

## *Restorative Justice's Role in Criminal Justice Reform*

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### **Introduction**

With the murder of George Floyd in May 2020, and now the conviction of Minneapolis Police Officer Derrick Chauvin, decries to defund the police and institute genuine criminal justice reform continue to echo across this nation. Officials have struggled to grapple with the turn in the tide as violent crimes spikes with the defunding the police (CNN, 2021). While calls to 'defund the police' has obscured the idea of reimagining police departments, the larger question centers on how we can achieve reform throughout the criminal justice system. Police agencies and communities will undoubtedly be the catalyst in bringing about the necessary reform. One aspect of reform that has not received much attention and could potentially prove to be promising, pivots on the precepts of restorative justice. By instituting restorative justice more consistently in criminal violations community policing efforts, and internal affair investigations, police agencies open the door to bringing about a more equitable form of justice, shifting the justice paradigm from a retributive mindset to a more restorative collaboration.

### **Restorative Justice**

The immediate notion for most who are unfamiliar with restorative justice is to suppose it to be a soft-handed approach to offenses, whether criminal or otherwise in nature. Zehr (2002), who is considered the grandfather of restorative justice in the United States, outlines this justice as "...a process to involve, to the extent possible, those who 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). Restorative justice is a burgeoning movement throughout

the United States in courts, businesses, and schools (Umbreit, Coates, & Vos, 2007; Zehr, 2002). Though it's more prominent in states such as Illinois, Colorado, Pennsylvania, and Vermont, restorative justice is demonstrating evidence for its utilization (Van Ness & Strong 2015). Proponents for this justice model have evidenced its benefits. In using restorative justice with incidents of wrongdoing participants have expressed a higher satisfaction rate, a higher restitution payments, and lower recidivism rates (Sherman & Strang, 2007; Zehr, 2002). In fact, Colorado recently exhibited a significant reduction in juvenile recidivism along with high victim satisfaction rates (Winder & Nunes, 2018).

More specifically, modern restorative justice is based on the response to wrongdoing and indigenous cultures' responses to offenses (Hand, C., Hankes, J., & House, T., 2012). Restorative justice brings the stakeholders together affected by a wrongdoing and seeks to right the wrong due to the relational aspect of the offense (Zehr, 2002). Moreover, it asks 'What happened?', 'Why did it happen?', 'What was its impact?', and 'How do we right the wrong?' (Pranis, 2005). Stakeholders involved in the incident then have the opportunity to articulate their responses to these prescribed questions which produces a more communal approach to resolving the incident and the prospect of reintegrating the offender back into the community our social circles. Consequently, for those who have experienced a restorative justice praxis with their incident, most articulate positive feedback about the process and its outcomes, giving way to the possibility of further expanding this justice concept.

While Zehr's definition of restorative justice is the most referred to version, there is no single structured definition as various scholars wrestle to include community attributes in the definition (Van Camp & Wemmer, 2013). However, Walker (2013) does attribute the community's inclusiveness as a stakeholder in the process by noting, "Restorative justice is a way of responding to criminal behavior by balancing the needs of the community, the victim and the offenders. It is an evolving concept that has given rise to different interpretation in different countries, one around which there is not always a perfect consensus," (p.8). If then, restorative justice is a process of impartiality that addresses multiple types of wrongs and better involves the community in righting the wrong, can it be folded into the envelope of criminal justice reform? By introducing this justice praxis into criminal violations, community policing initiatives, and internal affairs complaints police agencies could reap the benefits and improve community inclusivity, satisfaction rates, and reduce recidivism rates.

## **Criminal Violations**

Since the mid-1970s modern restorative justice has been introduced into the American criminal justice system, modeling it much after the New Zealand's structure to implement the

concept into the juvenile justice system and await the benefits to matriculate as the juveniles grew into adults. The idea was not only novel, but it was successful and brought about the desired positive effects. While some are squeamish at the notion of utilizing restorative justice in cases of violence, the evidence reflects the contrary. Not only is restorative justice effective in misdemeanors, but it is more effective in violent offenses (Sherman & Strang, 2007; Zehr, 2002). There has been concern about victims in cases of violence being manipulated or revictimized by the offender (Curtis-Fawkey & Daly, 2005). However, Miller and Iovanna (2013) have demonstrated that by implementing a restorative justice process after a traditional court adjudication, this threat is virtually eliminated and demonstrates the ability of restorative justice to coincide and work in tandem with the current justice system. There is still much research that needs to be accomplished with respect of restorative justice and violent crimes. Nevertheless, Umbreit and Voss (2000) have demonstrated its successful implementation in cases of murder, giving the surviving family members a voice in expressing the impact of the crime and answering their often prevailing question of “Why?”

Today, restorative justice is flourishing as a grassroots movement in various jurisdictions throughout the United States. State legislatures are also turning to explore the concept as new laws are passed to enable court systems to implement the unfamiliar concept and measure results. Even more importantly, restorative justice is not limited to crimes. It is also taking hold in various businesses, industries, and educational systems. As it becomes known to communities, restorative justice is quickly embraced.

## Community Policing

Since the evolution of the Baltimore County Police’s Citizen Oriented Police Enforcement (COPE) in 1982 (Behan, 1986), police agencies have sought ways to engage communities in their crime fighting efforts. Evolving from this program is the more commonly known concept of community policing, which remains a primary initiative with many major law enforcement agencies. In its advancement over the years, community policing has proven to be quite effective with communities, particularly in the areas of patrol and traffic and criminal investigations (Laru-an & Beup, 2015). Laru-an et al., further acknowledge that communities need to be stakeholders and that “crime is everybody’s business,” (p. 1). But not all citizens are aware of their responsibilities. Likewise, police agencies need to acknowledge the involvement of communities in the processing of criminal events (Laru-an & Beup, 2015).

The benefits of restorative justice certainly align with the enforcement initiatives of any given police department. It acknowledges stakeholders, including those from the community, and affords community members the ability to voice their opinions and concerns about crim-

inal offenses. The praxis also enables those affected by the crime and enables investigators to bring about a richer appreciation of the various perspectives represented in these incidents. Folding restorative justice techniques into community policing efforts could potentially further enhance the already documented successes of community policing.

## **Internal Affairs Investigations**

Policing the police can be an arduous and controversial task. For some, internal investigations of officers by their own agency are presumed to unfold in a forthright manner. But for others, trust in the agency's ability to conduct an unbiased investigation has eroded. Unresolved internal investigations prove to negatively impact the confidence of the public. Mrozla (2019) articulates the longer it takes to resolve an internal complaint, or complaints involving several officers in the same incident, the less likely it becomes the case will reach a conclusion. Mrozla (2019) further posits that "[a] police-community relationship is based on the principle of legitimacy. Citizens have more favorable views of the police when treated in a fair manner," (p. 10).

As with the community policing suggestion, restorative justice could prove to be quite beneficial if implemented in the process of internal affair investigations. This is particularly true with the necessity to improve community involvement in internal investigations. When administrative charges against an officer are substantiated, citizens could be vested in the process and articulate community concerns bringing about legitimacy to the investigative process.

## **Conclusion**

The recent shift to defund the police and calls for criminal justice reform have certainly not gone unnoticed by police departments, governments, and the citizenry. Advocates for these movements are calling for less lethal and more equitable measures from their police, exhibiting an interest in becoming more involved addressing crimes in their community. With properly facilitated restorative justice methods, police agencies and the communities could experience the well documented benefits of this less known justice concept. Stakeholders would have an uninterrupted voice in the processes, increasing satisfaction rates and potentially decreasing recidivism rates. Without question, in addressing criminal justice reform and bringing about an authenticity with the community, criminal justice needs to find a new pathway forward that is more equitable with the stakeholders affected by crime. After all, 'crime is everyone's business.'

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