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Restorative Justice, American Style

By Morgan O. Reynolds

Ed McGarrell, a criminology professor at Indiana University in Bloomington, has teamed up with the Hudson Institute and the city of Indianapolis to try an experiment that offers something besides jails to control crime. "Restorative justice," a program being tried with youthful first-time offenders, is based on three principles:

- Victim restoration
- Offender accountability
- Offender reintegration into the community

Here's how it works.

Restorative Justice in Practice. In sharp contrast to the conventional justice system, where victims generally play little or no role, the focus on victims is key. Once a youth is arrested, a restorative justice coordinator arranges a conference involving the violator, the victim and their families and supporters. A specially trained police officer facilitates at the conference, which gives the victim an opportunity to confront the perpetrator, explain how he or she was harmed and ask questions of the offender. The goal is to arrive at a reparation agreement under which the offender takes certain actions to set things straight with both the victim and the wider community. Typical agreements include contribution, service to the victim and community service.

"Offenders often fear setting up the conference because they'll have to appear before the eyes of someone they've harmed," says McGarrell. "In contrast to facing the cops, prosecutors and family courts, it's hard to look good in front of the victim, her family and your own family." Shame and even conscience play a role.

Sometimes a family member changes the dynamics of a conference dramatically. "Our mother took a second

job during the summer to earn extra money to take us clothes shopping for the new school year," an older sister of the victim explained to an offender. "Here it was, the first week of school, and you stole my brother's new jacket. You'll never know how much you hurt my mom and our family."

Measuring the Results. Indianapolis has been using restorative justice conferences since 1997. The city has allowed researchers to randomly assign eligible cases — first-time offenders age 14 and younger, excluding those who have committed serious violent crimes — to either

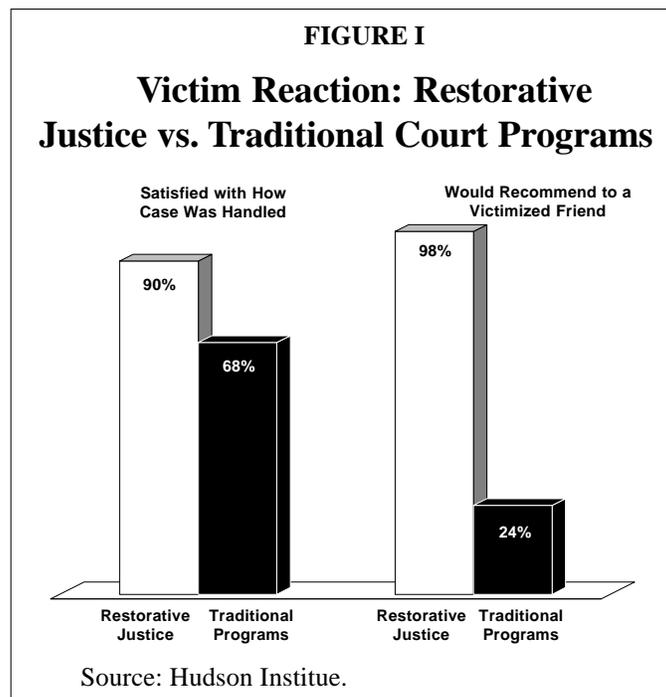
the traditional system (the so-called control group) or the restorative justice program (the experimental group). This technique yields equivalent groups of youths and victims for valid comparisons to see if restorative justice works.

Meeting the Victim's Needs. During the first two years of the experiment, the restorative justice program has met the needs of victims much better than the conventional system, as well as significantly reducing rearrests of young offenders. About 230 youths have participated in conferences and a like number in the control group.

A very high percentage of victims are willing to participate in restorative conferences

because the perpetrators are juveniles and a police officer is present. Over 90 percent of victims say they were satisfied with how their case was handled under restorative justice, compared to only 68 percent who say they were satisfied with the other court-ordered methods. Ninety-eight percent of victims assigned to restorative justice said they would recommend it to a friend in a similar situation, while only 24 percent of victims in traditional court programs said the same. [See Figure I.]

Positive Effects on Offenders. For first-time offenders, conferences also worked better than the typical dismissal, diversion or slap on the wrist rendered by the



traditional juvenile system. Too often, that has sent the unfortunate early message, “It’s no big deal.” Over 80 percent of the youths have attended the restorative conference, reached an agreement and fulfilled all its terms, compared to a poor 58 percent completion rate in the control group. Virtually all youths in the restorative justice program reported that they were treated with respect, although they had not respected the victim.

In some cases, observers say, the offender’s parents are both present and concerned about correcting the problem or already have taken action. But “that’s untypical,” says McGarrell. “A chaotic home situation is typical.” The overwhelming majority of youths do not have a father in their home; the adults involved quickly see the problem of mothers being only slightly older than their children or some other version of “no adult supervision.” Surprisingly, the victims often turn into on-the-spot social workers. Offenders sometimes are sent to organizations like Big Brothers/Big Sisters or the police officer will say, “I’ll look in once every week or two to see how Johnny’s doing.”

Following offenders over time, McGarrell and his team found that, depending on the time period and exact sample, the rearrest rate for offenders from restorative justice conferences was 25 to 45 percent less than for offenders from the control group, a dramatic and statistically significant reduction. As Figure II shows, on the average 30.8 percent of juvenile offenders were rearrested within 12 months of completing the restorative justice program and 41.2 percent were rearrested within 12 months of completing other juvenile court programs. The city has been impressed enough to expand the project to young second-time offenders.

What can the program do for the worst 5 to 10 percent of offenders headed for chronic, violent crime? “It doesn’t do them any harm,” replies McGarrell, “and it’s still a benefit. If not, they will be caught up in the system anyway.”

The Future of Restorative Justice. Is this approach a panacea? Of course not. Victims are far more willing to cooperate in cases involving youths rather than adult offenders, and minor property crimes for which reparations are feasible. However, the principles of restorative justice – especially paying reparations to the victim – overlap those of the civil justice system and might be considered for dealing with at least some adult criminals, for whom probation and incarceration are often involved.

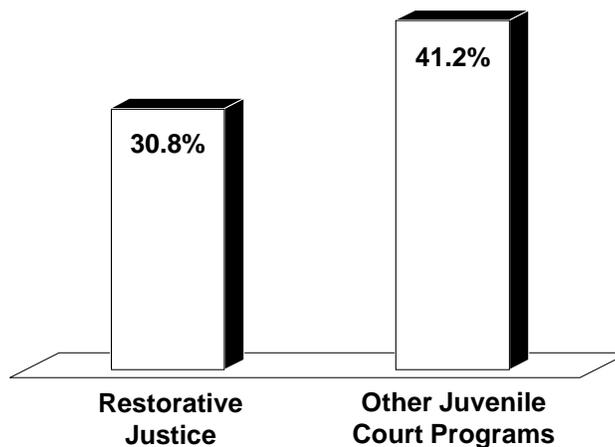
The restorative justice movement here is modeled on programs developed in Australia and New Zealand. Further, one of the secrets to Japan’s low crime and low imprisonment rate has been the use of restorative justice. If the criminal expresses genuine contrition and makes amends to the victim, the public sector goes somewhat lightly on the criminal. We can do the same here.

Why hasn’t restorative justice caught on more widely in the United States? Part of the problem is that

its promoters have oversold it and actually done more harm than good. “Advocates have been trying to sell it rather than incarceration,” says McGarrell. “They have been too critical of police and prosecutors.” As all realistic people know, incarceration is indispensable to the criminal justice system. Yet, given a chance, restorative justice also may prove its worth, especially for early offenders.

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FIGURE II
Rearrest Rate for Juvenile Offenders
Within 12 Months of Completing Program



Source: Hudson Institute.

Note: Nothing written here should be construed as necessarily reflecting the views of the National Center for Policy Analysis or as an attempt to aid or hinder the passage of any legislation.

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