

Handouts from Workshop

Applying Restorative Justice in a Higher Education Setting

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Restorative Justice: A Variety of Methods

A restorative justice process is one in which the parties with a stake in a particular offense (the victim, the offender, and community members) are supported and voluntarily participate, with the assistance of a facilitator, in a discussion of the circumstances surrounding the harm. The purpose is to understand its underlying causes, the effects on those who have been harmed, and to address the parties' needs for healing and reparation. Restorative Justice provides opportunities to ask and answer questions, share stories, express feelings, and hopefully develop a better understanding of the other.

The format can look differently depending on the needs of those involved. *Community Group Conferencing*, *Circle Processes*, and *Community Accountability Boards* are a few of the many approaches that can be used.

Victim-Offender Conferencing:

Victim-offender Conferencing, (also called victim-offender dialogue, victim-offender mediation, victim-offender reconciliation, or restorative justice dialogue), is usually a dialogue between victim and offender with the support of a trained facilitator. This method generally involves few participants. Often the conversation is just between the party or parties harmed and those that caused the harm.

(*International Institute for Restorative Practices*, <http://www.iirp.edu/>)

Community Group Conferences:

Restorative conferencing involves a larger amount of participants than victim-offender conferencing. Restorative conferences, which have also been called restorative justice conferences, family group conferences and community accountability conferences, is usually a facilitated meeting between offenders, victims, and family and friends of each party, and the community in which they address harms and needs as well as consequences and restitution.

(*International Institute for Restorative Practices*, <http://www.iirp.edu/>)

Circles:

Restorative Circles

Restorative circles allow prisoners to meet with their families and friends in a group process to support their transition back into the community. Meetings specifically address the need for reconciliation with victims of their crime(s).

(*Federal Probation*, http://www.uscourts.gov/uscourts/FederalCourts/PPS/Fedprob/2010-06/06_restorative_circles.html)

Sentencing Circles

Sentencing circles (sometimes called peacemaking circles) use traditional circle ritual and structure to involve all interested parties. Sentencing circles typically employ a procedure that includes: (1) application by the offender; (2) a healing circle for the victim; (3) a healing circle for the offender; (4) a sentencing circle; and (5) follow-up circles to monitor progress.

Surrogate Victim Panels:

This is a process that can be used when a victim cannot or is not willing to take part in a dialogue. The purpose of this program is to provide a safe, appropriate environment where people who have been impacted by crime and people who have caused harm can talk about the impact of certain actions. The party or parties that caused harm meet with surrogate victims of similar offenses to hear that person's story of how the crime impacted their life. These panels are meaningful ways for juvenile offenders to learn how their actions affect not only their victims, but their friends, family, and community.

(*International Institute for Restorative Practices*, <http://www.iirp.edu/>)

Restorative Justice

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Things to listen for:

- Is the person causing harm apologetic or regretful?
- Is there an identifiable incident(s) to address?
- Is one of the parties seeking information or have questions for others involved?
- Does one of the parties wish to share their story?
- Is there an on-going relationship?

Facilitated Dialogue

Facilitated dialogue is a conversation between two or more individuals or groups in which a trained multi-partial facilitator helps parties overcome communicative barriers, and engage in productive conversation regarding issues of mutual concern. Facilitated dialogue is *not* necessarily designed to produce or work toward a set of agreements, but can serve that purpose. Like restorative justice, there are numerous facilitated dialogue methods such as *Circle Processes*, *Community Group Conferencing*, *Open Space Technology*, *Fish Bowls*, and *World Cafes* that are used to help stimulate conversation.

Things to listen for:

- Are there many issues/concerns involved in the conflict?
- Is it unclear who is the harmed party and who is the person causing harm?
- Is one of the parties seeking information or have questions for others involved?
- Does one of the parties wish to share their story?
- Is there an on-going relationship?

Mediation

A way of resolving disputes in which an impartial mediator assists two or more parties involved in a conflict or dispute to reach an agreement. Unlike arbitration, the parties rather than the mediator, decide the terms of the settlement. As this definition makes clear, the purpose and focus of mediation is the resolution of a *dispute* or *conflict*. Whether an agreement is reached or not, and whatever the content of that agreement, the parties themselves determine the outcome rather than accepting something imposed by a third party.

Things to listen for:

- Is the dispute(s) about tangible issues (money, property, behavior, rights, licenses, etc.)?
- Is there an identifiable issue all parties agree upon?
- Are all parties needed to solve the conflict? Does each need something from the other?

Conflict Coaching

Typically a one-on-one partnership between a trained coach and a person who may want to:

- resolve a dispute (past, present)
- prevent an unnecessary dispute
- prepare for a conflict conversation
- generally improve his/her competency in conflict management

Conflict coaching can also be beneficial for groups. A coach can work with groups to help identify wants, needs, and goals, and then develop a plan to reach the stated goals. This process often fosters discussion of strengths and weaknesses of individuals or groups, as well as opportunities for positive changes and setbacks. Coaches aim to empower the client(s) to use their own skills and resources to solve conflict in an effective manner.

Source: Noble, C. (n.d.) Retrieved from Cinergy Peacebuilding – One Person at a time: <http://www.cinergycoaching.com/coaching-training/conflict-coaching/>

Things to listen for:

- Does the individual feel comfortable working with the other party?
- Is the person asking “how can I” in the conversation?
- Does the individual have other concerns that do not necessarily involve other parties (i.e. picking a major)?
- Is the person having a hard time naming the concerns?

Good Fit for a Restorative Practice?

Restorative Practices can be used for a variety of cases, in a variety of ways, to address the harms and needs of those affected by a situation. Depending on the context, as well as the hopes and needs of those involved, restorative practices may be more or less appropriate and the amount of preparation for such a process may vary. For example, if the party causing harm does not take any responsibility for their actions, while not impossible for such a practice to be used, a good deal of groundwork must be done by a trained facilitator before a process may be safe or healthy for all those involved. Below is a general list of factors that may indicate the appropriateness of a restorative practice for a given situation.

Restorative practices are more difficult when:

- Situations in which the offender does not accept responsibility
- Perception of basic facts of a situation differ
- Offender is defensive
- Victim may be re-victimized
- Great power differential

Restorative practices are most likely appropriate when:

- Offender is apologetic or regretful
- Parties seeking information, have questions of other parties
- Victim or Offender may wish to share their story
- On-going relationship
- Normative violation, pretty straight forward understanding of case, facts agreed upon
- Clear victim/offender
- Affected community, large amount of people
- Opportunities to build a sense of community, shared accountability

Restorative Practice Outline

I. Intake

This time is used to clarify the issues and concerns of a given party, and to consider which services are most appropriate for the situation. During the first meeting, the facilitator will typically gather information about the conflict (what happened?), their current relationship with the other parties, what they might hope to gain from a restorative practice, and what they would need to feel safe during the given process. This information will assist in determining which restorative practices might be most helpful for everyone.

II. Intakes with other parties (if possible)

It is important to meet with as many parties as possible before a restorative practice. Some practices, such as Restorative Justice, it is essential to meet with everyone before bringing everyone involved together. Just like the first intake, this is a time to ask what happened, what would they hope to get out of a process, and what they would need to feel safe during the given process.

III. Deciding on a process

There are numerous restorative practices that can engage all stakeholders. The context and the needs of those involved needs to be taken into consideration when determining how best to repair and address the harm of a given circumstance.

IV. Ground rules

Before bringing all parties together, it is important to establish ground rules that everyone can agree upon. To the best extent possible, all parties should have a role in developing the guidelines of the conversation.

V. Process

This will vary depending on what is needed from each party, but will normally contain a welcoming, an orientation period, reviewing ground rules, a discussion, and closing. (See Circle Process overview handout, for an example of a restorative practice process outline.)

VI. Processing

- a. **Follow-up** – having follow-up conversations with the people involved in the process to assist in processing and to determine if further actions may be needed.
- b. **Self-care** – engage in processes facilitators may have to take care of themselves (ex: taking with colleagues, exercise, etc.)



Date of In-Take: _____

Case #: _____

Office of Judicial Affairs In-Take Form

Name:	Student I.D.:
Phone:	Email:
Date of Incident:	
Description of Incident:	
Ever heard of Restorative Justice? If so, in what context?	
In-Take Coordinator Comments:	
What happened?	
What do you hope to get out of a process?	
What would you need to feel safe or as comfortable as possible during process?	

Date of In-Take: _____

Case #: _____

- AGREE TO Mediate or Participate in Restorative Justice**
- DID NOT AGREE TO Mediate or Participate in Restorative Justice**

Mediator/Facilitator #1 _____

Mediator/Facilitator #2 _____

Mediation/Circle Date, Time & Location: _____

Restorative Justice
Mediation
Group Conference
Other

Intake Questions

Restorative Justice an approach to justice that focuses on the needs of victims and offenders, instead of simply punishing the offender. Wrongdoing is treated as a *violation (harm)* of people and relationships. These violations create *obligations* and the central obligation is to *put right* the wrongs by engaging all who have been affected by the specific incident.¹

These basic principles, needs/harms, obligations, and engagement are often referred to as the three pillars of restorative justice and are entrenched in the intake process. Below are questions that can be useful in helping a facilitator gain a better understanding of the situation and individuals involved, as well as help the people they are meeting with become more aware of the impact of their actions, potential and actual, on others.

Questions to help foster a restorative approach to conflict:

- What happened?
- What were you thinking of feeling at the time?
- How have these thoughts of feelings changed since?
- What has been affected by what has happened? In what way?
- What impact has this had on you and might have had on others?
- What has been the hardest thing for you?
- Who has been hurt? How have they been hurt?
- What do you want our future relationship to look like?
- How will we interact with each other in the future?
- What do you think your future relationship will be like and what would you like the relationship to look like?
- If you had an opportunity to talk with the other party, what might you want to say or hope to learn?
- What would you hope to get out of a conversation with the other party?
- How has this experience changed you? What have you learned? Plan for future? Changes made?
- What are the needs of all the people involved?
- What obligations might you have to the other party? How can you help them meet their needs?
- Where do we go from here? Hopes and concerns for future?

¹ "The Little Book of Restorative Justice" Zehr, Howard, 2002.

The Paintball Case

A Restorative Justice Case Study

Tom Cavanagh

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The Paintball Case:
A Restorative Justice Case Study

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He is currently a Ph.D. candidate at Colorado State University in Educational Leadership and an Affiliate Professor of Management for the School for Professional Studies at Regis University. He worked as a court reporter for the District Court in Fort Collins.

He is an honors graduate of Regis University in Denver, with a MS in management. His undergraduate work was completed at Carroll College, Helena, Montana, where he received a BA in English, and Lamar (Colorado) Community College, graduating with an AA in Liberal Arts.

Abstract

“The Paintball Case” is a case study, similar to those used to teach people about the law or management. The intent of this case study is to teach people about restorative justice based on a real life application.

District Court Judge Fred McElrea, of Auckland, New Zealand, a pioneer in the application of restorative justice processes in the courts, made these comments about “The Paintball Case”:

“I think this a great case study - informative, educative and insightful. What was most impressive was the boy’s offer to donate part of his eye if that would bring back her sight. The second reaction I have is to marvel at the way in which restorative justice helps build community bonds that were not there before - for example, the common interest and empathy of the two families. Lastly, it brings home how simple it really is to get these things going! That is because this sort of process is second nature to most people, whereas the court process is an artificial, ritualized procedure that obscures people’s real feelings and desire for reconciliation.”

The Paintball Case:

A Restorative Justice Case Study

The Offender

Fort Collins lies in Northern Colorado and is known as the "Choice City," because it is one of the popular places to live in the United States. As a result this conservative city of over 10,000 people, known for its university and agriculture heritage, is growing rapidly and experiencing the joys and pains of rapid growth.

One evening in April of 1998, 15 year old Justin Barton and two of his cousins were together for the evening in Fort Collins, Colorado. Early in the evening the teenagers were at the Foothills Fashion Mall. They ate dinner at Taco Bell and went to a coffee shop. While driving around, the boys passed Swenson's Ice Cream Parlor. After Justin's cousins told him he could not go paintballing with them, Justin reached into the trunk, through the back seat, pulled out a paintball gun, and fired into a group of girls at the store.

As he fired the gun, Justin noticed a young girl quickly turn her head. His cousins said, "Justin, what are you doing?" Justin replied, "I think I shot a girl in the face."

The Victim

The same evening, 15 year old Jorel Travis went bowling with her friends and then on to Swenson's Ice Cream Parlor. While Jorel and her friends were eating their ice

cream in front of the store, shots came out of the window of a Volkswagen Jetta. A paintball struck Jorel, resulting in permanent blindness in one eye.

The Court Proceedings

On June 8th, Justin appeared in juvenile court to answer to the charge resulting from the paintball incident. The charge was second degree assault with a deadly weapon. At the time of the incident, Justin was on probation for a charge of attempted theft.

Justin pled guilty to the charges before Juvenile Magistrate Joseph Coyte, as part of a plea agreement. The plea agreement called for a sentence to probation, with the terms and conditions to be set by Magistrate Coyte. The maximum possible sentence for Justin was two years probation and 45 days in jail. If he were charged as an adult, the possible incarceration was two to eight years in the state penitentiary.

The Motivation

The motivation affecting the outcome of the paintball case was based on a desire of both the offender and victim to meet face to face. Justin wanted to talk to Jorel. When he entered his guilty plea, Justin explained, "I never wanted to hurt anybody, but I was being very thoughtless at the time. I understand if you never forgive me. If you don't get your vision back, I would be happy to donate the part of my eye you need."

Soon after the incident, Jorel expressed her desire to meet with Justin. "I'd like to talk to him to see how he really feels about it." Both Jorel and her mother, Rene Bone, were described as being motivated to resolve the case by educating people about the dangers and harm of paintball guns and preventing such an incident from happening again. Jorel and her mother were neither malicious nor vindictive.

The Conference

Because of the willingness and desire of Justin and his family and Jorel and her family to meet, probation officer Mort Gallagher suggested this case was ideal to use a family group conference, a restorative justice process for healing the harm of crime. Although Justin and his family expressed apprehension, they agreed to attend the conference.

The family group conference was held at the United Way office, a neutral location. The conference was held the day before the sentencing to accommodate the presence of everyone who wanted to attend. Flexibility was the key to bringing people together who were concerned about the incident. Justin was living with aunt and uncle. His mother lived in Texas, and his father resided in Pennsylvania. Both wanted to attend.

Bernadette Felix was the probation officer for Justin at the time the incident occurred. Justin came to her soon after the incident and admitted his involvement. Bernadette talked with Magistrate Coyte about the planned family group conference and obtained his support.

Leslie Young, a trained mediator for family group conferences and a Loveland police officer, coordinated the process and made the necessary contacts and arrangements. Fifteen people attended the conference. One person was designated to record the main points during the dialogue.

At the conference people were seated in a circle, with no tables or other barriers. Jorel, her family, and one of the girls present at the incident sat to the right of Leslie. To the left of Leslie sat Justin, his family, and other people present at the scene of the offense. Bernadette sat in between the two groups.

The four-hour conference began with Leslie giving an overview of the conference process and reminding the participants that participation in the process was voluntary. Justin began by talking about the incident. The harm resulting from the crime was expressed by Jorel explaining what happened, how she felt, and what she hoped to get out of the conference. Jorel's mother Rene was expressive. She talked about the outcomes and harms resulting from the offense and particularly that she lost her job.

Then the discussion went around the circle. The victim's friends and family members talked about the effects of the incident on their lives. Justin's family and friends next told of the effects of the offense on them, including an aunt who was blind in one eye since birth and an older cousin who was a poor role model for Justin regarding paintball gun shooting.

During this sharing Justin was visibly moved and cried. A key theme during the discussion was concern for the safety of others involved with paintball guns and of the need to inform others of the dangers of paintballing.

Leslie turned the discussion to answering "what" questions concerning the harm resulting from the incident: What needs to happen? What do we want to accomplish? What do we need to do? In line with the key theme of the conference and in place of community service, the group decided they wanted Justin to talk to school children and write a letter to the local newspaper and teen magazines about the risks and dangers of paintballing.

Justin's family assumed financial responsibility for the out-of-pocket expenses incurred by Jorel and her family. An uncle to Justin offered to provide a computer for Jorel. Justin's grandmother offered to give rides to Jorel when her mother was busy. In order to pay the financial obligations, Justin needed a job. One of the people present thought her husband could provide Justin a job in carpentry. All present agreed to initiate a write-in campaign to legislators requesting the public be warned of the dangers of paintball guns.

Justin read a letter of apology to Jorel, in which he again offered to donate his eye to the victim. The letter was prepared prior to Justin's first meeting with Bernadette, who was his probation officer at the time.

Leslie prepared a copy of each point of the conference that was reached by consensus. This paper formed the agreement of those present. During a break, the final agreement was prepared, and each person responsible for performing a certain part of the agreement was asked to sign the document.

In speaking about the conference, Bernadette said, "Initially it was very tense, but as it went on, people were able to come together as a team. It was a real powerful experience."

The conference was concluded by Leslie thanking those present for working through this difficult process to help heal and repair the harm resulting from the incident. The formal meeting was closed, and an informal discussion continued, including the exchange of telephone numbers among those present and the two mothers hugging.

The Sentencing Hearing

The day after the conference was the sentencing hearing in front of Magistrate Coyte. The friends and family of Justin and Jorel mingled in the hall before court and sat together in the courtroom. Several people talked about the conference. Bernadette described the conference and gave a copy of the final agreement to the court and the attorneys.

Magistrate Coyte expressed support for the agreement. He sentenced Justin to two years of probation and 45 days in jail. The jail term was suspended, except for six days in jail on weekends. The victim's family was opposed to any jail time. After the sentencing hearing, Jorel and Rene expressed to Justin they were upset with the jail time.

Two days after the sentencing hearing, Bernadette and Justin met to review the terms and conditions of his probationary sentence. Further discussions were held about the ongoing needs of Jorel, focusing on healing the relationship of Justin with his family, friends, and the community and building a relationship with Jorel and her family and friends.

On September 10, 1998 a letter to the editor from Justin appeared in the Fort Collins "Coloradoan" entitled "Teen learned the hard way about paintball-gun dangers." In the letter Justin described the dangers of paintball guns in general and the specifics of the incident resulting in the injury to Jorel. He expressed to the community how sorry

he was for hurting Jorel and how such a result should have crossed his mind before he shot the paintball gun.

Questions

1. Read this case history through the court proceedings. What would most likely be the outcome of this case in your community? What values would prevail in your community for handling this case?
2. What restorative justice core values are exemplified in this case history?
3. How were these questions answered in the case history: What harm resulted from the paintball incident? How can we heal the harm? Who is responsible for healing the harm?
4. What would your community need to do to create a restorative justice approach to incidents such as presented in the case history?