



Toward the Ideal of Community Justice

*by Todd R. Clear
and David R. Karp*

In recent years, there has been a rapid growth in approaches to criminal justice that center on “community.” Most familiar is community policing, now almost universally accepted as the new orthodoxy in the field, but the community paradigm has been adopted in virtually every component of the criminal justice system, from prosecution through corrections. Neighborhood-based prosecution centers in jurisdictions such as Portland, Oregon, and New York City; community courts in Manhattan and elsewhere; reparative probation statewide in Vermont; and community justice councils in Travis County, Texas, are among the manifestations. The trend, however, is not confined to the United States. Indeed, some initiatives underway in this country were originated abroad. Family group conferencing for juvenile offenses, now being adopted here, began in New Zealand and is widespread in Australia. Sentencing circles are rooted in the traditional peacemaking rituals of both Native Canadians and Native Americans.

Community Justice Defined

Two central elements grafted from policing—problem solving and community orientation—animate community justice. The approach, which is proactive rather than

about the authors

Todd R. Clear, Ph.D., is Distinguished Professor in the John Jay College of Criminal Justice, City University of New York; David R. Karp, Ph.D., is a Professor in the Department of Sociology at Skidmore College.

focused on criminal events, is handled on a case-by-case basis. Community justice taps into the problem-solving skills of citizens instead of relying solely on the expertise of professionals. It is localized and flexible rather than centralized and standardized. And whereas in traditional criminal justice the outcome of a case generally involves restricting the offender’s freedom, in community justice, restoring what the victim and the community have lost as a result of the crime is at the forefront. In this respect, it closely resembles restorative justice.¹

Community justice might be best described as an ethic that transforms the aim of the justice system into enhancing community life or sustaining community. To achieve that aim, the community partners with the justice system to share responsibility for social control. This means some control devolves from the justice system, a powerful mechanism of formal social control, to the community, which through churches, schools, civic organizations, families, and similar institutions, exercises the informal social control that fosters civil behavior and public safety.

Still in an embryonic stage, community justice is not yet a fully identifiable practice, nor is it based on a systematically derived theory or grounded in a body of empirical research. Without a full articulation of the philosophy underlying community justice, it might be dismissed as a fad or as a term applied to programs that consist of little substantive change. The ideal of community justice is presented here to begin elaboration of the concept and to guide practitioners who may be interested in adopting the approach.

Crime, Communities, and Criminal Justice

As currently configured, the justice system responds to crime in ways that may actually diminish the quality of life of a community. Strong mechanisms of informal social control in a community not only help reduce crime, but by augmenting the work of the agents of formal control, make that work easier.² By contrast, when informal social controls are weak, formal social control fills the void, and as it becomes the main regulating force, citizens may begin to view it as the appropriate agent to deal with all conflict, not just crime.³ Incarcerating large segments of a neighborhood’s population is evidence of strong formal social control, but it signals the breakdown of informal control mechanisms and can further weaken an already fragile social order.⁴ Community justice, by contrast, is based on the notion that formal social control is neither the only response to crime nor the one best suited to improve the quality of community life.

Community justice might be best described as an ethic that transforms the aim of the justice system into enhancing community life or sustaining community. To achieve that aim, the community partners with the justice system to share responsibility for social control.

“Supportive” Justice. In exercising conventional formal control, the justice system functions as a force acting upon the community, whereas in a community justice model it is a resource to strengthen and support the community in dealing with crime and disorder. Drawing on the community’s capacity for self-regulation, the justice system helps build up the forces of social control that occur naturally in a community.

Under community justice, offender accountability for crime remains a vital element, but it is set in the context of repairing the damage to both victims and the community. Embracing the idea of community is a profound shift because it changes the focus of justice from what is to be done about people (offenders) to what is to be done about the places in which people live and work. And while in the community justice paradigm incarceration remains a means to ensure public safety, what to do about released offenders also becomes a concern.

Underlying Community Ideals. Community justice is guided by certain fundamental moral and social ideals of effectively functioning communities. As ideals, they are never fully realized, but they can serve as benchmarks against which public policy and programs based on community justice are measured. They extend beyond the protection of rights that is a hallmark of traditional liberalism and embrace contemporary concern for cultivating meaningful social relationships, responsible citizenship, and democratic participation.⁵

Strengthening social ties refers to the role of community in imparting wisdom; inspiring a sense of belonging; responding collectively to individuals’ needs; promoting relations based on reciprocal interests, commitment, and cooperation; and fos-

Under community justice, offender accountability for crime remains a vital element, but it is set in the context of repairing the damage to both victims and the community. Embracing the idea of community is a profound shift because it changes the focus of justice from what is to be done about people (offenders) to what is to be done about the places in which people live and work.

tering self-definition and realization. By promoting intimate, supportive relationships in this way, communities serve as a countervailing force to the tendency of complex societies to base human relations on marketplace considerations.

Communities promote the common good while protecting the rights of individuals, an ideal expressed as *reconciling order and autonomy*. Far from being incompatible, order and autonomy are interdependent. Indeed, autonomy depends on a foundation of order. When conflict arises, the community justice ideal would be neither to balance the two nor to choose one over the other, but rather to recognize collective needs while acknowledging each individual’s full autonomy as a shared interest.

Ideally, obedience to the law derives from motives other than self-interest or fear of sanctions. People obey the law because they believe it is morally valid and thus they see enforcement as legitimate. This ideal, *voluntary cooperation*, refers to the cultivation

of socially astute, emotionally intelligent citizens who are as concerned with and engaged in the life of the community as they are with their own lives. Concern for the collective good becomes the motivating force in obeying the law.

Beyond the Adversarial Model. These community ideals are “operationalized” or fulfilled through such institutions as schools, churches, and civic associations; through the multiple informal mechanisms that socialize community members by transmitting behavioral norms and standards; and through civic activism, which enables people to assess their own views and demonstrate common purpose. The current adversarial configuration of the justice system militates against the full realization of these ideals. Thus, for example, when criminal justice is reduced to fighting and controlling crime, aggressive and even brutal police tactics can shatter a normative order based on institutional legitimacy and individual autonomy. If cooper-

ation is a product of coercion, the spirit of voluntarism vital to a community declines, and narrow self-interest replaces it. Crime increases fear, and because the justice system does not address that fear, the response to crime can be withdrawal from civic participation.

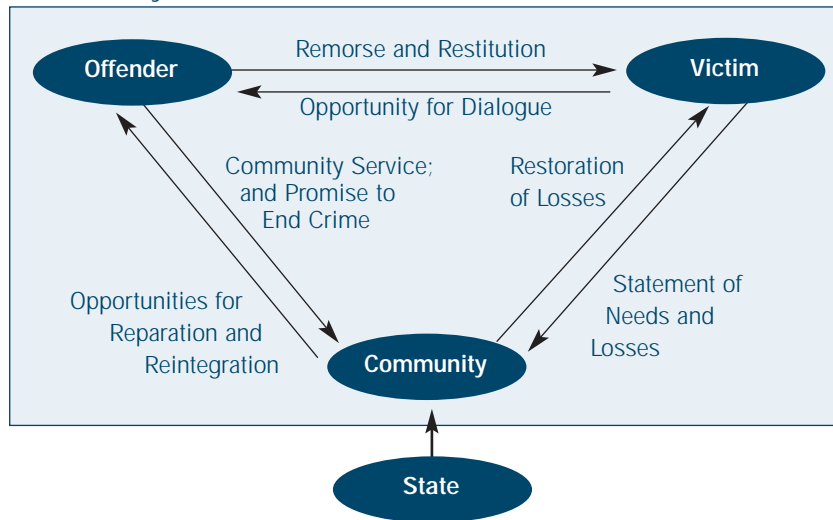
By offering a model in which crime is understood as something that happens to a community, community justice builds and sustains communities. It does so by applying democratic principles that increase the roles and responsibilities of offenders, victims, and other members of the community affected by a crime, thereby engaging them more fully in community life. In the same sense, the egalitarian principles on which community justice is based help ensure commitment to crime prevention by cultivating concern, particularly for societal inequities.

Principles of Democratic Community Justice

In community justice, criminal events are considered and dealt with as social acts that shatter community life. They are not simply violations of the law but renunciation by offenders of their moral and social obligations to the community as a whole as well as to the victim. When crime is viewed this way, it shows the State's role as sole arbiter of the offender-victim conflict to be flawed, because community members are isolated from that conflict.

At the heart of community justice is civic participation. Through the problem-solving process, all parties carry out tasks derived from their relationship to the criminal event. These tasks are based on principles that define an essentially democratic vision of justice: Citizens participate in processes that affirm community standards of conduct, restore the quality of community life, and

Figure 1: Core Responsibilities of All Parties in Community Justice



reduce the likelihood of further crime. The tasks of each party are reciprocal, linking them in a network of mutual obligation. (See figure 1.)

The Roles of Victim, Offender, and Community. The offender must strive for readmission to the community. This involves admitting the wrong, working to undo the effects of the offense, and taking steps to convince the community that the crime will not occur again. Victims, too, have responsibilities. In community justice their goal is to recover their capacity to fully function in the community. Recovery begins when the victim articulates the losses, intangible as well as tangible, and estimates the resources, financial and otherwise, needed to restore the losses.

Because community laws have been violated and community life disrupted, it is incumbent on community institutions to play a role in recovery. That may involve clarifying norms and standards of conduct, expressing to the offender in particular what is and is not acceptable. (For an example of how this operates in practice, see "Vermont's Reparative Probation: Upholding Standards of Community Behavior,"

page 24.) The community provides opportunities for making restitution and offers the support and supervision needed for the offender to live in the community crime-free. To the victim, the community provides support in achieving recovery.

The Role of the Justice System. For the justice system, the role shifts from that of defender of law and order to that of resource to the community, bearing ultimate responsibility for the justice process. In the community justice model, the justice system helps the victim, community, and offender to carry out their tasks by designing and managing a process that facilitates participation. In the ideal conception, community justice workers assume that role.

Community justice workers might, for example, organize and convene victim-offender mediation sessions, family group conferences, reparative citizen boards, sentencing circles, or similar practices based on restorative justice.⁶ The justice system also would design and oversee a risk management plan that differs from the conventional approach in allowing the community to accept or reject it.

Vermont's Reparative Probation: Upholding Standards of Community Behavior

Vermont's Reparative Probation Program exemplifies how democratic community justice seeks to reaffirm norms and standards of acceptable conduct. Offenders and their victims come together in a forum in which the offender acknowledges his or her wrongdoing and has the opportunity to express remorse and make amends. Community Reparative Boards, consisting of citizens who have a stake in the outcome, represent the community as the custodian of behavioral norms.¹

In what is essentially a community-based restorative justice program, more than 60 boards operating throughout the State handle the cases of people whom the courts have sentenced to reparative probation for non-violent offenses, including some property felonies. The sentence is conditioned on the

offender's meeting with the board, which negotiates an agreement or contract specifying how the offender will repair the harm inflicted on the victim and the community. Victims meet with the board if they wish to do so, and all participants, including the victims, must agree to the terms of the contract.

The board works with the offender in three ways. First, it seeks to demonstrate to him or her the effects of the crime on the victim and the community; second, it identifies ways the offender can repair the damage; and third, it works with the offender to devise a strategy to reduce the likelihood of reoffending. With the victim, the board works to acknowledge the harm done, to listen to the victim's concerns, and to demonstrate that the community cares and will act on the victim's behalf.

The Community Reparative Boards of Vermont create a vital opportunity for citizen participation in the justice system. The boards do not establish guilt or innocence, but rather clarify, communicate, and enforce standards of acceptable behavior following the court's decision. By removing sanctioning from the courtroom to the informal problem-solving setting of the community, the process forces offenders to face their peers directly.²

1. See Perry, John G., and John F. Gorczyk, "Restructuring Corrections: Using Market Research in Vermont," *Corrections Management Quarterly* 1 (1997): 26–35.

2. The success of Vermont's program led to its designation in 1998 as a winner in the prestigious Innovations in American Government competition.

Principles of Egalitarian Community Justice

Community justice works not just through the personal response of each individual stakeholder—victim, offender, and community—after a crime is committed. It works by cultivating the community's social obligation to prevent crime. In this more broad conception, the ideal of justice is fundamentally egalitarian. Egalitarianism in this context means applying principles relevant to key indicators of the quality of community life: Community members treat each other fairly (equality), tolerate the attitudes and behaviors of others (inclusion), balance self-interest with concern for the collective good

(mutuality), and are willing to put the common good above their own wants and needs (stewardship).⁷ Community justice is responsive not only to crime, but also to the conditions such as economic deprivation that may foster it.

From Crime Control to Crime Prevention

The principle of equality refers to fair treatment of all community members, grounded in repudiation of social subordination.⁸ Because neighborhood disadvantage correlates strongly with criminality,⁹ it suggests community justice must respond to social inequity if the quality of community life is to improve. Whether that can be done

is open to question, however, given the demise of the manufacturing sector that once meant full employment in the cities and the persistent spatial isolation of an economic underclass (consisting disproportionately of African Americans) in many urban cores.

Reducing the marginalization of those who challenge the accepted code of behavior and fail to conform is an ongoing pursuit in community justice. The tension between tolerating nonconformity and promoting predictability of social interaction is resolved with "pre-emptive strikes" of socialization and informal social control. Shaming is one such means.¹⁰ It works because people want to avoid

Austin's Community Justice Councils: Promoting Stewardship of the Community

The State of Texas provides a vehicle for citizens' decision making in the justice process through a structure that enables them to participate at the local level. That structure, authorized by the legislature for all counties, is the Community Justice Council. The councils, which develop community justice plans tailored to local jurisdictions, exemplify the notion that the broader, collective good of the community is the focus of justice. In this new paradigm, citizens act on behalf of the common good, responsible particularly for the needs of the community's most vulnerable and disadvantaged members.¹

Austin (Travis County) has been at the forefront of this movement, with the County District Attorney,

who wrote the Community Justice Councils statute, providing much of the leadership. Here, the Community Justice Council consists of elected officials, including prosecutors, legislators, city council and school board members, and judges. While the Council develops the community justice plans for Austin and the surrounding county, the closely allied Community Justice Task Force, made up of such officials as the chief of the Austin police department and the school superintendent, serves in an advisory capacity. The voice of citizens is heard through the Neighborhood Protection Action Committee, which is comprised of activists who represent various neighborhoods and advise the Council.

Coordination among these three bodies is key to their functioning. It enables the council to develop community justice plans that are comprehensive and geared toward local needs. One outcome was the establishment of a Community Justice Center—a community correctional facility—close to a neighborhood troubled by crime and economic hardship. Thanks to the infrastructure of the council, all parties worked together on tasks ranging from site selection and facility design to the development of programs and services to promote reintegration of offenders into the community.

1. See Earle, Ronald, "Community Justice: The Austin Experience," *Texas Probation* 11 (1996): 6-11.

disapproval. The risk is that shaming may stigmatize the deviant and lead to ostracism, which in turn may impel the deviating person to seek the company of other outcasts. The challenge is to build the norm violator's stake in the community by cultivating a sense of inclusion.

Rational choice theorists have long pondered whether or not cooperation is possible among "egoists"¹¹—that is, whether there can be common purpose among people who are less concerned about the general welfare than about their own lives. The issue has been explored in the experimental gaming literature,¹² where at least one theorist has concluded that while self-interest yields short-term benefits, cooperation achieves the greatest long-term gains.¹³ That highlights the imperative of build-

ing long-term relationships based on mutual interest, which offer the greatest incentive to cooperate. In the context of community justice, the issue translates as how to mobilize support for crime prevention and develop strategies that reduce incentives to commit crime. The principle of mutuality assumes mobilization is feasible because people have a stake in community life, but there need to be strategies that make this stake manifest.

Stewardship is the principle that may place the greatest demand on community members because it requires that they empathize with people whom they may not know personally. In the words of criminologist James Q. Wilson, stewardship involves the creation of a "moral sense" based on sympathy,

fairness, self-control, and duty.¹⁴ Stewards of the community not only demonstrate concern for the welfare of the whole, but they are willing even to sacrifice their own desires and needs. Like equality, stewardship may require tackling structural societal problems. As a principle of justice, it requires examining local standards of behavior and adjudicating the conflict between them and acts that may not reflect those standards. In such examination, a chief concern is the effect of individual acts on the good of the whole. (For an example of how this operates in practice, see "Austin's Community Justice Councils: Promoting Stewardship of the Community.")

Can It Work?

Particularly for practitioners who wish to develop community justice initiatives, it is important to note that there is no standard formula for adopting the principles. The design will depend on the nature of community organizations, justice system practices, and crime prob-

lems in the targeted neighborhood. Myriad models are plausible, and a community might adopt and reject several options before finding a good fit.

Community justice is not problem-free. Citizens are not likely to be eager to participate; justice system officials also may be resistant. The

history of community organizing and community development offers ample proof of the difficulty of mobilizing and engaging people, particularly on a sustained basis. Operational difficulties will abound. Offenders will fail—sometimes dramatically so. Yet there are reasons to believe community justice is a good idea.

For More Information

The ideal of community justice presented here is one of a number of conceptions of how to build greater community participation in the justice system. Others can be found in the following sampling of resources:

- *Balanced and Restorative Justice: Program Summary*, Washington, DC: U.S. Department of Justice: Office of Juvenile Justice and Delinquency Prevention, 1994 (NCJ 149727).
- “Beyond Community Policing: Community Justice,” by Thomas J. Quinn, *Police Chief* 64(10) (October 1997): 107–108.
- *Change Lenses: A New Focus for Crime and Justice*, by Howard Zehr, Scottsdale, PA: Herald Press, 1990.
- “The Community,” by Robert J. Sampson, in *Crime*, ed. J.Q. Wilson and J. Petersilia, San Francisco: Institute for Contemporary Studies, 1995: 193–216.
- “Community Courts: Prospects and Limits,” by David B. Rottman, *National Institute of Justice Journal* 231, August 1996: 46–51.
- *Community Prosecution Profiles*, by Victor Wolf and Robert V. Wolf, New York: Center for Court Innovation, 2000.
- “Conferences, Circles, Boards, and Mediation: The ‘New Wave’ of Community Justice Decisionmaking,” by Gordon Bazemore and Curt Taylor Griffiths, *Federal Probation* 61(2) (June 1997): 25–37.
- *Crime, Shame, and Reintegration*, by John Braithwaite, Cambridge, England: Cambridge University Press, 1989.
- *Engaging the Community: A Guide for Community Justice Planners*, by Greg Berman and David Anderson, New York: Center for Court Innovation, 1999.
- *Incorporating Restorative and Community Justice into American Sentencing and Corrections*, by Leena Kurki, Research in Brief—Sentencing & Corrections: Issues for the 21st Century, Washington, DC: U.S. Department of Justice, National Institute of Justice/Corrections Program Office, September 1999, NCJ 175723.
- *Juvenile and Family Drug Courts: An Overview*, rev. ed., Washington, DC: U.S. Department of Justice; Office of Justice Programs, Drug Courts Program Office, 1999.
- *Model Courts Serve Abused and Neglected Children*, by Mary Mentaberry, Washington, DC: U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, OJJDP Fact Sheet #90, January 1999 (FS 9990).
- *Neighborhoods and Crime: The Dimensions of Effective Community Control*, by Robert J. Bursik and Harold G. Grasmick, New York: Lexington Books, 1993.
- *Responding to the Community: Principles for Planning and Creating a Community Court*, by John Feinblatt and Greg Berman, Washington, DC: U.S. Department of Justice, Bureau of Justice Assistance, November 1997 (NCJ 166821).
- *Restorative Community Justice: Background, Program Examples, and Research Findings*, by Thomas J. Quinn, Technical Assistance Report, Washington, DC: U.S. Department of Justice, National Institute of Justice, 1996.

Any call for change that does not recognize the loss of credibility in the justice system is bound to fail. Because it is the community that has lost faith, faith can be restored to the extent the community is involved. The ideal of community has an almost inherent appeal, as it holds out the prospect for inclusion—providing incentives for victims

and offenders to participate—and offers opportunities to improve the quality of community life. Finally, community justice is already happening, as criminal justice agencies throughout the country reach out to the communities they serve, bring them more actively into the justice process, and form partnerships with organizations representing local

interests. What remains is for those interested in advancing the aims of community justice to harvest the results achieved thus far and use them to further develop the concept.

NCJ 184448

- "Restorative Justice," by John Braithwaite, in *Handbook of Crime and Punishment*, ed. M. Tonry, New York: Oxford University Press, 1998: 323–344.
- "Restorative Justice and Earned Redemption," by Gordon Bazemore, *American Behavioral Scientist* 41 (1998): 768–813.
- *Restorative Juvenile Justice: Repairing the Harm of Youth Crime*, ed. Gordon Bazemore and Lode Walgrave, Monsey, NY: Criminal Justice Press, 1999.
- *Restoring Justice*, by Daniel Van Ness and Karen Heetderks Strong, Cincinnati, OH: Anderson Publishing Company, 1997.
- "Therapeutic Jurisprudence and the Emergence of Problem-Solving Courts," by David Rottman and Pamela Casey, *National Institute of Justice Journal*, July 1999:12–19 (JR 000240).
- *Victim Meets Offender: The Impact of Restorative Justice and Mediation*, by Mark S. Umbreit, Monsey, NY: Criminal Justice Press, 1994.

The authors' own perspective on community justice is more fully elaborated in:

- *The Community Justice Ideal: Preventing Crime and Achieving Justice*, by Todd R. Clear and David R. Karp, Boulder, CO: Westview Press, 1999 (supported by NIJ grant number 1997-IJ-CX-0032).
- "Community Justice: A Conceptual Framework," by David R. Karp and Todd R. Clear, in *Boundary Changes in Criminal Justice Organizations: Criminal Justice 2000, Volume 2*, ed. Charles M. Friel, Washington, DC: U.S. Department of Justice, National Institute of Justice, July 2000: 323–368 (NCJ 182409).
- *Community Justice: An Emerging Field*, ed. David R. Karp, Lanham, MD: Rowman and Littlefield, 1998.

Related to community justice are the following sampling of problem-solving policing and community-oriented policing:

- *Community Policing, Chicago Style*, by Wesley G. Skogan, New York: Oxford University Press, 1997.

- *Problem-Oriented Policing*, by Herman Goldstein, New York: McGraw-Hill Publishing Company, 1990.
- *Problem-Oriented Policing (POP): Crime-Specific Problems, Critical Issues, and Making POP Work, volume 1*, ed. T.O. Shelly and A.C. Grant, Washington, DC: Police Executive Research Forum, 1998.
- *Problem-Oriented Policing (POP): Crime-Specific Problems, Critical Issues, and Making POP Work, volume 2*, ed., Corina Sole Brito and Tracy Allan, Washington, DC: Police Executive Research Forum, 1999.
- *Tackling Crime and Other Public Safety Problems: Case Studies in Problem Solving*, by Rana Sampson and Michael S. Scott, Washington, DC: U.S. Department of Justice, Office of Community Oriented Policing Services, 1999.

Notes

1. Community justice is more broadly conceived than restorative justice. Like restorative justice, it attends to the sanctioning of offenders, but community justice also addresses crime prevention. Community justice focuses explicitly on the location of justice activities at the local level and concentrates on community outcomes. For a more extensive description of restorative justice and community justice, see *Incorporating Restorative and Community Justice into American Sentencing and Corrections*, by Leena Kurki, Research in Brief—Sentencing & Corrections: Issues for the 21st Century, Washington, DC: U.S. Department of Justice, National Institute of Justice/Corrections Program Office, September 1999 (NCJ 175723).
2. Bursik, Robert J., and Harold G. Grasmick, *Neighborhoods and Crime: The Dimensions of Effective Community Control*, New York: Lexington Books, 1993.
3. Black, Donald, *The Behavior of Law*, New York: Academic Press, 1976.
4. Clear, Todd R., and Dina R. Rose, *When Neighbors Go to Jail: Impact on Attitudes About Formal and Informal Social Control*, Research Preview, Washington, DC: U.S. Department of Justice, National Institute of Justice, July 1999 (FS 000243).
5. Selznick, Philip, *Moral Common-wealth: Social Theory and the Promise of Community*, Berkeley, CA: University of California Press, 1992.
6. Bazemore, Gordon, “The ‘Community’ in Community Justice: Issues, Themes, and Questions for the New Neighborhood Sanctioning Models,” in *Community Justice: An Emerging Field*, ed. David R. Karp, Lanham, MD: Rowman and Littlefield, 1998: 327–371.
7. This conceptualization was borrowed from Philip Selznick. See his “Social Justice: A Communitarian Perspective,” in *The Responsive Community* 6 (1996): 13–25.
8. Rawls, John, *A Theory of Justice*, Cambridge, MA: Belknap, 1971; and Selznick, “Social Justice.”
9. Braithwaite, John, *Inequality, Crime, and Public Policy*, London: Routledge and Kegan Paul, 1979; and Sampson, Robert J., “The Community,” in *Crime*, ed. James Q. Wilson and Joan Petersilia, San Francisco: Institute for Contemporary Studies, 1995: 193–216.
10. Braithwaite, John, *Crime, Shame, and Reintegration*, Cambridge, England: Cambridge University Press, 1989; and Karp, David R., “Judicial and Judicious Use of Shame Penalties,” *Crime and Delinquency* 44 (1998): 277–294.
11. Yamagishi, Toshio, “Social Dilemmas,” in *Sociological Perspectives on Social Psychology*, ed. Karen S. Cook, Gary A. Fine, and James House, Boston: Allyn and Bacon, 1994: 317.
12. Pruitt, Dean G., and Melvin J. Kimmell, “Twenty Years of Experimental Gaming: Critique, Synthesis, and Suggestions for the Future,” *Annual Review of Psychology* 28 (1977): 363–392.
13. Axelrod, Robert, *The Evolution of Cooperation*, New York: Basic Books, 1984.
14. Wilson, James Q., *The Moral Sense*, New York: Free Press, 1993.