



OVC Bulletin

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VICTIMS, JUDGES, AND JUVENILE COURT REFORM THROUGH RESTORATIVE JUSTICE

Introduction

For years, the juvenile justice system has focused one dimensionally on the needs and risks of offenders. As a result, the criminal justice system does not currently offer victims a “level playing field.” Today, most juvenile justice systems need to give first and primary attention to increasing their responsiveness to the needs of crime victims. One way to accomplish this is for juvenile justice systems to adopt and apply the principles of restorative justice, which recognizes three stakeholders (or coparticipants) in any “justice” process—the victim, the offender, and the community.

The Victims, Judges, and Juvenile Court Reform Through Restorative Justice project was funded by the Office for Victims of Crime with the overall goal of improving the juvenile court response to crime victims. Four focus groups were held during the spring and summer of 1997, bringing together a total of 20 juvenile court judges and 18 crime victims to hear

each other’s perspectives about problems in juvenile court. In addition, participants engaged in a structured dialogue about the source of the problems and potential solutions, especially those that might be developed in accordance with restorative justice principles.

Project Objectives

Specific project objectives included the following:

- Provide crime victims with greater understanding of juvenile court policies and procedures, including rationales for due process, confidentiality, and determination of restitution amounts.
- Provide judges with insight into the victim experience in juvenile court and ideas for improving juvenile court responsiveness to victims’ needs and opportunities for involvement.

Message From THE DIRECTOR

While a number of states have recently passed legislation to increase the rights of victims in juvenile courts, there is still a huge discrepancy between victims’ rights in juvenile courts and adult courts. The great majority of victims of juvenile offenders feel excluded from the workings of the juvenile court. After their victimization, they typically learn little about what happens with their case. This can magnify their sense of powerlessness and fear of revictimization. In an effort to understand why this exclusion occurs and how it can be corrected, the Office for Victims of Crime (OVC) funded a project that conducted four focus groups of juvenile court judges and victims of juvenile offenders. Their activities and findings were documented for this publication, *Victims, Judges, and Juvenile Court Reform Through Restorative Justice*.

OVC believes that all victims, regardless of the age of their offenders, should be afforded basic rights and services by the courts, including notification of key events in their case, information about the offender’s status, court-ordered restitution and protection, and referrals to victim assistance services and compensation. Additionally, it is critically important for all victims to be treated with dignity and respect.

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The focus groups afforded crime victims and juvenile court judges an opportunity to exchange experiences and views on victim issues in juvenile court. Using restorative justice principles as a framework for developing a fairer distribution of rights and responsibilities, the victims and judges explored a range of actions and strategies to improve the responses toward crime victims by courts and the entire juvenile justice system.

Focus group participants expressed appreciation for the helpful dialogue afforded by the focus group format. OVC hopes to make this format available to other jurisdictions so they, too, can conduct expanded and continuous dialogue among crime victims, their advocates, the community, and juvenile justice professionals. Many participants planned to use this format on a continuing basis at the local level.

OVC anticipates that juvenile court personnel, juvenile probation agencies, state Victims of Crime Act (VOCA) victim assistance administrators, and victim service organizations will all find this publication helpful as it gathers and makes available to the field the perceptions of victims of the juvenile justice system and the perceptions of juvenile court judges regarding the roles and rights of victims in the juvenile justice system. We at OVC encourage an ongoing dialogue that can only improve the treatment of crime victims by the juvenile courts.

Kathryn M. Turman
Director

- Encourage collaboration and dialogue among judges to analyze system constraints and identify solutions to achieve effective victim involvement.

- Recommend solutions to issues such as confidentiality in juvenile cases, inconsistency in restitution orders, and lack of information about case status.
- Provide a rich source of information about opportunities for victim advocacy at both local and national levels.
- Identify sources of support for and resistance to restorative justice practices, including obstacles to implementation by judges and victims.

Background

The abuses and virtual exclusion of crime victims and their perspective in the decision-making process of many juvenile courts are widely acknowledged and well documented.

To a large extent, judges have been left to defend the treatment ethic of the juvenile court in the face of an onslaught by policymakers and new statutes that have usurped much of the court's traditional discretion over delinquent youth and have mandated a much more punitive dispositional focus.

—Focus Group comments

For the past century, America's juvenile court system has focused on its mandate to act in "the best interest of the child" when dealing with young offenders. However, the past two decades have seen a move toward more punitive approaches and procedures in juvenile courts and justice systems that now make it difficult to distinguish them from

criminal courts (Feld, B., 1990, 1993). Although expansion in punishment and formalized procedures has moved juvenile courts away from the exclusive focus on the "best interests of the child" (young offenders) (Lemov, P., 1994), it did not move the courts toward "the best interests of the victim." Only very recently have some juvenile justice professionals begun to pay attention to victims' needs.

During the 1980s and 1990s, victims' rights were expanded in criminal courts. In stark contrast, victims in the juvenile justice system continued to have few rights. Recently, this lack of victims' rights in juvenile courts came to the attention of policymakers and professionals. The American Correctional Association Victims Committee published the *Report and Recommendations on Victims of Juvenile Offenders* (Seymour, A., and S. English, 1994) stating, "Victims should not be discriminated against solely due to the age of their offender."

The recent developments highlighted below provide promise for changing the role of victims in juvenile justice systems and for changing how juvenile courts view victim involvement in court proceedings:

- Twenty-nine states have passed constitutional amendments for victims' rights, including notification, input, restitution, and protection. Many of these amendments extend expanded rights to victims of juveniles and to victims of adult offenders.
- In many states, the traditional cloak of secrecy that once covered juvenile courts is being lifted by new statutes. Crime victims and their allies are serving as the key proponents of this movement to increase victim involvement in and knowledge about juvenile court proceedings.

What Is Restorative Justice?

Restorative justice is a new way of thinking about and responding to crime. It emphasizes one fundamental fact: Crime damages people, communities, and relationships. If crime is about harm, then the justice process should emphasize repairing the harm. As a vision for systemic juvenile justice reform, restorative justice suggests that the response to youth crime must strike a balance among the needs of victims, offenders, and communities, encouraging each to be actively involved to the greatest extent possible in the justice process. Restorative justice builds on traditional positive community values and on some of the most effective sanctioning practices, including victim-offender mediation, various community decisionmaking and conferencing processes (for example, reparative boards, family group conferencing, and circle sentencing), restorative community service, restitution, victim and community impact statements, and victim awareness panels.

The most new and important ideas in restorative justice are expressed in a set of principles that redefines the way justice systems address public safety, sanctioning, and rehabilitative objectives. Specifically, when crime is understood as harm and justice is understood as repair and/or healing, and when the importance of active participation by victims and community members in response to crime is emphasized, basic community needs are understood and addressed in a different way.

Today, when a crime is committed, most juvenile justice professionals are primarily concerned with three questions: Who did it? What laws were broken? What should be done to punish or treat the offender? Although questions of guilt, lawbreaking, and appropriate intervention are certainly vital to prosecutors, these questions alone may lead to a limited range of interventions based solely on treatment and punishment, which cannot meet the complex needs of the community, victim, offender, and family.

Viewed through the restorative lens, crime is understood in a broader context than what is suggested by the questions of guilt and how to punish or treat the offender. Howard Zehr (1990) argues that in restorative justice three very different questions receive primary emphasis: What is the nature of the harm resulting from the crime? What needs to be done to “make it right” or repair the harm? Who is responsible for the repair?

Defining the harm and determining what should be done to repair it are best accomplished with input from crime victims, citizens, and offenders in a decisionmaking process that maximizes their participation. The decision about who is responsible for the repair focuses attention on the future rather than the past and also sets up a different configuration of obligations in response to the crime.

No longer simply the object of punishment, the offender is now primarily

responsible for repairing the harm caused by his or her crime. A restorative juvenile court and justice system would, in turn, be responsible for ensuring that the offender is held accountable for the damage and suffering caused both to victims and victimized communities by supporting, facilitating, and enforcing reparative agreements. But, most important, crime victims and the community play critical roles in setting the terms of accountability and monitoring and supporting completion of obligations.

If crime victims and the community are to become fully engaged as active participants in the response to youth crime, juvenile justice professionals must begin to think about these stakeholders in different ways. To move forward with this new agenda, it is very important to understand the potential role of crime victims as key stakeholders in the response to youth crime. In addition, the role of the professional and the mandate of the juvenile justice system are likely to change.

Bazemore, G., and M. Umbreit, *Conferences, Circles, Boards, and Mediations: Restorative Justice and Citizen Involvement in the Response to Youth Crime*, Washington, DC: Office of Juvenile Justice and Delinquency Prevention, Balanced and Restorative Justice Project, U.S. Department of Justice, 1999.

■ By summer 1997, a total of 30 states and many local jurisdictions had adopted legislation or policies based on the Balanced and Restorative Justice model (O'Brien, S., 1999). Providing a new mission and framework for juvenile justice, this model incorporates the needs and interests of the victim, the community, and the youthful offender. This restorative justice trend is potentially one of the most significant factors driving change in the role of crime victims in America's juvenile courts.

Although changes in juvenile probation and corrections programs are already under way to involve victims and better address their needs (Seymour, A., 1997; Wilkinson, R., 1997), meaningful change in the juvenile court process is impossible without the support of judges as juvenile court leaders. Although most judges are not insensitive to the needs of crime victims (Leip, L., and G. Bazemore, in press), it is important to reflect upon two key factors that seem to determine the success or failure of most judges in responding sensitively to crime victims. First, does the judge make changes in his or her court that might improve services for victims of juvenile crime? And, second, does the judge provide for victims' meaningful involvement and input into the juvenile justice process?

With regard to the first factor, too few juvenile court judges have been engaged in training, dialogue, and initiatives to improve juvenile court responsiveness to victims. Too often, crime victims and their advocates speak only to each other, to researchers, and to policy and program development professionals. Judges seldom have opportunities to be educated about and explore alternatives to policies,

procedures, and administrative protocols that contribute to victim frustration. Previous forums and research studies have effectively identified problems in juvenile courts from a crime victim's perspective, including problems in court culture and the behavior of individual juvenile court judges (Young, M., 1995). However, there have been few opportunities to hear from judges on these issues and little chance to conduct joint dialogue, consensus building, strategic planning, and mutual problem solving between judges and crime victims.

With regard to the second factor, until recently judges have had few incentives to implement changes to make their courts more responsive to victim concerns. In general, juvenile courts have been slow to develop policies to mandate, authorize, or encourage judges to devote greater attention to the needs of crime victims or to invite increased victim involvement into the court process. Furthermore, little persuasive logic has been offered by the judiciary, criminal justice researchers, or victim advocates to link the victims' agenda either to the traditional individual treatment and best interests mandates of juvenile courts or to the new retributive juvenile justice agenda. While more victims' rights legislation and policies are clearly on the horizon for juvenile courts in many states, most juvenile courts and juvenile justice systems responding to these new mandates must do so in the absence of a *mission* or a model policy or a philosophical framework (Bazemore, G., and M. Umbreit, 1995). This lack of guidance will make it difficult for these juvenile courts and justice systems to integrate crime victims' needs and concerns with other rationales for justifying the existence of a distinctive court and justice system for juveniles.

Balancing Client Needs: Restorative Juvenile Justice

One sign of hope for linking victims' needs and involvement to a revitalized juvenile justice mission has been the rise in interest in restorative justice and the "balanced approach" (Bazemore, G., and M. Umbreit, 1995; Bazemore, G., and S. Day, 1996). Restorative justice provides a new "lens" for viewing the problem of crime and a new paradigm for thinking about the justice response to criminal behavior. Rather than the question of guilt and what should be done to punish or treat the offender, restorative justice suggests that the most important fact about crime is that it causes harm to individuals and communities. "Justice" should, therefore, focus on the repair of this harm (Zehr, H., 1990).

The view of restorative justice and the balanced approach is that justice is best served, both practically and conceptually, when the needs of the victim, the community, and the offender are all met and each is involved in the process to the greatest extent possible.

The balanced approach was developed to serve as a guide for implementing a restorative vision in juvenile justice systems. The balanced approach provides a road map to help administrators achieve the following:

- Attain balance in efforts to meet community needs for safety.
- Repair victim harm, set tolerance limits, and provide consequences for crime (impose sanctions to hold offenders accountable).

- Provide rehabilitation and reintegration of offenders into the community (Maloney, D., D. Romig, and T. Armstrong, 1988; Bazemore, G., and S. Day, 1996).

The restorative justice view is that true balance is achieved only when the needs of victims, offenders, and the community are considered in each case and within the system as a whole.

Restorative justice elevates the role of the victim in the juvenile justice process by giving high priority to victim involvement and reparation (Bazemore, G., and M. Umbreit, 1995). For years, juvenile justice systems focused only on the needs and risks of offenders, leaving victims with a lot of catching up to do. Most juvenile justice systems will need to give primary attention to increasing their responsiveness to the needs of crime victims. While advocating for the rights of victims and their involvement in the system, restorative justice also concerns itself with the needs of offenders and communities. In fact, restorative justice recognizes three stakeholders or coparticipants in any “justice” process—the victim, the offender, and the community (Zehr, H., 1990; Van Ness, D., 1993).

Project Purpose and Methodology

The purpose of this project was to gain meaningful input from judges and crime victims about the following:

- How the court responds to viewing the victim as a “client” of the juvenile court.
- How to remove obstacles to increasing victim involvement.

- How to improve services and responsiveness to victims.
- How to solve problems in meeting the needs of victims.

In addition, the project provided a demonstration of the value of structured, honest, and meaningful dialogue among juvenile court judges, crime victims, and community members. As a result of the project, such structured dialogue is already being replicated in followup focus groups in several jurisdictions.

The project’s strategy was to build upon existing state and local support for restorative justice initiatives and victim empowerment through guided focus group discussions. Local court jurisdictions in four participating states were chosen because the state had recently adopted, or was in the process of developing, new victims’ rights legislation relevant to victims of juvenile offenders, and the state had recently adopted new policies and/or statutes based upon the balanced approach and restorative justice. The four focus group sites were Harrisburg, PA, St. Paul, MN, West Palm Beach, FL, and Sacramento, CA.

Victim participants in 1 state were selected from a random pool derived from a list of 30 cases identified by the court. Since this approach was not viable in the remaining three states, victim advocates generated a list of potential participants. The 18 victim participants selected included 9 victims of violent crimes and 9 victims of property crimes. Judge participants were identified through lists provided by judicial training organizations in each regional circuit. A total of 20 judges participated in the 4 focus groups. Diversity of gender, age, ethnicity, and political philosophy was achieved in both the victim and judge groups.

Each forum began with an overview of the project goals, a brief review of state and national changes in victims’ rights legislation affecting juvenile courts, and a short presentation of restorative justice principles and practices. The protocol for each focus group process included the following:

- Consideration of a series of questions designed to elicit responses about victims’ roles and needs throughout the juvenile justice process.
- Discussion of what a “continuum of services” for victims within the juvenile court should include.
- Identification of barriers to victim services within the juvenile court setting and discussion of how to overcome them.
- Development of recommendations for improving juvenile court and the juvenile justice system.

Two detailed discussion guides containing the questions were developed by the project staff. Judges, victims, and victim advocates were divided into separate groups and asked identical questions. Opportunities were provided for the groups to share ideas with the entire group and for discussion among the combined group of victims, victim advocates, and judges. Individual worksheets asked participants to rank the importance of the barriers to victim involvement and application of restorative justice practices. This stimulated the expression of opinions, even among the less outgoing participants.

Focus Group Findings

Several victims described a “domino effect” of the juvenile’s action upon their families and friends.

Some of the judges equated victim involvement with the disruptive presence of victims in court proceedings.

—Focus Group comments

The findings of the project were interesting. The opinions and insights of the victims in all four focus groups were nearly unanimous. Conversely, the perspectives of the judges in all four states varied as much as the victims’ responses were similar.

Victims’ Observations

- Virtually all victim participants found the juvenile court and justice system experience predominately negative. Victim participants were also nearly unanimous in their dissatisfaction with the court process.
- Victims felt there was often a lack of respect for their dignity as human beings.
- Most victims felt they had received little acknowledgment as victims.
- All victim participants felt that crime victims should be considered and treated as “clients” of the juvenile court.
- Many victims reported that juvenile court professionals lacked understanding about the victimization experience and demonstrated a generally insensitive attitude.

- Most victims reported they lacked general understanding of the court process and had received little information about their own cases.
- Most victims were less interested in punishment for its own sake than in seeing that juvenile justice professionals followed through with their commitment to hold offenders accountable, especially for restitution.
- A number of victims expressed strong interest in offender rehabilitation; several became personally involved in offender treatment programs.
- Victims agreed unanimously that information about their cases was very important to them but typically inadequate. Equally critical to victims was an opportunity to be heard and to have input into the offender’s disposition.
- Victims were very open to the use of restorative justice practices as long as participation remained voluntary. A few victims had participated in mediation and other processes. The victims generally believed that more restorative alternatives to traditional court processes are needed.

Judges’ Observations

In restorative justice, the crime victim, the community, and the offender are all viewed as critical stakeholders in the response to crime. As presented here and discussed in restorative justice literature (Dooley, M., 1995; Bazemore, G., and C. Washington, 1995), the crime victim is referred to as the “client,” which is defined in two parts.

In restorative justice, when an agency views an individual crime victim as a legitimate recipient of the agency’s services, the agency refers to that individual as a “client.” Prior to the introduction of restorative justice ideas and principles, the concept of victim as client was not a part of the traditional ideology and mission of juvenile courts. In earlier times, crime victims and judges considered several questions to determine the status of the victim, such as “Is the victim indeed a client?” and “If so, what does this mean in terms of expectations for the court?”

The second part of the definition of client comes from the literature of total quality management and reinventing government (Osborne, D., and T. Gaebler, 1992), which defines a client as an active customer expected to be involved in the decisionmaking processes of an agency (Pennsylvania Juvenile Court Judges Commission, 1997). In this sense, judges and victims were asked a number of questions about the role of victims as participants in various parts of the court process.

In the focus group findings of this project, the general consensus among the participating judges was that a victim is indeed a client of the juvenile justice system and has *some* role in juvenile court. All the judges were more comfortable with the notion of the victim as a client of the *whole* system rather than of only the court in the narrow sense of the term. The distinction between the *system* and the *court* is a very important one because the court, varying by jurisdiction, may include numerous agencies and staff, including the judge, clerical support staff, probation and parole staff, victim services staff, and a range of special programs and staff.

The variations in the judges’ views of victims as “clients” focused on several themes, including the following:

- The status of the victims *relative* to the offenders, families, and others.
- The differences between property and violent crime victims.
- The point in the process at which a victim becomes a client.
- The apparent motivation of victims to participate.
- Limits on what kind of information should be available to victims.
- Judges' perceptions regarding the value of alternative, informal dispositional options designed to actively include victims in decisionmaking.
- Judges' perceptions regarding the challenges to judicial impartiality presented by victim involvement in the court process.
- Judges' expressed feelings of helplessness in responding to victims' needs, due largely to lack of coordination among the court, the prosecutor's office, and probation services.
- Judges' near unanimous report of low rates of victim participation in the court process. Judges were divided on whether the lack of victim involvement in the process is due to the victims' lack of motivation or the unfriendliness of the court.
- A few judges felt that victims are often emotionally incapable of rationally participating in the court process. Many judges felt that victims are often inadequately prepared for their juvenile court experience. Some judges viewed court process and management, rather than victim attitude and behavior, as the primary cause of victim dissatisfaction.
- Judges were nearly unanimous in their agreement about the importance of victim access to reliable information about their cases. Judges generally wanted to increase the openness of the court process. However, in one state, judges were strongly opposed to victims receiving information about the offender's background.
- Judges generally agreed that improvements are needed in processes involving victim notification, victim participation, victim impact statements, and restitution to victims.
- While nearly unanimous in their support for improving restitution and restorative community service, judges indicated more mixed support for restorative processes, such as victim-offender mediation, circle sentencing, and other forms of restorative conferencing that seek to give victims and other citizens an empowered role in dispositional and diversion decisions.

Victims as Involved Stakeholders

The most victim-sensitive judges also reported that they valued the input of "live victims" and felt that this input via direct allocation was far too rare.

. . . crime victims aren't interested in "gossip" about juveniles and their families, but they do want access to information such as prior records, how decisions are being made, and what might have motivated the offender to harm them.

—Focus Group comments

Crime Victims' Perspectives

Victims in all four focus groups un-animously agreed that victims have an important role in the juvenile justice process. Interestingly, their concept of "role" at times equated directly to victims' *rights*, with a significant emphasis on the rights to *information* and *participation*. As one victim noted:

When every situation starts, you have rights . . . (the) right to go to court. I was not informed, nor did I have the right to be heard. They did not have time for me and I was not heard. I think if you are a victim that you should be properly notified of all hearings . . . if a deal is going to be cut, the victim is the one who should be able to cut the deal—not somebody else. You have \$50,000 (in losses), and the prosecutor says the restitution is \$1,000. I think it's hard to take.

Several victims pointed out the need for their roles to be defined by agency policy, in addition to state law. The lack of consistency in victims' roles is directly linked to the lack of consistency among jurisdictions within states and the absence of a "unified system." As it is now, both juvenile justice processes and related victims' rights vary greatly depending upon the jurisdiction. The need for consistent policies is emphasized by a victim advocate who said:

We need some clear-cut guidelines so that we know what the victims' rights are. In each county, it is different, and the rights of the victims change. It makes it hard on victim services to tell the victims what their rights might be. There is nothing clear-cut across the line.

One victim emphasized that "the victim's role should be his or her choice." This

statement mirrors the longstanding position of most victim advocates that victims should be given power and control over issues that affect their lives in the aftermath of a crime. This position is based on the premise that victims do not *choose* to be victims, and they have little or no control over the crime or delinquent act that resulted in their victimization.

While the victims' role is often limited to that of witness to the crime, participating victims agreed that they had much more to offer in the way of relevant information that needed to be heard in court. As one victim advocate noted:

We would like to see that there is an opportunity for victims to meet with judges or court personnel. [One survivor] thought there were things she could have said to the judge at some point in time about her son. There was a lot of information that was given in the courtroom about the *offender*. There ought to be personal information about the *life of the homicide victim*.

Judges' Perspectives

Some of the most vocal judges in one state expressed general opposition to victim input at any stage other than disposition, at which time they approved only victim impact statements. However, the judges generally agreed that crime victims could play meaningful roles throughout the juvenile justice process. Variation was centered on the desirability of victim input, the most efficient ways to obtain input, the nature of this input, and the relative appropriateness and usefulness of input at different stages of the process.

A majority of judges seemed open, if not favorably inclined, toward victim input into diversion decisions. Judges in every state expressed the view that victims should have, as one judge noted, "input

but not discretion" in this front-end decision. Judges were asked about whether and how victims' voices might be given consideration in the plea agreement process. With the exception of the aforementioned state, where this option for victim involvement was not discussed, judges in the other groups agreed that plea-bargaining was a critical stage for victims' input. Judges agreed that "respectful input" should be sought at this stage, although one judge noted that "people (i.e., professionals) in the *system* must have the *most significant* input." One judge speculated that it was in those cases in which victims have input into the plea bargain, and then appear for a dispositional hearing, that their presence and involvement "provides the magic" that can come from meaningful involvement in the court process.

How to promote such meaningful involvement was a more difficult issue. Should the victim's advocate make it a point to get involved in the plea agreement meeting and would that be feasible? Would it be enough for police to provide an accurate pamphlet explaining the court process, including plea agreements? According to some judges (and some members of the victims' groups), victims who become informed figure out that the plea-bargaining process is the point at which a critical decision will be made, so they find ways to voice their preferences and concerns—generally through the prosecutor. Even judges who were most favorable toward input at this stage saw many practical difficulties in making this happen. Some suggested that input at plea bargaining be encouraged but carried out on a case-by-case basis.

With very little disagreement among the judges that victims should have some role at disposition, the discussions at this point revolved around who was responsible for notification and how the process

could be improved, given the generally low rate of victim participation in these jurisdictions. A secondary issue for some judges was that victims should be prepared ("lowered expectations" was a term used more than once) for the possible outcomes in a dispositional hearing. Notification is a tremendous problem in those courts in which arraignment hearings are used to accomplish a number of other court objectives, including much of the work of adjudication and disposition. Time between such preliminary decisions and dispositional rulings creates windows of opportunity for notification that are often very narrow.

An issue that assumed much greater importance than expected generally, and in disposition discussions specifically, was the victim impact statement. Somewhat surprisingly, judges almost unanimously reported reading these statements quite carefully and relying on them for their information about harm done to victims. To place this in context, the judges most sensitive to victims also reported that they valued the input of "actual victims" and felt that this input was far too rare. One judge exclaimed that he had grown tired of hearing that there is no time for verbal statements by victims and stated the following:

There is time if we just build in opportunities for it . . . often it only takes two or three minutes . . . and it's worth it because the victim needs to ventilate whether or not the judge needs the extra information.

According to another judge, the victim's verbal statement is also of vital importance to the *offender* and to others in the courtroom. Judges also valued good written victim impact statements as a key to dispositional decisionmaking. In two states, however, judges reported that

written statements lacked the impact they might have. One judge noted:

Impact statements have become so routine that sometimes they seem canned . . . they seem too clean and homogenized, so that they don't really have the "impact" we think they should have.

Surprisingly, the issue of confidentiality in dispositional proceedings received limited discussion among judges. Only two states raised it as a concern. Judges in one state expressed concern that some information was sensitive but agreed that judges' instructions to victims and other hearing participants to keep these materials confidential were enough to ensure the protection of offenders and families. Similarly, when the most "pro-victim" judges considered confidentiality, the discussion focused on how judges could use their discretion to get around prohibitions against openness at the dispositional phase.

Exception to this general support for openness and accessibility came from judges in one state who believed that information likely to be presented in a dispositional hearing might be embarrassing to offenders and their families, perhaps even ultimately harmful. When the moderator in a general group dialogue in this state raised the general issue of how much victim participation was needed at dispositions, a judge raised the issue of the need to prohibit victims from hearing certain information about the offender's background:

There is another important factor that you have in juvenile court, that of confidentiality. And the problem with victim input when we are talking about a juvenile who may have been sexually abused, chemical dependency, psychiatric

evaluations . . . it cannot be the same as adult court because that information is confidential, and no victim is entitled to know. Especially in the nonpublic hearing, and even in public hearings, we get to kick the public out when we get to (the point of) speaking about psychological evaluations during hearings . . . and no statute has taken away that confidentiality.

Following the objections to this statement by several victim participants, a participating prosecutor informed them that they were "not entitled to this personal information." This was seconded by a judge who argued that "these families were ashamed, and they didn't want victims to hear everything." In response, a victim observed that the juveniles who burglarized her home "found out everything about me and my family." Others commented that crime victims weren't interested in "gossip" about juveniles and their families, but did want access to information such as prior records, how decisions were made, and what might have motivated the offender to choose to harm them. Another judge concluded this rather lively interchange by saying that no matter how much he and his colleagues tried to protect confidentiality, "in [this state], we're going to open it [confidentiality] up—we're just crazy enough to open it up."

The Viability of Restorative Justice Practices

All participants were provided with brief overviews of 10 restorative justice practices:

- Community reparation boards.

- Community/neighborhood impact statements.
- Family group conferencing.
- Victim-offender mediation.
- Restitution to crime victims.
- Restorative community service.
- Victim awareness education programs.
- Victim impact panels.
- Victim impact statements.
- Victim notification of the youthful offender's status.

In order of ranking, the following are the most highly rated restorative justice practices among victims in all four focus groups:

- Victim notification.
- Victim impact statements.
- Victim restitution.

From victim participants in all four states, the following recurring themes relating to restorative justice practices emerged:

- The focus of restorative justice on *offender accountability* was lauded and appreciated.
- Many victims expressed interest in participating in restorative justice processes to help youthful offenders and hopefully prevent them from victimizing others in the future.
- Generally, victims appreciated the opportunities afforded by restorative justice to obtain more information and to confront their offenders in a manner that could be beneficial to

both. However, group discussion emphasized that the victim's choice to voluntarily participate in these options was crucial to successful restorative justice processes.

On the whole, judges and victims' groups agreed about the paramount importance of notification and input. Relative to victims' groups, judges gave higher priority to restitution. Consistent with the high value placed on restitution as a means of holding offenders accountable to victims and the community, judges also responded favorably to paid public service programs that ensured earning opportunities for offenders who owed restitution. Judges were also strongly supportive of restorative community service—especially when this involved input from victims and/or allowed juveniles to work on meaningful civic improvement projects with neighborhood adults. Victim-offender mediation and newer practices such as community reparation boards, family group conferencing, and neighborhood impact panels received more equivocal support, partly because judges were less familiar with them.

Meeting Victims' Needs: Role of the Juvenile Court and Justice System

Victims' Views

Regardless of whether victim participants had experienced *violent* or *property* crimes, they agreed on what victims need from the juvenile court and justice system. Participants were asked to describe the ideal continuum of victim services throughout the juvenile justice process. Their responses, provided below, identified victims' needs as well as what can and should be done to meet such needs.

Victims want law enforcement to

- Treat victims with respect.
- Provide support and assistance.
- Provide some form of victim services.
- Not blame the victim for the crime.
- Provide information to victims.
- Provide information that victims' insurance companies need for reimbursement of losses.
- Promptly return property.
- Offer consistency in victim services.
- Receive death notification training to increase sensitivity.
- Notify victims about options of community-based diversion.
- Seek training from victims who want to help improve the system.
- Participate in cross-training with other professionals in the juvenile justice system.

Victims want the prosecution to

- Go beyond "code." Understand the human element of the case.
- Reduce charges against the offender only with proper notification of, explanation to, and input from victims.
- Provide information to the victims.
- Monitor and support enforcement of sanctions and conditions of the sanctions.
- Pay more attention to the juvenile offender's prior record.

- In serious cases, talk to the victim before the hearing.
- Talk to the victim before a plea agreement.
- After adjudication, talk to the victim. Explain reasons for actions. Listen to the victims' concerns.
- Provide a brochure that explains juvenile justice system terminology.
- Provide referrals for victim assistance.
- Provide victim services such as counseling, separate waiting areas, babysitting for witnesses.
- Always ask the prosecutor to ask the court for restitution.
- Attend sensitivity training.

Victims want judges to

- Acknowledge victims. Saying "I'm sorry" is okay.
- Have full knowledge of the case—both victim and offender perspectives.
- Seek cross-agency collaboration.
- Ask whether the victim is present before the hearing starts.
- Make quicker dispositions.
- Monitor and enforce dispositions.
- Ensure that the reoffender is seen by the same judge on each court appearance by using an alphabetized case management system or some other method.
- Promote more parental accountability and involvement.

- Require the probation office to promptly inform the court of violations of court orders.
- Issue clear restitution orders with precise dollar amounts and payment schedules.
- Order restitution if the victim wants it, and make it payable to whom the victim chooses—either to the victim or to a worthy group identified by the victim.
- Be leaders in applying balanced and restorative justice principles.
- Pay attention to each case. Don't play cards in court.
- Explain various aspects of the court process.
- Meet victims' needs; treat them with sensitivity and respect.
- Understand that the primary source of juvenile court problems is how victims are treated by court personnel and processes rather than what judges perceive to be the victims' lack of education.

Victims want probation to

- Work hand in hand with victims.
- Provide all information necessary to the judge to make informed decisions.
- Let victims know about compliance and violations.
- Collect and disburse restitution.
- Provide offenders with youth training, rehabilitation, counseling, and treatment.
- Hold offenders accountable for their actions by enforcing court orders.

- Collect information from victims about the impact of the crime.
- Provide protection for the community and the victims by keeping dangerous juveniles off the streets.

Victims want juvenile corrections to

- Provide status or progress reports.
- Notify the victim about the offender's release.
- Provide victim awareness programming for offenders.
- Provide opportunities for victim restitution (including restitution from inmate trust accounts).
- Continue to pursue collection of restitution for victims.

Victims want juvenile parole/aftercare to

- Notify victims of relevant hearings.
- Accept victim impact statements.
- Provide victims with emergency transportation to hearings.
- Provide victims with supportive accompaniment at hearings.
- Provide protective measures to victims as special conditions of parole/aftercare.
- Share information about victims and offenders with juvenile justice agencies.

Victims want the overall system to

- Validate victims' personal experiences.
- Share case information.

- Provide victim advocates or "victim liaisons" at every point in the system.
- Offer a centralized system for monitoring, collecting, and disbursing restitution.
- Encourage more dialogue between the system and victims; incorporate victim participation in the system.

Judges' Views

Judges in each focus group were asked to consider what they viewed as the most important needs of crime victims. As leaders in the juvenile court, judges have the power to prioritize services and modify processes to impact victim satisfaction. Judges' beliefs about what victims want and need, and the role and responsibility of the court in meeting these needs, are of great importance.

In general, judges in all focus groups ranked several key victims' needs as high. The need for information was ranked high by each group, including notification about hearings and court processes, restitution, and safety issues. Other victims' needs were less consistently mentioned by judges, such as being treated with dignity and respect and being allowed maximum input into court proceedings. In contrast, these latter needs had been a primary focus of discussion in victims' groups.

Finally, some judges expressed the belief that victims have motivations in addition to those listed by participating crime victims, such as a need for vengeance, a need to use the court process for "therapy or catharsis," a need for reconciliation, and a need to control, rather than simply to have input into, the court's dispositional process. At times, the judges' perception of victims' needs suggested a

paternalistic, if not pejorative, view of juvenile crime victims (Viano, E., 1996).

A theme addressed extensively in two judges' groups was the lack of education given to victims about the court process. This problem, which was said to lead victims to unrealistic expectations about the court process, appeared to be viewed as the dominant problem in some groups. Participating victims agreed that much about the court process was a mystery to them. In fact, in two groups, victims expressed appreciation to participating judges for explaining various aspects of the court process. However, victims were more likely to conclude that the failure of the court to meet their needs and treat victims with sensitivity and respect, rather than victims' perceived lack of education, were the primary sources of juvenile court problems.

Perhaps because it has been a visible component of juvenile court dispositions for almost 20 years and is the most tangible response to crime victims, the need for restitution was discussed most often in the judges' groups. Generally, judges acknowledged court responsibility for ensuring restitution to victims, although they often faulted probation or other court staff for failing to ensure restitution collection.

Judges offered the following solutions on how juvenile courts could best meet victims' needs:

- Continue dialogue with victims and their advocates in forums similar to the focus groups in this project.
- Conduct a complete court and system audit of victim notification processes to determine where breakdowns occur and where opportunities for victim verbal and written input exist.

- Institute ongoing meetings among restorative justice practitioners, judges, and court administration personnel to further understand and strengthen working relationships.
- Train judges to ensure active monitoring of juvenile courts and the juvenile justice system, focusing on victims' interests and needs, use of victim impact statements, improving the approach to restitution, and case flow management.
- Hold presentations about restorative justice at judicial conferences.
- Demonstrate judicial leadership in engaging the community as an active partner in affecting juvenile court purposes, juvenile justice system achievements, and restorative justice practices.
- Provide judicial support and advocacy for expanding public and private funding of practices that assist victims and help meet victims' needs.
- Provide judicial leadership to enable funding of paid public service work programs for juveniles who owe restitution.
- Provide judicial leadership to encourage use of mediation and additional alternative dispute resolution approaches to contest case hearings.
- Expand court management practices that reduce victims' time in court waiting rooms, promote case disposition promptness, and provide management information system data that judges and court managers can use to discern causes for delays in court processing.

A final overarching recommendation was for judges to exercise leadership with

policymakers and the local community on behalf of crime victims. Specifically, judges should work to ensure that restorative justice objectives are added to purpose clauses of juvenile court codes. At a more concrete level, judges can promote restorative justice principles by using their ability to directly change court administrative standards (Edwards, L., 1993; Rubin, T., 1988, 1997).

Summary and Conclusion

Overall, judges and victim participants explored a range of actions and strategies to improve the responses of courts and the juvenile justice system to crime victims. The discussions included system audits; more extensive and strategic use of victim advocates; expanded citizen involvement; and improvements in victim notification, impact statements, and restitution collection and monitoring. In addition, judges and victims learned more about restorative justice, giving careful consideration to effective application of restorative principles and practices as part of a comprehensive strategy for improving court and juvenile justice system responses to crime victims.

As an additional project objective, the focus groups demonstrated that they were an effective process for jurisdictions to use to achieve expanded and continuous dialogue among crime victims, their advocates, and juvenile justice professionals. Group participants expressed appreciation for the helpful dialogue generated in the focus group discussions. Many participants stated that they hoped this format could be used on a continuing basis at the local level. Perhaps the most significant outcome of the project is that similar focus groups have been held or are being

planned in each jurisdiction that participated in this meeting.

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