

R E S T O R A T I V E J U S T I C E

Values And Principles

A Colorado Perspective



Colorado Forum on Community & Restorative Justice

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Community and
restorative justice
is not a
specific program
but rather
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and principles.

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Our Mission, Vision and Values

The Colorado Forum on Community and Restorative Justice exists to facilitate understanding and implementation of restorative and community justice with the communities of Colorado.

Our Mission:

The Colorado Forum on Community and Restorative Justice exists to foster understanding and implementation of restorative community justice principles and values. We collaborate with communities, organizations, foundations, the criminal justice system and state leadership to work for safe and healthy communities.

The Vision Statement

for the Colorado Forum on Community and Restorative Justice

Restorative community justice guides our actions both in response to crime and in achieving justice; for when we have true social justice there will be safe and healthy communities. We will achieve this when individuals, agencies, community groups and the justice system unite in restorative beliefs and actions. Restorative community justice is not a program, but rather a way of practicing justice that:

- Repairs the harm caused by an offense
- Establishes a balance and promotes healing among community members, including victims of crime and those who commit offenses
- Reduces risk factors in communities
- Strengthens community capacity to problem solve on crime and quality of life issues
- Prevents crime by establishing true partnerships between the criminal justice system and communities

Our vision works when:

- True and trusting partnerships are developed
- All voices are valued, including those not previously heard
- Restorative community justice principles and practices are the driving force of organizations
- The justice system is equally accountable to communities including victims of crime and to those who commit offenses
- We recognize and use the strengths that exist within the community
- Communities, including victims of crime and those who commit offenses, are able to choose their levels of participation in restorative processes.

Introduction

There is a wealth of existing material on Community and Restorative Justice. This paper will attempt to capture the essence of this work and apply it to the particular challenges of the Colorado justice systems in the context of the diverse communities that comprise our state.

This document has been developed as an educational resource. Just as was the case with the video produced by the Forum entitled “Restorative Justice ~ Beyond Just Us.” It will hopefully be a catalyst for thoughtful deliberations regarding the values and principles which are the basis of community and restorative justice initiatives. The goal is to encourage both the development of new programs as well as provide a means to assess existing efforts.

This work attempts to reflect some of the best thinking to date on the subject of values and principles associated with community and restorative justice. It is a work in perpetual progress. As information continues to develop there will be new findings in this innovative approach to sharing responsibility for criminal justice with local communities. This new concept of shared responsibility can effectively address the needs of individual victims and the community, hold offenders accountable, and impact crime. When successful, this is the essence of public safety.

This document is the work of the Colorado Forum on Community and Restorative Justice. It does not represent the official policy of any individual public or private agency.

One final point is that community and restorative justice is not a specific program, but rather a set of values and principles, discussed in the following pages, which are useful in developing and guiding a multitude of programs.

a
catalyst
for
thoughtful
deliberations

The Relationship Between Community Justice And Restorative Justice

Throughout the majority of recorded history there was a prevailing belief that crimes were committed against particular persons as well as one's immediate community. It has only been since the 11th Century that the notion of crime being committed against larger social entities such as "the state" gained wide acceptance.

In many ways the essence of what has emerged as the community justice movement is the re-establishment of *community responsibility* for the safety of its citizens.

"Community justice is rooted in the actions

that citizens, community organizations and the criminal justice system can take to control crime and social disorder." (D. Karp as quoted in Bazemore, 1997)

The central element of this philosophy is the desire to *reduce the distance so prevalent in traditional approaches in favor of increased involvement by those living in close proximity to criminal events.*

Kay Pranis has created a five-stage model of the evolving relationship between the traditional justice system and one that is community-based.

Justice Systems and Communities: Stages in an Evolving Relationship

Stage 1: Justice system operates independently of the community

- Expert model: "We (the justice system) have the answers."
- Community contact is a nuisance and gets in the way of the real work.
- Professionals define and solve the problem.

Stage 2: Justice system provides more information to the community about its activities

- Expert model: "We (the justice system) have the answers."
- The community is viewed as a client with the right to know what the professional system is doing.
- Professionals define and solve the problem but keep the community informed about what they do.

Stage 3: Justice system provides information to the community about its activities and asks for intelligence information from the community to help do its work

- Expert model: "We (the justice system) have the answers."
- The community is seen as a client and as a good source of information for the expert work.
- Professionals define and solve the problem with useful information provided by the community.

Stage 4: Justice system asks for guidance, recognizes a need for community help, and places more activities in the community

- Modified expert model: "Experts provide leadership, but the contribution of the community is valued."
- The community is cooperative, but the justice system still leads.
- The community is asked to help define problems but the justice system is still the chief problem solver, with help from the community.

Stage 5: Justice system follows community leadership while monitoring community process

- Experts are support system.
- The justice system supports the community in achieving community goals while protecting the rights of individuals and ensuring fairness.
- The community defines and solves problems with help from the justice system.

Source:

K. Pranis. 1997. "From Vision to Action," *Church and Society* (Mar/Apr) 87(4):32-42.

At the core of community justice

is a conception of the overall role of community as both the object of and co-participant in intervention. (Barajas, 1995)

Because the community is seen as the object of intervention, actions seek to strengthen the capacity of community groups to control and ultimately prevent crime. (Barajas, 1995 and Bazemore, 1997)

A recent quote from Denver District Attorney Bill Ritter cogently captures this philosophy:

The justice system has gotten further away from being able to connect the crime with a community harm. One of the things that happens as a result is that people lose confidence in the criminal justice system.

How a community views its justice system is critical to keeping order in the community. If the community believes we are not doing what we should and could to keep order, the response is either to care less or to become vigilantes.

(Rocky Mountain News, Dec. 19, 1999)

Restorative justice is a mechanism

for achieving the goals of community justice. It is a model within the framework of community justice which emphasizes that crime is a violation of individuals, communities, and relationships and "creates obligations to make things right." (Zehr, 1990) It includes all responses to crime aimed at doing justice by repairing the harm that crime causes. (Van Ness and Strong, 1997)

In contrast to the questions of the traditional justice system:

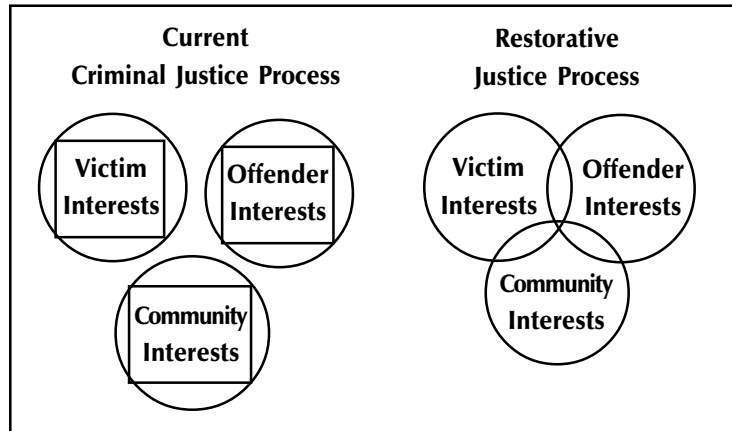
- Who did it?
- Which laws were broken?
- What should the punishment be?

Restorative justice asks:

- What is the harm?
 - What needs to be done to repair the harm?
 - Who is responsible for the repair?
- (Zehr, 1990)

Another way of looking at the difference

between the current process and a restorative one is taken from Bazemore, 2000, P. 42.



In the current criminal justice process

the interests of each interest group are addressed separately. Any coincidence of interests is almost accidental rather than planned. The interests of the victim may be the only ones actually addressed. In other situations, an approach that institutionalizes an offender may meet the immediate short-term interest of a portion of the community that is angry or frightened. The interests of the offender are rarely even addressed.

Restorative justice processes are efforts to find "common ground"

between victim, community, and offender. For example, the needs of the victim may be addressed by sincere offender recognition of the harm his/her action caused. The community can play a direct role in monitoring the actions of the offender as he remains in the community and works toward achieving a restored status. The offender is given a realistic opportunity to be reinstated in the community with the support of others and subject to a clear understanding of acceptable behavior. "It is unlikely that positive outcomes can be achieved for one stakeholder in the absence of an effort to engage and meet the needs of the other two." (Bazemore, 2000)

Justice In A Colorado Context

Colorado is a very diverse state

that represents a confluence of values and changes brought by an infusion of people from a variety of regions and cultures. Growth has introduced many challenges in recent years. In addition to demographics and philosophy, there are significant differences between urban areas, mountain communities, and rural districts. Financial and program resources vary tremendously across the state.

Denver developed the second juvenile court in the nation, indicative of a desire to rehabilitate minors who were seen as needing supervision and sometimes, particularly in recent years, treatment services to remediate their poorly developed habits. Concerns about urban youth violence led the legislature in recent years to amend the *Colorado Children's Code* to explicitly state public safety as a concern paramount to the "best interests of the child" when a minor is convicted of committing a delinquent act. As in other states, there has also been a trend in Colorado to prosecute more teens as adults. The number of institutional beds available for delinquent youth has mirrored the expansion seen in adult corrections.

In the 1999 legislative session,

the beginning of what is a positive trend was evidenced by passage of a bill that added some of the principles of restorative justice to the *Colorado Children's Code*. Colorado statutes now specifically recognize the harm which accompanies the commission of a delinquent act as well as the "stated desire" to make restorative justice programs available to individual victims and communities who choose to use them.

As restorative justice unfolds,

there are a number of considerations:

- Many players in the justice system are looking for responsible ways to delegate authority to other entities. While opening up the process to include more people in a less legalistic environment will be challenging, it will enable creative, community based alternatives to emerge.
- The traditional responsibility to both hold offenders accountable and protect the public is of paramount concern to courts, law enforcement, probation, youth services, and others. New proposals will have to **recognize and account for the legitimate concern** that accountability and safety could be compromised.
- There is a strong desire to see outcome measures developed which will serve as a basis on which programs will be evaluated. Restorative justice programs **will include anticipated outcomes and be responsible for their achievement.**

Restorative Justice Values And Principles

The Colorado Forum on Community and Restorative Justice embraces a set of values and principles developed by many innovative leaders and justice practitioners. In July 1999, a meeting was convened in Denver to identify those values and principles most relevant to Colorado. In February 2000, focus groups were conducted with victim advocates and community representatives. On March 3, 2000, the Forum Leadership Council, incorporating previous input, developed the following principles:

Overall Principles:

1. Crime is a tear in the social fabric. It is an offense against persons and relationships, not an impersonal entity such as “the state.”

We can never lose sight of the fact that there are personal victims whose sense of trust and safety is harmed in the criminal process. The focus of the process must be on those directly involved.

2. The community, not the external system, is the driving force behind the process.

Those who are closest to the parties are in the best position to establish and monitor the process of justice. The community must be willing to take responsibility for creating a system of justice that will work for its members.

3. Victims, offenders, and community members all must be provided with opportunities for input and participation in the justice process as early and as fully as possible.

Each party is entitled to be heard and included expeditiously in developing a plan of action respectful of their needs. Safety and fairness are essential components in every process.

4. Diverse points of view are critical to the creation of wise, effective decisions.

Interventions that recognize different points of view will encourage openness and discussion of all perspectives. This serves as the basis for complete discussion and offers the best chance for fair decision making.

5. Justice requires an opportunity for healing and repair.

The concept of justice includes the perspective of restoring the health of individuals and communities through a reasonable plan of accountability. It is the community that ultimately must oversee this endeavor.

6. We do not ask victims, offenders, or communities to change unless we are willing to sit beside them.

We recognize the integrity of individuals and the reasons for their perspectives. Support must be made available to the parties as they clarify their needs and participate in a restorative plan of action.

7. Pay attention to the unintended consequences of our actions and programs.

We need to consistently evaluate the success of the programs we promote and be willing to make all necessary adjustments to further the fair treatment of all parties.

8. Recognize that our actions, thoughts, and attitudes affect others and that we are responsible to act for the greater good.

We recognize the importance of the changes we advocate and the need to be cognizant of the vulnerability and strong emotions of the people who interact in the justice system. We are determined to act in a responsible and respectful manner as we promote changes we believe are in the best interests of all parties.

Principles for the Victims:

1. The perspective and needs of the victim are kept central to the process by both defining the harm resulting from the crime and ensuring the involvement of victims, if they choose, in the plan to repair the harm.

The restorative process is committed to clearly delineating the impact the offense has had upon the victim. The resulting emotional and financial consequences of a crime must be included in every part of the process. Victims will be encouraged to participate within an atmosphere of safety that is dedicated to assisting with their own healing and also affords them input into any plans that are developed.

2. The victim always has the choice to participate and to determine the extent of his/her involvement.

No one can dictate to victims the manner in which they are to be involved in the process. Coercion cannot be part of a restorative process. The options of participation should be clearly delineated with complete information about the particular restorative process in which victims are invited to participate.

3. Each victim receives the services and resources he/she needs as a result of the crime.

The needs of the victim are very important in restorative justice. The special needs that a victim may have in order to participate in a restorative process must be considered and addressed. Avenues for ongoing communication with victims are created. The goals are to keep victims well informed, feeling safe, and to ensure that their needs are addressed.

Principles for the Community:

1. The community/neighborhood shares responsibility for its members and each has a role in responding to community norms and values.

Every community is responsible for the well being of its residents. It is the community that should take the leading role in insuring that the needs of its members are met, including the victim who has been harmed, the community whose standards have been violated, and the offender who has perpetrated a wrong. As such, communities should create systems that will support healing for the victim, restoration/reaffirmation of community standards, and accountability for the offender.

2. The community holds the justice system accountable for supporting the process.

The community must insure that the formal justice system supports a restorative approach which meets the needs of all participants. This can include formally petitioning policy makers as well as actively participating in the electoral process to promote adoption of restorative practices.

3. The community shares responsibility for recognizing and assisting victims by assuring their needs are met and in restoring them to their communities.

The community should take an active role in providing for victim needs by conveying support in a non-intrusive way and by helping them to re-establish a sense of personal safety.

4. The community shares responsibility for monitoring and assisting offenders in completing their obligations and in restoring their status in the eyes of the community.

The community is expected to take an active role in helping offenders successfully complete any obligations associated with making amends to both the victim and the community. Once the offender has successfully completed the actions they agreed to take, community members must assist in the restoration of that person to full membership.

Principles for the Offenders:

1. Offenders are accountable to the victim and community for their actions.

Crime is an offense against individuals and communities. It is important that both these entities have a voice in the process. The goal is to insure that offenders are held responsible to the victim and community for the impact of their criminal acts.

2. The community and system work with the offender to provide opportunities for offenders to:

a. accept responsibility for their actions.

The offender must agree that his/her action has caused harm to both the individual victim and the community.

b. demonstrate their desire to regain their status in the community and be guided and supported in this effort.

In return for an honest admission of responsibility and accompanying desire to regain their standing in the community, members of the community will be part of the rehabilitation of offenders. Specific commitments by both the offender and the community should be clearly delineated.

c. participate in activities that increase empathy with crime victims.

As part of their commitment to change, offenders will help promote awareness of the impact of their actions by participating in activities that convey awareness of the harm they have caused, thereby contributing to the healing process of victims.

d. build upon their assets and address

. . .

Encouraging the development of new programs

. . .

their needs to increase their capacity to be contributing members of the community.

A partnership will evolve between the offender and the community that will empower the offender to become a productive person who is a positive role model for others.

Evaluation Criteria

How does one know when a program is restorative?

A number of issues need to be examined, consistent with identified values and principles, related to both the process itself and the outcome.

- Where does the intervention occur? Is it community-based?
- Has the community devised the process with external systems only operating in an oversight capacity?
- Who is involved in the process?
- Are the roles of participants clarified and adhered to?
- Do all parties participate, and are they heard?
- Are the specific needs of the victim identified? Is there a plan to assist in meeting those needs?
- Has the process enhanced “community building?”
- Is there a process developed to permit offenders to earn redemption and regain their status in the community?
- Are plans devised which build on individual and community strengths and focus on empowerment?
- Have all parties attained an acceptable level of closure?

The National Institute of Corrections

has developed a series of outcomes that are included as Sample Practices in their training materials. One example, which is consistent with the principles developed by the Forum Leadership Council, relates to *“The Offender Makes Amends to the Community.”*

- Offenders demonstrate a genuine understanding of the adverse effects on the community.
- Offenders take responsibility for what they have done.
- The offender participates in the process to determine how to make amends to the community.
- The offender is encouraged and given an opportunity to make things right.

(Taken from NIC Restorative Justice Sample Practices, Participant Guide, P. 3.37)

This type of process evaluation clearly can be utilized to measure the extent to which identified principles of community and restorative justice are present in individual programs.

. . . assessing existing efforts . . .

“Change, even under the best of circumstances, is a difficult process.”

The ironic aspect of this reality as it is applied to restorative justice is that very few people would come forward to champion the status quo. Victims, their families, and victim advocates have not been satisfied with their treatment in the traditional judicial system. Communities have had no real input into what happens after a crime is committed, generally feeling powerless to impact the disposition and certainly having no reason to feel responsible for being involved. Offenders are often perceived as the benefactors of a system that is completely bogged down with volume and procedural requirements. They are either not held accountable or are the recipients of “justice with vengeance” when the system does come down on them after many instances of “looking the other way” or plea bargaining. Finally, justice practitioners, often the recipients of discontent from all others, all too often do not feel they have the tools to be successful and succumb to “just doing their job.” The bottom line is that virtually no one is ready to defend the merits of the system based on his or her experience.

Nevertheless, when it comes to public safety, the risk of doing things differently is viewed with greater anxiety than in many other arenas. In addition to the fear of the unknown, there is a visceral fear that dangerous criminals will be walking the streets assailing innocent victims. There is clearly more public sympathy for non-violent juvenile offenders, which explains why restorative justice is most often tried in situations involving this population. One challenge that must be addressed in planning restorative justice programs is to expand beyond the one dimension of the offender to include the other perspectives, those of the victim and the community.

Fortunately, victims have begun to have some support through the network of victim assistance programs that have developed in recent years. Depending on the orientations of the particular advocates, they may be open to restorative justice as a way to assist victims in their healing process, or they may view restorative justice as a threat as well as a “coddling” of the offender. Education and dialogue are the best mechanisms to insure productive communica-

tion and forge the beginnings of an alliance between restorative justice and victim assistance, as evidenced by what has actually occurred in the Colorado Forum.

The task of community building must proceed in a considerate, progressive manner that will bring important players into the process. The “bottom-up” philosophy of restorative justice views the buy in of community leaders as crucial to the success of any endeavor. Many lessons will be learned along the way. It is the community that must own the process or it will not succeed.

As one of the top “community builders” in restorative justice circles, Kay Pranis has pointed out that support for restorative justice should take place in the context of other social changes, not in isolation. Natural linkages in this regard would be the growing movement for strength-based interventions and the use of alternative mechanisms for dispute resolution in legal arenas and schools.

The role of the Colorado Forum on Community and Restorative Justice will be to build upon the ongoing national, state and local dialogues to promote the development of programs consistent with the values and principles discussed in this document. The Forum, along with state agencies and other leaders in the justice arena, should “*articulate the vision, disseminate information, and provide support and technical assistance to local jurisdictions. Public entities have a legitimate role in monitoring outcomes and effectiveness of new processes designed at the local level.*” (Pranis, emphasis added)

Ultimately,

***“Our goal is to restore people,
by listening and responding
to all needs, without labels,
while following a consistent model
of behavior towards
all participants
in the process.”***

Conclusion

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The Colorado Forum on Community and Restorative Justice

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The Colorado Forum on Community and Restorative Justice works in collaboration with the Colorado Department of Public Safety, Division of Criminal Justice as a recipient of a FY 98 Justice Accountability Incentive Block Grant. The Forum contributes nationally through workshops, curriculum development, the Web site, white papers and participation as a BARJ Site Team Member.

The Colorado Forum on Community and Restorative Justice can provide the following services:

- The Rocky Mountain Academy for Restorative and Community Justice offers comprehensive training in all areas of restorative justice
- Training and workshops on specialized topics
- Statewide and regional conferences
- Resource center with "Best Practice" materials and videos
- The Forum's award winning video "Beyond Just Us"
- Newsletter highlighting local and national initiatives
- Comprehensive database of Colorado, national, and international restorative and community justice programs and initiatives
- Support and technical assistance for the development of restorative justice programs
- Public policy and program development
- Research

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