

Backgrounder on Restorative Justice

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Minnesota DOC, <http://www.doc.state.mn.us/rj/publications/background.htm>

Restorative justice is a new framework for the criminal justice system that is rapidly gaining acceptance and support by criminal justice professionals and community groups in Minnesota and across the nation. The Minnesota Department of Corrections advocates adoption of restorative justice principles and has established a department unit that supports implementation of restorative justice concepts throughout the state. This statewide effort involves all aspects of the community including schools, churches, courts, corrections and law enforcement agencies, and citizens.

The restorative justice initiative provides education about the philosophical framework of restorative justice to engage the interest and enthusiasm of key stakeholders. Upon request from agencies or jurisdictions interested in moving toward a more restorative system, the initiative provides technical assistance in designing and implementing applications of restorative justice. The initiative also creates networks of professionals and community activists to support one another and share accumulating knowledge regarding new practices.

Education is provided through public speaking, trainings, an annual conference, distribution of written materials, and a newsletter. Technical assistance is provided through onsite and phone consultation, referrals to state and national experts, research, and skills training. Networking is promoted through organized special interest meetings, maintenance of a special interest resource list, and phone referrals to interested colleagues. A statewide advisory council advises the department on restorative justice implementation.

What is restorative justice?

Restorative justice is a philosophical framework which has been proposed as an alternative to the current way of thinking about crime and criminal justice. Restorative justice emphasizes the ways in which crime harms relationships in the context of community.

Crime is viewed as a violation of the victim and the community, not a violation of the state. As a result, the offender becomes accountable to the victim and the community, not the state.

Restorative justice defines accountability for offenders in terms of taking responsibility for actions, and taking action to repair the harm caused to the victim and community.

Restorative justice provides for active participation by the victim, the offender and the community in the process of repairing the fabric of community peace.

As the Twin Cities Star Tribune noted in a July, 1993, editorial, "This vision of justice...(is) about making things right instead of lamenting what's wrong, cultivating strength rather than perpetuating failure."

Community corrections, which has been a primary component of corrections in Minnesota for many years, encompasses many of the restorative justice principles. Victim services, restitution, community service, face-to-face meetings between victims and offenders and their support systems, victim impact panels, and skill-building classes for offenders are elements of restorative justice.

Expanded role for victims

Under restorative justice, crime victims are offered more opportunities to regain personal power.

Currently, victims frequently feel left out of their own cases except possibly as witnesses. One of the key developers of restorative justice, criminal justice specialist Howard Zehr, emphasizes that victims have many needs. They need chances to speak their feelings, experience justice, and have the power restored to them that has been taken away by the offender. Restorative justice allows for victim involvement in determining how those needs can best be met.

Community participation

The role of the community also changes dramatically under restorative justice. The entire community bears some responsibility for all its members, including the victim and the offender.

The community is responsible for supporting and assisting victims, holding offenders accountable, and ensuring opportunities for offenders to make amends. Communities are also responsible for addressing the underlying causes of crime to reduce victimization in the future.

Offender's role

Under the existing criminal justice system that concentrates on legal issues and the possibilities of avoiding punishment, offenders are not required to realize the harm they have done. They often are not required to do anything to right the wrong they have committed.

Incarceration by itself may be considered a relatively easy sentence compared to the restorative justice approach that holds offenders directly accountable to victims, confronts them with the personal harm they have caused, and requires that they make real amends to the victim and the community.

In the existing system, offenders are in a passive role. In a restorative justice system, they become active participants in reparation.

Key assumptions

The restorative justice framework is based on the following assumptions:

- Crime results in injuries to victims, communities and offenders.
- All parties should be included in the response to crime including the offender, the community, and the victim if they wish.
- The victim is central to the process of defining the harm and how it might be repaired.
- Accountability is based on accepting responsibility and repairing the harm done.

- Crime is defined as an act against another person and the community, rather than an act against the state. The state has an interest in resolving the problem but is not the primary actor. The offender becomes accountable to the victim and the community, not the state.
- Restoration or making things right replaces the imposition of punishment for its own sake as the highest priority of the system. Restitution would become common, not the exception.
- Results in a restorative justice model are measured not by how much punishment was inflicted, but by how much reparation was achieved.
- Crime control rests primarily with the social system. The criminal justice system can have only a marginal impact on the level of crime because it can only respond to crime after it occurs.
- Offenders are accountable for their individual choices, but communities are also accountable for the conditions which may exist that contribute to crime.

Public attitudes

A 1991 statewide public opinion survey asked residents about their support for the underlying concepts of restorative justice.

By large margins, respondents expressed an interest in participating in victim/offender mediation, chose restitution over jail time for a burglary sentence, and supported prevention efforts over prison as an effective way to reduce crime.

According to the Minnesota Citizens Council on Crime and Justice, the survey results suggest that the public will support a restorative justice model that emphasizes repairing the harm done by a crime, encourages face-to-face accountability to the victim and community where appropriate, and recognizes that crime control rests primarily outside the criminal justice system.

Change possible

Change toward a more restorative response to crime is guided by the following questions:

- How can we increase opportunity for victim involvement in defining the harm and potential repair?
- How can we increase offender awareness of injury to the victim and the community?
- How can we encourage offender acknowledgment of the wrongness of the behavior?
- How can we acknowledge the harm to the victim and confirm that the victim is not responsible for what happened?
- How can the community send messages of disapproval while not banishing offenders?
- How can the community provide opportunities for the offender to repair the harm?
- How can the community be involved in the process of holding offenders accountable?
- How can we ensure that the offender leaves the system more competent to function effectively in the community?
- How can we increase connections between the offender and community members?

Mutual responsibility between individual and community is the loom on which the fabric of community is woven. Crime represents a failure of responsibility. Our response to crime needs to emphasize and reestablish mutual responsibility.

What does restorative justice look like in practice?

- Support and assistance are provided to victims and families of victims by community volunteers, faith communities, and professional agencies.
- Restitution is given priority over other financial obligations of the offender.
- Victim/offender mediation is available for victims who wish to participate.
- The community provides work opportunities so that offenders can pay restitution to victims.
- Offenders are engaged in community service projects valued by the community.
- Treatment programs include components dealing with victim empathy and responsibility as a community member.
- Offenders face the personal dimension of harm caused by their crime through victim/offender mediation, family group conferencing, sentencing circles, victim panels or community panels.
- If they wish, victims have the opportunity to help shape the obligations placed on the offender for repairing the harm.
- The courts and corrections provide annual reports on measures related to reparation.
- Community members are involved in advisory boards which guide the courts and corrections.
- Businesses and community organizations work with offenders to reintegrate them into the community as offenders fulfill their obligations.
- Faith communities sponsor support groups for offenders trying to change life patterns.
- Offenders leave the corrections system with greater skills than when they entered.
- Every criminal justice intervention leaves the community stronger than it was before the crime occurred.