

Restorative Justice - Fundamental Principles

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Presented May 1995 at NCPCR; revised May 1996 at UN Alliance of NGOs Working Party
on Restorative Justice

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1. Crime is primarily an offense against human relationships, and secondarily a violation of a law (since laws are written to protect safety and fairness in human relationships).
2. Restorative Justice recognizes that crime (violation of persons and relationships) is wrong and should not occur, and also recognizes that after it does there are dangers and opportunities. The danger is that the community, victim(s), and/or offender emerge from the response further alienated, more damaged, disrespected, disempowered, feeling less safe and less cooperative with society. The opportunity is that injustice is recognized, the equity is restored (restitution and grace), and the future is clarified so that participants are safer, more respectful, and more empowered and cooperative with each other and society.
3. Restorative Justice is a process to "make things as right as possible" which includes: attending to needs created by the offense such as safety and repair of injuries to relationships and physical damage resulting from the offense; and attending to needs related to the cause of the offense (addictions, lack of social or employment skills or resources, lack of moral or ethical base, etc.).
4. The primary victim(s) of a crime is/are the one(s) most impacted by the offense. The secondary victims are others impacted by the crime and might include family members, friends, witnesses, criminal justice officials, community, etc.
5. As soon as immediate victim, community, and offender safety concerns are satisfied, Restorative Justice views the situation as a teachable moment for the offender; an opportunity to encourage the offender to learn new ways of acting and being in community.
6. Restorative Justice prefers responding to the crime at the earliest point possible and with the maximum amount of voluntary cooperation and minimum coercion, since healing in relationships and new learning are voluntary and cooperative processes.
7. Restorative Justice prefers that most crimes are handled using a cooperative structure including those impacted by the offense as a community to provide support and accountability. This might include primary and secondary victims and family (or substitutes if they choose not to participate), the offender and family, community representatives, government representatives, faith community representatives, school representatives, etc.

8. Restorative Justice recognizes that not all offenders will choose to be cooperative. Therefore there is a need for outside authority to make decisions for the offender who is not cooperative. The actions of the authorities and the consequences imposed should be tested by whether they are reasonable, restorative, and respectful (for victim(s), offender, and community).
9. Restorative Justice prefers that offenders who pose significant safety risks and are not yet cooperative be placed in settings where the emphasis is on safety, values, ethics, responsibility, accountability, and civility. They should be exposed to the impact of their crime(s) on victims, invited to learn empathy, and offered learning opportunities to become better equipped with skills to be a productive member of society. They should continually be invited (not coerced) to become cooperative with the community and be given the opportunity to demonstrate this in appropriate settings as soon as possible.
10. Restorative Justice requires follow-up and accountability structures utilizing the natural community as much as possible, since keeping agreements is the key to building a trusting community.
11. Restorative Justice recognizes and encourages the role of community institutions, including the religious/faith community, in teaching and establishing the moral and ethical standards which build up the community.

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<http://www.restorativejustice.org/rj3/UNBasicPrinciples/JNFinalUN2000.pdf>

“Perhaps what is most important is the eleven principles that Claassen outlined, that was accepted as part of the overall definition. It is important to examine these principles to see beyond this static definition and its potential controversial nature, if one wants to fully understand the basis of this declaration.” p3

RESTORATIVE JUSTICE PRINCIPLES by Ron Claassen

Introduction and Background

(I will be assuming that the reader has read “A Peacemaking Model” and “Four Response Options Model.” I will be using some of the language developed in those papers to help provide definition to Restorative Justice.)

Restorative Justice is a way of thinking about how individuals, groups, and governments respond to crime, offenses, and even more broadly, conflict or misbehavior in general.

Restorative Justice is a technical term that has been increasing in common usage since the late 1970's. In the 1990's, awareness of Restorative Justice language increased exponentially and by end of the 20th Century was being used by people around the globe. Yet most people still don't know about it.

Although Restorative Justice addresses conflict and misbehavior in a much broader sense now, the need for the language of Restorative Justice emerged from discussions about the purpose and practices of justice in relation to the Criminal Justice System.

Prior to language of Restorative Justice some significant movements emerged independently, each addressing specific problems related to the criminal justice system. The turn of the century seemed to be one of those times in history when several independent movements, each working separately, gave rise to something much bigger than any one of them individually. While each movement continues separately there is a

new movement called Restorative Justice which draws significantly from each. I will describe five significant contributors:

1. *The Victims movement.* In the 1970's and 80's angry victims drew attention to the fact that victims were being left out of the criminal justice system, their needs were not being met, and even worse, they often felt re-victimized by the system that had been created to serve them. Two of the most visible of the programs were Mothers Against Drunk Driving (MADD) and the National Organization for Victims Assistance (NOVA). The victims movement made visible that the CJS is offender oriented, leaves the victim out of the central processing and doesn't serve many of the interests of victims. Although there have been some improvements, the criminal justice process still has not made the victim a central part of the process.

2. *Indigenous communities* around the world have been preserving or reclaiming some of their most constructive old ways of resolving disputes and maintaining order. Some provide significant community order without the use of the western system of adversarial and procedural justice. Most gave significant responsibility for resolving problems and violations to the families and communities surrounding the primary parties. In the 1970's and 80's the world began to take note of these structures and strategies as viable and significant alternatives to the traditional western style of justice.

3. The *Alternative Dispute Resolution movement* also started in the 1970's and 80's. Its primary focus was in the civil courts. It focused on providing alternative ways to resolve disputes that otherwise would end up in court. Arbitration and Mediation are two of the most utilized alternative processes. The use of Mediation and Arbitration in civil courts is still increasing and some criminal courts are beginning to consider using these alternative processes. Most criminal court experiments are still limited to Juvenile Court.

4. The *Community Oriented Policing movement* suggested that police had moved too far in the direction of focusing on law enforcement and arresting people for violating the law. The language for identifying the police illustrates the changes. It has recently become common to call a police officer a law enforcement officer. There was an earlier time when they would have been commonly referred to as peace officers. The Community Oriented Policing movement brought significant attention to the need for officers to get out into the community, develop relationships with people, and learn to know people. The adversarial, law enforcement relationship was not working. Community Policing brought attention to the need for police to partner with the community and assist them in solving their problems.

5. *The Victim Offender Reconciliation Program (VORP) movement* also started in the mid 1970's. VORP is based on an ancient practice of accepting responsibility for wrongdoing and doing something to repair the damage. There was a time when, especially in smaller communities, youth were taken by parents or neighbors to pay the neighbor for the broken window or to repay the store owner for something taken. VORP has demonstrated that even in our large cities, significant numbers of victims and offenders, when invited and assisted, are willing to try to work out their own situation in some constructive way. VORP also highlighted that there is significant healing that happens for victim, offender, and involved community when injustices are described and recognized, equity is restored as much as possible, and future plans are clarified to create a better future for all involved.

These movements highlight that the style of Justice utilized by the U.S. Criminal Justice System (CJS) and many other countries around the world is in need of some adjustments:

1. The CJS needs to make victims central to its process. It needs to provide meaningful participation and address the needs of victims.
2. The CJS needs to increase its use of alternative dispute resolution strategies.
3. The CJS needs to focus more on cooperative problem solving and peacemaking rather than focusing exclusively on control and punishment.

4. The CJS needs to encourage and assist the community in constructively addressing and resolving as many offenses as possible.
5. The CJS needs to empower and assist families and communities in their efforts to hold offenders accountable and reintegrate them back into their community.

Restorative Justice is not easily defined but it would include addressing the needs identified above. There is not a single definition that all people who are working for restorative justice would agree on but they would probably all agree to the list of needs above.

Restorative Justice is not a specific program but there are many programs and practices that have informed Restorative Justice, have contributed to the development of Restorative Justice, and new ones are constantly emerging that are based on RJ Principles.

There is not a single way of expressing this Restorative Justice idea. Restorative Justice is a world wide movement and it is still emerging and developing.

Restorative Justice, as I have experienced it, has emerged largely from the Victim Offender Reconciliation Program movement but relates to and draws heavily from the other movements mentioned above.

The Restorative Justice Principles below developed over a period of years. They emerged from a dynamic interaction between my experience with the Victim Offender

Reconciliation Program¹ (VORP) and Roxanne's (we have been married 34 years) experience teaching and implementing many of the VORP ideas and strategies in her classroom.

In 1993 I wrote nine principles I called Discipline that Restores Principles (Appendix 1). Roxanne was teaching and implementing many of the ideas and strategies gleaned from the Victim Offender Reconciliation Program as the core of her discipline and classroom management program. She was finding much success, especially with the very difficult students, and other teachers and her administrator were expressing interest. We decided it would be helpful to write the guiding principles.

It was also in the early 1990's that the language of Restorative Justice was starting to be used in a much wider context (actually it was emerging in many places around the world) and many of us who had been involved in the early stages of VORP and Restorative Justice were concerned that as the language of Restorative Justice was becoming popular it was also in danger of losing its core values and spirit. My concern was that Restorative Justice not become a meaningless term used to "baptize" anything that someone wants to do. There was no widely accepted common definition or set of principles. So, writing the Restorative Justice Fundamental Principles was my attempt to articulate the essentials of Restorative Justice, as I understood them.

I first presented them in May, 1995, at the National Conference on Peacemaking and Conflict Resolution (NCPCR) in Minneapolis, Minnesota. Actually I made two presentations. One focused on the criminal justice system (Principles of Restorative

¹ Ron Claassen was the founder and served as director of the Victim Offender Reconciliation Program (VORP) from 1982 to 1999 and currently serves as a consultant to the Board of Directors. The Fresno VORP was the first one in California and the fifth in the United States.

Justice and Continuums for Evaluation) and the other on schools (Principles: Discipline that Restores).

In the fall and winter of 1995 I published the Restorative Justice Fundamental Principles with a small amount of commentary in the VORP Newsletters.² In April of 1996 I received a call from Paul McCold requesting my presence at a meeting of the United Nations Working Party on Restorative Justice. He had been receiving the VORP Newsletter and wondered if I could send a condensed copy of the Principles and if I could come to New York and present them to their committee. The committee had been formed to develop a plan and proposal for getting Restorative Justice on the agenda of the 2000 UN Crime Congress and they were looking for a set of principles to guide their initial work. In May 1996 I attended their meeting and presented the Restorative Justice Fundamental Principles.³ They listened to my presentation and after some very interesting discussion and a few minor modifications, adopted the principles as their starting point. In June 1996 the Chair of their committee presented these Principles in Vienna as their first and introductory presentation of Restorative Justice to the UN Crime Congress Agenda Committee.

I was honored to be invited in May 1996 to present the principles I had written and to have the committee consider them. The discussion in the UN Committee meeting that I remember most was as follows: “These principles are great but too radical and we really need something that would suggest incremental and slower change, perhaps

² The VORP Newsletter was a monthly publication I produced (1982 – 1999) to educate anyone interested about VORP and Restorative Justice. Over the years about 3,000 people had subscribed to receive the newsletter, mostly from California but approximately 1/3 went to people in other states. A number of the Newsletters can be found at <http://www.fresno.edu/pacs/vorpnews/> or <http://vorp.org/vorpnews/>

³ Restorative Justice Fundamental Principles. Ron Claassen. 1996
<http://www.fresno.edu/dept/pacs/docs/rjprinc.html>

working toward these principles.” The following comment was, “We have trying for incremental change for many years now and the efforts are always subverted and we end up with no change. I think these principles are great and I would suggest we consider seriously adopting them with very minor if any changes.” One of the next comments was, “I could accept most of the principles without change if we could just leave out the last one, the one about including the religious/faith community.” The next comment was, “If we leave out the religious/faith community, much of the world will see these principles as irrelevant.”

The principles below are those that were adopted by the UN Working Party on Restorative Justice in May 1996 (Appendix 2 – Principles and Continuums for Measuring RJ). I have expanded and updated the brief commentary that was published in the VORP Newsletters that brought these principles to the attention of the UN Committee.

A statement in the VORP Newsletter introducing the Restorative Justice Fundamental Principles was, “It appears that if we designed our systems for responding to misbehavior based on these principles, violence would be reduced and overall safety and cooperation would be increased.”⁴ The evidence of the intervening years of experience, especially in New Zealand, are beginning to demonstrate the validity of this modest proposal. (Appendix 3)

Restorative Justice Fundamental Principles

⁴ Ron Claassen, “Restorative Justice Principles” (Fresno: VORP Newsletter, 1995)

Principle #1: Crime is primarily an offense against human relationships and secondarily a violation of a law (since laws are written to protect safety and fairness in human relationships).

Laws are important. They provide a community context and guide to acceptable and not acceptable behavior. However, it would not be possible to write enough laws to cover all of the ways that one might violate another person or their relationship. The laws that have been enacted cover the violations that a majority of the people or legislators have decided are serious enough to have in a form which allows the “state” to take an action in regard to the one who violates the law.

Howard Zehr, a pioneer in the development of Restorative Justice, points out how unintended consequences appear and occasionally become a dominant factor. Because the owner of the law is the “state,” not the victim, the “victim” becomes the state.⁵ The action taken by the criminal justice system is only in relation to the state and one who violates the law. Notice how the focus is subtly shifted. The underlying and real concern is to protect safety and fairness in human relationships but when the focus is on the violation of the law, the “relationship” that becomes primary is between the state and the offender. The real victim is ignored.

When the emphasis is placed on the violation of law instead of the violation of the human relationship, it hides or masks the real violation. One of the unintended consequences is that with this shift to focus on the state and offender, it is possible for an offender to be convicted and sentenced for an offense, more or less serious, and never be aware of the human consequences or impact of the violation on the real victims (primary and secondary).

If we use a purse snatching for an example, the offender in our current criminal justice system may admit guilt or be found guilty and punished. But what he doesn't know and take responsibility for is that the victim had to get a new license, replace credit cards, and perhaps change locks on the house or even move to a new location out of fear because the offender knew the address. The list goes on and on. This significant human violation is never dealt with in our current criminal justice system. And the needs of the victim created by the offense will be completely ignored by both the state and the offender.

The structure of the system and its processes inadvertently encourage the offender to deny responsibility. The real problem, the violation of the human relationship, is ignored and human relationship we are most concerned about is hidden. When the focus is primarily on the violation of the law, there is another unintended consequence. Howard Zehr puts it this way: "Even if he is guilty, his attorney will likely tell him to plead 'not guilty' at some stage. In legal terms 'not guilty' is the way one says 'I want a trial' or 'I need more time.' All of this tends to obscure the experiential and moral reality of guilt and innocence."⁶

Judge McElrea of New Zealand (the keynote speaker at our 1996 Restorative Justice Conference) says that as important as 'due process' is, in a court trial, "the overriding issue is whether fair procedures are followed – not whether they produce a just result, a fair outcome for the accused, satisfaction for the victim or harmony in the community to which both victim and offender belong." He also says, "I am sure the wider society would support a system that encouraged those who are guilty to admit their

⁵ Howard Zehr, *Changing Lenses: A New Focus for Crime and Justice* (Scottsdale: Herald Press, 1990), 81.

⁶ *Ibid.*, 67.

guilt and focus their attention on putting right the wrong they have done.”⁷ New Zealand enacted legislation in 1989 that gave primary responsibility to the community to focus on the harm done and on repairing the harm. In their new structure the criminal justice system encourages and assists the community in dealing with juvenile criminal cases through a process called, “Family Group Conferences.” The process and language of “Family Group Conference” was a traditional practice introduced by the Maori, the indigenous group of New Zealand. Their practice of using extended family to help solve issues of conflict and misbehavior was adapted and modified slightly. A Youth Justice Coordinator helps arrange and facilitate the Family Group Conference which includes victim and support people, offender and extended family, a representative of the criminal justice system, and other involved people. Their responsibility is to recognize what happened and develop a plan to repair the damage and prevent reoccurrence. The case only goes to the court in cases where the offender is unwilling to accept responsibility or where the community cannot agree on a plan. The result has been that most offenders accept responsibility and a plan is worked out in the Family Group Conference. This has meant a 75% decrease in court hearings. This has meant that in most cases the focus is on the human relationships rather than on the law. (Appendix 3)

Herman Bicanchi contrasts the Greco-Roman tradition of law with the classic Hebrew concept of Torah (Law). “Law as defined in the Greco-Roman tradition is a set of rules enacted and interpreted by authoritative persons or bodies that are binding on all persons and groups, unless there are specific exceptions. The significance of the rules lies in their binding quality, which, if necessary, may provoke sanction and enforcement.”

⁷ J. Burnside and N. Baker, *Relational Justice: Repairing the Breach*, (Winchester: Waterside Press, 1994), 101.

And in contrast, “Torah is a road sign, a direction indicator. It is not a rule that orders or forbids; it is rather a suggestion that helps one reflect upon the right direction. Torah is an invitation to study the right rules for life.” Torah has never given ready-made solutions to trouble. On the contrary, it is a bidding to enter into endless discussion to find a solution together.”⁸ So the “Ten Commandments” are interpreted in different ways, depending on which lens is used. Through the Greco-Roman lens they are seen as orders given by an authority. Through the Torah lens they are understood as indicators, outcomes or promises for those who use the process of Torah to guide them. Those who follow Torah process will not kill or steal any longer.

I prefer to have these principles read and understood in the Torah sense of inviting “endless discussion” to study responding to wrongdoing and repairing of relationships rather than in the Greco-Roman sense as orders given by an authority.

Principle #1 suggests that those who use Restorative Justice will view law first as an indicator that points to the problem that needs to be addressed by the primary and secondary parties and only used by authorities in their binding or enforcing quality if the primary parties are not able or willing to create a solution together. VORP, Family Group Conferences, and Circles⁹ are a few of the structures that encourage and assist in changing the focus of the response to crime from the violation of law to the violation of human relationships for those cases where the offender admits responsibility.

⁸ Herman Bianchi, *Justice as Sanctuary: Toward a New System of Crime Control* (Bloomington: Indiana University Press, 1994), 50-51

⁹ VORP, Family Group Conferences, and Circles are specific names given to processes have different origins and have both similar and unique strategies. All are very similar in that they use cooperative strategies or the #3 option to attempt to “make things as right as possible” as a result of a situation of violation which may also be labeled as a crime by the Criminal Justice Authorities. VORP originated in

Principle #2. Restorative Justice recognizes that crime (violation of persons and relationships) is wrong and should not occur and also recognizes that after it does, there are dangers and opportunities. The danger is that the community, victim(s), and/or offender emerge from the response further alienated, more damaged, disrespected, disempowered, feeling less safe and less cooperative with society. The opportunity is that the injustice is recognized, the equity is restored (restitution and grace), and the future is clarified so participants are safer, more respectful, and more empowered and cooperative with each other and society.

Victims need to hear that what happened to them was wrong, unfair, and undeserved. It is wrong for someone to break into your house and take your things. However, often the first response a victim hears when telling their story of victimization is, "Did you have proper locks on your doors?" "Did you have the proper lights on?" While these things are a good idea to protect one's home, the one who broke into the home and took things that didn't belong to them was wrong. A first step in the restoration and healing process for both victim and offender is to recognize this. The next step is what to do.

Restorative Justice suggests that once an offense occurs there are always potential dangers and opportunities and which way it will go will depend on how the parties involved and those around the parties, including the criminal justice officials, respond.

I was recently leading an 8-hour training on Restorative Justice for Sheriff's Officers. The first part of the morning had been devoted to introducing Restorative Justice, including New Zealand's model using Family Group Conferencing as an

the United States. Family Group Conferences originated in New Zealand. Circles originated among First Nations Groups in Canada.

alternative process for deciding on what to do rather than using the court. We had noted their reduction in court cases in a five year period of 75% and that 2/3 fewer youth were being held in custody. (Appendix 3) We had discussed the Victim Offender Reconciliation Program in Fresno and our experience with Community Justice Conferencing, a program using a model similar to New Zealand for working with felony property offenses. We had recognized that in all of these Restorative Justice programs, the focus was on recognizing the injustice, restoring equity as much as possible, on developing a plan to create a more just and peaceful future, and on follow-up.

One of the officers finally verbalized the obvious discomfort of many of the officers by asking a question with some intense feelings, “Are you saying that kids who violate the law should not be punished?” I thanked him for the question and recognized it as a significant and very interesting question. I suggested that rather than answering it immediately we explore the goals of punishment first. I wrote “Why do we punish?” on the top of a large pad of paper and invited them to identify some reasons “why do we punish?” or “what is it we hope to accomplish with punishment?” Following are their responses:

Want them to learn from their mistakes.

Don't want them to do it again.

Want them to realize how much they hurt someone.

Want them to learn about accountability, to be accountable for ones
actions.

To develop or pay attention to conscience.

To be an example for others.

What a great list of opportunities! The question we then discussed was “what kind of response will actually accomplish these goals?” Does punishment actually accomplish these goals? They acknowledged that most of the time punishment doesn’t accomplish them. We noted that if these goals were accomplished it would build up offenders and they would most likely emerge from the response with actions and attitudes that are more in the cooperative and respectful direction.

We also noted that when we focus only on punishment of the offender, the victim is left out of the process. I suggested to them that I think we have a better chance of accomplishing their list of goals when we use the principles and practices of Restorative Justice. We then spent the balance of the day exploring and role playing Restorative Justice practices.

Significant experience using Restorative Justice practices is demonstrating that *recognizing the wrong* in the criminal act and how it violates individuals and community, is an important starting point in the healing and restoration process for victim, offender and community. In New Zealand and Australia the language being used is "re-integrative shame."¹⁰ They point out that while it is important to recognize the wrong, it is also very important how that is done. If it stigmatizes and isolates the offender so they become less cooperative with society, it is counterproductive. Offenders who are stigmatized and ostracized tend to congregate in sub-cultures where they find acceptance. These are some of the dangers associated with a response to crime. But if family and other people who are respected by the offender help him acknowledge the wrong, the shame is productive. A community re-integrative shame response leads to new learning and changed behavior

for the future. These are some of the opportunities in a Restorative Justice response to crime.

Recognizing the injustice is a very helpful first step in the restoration of victim, offender and community. What remains is to develop a plan to restore equity as much as possible and to create a more just and peaceful future for each person and relationship affected by the incident. Observations show that if the people in damaged relationships experience these three key elements, relationships improve, stress is reduced, and healing is experienced.¹¹

Principle #2 suggests that the response to a crime is very important and has the potential to reduce the negative impact and perhaps even improve the situation for all parties. It also suggests that the response can make a bad situation even worse. Those who do Restorative Justice will be aware of these possibilities and will do what they can to repair the damage to individuals and relationships as much as possible and to create the best possible future for all involved.

Principle #3. Restorative Justice is a process to “make things as right as possible” and includes: attending needs created by the offense such as safety and repair of injuries, relationships and physical damage resulting from the offense; and attending needs related to the cause of the offense (addictions, lack of social or employment skills or resources, lack of understanding or will to make moral or ethical decisions, etc.).

¹⁰ John Braithwaite, *Crime, shame, and reintegration* (New York: Cambridge University Press, 1989), 55

¹¹ Ron Claassen, “A Peacemaking Model” (Fresno: Fresno Pacific University, 2002), 16-18

Principle #4. The primary victim(s) of a crime is the one(s) most impacted by the offense. The secondary victims are others impacted by the crime and might include family members, friends, criminal justice officials, community, etc.

Principle #5. As soon as immediate victim, society, and offender safety concerns are satisfied, Restorative Justice views the situation as a teachable moment for the offender—an opportunity to encourage the offender to learn new ways of acting and being in community.

These principles suggest that justice could be a process for *making things as right as possible* rather than focusing on punishing the offender. To do that would mean that the focus would be on the addressing the needs (those created by the offense and those that contributed to the cause of the offense) of all of the parties, the victim, offender, and the community. Howard Zehr has suggested that some of the needs not addressed by the current Criminal Justice System’s focus on punishment are:¹²

Victims Need:

1. Information and answers to questions.
2. Truth telling and recognition of the injustice or violation.
3. Empowerment. Victims are usually left out of all decision-making regarding the process and decisions.
4. Restitution and Vindication. Victims find it helpful if the offender accepts responsibility for the wrong and

¹² Howard Zehr, *The Little Book of Restorative Justice* (Intercourse, PA: Good Books, 2002), 14 -18

demonstrates that through tangible restitution and apology.

Offenders Needs:

1. Accountability that
 - addresses the resulting harms,
 - encourages empathy and responsibility,
 - and transforms shame (to re-integrative shame)
2. Encouragement to experience personal transformation, including
 - healing for the harms that contributed to their offending behavior,
 - opportunities for treatment for addictions and/or other problems,
 - enhancement of personal competencies.
3. Encouragement and support for integration into the community.
4. For some, at least temporary restraint.

Communities Needs:

1. Attention to their concerns as victims,
2. Opportunities to build a sense of community and mutual accountability,

3. Encouragement to take on their obligations for the welfare of their members, including victims and offenders, and to foster the conditions that promote healthy communities.

In Principle #3 “attending to safety needs and repair of injuries/damages” means that the victim and community are as important as the offender in a Restorative Justice system. Often in the current system the primary response is incapacitation of the offender. But incapacitation of the offender is not an adequate or a wise response since it alone does not address the needs listed above.

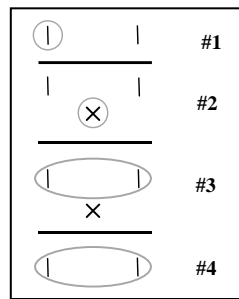
Principle #4 reminds us that the real victims are the ones who are most impacted by the offenses and suggests dividing those impacted into two categories, primary and secondary. Combined with Principle #3, this principle emphasizes the need to consider all who were impacted by the offense in the consideration of how to “make things as right as possible.” When considering all of these possibilities it is clear that in many cases, the community will need to assist the offender in addressing the victims’ needs.

Principle #4 emphasizes that the offender also has needs and that once the safety concerns of the victim and community are addressed, there is a “teachable moment” with the offender. The occasion of the crime, 90% of which are non-violent, presents the community an opportunity with the offender. It is important to remember that there are also dangers and the kind of response (of system officials, community, parents, etc.) will determine which way it goes.

Principles #3, #4, and #5 suggest that those who do Restorative Justice will focus on “making things as right a possible” and will do that by identifying and addressing the needs of all of the parties: primary victims, some highly impacted secondary victims (including family members), and offender. A Restorative Justice response is significantly different than the current Criminal Justice System response of identifying who violated a particular law and determining how to punish the offender.

Principle #6. Restorative Justice prefers responding to the crime at the earliest point possible and with the maximum amount of voluntary cooperation and minimum coercion since healing in relationships and new learning are voluntary and cooperative processes.

An examination of the criminal justice process indicates that the primary options used are #2 and #1. Restorative Justice recognizes that the current Criminal Justice System simply doesn’t take advantage of options #3 and #4.



While #4 will most likely be somewhat rare, when it does happen in a constructive way, it should be encouraged. For example, a baby-sitter who was watching our boys once stole a jar of coins that our boys had been saving for building their model railroad. Roxanne and I had told them we would multiply whatever they collected by a factor of 5 to help them with their purchases. They had been diligently saving their coins in their jar. Since they added to it frequently, they noticed that it was missing the next day. We called the baby-sitter and invited him to come to our home to discuss a concern. He came and we confronted him with the loss and said that if he had

taken the coins, what we wanted was for him to acknowledge it, apologize to the boys, and repay the amount. He did what we requested.

VORP, Community Justice Conferences, Circles, and Family Group Conferences, to name a few, use the #3 option. To be a #3 means that the parties inside the circle must all agree that the combination of the meeting discussion and the agreement to a plan for the future will *make things as right as possible*. That means that in addition to all of the others present, the offender must also agree. Long term change happens when the changes are voluntary and cooperative.

Incapacitation and punishment are determined and carried out with #2 and #1 responses. When they are harsh enough they can force a short-term change in the behavior of the offender. At first the changes often look quite good, like the bootcamps that have been very popular. But usually the changes made under these conditions only last as long as the force continues to be applied. When the force is no longer applied, because the change was only due to the force or threat of force or additional punishment, the improved behavior doesn't continue. A danger is that, in response to the punishment, the offender is more likely to be resentful and become more sneaky to avoid getting caught. On the other hand, long term change happens when the offender voluntarily and cooperatively changes and is given adequate encouragement and support to sustain the changes. Restorative Justice tries to create the conditions that make it likely that an offender would voluntarily change his behavior.

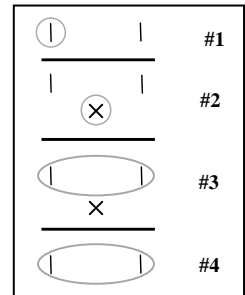
Principle #6 suggests that those who do Restorative Justice will use option #3 as much as possible and use #2 and #1 only as back up options when an offender is not willing to use #3. The reason for using option #3 as much as possible is because long

term changes only happen when the offender voluntarily decides to change. It is also important to note that using option #3 changes the decision-makers from the authorities in #2 to the all of the parties inside the circle, a significant transfer of power to the community. In addition to changing the roles regarding decision-making (see principal #7), having all of the impacted parties present in a cooperative process creates a climate conducive to healing, a process that cannot be forced.

Principle #7. Restorative Justice prefers that most crimes are handled using a cooperative structure including those most impacted by the offense as a community to provide support and accountability. This might include primary and secondary victims and family (or substitutes if they choose not to participate), the offender and family, community representatives, government representatives, faith community representatives, school representatives, etc.

One of the significant differences between the current Criminal Justice System and a Restorative Justice System is that instead of responding to the crime by punishing the offender, Restorative Justice focuses on identifying and addressing the needs of all parties. Another significant difference is who makes the decisions. Restorative Justice prefers to use option #3 as much as possible and that means that the decisions are made by the primary and secondary parties included in the circle, rather than just by the Criminal Justice authorities. The roles of the parties are significantly changed in a Restorative Justice System. Restorative Justice prefers that all of the primary parties and appropriate secondary parties (victim, victim support, offender, offender support, impacted community, and when it seems helpful, criminal justice officials) are included

in the circle in option #3 to listen to the recognition of the injustices, to help make the decisions and design a plan to restore the equity as much as possible and to create a constructive future. This is very different from the current Criminal Justice System where the victim is usually not included at all and certainly not as a decision-maker. In Restorative Justice the victim is a central participant unless she chooses not to be involved. In the current system the offender is usually present at the proceedings but often not involved as a speaker and certainly not as a decision-maker. The offender's extended family and others who could be significant support and accountability people are excluded in the current system. They also often do not support the decisions of the system officials because they feel the offender has been mistreated in the "justice" and punishment process.



Principle #7 suggests that when Restorative Justice is done, it significantly changes the roles of the participants. Judge McElrea of New Zealand indicated that one of the most difficult changes for him, and others on the judicial bench, was accepting and allowing the significant transfer of power from those who run the current Criminal Justice System to those community members who gather to make the decisions when the preferred #3 option is being used.

Principle #8. Restorative Justice recognizes that not all offenders will choose to be cooperative. Therefore there is a need for outside authority to make decisions for the offender who is not cooperative. The actions of the Restorative Justice authorities and the consequences imposed should be tested by whether they are reasonable, restorative, and respectful (for victims, offender, and the community).

Restorative Justice prefers option #3 but recognizes that not all offenders will choose to be cooperative. Restorative Justice officials do not give up easily on the goals of Restorative Justice. Sometimes before the offender decides to cooperate, it may take more than one invitation and/or it may make a significant difference who gives the invitation. Restorative Justice prefers option #3 and works hard to create the conditions that will encourage an offender to choose to be cooperative. And, Restorative Justice recognizes and respects the freedom of an offender to choose to not use option #3. One reason might be that the offender did not do what she is being accused of doing and wants a chance to prove that in court. The offender might not want to cooperate for other reasons. If the choice of the offender is to eliminate option #3, that leaves option #2, which can be enforced as necessary. But if the Justice System is a Restorative Justice System, authorities in #2 still aim to achieve the goal of *making things as right as possible* which will include recognizing the injustice, restoring equity as much as possible, and designing a plan to create a constructive future. It would mean getting to know the parties and their needs and designing a plan to meet as many of the needs as possible. It would also mean identifying needs or unmet needs that contributed to the offender committing the offense. While these are not considered an excuse for doing the wrong thing, it is recognized that it would be very helpful to address these needs in creating a more constructive future. So the orders of the court, or other Restorative Justice authorities, might include restitution from the offender and/or a restitution fund as needed, and various counseling, treatment or community service options to meet the needs of all of the parties as much as possible.

The criteria suggested in this principle are reasonable, restorative, and respectful. One way to help think about these criteria is to think of the opposites. If the authorities act in ways that are unreasonable, or intended to hurt or put down, or are disrespectful, then they are not doing Restorative Justice. Since writing the original principles, I would like to add the criteria, reintegrative. The opposite of reintegrative would be when the action taken by the authority is intended to ostracize and stigmatize. To the extent that the decisions of the authorities meet the criteria of reasonable, restorative, respectful, and reintegrative, they are doing Restorative Justice.

Principle #8 suggests that there will be times when offenders will be unwilling to cooperate and then it will be necessary for authorities to create a plan that is as restorative as possible. To do this will require that the authorities listen to those who were impacted by the offense to discern the needs created by the offense. The Authorities will need to talk to the victim and to the offender and those who know them to discern the needs created by the offense and those that contributed to the offense. Authorities doing Restorative Justice will always apply the reasonable, respectful, restorative, and reintegrative criteria to help determine if they are doing Restorative Justice.

Principle #9. Restorative Justice prefers that offenders who are not yet cooperative be placed in settings where the emphasis is on safety, values, ethics, responsibility, accountability, and civility. They should be exposed to the impact of crime on victims, invited to learn empathy for victim, and offered learning opportunities to become equipped with skills to be a productive member of society. They should be

continually invited (not coerced) to become cooperative with society and given the opportunity to demonstrate this in appropriate settings as soon as possible.

When offenders are not cooperative and pose an immediate safety risk to themselves or others, they will need temporary restraint. The setting for this restraint will look different from our current juvenile halls, boot camps, etc. One thing the experience in New Zealand has taught us is that when those who are most involved in the situation, the victims and support, the offender and support, and others representing the system and the community, they rarely decide to use the current type of incapacitation. They almost always want to place the offender in a setting where the people they will be in contact with will provide encouragement to make pro-social decisions. They don't want to place the offender with others who have made bad decisions and would most likely influence the offender to continue making bad choices. As a result, Judge McElrea said that in New Zealand, after five years of using Restorative Justice as a guide, they had closed 2/3 of the lock up facilities (Appendix 3). The Family Group Conferences usually placed offenders with adults who would hold them accountable while teaching them about values, ethics, responsibility, accountability, and civility. They exposed them to the impact of crime on victims and encouraged them to learn empathy. As the offender demonstrates responsible decision-making the offender is given more opportunity to demonstrate responsible choices.

Principle #9 suggests that those doing Restorative Justice will occasionally determine that temporary restraint is necessary. Those doing Restorative Justice will create restraint options that place the offender in settings where they can be with people

who they respect and who will teach positive values and ethics, and encourage pro-social choices.

Principle #10. Restorative Justice requires follow-up and accountability structures utilizing the natural community as much as possible since keeping agreements is the key to building a trusting community.

“Trust grows when agreements are made and kept and trust diminishes when the parties are unwilling to make agreements or when agreement are made and not kept.”¹³ Since #3 is the preferred decision-making option in Restorative Justice, the goal is that many agreements will be made and kept. But, if agreements are made and not kept, trust diminishes. Therefore follow-up and accountability structures are very important. And, since the agreements are made in a group that includes a significant number of the offender’s natural community, the most natural people to provide the accountability are those who are part of that natural community. If they need help, other community members or officers in the criminal justice system can provide help and assistance as needed. In the current Criminal Justice System, decisions are often made by people who are unknown to the offender and their family and the people responsible for enforcing the orders are usually people who are also unknown to the offender and their family.

Since the *decision* made by this distant person is without input from the natural community, which does not seem fair, and the *enforcement* carried out by outsiders also does not seem fair, the natural community often does not provide the encouragement needed to support the decision or the enforcement.

Since *trust grows if agreements are made and kept*, it is essential that the cooperative agreements are made as much as possible by the parties who are in the best position to encourage that the agreements be kept. The follow-up and accountability process must be designed to encourage all parties to keep the agreements and to keep the decision-makers informed. If the agreements are not kept, the decision-makers might agree to gather again to determine if all parties still prefer to use a cooperative process to clarify or renegotiate the agreement and to build in additional support and accountability as needed. The criteria to decide if the cooperative process should be utilized again is if all of the parties are still willing to cooperatively search for how to make things as right as possible and be accountable for the agreements. If agreements are made to “get you off my back” and not kept there is new violation and trust will diminish even further. If the offender does not keep agreements and is not willing to be cooperative then she is sent to a #2 option process where decisions will be made for her.

While much of the responsibility for keeping the agreements is on the offender, he is not the only one with responsibilities. Another cause for diminished trust in the community is related to promises for supportive services that do not materialize. There are many decisions that indicate that certain kinds of support will be available to the offender. These may be from his family and other support persons. It may be that the support is to be available from the community to assist the offender and/or her family. If the support that is agreed to does not materialize, trust diminishes.

Principle #10 suggests that those doing Restorative Justice will create follow-up and accountability structures to insure that all agreements that are made are kept or brought to the attention of the group that made the decisions. If an agreement is not

¹³ Ron Claassen, “Trust Building” (Fresno: VORP Newsletter, 1992)
“Restorative Justice Principles”
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being kept, the group can decide if the agreement needs to be modified or if the follow-up and accountability structure needs to be modified. By diligently following up on the agreements that are made, trust in the community grows.

Principle #11. (Original in Newsletter) Restorative Justice recognizes the important and vital role of the religious/faith community in preventing crime and in responding to crime.

Principle #11 (Revised at UN) Restorative Justice recognizes and encourages the role of community institutions, including the religious/faith community, in teaching and establishing the moral and ethical standards which build up the community.

It is the religious/faith community, and some other community institutions, that have the responsibility of teaching a moral and ethical standard which is far above the base level of the law. In a conversation with our Chief of Police, Mr. Ed Winchester, he made the comment that “when we as police get involved, it is because the other systems in the community have failed.” I believe that he is right. My religious/faith orientation is Christian. I know that when I live in ways taught in the Bible, like the ten commandments, the *agape*-love (*agape*—commitment to be constructive) ethic, and putting my energy in trying to find ways of bringing about reconciliation rather than revenge, I will not have much contact with the police as an offender. If the social influence of the religious/faith community is high, the need for the police should be low. I believe that this is true for most other religious/faith communities.

Another significant role of the religious/faith community is in the response to crime. The religious/faith community is to teach and assist the community in responsibility, forgiveness, healing, and reconciliation. Gal. 6:1 says that "...when one is caught in any trespass, those who are spiritual should restore him in a spirit of gentleness..." While this was referring to those in the faith community, with Jesus' teaching to "*agape*-love (*agape*-to be constructive with) the enemy" the restoration teaching would certainly apply to all who are "caught in any trespass." It is important to recognize that to "restore in a spirit of gentleness" does not mean to minimize the offense, say the offense is OK, or to overlook safety of the victim. True forgiveness will recognize the injustice, make agreements to restore the equity as much as possible, and plan for an accountable and constructive future in which the "trespass" does not continue.

Beyond the religious/faith communities there are other community institutions which also teach and encourage behavior that prevents crime and encourages high ethical and moral standards. Restorative Justice encourages, supports, and cooperates with these institutions. One of these is the schools and one of the ways a school can implement Restorative Justice is in its discipline policies (Appendix 4). Service clubs can teach and encourage high ethical and moral standards among its members. They can also be ones to volunteer to assist offenders through mentoring programs and participation in VORP, Restorative Justice Circles and Community Justice Conferences.

Principle #11 suggests that crime should not be left solely to the criminal justice system. A Restorative Justice System will encourage, assist and cooperate with community institutions as they assume significant roles in: 1) *preventing* crime through teaching and encouraging their members to live in ways that are demonstrating high

ethical and moral standards and 2) *responding to and making decisions* about crime through involvement in leading or assisting in the cooperative processes to make agreements and 3) *follow-up* to encourage and assist in the keeping of agreements.

Personal Recent and Ongoing Work in Promoting Restorative Justice

My primary efforts have been oriented to Fresno County and California. I have been influenced by that saying “think globally and act locally.”

In 1995 when I published these eleven principles in the VORP Newsletter I wrote, “I hope these eleven principles will contribute to a community wide dialogue and encourage a change in actions and attitudes that will influence our society to turn in a direction of being less violent and punitive and more peaceful and just.”¹⁴

After completing seminary I helped establish the first VORP in California in 1982. Since I had heard about it and the Fresno Community has not heard about it, it seemed like the right thing to do. I did not plan at that time to devote most of my primary work life energy in this direction. I continued to direct VORP until 1999 and our Center is currently providing administrative leadership. VORP in Fresno has worked with more than 6,300 cases involving more than 25,000 people.

Since 1982 thirty more VORP’s have developed in California and I have been privileged to participate in some way in the development of most of them. The Restorative Justice Project at the Fresno Pacific University Center for Peacemaking and Conflict Studies where I am currently the director, convenes a biannual meeting of all

¹⁴ Ron Claassen, “Restorative Justice Principles” (Fresno: VORP Newsletter, 1995)

VORP's in California for training and networking. The dialog about Restorative Justice has expanded.

In 1998 we developed the California Restorative Justice Initiative. It was funded by a small grant from the U. S. Department of Justice, National Institute of Corrections. The committee included Jim Rowland, Former Head of the California Department of Corrections; H. Spees, Fresno Leadership Foundation Director; Phil Kader, Fresno County Probation Department Community Initiative Director; Austin Morgan, Prison Fellowship Central California Director; Jerry Hill, Former Chief Probation Officer; and Ron Claassen, Co-Director FPU Center for Peacemaking. The Initiative mission was to introduce or encourage the further development of Restorative Justice in four California Counties, Sacramento, Shasta, Monterrey, and Fresno. In each county we lead a focus group with approximately 20 key Criminal Justice and other leaders and followed that up with a forum including approximately 100 system leaders, church leaders, and other community leaders. Each forum included developing a community plan to initiate or further develop Restorative Justice in their counties. The dialog about Restorative Justice expanded.

In Shasta County and Sacramento County the dialog lead to the development of VORP programs and other efforts to change some current practices to make them more restorative. In Monterrey County, where a VORP already existed, the Initiative lead to the development of the first County Restorative Justice Commission in which the commissioners are appointed by the Board of Supervisors. The dialog about Restorative Justice expanded.

In Fresno County the forum plan called for a leadership group to guide the development of “broad based systemic change based on Restorative Justice.” This invitation was what we had hoped and prayed for but did not expect. The core leadership group is made up of a person each from the Sheriff’s Department, Probation Department, a private Attorney, and I from Fresno Pacific University. I was asked to be the convener for the Fresno County Restorative Justice leadership group. The first decision was to write a Restorative Justice Framework for Fresno County¹⁵. Based on discussion at the forum and continuing discussions and experiences of the leadership group, the group recognized that Restorative Justice is a very broad concept which applies to more than just the Criminal Justice System. So in writing the Fresno County Restorative Justice Framework (Appendix 5), the principles were re-written to make them applicable to all systems. The Framework was sent out to all focus group and forum attendees and posted on the web site as a draft with an invitation for comments. After six drafts the current document was adopted with a note that this document was intended to be a living document that would change with new insights and experiences. The leadership group then began a series of meetings with the participants, or their successors, from the original focus group. The meeting purpose was to invite the leaders to sign an endorsement (Last Page of Appendix 5) of Restorative Justice which called for a series of actions to implement Restorative Justice in their sphere of influence. Several system leaders, including the Probation Department, Sheriff’s Department, several Community Based Organizations, Fresno Pacific University, and several School Districts, have signed the endorsement. Others have said that they needed more time and invited us to come

¹⁵ Claassen, Kader, Noll, & Tilkes, “Restorative Justice: A Framework for Fresno” (Fresno: Fresno Pacific University, 2001) <http://www.fresno.edu/dept/pacs/docs/tjframe0201.pdf>

back. The initiative has lead the courts to implement a pilot adult VORP. Last month, at an expanded 2 ½ hour meeting the regular meeting, all of the judges at the court engaged in discussed about Restorative Justice and if they should endorse the Framework. The decision has not yet been made. The dialog about Restorative Justice has expanded.

I am currently working with several school districts in regard to their school discipline structures. What I have seen is that most school discipline plans look very similar to the current Criminal Justice System. We have been exploring how schools can implement Restorative Justice (Appendix 4).

The idea of Restorative Justice seems to resonate in positive ways with a wide range of people. But moving from theory to practice seems to be difficult. To assist with this we are creating some demonstration sites and we are currently applying for a research grant to demonstrate with hard data how using Restorative Justice Principles in schools will impact the safety and climate of schools as well as the character of all people, students and adults on the campus.

While most of my energy has been devoted to our local community and state, some of my effort has gone beyond the local area. Our Restorative Justice Project offers a 3-day training, “VORP Organizing: How to Start a VORP in Your Community.” Using the VORP Organizing Manual¹⁶, we have encouraged and assisted people from at least 20 states in the development of more than 75 VORPs.

Last year I was invited to speak in Israel to help introduce Restorative Justice to 25 Judges, 25 Prosecutors, and 25 Defense attorneys and to participate in the first

¹⁶ Ron Claassen, “VORP Organizing Manual” (Fresno: Center for Peacemaking and Conflict Studies, 1998)

Restorative Justice Conference held in Israel and attended by over 200 people.¹⁷ For each of the two years before that I was privileged to work with a group of 25 Vietnamese NGO program directors in Hanoi introducing Conflict Resolution and Restorative Justice principles, strategies and skills. The dialog about Restorative Justice expanded.

Conclusion

The dialog about Restorative Justice has expanded. Some new practices have developed, some old practices that are consistent with Restorative Justice have been revived, and some punitive practices have been modified or dropped. But while the dialog has significantly expanded, the hope and plan for an accompanying “change in actions and attitudes that will influence our society to turn in a direction of being less violent and punitive and more peaceful and just” is still waiting to be realized to any significant degree, especially here in the United States. In New Zealand the implementation has been more dramatic it appears that their criminal justice system has made significant movement toward being “less violent and punitive and more peaceful and just.”

A disappointment for me has been that the Christian Churches, as institutions, have not taken a leadership role in encouraging our systems in society to endorse and implement Restorative Justice principles and practices. It seems to me that Restorative Justice is very consistent with Jesus’ teachings on confession, repentance, forgiveness, and redemption. Perhaps we, the churches, need to start by examining our own systems

¹⁷ A Report: Israel Trip. Ron Claassen. 2002.
http://www.fresno.edu/dept/pacs/docs/Claassen_Israel_Report.pdf

and modify them where they are punitive rather than restorative. Perhaps when our churches implement Galatians 6 we will be more qualified to speak to the other systems of our society with integrity about the advantages of implementing Restorative Justice. Or perhaps it will be in implementing Restorative Justice in our secular systems that the churches will also examine their structures and discover the good news of Galatians 6.

My friends, if anyone is detected in a transgression, you who have received the Spirit should restore such a one in a spirit of gentleness. Take care that you yourselves are not tempted. **2 Bear one another's burdens, and in this way you will fulfill the law of Christ.** 3 For if those who are nothing think they are something, they deceive themselves. 4 All must test their own work; then that work, rather than their neighbor's work, will become a cause for pride. 5 For all must carry their own loads. 6 Those who are taught the word must share in all good things with their teacher. 7 Do not be deceived; God is not mocked, for you reap whatever you sow. 8 If you sow to your own flesh, you will reap corruption from the flesh; but if you sow to the Spirit, you will reap eternal life from the Spirit. 9 **So let us not grow weary in doing what is right,** for we will reap at harvest time, if we do not give up.¹⁸

While a careful examination of Restorative Justice principles and the Bible will have to be left to another paper, I am convinced that although there are some tensions in

the Bible regarding the meaning of justice, the overwhelming Spirit leads in the direction of Restorative Justice. This gives me hope that the church will move in the direction of doing “what is right.”

While the movement, both in the church and in the systems of society, seem to be very slow in making any changes in the direction of Restorative Justice, there has been significant movement over the last twenty years. The dialog has expanded and one can get a glimpse of this by doing a Google search for Restorative Justice and noting that the number of sites referenced today is 92,900 and that is growing every day. The dialog is expanding and although the pace seems very slow, the practice of Restorative Justice is also expanding.

My hope continues to be that “...these eleven principles will contribute to a community wide dialogue and encourage a change in actions and attitudes that will influence our society to turn in a direction of being less violent and punitive and more peaceful and just.”

¹⁸ Gal. 6. 1- 9 NRSV

Discipline that Restores Principles

1. Misbehavior is viewed primarily as an offense against human relationships and secondarily as a violation of a school rule (since school rules are written to protect safety and fairness in human relationships).
2. The primary victim of the misbehavior is the one most impacted by the offense. The secondary victims others impacted by the misbehavior and might include students, teachers, parents, administration, community, etc.
3. Discipline that Restores (DTR) is a process to “make things as right as possible.”
4. DTR recognizes both the danger and opportunity created by the misbehavior and conflicts that underlie misbehavior. As soon as immediate safety concerns are satisfied, DTR views the misbehavior and conflict as a teachable moment.
5. DTR prefers resolving the conflict or handling the misbehavior at the earliest point possible and with the maximum amount of cooperation possible (as little coercive force as possible).
6. DTR prefers that most conflicts and misbehavior are handled using a cooperative structure directly between the ones in conflict.
7. DTR recognizes that not all persons misbehaving will choose to be cooperative. Therefore there is a need for outside authority to make decisions for the misbehaving person who is not willing to be cooperative. The consequences imposed should be tested by whether they are reasonable, related, restorative, and respectful.
8. DTR prefers that persons who misbehave and are not yet cooperative be continually invited (not coerced) and encouraged to become responsible and cooperative, and they should be given that opportunity at the earliest possible time they so choose.
9. DTR requires follow up and accountability structures since keeping agreements is the key to building a trusting community.

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At the October 1996 Restorative Justice Conference in Fresno, CA, Judge F. W. M. McElrea of Ackland, New Zealand, described how Restorative Justice has been put into practice in New Zealand. Following are notes taken during his comments at the conference.

Introduction

Legislation in 1989 combined the child welfare and juvenile justice systems.

The Family Group Conference process was mandated as the primary method for handling youth crime and child welfare matters. The court oversees the process and serves as backup if needed.

A significant change is that this process empowers extended families, victims, and communities in case decision making rather than the court.

Family Group Conference Process

The legislation mandated the use of the Family Group Conference process (a type of mediation) as the primary process for making decision about repair, remedial plans, and penalties as appropriate.

The conference is convened by Youth Justice Coordinator.

All conference decisions require consensus of all parties except the Youth Justice Coordinator.

The decision or agreement must provide for the needs of the victim.

The participants include victim and support people, offender and family (including extended family), community representatives, and system representatives.

The group decision becomes order of the court.

Cases go to a court hearing when:

The offender says he is not responsible,

The group cannot arrive a consensus, or

The offender is not cooperative with process.

Results as of 1995

90% of cases diverted to Family Group Conference

75% decrease in court hearings

2/3 fewer youth in custody

Reduced recidivism

Results as of 2001 (since 1996)

Allen MacRae, a Youth Justice Coordinator, was our primary speaker at our Restorative Justice Conference, 2001. The following are notes from his presentations.

1. For eight months prior to Conference (June 2001) not one youth criminal case was heard in the city of Wellington. All cases were resolved in Family Group Conferences.
2. 95% of families we consider “dysfunctional” actually do gather support for the offending youth in the FGC.
3. Percentage of offenders who are not in school (because of suspension or expulsion) has dropped from 60% of youth offenders to 10% of youth offenders.
4. Number of Family Group Conferences is constantly dropping due to decrease in # of crimes.
5. The seriousness of the crimes committed has dropped.
6. Number of recidivist offenders has dropped.
7. Percentage of victims at conferences is 84%.
8. Family Group Conference officials handle three conferences per week.
9. Due to the success of the juvenile program in New Zealand, there are now 6 Restorative Justice Pilot programs for adult offenses.