
RESTORATIVE JUSTICE FROM THEORY TO PRACTICE

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The circle meetings are full of teachable moments. Overall, they give offenders a chance to rethink where they are headed. This could turn a life around.

Silver Gate Group, 2002

For colleges and universities to be successful, more is needed than instructors, textbooks, and libraries. The environment or campus climate of the institution is a critical component, as it has the potential to nurture and integrate individuals as valued members of the educational community who have equal opportunities for learning. For many students, the environment is heavily influenced by the quality of relationships with faculty, staff, and other students, and the sense of community or connection. It is, however, difficult to feel connected when there is conflict or victimization that is not addressed appropriately (Reistenberg, 2003). Thus, colleges are also places of social regulation where conflict management and discipline become important aspects of the educational experience.

Most behavioral interventions by college personnel are intended to be educational in nature. But traditional disciplinary processes often have punitive or retributive components, such as suspension, expulsion, exclusion or banning, or loss of privileges. A punitive orientation may lead to increased feelings of resentment and alienation in the offenders rather than making them thoughtful or regretful about the behavior and its impact.

There are certainly situations in which students must be removed from school for their own safety and the safety of others. Suspensions and expulsions may serve to remove students who seriously disrupt the educational process and even provide a cooling-down period. But suspension and expulsion may have little educational value for the affected students except as a

punitive lesson. An educational opportunity to provide guidance and intervention may be lost. The very students who are most in need of social support and education may be denied these things. And forced separations from school send the message to students that they are not welcome nor wanted. Some student conduct administrators challenged by past precedent, zero tolerance policies, three strikes you are out protocol, and risk management concerns may feel that this is appropriate. Is it our job, after all, to provide increasing support for students with a history of repeated or very serious violations that may warrant separation from the institution?

The answer is yes; first and foremost, we are in the business of student development and education. But even further, these students continue to have needs that affect the community as well as themselves. Their behavior may not stop; they may move on to other institutions and continue acting out there. They may come back to our own institution once their suspension is complete and may not have any additional support to help them be more successful than they were before they were suspended.

Broadly, Restorative Justice as a theory and practice promotes individual responsibility and community restoration, sometimes immediately, and sometimes long after an incident has affected a group. This chapter, along with chapter 10, considers the use of restorative principles as a pathway option in managing conflict and conduct on campus.

The Case for Restorative Justice

Restorative Justice (RJ) is a set of principles and practices used in criminal justice systems around the world since the mid-1970s as a method of reforming the way societies deal with crime and other violations. RJ is based on tribal or indigenous practices for peacemaking and responding to wrongdoing, particularly the practices of the Maori people of New Zealand, the Inuits, and the native peoples of the northern Pacific coast of North America. I enjoyed codeveloping one of the first university RJ programs in the late 1990s at the University of Colorado at Boulder.

The main principles of RJ in general involve a shift in the paradigm of how we look at offenses or crimes. Instead of crimes being considered violations of laws or the state, they are considered violations of people, relationships, and community. RJ considers that these violations create obligations, the greatest of which is to identify and repair the harm. This is accomplished, to whatever extent possible, by holding offenders directly responsible to those harmed, rather than or in addition to the state. This is usually done in

face-to-face encounters. RJ also gives victims and, in some cases, other affected community members a direct voice in the process and outcomes, hopefully providing a meaningful, healing, and satisfying result for all involved (Zehr, 2002).

Howard Zehr (2002), a pioneer in the field of Restorative Justice, defines RJ as “a process to involve, to the extent possible, those who are most involved in or have a stake in a specific offense and to collectively identify and address harms, needs and obligations, in order to heal and put things as right as possible” (p. 37). Zehr developed three questions that have guided RJ:

- What is the harm that has been done?
- How can that harm be repaired?
- Who is responsible for the repair?

These are in contrast to the questions implicitly or explicitly asked in criminal justice, including: What law was broken? Who broke it? How should the offender be punished?

While the focus of the criminal justice system is predominantly on the offender, and the system is designed to keep the offender and victim apart, RJ strives to balance the rights and needs of all involved in or touched by an offense. The principle is that offenders need to learn empathy and understanding about how their actions affected others. They need to accept responsibility and be accountable for their choices and actions, and to have support in making changes in their lives and in reintegrating into their communities. Victims need information about the offense; for healing to begin, they often need to know the answers to “Why did this happen?” and “Why me?” They also need a greater sense of safety; a voice in the process and a say in the outcome; validation; restitution where applicable; and a sense of justice served. The community needs an opportunity to express its concern as primary or secondary victim, and encouragement to be involved in the welfare of its members (Zehr, 2002).

Key factors in the success of RJ are voluntary engagement of the parties, acceptance of responsibility by the offender, and the underlying philosophy of RJ—reintegrative shaming. The basis of this philosophy is that disapproval of behavior can be expressed in an atmosphere of respect while providing support for the offender to reintegrate into the community without feeling like an outcast (Cameron & Thorsborne, 2001; Strickland, 2004). In other words, it is the behavior rather than the offender that is condemned.

The results of using RJ in criminal justice systems are encouraging. Research has found that victims and the affected community are more satisfied with the process and outcomes of RJ than with the criminal justice system. Offenders are also more satisfied and more likely to comply with

outcomes or agreements than with sentencing conditions. They are also less likely to reoffend (Ierley & Classen-Wilson, 2003).

Restorative Justice Models

No one model encompasses RJ particularly on a college campus. The most common programs at large include victim-offender mediation, community group conferencing, victim panels, and community accountability boards. Some of these are discussed in chapter 10. When applied in the context of the educational environment, RJ has some of the same general goals as the criminal justice system. However, there are more specific goals, including behavioral, developmental, and interpersonal. Goals of RJ programs in higher education may include

- maintaining an environment in which compliance with community standards is an outcome of understanding and a sense of community (Morrison, 2005);
- encouraging accountability and responsibility through personal reflection within a collaborative process;
- reintegrating offending students into the community as valuable contributing members;
- creating caring climates that support healthy communities, lifestyles, and choice (Amstutz & Mullett, 2005);
- creating a culture of inclusion and belonging;
- helping offending students understand the harm they may cause, as well as develop empathy for the harmed;
- listening and responding to needs of offenders and victims;
- preventing escalation of violence;
- promoting collaborative problem solving;
- promoting resiliency;
- teaching negotiation and mediation skills.

Whatever model is used, answering the following questions should be central to the process: What happened? Who has been affected and how? How can the harm be repaired? How can the offender and others make better future choices?

In some cases, RJ programs may be used as diversions from the traditional disciplinary system. In others, they may be used as sanctions, such as the use of victim panels and restoration or community restitution corps. And

even when colleges do not have formal RJ programs, they can still use restorative practices and language. For example, instead of talking about policies or laws that were violated or focusing on quasi-legal processes, a discipline officer can discuss and help the student identify who was affected and what harm was caused by the student's behavior. Hearing officers can determine educational sanctions that help the student offender repair harm and make better future choices.

Essential Restorative Justice Factors

Whatever the model, some factors are essential for RJ programs in colleges and universities to be effective. First and foremost, offending students must accept responsibility for their actions and be held accountable directly to those whom they have harmed. Victims must be given a voice in the process, and the focus of the process must be on harm rather than on rule breaking. In addition, there must be an understanding and acknowledgment that relationships are central to building a sense of community, belonging, and ownership. Conflicts should be viewed as learning opportunities, particularly in helping students learn to solve their own conflicts. The administration should ensure that the program is culturally and developmentally appropriate to the student population, and that collaborative problem solving is encouraged. Students should be empowered to change and grow through storytelling and the appropriate expression of emotions, active listening, and development of empathy (Amstutz & Mullett, 2005; Morrison, 2002).

Restorative justice practices are not appropriate in all cases. In situations in which the offender does not accept responsibility, or the perception of basic facts of a situation differ, some adjudicatory process may be more appropriate. In addition, if the offender is defensive and/or the victim may be revictimized by the process, RJ will not be effective. Finally, in cases in which there is a great power differential, processes that keep participants apart may be the most appropriate. Finally, schools that have a very authoritarian or hierarchical approach to behavior management are unlikely to find RJ approaches to their liking.

Adequate training and other resources are essential to the success of RJ programs. While some processes may take little financial resources or training, such as some uses of circles, others like community group conferencing are time and resource intensive. Programs may take quite a while to get started unless they have dedicated staff with sufficient training. It is also important for all staff involved to be trained in RJ principles and practices.

The design and components of training programs are critical to the success of RJ efforts. If inadequately trained, practitioners may have no effect on participants or even do harm through revictimization or marginalization. Aspects of training should include

- determining which situations are appropriate for RJ interventions;
- determining the appropriate people to invite and engaging them effectively in the process;
- preparing for the process;
- dealing with issues that may arise during the process;
- writing agreements that are doable, clear, realistic, and measurable;
- monitoring compliance with agreements and following up with participants;
- knowing when and how to call off a process if it is not working well;
- ensuring that facilitators can handle the strong emotions that are often an inherent part of the process (Cameron & Thorsborne, 2001).

Finally, it is important to assess RJ programs to ensure they are being appropriately used and that they meet goals in an effective manner. When applied appropriately by trained practitioners with a broad understanding of underlying principals, RJ has been shown to support students in their individual growth and ability to manage conflicts, as well as support communities by assisting students to see their interrelated roles as members of a learning community.

Applying Restorative Principals That Support Efforts to Curb the Misuse of Alcohol and Other Drugs on Campus

Colleges cater not only to the intellectual development of students but also to their social development. And together with the many healthy and legal outlets for student social development, many colleges, including some of the most academically rigorous, have social and cultural environments in which underage and heavy drinking are accepted, even promoted. In fact, the college party scene is part of the American psyche. But, as pointed out on the Web site *College Drinking: Changing the Culture* (2007), “The consequences of excessive and underage drinking affect virtually all college campuses, college communities, and college students, whether they choose to drink or not.” Moreover, as stated by Rev. Edward A. Malloy, president emeritus at the University of Notre Dame, “Decisions about alcohol consumption are not just

individual; they can affect the common life of the university” (National Institute on Alcohol Abuse and Alcoholism [NIAAA], 2007).

William DeJong (2004) states that misuse of alcohol is the principle social problem faced by American higher education. About 83% of college students consume alcohol, and about 41% are heavy or binge drinkers (defined as consuming five or more drinks on a single occasion; NIAAA, 2008). Studies have shown that 48% of students who drink alcohol drink to get drunk (DeJong), 31% meet the criteria for alcohol abuse (College Drinking: Changing the Culture, 2007), and around 6% of students are alcohol dependent (DeJong). The risk is even higher for members of “select” communities, such as Greek organizations, intramural teams, and intercollegiate athletics. For example, 86% of males who live in fraternity houses and 80% of women who live in sorority houses are heavy drinkers (DeJong).

In addition to arrests and disciplinary action because laws and rules are being violated, the results of misuse of alcohol may include physical effects ranging from hangovers to blackouts to alcohol poisoning and even death (about 1,700 student deaths per year are alcohol related). There is also a correlation between heavy alcohol use and lower academic achievement (College Drinking: Changing the Culture, 2007).

Alcohol misuse on college campuses is not a victimless crime, as outlined in Table 9.1. The secondary impacts often involve livability or quality of life issues for other members of the university community and those who live and work close to campuses. For example, students may find their sleep or study time interrupted. Friends have to “babysit” others who are highly intoxicated to make sure they are safe. Students who are too intoxicated to make healthy choices may have unsafe, unprotected sex. Campuses, local businesses, and neighbors often have to deal with trash, vandalism, vomiting, and public urination on their properties, as well as the noise and disruption caused by loud parties. And fights and sexual assaults are often alcohol related. It is estimated that between 50% and 80% of campus violence is alcohol related (DeJong, 2004). In addition, 2.8 million college students drive while they are under the influence of alcohol, placing themselves and all around them at risk (NIAAA, 2007).

In addition to alcohol, other drugs are also an issue on college campuses, as noted in Table 9.2. Not only can drugs affect students’ health and academic progress, they can also have an impact on the university community. In addition to community effects similar to those associated with alcohol, the use and sale of drugs by students may result in thefts to get money to support drug habits, assaults, other dangerous behavior from drug deals gone bad, and the presence or use of weapons that sometimes accompany the drug culture.

TABLE 9.1
Secondary Impacts of College Student Alcohol Use

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- 60% of students had their sleep or studying interrupted by drinking or drunk students
 - 48% of students had to take care of a drunk student
 - 29% of students were humiliated or insulted
 - 20% of women students had received unwanted sexual advances
 - 19% of students were in a serious argument
 - 15% of students had their property damaged
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Note. Data taken from “Secondary Effects of Alcohol Abuse,” by U.S. Department of Education Higher Education Center for Alcohol and Other Drug Abuse and Violence Prevention, 2008. Retrieved June 2, 2009, from <http://www.higheredcenter.org/high-risk/alcohol/secondary-effects>.

TABLE 9.2
Annual Prevalence of Drug Use Among Full-Time College Students

• Any illicit drug	35%
• Marijuana	32%
• Ritalin	3.7%
• Inhalants	1.5%

Note. From “Monitoring the Future: National Survey Results on Drug Use, 1975–2007, Vol. 2. College Students and Adults Ages 19–45,” by L. D. Johnston, P. M. O’Malley, J. G. Bachman, & J. E. Schulenberg, 2008 (NIH Publication No. 08–6418B), Bethesda, MD: National Institute on Drug Abuse.

Colleges often depend on basic awareness programs and/or zero tolerance policies to deal with alcohol and drug misuse; however, evidence indicates that these have had little success overall (DeJong, 2004). College disciplinary systems respond to individual cases of alcohol misuse but often do not work as a deterrent and rarely work to promote cultural change. Interventions at the individual level cannot resolve problems that are part of the cultural landscape (Karp, Breslin, & Oles, 2002). In addition, efforts based on purely moral grounds are likely to be ineffective (DeJong). The most effective way to reduce alcohol and other drug problems on campuses is to change the environment that promotes alcohol and other drug misuse.

Successful Intervention Measures

The NIAAA Task Force on College Drinking has determined that the most successful interventions are those that simultaneously target the individual

student, the student body, and the college or university community; this is called the three-in-one approach (NIAAA, 2007, 2008).

Individual students who are at risk (or who have gotten in trouble) must receive appropriate screening and interventions. However, the students who are most at risk are the least likely to voluntarily use intervention services. And while mandating participation may be useful, voluntary participation is the most effective. It is therefore important to find ways to motivate students to participate.

Participation of the student body in developing intervention strategies is crucial for three reasons. First, students are more likely to be influenced by peers than by university/college administrators. Second, students are the most likely to be affected or victimized by other students' alcohol and drug-related behavior. Third, by actively involving the student body, an us-versus-them dynamic is avoided. Students are often reluctant to report that they have been affected by alcohol or other drug-related behavior, either because they do not want to get peers into trouble or because they accept the inappropriate behavior and its effects as the norm. Responses to misuse must be established that encourage the positive involvement of peers.

Finally, involvement of the community reinforces behavioral norms and expectations. In addition, community coalitions using comprehensive and coordinated approaches have been key in addressing the environment that encourages misuse (DeJong, 2004).

Restorative Justice involves all three of these components, and when used as part of a comprehensive approach it can be effective in reducing the problems associated with alcohol misuse. This model can be uniquely effective in dealing with alcohol and other drug-related cases in which the offender's behavior has affected others in his or her community.

In traditional disciplinary processes, attention may be diverted from the offender's behavior to the process itself or the offender's perceptions of the fairness of the rule or law or whether "everyone else does it." RJ focuses attention directly on the offender's behavior and the decision-making process that resulted in the behavior. If alcohol or other drug use was a factor in the behavior, it is almost certain to arise as part of the discussion, both in describing the incident and in determining how the offender can make better future choices. If part of an outcome or contract focuses on alcohol or drug education, intervention, or treatment, the voluntary nature of the agreement should make the student more motivated to comply with and succeed in any program. What makes RJ effective in situations involving alcohol and drugs is the intensely personal nature of the interactions.

RJ is not appropriate for all alcohol and other drug-related cases. Very serious cases in which campus safety necessitates suspension or dismissal, like those involving drug sales, sexual assaults with alcohol, or other drug involvement, are not usually appropriate for RJ. Some RJ processes are very labor intensive; therefore, for very minor cases RJ may not be the best use of resources.

Situations in which RJ is most applicable are those in which there is a normative violation that has an impact on other individuals or the community. RJ programs have been effectively used in everything from vandalism by drunk students to out-of-control parties and even alcohol-related riots. Most often, RJ programs serve as diversions from traditional disciplinary or criminal justice systems. For example, at the University of Minnesota, when police cite students in the residence halls, they also provide information about the RJ program. The student then has three days to apply for the program (Carew, 2007). At the University of Colorado at Boulder (2007), student offenders may be referred to the RJ program by the court, by police officers, or by a judicial affairs hearing officer. The incentive for students to take part in RJ programs may be a clean disciplinary record if students successfully complete the program.

Restorative Justice Program Models

A number of RJ program models can be used for alcohol and other drug-related incidents or cases.

Community Group Conferences

Community Group Conferences are the most traditional of restorative justice models and are often called *circles*, based on the physical placement of the people involved. Community group conferences can be especially effective in dealing with alcohol and other drug-related cases that have a wider impact, or when others have been harmed. In community group conferences, the student offender is involved in face-to-face dialogue with the people who were most affected by the student offender's behavior. The circle of participants is enlarged to include supporters of the offender and the victim. Each person has an opportunity to speak, and all participants must listen. There is no back-and-forth adversarial discussion, which creates an atmosphere in which the student offender may be less defensive and more open to hearing and understanding the impact of his or her actions and the role alcohol or other drugs played.

The group discusses the incident and identifies the harm done. The members then work to come to a consensus and develop an agreement on how the offender can repair the harm and what needs to be done to help the offender make better future choices. The circle is a safe place for friends and supporters to express concern about the student offender's drinking or other drug use. The circle also provides a forum for building or rebuilding positive relationships. Because all participants have a stake in the outcome, mentoring relationships between community members and the student offender may result. This can provide additional support for the student offender to deal with substance abuse issues. Some facilitators may even have a substance abuse counselor or wellness professional present to participate in the circle to address substance abuse issues directly and personally. These participants may also provide a reality check about college students' use of alcohol and other drugs, as students surrounded by a peer group of heavy drinkers or drug users often develop a misperception of what is "normal" or acceptable behavior in the greater community.

Community Accountability Boards

Community accountability boards are often used for violations involving quality of life or "livability" issues. They are particularly effective when a victim cannot be identified or does not want to participate in a circle, or when the community is the victim. They are also valuable when large numbers of cases require a response that is timelier and less resource-intensive than community group conferences, or if it's a single case with a large number of participants. The key is that the board members give expression to the community's norms and expectations, and offenders are held directly accountable to the community that their behavior affected.

Community accountability boards are typically composed of members of a community and an adviser. For college student offenses, such boards may comprise members of affected neighborhoods, peer students, faculty, or a mix of constituent representatives. Offenders tell their story to the board members then hear the impact of their actions from either the involved parties or from members of the board. The board determines an outcome or the student and the board members will negotiate a contract.

Outcomes from accountability boards often include community restitution in the form of service in the affected community. Many community impact boards work directly with neighborhood groups and associations or with municipal programs to sponsor and supervise such programs. For example, students who threw a party that got out of control may find themselves picking up party litter in their neighborhood.

Victim Panels

When traditional disciplinary or intervention programs are used, it may be clear to the administrator involved that the student offender does not realize the effect of his or her actions, the scope of the impact, or the potential risk the offender posed, and needs to hear it directly from the victim. In some cases, the victim may be unknown. In other situations, a victim may not feel comfortable interacting directly with the offender or sharing how he or she was affected. Or administrators may not have the appropriate experience or skill set to be able to facilitate or mediate such an interaction. In situations like these, panels may be made up of victims of other situations that are similar; in essence, they are “surrogate” victims who can effectively communicate the victim’s perspective. The goal is to help identify the harm that was caused or could have been caused by the offender’s actions as well as to help the offender develop empathy. Victim panels are typically used as sanctions offenders are assigned to. Such panels have been extensively used by the courts in cases involving driving under the influence of alcohol.

Restorative Circles

At times the line between victim and offender is blurred, such as in fights or mutual harassment. Incidents like these are more likely to occur when drinking is involved. In other situations with ongoing tension between groups of students, the conflict may erupt when fueled by alcohol. In such instances a modification of the community group conference may be used. The goal of restorative circles is to restore the sense of peace and community, to defuse tensions and conflicts, and to explore mutual responsibility and impact (University of Colorado, 2007).

Reentry Circles

Some offenses may be so serious or have such an impact that separation or suspension from the college or university is appropriate. RJ can still be effective in the form of reentry circles following the period of suspension when a student is ready to return to campus. The process is similar to the community group conference but without the goal of developing a contract to repair harm. The goals of reentry circles are to clear the air of outstanding grievances, check in to see how everyone is doing, and assist the offender in re-simulating into the community. It is important that the affected community hear the offender accept responsibility for his or her actions, as well as for the offender to understand the scope of the impact. The offender may also

share what has happened during his or her absence, including any intervention strategies used, to demonstrate that the risk of a recurrence of behavior is not likely or that the offender is committed to upholding community norms.

Check-In Circle

The check-in circle may be useful for students who are in recovery programs. It is a group communication tool that allows group members to check in on how they are doing with sobriety and the recovery process. It differs from group therapy in that no one provides therapy or has greater power than any of the others in the circle. Members can provide mutual support, as well as share observations and concerns about each other. In addition, should a member leave the recovery program because of a relapse, the check-in circle can help that person explain what happened and help ease reintegration into the group (Reistenberg, 2005). Check-in circles can also be used in smaller communities, such as residence hall floors or living units, to ensure that any lingering concerns, hurts, resentments, and other emotions after an incident are attended to.

Restoration Corps

Finally, in response to quality-of-life violations, students may be assigned or may agree to perform community restitution to directly repair the environmental harm. When large numbers of students are involved or such assignments occur regularly, establishing a program to manage the logistics can make this more effective and efficient. The University of Colorado at Boulder (2007) has a program called the Buff Restoration Corps, in which a volunteer takes students to clean up party debris on Saturday mornings.

Conclusion

When used appropriately, Restorative Justice can have a truly transformative effect on individual students, including those involved with alcohol and other drug-related incidents. The process can promote better communication and increased motivation to change behavior on the part of the offender. Because of the nature of interactions in RJ processes, the consequences (which may actually differ little from those given in formal disciplinary processes) tend to be more meaningful and have a deeper and longer-lasting impact. The involvement of victims and other harmed/affected parties promotes the building of a sense of community that cares about all its

members, even offenders, while it can help victims recover or heal. The following chapter explores RJ language and practices further in the context of student conduct boards and RJ conferences.

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