An Introduction to Restorative Justice

October 2009

Overview

Restorative justice is a process for repairing harm that has been done. Unlike more typical responses, which focus on punishing the offender, restorative justice emphasizes restoring a sense of well-being not only to those who were harmed, but to the individual who committed the harm and to the surrounding community members.

Restorative justice originates from the American Indian and Alaskan Native (AI/AN) cultures in the United States and the indigenous cultures of Canada, Australia, and New Zealand (Graves & Mirsky, 2007). The philosophy of restorative justice is that when an individual does harm, it has an effect not only on the victim but also on the community and the person who caused the harm. The restorative process works to repair that harm by giving the person who caused the harm an opportunity to make peace with both the victim and the encompassing community.

These practices, which are founded on centuries of peacemaking systems in AI/AN and indigenous cultures, are now being acknowledged for their transformative powers in addressing school climate and behavioral issues. More and more schools in Australia, New Zealand, parts of Europe, and the United States are adopting restorative justice practices.

This brief examines a few of the more widely used restorative justice models, including victim-offender mediation, family group conferencing, and circles models, and presents a rationale for incorporating one or more of these models into your school system.

A New Approach to an Old Problem

Disciplinary problems and high truancy and dropout rates are increasingly affecting students’ academic achievement. Discipline practices that are intended to combat school-based violence and behavioral issues and to improve school climate and safety, including punitive measures and zero tolerance policies, have not proven to be effective—and in some cases they have been found to increase disciplinary problems and dropout rates (Graves & Mirsky, 2007). Typically, a school’s discipline philosophy is framed around three questions:

- What rules have been broken?
- Who did it?
- What punishment does the offender deserve?
Under a philosophy of restorative justice, the questions are framed quite differently:

- Who has been hurt?
- What are his, her, or their needs?
- Whose obligations are these? (Zehr, 2002)

Rather than enforcing a punishment on students for an offense, restorative justice helps students learn to solve problems on their own and to respond to conflict nonviolently. These practices contribute to students’ social and emotional development by teaching them valuable skills in building and repairing relationships with their classmates, teachers, family, and community. Restorative practices also keep students in school, learning, rather than removing them for suspension or expulsion.

Restorative practices can change the culture of a school and greatly improve school climate. Research shows that schools who implement restorative justice programs see a lowered reliance on detention and suspension; a decline in disciplinary problems, truancy, and dropout rates; and an improvement in school climate and student attitudes (Graves & Mirsky, 2007).

**Restorative Justice Models**

Victim-Offender Mediation

Victim-offender mediation programs have been employed for more than three decades in the United States, Canada, and Europe. In victim-offender mediation, a trained mediator meets with the victim and the person who caused the harm in a structured setting to discuss the harm done and come to a potential resolution:

- After an admission of guilt by the person who caused the harm, and agreement to participate by both the person who caused the harm and the victim, the mediator sits down with each individually for a pre-mediation meeting to go over the issues to be resolved.
- If possible, the victim should be given a choice of the location of the session, who will attend, and who will speak first.
- The victim and the offender are brought together. During this session, the victim describes how the incident affected him or her and is allowed to ask questions of the person who caused the harm.
- The person who caused the harm is given the opportunity to tell his or her story and to take responsibility for the harm that was done.
- With mediator facilitation, the victim and the person who caused the harm work together to find a mutually acceptable resolution to the harm caused, which could include anything from an apology to financial restitution to community service.
- After the meeting, the mediator conducts follow-up with both the offender and the victim to ensure that the person who caused the harm is held accountable to the agreement. The time frame for this varies with each case, but six months to a year is the norm (Bazemore & Umbreit, 2001).

This process empowers victims by giving them a voice and allowing them to hear why they were harmed by the individual. Those who caused the harm hear the consequences of their actions and how the victims were affected, which encourages them to develop empathy for the victims. In many cases, the restitution agreement is less important to victims than the opportunity to share their feelings face to face with those who caused the harm. Having direct involvement with the restitution process and plan gives the victim greater satisfaction with the outcome (Umbreit & Greenwood, 2000).

Family Group Conferencing

Family group conferencing is based on the centuries-old conflict resolution traditions of the Maori in New Zealand. New Zealand adopted this practice into its national legislation in 1989, and it is currently being used in several U.S. states and in parts of Canada (Bazemore & Umbreit, 2001). Family group conferencing involves gathering the people in the community most affected by an incident in which an individual caused harm, along with a trained facilitator who guides them toward reaching a communal agreement for restitution of the harm done. This group typically comprises the victim, the person who caused the harm, and family, friends, and supporters of both the victim and the person who caused the harm.
Family group conferencing is most commonly used when the infraction is committed by a child or adolescent. This philosophy of this approach is that when a youth breaks a rule or law, the young person’s family, friends, and immediate community have a right to be involved in making decisions about what happens next (Harris, 2008).

The process begins with the facilitator contacting the victim and person who caused the harm to explain the process and invite them to the conference. If they both accept, they are asked to identify members of their support group who should also be invited, such as family, friends, school staff, and other members of the community. The conference begins with the victim expressing his or her feelings about the incident and how it affected the victim. The victim is also given the opportunity to ask questions of the person who caused the harm. The individual then describes the incident from his or her perspective. Other members of the community weigh in, describing how the individual’s behavior affected their lives. The victim is asked what outcomes he or she would like to see from the conference. The other participants give their input on how the individual might repair the harm he or she caused. Participants then sign an agreement on the expected outcomes and their own obligation to see them through. Post-conference, the facilitator follows up with participants to ensure that the person who caused the harm is held accountable.

In this process, the victim not only gets to hear from the individual who caused the harm, including his or her reasons for the offense, but also has a voice in holding that person accountable for repairing any harm done. The individual who caused the harm is now far more aware of how his or her behavior impacted not only the victim but also the community; sees that he or she has supporters in the community who care about them, and is held accountable by the entire community, not solely by a teacher, principal, or judge. The participants gain skills in conflict resolution and are made aware of their collective responsibility in supporting the offending youth and of any shortfalls that may have previously existed that contributed to the youth’s behavior.

**Circles**

The circles model evolved from the healing practices of First Nations cultures in Canada and the AI/AN in the United States; the practice spread to U.S. schools in the mid-1990s, starting with a pilot project in Minnesota (Bazemore & Umbreit, 2001). Also referred to as “Peace Making Circles,” “Healing Circles,” or “Talking Circles,” this holistic practice is designed to give everyone in the community who was affected by the harm a voice to help repair the harm done. It creates a respectful space where participants can share their understanding of the event and work together to take the steps necessary to heal those who were affected and to prevent similar incidences from occurring in the future.

Circles can be used for a variety of situations. The process varies from community to community, and there is no uniform procedure for convening circles. The process and the number of circles held depends on the case, the victim, the person who caused the harm, and the circle facilitator.

The process typically begins with the person who caused the harm accepting guilt; he or she then requests to participate in the circle process. The victim may choose whether to participate, along with friends, family, and other concerned community members. (If the victim chooses not to participate, a circle can be held for just the person who caused the harm. In cases where neither the victim nor the
offender wants to participate, a circle may be held for the witnesses of an offense to help them heal.)
A circle is then convened by local justice system partners and community members, or sometimes by a community-based coordinator who provides logistical support and training. The victim and the person who caused the harm are informed of what will occur in the healing circle and who will participate.

In a healing circle, only the person holding the talking piece is allowed to speak. Each circle is led by a facilitator or “keeper” who guides the movement of the talking piece. The victim and the person who caused the harm are asked to share their experiences of the incident. The victim addresses the offense and discusses his or her feelings and how the incident affected the victim economically, physically, and/or emotionally. The person who caused the harm then shares his or her story—why this person committed the offense and how he or she might make amends to the victim and the community. Other members of the circle are then allowed to share how they were affected by the offense.

This process can be completed in the first circle, or it could take 3–10 circles. But once the healing circle process is completed, an additional circle, sometimes called a disposition circle, is held to determine the obligations of the person who caused the harm to the victim and community. Participants discuss the event, the impact, potential causes, and a resolution to repair the harm done. Once everyone comes to a consensus, follow-up circles are arranged to monitor the progress of the person who caused the harm and any commitments made by family or community members (Restorative Justice Online, 2001).

In the circle process, both the victim and the person who caused the harm are allowed to voice their feelings, to see firsthand their personal community of support, and to have reinforced the community’s values of respect, sharing, honesty, and listening. Similar to conferencing, the person who caused the harm is held accountable by the entire community and is given strategies for behavior change. And unlike punitive measures, the victim has a voice in the restitution agreement.

By including and giving a voice to supporters of the person who caused the harm, the victim, and others in the community, the circle process may unearth some underlying causes of the offense. This can help in building a sense of community and of shared responsibility in providing the youth with a comprehensive support system, which may prevent such incidences from happening again.

Positive Outcomes Associated with Restorative Justice

[Restorative justice] restores dignity and self-respect on all sides. It creates a space where we can learn from each other, exploring possibilities for cultural transference rather than cultural appropriation. And it inspires coexistence from a growing ground of truth, justice, respect, and generosity. -From the Living Justice Press Web site (http://www.livingjusticepress.com)

Restorative justice can turn the process of dealing with behavioral problems into a learning opportunity. Restorative justice models address those who were harmed, those who did harm, and the encompassing community, allowing everyone involved to come to a personal understanding of and
agreement about the harm done. Involving more people in the process can help to build strong, lasting relationships between students, school staff, families, and members of the community.

Research illustrates the positive effects of restorative practices. In a U.S. study, 80 percent of victim-offender mediation participants believed that the process and the resulting agreement were fair to both sides; 95 percent of victims who participated in group conferences said that the process and outcome were both fair (Umbreit, Vos, & Coates, 2006).

This process affords numerous benefits to students who cause harm, for example:

- Rather than suspension or expulsion, which can negatively affect students’ learning, students are not removed from the educational setting.
- Students are held responsible as a member of their community. They are given a chance to learn, in a respectful setting, how their actions affected the victim and the community.
- They are able to see that they have supporters in the community—and that their supporters too were affected by their actions.
- Students who participate in this process are more likely to gain positive attitudes toward authority and to the concepts of fairness and justice.

In a study of Indianapolis public schools using restorative justice, 85 percent of juvenile offenders in a restorative conferencing program would recommend the program, whereas only 38 percent of offenders in the control group would recommend their own program (Olivares, Crawford, McGarrell, & Kroovand, 1999). In this same study, the restorative justice group had a 40 percent reduction in rates of re-arrest, thus supporting the idea that students who have participated in such a process are more likely to stay out of the justice system and in the educational system.

These practices have a positive impact on school systems and communities as well. A Minnesota Department of Education study of schools implementing restorative justice found that schools with baseline data reduced suspensions from 30 to 50 percent (Riestenberg, 2003). As the conferencing and circles models may include family and other community members, these models instill greater community ownership of the process and illustrate how the community can positively affect the lives of youth (Bazemore & Umbreit, 2001).

In another example, Edward Baumgartner, principal of Palisades Middle School in Southeastern Pennsylvania, was initially an opponent of restorative practices in schools. However, after a pilot program was implemented in his middle school and he saw the effects it had on the school’s climate, he changed his mind:

“I’ve had an epiphany, a metamorphosis. I used to be one of these black and white, law and order guys. Kids had to be held accountable, and the only way to do that was to kick them out of school—to show the other kids that you’re boss. That doesn’t work. I didn’t solve problems; I just postponed them until they got to high school, and then somebody else had to deal with them.
Restorative practices work. We now fix and solve problems.” (Mirsky, 2003, 26)

Whatever model or combination of models of restorative justice that schools incorporate, schools are finding positive outcomes for the victim, the person who caused the harm, and the encompassing community.

References:


