Restorative Justice: New Horizons in Juvenile Offender Counseling

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Treatment strategies of the juvenile justice system focus singularly on rehabilitation of offenders, and victims and communities are excluded from the rehabilitative process. Restorative justice views victims and communities as essential components in rehabilitative efforts. Implications for juvenile offender counselors are discussed.

Within the past 2 decades, the topic of juvenile offenders has received increasing attention. From school shootings to delinquent youth gangs, concern about the treatment of juvenile offenders is growing. Governmental resources have been aimed at mentoring programs (U.S. Department of Justice, 2002b), drug education (U.S. Department of Justice, 2002a), gang prevention (Starbuck, Howell, & Lindquist, 2002), and various other target areas such as assessment of juvenile offenders and early intervention. State and local governments are providing millions of dollars to combat juvenile delinquency. Despite all these efforts, recidivism has been minimally affected by community programming (Siegel & Senna, 2000).

A common misconception is that rehabilitative efforts should focus solely on the offender. Juvenile courts, probation officers, and law enforcement officers use retributive sanctions to hold juvenile offenders accountable. The juvenile justice system looks toward treatment providers and offender-focused interventions to prevent further delinquent behaviors. As a result, treatment providers are tasked with providing an array of therapeutic services aimed solely at the rehabilitation of the juvenile offender.

Current treatment for juvenile offenders involves various interventions focused on individual and environmental influences of offenders. Juvenile offenders are processed through screenings and assessments ranging from psychological evaluations to substance abuse screens. Programs have been developed to enhance cognitive skills (Ross, Fabiano, & Diemer-Ewles, 1986), build moral development (Little & Robinson, 1988), enhance motivation for change (Miller, Zweben, DiClemente, & Rychtarik, 1994), and have an impact on environmental influences (Henggeler & Borduin, 1990). Regardless of demonstrated reductions in recidivism, these programs focus solely on offenders' problems and deficits.

Despite the documented success of these treatment programs with juvenile offenders, delinquency affects more than just the offender. The shortcoming of juvenile justice systems is that the needs of both victims and communities remain unaddressed (Bazemore & Umbreit, 1997). Criminal activity involves three components: the offender, the victim, and the community. Treatment aimed solely
at the offender, regardless of how successful, does not alleviate the impact of crime on victims and communities. Acts of criminal activity induce a state of imbalance in victims' lives and within communities. Lives are changed, and communities become scarred.

An alternative to the current philosophy of the juvenile justice system is restorative justice. Restorative justice is not a program, but a philosophy. It is a philosophy based on restoring balance to victims' lives, communities, and offenders. In this article, I discuss the principles and practices of restorative justice, the parallel constructs between restorative justice and counseling philosophy, and implications for juvenile offender counselors.

What Is Restorative Justice?

Restorative justice in the United States began with the pioneering works of Howard Zehr (Marshall, 1998). In two seminal works, Zehr presented restorative justice as an alternative to current criminal justice paradigms. The movement gained momentum through the prolific efforts of Mark Umbreit and the University of Minnesota. Umbreit has published numerous articles on the application of restorative justice practices in criminal justice (e.g., Umbreit & Burns, 2002; Umbreit & Coates, 1998; Umbreit & Fercello, 1997). Through his efforts and the efforts of his colleagues, restorative justice is gaining ground through both grassroots and policy-making entities. An example of grassroots efforts is the organization of individuals and agencies interested in the philosophy of restorative justice in Louisiana. Through monthly meetings, restorative justice has grown from regional to statewide efforts that encompass a diverse representation of juvenile justice professionals. The impact of the grassroots organizations is evidenced by the fact that 27 states have adopted restorative justice principles as part of their juvenile justice legislation.

Restorative justice philosophy is based on fundamental underlying principles that can be divided into six overarching concepts (Umbreit & Coates, 1998). The following is an adaptation of Umbreit and Coates's discussion of these principles:

1. Nature of the crime: Crime is considered to be a violation of social relationship rather than an act of violating laws. Crime causes damage to the community and community members as well as to victims.
2. Goal of justice: The goal of justice is to repair the harm done by crime. That is, the aim of justice is to repair the harm caused and to bring relationships as close as possible to the precrime state.
3. Role of victims: Victims must have an opportunity to be part of the justice process. Harm is expressed by social isolation, anger, fear, insecurity, and anxiety. Restorative justice allows victims to resolve these issues and gain a renewed sense of security.
4. Role of offenders: Offenders must feel accountable for the harm caused by their actions. Restorative justice provides opportunities to hold offenders responsible for their crime by allowing reparation to the victim and the
whole community. Offenders have input into sanctions and grow from the experience rather than suffering a consequence.

5. Role of local community: Community resources are focused on providing victims and offenders with opportunities to regain balance. Resources are also allocated for prevention of delinquent activities.

6. Role of the formal juvenile justice system: The juvenile justice system must continue to hold offenders accountable for violated laws; however, it should focus on promoting justice in the community by using community resources rather than incarceration.

These six principles establish basic philosophical guidelines for restorative justice. Through these principles, a variety of practices have developed, each with numerous applications. A brief overview of the most common restorative justice practices follows.

As previously noted, restorative justice hinges on both philosophy and practice. Practical application of restorative concepts leads to restoration of balance to each of the three components involved in delinquent activity. Participation in restorative justice practices is voluntary and must be agreed on by both the offender and the victim. Common practices are circle sentencing, victim/offender conferencing, family group conferencing, victim–offender mediation, and reparation boards. These practices are discussed briefly in the following paragraphs to provide an introduction to the variety of methods available.

The practice of circle sentencing is based on traditional practices of Native Americans and indigenous peoples of Canada (Bazemore & Umbreit, 2001). The central concept is a holistic approach involving community resources to restore the entire community to balance. That is, circle members identify target issues surrounding the crime and bring the community resources to bear on the issues. The circle typically consists of the offender; victims of the crime; family and friends of both the offender and the victim or victims; representatives from juvenile justice, social services, and school systems; and interested citizens. Bazemore and Umbreit (2001) outlined a five-step procedure of sentencing circles that included (a) application of the offender to participate in the process, (b) participation of the victim in a healing circle, (c) participation of the offender in a healing circle, (d) a sentencing plan developed by the sentencing circle members, and (e) follow-up circles to ensure compliance to the plan. It is important to note that the circle processes are community driven and, therefore, vary according to the culture of the community.

Victim/offender conferencing involves the victim and the juvenile offender and one or two mediators (Umbreit & Fercello, 1997). Conferencing involves the opportunity of both parties to express their feelings regarding the crime, what they experienced, and if they have any questions. Following this, restitution is arranged between the offender and the victim.

Family group conferencing originated through an amalgamation between the New Zealand juvenile justice system and the traditional indigenous Maori values. The result of this fusion is a form of juvenile justice that emphasizes the role
of families and communities in confronting delinquency (Umbreit, 2000). Fam-
ily group conferencing has spread throughout the world as part of the restorative
justice movement. Predominantly used with juvenile offenders, family group
conferencing involves the offender, victim, families of both, and key supporters
of both. The goal is to discuss how the members and others have been affected by
the offense and how harm can be repaired.

Victim–offender mediation is a process that provides victims with the opportu-
nity to meet offenders in a safe and structured environment (Umbreit & Green-
wood, 2000). Through this process, offenders are held accountable for the criminal
act and are able to experience the impact of their behaviors on others. Victims ex-
press the experience of victimization in the process of victim–offender mediation.
A mediator ensures adherence to restorative justice principles and assists in the
development of a restitution plan that holds the offender directly responsible for
his or her behaviors. As a pure representation of restorative justice, victim–offender
mediation is victim focused, victim driven, and dialogue driven.

Reparation boards are community-based groups that provide offenders with
opportunities to divert from the formal judicial system. Although community repa-
ration boards have been in existence since the 1920s (Bazemore & Umbreit, 2001),
the restorative justice philosophy has brought new life into these processes.
Community reparation boards dialogue with offenders and agree on appropriate
sanctions. They are highly community focused and provide the community with
ownership of the juvenile justice system. These boards also allow communities
to confront offenders constructively and allow offenders to be accountable for
their delinquent behaviors.

These practices represent several approaches to restorative justice that involve,
to varying degrees, the victim, offender, family, community, and juvenile justice
and social services systems. The above summaries merely scratch the surface of
restorative justice principles and practices. Caution should be exercised when
using these practices. Strict adherence to restorative justice principles can make
the difference between retribution and true restoration.

The utility of restorative justice practices can be expressed in both qualitative
and quantitative terms. Qualitatively, restorative justice practices are more ef-
ective at restoring community balance. Both the philosophical and practical
bases of restorative justice support involvement by the three key components
of those most affected by delinquent activity—the victim, the offender, and the
community. In quantitative terms, studies have demonstrated the efficacy of
restorative justice. Regarding the satisfaction of victims with the process, 75%
of the victims who engaged in restorative justice methods expressed satisfac-
tion with the process (Marshall, 1998). Offenders were more likely to complete
reparation agreements than traditionally ordered sanctions (Marshall, 1998).
Restorative justice methods have also shown mostly positive results in reduc-
ing recidivism (Umbreit, 1994).

Regarding the barriers to implementing restorative justice interventions, the
predominant barrier is changing philosophical viewpoints. The current retributive
philosophy of the juvenile justice system is offender focused. Successful imple-
mentation requires a change in philosophical viewpoint to a restorative philosophy. The actual financial costs associated with implementing restorative justice are nominal. Most jurisdictions have employed a restorative justice coordinator to coordinate restorative justice activities within the jurisdiction. Cost benefits, as previously noted, are reductions in recidivism and increased satisfaction of victims and communities with the juvenile justice process.

**Similarities Between Restorative Justice and Counseling**

The restorative justice movement not only represents a divergence from traditional criminal justice, it also shares common philosophical tenets with counseling philosophy. The philosophical underpinnings add to the practical effectiveness of both disciplines. In particular, the common tenets of restorative justice and counseling are holism, competency development, and multicultural appropriateness.

The concept of restorative justice involves more than the offender. Restorative justice aims to identify those who have been harmed by the delinquent behavior and to involve them in the justice process, a concept that is a departure from the retributive justice of the current juvenile justice system. As such, victims and communities, as well as offenders, have a voice in recommending sanctions and reparation. Counseling philosophy similarly aims at systemic involvement. By conceptualizing clients through a developmental lens, counselors view clients' problems as systemic and reparable rather than as individual focused and deficit based. Counselors use a variety of approaches that involve systems rather than diagnostic categories, imbalance rather than mental illness, and striving toward enhancement rather than incapacity to change. Both restorative justice and counseling view broader conceptual frameworks of delinquent behavior in reaching target goals.

Similar to counseling philosophy, restorative justice seeks to develop competency in offenders. According to Bazemore and Umbreit (1997), "competency development emphasizes the need for a broader concern with maturational development" (p. 27). In a challenge that is similar to the one that counseling brings to the client-focused mental health system, restorative justice philosophy challenges the offender-focused, retributive criminal justice system to provide opportunities for the personal development of offenders through restorative practices. As such, offenders' needs and competencies are addressed (Zehr & Mika, 1997) while maintaining offenders' accountability.

Another similarity between restorative justice and counseling is the focus on multiculturalism. According to Sue and Sue (1999), counselors should focus on multicultural aspects of counseling to facilitate a broader understanding of the social structures that affect individual behaviors. Restorative justice philosophy was developed through holistic practices of indigenous people from New Zealand, Canada, and the United States. One of the central themes of restorative justice practices is that they are to conform to the cultural norms and values of the communities in which they are being used (Umbreit & Coates, 1998). Consideration of communication, interaction, and cultural sensitivities is paramount.
to effective outcomes in both restorative justice and counseling. Umbreit and Coates (1998) have outlined the cultural skills that restorative justice practitioners need.

Implications for Juvenile Offender Counselors

Juvenile offender counseling and restorative justice share common systemic approaches. It is the goal of juvenile offender counselors to provide comprehensive systemic interventions to enhance the development of the offender. This contrasts somewhat with the established goal of the juvenile justice system: merely to reduce recidivism. Through a holistic view of delinquent behavior and life-span development, counselors conceptualize juvenile offenders from a broader perspective than merely a problem-focused approach.

Restorative justice provides counselors with additional bases from which to provide holistic interventions. In particular, family group conferencing (Fercello & Umbreit, 1998; Kurki, 1999; Umbreit, 2000), victim–offender mediation (Umbreit & Greenwood, 2000), and victim/offender conferencing (McGarrell, 2001) have been used successfully with juvenile offenders. Involvement of the victim, offender, family, community, and social service and juvenile justice agencies not only increases the resources available to the offender, it also incorporates all the affected systems into development of a solution. Counselors can use systemic resources to address offenders’ needs, thereby reducing intervention by juvenile courts, probation officers, and law enforcement. As such, the inherent challenges in providing counseling to juveniles in the legal system decrease.

Juvenile offender counselors can apply a variety of interventions aimed at implementing restorative justice practices in communities. Counselors are ideally suited for serving as mediators, training community groups, and presenting restorative justice practices to the juvenile justice system. In addition, Bazemore and Umbreit (1997) noted that counseling is needed to address interpersonal problems and provide support for juvenile offenders as they go through restorative justice processes.

An example of the effectiveness of using restorative justice was demonstrated in the case of a 13-year-old teenager arrested for cutting the roses off his neighbor’s prized rose bushes. The impact of the young man’s actions affected the young man, the neighbor, and the community. The neighbor was angry that his prized plants were mangled, and community members became concerned for the safety of their property. The young man was sent to a juvenile offender counselor for intervention. Using a restorative justice framework, the counselor spoke to the offender and victim to assess their needs and desire to participate in restoring balance. After preparing the victim and offender, victim–offender mediation was held to enable both parties to express their concerns and to allow the victim to ask for restitution in the form of planting new roses. The offender, in turn, was able to express the concerns that had led to the offense. The meeting revealed that the juvenile was unsupervised while his parents were at work. The victim offered to allow the juvenile to help him with his gardening while the offender’s parents were away. Both the victim and offender were able to benefit through the meeting. This example demonstrates how restorative justice can be used to have an impact on victims, offenders, and communities.
Conclusion

The concepts presented in this article are merely summarizations of the conceptual and practical applications of restorative justice. In order to implement restorative justice practices, it is essential to become familiar with specific programmatic issues. Specifically, restorative justice practices, to be effective, must adhere to the principles of restorative justice. There are potential advantages and dangers to be cognizant of when using these practices. Additional resources can be found through cited articles and through the Internet.

From a pragmatic point of view, juvenile offender counselors can initiate the implementation of restorative justice practices through several steps. First, develop an understanding of restorative justice philosophy. Second, educate the juvenile justice system and community groups about the benefits of restorative justice. Third, begin using restorative justice techniques on cases involving relatively low-level offenses, such as minor theft or minor property offenses, and expand to using them with increasingly serious offenses. The key is to keep the restorative justice philosophy at the center of the intervention so that balance can be restored.

In conclusion, restorative justice practices are spreading throughout the criminal justice system (Zehr, 1997). The underlying philosophy of restorative justice reflects acceptance of the offender, giving a voice to the victim and community, and providing opportunities for reparations. Based on the holistic, community-centered values of indigenous tribes, restorative practices are similar to counseling values. Juvenile offender counselors can use restorative justice practices to conceptualize delinquent behaviors and to simultaneously develop the maturational growth of the offender, victim, and community.

References


