

CONFLICT MANAGEMENT IN HIGHER EDUCATION REPORT

Volume 3, Number 1, Oct 2002

Community Justice in the Campus Setting

by David Karp, Beau Breslin and Pat Oles
Skidmore College

A Community Justice Approach to Campus Discipline

Even at our wealthy, liberal arts college located in a safe, small town, the campus judicial roster looks much as it would at any other college or university across the nation: Johnny was caught with a bag of cocaine, Jerry kicked in a plate glass door, Jill submitted a paper that she didn't write, Jenny sold her Ritalin to another student who needed it to pull an "all-nighter," Jimmy drove his friends and his SUV into a tree after bar-hopping with a fake ID (manufactured on campus by a computer-savvy student entrepreneur-but we haven't caught him or her yet). Of course, there are worse crimes committed on the college campus-robberies, rape, and assault are not uncommon (Fisher et al., 1998). But here, we focus on a more general problem associated with campus culture-violations of the criminal code and/or campus policy that are normative. That is, while some students are angered by such violations, most respond with either a casual shrug or a tacit endorsement of the behavior. We'll refer to this tension between norms and campus policy as cultural dissensus.

The Disciplinary Problem

The problem of student misconduct has several inter-related dimensions. First, students arriving on campus as freshmen experience a sudden, dramatic loss of supervision. Many of these students have not developed strong internal controls to regulate their behavior. This is especially true for students coming from very authoritative homes, where self-regulation was not cultivated (Colvin, 2000). For students, whose behavior has been largely dependent on external controls, the liberated college environment may come as quite a shock.

Second, arriving students, anxious to make friends and establish a sense of belonging, are strongly pressured by peers to "party" with alcohol and other drugs. Prior research suggests that students overestimate the actual degree of alcohol and drug use by other students, and seek to conform to the perceived norm (Perkins &

Berkowitz, 1986). Research also shows that drug and alcohol use, and binge drinking in particular, is correlated with reduced academic performance. Even students who show moderation are affected by property damage and unwanted sexual advances (Wechsler et al., 1994).

Third, student culture is at odds with mainstream society and legal codes with regard to drug use and underage alcohol consumption. Recent data reveal that 85% of college students had consumed alcohol in the year prior to data collection, and 33% had smoked marijuana. It should be noted that 60% of the survey sample was under age 21. (Core Institute, 2001). College alcohol and drug policies, which must obviously comply with the criminal law, are accorded scant legitimacy among students. This dissensus creates an adversarial relationship between students and administration (and campus safety officers). At our campus, faculty members are caught in the middle and tend to remain awkwardly neutral about student extra-curricular conduct. Campus life is strangely bifurcated. Students describe our professors as their primary non-peer role models, yet the social control faculty exert in the academic sphere does not extend to the students' residential lives. In that realm, students largely fend for themselves.

Fourth, colleges typically rely on coercive techniques to gain compliance with college policies and the criminal law because they have had little alternative. Since college administrations cannot rely on student internal controls, and since dissensus precludes them from appealing to universal moral codes, administrators are forced to increase surveillance and punitive sanctions. This creates a conundrum because higher educational institutions in the United States often operate as cloistered liberal polities. While campuses generally repudiate authoritarian social control, they increasingly rely upon the techniques of the police state to enforce campus policies. Yet campus safety departments are not adequately staffed to accomplish coercive control, municipal police are not invited on campus, students remain largely free to consume drugs and alcohol at will, and an unlucky few are subject to increasingly harsh penalties when they are caught. Failing to achieve any deterrent effect, the common reaction is that a few students are unfairly singled out.

Fifth, because a quarter of the student body is new each year, disciplinary approaches must be educational and ongoing. Smith and Dickey (1999) describe a Milwaukee neighborhood street corner where the drug trade thrives. In a three-month period in 1996, 94 drug arrests were made, and most were convicted and sentenced to two years in prison. Nevertheless, the drug trade continued unabated. The removal of one dealer merely created the opportunity for the next to stake his claim on the corner. Just as Milwaukee police officers could not arrest their way out of the drug problem, colleges cannot

effectively respond to student disciplinary problems (including the drug trade), through apprehension and removal. The continual student population turnover guarantees that individual-level solutions cannot resolve community-level problems. Instead, solutions must continuously strive to socialize students to be community members, able to consider the consequences of their behavior on the welfare of the community (DeJong et al., 1998).

The approach described here offers a communitarian alternative to liberal avoidance and conservative crackdowns. It is an approach that focuses on moral education by integrating academic learning, student participation in the campus judicial process, and restorative justice principles. The approach is both a response to individual misbehavior and campus dissensus.

Community Justice

Community justice is an approach to criminal offending that emphasizes values of democratic participation, inclusion, and stewardship (Clear & Karp, 1999). This approach may be effectively extended to the college arena, where misconduct is not always illegal, but often a violation of campus honor codes and college policies. The approach seeks to educate community members about the need for civic commitment, and build student capacity for evaluating the impact of their behavior on the community. The approach seeks to legitimate college policies by creating not only due process, but consensus around behavioral standards, and equitable responses to misconduct. Offender accountability is central, but balanced with a concern for reintegration.

Community justice has four principal elements (Karp & Clear, 2002). First, the judicial system must be accessible to the community. The community must know of its policies, which should be communicated clearly with a minimum of legalese. Practices of the judicial system should be consistent and respectful, but not rigidly bureaucratic. Second, community members should participate actively in the process. On the college campus, this means that students should have active roles in the process, as would faculty, staff, and administration. Community involvement includes the active participation of offenders in the decision-making process. Equally important is the voice of victims or "harmed parties."

Third, sanctioning should be guided by restorative justice principles (Bazemore, 1998; Warters et al. 2000; Zehr, 1990). Here, offender accountability is defined not by proportional harm imposed on the offender, but by the offender's obligation to make amends for the harm he or she has caused. Bazemore and Walgrave (1999) define

restorative justice as "action that is primarily oriented toward doing justice by repairing the harm that has been caused by a crime" (p. 48). If a window has been broken, the offender's obligation is to fix it. It is not possible for the offender to take responsibility for all types of harm; he or she, for example, cannot repair emotional harm. Nevertheless, the obligation remains for the offender to take steps towards ameliorating such harm through apology, expression of remorse, or victim-offender mediation. Communal harm can be repaired through community service work. Fourth, the offender also incurs an obligation to reassure the community that he or she will not cause further harm to the community. The community, in turn, must strive to reintegrate the offender. This reciprocal process begins with an identification of offender risk factors. If the offender needs academic tutoring, psychological counseling, or other competency needs, these should be made available.

Sanctions should be guided by the objectives of restoration and reintegration so that harm is repaired and offenders can become productive community members. Accountability is demonstrated through expressions of remorse and commitment, and through the completion of tasks negotiated as part of the sanctioning process.

We have a judicial board composed primarily of students, and secondarily of faculty and staff. The "Integrity Board" hears cases of both social and academic integrity, and negotiates restorative justice contracts for offenders to complete. Board members receive a substantial training and may receive academic credit for the training through our Law and Society Minor Program. Consider one recent case on our campus. A student was arrested for dealing cocaine. After serving time in state prison, the student applied to Skidmore to complete his senior year. He was admitted, but one of the stipulations required him to tell his story to other students so they might learn from his experience. For his project, he created a 30-minute video memoir, which the college uses as a platform for discussion about the risks of dealing drugs. While it was tempting to deny his readmission, enabling the student to take active responsibility for his behavior provided the campus with a new resource for discussing drug issues with the student body.

Rethinking Sanction and Embracing Restorative Justice

In a review of college judicial affairs practices, Dannells (1996) argues that the historical development of the field has moved away from retributive punishment and toward rehabilitation and the development of student self-discipline. Nevertheless, the continuum of sanctions is still defined by punishment and outcasting, rather than restoration and

reintegration. Students are given warnings, their privileges are restricted (such as being prevented from participating intercollegiate sports or in other co-curricular clubs), they are removed from campus housing, suspended, or ultimately expelled. Thus, a student already operating at the margins of social acceptability is progressively outcast from membership in the conventional college community. The community justice approach promotes inclusion over social distancing, emphasizing instead sanctioning strategies that rebuild conventional social ties to the college community.

Central to replacing outcasting with reintegration is to shift the burden of sanctioning responsibility from the college to the student. While suspension and expulsion must be retained, they are anti-communitarian devices that should be minimized wherever possible. The removal of a student from the community is likely to displace the problem to another, less-fortified community without resolving it. We believe that suspension should be limited to two situations. First, colleges are not correctional facilities and when a student poses a threat to campus safety, removal may be necessary. Second, when a student refuses to participate in or learn from prior judicial proceedings, or a student fails to complete sanctioning tasks, then the student should be removed. Otherwise, the goal should be reintegration through the development of personal responsibility.

We advocate a new conceptualization of suspension called "self-suspension." Each student is obligated to repair harm and demonstrate his or her ability to be a member in good standing. A contract with the student should be negotiated and it should clearly detail what steps the student must take to regain social standing. While a student may apply to the board for an extension if necessary, in general, a student is not allowed to register for the following semester's classes until the contract is complete. Thus, a student who fails to comply with the college's expectations for responsible membership loses his or her right to participate in community life. The burden of responsibility is shifted from the college to the student.

Apology. In restorative justice, apology occupies a central place. Retzinger and Scheff (1996) argue that reconciliation is predicated on a core sequence: "This process involves the social rituals of respect, courtesy, apology, and forgiveness... The ideal outcome, from the point of view of symbolic reparation, is constituted by two steps: the offender first clearly expresses genuine shame and remorse over his or her actions. In response, the victim takes at least a first step towards forgiving the offender for the trespass. The core sequence generates repair and restoration of the bond between victim and offender, after this bond had been severed by the offender's crime" (p. 316). The sanctioning process, therefore, must begin with an acknowledgement of responsibility for the offense, articulated through an apology. Our

apology guidelines require that letters contain (a) an acknowledgement of responsibility, (b) a delineation of how the behavior was harmful, (c) an expression of remorse, and (d) a commitment to making amends and socially responsible behavior in the future.

From Fines to Restitution. Restitution should be distinguished from fines. Fines are imposed as a punishment in order to deter the misbehavior and, presumably, to generate revenue. Restitution is collected in order to pay for lost or damaged property as a result of the offense. The amount of a fine is determined by the deterrent need, and is independent of the particular offense. Restitution is determined by the extent of harm. From the perspective of the offender, fines are likely to be perceived as arbitrary since the rationale for the amount is not transparent. More problematic, fines create moral ambiguity (Kahan, 1999). In a market society, goods and services have prices, but are morally neutral. If misbehavior is fined, the message of moral disapproval is easily obscured. Instead, we communicate that the behavior is acceptable, "if you can afford it." Restitution is paid in order to make amends. By clearly identifying harm, the offender learns why the behavior is morally unacceptable.

Enlightened Community Service. Community service is widely used in college judicial sanctioning, yet it is not often restorative. Community service can be misused as a retributive device. This is the case when it is merely a substitution for another punishment, scored on a rubric of punitive commensurability (Kahan, 1999)-40 hours of community service = \$400 fine = 4 days in jail = 40 lashes of the whip. The symbolism suggests it is just one more type of pain that can be imposed on the offender. This is just the wrong message to send to someone in need of community reintegration. If service is used as a punitive deterrent, why would the offender embrace it as a positive expression of community membership?

Community service is central to a restorative approach when used correctly. As restitution should be distinguished from fines, so should restorative community service be distinguished from punitive service (Bazemore & Maloney, 1994). If a student vandalizes a campus building, community service would be necessary-the student should fix the damage, perhaps working alongside maintenance staff. In a recent case at Skidmore College, two dormitory roommates had removed lounge furniture to their room. As part of our judicial process, the students learned that the violation was not only harmful to the other residents by denying them a comfortable common space, but had broader effects on the college because visiting prospective students would only see unpleasant residential spaces. A contract was negotiated in which the two students would return the furniture, and clean the lounge (renting an upholstery cleaner) in time for an

upcoming event in which large numbers of prospective students would be visiting the campus. The students were encouraged not to do this alone, but to organize a dorm-wide "spring cleaning." Their leadership would serve as a demonstration of their commitment to making amends and promoting school spirit.

Community service, properly understood, is a mechanism of reintegration for student offenders because it provides a venue for making their prosocial efforts visible to others, and fostering positive social ties with the campus community. It is also a means of reframing individual student misconduct as a community issue. Since the problems that appear before judicial boards generally speak to the broader issues of student culture (e.g., underage drinking and drug use), service projects linked to the offense become vehicles of community education. The student who uses hate speech might work with a diversity specialist to organize a campus event on multi-cultural issues; the drunk driver might work with MADD (Mothers Against Drunk Driving) to bring a relevant speaker to campus; the student who downloaded a term paper from the internet might organize a session during freshman orientation regarding the standards of academic integrity. Community service sanctions may be endlessly creative as they seek to change the underlying social norms that reinforce individual misbehavior.

Conclusion

In order to address widespread student misconduct and to socialize students to be effective community members, we argue for an institutional response that involves collaboration between student affairs and academic programs, active student participation in judicial decision-making, and sanctioning practices that embrace restorative justice principles. Combined, we describe this as a community justice approach to campus discipline.

Since our program is so new, a formal evaluation has yet to be conducted. But so far, we have seen a reduction in student appeals (a good indication that student offenders believe they are being treated fairly), an increase in community service work and victim participation (two indicators that community needs are being addressed), and enthusiastic commitment and spirited debate among students, faculty, and staff members of the integrity board as they strive for justice and moral consensus in a small community.

References

Bazemore, G. (1998). Restorative Justice and Earned Redemption. *American Behavioral Scientist*, 41, 768-813.

Bazemore, G., & Maloney, D. (1994). Rehabilitating Community Service: Toward Restorative Service Sanctions in a Balanced Justice System. *Federal Probation*, 58(1), 24-34.

Bazemore, G., & Walgrave, L. (1999). Restorative Juvenile Justice: In Search of Fundamentals and an Outline for Systemic Reform. In G. Bazemore & L. Walgrave (Eds.), *Restorative Juvenile Justice* (pp. 45-74). Monsey, NY: Criminal Justice Press.

Clear, T. R., & Karp, D. R. (1999). *The Community Justice Ideal*. New York: Westview.

Colvin, M. (2000). *Crime and Coercion*. New York: St. Martin's.

Core Institute. (2001). 1999 Statistics on Alcohol and Other Drug Use on American Campuses.

http://www.siu.edu/departments/coreinst/public_html/1999.htm (accessed April 15, 2002).

Dannells, M. (1996). Discipline and Judicial Affairs. In A. L. Rentz (Ed.), *Student Affairs Practice in Higher Education* (pp. 175-213). Springfield, IL: Charles C Thomas.

DeJong, W., Vince-Whitman, C., Colthurst, T., Cretella, M., Gilbreath, M., Rosati, M., & Zweig, K. (1998). *Environmental Management: A Comprehensive Strategy for Reducing Alcohol and Other Drug Use on College Campuses*. U.S. Department of Education Higher Education Center for Alcohol and Other Drug Prevention. <http://www.edc.org/hec/pubs/enviro-mgmt.html> (accessed October 17, 2001).

Fisher, B.S., Sloan, J.J., Cullen, F.T., & Chenmeng, L. (1998). Crime in the Ivory Tower: The Level and Sources of Student Victimization *Criminology*, 36, 671-710.

Kahan, D. M. (1999). Punishment Incommensurability. *Buffalo Criminal Law Review*, 1, 691-708.

Karp, D. R., & Clear, T. R. (Eds.). (2002). *What is Community Justice? Case Studies of Restorative Justice and Community Supervision*. Thousand Oaks, CA: Sage.

Perkins, H.W., & Berkowitz, A.D. (1986). Perceiving the Community Norms of Alcohol Use Among Students: Some Research Implications

for Campus Alcohol Education Programming. *International Journal of the Addictions*, 21, 961-976.

Retzinger, S. M., & Scheff, T. J. (1996). Strategy for community conferences: Emotions and social bonds. In B. Galaway & J. Hudson (Eds.), *Restorative Justice: International Perspectives* (pp. 315-336). Monsey, NY: Criminal Justice Press.

Smith, M. E., & Dickey, W. J. (1999). *Reforming Sentencing and Corrections for Just Punishment*. Washington, D.C.: National Institute of Justice. <http://www.ncjrs.org/pdffiles1/nij/175724.pdf> (accessed October 17, 2001).

Warters, B., Sebok, T., & Goldblum, A. (2000). Making Things Right: Restorative Justice Comes to Campuses. *Conflict Management in Higher Education*, 1(1). <http://www.culma.wayne.edu/CMHER/Articles/Restorative.html> (accessed October 17, 2001).

Wechsler, H., Davenport, A., Dowdall, G., Moeykens, B., & Castillo, S. (1994). Health and Behavioral Consequences of Binge Drinking in College: A National Survey of Students at 140 Campuses. *Journal of the American Medical Association*, 272, 1672-1677.

Zehr, H. (1990). *Change Lenses*. Scottdale, PA: Herald Press.

David R. Karp, Department of Sociology, Skidmore College, Saratoga Springs, NY 12866, (518)-580-5426, dkarp@skidmore.edu

Beau Breslin, Department of Government, Skidmore College, Saratoga Springs, NY 12866, (518)-580-5244, bbreslin@skidmore.edu

Pat Oles, Dean of Student Affairs, Skidmore College, Saratoga Springs, NY 12866, (518)-580-5760, poles@skidmore.edu

Skidmore's judicial reform has benefited from support provided by the Mellon Foundation and the Robert Wood Johnson Foundation.