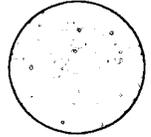


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## Restorative Justice Symposium Summary of the Proceedings

Sponsored By  
National Institute of Justice  
and  
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# Restorative Justice Symposium

## Washington, D.C.

### Overview

The Restorative Justice Symposium was held on January 25-27, 1996, in Washington, D.C. The symposium involved a gathering of practitioners experienced in programs geared toward the restorative justice practice, NIJ, OVC, OJP, OJJDP and BJA staff, and other interested researchers. The attendee list and agenda for the symposium are attached at Appendix A. A total of 135 people participated in the symposium.

### Opening Remarks

Aileen Adams, Director of the Office for Victims of Crime, opened the symposium. Ms. Adams stated that each person at the conference would bring a valuable perspective to the discussion. Every member of the audience has riches of experience, knowledge, and caring that will greatly benefit the conference. She also expressed that the Office for Victims of Crime is a relative newcomer to the topic of restorative justice. And she claimed that, while restitution and healing for victims and accountability for offenders have always been of fundamental importance to everyone, the broader movement called restorative justice has only very recently engaged attention.

Restorative justice practices have great promise for victims and can help bring them into a central role in the criminal justice system. But there are some significant concerns and questions about the role of victims that the conference would be able to address. The symposium presented a unique opportunity to hear about restorative justice from a range of perspectives, from all the major players in the system, from philosophers to practitioners, and advocates to critics. During the three days of the symposium, it was hoped that the pathways to some new solutions regarding restorative justice would be identified and clarified.

Jeremy Travis, Director of the National Institute of Justice, also welcomed the participants to the symposium. Mr. Travis noted that in the criminal justice work, the players in all areas of practice and research think a lot about the issues of crime; punishment; imposition of the criminal sanction; and roles of courts, probation, corrections, and police agencies. It is a difficult time because there is a lot of pessimism about the ability of government to develop constructive responses. Yet there is also a strong sense of optimism that comes from contact with practitioners, community groups, and activists who see real results, real change, and real hope for a different way of doing things in the communities.

Mr. Travis expected this symposium to clarify the common threads that extend across those islands of optimism and the areas of common interest and development that are clustered under a large umbrella called restorative justice. He stated that the restorative justice conversation starts at a different place from normal conversations about criminal justice. It starts by asking what are the role and needs of community with the phenomenon in mind of anti-community behavior called crime. What are the role and needs of victims in response to crime?

And what are the role and needs of the defendants in the disposition and adjudication of crime? Ultimately, this leads to the role of government. Restorative justice is a powerful and growing concept for government, both local and national.

**Mr. Travis** concluded that the restorative justice conversation also ends differently. Instead of talking about crime, it ends with the concept of safety, security and relationships. Instead of talking about punishment, it ends with the concept of justice. That is the goal for all the players within the restorative justice philosophy.

**Laurie Robinson**, Assistant Attorney General, Office of Justice Programs, closed the opening remarks. **Ms. Robinson** stated that this symposium would better define the concept of restorative justice as well as raise and answer questions and look at the experiences in communities and in other countries that have taken steps to implement this idea. She claimed that the challenges for the criminal justice system have never been greater than they are today. Many criminal justice professionals find themselves disillusioned and wary about the variety of quick fix solutions that are being offered to crime problems.

Most practitioners in the criminal justice system remain optimistic about the ability to make a difference. She stated that restorative justice is not a quick fix, but is instead rooted in some of the practical realities of people and the system. It has potential and promise as a framework for encouraging and acting upon new thinking within the justice system.

Another reason **Ms. Robinson** supports the attention this philosophy has received is that there is a tendency in the criminal justice field to isolate and segregate. Out of that isolation come divisions and lack of understanding. Dichotomy divides and hinders forward movement. Restorative justice helps to get beyond the divisions and moves the thinking and discussion ahead. The symposium is exciting because it involves fundamental rethinking of relationships between government and citizens.

**Ms. Robinson** concluded that the commitment and expertise of the symposium's participants would play a critical role in defining the goals of the system, how those goals should be reached, and what relationship should exist among criminal justice professionals, citizens, and the community.

## General Session: What is Restorative Justice?

**Thomas Quinn**, Visiting Fellow of the National Institute of Justice, acted as moderator of this panel discussion and stated that the participants have two things in common: one is a recognition that they can do better and the other is a willingness to explore both the potential and limitations of restorative justice. **Mr. Quinn** also claimed that a number of questions would arise during the symposium. Is the system ready to change its focus toward victims and community? If the restorative goal interferes with society's demand for retribution, which will take precedence? Will the system be willing to give up any power to the communities? On the other hand, are the community programs willing to handle a bigger responsibility? Will this require a whole systematic shift or can it be done incrementally? Can implementation be too fast, not building the necessary support; or too slow, losing community momentum? Will the restorative model replace the punitive model or can they exist side by side? And for what kinds of cases, people, or offenders should restorative justice apply?

**Mr. Quinn** thought the ultimate goal should be debated. Is the goal system expedience or is it quality justice? Should it be done from within the criminal justice system or from the

outside? One of the draws of restorative justice is the individualized nature of response that it offers. Would that lead to disparity and discrimination? The one aforementioned goal is that of community involvement. Will expansion of community capability suffice to involve the community and implement restorative justice?

What about the perception that restorative justice is soft on offenders? Is that an accurate perception? If not, can we provide enough political cover for the elected officials to protect them from criticism if they move in this direction? And what about implementation issues?

After introductions, Howard Zehr, Director of the U.S. Office on Crime and Justice, Mennonite Central Committee, said he would provide an overview of restorative justice. Mr. Zehr offered four basic propositions:

(1) *While society's enthusiasm for punishment is clear, it has problematic consequences.* It is not holding offenders accountable nor is it meeting the real needs of offenders. The incarceration rate is climbing at record rates. The cost of incarcerating people means that money is diverted from social services, health care, and education. The adversarial game people go through discourages empathy with the victims. As a result, the offenders' sense of alienation from society is increased.

Wrongful acts have got to be denounced, and offenders have to be held accountable. Unfortunately, punishment is a very poor teacher and often teaches the wrong lesson. Offenders are stigmatized by the community. Shame is a powerful way to influence human behavior, but when people are stigmatized, they join together in deviant sub-cultures. They make shame into a badge of honor.

Mr. Zehr quoted Mr. Phata who said that most offenders see themselves as victims, the transformation of victims into victimizers. Whether they are victims or not, they perceive themselves as victims. The crimes they commit are a response. When those who see themselves as victims are punished, the self image as a victim is reinforced. We teach them, he said, that when someone victimizes you, you victimize them in return.

(2) *The system is not doing much for victims.* It hardly addresses their needs at all, and it often makes them feel twice victimized. People rarely realize how devastating it is to be a crime victim. The similarities among victims of different crimes are more important than the differences in the crime itself. Victims all feel the same feelings of fear, vulnerability, isolation, doubt, and anger.

Mr. Zehr stated that being a victim creates a whole series of needs: the need for vindication, the need for restitution, the need for answers to questions, the need for a chance to tell a story, the need to be empowered, and the need to find meaning. Justice does very little for victims' needs; instead, it adds to the sense of disconnection and powerlessness. Mr. Zehr also quoted Judith Herman's book called *Trauma and Recovery*, "If one set out to design a system for provoking intrusive post-traumatic symptoms, one could not do better than a court of law."

(3) *Justice is done in the name of our community, but in reality very little is done for the community.* Rather than a sense of safety, the system heightens fears and stereotypes in the community. This pattern bypasses an important opportunity for community building. Mr. Zehr quoted Judge Barry Stuart from the Yukon, who said that "when conflicts are processed right, they are the key means we have for building community and when you take that away from the community, you are taking away the building blocks of community."

(4) *Criminal justice agencies keep making reforms, changing, and adding alternatives.* The new programs all seem to come to nothing. The more they change, the more they remain the

same. The problem of justice cannot be approached by adding a program or making reforms. It requires a new lens from which to look. The core debate in the history of criminology has been about theories of punishment rather than concepts of justice, but the real problem is the concept of justice itself.

**Mr. Zehr** explained the concept of retributive justice as follows: Crime is a violation of the law, and the state is the victim. The aim of justice is to establish blame and to administer pain. The process of justice is a conflict between adversaries in which the offender is pitted against the state. Rules and intentions outweigh outcomes, and one side wins while the other loses.

In the conventional way of doing justice in society, three questions are asked: What laws have been broken, who broke the law, and what does the offender deserve? This explains the system's failure. The victims are not part of the definition. The questions explain why people are stigmatized for their past actions, making reintegration so difficult. The process is so technical that the victim and offender don't even understand their own experience.

As a value system, the retributive model is so negative that it does not contain any motive to do good. The ethical system is a punitive one; there is no reason to be humane. Yet, there is an alternative view, the restorative model. Crime is a violation of people and of relationships between people. The aim of justice is to identify the responsibility to meet needs and to promote healing. The process of justice must involve victims and offenders and communities. And it must maximize the exchange of information between them.

Within the restorative approach to justice three questions are also asked: Who has been hurt, what are the victim's needs, and who has obligations? The process by which answers are gained is very important. Victims and offenders need to be involved and need as much information about each other as possible. The restorative approach emphasizes that crime is a violation, and the proper response to the crime is healing. The essence of crime is the violation or harm to three parties: victims, community, and offenders. The aim is to promote healing.

Another way of contrasting these two models is to look at four areas:

- (1) Defining the problem
  - a. A retributive model defines an infraction and looks only at the legal variables.
  - b. A restorative model recognizes that the criminal action is a violation of people and notes the importance of the overall context.
- (2) Understanding within the model
  - a. A retributive understanding of the primary actors views the offender as a passive recipient of justice. There is no responsibility held by the offender.
  - b. A restorative understanding of justice explains that victim, offender, and the community all have crucial roles to play in establishing justice.
- (3) Process within the model
  - a. The process in the retributive model is more authoritarian, technical, and impersonal. It focuses on questions of guilt and blame.
  - b. The process in the restorative model is more participatory, focused on needs and obligations. It encourages the victim and offender to understand each other and requires the offender to take responsibility.

(4) Solution within the model

- a. A retributive model focuses on pain. Someone has done an injury so he or she is injured in return.
- b. A restorative model focuses on what is needed to correct the problem and who has the obligation for action.

The restorative model aims to heal and restore rather than to punish. It intends to reintegrate, or integrate if the offenders have not been integrated, rather than to isolate. It is profoundly respectful, with justice toward victims and offenders.

By creating a pyramid, where the foundations are restorative and the goals are to restore people, it is possible to build harmony and peace in the community. The base of the pyramid includes the restorative options. These options are important and should be considered first. Yet, there are some cases in which deterrence and incapacitation must take precedence. The system should limit those cases and keep the restorative model in mind.

The restorative model does not have all the answers. It does not have the comprehensive world view to be a paradigm to operate. Many people have different views of restorative justice.

Mr. Zehr stated that there are two lessons to be learned from the birth of prisons. Everything has unintended consequences. That process will happen with restorative justice, too. The Quakers, who helped invent the modern penitentiary, would have themselves locked up for conscience. But that did not mean imprisonment was good for everyone else. Restorative justice may not apply to everyone. It is important to learn to propose and not to impose in order to move toward a justice that heals, respects, and transforms.

Answering a question from Morgan Reynolds, Director of the National Center for Policy Analysis, regarding the potential abuse of liberties through the restorative type of processes, Mr. Zehr stated that the goal is not to condemn the offender but rather to know what can be done to restore the loss suffered by the victim and community. The offender becomes the key person in that restoration. There is not much threat to the offender in that process.

Caroline Nicholl, Harkness Fellow of the National Institute of Justice, stated that she would offer a perspective of restorative justice from the police point of view. Ms. Nicholl claimed that the British police have faced three major challenges:

- (1) A decline in public confidence in the police in terms of controlling crime, which threatens consensual policing. Policing is effective within the context of democracy only when there is an effective relationship with the community, based on shared power. The police alone cannot control crime, disorder, or fear.
- (2) An acute struggle between the demand for and supply of resources has been compounded by a growing public expectation of better customer service. Policing is a publicly funded organization, and the public is entitled to the best service delivery. The need for open debate on priorities and appropriate use of resources has never been so high.
- (3) The need to demonstrate what the police are achieving with finite resources. Policing is facing a far greater scrutiny from a more informed public.

Ms. Nicholl noted that these challenges will remain present for a long time even after organizational change is implemented. The public as well as victims are not informed about available choices in relation to dealing with crime. Police have traditionally relied on enforcement of the law before the judicial process to fight against crime.

The traditional approach ties to a judicial system which neither manages crime nor defends against crime. There is no coherent strategy between the various system elements to reduce crime. The emphasis is on punishment. It is an adversarial system, narrowly focusing on whether or not the person is guilty of the offense with which he or she is charged. It is important to recognize there is no one single theory nor one single response to criminal events.

The criminal justice system does not currently include problem solving. The adversarial approach within the justice system, politics, government, and business especially creates damage in the case of law and order. The reality is that too many offenders remain untouched by the experience of going through the current system. It is necessary to change the adversarial approach which is alienating, demotivating, and disrespectful and then work toward an inclusive approach which builds on reciprocal relationships of interdependence, involvement, and empowerment.

**Ms. Nicholl** claimed there is an unhealthy tension between the crime fighting model, which relies on increasing the probability of arrests, and the problem solving model, which seeks to manage crime by attacking problems in the family, community, or schools. Teambuilding within the community should result by relying less on the criminal justice systems and more on the sharing of information and perspectives on the issues.

**Ms. Nicholl** offered an example explaining why she was in favor of restorative justice. In 1993, her police department chose to experiment with a new approach to dealing with offenders charged with shop theft. They bypassed the criminal justice system in favor of bringing shop thieves and retailers together. Shop theft was chosen because it is one of their biggest crime problems and is often the first rung in the ladder of a career in crime.

The department brought the victims, in this case the retailers, and the shop thieves face-to-face. But not to have a legal discourse, rather to have an ordinary conversation about the effects of offender stealing on the retail management of the shop. They asked a crucial and specific question of the offender. "What is going on in your life that is prompting you to behave like this?" The results were startling. The recidivism rate has dropped dramatically from about 25 percent to under 5 percent.

The offenders weren't aware that the police officers cared about them and the offenders became more aware of the effects of their behavior on others. The retailers have also changed their views. Initially, they were against any decriminalization of the problem of shop theft. Now, retailers have realized that this could have happened to their own children. Busy retail managers are actually offering jobs to the offenders so they can be part of the program.

People commit crimes for all sorts of reasons. In the case of juveniles, it is likely to be peer pressure and bullying. The police have also found an alarming number of cases of child abuse which would not have surfaced through ordinary means of the criminal justice system. Bereavement has also factored quite highly in the information on these crimes. A number of juveniles whose grandparents had died were found shoplifting several months later.

The response within the police department is to identify the source of crime and tackle it by building a repertoire of responses. Some responses come from the police departments and others from community programs. There are many programs that are problem specific and offer an opportunity to the offender to resolve his problems.

In closing, **Ms. Nicholl** claimed that the restorative justice approach is essential to providing choices to the public when it comes to deciding priorities and use of resources. Such decisions should never remain exclusively in the hands of the so-called experts.

Dennis Maloney, Director of the Deschutes County Community Corrections, offered the corrections perspective on restorative justice to the symposium. Mr. Maloney stated that corrections needs to make an adjustment simply because of the role it plays within the justice system. He also claimed that the judiciary system has to change because it decides the sentence to be carried out.

Mr. Maloney offered three primary responsibilities related to the national initiative called balance and restorative justice:

- (1) Supervise offenders so that the public is safer.
- (2) Supervise offenders so that they are held accountable to their victims in the community.
- (3) Supervise offenders in such a way that when they leave the system, they are more capable of making good in the community than when they first entered the system.

Public safety only occurs when the offender develops internal discipline to stop the offense pattern. Another definition that Mr. Maloney used is the concept of being accountable to the state. The offender does not consider himself accountable to the state or community, but to the probation officer, the district attorney, and the judge that has incarcerated him.

Mr. Maloney wondered how accountability can be effected without participation of victims. The offender must understand that he or she stole the personal property of another individual in their community. Accountability can only occur when the victim actively participates, and the offender understands that he or she has to do something to serve the community and pay the restitution the victim expects. By doing this, the offender becomes accountable to the victim rather than a system.

The corrections system needs to wrestle with how to engage victims of crimes in this process. How can victims be welcomed in the system so they feel like they are really participatory? In terms of incapacitation, Mr. Maloney considers this not an outcome, but a valuable tool to help manage the population so offenders can become genuinely accountable to their victims and community. Incapacitation is an enforcement tool, but real accountability occurs when offenders face the expectations of their victims and do something to restore peace in the community. Incapacitation can be a necessary tool to work with those offenders who refuse to be accountable or who are so dangerous they must be controlled to prevent further hurt.

The biggest discovery within the restorative justice model is the role and participation of the community in the corrections system. Offenders carry the burden of restoring peace for both victims and the community through their service. Building community becomes the focus of the corrections system. The offenders become the labor force to build that community, and the victims actively participate in steering the system, in terms of the projects that should be carried out.

Justice Robert Yazzie, Chief Justice of the Navajo Nation Courts, commented that we cannot pretend that we know it all in the concept of restorative justice. We need to listen. Restorative justice was the method of the Navajo more than 103 years ago. The outside world came to Navajo land and said, "We will christianize you, we will educate you, and we will show you how to settle disputes."

The outside world said, "You will have these things to work with:"

- (1) Judges, police officers, and lawyers. Today there are 17 Navajo judges, half of whom are Navajo women.
- (2) Cases will be governed by following these rules. These outside rules have nothing to do with Navajo rules.
- (3) As a judge, you shall apply the rules and make a decision based on the rules.

**Justice Yazzie** claimed that restorative justice started from the beginning of creation, it was not born yesterday nor was it born of the discussion among the lawyers, judges, and scholars. He explained that restorative justice in Navajo country is the daily agenda, the thought process, the tool used to address the holy people, and self-determination. He used an analogy to explain it. He said, when you get up before dawn, there is light that comes from the east and brings thinking and knowledge. The human being will use his thought process to plan out his day for the good of the people.

Western adjudication contradicts Navajo legal thinking and Navajo philosophy. On one side are judges who have the power to affect a human life; on the other side are the people who will judge the case themselves whenever there is a dispute. Concentrate on what restorative justice is. Restorative justice restores respect and solidarity.

When there is a dispute, there is a mediator rather than a judge. The mediator speaks, thinks, and plans well. He only mediates; he does not control people's lives. Instead of rules for the use of judges, there is peacemaking to bring the people together. The mediator's goal is to encourage restoration. Without relationship, there is no restoration.

**Justice Yazzie** implored listeners not to pretend that they know everything. He said you must listen to other people, understand what is said, and give recognition and respect. He also claimed that people are equals among equals rather than being equal before the law. Status is irrelevant.

Instead of punishment, the ultimate goal of restorative justice is healing. How do you bring about healing, he asked, when you have a dispute resolution? Can this be achieved with western adjudication whose main concern is corrections, denial and guilt? In the Navajo philosophy, determining guilt is irrelevant. For example, when a drunken wife beater is confronted with his family and relatives, he cannot say that he is not a drunk and will not beat up his wife. Everybody around him knows his history. The relatives will confront him and hold him accountable.

In a dispute resolution, the Navajo apply emotions to bring about results. People are allowed to express their emotions. They are allowed to get an impression of the minds of each other. This cannot be done in the western adjudication. The western world uses only reason. Peacemaking is so successful today because the mind and the heart are at work.

**Justice Yazzie** stated that judges and courts will not be taken out of the system. Indian people try to keep the best of what is imposed by the outside world and ignore the bad things. Punishment for the sake of punishment is one of those bad things they wish to ignore. He claimed that, in his Indian community, there are also people who commit wrong and have no remorse. That is what jails are for. Even in jail, the Indian community uses the peacemaking concept. Though western adjudication is used, the law of preference is Navajo law. Other Indian nations think in the same way.

When asked about the practice of banishment as punishment by **Morgan Reynolds**, Director of Criminal Justice Center, **Justice Yazzie** explained that the outside world had declared

many of their traditional concepts illegal. It was illegal to visit or become a medicine man. When someone murdered another person three hundred years ago, banishment was applied. In those times, banishment did not mean physically removing the person from the community. When banishment was applied, people would totally ignore the person although he or she remained in the community. Banishment was the last resort. First, the community would come together in a peacemaking session. Before banishment, the person would have to give restitution. For example, if someone killed the spouse of another, he would have the duty to support that spouse for life and do other duties. Banishment was the most severe kind of punishment that was ever imposed. It was worse than life in prison. Nobody would talk to you. That was traditional law 300 years ago.

In response to a question regarding the impartiality of the mediator in dispute resolutions within the traditional context, Justice Yazzie stated that impartiality is irrelevant and unimportant. When a medicine man decides a case, he considers his decision a sacred task. The only thing he thinks about is how to bring stability back in the life of this person. The mediator's role is not to control. The people involved in the dispute do not want a stranger to judge their case but would rather have a family member. This is not to favor their case, but to give everybody a chance to speak. The mediator encourages people to talk and give examples. The mediator has experienced life and uses the knowledge as a tool to get the discussion going.

Donald Streufert, Director of the Citizens Council Center for Reducing Rural Violence, presented the victim's perspective. Mr. Streufert hoped that the discussion would expose the diversity of perspectives that exists among victims. He stated that the experience in which he has gained exposure and involvement in restorative justice comes from four areas:

- (1) He is the father of a murdered daughter;
- (2) He has been a participant in a victim-offender dialogue with one of the men convicted with his daughter's murder;
- (3) He is the Director of the Citizen's Council Center for Reducing Rural Violence. Their purpose is to assist and strengthen rural communities by assisting them in addressing the causes and consequences of violence. One of the council's aims is to find ways rural communities can implement restorative justice principles and practices; and
- (4) He is a member of the Minnesota Sentencing Guidelines Commission.

Continually in these four areas of experience, Mr. Streufert has struggled with the definition of justice. Yet, he has been unable to come up with a satisfactory answer. He is certain that his perspective has changed drastically. At one point, as a white, male, middle-class, privileged professional, his perspective on justice was isolated, sheltered, and naive. Avoidance may be another way to describe how he was involved with justice.

Subsequent to his daughter's abduction, rape, and murder, Mr. Streufert's perspective on justice has become sadder, but hopefully wiser. It exposed him to horror, grief, and loss. He experienced a paralysis of empathy, a kind of absorption of pain. With that horror, there came an exposure to hope and receptivity to compassion which he had never before experienced. A wiser perspective on justice has come from understanding that one perspective is not sufficient to understand justice. It takes multiple perspectives and views. As expressed in restorative justice, it is necessary to view justice from the victim's, the offender's, and the community's perspectives.

Restorative justice has provided **Mr. Streufert** with some consistent messages. The active ingredients include:

- (1) Restorative justice acknowledges that violence hurts and provides an opportunity for the story to be told and heard.
- (2) Information is given to victims. Information is needed, provides hope, and helps healing. It is information about the crime, what happened where and when. Information about the offender, who this person was and what he did. This also means information about the criminal justice process, about the investigation, the prosecution, the adjudication, and the sanctions. This information shows how the offender will be held accountable for the violence that has been done.
- (3) The victim's participation is valued. This means participation in the investigation of the crime, participation in the prosecution and adjudication, participation in holding the offender accountable, and participation in restoring relationships between the victim, offender, and community.
- (4) The victim has the choice of determining what information to hear from whom and when. The victim also has the opportunity to choose when, where, and how he or she participates in investigation, adjudication, prosecution, and restoration.

An individual capacity to contribute to the well being of the community must be restored when that capacity has been diminished by violence and violation. Secondly, relationships within the community are to be restored. These sustain and enhance the sense of community. Sense of community consists of belonging, ability to influence, a sense that victim needs can be met in the community, but likewise, that the victim can contribute to the needs of others. Sense of community includes a code of conduct, understood and agreed; a sense of history; and a perception that what affects the victim in the present and what the victim does will have an impact.

In the next few days, **Mr. Streufert** suggested participants meet the following challenges:

- (1) How can we include offenders? Offenders do have something to contribute. In what way can the offender's voice be heard directly?
- (2) How do we take this philosophy and practice of restorative justice and bring them to the community? How do we introduce, inform, and model these practices for our children and grandchildren?

**Patricia A. Noland**, Arizona State Senator, commented that crime and punishment need to be connected. It is also important to understand how all the variables connect from all the players' viewpoints, from the victim and his family to the criminal and his family. **Ms. Noland** has often found herself caught in the middle when dealing with all the players. She has listened to both sides of the story. She has spoken with the victim and the victim's family as well as the offender and the offender's family. She realized that the offenders' families are victimized as well, yet they are not acknowledged and there is no compassion for them. They also have feelings of hurt, grief, and shame. They feel that their story is not told and that everything is blamed on them.

In the end, nobody wants to be responsible for all of their actions and their effects on others. At some point, the criminal justice system must apply differently to individuals in the understanding that every case is different. The rules don't fit every case. Mandatory sentences and harsher penalties are not always the answer.

No one side of the system can outweigh the other. The present system is out of balance because it is politically correct to hire more policemen, take care of crime on the streets, and make the community feel safer. But more people on the street who have committed crimes need to understand the relative effect of what they did and the consequences. Victims and citizens are scared because crime is out of control. The whole system, prosecution, defense, and the courts, must be taken care of whether it is politically correct or not.

Popular opinion will usually claim someone is either soft on crime or tough on crime. Every person with a specialty, such as restorative justice, has to educate the policymakers within the system. They appropriate the money and have to consider re-elections.

One will never have truth in sentencing without truth in charging. Plea agreements sometimes leave unhappy people who are alienated from the system because it moves too fast and unjustly.

In closing, Ms. Noland claimed that victim advocates can get the information out to the people. Yet this process needs to be carefully monitored. Victims have been used too often. One can't just categorize victims as those thirsting for revenge, those who are hell-bent on the death penalty. You cannot categorize every victim, defendant, and criminal in the same way. Each one needs respect and a place within the system. No one perspective should be favored over the other.

Jamice Lord, Director of Victim Services, Mothers Against Drunk Driving, commented that many criminal offenders are incapable of developing morally. They think crime is okay if one is not caught.

When asked about how to rehabilitate an offender who was not habilitated in the first place, Dennis Maloney replied that many of offenders have no stake or bond in the community. He also stated that 95 percent of offenders are not violent. For those offenders who are expected to restore the relationship with the victim and community by doing service or paying restitution, there is hope that they will build that bond and stake. People who work on creative service projects gain more than the completion of their sentence.

Mr. Maloney believes that because restorative justice expects people to do well, maybe that community bond can be built with the first project. The community then needs to realize that the offender needs to be offered hope. He or she must realize it is possible to make it in the community through legitimate means rather than resorting to crime. That is the first step in the habilitation process: getting the offender to feel he is really tied to the community.

Justice Yazzie commented that among the Navajo, peacemaking has been very successful because rehabilitation cannot be done by incarceration alone. The wrongdoer needs to be treated as a human being for there to be rehabilitation. The system should be concerned about the offender's problems, should listen and address those needs. If peacemaking is added to the criminal justice system, there will be good results.

## General Session: Applications of Restorative Justice in Juvenile Justice and Criminal Justice Systems

**Mr. Quinn** restated for the participants his perceptions of the symposium's theme. He wanted to discuss (1) the problems of restorative justice in the context of existing, traditional, western justice systems; (2) the promises offered by restorative justice for the difficulties facing corrections and justice systems today; and (3) issues or questions pertaining to restorative justice which are still outstanding.

In commenting on the problems, he said the present system is experiencing a crisis with caseloads and funds, it is too power-based, and there is a lack of attention to victims and participation of key players. In terms of promises, restorative justice may allow choices for the victims and humanize the process. The adversarial process is too power oriented. With restorative justice, more public agencies can be involved and together they can promote healing, build on consensus, and hold the offender accountable in a more real way.

There were several points **Mr. Quinn** mentioned as open issues or questions. He said restorative justice was a difficult "sell" to the existing criminal justice structure. There was a need for better definitions and to avoid "fuzzy" descriptions. More importantly, perhaps, for which cases would it be appropriate? Many existing programs deal only with marginal, "early" criminal cases. For some offenders, it would probably not be appropriate. How does incapacitation fit into the restorative justice plan?

The definition of community, as used in the restorative justice discussion, is not clear. Long term impact of these programs is unknown. It is unknown if there will be sufficient mediators. Despite the problems, the criminal justice system must move forward. The general session today will take the concepts of restorative justice and look at applications that have been made to real situations.

**Shay Bilchik**, Administrator, Office of Juvenile Justice and Delinquency Prevention (OJJDP), welcomed the group and expressed excitement about the restorative justice movement. OJJDP is proud of its work with restorative justice in the juvenile justice area. The concept is not new, he said, but it has received a lot of attention in recent publications. To give a personal context, **Mr. Bilchik** said he had been a state prosecutor in Florida for 16 years. He had his mind set on rising to the prosecution of felonies and moving up from there. He did not expect to move to the juvenile division. When Janet Reno took office in Florida and "turned things upside down," she stressed the juvenile division, the idea of pathways to crime, and made that division a part of the promotion path. It was a powerful moment for him when he was sent to the juvenile division. Juvenile division used something near to the restorative justice model and looked at the victims' input. The principles were in place, but there were shortages of resources and competing ideas of development.

The core elements, in relation to work with juveniles, included creating capacity in the young person, giving him or her opportunities, and recognizing successes. The OJJDP mission has even broader goals and requires a look at the whole continuum: family strengthening, parent training, afterschool programs, and pre-delinquency intervention. The restorative justice model involves these same approaches and using it has reenergized the juvenile justice systems in those areas trying to use it. OJJDP supports this paradigm shift.

Mark Umbreit, Director, Center for Restorative Justice and Mediation, School of Social Work, University of Minnesota, assumed the role of moderator and introduced the panelists who would speak on the practical applications of restorative justice in juvenile and criminal justice systems. These individuals all had substantial experience and could probably use three hours each to discuss their work. In his 25 years in the field, Mr. Umbreit said that he had never seen a gathering representing such diversity. He said it was indicative of the common interest and the need to involve victims in policies and programs. In order to put life into the concept, there were many considerations: What range of offenders should be involved? What choices should victims be given?

Three of the panelists would focus on systemic changes necessary for restorative justice efforts and how these have been coming about. The other three speakers would discuss specific program applications. After each group of three presentations, a discussion period would be held.

### **Systemic Change for Restorative Justice**

John Gorczyk, Commissioner, Vermont Department of Corrections, described the dramatic redesign of the correctional system in Vermont during the last seven years. In Vermont, probation, parole, jails, and prisons are all integrated under the executive branch. The problems in Vermont are similar to other areas of the country. The projected incarcerated population growth far exceeds the capacity. The planners first asked themselves why the growth was occurring. Was there actually more crime, or were there more arrests? By 1991, they concluded that neither arrests, crimes, or convictions were responsible for the growth, but shifts in public policy were behind it. After that conclusion, they began examining the purposes of sentencing and looking at how the victim and community fit into the equation. The criminal justice "players" include the victim, the offender, the community, the state, the criminal justice system, the private sector, and the public.

The planners then looked at and developed a matrix to predict risk for moderate offenders and set up a two-track system with six levels of offense severity. The matrix helps determine what services to bring to bear on what populations. The Vermont correctional system had not had any significant innovation since about the turn of the century. In surveys of the public, the Vermont correctional planners found they did not think much of either probation or prison. Probation was considered weak. The most common opinions regarding prison were that it did not contribute much to justice or the community, and that it was bad for the young. Based on these evaluations of the public and the risk factors for violence, the Vermont system put in effect an intermediate sanctions track involving day treatment, substance abuse treatment, life management counseling, retraining, and community involvement. Those moderate risk offenders assigned to this track were removed from the correctional system. There were two new legislatively supported statuses: a supervised community sentence and pre-approved furlough. The prison track included similar intervention elements, but placed incapacitation at the top of the priorities. Through market research efforts, Vermont correctional planners

aligned available resources with a continuum of risk or need, taking into consideration what the public wanted from the offender:

- Acceptance of responsibility
- Acknowledgment of guilt
- Full restitution
- Commitment not to repeat
- Some meaningful result (to the offender or community) of the sentence.

From corrections, the public wanted:

- Safety from violence
- Accountability for the offenders
- Repair of damages
- Education and treatment, for safe release, and involvement in the community
- Assurance of public efficiency.

Vermont set up 14 community "reparative" boards, which perform training and act as a forum where the public could receive apologies from offenders, community service, victim restitution, involvement, and added value for the communities. All of the areas have shown strong support for the method. The reparative board sentences aim for an outcome which restores, amends, shows learning, and gives the person a way to avoid re-offending.

Program priorities were arranged to save secure bed space for those who really needed incapacitation, high-risk, violent offenders. The new program is hoping to divert 2,400 cases away from correctional services at the state level. Thinking is still evolving, but the corrections organization is changing the paradigm to support communities. In older systems, government passed influence or service delivery first through the community and secondly through the family to the individual. When this shifted to a direct connection from large scale government to individuals, many infrastructures suffered. In Vermont, agencies are trying to organize service delivery to again include the community and the family. The two tracks for offenders in Vermont are integrated as far as using the restorative justice approach. The offenders who need to be incarcerated for public safety reasons also become involved in the restoration process to the community and victims.

The principles of restorative justice generalize across the fields of human services and education. In the new corrections paradigm, risk management is regarded as a subset of restoration. The new orientation has greatly affected daily behavior and represents a big transition for the organization. There are no more probation officers. Instead, there are community correctional service centers where corrections officers perform case management, assessments, and administrative services for the community boards and associations. This is a dramatic change in role and function. Development of this change required 18 months of chaotic transition and a significant investment in human resources. The staff had to be able to develop the knowledge, skills, and abilities for their new duties.

**Mark Carey**, Director, Dakota County Community Corrections, spoke about participation as an OJJDP pilot site in adapting existing policies and programs to a restorative justice model. In trying to make a systemic change, he said, they had to answer many questions. The planners had to examine motivation and the forces that resist change. First, his organization looked at the problems and obstacles and found:

- o High probation caseloads (officers were extremely busy, each servicing around 185 felons).
- o Rapid pace of change due to legislation.
- o Concern, among probation officers, about diluting services to offenders.
- o Cynicism from unsuccessful past reform movements.
- o Doubtful workforce attitudes. He had to reason with and convince them. They also expected to be able to give him input.

Against these factors, there were compelling forces for change:

- o The status quo was clearly not working.
- o Correctional professionals were interested in making a difference, not just shuffling papers and populations around.
- o Victims need to acquire a role in the justice process.
- o The community's input and participation is needed.
- o Existing expectations of the correctional system are unrealistic, pulling in different directions.

Using the restorative justice model has helped the organization bring these diverging areas into line. For the first time, Mr. Carey felt comfortable saying "no" to a grant; his agency no longer wants to work with a project that doesn't fit into the restorative justice concept. The agency has new language, new vision, and new purpose. It has been very important to get the staff to buy into the idea. The county brought in special speakers such as Mark Umbreit and Andy Klein to introduce the idea to the staff. There will always be some staff (about 10 percent) who oppose change.

In the new mission statement, the Dakota County Community Corrections recognized three stakeholders: the victim, the community, and the offender. The system must deal equally with all three stakeholders in various debates, such as meetings with local government, legislators, etc. The county formed three action groups under the balanced approach model, one for competency development, one for accountability, and one for community safety. In addition, it instituted a steering committee to coordinate different portions of the model.

Mr. Carey emphasized that the effort should *not* be simply renaming an existing program or importation of a new program. Otherwise, staff and the community will just regard the whole change as a "marketing tool." It is no good to take an existing paradigm and put a new name on it. He found, for example, that staff needed to be retrained to deal better with victims' complaints. Once his staff became convinced that the victim's situation was included in their mission, the complaints from victims went down. In the past 18 months, there had been no complaints from victims (a big change).

In implementing restorative justice, Dakota County Community Corrections established (1) family group conferencing, (2) updated communication letters and community notifications, (3) a "crime repair" crew who worked similar to a fire station response team to perform repairs at the site of crimes (repair broken door locks, etc.), (4) victim-offender mediation for better restitution and healing, and (5) cognitive skill training for offenders to reduce recidivism. They sought law enforcement and grassroots organizational help to get the communities more involved. Some other elements of the new program are problem solving, a hotline for the community, and more business partnerships. The agency tries to balance investigative and planning aspects of their mission. Instead of doing one-on-one counseling, probation officers

have become instructors for groups studying cognitive development. Although staff members have expressed anxiety about their changing roles, there is new enthusiasm as well.

Two other procedural changes have been arranged through the institution of restorative justice. Offenders must now pay restitution before satisfying other financial obligations, and the victim can choose the work service site for the offender's community service.

As Bureau Chief for Intake and Screening in the Polk County District Attorney's Office (the Des Moines area), **Fred Gay** discussed determining what cases were most appropriate for restorative justice procedures. There are no guide books for the role of the prosecutor in system interventions, yet prosecutors cannot wait for the perfect system before they start seeking solutions.

Although he started out as a litigator, **Mr. Gay** said his department now supervises 15,000 cases per year, and he has to consider victim satisfaction and many other things. His jurisdiction had an increasingly high number of parole violators and complaints from victims. With the aim of decreasing impact on formal probation and increasing victim satisfaction, Polk County set about implementing restorative justice methods. The Neighborhood Mediation Center in Polk County had become a "dumping ground" for law enforcement officers for those cases that could not be resolved by filing a criminal charge. In 1991, the county decided to try some victim-offender reconciliation. They started with fraud cases, and later moved to assault, criminal mischief, and even sexual assault or vehicular homicide. **Mr. Gay** felt that there were no limits to the kinds of crime which could be approached with this method.

Initially, victim-offender sessions were held mostly pre-disposition, as a result of a plea agreement. Now, they occur about half pre-disposition and about half post-disposition and are an accepted sentencing element with most judges. **Mr. Gay** felt that the sooner these sessions were held, the better the result. For assault cases, the jurisdiction generally holds the session from 30 to 45 days from the commission of the crime. The victim is given an opportunity to make recommendations to the court concerning the sentencing.

One consideration is that 75 percent of the cases are non-victim crimes, such as weapons charges, prostitution, or public intoxication. How should restorative justice concepts be useful for these crimes as well? In the case of prostitutes, individuals have been ordered, as part of their sentence, to participate in neighborhood organization meetings. This gives them a picture of the impact of their activities on neighborhoods. Felony drug offenders have been required to participate in a reconciliation meeting at a school and to meet with parents of drug addicted children as "surrogate victims." Such elements in the sentencing broaden the understanding of the offender and have served as part of the drug education programs.

In the Polk County fraud program, about 25 to 30 offenders participated in working out restitution, undergoing victim-offender mediation, and attending a fraud class. As a result, they were eligible for a charge reduction to a non-felony level.

A youthful offender program was started for young people from 16 to 19 years old. Increasing waivers to criminal court from the juvenile court and a high failure rate (75 percent) in

traditional probation stimulated this new program. Young persons getting their first-time felony charges in criminal court had to (within a six- to eight-month period):

- o Have a drug dependence evaluation and treatment if necessary
- o Complete a GED or attend education
- o Participate in the employment preparation program
- o Work with a mentor
- o Do community service
- o Abide by a curfew
- o Undergo random drug testing, and
- o Meet with the victim if the victim so desired.

The completion rates on this new approach have been very good and failure rates have gone down to 25 percent. Successful individuals would receive a reduction in charge to a non-felony level.

Mr. Gay said the structured fines program has had good results also. The fines are assessed according to the income level of the offender. In trying to cut the time periods of pretrial detention, the jurisdiction has formed a jail docket with its own judge, defenders, drug assessment officer, etc. In this way, incarceration time prior to disposition was reduced. The court used screening and unsupervised probation, tracked by computer, and worked with the Public Defender's Office to establish a front-end two-track system. There were pretrial requirements for the arrestees and "target" charges. Such requirements might include participation in a victim-offender reconciliation program, working out restitution agreements, attending education or treatment plans, or work assigned through the Restorative Justice Center. Not only have the new methods reduced the unmanageable caseloads (previously 150-250), but crowding at the courthouse has been reduced significantly as well.

### Question and Answer Session

*Question:* In applying the restorative justice ideas to the higher risk incarcerated population, wasn't there any public demand for punishment?

*Mr. Gorczyk:* The market research and random focus groups did not indicate that punishment was highly desired by the public.

*Question:* Wouldn't the methods affect later prosecution, plea-bargaining, etc., in terms of victim involvement?

*Mr. Gay:* Victim impact is different from one prosecution to another. We try to get court-ordered victim-offender meetings, but all are required to sign confidentiality statements so that material cannot be used in later proceedings. The facilitator takes notes, but those are later destroyed. The defending attorney is discouraged from attending. Subpoenas for any mediation materials have so far been quashed.

*Question:* In indigenous justice systems, restorative justice ideas have always been incorporated. For paradigm strengthening, we need to articulate the meaning better. Does statewide planning make room for different groups' cultural interpretations (such as among indigenous cultures)?

*Mr. Carey:* We haven't sought out particular kinds of victims or cultural communities to come to the table. It is a shortfall we are trying to correct.

**Question:** How should we define community? Small, large, Hispanic, etc.? How should we balance the executive/judicial/legislative organizations on state and local levels to make this work?

**Mr. Gay:** Crime occurs at the local level and system change should be on the local level too. In terms of getting something accomplished, the prosecutor is often a gatekeeper. The new methods can be put to work faster if they are used pre-disposition.

**Mr. Umbreit:** Part of the process is to bring all stakeholders together during development of policies and procedures. There is no quick fix. Time is required to work with the victim groups and others.

**Mr. Carey:** You have to find where the energy lies: At the state level? Or local level?

**Mr. Gorczyk:** To return to the idea of community, crime is an indicator of poor community health. You may have to do community capacity building. The style of government which goes from the government agency straight to the individual has undermined the community's ability to engage in this kind of work.

**Question:** How do you create community?

**Mr. Carey:** Our family-group counseling model has been building "social capital." This is a beginning of community. Communities define themselves. It is not actually done by government.

**Mr. Umbreit:** Involving community is a pillar of this concept. We cannot let it become just a correctional euphemism.

**Question:** Is drug treatment incorporated in restorative justice systems? That is a major issue.

**Mr. Gay:** Every offender in our jurisdiction has a substance abuse evaluation. The pretrial release report is often coupled with that. In felony cases, the court usually orders treatment when the reports show need.

**Question:** Should business partnerships be emphasized more? The business community has a lot to gain from community well-being.

**Mr. Carey:** We are in the process of meeting with the business community. We are developing revenue producing work-service projects and hope to establish jobs in companies. There is something called the "Century Club," which includes companies who have given 100 youth a work experience.

**Question:** Battered women's organizations are opposed to mediation or "reconciliation." Shelters and advocates speak against them as dangerous for victims of domestic violence. How does restorative justice work with domestic violence? Is acceptance of guilt an issue? Men who batter often have yet to recognize that this is wrong. These may be topics for another whole conference.

**Mr. Umbreit:** We have used restorative justice for even the worst crimes, such as murder of a child, but it cannot be considered a "one size fits all" solution. In cases such as domestic violence, protection of the victim, the victim's choice, and proper timing must be considered.

**Mr. Gay:** Iowa does not do mediation in cases of domestic violence. For victim-offender mediation, the victim always has a choice. Also, the victim services advocate would always be present.

## Specific Program Applications of Restorative Justice

Mr. Umbreit mentioned that major subjects such as domestic violence and racial imbalance in the justice system would be suitable topics for conferences in their own right. The power of restorative justice comes from the richness of its connection to diverse indigenous traditions and its potential for integration of services.

Clementine Barfield-Dye, President, Save Our Sons and Daughters, discussed her experience of having both of her 15- and 16-year-old sons shot in a quarrel over a girlfriend. When she realized that lots of children were being shot (365 children, ages 16 and younger, in Detroit, were shot in one year), she wondered why no one was saying or doing anything. At that point, she decided to accept it as her own responsibility. Some of the victims' parents whom she contacted wanted only to be left alone, but seven people eventually joined her to form Save Our Sons and Daughters. Often there was a peculiar attitude that it had somehow been the child's fault that he or she was now dead. It is everybody's responsibility, she said. People do not want to connect to a homicide; no one wants to see their own part in the fault, as adults.

After nine years, there are 1,200 families working with the organization, who are survivors of homicide victims in the Detroit area. These families of homicide victims often feel they have been treated badly or indifferently in the criminal justice system. Sometimes there is an attitude that it is "just one more out of the way." Her organization tries to sensitize people in the system and make them more responsive to the victims' families' needs. Sometimes they feel they are blamed for the demise and are somehow "no longer respectable." The group works with ideas of healing and forgiveness and these are not popular methods.

This type of a work would traditionally be given to a minister. He or she would pull the families and communities back together. There is a need for victim services not connected with the criminal justice system. Recognizing a need for more than discussion, Ms. Barfield-Dye's organization provides trauma-specific approaches for survivors of homicide victims and others. This may include, for example, weekly support group meetings, counseling for children, and some type of participation in the schools. They have started a "cease fire" campaign for survivors of homicide victims and prepared listings of names of people killed in the county. Too often, the victimized families are viewed as part of the problem rather than necessary elements in the solutions.

In working with the victims' families' grief, she realized the need to work with the families of the murderer-children. In a way, they were also to be considered victims. They have been caught in a vicious cycle. What has given those children the need to solve their problems with guns and shooting? Her organization tries to teach peace, more than conflict resolution. Conflict resolution is not really enough to break the cycle. She found that 80 to 85 percent of the young children knew someone who had been killed. Help or safety has not been found through the system. The kids do not usually look on the police as a source of help.

Her group has started a new project in prisons called a "Peace Program." Eighteen prisoners have been trained in the program and now meet with children from the city. These are mostly persons serving life terms, and they tell the children not to go in directions leading to such a situation. Save Our Sons and Daughters also goes into homes for incarcerated youth with a trauma-specific program called "Stop the Madness." The aim is to make peace more popular than violence and to change the youths' reality.

The existing criminal justice system is not necessarily supportive of the organization's work. The Peace Program in the prisons was met coolly, and there has been active police opposition to the peace memorial they are building with names of young people who have been shot (similar to the Vietnam war memorial). The police do not want the "bad" drug dealers listed with all the other dead children; but the bottom line, she said, is that these 6,000 young people have all died in the last 10 years. As adults in the community, she said, we all have responsibility to work together for change.

**Gregory R. Johnson**, Juvenile Justice Manager, Palm Beach County, said he first heard about the balanced approach to justice about eight years ago and did not, at first, buy into it. He later met researcher Gordon Bazemore during a training session for juvenile justice workers. A common attitude in Miami was that "this [kids killing each other] was a black thing." Janet Reno changed things by supporting direct filings. She felt the juvenile justice system was not working rightly and needed a different philosophy. There were 1,300 kids on the waiting list to serve two- or three-month sentences, and there was no aftercare or contact with the families.

In employing the balanced approach concept in the court, staff were educated and trained to be more culturally sensitive. **Mr. Johnson** encouraged better reports, contacts with the community, and finding methods for the offenders to satisfy their debts. He tried to build on positives. Using case management techniques, the probation caseload went from 3,600 to 1,200.

It is critical to work on the family environment and to be sensitive to victims. When the 1994 "tourist killings" occurred, a get-tough policy became popular. Director Ross, using the balanced approach, mobilized communities and established autonomous juvenile justice systems in 15 districts in Palm Beach. **Mr. Johnson** presented a new mission in Palm Beach, using the balanced approach and restorative justice. Instead of using grant money piecemeal, a coalition was established for all funders. Stakeholders formed a continuum and allowed two years for training of staff in key concepts. Communities in 35 municipalities were educated on juvenile justice topics. Other efforts included:

- Pulling leaders of the community together to clarify needs and mobilize the community
- Orienting youngsters to victim problems and domestic violence
- Establishing "second chance" schools, which are more culturally sensitive.

The number of cases per case manager went down from 100 to about 25. The staff, however, were initially resistant to changes and there was a 50 percent turnover. **Mr. Johnson** found that good practices, which address community issues, were more important than policies. A good project, for example, was the Loxahatchee Wilderness Program for mid-level risk 16- to 17-year-old boys. The program aimed to maintain and restore the ecology. The program stressed partnership among participating organizations, including the school board, the city, the state, and Federal government. Program elements are defined and given set time frames. The boys work in groups of five to six with a member of the park staff. On Mondays through Thursdays, they remove Brazilian pepper plants from places where the wilderness ecology is threatened. On Fridays, they only attend school.

Residents in the Palm Beach program also receive training in entrepreneurial approaches to work and health care. Minimum wage is paid for the ecology work, reading and education are stressed, and restitution to the victims is required. The Miami mayor supports the programs. In the last one and one-half years, participating youthful offenders have had no re-offenses.

The young people have begun many businesses on their own, such as canteens and luncheon wagons. They also work with the elderly, Head Start children, victims' organizations, and "up-front" community prevention programs for kids. By means of a one-stop assessment center staffed by a state attorney, juveniles are diverted out to appropriate programs, often within a couple hours of arrest. For drug dependency, there is treatment available and diversion to appropriate centers. Program youth also work to clean up communities. The same site has a children's counseling service.

Change is not easy. The restorative justice concept is great, but definitions and frameworks have to be arranged for individual communities. The initiative has to come from the community, and the families must be involved.

Dennis J. Wittman, Director, Genesee Justice Program, Genesee County Sheriff's Department, described the community of Genesee County, New York. It includes 13 towns, six villages, a small city, an Indian reservation, and rural areas between Buffalo and Rochester. Mr. Wittman has worked 27 years in the criminal justice system, and he noted that *outreach* and the capacity to be a good listener are important for change. He said it was useful to know the victims; know the "power players" such as judges, prosecutors, and city executives; and know one's own place. In all systems, there will be "gray area" cases which do not fit existing rules. Even though his community is very conservative, he has found it possible to "sell" the idea of restorative justice based on the elements of community service, "positive" or productive punishment, and sound spiritual bases.

The county uses community service centers and arranges community sponsors for felony offenders. These may be churches, schools, highway organizations, or other groups who use the community service sites. The judiciary values input from the community more, sometimes, than that from within the system. It is useful to require labor projects, even for white collar criminals. Job skills are developed through community service, and the work even helps self esteem in the offenders. There is an intensive victim assistance program which aims to help with healing, promote offender accountability, and dignity for the victim. Through this effort, the victim can get a sense of fair treatment.

Genesee also has a Justice For Children team to give youth a feeling of standing in the community. For law enforcement, the county stresses the idea of maintaining community peace. Victims can receive protection from the county's four police agencies during pretrial. Where the victim is comfortable with the approach, reconciliation with the offender is arranged. There are 110 victim advocate volunteers, and victim analytical summaries are routinely prepared after crimes. Mr. Wittman mentioned the importance of a spiritual component in the program for the long-term benefit of both the victim and the offender.

Many court calendars are overloaded, and Genesee's case management has been adjusted using restorative justice approaches to better manage crowding. For a felony offense, a two-track "offender earn it" diversion is presented. This is conditional also on affirmation by the victim. The offender would receive eight to 12 conditions to be fulfilled in a six- to 12-month period. Presently, about 12 to 20 cases go through this process in a year.

Community involvement is very important. Screened offenders charged with drug or sex offenses will be required to attend Community Reconciliation Meetings, in which the individual has to discuss community impacts of the crime. Genesee has over 90 volunteers who participate in these meetings, including three police officers.

The Justice For Children team applies a unified approach for child abuse cases, to reduce trauma and promote the best interest of the child. Sometimes, this may mean a conflict with full prosecution of the crime. The team does witness preparation of the child and assesses the offender. Fourteen agencies in the local area have achieved better communication and cooperation through focusing on case-specific strategies. The county has worked with about 93 juvenile cases using these approaches.

For domestic violence, the county screens batterers, but a separate department works with the cases. Law enforcement has helped with the front-end approach to diversion. Other general activities might include homicide survivors support groups, prayer services, and youth violence prevention activities. The elements of conscience and choice are stressed. Genesee County has been able to renovate its jail, and it has experienced underpopulation of the jail for the last 56 months. Staff continue to be involved in research concerning system elements and workloads.

### Question and Answer Session

*Question:* How could the Genesee tactics translate to big cities?

*Mr. Johnson:* We need to educate communities to reduce the "Not In My Backyard" phenomenon. Zoning issues may be a problem, but certain events pull people together, such as the arrival of Hurricane Andrew.

*Ms. Barfield-Dye:* The same kinds of things happen in big cities, but it is often harder to connect. The turf issues are bigger.

*Mr. Wittman:* Power players involved in the criminal justice system have to become willing to share with the community.

*Mr. Umbreit:* Victim-offender mediation has grown in all areas and all kinds of settings.

*Question:* Can you explain how the community reconciliation for a sex offender would work?

*Mr. Wittman:* In one example of a sex offender, the prosecutor chose this diversion and selected 16 people in good standing in the community. They were ministers, farmers, wives, storekeepers, etc. In the meeting, the elementary school principal acted like a prosecutor and "grilled" the offender for two and one-half hours. This was an accountability session. The offender was asked how he would get his life back on track and many other difficult questions. Genesee is also developing a youth court, run by youth. Participants arrange community service and restitution, using barter currency for computers, etc.

To make this approach work, community building and citizen effort have to be assumed. The typical market economy may not be rewarding for volunteers. Barter currency, for example, can serve to drive an information network. Through those connections, citizens discover who can do what and whom they can trust.

*Ms. Barfield-Dye:* We should hold up as examples those communities that *are* functioning as communities. These exist, but are often not defined or shown as examples.

*Comment, Senator Leonard Tsosie, New Mexico:* Restorative justice, interestingly, is what we Native Americans generally call "justice." We would immediately bring offender and victim together, take care of the effects, and try to restore harmony.

Among Federal, state, and tribal codes of law, the last one is usually ignored. Law professors do not understand it, but it can provide many answers. The example of the wilderness/ecology project is a good one. People not able to communicate with each other may still communicate to the earth and the animals.

Justice crosses a wide field, not just criminal areas. When mining companies enter an area and ruin communities; it is sanctioned by this society, but it is not justice. Native American children begin to think that money is the main thing that matters.

## **Reports on Breakout Groups: Measuring the Success of Restorative Justice**

### **Mary Achilles, Group 1**

After a confusing discussion, we developed a few themes. We felt that more clarity on the basic principles of restorative justice is needed. Even without any expertise in restorative justice, a person could see we need more clarity on basic principles. How should we measure satisfaction? Perceptions? Connectedness within a community? We did not reach much consensus.

### **Thomas Christian, Group 2**

We discussed disaffection of the public. For restorative justice, all the community, the victim, and the offender need opportunities to participate. Looking at systemic change, we asked what could really change. We will need a research agenda to measure approaches. The programs have to be started first, and we need to look at snapshots of working programs. Different alternatives to incarceration can be tested and included. The concept should be considered a vision or direction, rather than a cure-all.

Another consideration is impact on the victim. Planners have to think about what victims' contributions should be.

People have to be made aware of the concept. At a recent meeting of the American Correctional Association, no one knew anything about restorative justice. We can also learn from the efforts to put community policing into practice around the country.

### **Gordon Bazemore, Group 3**

We spoke about the need to look at implementation evaluations first, and to set clear goals. We are not really ready to do impact evaluation on systemic change with something this new.

There were four categories where measurements should be sought: victim, offender, community, and criminal justice professionals. There will need to be pre- and post-measures of attitudes such as fearfulness, or sensitivity to victims, in the community.

We have to make sure that the concepts are understood. In existing research, healing, empowerment, and transformation are listed as results of restorative justice. If the transformative part, for example, meant increased capacity to resolve conflict or general healing, how can this be measured? Consumers of the research may be asked for input.

### **Cheryl Fairbanks, Group 4**

Our group considered qualitative versus quantitative measures. We have to base the work on the data we have and to consider for whom the evaluation is carried out.

Community perceptions of success and ownership of the problems are significant. How are we supposed to measure feelings, "healing," and varying cultural viewpoints? There needs to be fairness of access, choices for the victim, and equity for the stakeholders. Not every model needs to be evaluated. The best candidates for evaluation include key elements of effective

programs, those which could be replicated in other circumstances. Eventually it will be necessary to prove to all of the stakeholders that the concept works.

Questions to be asked include:

- o How involved is the community?
- o Is the victim satisfied?
- o Does the offender change? Become more competent? Recidivate?
- o Has the plan been completed?
- o Is the public more safe?
- o What are the cost factors?

## Restorative Justice Roundtable

**Moderator:** *Todd Clear, Professor and Chair, School of Criminal Justice, Rutgers University, Newark, NJ*

**Panelists:** *Richard Barajas, Chief Justice, Court of Appeals, Eighth Judicial District, U.S. Department of Justice, El Paso, TX*

*Norman S. Early, Jr., Senior Vice President, Lockheed Martin Information Management Services, Denver, CO*

*Addie Hailstorks, Director, Defender Division, National Legal Aid and Defender Association, Washington, DC*

*Nolan E. Jones, Director for Human Resources Group, National Governors' Association, Washington, DC*

*Andrew Klein, Chief Probation Officer, Quincy District Court, Quincy, MA*

*William Matthews, Director, Community Policing Consortium, Washington, DC*

*Harry Mika, Professor, Department of Sociology and Anthropology, Central Michigan University, Mt. Pleasant, MI*

*Kay Pranis, Restorative Justice Planner, Minnesota Department of Corrections, St. Paul, MN*

*Anne Seymour, Consultant, Washington, DC*

*Richard Templeton, Senior National Director, Justice Fellowship, Abbeville, LA*

*Daniel Van Ness, Professor, Centre for Criminology, University of Malta, Malta*

**Mr. Clear:** I have chosen people who reflect a wide range of roles and put together some interesting questions for individual panel members and for the panel as a whole. Conference participants are welcome to add to this as we proceed. Does the offender have a right to be restored? According to recent reports, 95 percent of the persons in the prisons should be where they are.

**Mr. Early:** There is an anti-prison bias in the supporters of restorative justice. Diversion from the system would be for a relatively small portion. Whether incarcerated offenders should be given something to make them useful to society upon release is a different issue. The offenders should have input in the decisions affecting their rehabilitation.

**Mr. Templeton:** We have to distinguish between the violent and the nonviolent. Of those imprisoned, 98 percent will eventually be coming back to communities. They should become contributing, not predatory, members.

**Mr. Jones:** Criminal law puts people in prisons. There is quite a variation between things that states define as "violent." I discovered that "indecent exposure" is defined as "violent," in certain states.

**Ms. Pranis:** I do not like the "rights" language. It is better to think in terms of the system's responsibility to provide a way for the offender to make amends.

**Ms. Seymour:** Should the victim have to listen to the offender? I think this choice must belong to the victim. Many do want to enter into the restorative justice process, but they may often feel angry or retributive. I think it is possible for the sentence to be both restorative and retributive. Treatment may be like that.

**Mr. Early:** How is the victim's reluctance interpreted by the system? Judges might alter a sentence because of that. All parts of the system, including the judiciary, must be educated on the goals.

**Justice Barajas:** Definitions of restorative justice are not clear. There are often situations involving unequal classes, unequal communities. There may also be issues of due process.

**Ms. Hailstorks:** Who has to opportunity to take restorative justice? If cost is involved, the indigent will be left out. This aspect of fairness is serious. Poor criminal defendants don't have the same avenues. There are often problems with "admissions."

**Mr. Clear:** The OJ trial has certainly shown that there are different systems when a lot of money is involved.

**Mr. Van Ness:** This will always be a concern; restorative justice is not a magic pill. It will still reflect the existing society. It would not be necessary to embarrass a victim to give an offender a chance for individualized reparative response. We must not base the actions on disparity in background.

**Mr. Milka:** In terms of implementation, we have evidence that certain types of offenders receive treatment based on stereotypes: Some get jail time; others get the "new program." Risk assessment is often based on stereotype. Social justice is a larger issue. In trying to reconcile a particular event, we cannot ignore the fundamental problems in the social structure, (racism, sexism, etc.) and objective conditions that contribute to mutual behavior.

**Mr. Clear:** Will there be probation people, "street level bureaucrats," who can do this [restorative justice]?

**Mr. Klein:** We have to get the system players involved. Among our probation staff, we have worked to change their "phone script," to encourage a more positive approach. Then, we had more victims than we could deal with.

**Mr. Clear:** This introduces the idea of recent policing changes. What can restorative justice advocates learn from community oriented policing?

**Mr. Matthews:** "Street level bureaucrats" is an awful term. We must take one day at a time and use small steps. People often have fear of change. You need to define what you are talking about simply. The issue is to get along with other people, not to make a big impression.

I think about my childhood. I used to call my sister "goody two-shoes." She always got an "unequal punishment." Our relationships, however, can change.

We are struggling, in community policing, against accusations that it is too soft on crime. One parallel between community policing and restorative justice is that both require change from the community. Rather than requiring the victim to see the perpetrator, there is more need for the community to accept the perpetrator (and the police). These are "new" relationships, not based on recent experience. We have to relate to individual lives and not overpromise things.

When you are talking about a healing process, you do not just compare statistics. On a personal level, when you speak of restoring wholeness to a community, the people will hear you.

**Justice Barajas:** We are very focused on the offenders although there are 27,000 victims' laws on the books. Officers need to become more acclimated to the people. Victims often just want information and want to feel that the system works. Many victims need to be restored to the community as well. They may feel isolated, ostracized, and punished.

**Ms. Hailstorks:** Many indigent offenders need help with drug dependency, alcohol abuse, and illiteracy.

**Ms. Seymour:** Everything sounds like it's about the offender. If there is no victim "at the table," then there is no restorative justice. To speak about "team-building" may be

inappropriate with many victims. If individual victims participate, it should be because they choose to and are ready for that.

The issue of community is defined by the people who are part of that community. Restorative justice can help put unity back into communities who lack it, but it is not up to a criminal justice system to determine when forgiveness or reconciliation is appropriate. Restorative justice does not mean simply throwing the incarcerated back out into the communities. There are people for whom incarceration is necessary.

**Mr. Klein:** We have to put the right programs in place for inmates. It is better for them to work productively than to lift weights.

**Mr. Early:** Rather than taking a back-end approach, we should look for tools to reclaim communities. The problems point to lack of nurturing and loving care. We are sending people back into the communities with no job skills and nothing for them to do. We need prevention in the probation and restorative justice in the prisons. We don't want reoffending. Prevention in the community includes job opportunities. Convicted persons will need a place to use their skills in the workforce.

**Ms. Hailstorks:** I have been concerned about failure in such programs. What happens when they fail? Will statements from mediation be used against the offender?

**Mr. Matthews:** As a former Chief of Police, I know that when offenders come back to their neighborhood, they are usually accepted. Their families have open arms. However, this doesn't solve the problems of the community itself.

**Mr. Clear:** Do we need more systems? For education and health as well as criminal justice?

**Ms. Seymour:** Working in the schools is an answer. We should stress that the police are peace officers.

**Ms. Pranis:** Minnesota is working on restorative responses to school discipline problems. The faith community or similar committed groups help greatly. Criminal justice must connect with government related associations such as the League of Women Voters. The offender has to realize that if he or she hurts someone an obligation has been created.

**Mr. Clear:** It is something to regret that we try to make a change only when they get incarcerated. We should not talk about criminal justice policy without tying it to economic development. How can we go from consumers of correctional services to convincing constituencies that restorative justice is a valuable process?

**Mr. Jones:** For the concept of "community," there are many differences in personal perception. For example, I know and talk to all the "wino's" in my downtown neighborhood; I give them a few dollars, etc. They talk to me in exchange and offer to shovel my snow. This is part of my community. I can ask them about a stolen bike in the neighborhood, and there is a good chance one of them may have seen what happened.

**Mr. Early:** I think communities do have obligations. Instead of saying "rights, rights, rights," we should speak of "responsibility, responsibility, responsibility." Building community is a major theme. Persons need to strengthen the sense of identity as members of the community and together build peace.

**Mr. Van Ness:** The concept of peace or wholeness, "Shalom," involves both working with individuals and the big picture. Learning to accept limits, failures, and mistakes is part of the process. To experience more success, we should hold on to the vision of community, of relationships.

Mr. Matthews: In relation to black on black crime, offenders are accepted back into their community, but the community itself is not accepted. We have to think about restoring justice to poor communities like Harlem.

Mr. Mika: I have worked as a community organizer for 20 years. Law, in communities, has developed to take care of conflicts. Earlier support systems, commitment, etc., made law peripheral. As communities have broken down, only the law is left. Significant divisions of the problem include: lack of education and opportunity, substance dependency, lack of a community for victims (they are often stigmatized), and the tendency of localities to "exile their problems," ignore the victims, etc.

Mr. Clear: We mentioned faith communities' part in restorative justice activities. Behavioral change is often "engineered" through spirituality. What would that mean for someone without particular religious connections?

Ms. Pramis: It is especially important to belong or relate to a committed organization, such as the ones supporting the feminist vision for justice.

Mr. Clear: In probation for juvenile offenders, the whole family is treated; but adult offenders are treated solely as individuals. How can we build up the families?

Ms. Seymour: Offenders' families *are* victims.

Mr. Clear: We have talked over the basic underpinnings and challenging concepts of restorative justice. The problem in defining community is real. Cultural flaws and the preoccupation with individualism will make difficulties. Restorative justice tells us we must deal in a relational context.

Mr. Jones: In the "projects," one in three young men knows someone in prison.

Comment: Restorative justice actually restores *conflict* to the disconnected communities. Our aboriginal and white communities, proportioned one to four, had to begin coming together to work out problems. The professional justice system stole the opportunity to work things out. Now we were having pre-court, instead of post-court, conflict. The state cannot replace the family and the community. Crime may also arise from people who are not of our community. What should happen in that case?

Mr. Early: The economic issue remains. You have to provide tools for disassociated communities. Is the goal of restorative justice satisfied if a community itself is not more equal? More productive? Incentives have to be developed to help this along.

Comment: A different distribution system, or second (barter) economy, may better reward these community and family values.

Mr. Mika: With destabilized communities and a correctional system that has a budget greater than the Gross National Product of 45 countries around the world, things will not change fast. If the community helps families and helps to strengthen participation of families in communities, this will work many times more effectively than more trained probation and police officers.

Mr. Templeton: Restorative justice does not only mean programs. It is a way to evaluate and think about needs, for communities and governments.

## General Session: The Future of Restorative Justice

**Gene Stephens**, Professor of Criminal Justice, University of South Carolina, provided an overview for the panel on the future of restorative justice. **Professor Stephens** began by describing the current criminal justice paradigm. He provided his observations on the current underlying assumptions of the criminal justice system: (1) a mean world demands a war on crime; (2) individuals are responsible for their crimes; (3) retribution is required for crimes; (4) deterrence of criminals is possible.

**Professor Stephens** feels that these assumptions about criminal justice lead to some basic problems: (1) create fear and irrationality; (2) responses are reactive; (3) responses are often inefficient and ineffective; (4) based on a pre-Hammurabi mentality; (5) the costs are staggering.

**Professor Stephens** also identified some of the myths that drive the formation of criminal justice policy in the United States.

- Crime is increasing.
- Most crime is committed by the poor.
- White collar crime is nonviolent.
- Rich and poor are equal before the law.
- Drug addiction causes crime.
- Law makes people behave.

The transformationalist paradigm was also presented by **Professor Stephens**. This paradigm, aimed at reforming the criminal justice system, emphasizes a proactive/preventive approach to crime. The war metaphor is replaced with the goal of creating peace in the neighborhood. Criminal behavior is recognized to be a product of conditioning and socialization. However, there is broad resistance to such extensive systemwide changes. Prisons are big business and they create a major force to resist change.

**Professor Stephens** then provided some key principles for his notion of a revised criminal justice system (see Attachment B for diagram). The criminal justice system of the future must be:

- Proactive
- Community-centered
- Subject to constant diagnosis and problem solving
- Involved in active partnership building
- Moving toward a holistic approach

The final part of **Professor Stephens'** presentation involved his vision of a restorative justice system. Restorative justice, or participatory justice, would create a "win-win" situation for criminals and victims, who often know each other. This new system would apply to most offenders; however, serious predators would still require incapacitation (e.g., incarceration, electronic management, biomedical control). The system would also involve the following elements: (1) mediation/arbitration; (2) restitution; (3) reformation--the offender would recognize the harm he or she caused; (4) reclamation--need tools and opportunities to change; (5) reintegration--give the offender a chance in the community again; (6) reconciliation--create harmony in the community.

**Gorden Bazemore**, Associate Professor, Florida Atlantic University, then presented his views and vision on the future of restorative justice. He began by stating three concerns for the

future. First, whether or not we have an adequate blueprint for systemic change. Do we know enough to articulate (and demonstrate) how restorative justice differs from "business as usual" in the criminal justice system? Second, as we attempt to devolve the criminal justice system back to the community, we face the problems of "power" in relationships. As we give "justice" back to the people, the real challenge is to define the continuing role for government. The worst scenario is that the "giving back" power concept is used by government to reduce funding on justice systems. Third, we need to clarify the relationship between restorative justice and social justice. What are the "politics" of restorative justice? We need to deal with such issues as racism and classism. Can we build on the indigenous model? This model was adopted, yet changed dramatically by the upper-middle classes in society.

Restorative justice is not simply a program, Professor Bazemore continued, such as victim-offender mediation efforts. It is more of a philosophy about sentencing and justice. Some of the main features include:

- o Sanctioning offenders and rehabilitating/reintegrating them
- o Involving and restoring victims
- o Making the community safe.

Professor Bazemore concluded by saying that restorative justice needs a new, clearly defined mission statement that states goals and defines priorities, especially for the current criminal justice staff. For example, in the future, the role for probation officers may be to help build community capacity to support restoring victims and offenders. Restorative justice also needs to clarify its new values, programs, and practices.

Ronald Earle, District Attorney, Travis County (Austin), Texas, provided some of his perspectives on the future of restorative justice. He said that he was in the middle of a re-election campaign, which was causing him to carefully reconsider the roles and programs of his office. He talked about how the voters are swayed more by tough "lock 'em up" talk than by philosophies about how to reform the criminal justice system.

Mr. Earle noted that to "sell" restorative justice will involve motivating the public to recognize the importance of personal relationships. How personal relationships are developed, made to last, and the value they bring to life. Restorative justice, to survive and evolve, must be built on the concept of caring relationships.

The environmental movement, Mr. Earle noted, provides an analogy for the evolution of restorative justice. We need to create an infrastructure to support restorative justice. It may require reweaving the basic fabric of community.

Cheryl Fairbanks, Associate with Roth, VanAmberg, Gross, Rogers & Ortiz, Sante Fe, New Mexico, discussed her upbringing in the indigenous communities in Alaska. Many of the indigenous cultural idiosyncrasies have disappeared over the centuries. The goal for the indigenous people became to "assimilate or terminate."

Many people also do not realize, Ms. Fairbanks stated, that there is a great deal of difference among the different tribes in terms of culture and practices. However, one universal philosophy among the indigenous people is the value of the extended family. This value raises, in the indigenous communities, a conflict between family/community rights and individual rights. The federal government has pushed the indigenous people to focus on the American constitutional principles of individual rights (e.g., such as majority rule). This is in conflict with the indigenous culture of reaching consensus in settling community disputes.

**Ms. Fairbanks** also described the conflict in applying principles of law in the indigenous communities. There is a revered value for the "oral tradition," which provides principles for mediating and peacemaking. This is difficult to articulate in a strict legal sense. Ms. Fairbanks also said that the indigenous communities place a very significant value on the teachings of the elderly. The culture, she noted, believes that "our elders are our Ph.D.s."

For restorative justice to develop, Ms. Fairbanks said, we need to re-educate the educated. There is a need for policymakers to understand and value diversity of cultures. There are great political pressures to make all peoples conform to one model of justice and behavior. We need to understand the importance and value of choices. For example, the Taos Pueblo People have both a traditional system and adversarial system of justice. The community has a choice.

**Marlene Young**, Executive Director, National Organization for Victim Assistance, began her remarks by posing the question "What is the future of community?" She advocates a future where a sense of "morality" prevails in the community. Communities can now hide crime and problems, such as domestic violence and child abuse.

**Ms. Young** then described her thesis on constructing a new paradigm for restorative community justice. First, criminal justice must be conceived not only as the imposition of justice on the criminal but also as the doing of justice for the victims (victim-centered). This means that a violation of the social order must be seen as an offense against society generally—the traditional social compact view—but also as an action that harms individuals. The concern here is on any wrong, even a noncriminal offense, that contributes to the weakening of social ties or interferes with community living. The victims of such violations may be defined as the individual whom we traditionally describe as the complaining witness in a criminal prosecution, but they may, in addition, include community members harmed by the wrongdoing.

Second, while governments must establish criminal laws that set the standards of behavior for the general society, the community should often be the locus of implementing those standards in order to be responsive to the cultural nuances that vary by racial, ethnic, geographic, religious, and other backgrounds—all provided that certain equal protection and due process norms are maintained. In other words, restorative community justice must be community driven.

Third, the community from this perspective is more than a cultural filter for sorting out and prioritizing crimes in its midst; the community and its justice partners are to become engaged in defining and attacking community problems, a process that strengthens the important role of community institutions in a democratic society.

Fourth, by responding to crime skillfully, quickly, and locally, those administering community justice improve the chances that offenders, and their victims alike, will be restored to harmonious relationships with their neighbors. Restorative community justice should be offender focused.

Fifth, all citizens, individually and collectively, have responsibilities for supporting peace and justice within the social order. These can be framed as reasonable expectations (not duties) that are clearly expressed in the restorative justice model to three audiences:

- *Offenders should be held accountable for their actions.* One element of accountability is retribution or just desserts. Such sanctions should be just and equitable. Care should be taken to fashion culturally-appropriate punishments and to ensure that punishments are proportionate to the criminal action. The perpetrator of a heinous criminal attack has certainly earned the sanction of a

lengthy incarceration, and not just to prevent that offender from committing another such attack. But fines, restrictions of privileges, home confinement, etc. may be more appropriate for minor infractions. While accountability should include measured punishment for its own sake, it should go beyond punishment. It should include full restitution to victims. Accountability should also involve restitution to the community as a whole. Offenders should be held to perform constructive actions on behalf of the community. Accountability also should involve asking the offender to demonstrate remorse. The act of saying I'm sorry may seem trivial in the aftermath of a violent crime, but if the act is accompanied by contrition, it can sometimes help victims begin to reconstruct their own lives. Indeed, in a New Zealand model of restorative justice, shame on the offender is considered an integral part of the restorative process.

- o *Victims also have responsibilities to the community.* They may not be able to assume those responsibilities due to incapacities brought on by the crime or other circumstances, but ultimately the victims' rights to participate involve parallel responsibilities for participation. The responsibilities which we may fairly ask victims to accept are nothing more than the responsibilities of citizenship that we should all assume in the justice arena. As citizens (and victims), we should report violations of the social order to the proper authorities, at least when we believe it safe to do so; we should support legal change to improve the administration of justice in the future, if only by exercising our voting rights; we should participate in community crime prevention activities; and we should participate in the administration of justice as witnesses, jurors, and volunteers.
- o *The affected communities also bear responsibilities.* These responsibilities are of two kinds—those of the state, and those of the local community or neighborhood. The responsibilities of the state should include ensuring that appropriate laws and policies are in place in order to effect restorative community justice and to pay for its implementation. Those legal policies should include the establishment of parallel rights for victims to those available to accused and convicted offenders, notably rights according victims participatory status in the justice system. The responsibilities of the local community should include establishing and maintaining a practical system of programs and procedures that support restorative community justice. Such a system would include: community policing, community prosecution, community courts, community corrections, local programs of victim services and violence prevention, and citizen participation in all these efforts.

Sixth, justice should aspire to the restoration of both individual dignity and community bonds. Restoration for offenders involves an act of will on their part as well as support from society. The act of will includes their willingness to acknowledge their participation in the violation of the social order, their acceptance of sanctions, their act of contrition through remorse and shame, and their act of reparations to victims and the community. The support from society should involve providing them with opportunity to return to their community with appropriate benefits—such as medical or substance abuse treatment, or social or employment skills—as well as an acknowledgment of their status as a community member.

The purpose of restorative community justice is to take into account that the well-being and integrity of communities as well as individuals are harmed by violations of the social order. The new justice paradigm would help restore the community through the restoration of all its injured individuals and groups, a process whereby they can once again contribute to the maintenance of a just social order by helping others.

# Appendix A



# Agenda

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Thursday, January 25, 1996

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12:00 p.m. - 1:00 p.m.                      Registration

1:00 p.m. - 1:30 p.m.                      Opening Remarks

Laurie Robinson  
Assistant Attorney General  
Office of Justice Programs  
U.S. Department of Justice  
Washington, DC

Jeremy Travis  
Director  
National Institute of Justice  
U.S. Department of Justice  
Washington, DC

Aileen Adams  
Director  
Office for Victims of Crime  
U.S. Department of Justice  
Washington, DC

1:30 p.m. - 4:15 p.m.                      What Is Restorative Justice?

*This panel will describe and discuss the concept, philosophy,  
and history of restorative justice.*

Moderator:

Thomas Quinn  
Visiting Fellow  
National Institute of Justice  
U.S. Department of Justice  
Washington, DC

**Panelists:**

**Howard Zehr**  
Director  
U.S. Office on Crime and Justice  
Mennonite Central Committee  
Akron, Pennsylvania

**Caroline Nicholl**  
Harkness Fellow  
National Institute of Justice  
U.S. Department of Justice  
Washington, DC

**Dennis Maloney**  
Director  
Deschutes County Community Corrections  
Bend, Oregon

**2:45 p.m. - 3:00 p.m.**

**Break**

**3:00 p.m. - 4:15 p.m.**

**What Is Restorative Justice? (Continued)**

**Robert Yazzie**  
Chief Justice  
Navajo Nation Courts  
Window Rock, Arizona

**Donald Streufert**  
Director  
Citizens Council Center for Reducing Rural Violence  
Grand Rapids, Minnesota

**Patricia A. Noland**  
Arizona State Senator  
Phoenix, Arizona

4:15 p.m. - 4:30 p.m.

Wrap-Up

Thomas Quinn  
Visiting Fellow  
National Institute of Justice  
U.S. Department of Justice  
Washington, DC

4:30 p.m. - 5:30 p.m.

Reception

Salon III

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**Friday, January 26, 1996**

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**8:00 a.m. - 8:15 a.m.                      Registration and Coffee Service**

**8:15 a.m. - 8:30 a.m.                      Opening Remarks**

**Thomas Quinn**  
Visiting Fellow  
National Institute of Justice  
U.S. Department of Justice  
Washington, DC

**Shay Bilchik**  
Administrator  
Office of Juvenile Justice and Delinquency Prevention  
U.S. Department of Justice  
Washington, DC

**8:30 a.m. - 12:00 p.m.                      Applications of Restorative Justice in Juvenile  
Justice and Criminal Justice Systems**

*This panel will describe programs that embrace the restorative justice philosophy,  
focusing on "this is what we do and this is where we think it can go."*

**Moderator:**

**Mark Umbreit**  
Director  
Center for Restorative Justice and Mediation  
School of Social Work  
University of Minnesota  
St. Paul, Minnesota

**Panelists:**

**Clementine Barfield-Dye**  
President  
Save Our Sons and Daughters  
Detroit, Michigan

Mark Carey  
Director  
Dakota County Community Corrections  
Hastings, Minnesota

Fred Gay  
Bureau Chief  
Intake and Screening  
Polk County District Attorney's Office  
Des Moines, Iowa

John Gorczyk  
Commissioner  
Vermont Department of Corrections  
Waterbury, Vermont

Gregory R. Johnson  
Juvenile Justice Manager  
Palm Beach County  
West Palm Beach, Florida

Dennis J. Wittman  
Director  
Genesee Justice Program  
Genesee County Sheriff's Department  
Batavia, New York

10:15 a.m. - 10:30 a.m.	Break
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10:30 a.m. - 12:00 p.m.      Applications Panel (Continued)

12:00 p.m. - 1:30 p.m.	Working Lunch -	Salon G
	Preview of Breakouts/Recap of Discussions	

**1:30 p.m. - 3:00 p.m.**

**Breakout Groups: Measuring the Success of Restorative Justice**

*Small groups will discuss: How do we measure the success of programs that embrace the restorative justice philosophy? How do we evaluate?*

**Breakout Group Leaders:**

**Mary Achilles**

Office of the Victim Advocate  
Board of Probation and Parole  
Commonwealth of Pennsylvania  
Harrisburg, Pennsylvania

**Terry Amsler**

Executive Director  
Community Board Program  
San Francisco, California

**James Austin**

Executive Vice President  
National Council on Crime and Delinquency  
Washington, DC

**Ada P. Melton**

Director, American Indian and Alaskan Native Affairs  
Office of the Assistant Attorney General  
Office of Justice Programs  
U.S. Department of Justice  
Washington, DC

**3:00 p.m. - 3:15 p.m.**

**Break**

**3:15 p.m. - 3:45 p.m.**

**Report Out from Breakout Groups**

3:45 p.m. - 5:15 p.m.

Restorative Justice Roundtable

*This panel will include a directed interactive discussion: Practical implications from a variety of perspectives.*

Moderator:

Todd Clear  
Professor and Chair  
School of Criminal Justice  
Rutgers University  
Newark, New Jersey

Panelists:

Richard Barajas  
Chief Justice  
Court of Appeals  
Eighth Judicial District  
U.S. Department of Justice  
El Paso, Texas

Norman S. Early, Jr.  
Senior Vice President  
Lockheed Martin Information Management Services  
Denver, Colorado

Addie Hailstorks  
Director  
Defender Division  
National Legal Aid and Defender Association  
Washington, DC

Nolan E. Jones  
Director for Human Resources Group  
National Governors' Association  
Washington, DC

Andrew Klein  
Chief Probation Officer  
Quincy District Court  
Quincy, Massachusetts

**William Matthews**  
Director  
Community Policing Consortium  
Washington, DC

**Harry Mika**  
Professor  
Department of Sociology and Anthropology  
Central Michigan University  
Mt. Pleasant, Michigan

**Kay Pranis**  
Restorative Justice Planner  
Minnesota Department of Corrections  
St. Paul, Minnesota

**Anne Seymour**  
Consultant  
Washington, DC

**Richard Templeton**  
Senior National Director  
Justice Fellowship  
Abbeville, Louisiana

**Daniel Van Ness**  
Professor  
Centre for Criminology  
University of Malta  
Malta

**5:15 p.m. - 5:30 p.m.**

**Wrap - Up**

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Saturday, January 27, 1996

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8:00 a.m. - 8:15 a.m.

Coffee Service

8:15 a.m. - 8:30 a.m.

Opening Remarks

8:30 a.m. - 10:00 a.m.

The Future of Restorative Justice

*Visionaries describe how the juvenile justice system/criminal justice system might look beyond the year 2000 if an ideal "restorative justice" philosophy was embraced; they "look back" at key steps and defining moments in the future years 1995 - 2000 that enabled this to occur.*

Moderator:

Gene Stephens

Professor

College of Criminal Justice  
University of South Carolina  
Columbia, South Carolina

Panelists:

Gordon Bazemore

Associate Professor

School of Public Administration  
Florida Atlantic University  
Ft. Lauderdale, Florida

Ronald Earle

District Attorney

Travis County District Attorney's Office  
Austin, Texas

Cheryl D. Fairbanks

Associate

Roth, VanAmberg, Gross, Rogers & Ortiz  
Santa Fe, New Mexico

Myron T. Steele

Vice Chancellor

Court of the Chancery  
Dover, Delaware

**Marlene Young**  
Executive Director  
National Organization for Victim Assistance  
Washington, DC

<b>10:00 a.m. - 10:15 a.m.</b>	<b>Break</b>
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**10:15 a.m. - 11:30 a.m.**      **Breakout Session: Future Action Steps**

*Small groups will discuss: To advance the concept of restorative justice, where do we go from here? What action steps are needed? Who needs to take those steps?  
What resources are needed? In what time frame?  
The same breakout groups that were used on Friday will be used again.*

**11:30 a.m. - 12:00 p.m.**      **Report Out from Breakout Groups**

**12:00 p.m. - 12:15 p.m.**      **Wrap-Up**

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**12:15 p.m. - 12:30 p.m.**      **Closing Remarks**

# Appendix B



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Restorative Justice Symposium

January 25-27, 1996

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