

Communities, Crime & Justice
Making Community Partnerships Work

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Communities and the Justice System - Turning the Relationship Upside Down

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My work on restorative justice over the past several years has taken me farther and farther down the road of thinking about community, the effect of crime on the community fabric, the responsibility of the community, the relationship of the community to all service systems. My thinking has been powerfully impacted by Tom Dewar, a colleague of John McKnight, who told a United Way committee that I participated in, "the net effect for communities of social services is negative", i.e. the way we have done social services has actually weakened communities. Subsequently, I found key writings by Tony Marshall and David Moore which describe how our increasing reliance on the criminal justice system has weakened communities.

The question of redefining the relationship between communities and professional systems has become a central issue for me. I know that many people are struggling with these issues because I heard many of these ideas touched on in comments and questions which came from the audience in the last session yesterday.

I will use the word community broadly to refer to groups of people with some common interest and common experience who are not a part of the formal justice system.

Let's start by examining what is happening in most communities today.

Crime -- fear -- withdrawal -- isolation -- weakened community bonds -- more crime. All of us, victims, offenders and community members, are caught in a downward spiral where more crime leads to greater fear and increased isolation and distrust among community members, leading to even more crime. Community safety depends primarily upon voluntary individual restraint on harmful behavior. The more connected community members are, the more likely they are to restrain impulses which would be disapproved by the community. As community bonds are weakened by fear and isolation, the power of community disapproval is reduced and crime increases. In the wake of crime, victims often experience isolation, frustration and powerlessness which add to the pain of the victimization.

The relationship of the community to crime is quite complex.

1. The community is an entity affected by the behavior - hurt by the incident and therefore

needing to express the hurt and vent the outrage (case specific).

2. The community is a collective, responsible for the welfare of its members - victims and offenders - thus required to seek and facilitate a remedy for the incident (case specific)
3. The community is a stakeholder in broader policy issues which affect long term community health and thus needs to participate in decision making and implementation of an effective criminal justice process
4. Community strength is the ultimate outcome measure for interventions

How does the current response to crime deal with those aspects of the community's stake in how we respond to crime?

1. The community is not generally recognized as a victim, the injury to the community fabric remains unrepaired, in fact the response may further injure the community fabric
2. The community is not generally involved in crafting an appropriate resolution which promotes healing or community peace. The community must live with the consequences of the way the crime is handled, but has little engagement in the process. If the process creates a more isolated victim and a more isolated offender the community will suffer.
3. The current system treats each crime individually and provides no systematic way to learn broader lessons from patterns of crime which reflect underlying social issues. Thus the long term health of the community is unattended by the current process.
4. The current system does not recognize community strengthening as an important outcome of effective interventions and makes no attempt to measure the impact of the intervention on the community.

The current response to crime often exacerbates the cycle of isolation and weakening of community bonds described above. Offenders are deliberately cut off from the community and victims are inadvertently cut off from the community through neglect, revictimization by the system and subtle messages of blame from community members.

In the past twenty to thirty years the direction of change in the relationship between the community and the criminal justice system has been toward less and less community involvement and more and more reliance upon the state, as represented by formal criminal justice processes - police, courts, corrections.

That relationship needs to be turned upside down. The community must become the first line of defense in maintaining community standards of behavior, with the criminal justice system used as a measure of last resort. Too often now the criminal justice system is the measure of first and last resort.

The criminal justice system cannot deliver improved public safety without the active involvement of the community. The community has tools which the system does not have. The community has resources which the system does not have. The community has power which the system does not have. Criminal justice system activity needs to be built around a core of community activity - not the reverse, which is generally true even in those places which have dramatically increased the level of community involvement.

David Moore writes, "Certainly, the formal procedures of the justice system - in which criminal law is applied - provide important safeguards for rights. At the same time; however, these formal procedures deprive people of opportunities to practice skills of apology and forgiveness, of reconciliation, restitution, and reparation. In assuming responsibility for social regulation when a citizen breaches a law and thereby challenges the moral order, the modern state appears to have deprived civil society of opportunities to learn important political and social skills."

Moore continues, "Where subtle methods of social regulation and control have been transformed or forgotten, the state is required to intervene with unsubtle methods of arrest and incarceration. Criminal justice systems may continue to promote collective norms, but the modern rational state ultimately lacks the emotional resources to maintain - let alone strengthen - the moral order." I believe that the community does have the resources to do the moral work.

There are several key responsibilities in the community's work in responding to crime:

- The first is to rally around the victim and attend to the wounds of the victim.
- The second is to provide the opportunity for offenders to make amends for the harm of the behavior.
- The third is to establish norms and hold members accountable to norms
- The fourth is to address underlying issues revealed by crimes (prevention)

In the work in Minnesota on restorative justice we are suggesting a reversal of roles between the system and the community. In that role reversal the community is the primary responder to crime and the system operates in support of the community.

This new relationship, which is indeed a partnership with the partners changing places, is shaped by several key ideas:

- The community is the source of moral authority or influence
- The community is the center of decision making whenever possible
- The community is the center of action

- Formal government is the source of legal authority (as contrasted with the moral authority of the community)
- The government is in a position of broader oversight than the community
- The government is the guardian of individual concerns (in contrast to community responsibility for collective concerns)

I will give a quick example of what I mean by this role reversal:

I. One responsibility of community in this approach is to participate in determining the terms of accountability, i.e. deciding on sentences for the offender. When the community is in that role the government or state role is to back up the community with legal authority. The community exercises moral authority in denouncing the crime and deciding requirements of offenders to make amends. The state exercises legal authority to formalize those requirements. The state also plays a role of oversight of the community process to ensure fairness in that process.

Examples:

1) Circle Sentencing - a community process (including both offender and victim communities)

- decides the sentence, the court pronounces the sentence and gives it full legal weight
- 2) Family group conferencing - the community of those affected by the crime decide what the obligations on the offender should be, the court uses its authority to make those legal obligations
 - 3) Vermont reparative probation - a community process decides the terms of probation (i.e. the obligations of the offender), the court makes those legal obligations

The purpose of the legal authority is to affirm the community's authority and provide a mechanism for responding to failure to comply. The community's moral authority is central and the state's legal authority is secondary and a backup. Legal authority which is not clearly grounded in the community's moral authority, as demonstrated by active community involvement, is hollow and ineffective.

In general, communities manage individual behavior more effectively than governments do. However, communities need government support and resources and the perspective of an oversight mechanism which is separate from the community.

For these partnerships to work the parties:

- must have trust - the parties need to know they can rely on their partner - because their safety is at stake
- must feel respected in the partnership
- must feel necessary - they must feel that it can't be done without them - otherwise why waste time on it
- must feel responsible - ownership and commitment come with a sense of responsibility

The partnership should add value to the community and to the partners.

Because formal government processes have gradually taken over so much authority and power, the system also has a leadership responsibility in moving from the current approach to one in which the community is the lead partner. The system needs:

- To assist in developing the transformed community role through information, education and technical assistance.
- To link communities with others who have common interests and goals to share experience and learnings
- To lead a process of clarifying the statewide vision and goals for the criminal justice process
- To monitor community activities to ensure that values of the state and nation are honored (fairness, appropriate due process, etc.)

The bottom line for the system should be: Is the community stronger after the criminal justice intervention than it was before the crime happened? Only interventions which are grounded in community and directed by the community are likely to strengthen the community.

Mutual responsibility is the loom on which the fabric of community is woven. Crime represents a failure of responsibility - clearly on the offender side - sometimes on the community side as well. Our response to crime must emphasize and re-establish mutual responsibility. The criminal justice system must facilitate and support this work, but it is primarily a community function. The community must lead its own moral work.