big cities] see it as a nice little program for all you suburbs, but it won't work here. That's a load of crap. Just give us a neighborhood, a couple of good cops, a community organization and let us get going. You can do it tomorrow."

JUSTICE WITH THE VICTIM AT THE CENTER

Lowell was once the heartbeat of the country's textile industry in the 19th and early 20th centuries. Its canal system powered mills that produced everything

and national averages while its percentage of single-parent households is nearly twice the state average.

On an overcast July morning I traveled to the once-prosperous city to learn about a partnership between the Middlesex County district attorney and the juvenile court that both hope can keep at-risk youth from entering the criminal justice system. Based on successful programs in Milwaukee and Alameda County, Calif., Juvenile Court Restorative Justice Diversion (JCRJD) aims to make an impact in Lowell, exactly the kind of hard-hit, poor urban community for which cynics say restorative justice is too soft.

"We have a lot of unintended consequences from what we've done [in the past] because we don't look at things in a systemically cohesive manner," Middlesex County's juvenile court Judge Jay Blitzman said when we met in his chambers. A former public defender, Blitzman has sat on the bench in Lowell for more than 15 years. "What we have developed in the post-Columbine era are zero-tolerance policies that are

not consonant with what we know about childhood. If you want to affect behavior then your sanctioning has to be developmentally proportionate.”

Six years ago, the judge started holding monthly meetings with principals, district attorneys, law enforcement officials and the defense bar. The aim was to come up with cost-effective approaches to address juvenile delinquency and reduce the number of young people of color from the city passing through his doors. At about the same time, Blitzman’s students in a juvenile law class he taught at the Northeastern School of Law were starting to hand him papers about restorative justice, calling attention to forward-thinking programs in places like New Zealand and Scotland. Blitzman’s initial impulse was to challenge his students. Those were very different societies, he told them, with different social dynamics and histories. How would something like restorative justice jibe with a system based on state intervention and predicated on having to prove a case beyond a reasonable doubt?

His students responded with an invitation to a restorative justice conference at the law school. Blitzman went and was wowed by a keynote address delivered by Sujatha Baliga, the charismatic founder of the Bay Area program JCRJD would later pattern itself after. He also ran into Carolyn Boyes-Watson, an outspoken sociologist and the state’s leading authority since opening the Center for Restorative Justice at Suffolk University 15 years ago. Years earlier she’d taken Blitzman out to discuss restorative justice over a beer. The judge said at the time that he already had the base covered, since he had social workers in his courtroom. This time around, he got what she was really trying to say.

Back in Lowell, Blitzman turned his energies to a budding restorative justice program. A document on its genesis pointed to the roots of the practice: Victim-centered justice had been the dominant approach throughout history and in most religions until William the Conqueror and his son, King Henry I, began defining all offenses between individuals as crimes against the crown in the 11th and 12th centuries. The move controlled feuds and consolidated the monarchs’ power. Later it began issuing fines and empowering agents to umpire disputes between private citizens. And while the new criminal justice model undoubtedly played a vital role in the development of Western

civilization, it also actively encouraged a polarizing court process that kept victims and offenders from seeking mutual understanding and appropriate resolution independent of state intervention.

Blitzman began to wonder if there was a way to marry what he learned with what he was already doing. JCRJD was the result of that union. He and Erin Freeborn, a former defense attorney who heads JCRJD, envision it as a far-ranging program that works with schools, communities and courts; can be implemented pre-arraignment, post-arraignment or post-conviction; and employs youth facilitators trying to rebuild their employment history.

For the time being, though, it consists of a pre-arraignment diversion opportunity through the Middlesex district attorney’s office for first-time offenses. If the victim agrees to the process and the offender is willing to accept responsibility for the harm, then the DA will refer the case to JCRJD, which will then approach the case much like C4RJ only without the community volunteers or police presence.

One early case JCRJD often tells to demonstrate the process and its power to affect change involved a pair of high school basketball players who broke into a school store and stole merchandise. The kids were caught, forced to return the goods and suspended. But they still faced criminal charges for breaking and entering and theft. Without the restorative option, the kids would have been arraigned. At that point, even if the case had eventually been dismissed, the arraignment would follow them for the rest of their lives since Massachusetts, unlike most states, lacks an expungement law for juvenile offenses. After three years they would have been able to file an appeal to seal their records, but even then colleges, banks and employers could apply to have them unsealed.

What actually happened was the Middlesex DA’s office referred the case to Freeborn, who handed it off to Janet Connors, JCRJD’s go-to facilitator. Connors convened a circle with the offenders, their families and school officials during which the parties agreed that the boys would create and distribute a pamphlet about peer pressure and to tell their story to the entire incoming freshman class at an assembly. Once they have completed the tasks, the district attorney will erase the case from the record.

“Some people see it as a way out for the person

who did the act or as a slap on the wrist instead of a real punishment,” Freeborn said when we spoke shortly after my meeting with Blitzman. “The reality is that once you have gone through the process you realize it’s actually the harder method. It takes more time and more reflection.”

The reality is also that Freeborn, like Senator Eldridge, understands that hard data is what causes

You send ‘em to court.”

That attitude was nowhere in evidence when I sat with Bongiorno and several police brass from the region at a C4RJ strategy meeting about SB 52 in early July. On the way there, I’d caught a Boston Public Radio broadcast on forgiveness. Paula Deen, Anthony Weiner and Eliot Spitzer headlined the show. Each had just emerged from banishment following a betrayal of

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the average American to sit up and really pay attention.

“We’re in a difficult economic climate and it is expensive to deal with cases the way we’ve been dealing with them,” Freeborn said. “So if we reduce recidivism and there are fewer people going through the courts and we’re expending fewer tax dollars incarcerating people, that’s one way people are getting sold on restorative justice. The economic benefit. There’s also a lot of statistics out there about people with records. They’re at a higher risk of reoffending and a lower risk of completing higher education and getting quality employment.”

“WE ONLY KNOW ONE WAY”

Bedford chief of police Robert Bongiorno remembers how skeptical he was when his then-chief Len Wetherbee told him about restorative justice.

“I came in just wanting to put away the bad guys,” Bongiorno said, recalling his early years. He remembers Wetherbee asking him point blank how the court system was working out for him, the way it was. He didn’t have an answer.

“Change to police is difficult,” he said. “Through our training and exposure we view the world as black and white. We only know of one way. You lock ‘em up.

the public trust. Each had promised they’d learned from their mistake. Each was asking us to forgive them so they could resume their public lives.

In the weeks I’d spent reporting the story I’d been told again and again that forgiveness is not the expectation or the goal of restorative justice. Many in the field were up in arms earlier this year when the *New York Times Magazine* chose to **focus a story** about a family who went through a victim-offender dialogue with their daughter’s murderer on the family’s forgiveness. They worried that the angle gave an inaccurate impression to a public already uneducated about restorative justice.

Listening to the radio program, I was reminded how sensitive the restorative justice community is to even the utterance of the word “forgiveness”, how that sensitivity speaks to the fundamental challenge the field faces in gaining mainstream traction. Police aren’t the only ones taught to see the world as black and white. From the moment we’re old enough to grasp the concept of justice we’re encouraged to seek our version of it in the courtroom or the court of public opinion. Consider the number of courtroom dramas on television, the amount of ideological sparring presented nightly on cable networks, the episodification of high profile trials. We put celebrities and even one

another on trial for the slightest transgression. We choose sides and argue positions. Right/wrong, good/bad, guilt/innocence, punishment/forgiveness. Fixed hierarchies. Restorative justice traffics in consonance. People choose into a circle knowing the only goal is atonement.

The organizer of the meeting was C4RJ's executive director, Jennifer Larson Sawin. Sawin is the inheritor of Wetherbee's vision, the person largely responsible for growing C4RJ from just two communities when she took over in 2008 to its current list of 12. She worked on the restorative justice bill that died on the vine back in 2009 and, along with Erin Freeborn, has been the engine behind SB 52 this go-around, helping to author it, lobbying legislators and law enforcement on its behalf, even organizing rides to the state house.

Like everyone I met in the Massachusetts restorative justice world, Sawin has a unique story about how she came to the field. She grew up in Botswana, at the end of Apartheid in neighboring South Africa. Her parents were American missionaries who focused on refugee issues, supported the ANC and helped shepherd dissidents to safety at the risk of their own lives. After the "Troubles" she witnessed the Truth and Reconciliation Commissions transform outrage that could've easily turned bloody into a healing process. The experience shaped her life path. After returning to the States for college, she studied conflict resolution in Belfast and Dublin, and later attended Eastern Mennonite University's Center for Justice and Peacebuilding, where she first met and studied under Howard Zehr.

By the time Sawin started the meeting I was no longer the only guest in the room. Middlesex County's district attorney, Marian Ryan, had sent three of her staff to observe and ask questions about the bill. Back in 1997 Jean Bell and Joan Turner's original idea had been to create their program inside the Concord DA's office. C4RJ came about because the judge and district attorney at the time weren't interested and Wetherbee was. It wasn't lost on me that JCRJD likely owed its existence to C4RJ's success.

Sawin kicked off the conversation with updates about letters of support. Bongiorno said he was still holding out hope that Boston Police Commissioner Ed Davis would submit a letter, but he didn't sound

confident. A while back Davis had expressed enough interest in restorative justice to tentatively green light a pilot in East Boston, but progress had since stalled. No one knew exactly why he'd pivoted away. A good guess was that this was an election year and the Boston Marathon Bombing had changed the landscape. An initiative that could be perceived as soft on criminals probably wasn't what a city wounded by a pair of extremists wanted to see.

Ryan's envoys waited for the conversation to shift to SB 52 itself before speaking. Their boss liked the bill but had questions, one in particular: How would the law be funded? In fact, SB 52 made no mention of where the money to train law enforcement agencies on restorative justice would come from, how much implementation was projected to cost, or who would pay for officers to attend circles.

"We thought a lot about asking for money," Sawin replied, "but given the climate we thought the legislation would just get shot down if we did." She said she saw it as a phased process. After a successful pilot period, they would go back and ask for money.

I couldn't decide if this was shrewd strategy, wishful thinking or just plain defeatism. Do we ask the traditional criminal justice system to justify its existence before investing billions each year?

The decision to exclude domestic violence, family violence and sexual assault cases from the bill had already caused some advocates to wonder if getting a bill through was worth compromising restorative justice's power. Being off the radar allows grassroots workers to experiment independent of red tape and regulation, to figure out what restorative justice is and can be, to put people before policies and protocols that may not fit the situation. Government support comes with strings attached, which isn't necessarily a bad thing but, in this instance, could clip the law off at its knees.

"We have these initiatives and we look to systems to take them up and they tend to dilute them," said Connors, who addressed inmates at MCI-Norfolk, the state's largest medium-security prison, this past June. This gathering, the second of its kind, drew a cross-section of advocates including Blitzman and Eldridge. "One of the things Erin [Freeborn] and I find is that because you're bringing a family in, the back story comes out and you're able to make

referrals so that the family can get support.”

Wetherbee said flat out that he didn’t expect the bill to pass, though not because of its flaws. In his mind, there were too many defense attorneys in the legislature and they stood the most to lose from a restorative justice law. I’d heard the same said about the prison guard union’s concern about prisons closures. As Wetherbee put it, restorative justice is a threat to “people’s fiefdoms.”

The hearing date came and with it several letters of support, including one from Judge Blitzman, DA Ryan and the Major Cities Chiefs Association, Ed Davis among them. Bongiorno testified, so did Sawin and Freeborn. Based on the tone of the questions and the informal conversation that followed the presentation, Sawin gathered that the committee supported the bill.

But just a couple of days later I received an email from Eldridge’s communication’s director. SB 52 hadn’t reported out favorably. Typically that means the bill is dead. It’s worth noting that of the 16 committee members, only four held law degrees. Not one was a defense attorney.

The first community organization in the country to run meetings between victims and offenders opened in the late 1970s. Howard Zehr didn’t publish *Changing Lenses*, the first mainstream text articulating the values and vision of the field, until 1990. By then, the tough-on-crime era and the expansion of the modern criminal control complex — mandatory sentencing, three strikes laws, draconian drug laws, the rebirth of capital punishment, the private prison industry and mass incarceration — were well underway.

Attorney General Janet Reno attempted to stem the tide in the late 1990s by training juvenile justice system personnel to use restorative practices and funding restitution and community service programs. At the time President Clinton was openly supporting congressional demands for more punitive laws and more incarceration for youth and adults. Leading the mass incarceration crusade was Missouri Sen. John Ashcroft. As the nation’s 79th Attorney General he would greatly expand his campaign.

When set against this aggressively punitive

backdrop, restorative justice’s mainstream progress — more than 300 RJ programs are in operation around the country — has already been remarkable.

In June I had a chance to ask Zehr, 69, for his take on the state of a movement he catalyzed. “I’m seeing a lot of new energy and insight,” he said. “People are taking it places I was never able to or never imagined. That’s really exciting. I see myself as mentoring others, passing the torch on to other people, and that’s been my greatest satisfaction.”

If you read between the lines of Attorney General Eric Holder’s remarks to the American Bar Association in early August, restorative justice appears to be on the cusp of a revival in the federal government’s criminal justice policy. Although Holder couched his critique of a savagely broken justice system and his vision for a more holistic one within the same rhetoric that arguably got us to this point in the first place, the tone was unmistakably different than anything we’ve heard from the nation’s top law enforcement official in recent memory:

The bottom line is that, while the aggressive enforcement of federal criminal statutes remains necessary, we cannot simply prosecute or incarcerate our way to becoming a safer nation. To be effective, federal efforts must also focus on prevention and reentry. We must never stop being tough on crime. But we also must be smart and efficient when battling crime and the conditions and the individual choices that breed it.

Holder’s speech addressed everything from the indigent defense crisis to racially biased sentencing to judicial discretion, but this single paragraph may ultimately be remembered as restorative justice’s 21st-century clarion call. The explicit recognition that “prevention and reentry” must take priority and “smart and efficient” policies adopted clearly paves the way for an approach that meets each of those challenges. And while Holder may not be ready to utter the words “restorative justice” in public, those in the know heard him loud and clear.



ABOUT THE AUTHOR

Dax-Devlon Ross' work has been featured on WNYC, Democracy Now, Pacific Radio and MTV.com, and cited by *The New Yorker*, the *New York Times* and the *Christian Science Monitor*. He's lectured at colleges and universities across the country on race, space, economic justice and hip-hop culture. He's the author of six books, the first of which, *Beat of a Different Drum* (Hyperion, 2006), was selected as part of the Time Line Project's Timeline of American Race Relations. You can find out more by visiting him at www.daxdevlonross.com.



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