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# **Conferences, Circles, Boards, and Mediations: Restorative Justice and Citizen Involvement in the Response to Youth Crime**

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# Office of Juvenile Justice and Delinquency Prevention

The Office of Juvenile Justice and Delinquency Prevention (OJJDP) was established by the President and Congress through the Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974, Public Law 93-415, as amended. Located within the office of Justice Programs of the U.S. Department of Justice, OJJDP's goal is to provide national leadership in addressing the issues of juvenile delinquency and improving juvenile justice.

OJJDP sponsors a broad array of research, program, and training initiatives to improve the juvenile justice system as a whole, as well as to benefit individual youth-serving agencies. These initiatives are carried out by seven components within OJJDP, described below.

**Research and Program Development Division** develops knowledge on national trends in juvenile delinquency; supports a program for data collection and information sharing that incorporates elements of statistical and systems development; identifies how delinquency develops and the best methods for its prevention, intervention, and treatment; and analyzes practices and trends in the juvenile justice system.

**Training and Technical Assistance Division** provides juvenile justice training and technical assistance to Federal, State, and local governments; law enforcement, judiciary, and corrections personnel; and private agencies, educational institutions, and community organizations.

**Special Emphasis Division** provides discretionary funds to public and private agencies, organizations, and individuals to replicate tested approaches to delinquency prevention, treatment, and control in such pertinent areas as chronic juvenile offenders, community-based sanctions, and the disproportionate representation of minorities in the juvenile justice system.

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**Information Dissemination and Planning Unit** informs individuals and organizations of OJJDP initiatives; disseminates information on juvenile justice, delinquency prevention, and missing children; and coordinates program planning efforts within OJJDP. The unit's activities include publishing research and statistical reports, bulletins, and other documents, as well as overseeing the operations of the Juvenile Justice Clearinghouse.

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OJJDP provides leadership, direction, and resources to the juvenile justice community to help prevent and control delinquency throughout the country.

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**Balanced and Restorative Justice Project**

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The Office of Juvenile Justice and Delinquency Prevention is a component of the Office of Justice Programs, which also includes the Bureau of Justice Assistance, the Bureau of Justice Statistics, the National Institute of Justice, and the Office for Victims of Crime.

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# *About the Balanced and Restorative Justice Project*

In 1993, the Balanced and Restorative Justice Project began as a national initiative of the Office of Juvenile Justice and Delinquency Prevention through a grant to Florida Atlantic University. The goals of the project, which in 1994 developed a partnership arrangement with the Center for Restorative Justice and Mediation through a subcontract with the University of Minnesota, are to provide training and technical assistance and develop a variety of written materials to inform policy and practice pertinent to the Balanced Approach mission and restorative justice.

This *Conferences, Circles, Boards, and Mediations: Restorative Justice and Citizen Involvement in the Response to Youth Crime* is part of a series of policy and practice monographs and training materials for the field. Other publications in the series include:

- *Balanced and Restorative Justice Program Summary* (1995) Available through NCJRS.
- *Balanced and Restorative Justice for Juveniles: A Framework for Juvenile Justice in the 21st Century* available through the Balanced and Restorative Justice Project.
- *Balanced and Restorative Justice Project Curriculum Guide* (Forthcoming 1999) Published for OJJDP by the Balanced and Restorative Justice Project.
- *Guide for Implementing the Balanced and Restorative Justice Model* (Forthcoming 1999) Available through NCJRS.

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# *Balanced and Restorative Justice Overview*

Balanced and Restorative Justice (BARJ) is a new framework for juvenile justice reform which seeks to engage citizens and community groups both as clients of juvenile justice services and as resources in a more effective response to youth crime. To do this, the Balanced Approach mission attempts to ensure that juvenile justice intervention is focused on basic community needs and expectations. Communities expect "justice" systems to improve public safety, sanction juvenile crime, and rehabilitate and reintegrate offenders. True "balance" is achieved when juvenile justice professionals consider all three of these needs and goals in each case and when a juvenile justice system allocates its resources equally toward meeting each need.

Restorative justice is a new way of thinking about and responding to crime which emphasizes one fundamental fact: crime damages people, communities, and relationships. If crime is about harm, a "justice" process should therefore emphasize repairing the harm. As a vision for systemic juvenile justice reform, restorative justice suggests that the response to youth crime must also strike a "balance" between the needs of victims, offenders and communities and that each should be actively involved to the greatest extent possible in the justice process. Restorative justice builds on traditional positive community values and on some of the most effective sanctioning practices including: victim offender mediation, various community decisionmaking or conferencing processes (e.g., reparative boards, family group conferencing, circle sentencing), restorative community service, restitution, victim and community impact statements, and victim awareness panels.

What is most new, and most important, about restorative justice is a set of principles that redefine the way justice systems address public safety, sanctioning, and rehabilitative objectives. Specifically, when crime is understood as harm and justice as repair or healing, and when the importance of active participation of victims and community members in the response to crime is emphasized, these basic community needs are understood and addressed as follows:

**Accountability.** Traditionally, accountability has often been viewed as compliance with program rules or as "taking one's punishment." However, crime is sanctioned most effectively when offenders take responsibility for their crimes and the harm caused to victims, when offenders make amends by restoring losses, and when communities and victims take active roles in the sanctioning process.

**Competency.** Most rehabilitative efforts in juvenile justice today are still centered around fairly isolated treatment programs which are not well accepted by the public. A Balanced and Restorative Justice approach to offender reintegration suggests that rehabilitation is best accomplished when offenders build competencies and strengthen relationships with law-abiding adults which increase their ability to become contributing members of their communities.

**Public Safety.** Although locked facilities must be part of any public safety strategy, safe communities require more than incapacitation. Because public safety is best ensured when communities become more capable of preventing crime and monitoring offenders and at-risk youth, a balanced strategy cultivates new relationships between juvenile justice professionals and schools, employers, and other community groups. A problem-oriented focus ensures that the time of offenders under supervision in the community is structured around work, education, and

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service. It also establishes a new role for juvenile justice professionals as resources in prevention and positive youth development.

Today, when a crime is committed, most juvenile justice professionals are primarily concerned with three questions: who did it, what laws were broken, and what should be done to punish or treat the offender? While questions of guilt, lawbreaking, and appropriate intervention are certainly vital to prosecutors, these questions alone may lead to a limited range of interventions based solely on treatment and punishment.

“Treatment and punishment standing alone are not capable of meeting the intertwined needs of the community, victim, offender, and family. For the vast majority of the citizenry, juvenile justice is an esoteric system wrapped in a riddle. Support comes from understanding, understanding from involvement and participation. Community involvement and active participation in the working of a juvenile court is a reasoned response. Currently, community members are not solicited for input or asked for their resourcefulness in assisting the system to meet public safety, treatment and sanctioning aspirations.” (Diaz, 1996)

Viewed through the restorative "lens," crime is understood in a broader context than what is suggested by the questions of guilt and what should be done to punish or treat the offender. Howard Zehr (1990) argues that, in restorative justice, three very different questions receive primary emphasis. First, what is the nature of the harm resulting from the crime? Second, what needs to be done to "make it right" or repair the harm? Third, who is responsible for this repair?

Defining the harm and determining what should be done to repair it is best accomplished with input from crime victims, citizens and offenders in a decisionmaking process that maximizes their participation. The decision about who is responsible for the repair focuses attention on the future rather than the past and also sets up a different configuration of obligations in the response to crime. No longer simply the object of punishment, the offender is now primarily responsible for repairing the harm caused by his/her crime. A restorative juvenile court and justice system would, in turn, be responsible for ensuring that the offender is held accountable for the damage and suffering caused to victims and victimized communities by supporting, facilitating, and enforcing reparative agreements. But, most importantly, crime victims and the community play critical roles in setting the terms of accountability and monitoring and supporting completion of obligations.

If crime victims and the community are to become fully engaged as active participants in the response to youth crime, juvenile justice professionals must begin to think about these stakeholders in different ways. In addition, the role of the professional and the mandate of the juvenile justice system is likely to change. To move forward with this new agenda it is important to understand the community's needs and the potential role and responsibility of community groups and citizens in the response to youth crime.

The purpose of this monograph is to provide a rationale for engaging community members and crime victims in the juvenile justice process, discuss the role of the community in various aspects of the response to youth crime (ensuring accountability, reintegrating offenders), describe the new relationship between communities and juvenile justice systems that appears to be emerging in conjunction with restorative justice initiatives, and discuss specific strategies for involving community that have proved effective in various settings.

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# ***I. Introduction***

*Case 1* After approximately two hours of at times heated and emotional dialogue, the mediator felt that the offender and victim had heard each other's story and had learned something important about the impact of the crime and about each other. They had agreed that the offender, a fourteen year old, would pay \$200 in restitution to cover the cost of damages to the victim's home resulting from a break-in. In addition, he would be required to reimburse the victims for the cost of a VCR he had stolen estimated at \$150. A payment schedule would be worked out in the remaining time allowed for the meeting. The offender had also made several apologies to the victim and agreed to complete community service hours working in a food bank sponsored by the victim's church. The victim, a middle aged neighbor of the offender, said that she felt less angry and fearful after learning more about the offender and the details of the crime and thanked the mediator for allowing the mediation to be held in her church basement.

*Case 2* After the offender, his mother and grandfather, the victim and the local police officer who had made the arrest had spoken about the offense and its impact, the Youth Justice Coordinator asked for any additional input from other members of the group of about ten citizens assembled in the local school (the group included two of the offender's teachers, two friends of the victim, and a few others). The Coordinator then asked for input into what should be done by the offender to pay back the victim, a teacher who had been injured and had a set of glasses broken in an altercation with the offender, and pay back the community for the damage caused by his crime. In the remaining half hour of the approximately hour long conference, the group suggested that restitution to the victim was in order to cover medical expenses and the costs of a new pair of glasses and that community service work on the school grounds would be appropriate.

*Case 3* The victim, a middle aged man whose parked car had been badly damaged when the offender, a 16 year old, who had crashed into his car and also damaged a police vehicle after joyriding in another vehicle, talked about the emotional shock of seeing what had happened to his car and his costs to repair it (he was insured). Following this, an elder leader of the First Nations community where the circle sentencing session was being held, and an uncle of the offender, expressed his disappointment and anger with the boy. The elder observed that this incident, along with several prior offenses had brought shame to his family - noting that in the old days, he would have been required to pay the victim's family a substantial compensation as a result of such behavior. After he had finished, the feather was passed to the next person in the circle, a young man who spoke about the contributions the offender had made to the community, the kindness he had shown toward the elders, and his willingness to help others with home repairs. Having heard all this, the judge asked the Crown Council (Canadian prosecutor) and the public defender, who were also sitting in the circle to make statements and then asked if anyone else in the circle wanted to speak. An



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*RCMP (Royal Canadian Mounted Police) officer, whose police car had also been damaged, then took the feather and spoke on the offender's behalf, proposing to the judge that in lieu of statutorily required jail time for the offense, the offender should be allowed to meet with him on a regular basis for counseling and community service. After asking the victim and the prosecutor if either had any objections, the judge accepted this proposal. In addition he ordered restitution to the victim and asked the young adult who had spoken on the offender's behalf to serve as a mentor for the offender. After a prayer in which the entire group held hands, the circle disbanded and everyone retreated to the kitchen area of the community center for refreshments.*

***Case 4** The young offender, a 17 year old caught driving with an open can of beer in his dad's pick-up truck, sat nervously awaiting the conclusion of a deliberation of the Reparative Board. He had been sentenced by a judge to Reparative Probation and did not know whether to expect something tougher or much easier than regular probation. About a half hour earlier prior to retreating for their deliberation, the citizen members of the Board had asked the offender several simple and straightforward questions. At 3 p.m. the chairperson explained the four conditions of the offender's contract: 1) begin work to pay off his traffic tickets; 2) complete a state police defensive driving course; 3) undergo an alcohol assessment; and 4) write a three page paper on how alcohol has negatively affected his life. After the offender had signed the contract, the chairperson adjourned the meeting.*

What do these cases have in common? Each of the above scenarios illustrates a successful conclusion of a non-adversarial, community-based restorative justice process. Together, the examples illustrate four general alternative models of community decisionmaking which share a focus on citizen participation in holding offenders accountable and repairing the harm caused to crime victims. These processes, now being carried out with some regularity in North America, Australia, New Zealand and parts of Europe, represent but one component of what appears to be a new community justice movement in the 1990's concerned with bringing less formal justice processes closer to neighborhoods and increasing the involvement of citizens in the justice process (e.g., Travis, 1996; Barajas, 1995; Bazemore and Schiff, 1996; Griffiths and Hamilton, 1996).

Referred to by such terms as *restorative justice* (e.g., Zehr, 1990; Hudson and Galaway, 1996; Bazemore and Umbreit, 1995), *community justice* (Griffiths and Hamilton, 1996; Stuart, 1995a; Barajas, 1995), and *restorative community justice* (Young, 1995; Bazemore and Schiff, 1996), this movement is becoming a topic of high level national and cross-national discussion and debate in the U.S. and Canada (NIJ, 1996a and b; Depew, 1994) and has already had significant state/provincial, territorial, regional and even national policy impact. While they by no means exhaust the possibilities for community involvement in the decisions about how to respond to youth crime, together the four case examples illustrate some of the diversity, as well as common themes, apparent in what appears to be an emerging "new wave" of approaches to citizen participation in a local sanctioning process. The term restorative conferencing will be used here to describe a range of community sanctioning/ decisionmaking interventions which share a focus on bringing victims, offenders and community members together to develop an informal response aimed at repairing the harm caused by crime.

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The first case is drawn from the files of one of approximately 320 *victim-offender mediation* (VOM) programs in the U.S. and Canada. Offenders and victims who have agreed to participate meet in these sessions with a third party mediator in order to talk about the impact of the crime on all involved and to develop a plan for restoring losses incurred by the victim. Parents of the offender are often part of the mediation session. Victims are given the opportunity to tell their story about how the crime affected them and can get helpful information about the offense. Offenders are also given the opportunity to tell their story and take direct responsibility through making amends in some form (Umbreit, 1994). Though still unfamiliar to many mainstream juvenile and criminal justice audiences and marginal to the court process in some jurisdictions where they do operate, VOM programs—referred to as Victim Offender Reconciliation Programs (VORPs) in some communities—now have a long and respectable 20-year track record in Europe, Canada and the U.S.<sup>1</sup>

The second example describes a typical conclusion of a *family group conference* (FGC). This model in its modern form was adopted into national legislation in 1989 in New Zealand making it the most systemically institutionalized of any of the four approaches. Dispositional decisions in all but the most violent and serious delinquency cases in New Zealand are made in FGC's which include family and extended family members and supporters in addition to victims and offenders (Maxwell and Morris, 1993; Alder and Wundersitz, 1994; McElrea, 1993). Based on the centuries old sanctioning and dispute resolution traditions of the Maori aboriginals and now widely used in modified form as a police initiated diversion approach in South Australia, FGCs are now also being implemented in U.S. cities in Minnesota, Pennsylvania, Montana, Vermont, and several other states, as well as in parts of Canada. .

The third scenario describes a *Circle Sentence* (CS), an updated version of the traditional sanctioning and healing practices of Canadian Aboriginal peoples and Native American peoples in the United States (Stuart, 1995; Melton, 1995). Circle Sentencing was resurrected in 1991 by supportive judges and Community Justice committees in the Yukon Territory, Canada and other northern Canadian communities. The strategy is designed not only to address the criminal behavior of offenders, but also to consider the needs of crime victims, families, and communities within a holistic, reintegrative context. Within the "circle," crime victims, offenders, family and friends of both, justice and social service personnel, as well as interested community residents are allowed to express their feelings about the crime and the offender as well as to offer their suggestions as to how the offence and the needs of the victim and the community can best be addressed. The significance of the circle is more than symbolic: all persons in the circle—police officers, lawyers, the judge, victim, offender, and community residents—participate in the case deliberations. Through this community-system partnership, a determination is made as to the most appropriate action to be taken and in addressing the needs of the victim and the offender.

Finally, the fourth case is taken from the files of the *Reparative Probation Program*, a Vermont innovation in which nonviolent offenders are sentenced by the court to a hearing before a community Reparative Board (RB) composed of local citizens. These boards, which became operational early in 1995 as part of a newly mandated separation of probation into Community Corrections Service Units (designed to provide supervision to more serious cases) and Court and Reparative Service Units (who coordinate and provide administrative support to the Boards). Composed of five local citizens, the Boards now make dispositional decisions for eligible probation cases referred by the courts, and if the target goals of state correctional administrators are met, may soon be hearing an estimated 60 percent of these eligible cases (Dooley, 1995;

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1996). Although used until recently with adult offenders only, in this monograph we will present the Vermont RBs as a new prototype for a much older and more widespread community sanctioning response to youth crime generally known by such terms as “youth panels”, “neighborhood boards”, or “community diversion boards.”<sup>2</sup>

The purpose of this monograph is to describe the four new restorative conferencing models and examine how each involves citizens and community groups in several critical components of the sanctioning process. In doing so, we compare and contrast these models on a number of key operational dimensions with the objective of providing a general framework within which the myriad of alternative justice practices currently being described by at times ill-defined and vague terms such as “community justice” and/ or “restorative justice” can be categorized and objectively analyzed and evaluated. Finally, we present guidelines for clearly grounding these interventions in restorative justice principles and provide a “test” for determining whether or not conferencing interventions strengthen the community response to youth crime and create new roles for citizens and community groups. In an evolving restorative justice movement in which new practice innovations seem to be emerging on an almost monthly basis, it is most important to identify common principles that can be replicated by local juvenile courts and communities and which can guide decisionmakers in choosing models best suited to local community needs.

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## *II. Restorative Conferencing In Context*

Table I describes the origins and current application of the four restorative conferencing models and summarizes several differences and similarities between them in administration and process. While the models share a non-adversarial, community-based sanctioning focus on cases in which offenders either admit guilt or have been found guilty of crimes or delinquent acts, they vary along several of these dimensions of staffing, eligibility, and point in the system at which referrals are made. Notably, eligibility ranges from minor first offenders to quite serious repeat offenders (in the case of Circle Sentencing), and the models differ in point of referral and structural relationship to formal court and correctional systems. With the exception of most Vermont reparative boards, decision making is by consensus, but the process and dispositional protocol vary substantially—ranging from ancient rituals involving passing of the “talking stick” or feather in the case of Circle Sentencing (Stuart, 1995a, to the somewhat more formal deliberation process followed by board members in RB’s (Dooley, 1995).

The process of managing dialogue also varies significantly between the models based on the nature of the role played by conference facilitators. While RB’s utilize a chairperson to guide board members through their questions and discussion with offender, victim and other participants, FGC’s rely on a coordinator to manage the discussion by ensuring that offender, victim and other participants are encouraged to speak (coordinators rely on a protocol or “script” in the Wagga-Wagga or Real Justice model of conferencing). In VOM, the mediator manages the dialogue by encouraging victim and offender to take primary responsibility for expressing their feelings and concerns directly to each other, ensuring that each respects the other’s right to speak, and probing occasionally to keep the discussion flowing. In Circle Sentencing, on the other hand, participants rely primarily on the process itself which requires that only one person speak at a time and only when they are handed the “talking piece.” Although each circle has a “keeper,” the role of this individual is not to manage the dialogue, but simply to initiate and ensure the process is followed (and occasionally summarize progress).

**Table I**  
**Community Decision Making Models**  
*Administration and Process*

	<b>Circle Sentencing</b>	<b>Family Group Conferencing</b>	<b>Reparative Boards/ Youth Panels</b>	<b>Victim /Offender Mediation</b>
<b>Time In Operation</b>	Since approximately 1992	New Zealand (N.Z.) – 1989; Australia – 1991	Since 1995 (RB’s); Since 1920 (panels)	Since mid-1970’s
<b>Where Used</b>	Primarily the Yukon sporadically in other parts of Canada	Australia, N.Z. Cities & towns in Montana, Minneapolis, Pennsylvania & other states	Vermont; selected jurisdictions and neighborhoods in other states	Throughout North America and Europe
<b>Point In System</b>	Used at various stages - may be diversion or alternative to formal court hearings and correctional process for indictable offenses	N.Z. – throughout Juvenile Justice system; Australian Wagga Wagga model – police diversion. U.S. – Mostly diversion, some use in schools and post-adjudication.	RB’s one of several probation options; panels almost exclusively diversion	Mostly diversion and probation option - But some use in residential facilities for more serious cases
<b>Eligibility and Target Group</b>	Offenders who admit guilt and express willingness to change. Entire range of offenses and offenders eligible; chronic offenders targeted	N.Z. model - all juvenile offenders eligible except murder and manslaughter charges. Wagga Wagga model – determined by police discretion or diversion criteria	Target group is nonviolent offenders; eligibility limited to offenders given probation and assigned to the boards.	Varies but primarily diversion cases and property offenders. In some locations, used with serious and violent offenders (at victim’s request)
<b>Staffing</b>	Community Justice Coordinator	Community Justice Coordinator	Reparative Coordinator (Probation staff)	Mediator – other positions vary.
<b>Setting</b>	Community Center, school, other public building, church	Social welfare office, school, community building, (occasionally) police facility.	Public building or community center for both	Neutral setting such as meeting room in library, church or community center; occasionally in victim’s home if approved by other parties
<b>Nature &amp; Order of Process</b>	After keeper opens session and allows for comments from judge, prosecutors and defense present legal facts of the case (for more serious crimes), each participant allowed to speak when feather or “talking stick” is passed to them. Consensus decisionmaking.	In Wagga Wagga model, coordinator follows “script” in which offender speaks first, followed by victim and other participants. N.Z. model not scripted and allows consensus decisionmaking after private meeting of family members.	Mostly private deliberation by Board after questioning offender and hearing statements, though some variation emerging in local RB’s ; in youth panel members generally deliberate.	Victims speak first; mediator facilitates but encourages victim and offender to speak; does not adhere to script.
<b>Managing Dialogue</b>	Process of passing “talking stick” manages dialogue after keeper initiates	Coordinator manages dialogue	Board chair manages; participants speak when asked	Mediator manages dialogue

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### *III. Dimensions of Community Justice and Community Decisionmaking*

Efforts to increase community participation in sanctioning and dispositional decision making process are nothing new, even in recent criminal and juvenile justice history. In the late 1970's, the Law Enforcement Assistance Administration (LEAA) of the U.S. Department of Justice supported "neighborhood justice centers," also referred to as "dispute resolution centers," in several U.S. cities (McGillis and Mullen, 1977; Garafalo and Connelly, 1980). The four new wave models should also be viewed in the context of a more recent effort to bring courts, prosecution units and defense teams to local neighborhoods. A recent publication of the National Institute of Justice (NIJ, 1996b), for example, describes a variety of initiatives to locate prosecution and defense services - as well as entire courts — in neighborhoods and adapt their service to provide a better fit with the needs of local citizens (NIJ, 1996b). Federal and state juvenile justice agencies have been especially concerned with promoting a less formal and accessible neighborhood focus for intervention, and has done so in recent years through support for teen courts and juvenile drug courts, as well as mentoring programs.

Both the older dispute resolution approaches and the new community court and court units have often been effective in increasing accessibility of justice services to citizens by changing the *location* of programs or services so that they are geographically available to neighborhoods, increasing *flexibility* of service delivery (e.g., better hours, more diversity), and encouraging *informality* in the decision making process—relying whenever possible on dispute resolution, negotiation and meditative practices rather than legal rules and procedures (Harrington and Merry, 1988, Rottman, 1996). As the experience with community corrections clearly illustrates, however, when facilities or service centers are merely located in a neighborhood without the involvement of local residents, the result is an isolated program or process that may be said to be *in*, but not *of*, the community (Byrne, 1989; Clear, 1996). Similarly, increasing flexibility and breaking down formal barriers may increase citizens' willingness to seek and receive assistance, but it does not necessarily increase their involvement as *participants* in the justice process, or even necessarily allow them to determine what services they would like in their neighborhoods.

Unfortunately, the emphasis on programs and accessibility of services has contributed to a one-dimensional definition of community justice. Ultimately, neither developing programs and increasing access will alone change the role of neighborhood residents from service recipients to decision makers with a stake in, or feeling of ownership, in what services are provided and how they are delivered. Hence, what appears to be most *new* and significant about the four conferencing models examined in this document is that in defining distinctive roles for citizens in determining what the obligation and terms of accountability will be, as well as how these reparative requirements may be carried out as part of a dispositional or diversion sanction, they add an important dimension to both earlier and ongoing community justice initiatives (e.g., McGillis & Mullen, 1977; NIJ, 1996a).

What is the relevance of these apparently esoteric sanctioning and decisionmaking models to juvenile justice professionals, victim advocates, treatment providers and other intervention professionals? Notably, an increasing number of state departments of juvenile courts, probation departments and parole agencies, and corrections systems are adopting one or more aspects of

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community and restorative justice policy (e.g., Dooley, 1995; Pranis, 1995, Bazemore, 1997a; Pennsylvania Juvenile Court Judges Commission, 1997). What appear on the surface to be simply informal alternatives to court are therefore being viewed by some administrators as having greater significance to the objectives of all components of the juvenile justice systems.<sup>3</sup> The larger promise of the evolving approaches is a new avenue for achieving a wider and deeper level of citizen involvement in the rehabilitative, sanctioning, and public safety missions of juvenile justice that has been difficult to attain through a focus on offender focused intervention alone. The prospects for increasing community involvement, the *nature* of the process of engaging citizens, and the role(s) assigned to the community, including crime victims, are therefore the most crucial dimensions for contrasting approaches to community decision making.

### **Contrasting The Models: Engaging Communities In Restorative Justice**

The way “community” is defined and involved in restorative conferencing models is a critical factor effecting the nature and extent of citizen participation and ownership. As Table II suggests, in the case of victim offender mediation (VOM), for example, the community is effectively defined as the victim-offender dyad, along with the trained community volunteer who serves as the mediator, and parents who often are also involved. In Circle Sentencing (CS) on the other hand, the community is more broadly conceptualized as all residents of a local neighborhood, village or Aboriginal band, and for purposes of the circle process, may be defined as anyone with a stake in the resolution of a crime who chooses to participate. In addition, the list of characteristics in Table II address several general questions about community justice decision making which provide useful points of comparison between each model. We devote primary attention to two of these issues in the remainder of this section.

First, what is the role and function of crime victims, relative to offenders and the community, in the process? In the formal justice system, the bulk of attention is directed toward the offender, first with regard to his/her guilt or innocence, and second with regard to appropriate punishment, treatment or monitoring. The community is often an abstract and distant concern (e.g., Barajas, 1995; Clear, 1996). Because they have been so neglected as a stakeholder in both formal and community justice approaches, it is important to give special attention to the role of crime victims in each restorative conferencing process.

Second, one of the most interesting and important differences between the restorative conferencing models is the extent to which preparation prior to the process and follow-up is viewed as vital to success. Put differently, models may vary a great deal in the view of the decision making ceremony itself as primary (and thus spontaneous) or merely one step in an ongoing process that will hopefully result in a complete response to crime. Clearly, the preparation stage of restorative community justice offers perhaps the greatest opportunity to engage citizens in the process and to ensure their meaningful participation (Stuart, 1995a; Umbreit, 1994). In addition, even more at issue among some critics of these models (Alder and Wundersitz, 1994) is the enforcement and follow-up approach for sanctioning plans and agreements that result from each process (see Table II). The monitoring and enforcement functions in these processes provide the most critical linkage between the courts sentencing/dispositional functions and correctional intervention.

**Table II**  
**Community Decision Making Models**  
*Community Role and Involvement*

	<b>Circle Sentencing</b>	<b>Family Group Conferencing</b>	<b>Reparative Boards/ Youth Panels</b>	<b>Victim/ Offender Mediation</b>
<b>Who Participates? (The Community)</b>	Judges, prosecutor, defense counsel participate in serious cases. Victim(s), offender(s), service providers, support group present. Open to entire community. Justice Committee ensures participation of key residents.	Coordinator identifies key participants. Close kin of victim and offender targeted, as well as police, social services. Broader community not encouraged to participate.	Reparative Coordinator (probation employee) Community Reparative Board, offender and supporters, victim on a limited basis. Diversion staff for youth panels.	Mediator, victim, offender are standard participants; parents are often involved and others only occasionally.
<b>Victim Role</b>	Participates in circle and decision making; gives input into eligibility of offender; chooses support group, and may participate in a healing conference	Victim expresses feelings about crime; gives input into reparative plan. In U.S., frequently an institutional victim (state or school).	Input into plan sought by some boards; inclusion rare of victims; currently encouraged and being considered.	Major role in decision re: offender obligation and content of reparative plan; express feelings regarding crime and impact.
<b>Gatekeepers</b>	Community Justice Committee	N.Z. – Court & Community Justice Coordinator. Australia & U.S – school officials.	Judge	Victim has ultimate right of refusal; consent is essential
<b>Role And Relationship To System</b>	Judge, prosecution, court officials share power with community, i.e., selection, sanctioning, follow-up. Presently minimal impact on court case loads.	N.Z. – Primary process of hearing juvenile cases; required ceding of disposition power. Major impact on court case loads. Wagga-Wagga & U.S. - police driven. Variable impact on case loads; concern regarding net-widening; in U.S., very minor cases, most common offense is shoplifting.	One of several probation options for eligible low risk offenders with minimal services needs. Plans to expand. Some impact on case loads anticipated	Varies on continuum from core process in diversion and disposition to marginal programs with minimal impact on court case loads.
<b>Preparation</b>	Extensive work with offender & victim prior to circle; explain process and rules of circle.	Phone contact with all parties to encourage participation and explain process; N.Z. model requires face to face visits with offender, family and victim.	Pre-service training provided by Boards; no advance preparation for individual hearings.	Typically face-to-face preparation with victim and offender to explain process. Some programs use phone contact.
<b>Enforcement &amp; Monitoring</b>	Community Justice Committee; Judge may hold jail sentence as incentive for offender to comply with plan.	Unclear; police in Wagga-Wagga model; Coordinator in N.Z. model; U.S. & Canada – police, others	Condition of probation. Coordinator monitors and brings petition of revocation to board, if necessary	Varies; mediator may follow-up; probation and, or other program staff may be responsible.
<b>Primary Outcome Sought</b>	Increase community strength and capacity to resolve disputes and prevent crime; develop reparative and rehabilitative plan; address victim(s) concerns and public safety issues; assign victim and offender support group responsibilities and identify resources	Clarify facts of case. Denounce crime while affirming and supporting offender; restore victim loss; encourage offender reintegration; focus on “deed not need”, some emphasis on collective accountability.	Engage and involve citizens in decision making process decide appropriate reparative plan for offender; require victim awareness education and other activities which address ways to avoid re-offending in the future.	Allow victim to relay impact of crime to offender; express feelings and needs; victim satisfied with process; offender increase awareness of harm; gain empathy; agreement on reparative plan.



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In making these comparisons we remind the reader that the philosophy and practice of any given FGC, VOM, CS, or RB may deviate substantially from that of the prototype presented here. Indeed the evolution of the restorative justice movement is producing significant changes as practitioners think more carefully about the implications of restorative principles for their practice. RBs, for example, have been influenced by FGCs; some FGCs have recently adopted components of CS; and VOM practice has been influenced by FGC models.<sup>4</sup>

### **Victim-Offender Mediation**

*Role of the Victim and Other Coparticipants.* Increasingly, VOM programs seek to offer their services in a victim sensitive manner (Umbreit, 1994; Umbreit & Greenwood, 1997). Specifically, victims are given maximum input into the plan for holding the offender accountable, referred for needed help and assistance, allowed to tell the offender how the crime has affected them, and, to the greatest extent possible, are repaid for their losses. As shown earlier in Table I, to ensure that the victim feels empowered, or at a minimum is not more abused or overwhelmed by the process, victims are frequently given the opportunity to speak first in mediation sessions. Both victim and offender needs receive priority over the needs of other potential players in the mediation process (e.g., parents, relatives), though extra attention is given to the victim to insure that they are not revictimized by the process itself. The victim must, after all, consent to the process. Most programs also require the consent of the offender and attempt to engage their participation in the least coercive manner possible (Umbreit and Greenwood, 1998), although in some jurisdictions the offender is often a less than willing participant (Belgrave, 1995). In contrast to other models, most research studies report that victim satisfaction with VOM has been uniformly high (e.g., Umbreit & Coates, 1993; Belgrave, 1995).

*Preparation, Monitoring, and Enforcement.* On the front-end, VOM programs stress the importance of extensive victim and offender preparation prior to the mediation session. The most widely accepted model encourages a separate pre-mediation discussion with both offender and victim involving at least one face-to-face session and many practitioners argue that up-front preparation is often more important than the session itself in bringing about a successful result (Umbreit & Stacy, 1995). During these separate pre-mediation sessions, the mediator listening to how the crime affected the person, explains the VOM process, identifies potential benefits, invites their participation, and if they agree, introduces them to the actual mediation process in order to minimize their anxiety and maximize their opportunity to engage in a direct dialogue with each other, with minimal intervention or verbal contributions by the mediator (Umbreit, 1994, 1997). In fact, many practitioners argue that up-front preparation is often more important than the session itself in bringing about a successful result (Umbreit & Stacy, 1995). While most other forms of mediation in civil court settings are settlement-driven with little or no time to talk about the larger context of the conflict or the feelings of the involved parties, victim offender mediation is dialogue-driven, even though sessions usually do result in a restitution agreement. Multi-site studies (Coates & Gehm, 1989, Umbreit, 1994) / (have consistently found that while restitution is an important motivating factor to participate in mediation, following mediation sessions, victims consistently indicate that actual receipt of restitution is secondary to their satisfaction with having been able to talk about the full impact of the crime and to meet the offender and learn of their circumstances. Offenders also have indicated their satisfaction with the opportunity to talk directly with the victim and how they felt better after doing so.

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In VOM, there is apparently some degree of variation between programs in monitoring and enforcement. In many programs, it is common for the mediator to assist offender and victim in devising a schedule for reparation, and he/she may even ask that the participants agree to a follow-up meeting to review progress (Umbreit, 1994). In other programs, probation or diversion staff may follow-up depending on the offender's court status; other mediation programs may have paid staff, community volunteers, or student interns who are charged with monitoring functions, or VOM may be one part of a larger restitution program responsible for development and enforcement of the reparative agreement (Schneider, 1985; Belgrave, 1995).

## **Reparative Boards**

*Role of the Victim and Other Coparticipants.* In the early months of operation, victim involvement in most Vermont RBs was minimal (Dooley, 1996). RBs were informed to a large extent by a restorative justice model (Dooley, 1995; 1996), and the emphasis on victim participation has been strongly encouraged by state officials who developed and now monitor the programs. While some boards appear to have increased victim involvement, it remains to be seen to what extent citizen board members will want to take on the at times demanding task of contacting and engaging crime victims in the justice process. The strong commitment on the part of some local Boards to seeing that victims are repaid by offenders may, however, ultimately provide greater motivation for increasing involvement as it becomes more clear what value mediation, or other forms of victim-offender dialogue, may have in improving completion rates (Umbreit and Coates, 1993). Boards have also been encouraged by administrators to refer offenders and victims to victim-offender mediation or FGC programs in communities, where they are available and when victims agree to participate.

*Preparation, Monitoring, and Enforcement.* As Table II suggests, enforcement responsibilities in the form of recommending revocation or termination of the 90 day offender contract, are assigned to the Board members themselves, although the final decision is apparently made by a probation administrator. A state corrections employee, the Reparative Coordinator is responsible for monitoring contract compliance (Reparative Board Program Description, 1995) and may recommend violation to the court if conditions are not met or require additional corrective actions. While monitoring procedures and policy are perhaps the most formally developed in RBs, case preparation is apparently limited to a brief intake interview with the offender to gather information about the offense for the Board. Increasingly, attempts are made to contact victims though presumably basic loss information required for the hearings may be provided from police records via court or probation.

## **Family Group Conferences**

*Role of the Victim and Other Coparticipants.* The complexity of the challenge of victim protection and empowerment when one moves beyond the small group or dyad to the larger community is even more apparent in FGCs. FGCs are perhaps the strongest of all the models in their potential for educating offenders about the harm their behavior causes to others. From a restorative perspective, however, the concern is that the priority given to offender education will—as appears to be the case when conferences are held with little or no victim input or involvement (Maxwell and Morris, 1993; Alder and Wundersitz, 1994)—overshadow or trivialize the concern with meeting victim needs (Belgrave, 1995; Umbreit and Zehr, 1996). In direct contrast to VOM, the standard protocol for FGCs requires that offenders speak first. This is

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believed to increase the chance that young offenders will speak *at all* in the presence of family and other adults. In addition, speaking first is said by FGC supporters to help offenders “own” their behavior early in the session, to let their support group know what happened, to give the victim a different perspective on the crime and on the offender, and even put the victim at ease following the offender’s formal apology (McDonald, et. al., 1995).

However, the concern in some FGCs with shaming, as well as with reintegrating offenders, may lead to some interesting twists in terms of how positive victim outcomes are conceptualized and thought to be best achieved. As one recent Australian attempt to evaluate victim outcomes illustrates, participants and researchers may become vulnerable to giving primary focus to offender outcomes:

“Conferencing engenders in the *offenders* and their supporters a sense of shame, through providing the victims with a forum to explain directly to all experiencing in the process. [Such an explanation] is sufficient for the expression of a sincere apology for the harm flowing from the offence. In a successful conference, the shame [experienced by] offenders — in turn, gives rise to the *expression of forgiveness by victims*, while the outcome can provide for material restitution.” (Strang, 1995, p. 3) (emphasis added)

As suggested in this explanation, the essential “business” of the FGC in this interpretation appears to be on getting offenders to experience shame (cf. Alder & Wunderstiz, 1994). The “benefit” to the victim is an apology and perhaps material restitution. While either or both may meet the primary needs of many victims, other concerns may be neglected or not even considered. Moreover, if forgiveness for the offender is indeed a primary goal, the process may be slanted in the direction of eliciting an apology from the offender, and victims may feel pressured to forgive the offender, or become so resentful at the implication that they *should*, that they refuse to participate (Umbreit & Stacy, 1995). Others have expressed concern in FGCs about the lack of concern with victim empowerment, protection against abuse or retaliation, and use of victims as “props” or to meet offender needs (Umbreit & Zehr, 1996). While victim participation and victim satisfaction was a significant problem during the early development of FGCs in New Zealand (Morris & Maxwell, 1993), it is unfair to conclude that most FGC advocates are not concerned with victims needs (see Moore & O’Connell, 1994; Braithwaite & Mugford, 1994). Recent studies of FGCs in Minnesota (Umbreit & Fercello, 1997, 1998) and Pennsylvania (McCold & Wachtel, 1998), and South Australia (Markiewicz, et. al., 1997), have found higher rates of victim participation and satisfaction with the process. Moreover, like all such criticisms of alternative community models, the critique of FGC from the victim’s perspective should be made first with reference to the extent of reparation, empowerment and support available within the *current*, formal system (Stuart, 1995b). However, as FGC models evolve, it will be important to examine the extent to which the priority commitment to offender shaming, *and reintegration*, may diminish the capacity of FGCs to involve and attend to the needs of crime victims.<sup>5</sup>

*Preparation, Monitoring, and Enforcement.* FGC staff also assumes responsibility for preconference preparation and plays a major role in enforcement. In New Zealand, preparation is viewed as critical, and face-to-face meetings are now generally held with the offender and family, with phone contacts made to the victim (Hakiaha, 1995). In the Australian Wagga-Wagga model, by contrast, practitioners rely primarily on phone contacts to explain the process to both offenders and victims and place much less emphasis on pre-conference preparation. This lack of preparation

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appears to be based on the belief that spontaneity is best. Some coordinators, for example, argue that hearing the victim and offender's stories prior to the conference may even diminish the impact and focus of these stories (Umbreit and Stacy, 1995).

Recently, however, some proponents of the Wagga-Wagga model appear to be placing greater emphasis on the need for ensuring accuracy of facts, checking with participants, developing a plan, and ensuring that key participants and their support groups, are present at conferences (McDonald, et al 1995). As is the case in courts that lack programmatic approaches to restitution and community service, compliance with reparative obligations appears to be generally left to the offender (Moore & O'Connell, 1994), although in the New Zealand model, conferences can be reconvened for failure to comply (Maxwell & Morris, 1993). Monitoring and enforcement responsibilities are not made explicit, although the Wagga-Wagga model anticipates that police officers are ultimately responsible for enforcement, and juvenile justice staff may also play a role (Alder & Wundersitz, 1994). In the U.S. application of this model, the enforcement function appears to be evolving, and may vary in different jurisdictions. Although preferred practice calls for encouraging voluntary compliance, and assigning monitoring roles to conference participants, final enforcement authority rests primarily with the police as convenor of the conference.

### **Circle Sentencing**

*Role of Victim and Other Coparticipants.* Like VOM, proponents of the Circle Sentencing process are concerned with protecting the victim, providing support, and hearing the victim's story. Circle organizers seek to avoid an "imbalanced focus on the offender's issues" which may cause the victim to withdraw or react by challenging offenders (Stuart, 1995b, p. 7). The telling of the victim's story is viewed as important, not only for the victim, the offender, and their supporters, but also for the community as a whole. CS advocates may encourage a friend or relative to speak on behalf of the victim when he or she is not willing, but they emphasize the value of residents hearing the victim's story first-hand whenever possible (Stuart, 1995b).

Because the process is so open and community-driven, however, a potential concern is that the importance given to the victim's needs and his/her point of view in circle sentencing may vary widely. The seriousness of offender needs may slant the focus of the group to execution of the rehabilitative and offender service/ support plan rather than toward meeting the reparative and other needs of the victim, as appears to also occur in some FGCs (Maxwell & Morris, 1993; Umbreit & Stacey, 1996). In addition, the extent of effort required on the part of the offender prior to the event itself (discussed in the following section), may result in circles stacked with offender supporters who have little relationship to victims. Achieving appropriate balance between victim, offender and community needs and representation in the circle is a task left to the Community Justice Committee. In this regard, an innovation of CS not apparent in any of the other processes is the victim support group (Stuart, 1995b). This group is formed by the Community Justice Committee, generally at the time the offender petitions for admission to the circle, but may develop or be enhanced at any time, including during the circle ceremony itself.

*Preparation, Monitoring, and Enforcement.* Perhaps because its community empowerment and healing goals are most ambitious, the Circle Sentencing model appears to demand the most extensive pre-process preparation. The admission process generally requires, as a condition of admission to a Circle, that an offender petition the Community Justice Committee, visit an elder or other respected community member for a conference, begin work on a reparative plan which

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may involve some restitution to the victim and community service, and identify a community support group (Stuart, 1995b). While Circles may be convened in some cases without these requirements being met (with the special approval of the justice committee), the pre-conference process is generally viewed as a screening device and a key indicator to circle participants that the offender is serious about personal change. Hence, it is not uncommon that conferences are canceled or postponed when these steps have not been taken (Stuart, 1995b; Couch, 1996). When the preliminary screening process works well and offenders meet the pre-conference obligations, however, a Circle Sentencing session can actually seem less like a hearing about dispositional requirements than a celebration of the offender's progress, as well as an opportunity for victims and offenders to tell their stories.

This preparation and support on the front-end appears to also extend to follow-up on the back-end. In this regard, monitoring and enforcement of the conditions of the circle sentence, which often include an extensive list of reparative responsibilities, treatment requirements, and (in Aboriginal communities) traditional healing and community building rituals, is assigned to the circle participants. Offender and victim support groups formed through the Community Justice committees also monitor offenders and advocate for victims to ensure that agreements made within the circle are carried out. In the case of Sentencing Circles, agreements are subject to review by a judge who will ask for routine reports from the justice committee and the support groups. Judges may strengthen the enforcement process at the conclusion of the circle by assigning or reaffirming the assignment of community monitoring responsibilities and may withhold a final decision about jail terms or other sanctions pending completion of obligations to be verified at the follow-up hearing.

## **Summary**

The most important conclusion that should be drawn about the four general conferencing models presented here is that there is no one best approach for every community or for every case within a community and juvenile justice system. Circle Sentencing, for example, is perhaps the most holistic. Yet circles also demand the greatest time commitment on the part of participants, and are thus not used wisely on low-level or less complex cases.

As some practitioners have recently suggested, the future may lead to one hybrid model. More practically, jurisdictions may wish to consider developing a “menu” which includes a variety of conferencing alternatives to meet the diverse needs of each case, and to also maximize efficiency in use of scarce community and system resources. For example, a brief encounter with a reparative board may be the most appropriate and cost-effective response to a property offender with few prior offenses and no other complications requiring more intensive intervention; a circle sentence may be more appropriate for chronic offenders involved in dysfunctional relationships.

Each model has its strengths and weaknesses. If one or another model appears superior in specific comparisons, it is because we have chosen to focus on only two dimensions of variation in this monograph, the role of the victim and enforcement of reparative obligations. Although much remains to be learned and there is much room for improvement, each model has demonstrated its unique value to juvenile justice systems and communities attempting to develop more meaningful sanctioning responses to youth crime.

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## Discussion

“So we make mistakes—can you say—you (the current system) don't make mistakes ... if you don't think you do, walk through our community, every family will have something to teach you ... By getting involved, by all of us taking responsibility, it is not that we won't make mistakes... But we would be doing it together, as a community instead of having it done to us. We need to find peace within our lives ... in our communities. We need to make *real differences* in the way people act and the way we treat others... Only if we empower them and support them can they break out of this trap.” (Rose Couch, Community Justice Coordinator, Kwanlin Dun First Nations, Yukon, Canada, cited in Stuart, 1995b)

The perpetual absence of “the *community* in community corrections,” either as a target of intervention or as a participant in the justice process (e.g. Byrne, 1989; Clear, 1996) may be due in part to the inability to identify meaningful roles for citizens in sanctioning crime. This monograph has described four alternative restorative community justice decision making models and contrasted the way each defines and operationalizes the role of citizens and community groups in the response to crime. As illustrated by a growing number of community justice initiatives (Pranis, 1995; Maine Council of Churches, 1996), such citizen involvement in community sanctioning processes may have important implications for juvenile justice. In the processes discussed here, there appears to be significant potential for changing the current dynamic in which the community is viewed by justice agencies as passive observer. When juvenile justice professionals identify citizens willing to participate in a community sanctioning process, they may have also identified a small support group willing to assist with offender reintegration as well as victim support.

As restorative community justice assumes an ever higher profile at senior governmental policy levels, there are a number of critical issues which must be addressed. Because these new decision making structures and processes, like all juvenile justice innovations, are likely to come under close scrutiny, the failure to address several concerns could prove fatal.

*Evaluating Success & Gauging Progress.* Despite the proliferation of restorative community justice programs, with the exception of VOM which has been the subject of numerous studies in North America and Europe (Coates and Gehm, 1989; Dignan, 1990; Marshal and Merry, 1990; Umbreit and Coates, 1993; Umbreit, 1994, 1995; Umbreit and Roberts, 1996; Umbreit, Coates, and Roberts, 1997), there is a significant lack of evaluation research which would provide an empirical basis for determining whether these newer initiatives are successful in achieving their stated objectives.

Perhaps the most critical concern for both evaluators and juvenile justice professionals is that many restorative community justice initiatives have objectives that are far more holistic than traditional crime control responses which have typically utilized recidivism rates as a primary outcome measure. An evaluative framework for these approaches would, therefore, have to include measurable criteria to assess outcomes of “community empowerment and solidarity,” “victim interests” and “crime prevention.” The relative importance assigned to such intermediate and process outcomes as community and victim involvement, reintegrative shaming, reparation to victims, dispute resolution and healing will also determine how one gauges the effectiveness of any model. However, as new, more appropriate standards emerge for evaluating the impact of

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restorative community justice, the most important concern, as suggested by the quote from one of the key practitioners of community justice at the beginning of this section, is that the basis for comparison be the reality of the current system rather than an idealized version of its performance.

Integrity of the intervention, or its consistency with restorative justice principles, is also an essential consideration. In this regard, those implementing various conferencing models can learn much from the 25 years of experience with VOM. In particular, this experience has made it possible to suggest a set of guidelines to ensure sensitivity to victim needs and concerns. Principles which should guide any restorative process and inform implementation of new conferencing approaches:

- If public agencies such as police or probation are initiating restorative community justice processes, the actual sessions should be co-facilitated by a trained community volunteer in order to increase citizen participation and reduce the likely imbalance of power between the facilitator and one or more of the involved parties.
- If a local victim offender mediation or reconciliation program exists, other new restorative community justice initiatives should be developed as a collaborative effort, (e.g., VOM volunteer mediators may be used as co-facilitators).
- Facilitators of restorative community justice initiatives should be trained in mediation and conflict resolution skills.
- Facilitators of restorative community justice initiatives should be trained in understanding the experience and needs of crime victims and offenders.
- Restorative community justice initiatives should provide victims with a range of informed choices regarding participation. For example, victims can choose when and where to meet, and be allowed to present their story first, if they so desire. Victims should be informed of both the potential benefits and the risks of conferencing, and they should never be pressured into a conference, or told to “just trust” the coordinator’s judgement.
- In-person preparation of the primary participants in restorative community justice initiatives (victim, victim’s immediate family, offender, offender’s immediate family) should occur whenever possible in order to connect with the parties, build rapport and trust, provide information, encourage participation, and seek to increase feeling of safety.
- Facilitators of restorative community justice initiatives should be trained in cultural and ethical issues that are likely to impact the process and participants.

Regardless of what models or combinations may be chosen by local juvenile courts and communities, ongoing monitoring and evaluation will be needed to ensure the conferencing processes adhere to restorative justice principles regarding victim participation. Again, the now extensive experience with victim-offender mediation and victim-offender dialogue provides a good basis for defining general principles which can be used to gage the restorative impact of conferencing. No model or process is perfect, and in practice, adherence to these principles therefore may be viewed as a continuum within which existing approaches can be assessed and continuously improved (See Table III).

**Table III**  
**Restorative Community Justice: Least to Most Restorative Impact**

<b>Least Restorative Impact</b>	<b>Most Restorative Impact</b>
<ul style="list-style-type: none"> <li>• Entire focus is upon determining the amount of financial restitution to be paid, with no opportunity to talk directly about the full impact of the crime upon the victim and the community, as well as the offender.</li> <li>• No separate preparation meetings with the victim and offender prior to bringing the parties together.</li> <li>• Victims not given choice of where they would feel the most comfortable, meeting place or participants; given only written notice to appear for mediation session at pre-set time, with no preparation.</li> <li>• Mediator or facilitator describes offense and offender then speaks, with the victim simply asking a few questions or responding to questions of the mediator.</li> <li>• Highly directive styles of mediation or facilitation with the mediator talking most of the time, but little if any direct dialogue between the involved parties.</li> <li>• Low tolerance of moments of silence or expression of feelings.</li> <li>• Voluntary for victim but required of offender whether or not they even take responsibility.</li> <li>• Settlement-driven and very brief (10-15 minutes).</li> <li>• Paid attorneys or other professionals serve as mediators.</li> </ul>	<ul style="list-style-type: none"> <li>• Primary focus is upon providing an opportunity for victims and offenders to directly talk to each other, to allow victims to express the impact of the crime upon their life and receive answers to questions, to allow offenders to appreciate human impact of their behavior and take responsibility for making things right.</li> <li>• Separate preparation meetings with the victim and offender, with emphasis upon <i>listening</i> to how the crime has affected them, <i>identifying</i> needs and <i>answering questions</i> about the mediation process.</li> <li>• Victims continually given choices throughout the process: where to meet and who they would like to be present, etc.</li> <li>• Victims given choice to speak first and encouraged to describe offense and participate actively.</li> <li>• Non-directive style of mediation or facilitation with minimal mediator interference, high tolerance of silence and use of a humanistic or transformative mediation model.</li> <li>• High tolerance for expression of feelings and full impact of crime.</li> <li>• Voluntary for victim and offender.</li> <li>• Dialogue-driven and typically about an hour in length (or longer).</li> <li>• Trained community volunteers serve as mediators or facilitators along with agency staff.</li> </ul>



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*Some Concerns: Cooptation, Power Imbalances, and The Challenges of Sharing Discretion.* The restorative community justice processes discussed in this monograph are often proposed as alternatives to the legal-procedural approach to dispositional decisionmaking by the juvenile court. However, concerns have been raised as to the mechanisms of accountability in community justice decision making. Griffiths and Hamilton (1996, p. 187-8), in considering the development of justice programs in Aboriginal communities in Canada have raised concerns that are no less important in urban communities in the U.S.:

“Care must be taken to ensure that family and kinship networks and the community power hierarchy do not compromise the administration of justice. As in any community, there is a danger of a tyranny of community in which certain individuals and groups of residents, particularly those who are members of vulnerable groups, find themselves at the mercy of those in positions of power and influence.”

The often dramatic and dysfunctional power differentials within communities may make a true participatory justice difficult to achieve, and may instead produce harmful side effects in some settings (Griffiths, et. al., 1996). Ironically, those communities most in need of holistic, restorative-based justice programs which encourage community residents to become involved in the disposition and sanctioning process are often precisely those communities which are the most dysfunctional. Or, because they have never been given the opportunity to develop meaningful partnerships with the juvenile justice system, they may have only limited interest in and/ or capacity for such involvement. Specific attention must then be given to the development of strategies for community building and for recruiting and retaining the participation of community residents in the response to youth crime.

A critical issue surrounding the development and implementation of restorative community justice models is “Who Controls the Agenda?” Traditionally, the formal justice system has maintained a tight rein on initiatives that have been designed as “alternatives” to criminal and juvenile justice processes. This is evident in the origins and evolution of diversion programs, which appear in some jurisdictions to have become another appendage to the formal justice process. In this context, the inability or unwillingness of decision makers in the formal juvenile justice system to share discretion and power with communities is likely to result in net-widening, rather than the development of more effective alternative decision making processes (Blomberg, 1983; Polk, 1994).

If the new restorative community justice models follow the pattern of development of earlier neighborhood dispute resolution—and to a lesser extent the pattern of VOM as the oldest of the new models—one would anticipate a significant addition to the richness and diversity possible in alternative sanctioning, but little impact on the formal system. Both VOM and FGCs (with the exceptions of those in New Zealand) are ultimately dependent on system decisionmakers for referrals, and the potential for true power sharing is minimal. If these models are to avoid netwidening, marginalization, and irrelevance, community advocates will need to begin to work with sympathetic justice professionals who are also committed to community-driven systemic reform in what have unfortunately become intransigent, top-down, juvenile and criminal justice bureaucracies. But while a primary objective of proponents of restorative community justice is to have such initiatives institutionalized as part of the justice process, the danger is that system control will lead to the top-down development of generic models of restorative community

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justice. Hence, the degree of institutionalization that some of these approaches have been able to achieve in a relatively short time and the rather dramatic results in terms of system/ community collaboration that appear to be possible is both promising, and risky.

Clearly, the high profile given to restorative community justice initiatives may result in grant funding for research and for new programs. Yet, such system support is no guarantee of long-term impact of the type envisioned in the restorative community justice literature. Moreover, in the absence of substantive community input (including crime victims input), at the design and implementation phases of specific initiatives, this administrative focus may even result in co-optation or watering down of these approaches in ways that ultimately function to undermine the philosophy and objectives of restorative community justice initiatives (Van Ness, 1993). From a restorative community justice perspective, perhaps the biggest challenge to Vermont's reparative boards, for example, is the fact that they have been implemented in the system itself. On the one hand, RBs may have the greatest potential for significant impact on the response of the formal system to nonviolent crimes. Moreover, the commitment of administrators to local control may also result in the community assuming and demanding a broader mandate. On the other hand, as a creation of the corrections bureaucracy, RBs may expect to be at the center on an ongoing struggle between efforts to give greater power and autonomy to citizens and the needs of administrators to maintain control, or ensure system accountability. Indeed, citizen board members may ultimately be challenged to decide the extent to which their primary client is the community, or probation and the court system.

In this regard, of the four models, Circle Sentencing appears most advanced in an implicit continuum of the importance given to the decisionmaking role of communities. As such, this model provides the most complete example of power sharing in its placement of neighborhood residents in the gatekeeper role (See Table II). Acting through the Community Justice Committee, the community is clearly the "driver" in determining which offenders will be admitted to the circle and what should be done in the collective effort to heal the community. Eligibility in circles is apparently limited only by the ability of the offender to demonstrate to the community justice committee her/his sincerity and willingness to change. Surprisingly, the most promising lesson of circle sentencing has been that when given decision making power, neighborhood residents often choose to include the *most*, rather than the *least*, serious offenders in restorative community justice processes (Stuart, 1995b; Griffiths, et al., 1996). As a result, however, courts and other agencies in Canadian communities experimenting with circle sentencing have experienced ongoing tension over the extent to which power sharing with the community should be limited and whether statutes are being violated.

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## *IV. The True Test of Restorative Conferencing: Building Community*

The ultimate measure of success for any approach that claims to advance restorative and community justice should be its ability to strengthen the capacity of communities to respond effectively to crime. In restorative justice, crime is viewed as both a cause and result of broken or weakened relationships. As Pranis (1998) suggests:

- The fabric of community is the weaving of relationships
- Crime harms relationships and thus weakens community
- Our response to crime needs to attend to these relationships to rebuild or strengthen the community fabric (Pranis, p.10).

If restorative conferencing models are to be more than another programmatic add-on, advocates of these approaches should be challenged to meet the following test. Do these models:

- Create new positive relationships or strengthen existing relationships?
- Increase community skills in problem solving and constructive conflict resolution?
- Increase the community sense of capacity and efficacy in addressing problems?
- Increase individual awareness of and commitment to the common good?
- Create informal support system or safety nets for victims and offenders?

Current practice has shown that, if given the chance, citizens and community groups can play significant roles in restorative justice. Such roles may include:

- Advisory boards at local, county and state levels;
- Input through public forums to get community perspectives on existing and proposed approaches;
- Input through community surveys;
- Citizen involvement in development of prevention policy;
- Church-based victim and offender support programs (e.g., Neighbors who Care);
- Volunteer victim advocates;
- Community involvement in self help or support groups for victims and offenders (Mothers Against Drunk Driving, Parents of Murdered Children);
- Volunteer mediators for victim offender mediation;
- Police chaplaincy program for victims and offenders;
- Healing circles for victims and offenders; and
- Block curb outreach to victims and offenders in the neighborhood.

Despite this emphasis on the community role, restorative community justice should never be viewed as something that happens independent of the formal system. Juvenile courts and juvenile justice professionals play key leadership roles in partnerships with community groups in developing and sustaining a credible community response to youth crime. But because current professional job descriptions do not permit the kind of facilitation and support required, a related test for efforts to engage the community in decisionmaking must be whether or not new

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professional roles are developed. Such new roles are emerging in several communities where restorative justice is now actively practiced. For example, in Deschutes County, Oregon, former probation officers now hold the job title, “Community Justice Officers” whose primary responsibilities include: developing and supporting community service projects, developing restorative conferencing, coordinating services to crime victims, and a variety of community-building and restorative functions.

However, the *process* followed by juvenile justice professionals in engaging the community may be the most important feature of this transformation in the relationship between the system and communities. This process for increasing community participation may be summarized in the following steps suggested by the Minnesota Department of Corrections:

- Gather information about restorative justice and possible models in the community.
- Educate yourself about the community you will be working with.
- Identify credible leaders in the community or neighborhood, attend community gatherings, read local papers, and ask local residents about issues and leaders.
- Educate yourself about victim services in the community and establish contact with those services.
- Clarify your own goals and values in approaching the community. (What are you trying to achieve? What is important to you about what you are doing and how you do it?)
- Assess potential support in the criminal justice system and educate key leaders about restorative justice
- Working with community leaders, plan informational sessions to explore community interest. Invite participation by victims' representatives.
- At each session, recruit volunteers who would like to be involved in creating a new approach in the community based on restorative values.

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## *V. Implications and Conclusions*

This monograph has attempted to provide a general framework for describing the dimensions of restorative conferencing processes. One purpose of this effort has been to avoid indiscriminate, arbitrary, and an all-inclusive groupings of programs and practices under ill-defined terms such as “community justice” or “restorative justice.” The importance of such comparative discussions at this relatively early development stage of the various programs and strategies is to highlight similarities and differences across emerging models. Such discussion may hopefully prevent, or at least minimize, what some have referred to as the “community-policing syndrome:” the widespread application (and misapplication) of a generic term to a broad range of initiatives without a clear understanding of the differences among interventions or benchmark criteria that can be utilized to assess consistency with fundamental principles and objectives (e.g., Mastroky & Ritti, 1995). In the absence of an effort to distinguish what should and should *not* be included under the umbrella of community and restorative justice, and to further define success in these interventions, a unique and valuable opportunity to develop more effective methods for enhancing citizen involvement in the response to crime and disorder will have been missed.

Systemic reform toward restorative community justice must not begin and end with new programs or staff positions, but with new values which articulate new roles for victims, offenders and communities as key stakeholders in the justice process. Accordingly, such reform should create and perpetuate new decision making models that meet stakeholder needs for meaningful involvement. As is fundamental to the principles and values of restorative justice, the capacity of these models to influence, and even transform, juvenile justice decisionmaking and intervention seems to lie in the potential power of these new stakeholders. To fully engage victims, offenders, and other citizens in meaningful decisionmaking processes, however, a rather dramatic change must also occur in the role of the professional as sole decisionmaker, facilitator of community involvement, and resource to the community (Bazemore & Schiff, 1996).

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## ***VII. Appendix***

### ***Program Descriptions and Information Contacts:***

- A. Circle Sentencing***
- B. Family Group Conferencing***
- C. Community Reparative Boards***
- D. Victim Offender Mediation***

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## **A. *Circle Sentencing***

### **Program Description and Information Contact**

A sentencing circle is a community-directed process, conducted in partnership with the criminal justice system, to develop consensus on an appropriate sentencing plan that addresses the concerns of all interested parties. Sentencing circles - sometimes called peacemaking circles use traditional circle ritual and structure to involve the victim, victim supporters, the offender, offender supporters, judge and court personnel, prosecutor, defense counsel, police, and all interested community members. Within the circle, people can speak from the heart in a shared search for understanding of the event, and together identify the steps necessary to assist in healing all affected parties and prevent future crimes.

Sentencing circles typically involve a multi-step procedure that includes: (1) application by the offender to participate in the circle process; (2) a healing circle for the victim; (3) a healing circle for the offender; (4) a sentencing circle to develop consensus on the elements of a sentencing plan; and (5) follow-up circles to monitor the progress of the offender. The sentencing plan may incorporate commitments by the system, community, and family members, as well as by the offender. Sentencing circles are used for adult and juvenile offenders with a variety of offenses and have been used in both rural and urban settings. Specifics of the circle process vary from community to community and are designed locally to fit community needs and culture.

Sentencing circles have been developed most extensively in Saskatchewan, Manitoba, and the Yukon and have been used occasionally in several other communities. Their use spread to the United States in 1996 when a pilot project was initiated in Minnesota.

### **Goals**

The goals of sentencing circles include:

- Promote healing for all affected parties.
- Provide an opportunity for the offender to make amends.
- Empower victims, community members, families, and offenders by giving them a voice and a shared responsibility in finding constructive resolutions.
- Address the underlying causes of criminal behavior.
- Build a sense of community and its capacity for resolving conflict.
- Promote and share community values.

### **Implementation**

A successful sentencing circle process depends upon a healthy partnership between the formal justice system and the community. Participants from both need training and skill building in the circle process, peacemaking, and consensus building. The community can subsequently customize the circle process to fit local resources and culture. It is critically important that the community's planning process allow sufficient time for strong relationships among justice professionals and community members to develop. Implementation procedures must be highly flexible, because the circle process will evolve over time based on the community's knowledge and experience.

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In many communities, direction and leadership are provided by a community justice committee that decides which cases to accept, develops support groups for the victim and offender, and helps to conduct circles. In most communities, circles are facilitated by a trained community member, who is often called a “keeper.”

Sentencing circles are not appropriate for all offenders. The connection of the offender to the community, the sincerity and nature of the offender’s efforts to be healed, the input of victims, and the dedication of the offender’s support group are key factors in determining whether a case is appropriate for the circle process. Because communities vary in health and in their capacity to deal constructively with conflict, representatives of the formal justice system must participate in circles to ensure fair treatment of both victims and offenders.

The capacity of the circle to advance solutions capable of improving the lives of participants and the overall well-being of the community depends upon the effectiveness of the participating volunteers. To ensure a cadre of capable volunteers, the program should support a paid community-based volunteer coordinator to supply logistical support, establish linkages with other agencies and community representatives, and provide appropriate training for all staff.

### **Lessons Learned**

Very little research has been conducted to date on the effectiveness of sentencing circles. One study conducted by Judge Barry Stuart (1996) in Canada indicated that fewer offenders who had gone through the circle recidivated than offenders who were processed by standard criminal justice practices. Those who have been involved with circles report that circles empower participants to resolve conflict in a manner that shares responsibility for outcomes; generate constructive relationships; enhance respect and understanding among all involved; and foster enduring, innovative solutions.

### **For a more information on sentencing circles, see:**

- *Building Community Justice Partnerships: Community Peacemaking Circles*, by Barry Stuart, available from Aboriginal Justice Section, Department of Justice of Canada, Ottawa, Ontario, K1A0H8; Fax - (613-957-4697, Attn. Learning Network

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## ***B. Family Group Conferencing***

### **Program Description and Information Contacts**

Family group conferencing involves the community of people most affected by the crime - the victim and the offender; and the family, friends, and key supporters of both in deciding the resolution of a criminal incident. These affected parties are brought together by a trained facilitator to discuss how they and others have been harmed by the offense and how that harm might be repaired. To participate, the offender must admit to the offense. Participation by all involved is voluntary. The facilitator contacts the victim and offender to explain the process and invites them to the conference; the facilitator also asks them to identify key members of their support systems, who will be invited to participate as well.

The conference typically begins with the offender describing the incident, followed by each participant describing the impact of the incident on his or her life. It is preferable to allow the victim to start the discussion, if they wish. Through these narrations, the offender is faced with the human impact of the behavior on the victim, on those close to the victim, and on the offender's own family and friends. The victim has the opportunity to express feelings and ask questions about the incident. After a thorough discussion of the impact of the behavior on those present, the victim is asked to identify desired outcomes from the conference, and thus help to shape the obligations that will be placed on the offender. All participants may contribute to the problem-solving process of determining how the offender might best repair the harm he or she has caused. The session ends with participants signing an agreement outlining their expectations and commitments.

Family group conferencing was developed from a Maori tradition in New Zealand, where it is currently used for most juvenile offenses. The process was adapted by police in Australia, and then introduced to the United States, where it is currently used by some police agencies, schools, and probation. Family group conferencing is most often used as a diversion from the court process for juveniles, but can be used after adjudication to address unresolved emotional issues or to determine the specific terms of restitution. The process has been used in a few adult cases. A variety of offenses have been resolved through family group conferencing, including theft, arson, minor assaults, drug offenses, and vandalism,

### **Goals**

The goals of family group conferencing include:

- Provide an opportunity for the victim to be directly involved in the discussion of the offense and in decisions regarding appropriate sanctions to be placed on the offender.
- Increase the offender's awareness of the human impact of his or her behavior and provide an opportunity to take full responsibility for it.
- Engage the collective responsibility of the offenders support system for making amends and shaping the offender's future behavior.
- Allow both offender and victim to reconnect to key community support systems.

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## **Implementation**

The family group conferencing process has been implemented in schools, police departments, probation offices, and neighborhood groups. Either volunteers or paid employees can serve as facilitators after completing a required course of skills training. Besides involving the victim, offender, and their family members, a conference might involve other key people in the victim's and offender's lives such as teachers, other relatives, peers and special adult friends, and the like. Some family group conferencing programs are implemented within a single agency, while others are developed collaboratively among several agencies.

## **Lessons Learned**

To date, two studies have been conducted to assess the impact of family group conferencing with youthful offenders. One study assessed the impact of a new law mandating the widespread use of conferencing in New Zealand. It found that families of offenders are more frequently and actively involved in the justice process when they participate in a family group conference, rather than standard justice processes (Maxwell and Morris, 1993). It also found that the offenders and victims, as well as their families, reported that the conference process had been helpful. Preliminary program evaluations in the United States also indicate high levels of victim satisfaction with the family group conferencing process and high rates of compliance by offenders with the agreements reached during conferences.

Practitioners observe a reduction in fear for many victims. When used as a diversion from court, family group conferencing provides a much speedier resolution of the incident than would otherwise be the case. Family group conferencing also builds community skills in conflict resolution and participatory decisionmaking.

### **For more information about family group conferencing, contact:**

- David Hines, Woodbury Police Department, 2100 Radio Drive, Woodbury, MN 55125-9598, 612-739-4141.
- Carver Scott Educational Cooperative, 401 East 4th Street, Chaska, MN 55318, 612-368-8804.
- Kay Pranis or Sue Stacey, Minnesota Department of Corrections, 1450 Energy Park Drive, St. Paul, MN 55108, 651-642-0329 or 651-642-0338.
- Real Justice, P.O. Box 229, Bethlehem, PA 18016, 610-807-9221.

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## ***C. Community Reparative Boards***

### **Program Description and Information Contacts**

There is a rapidly growing interest among many criminal justice agencies, communities, and citizens in community members becoming substantively involved in the justice process. One strategy for achieving this is through the establishment of community reparative boards.

A community reparative board typically is composed of a small group of citizens, prepared for this function by intensive training, who conduct public, face-to-face meetings with offenders sentenced by the court to participate in the process. During a meeting, board members discuss with the offender the nature of the offense and its negative consequences. Then board members develop a set of proposed sanctions which they discuss with the offender, until they reach agreement on the specific actions the offender will take within a given time period to make reparation for the crime. Subsequently, the offender must document his or her progress in fulfilling the terms of the agreement. After the stipulated period of time has passed, the board submits a report to the court on the offender's compliance with the agreed upon sanctions. At this point, the board's involvement with the offender is ended.

One innovative example of the use of community reparative boards is the Reparative Probation Program, initiated in 1996 by the Vermont Department of Corrections with support from the Bureau of Justice Assistance. The department was spurred to develop the program after seeing the response of Vermont citizens to a public opinion study, conducted in Spring 1994, which indicated broad support for programs with a reparative emphasis and active community involvement.

### **Goals**

The goals of community reparative boards include:

- Promote citizen ownership of the criminal justice system by involving them directly in the justice process.
- Provide opportunities for victims and community members to confront offenders in a constructive manner about their behavior.
- Provide opportunities for offenders to take personal responsibility and be held directly accountable for the harm they caused to victims and communities.
- Generate meaningful "community-driven" consequences for criminal actions that reduce a costly reliance on formal criminal justice processing.

### **Implementation**

Community reparative boards have primarily been used with offenders convicted of non-violent and minor offenses. Involving community members in the process of dealing with serious offenders can also be effective, however, as demonstrated in the sentencing circles conducted in Western Canada. Based on the experience of the Vermont program, the following factors have been identified as important elements of implementing a successful community-driven reparative board program:

- Marketing the program effectively to the criminal justice system (to judges, prosecutors, and defense attorneys).

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- Having a committed well-trained staff.
  - Working with victim organizations, and ensuring that victims are represented and provided adequate opportunity to participate.
  - Processing cases expeditiously and in a manner that is simple for community members to understand.
  - Facilitating a positive experience for the board members.
  - Providing quality training for the boards.
  - Supporting the program with adequate resources (e.g., space, time, and staff).
  - Striving for initial successes for offenders, victims, and community participants.
  - Getting support from judges in limiting the time the offender is in the program and on probation.

### **Lessons Learned**

Little quantitative data has been collected on the effectiveness of community reparative boards. There is a growing concern and understanding that evaluations of these interventions consider measures besides the standard offender-focused measure of recidivism. Measures should include victim and community responsiveness and satisfaction, as well as factors such as community beautification and indicators of healthy citizen relationships within the community. At this point, experiential and anecdotal information shows much promise for community reparative boards as an effective response to non-violent crime.

### **For more information on community reparative boards, contact:**

- Vermont Department of Corrections, 103 S Main St, Waterbury, VT 05671, 802-241-2270;
- The National Institute of Corrections Information Center, 1960 Industrial Circle, Longmont, CO 80501, 1-800-995-6429;
- *Restoring Hope Through Community Partnerships*, American Probation and Parole Association, c/o Council of State Governments, Iron Works Pike, P.O. Box 11910, Lexington, KY 40578-1910, 606-244-8196.

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## ***D. Victim Offender Mediation***

### **Program Description and Information Contacts**

Victim offender mediation is a process that provides interested victims an opportunity to meet their offender, in a safe and structured setting, and engage in a mediated discussion of the crime. With the assistance of a trained mediator, the victim is able to tell the offender about the crime's physical, emotional, and financial impact; to receive answers to lingering questions about the crime and the offender; and to be directly involved in developing a restitution plan for the offender to pay back his or her financial debt.

This process is different from mediation as it is practiced in civil or commercial disputes, since the involved parties are not "disputants" nor of similar status - with one an admitted offender and the other the victim. Also, the process is not primarily focused upon reaching a settlement, although most sessions do, in fact, result in a signed restitution agreement. Because of these fundamental differences with standard mediation practices, some programs call the process a victim offender "dialogue," "meeting," or "conference."

Currently, there are more than 290 victim offender mediation programs in the United States and more than 700 in Europe. The American Bar Association recently endorsed victim offender mediation and recommends its use throughout the country. A recent statewide survey of victim service providers in Minnesota found that 91 percent of those surveyed believe that victim offender mediation should be available in every judicial district, since it represents an important victim service.

### **Goals**

The goals of victim offender mediation include:

- Support the healing process of victims, by providing a safe and controlled setting for them to meet and speak with the offender on a strictly voluntary basis.
- Allow the offender to learn about the impact of the crime on the victim and to take direct responsibility for their behavior.
- Provide an opportunity for the victim and offender to develop a mutually acceptable plan that addresses the harm caused by the crime.

### **Implementation**

Cases may be referred to victim offender mediation programs by judges, probation officers, victim advocates, prosecutors, defense attorneys, and police. In some programs, cases are primarily referred as a diversion from prosecution, assuming any agreement reached during the mediation session is successfully completed. In other programs, cases are usually referred after a formal admission of guilt has been accepted by the court, with mediation being a condition of probation (*if* the victim has volunteered to participate). Some programs receive case referrals at both stages. The majority of mediation sessions involve juvenile offenders, although the process is occasionally used with adults and even in very serious violent cases. In implementing any victim offender mediation program, it is critically important to maintain sensitivity to the needs of the victim. First and foremost, the mediator must do everything possible to ensure that the victim will not be harmed in any way. Additionally, the victim's participation must be completely voluntary, as



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should the participation of the offender. The victim should also be given choices, whenever possible, concerning decisions such as when and where the mediation session will take place, who will be present, who will speak first, etc. Cases should be carefully screened regarding the readiness of both victim and offender to participate. The mediator should conduct in person, pre-mediation sessions with both parties and make follow-up contacts, including the monitoring of any agreement reached.

### **Lessons Learned**

A large multi-site study (Umbreit, 1994) of victim offender mediation programs with juvenile offenders found the following:

- cases were referred to the four study-site programs during a two-year period, with 95 percent of the mediation sessions resulting in a successfully negotiated restitution agreement to restore the victim's financial losses.
- Victims who met with their offender in the presence of a trained mediator were more likely to be satisfied (79 percent) with the justice system than similar victims who went through the normal court process (57 percent).
- After meeting the offender, victims were significantly less fearful of being revictimized.
- Offenders who met with their victims were far more likely to successfully complete their restitution obligation (81 percent) than similar offenders who did not participate in mediation (58 percent).
- Fewer offenders who participated in victim offender mediation recidivated (18 percent) than similar offenders who did not participate in mediation (27 percent); furthermore, participating offenders' subsequent crimes tended to be less serious.

### **For more information on victim offender mediation, contact:**

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## VIII. Notes

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- <sup>1</sup> Several VOM programs in North America currently receive nearly 1,000 case referrals from the local courts annually.
- <sup>2</sup> One impact of the restorative justice movement in the U.S. has been its influence on a number of these panels which are now attempting to incorporate restorative principle and a wider menu of reparative practices into an intervention protocol that has always given some emphasis to victim restitution and community service obligations. Because information about these highly localized models is currently sketchy, we use the Vermont reparative boards as our prototype and case study in this monograph. Much more information is available about the operating procedures of the VT RB's, and it appears that they are now becoming a model for youth panels and diversion program wishing to adopt a more restorative focus -- including new juvenile boards in Vermont.
- <sup>3</sup> Indeed, conferencing approaches are being closely examined and piloted as dispute resolution models in several residential facilities in the U.S., and are being used as a preventative measure in some schools.
- <sup>4</sup> For example, many VOM programs now encourage family participation. We cannot hope to do justice to the subtle variation in the diverse programs, now generally described as family group conferencing. In south Australia alone, for example, there now appear to be five models of FGC (Bargen, 1996). However, the police-driven Wagga-Wagga model has been the approach that has taken hold in North America under the training and developmental leadership of "Real Justice." The New Zealand model is presented to show the potentially broad scope of FGC when it is viewed as a systemic alternative to formal court disposition, as well as to illustrate the potential range of diversity in philosophy and practice.
- <sup>5</sup> An example of the evolution of the FGC model away from the shaming emphasis apparent in some early Australian programs can be seen in this recent statement from a program serving the state of Victoria in South Australia which describes the application of reintegrative shaming as follows:

The theory relies on two fundamental preconditions:

- A sense of mutual belonging or interdependency between the offender and those expressing their disapproval of the offense;
- Countering the inevitable stigma attached to offending by equally strong efforts at reintegrating (restoring) the offender and enhancing self-esteem.

When these preconditions are met the young person may benefit from a full expression of the impact of offending on others. This model has helped to identify the emotional aspects of the conferencing process and how to best utilize them in assisting the young person to accept the consequences of his/ her actions. Most young people commit offences without much forethought of the full impact of their actions. When the impact on those closest to them and the victim and others are understood, most young people a profound sorrow over what they have done. "It was stupid, etc." The young person is provided with ways of overcoming this sorrow and realizes that she/ he gains more from the respect people are showing the young person. Equally it is vital that young persons' support groups are, in fact, supportive during the conference and that the victim is able to appreciate the impact of the conference on the young person.