THE JUVENILE COURT AND THE FUTURE RESPONSE TO YOUTH CRIME:

A Vision for Community Juvenile Justice

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Introduction

"... the founding of the juvenile court in 1899 [w]as the most significant forward step in legal polity since the Magna Charta in 1215, and probation [w]as one of the really epoch making discoveries of American legal history..." (attributed to Roscoe Pound, Circa, 1913)

“The powers of the court of ‘Star Chamber’... were a bagatelle compared with those American juvenile courts... if those courts chose to act arbitrarily and oppressively they could cause a revolution quite as easily as did the former. The powers of the Star Chamber were a trifle in comparison with those of our juvenile courts...” (Roscoe Pound, Circa, 1937)

What is the future of the juvenile court? Is there a future for the juvenile court? Both questions are being asked almost daily as the centennial anniversary of one of the most significant innovations in criminal justice policy approaches. Answering these questions is extremely difficult for several reasons.

First, the answer to either question depends on which court and which function. There are in fact multiple types of juvenile courts and a variety of distinct functions within the mandate of the court including child welfare, adoption, criminal matters, divorce, other family related matters, and child advocacy (Rubin, 1996). It is quite possible therefore that some forms of juvenile courts (e.g., the family court model) may survive intact while others are radically transformed or abolished. Certain functions of the court, such as its jurisdiction with abused, neglected, and dependent children, may also be maintained while other functions are abolished. Or, as I will predict and also prescribe here, the juvenile court may survive with a significantly different mandate.

For purposes of this paper, I will attempt to minimize some of the confusion about “which future” by envisioning a prototypical juvenile court (whether called “family court” or other name is not relevant here) and by focusing exclusively on one function: the response to youth crime. It is no secret that this future is the one considered by many observers to be most in doubt as legislative and policy changes of the past decade have dramatically restricted the court’s juvenile crime jurisdiction (Guarino-Ghezzi & Loughren, 1995; Torbet, et. al., 1996; Feld, 1991).

A second difficulty is that in looking at current trends and thinking about the future, there are today almost as many structural reform models as there are states — each departing in one way or another from one of several types of “pure” and “mixed” models that can be seen around the world as well as in one state or another (Corrado, et. al. 1992; Guarino-Ghezzi & Loughren, 1995; Torbet, et. al., 1996). There is even debate about whether generic distinctions such as crime control, “justice,” or welfare/treatment really “do justice” to the diversity of current prototypes — not to mention the possibilities for configurations in the future. As a recent monograph suggests, if the past five years are any indication, the next decade is likely to produce a “soup” of variations around some of these themes (Torbet, et al. 1996).

Such models have important implications for funding, decisionmaking authority and legal mandates (Guarino-Ghezzi & Loughren, 1995). However, discussion of juvenile justice at this level almost inevitably turns quickly to complex and insular debates about the number and type of residential and detention beds needed and in which system they will be located, the number and type of staff required (and who they work for), resources needed for existing intervention programs, and the never ending quest for new programs. Unfortunately, new models and adaptations
often amount to essentially bureaucratic efforts to rationalize and render more uniform policies and practices which have long since failed to have any meaning to anyone other than juvenile justice professionals and bear little relationship to citizen expectations of the juvenile court.

What if we began a discussion of the future of the juvenile court not with reference to existing bureaucracies and legal mandates, but with the basic justice needs of communities? What is it that we would like to tell citizens and community groups that the juvenile court does, or is attempting to do? While in recent years citizens have been effectively taught by public officials to demand vengeance and more locked facilities for juvenile offenders, real community needs are often misunderstood or ignored. Three basic expectations underlie the demands most citizens have of juvenile courts and of any group of agencies that consider themselves part of a “justice” system. First, citizens expect justice systems to affirm community disapproval of prescribed behavior and tolerance limits, to denounce crime and to provide consequences to the lawbreaker; in other words, to sanction crime and offenders. Second, communities expect that justice systems will define clear roles for themselves in reducing risk to public safety and building safer communities. Third, according to recent surveys, citizens still support rehabilitation and expect the court to facilitate offender reintegration in the aftermath of intervention directed at sanctioning or public safety goals. In addition, in addressing these expectations, justice systems have in recent years been asked or required to take account of a critical fourth need: to restore losses to crime victims to the greatest extent possible. A juvenile court of the future must, at a minimum, embrace these community expectations while also making it clear to citizens that government agencies cannot meet them alone. Because these are issues of mission and values rather than bureaucracies, my goal here is to initiate a dialogue about assumptions and principles that will guide debate about the future response to youth crime and about the future of the juvenile court.

A first premise of this paper is that, on the one hand, a future for the juvenile court as we know it is highly unlikely. Realistically, some of the current trends of the 1990’s may be difficult to reverse. If the court has in fact lost more jurisdiction in the past five years than in its 100 year history (Torbet, et.al., 1996), it is also quite possible that the most well intentioned efforts to preserve the court may not be enough. On the other hand, a different future is possible that preserves the idea of a separate court sensitive to developmental differences between young people and adults and uniquely focused on responding to youth crime. This future is also unlikely, however, unless we can make the court and juvenile justice system relevant to community needs and gain (or regain) citizen support. A second premise of this paper is that to do so, we must move beyond one-dimensional and insular notions of intervention based on either individual treatment or retributive/punishment models, and beyond reform strategies constrained by the limits of these paradigms.

Why have well intended and often well-planned juvenile justice reform efforts such as diversion, deinstitutionalization, and due process often failed to achieve long-term objectives and failed to win public support for juvenile justice? While juvenile court reforms of the past three decades have brought significant improvements, as “closed-system” initiatives (Reiss & Tonry, 1986), few modern reforms have been spurred by community input or linked to community needs and expectations. Instead, they have often been top-down and often reactive responses to crisis and abuse. Because they have sought to improve the structure, process and techniques of intervention, but have not questioned the nature of the intervention enterprise, at the end of most reform initiatives paid professionals continue to administer offender treatment and supervision, often outside the context of the offender and victim’s community. As they fail to address other essential justice needs and concerns, it is little wonder that neither these providers nor the interventions themselves mean much to offenders, victims and other citizens. Finally, though system-driven, modern reforms have not been systemic, but have shared a piecemeal quality in their focus on one component or function of juvenile justice. 1

Hence, the primary purpose of this paper is to outline an agenda for systemic reform based on an intervention model that looks at crime, young offenders’, victims and communities through a different “lens” (Zehr, 1990). Like any lens, paradigms help us focus clearly on some aspects of a problem, but filter out other aspects (Kuhn, 1962; Zehr, 1990). For more than a decade, punishment and treatment paradigms have set priorities for juvenile justice intervention. And while there is nothing wrong with treatment and punishment per se, too often these paradigms appear to reduce the justice intervention response to a simplistic choice between helping or hurting offenders. The lenses of treatment and punishment have also limited visions and strategies for developing a revitalized juvenile court and
justice system linked to community expectations and have placed rigid restrictions on the debate about policy reform.

But punishment and treatment are not the only options for juvenile justice. In contrast, advocates of a “third way,” are suggesting that justice is best served when there is a balanced response to the multiple needs of citizens, offenders and victims as “clients” of juvenile justice and “coparticipants” in the justice process. Although the designation of the proposed intervention model is not fixed, I will use the terms restorative justice and restorative community justice (Young, 1995, Bazemore & Schiff, 1996) somewhat interchangeably to describe a way of viewing crime as harm to victims and communities, and “justice” as an effort to repair that harm (Zehr, 1990).

The “community justice” designation refers to a preference for neighborhood-based, more accessible, and less formal justice services (NIJ, 1996) that to the greatest extent possible shift the locus of the justice response to crime to those most affected by crime. Hence, restorative community justice intervention also engages the community, as well as victims and offenders; is problem-oriented and preventative rather than reactive; and attempts to as much as possible turn responsibility for justice solutions back to communities. To do this, community justice redefines the role of justice agencies as one aimed at strengthening the capacity of citizens and community groups to carry out these responsibilities and supporting them in doing so (Barajas, 1995; Bazemore & Schiff, 1996). Because communities themselves are far from perfect, a response to youth crime that defines an empowered community role is obviously no panacea. Moreover, the dilemma of defining and identifying “community” is itself a monumental task, which will be addressed — though not resolved — later in this paper. The assumption here, however, is that this task must be priority number one if there is to be a future for a distinctive juvenile court.

This paper has three parts, each of which addresses one component of an agenda for systemic change based on restorative community justice. Part I outlines what I will refer to as the context for the new intervention model: the values and assumptions underlying this approach, the client/stakeholder roles of victim, offender and community in restorative community justice, and the need for new decision-making processes which can engage and involve these players in the response to youth crime. Part II then describes the content of a new intervention mission for juvenile justice based upon new ways of sanctioning youth crime, enhancing public safety, and reintegrating offenders that seek to repair the harm caused by crime, while building community capacity to address these basic justice needs. The new mission, the “Balanced Approach,” (Maloney, Romig & Armstrong, 1988; Bazemore, 1997a), defines the performance objectives for juvenile justice, and prioritizes intervention programs and practices. Finally, Part III of the paper briefly outlines some considerations in designing the structural components which will then determine the shape of the proposed future court and justice system based on this choice of intervention priorities. In doing so, possible changes in the role of both juvenile justice professionals and the court itself are considered.

Fortunately, I do not have to “make up” this future vision. Although I take sole responsibility for “thinking errors” in attempting to sketch it, the vision builds on what is currently a tremendous amount of creativity and practical demonstration of a new response to youth crime. This creativity is coming not from universities or policy “think tanks,” but from communities, crime victims, offenders and their families, and the juvenile justice professionals who are beginning to listen to them.

Judge Leonard Edwards has recently written that:

. . . the juvenile court should remain a critical social institution, principally because there is no alternative. The juvenile court is society’s means of holding children accountable for their conduct and parents accountable for raising children to be productive members of the larger community. The question is not whether there will be a juvenile court, but what form will it take, what status it will have within the hierarchy of the court system, what type of cases it will hear, what resources will be available to it, and how well it will serve the needs of children, their families and the community. (Edwards, 1996, emphasis mine)

While I am in agreement with this statement, I would add that there are better reasons to preserve a juvenile court than the lack of any other alternative [and I do not believe Judge Edwards would disagree]. There are plenty of critics of juvenile justice today, and many of us are becoming ambivalent about whether the juvenile court has outlived its usefulness. But a need remains for a distinctive response to youth crime, and for now at least, a restructured and revitalized juvenile court seems to be our best vehicle for crafting this future response. As John Steinbeck once observed, “it is easier to develop a negative argument than to advance a constructive one.” The challenge in thinking about a future juvenile court is
to move beyond the negative, while remaining open to what may appear to be somewhat radical alternative visions. In sketching one such vision, my goal is to build upon new ways of thinking about and responding to youth crime and to provoke controversy that may spur a planning process that will make a new juvenile court possible.

**PART ONE:**

**The Context of Systemic Reform: Values, Stakeholders, and Decisionmaking in Restorative Community Justice**

"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) affected by crime, preclude the state from acting alone to achieve transformative changes." (Judge Barry Stuart)

"The problem of crime can no longer be simplified to the problem of the criminal.” Leslie Wilkins

**THE VISION OF RESTORATIVE JUSTICE**

The restorative response to crime is best described as a three-dimensional collaborative process involving victim, offender, and community. The restorative vision for juvenile justice reform is best understood by examining what this response might “look like” for these three stakeholders (see Table 1). For the **victim**, restorative justice offers the hope of restitution or other forms of reparation, information about the case, support for healing, 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, supporting victim restoration, reintegrating offenders, and crime prevention and control. 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 to develop new competencies, social skills, and the capacity to avoid future crime.

By the standard suggested in Table 1, few, if any, juvenile courts or juvenile justice systems could be considered restorative. But while restorative justice is a “work in progress,” the vision is by no means Utopian. The “good news” for advocates of this approach is that restorative justice policies and practices are today 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 disposed of in community “family group conferences,” and the state of Vermont where a large proportion of nonviolent adult felons are sentenced to make reparation to their victims and the community by community boards, restorative justice plays a dominant role in criminal and juvenile justice policy (Belgrave, 1995; Dooley, 1995).

Moreover, restorative justice is not new but is based on ancient values and practices that have been at the core of justice, religious and ethical traditions in virtually all societies (Van Ness, et.al., 1986; Weitekamp, 1998). In its current form, restorative juvenile justice emerged from programs and processes such as restitution, community service, work experience, victim-offender mediation, and a variety of dispute resolution practices shown to be effective over more than two decades of field experience and research (see for example, Schneider, 1986;1990; Butts & Snyder, 1990; Umbreit & Coates, 1993; Schiff, 1998; Bazemore & Cruise, 1995; Braithwaite & Mugford, 1994).

The “bad news,” however, is that despite sporadic use of these practices and the availability of programs in some jurisdictions to support interventions consistent with restorative justice, in most systems restorative responses receive low priority relative to other court requirements. Any justice system or agency can add new programs and many jurisdictions have adopted a wide array of specialized units. However, if only 10 percent of offenders are referred to a court’s restitution program, and similar proportions complete meaningful community service, or meet with their victims, the jurisdiction can hardly be said to be “restorative.” The reality, unfortunately, is that most juvenile courts and justice systems are limited by a value-base that has historically given first priority to individual treatment, and which has been recently modified to include an equal or greater focus on punishment (Feld, 1990; Torbet, et al., 1997). Much lower priority is given to repairing harm to crime victims, and there is little tradition of meaningful, active involvement of victims, offenders and communities in disposition and intervention processes.

To change the context of juvenile justice intervention, it is
necessary to first acquire the input and active involvement of communities and victims, strengthen their capacity for such participation, and increase the sensitivity and skills of justice professionals to allow them to effectively engage these coparticipants. To do this, juvenile justice professionals must begin with an examination of current principles, assumptions and values, then move to a consideration of these new stakeholders as juvenile justice clients, and of strategies to involve them in decisionmaking. Restorative juvenile justice will be based on a different consensus about these principles and values, clients and decisionmaking processes that can be briefly summarized as follows:

Different Assumptions and Values: The basic values of restorative justice break sharply with the offender-focused priorities of the retributive justice paradigm. Differences in priorities for punishment vs. reparation and reconciliation and the view of crime and accountability are primary.

Different Clients/Coparticipants: In contrast to the current system, victims and communities are viewed both as clients of intervention and services and as active participants in the justice process.

Different Decisionmaking Process: Victim and community input into decisionmaking about the appropriate intervention in response to crime is facilitated by less formal, nonadversarial processes which invite emotional expression and information sharing, and are oriented toward negotiation and dispute resolution.

**TABLE I: The Balanced Approach**

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<thead>
<tr>
<th>Community Protection</th>
<th>Accountability</th>
<th>Competency Development</th>
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**RETRIBUTIVE AND RESTORATIVE RESPONSES TO CRIME**

Currently, when a crime is committed, three primary questions are asked: who did it, what laws were broken, and what should be done to the offender? The latter question is generally followed with another question about the most appropriate punishment, and/or when the crime is committed by a juvenile, the most appropriate treatment or service. Viewed through the restorative "lens," however, crime is understood in a broader context. As Howard Zehr (1990) argues, three very different questions receive primary emphasis. 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, Zehr's 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 on a different configuration of obligations in the response to crime (Zehr, 1990). No longer simply the object of punishment, the offender is now primarily responsible for repairing the harm caused by her crime. A restorative juvenile justice system would, in turn, give highest priority to 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, as I will discuss in more detail later, the community plays a signif-
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icant role in setting the terms of accountability in sanctioning, reintegrating offenders, preventing crime, facilitating restoration, and managing conflict (Pranis, 1997).

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. Instead, the judge ordered 12 months’ jail time and a $500 fine, 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 eventually sent to 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 reluctant 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 was 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.

What’s “New”? The Values, Principles and Assumptions of Restorative Justice

The experiences in each case were dramatically different for the offender, the victim, and even the community. Interestingly, when I have shared these stories with numerous audiences, the response has been very similar. Most who have heard the young man’s story believe that he learned an important lesson (and did not get off easy). Rather than the usual awareness of being caught violating an abstract rule, this offender was made to confront the consequences of his actions as behavior that harmed a real person, and as a result probably felt true remorse (and perhaps shame). For his part, the victim had direct influence over the disposition of the case, and most agree that he was satisfied with the outcome. Moreover, some have observed that the small community may have witnessed an important example of how disputes 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 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 (Zehr, 1990; Bazemore and Umbreit, 1995), 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 juvenile courts and criminal justice agencies everywhere. In addition, the comparison provides a useful illustration of how stakeholder 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 (Zehr 1990; Messmer and Otto 1992) (see Table 2).

Restorative justice differs most clearly from retributive justice in its view of crime as more than simply lawbreaking or a violation of government authority. Neither punitive nor lenient, the objectives of this response are reparation of harm done to victims, recognition by the offender of the harm caused by the offense, and conciliation between victim, offender, and
community. In contrast to retributive justice, a restorative justice process would, therefore, rely heavily on nonadversarial community-based resolution of underlying problems, conflict reduction through dialogue and mediation, and efforts to achieve mutually satisfactory agreements.

What's “New”? Crime Victims and Community as Stakeholders in Restorative Justice

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 victim's 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. 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 therefore giving first and primary attention to victims' needs for information and input, and for physical and material reparation and emotional healing (Umbreit, 1995; Bazemore, 1994). 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." (Elaine Berzins, quoted in Stuart, 1995a, pg. 12).

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, "earned redemption," and reintegration following appropriate sanctioning. Restorative processes are premised on the active participation of victim, offender and community. They, therefore, demand new and accessible opportunities for such participation that are sensitive to and supportive of victim and citizen needs.

What's "New"? Decisionmaking Processes in Restorative Justice
Some small scale changes are beginning to move the court in the right direction, and a number of juvenile justice professionals are fully aware that the juvenile justice process has become alien to

Table 3
Some Restorative Decisionmaking Process

1. 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.

2. 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.

3. Circle Sentencing - A sentencing and problem-solving process currently being implemented in Canada facilitated by a judge or community member and attended by victim, offenders and a variety of local citizens who support both and wish to develop a local resolution of the crime.

4. Community Reparative Boards - Currently being implemented in Vermont, these citizen sentencing panels develop agreements with nonfelony offenders that focuses their probation on victim and community reparation, understanding of harm caused by their crime, avoiding future offending behavior.

5. 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.
the primary parties needed in a meaningful response to youth crime. When judges like Len Edwards advocate structural changes in order to make courts more accessible and "user-friendly," for example, they reflect this awareness. When this same judge argues for maximizing use of alternative dispute resolution options such as mediation and family group conferencing (Edwards, 1996), he is, in addition, reflecting a growing realization that cost, inflexibility of court procedures, and the effective exclusion of lay participants from decisionmaking require a revamping and rethinking of the current structure and process.

Others have argued, however, that the lack of cultural and institutional supports for such informal processes, as well as the dominance of the formal adversarial system and Western legal protocols, limit application and use of informal sanctioning mechanisms in U.S. courts (Haley, 1989). Although court proceedings with some flexible discretion by judges and other court decisionmakers could accommodate some of the changes needed to increase the active involvement of victims, citizens, and offenders in dispositions, critics of formal, legalistic processes maintain that minor changes in the court process will be insufficient to transform insular systems that have proved themselves inadequate to this task (Stuart, 1995b). While courts do some things very well, as the quote from Judge Stuart at the beginning of this section suggests, they were simply not designed to address the complex problems of human relationships that must be confronted as part of a meaningful response to crime. Finally, despite efforts to make courts more user-friendly, counter-trends toward centralization and compartmentalization of functions work against efforts to decrease formality and improve access, while guidelines and other mechanisms to restrict judicial discretion may limit use of informal alternatives.*

Achieving restorative goals and the general vision of restorative justice seems likely to require much expanded use of viable, nonadversarial, and less formal community decisionmaking alternatives that allow for greater and more meaningful involvement of key stakeholders in decisions about the response to those who commit crimes. New Zealand, as mentioned earlier, has gone furthest toward institutionalizing the active involvement of citizens and victims, as well as offenders and their families, in the juvenile court dispositional process through its nationwide adoption of the family group conferencing model (McElrae, 1993; Maxwell & Morris, 1993). There are other processes as well which may be more appropriate for certain cases and for certain communities (e.g., Dooley, 1995; Stuart, 1995). Table 3 suggests some promising existing models for victim and citizen participation in justice decisionmaking currently being piloted in various jurisdictions in North America (see Bazemore, 1997b). While each of those models is intended to increase the active involvement of victims and citizens in the dispositional decision and to make offenders more aware of the true harms caused by their behavior, care must be taken to ensure that these informal processes are fair and meaningful and do not degenerate into stigmatizing "shaming" (Kahan, 1996), or "status degradation" ceremonies (Braithwaite & Mugford, 1994).

Changing the context of juvenile justice intervention by reexamining principles, client/ stakeholder and decisionmaking is central to the community justice agenda for systemic reform advocated here. But the restorative community agenda cannot be achieved in the absence of significant reform which also addresses the need for change in the content of juvenile court intervention.

**PART TWO**

**The Content of Systemic Reform: Restorative Community Justice and the Response to Community Expectations**

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 . . . Rather it is a matter of reaffirming the obligation at the moment when it is violated . . . (Emile Durkheim, 1899)

Children grow up in communities, not programs. Development is most strongly influenced by those with the most intensive, long-term contact with children and youth — family, informal networks, community organizations, churches, synagogues, temples, mosques and schools. Development is not achieved only through services, but also through supports, networks and opportunities. (American Youth Policy Forum)

There is no way to put and keep all the criminals in jail because, just as an untended garden keeps on producing weeds, our eroded communities sprout crop after crop of criminals. The punishment we mete out to any given offender, no matter how severe, has no more effect on his replacement than the fate one weed has on its successor. (Ronald Earle, District Attorney, Austin, Texas)
COMMUNITY NEEDS, JUVENILE JUSTICE OUTCOMES AND INTERVENTION PRIORITIES

As a court services director seeking to change the focus of intervention in his community observed in a recent mission statement:

Treatment and punishment standing alone are not capable of meeting the intertwined needs of the community, victim, offender and family. For the vast majority of the citizenry, juvenile justice is an esoteric system wrapped in a riddle. Support comes from understanding, understanding from involvement and participation. Community involvement and active participation in the working of a juvenile court is a reasoned response. ... (currently) community members are not solicited for input or asked for their resourcefulness in assisting the system to meet public safety, treatment and sanctioning aspirations (Diaz, 1996).

Punishment and treatment models limit creativity in the response to youth crime to a few well-worn, system-driven options. Restorative community justice, in contrast, opens up the possibility for creative problem-solving dispositions in which citizens begin to define community tolerance limits and appropriate consequences for offenders, and the voices of victims are heard and their needs addressed. Such responses are aimed at meeting sanctioning, public safety, offender reintegration and victim reparation needs. They are also aimed at accomplishing objectives which include an increase in the ability of communities to resist crime, reductions in fear, and strengthened relationships between young people and law-abiding adults.

Rethinking Sanctioning

- 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.
- In cities and towns throughout Utah, young unemployed offenders pay restitution to their victims out of an hourly wage paid for public service work, while in other jurisdictions businessmen provide job slots for youth and probation departments operate youth businesses for offenders who owe restitution.
- In cities and towns in Pennsylvania, Montana and Minnesota—as well as in Australia, and Zealand—offenders, crime victims, and family members and other citizens acquainted with both gather to determine what should be done in response to the offense. These family group conferences are aimed at ensuring that offenders are made to hear community disapproval of their behavior and apologize to the victim, and that an agreement for repairing the damages to victim and community is developed.
- In Deschutes County, Oregon, juvenile offender work crews cut and deliver firewood to senior citizens and recently worked with a local contractor and community volunteers to build a homeless shelter.
- In more than 150 cities and towns throughout North America, victims and offenders meet with volunteer mediators in victim offender mediation sessions or other victim-offender meetings to allow victims to express their feelings about the crime to the offenders, gain information about the offense, hear an apology from the offenders and develop a restitution agreement.

Rethinking Rehabilitation

- 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. Other work crews develop and carry out plans to restore a historic black cemetery in the town of Boynton Beach.
- In several jurisdictions in Colorado and Florida, young offenders work with skilled trades persons and Habitat for Humanity under sponsorship of the Homebuilders Institute to refurbish homes and restore public buildings while learning skill trades, earning money, and completing classroom assignments.
- In Cleveland, ex-offenders mentoring young offenders in juvenile justice programs work with churches and faith communities to provide shopping and support services for the home-bound elderly.
- In numerous jurisdictions in the U.S., young people gain valuable and meaningful work experience, earn money, and repay victims, in crews developed by juvenile justice staff and surprised by public service workers and community members. These crews provide important services under contract with public agencies in environ-
mental restoration, services for the elderly, transportation and recreational sectors.

- 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.
- In Portland Oregon, offenders and other “behavior problem” young people in a youth development program who have acquired significant computer programming skills, train office workers on use of the Internet.

Rethinking Public Safety

- In several Minnesota towns, juvenile police officers train school personnel in family group conferencing techniques for resolving school disputes without recourse to courts. In several Oregon towns, probation officers provide parenting classes in schools and train teachers in anger management techniques.
- In Tasmania, Australia, offenders and other young people work on planning and action teams with the elderly and other adults to reduce fear of victimization by young people in public spaces such as malls and bus stops.
- In Palm Beach County, Florida, and a number of other jurisdictions, probation officers are “out posted” in neighborhoods to “walk the beat” in an effort to strengthen the ability of families, schools, churches and community groups to monitor offenders on community supervision and develop local guardianship of neighborhoods.
- In numerous jurisdictions in North America, school based probation officers seek to mediate conflict between students and work with school administrators. In other cities and towns, offenders trained in mediation and dispute resolution teach these skills to other young people in schools and community organizations.
- Community police officers in Boston, Pompano Beach, Florida and other jurisdictions work collaboratively with juvenile probation officers to monitor youth on probation and aftercare supervision during evening hours in high-risk neighborhoods. In the process, some officers develop their own mentoring and prevention programs.

What do these examples have to do with juvenile justice and the juvenile court? More specifically, what do they have to do with rehabilitation? With sanctioning crime? With public safety? Very little, if the reference is to punishment strategies and public safety approaches based primarily on incarceration or the threat of it, or to treatment programs in most jurisdictions. While it is possible to find similar activities in various locations around the country, these interventions are viewed by many juvenile justice professionals as “side shows.” They are clearly not seen as core features of the intervention agenda of most juvenile courts.

Yet, these case studies contain at least some of the seeds of a new way of thinking about how to address the justice needs and expectations of communities. This response to community justice concerns is focused less on “getting tough” on crime by punishing offenders and more on holding offenders accountable to those they have harmed. It is focused less on achieving “public safety” by incarcerating individual offenders and more on reducing fear, building youth/adult relationships, and increasing the capacity of community groups and institutions to prevent crime and safely monitor offenders in the community. Finally, the new way of thinking about habilitation, rehabilitation, and reintegration is focused less on treating delinquents and more on institutional reform to promote youth development; less on counseling to improve self-image and more on changing the public image of young people in trouble after they have demonstrated that they have learned the consequences of their behavior and “made it right” with their victims and the community; less on building treatment programs and more on building communities. Generally, sanctioning, public safety, and reintegrative functions are best accomplished in this new way of thinking less by juvenile justice experts in formal settings such as courts and programs and more by community adults, crime victims, community groups, and socializing institutions through informal processes of relationship-building and social control.

BALANCING JUVENILE JUSTICE INTERVENTION

The “community” agenda of restorative community justice most of all requires a “back to basics” focus on citizen expectations. How can the juvenile court and justice system address these expectations in a meaningful way? How can juvenile justice professionals strike a balance between efforts to meet these basic community needs for safety, sanc-
A Vision for Community Juvenile Justice

... tioning and rehabilitation? While the vision of restorative community justice provides a hopeful alternative, to become a reality, this vision requires a concrete mission or “roadmap” to guide the reform process.

A primary insight of the “Balanced Approach” mission for juvenile justice (Maloney, Romig and Armstrong, 1988; Bazemore, 1997a) is that a viable juvenile justice system must give equal focus to public safety, holding offenders accountable for their crimes, and ensuring that offenders entering the juvenile justice system exit more capable of functioning as productive adults, i.e., competency development. At the individual level, “balance” means developing performance outcomes for each case that address these three needs. At the system level, “balance” means that managers must allocate resources to ensure that equal attention is paid to accountability, competency development and public safety objectives and that intervention approaches to accomplish each goal are compatible with those needed to accomplish others (see Figure 1).

Restorative justice ensures that the three goals of the balanced approach are not simply abstractions but are instead grounded in the needs of victims, offenders and communities as justice clients. In meeting basic community needs, restorative justice links all intervention to values and principles that give priority to repairing harm caused by crime to each of these justice clients, while involving each as coparticipants in the justice process to the maximum degree possible. Thus, system change based on restorative community justice would not simply attempt to balance current efforts to punish offenders with those which attempt to treat offenders and those aimed at protecting the public. The restorative focus on restoring harm instead implies a different approach to addressing basic sanctioning, rehabilitative, and public safety needs. Changing the content of intervention based on a restorative community justice model will require a commitment to new outcomes and performance objectives and, as the case examples illustrate, new priorities for intervention practice which support the achievement of these outcomes as summarized below.

TREATMENT, PUNISHMENT AND RESTORATIVE OUTCOMES

As models for developing outcomes that could be used to gauge the true effectiveness of juvenile justice agencies and systems and to guide the selection of programs to achieve these objectives, treatment and punishment approaches are flawed in two primary ways. First, while advocates of various treatment interventions remind us that some things do work (e.g., Gendreau and Ross, 1987), what “works” for offenders who happen to make it into treatment programs may make little difference to victims of juvenile crime, to citizens concerned with their neighborhoods’ safety and to those who want to see young people held accountable for their actions (Braithwaite and Mugford, 1994). As offender-driven models, they are of little assistance in articulating goals that address the needs of crime victims and communities. Second, while the long range concern of both punishment and treatment is to prevent recidivism and the short-term goal is to gain enough control over the offender to do this, good intermediate performance outcomes remain elusive or are limited primarily to incapacitation or provision of services. Completing a treatment program and ceasing bad behavior while under court supervision does not equip offenders with the capabilities and the desire to do something other than offending. Likewise, simply “taking the punishment” produces few measurable outcomes (other than possible anger and resentment). While many would also argue that juvenile justice should not be held solely responsible for reducing recidivism, systems and agencies should however be accountable for achieving other intermediate objectives that may be associated with reduced recidivism and ultimately with lower crime rates.

Restorative community justice would be focused on achieving concrete intermediate performance outcomes related to rehabilitative and public safety needs. The most important outcomes in this model are focused on what Judge Stuart calls “real differences” in relationships that allow victims to heal, offenders to become reconnected, and families and communities to begin to take responsibility for these things to occur:

...communities should not measure the success of any...community based initiative based upon what happens to the offender... (Rather, they should measure)...the impact of community based initiatives upon victims, upon the self-esteem of others working (in the community justice process), on strengthening families, building connections within the community, on enforcing community values, on mobilizing community action to reduce factors causing crime, to prevent crime — and ultimately to make the community safer... (Stuart, 1995: 8).

In restorative community justice, intervention outcomes seek change in each of the three clients focused on healing.
repair, reintegration, safety and sense of community. These outcomes move beyond efforts to simply punish offenders or deliver treatment and are designed to address sanctioning, rehabilitative, and public safety needs/expectations based on restorative principles.

**RESTORATIVE PROGRAM PRIORITIES AND THE LIMITS OF PROGRAMMATIC REFORM**

Programs and practices focused on repairing harm to the victim, holding offenders accountable, and enhancing public safety and peacemaking, would receive priority under restorative justice. But the change required in intervention priorities cannot be accomplished simply by adding new “programs.” Programs that may appear restorative in nature can be easily coopted to serve other ends — when, for example, community service is used strictly for punishment (Bazemore & Maloney, 1994) or when victim offender mediation is employed primarily as a means of reducing the size of court dockets (Bazemore & Umbret, 1995).

Even when new programs are truly restorative, the impact of programmatic reform may be limited to that small minority of court cases that can be channeled into available program slots. Such reform may often perpetuate a trendy “program-of-the-month” focus on trends and quick-fix solutions and a means vs. ends focus that is not linked to goals and outcomes (Goldstein, 1990). Moreover, from a restorative community justice perspective (Barajas, 1995; Bazemore and Schiff, 1996), the value of a program and the quality of its implementation must also be gauged primarily in terms of the extent to which it involves community members at all levels of planning, implementation, and monitoring.

As one administrator in the early phases of implementing the balanced and restorative justice model suggested, “the biggest reason for doing this was to slow the emphasis on programmatic responses without thinking about why you would do something.” Systemic change in the content of juvenile justice intervention requires reform at the level of the juvenile court mission. Jurisdictions can develop system-wide, as well as agency-specific, performance outcomes and program priorities that will help them accomplish accountability, competency development, and public safety objectives (e.g., Pennsylvania Juvenile & Family Court Judges Commission, 1997). Understanding these goals and how they address broader needs is an important first step in distinguishing what is truly unique about the Balanced Approach mission.

**RESTORATIVE SANCTIONING: HOLDING OFFENDERS ACCOUNTABLE**

A major priority of any justice system must be to ensure that society has a means to publicly denounce criminal behavior, develop consequences for lawbreakers, and set meaningful tolerance limits for behavior. The role of the courts is to ensure that this sanctioning function is accomplished in a way that is fair to all concerned and meets overall community needs. Influenced by a court ideology that has historically officially eschewed punishment in favor of a focus on the needs or “best interests” of delinquent youths, juvenile court treatment requirements often seem detached from the offense and the person or persons harmed by it. It is little wonder then that crime victims and the public seem confused about the sanctioning mandate of the juvenile court.

The impact of sanctions with no other aim than to threaten and inflict punishment on offenders is well understood. Punishment, by stigmatizing, humiliating and isolating the offender, too often produces a counter-deterrent effect by minimizing prospects that the offender may gain or regain self-respect and the respect of the community (Makkai & Braithwaite, 1994). Ironically, punishment often encourages lawbreakers to focus on themselves as the victim rather than the person they have harmed (Wright, 1991), and may undermine self-restraint by attenuating natural feelings of shame and a sense of morality. It may also weaken community bonds by damaging family, peer, and other adult relationships (Zhang & Messner, 1994; Rose & Clear, 1998). In addition, punitive sanctions may detract from the accomplishment of both reparative and rehabilitative goals.

However, the continuum of possible sanctions ranges from those focused only on punishment for its own sake, which generally rely heavily on incarceration, to other approaches which may actually build community solidarity and commitment and ultimately strengthen the bonds between offenders and other community members. Packer’s (1968) classic discussion of the critical importance of intent in the sanctioning process, for example, lists compensation, deterrence, regulation, rehabilitation, and retributive punishment as among the many possible goals of sanctioning. As nineteenth century sociologist Emile Durkheim (1961) pointed out, if intended to educate, sanctions can reinforce obligation and responsibility, and provide an understanding of the suffering caused to other individuals that resulted from an offender’s crime. Such a sense of obligation, as modern communitarians would argue, can strengthen bonds and
reinforce a sense of justice (e.g., Etzioni, 1993; see Schneider, 1990). Hence, acting as if the sanctioning function does not (or should not) exist, or grouping all sanctions together as harmful and unrealistic, is not helpful, practically or politically.

Restorative justice takes sanctioning seriously. From a restorative perspective, sanctioning needs are best met (1) when offenders assume responsibility for the crime and the harm caused to victims, (2) when they take action to make amends by restoring the loss, and (3) when communities and victims play active roles in sanctioning and feel satisfied with the process. Because an offense incurs a primary obligation to crime victims, accountability cannot be equated simply with being responsible to the court or

<table>
<thead>
<tr>
<th>Intermediate Outcome Measures</th>
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<tbody>
<tr>
<td>Proportion of offenders completing fair and appropriate restitution order or agreement</td>
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<td>Proportion of victims given input into the process</td>
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<td>Proportion of victims satisfied with the process</td>
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<td>Proportion of offenders showing measured increase in victim awareness and empathy</td>
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<tr>
<td>Proportion of offenders and victims completing mediation or other resolution, mediation, and community service</td>
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<td>Proportion of offenders completing meaningful community service projects (number of such projects completed)</td>
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<tr>
<th>Some Priorities for Practice</th>
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<tr>
<td><strong>Restitution to Crime Victims:</strong> It is important that young offenders be provided opportunities to earn funds to repay victims (e.g., through employment programs) and that payment be clearly linked to the victim, even if it is processed through the court.</td>
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<tr>
<td><strong>Direct Service to Victims:</strong> At the victim’s request (usually through mediation or other process), Offenders are required to perform direct service.</td>
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<td><strong>Service to Surrogate Victims:</strong> Offender work crews (Crime Repair Crews) repair homes and businesses damaged by break-ins and vandalism.</td>
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<tr>
<td><strong>Restorative Community Services:</strong> Work which is values by the community and often suggested by neighborhood groups; such service often helps the disadvantaged, promotes economic development or improves the general quality of life.</td>
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<td><strong>Service Chosen by the Victim:</strong> Victims recommend service projects for offenders as part of a mediation agreement.</td>
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<td><strong>Payment to Victim Service Fund:</strong> Offenders pay to support victims services when restitution to their specific victim is not needed.</td>
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<td><strong>Victim Impact Statements:</strong> With approval from the victims, 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.</td>
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<td><strong>Victim/Offender Mediation:</strong> 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.</td>
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<tr>
<td><strong>Victim Awareness Programs:</strong> 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</td>
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to juvenile justice professionals by merely obeying curfew, complying with drug screening, writing an essay or other such means. Nor can accountability be equated with punishment; while it is easy to get offenders to "take their punishment," it is more difficult and more important to get them to take responsibility.

One main reason for this, of course, is that the sanctioning process too often occurs in isolation from crime victims and their needs. Judges and other decisionmakers must then settle for the typical weak and inadequate choices between punishment and treatment, which as one victim advocate has observed, is in part responsible for the often well justified anger victims often feel both towards the court and the offender:

"Victims frequently want longer time for offenders because we haven't given them anything else. Or because we don't ask, we don't know what they want. So [the system] gives them Door Number One or Two, when what they really want is behind Door Number 3 or 4." (Achilles, 1996).

If the sanctioning process is to allow communities to set tolerance limits, express disapproval of juvenile crime, and provide appropriate, meaningful consequences for harmful behavior, the process works best when it allows crime victims and other citizens maximum involvement and input. How then do we know accountability when we see it? Table 4 lists several performance outcomes for juvenile justice systems seeking to develop a more authoritative approach to sanctioning based on restorative principles (Moore, 1994) and describes core practices likely to achieve these outcomes.

RESTORATIVE JUSTICE AND "RELATIONAL REHABILITATION": THINKING DIFFERENTLY ABOUT REINTEGRATION

From a restorative perspective, the rehabilitative process, and certainly reintegrative efforts, cannot be reduced to what happens in treatment programs. To become productive members of their communities, young offenders, like all young people, need the support of other law-abiding adults and access to positive roles and experiences in education, work, service, recreation and community and family life. A restorative justice approach to rehabilitation and reintegration is therefore centered around building or rebuilding relationships between young people and supportive adults. The primary and initial change sought in the offender in this "relational" approach to rehabilitation is increased bonding to conventional groups and increased acceptance by these groups and the community generally (Bazemore, 1998).

Rehabilitation needs are best met when young offenders make measurable and demonstrated improvements in educational, vocational, social, civic, and other competencies that improve their ability to function as capable, productive adults. When competency is defined as the capacity to do something well that others value, the standard for achieving success in a rehabilitative intervention is ultimately measured in the community. Competency and a legitimate identity cannot be equated with the absence of bad behavior: being drug or offense-free is not a qualification one includes on a resume and is unlikely to improve the public image of offenders or provide them with the support and bonds to law-abiding adults they need to avoid further delinquency.

Treatment and remedial services may meet important needs and provide critical support for competency development and relationship building. Moreover, what may be a growing minority of young offenders with severe emotional disturbances or extreme learning disabilities will demand that the court broker specialized services on a prescriptive basis. But because most offenders will submit passively to the requirements of treatment programs, it is more important to give them opportunities to actively earn their way back into the good graces of the community. Competencies are most likely to be increased, and opportunities for young offenders to gain a more positive public image and bond with conventional adults expanded, when youth assume active rather than passive roles in service and work projects. Whenever possible, such projects should involve community members in a context that also brings about cognitive changes in the decisionmaking skills and emotional competencies of young offenders. Hence, competency development must also involve increasing the capacity of adults and community groups to provide opportunities for at-risk young people to practice competent behavior.

Some specific intermediate outcomes for a relational rehabilitation aimed at building competencies in young offenders, and in the community institutions and groups whose task it is to socialize them, are listed in Table 5. Sample competency development interventions, which differ significantly from treatment practices currently given priority in most juvenile justice systems, are also listed and described.

RESTORATIVE COMMUNITY PROTECTION: THINKING DIFFERENTLY ABOUT PUBLIC SAFETY

As one advocate of a "problem oriented" approach to policing has observed: "trying to increase public safety by punishing, incarcer-
ating, or treating known offenders is like trying to cure cancer by surgery on those who have it” (Sherman, 1989). Similarly, the public safety approach adopted by most juvenile justice systems is a reactive one that is ineffective and incomplete. Lacking a more meaningful role in building safer communities, juvenile justice agencies have increased reliance on incarceration in a very limited effort to respond to citizen demands for safer communities.

Public safety needs are best met when community groups increase their ability to prevent crime, resolve conflict, and reduce community fear, when risks presented by known offenders are adequately managed, and when those offenders are taught to develop internal behavioral controls. Locked facilities are an important part of any public safety approach. But they are the least cost-effective component of a balanced

| Table 5
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<th>Restorative Rehabilitation: Some Outcomes and Practices</th>
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**Intermediate Outcome Measures**

- Proportion of youth on supervision completing successful work experience or employment (quality of experience?)
- Proportions of youth on supervision completing meaningful work/service project
- Extent of “bonding” between youth under supervision and community adults
- Increase in empathy and improved skills
- Demonstrated improvement in conflict resolution and anger management
- Measured increase in educational interpersonal, citizenship and other competencies

**Some Priorities for Practice**

**Structured Work Experience and Employment Program:** Work experience programs in which young people work closely with adults on meaningful projects with benefits to the community help offenders “bond” with the community and improve both their skills and community image.

**Service/Active Learning:** Projects which youth plan and execute in teams with adults

**Cognitive and Decision-Making Program:** When linked with active, exceptional interventions, these programs address errors in decision-making and cognitive processes and improve the ability of young offenders to work and participate with others.

**Dispute Resolution Training:** These programs seek to develop a critical competency in offenders to resolve conflict; they may result in youth becoming trainers to other youth.

**Intergenerational Projects:** Youth work with the elderly on projects of mutual interest (e.g., access to public transportation; nutritional awareness)

**Cross-Age Tutoring:** Youth help younger children with reading, math, art, etc.

**Conservation and Environmental Awareness:** Youth develop and carry out recycling and conservation education projects.

**Making Reparation to Victims and Victimized Communities:** The act of making restitution completing community service and other ways of “making it right” with victims and community have been shown to positively influence behavior of offenders.

**Victim Offender Mediation and Victim Awareness Program:** These have been shown to impact offender rehabilitation as well as accountability and victim satisfaction.
strategy which invests heavily in citizen involvement. (See Table 6).

A complete strategy to decrease risk to citizens and reduce fear based on restorative community justice must be “problem oriented” rather than simply case-driven. In practice, such a strategy would first ensure that the time of offenders under supervision in the community is structured around work, education, community service, victim awareness programs, and other group activities during waking hours, and ensure that community adults, including but not limited to parents, are assigned clear roles in monitoring and mentoring offenders. Intervention would focus equal attention on adult as well as juvenile behavior change, and would seek to reduce fear while building community capacity to manage and reintegrate offenders. Finally, as suggested in the case examples, such a strategy would begin to cultivate and promote new partnerships with community police officers and new proactive roles for juvenile justice professionals as resources to schools, employers, and other community groups.

While the intermediate performance outcomes of a restorative community justice approach to public safety are perhaps less intuitive than the traditional singular focus on recidivism, they are likely to be more useful and useable to juvenile justice managers in the long run. Table 7 suggests some concrete intermediate ways juvenile justice systems can measure success in increasing the feeling and reality that citizens are safe from youth crime. Some specific core practices aimed at both young offenders and other youth, and at the community, are also identified.

PUTTING IT TOGETHER: RESONANCE IN THE RESPONSE TO COMMUNITY JUSTICE NEEDS

Restorative justice recognizes the fact that the justice-related needs of communities can never be reduced to “just punishment,” “individualized treatment,” or even “crime control.” Neither treating nor punishing offenders will make communities safe, address the needs of crime victims, or provide comprehensive approaches to sanctioning and reintegration.

If 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. When these multiple needs are not addressed, neither rehabilitation nor reparative needs can be effectively met. When they are, efforts to sanction crime, manage risks, and reintegrate offenders become mutually interde-

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<tr>
<th>INTERVENTION</th>
<th>STRATEGY</th>
<th>GOAL</th>
<th>LEVEL OF COST EFFECTIVENESS</th>
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</table>
| (Third-Level Prevention) | • Incarceration  
• Surveillance (e.g., EM, Tracking Programs). | Reduce Short Term Offending | LOW |
| (Second-Level Prevention) | • Continuum of Graduated Sanctions:  
“Progressive Response System”  
• Structuring Offenders’ Time in Competency Development and Reparative Activities  
• Use of “Natural Surveillance” and Community Guardians (e.g., Employers, educators, relatives, mentors). | Reduce Long-Term Offending | |
| (First-Level Prevention) | • Community Problem Solving  
• Mediation and Dispute Resolution in schools  
• Capacity Building  
• Create new roles and leadership experiences for all youths | Prevention | HIGH |

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Table 6  
Enhancing Public Safety: Three Levels for Juvenile Justice Intervention
A Vision for Community Juvenile Justice

A Vision for Community juvenile justice depends, and they may be viewed as means toward the ends of repairing harm to victims, communities, and offenders and their families. On the one hand, when offenders are sanctioned by repairing harm to victims, rather than by punishments which further weaken ties to conventional adults, they stand a better chance of preserving and enhancing their own human dignity, a necessary prerequisite for rehabilitation. On the other hand, efforts to reintegrate or sanction offenders that do not explicitly involve and meet the needs of crime victims, or attend to public safety concerns may never win public support or create a climate in which victim needs can be meaningfully addressed.

Logically and practically then, the best overall response to crime from a restorative perspective involves each of the three justice coparticipants in an effort to carry out interventions that together address each need and attempt to restore each coparticipant and which attempt to rebuild, or build, relationships. It is also possible, for example, to envision interventions whose primary objective is to enhance public safety or sanction offenders which are themselves potentially reintegrative. Teaching delinquent youth to be conflict mediators in schools and/or residential programs and then using them to train other young people comes to mind as an example of an intervention aimed ultimately at making schools and facilities safer, but which also increases prospects for long-term rehabilitation by building offender competencies to resolve disputes before they lead to violence. Similarly, the importance of attention to fear reduction in any strategy to reduce juvenile crime and promote community safety has been frequently discussed. Brown and Polk (1996), for example, describe a strategic approach to a growing fear problem in Tasmania, Australia that

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<th>Table 7</th>
<th>Restorative Public Safety: Some Outcomes and Practices</th>
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**Public Safety**

Intermediate Outcome Measures

- Proportion of offenders reoffending while under juvenile justice supervision;
- Number of citizens involved in preventive and monitoring activities;
- Decrease in community fear and increase in understanding of juvenile justice;
- Decrease in school violence and increase in school and community-based conflict resolution;
- Increase in competency, empathy and internal controls for offenders under supervision;

Some Priorities for Practice

**Offender Focused**

Programming the offender’s time in the community through education, community service or work experience, competency development groups (e.g. anger management, decision-making skill groups).

Day treatment and group alternatives which decrease reliance on individual casework focus and give priority to restorative practices such as restitution and community service.

Develop continuum of graduated, community-based surveillance (including electronic monitoring and intensive supervision and continuum of sanctions for noncompliance).

Competency development, restorative service, work, education, and victim awareness in residential program in secure facilities—continued in community aftercare.

**Community Focused**

Partnerships with community police to assist with offender surveillance, parental support, and mentoring.

Develop peer mediation and dispute resolution in schools.

Offer anger management classes and mediation courses for offenders, teachers, and parent.

Parenting classes

Work with school personnel on alternatives to suspension and expulsion.

Recruit community guardians and develop “natural surveillance” opportunities (e.g. neighborhood mentors).
threatened to bring about a massive effort to build a number of secure facilities for delinquent at-risk young people. The intervention that ultimately led citizens to conclude that these facilities were not needed focused on what could best be described as reintegrative, competency-building projects in which youth and community adults worked together in planning teams to address public safety issues (especially in public spaces such as bus stops and downtown malls) and the growing separation and misunderstanding between teenagers and the elderly. While such integration of public safety, competency development, and accountability strategies is not always possible, at a minimum, in restorative justice there should be compatibility or “resonance” between sometimes disparate efforts to address these primary justice needs of communities.

Table 8 suggests that restorative interventions provide the greatest possibility for providing resonance between sanctioning, public safety, and reintegrative functions. While interventions such as electronic monitoring, for example, may be one important aspect of a comprehensive community safety strategy, they have no direct implications for accountability or competency development. Restorative community service, on the other hand, while aimed primarily at the accountability objective, has “added-value” in its impact on both competency development and community safety.

## PART THREE

The Structure of Systematic Reform: Juvenile Justice Resources, Roles, and Organizational Makeup for Restorative Community Justice

“"When citizens fail to assume responsibility for decisions affecting 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 of any relationship.” Judge Barry Stuart

“Government is responsible for preserving order, but the community is responsible for establishing peace.” Daniel Van Ness

“I skate to where the puck will be.” Wayne Gretsky

What could the juvenile court and justice system do to begin to move toward a future based on a restorative community justice response to youth crime? What restructuring is necessary to achieve the goals of a balanced mission?

Increased involvement by victims, citizens and offenders as active participants in a future juvenile justice process focused on repair of harm and on new intervention priorities would have significant implications for resource allocation, job descriptions, and professional roles. While some juvenile justice professionals appear to be waiting to see what changes may be mandated, others, as the examples below suggest, appear to be proactively pursuing creative changes in their roles to facilitate participation of these coparticipants in a restorative justice process.

- In Deschutes County, Oregon, juvenile justice staff recently voted to abolish casework probation, in the process changing their job titles to community justice officers and their function to organizing community sanctioning panels, coordinating community service projects, providing services to crime victims, and assisting schools and other community agencies and institutions with crime prevention.

- In Minnesota, Department of Corrections staff collaborate with local police and citizens groups to establish family group conferencing programs and develop 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. Several probation officer job descriptions have been converted into new positions in a “one-stop” victim services unit.

- In Santa Clara County, California, a judge committed to improving the sensitivity of the juvenile court to crime victims successfully orders the County Board of Supervisors to build a new separate waiting room in the courthouse for victims and their families.

- In several counties in Montana, Wisconsin, Vermont, California, Arizona, and Pennsylvania, judges and prosecutors are working with citizens and community groups to initiate neighborhood sanctioning panels, circle sentencing, and family group conferencing initiatives. Probation officers in these jurisdictions help community volunteers with coordination and facilitation.

- 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.

To effectively meet the needs of the three stakeholders in the response to crime and give them a voice and role in the justice process, restorative justice encourages an intentional shift away from government (represented by the formal justice system) toward a more informal, “naturalistic” response that emphasizes the role of community groups and socializing institutions (Van Ness, et al., 1989; Stuart, 1995a; Brown & Polk, 1996). Hence, from this perspective, the answer to questions about the structure of a new juvenile court must be based in part on a new vision of the community and its role.

WHAT IS THE COMMUNITY AND WHAT IS IT’S ROLE?

At the community level, 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. This sequence provides an important key to thinking about crime and community dynamics and about the capacity of community norms and tolerance limits to control harmful behavior and reinforce conventional, 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 (Pranis, 1997).

Crime not only harms individual victims, but also communities, offenders, other citizens, and in essence damages the
social fabric and peace of communities (Van Ness, et al., 1989). While it is impossible to say which comes first, crime victims, other citizens, and 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. A basic theme in restorative justice is the need to strengthen or rebuild social and community relationships (Van Ness, et al., 1989; Stuart, 1996; Pranis, 1997). In the case of juvenile crime, restorative justice responses to crime attempt to break into the cycle of crime, fear and weakened youth/adult relationships, and in so doing to offer a holistic approach to addressing the sanctioning, safety, preventative, peacemaking, and rehabilitative needs of communities.

Perhaps the most overwhelming aspect of this new agenda is the initial task of identifying community. The magnitude of this challenge is exemplified by the fact that the dispersed, transient, and disconnected residential enclaves of the modern urban metropolis often bear little resemblance to any standard notion of community in which residents naturally experience any sense of “connectedness” to others (van Gelder, 1993). In such “communities,” the prospect that at-risk adolescents and young people will be able to develop bonds to conventional adults is even less likely. In fact, if one were to design a prototypical criminogenic community, one could do no better than to look to current urban neighborhoods which separate large numbers of people, especially the young, from the kind of work that could include them securely in community life (Currie, 1994).

But while “community” can be an amorphous term, it is possible to break down communities into component parts such as schools, churches, mosques, synagogues, tribes, extended families and so on. In restorative justice sanctioning practice, this is being done increasingly by identifying “communities of concern” consisting of those closest to the offender and victim in a crime. In a restructured juvenile justice system, professionals would seek to ensure that sanctioning processes include victims, their family and supporters. Processes would also seek to and involve those adults whose opinions are most important to young offenders, and who can hold them accountable while reinforcing rather than diminishing prospects for reintegration (Braithwaite & Mugford, 1994). Although engaging community in this way may certainly be viewed as a micro step which does not confront larger social justice issues of racism and oppression, it is a one component of a larger effort to connect the juvenile justice process to communities and their needs (Braithwaite and Parker, 1998).

Moreover, 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. Because community conflict and disharmony is often a root cause of crime, “justice” cannot be achieved by a government “war on crime” but rather by peace-making and dispute resolution (Van Ness, et al., 1989). 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 (Christie, 1977; Schweighert, 1997). Implicit in restorative justice is the assumption that as communities practice resolving disputes creatively, their capacity to do so also increases. As the opening quote from Judge Stuart suggests, the process of resolving conflict is therefore as important as the outcome because, through this process, community members learn new skills and increase confidence in their ability to manage conflict and control prevent crime. 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 (Stuart, 1995a).

DEVOLVING JUVENILE JUSTICE: DOING NO HARM; DOING MORE BY DOING LESS

In contrast, when the role of the justice system is not defined in concert with the community’s role, justice and youth service programs are likely to overextend their reach and contribute to the isolation rather than reintegration of young people in trouble. The reasons for this state of affairs are complex. One is that despite their unique professional focus, what 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. Unfortunately, those who end up in the programs of social service systems often find it difficult, as McKnight suggests, to transition back to the mainstream of conventional socialization networks (e.g., in school, work, etc.):

A preliminary hypothesis 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 communi-


Table 9
Justice System and Communities: an Evolving Relationship *

<table>
<thead>
<tr>
<th>Justice System Operates Separately from, Independent of, the Community</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Expert model, “We (justice system) have the answers”</td>
</tr>
<tr>
<td>2. Community contact a nuisance, gets in the way of the real work</td>
</tr>
<tr>
<td>3. Professional system defines and solves the problem</td>
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<table>
<thead>
<tr>
<th>Justice System Provides More Information to the Community about its Activities</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Expert Model</td>
</tr>
<tr>
<td>2. Community viewed as a client with a right to know something about what the professional system is doing</td>
</tr>
<tr>
<td>3. Professional system defines and solves the problem, but keeps community more informed about what it does</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Justice System Provides Information to the Community about its Activities and Asks for Intelligence Information from the Community to Help Do its Work</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Expert Model</td>
</tr>
<tr>
<td>2. Community seen as a client and as a good source of information for the expert work</td>
</tr>
<tr>
<td>3. Professional system defines the problem and dissolves the problem with useful information provided by the community</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Justice System Asks for Some Guidance in Doing its Work, Recognizes a Need for Community Help, Places More Activities in the Community</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Modified expert model - experts provide leadership, but the contribution of the community is valued</td>
</tr>
<tr>
<td>2. Community as a cooperative agent, but justice system still in leadership</td>
</tr>
<tr>
<td>3. Community asked to help define problems but justice system is till chief problem solver, with help from the community</td>
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<table>
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<tr>
<th>Justice System Follows Community Leadership While Monitoring Community Process</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Expert systems as support systems</td>
</tr>
<tr>
<td>2. Justice system operates in support of community in achieving community goals while protecting rights of individuals and ensuring fairness</td>
</tr>
<tr>
<td>3. Community defines and solves problems with help from justice system</td>
</tr>
</tbody>
</table>

* Source: Kay Prins, Minnesota Department of Corrections

zy and into dependency and those that support people in community life. (McKnight, 1990, p. 20). (emphasis mine)

A second reason such systems can inadvertently cause harm is that, as David Moore (1994, p. 10) has observed, government systems that “take sole responsibility for authoritarian control” may themselves be criminogenic because they “perpetuate the illusion that the state, rather than civil society, is ultimately responsible for social order.” Hence, the very structures we have created to manage (not solve) the youth crime problem, despite our best efforts and intentions, may themselves be part of the problem.

Most “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. While we can simply write these actions off as nostalgic memories of a different era, we can also examine ways in which juvenile justice intervention has reinforced a process by which community adults, and adult institutions, have become helpless and hapless in socializing young people.
Numerous case examples and research studies illustrate how efforts to centralize, professionalize, and expand criminal justice and social services have sent messages to communities to “leave it to the experts,” thereby undercutting the role and responsibility of citizens, institutions, and community groups in socializing young people. Three decades of experience with diversion programs, for example, can teach important lessons about the intrusiveness, expansiveness and counterproductive impacts of some well-intended social service interventions (Polk, 1984). But while diversion is generally viewed as a failure because of netwidening (or the failure to really “leave kids alone”) (Schur, 1972), another critique would point not to netwidening per se as the problem. Rather by widening government nets and ignoring the need to “strengthen community nets” (Braithwaite, 1994; Moore & O’Connell, 1994), diversion policymakers uncritically expanded juvenile justice intervention by failing to distinguish between interventions that build or enhance youth commitments and youth-adult relationships, and those that further stigmatize and exclude young people, isolate youth from conventional adults, and usurp the community’s responsibility and its role.

In this regard, while restorative responses need not, and should not, be limited to “low end” cases, promoting such responses on the front-end of the system is also not a bad idea. Indeed, the national emphasis on the serious and violent offender notwithstanding, the bulk of the court’s workload remains focused on nonviolent offenders whose nonetheless challenging problems strain court resources, and competence. Given what has been learned and said here thus far about the court’s tendency to aggravate problems by taking on too much, further expansion of jurisdiction — whether through taking back status offenders or developing centralized assessment or truancy centers — seems counterproductive, and destined to further usurp the responsibility of community groups and institutions (e.g., schools). However, expanding its advocacy and leadership role in promoting true community responses that strengthen neighborhood social control might be an effective focus for court intervention. Juvenile court and juvenile justice staff, as illustrated in the example from Deschutes County, Oregon (see box at the beginning of this section), might be assigned to develop neighborhood sanctioning and dispute resolution programs — hence, intervening not directly with at-risk young people, but with at-risk schools, families and neighborhoods. Expanding the community’s role in sanctioning, habilitation, and prevention on the “front end,” in turn, should get juvenile court out of the business of trying to respond to problems it was never equipped to solve (e.g., providing for the educational needs of young people, acting as substitute parent) while preserving resources for a focus on those tasks the court is equipped to accomplish. The problem with juvenile justice intervention, therefore, has not been with government itself, but with a failure to define a suitable role for government.

The juvenile court’s responsibility in youth socialization — as well as in sanctioning and incapacitation — has become far too broad at a time when its jurisdiction, mandate, and discretion have been drastically restricted. A revitalized future juvenile court and justice system should acquire a broader mandate and vision, while at the same time assuming less responsibility for tasks best accomplished by others. If the community is to be empowered as a partner in the response to youth crime, a redefinition of the role of government from expert service provider to facilitator of community justice and community building processes is required. As Table 9 suggests, this new relationship with the community will be an evolving one. And it goes almost without saying that juvenile justice systems are not currently set up to support or enhance the kind of community collaboration effort advocated here.

### JUVENILE JUSTICE AND COMMUNITY-BUILDING

Such a facilitative, community-building focus would redirect juvenile justice resources and would begin to redefine the role of the intervention professional (see Table 10). In a more “naturalistic” approach to rehabilitation (Bazemore, 1998), for example, professionals would no longer view themselves, or be viewed by their communities as “experts” in providing service or treatment to change offender attitudes and behavior. Juvenile justice intervention staff would instead work through the community in the response to youth crime rather than exclusively with individual young people (Pranis, 1997; Bazemore & Schiff, 1996). They would devote equal attention to intervention with community adults such as employers to ensure that young offenders are given opportunities for involvement in work, service, and other roles that facilitate conventional bonding. Too often, case management functions such as attending court and completing paperwork limit the potential for astute intervention professionals to enhance and coordinate related community-driven sanctioning, reintegration and public safety processes. The restructured professional role in restorative rehabilitation would thus be one that allows staff to function more as a catalyst for building connections between young people, adults, and adult institutions, while facilitating change in the role and image of
A Vision for Community Juvenile Justice

offenders from liability to resource (see Table 10).

Why the new focus on strengthening communities and what is the evidence for it? Communities have indeed lost much of their capacity to respond effectively to crime and youth deviance. However, the focus on rebuilding this capacity, rather than expanding the reach of juvenile justice, is all the more essential today if the goal is to rebuild relationships that can help victims heal and allow offenders to be reintegrated. Ultimately, victims and offenders need support from their fellow citizens and local community groups as well as from paid professionals, and community members rely on their fellow citizens for their sense of peace and safety.

Regarding offender reintegration, while a growing body of metanalytic research suggests that some treatment programs “work,” too often treatment programs take rehabilitation out of context by focusing on individual delinquents in isolated environments. The most viable theories of crime and the most credible empirical evidence about maturational reform and resistance from crime, however, point to community factors and institutional dynamics — school failure, peer and family interaction, the absence of work and related socialization experiences, and the lack of meaningful adult interaction; (Erickson, 1968; Polk & Kobrin, 1972; Braithwaite, 1989; Elliot, 1994). The “good news” from longitudinal studies, for example, is the finding that some 80 percent of delinquents outgrow their offending at age 18 regardless of justice system intervention. Known institutional and social ecological factors — notably a job, family ties (both family of origin and family of choice), access to higher education and academic improvement, and community supports — increase the likelihood of this maturational reform (Elliot, 1994). Similarly, “resiliency” studies indicate that most “high-risk” young people grow up normally despite exposure to difficult environments (e.g., Rutter, 1985). The resiliency of high-risk youth is moreover primarily attributed by researchers to one relatively simple related factor: the ongoing presence of one or more caring adults (not necessarily parents) who are able to provide these young people with ongoing support and access to roles which allow them to develop legitimate identities.

More recently, research conducted in Chicago compared crime rates in some of that city’s poorest neighborhoods (Sampson, Rodenbush, & Earls, 1997). This research, which found significant differences in crime rates between neighborhoods virtually identical in income and ethnic composition, concluded 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. In other words, the absence of viable relationships between citizens and community groups was the most criminogenic factor accounting for the differences in crime rates. It is in this emphasis on the role of community and relationships that restorative justice may have the most to offer in reconceptualizing current approaches to intervention with both victims and offenders.

How could juvenile justice professionals help to enhance or speed up what longitudinal research suggests are often naturally occurring maturational processes? How could they help to strengthen or build caring relationships between delinquent youth and adults who can serve as supportive role models? Restorative justice advocates don’t have all the answers for offender rehabilitation. Further, the importance of effective treatment programs for those offenders who, based on careful assessment, are determined to have mental health, substance abuse, and other needs that may be linked to criminal behavior is beyond dispute. However, in attempting break down the insularity that characterizes much of the current treatment enterprise, restorative justice proponents would first attempt to place rehabilitation in the context of the community.

But more naturalistic intervention strategies are not naturally occurring. Most advocates of holistic healing, for example, recognize that expanded use of naturalistic processes will not remove the occasional need for surgery. Similarly, most advocates of restorative community justice recognize that empowering communities and supporting an informal justice process that relies more on “nonexperts” will change, but not eliminate, the role of “experts” (Braithwaite & Parker, 1998). Rather than direct service, monitoring, and casework functions, however, juvenile justice workers would focus primarily on creative problem-solving, victim advocacy and service, community development, and relationship building. The role of judges, as both court and community leaders, would be expanded — and could be made more effective with a restorative focus.

THE ROLE OF THE COURT IN RESTORATIVE COMMUNITY JUSTICE

A broader mandate, but circumscribed responsibility, for the court itself in the context of an expanded role for the community would have several implications. The court has legal and
advocacy functions that will be even more important in the future, and in addition, it should have an active leadership role to play in restorative community justice. Even assuming systemic change that drastically reduces the formal role of the court, and expands the informal role of the community, the roles of judges, prosecutors, defenders, and the legal system are unlikely to be in jeopardy. Because the need for secure facilities and other restrictions on freedom is likely to remain, the need for a vigorous safeguarding of individual rights will not go away.¹⁰

Restrictions on the responsibility of the court would primarily be felt in the dispositional realm. Specifically, the court would, as illustrated most explicitly by the recent reforms in New Zealand (e.g. McElrae, 1993), cede primary decisionmaking power to the community in determining the nature of sanctioning responses to youth crime. Once guilt has been admitted or determined, in the majority of cases, community panels or

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### Table 10
**New Roles for a Restorative Juvenile Justice**

<table>
<thead>
<tr>
<th></th>
<th>Sanctioning Through Public Accountability</th>
<th>Rehabilitation Through Competency Development</th>
<th>Enhancing Safety</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Offender</strong></td>
<td>Actively work to restore loss to victims and community and must face victims or surrogate victims, and citizens in a community process.</td>
<td>Actively involved as resource in service roles which improve quality of life in community and provide new experiences, skills and self-esteem as productive resource for positive action.</td>
<td>Become involved in constructive competency building and restorative activities in a balanced program; develop internal controls and new peer and organizational commitments.</td>
</tr>
<tr>
<td><strong>Victim</strong></td>
<td>Active involvement in all stages of the process; document psychological and emotional impact of crime; participate in mediation on a voluntary basis; help determine sanction for offender.</td>
<td>Provide input into the rehabilitative process; suggest community service options for offender.</td>
<td>Provide input regarding continuing safety concerns, fear, and needed controls on offenders; encourages protective support for other victims.</td>
</tr>
<tr>
<td><strong>Community</strong></td>
<td>Involved in community sanctioning process or as mediators; develop community service and paid work opportunities for offenders with reparative obligations; assistance to victims and support offenders in completing obligations.</td>
<td>Develop new opportunities for youth to make productive contributions, build competency and a sense of belonging.</td>
<td>Provide &quot;guardianship&quot; of offenders, mentoring, and input to juvenile justice systems regarding safety concerns; address underlying community problems which contribute to delinquency.</td>
</tr>
<tr>
<td><strong>Juvenile Justice Professional</strong></td>
<td>Facilitate mediation; ensure that restoration occurs (by providing ways for offenders to earn funds for restitution); develop creative/restorative community service options; engage community members in the process; educate community on its role.</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 community partnerships.</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>
</tr>
</tbody>
</table>
conferences, with facilitative support from the court, could make these decisions in a way more sensitive to the needs of crime victims, offenders, and their families. The future court would thus be more free to focus primary attention on those functions courts do well: adjudicating, fact finding, and ensuring that the rights of offenders (and victims) are protected, and providing an important enforcement and back-up role in dispositional obligations. Braithwaite & Parker (1998), have, in addition, suggested that the court should maintain a review and oversight role to protect against possible "tyranny of the community" and unfairness to offenders and victims, if and when these emerge in the informal setting of community sanctioning conferences.

A second type of advocacy role for the court would focus court authority and leadership on protecting and defending the rights of young people, regardless of their involvement in crime and delinquency. Freed from a large part of its dispositional responsibilities, the courts' authority could be extended to influence school policy, housing practices, family support services, and access to employment and recreational activities. On the one hand, such influence could be informal, taking the form that it currently takes among those community activist judges (Rubin, 1985; Gelber, 1990; Edwards, 1992) who take on a leadership role in promoting change in those socializing institutions that effect youth development and are largely implicated in the etiology of youth crime (Polk & Kobrin, 1972; Elliott, 1994). On the other hand, the courts' influence in such matters may also be formal, as the court begins to use its legal authority to remedy institutional practices in schools, the workplace, and communities that not only may violate the human rights of young people and their families but also diminish the likelihood of their healthy development.

Prosecutors are also playing key decisionmaking roles in juvenile courts and justice systems today. Like judges, they will need to also play leadership roles in both the system and community if the court is to enhance it advocacy function while empowering victims and communities in the dispositional process. Although some juvenile prosecutors continue to focus on increasing the quota of juveniles transferred to adult court, a growing number of others are finding much to support in the restorative justice emphasis on victims' roles and empowerment. In addition, others like Austin, Texas DA Ronnie Earle see community building, meaningful citizen involvement, and youth development as the core components of a strategy to promote the public safety, while at the same time ensuring that offenders are held accountable to those they have victimized. From a restorative perspective, the formal and informal advocacy role of the court must also extend to crime victims. Judicial and court leadership is the primary vehicle by which courts and community justice processes can be opened up to crime victims, and judges can ensure (and insist) that the attention of communities and justice agencies is focused on victim needs and services at all points in the justice process. The future juvenile court would also value, and require, the input of victims and their advocates as community members in a central role as planners and advisors, for example, on task forces and work groups.

**CONCLUSION**

This agenda for reform suggests that to move forward, juvenile justice professionals must first answer the "why" and "who" questions of intervention: the context of intervention must be built upon a new consensus around different values, a commitment to three clients, and innovative new processes to involve these clients in dispositional decisionmaking. Defining the context of intervention must be based on answers to the "what" questions: what outcomes or performance measures will be used to determine whether we are meeting the basic needs of the community while involving and serving victims, citizens, and offenders and what programs and practices must receive priority if we are to meet these objectives. Finally, the "how" questions must be answered by defining a new client and value-driven juvenile justice structure capable of meeting the objectives of restorative community justice responses to youth crime.

Thirty or more years of rising public expectations that the juvenile court can solve the problems of at-risk young people and reduce and control youth crime will make the task of returning even small portions of responsibility and authority to the community a difficult one. The juvenile court has been pushed to overreach in a way that has rendered it far less effective, even while attempting to respond to increased demand that it "solve" problems courts were never designed to address. While advocates of the current juvenile justice system often argue that the system is simply underfunded, critical examination of the intervention paradigms that guide current responses to youth crime also reveals that the system is under-conceptualized. Crises in social service and other public agencies occur when paradigms seem to no longer help us make sense of our world, and when these models also limit the scope of possible reforms and our ability to bring about meaningful change. While crises such as the one occurring in juvenile justice today are uncomfortable
and disruptive, an emerging “paradigm shift” appears to be removing the blinders imposed by the treatment and punishment lenses, thus making systemic reform possible.

As this occurs, the belief that solutions lie in the community and that the court can both empower neighborhood groups and build their capacity to respond effectively to youth crime may begin to require less of a leap of faith than the once widespread belief in the expertise of court professionals to “fix” these problems. There is now, moreover, a growing body of empirical evidence and practical experience with community justice interventions which suggests that citizens are willing to get involved, under appropriate terms of involvement (Dooley, 1995; Barajas, 1995; Bazemore & Day, 1996). But ultimately, any movement of the court toward such a capacity-building role will not be based solely on research evidence but also on a commitment to certain principles and values. Key among these values is the belief that while the “state,” as represented by the juvenile justice system, is the source of legal authority, the community is the source of moral authority (Pranis, 1997).

Further, a change from a focus on individual offenders to an equal emphasis on meeting the needs of victims and communities, and involving them in the process, will not be easy. Although many juvenile justice professionals appear to be working harder today than at any time in history, perhaps the greatest obstacle to restructuring the juvenile court around a restorative community justice model will be the culture of juvenile justice itself. Over the decades an intense resistance to change has stilled numerous prior reform efforts. Too often, this resistant culture takes the form of reasons why anything new will not work.

While many legitimate questions can be raised about the proposed model, many of the most common perceived obstacles cited by some juvenile justice professionals are spurious ones. Many such objections focus 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 staff are overworked and have not been trained to work with the community.” Indeed, in the context of a system that has failed to engage offenders and communities in meaningful ways, and has historically ignored the needs of crime victims, there is more than a grain of truth in these assertions. Interestingly, however, juvenile justice professionals committed to achieving the goals of restorative community justice view these rationales for opposing the approach as precisely the reasons it is necessary to change focus (e.g., Umbreit & Carey 1995). That is, if victims are angry and offenders lack skills and empathy, a primary objective should be to develop interventions which facilitate changes in offender empathy and competency, and which attempt to meet the needs of victims and ask for their input. If citizens seem apathetic, a primary objective should be to work toward reducing community apathy and non-involvement, and toward strengthening neighborhoods by changing the nature of current practices and decision-making processes. Finally, if staff do not have time or skills to work with communities, it may be time to reexamine and consider changing hiring practices and/or enhancing staff competencies, while restructuring priorities and incentives.

If the juvenile court is to survive — and it should and must — it will be those professionals who see these obstacles as challenges, working together with the input and advice of community groups and citizens, who will shape its future. The vision for a restorative community justice response to youth crime cannot be mandated, and it will not be achieved overnight. Rome was not built in a day. The key for reformers who hope for such a change is, as my Belgian colleague, Lode Walgrave put it, to ensure “that we are building our Rome and
Endnotes

1. The piecemeal focus means, of course, that advancements in one arena such as detention reform are likely to be overturned by reactions in other parts of these system which undermine the reform. If they survive reductions in funding or changes in administration, reforms are often confined to specialized units or programs isolated from mainstream interventions; their impact may therefore be neutralized by competing priorities of more mainstream system functions. For someone personally involved and invested in several modern reform efforts, this assessment is a difficult one and is not in any way intended as criticism of those leading these reforms (or as self-criticism). My assumption regarding the crisis-driven and reactive nature of modern reform is that systems and agencies under attack will not win public support simply by correcting abuses, such as those to youth in custody or problems in case management and assessment (which are often in any case hidden from the general public), or by reducing the size of large facilities.

2. Indeed, any justice system will include sanctions that are likely to be experienced by offenders as punitive and will also provide services and support which seek to address problems related to lawbreaking behavior. While critique of individual treatment does not imply support for the “nothing works” view or an abandonment of rehabilitation, treatment appears to be unrelated to the offense, and to require nothing of offenders beyond participation in counseling or remedial services. 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).

3. State juvenile justice systems in Pennsylvania, Florida, Virginia, New Mexico, and Montana, among others, have adopted restorative justice principles in policy or statute. Other states that have adopted restorative justice as the mission for their corrections departments include Minnesota, Ohio, and Maine. In the U.S., a series of high level discussion work group meetings have recently been held within the Office of Justice Programs at the request of the Attorney General. These have in turn sparked several national and cross-national forums on community and restorative justice (NIJ, 1996a; Robinson, 1996).

4. 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 due process protections (e.g., Feld 1990). However, 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 (see Eisenstein and Jacob 1991; Hackler 1991).

5. 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 (Hillsman & Greene 1992). Indeed, in many probation and parole agencies, victim compensation and restitution have taken a back seat to the collection of monies used to support other agency functions (Shapiro 1990).

6. Indeed, juvenile justice systems in some states appear to be moving toward more centralized, expert driven, bureaucratic systems. Signs of this trend include a new focus on centralized intake, or “assessment centers,” and what appears to be a return to large residential facilities in several states, albeit operated by private care providers. As one reviewer of this manuscript observed, it is possible, on the other hand, that the family court model with its extensive use of alternative dispute resolution may produce a culture more supportive of the restorative justice approach.

7. Recently, some advocates of treatment and some meta-analysts have added to the ambivalence of juvenile court professionals by appearing to question whether juvenile justice should sanction at all. For example, including sanctions such as community service and restitution along with boot camps and shock incarceration in a category of interventions that allegedly “do not work” (Krisberg, Curry & Onk, 1993) oversimplifies and makes light of efforts to develop more meaningful, educative sanctions. Such categorization also trivializes the important distinction between sanctions meant to demean and punish for punishment’s sake, and those aimed at other ends. It also ignores a substantial body of research indicating the positive rehabilitative, as well as reparative, impact of restitution, community service, and victim-offender mediation (Eglash, 1975; Schneider, 1986; 1990; Butts and Snyder, 1991; Wright, 1991; Umbreit & Coates; Schiff, 1997). Politically, this dismissal of the sanctioning function feeds into the public view of juvenile justice as concerned only with the treatment needs of offenders, and the policymaker demand for retributive punishment.

8. The concept of “resonance” is attributed to Troy Armstrong (Armstrong, Maloney & Romig, 1991.) While justice professionals often think in terms of developing distinct agencies and programs to address sanctioning, reintegration and public safety needs, victims, offenders, and other citizens do not often consciously distinguish between these different functions of intervention.

9. 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 to cases diverted from the court or formal system (e.g., community media-
tion and service to the community) and restorative efforts to prevent crime (e.g., school-based mediation) may, however, look 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 successfully at virtually all points in juvenile and criminal justice systems in various parts of the world (e.g., Belgrave, 1995).

10. While it is also unlikely that a restorative community justice system would eliminate other traditional juvenile justice goals, it would seek to bring about changes in the priority of these goals (Braithwaite and Mugford, 1994; Robinson, 1987). 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 (e.g., Braithwaite and Mugford, 1994; Young, 1995). 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.
References


References


References


References


