

Circle of justice

By Jim Adams
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Several Minnesota communities are reviving an Indian custom to help break the cycle of crime. Volunteers help sentence offenders and then help them lead better lives.

Communities from Hastings in Dakota County to Whitehorse in Canada's Yukon Territory are digging deep into the past to find a remedy to recurring criminal behavior that our justice system can't seem to fix.

Faced with persistent crimes ranging from drug dealing to vandalism, the communities are pioneering a return to ancient tribal customs that bring people together to unearth the root causes of misconduct.

It's called circle sentencing. It begins with an offender pleading guilty in court and agreeing to accept a community imposed sentence. Opening with a prayerful appeal to seek the common good, victims, offenders and their supporters gather in a circle with other interested community members to discuss the crime's impact. Once they choose a sentence, circle members stay involved with - even mentor -the offender to ensure compliance.

Experts say Minnesota is the first state in the nation to use circle sentencing. Its goals include making the community safer, satisfying victims' needs and giving offenders skills to escape the cycle of crime and punishment.

Tonight, Hastings will become the latest of a handful of cities to try circles. Community members will decide the fate of six high school students involved in detonating a homemade bomb at a vice principal's front door. The students have pleaded guilty to arson and property damage.

Up to 70 people, including a judge, are expected for a circle that could last more than four hours. If the circle can't reach a consensus, the judge will decide the sentence.

Circle sentencing uses crime "as an opportunity to strengthen the community, to reweave the community fabric," said Kay Pranis, a restorative justice planner for the state Department of Corrections.

The Mille Lacs Indian Reservation was the first place in Minnesota to try the technique almost two years ago when it started doing circles for nonviolent, adult, misdemeanor offenders.

At first, Mille Lacs County Attorney Jennifer Fahey was skeptical, especially because defense attorneys liked the idea.

"I wanted to make sure offenders were going to be held accountable by the community," she said. "I was concerned that maybe friends or family members would tend to excuse certain behaviors. I found it is not that way at all."

Circle members make frequent checks on offenders and help them stay sober, get treatment and find jobs.

"In the criminal justice system, all we can do is punish," Fahey said. "Community members often teach them a trade or go to AA (Alcoholics Anonymous) with them or are available 24 hours a day for them to call. The success is what keeps me supportive."

Now the nearby cities of Milaca and Princeton have started using circle sentencing, Fahey said, and circles also are handling juvenile cases, including some assaults.

Victims have a say

The power behind the circle is that it returns power to those most affected by the crime, said Mark Umbreit, director of the Center for Restorative Justice and Mediation at the University of Minnesota.

The circle is "a safe, if not sacred, place where people feel comfortable enough to open up and talk about what happened, the emotional impact, ask questions and show concern for the offender and his family," he said. "It focuses not just on problem solving but ... healing for all."

Upon entering the circle, everyone is supposed to leave their title at the door and treat each other with equal respect. Some circles set a spiritual tone with an opening appeal to God or other higher power to help circle members realize their connectedness and devise a sentence that meets everyone's needs.

Sentences can include restitution, community service, apologies and as a last resort, jail time.

"It demands real behavior change, not just sitting in a cell and watching TV," Umbreit said. "They have to do something. It is far too respectful of offenders for many conservatives and too demanding of accountability for traditional liberals."

Jeremy Boyd, 24, an Ojibwe on the Mille Lacs reservation, said he opted for circle sentencing to avoid jail after pleading guilty to cruelty to animals. He said he strangled his older sister's cat after getting mad at her.

As in the Hastings case, Boyd had a

"healing" circle with the victim before the sentencing.

"I felt kind of embarrassed for a while," Boyd said. "I had to open up and talk about it...my sister wanted an apology. I wanted to, but it was hard to do."

It took Boyd about 16 months to complete his sentence. He said he built and installed 14 geese nesting boxes on Lake Mille Lacs, attended an anger support group and fasted. A month ago, the charges were dropped. Boyd, who leads work crews of juvenile delinquents, now participates in circles for other offenders.

Circles dig deep

Circles delve deeper into underlying offender issues than earlier forms of restorative justice, such as mediators working out restitution deals between victims and offenders, which has been done in Minnesota since about 1980.

Family conferencing came next and includes parents or other supporters on each side. A family conferencing program led by Anoka police has handled 162 cases over almost four years. Of 262 juveniles involved, only six have reoffended in Anoka, said Chief Andrew Revering.

Many of these older programs involve juveniles diverted from court or cases in which a judge decides most of the issues but orders the offender to meet with the victim to decide restitution.

Sentencing circles include more people from the community, look at issues beyond the offense and offer more resources to offenders and victims.

But the key difference between sentencing circles and other forms of restorative justice is that the judge and prosecutor share their power to sentence. That means everyone agrees to live with the decision, even if they don't like it, said Terry Anfinson, head of the Anishinabe Opportunities Industrialization Center, which arranges circles on the Mille Lacs reservation. If people can't agree, the judge decides, but that hasn't happened in Minnesota.

The concept was first revived about 1990 among First Nation Indians in the Yukon Territory with court cooperation. Tribe members and territorial Judge Barry Stuart trained Minnesotans, including some from north Minneapolis who have used circles in the past year to help reunite families in cases of child abuse and neglect.

On the Mille Lacs reservation, circles have been held for about 10 offenders so far, three of whom failed to complete their

sentences and were sent back to court. Washington County has chosen four cases for sentencing circles, one of which was terminated because the offender assaulted someone.

Local and national experts say Massachusetts is the only other state preparing to try circle sentencing.

Volunteers make it work

Circles depend on developing a corps of volunteers in the community to shepherd the process, which can take as long or longer than the court system.

"We are trying to change the person instead of just stop the behavior," Anfinson said. "You have to work with them over a long period of time. We do get burned out and need to take some time off after a while because it is a very emotional process."

The volunteers act as "circle keepers," maintaining order at the sessions by passing a flat stone at other object around the circle, which allows only the holder to speak. Other volunteers serve on local committees to review applications let the circles and represent community interests during sentencing.

Washington County has trained about 45 volunteers, including Mary Louis Menikheim. She views the circles as an opportunity to unite people isolated by our mobile society.

"It is bringing us back together as people who are connected with some common purposes and values," Menikheim said. "We're not magicians who can change people's lives, but we can be supportive and walk with them... The long-term impact is the greater relationships we are building."

Circle sentencing:

How it works

Circle sentencing first was revived in Canada's Yukon Territory and has spread to Minnesota. Places using in clued the Mille Lacs Indian Reservation, Milaca, Princeton, Minneapolis, Woodbury, Lake Elmo and Hastings. The process can be adapted to community needs but usually involves five basic steps:

1. Offender pleads guilty in court and agrees to accept sentence imposed by circle of community members. Offender applies to a community justice committee.
2. If accepted, the offender and committee work out a "social compact" listing things the offender will begin doing immediately to show his or her sincerity.
3. A trained facilitator meets with victim, offender and others to explain the circle process. The facilitator may arrange smaller "healing circles" for victim and offenders as a start.

4. The facilitator convenes a larger sentencing circle that includes interested community members and people from the court system. After one or more meetings, the circle reaches a consensus on the sentence, which can include some of the steps the offender has already taken. If anyone in the circle can't agree, a judge decides the sentence.

5. The offender regularly returns to the circle to discuss his or her progress. Circle members, especially his supporters, help him get training, counseling or other assistance needed to fulfill his sentence and become a productive person. If the circle becomes convinced that the offender won't complete the sentence, he or she is sent back to court for traditional sanctions.

Case studies

Here are a few examples of offenders accepted for circle sentencing:

- > **Four young adults** went on a mailbox-bombing and window-breaking spree in the Lake Elmo area last year. All four were accepted for circle sentencing, but one dropped out and was sent back to court. Washington County District Judge Gary Schurrer was among 25 people in the sentencing circle last December. They decided that the three men would pay more than \$1,000 in restitution and each do more than 100 hours of community service over two years. The offenders have written apologies to 29 victims in Woodbury, Afton and Lake Elmo, and several offenders have spoken at local school about the effect of vandalism.
- > **A Mille Lacs reservation woman** pleaded guilty to shoplifting in Anoka. She has had healing circles and agreed to a set of conditions. The offender, in her 40s, recently found her first job as a gas station clerk. Her circle sentencing will be held soon in Anoka with Anoka County District Judge Donald Venne attending.
- > **A 17-year-old reservation boy** who assaulted an officer and had drinking problems agreed on conditions but repeatedly failed to live up to them. He was returned to court, where a judge sentenced him to the Sauk Centre juvenile facility for a year.