Restorative Justice, Earned Redemption and
A Communitarian Response to Crime

Gordon Bazemore
Florida Atlantic University
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Todd Clear, Associate Dean, School of Criminology and Criminal Justice, Florida State University, Task Force Co-Chair
David R. Karp, Department of Sociology, Skidmore College, Task Force Co-Chair
Gordon Bazemore, Department of Criminology, Florida Atlantic University
Catherine Coles, Kennedy School of Government, Harvard University
Robert Crutchfield, Department of Sociology, University of Washington
Peter Greenwood, Director, Criminal Justice Program, Rand Corporation
David Kennedy, Senior Research Analyst, Program in Criminal Justice Policy and Management, Kennedy School of Government, Harvard University
David Rottman, Associate Director, Research Division, National Center for State Courts
Jeremy Travis, Director, National Institute of Justice (observer)
Amitai Etzioni, Founder and Director, The Communitarian Network

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Currently, when a crime is committed, two primary questions are asked: who did it and what should be done to the offender? The latter question is generally followed with another question about the most appropriate punishment and/or, at least in the case of a juvenile offense, most appropriate treatment or service to promote rehabilitation. The question of punishment or treatment has been a primary preoccupation of criminal justice dialogue for the past four decades.

Indeed, modern criminal justice ideologies — conservative, liberal, libertarian, “just desserts” — can be easily grouped into general categories based on different views of how this question of intervention should be addressed.1 In the past two decades several of these ideologies appear to have coalesced at the policy level around a broad framework that gives priority to punishment and lesser emphasis to rehabilitative goals, places central focus on “desert” as the primary rationale for decision making, and expands the use of incarceration at all levels of criminal and juvenile justice in the U.S.2 Despite a continuing failure to find clear empirical evidence in support of the deterrent value of incarceration, this retributive justice framework3 or punitive paradigm4 has attained dominate influence in national and state policy.5 In response, many corrections professionals and their allies continue to promote an individual treatment model of rehabilitation and have emphasized need for treatment and services which, they argue, if

adequately funded and administered with regard to "what works" best for specific populations of offenders, can reduce crime by rehabilitating offenders. Other critics of the new punitiveness in criminal justice point both to the expense and the injustice of these policies, especially as they have impacted minority communities.

But the retributive paradigm has become popular not because of the efficiency of punishment but because, in the minds of policymakers and the public, punitive sanctions serve to affirm community disapproval of proscribed behavior, denounce crime, and provide consequences to the lawbreaker. The treatment model, on the other hand, clearly fails to accomplish these functions. Rather, treatment appears to be unrelated to the offense, related solely to the needs of lawbreakers, and to require nothing of offenders beyond participation in counseling or remedial services. It is difficult to convince most citizens that treatment programs provide anything other than benefits to offenders (e.g., services, educational and recreational activities), and there is little in the message of the treatment response which attempts to communicate to an offender that he or she has harmed someone and should take action to repair damages wreaked upon the victim(s).

Increasingly, critics from a variety of different perspectives are beginning to view the obsession with offender punishment and treatment in the current response to crime as one-dimensional and insular. Too often the treatment and punishment intervention paradigms reduce the justice function and process to a simplistic choice between helping or hurting offenders, and hence fail to address and balance the multiple justice needs of communities. In addition, these approaches share an insular, "closed-system" focus on the offender that ignores the needs of crime victims and other citizens and fails to engage
them effectively in the response to crime. Moreover, with the exception of libertarian perspectives, all promote expanding the reach and responsibility of the criminal justice system, while in some cases undercutting the role of communities in the response to crime.

In recent years advocates of a “third way,” have begun to insist that it is possible to ask very different questions about crime. Viewed through the “lens” of restorative justice, crime is important because it causes harm to individuals and their communities. If crime is in fact about harm, “justice” cannot be achieved simply by punishing or treating offenders. Rather, justice processes must promote repair, or an attempt to “heal the wound” crime causes. In contrast to the one-dimensional focus on punishment or treatment, restorative justice is based on the principle that justice is best served when there is a balanced response to the needs of citizens, offenders and victims. It is based on the assumption that basic multiple community expectations — to feel safe and secure, to ensure that crime is sanctioned, and to allow for offenders to be reintegrated — cannot be effectively achieved by an insular focus on the needs and risks presented by offenders. Rather, to meet these needs and repair the harm crime causes, victim, community and offender must be viewed as clients of the justice system and must be involved meaningfully as coparticipants in a holistic justice process.

In repairing the harm caused by crime, restorative responses necessarily elevate the role of crime victims in the justice process. Because victims have been neglected as a client of criminal justice systems, much of the literature and practice of restorative justice in the past decade has focused on victim reparation and involvement. But restorative justice does not pose “victim rights” against the rights of offenders. Nor does
it view advocacy for victims needs and involvement as a zero-sum game which is incompatible with a concern with the needs and risks presented by offenders and with a concern with the general justice needs of communities. To date, however, there has been little specific discussion of the role of offenders in restorative justice once they have been held accountable by repairing harm to the victim and victimized community.

Is there a “restorative” approach to offender reintegration, or would offenders simply be punished and/or provided with standard correctional treatment? I will argue that restorative justice principles imply a unique approach to offender rehabilitation that necessarily involves victim and community, symbolically if not always actively, in the reintegrative process. This process, that I will refer to here as “earned redemption,” requires a sanctioning approach that allows offenders to “make amends” to those they have harmed in order to earn their way back into the trust of the community. To be effective, reintegration ceremonies focused on earned redemption would also require that rehabilitative efforts work in close harmony with these sanctioning processes, with efforts to promote safer communities, and with the efforts to meet the needs of crime victims. Finally, a process of earned redemption must be built upon naturalistic, rather than expert-driven processes of maturation and reintegration in communities.

The primary purpose of this chapter is to explore prospects for expansion of earned redemption as a restorative justice model of offender reintegration. In Part I of this paper, I first attempt to place the reintegration issue in the larger context of restorative justice as an evolving, emerging movement and paradigm for criminal and community justice that is primarily distinguished by an emphasis on the role of victims and communities in the justice process. Part II describes three general components of a
restorative justice model of reintegration, which give primary emphasis to refocusing
criminal justice sanctions and the sanctioning process. The discussion and conclusion
outlines structural and cultural obstacles to implementing such an approach in the U.S.
and considers a basic strategy for linking what have thus far been micro-level responses
to crime to the larger task of systemic criminal justice reform.

**What Is Restorative Justice?**

The restorative justice response to crime can be best described as a three-
dimensional collaborative process. As table 1 illustrates, this vision is best understood by
examining what restorative justice might "look like" for victim, community, and offender
as coparticipants in this process. For the victim, restorative justice offers the hope of
restitution or other forms of reparation, information about the case, the opportunity to be
heard, and input into the case as well as expanded opportunities for involvement and
influence. For the community, there is the promise of reduced fear and safer
neighborhoods, a more accessible justice process, and accountability, as well as the
obligation for involvement and participation in sanctioning crime, reintegrating
offenders, and crime prevention and control. Because crime is viewed as a result of a
breakdown in social bonds that link individuals and communities, and is, in addition, a
cause of a further weakening in these bonds, the "justice" response to crime at the
community level, must also involve citizens and community groups in repairing damaged
relationships or building new relationships. For the offender, restorative justice requires
accountability in the form of obligations to repair the harm to individual victims and
victimized communities, and the opportunity for to develop new competencies, social
skills, and the capacity to avoid future crime.
By the standards suggested in Table 1, restorative justice is a work in progress; no community or justice system is fully “restorative.” While there are many examples of restorative justice practices, adoption of restorative justice as a systemic philosophy has been rare. Moreover, there are already multiple tendencies and priorities within what might be called a restorative justice “movement” and several competing philosophical, ideological, and theoretical themes in the restorative justice literature. However, many apparently new initiatives are actually modern adaptations of ancient settlement and

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<th>Table 1</th>
<th>What Does it Look Like in a Restorative Justice System:</th>
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**Crime Victims:**
- Receive support, assistance, compensation, information and services.
- Receive restitution and/or other reparation from the offender.
- Are involved and are encouraged to give input at all points in the system and direct input into how the offender will repair the harm done.
- Have the opportunity to face the offenders and tell their story to offenders and others if they so desire.
- Feel satisfied with the justice process.
- Provide guidance and consultation to justice professionals on planning and advisory groups.

**Offenders:**
- Complete restitution to their victims.
- Provide meaningful service to repay the debt to their communities.
- Must face the personal harm caused by their crimes by participating in victim offender mediation, if the victim is willing or through other victim awareness process.
- Complete work experience and active and productive tasks which increase skills and improve the community.
- Are monitored and supported by community adults as well as justice professionals and are supervised to the greatest extent possible in the community.
- Improve decisionmaking skills and have opportunities to help others.

**Citizens, Families, and Community Groups:**
- Are involved to the greatest extent possible in holding offenders accountable, rehabilitation, and community safety initiatives.
- Work with offenders on local community service projects.
- Provide support to victims.
- Provide support to offenders as mentors, employers, and advocates.
- Provide work for offenders to pay restitution to victims and service opportunities which provide skills and also allow offenders to make meaningful contributions to the quality of community life.
- Community groups assist families to support the offender in obligation to repair the harm and increase competencies.
- Play an advisory role to courts and corrections and/or play an active role in disposition through one or more neighborhood sanctioning process.
dispute resolution practices.

**Historical Overview**

The principles and approaches now being referred to as restorative justice are grounded in ancient codes of conduct and practices have been at the core of many religious and ethical traditions. In fact, pre-state societies appear to have made use of two primary responses to crime. The first, based primarily on vengeance, was associated with repayment of harm *with harm*. In addition, there were, as Weitekamp argues, in virtually all acephalous societies a variety of settlement and dispute resolution practices that typically included some effort to repair the harm, that might today be called restorative. Generally, these practices focused on some form of repayment or restitution to the victim or his/her family, and indeed, such reparative practices were formalized and detailed in a variety of ancient justice documents including:

- The Babylonian Code of Hammurabi (c. 1700 BC) prescribed restitution in property offense cases;
- The Sumerian Code of UrNammu (c. 2060 BC) required restitution even in the case of violent offenses.
- The Roman Law of the Twelve Tables (449 BC) required convicted thieves to pay double the value of stolen goods, and more if the thief had concealed the stolen goods in his or her home. The earliest surviving collection of Germanic tribal laws (the *Lex Salica* promulgated by King Clovis soon after his conversion to Christianity in AD 496) includes restitutary sanctions for offenses ranging from homicides to assaults to theft.
- Ethelbert the Anglo-Saxon ruler of Kent, England, issued the Law of Ethelbert (c. AD600) containing detailed restitution schedules. For example, the laws differentiated the value of the four front teeth from those next to them, and those teeth from all the rest.
- The Hebrews, perhaps more than any other ancient people, understood the importance of peace *Shalom* - in the community. *Shalom* meant much more than “absence of conflict,” as many Westerners understand peace today. *Shalom* meant completeness, fulfillment, wholeness - the existence of right relationship among individuals, the community and God. *Shalom* described the ideal state in which a community should function.

Acephalous societies generally preferred reparative and often ritualistic responses to crime that sought to restore community peace and harmony to crime as an alternative to blood feuds which generally had devastating consequences for community life.
emphasis on vengeance later became more formalized, more predominant, and also moderated somewhat in the late middle ages as feudal lords and kings consolidated the response to crime and social control through the power of the state. Van Ness, et.al. argue that the Norman invasion of Britain marked the beginning of paradigm shift, a turning away from the understanding of crime as a victim-offender conflict within the context of community toward the concept of crime as an offense against the state. William the Conqueror (1066) and his descendants saw the legal process as one effective tool for centralizing their own political authority. Eventually, anything that violated the “king’s peace” was interpreted as an offense against the king and offenders were thus subject to royal authority. Under this new approach, the king, and gradually “the state,” became the paramount victim, while the actual victim was denied any meaningful place in the justice process. As this occurred, the emphasis on reparation to crime victims was gradually replaced with the emphasis on punishment of the wrongdoer by the state, what is now referred to as “retributive justice.”

Although reparation in the form of restitution and community service had been used occasionally by U.S. courts in this century, these sanctions did not become widely popular as sentencing options until the 1970s. Restitution and community service, and to a lesser extent victim-offender mediation, have been used since the 1970s with some regularity in U.S. criminal and juvenile courts and are often administered by probation and community diversion programs.

The “New” Restorative Justice Movement

In the 1990’s, these and other reparative sanctions and processes are again receiving a high level of interest as part of a broader movement alternatively labeled restorative justice, community justice, and restorative community justice. In the U.S.,
a series of high-level discussion work group meetings were recently held within the Office of Justice Programs (U.S. Department of Justice) at the request of the Attorney General, and restorative justice has sparked national and international discussion and debate in the U.S., Canada, New Zealand, Australia and several European countries.

Restorative justice policies and practices are clearly “on the ground” in local communities, states, provinces and even entire countries. In some cases, such as New Zealand, where disposition of all delinquency cases with the exception of murder and rape are handled in community family group conferences and the state of Vermont where most nonviolent felons and misdemeanors are sentenced to make reparation to the victims by community boards, restorative justice plays a dominate role in criminal justice policy. Significant state and local impact can also be seen, for example, in Minnesota, Maine, and other states that have adopted restorative justice as the mission for their corrections departments. State juvenile justice systems in Pennsylvania, Florida, New Mexico, Idaho and Montana, among others, have adopted restorative justice principles in policy or statute.

There are no easy explanations for this rise in interest in restorative justice at a time when criminal justice systems in most states appear to be embracing a punitive model. However, much of this interest seems to have emerged during a unique period of convergence between diverse justice philosophies and political, social, and cultural movements. Specifically, modern restorative justice appears to have been directly influenced by: new developments in the victims’ rights movement and an expanded role for victims in a community justice process; the community and problem-oriented policing philosophy and movement; and renewed interest in indigenous dispute...
resolution, settlement processes, and associated political efforts (especially in Canada) to
"devolve" criminal justice responsibilities to local communities. In addition, the
womens' movement and feminist critique of patriarchal justice and the growing critique
of both "just deserts" and rights-based, adversarial perspectives, as well as of social
welfare models, in criminal and juvenile justice have also affected the evolution of the
new restorative justice movement.

Despite these divergent political and cultural influences, restorative justice seems
to be uniting a growing number of community leaders and justice professionals around an
emerging consensus that neither punitive nor rehabilitation-focused models are meeting
the needs of communities, victims, and offenders. Those familiar with criminal justice
systems know that programs such as restitution and community service and related
reparative sanctions that could be considered the core of restorative justice intervention
are now in common use by court and correctional agencies throughout the country. In
addition, today a wider "menu" of practices and programs including family group
conferencing (FGC), victim impact panels, and community sanctioning boards has been
added to the core restitution, community service, and victim-offender mediation options.

What's "New?" Programmatic, Systemic and Holistic Reform

While any justice agency can add new programs, programmatic reform in the
absence of change in values and priorities is unlikely to lead to restorative outcomes. If
only 10 percent of offenders are referred to a court's restitution program, for example,
and similar proportions complete meaningful community service, or meet with their
victims, the jurisdiction can hardly be said to be "restorative." Although the restorative
justice framework has been developed and refined based on a process of examining
innovative programs and processes such as restitution, community service, victim
offender mediation and FGC rather than through a more deductive process,⁴ programs are not ends in themselves but simply a means to achieve outcomes that should flow from a clear understanding of community and other client needs.⁴ In most criminal and juvenile justice systems, staff roles and management imperatives are seldom examined to ensure that they are driven by these needs and expectations.

The reality, unfortunately, is that in justice systems more concerned with incapacitation, deterrence, and offender-focused interventions, restorative practices and programs remain on the margins, and generally receive low priority. Criminal justice reform is nothing new. However, as closed-system initiatives, few if any modern reforms have been spurred by community input but have instead been system-driven, and often top-down and reactive, responses to crisis and abuse. Like the treatment and punishment paradigm, on which they are based, modern reform efforts have been insular and one-dimensional, and while system-driven, no reform has been truly systemic. While many modern reforms have brought about well-intended improvements, whether focused on diversion, deinstitutionalization, case management, detention crowding, or due process concerns, these reforms share a piecemeal quality in their focus on one component or system function. Most criminal justice reforms have sought to rationalize and improve the structure, process and techniques by which offenders are treated and punished, but have not questioned why we do so or the nature of the intervention enterprise. At the end of most reform initiatives, paid professionals continue to administer treatment, punishment, and offender surveillance outside the context of the offender’s and victim’s community. As they fail to address other community concerns that crime surfaces, it is little wonder that these interventions often do not mean much to offenders, victims, and
other citizens.

Currently, as the left column of Figure 1 suggests, systemic reform in criminal justice is difficult because decisions about staff roles — what it is that justice professionals “do” in the response to crime — as well as resource allocation and management approaches, are based primarily on tradition and the needs of criminal justice bureaucracies (e.g., for police officers, guards, case workers) and on the current skills and role definitions of criminal justice professionals. Innovation, when it occurs, is often based on the addition of specialized units or programs, and often seems to be driven by the need to be in step with the “program trend of the month.”

What is most “new” and different about restorative justice theory and practice, however, is its three-part agenda for systemic reform in the response to crime based on the priority given to repairing harm, by involving victim, community and offender in the justice response and attempting to address the diverse justice needs of communities. First, restorative justice advocates propose broad changes in the justice process itself which ultimately shifts the focus more toward community rather than criminal justice system solutions, and seeks to build capacity in communities to sanction crime,
reintegrate offenders, repair harm to victims, and promote genuine public safety. In this regard, genuine systemic reform makes possible a questioning of basic values and assumptions about crime, as well as the ends and means of the response to it. Systemic reform initiatives therefore first raise questions about the context of intervention: what values, principals, and assumptions define the essence of crime and what should be done about it; who should the system serve as “clients” and who should be involved in the response to crime and in making decisions about intervention, and by what process should these decisions be made (see figure 1).

Second, as the right side of figure 1 suggests, based on the answers to these questions and an effort to develop intervention aimed at meeting community needs and expectations, systemic reform would then seek change in the mission of criminal justice. Such change would focus on the content of intervention: what goals and performance outcomes are sought as the justice system seeks to address the needs of its clients, what messages are to be communicated, and what changes in clients are to be brought about as a result of intervention; what methods — programs and intervention practices — will be used to accomplish these goals. While current policy is often program-driven, systemic reform would ensure that program priorities are value-driven and that practices are selected based on their capacity to accomplish mission outcomes.

Finally, the choice of intervention priorities should then dictate the structure of the criminal justice system and thus determine what staffing patterns, resources, and professional roles are required to carry out these interventions and accomplish system goals. Hence, while current policy and reform begins with the current structure and seeks to make changes in procedure and programs, systemic reform ends with questions about
structure after holistic change in content and context has been addressed (see Figure 1).

Restorative justice theory and practice thus provides a new vision for a future community justice response to crime based on a different set of values and principles, focused on the needs of a different set of clients, involved as participants in a range of decisions about the most appropriate response to crime. These new values in turn form the basis for a new mission for management of criminal justice agencies and systems that articulates a different set of performance outcomes which gauge the success of an intervention based on the extent to which measurable changes are brought about in the status of victim, offender and community as system clients. These outcomes thus provide the basis for establishing intervention priorities and initiating new programs (or discontinuing old ones). Intervention priorities in turn prescribe new roles and responsibilities for criminal justice professionals in assisting communities in meeting sanctioning, rehabilitation, public safety, and victim reparation needs. Differences between these performance outcomes, program priorities, and system roles and responsibilities as components of the current and restorative justice missions can be briefly described as follows:

- **Different Outcomes**: While the ultimate, long-term intervention goal of most criminal justice systems is reduced recidivism, short-term objectives are often elusive or limited to incapacitation and provision of services. In restorative justice, intervention outcomes seek change not just in offenders, but in each of three clients focused on healing, repair, reintegration, safety and sense of community. These outcomes move beyond efforts to punish offenders or deliver treatment in the traditional sense and are designed to address multiple justice needs/expectations based on restorative principles. Examples include: proportion of victims involved in and satisfied with the justice process; proportion of offenders completing restitution and community service agreements; number of citizens involved in crime prevention, sanctioning, offender mentoring and victim services; reductions in fear of crime and in school violence; and number of offenders completing work and service experiences and increasing attachment to conventional groups.

- **Different Program Priorities**: While there is no single restorative justice practice or program, accomplishing these objectives assumes that several programs and practices focused on repairing harm to the victim, holding offenders accountable, and enhancing public safety and peacemaking, would get priority under restorative justice. Restorative programs and practices include a range of interventions
aimed at meeting public safety, sanctioning, and rehabilitative, as well as victim restoration objectives (see Table 2).

- **Different Roles for Criminal Justice Professionals and New Organizational Structures:** To ensure that intervention practice is focused on restorative outcomes and serves and involves three clients in an effort to repair the harm caused by crime, the role of criminal justice professionals must change. Rather than simply administer sanctions and services, the role of professionals in a restorative justice model would focus primarily on facilitating active citizen involvement in community justice processes. (see Table 3)

### Table 2

**Some Restorative Sanctioning Practices**

**Restitution to Crime Victims:** It is important that payment be clearly linked to the victim, even if it is processed through the court and that young offenders be provided opportunities to earn funds to repay victims (e.g., through employment programs).

**Victim Offender Mediation:** Offenders meet with victims and a third party mediator to allow the victim to obtain information about the crime and express feelings to the offender, to develop a reparative agreement, and to increase offender awareness of the physical, emotional, and material impact of crime.

**Direct Service to Victims:** At the victim’s request (usually through mediation or other process), offenders are required to perform direct service.

**Service to Surrogate Victims:** Offender work crews (Crime Repair Crews) repair homes and businesses damaged by break-ins and vandalism.

**Restorative Community Service:** Work which is valued by the community and often suggested by neighborhood groups or by crime victims; such service often helps the disadvantaged, promotes economic development or improves the general quality of life.

**Service Chosen by the Victim:** Victims recommend service projects for offenders as part of a mediation agreement.

**Payment to Victim Service Fund:** Offenders pay to support victims services when restitution to their specific victim is not needed.

**Victim Impact Statements:** With approval from the victim, young offenders can read victims’ impact statements or listen to and view audio/video statements, that tell how the crime detrimentally affected the victim and his/her loved ones.

**Victim/Offender Mediation:** A well-planned constructive dialogue facilitated by a mediator trained in both juvenile justice and victimology tenets, that can increase victim satisfaction and develop mutually agreed-upon plans that hold the offender accountable for her/his actions.

**Victim Awareness Programs:** Incorporate an educational model that helps youthful offenders understand the impact their crimes have on their victims, their communities, their families and themselves, and include crime victims as guest speakers.

Criminal justice professionals cannot begin to change their missions (outcomes, practices, and management protocols) without a clear understanding of restorative values, the role of clients/ co-participants, and the new decisionmaking process needed to gain their input and participation. These values, participants and processes form the context for
restorative justice reform and are discussed briefly below before considering the specific
issue of offender reintegration.

Table 3
New Roles in Restorative Justice

The Co-Participants

<table>
<thead>
<tr>
<th>Role</th>
<th>New Roles in Restorative Justice</th>
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<tbody>
<tr>
<td>Victim</td>
<td>Active participation in defining the harm of the crime and shaping the obligations placed on the offender.</td>
</tr>
<tr>
<td>Community</td>
<td>Responsible for supporting and assisting victims, holding offenders accountable, and ensuring opportunities for offenders to make amends.</td>
</tr>
<tr>
<td>Offender</td>
<td>Active participation in reparation and competency development.</td>
</tr>
</tbody>
</table>

Juvenile Justice Professionals

<table>
<thead>
<tr>
<th>Role</th>
<th>New Roles in Restorative Justice</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sanctioning</td>
<td>Facilitate mediation; ensure that restoration occurs (by providing ways for offenders to earn funds for restitution); develop creative and or restorative community service options; engage community members in the process; educate community on its role.</td>
</tr>
<tr>
<td>Rehabilitation</td>
<td>Develop new roles for young offenders which allow them to practice and demonstrate competency; assess and build on youth and community strengths; develop partnerships.</td>
</tr>
<tr>
<td>Public Safety</td>
<td>Develop range of incentives and consequences to ensure offender compliance with supervision objectives; assist school and family in their efforts to control and maintain offenders in the community; develop prevention capacity of local organizations.</td>
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</table>

The Context of Restorative Justice

Viewed through the restorative “lens,” crime is understood in a broader context than what is suggested by the questions of guilt and what should be done to punish or treat the offender. Howard Zehr argues that, in restorative justice, three very different questions receive primary emphasis.47 First, what is the nature of the harm resulting from the crime? Second, what needs to be done to “make it right” or repair the harm? Third, who is responsible?

As will be illustrated in the case examples below, questions one and two are best answered with input from crime victims, citizens and offenders in a decisionmaking process that maximizes their input into the case. Answering question number three
focuses attention on the future rather than the past and also sets up a different configuration of obligations in the response to crime.48 No longer simply the object of punishment, the offender is now primarily responsible for repairing the harm caused by her crime. A restorative criminal justice system would, in turn, be responsible for ensuring that the offender is held accountable for the damage and suffering caused to victims and victimized communities by supporting, facilitating, and enforcing reparative agreements. But, most importantly, the community plays a critical role in setting the terms of accountability.49

The need to engage and involve communities in the response to crime is based on an implicit, and sometimes explicit, critique of the ability of the formal justice system and the capacity of criminal justice professionals to address the needs of those most adversely affected by crime. As Judge Barry Stuart notes:

Crime (control and prevention) should never be the sole, or even primary business of the State if real differences are sought in the well being of individuals, families and communities. The structure, procedures, and evidentiary rules of the formal criminal justice process coupled with most justice officials' lack of knowledge and connection to (the parties) effected by crime, preclude the state from acting alone to achieve transformative changes.50 (Emphasis in original)

This assumed incompetence of the formal justice system and the need for a different set values, a different sense of the coparticipants in the justice process, and better ways to involve them in decisionmaking processes is best seen by examining the experience of these coparticipants in two cases.

Two Cases

Recently, in a large city a 32 year-old man entered the home of a neighbor, and walked upstairs into the bedroom of her 14 year-old daughter. For almost an hour, the man made lewd and offensive comments while sitting on the girl's bed. After the man
had been arrested and charged, the young woman and her mother were asked by the court to complete a victim impact statement. Except for a brief moment when the man had lightly stroked her hair, she had not been physically molested by the intruder. Yet, the young girl had felt traumatized and “dirtied” by the fact that the man had sat on her bed. After talking at length with her mother, the two decided that what the girl most needed was a new bed. The victim impact statement submitted asked for $500 in restitution from the offender to cover the cost of the bed, an apology, and a recommendation for a year of therapy and other assistance for the offender. The judge ordered 12 months’ jail time and a $500 fine, but payable to the court.

In a small town in the same state, a 14-year-old male, after pointing a loaded gun (which was actually a BB rifle) at a neighbor, was arrested, charged with second degree assault with a deadly weapon, and taken juvenile court intake in the small town where he resided. The neighbor, an adult male of about 35 who had been so frightened and upset by the incident that he insisted the case be fully prosecuted, was reluctantly persuaded to participate with the offender in a victim offender mediation session. At the session, after venting his anger and frustration at being startled with the loaded weapon, the victim learned that the boy liked to hunt. When he asked in the mediation session whom the boy hunted with and learned that it was his grandfather, an idea emerged that he would later propose when it was time to discuss an appropriate sanction. The outcome of the mediation was that, at the victim’s request, the boy would be required to tell his grandfather what he had done. After several days of reluctant hesitation, the boy told his grandfather and so informed the victim.

Retributive and Restorative Justice
The experiences in each case were dramatically different for the offender, the victim, and even the community. Most audiences who have heard the young man's story believe that he learned an important lesson (and did not get off easy) and that the victim was satisfied. Moreover, some have observed that the small community may have witnessed an important example of how a dispute that might otherwise have created a serious offense record for the youth, wasted court time, provided little relief to the victim, and created fear in the community of "armed and dangerous" juveniles could be effectively resolved. In the first case, most agree that the victim was ignored and again victimized, that the offender got no treatment and might even have been more dangerous at the completion of his jail time, and that the community paid the cost of the jail term while receiving little in return.

Most who hear the young girl's story are also upset with the judge in the first case for ignoring the victim's request. But while the conversion of the victim's request for restitution into a court fine seems especially insensitive, the judge was merely operating on the basis of the assumptions of the current system of justice decisionmaking. Referred to by some as a retributive justice paradigm, these assumptions result in the exclusion and disempowerment of victims, offenders and other citizens and, in part, are responsible for the general absence in most criminal justice systems of the co-participant involvement depicted earlier in Table 1. Although these cases are not necessarily typical, the experiences of victim, offender, and community parallel those that occur daily in criminal justice agencies everywhere. In addition, the contrast between them provides a useful illustration of how client needs are not addressed effectively by an approach to dispositional decisionmaking that is limited by rigid, rule-driven, impersonal procedures.
focused on defining “winners and losers” and fixing blame (see table 4).

Table 4
Paradigms of Justice: Old and New *

<table>
<thead>
<tr>
<th>Crime and Reaction</th>
<th>Retributive Justice</th>
<th>Restorative Justice</th>
</tr>
</thead>
<tbody>
<tr>
<td>Crime is an act against state, a violation of law, community or an abstract idea.</td>
<td>Punishment is effective.</td>
<td>Crime is an act against another person.</td>
</tr>
<tr>
<td></td>
<td>a. The threat of punishment deters crime.</td>
<td>Punishment alone is not effective in changing behavior disruptive to community relationships.</td>
</tr>
<tr>
<td></td>
<td>b. Punishment changes behavior.</td>
<td>Crime control lies primarily in the community.</td>
</tr>
<tr>
<td></td>
<td>The criminal justice system controls crime.</td>
<td></td>
</tr>
</tbody>
</table>

Victims and Community

<table>
<thead>
<tr>
<th>Retributive Justice</th>
<th>Restorative Justice</th>
</tr>
</thead>
<tbody>
<tr>
<td>Victims are peripheral to the process.</td>
<td>Victims are central to the process.</td>
</tr>
<tr>
<td>Community on sideline, represented abstractly by state.</td>
<td>Community as facilitator in restorative process.</td>
</tr>
<tr>
<td>Imposition of pain to punish and deter/prevent.</td>
<td>Restitution as a means of restoring both parties; goal of reconciliation/restoration.</td>
</tr>
</tbody>
</table>

The Offender

<table>
<thead>
<tr>
<th>Retributive Justice</th>
<th>Restorative Justice</th>
</tr>
</thead>
<tbody>
<tr>
<td>Offender accountability defined as taking punishment.</td>
<td>Accountability defined as taking responsibility and taking action to repair harm.</td>
</tr>
<tr>
<td>The offender is defined by deficits.</td>
<td>The offender is defined by the capacity to make reparation.</td>
</tr>
<tr>
<td>No encouragement for repentance and forgiveness.</td>
<td></td>
</tr>
</tbody>
</table>

*Adapted from Zehr (1990)

New Coparticipants and Restorative Processes
Crime victim needs are especially likely to be overlooked unless victims are given a direct voice in decisionmaking. What is most unique about the restorative justice value-base, and most difficult for many criminal justice professionals to accept, is its expansion of the role of crime victims in the justice process. Although victims' rights have received increased attention throughout criminal justice systems in most states, victim needs are often addressed only after the needs of police, judges, prosecutors, and corrections staff (e.g., in winning cases, processing offenders, or managing resources) have been considered. Despite frequent complaints about the inability of offenders to pay victim restitution, for example, many jurisdictions which do a poor job at enforcing restitution orders have been highly successful in the collection of offender fines and fees. Indeed, in many probation and parole agencies, victim compensation and restitution have taken a back seat to the collection of monies used to support criminal justice agency functions.

Moreover, while prosecutors appear to spare no expense and effort to gain victim input for efforts to increase the probability of conviction and length of sentence, time and resources for providing victim services, mediation, and reparative programs seem always in short supply. Because years of focus on the needs and risks of offenders means that victims do not start from a “level playing field,” justice professionals and citizens moving toward a restorative justice approach are giving primary attention to victims’ needs for physical and material reparation and emotional healing. When actively engaged, victims often express unique concerns and interests which are frequently unrelated to offender punishment, or even the need for material reparation:

...I can tell you that what most victims want most is quite unrelated to the law. It amounts more than anything else to three things: victims need to have people recognize how much trauma they’ve been through...they need to express that, and have it expressed to them; they want to find out what kind of person could have done such a thing, and why to them; and it really helps to hear that the offender is sorry — or that someone is sorry on his or her behalf.”
While it places central emphasis on victim needs and the requirement that offenders are held accountable to victims, the restorative justice paradigm also responds to the "mutual powerlessness" of offenders and victims in the current system and assumes the need for communities to provide opportunities for offender repentance and forgiveness following appropriate sanctioning. Restorative processes, whose potential benefits to each co-participant are illustrated by the first case, work best when there is active participation of victim, offender and community. They, therefore, demand opportunities for such participation that are sensitive to and supportive of victim and citizen needs. Although court proceedings with some flexible discretion by judges and other court decision makers could accommodate some of the changes needed to increase such active involvement, critics of the formal, retributive justice structure agree that minor changes in the court process will be insufficient to alter the current focus of these insular systems that have proved themselves inadequate to the task. Achieving restorative goals and the general vision of restorative justice is therefore likely to require expanded use of nonadversarial and less formal community decision making alternatives that allow for greater and more meaningful involvement of citizens and victims in decisions about the response to those who commit crimes and rely heavily on informal conflict resolution based on dialogue and negotiation. Table 5 suggests some promising existing models for victim and citizen participation in decision making. In the past five years, an explosion of interest in these new models has been a major catalyst behind support for restorative justice.

Restorative Justice, Reintegration, and Earned Redemption

- In inner-city Pittsburgh, young offenders in an intensive day treatment program solicit input from community organizations about service projects the organizations would like to see completed in the
neighborhood. The offenders then work with community residents on projects that include home repair and gardening for the elderly, voter registration drives, painting homes and public buildings, and planting and cultivating community gardens.

Table 5

Some Restorative Decisionmaking Processes

- **Victim Offender Mediation** - Trained mediators facilitate face-to-face discussion between offender and victim to allow for expression of feelings, discussion of harm and obligation, and arrive at agreement with offender to repair the harm.
- **Family Group Conferencing** - Allows for community, victim and family input into the development of a restorative sanction for juvenile offenders in a process initiated by a trained facilitator.
- **Circle Sentencing** - A sentencing and problem-solving process currently being implemented in Canada facilitated by a judge or community member and attended by victims, offenders and a variety of local citizens who support both and wish to develop a local resolution of the crime.
- **Community Reparative Boards** - Currently being implemented in Vermont, these citizen sentencing panels develop agreements with non-felony offenders that focuses their probation on victim and community reparation, understanding of harm caused by their crime, avoiding future offending behavior.
- **Reparative Court Hearings** - Though best implemented in an informal community setting, some judges hold special hearings to determine victim reparation as a separate part of the dispositional process in court.

- In South Florida, youthful offenders, sponsored by the Florida Department of Juvenile Justice and supervised by The 100 Black Men of Palm Beach County, Inc., plan and execute projects that serve a shelter for the care and treatment of abused, abandoned, and HIV positive/AIDS infected infants and children.
- In cities and towns in Pennsylvania, Montana and Minnesota—as well as in Australia and New Zealand—family members and other citizens acquainted with an offender or victim of a juvenile crime gather to determine what should be done in response to the offense. Often held in schools, churches or other community-based facilities, these Family Group Conferences are facilitated by a Community Justice Coordinator or Police Officer, and are aimed at ensuring that offenders are made to hear community disapproval of their behavior, that an agreement for repairing the damage to victim and community is developed and a plan for reintegrating the offender is designed and executed.
- In Cleveland, ex-offenders mentoring young offenders in juvenile justice programs work with chores and faith communities to provide shopping and support services for the home-bound elderly.
- In Minnesota, Department of Corrections staff collaborate with local police and citizens groups to establish FGC programs and ways to inform the community about and involve them in offender monitoring and victim support. In Dakota County, a Minneapolis suburb, local retailers and senior citizens whose businesses and homes have been damaged by burglary or vandalism call a crime repair “hotline” to request a work crew of probationers to repair the damage.
- In secure facilities for young offenders operated by the California Youth Authority, crime victims organize victim awareness training and crime impact panels designed to sensitize offenders to the personal harm resulting from their crimes.
- In Deschutes County, Oregon, juvenile offender work crews cut and deliver firewood to senior citizens and recently worked with a local contractor to build a homeless shelter.
In the city of Whitehorse, Yukon and other Canadian towns and villages, First Nation as well as non-aboriginal citizens sit sometimes for hours in a circle listening to offenders, victims, their advocates and other community members speak about the impact of crimes. When the feather or "Talking Stick" is passed to them and it is their turn to speak without being interrupted, they may comment favorably on rehabilitative efforts already begun by the offender, who may be a chronic and sometimes violent perpetrator well known to the community. Speakers in these Circle Sentencing (CS) sessions also express concerns for the victim or the continuing threat posed by the offender and, at the end of the session, attempt to come to consensus about a rehabilitative plan for the offender and an approach to healing victim and the community.

In several Montana cities, college students and other young adult "core members" in the Montana Conservation Corps supervise juvenile offenders on environmental restoration, trail building and other community service projects and also serve as mentors to one or more of the young offenders.

What do these examples have to do with reintegration or rehabilitation? Very little, if the reference is to most treatment programs in most criminal justice systems in the U.S. While it is possible to find similar activities in various locations around the world, those interventions are viewed by many justice professionals — and most correctional program staff — as "side shows." They are clearly not viewed as part of the rehabilitative agenda of most courts and corrections agencies.

Yet, these case studies contain at least some of the seeds of a new way of thinking about rehabilitation and reintegration that is focused less on treating offenders than on building communities; less on new treatment programs and more on institutional reform to promote youth development; less on counseling to improve self-image and more on changing the public image of people in trouble who have earned their way back into the community; less on criminal justice "experts" and more on building connections between offenders and community residents. The value of restorative justice to victims and communities goes well beyond the primary concern of this paper with meaningful offender reintegration. In addition, the current climate of "get tough" responses to crime provides few opportunities for meaningful discussion of offender reintegration and acceptance, whether or not it is earned. The principles of restorative justice, however, provide some hope for promoting a new way of thinking about both sanctioning and
reintegration that make possible, and even encourage, offender repentance, and begin to create cultural prototypes for community reacceptance of offenders who have “made amends” for the harm they have caused.

Forgiveness has been an important concept implicit in much restorative writing, and explicit in some. However, forgiveness has become an unpopular term in the crime victims' movement because it has been identified with an overt or implied coercion of victims to forgive the offender and a suggestion that those who do not, or cannot, are less worthy of justice system concern and support. But while reintegration through earned redemption does not imply any obligation on the part of victims, it does imply some tradition of societal mercy and some basic level of community capacity to forgive, if not to forget, the actions of offenders once they have made reparation to individual victims and victimized publics. Hence, rather than look to correctional programs or treatment models, this concern with “earned redemption” suggests that it is more important to look to community dynamics and the link between communities, crime, sanctioning and public safety.

Partly because of the emphasis in restorative justice practice and literature on the victim-offender dyad, the community role as coparticipant in restorative processes has been the least well developed. The role of the community in offender reintegration, and in a sanctioning process consistent with reintegrative efforts, is the cornerstone of a theory of restorative rehabilitation. Increasing the capacity of community groups and institutions to demonstrate collective mercy and develop strategies to reintegrate offenders who have earned their way back into the “good graces” of the community is thus a major agenda for restorative justice advocates.

Crime, Social Relationships, and Theories of Reintegration
Because restorative justice ideas have in fact emerged "from the field," it has been said that the restorative framework is largely practice in search of a theory of crime. But while restorative practice is not associated with a specific etiological perspective, restorative justice principles are consistent with several traditions in criminological theory. At the macro level, ecological theories of community and crime focus on the relationship between structure and culture as manifested in social disorganization and the inability of informal controls to limit deviant behavior. Of special salience here are emerging attempts to develop a theory of neighborhood "collective efficacy" based on recent research conducted in Chicago. This research, which compared crime rates in some of that city's poorest neighborhoods, found significant differences in crime rates between neighborhoods virtually identical in income and ethnic composition. This finding led the study's authors to conclude that the level of community organization and mutual support was the primary factor in low crime rates. Specifically, differences in the willingness of neighbors to support other families and to intervene in the lives of children were shown to characterize low crime neighborhoods. It is in this emphasis on crime as both a cause and result of weak or damaged relationships between community members that restorative justice may have the most to offer in reconceptualizing current approaches to intervention with both victims and offenders.

At the micro level, social control perspectives emphasize the importance of the "bond" individuals have to conventional groups. This bond can in turn be viewed as culturally and structurally fixed in the roles individuals assume in the context of socializing institutions (e.g., family, work, school) and it is these roles that account for informal constraints on deviant behavior. Such constraints are based on affective ties to
significant others (teachers, parents), as well as on a more rational "stake in conformity" that limits individual involvement in crime by the risk criminal behavior poses to the future legitimate opportunities.68 These constraints may in turn be weakened by the stigmatizing and isolating nature of current justice responses, or they may be strengthened by responses which sanction crime in a way that strengthens relationships between victim, offender, and community.

For those concerned with correctional intervention to rehabilitate offenders, a focus on strengthening this bond can also inform a reintegrative strategy. At a more intermediate, interactional level of analysis, consistent with social learning theories such as differential association,69 the restorative justice response to crime seeks to mobilize intimates and "communities of concern"70 around the offender to promote resolution, restitution, or other informal settlement. Such informal processes may be the first step in what some have labeled "reintegration ceremonies."71 Such ceremonies are clearly distinguished from the "status degradation ceremonies" of the formal court process and the isolation of experienced by offenders in retributive processes,72 which, consistent with the insights of societal reaction and labeling perspectives, are often said to be criminogenic.73

Against this theoretical backdrop, the restorative view of crime and community can be understood with reference to a familiar cycle of crime, fear, withdrawal, isolation, weakened community bonds, and more crime.74 This sequence provides an important key to thinking about patterns of crime, community dynamics, and the reaction to offenders75 and about the capacity of community norms and tolerance limits to control harmful behavior and to reinforce law-abiding behavior. The more connected community
members are, the more likely they are to restrain criminal impulses. As community bonds are weakened, the power of community disapproval as a force restraining crime is reduced.

Crime harms victims, communities, offenders, other citizens, and in essence damages the social fabric and peace of communities. While it is impossible to say which comes first, citizens, crime victims, offenders are caught up in a cycle in which crime is both a cause of breakdowns in individual and community relationships, and a result of these breakdowns. One of the most basic themes in restorative justice is the need to strengthen or rebuild social and community relationships. Restorative justice responses to crime attempt to break into the cycle of crime, fear and weakened relationships, and in so doing offer a holistic approach to addressing the sanctioning, safety, preventative, peacemaking, and rehabilitative needs of communities.

At the community level, a restorative response to crime seeks first to build and strengthen relationships by increasing the nature and quality of participation in problem solving and the response to crime and conflict. From this perspective, the general health of a community — and its crime rate — is directly related to the extent to which citizens participate in the community:

When citizens fail to assume responsibility for decisions effecting the community, community life will be characterized by the absence of a collective sense of caring, a lack of respect for diverse values, and ultimately a lack of any sense of belonging. Conflict, if resolved through a process that constructively engages the parties involved, can be a fundamental building ingredient in any relationship.

Since the root of crime is community conflict and disharmony, “justice” cannot be achieved by a government “war on crime” but rather by peacemaking, and dispute resolution. In this sense, crime, or any conflict, is viewed as an opportunity because it calls attention to social conditions that cause conflict and provides a chance for the
community to affirm its values and tolerance limits. Implicit in restorative justice is the assumption that as communities practice resolving disputes creatively, their capacity to do so also increases. The process of resolving conflict is therefore as important as the specific outcome in each case because, through this process, community members are believed to learn new skills and to increase confidence in their ability to manage conflict and to control/prevent crime in the future. For their part, when they facilitate or contribute to these processes, justice professionals get closer to the root causes of crime and are less likely to reach beyond their competence.

Relational Rehabilitation

If communities and justice professionals can learn how to resolve conflict, they can also learn how to reintegrate offenders. As is the case with conflict resolution, a restorative approach to rehabilitation is based on the general idea of building, or rebuilding relationships. At the individual level, if crime is viewed as the result of weak bonds, a relational rehabilitation must be focused primarily on strengthening the offender’s ties or bonds to conventional adults and peers, and on changing the offender’s view of law-abiding citizens and the community. At the community level, intervention to strengthen bonds must focus on changing citizens’ views of offenders and on increasing the willingness and capacity of community groups to take responsibility for integration and reintegration, as well as for informal sanctioning and social control.

In the case of delinquent young people, the intervention approach to achieve rehabilitation, integration, and habilitation would have the primary objective of strengthening bonds to conventional groups and would, as in conventional maturation processes, be centered around developing and enhancing youth/adult relationships. From a restorative perspective, this would begin with the small “communities of concern.”
around the offender and branch outward as the offender increases her/his ability to build
and manage relationships and strengthen both affective and rational ties to conventional
adults and adult institutions. The broader relational rehabilitation “project” would then be
focused on a community and institutional learning process by which members practice,
create and replicate models of offender reintegration.

It goes almost without saying that the criminal and juvenile justice systems were
not set up to support or enhance this kind of relationship-building. Rather than strengthen
bonds between offenders and community groups, correctional treatment programs are
individualistic interventions designed to “cure” psychological problems or remediate
presumed deficits. Based on an individual treatment, or “medical model,” paradigm that
generally locates the cause of crime and delinquency in individual offenders, this
approach is theoretically and practically insular and one-dimensional.

At best, treatment programs may seek to influence family dynamics — but often
with little or no theoretical guidance about how and why the family intervention effort is
in any way related to the offender’s behavior.* For the most part, treatment programs are
decontextualized attempts to address the offender’s thinking and behavior in settings
isolated from crime victims and victimized communities, in which the real harm that
resulted in the offender’s criminal justice involvement is no longer viewed as relevant.
Juvenile justice interventions, for example, target individual youth rather than adults and
adult institutions for change and fail to address the role of relationships, group conflict,
and institutional and community processes in crime causation. Moreover, such
interventions do not take account of how these factors may either promote or hinder
rehabilitation. By promoting an implicit view of habilitation and rehabilitation as
something that happens in treatment programs, the treatment model also fails to build on naturally occurring supports that may enhance positive relationships and bonds with conventional community adults. The insular focus on offender deficits and disturbances also supports a closed-system of intervention outcomes which are effectively limited to successful adjustment and accommodation to the regime of treatment programs and which define success almost exclusively in terms of process measures (e.g., number of clients served, number of program graduates, successful program completion), rather than outcomes relevant to reintegration. Finally, treatment programs have increasingly taken responsibility away from communities and the socializing institutions (e.g., schools & work) that serve them. In reinforcing the value of treatment "experts" and highly specialized services, while downplaying the role of nonprofessionals, treatment programs distance the rehabilitative enterprise from communities and the real people in them.

The one-dimensionality of current rehabilitative approaches is also a result of compartmentalizing treatment programs, and thus removing them from the context of other essential functions of criminal justice, and from the justice expectations and needs of communities. Although, according to recent surveys, communities and most citizens support a rehabilitative agenda, they also expect "justice" systems and agencies to do more than treat offenders. While juvenile justice professionals in particular speak in great detail about the treatment needs of offenders and about programs which allegedly meet these needs, they are seldom able to articulate what sanctions are being imposed on the offender and what is being done to protect the community. Should communities be expected to support interventions that appear to provide only a benefit to the offender, especially when sanctions and public safety issues seem to be ignored? As Braithwaite
& Mugford suggest:

Worse still, we fear that even when something does work, it is seen to do so only in the eyes of certain professionals, while 'outside' the system ordinary citizens are left without a role or voice in the criminal justice process.91

In moving beyond the closed-system approach to rehabilitation, a relational approach would need to challenge the insularity and one-dimensionality of both the retributive and the individual treatment/social welfare model of correctional programs. While there are also broader social and economic justice, youth advocacy, and institutional reform issues that would need to be addressed in a complete model of offender rehabilitation,92 criminal justice issues from a restorative perspective focus on the immediate need to build or rebuild relationships between offenders and their communities. This requires attention to three theoretical projects and collateral policy initiatives which flow rather naturally from restorative justice principles. These principles present a potential challenge to current rehabilitation models, and form the basic components of a new approach to reintegration.93

Toward Integration and Resonance

First, if there is to be a restorative justice “theory” of reintegration, it must therefore include a concern with the extent to which community and victim are meaningfully engaged in a more integrated justice process and the extent to which key community needs other than the need for offender rehabilitation are addressed. An underlying premise of restorative justice is the idea that offenders are not well served when the needs of victims and community are neglected and when these two coparticipants are not in some way involved in the process. More than this, the logical and theoretical assumptions of restorative justice suggest that it is difficult to effectively address the needs of any one juvenile justice client without involving and addressing the
needs of the other two. For example, from a restorative perspective, important first steps in an offender's rehabilitative or reintegrative process include a feeling of shame or remorse and an effort to make amends; the voluntary involvement of victims and community to the greatest extent possible in holding the offender accountable is an important component of this process. Similarly, to make progress toward healing and restoration, many victims rely on the reparative actions of offenders and the community, to provide restitution, acknowledge their suffering, provide information and support, and express apology and remorse. When justice is viewed as repairing the harm, and rebuilding damaged relationships, the response to crime must attend to all of those damaged by the crime.

Second, neither treating nor punishing offenders will make communities safe. Nor do these responses meet public demands to censure crime, affirm and enforce tolerance limits, provide consequences for crime, and effectively reintegrate lawbreakers. Practically speaking, citizens are less likely to support the idea of reintegration and rehabilitation until sanctioning needs and public safety concerns have been addressed. When these needs are addressed in an integrated way, efforts to sanction crime, manage risks, and reintegrate offenders become mutually interdependent, and they may be viewed as means toward the ends of repairing harm to victims, offenders, and communities and hopefully facilitating transformative changes in each. For example, when offenders are sanctioned by repairing harm to victims, they stand a better chance of preserving and enhancing their own human dignity, a necessary prerequisite for rehabilitation. Sanctions which degrade and isolate the offender, on the other hand, weaken bonds which foster reintegration and ultimately heighten risks to public safety. Similarly, efforts to
reintegrate or sanction offenders that do not explicitly attend to public safety concerns of the community can never win public support or create a climate in which victim needs can be meaningfully addressed. At a minimum, in restorative justice there should be compatibility or “resonance” between sometimes disparate efforts to address these primary justice needs of communities.

Third, to effectively meet the needs of the three coparticipants in crime and give them a voice and role in the response to crime, restorative justice calls for a more informal, naturalistic response that emphasizes the role of citizens, community groups, and socializing institutions. A relational approach to rehabilitation cannot be clinical in its focus, but must instead emphasize community socialization networks and naturally occurring processes in its analysis of how most delinquents grow up to be normal, productive adults. Young people in the juvenile and criminal justice systems share with many other young people a lack of a sense of usefulness and belonging, or "connectedness." Because they, unlike most adults, do not hold positions of responsibility in work, community, or family groups which allow them to make meaningful contributions, many young people become marginal commodities, or even liabilities, in a society where status is largely determined by one’s productive participation in the economy. Those youth who lack the clear promise of future access to meaningful adult roles which success in school may provide have little to lose by delinquent and other forms of deviant behavior; the “stake” in conventional behavior is low and “bonds” to conventional social groups are weak.

Completing treatment programs does not solve these problems of connectedness and lack of legitimate identity of young offenders. While treatment programs may be
helpful, being “drug free,” for example, does not give young offenders the skills needed for access to those roles (in work, family & community) that provide law-abiding adults with a stake in conformity. A restorative approach to rehabilitation would seek to enhance those competencies which help young offenders develop positive relationships with conventional adults, and would seek to increase the capacity of adults and adult organizations to allow young offenders to demonstrate competency by creating new roles for youth to contribute productively to their communities. Increasing vocational, educational, social and interpersonal and decisionmaking competencies, for example, is best accomplished through an effort to provide young offenders access to roles which engage them experientially in productive activities including work, community service, and conflict resolution. Policy and intervention strategy must then build upon and seek to enhance the capacity of both socializing institutions such as school and work, as well as informal networks and processes to support reintegration.

Elsewhere I have addressed this third component of an approach to offender reintegration based on restorative justice and youth development principles in a more comprehensive way.9 The remainder of this chapter therefore focuses primarily on the first and second theoretical projects. To do so, I address need for a new approach to sanctioning, and an integration of sanctioning and rehabilitation functions as a means of improving the prospects for “earned redemption.” Because sanctioning offenders has so commonly been thought of only in terms of the narrow objectives of “just punishment,” — or as Christie suggests, to cause pain to the offender;100 — it is especially important to think about the resonance, or lack of it, between sanctioning and rehabilitative interventions. “Project One,” the focus on the needs and involvement of victims,
offenders, and community in all interventions, is incorporated in this discussion.

Rethinking Sanctions

Punishment, by stigmatizing, humiliating and isolating the offender, may have a counter-deterrent effect by minimizing prospects that the offender may gain or regain self-respect and the respect of the community.\(^{101}\) Ironically, punishment often encourages lawbreakers to focus on themselves rather than the person they harmed as the victim\(^{102}\) and may undermine self-restraint by attenuating natural feelings of shame and a sense of morality\(^{103}\) while weakening community bonds by damaging family, peer, and other adult relationships.\(^{104}\) Although the current trends in most of the world (and certainly in the U.S.) seems to be to move more in the direction of punitive sanctions that maximize harm to the offender,\(^{105}\) the continuum of possible sanctions ranges from those intended primarily to threaten or harm offenders (and would be offenders), which generally emphasize incarceration, to other approaches which may build community solidarity and commitment and ultimately strengthen the bonds between offenders and community members.

As Herbert Packer argued in his now classic discussion of this topic, depending on *intent* sanctions can be directed toward compensatory, deterrent, regulatory, and rehabilitative ends, as well as retributive punishment.\(^{106}\) Although few question the inevitability of some punishment or deny that any sanction may be experienced by the offender as punitive, it is possible to consider and give priority to different sanctioning objectives in the response to crime. In recent years a number of scholars have challenged the effectiveness of retributive punishment and argued that sanctions may also serve important expressive, educative, and symbolic functions.\(^{107}\) Quoting Durkheim, for example, Braithwaite highlights the role of sanctioning in moral education and
underscores the limitations of punishment aimed only at threats and offender suffering:

Since punishment is reproaching, the best punishment is that which puts the blame... in the most expressive but least expensive way possible... It is not a matter of making him suffer... or as if the essential thing were to intimidate and terrorize. Rather it is a matter of reaffirming the obligation at the moment when it is violated, in order to strengthen the sense of duty, both for the guilty party and for those witnessing the offense - those whom the offense tends to demoralize.108

From this perspective, expressive sanctioning aimed at communicating

value-based messages to offenders and the community and affirming obligations and accountability should be more effective in regulating conduct and more likely to promote community solidarity and peaceful dispute resolution.109 Although punitive sanctions may detract from the accomplishment of both reparative and rehabilitative goals, if intended to educate, sanctions can, as Durkheim pointed out, reinforce obligation and responsibility, and provide an understanding of the suffering caused to other individuals that resulted from an offender’s crime.110 Such a sense of obligation, as modern communitarians would argue, can strengthen bonds and reinforce a sense of justice.111 From a restorative perspective, sanctioning should be first focused on repairing the harm to victims and the community, and in so doing, allowing communities an outlet for symbolic, collective denunciation of crime, as well as the affirmation of tolerance limits.112 But while sanctions are intrusive and coercive and should not be disguised as “treatment,” the sanctioning process has important implications for any rehabilitative approach. When carried out based on restorative principles, sanctions may themselves have rehabilitative impact.

The Rehabilitative Potential of Sanctions

A growing body of empirical research is supportive of the rehabilitative value of reparative restitution, community service and other restorative sanctions and processes.113 Some studies suggest that rehabilitative impact is increased when reparative sanctions are viewed by the offender as fair and when they are truly victim-focused.114 Restitution,
community service, and related reparative requirements such as victim awareness training, especially when reinforced with victim offender mediation, can be high on the educative scale. According to one study, completing restitution and community service was found to be associated with enhanced feelings of citizenship and community commitment. At the top of a continuum of least to most educative sanctioning responses are settlement or dispute resolution processes in which the offender also learns important competencies which are transferable to a variety of settings. Such learning is heightened and the rehabilitative power of sanctions enhanced, according to “affect” theorists, in processes which allow for emotional content and expression. Though too infrequently utilized in Western societies, such processes may enhance offender relationships in employment and other roles, while also providing essential competencies needed to prevent violent resolution of future conflicts.

Unfortunately, reparative sanctions have been criticized unfairly by a group of treatment researchers who have for the most part ignored, misread, or misinterpreted positive (or at least encouraging) findings from experimental and other empirical studies of the impact of restitution and community service as well as promising results on victim offender mediation, victim impact panels, family group conferences and related interventions. A major distortion of this critique has been a tendency to portray all sanctions as negative and as detracting from the reintegrative process, and a failure to distinguish theoretically and empirically between sanctions with reparative focus and aim such as victim restitution and restorative community service, and sanctions with solely punitive or deterrent intent.

In their list of programs that do not work, for example, Krisberg, Currie and
Oneki reinforce this tendency by including restitution and community service — along with “shock incarceration,” “Scared Straight,” and Boot Camps — in a category of interventions they conclude are ineffective, and possibly harmful. But sanctions that reinforce and affirm values about obligations to others and provide benefit to the community do not detract from rehabilitative goals, and it seems foolish at best not to consider the possibility that such sanctions could have independent rehabilitative impact. Are we to believe that meeting with one’s victim, paying restitution, or completing community service is as demeaning, stigmatizing, and humiliating as being forced to clean toilets in a Boot Camp? Does community service in which youth work with adults to build a community shelter for abused women provide the same experience as a chain gang?

Being required to face one’s victim or face the community and work to repair the harm caused by one’s crime may well be tougher and more painful for offenders than standard punishments focused on incarceration. But, in lumping such dramatically different sanctions as Boot Camps and restitution together and discounting the contextual importance of the sanctioning function, critics ignore the intent of sanctions and reinforce by default the one-dimensional approach to rehabilitation. Most important, politically, they strengthen the hands of those policymakers promoting truly harmful, retributive sanctions. In the absence of an alternative sanctioning model, treatment is in any case most likely to be used as an add-on to destructive punishments whose impact is likely to counter any possible positive effects.

Advocates of restorative justice would not claim that reparative sanctions are rehabilitative panaceas. No one should expect dramatic reductions in recidivism as a
result of exposure to restitution, community service, mediation or any other programs in isolation, and too often many of the most promising restorative sanctioning programs have been poorly implemented. Yet, despite the unfounded dismissal of the idea of sanctions as potentially rehabilitative, a number of restorative sanctions are gaining popularity precisely because they are assumed to be good for the offender, and increasingly, this assumption is being supported by emerging theory and research. In addition to Schneider's empirical work on equity theory and processes, which appears to establish a link between completion of reparative sanctions and reduced recidivism among delinquent offenders, there are recent promising findings and theory on the rehabilitative impact of community service. When integrated into a comprehensive and holistic reintegrative strategy, such sanctions reinforce, and according to available studies, are likely to increase the rehabilitative impact of other interventions. When implemented in a way that also begins with an acknowledgment of harm to victims, actively involves community members in sanctioning aimed at holding the offender accountable to the victim, and engages a support group for the offender (and the victim), such sanctions can also be a natural first step in a reintegrative process to reintegrate offenders.

Sanctioning and Reintegrative Process

When community people have input into who is accepted into a community sentencing process, they don't just pick the "cream puffs"... they pick the guys who have been wreaking the most havoc on them for years. (Judge Barry Stuart)

Equally, if not more important than the actual sanction of restitution, victim service or community service, however, is the process by which these sanctions are meted out to offenders. So vital is the nature of the decisionmaking process in restorative justice, in fact, that some proponents argue that process and outcome are not easily
separated. Following the logic of Aboriginal and indigenous settlement traditions, the argument suggests that simply “making connections” and hearing the voices of those with an interest in the crime in a respectful way is itself a positive outcome; in an effective process, solutions or outcomes are said to take care of themselves.130

An underlying assumption of restorative justice now being more frequently discussed is that sanctioning processes are more likely to enhance rehabilitative/reintegration when they involve family, victims and key members of the offender’s community directly in the process.131 In this regard, perhaps the most promising potential bridge between sanctioning and rehabilitation in restorative justice practice has been the proliferation of new community decisionmaking models such as family group counseling (FGC), circle sentencing, citizen boards, and various extensions of victim-offender mediation and victim-offender dialogue.132 The excitement around such interventions is that in bringing citizens and victims together with offenders and the supporters of both offender and victim together in a Family Group Conference or sentencing circle, much more than sanctioning or “shaming” may be accomplished. Among other things, conferences or circles contain some basic elements of a true offender support group.133

Yet, as is the case with restitution or victim-offender mediation programs, the impact of spending two hours in an FGC should not be expected to produce remarkable results and does not offer a complete model of rehabilitation.134 There is nothing easy about the restorative justice process, and it will in fact require far more time up-front, as well as follow-up time than formal court processes. Offenders will not be quickly “cured,” and as Braithwaite & Mugford suggest, several family group conferences may
be necessary before an offender “gets the message.” As an ex-felon, who is now an active leader in a local community juvenile justice committee in northern Canada and mentor for young offenders participating in circle sentencing processes told Judge Barry Stuart, “I’m still a crook... I still want to sell and use drugs and fence stereo equipment. But if I do that, I lose this connection. It’s this connection here (the community justice committee) that makes me not do it.”

Moreover, if not carried out with a thorough grounding in restorative goals and values, FGCs and other processes may even exacerbate the reintegration problem. There are empirical questions one may ask to determine if a specific sanctioning approach or process is likely to be helpful or harmful, and Braithwaite and Mugford’s distinction between “conditions of successful reintegration ceremonies” that differentiate condemnation of the act from condemnation of the actor and processes such as “shaming” that promote “status degradation,” provide a useful benchmark in making this assessment.

Practically, from a rehabilitative perspective, these community sanctioning models provide one possible “gateway” to engage community support for offender reintegration at a time when this is a very difficult political enterprise. Some have suggested, however, that what may be most important about these community sanctioning processes is their potential for increasing citizen participation in and support for reintegrative processes by providing a sense of ownership over a primary justice decisionmaking function. As the quote from Judge Stuart at the beginning of this section suggests, citizen involvement may also widen the range of offenders viewed as acceptable for community sanctioning to include serious and violent lawbreakers.
generally viewed as beyond eligibility for reintegrative processes. The “hook” to attract such community support is that citizens who had formerly been uninvolved and concerned about offenders only in the abstract, and then often as objectives of punishment, will be more willing to participate when given the opportunity for input into sanctioning decisions. Once involved in this way, restorative justice advocates assume, citizens will be more likely to also better understand the needs of the offenders (as well as those of victims) and will be more likely to also support a reintegrative agenda for offenders who fulfill their obligations through a restorative process of earned redemption.

Confronting Obstacles: A Discussion

Although the more obvious criticisms of restorative justice can be answered persuasively, numerous obstacles remain to widespread expansion of a restorative agenda in the U.S. Both generic questions about restorative justice and specific questions about the prospects for offender reintegration based on development and expansion of processes of earned redemption need to be addressed.

Responding to Critics: Generic Concerns About Restorative Justice

Restorative justice advocates do not have all the answers for criminal justice reform or for changing the community response to crime. Although addressing the range of criticisms of this “new paradigm” is beyond the scope of this paper, several of the most common questions about restorative justice can be at least provisionally answered.

1. Limited Application — Although some have dismissed restorative justice as relevant only to minor crimes, as a systemic intervention model, restorative justice cannot be limited to one program, one type of offender or victim, or one part of the system. Restorative responses for cases diverted from the court or
formal system (e.g., community mediation and service to the community) and restorative efforts to prevent crime (e.g., school-based mediation) are, however, likely to be very different from restorative responses to the most violent crimes (e.g., victim awareness education or community service within a secure facility). Currently, though use is most common as part of diversion or as an option for probation, restorative sanctioning and decisionmaking processes are being used at several points in juvenile and criminal justice systems in various parts of the world. Restorative sanctions may be ordered by judges or developed through community boards, mediation sessions, or other process at any point — including after institutional commitment. 140

2. Lack of Concern With Due Process — Because a core principle of restorative justice is that the community should have input into how problems should be resolved and new responses to crime developed, restorative justice should be flexible and adaptable to local communities and prescriptive only with regard to these values and system goals. It is often this general emphasis on community involvement in nonadversarial decisionmaking that has been the source of many questions about restorative justice. Such increased reliance on informal processes seems difficult to envision in a system in which formal rules and procedures are in part intended to protect offenders from the abuses of unrestricted retribution and may be especially troubling to those concerned about further slippage in current procedural safeguards. 141 No restorative justice advocates have argued that it is necessary or desirable to weaken constitutional safeguards for offenders, 142 and restorative justice processes are not undertaken in cases in which an offender has not admitted or been found guilty. In most cases the current court process is itself often
highly informal rather than truly adversarial; however, it is based on negotiation and bargaining in the service of the retributive ends of the state (and the professional interests of attorneys) rather than the interests of fairness and due process.

3. Victims, Communities and Offenders as Obstacles — Numerous questions remain about the practicality and overall effectiveness of restorative approaches. Common concerns focus, for example, on assertions that “victims are angry and punitive and do not want to have anything to do with the offender;” “offenders have no empathy, are incompetent, and are incapable of restoring the loss or harm caused by their crimes;” “the community is apathetic and citizens do not wish to be involved;” or “juvenile justice workers are required to spend too much time in court or doing paperwork and have not been trained to work with the community.” Interestingly, criminal justice professionals committed to achieving the restorative justice goals view these very rationales for opposing the approach as precisely the reasons a new mission is necessary. That is, if victims are angry and offenders lack skills and empathy, a primary objective should be to develop interventions that facilitate changes in offender empathy and competency and attempt to meet the needs of victims and ask them for their input. If citizens seem apathetic, a primary objective should be to work toward reducing community apathy and non-involvement and strengthening neighborhoods by changing the nature of current practices and decision-making processes. Finally, if staff do not have time or skills to perform such tasks, it may be time to reexamine and consider changing priorities and incentives.

4. Incompatibility With Other Criminal Justice Objectives — It is unlikely that a restorative system would eliminate other traditional justice system goals. Rather,
restorative justice would most likely seek to bring about changes in the priority of these goals. For the most part, as Braithwaite & Mugford propose, restorative justice values can exist side-by-side with most traditional goals of juvenile justice intervention such as rehabilitation, and even deterrence and incapacitation. Proponents of restorative justice, for example, recognize the need for attempts to deter some offenders, as secondary responses when they willfully and repeatedly disregard restorative obligations, or to protect citizens by incapacitating a smaller group of predatory offenders who continually victimize others. But restorative justice would give lowest priority to punishment for its own sake, and would in practice challenge current “easy” solutions that simply reinforce retributive urges and devote additional resources to traditional punishment, treatment and unimaginative approaches to enhancing public safety. From a restorative perspective, it is easy to get offenders to “take the punishment,” but it is much more difficult — and more important — to get them to take responsibility. It is equally easy to get many offenders to submit passively to the requirements of treatment programs, but it is much more difficult — and more important — to get them to actively earn their way back into the community and involve themselves in meaningful, productive roles that can potentially change their image from liability to community asset. It is easy to routinely lock up offenders in the name of public safety. But it is more difficult and more important to promote genuine public safety by building community capacity to control and prevent crime.

5. The Need for More Research — While the experience of restorative justice initiatives thus far and the findings of restorative justice research does not support the claims of critics, the “grain of truth” in these assertions does in many ways reflect the view of some
staff in today's criminal justice systems. Initially, potential problems can be seen as basic implementation challenges, which in turn suggest essential empirical questions. For example, a fundamental question that requires baseline data before court and other system decisionmakers decide to support community justice decisionmaking is whether or not citizens really want these alternatives and are willing to be involved in neighborhood sanctioning processes. Alternatively, citizens may simply want more accessible, or “user-friendly,” courts and other criminal justice agencies. As Kathleen Daly suggests after examining restorative justice conferencing in Australian over a period of several months, cautious optimism is justified in assessing the potential benefits of restorative justice. Restorative justice is in its infancy but, in any case, the standard or benchmark for gauging success must be the reality of the current system rather than some ideal depiction of it. While research is clearly needed, research evidence thus far on restorative programs indicates positive impacts on victim, offender, and community. Moreover, as suggested earlier, other streams of research focused on delinquent reform and neighborhood collective efficacy are generally supportive of the restorative focus.

Devolving Rehabilitation and Building Community: Offenders, Experts, Real People and “Naturalistic” Reintegration

The development of a system [criminal justice] that takes sole responsibility for authoritarian control, and of a department [police] that takes sole responsibility for removing people from civil society and feeding themselves into this system - such developments may be socially debilitating, even criminogenic. They perpetuate the illusion that the state, rather than civil society, is ultimately responsible for social order.

Many “baby-boomers” and older generations often recall a time when adults in their neighborhoods or small towns took responsibility for “looking after” neighborhood children other than their own. In effect, community members, with the encouragement and support of police, schools, and other institutions, often “took care of” problems that
now end up in juvenile courts or diversion programs. One of the things neighborhood adults did, as Braithwaite\textsuperscript{155} reminds us, is reinforce community standards, norms and expectations. These adults set community tolerance limits, and through verbal or other sanctions (including telling our parents), often persuaded young people to refrain from whatever troublemaking or annoying behavior they were involved in. As adults were involved in expressing disapproval of behavior they viewed as wrong, they maintained a relatively strong system of informal social control. While it is possible to simply write these actions off as nostalgic memories of a different era — and some of these social control techniques were discriminatory and undemocratic — we can also examine cultural and structural forces that have fundamentally limited the capacity of neighborhoods to develop common tolerance limits.\textsuperscript{156} Moreover, it is important to ask questions about the ways in which criminal justice intervention itself may have reinforced a process by which community adults, and adult institutions, appear to have become helpless and hapless in socializing young people.

Several developments in U.S. criminal justice have expanded the government role in social control while undercutting the community's role. The movement away from informal, neighborhood policing which emphasized local responses to crime to centralized intake bureaus where juvenile justice professionals process young offenders through courts and treatment programs\textsuperscript{157} is one example. Similarly, three decades of failure in the experience with juvenile diversion programs in the U.S.\textsuperscript{158} can teach related lessons about the intrusiveness and expansiveness of early intervention programs and the social service bureaucracies that support them. The problem with diversion and the centralization and specialization of the response to crime was the failure to distinguish
between interventions that strengthened youth commitments and youth-adult
relationships and those that further stigmatized and excluded young people, isolated
youth from conventional adults, and usurped the community’s responsibility.

The problem, moreover, was not government itself, but a failure to define a
suitable role for government. When the role of the justice system is not clearly defined,
in concert with the community’s role, justice and service programs are likely to
overextend their reach, and bureaucracies will often make matters worse by aggravating
processes of marginalization. As McKnight observes:

A preliminary hypotheses is that services that are heavily focused on deficiency tend to be pathways out
of community and into the exclusion of serviced life. We need a rigorous examination of public
investments so that we can distinguish between services that lead people out of community and into
dependency and those that support people in community life. (Emphasis mine)159

A relational approach to offender rehabilitation must at some point confront social
service bureaucracies which focus primarily on deficiency and exclusion and which, in
the attempt to provide help, actually minimize the prospects for bonding and relationship
building. In place of this youth service and individual treatment model, a new
intervention paradigm is needed which seeks to rediscover and, if necessary, reinvent
ways for communities to begin to take back the responsibility for youth socialization and
offender rehabilitation. Citizens who look closely at the causes of crime suspect that
courts and justice systems have already reached beyond their competence in the effort to
control crime, sanction offenders, or build safer communities.160 Similarly, government
cannot be solely responsible for rehabilitating offenders.

The “good news” is that most offenders “age out” of crime or experience
“maturational reform.”161 While this process doesn’t happen magically, it typically has
nothing to do with treatment programs. Rather, known institutional and social ecological
factors — notably a job, family ties (both family of origin and family of choice), access
to higher education, and community supports — are primarily responsible. Moreover, the resiliency of young people in high risk neighborhoods seems to be due to one relatively simple factor: the ongoing presence of one or more caring adults (not necessarily parents) who are able to provide them with ongoing support and access to roles which allow them to develop legitimate identities. What is of most significance is the role of the relationships most young offenders eventually build with other law-abiding citizens in their own communities. Hence, effective strategies for long-term rehabilitation must maximize neighborhood ties and seek to enhance those nonprofessional adult relationships.

But naturalistic does not mean "naturally occurring." There is nothing accidental about reintegration and a relational strategy based on restorative principles is not a libertarian approach. Moreover, there is nothing magical about "the community," and identifying and mobilizing citizens to allow for a greater community role in rehabilitation will require a very intentional strategy which redefines, rather than seeks to eliminate the government role. Hence, a naturalistic approach to rehabilitation would build on a general belief in the capacity of communities and nonprofessional adults, if encouraged and supported, to develop and assist young people in getting through problems such as delinquency and growing up. Relational rehabilitation would maximize use of informal support networks while minimizing use of formal social control and professional intervention services.

Such a strategy would redirect justice resources toward the difficult task of community building and would begin to redefine the role of the rehabilitation professional. In a naturalistic, relational rehabilitation approach such professionals would
no longer view themselves, or be viewed by their communities as "experts," providing service or treatment to change offender attitudes and behavior. Nor would their role be defined as "case manager," responsible for functions which limit the potential for astute professionals to enhance naturalistic reintegrative processes. Rather than monitoring offenders on community supervision, making referrals for service, and completing paperwork, justice professionals would focus on creative problem-solving, community development, and relationship building, and the professional role in relational rehabilitation would thus be more one of catalyst for facilitating change in the role of offenders from liability to resource.165

Obstacles to Restorative Reintegration: The Challenge of Earned Redemption

Currently, in the U.S. we appear to lack two essential ingredients necessary to make the restorative justice response to crime more than a marginal and ancillary feature of the current predominately retributive criminal justice response. To move forward with an agenda for offender reintegration based on earned redemption, it is necessary to consider how the restorative justice project, which necessarily consists of micro efforts to repair harm to victims and victimized communities, might interact with more macro efforts to build a supportive culture of redemption and to develop structural paths which support integration and reintegration. In the U.S. in particular, however, the prospect of a more systemic and societal application of earned redemption must confront both cultural and structural obstacles.

A Structure of Integration and Reintegration

One typical response to restorative justice arguments about offender reintegration is that when it comes to young people in much of the Western world, we lack even an approach to integration.166 The increasing structural separation of young people from
adults is indeed both a cause of crime and a formidable barrier to even a productive
dialogue about offender reintegration.

Addressing this separation as an international problem of marginalization of
young people will require a dramatic shift in work and educational policies and priorities.
Such a shift requires a willingness to confront structural economic changes that have
created an international crisis of youth marginalization. This crisis is, of course, greatly
exacerbated for young minority people as illustrated graphically by rates of
unemployment for 16-19 year old African-Americans that in recent years have run as
high as three times those for whites (the white rate has averaged approximately 20
percent).

Having begun to address these issues, a comprehensive and meaningful
reintegration policy aimed at young persons currently in (or near) the criminal and
juvenile justice systems must therefore begin with an educational, employment, and
youth development strategy. Such a strategy would be based on the premise that a
functional economy cannot afford to “write off” huge segments of the youth population
as liabilities, but must instead begin to view all young people as a resource.

A second structural concern for advocates of a restorative approach to
reintegration grows out of the fundamental premise of restorative justice that crime
control and offender reintegration must begin and end in communities. This requires that
advocates confront the fundamental challenge of “finding” and then engaging
community. The magnitude of this structural challenge is illustrated clearly by
criminologist Elliot Currie’s sketch of an economy and social system that strains
communities to the point at which they are unable to develop or sustain a sense of
connectedness or bonding:

If we wanted to sketch a hypothetical portrait of an especially violent society, it would surely contain these elements: it would separate large numbers of people, especially the young, from the kind of work that could include them securely in community life; it would encourage policies of economic development and income distribution that sharply increased inequalities between sectors of the population; it would rapidly shift vast amounts of capital from place to place without regard for the impact on local communities, causing massive movements of population away from family and neighborhood supports in search of livelihood; it would avoid providing new mechanisms of care and support for those uprooted, perhaps in the name of preserving incentives to work and paring government spending; it would promote a culture of intense interpersonal competition and spur its citizens to a level of material consumption many could not lawfully sustain.169

While the emphasis on the personal “communities of concern” around offender and victims as discussed above is a useful beginning in the effort to define community in terms useful for criminal justice intervention, this focus has little apparent relationship to a macro reintegration strategy based on earned redemption. One initial linkage proposed by Braithwaite and Parker is to begin to connect community sanctioning and reintegration ceremonies to what they refer to as “vibrant social movement politics.”170 The purpose of such a linkage is to address structural inequities directly implicated in race and class bias in the criminal justice process, while also checking the potential tyranny of both state and community. Infusing more macro, movement politics into such micro processes as FGC, victim offender dialogue, or circle sentencing, on the one hand, runs the risk of altering the dynamic of these ceremonies in a way that may alienate some participants. On the other hand, broader community and social justice concerns which appear to be clearly grounded in movement politics have been a consistent feature of some of these efforts to devolve, and assume community control over, justice decisionmaking. In fact, community control over justice processes has been a strong driving force among those Canadian and New Zealand aboriginals, although the devolution movement in these communities has been as much about local ownership as indigenous solidarity.171 Similar initiatives could possibly build on anti-criminal justice system sentiments in African-
American and Hispanic communities in the U.S. in a way that encourages local community-building to improve the response to crime.

A Culture of Redemption

Case One - In San Diego the tragic shooting of the teenage son of a well-to-do San Diego businessman by a 14-year old gang member after the man’s son had refused to give him a pizza was to result in the transfer of the offender’s case to adult court for disposition. Rather than seek waiver of his son’s killer to adult court, the father, who blamed the state of California for allowing teenagers such easy access to guns, chose to reach out to the grandfather of the boy both for a resolution to this case and to develop a potential solution to the broader problem of youth violence. After a series of meetings that involved the extended families of the father of the victim and the offender, the father and grandfather formed a national coalition dedicated to remedying the two conditions the father blamed for his son’s shooting: the ready availability of guns to teenagers and the need for training in peaceful alternatives to resolving conflict among young people.

Case Two - A St. Paul Minnesota man, whose home had been burglarized and his possessions (including several valuable antiques) badly damaged by a vandalism spree of two young neighborhood boys, recognized that his neighborhood lacked the sense of community he once felt. Feeling some personal responsibility for this breakdown in relationships as well as anxiety about his loss, the victim suggested to the prosecutor in the case that a meeting with the offenders be arranged in hope that he might involve them in an effort to do something in the neighborhood to restore a sense of community. After this suggestion was rebuffed by the prosecutor who explained that the courts were “interested in consistency, not creativity,” the man — with the support of victim-offender
mediation case workers — arranged a block party in which the offenders were required to work with him to prepare a barbeque for neighborhood residents.

It is apparent that cultural expectations in those societies and communities that find an easy fit between restorative justice and criminal justice support and encourage offender confession and repentance for their wrongdoing. Once this occurs, it is also assumed that societal forgiveness and an effort to reintegrate the offender will be forthcoming. Building support for earned redemption within a culture of blame and retribution based on what one observer labeled “constitutionalized revenge” presents enormous challenges. One of the greatest of these challenges is the mutually reinforcing character of a justice system focused on fixing blame and determining punishment by means of the most adversarial process in the world and the tendency of offenders to deny guilt — or admit to the lowest acceptable charge until a plea agreement can be negotiated.

On the one hand, the current attempt to “import” processes that use shame and remorse in ways that promote repentance, forgiveness, and resolution in such a culture runs a substantial risk of perverting these concepts. On the other hand, despite these cultural obstacles, the cases described above, however atypical they may appear in the American cultural context, are not unique. Moreover, the cultural significance of a few widely publicized cases that seem to stretch the concepts of forgiveness and repentance to the limit could enhance the strength of emerging grassroots support by providing a kind of “folklore” that illustrates a much wider range of possibilities in the community response to crime. In addition, consistent with Naroll’s theory of “snowballs,” as reintegrative sanctioning ceremonies are repeated and publicized often enough in what
some see as a period in which policymakers are sensing that they have reached the limits of the punitive and treatment reactions, a community and cultural learning process may take place. Such a process may allow these alternatives to slowly seep into the cultural repertoire of potential responses to crime and to the harm crime causes.

Proponents of restorative justice approaches are indeed engaged in micro attempts to “build community” from the ground up using the vehicle of sanctioning ceremonies. While the prospects of such activity bringing about systemic change in criminal justice seem remote, other examples from community organizing suggest that it is often one signifying incident (e.g., a police shooting) that mobilizes neighborhoods to implement reforms. It might not stretch this analogy too far to argue that new awareness of the crime problem in a community, growing problems with neighborhood young people, concern about increased victimization, or a particularly disturbing case, could, in the context of an effective participatory community sanctioning model, provide a “wake-up” call to a few individuals who band together to initiate fundamental change in the response to crime.

Although the hope for cultural change in a direction supportive of earned redemption by means of even widely repeated demonstrations of successful restorative responses seems farfetched, Schweigert suggests that the emerging restorative justice agenda for “community moral development” has several characteristics in common with other successful social change movements. This includes a blending of means and ends, or process and outcome (e.g., conflict resolution, informal social control mechanisms), which allows for multiple and ever widening impact as the means themselves result in outcomes unforseen by the actors involved, yet consistent with the basic principles. Moreover, restorative justice reforms build on community assets and strengths, follow
the lead of “citizen politics” in their adaptability and focus on local communal traditions while using professionals as catalysts and facilitators, demand and encourage collaboration, and allow for “free space” or “space between places” in social relations where individuals and communities and the formal and informal intersect. The latter characteristic encourages victims, citizens and offenders in conferences, mediations, and other processes to resolve conflict in a way that is potentially transformative for communities and which integrates effective ties and emotions based on communal norms with the universal norms with the legal system which provide rational, transcending standards. “Crime” as a violation of established law is linked in restorative justice to the more communal notion of crime as personal conflict and personal injury sanctioning ceremonies in which

...moral authority is demonstrated as government agencies and institutions act with respect toward all persons involved in the crime, effect a process that repairs the harm done by the crime, and ratify the authority and acts of those who resolve the crime. In short, impersonal rational moral authority is demonstrated by acts of reinstating offenders and restoring victims. The restorative process enables persons exercising communal moral authority to endorse the acts and hence the authority of agencies and institutions embodying universal norms. In this way, the moral authority of community traditions reinforces the authority of universal norms.177

Discussion moving from micro to macro process in this fashion while connecting the communal and universal will been seen by many as nothing less than Utopian. Yet, as Belgium criminologist Lode Walgrave observes:

Giving priority to reparation rather than retribution calls for a change in social ethics and a different ideology of society. That means a society governed with the aims of individual and collective emancipation, in which autonomy and solidarity are not seen as diametrically opposed, but viewed as mutually reinforcing principles. A society doing its utmost to avoid exclusion of its members, because it is a society which draws its strength not from fear but from the high social ethics by which it is governed...Is this Utopia? Yes, but we need a utopia to motivate us and provide guidance for our actions in society. There is nothing more practical than a good utopia.178

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Notes

1. Conservative philosophers have generally enshrined punishment as the cornerstone of moral authority and thus the priority for intervention in response to crime, and have little faith in the capacity of most offenders to change behavior except in response to the threat of coercive responses centered primarily on incarceration (van den Haag, 1975). Liberal approaches have traditionally focused on rehabilitative approaches that seek to treat the assumed underlying causes of crime. Based on the idea that criminal justice intervention must be kept to a minimum, proponents of libertarian approaches, emphasize procedural restrictions on the system because they are equally skeptical of the motives of those seeking to either punish or treat offenders (Platt, 1977; Rothman, 1980), and are concerned that intervention, no matter what the intent, often makes matters worse (AFSC, 1967; M. Lemert, 1971; E. Schur, 1972).


5. The retributive/punitive paradigm that emerged in the juvenile justice system in the 1980s was in no way a pure "just deserts" approach. (Thompson & McAnany 1984). Rather, retributive justice, as implemented, combines the emphasis on the primacy of punishment philosophy and certain policy trappings (e.g., determinate sentencing guidelines) of just deserts with a general concern with deterrence, incapacitation and more traditional punitive objectives.


7. Tonry, Malign Neglect.

8. The libertarian concern with due process become strong in the 1960s and 1970s as the growth of law enforcement capabilities and the Supreme Court's response to this new state power created heightened awareness of threats to civil liberties (H. Packer, 1968). Proponents of crime control ideologies, impatient with the due process concerns of libertarians, are interested in maximizing intervention aimed at reducing risk of crime even at the expense of some encroachment on civil liberties, minimizing procedures and obstacles to efficiency in crime-fighting and maximizing use of incarceration. Unlike the more moralistic or "fundamentalist" position of conservatives (Guarino-Ghezzi & Loughran, 1996) however, proponents of crime control favor punishment as a means to the more ultimate ends of deterrence and/or incapacitation.


10. Zehr, Changing Lenses.


14. Indeed, restorative justice is often equated with one program, victim offender mediation (Umbreit, 1994; M. Wright, 1991). There is good reason, however, for this emphasis on victims in restorative justice.
Early research and theoretical discussion of practices such as restitution and even victim-offender mediation was, on the contrary, almost exclusively offender-focused, giving primary emphasis to use of these sanctions to promote diversion or alternatives to incarceration. The term "restorative justice" is generally attributed to Albert Eglash. (A. Eglash, 1975). "Client" as used in this paper refers to an individual or group that receive services from a governmental agency based on need and are targeted for intervention by the agency intended to change behavior or alter their current situation. A "coparticipant" is actively engaged in the government intervention process as a key decisionmaker.
16. Although the term "earned redemption" has probably been used before in various contexts, I credit its use in the modern restorative justice movement to Dennis Maloney, Director, Deschutes County Department of Community Corrections, Bend, Oregon.
27. Monarchs who succeeded William, competed with the church's influence over secular matters and effectively replaced local systems of dispute resolution. In 1116, William's son, Henry I, issued the Leges Henrici securing royal jurisdiction over certain offenses against the king's peace, including arson, robbery, murder, false coinage, and crimes of violence.
35. Bazemore, "What's New."
36. Young, “Restorative Communitive Justice.”
41. Philosophically and politically, a restorative approach is also consistent with insights from the new communitarianism (e.g., Etzioni, 1993; Moore & O’Connell, 1994) both in its demand for active involvement of citizens in community problem solving and skepticism about the ability of government to resolve problems (e.g., Van Ness, et al., 1989; Stuart, 1995). Restorative justice principles are also consistent with recent developments in both private sector and public management focused on reinventing organizational responses to “customers” (Deming, 1996; Martin, 1993), as well as with concepts from the environmental movement focused on sustainable growth.
42. Many of these new practices in fact address that portion of the reform agenda of restorative justice aimed at establishing a community-based alternative to the formal justice system and the need to transform justice decisionmaking processes to better accommodate the needs and interests of victims, offenders and communities. Both are discussed in subsequent sections.
45. Zehr, Changing Lenses; Van Ness, “New Wine and Old Wineskins.”
47. Zehr, Changing Lenses.
48. Zehr, Changing Lenses.
49. Pranis, “From Vision to Action.”
50. Stuart, Sentencing Circles.
51. Zehr, Changing Lenses; Bazemore and Umbreit, “Rethinking the Sanctions.”
55. Elias, Victims Still.
57. Elaine Berzins, quoted in Stuart, “Circle Sentencing.”
58. Wright, “Justice for Victims and Offenders”; Zehr, Changing Lenses.
60. Zehr, Changing Lenses.
61. Young, “Restorative Community Justice.”
62. Indeed the experience with victim-offender mediation and some research on crime victims’ attitudes suggest that victim mercy toward offenders may be less at issue than the capacity of community groups and
63. Umbreit, *Victim Meets Offender*, Wright, "Justice for Victims and Offenders."
70. Stuart, *Sentencing Circles*.
71. Braithwaite and Mugford, "Conditions of Successful Reintegration."
73. At this interactional level, restorative justice is also consistent with a growing body of empirical research on the role of informal sanctions such as shame, embarrassment and the role of significant others in promoting conformity to conventional norms (Thompkins, 1992; Retzinger & Scheff, 1997).
74. Pranis, “From Vision to Action.”
76. Van Ness, et.al., "Restorative Justice Practice."
78. Stuart, “Circle Sentencing.”
81. Stuart, “Circle Sentencing.”
83. Braithwaite and Mugford, "Conditions of Successful Reintegration."
85. Reiss and Tonry, eds., *Communities and Crime*.
90. Bazemore and Umbreit, “Rethinking Sanctioning.”
91. Braithwaite and Mugford, “Conditions of Successful Reintegration.”
93. It is ironic then that a discipline such as criminology so grounded in sociological theories about the complex and community-oriented causes of crime at times appear atheoretical and willing to beg the basic question of whether anyone should expect young offenders to be rehabilitated — habilitated and reintegrated — in settings that involve limited and relatively short-term individually-focused treatment by experts detached from communities. This basic suspension of doubt is not apparently shared by average citizens (and juvenile justice professionals) when they remind us that young offenders — even in the best treatment program — will go back to the same neighborhoods they came from. Although theories of crime have come primarily from sociology, it is clear that the treatment paradigm has been almost exclusively influenced by abnormal psychology and clinical social work.

94. Schneider, "Restitution and Recidivism"; Braithwaite and Mugford, "Conditions of Successful Reintegration."


96. This concept of "resonance" was first articulated by Troy Armstrong (see Armstrong, Maloney & Romig, 1990).


100. Christie, Limits to Pain.


102. Wright, "Justice for Victims and Offenders."


105. Bazemore and Umbreit, "Rethinking the Sanctioning."


110. Durkheim, Moral Education.

111. Etzioni, The Spirit of Community; A. Schneider, Deterrence and Juvenile Crime: Results from a National Policy Experiment (Nwe York: Springer-Verlay, 1990)

112. Braithwaite, Crime, Shame, and Reintegration; Garland, Punishment and Modern Society; Wilkins, Punishment.


115. Umbreit, Victim Meets Offender.
116. Schneider, *Deterrence and Juvenile Crime*.
120. Schiff, "The Impact of Restorative Interventions."
121. Gendreau and Ross, "Correctional Treatment."
125. Bazemore and Umbreit, "Rethinking the Sanctioning."
126. Bazemore and Maloney, "Rehabilitating Community Service"; Bazemore and Umbreit, "Rethinking the Sanctioning"; Polk, "Family Conferencing."
127. Schneider, *Deterrence and Juvenile Crime*.
128. Bazemore and Maloney, "Rehabilitating Community Service"; Walgrave and Geudens, "Community Service."
130. Stuart, "Circle Sentencing."
133. With the exception of victim offender mediation (VOM), few restorative sanctioning process have been to date rigorously evaluated. VOM studies show positive impact on offenders, to supplement clearly documented positive victim effects (Umbreit & Coates, 1993), and the various affect theories and related perspectives underlying the reintegrative shaming process in family group conferencing (Tomlins, 1992; Scheff & Retzinger, 1995; Moore & O'Connell, 1994) are providing further impetus for expansion of sanctioning processes aimed at reintegration as well as at holding offenders accountable (Maxwell & Morris, 1933; Hudson & Galaway, 1996).
134. C. Alder and J. Wundersitz, *Family Group Conferencing and Juvenile Justice: The Way Forward or Misplaced Optimism?* (Canberra, ACT: Australia Institute of Criminology, 1971); Bazemore, "After the Shaming."
135. Braithwaite and Mugford, "Conditions of Successful Reintegration."
136. Polk, "Family Conferencing"; Umbreit and Stacy, "Family Group Conferencing."
137. Braithwaite and Mugford, "Conditions of Successful Reintegration."
139. Bazemore, "The 'Community' in Community Justice."
140. Few advocates of restorative justice argue that a restorative approach is likely to, or should, completely replace existing justice systems (at least not in the near future) (cf., Christie, 1982). In fact, the most common debate is over the extent to which energies should be focused on developing a parallel, informal, or "community justice," system along the lines of the dual-track Japanese model (Haley, 1989), or on efforts to modify the current formal system by changing the role and function of professionals to support restorative practices and processes. The restorative vision is, however, one of an entire justice system, and ancillary community networks, both with a variety of flexible options to meet the needs of the three clients at any point in the justice process.
141. Feld, "The Punitive Juvenile Court."
142. Messmer and Otto eds., *Restorative Justice on Trial*.
144. Even if restorative justice options were restricted only to those who admit guilt through plea bargaining or other mechanism, they would still be applicable for the vast majority of criminal and juvenile
court cases. Moreover, in contrast to the "individualized" justice especially characteristic of juvenile courts and the traditional treatment model, restorative justice acknowledges and builds on group and community responsibility for crime (Van Ness, 1993; McElrae, 1993; Braithwaite and Parker, 1998) rather than simply directing blame — and thus sanctions or treatment — at individual offenders. In short, there is little debate that an adversarial system is needed, especially and primarily for decisions about guilt and innocence, but much agreement that this system could be improved if it received fewer cases and/or was modified to be more attentive to client needs.

147. Braithwaite and Mugford, "Conditions of Successful Reintegration."
148. Braithwaite and Mugford, "Conditions of Successful Reintegration"; Young, "Restorative Community Justice."
149. Wright, "Justice for Victims and Offenders."
150. Barajas, "Moving Toward Community Justice."
157. Wilson, *The Truly Disadvantaged*.
162. Elliott, "Serious Violent Offenders."
165. This is not to suggest that treatment providers lack skill and commitment, or that some treatments are not better than others, given the choices corrections administrators must make. Rather, the problem of avoiding "doing harm," like the obstacles to promoting positive youth development, is more systemic. Despite their unique professional focus, what the designating social service systems have in common is a deficit focus emphasizing identification of needs and risks and the provision of services intended to correct presumed deficits and dysfunctions. Just as youth do not "grow up in programs," treatment and service programs are often irrelevant to the larger social ecology or context in which maturation occurs (Halperin, et al., 1995).
167. Polk, "New Marginal Youth"; Sampson and Wilson, "Toward a Theory."
170. Braithwaite and Parker, "Restorative Justice."
171. Griffiths and Hamilton, "Spiritual Renewal."
172. Braithwaite, Crime, Shame, and Reintegration; Haley, "Confession."
174. Stuart, Sentencing Circles; Braithwaite and Mugford, "Conditions of Successful Reintegration."
175. Schweigert, Learning the Common Good.
177. Schweigert, Learning the Common Good, 27.

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