



What is Restorative Justice?

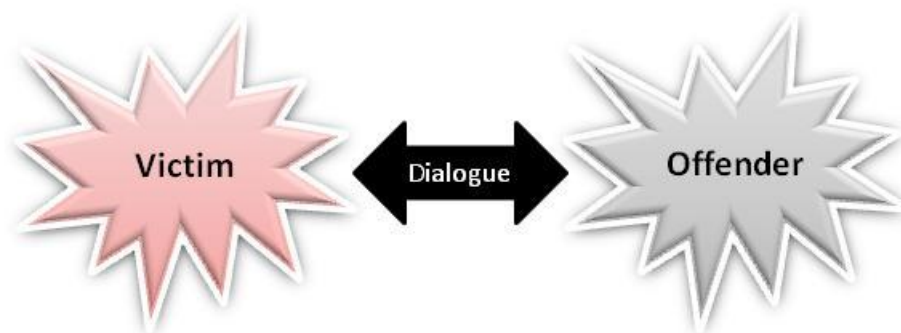
Introduction

It is my belief that law enforcement has been likened to a manufacturing process that: investigates a crime (which is perceived by the state as “criminal”); apprehends a wrong doer; incarcerates that person for a given period of time; and releases the offender to society upon completion of an imposed sentence. Criminal Justice thus becomes a “machine” that produces a product (the convicted criminal). The problem with this process is that it is focused on the offender and tends to exclude the individual directly effected by the crime, the victim. Also excluded in this machine model are the communities in which both the offender and the victim reside.

Thus I contend that restorative justice places the victim and the community at the center of discussion. The offender is thus redefined as the *catalyst for harm* who directly effected the community-as-a-whole.

Theory

The theory that runs throughout the literature behind restorative justice is that offenders, when directly confronted by their victims, often accept the consequences of their actions and are provided an opportunity to express the apology to their victims. Central to this belief are processes that provide a forum for victims and members of the community to “give voice” to their feelings and pertinent values as to the situation, gain intellectual power to “fix” this situation and plan change activities that restore health, well being, safety and security to their lives.



In order for Restorative Justice to occur there must be a communication between both the Victim and the Offender. Any service provided by an agency that marginalizes or excludes victim input is not “restorative justice”. Thus, the greater the level of interaction between victim and offender the more likely Restorative Justice is occurring.

Key Questions

A key to understanding the concepts underlying restorative justice is that it *balances* conflicting philosophies about criminal behavior. These are that:

1. Lawbreaking is to be punished (retribution) *versus* lawbreakers' behavior can be therapeutically changed.
2. Offenders have rights (innocent until proven guilty) *versus* the right of victims to be heard.
3. The public must be protected *versus* the need for incarcerated offenders to be rehabilitated.

Critical questions underlying traditional justice are:

1. What laws have been broken?
2. Who did it?
3. What punishment do they deserve?

In contrast restorative justice asks:

1. Who has been hurt?
2. What are their needs?
3. How can the harm be repaired?

Desired Outcome

The core outcome of restorative justice is a belief that ***each person in the process can change and that the power to change resides in their collective ability (victim, community member, and offender) to decide how to best meet their own needs.*** Each individual involved in this process is encouraged to think deeply about their actions in relation to their fellow human beings. Fostering a sense of *empathy* about the consequences of their life choices is a central focus underlying restorative justice techniques.

An overarching result is that offenders are confronted by their actions, the effect those actions had on others, and the consequences of ignoring past offensive behavior. By taking stock of themselves and being encouraged to make amends with those they offended; offenders cooperate with their victims and the community-as-a-whole in a process of dialogue that seeks reconciliation.

Principles of Restorative Justice

1. Crime hurts victims, communities and offenders.
2. All parties should be a part of the response to crime, including the offender, the community, and the victim if he or she wishes.
3. The victim is central to deciding how to repair the harm.
4. Accountability for the offender means accepting responsibility and repairing the harm done.
5. As a representative of the community, the state makes sure that the laws which guide our behavior are carried out in ways which are responsive to our different cultures and backgrounds, whether racial, ethnic, geographic, religious, economic, age, abilities, family status, sexual orientation and other backgrounds—and all are given equal protection and due process.
6. Crime is seen as an act against another person(s) or the community, rather than an act against the state. The state (or the government) wants to have the problem resolved, but it is not the main player in solving it. It is the offender who takes the personal responsibility for making things right with the victim and the community—not the state.

7. Restoration or repairing the harm replaces punishment for its own sake. Restitution would become the rule—not the exception.
8. Results are measured by how much repair has been done rather than by how much punishment was inflicted.
9. Controlling crime is mainly for the community and its members. The criminal justice system can really only have a small effect on the level of crime because it basically can only respond after a crime occurs.
10. Offenders are definitely accountable for their individual choices, but communities are also accountable for the conditions which may exist that contribute to crime.

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Restorative Justice Processes

The process of restoring a community is complex. A wide range of tools and techniques are employed by restorative justice practitioners with the support of professionals in corrections, law enforcement and other related fields. They include but are not limited to:

- ✓ Circle Sentencing
- ✓ Victim Offender Mediation
- ✓ Victim Offender Dialogue
- ✓ Victim Impact Statements
- ✓ Victim Impact Panels and associated Classes
- ✓ Community Service
- ✓ Community Reparation Boards
- ✓ Family Group Conferencing
- ✓ Community Group Conferencing
- ✓ Victim Offender Conferencing
- ✓ Letters of Apology
- ✓ Restitution

Each process is guided by a facilitator skilled in mediation, group dynamics, and varied dialogue techniques that maximize insightful communication. Generally the techniques are dependent on the ability of a facilitator to:

1. Foster open discussion by all stakeholders of lingering questions and personally held beliefs as to why a given incident occurred.
2. Guide participants in clarifying of how the incident affected the life of the victim(s).
3. Provide alternatives (within court mandated proscriptions) to incarceration through the development of restitution agreements or alternative community service.
4. Wrap up the process by having the offender fully agree that they are accountable for their actions and restoring themselves to their community as fully contributing members is in their best interest.

Restorative Justice Methods

Generally practitioners in this field employ the following group based methods. These include but are not limited to:

- ✓ **Face-to-face Discussion.** This is usually a meeting between crime victims and the person who committed the crime.
- ✓ **Conferencing.** This involves participation by a wide range of stakeholders (family members and individuals who have interacted with both the victim and the offender).
- ✓ **Community Boards.** Trained individuals who are focused on overseeing the process by which an offender fulfills the terms of their restorative agreement and/or restitution plan.
- ✓ **Circles.** Discussion grouping designed to have all people face each other on equal terms. Here they investigate circumstances, behaviors and past activities that led to the circumstances of living each participant find themselves in.
- ✓ **Victim Impact Panels.** A “face-to-face panel discussion involving all parties-victim, offender and community-in defining the harm caused by crime, addressing how the harm can be repaired and providing support/assistance to offenders as they assume their responsibility to repair the harm, and become a contributing citizen” (Bender, p. 1).

The outcome for all these methods is a reasonable certainty among all participants that healing, restitution and restored safe living conditions have been achieved. The hypothesis supporting this belief is that the human condition is inherently based on a desire for individuals to have control over their lives. Secondly, this control is dependent on being happy, productive and cooperative with fellow humans. Finally, that lives well lived are ones in which we, as a community, control ourselves.

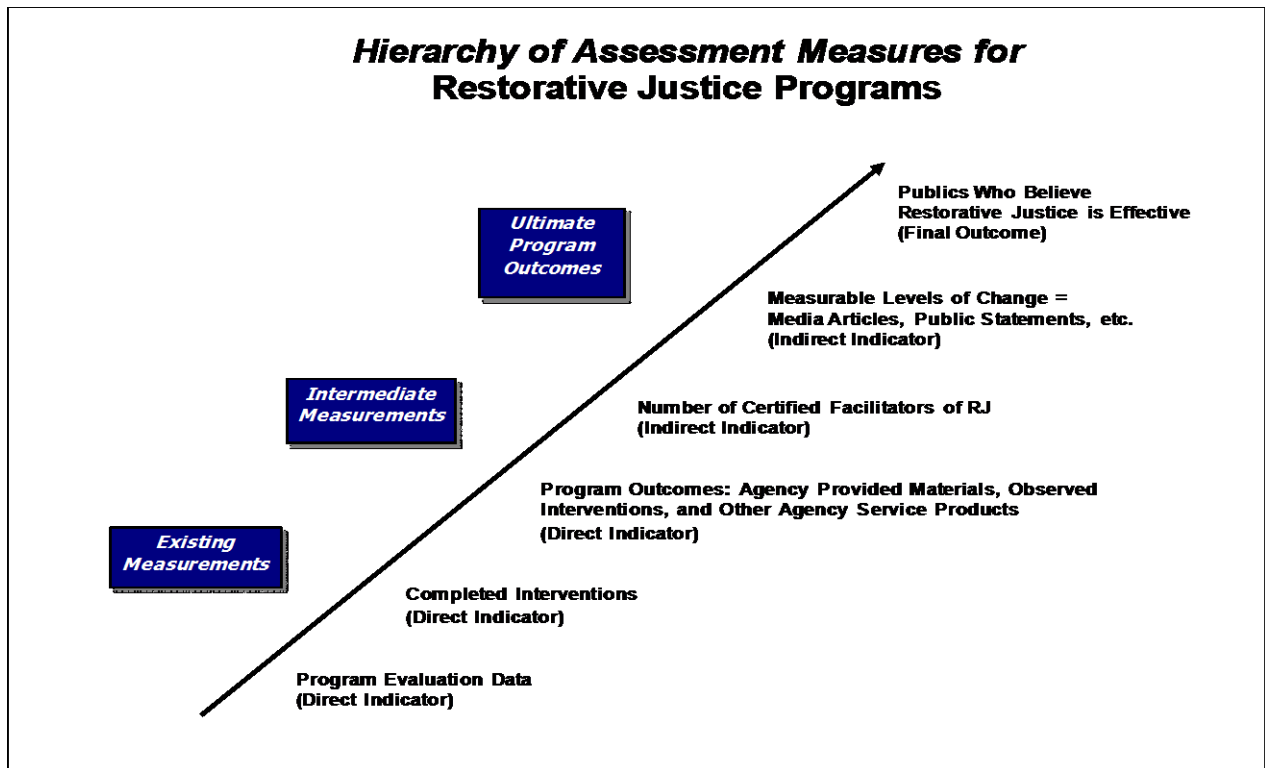
Evaluation

For purpose of discussion “evidence based practices” usually evaluate Restorative Justice programming to include victim-offender mediation, group conferencing, circles and other methods. Evaluation metrics generally can include but are not limited to:

1. Participation Rates and Reasons
2. Participant Satisfaction
3. Fairness
4. Restitution and Repayment of Harm
5. Diversion Rates
6. Recidivism
7. Costs

(Umbreit, 2006)

I am presently concerned with the public image of Restorative Justice and the lack of descriptive clarity held by the public. Thus a key question: How do we know if Restorative Justice Programming is well received by the community-at-large it serves? The following graphic represents one conception of on-going external stakeholder evaluation. It is not designed to assess program *internal* effectiveness but to guide the evaluation of public relations communication.



References

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