



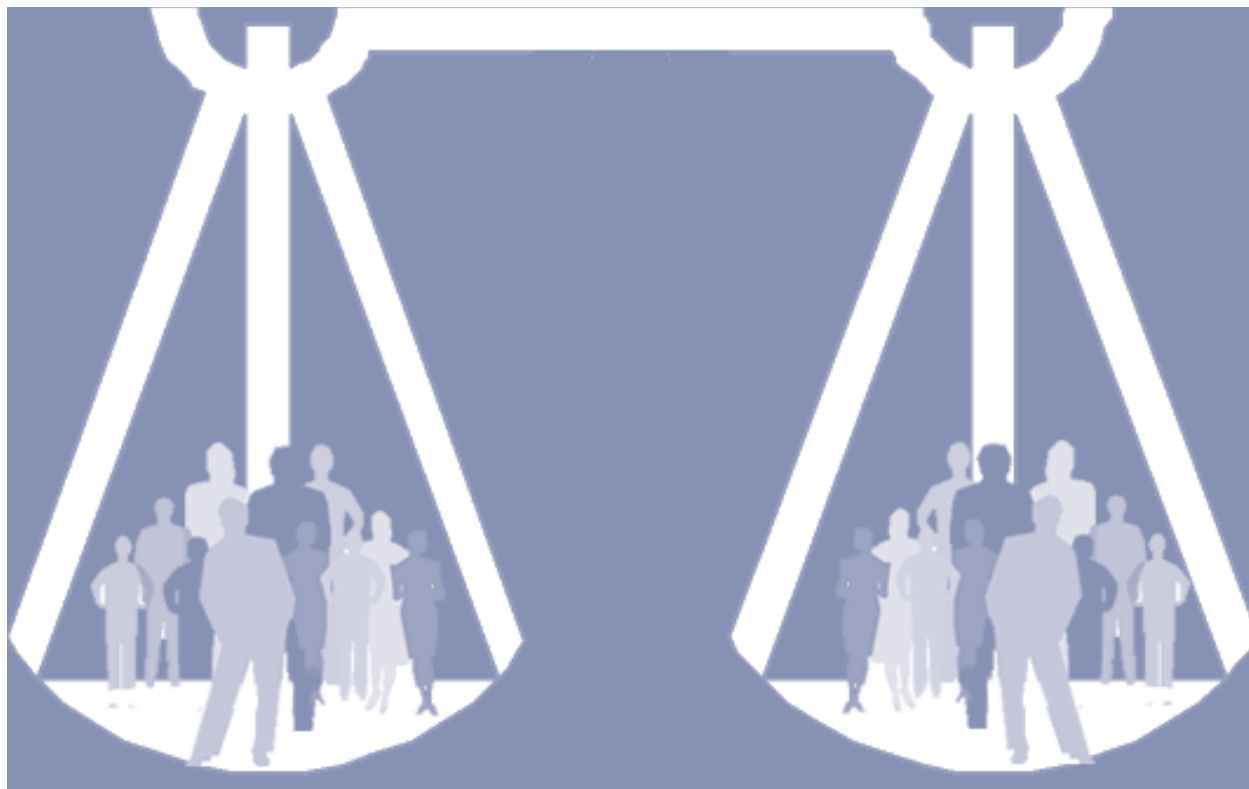
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## COMMUNITY POLICING, COMMUNITY JUSTICE, AND RESTORATIVE JUSTICE

EXPLORING THE LINKS FOR THE DELIVERY OF A  
BALANCED APPROACH TO PUBLIC SAFETY



BY CAROLINE G. NICHOLL

# COMMUNITY POLICING, COMMUNITY JUSTICE, AND RESTORATIVE JUSTICE

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Exploring the Links for the Delivery of a Balanced Approach to Public Safety

By **Caroline G. Nicholl**

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## Author's Note

This report is about promoting public safety in a democracy through policing and justice. Within these few words lies a kaleidoscope of thousands of pieces. We all see those pieces differently, depending on what we know and what we do not know, what we have experienced and what we have heard second- or third-hand. From my stance, the current pattern seems out of balance. Efforts with community-oriented policing and justice are heartening, but the rich potential for further reform is vulnerable. The vulnerability lies in a confusion about the central point of the kaleidoscope. Democracy requires that the public not be merely a spectator in the campaign for crime reduction. Rather, the public must learn its role and responsibilities in preventing the conditions that are criminogenic. Government provides the vehicle for accomplishing that goal: leadership, empowerment, and resource distribution in accordance with the values of collective resolution of problems rather than short-term professional or political expediency.

This lofty mission is within our reach more than is widely recognized, but clarifying where we are *now* is a starting point to determining our *future path*. This report attempts to sketch out the bridge between the two.

At an early point in the preparation of the report, it became clear that an exploration of the current state of crime, policing, and justice would be problematic. The police and the criminal justice system appear to be in a state of perpetual change. Hundreds of restorative and community justice experiments are going on across the United States, with community policing being undertaken by thousands of police departments. Experiments are very much part of a developing field, constantly creating new awareness.

Crime, including the fear of crime and disorder, is subject to the vagaries of statistical interpretation; and important qualitative considerations are susceptible to subjective opinion. With so much change happening simultaneously, and with lots of room for *diverse* interpretation, it seemed sensible to attempt to define the common drivers behind existing policies and practices—and to look to the future open to the possibilities becoming commonplace in many discussions. Since the perspective is a “helicopter view” of current developments, the product is a commentary, not an academic piece.

In writing this report I have had in mind two audiences: those who can influence and shape public policy, and those who have responsibility for implementing change—including local communities. Ideas are one thing. Getting them accepted to a point where they may become a reality is quite another! This work aims to stimulate grassroots innovation that can be supported by policymakers. The result is two documents: this *monograph*, which explores the rationale for a shift in focus and values, and a *toolbox* that tackles the implementation issues that need to be addressed in bringing about such a shift.



Finally, I have found writing this work unusually hard because a helicopter view taken to survey the current landscape and to look toward the horizon on such a broad subject is bound to omit or simplify important developments. For this I apologize. My hope is that, nonetheless, it serves this useful purpose: to stimulate helpful dialogue about how to face the challenges of crime in the new millennium in the context of a free society. Written words cannot replace the value of people figuring out together what can be done differently today for a better tomorrow.

Caroline G. Nicholl  
September 1999



# Acknowledgments

There are many people to thank for making this project a reality. First, my colleagues and the communities in Britain who tolerated my experimenting with community policing and exploring restorative justice; in particular, Charles Pollard, Chief Constable of Thames Valley Police, and Ian Blair, now Chief Constable of Surrey Police, both of whom placed considerable trust and faith in the work I was attempting to do while I was Chief Superintendent at Milton Keynes. I must also thank The Commonwealth Fund in New York, which awarded me a Harkness Fellowship in 1995–96, thereby providing an unusual and wonderful opportunity to test and further develop my thesis in a different cultural context.

I wish to express a special thanks to Professor Herman Goldstein of the Law School at Wisconsin University, who is a constant source of inspiration; to Beth Carter and everyone involved in the Campaign for Effective Crime Policy in Washington, D.C. (it is comforting to know there are so many eminent people who believe change is needed); to Kay Pranis, Annie Roberts, and all the other restorative justice visionaries in Minnesota who have influenced my thinking; to Mike Dooley, Ronnie Earle, Ellen Halbert, Kay Harris, John McKnight, Mark Umbreit, and Howard Zehr, all of whom have been especially helpful in their own way in getting me thinking “outside the box”; to the inmates and staff from Grendon (United Kingdom) and Shakopee (United States) prisons, whom I will remember always; to those parents and spouses of murder victims I have met, from whom I learned what can be achieved through gaining understanding and giving compassion; and to the many police officers I know—in England and in the United States—who provide a constant reminder of the realities of the street.

I owe my gratitude to Joseph Brann, Stacy Curtis Bushée, and Karen Beckman of the Office of Community Oriented Policing Services, without whom this project would not have become a reality. Finally, a huge thank you to my closest allies, Jenny Edwards, Dr. Catherine Fitzmaurice, Chris George, John Stuart, and Ken Webster, whose confidence in my work is always a source of encouragement.

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## About the Author

Caroline G. Nicholl has been in policing for more than 20 years and is a former police chief. Thus she has practical experience of the limitations of the criminal justice system and of traditional crime control policies. At least half her career has involved learning how to apply community-oriented problem-solving methods to tackle crime, fear, and disorder. She has found that this rewarding, though demanding, work has given her a grasp of the challenges and requirements involved in transforming the organizational culture and priorities of the police to focus on public safety. Among these challenges, she believes, is the ever-present tension between dealing with today's reality and tomorrow's world. "How we deal with the former greatly influences the second, so we have to think carefully about what we do."

Looking at the present and thinking ahead, the author sees fundamental problems in trying to transform policing without looking at the wider justice system. She recognizes a link between the need for problem-oriented community policing and the need for a justice system that can complement this philosophy. This recognition was born out of a trial experiment, one of a number of steps toward a coherent vision for change. In 1993, working with her city's multiagency partnership—the Youth Crime Strategy Group in Milton Keynes, England—she and her partners found that existing practices and structures tended to obscure problems and that resource deployment for crime prevention and for offender diversion was minimal. The group also shared concerns about offenders not knowing the consequences of their behavior and about crime victims' needs being often sidelined.

Around the same time, she introduced a victim-offender mediation scheme, facilitated by police officers and involving retailers (victims of shop theft), offenders, and their families—and began taking cases away from the courts. While victim-offender mediation was not new, this was the first time the police in the United Kingdom adopted this approach to reported crime. The innovation had surprising results: it opened the doors for new learning about how crime could be prevented and how lay people could play a part in responding to crime under the supervision of statutory agencies such as the police.

Following the implementation of the scheme, the author became familiar with the literature on *restorative justice* and met John Braithwaite and Terry O'Connell (who introduced the Wagga Wagga model of family group conferencing in New South Wales, Australia). Since 1994, she has read widely on restorative justice, and the subject was a major focus of her Harkness Fellowship studies in the United States during 1995–96. In that year and since, she has consulted with a large number of practitioners from around the world (Canada, New Zealand, Australia, South Africa, the United Kingdom, and North America). She has spoken at conferences on restorative justice, including one organized by the U.S. Department of Justice. She has undertaken specialized professional training, including the course run by Real Justice© in Pennsylvania on family group conferencing and Dr. Mark Umbreit's basic and advanced courses on victim-offender mediation at the Center for Restorative Justice & Mediation, University of Minnesota. She has met and maintained contact with Howard Zehr, author of the classic book *Changing Lenses*, and Kay Pranis, the first statewide restorative justice coordinator to be appointed in the United States and a brilliant expert in the field.

Demonstrating how small innovations can lead to significant change, an independent evaluation

by the British Home Office of the multiagency experiment in Milton Keynes showed that there were significant drops in recidivism rates and high satisfaction levels among victims. The idea spread to tackling other offenses committed by adults and youths. That experiment helped to change the attitudes toward crime of many people—those in politics, the media, the business sector, and criminal justice agencies, including police officers rooted in post facto detection and investigation of crime. In the fall of 1998, the Labour Government introduced legislation in Parliament on restorative justice in relation to youth crime. This experience helped convince the author that challenging conventional assumptions sometimes pays off, and that looking ahead to the future always helps.





## Abstract

*Community policing* has become a significant feature of modern policing, yet its meaning and implementation vary depending on where you are and with whom you speak. The future of community policing could be vulnerable to any sudden increase in the crime rate (provoking a renewed emphasis on the traditional model of professional policing) or the removal of funding support.

Although there may be disagreement on how far community policing has come, and its fragility, one thing is clear: the challenges of the 21st century—violence, intercultural conflict, social and economic injustice, resource shortages, substance abuse—require us to think broadly and even more creatively about the future.

To begin breathing life into a new vision for sustaining and advancing positive change, policing needs to be examined in light of (1) how crime is defined, and (2) its tie to a justice system that frustrates victims, alienates whole communities, and fuels skyrocketing financial and moral costs of punishment. Current developments in *community and restorative justice* are helping to shape ideas and thinking about what policing and the administration of justice could look like in the year 2019. Twenty years is probably about right to achieve more widespread understanding that current problems and paradoxes are often of our own making—and to learn that the methods we are using to offer protection and safety are reinforcing divisions in society, thus exacerbating the conditions that promote crime, fear, and disorder.

The emerging paradigm of restorative justice might seem so alien, so naive, and so impractical that we miss the opportunity for a fundamental reappraisal of the values on which policing and justice should be founded. But starting with small changes, as suggested in this report, can make an enormous difference in how we think, speak, practice, and promote the meaning of community policing.

To begin with, we must learn to see crime in broader terms than the legal definitions and to acknowledge that crime harms people. We must learn that we can transcend conventional thinking about, and practice of, justice. We must give ourselves a chance to find out that we can relate differently to others if we focus on strengths and goodwill, not fear and punishment.

The police have a critical role to play in supporting change through taking stock of the current situation and thinking about the future. Their exposure to restorative justice could signal a commitment to long-term change that promotes peacekeeping and the prevention of crime. While no one denies the desirability of these strategies, they have proved difficult to implement. Restorative justice offers inspiration of the kind that makes both peacekeeping and prevention realistically achievable. After all, they have always been the core of the ethos of community policing. By 2019, they could be the core of community policing *practice*, thereby truly redefining the meaning of policing.

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Community Policing,

**COMMUNITY JUSTICE, AND RESTORATIVE JUSTICE**

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Introduction

## Introduction

The aim of this report is to clarify the links among three important reform movements: community policing (including problem-solving policing), community justice, and restorative justice.<sup>1</sup> Clarifying the links is essential to the purpose of identifying connections and paradoxes with a view to developing a more coherent response to the critical issues of crime and public safety in a free society. Lessons learned from experiments with new strategies and tactics for dealing with law and order problems should be embraced as much as possible, even though this can be difficult with so much change occurring simultaneously. Community policing, more widespread than the other developments and arguably with a longer history, is open to immensely confusing interpretations as to precisely what has been and is being achieved. A similar confusion is emerging with community justice and restorative justice. Yet their achievements and potential are so rich that we need to build clarity and common understandings.

The relationships between these innovations require examination to plan for the future. Among the goals of the Office of Community Oriented Policing Services is “to help develop an infrastructure to support and sustain community policing after Federal funding has ended.” It is hoped that this report, and its accompanying guidelines, will make a contribution to achieving that goal. Infrastructures require a context, so that decisions can be made that are consistent with strengthening opportunities and minimizing threats—in this instance, with respect to the *overarching goal of delivering safety in a democracy*. Community policing, community justice, and restorative justice all touch upon this mission in varying degrees, depending on their implementation. Could the contribution not be strengthened if they were made to form a single paradigm? Is a single paradigm realistic? What have we got now?

Experiments with *community policing* since the 1970s are widely regarded as having contributed to a welcome maturation of law enforcement organizations. After years of organizational distance from their communities, the police are taking stock of their position in society and in relation to citizens. Strong police-public relationships make for mutual respect, confidence, and improved information flow. Community policing also has significant potential for handling the challenges presented by the changing nature of crime. Crime can no longer be thought of only in terms of isolated incidents of victimization. Crime has come to represent a series of phenomena, including school violence and youth delinquency, the growth of the teen “super-predator,”<sup>2</sup> white-collar crime, gang and group violence, drug turf wars, stalking, gun trafficking, domestic and child abuse, road rage, hate crimes—all wreaking havoc across U.S. society. Crime has also become a catchall word covering a broader range of problems that are seen to threaten the social order, including the homeless, the mentally ill, quality-of-life infringements, teenage mothers, and urban poverty.

Local communities are increasingly recognized as the primary source—and recipient—of these breakdowns in law and order. Crime is intracommunity and requires local solutions; these facts make a case for attentive policing that is sensitive to the dynamics within different neighborhoods and groups and is geared to community safety. In many areas, communities are now viewed as partners in tackling crime as well as customers of police services. Police leaders are acknowledging that the police can no longer be the omniscient force for dealing



with crime, fear, disorder, and public safety. The police are seen as needing to work with communities, sharing responsibility and being creative in applying joint resources to recurring problems and to advancing community well-being.

Finding the appropriate framework for this collaboration is proving difficult in the face of traditional public dependence on the police, on the one hand, and rapidly changing social conditions (including crime), on the other. Controlling crime and maintaining order are widely seen—by the police and public alike—as police functions. The police are recognized as being organized and equipped to fulfill these functions. Communities seem to be chaotic, to have deeply entrenched problems, and to require professional help to mobilize and organize resources. Communities may be seen as having the capacity for self-strengthening and self-building, if given strong service institutions, including the police. A tension exists between the calls for more police and the recognition that communities need to be regenerated.

This tension has played out throughout the recent history of police reform. The nature of community policing remains ambiguous. It is not clear, for example, whether community policing is a means to an end or an end in itself. Though police-community partnering, problem solving, and crime reduction efforts in communities are widely recognized characteristics, there is arguably no consensus on the overall mission of community policing. Its ethos emphasizes the importance of local delivery, yet for what overall purpose? Is community policing primarily about effective crime control by the police, supported by partnership work with communities? Is the goal about building community trust and confidence in the professional police? Or, is the goal to strengthen communities to create natural resistance to crime, promoting self-policing by communities? Is community policing more about reforming professional policing or changing the role of the public? Progress is not readily determinable without a common interpretation of community policing. That said, something powerful is going on, and policing is undergoing significant change. Across the nation, the concept of community policing has provoked a steep learning curve for law enforcement agencies and communities about their relationships, the capacity for working together, and the value of collaboration. Yet the lessons themselves are not clear, and the joint journey is without a clear, common destination.

The Violent Crime Control and Law Enforcement Act of 1994 (Crime Act) is widely recognized as a significant milestone in community policing. It was intended by President Clinton and Attorney General Reno as the “changing of policing.” The legislation provided the funding vehicle for an additional 100,000 police officers to boost law enforcement efforts in a climate of nationwide anxiety about crime. The Act gave the Office of Community Oriented Policing Services (OCOPS) the task of supporting a major drive toward rooting community policing in solid foundations to become the prevailing orthodoxy in American law enforcement. Perhaps an accurate analysis of the Crime Act is that it represents an acknowledgment that the concept and the implementation of community policing are complex and demanding, deserving of an orchestrated effort at both local and Federal levels. The complexity is increased by other key developments.

Any consensus on the future of community policing requires thoughtful consideration of those other developments. At the same time that community policing efforts have been stamping their mark, a parallel movement of equal significance has been unfolding. *Community justice*, having attracted neither Federal legislative change nor significant media attention, has followed a more silent path. Like community policing, community justice stems from the recognition in policing that crime impacts communities. At the heart of current community justice developments lies the notion that justice ought not to be so abstract or compartmentalized as to ignore the needs and expectations of the community. As Assistant Attorney General Laurie Robinson has said, “Responsiveness by the formal system to public fears about crime is deemed vital for regaining public confidence and to enhance relationships between professional and lay communities in the world of law and order.”<sup>3</sup>

Community justice, too, is conceptually complex and has the potential to change fundamentally the way justice is delivered without a clear, overall goal. Like its policing counterpart, community justice is construed to mean many different things, ranging from the criminal justice system merely sharing information and consulting with the community, to building the community’s capacity for decisionmaking, thereby transforming the relationship between the public and the formal justice system. The overall mission is obscured by varying aims and priorities, with the label liberally applied. What is certain, however, is that the level of experiment will bring influence to bear on policing, both locally and nationally.

Coinciding with these two movements are additional experiments that are fundamentally changing peoples’ horizons about what is possible—and making consensus about the future difficult to achieve. *Restorative justice* has promoted power sharing and conflict resolution and is expanding the meaning of justice beyond the activities of the courts and the judges. Justice is now being achieved through new opportunities for lay people to gain and act on a broad understanding of how crime can be resolved and prevented. The system of justice is being transformed to offer to communities, including both its victims and offenders, processes for strengthening caring relationships and developing the sense of *connectedness*—both of which are regarded as vital for deterring criminal conduct. Restorative justice involves the resolution of conflict through community building after crime and disorder problems have been identified, and it paves the way for meaningful dialogue about the conditions that promote criminal behavior and how such conditions can be altered.

Developments in each of these areas have been significant during the 1990s and are influencing the thinking of many policymakers, practitioners, and communities across the United States. A consensus on the ramifications and potential of these changes, combined or separate, has yet to unfold, however. There is widespread agreement that policing and the justice system should be responsive to local communities. There is consensus that their functions should include partnership collaboration, enhanced resource management, victim service, problem solving, and broad consultation. Their overall goals are seen to be promoting social order and resolving crime. But how can it be determined whether these are being delivered appropriately—unless attention is paid to the fundamental issue of accountability in a democracy?



A question one might ask is: Should local experiments largely dictate what is construed as progress, or do we need national benchmarks to help gauge the attainment of public safety and justice that strengthen, not weaken, the functioning of a healthy democracy? What would those benchmarks be? The volume of crime? Levels of fear? The number of police? The number of people incarcerated? Recidivism rates? Or, should the standards relate to measuring the changing nature of crime, the recovery of victims, the care of offenders, the level of citizen participation, changes in public policy that contribute to crime prevention?

The vast array of programs and initiatives indicate a search for some kind of vision for the future, but the vision is unclear. A strategy for bringing about change is also vague, other than a prevailing sense that the notion of community is one whose time has come. Yet surely, benchmarks are needed not only for local conditions but to define the kind of society we want.

In 1977, Herman Goldstein provided insights about policing in a democracy that continue to vex public institutions in law and order today.<sup>4</sup> Among his comments were thoughts on decentralized services and on the ambiguity of public accountability, given the domination of political and other vested interests. A vision for the future is still obscure due to the tension between local determination of priorities and the national importance of the functioning of a healthy democracy. The obscure picture can in part be attributed to the reluctance to impose standards when local ownership and local autonomy are respected principles.

The picture is further clouded by the imprints of a seemingly intractable controversy about the best way to deal with crime. From local sheriffs imposing chains and pink underwear on inmates<sup>5</sup>—symbolizing a “get tough on crime” attitude—to those who advocate talking about crime in terms of “children and families,”<sup>6</sup> the backdrop is a society in which crime is hotly controversial. Deep lines are drawn between offenders and victims; between neighborhoods and communities that are perceived to be safe and those that are not; and between people who are free and those who are imprisoned. Finessing a coherent strategy given this reality demands a unique kind of leadership that recognizes what needs to be done locally and what must happen on the national stage.

Meanwhile, the absence of a single vision supported by a framework to facilitate change at different levels has its consequences. The campaigns against crime at local and national levels, not surprisingly, have brought about a mixed climate. Although the United States is renowned for its reliance on incarceration and the death penalty, many of the current initiatives stress the importance of conflict resolution, the erosion of social divides, and community building. There is clamor for coercive crime control measures as much as there are calls for more efforts in prevention, early intervention, and problem solving.

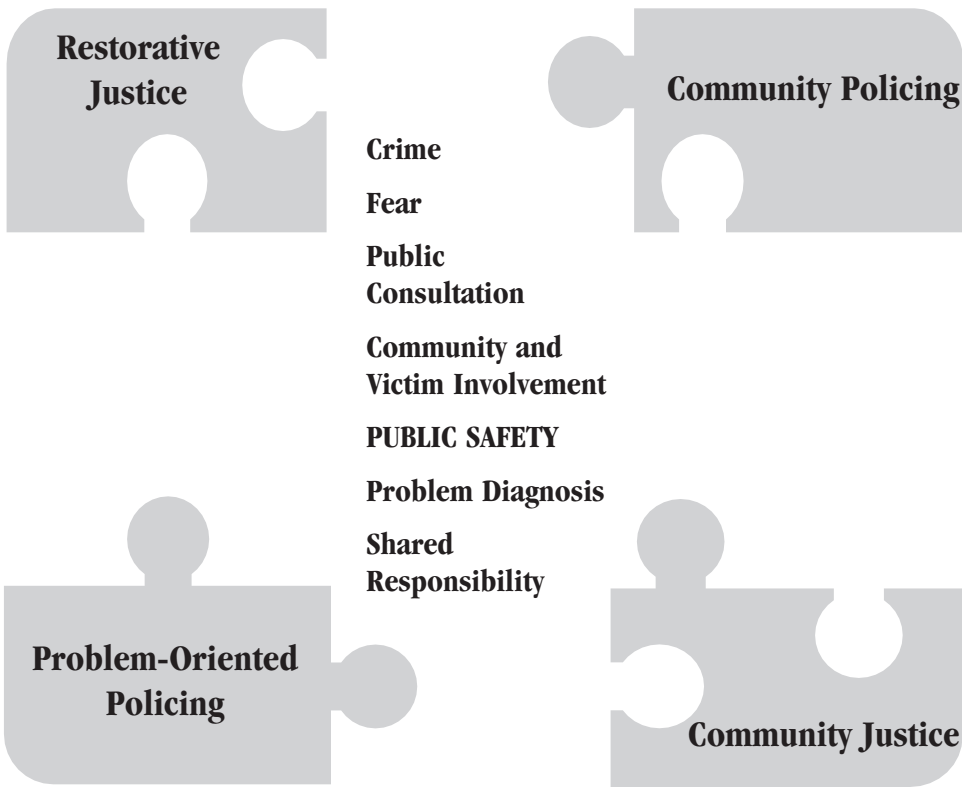
The rhetoric acknowledging that crime control is ineffective without community ownership and engagement is pervasive. Yet, the traditional enforcement model of arrest, prosecution, and punishment by professional criminal justice agencies seems as



strong as ever. The need to strengthen the state's justice apparatus competes with the recognition that informal crime controls are critical and in need of development. Resources pulling in different directions are creating a stalemate. Emerging from these paradoxes is the need to recognize that a balance must be struck between local determination and national strategy. Figure 1 indicates the mix of problems, needs, and strategies that must be weighed in formulating a coherent strategy to meet both local and national goals.

Local delivery and local initiatives are to be encouraged in policing and justice, but the public's understanding and assessment of these services should not rest on what happens or does not happen on the local stage alone. The public should have a sense of what benchmarks are important for the overall mission of policing and the administration of justice. Benchmarks reflect the fundamental values, style, performance standards, and criteria on which to assess service providers, irrespective of the need and desirability of local delivery. These, it seems, remain missing.

Figure 1. Is There a Fit to Support a Coherent Strategy?



It is dangerous to assume they will emerge from experiment alone—or that experiments will not counter each other to sustain the stalemate. The absence of an agreed mission makes the future uncertain. Major changes are happening in policing and justice: community policing, community justice, and restorative justice all represent significant efforts to reduce crime and fear, enhance community engagement, and generate safety and order. But the challenge remains: how to harness these forces for change to a coherent vision that reduces the reliance on force and strengthens the meaning of democracy.

What this means for policing needs to be examined—and examined in the broad terms proffered by Herman Goldstein 20 years ago, looking now to the next 20 years.



Community Policing,

**COMMUNITY JUSTICE, AND RESTORATIVE JUSTICE**

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**Theme of the Report: Promoting a Shared  
Responsibility for Controlling, Fear, and Disorder**

## Theme of the Report: Promoting a Shared Responsibility for Controlling Crime, Fear, and Disorder

A coherent response to crime and public safety requires a strategy that balances the acknowledgment of the importance of local evolution with a recognition that local change must be based on broad principles if national concerns are to be addressed. Crime occurs within communities and therefore demands local solutions. But crime, fear, and disorder occupy the national stage, making a case for identifying and reaching a consensus on the key elements of transforming America to a safer society. These key elements must include clarified roles for professional policing as well as for citizens—or else confusion prevails. Already the police wrestle with this dichotomy between local and national; whatever the image they portray through local activities, they are burdened with a broader image of what the police are like, shaped by national events and by the media. The flip side of this is a public that cannot be sure of what kind of police service they are likely to receive. Moreover, the public is torn between local and national messages about its own role in policing—hardly conducive to empowering citizens to assume their responsibilities without reliance on local leadership.

Developing a strategy with these realities demands sensitivity to the *micro* picture as well as to the *macro* gallery of pictures that shape people's views on what is happening, and what needs to happen. The locus of the micro picture must be local communities. The role, style, and overall purpose should be sufficiently generic, however, for relevancy across the board, to ensure police accountability for ethical, effective, and equitable standards, independent of the currents of local politics. The purpose of policing should be the same everywhere and adhere to standards that promote, not weaken, democracy—locally and nationally. Priorities may need to be locally determined, resource allocations driven by community consultation, and relationships shaped by interpersonal dialogue. Priorities, however, must be addressed within a broader context of what it means to *police*, based on values that support a clear distinction between *healthy* and *poor* policing in a democracy. The former has an eye on the future, as well as the here and now. The latter focuses only on what seems expedient at the time.

The theme here is that policing is more than what the professional police do or do not do. And policing is predominantly neither local nor national. Policing is aptly described as “an instrument of democracy itself, an instrument by and through which the pressing concerns of all can be heard, their safety guaranteed, their crises addressed, their conflicts interrupted and resolved.”<sup>17</sup> Democracy is confined neither



to local nor to national domains but demands pragmatic attention to the whole of society. Policing, in other words, is everybody's business and for everybody. While a professional police effort will always be a necessity, the professional police also have an obligation to advance the meaning of policing in a democracy.

*The main hypothesis underpinning this report, therefore, is that the police's job is not only about enforcement, but also about helping to create a safer self-policing society in the context of democracy. This means promoting a shared responsibility for controlling crime, fear, and disorder through arrangements that strengthen citizen engagement in policing.*

There have been significant changes, but coherent change is necessary. The recent declines in crime do not prove the existence of a clear strategy. The drop in crime is related to many factors, such as low unemployment, demographic changes, and community-based prevention programs—as well as smarter law enforcement and innovative programs. Indeed, the decline is hardly the result of inattention by professional authorities, who have increased arrests, prosecutions, the use of imprisonment, and the availability of treatment programs. How to sustain the current decline in crime remains contentious. While problem-solving methods, community strengthening, focused use of resources, and improved services are generally agreed to be desirable, no clarity exists on what works best. Developing a common understanding of what crime control measures—and ways of promoting social order—would support rather than weaken democracy should be the critical starting point.

Advocates of increased government intervention argue that the police themselves can reduce crime by focusing activities sharply on high-risk areas, times, and offenders. Reactive crime control by the justice system, by keeping in prison those offenders deemed at risk of committing further crime, is seen as necessary to protect the public. This general “crime fighting” and punitive thrust of crime control policy is widely accepted, albeit with resignation; even those who vociferously support incarceration do not argue that prisons are successful institutions for transforming offender behavior.

Others, who call for less government intervention, maintain that the police and the justice system can do little more than contain the problem in the face of the causes of crime: economic, social and family structures, mental illness, substance dependency, and exposure to violence.<sup>8</sup> Social regulation, treatment, prevention, community engagement, and problem-solving interventions are among their list of necessary responses to the predictable consequences of modern stresses. Those who call for less reliance on arrest and punishment, however, have yet to convince the public that alternative approaches to crime fighting will work to protect society and deliver public safety.

The public's resistance reflects the perceived importance of tough-on-crime measures as a sanctuary in the face of the acute consequences of crime. This type of crime fight-



ing is, for many people, a pragmatic response to the intractable and disturbing problem of crime. Few deny the links between criminal activity and the myriad of social issues that can contribute to dysfunctional and antisocial behavior. In principle, at least, people support the wisdom of extending policing beyond the activities of the professional police. Yet there is no such thing as a quick inoculation that corrects circumstances and activities that are criminogenic. Time is an enemy, too! The public has little patience waiting for alternatives to work.

The consequence of this stalemate is, arguably, why most crime problems remain intractable, because the popular view on crime control could be said to offer only temporary reprieve. The opportunities for learning different and viable cures are largely denied in the clamor for quick relief. The conundrum is compounded by the existence of a mainly passive public which—frustrated with the crime problem—asks for more of the same measures, and by professional service providers who are largely comfortable exercising their traditional roles. Aside from public opinion and practitioner reluctance to change, the stalemate between the two divides on crime control policy can be attributed to another factor—government reluctance to admit that the state cannot maintain law and order by itself: “The predicament for government today is that they see . . . the need to withdraw or at least qualify their claim to be the primary and effective provider of security and crime control, but they also see . . . that the political costs of such a move are likely to be disastrous.”<sup>9</sup>

The debate should be a familiar one. More than 30 years ago, a Presidential Commission on Law Enforcement and Administration of Justice delivered its report with a vision for an “effective, reliable, and decent” criminal justice system, combined with a commitment to social justice. The Commission understood that crime control could jeopardize individual freedom and promote the use of too much state authority unless tempered by the creation of social arrangements for preventing crime through strengthened families, better schools, proper housing, enlarged employment opportunities, and improved health services. The Commission rejected the notion that controlling crime is solely the task of the police, the courts, and correction agencies: “Individual citizens, civic and business organizations, religious institutions, and all levels of government must take responsibility . . . .”<sup>10</sup>

Irrespective of current differences in viewpoints about what makes for effective crime control, no one is likely to dissent seriously from the messages of the Commission back in 1967 by asserting that the police and the courts could eliminate crime by themselves. Still, there are obstacles to implementing long-recognized wisdom and to developing the groundwork necessary for social justice to become a reality. A commitment to social justice requires a powerful vehicle for shifting public dependence on the formal systems of crime control. The formal system, meanwhile, is under enormous pressure to demonstrate its own effectiveness, leaving little energy for developing something radically different from the traditional model of professional enforcement and controls.



All the while our society dances a schizophrenic dance between... the understandable fear that fuels the demand for more prisons and... a growing recognition that our criminal justice system is not working for us and will not be remedied by doing more of the same old things.<sup>11</sup>

The result has been a perpetual, unresolved debate about what works in controlling crime. While the police have undoubtedly made significant strides in working collaboratively with other agencies and with communities to deliver safer streets through more focused policing, and while exciting community-oriented justice innovations are beginning to emerge, questions and expectations about what else the system should, or could, be doing have continued to loom large. Though improvements in policing and criminal justice delivery are welcome developments, and there is scope for further innovation, one might ask the question: What will it take to break the existing impasse and bring about a focus on how building *informal* social controls could supplement those of the formal system?

As John McKnight writes, “Our problem is weak communities, made ever more impotent by our strong service systems... it is the ability of citizens to care that creates strong communities and able democracies.”<sup>12</sup>

Informal social controls are not widely acknowledged or much talked about, yet they have a critical contribution to make in promoting law-abiding behavior. They include social disapproval and interpersonal influence; a frown or words of encouragement from someone you care about; close ties within a family, at work, at school, and among friends; communities that share values about responsibility, respect, and care; parents who take time to teach or to play with their children; and volunteer mentors who assist those who are vulnerable in some way.

*Informal social controls are also a necessary precursor to the development of social justice: interpersonal contact can be a powerful tool for promoting the recognition of needs and for promoting well-being. These are the levers for changing the focus from reacting to symptoms to building a common stake in investing wisely for the future.*

Without such levers, public opinion about crime runs the risk of polarizing society, a problem that is avoidable if communities are encouraged to see for themselves how they can contribute to crime control. Why are the authorities not tapping more into these forces of social regulation?

There is good reason to be skeptical of the power and capacity of such regulatory arrangements. Not all communities or groups provide positive influences for their members. We can think of dysfunctional families, street gangs, crime syndicates, and neighborhoods where criminal activity is rife, if not encouraged. Civic engagement and volunteerism may not be enough to overcome other realities. Many communities do not possess the know-how for self-policing. Some forms of civic participation are driven more by fear than a wish to promote the common good; gated communities and private citizen patrols, for example, can hardly be said to advance cohesion in

society. When social activities are more about self-interest than about community life that supports communitarian goals, the health of democracy is distorted to serve only isolated interests, excluding the welfare of others.

It is important to seek human arrangements where there is emphasis on self-help, self-regulation, and cooperation in support of the public and common good. The authorities have a critical role to play in such efforts. Leadership is needed to nurture these possibilities and to create mechanisms for leveraging social capital to promote connectedness and caring—the essence of crime prevention and social justice. It is appropriate to support citizens taking responsibility for social control, but it is wrong to assume that all citizen groups can be self-governing. Cultivating responsibility requires the authorities to be sensitive to the capacity and motivation of different communities.

It is equally important for the government, the police, and the justice system to recognize that they do not have a monopoly on creating and maintaining security. A strong criminal justice system and a visible police presence are important in shaping social order, but they should not be depended upon exclusively. A free society can be threatened by an over-reliance on tough enforcement, punishment, and prison as the primary means for establishing order and safety. The key lies in balancing the formal system of control with informal means of regulation so there can be a coproduction of public safety. As Clifford Shearing has said:

The police do not own policing.<sup>13</sup>

Even where there is no skepticism about community involvement, and no desire to monopolize policing, the implementation of Goldstein’s sound theory for supporting a free society seems difficult to accomplish, bringing an additional obstacle. Notwithstanding an emphasis on partnerships, joint responsibility, and power and information sharing, the public largely remains a sleeping giant in relation to controlling crime. This passivity, arguably, is largely what drives the tough-on-crime policies and practices of the formal system, because lack of engagement promotes fear and diminishes understanding. This situation perpetuates both the illusion that the state, rather than civil society, is responsible for social order and the tug-of-war between formal and informal crime controls (see Figure 2).

Figure 2. Tug-of-War Between Crime Control Approaches

What Makes for Effective Crime Control?	
Professional Response Only	Citizen Participation
Dependence on Formal System	Shared Responsibility
Repressive Measures	Empowerment
Punishment	Problem Solving
Reactive	Forward-Looking
Rules/Legal Justice	People/Social Justice
Control	Consensus

← OR →

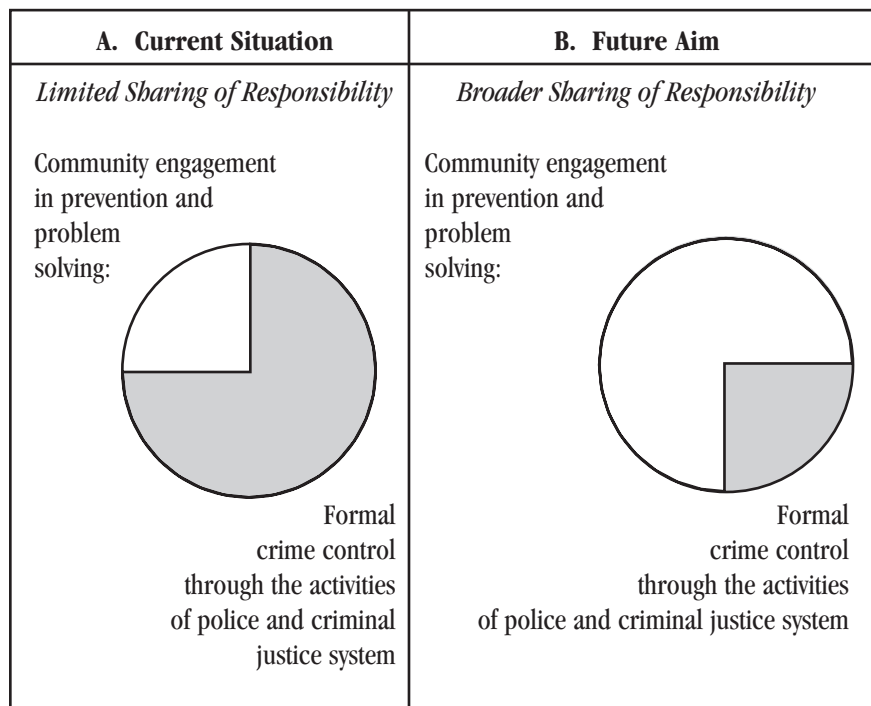




The current situation, therefore, is essentially one of relying on the professional system of policing and justice, despite the wise messages of the Presidential Commission in 1967. Concerns about crime and the fear of crime have been powerful forces working on Federal, state, and local government, provoking massive increases in expenditures over the past decade. Still, the achievement of public safety seems an overwhelming challenge confronting the United States as it approaches the third millennium A.D. Criminal justice professionals (including the police) and policymakers face a range of pressures wider and deeper than ever. They are coping with changes in the way the formal system of crime control operates as well as having to think about their responsibilities for promoting less formal controls as a necessary precursor to reducing crime.

Reforming the professional system of policing and justice without paying attention to the conundrum created by low public participation (demands for more police, more criminal justice, and more prisons without a commitment to social justice) is the consequence of limited vision. Public safety demands a coherent, strategic plan balancing punishment (a rational choice in response to public alarm) with informal controls, prevention, and problem solving. Figure 3 indicates the current situation and the goal regarding community involvement.

Figure 3. A Plan Is Needed To Get From A to B



Finessing a strategy is of pressing importance and should not be left until a time when public opinion might orchestrate itself to shift. The paradox is that the authorities will have to develop the strategy and promote the commitment to social justice while continuing to operate and to preserve much of the criminal justice system.

Planning for the future in law and order must rest on a strategy to mobilize communities toward understanding and tackling crime—to ensure a better balance between traditional enforcement and informal controls. Crime and public safety are not the sole preserve of government and of formal justice systems; they are everybody's business.

The main theme of this report, therefore, is that sustaining and advancing community policing will in large part depend upon achieving broad consensus on the fundamental importance of community engagement, not merely community-based professional policing and justice efforts. The exciting experiments going on now need to be placed on a solid footing to ensure that we build a strong framework for further innovation that supports the mission. Such a framework should define the scope of activities as well as the values on which activities shall be based. The framework should support and guide both local and national efforts and professional and lay citizen efforts toward a balanced approach to delivering public safety.

This report starts with an appraisal of current developments in community policing and community justice; and it proposes a number of key themes that are working in support of a strategy for a balanced approach appropriate to a democracy. Also examined are practices and factors that must be limited if reforms are to reach their full potential to contribute to the advancement of a safe democracy. In this category are the persistent over-reliance on the criminal justice system to address public safety and the influential dynamics of what can be best described as “the crime problem.”

The developments in restorative justice over recent years are providing insights and experience that should help to influence and change the interpretation of community policing and of community justice. Restorative justice offers a fundamental shift in thinking about the crime problem and about new values on which to build improvements in the future. In particular, the involvement of police in restorative justice should be seen as a natural progression from the current problem-solving partnerships built under the auspices of community policing. The hypothesis of this report will be tested by exploring new tools for the police to use in working collaboratively with the public to resolve and to prevent crime—through restorative justice.



# Part 1

Community Policing,

**COMMUNITY JUSTICE, AND RESTORATIVE JUSTICE**

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Part 1. Key Themes in Community Policing

## Part 1. Key Themes in Community Policing

The definition of community policing has had a long journey. Books, articles, videos, conferences, training programs, and mission statements have been dedicated to clarifying the meaning and implications of community policing for well over three decades. Most of these have been for consumption by police, justice professionals, scholars, and policymakers. The public, meanwhile, has had to rely largely on media commentary, the odd police flyer, and whatever direct (although often patchy) involvement they may have had in this evolution of policing. When asked about community policing, citizens often mention neighborhood watch and police patrols, suggesting that citizens do not appreciate fully the sweep of the community policing vision.

Among law enforcement professionals themselves, one obstacle to establishing a comprehensive understanding of community policing lies in the fact that policing is not a simple business with a neatly defined single goal. Policing is widely regarded as being about crime control (*enforcement*) as well as maintaining order (*peacekeeping*). The police are seen as accountable to individual citizens, to the law, and to the courts. They are also the most visible representative of authority and are a function of government. These goals and lines of accountability can directly conflict with one another. If law enforcement is used in ways that create public resentment, for example, the notion of *policing by consent* is jeopardized. Maintaining order can produce deep divides among the authorities—including the police—and whole sections of the public. With these potential clashes, the complexity of the business of policing can rigorously test any concept, and community policing is no exception.

Defining community policing is also problematic because policing is not only about the broad issues of law and order today. It entails thinking about the future, which requires constant appraisal of risks and opportunities. For this reason alone, the definition of community policing is dynamic, because policing throws up constant questions about its purpose and outcomes.

### The Tradition Model of Professional Policing

I am convinced that contemporary policing is more a product of what cop-pers want it to be, rather than what it is supposed to be.

—Chris Braiden, former Chief of Police in Edmonton, Canada

How community policing as a concept is challenging police agencies and citizens is difficult to assess without some understanding of the traditional model of professional policing that has dominated law and order since the 1930s. The police were characterized by an emphasis on political independence and distance from the community (thereby avoiding the risk of corruption), crime control (by making arrests under the criminal law), and maintaining order (through street patrols and rapid response to 911). Citizens, not yet accustomed to the idea that they formed discrete *communities*, were happy to call the police as individuals when they



wished to report a crime or seek services. Effective crime control was of paramount importance, primarily through the use of law enforcement, with a loose attention to fairness and to community support. The police existed to maintain law and order through a combination of semimilitarism and accountability to the justice system. Public support was generally taken for granted; this was the *thin blue line* carrying out its job in the face of competing demands, rising crime, and public dependence on the police.

This traditional model defined the functions and structure of police organizations, the selection and training of recruits, and the rewards system. Although the potential conflict between the goals of law enforcement and the maintenance of order might have been understood, there was ample crime to justify the popular belief that law enforcement against crime was the overriding *raison d'être* for policing. There was also an underlying convenience to the emphasis on enforcement. The public expected the police to effectively control crime, and the police had clear methods and systems for detecting and investigating reported criminal conduct.

This professional model also connected the police to the criminal justice system; the police depended on the system as the system depended on them. The criminal justice system was the focus of much police work through post facto criminal investigations and warrant execution. Crime prevention was seen as social engineering, beyond the scope of policing. Policing was largely seen as quite straightforward, notwithstanding the potential conflicts between its goals.

The reality, however, is that officers have always handled a broad range of problems other than crime and that they do much more than enforce the law. Although the capacity of the police in relation to crime has been seen as unlimited, there are tangible limits to what the police can do within the law, to their resources, and to levels of public support. Police depend upon the public to report crime or to produce witnesses. A significant amount of crime happens in homes and private places. Police cannot hope to be omnipresent, regardless of the greater visibility and capacity that extra policing provides. Also, for all kinds of reasons, relatively few cases reported to the police enter the criminal justice system. The prevention and control of crime are not the preserve of the professional police if so much crime happens outside their view, or never comes to their attention.

The traditional model of professional policing has nonetheless been an enduring paradigm. Many officers were able to see the shortcomings of traditional practices, not least because of the loss of public confidence and trust after those methods failed to reduce crime and fear. But others believed these problems came about because of shortages of resources available for crime fighting (or the constraints of other parts of the criminal justice system), not because of their relationship with what they perceived to be a fickle, and often irresponsible, public. The status of neighborhood cops, a new innovation to build bridges with a public tired of police insensitivity, took a long time to establish in police departments. With crime investigation, squad work, and rapid response auto patrols seen as necessary, community policing seemed, to some at least, superfluous and unaffordable.

## Diverse Interpretations of Collaboration

Against this backdrop, the nature of community policing could be said to be evolving from recognizing the limitations of traditional approaches to looking ahead to future requirements. In one survey of police chiefs, 42 percent said they were engaged in community policing, although the threshold for what they thought represented the new ethos was apparently quite low.<sup>14</sup> Some saw community policing as meaning little more than an acknowledgment that general *public support* for the police and their activities is desirable. Opening the police department to the public and the media or establishing civilian review boards are seen by some as critical contributions to breaking down distrust and misunderstanding.

Others have called for a stronger emphasis on *accountability to the community*; police are entrusted with important public resources, including the power to exercise authority and force. How these resources are applied should be influenced by community priorities as well as by standards of fairness, integrity, and adherence to values. Consultation meetings with the community and other agencies together with public feedback are, in many areas, shaping police strategy, style of delivery, and resource planning.

While to some community policing means *community liaison*, to others it means *organizational change* that promotes decentralization, flexible work patterns, and new alliances. Police departments have embarked on developing dedicated neighborhood patrols, devolving responsibility down the hierarchical chain. Geographic lines of accountability for delivering effective and responsive policing has prompted attention to local problems, which are identified through external collaboration and management information systems. Police officers are more likely to spend their time at community meetings, coaching young people, coordinating neighborhood or business watch groups, and in liaison with other agencies to identify crime and disorder problems, rather than relying on reported crime and calls for service to steer their work.

In more recent years, some police chiefs have worked hard toward *mobilizing citizens* to engage in police activities traditionally seen as the preserve of professionalism. Rejecting the idea that the police alone can respond to crime and disorder, theirs is a commitment to the concept of participatory democracy in which ordinary citizens are seen as capable of making a contribution. Enlisting community volunteers to work alongside police officers is no longer unusual, as in San Diego, where civilians are helping police conduct criminal observations. In active partnerships, police and community work together on issues of concern. The Chicago Alliance for Neighborhood Safety (CANS) project is the largest, but not the only, initiative to train the community in fulfilling its role in community policing.

If there is a common denominator in the definitions of community policing, it is the need for local sensitivity. But there is no agreement on what local collaboration should be aiming toward: stronger lines of accountability, joint liaison, citizen mobi-



lization, or self-policing by the community. In 1997, the Office of Community Oriented Policing Services, perhaps recognizing these unresolved tensions in the interpretation of community policing, issued guidance on the key elements that need to be considered by police departments wishing to embrace its ethos. Community policing was defined as “a policing philosophy designed to reduce crime and disorder in communities by fostering trust, respect, and collaboration between police officers and citizens.”<sup>15</sup> This definition was supported by a number of identifiable hallmarks aimed at securing a common understanding of the meaning of community policing. The hallmarks included the following:

- Partnership building (among the police, citizens, and other institutions)
- Problem-solving approaches to crime and disorder
- Emphasis on proactive crime control (including crime prevention)
- Developing police organizations responsive to community concerns
- Recognizing that public concerns other than crime may be important for promoting trust (such as public fear of crime and dealing with nuisances)

These hallmarks suggest that more than local sensitivity is required: active collaboration between the public and the police is also required to tackle crime and other community problems. Still, there remains a tension between those who see collaboration solely as a means to improve professional policing and those who see a different, broader requirement.

Some see a more active kind of collaboration as essential in an era when crime levels have largely destroyed the myth that the police should focus on crime and justice problems alone. These proponents of community policing have suggested that public trust requires more than effective crime control and the maintenance of order through traditional law-and-order policing. The police, with other public institutions, need to be attentive and responsive to ever-changing social conditions, the scale of societal anxiety about public safety, and the fear of lawlessness. Social conditions that cause anxiety include crime, disorder, and the fear of crime, but are not confined to these. They also touch upon the wider *community health* issues that are perceived to be relevant to the prevalence of crime and disorder, e.g., drug and alcohol dependency, school truancy, slum housing, abandoned spaces, mental illness, and child neglect. A different, more active kind of collaborative effort hinges on partnering with others from education, medicine, housing, business, the churches, and other areas to address ongoing threats to public well-being through long-term planning of public policy and expenditure. Table 1 indicates the changing interpretation of collaboration, from the traditional policing model to the community policing model.

Table 1. Changing Interpretation of Collaboration: Traditional Policing Model to Community Policing Model

<b>Policing Model/Activity (Continuum)</b>	<b>Characteristics (Progression From Traditional to Community Policing Model)</b>	<b>Collaboration (Evolution From Traditional to Community Policing Model)</b>
Traditional policing model	Crime control, 911, calls for service	“Them versus us”
Consultation on department activities	Through the media, civilian review	Public support encouraged
Organizational structuring toward local-based policing	Community engagement in problem identification	Information sharing
Partnership activity	Community participation in tackling crime and disorder problems	Volunteers, pooling resources, joint training
Long-term priorities identified	Shared participation in tackling broader “community health” issues	Interagency partnerships working for agreed outcomes
Community policing model	Understanding of contribution toward preventing/tackling crime, fear, and disorder	Community working with police support

From this newer perspective, law enforcement is seen as but one component of a necessarily broader crime prevention strategy in which order and public safety are achieved through informal social controls in the context of community. Where this view prevails, community policing has motivated police departments to become more approachable to the public through community outreach and engaging the public in activities traditionally seen as the preserve of professionals. For example, police officers are working with schools, youth services, and recreational clubs to provide educational support to young people vulnerable to exposure to drugs, bullying, alcohol, and gangs. In the community policing environment, police will tackle specific problems seen to threaten the economic health of an area. They will work closely with specific groups identified as especially vulnerable to problems, e.g., local businesses, victims’ groups, the elderly, shopkeepers, and road users. Police leaders are sitting with their counterparts in city hall, public agencies, and the corporate sector to work out ways of promoting vibrant, safer communities with a range of services and assets to support community building and citizen empowerment.



This concept of community policing encompasses more than promoting harmonious police-public relationships. It includes both a focus on controlling crime and maintaining order where local neighborhoods are being adversely affected—and flexibility about working on perceived longer term priorities that touch on the well-being of communities. The thrust of problem solving in this climate is a nonadversarial approach, working toward resolving conflict through a shared understanding of the problems. While the traditional goals of controlling crime and maintaining order might not have changed, the relationship of the police with the community has been given a new status. The police are still accountable to the law, to individuals, and to the courts. But they are also accountable to the community, and for how they promote and support mutual responsibility for achieving safe and healthy communities.

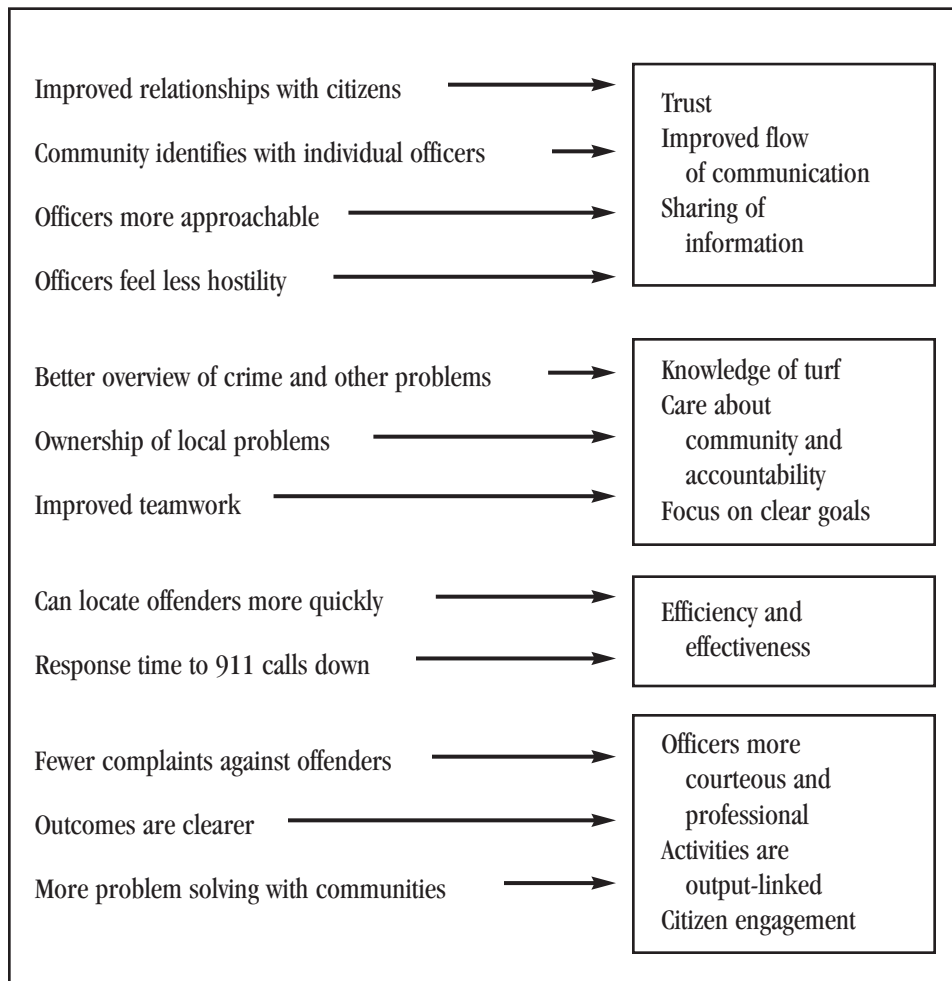
### Collaboration for Problem-Oriented Policing

The evolving interpretation of community policing has been helped greatly by experiments with problem-oriented policing (POP). Traditional policing, faced with rising crime and disorder, would tend to use more patrols, more squads, and more investigations to maintain the rule of law. Arrests and stop/searches would be increased, as would police overtime. This reactive strategy became known as *fire brigade policing* in some quarters, and by the 1970s police chiefs began realizing it would never be enough to meet the demand for safer streets. Traditional policing might be able to respond to crime faster and more systematically, but this effort was unsustainable in the face of resource constraints and the volume of the incidence of crime. A significant proportion of crime occurs out of public view; catching offenders in the act is more rare than one would hope; and victims and witnesses, by definition, report crime after the fact. Increasing the speed or resources with which police respond to incidents has only limited impact. Retrospective crime investigations solve relatively few crimes because they lack vital information or have insufficient evidence. They also fail to prevent crime and to address the myriad reasons why crime happens.

Traditionally, therefore, police departments were too frequently overwhelmed by rising demands and limited resource flexibility. The criminal justice system dealt with only a small proportion of the total number of crimes. The “revolving door” of offenders processed by the system was an intractable problem. This situation started to impact public confidence, and, arguably, the confidence of the police in themselves. The traditional model of professional policing came under increasing pressure and threat with the changing scope of crime and public alarm.

In 1979, Herman Goldstein published an article, “Improving Policing: A Problem-Oriented Approach,” in which he asserted that many seemingly separate incidents actually stemmed from common underlying conditions and were part of a broader pattern.<sup>16</sup> To deal more effectively (and efficiently) with the volume of incidents confronting the police, they would need to identify underlying factors and address these—and not necessarily by way of enforcement. Other tools were available. And with this provocative suggestion, a quiet revolution was born: policing became more reflective, more analytical, more about information gathering, and increasingly about problem solving. Figure 4 indicates benefits of community policing as perceived by police officers who had worked with the new model for a year.

Figure 4. Perceived Benefits From Community Policing



SOURCE: As identified by police officers who had worked with community policing for a year in Milton Keynes, United Kingdom. Personal communication.

Twenty years after Goldstein's article appeared, when law and order breaks down, the police increasingly are recognizing that they face two separate challenges: dealing with the immediate situation (called "stopping the bleeding") and working to establish long-term community safety. Law enforcement may be a necessary tool in the short term. Arrests may have to be made, and public order tactics might be needed to establish calm; but the police also need to reach out to the community and to other agencies to identify underlying problems. Law enforcement and high police visibility alone do not sustain calm. Reacting to an incident without attempting to discover the contributory problems is seen as putting out a fire without trying to learn how to prevent other fires. And working apart from those who might be able to identify the causes, or take preemptive steps in the future, only fuels public reliance on the police to put out the next fire.

## Promoting Crime Prevention Through Problem-Oriented Policing

Traditionally, focusing almost exclusively on incidents and crime events kept the objectives for police activity relatively clear. Analyzing them as part of a broader pattern involves a change of goals and a requirement to pool resources to achieve those goals. The theory behind problem-oriented policing opens up challenges for traditional methods of law enforcement and crime control. With problem-oriented policing, the focus shifts away from narrow measurements of crime statistics. While considerable efforts may be directed to pattern analysis, *hot spot* identification, and distinguishing between actual and reported levels of crime, attempts are also made to understand why crime is happening. Questions are raised about why the crime is occurring: Why in this location? Why this behavior? What impact is being made on people and the environment?

*With a problem-oriented approach, the focus expands from legal definitions of crime and disorder to include broader social and economic issues. The police no longer focus solely on the investigation of serious crime but must also take an active interest in issues identified by pattern analysis. This inevitably involves a radical departure from defining problems according to criminal laws.* A single robbery, for example, might justify police focusing on the detection and prosecution of the offender; but a series of robberies demands attention to community feelings, situational factors such as lighting or street layout, and economic impact. The overall mission stretches beyond reactive crime control to include fear reduction, crime prevention, community building, and developing resistance against threats to the health and well-being of the community.

The police-public relationship also changes. Problem-oriented policing gives community policing clearer meaning—as the rhetoric of collaboration is transformed into the practical necessity of involving the community and other organizations in the identification and resolution of problems that contribute to crime and disorder. *Problem-oriented policing not only emphasizes collaboration, but also challenges the assumption that any one person or agency knows what the problems are, understands their solution, and has the capacity to resolve them.* Problem-oriented policing challenges the traditional monopoly of professional policing, because appropriate decisionmaking cannot take place without securing the best information available from various nonpolice sources. The community is less likely to remain passive, and the police no longer occupy a hierarchical position. In effect, police and community become partners in efforts to tackle community priorities.

The framework for this collaborative dialogue should encourage cooperation, allow for learning, and be conducive to developing understanding about what crime means for communities. *Problem identification is not merely an outcome of collaboration; the process is critical to building a sense of joint responsibility and ownership between the police, the community, and other agencies.* The *thin blue line* is thereby thickened by a dynamic partnership between professionals and lay people,

with no one knowing where the energy will lead until priorities are agreed, resources earmarked, and outcomes determined. In this way, the police begin to relinquish their traditional monopolistic hold on crime control. Policing becomes, literally, everybody's business, with a mixture of formal and informal social controls used to tackle the full ramifications of threats to public health and safety.

The ethos of problem solving has affected many aspects of policing. Calls for service, capable of swamping the police and making them work entirely reactively, have been subjected to 311<sup>17</sup> and *graded response strategies*. Volumes of crime reports are handled by automatic field reporting systems and are applied to automapping systems. Having operated independently of the public to carry out law enforcement in the past, police now are constantly looking for ways of becoming more knowledgeable about their turf—beyond who is committing crime; and these efforts are leading to community engagement at many levels. The activities of policing have expanded to include holding public awareness campaigns, tackling repeat victimization, and targeting persistent offenders. The identification of youth and victim needs has led to a panoply of programs affording support to these communities. Gang violence prevention programs, weapon interdiction initiatives, and domestic violence strategies have shifted the focus from applying short-term responses to isolated events to thematic policy development with an eye on the future. Broadly speaking, problem-oriented policing is a dynamic force for changing police culture and practices and for involving citizens in an array of activities that emphasize reducing harm and building community safety.

Problem-oriented policing has also promoted a willingness by the police to experiment with new strategies for working in areas not normally associated with policing. For example, in one city plagued by street order problems associated with casual laborers waiting to find work, the police facilitated the job hiring of immigrants and refugees and eliminated the problem by securing a meeting place where solicitations for work could be made. This effort involved negotiations with community activists, business leaders, city officials, and social services. The city is now free of laborers congregating in different parts of the city for the first time in 25 years, and the result is a win-win situation for everyone: laborers are getting hired more readily, street disorder and crime problems have diminished, and the community environment has changed dramatically.

*Problem-oriented policing changes the passive role of community and other agencies in the control of crime and reduces this disproportionate dependence on the police.* Problem-oriented policing promotes participation, a recognition of the interdependency of community members and organizations, and the importance of social engagement. Competing interests among different stakeholders—and opportunities for conflict prevention—can also begin to emerge. Any future crisis is seen not just as a police problem, but as a problem for everybody, promoting further active engagement.



The ethos of problem-oriented policing is also being applied by non-police agencies; in New Orleans, for example, Tulane University and the housing authority have worked with communities to revivify drug-infested housing projects. Through information sharing they developed a consensus about existing problems in those areas that needed attention by the authorities and the support of local residents unwilling to tolerate illegal drug activity. As one local resident commented, “They did not come into a community that didn’t have any assets. They came into a community that needed their technical assistance, and we’re just as much an asset to them as they are to us.”<sup>18</sup>

As problem-oriented policing increasingly involves community members in policing, two reforms are emerging. *First, police accountability is shifting from assessments about rapid response rates and crime clear-ups only, to include an appraisal of police attitudes toward, and competence in, partnership activities.* Police use of force in the community, police visibility and accessibility, police sensitivity to local issues, their contribution to the resolution of local problems and tensions, and their perceived effectiveness in taking community concerns seriously have become new measures of success. Police performance is subject to more scrutiny than before both quantitatively (whether perceived problems have been resolved or crime reduced) and qualitatively (how the police conducted themselves in their collaborations with the community). See “Results of Problem-Oriented Policing” (in box) for a list of positive results by which police will increasingly be measured.

### Results of Problem-Oriented Policing

- More informal but purposeful contact between the police and the community
- Greater police sensitivity toward the community
- Changing attitudes toward the police
- Breaking down distrust, building mutual respect
- Information sharing that promotes a shared commitment to agreed outcomes
- Promoting a spirit of cooperation between police, other agencies, and local communities
- Complexity of policing more widely understood
- Re-orientation of policing toward a focus on community well-being
- Planning before action and emphasis on prevention
- Improved resource management by the police and other public agencies
- Community learning about itself
- Broader thinking encouraged
- Long-term planning encouraged
- Accountability measures become more qualitative rather than fixed on crime statistics

*The second reform is the joint participation of police and community in identifying problems and coming up with solutions, which can be an educational process for all concerned and a force for change.* Assumptions about the capacity and willingness to work on public safety issues can be challenged. The community

learns the strengths and weaknesses of the police—and vice versa. With the focus on those issues that threaten community safety, and on opportunities that could bolster community well-being and harmony, all parties learn more about who can do what and who does what. They also learn more about how this knowledge can be used to produce desired outcomes. Breaking down tasks and activities and assigning them where it makes sense can alter assumptions about the appropriateness of the traditional dependence of the community on the police and can change the police view of the community. A natural spin-off is often a sense of goodwill and mutual respect among participants, in whom joint care and responsibility leads to a growth in confidence to tackle other problems.

*The result can be the development of functional communities in which community members reinforce common values, apply their own social capital to engender law-abiding behavior, and resolve conflict through their own problem-solving efforts.* Problem-oriented policing provides a vehicle for community development and self regulation. The police may even be able to withdraw and focus attention on less able communities. In time, the public and the police develop a new understanding of how each can contribute to preventing, resolving, and reducing crime. The doors start to open for negotiation and for the transformation of the status quo in which crises occur. This kind of energy creates the platform for community-oriented governance as well as a highly participatory citizenship. Problem-oriented policing is shaping policing. It potentially can shape local government, impact relationships throughout entire communities, and change traditional ways of working.

## Unresolved Tensions Between the Traditional Model of Professional Policing and Community Policing

Collaboration with communities and other agencies is beginning to have a significant effect on the activities of the police. What is still uncertain, however—despite the theory of community policing and problem solving—is whether current changes are mainly strengthening the professional police's hand to maintain law and order or whether the changes are also building *self policing* among communities (i.e., shifting toward social crime prevention and informal conflict resolution). Where is the evidence that community policing and problem-oriented policing are facilitating a transition from police owning policing to police sharing the responsibility for crime control? How forward-looking is community policing and to what extent is it merely reacting to history? Is community policing more about a style of working by the professional police (to address past tensions in their relations with the public) or is it transforming the meaning of policing?

It is apparent that there still is no agreement as to how critical community self-regulation is for the future. Notwithstanding a number of coherent *definitions* of community policing—pivoting on the notion of the police and the community working in collaboration—there is no commonality of purpose, hence diverse *interpretations* prevail. As Bailey has commented, what people are doing “is so diverse that it is hard to describe.”<sup>19</sup> What the police are doing may defy description because the police themselves do not always have a clear view of the context in which changes are hap-



pening. Missing is a defined central mission, without which many officers do not know how to describe their activities. Day-to-day contact with communities does not always result in a definable outcome, unless there are clear benchmarks. Such benchmarks should not be defined by local standards alone without reference to broader goals and standards for policing recognized by professionals and citizens alike. Without a coherent national strategy, there are problems as well as paradoxes. What exactly is going on as policing is changing can be amorphous, obscure, even contradictory. Arguably, this is exacerbated by the lack of a defined future-oriented mission for advancing community policing, with clear measures of accountability.

Community policing has undoubtedly brought attention to organizational development, decentralization, promoting public dialogue, fostering officer discretion, and broadening activities to support the clamor for safer communities. Citizens have responded by attending meetings, joining working groups, and supporting joint programs to deal with ongoing problems that beset their neighborhood.

Some police departments, however, are focusing primarily on improving their own capacity for policing, with community organizing largely left to voluntary groups with specific interests. For these departments, community policing is not about community mobilization. While community policing is moving substantially away from being interpreted merely as good public relations, in these departments it is having to muscle itself in with the traditional professional policing model (in which crime control is seen primarily as the preserve of law enforcement agencies, and communities retain a passive role).

Another example of an imbalance in the police mission is the dedication of police resources to the widespread application of *zero tolerance* tactics, preventing their use to develop community partnerships or interagency cooperation to tackle causes of crime and offending behavior. Reducing crime and providing public reassurance through visible and focused patrols is not a bad strategy unless unrealistic expectations are raised that these efforts can be sustained and are themselves sufficient to control crime. Zero tolerance precludes attention to fundamental problems in the social conditions that are breeding further crime for the future. As long as the police (and the public) see professional policing as the primary response to crime and disorder, the police are under pressure to perform the critical role and to accept ultimate responsibility for public safety, regardless of the relationship enjoyed with the public. Within this framework, while the community may be better informed about crime and police activity, or have more influence on the police, too little is done to encourage active community participation in controlling crime and maintaining order. Thus, the community role is blurred and left to chance.

Although developing amicable relationships with communities is widely accepted as appropriate in these days of decentralization and local accountability, this activity addresses problems of the past more than the challenges of the future. The traditional policing model continues to be pervasive despite its recognized shortcomings. Community beat officers may be commonplace among law enforcement agencies, but mobile response patrols, large criminal investigation departments, and traffic regula-

tion officers still form the bulk of much of modern operational policing, as they did before community policing became the new orthodoxy. As a result, community policing is squeezed in at the margins, if not absorbed by the traditional means of doing business. Even moneys earned for community policing have been used for covert police surveillance, reinforcing the professional role—hardly conducive to the proactive engagement of communities. Should Federal moneys dry up, what would be the first to go?

A strong case can be made that the traditional concept of police crime fighting (i.e., by professional police only) retains an enduring popularity, producing demands for new technology, including computerized 911 systems, crime mapping, self-defense and assault weaponry, videotaping, and communications equipment. Some commentators would go as far as to say, “The police have not shown any signs of abating the paramilitaristic tendencies of old.”<sup>20</sup> In cultural terms at least, policing arguably may not have shifted from a warfare mindset in which the police see themselves as the buffer between an apathetic public and law-and-order breakdown.<sup>19</sup>

Improved police effectiveness and use of technology are a part of but not the whole solution to problems pertaining to crime and fear. Even when this is recognized, the practices evoke the image of an omniscient force rather than spell out the need for active community participation in light of existing or anticipated problems. One might argue that recent, significant investments in these areas are the consequence of a failed strategy (or, more accurately, the absence of a strategy) to achieve co-policing. The failure can be attributed to a confusion of goals and varying interpretations of the ethos of community policing.

Accountability, with this constant and very real tension between goals, is problematic. Should the overriding issue be the extent to which the police are effectively working with the community to encourage the coproduction of public safety? Or, should professional police performance against crime and disorder be paramount? And if it is both, how can these be integrated? The coexistence of community-oriented policing (striving to reduce the social distance between the police and the public) and zero-tolerance policies (which can quickly manifest themselves in deep divisions between the police and the public) is a stark reminder of the confusion.

Exacerbating tensions between the traditional policing model and the community-policing goal of citizen mobilization are unresolved internal issues. How is a police department to operate when it is required to fulfill traditional (and often dangerous) crime-fighting tasks as well as promote a shift toward more citizen participation in policing? Semimilitaristic and hierarchical structures, codes of discipline, directive communication methods, and rigid lines of accountability can have a powerful impact on internal staff attitudes and relations, destroying initiatives toward power sharing, joint problem solving, and mutual responsibility. How internal grievances are dealt with can be adversarial (often as between management and less senior staff) rather than about problem solving. Who is listened to may determine how problems are identified and resolved. This kind of work environment can be the antithesis of the





open dialogue and relationships that are needed with external communities. What works in favor of community policing—information sharing, building trust and support, developing agreed plans, working together, and sharing responsibilities—is undermined by the traditional internal culture; and this more rigid, hierarchical, and closed culture thrives in the absence of a full commitment to a future-oriented mission that aims to strengthen participatory democracy.

Again, the lack of national benchmarks can stifle changes that are occurring in many places. Without shared agreement about the characteristics required of leadership and modern management, community policing is susceptible to the influence of individual personalities. Such agreement is needed to establish the basic foundations for developing the appropriate operating environment and organizational climate for community policing: selection, training, and development of recruits and managers in accordance with the changing philosophy.

### Conclusion to Part 1: Key Themes in Community Policing

Community policing has engendered mutual learning and understanding: the police are learning about the community, and vice versa. Police-public partnerships have been instrumental in bridging the gap between lay and professional, service-provider and customer. This is welcome after years of controversy about police-public relationships. But real citizen involvement in planning, designing, *and implementing* strategies for crime control and reduction is still too rare. The irony of recent efforts by police departments with community policing and problem-oriented policing is that they might actually have added to the public's perception that the police can achieve safer communities by themselves, if only given community support. Could things be done differently?

Sustaining the feel-good image of improved relations and lower crime requires deliberate attention to ironing out the uneven implementation and interpretation of community policing. Community policing may have brought about distinct shifts in practice and attitude, but the police culture and the organization of police resources would be largely recognizable to anyone who served in law enforcement 30 years ago. The culture is changing, but not enough to diminish the threat that the traditional policing model may dominate the control of crime and disorder. Police departments may be introducing preventive patrols (to promote a sense of safety), opening dialogue with other agencies (to foster trust and partnering), and conducting crime pattern analysis to reduce crime. But time and expenditures applied to police capacity building compete with community building, thus diluting the potential for more fundamental change.

Community policing should be gathering conventional wisdom on how its ethos should and can be translated into a clear, future-oriented, overall goal; and that goal should promote the notion that policing is more than what the professional police do. Such wisdom should be advanced in ways that secure national agreement about what kind of policing is healthy—and about what detracts from the central mission to overcome boundaries, jurisdictions, personalities, and politics. By now there should be no doubt that the purpose of policing goes beyond what the police themselves do in

relation to crime. Policing is confronted with crime and requires law enforcement efforts, but the larger goal is police-citizen problem solving that supports peacekeeping.

Of course, the implementation of community policing must, by its very nature, be defined locally and depends greatly upon available leadership and managerial skills, particularly in power sharing and in participatory decisionmaking. Some communities are more predisposed than others to working with police. The attitude and support of local government and local businesses can also have a major influence, as can the attitude of police officers. “We’re too busy putting out the fires,” “what have potholes got to do with policing?,” and “the community is apathetic” are common laments among officers challenged by the requirements of community policing.

Local capacity issues, however, would undoubtedly benefit from a national consensus on what community policing should be aiming for. Policing generally is still defined in terms of what the professional police can or should do. This “colonization of policing”<sup>21</sup> means that instead of being viewed as something accomplished by the community, policing is seen as the preserve of “law enforcement” (as if this is all they do!) agencies. Communities often are seen as merely a resource to help the police do policing in their own way; and community policing is seen simply as an agenda for police reform. The dominant role of the police is thereby retained. *Yet community policing ought to be “de-centering the police as the institutional ‘owner’ of policing.”<sup>21</sup> Policing, in other words, needs to be more forward-looking.*

The legacy of the past is still dictating much of the way community policing is being interpreted in some areas. Street patrols, added technology to improve police capacity for being responsive, accessible, and visible, and local-based neighborhood stations may be important steps toward fostering relationships between the police and the community; but the goals of this effort need to be future-oriented, looking toward a new relationship. It is not enough to overcome the decline in public trust and confidence. Police need to shift gears and promote community engagement and participation in law and order problems. If it is accepted that crime, fear, and disorder cannot be contained by police efforts alone, then community policing *must* be about partnerships with the community and *must* be about developing community capacity for self-policing.

This is not suggesting a revolution. The professional police must have the capacity to respond immediately to a crisis, and law enforcement will always play a key role in containing crime. But contemporary policing requires a different emphasis. As Bonnie Bucqueroux writes, “The medical model offers a parallel to law enforcement. In medicine, we have moved from an era in which we expected the experts to save us to one in which we recognize the role that patients must play in their own well-being.”<sup>22</sup>

Perhaps it is not surprising that the public in general and many communities have largely retained the perception that dealing with crime, disorder, and fear are responsibilities primarily for the police. The need and the real potential for collaborative effort between the police and community have not been clearly communicated, nor has the potential for community self-regulation. In this context, public dependence on



the professional police is not surprising. A narrow focus on crime remains the pervasive tide, which is why law enforcement retains primacy over prevention—and the traditional policing model, characterized by command and control and the use of technology, remains strong. Community policing is a powerful vehicle for changing both police and public perceptions; but the engine requires all the cylinders firing toward a clear destination.



# Part **2**

Community Policing,

**COMMUNITY JUSTICE, AND RESTORATIVE JUSTICE**

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**Part 2. The Crime Problem and the Criminal  
Justice System**

## Part 2. The Crime Problem and the Criminal Justice System

Even though support for community policing is becoming more widespread and its meaning is being expanded, there are perceived and real constraints—in addition to the lack of an agreed mission—to transforming the police operation to accommodate the community policing philosophy. Community policing and problem-oriented policing provide neither a quick fix nor a panacea; they cannot be simply introduced and swept through an entire organization or community. Public consultation and partnership building are time-consuming and fraught with complex dynamics, especially with communities or groups that need encouragement to participate in taking joint responsibility. Skill is required of professional police to avoid activities that promote further public dependency. Reorganizing a police department to accommodate community policing can take years to manifest a cost benefit in terms of resource management or reduced threats to public safety. Professional policing faces a tremendous challenge to keep abreast of current demands stemming from calls for service and reported crime, let alone to undertake organizational and attitudinal changes of the magnitude inherent in the community policing and problem-oriented policing ethos.

For some police there are additional barriers—policing can be dangerous, unpredictable, or can demand streetwise tactics that create distance from ordinary citizens. For others the police task ahead seems hard enough in the face of acute social conditions, demographic changes, and the changing nature of crime and disorder—without adding developmental work that brings its own burdens. A reaction among some officers is that, as desirable as community policing is, it is impractical or there is insufficient time for partnership building and problem solving. Even attempts to bring about changes in management practices and organizational structure have not overcome this widespread perception.

Conflict resolution skills, courtesy and diversity training, and alternative approaches to law enforcement have brought new tools and a different sensitivity to professional policing that bode well for the future. Few police officers, however, are unaffected by the sheer intensity of their work, which brings them face-to-face with chaos, depravity, fear, and a depressing repetition of human suffering and injustice.

The result is an understandable, if problematic, tension between willingness to take community policing further and actual delivery, which must overcome deep-seated skepticism about what is realistic.

The ethos of community policing is not questioned so much as its practical implementation; there is significant resistance to oversimplifying the challenges and complexity of policing. While the unhelpful dichotomy between the need for *hard*, no-nonsense policing and pigeon-holing community policing as *soft* policing may be fading,



community policing does not thrive without the constant props of effective leadership, technical assistance, and funding “carrots,” which respond to the calls for more, not fewer, police. Community policing does not progress automatically; it requires driving, commitment, perseverance, and shedding light on a vision.

Without a clear mission for community policing, too much can go awry. Resistance, time and resource constraints, or skill shortages are not the only obstacles. Flexible attitudes, innovation, and diversification of activities can also seem an impossible order when mixed with other realities: the crime problem and the workings of the criminal justice system.

### Consensus on Crime Fighting

The calls for developing community policing and problem-oriented policing have not come out of thin air. The efforts to support these movements have been, and remain, substantial, implying that there are powerful forces underscoring the idea that *law and order* activities and *community* should be inextricably tied. It is easy to be overwhelmed by the complicated mosaic of changes that are happening in policing. Increasing public confidence, decentralizing, improving the efficiency and effectiveness of resource utilization, promoting partnerships and problem solving, and the clamor for accountable public services are regularly cited benefits of reform. But one particular phenomenon remains a constant thread and demands acknowledgment as the pivotal reason behind much of the change. Crime, which conjures up a psychological baggage all its own, has come to represent an ongoing challenge and a perceived threat to social cohesion. It is difficult to conceive how changes in policing can be discussed without some recognition that crime represents a critical barometer by which new ideas and initiatives come to be measured.

Arguments about crime have raged regarding the effectiveness of the police and the justice system, the decline in moral and social values, economic polarization, rapid changes in urbanization, the lack of parenting skills, the media influence, and the lack of individual responsibility. In a recent *Washington Post* article, no fewer than 20 variables were cited as contributing to a rise or fall in crime, including racial segregation, population turnover, home ownership, street design, shortage in after-school activities, the size of the population in the 16–24 year age bracket, and unemployment rates.

A prevalent view—perhaps the result of the complexities of environmental, social, economic, and political mores—is that crime is an unacceptable, but possibly inevitable, fact of life. The nation’s crime-solving thrust has become a determined effort toward a business-like approach to fighting crime—focusing resources where



an impression can be made on the crime rate. This approach is not that dissimilar to scanning the marketplace for profit opportunities. District attorneys survive or fall on the basis of their track record in securing successful convictions; judges on their sentencing record. Police chiefs, sheriffs, mayors, and city managers all are vulnerable to allegations of being ineffective in the campaign against crime. Lobbyists and the media apply their own distinct influences to boost or to thwart support for policies and practices.

Undoubtedly, the *politics of crime* are driving much of what is happening. Politics are notorious for a short-term focus and for demanding immediate successes, leaving little room for planning long-term strategies. Zero tolerance tactics are appealing for their promise of quick impact on a problem that is susceptible to definition by statistics, such as arrest conviction numbers. The rapid spread of *compstat* meetings initiated by the New York Police Department indicates how compelling this interpretation of accountability is; they provide an efficient mechanism for assessing the hard line taken by the authorities.

The focus on crime rates is no accident. Crime rates are quantifiable, making it conveniently simple to assess the merits or weakness of certain crime control tactics in a world that readily absorbs the power of the soundbite. Introducing measures to assess fairness, effectiveness, sustainability, and public trust would make matters too complicated to be marketed in a few catchphrases. Promoting ideas that detract from an apparently straightforward mission of reducing the crime rate brings instant criticism of sounding soft on offenders, or out of touch with public sentiment.

It is in this environment that community policing is being explored. Such attitudes are perhaps understandable in light of public concerns about crime. People prefer to remain with their traditional notion of “bad” individuals being the cause of problems; thus they miss the broader understanding of crime that root-causes arguments provide. From this perspective, crime fighting is not so much about fighting crime as fighting those who commit crime. The pressure to perform in this area has led police departments to retain much of the traditional model of professional policing: random and targeted patrols, swat teams, investigative units, and improved technology. Even those departments that have committed themselves to community policing and problem-oriented policing have not significantly changed these stalwarts of policing. Indeed, most departments fence-in or secure such activities and resource expenditure before they work on developing community policing, suggesting that community policing activities are dependent upon *extra* funding, while the old activities remain intact—and often strengthened. In some cases, funding for community policing has been used simply to bolster traditional methods of law enforcement, without any community element involved at all.



The full complexities of crime and crime control in this climate are neither transparent nor popular as concepts to be faced. As with our understanding of the human body, despite the sense that we could be doing things differently to become healthier, we nonetheless choose what appears to be the quickest and least inconvenient path, avoiding self-education and ameliorative action. Addressing fully the problem of crime brings its own acknowledgment that much needs to be done at many levels—far beyond existing spheres of political or professional influence.

There are many, of course, who would argue that the new businesslike approach of the professional police is making a difference. Crime in the United States has, after all, gone down, indicating that the war strategy is working. But we do not know whether changes in policing or building prisons (as part of the war on drugs, for example), combined or separately, have done the trick; or whether there are more powerful forces at play, such as demographics, economics, and environmental factors. Weed and Seed programs, antiviolenence campaigns, and community development initiatives have surely also played a part. No one can be sure, however, of the extent to which community-based innovations contributed, or whether the downturn is sustainable.

### Case Study:

#### Tension Between Today's Reality and Tomorrow's World Is Not Confined to Policing

An acupuncturist in Washington, D.C., working with local hospitals says he is seeing more children and adolescents with attention deficit disorders (ADD) that often lead to substance abuse. The solution lies in supporting early childhood development, yet funding remains scarce. This contrasts with the moneys expended on giving these children the quickest fix, such as Ritalin and other drugs that the pharmaceutical companies have no problem marketing through health management organizations. The administration of these drugs is likely to perpetuate the problem and to create new kinds of behavioral or mental problems. And so the vicious circle leads to a worsening, not an improvement, of the overall problem. We fail to learn what is causing ADD and how it can be prevented. In policing too the solutions often lie elsewhere, rather than in simple enforcement, but enforcement is a seductive strategy for tackling all problems.

Attention is focused mainly on crime rates, despite the fact that crime figures hide the nature of the problem (and despite the fact that official figures reflect only about 37 percent of the actual incidences of crime<sup>23</sup>). Crime figures are the easiest barometer to read in a field fraught with unresolved challenges.

The enthusiasm for winning the so-called war on crime, promoted by media pundits and politicians, is undoubtedly a reaction to crime's changing character, which has raised alarm about substance abuse, school violence, drive-by shootings, gang warfare, child neglect, and domestic violence. The barometers for these phenomena of contemporary society are not only obscure, but have been blurred under the umbrella of social threats. Although support for community policing and for enhancing infor-





mal controls to produce public safety may be rife in local neighborhoods, on the national stage *crime fighting*—reducing crime by catching more criminals and by punishing them more severely—has come into vogue. While community policing and problem-oriented policing are supported vociferously, so too are mandatory sentences, parole abolition, trying youth offenders as adults, and bolstering other get-tough-on-crime measures.

Meanwhile, the impact of this support for crime fighting on the culture of the police cannot be ignored, for this culture has traditionally been comfortable with its law enforcement role. It would also be foolish not to acknowledge that this image sits comfortably with a large part of the public, notwithstanding the known folly of the police alone determining priorities and responses in relation to crime. The arrest and punishment of offenders is appealing to anyone apprehensive or angered about crime. Punishment is widely perceived as making the offender pay for his past actions and as having a preventive element. “So long as an offender is incarcerated, he cannot commit further crime” is the theory. The key questions, however, are these: “How effective and sustainable is the crime-fighting approach?” and “Can a focus on crime figures or numbers make for public safety?”

### Crime Rates Versus the Harms of Crime

It is ironic that the public’s fear and anxiety about crime have focused so much attention on crime rates, as distinct from the *harms* attributable, directly and indirectly, to the incidence of crime. Some of these harms are frequently documented: the emotional and physical scars following violence, the long-term psychological damage to children who suffer abuse, the loss of security felt by victims (as well as their friends and families), and the fear of using the streets or going to certain areas. Schools, hospitals, and recreation places are no longer immune from the ravages of crime. Economic development and investment opportunities are distorted by the incidence and impact of crime. Crime has come to be regarded as a kind of virus, altering the equilibrium in the security and safety of individuals and in the structure of whole communities.

There are other harms that are less talked about but, nonetheless, indicate a society besieged by crime: the fast growth of gated communities, private security patrols, metal detectors, personal arming with guns, mace and pepper sprays, and surveillance cameras, as well as the abandonment of crime-ridden areas in the formation of *doughnut cities*. The fabric of society has been altered substantially by the unresolved fear and conflict that the aftermath of crime so often brings. Crime rates may have fallen, but the long-term characteristics of crime victimization remain off the radar screen in discussions about the success of the war on crime. Community members may say, “Crime is down but we’re locking our doors anyway.”

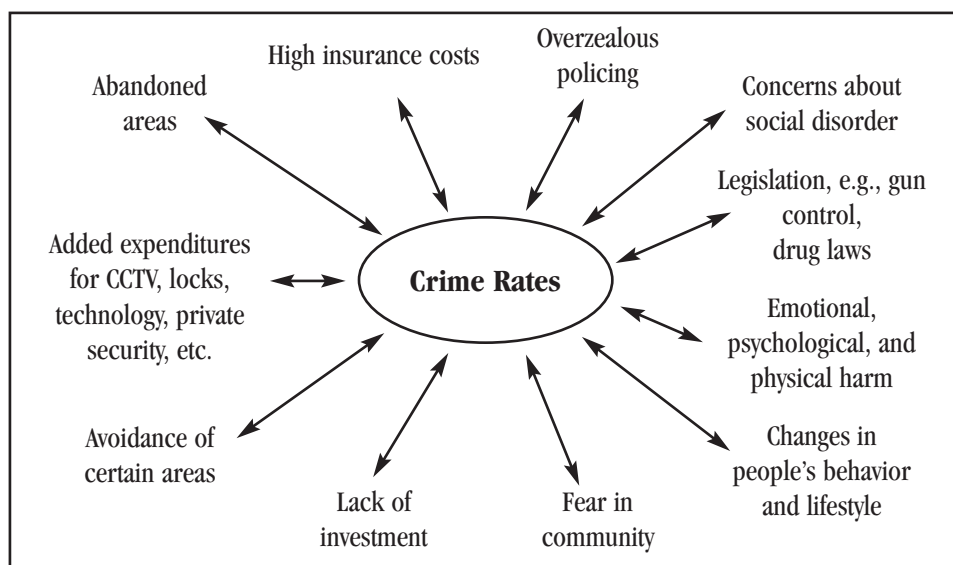
### The Harms of Crime: Crime Is More than Numbers

Crime *statistics* hide many of the real consequences of crime, which in many cases do not manifest themselves immediately (e.g., change in behavior, slowed investment,



changes in legislation). Yet these consequences are often a time bomb for more crime. Statistics cannot reflect this reciprocal phenomenon in ways that show cause and effect. Accountability is therefore blurred, making the crime rates a dubious platform on which to assess what works. For example, if crime deters investment, only certain people and activities will be present in an area, which can in turn become prey to street crime. Overzealous policing can create resentment and alter people's perceptions about a place—thereby creating *space* for illegal activity that simple becomes less overt. Fear can stop people from coming to places, leaving opportunists to commit crime without the normal self-regulation that more crowded places often have. These consequences call for much more attention to the short- and long-term impact of crime, as well as to the effectiveness of particular responses. Figure 5 provides an overview of the serious but often hidden consequences of crime.

Figure 5. Hidden Consequences of Crime



One distinction between numbers of crimes and harm is that in some cases crime causes little actual harm to communities; yet focusing on figures distorts this reality. Neighborhoods have always tolerated a certain amount of noisemaking and loitering, a limited amount of begging and of public drunkenness. These quality-of-life crimes can be problematic in excess, of course, but the police do not necessarily know when they become excessive without community involvement in the decisionmaking process. In some communities, police interventions for inconsequential violations of the criminal code lead to a different kind of stress and social harm. Excessive enforcement can destroy relationships and create tensions disproportionate to the impact of minor infringements.

The problem of crime is complex, and crime fighting targeted against offenders is only partially effective in reducing the level of crime and the harmful consequences of crime. For example, deterrence—a critical element in crime-fighting approaches—requires potential offenders to think about the consequences of their actions, and



many fail to do so. The offenders' risk of being caught and punished must be seen as outweighing the benefits expected from committing crime. Since crime reporting and clearance rates are significantly lower than the actual incidence of crime, and conviction rates are lower still, it seems that deterrence is a dubious strategy. Even if offenders are imprisoned, recidivism for offenders released from prison is high (over 60 percent of prisoners are arrested within 3 years of release).<sup>24</sup>

Many police officers know all of this all too well but feel that the situation is outside their control. Resources allow for only so much detection and investigation. The conduct of the courts and sentencing patterns are beyond their influence. Reducing offending behavior relies on other social policies, unconnected with professional policing. The result is that the police do as much as they feel they can do, knowing it can never be enough. The old mentality of the thin blue line is seldom far removed. But the traditional model of professional policing has another ally: the criminal justice system.

### **Policing and the Criminal Justice System**

Community policing and problem-oriented policing are having a significant impact on contemporary policing, but there are obstacles to a radical transformation of police departments. The crime problem is not the only obstacle. While collaboration, information sharing, and partnering have improved problem *diagnosis* beyond what traditional policing offered, the *solutions* remain tilted in favor of law enforcement and use of the justice process. This not only limits the involvement of the community, but it also precludes opportunities for crime prevention through alternative problem-solving measures.

To identify what is hindering a shift toward a better balance between enforcement and preventive problem solving, it is important to understand the relationship between the police and the rest of the criminal justice system. While the police are learning what can be achieved by way of problem solving in partnership with communities and other agencies, they are also expected to act as the primary gatekeepers to the justice system. This, in effect, is pulling the police in two different directions. The first direction calls for developing awareness and understanding of the needs of individual communities and tailoring responses accordingly. The second calls for applying law enforcement impartially according to the rules and processes of the justice system. (See the case studies entitled “Criminal Justice Can Foster Single-Mindedness Among Professionals, Devaluing Problem Solving” and “Use of Criminal Justice Often Precludes Citizen Engagement.”)

The case study “Use of Criminal Justice Often Precludes Citizen Engagement” may appear less contradictory after an examination of the justice system reveals what information it uses to proceed, and what it focuses on.



**Case Study:**  
**Criminal Justice Can Foster Single-Mindedness Among Professionals, Devaluing Problem Solving**

With a focus on criminal justice, law enforcement sometimes collaborates only with other parts of the justice system. In one example, the use of enforcement as an outcome of collaborative problem solving involved a partnership between several small police departments and other local criminal justice agencies to tackle a gang problem. Patrol officers worked alongside probation officers and prosecutors, sharing information and pooling resources. The information sharing was confined to the exchange of intelligence and evidence gathering among officials. The professionals thereby defined the nature of the problem, a continuing criminal enterprise of prostitution and drug marketeering, without any input from the lay community. For the police the goal in this one case seemed clear: “Our only concern is the bad guys—putting them away in jail as long as we can,” said the local chief. “There are no turf wars here,” he added. “We didn’t worry about bureaucrats or bureaucracy, nor about politics or politicians.”

**Case Study:**  
**Use of Criminal Justice Often Precludes Citizen Engagement**

A campaign was launched to mobilize community support for tougher enforcement and new laws against street cruisers who were disrupting a city center. Warnings were given to the cruisers about the new laws. Citations were given or arrests made only when these warnings were ignored. Traffic points and traffic enforcement by the police were helped by the erection of new signs depicting regulations specifically introduced to tackle the problem. Arrest teams were posted to checkpoints and enforcement teams were encouraged to carry out stop/searches. Two years later, the cruisers were no longer a problem. This example shows that identifying and resolving problems are made possible when the police work in tandem with other agencies, residents, and business people. However, reliance on law enforcement by the professional police—even when there is community support—does not necessarily promote self-regulation by the community. In this case, the community was active in helping to *identify* the problem but community members’ involvement in its resolution was limited.

## **Role of the Criminal Justice System**

The criminal justice system with its courts, judges, attorneys, and corrections personnel has remained remarkably stable, notwithstanding growing public frustrations about the way it works. The perception is widely held that the system should deliver public safety, and that perception supports the clamor for more criminal justice. The reality is that the system affords a mix of upholding the standards of society, as defined by criminal laws, and providing justice to individuals brought into the system following arrest. The central mission is establishing the guilt or innocence of suspected offenders according to law and due process. The process is an adversarial one; it

requires the prosecutor to prove his case according to rules of evidence and the high standard of proof.

This brief description masks the complexity of how the system operates; but it suffices to highlight the paradoxes between community policing and problem-oriented policing on the one hand, and the heavy use of enforcement as a solution to identify the problems. First, the justice system generally deals with individual crimes, case by case, without attention to a broader pattern of the harms and incidence of crime. This differs greatly from the approach many police departments are adopting with crime pattern analysis and targeting hot spots. Pattern analysis is helpful to reveal the true incidence of crime and to detect offenders. It also is a crucial component of problem diagnosis.

An isolated burglary is a very different community issue than a neighborhood having several burglaries each day or night. A single burglary may induce community fear but is unlikely to change people's behavior or have an impact on community activities. A series of burglaries over a period of time, however, will significantly impact a community on a number of levels, raising fear and discouraging people from coming to live in the area. The police will draw a distinction between an isolated incident and a pattern of crime. They may also recognize the harmful consequences over the long term that need to be addressed. The justice system will make no such distinction, however, and its decisions will be largely uninfluenced by the scale of the impact.

A second difference between the two approaches (problem-oriented policing and a focus on enforcement) is that the justice system uses criminal law alone to define the nature of the case. This contrasts with the idea of sharing information from different sources to help diagnose and identify the full nature of the problem. The system focuses on the defendant. Witnesses, victims, the community, and other agencies in the community have no role unless they have specific evidence to offer relevant to an element of the offense. Such evidence is merely used as an instrument for the prosecutor or defense to pursue their respective adversarial functions. The evidence is not used as part of a problem-solving effort. This closely circumscribed, adversarial process is at odds with a problem-solving approach, which calls for including people in discussions about the nature of problems and how they can be resolved.

The rules of evidence themselves restrict the nature of the information admissible in the process—arguably eroding the power of the open-ended brainstorming so frequently used in problem-solving forums. This restriction encourages the police to collaborate only within the justice system itself and on a narrowly defined part of the whole problem. Police know that a focus on the broader impact of crime will be largely ignored by the justice system, contrary to the ethos of problem-oriented policing.

A third contrast between the two approaches is that the justice system's presumption of innocence and the concept of a fair trial are ideals that have come to preoccupy thinking about procedure and due process without concern for the outcome.



**Case Study:  
Diagnosis by the System by Itself Tackles Only One Aspect of  
a Wider Problem**

Police should be moving away from assuming that they can diagnose the problems in a community without the involvement of the community itself. The gang problem often involves criminal conduct, including serious violence and substance abuse, but there are other ways of defining the problem too. Boston's "Operation Nitelite," in which the agencies across the justice system have worked effectively together to reduce gun violence through joint activities, information sharing, attending community and gang member meetings, and home visits, has contributed to a dramatic drop in homicides and gun-related crime. But gang membership persists and aiming with weapons is commonplace among teenagers who report their fear of the streets and the schools. As Roger Graef reported in the 1998 PBS film documentary "In Search of Law and Order," "They [the gang members] are absorbed with day to day survival and don't look ahead to the future." The police focus was on reducing guns on the street and violence. In the short term, at least, law enforcement methods may be the only appropriate recourse. However, crime reduction needs to be seen in a wider context (including crime prevention at an early stage of gang development). When the recipients of the enforcement see no alternative way of life, there must be a better balance between applying time and money to law enforcement—and addressing the basic needs of housing, education, skills training, and drug treatment.

**Case Study:  
Criminal Justice Defines Problems According to Law, Not How  
They Are Experienced by People**

A man was arrested after firing a gun in the middle of a baseball field that was being used by two school teams. He was charged with two offenses: unlawful possession of a firearm and discharging a firearm in a public place. The jury foreman who sat in at the trial said, "At the end of the case, although we found him guilty, we felt we were no nearer understanding why the man had done what he did. He might have been mentally deranged, a drug dealer, an upset father, or high on drugs. We will never know because the case gave us probably less than 10% of the information that we needed to have to make a sensible judgment."

Justice is measured by how far due process has been followed, which is at odds with problem-solving approaches that focus on desired goals. The adage that justice is served even if the guilty go free, or if a plea has been taken on a lesser charge, suggests that a game is being played out according to rules—without heed to broader issues. This paradox is compounded by the offender being entitled to put the prosecution to the test to see whether the standard of proof can be met, even if the offender has admitted to committing the offense. The obligations under problem-solving processes are more akin to those finding acceptance among lawyers in civil cases, which are to provide mechanisms to produce an *acceptable result* that resolves conflict while minimizing expense and stress on participants.

The presumption of innocence is an important ideal—as is the right to silence—for those offenders who deny guilt. But these aspects of the justice system afford other people opportunities for avoiding responsibility, which creates a barrier to problem solving.

A fourth contrast is that, in the justice system, *justice is defined as giving the defendant due process and applying appropriate sanctions*. The justice system's focus on the defendant often precludes appropriate attention to the interests of the public and of the victims of crime. Victim and witness services, court visits, compensation and restitution orders, and victim/community impact statements are relatively recent innovations, but they may not address the full consequences of crime if the justice system retains a narrow understanding of what justice means. A narrow definition is counter to problem solving, which encourages solutions that try to take into account everyone's needs and interests.

### Case Study: Formal Procedures Take Justice Out of the System

A man rapes a woman. He does not deny it to the police nor does he admit it. He simply keeps silent. He is charged with rape. In court he is never asked whether he admits the charge, and so he pleads Not Guilty in order to put the prosecution to the proof, in the hope that they will fail to prove the case. The defense lawyer alleges that the woman had dressed “provocatively,” that she encouraged his client's advances and consented to the indecencies inflicted upon her. When she denies this he puts it to her that she is lying. The woman breaks down and cries. The jury has a reasonable doubt and therefore must find the man Not Guilty. Even though the man may later admit his guilt, he cannot be tried again for that rape. As he has not given evidence, he has not committed perjury. He is free forever. Does he think that justice has been done? The woman knows that he raped her and feels that she has been branded by the verdict as a slut and a liar. Does she think that justice has been done? The officer in charge of the case felt that his witness had been telling the truth. Does he think that justice has been done? The woman tells her friends and others in the community of her experience of the law. Will they think that justice has been done? The problem is that he was never asked whether he admitted the charge.

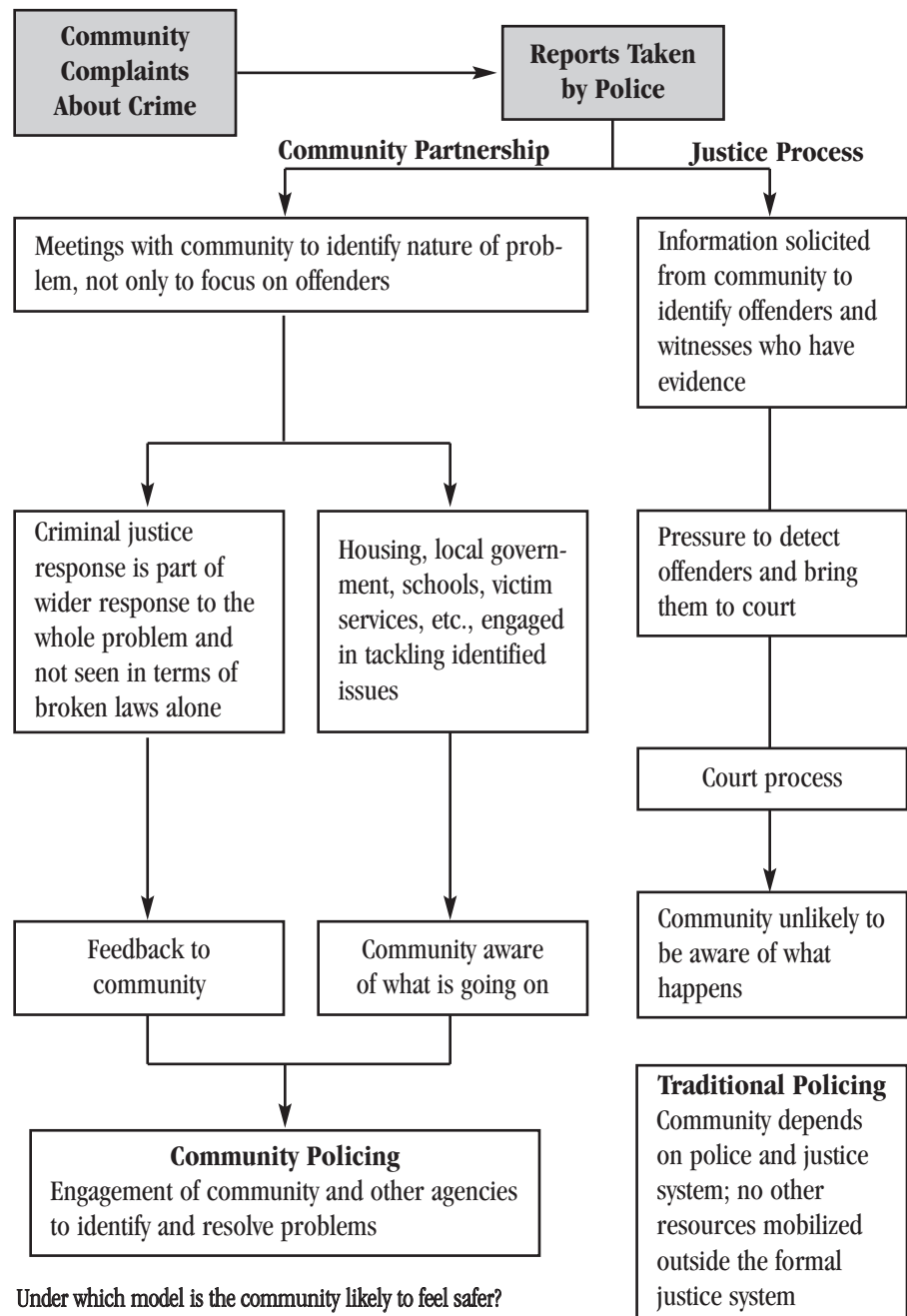
SOURCE: Adapted from McElrea, F.W.M., “Accountability in the Community: Taking Responsibility for Offending,” Legal Research Foundation, 1995.

Finally, the criminal justice system is a professionalized system in which the actors are trained, the language is legalistic, and the decisionmaking is standardized by process and sentencing guidelines that are incomprehensible to most lay people. With community policing and problem-oriented policing, no one has expert status since everyone's contribution is seen as a necessity. The discourse is in ordinary language, and the decisionmaking is flexible and is tailored to local need. Figure 6 contrasts the two processes. As David Lehman, Assistant District Attorney of Milwaukee County, Wisconsin, has said:

Rules of evidence are not the only means of resolving conflict.



Figure 6. Partnership for Crime Clearance Only or for Problem Solving?



The present justice system is also underpinned by a retributive (or punitive) philosophy. The focus is on punishment rather than addressing the collective harm identifiable through collaboration and consultation. The *just desserts* theory claims justice is delivered when offenders receive a sanction appropriate to the crime. Heavy sanctions are seen as satisfying the needs of victims and communities (who otherwise





often get nothing from the system). Yet, responding to those *responsible* for crime is not the same thing as responding to the *problem* of crime. With community policing and problem-oriented policing, the focus is on identifying problems collaboratively and finding out how, and by whom, the problems can be resolved.

### **Case Study: Legal Definitions Obscure Real Harm**

A young boy was kidnapped by a teenage gang and blindfolded, tied up with rope, and left hanging over a canal bridge. The police located the offenders and charged them with assault. The district attorney's office wanted to reduce the charges from a felony assault to a misdemeanor because this was the first time that the offenders had come to notice. The views of the victim's family and the local community were ignored despite their claims that the victim had been bullied for months and was severely traumatized. This situation was having an impact also on other young school children. They were afraid to walk to and from the school because the victim had told them about the threats he had been receiving. Fear in the community was high because one of the gang members had suggested that things were going to get worse.

### **Case Study: "Relevance" Defined by Court Is Often Different From Relevance for Community**

A cricket match between two Bangladeshi teams broke out into fighting, resulting in five players hospitalized with cricket bat injuries. At least two of the players were in a critical condition with head wounds. The police arrested and prosecuted the assailants. They also ran a community meeting to find out the real source of the tension. At first, no one would talk. Then a young man pointed his finger to the elders sitting at the front of the meeting place and said, "This is all because of their inability to resolve their differences about how to run the temple." The elders, who had been quiet up to that moment and who had not been at the cricket match, started to speak about the difficulties that existed between factions involved in running the day-to-day activities of the temple. Most people agreed with the temple leader when he said, "The problems in our community would never have been understood by the courts—not even recognized as being relevant."

Examining the criminal justice system in this way reveals the tunnel vision of the present approach when compared with the problem-solving approach.



## Comparing the Criminal Justice System with Community Policing

Table 2 contrasts the characteristics of the criminal justice system with those of community policing.

Table 2. Comparison of Characteristics

Criminal Justice System	Community Policing/ Problem-Oriented Policing
Adversarial process	Dynamic, educative process
Individual cases	Pattern analysis
Problem defined according to law	Problem defined after broad consultation
Public participation limited to providing solicited evidence for use solely by lawyers	Public participation is a vital function of gaining shared ownership
Excludes people, information, and feelings	Encourages involvement, information sharing, and open discussion
Focuses generally only on offenders	Focus is more holistic as regards the impact and consequences for everyone
Outcome focused on fairness to the defendant	Outcome is evaluated on desired goals agreed by the problem-solving partnership
Cases are dealt with by trained professionals through a system that the public finds hard to understand	Encourages lay participation and open dialogue, which promotes broad understanding

Tensions exist between the rationale for community policing and problem-oriented policing, which promote the *coproduction* of public safety by the police and the community, and the expert definition and resolution of crime that characterize the criminal justice system. The police are confronted with these tensions as progressive attempts to explore collaborative problem-solving are often followed by working with an adversarial and punitive justice system. *The fact that enforcement is seen all too readily as the only viable route to safer communities—by the police and the public—seriously erodes the recognition that society requires additional social controls.*



## Police in Their Comfort Zone

Collaborative efforts by the police with other agencies and the community too often retreat to the use of criminal prosecution and recourse to the criminal justice system. As long as few law enforcement agencies are challenging traditional justice processes, problem resolution—which provides evidence with which traditional assumptions can be challenged—is marginalized. The dominance of the criminal justice system in police responses to crime and calls for service remains a striking feature of even the most progressive police departments.

There are good reasons for this state of affairs. The police gain much of their power and authority from their position as gatekeeper to the justice system. The police have the power to arrest and to gather information. They have developed expertise in crime recording, investigation, and evidence gathering. They accrue resources to ensure that these activities can be sustained. Technological needs to support these activities become all too apparent based on the high volume of crime being handled in this way. The traditional professionalization of activities is reinforced by the systems that are required to prop them up. Police officers are more likely to be gaining training in computer skills and form filling than in victim trauma or in repeat victimization. Since the system itself can be all-absorbing, challenging the efficacy of the system necessitates a whole new mindset. Internal accountability for paying heed to the system can outstrip the importance of accountability looking outward, beyond the number of arrests and clearances attained. Crime fighting is essentially focused on prosecuting offenders (in lieu of other crime reduction strategies). According to one commentator, the punitive approach is “by now a deep-rooted aspect of our culture, embedded in the common sense of the public, the police and the judiciary.”<sup>25</sup>

How the police approach problem-solving forums in the community also can be influenced by their own preoccupation with maintaining law enforcement systems that support the justice system. Police officers may be unaware of the power and influence they bring to meetings with lay community groups that are calling for responsible leadership. If the police construct problems in terms that fit with the requirements of the justice system, rather than looking at more social reasons for crime and disorder problems, this can quickly set the framework for discussions with the public. This influence is heightened by the fact that the lay public is conversant neither with the law nor with alternative methods of resolving conflict.

While problem diagnosis (or problem identification) encourages information sharing across a broad spectrum of concerns, hopes, fears, and feelings among community members, a comprehensive definition of a problem may be usurped by the ready definition of crime by the criminal law. The police can quickly identify the powers that they can use to tackle problems affecting the community (stop/searches, road checks, arrest, constraint orders, etc.), but they are still learning new methods of problem-solving. In addition, the police are greatly influenced by the criminal justice requirements for rules of evidence and due process.



Officers attending the scene of a burglary, for example, can simply focus on examining the points of entry, looking for forensic evidence to help detect and convict the offender(s), and gauging the reliability of the victim to make a credible witness statement for inclusion in the case papers for court. These would be the key considerations if the sole aim was to catch the burglar and to pursue a prosecution. But the detection of offenders to prosecute before the court should not constitute the totality of problem-solving efforts. Arresting offenders can be a vital part of any community policing effort, but the criminal justice process is not the *raison d'être* for community policing.

If the officer is alert to a spate of burglaries in the area that have provoked community fear, it is hoped that his actions would be influenced by other needs. He may think about alerting neighbors, to encourage a neighborhood watch to minimize the chances of another attack. Vigilant on identifying crime prevention opportunities, he might analyze how the location and time of the incident compare with those of similar incidents. He might think about the need for victim reassurance and victim services.

Pursuing these lines of inquiry and service ought to shift the focus beyond criminal justice to gaining the participation of lay people in the community and of other public agencies and voluntary groups. The incidence of burglary becomes a problem that requires the attention of many others besides the police, including local government, architects, and neighborhood watch groups. Broader participation is critical to social control, for without this the burglary problem is perceived to be one for the police alone to handle. Back to the traditional model of policing!

The systems for promoting broader participation are often absent, however, because the police see their relationship with the justice system as overriding. If, instead, the impact of police actions on victim satisfaction was seen as the critical issue, for example, then police departments would be working more closely with victim services. Information flow between the police and victims would be seen as a priority, repeat victimization policies to protect victims from the likelihood of future burglaries would be in place, and more work would be done to collaborate with building designers. The recovery of stolen property would be streamlined, and compensation orders would be a matter of course.

This example of how a burglary problem could be seen differently by the police and could necessitate the engagement of other agencies and community members is not intended to suggest that the police relinquish their pursuit of offenders; rather, the example is used to demonstrate the preeminence of the *legal* control of crime over the *social* control of crime. Yet a burglary does not involve only legal issues requiring that an offender be caught and prosecuted. Such a crime also raises issues related to the vulnerability of victims, the loss of property, and the protection of the neighborhood and of crime prevention opportunities. Many police departments are building an infrastructure for dealing with these issues, but they are still in the minority.

As long as problems are defined primarily by the criminal law and by the rules of evidence, problem-oriented policing is in danger of being applied only reactively, to violations of the law, instead of encouraging a dialogue with communities as to how violations can be deterred or prevented altogether. Defining the problem of crime in narrow terms is creating a huge barrier to establishing the extent to which policing is still about law enforcement—and, more importantly, the extent to which it should be about building community capacity to promote informed social controls.

Goldstein hinted at this uncertainty in a period of change in his prophetic 1993 piece “The New Policing: Confronting Complexity.” He suggested that, as advanced forms of community policing unfolded, the characteristics stemming from the traditional emphasis on law enforcement would begin to be rejected. For Goldstein, the police relationship with, and dependence on, the criminal justice system needed to be explored. There are pragmatic reasons, he noted, for searching intensively for alternatives to the criminal justice system as the way to get the police job done.<sup>26</sup>

Those pragmatic reasons stem from the consequences of mixing problem-solving approaches with adversarial law enforcement that resolves neither crime nor its consequences. This may not be an entirely self-induced situation, for the police are not the only ones operating in a comfort zone.

### The Public in Its Comfort Zone

Members of the public are not normally involved in formal crime control activities. Their participation may be confined to a meeting with the police (or other criminal justice agency), soliciting their views on local problems or providing evidence for a prosecution, or lending support to the case of the defense.

The community, often unaware of its own power and capacity for problem solving, may too quickly rely on the police to deal with their problems through enforcement. This reliance is not usually challenged by the police, who are comfortable proceeding in this manner, particularly with the added benefit of community support. The reliance is convenient for the public, whose members often see themselves as too busy, too ill-equipped, or rightfully expecting the police to do what they are paid to do.

This is problematic for several reasons. First, the public relinquishes its responsibility for participating in the *resolution* of problems, thus defeating a principal purpose of collaboration. If the outcome of problem identification is the pursuit of offenders, for example, the involvement of the community is generally over. The community may have contributed to a better appreciation of the problem and helped to identify suspects, but it has no mandate to precipitate a criminal prosecution. Community members rely on the police, who are essentially left to conduct the investigation and to prepare the case for a prosecution. As long as collaboration between the public and the police leads to constant use of the justice system, social controls that could be applied to tackle or prevent crime and disorder remain a tool with great, but unused, potential.



Second, over-reliance on the police places unrealistic expectations on formal controls to deliver public safety. *The public is generally not well acquainted with the justice system and its tunnel vision. The public assumes that the criminal justice system delivers public safety.* Yet this is not what the system is designed to do. “Even if the system was somehow made to work better,” one observer said, “it would not produce public safety. For public safety requires restoring desired norms at times and in places where the rules of civil human interaction have broken down where there are believed to be no consequences for choosing what it is forbidden to do.”<sup>27</sup> The clamor for tougher punishment is a by-product of unfulfilled expectations. Yet tougher sentences are unlikely to produce public safety; only a small proportion of crime cases end up in the justice system, prisons have long been known as “universities of crime,” and a 70 percent recidivism rate among ex-inmates illustrates the short-term effect of incarceration.

As Geoff Mulgan puts it, “Even a community police officer is not a parent. A precinct house is not a good spot to learn the rules, a courtroom not the place to begin a moral education. A cellblock is not a neighborhood. And prison is no place to learn how to live, work, and succeed in a community of free men and women.”<sup>28</sup> In other words, public safety requires socialization and community engagement. The criminal justice system cannot be a substitute for the social controls found in communities.

Taxpayers seem willing to pay even more than the current \$120 billion estimated<sup>29</sup> for criminal justice alone, an indication that dependence on the formal system is acute. They do not seem confident, yet, of the power of citizen participation in local problem solving. The combination of the limited involvement of the community in the resolution of problems and the continued expectation that the police and justice system should tackle crime and disorder, has other consequences as well. Social cohesion is undermined by formal crime control measures that fail to educate citizens about the importance of their participation in informal social regulation. If the community is denied the opportunity to learn what it can do to contribute to safety, the inclination is to shrug off responsibility for working out solutions to problems. Figure 7 indicates some of the consequences of total public dependence on the criminal justice system.

For the formal crime control system, this situation is especially counter-effective; a public highly concerned for its own well-being and safety will place huge demands on the authorities to afford it protection and to respond to reported problems. Unless the authorities show a willingness to share responsibility by working closely with communities, the traditional model of professional policing re-emerges: an overwhelmed police department without resources for anything other than reactive, fire-brigade maintenance of order and crime control through enforcement.

When communities are left unaware of their own capacity for controlling and reducing crime, that ignorance is part of a vicious circle that perpetuates the weakness of community and the power of public institutions (see Figure 8). The antidote to weak communities (which provide fertile ground for crime and disorder) is participation. John Stuart Mill wrote, “Let a person have nothing to do for his country, and he will not care for it.”<sup>30</sup> Similarly, community participation is essential if communities are to care for themselves.

Figure 7. Consequences of Over-Dependence on the Criminal Justice System

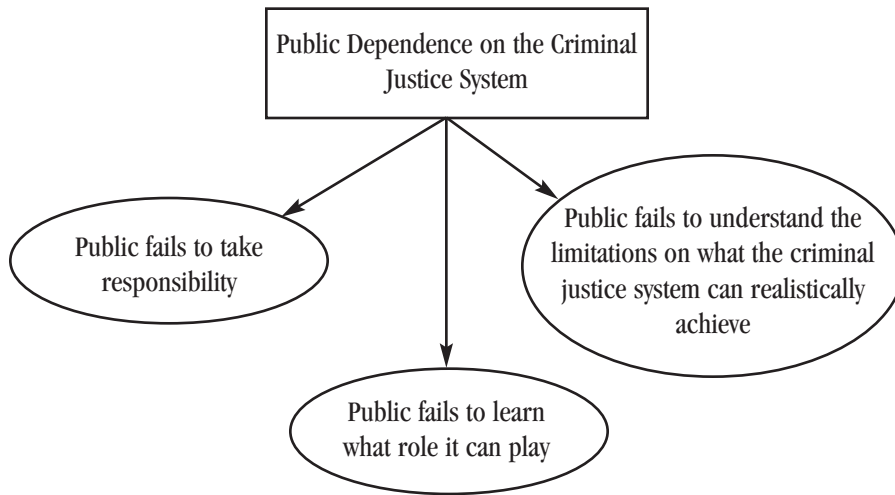
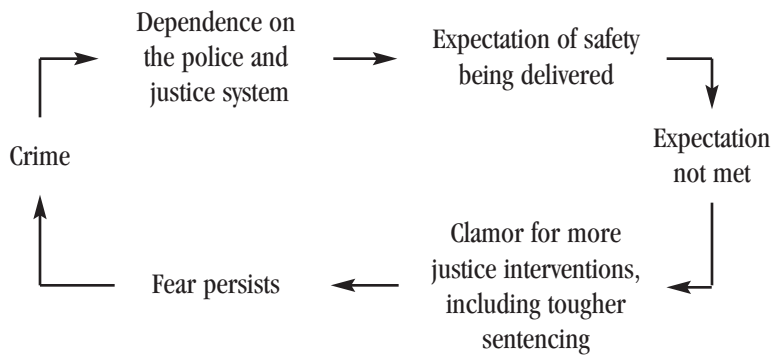


Figure 8. Unintended Consequences of the “Comfort Zones”



The irony is that the community members in all likelihood care very much about what goes on in their area as it relates to both their own safety and that of others in the community. What is often missing is the vehicle for participatory decisionmaking in which problems can be discussed and resolved, with or without the help of professional agencies such as the police.

A new commitment to enhancing the power of local communities (including churches, schools, local associations, and business groups) is essential to tap into community care and to mobilize citizens who have grown skeptical of their own capacity for controlling crime. McKnight asks the question, “Why are we putting so much resource into the criminal justice system and society seems less just and less secure?”<sup>12, p.41</sup>

The hidden message in the vicious circle shown in Figure 8 is that paid professionals are seen as the care providers and problem solvers, inferring that community groups



do not need to bother. The professionals compound this sense by operating on assumptions about their own capacity for defining the problems and coming up with remedies, rejecting citizens as problem definers and solvers. In short, professionals (inadvertently perhaps) support the lack of citizen engagement by maintaining that they are the solution to the problems that *they* see besetting the community. It is this thread that needs reweaving to reorient professional service providers to help develop, not dictate the limits of, citizen capacity.

### **Unintended Consequences of Applying Enforcement and Formal Control Measures**

While everyone remains in their comfort zone, the consequences also remain unchanged. The traditional response to crime has been a major contributing factor to public passivity. Police have been responsive to reported crime through arrests and through prosecution in the criminal justice system. The system defines crime according to the law and reacts to offenders essentially by punishing them. The public is not generally involved, other than by reporting crime and serving as jurors. This traditional process thwarts opportunities for gaining insights about the meaning of crime and how it might best be prevented or dealt with. The public does not understand the justice system, and there are few opportunities for the public to influence its operation. The failure of crime control, which becomes apparent when problems persist, is experienced as a failure by the police, the courts, and the corrections system.

The result is that effective crime control is equated, still, with being tough on offenders, while the conditions in which crime happens (or is created) are left unattended. The vicious circle is perpetuated by comfort zones that have other blind spots.

In the 1996 edition of *Crime Control and Industry*,<sup>31</sup> Nils Christie tells a story about how people have become accustomed to this vicious circle of dependency. Christie examined the advertisements in the official publication of the American Correctional Association, *Corrections Today*, noting that 111 pertained to prison building and prison security in 1991. By the time his book went to print 3 years later, that figure had increased by 256. The advertisements featured security bonds and leather restraints for inmates, the profits to be gained from investing in prison growth, x-ray screening, and equipment to keep prisons free from crime. An examination of the magazine in 1998 shows similar advertisements, with an overwhelming sense of a fast growing industry that has crept up quietly but nonetheless is firmly rooted in current crime control. As Christie commented in 1996 after he re-read the journals, “Now the ads no longer had quite the same punch... I had grown accustomed to it.”

At face value, this has little to do with policing—the police are not responsible for sentencing practices that result in rapid increases in the incarceration rate. However, while incarceration may remove from sight those people who commit crime, the causes and the impact of criminal behavior remain unaddressed. This a problem for the police and the public and adds to the vicious circle.



On top of this, it is probably fair to say not only that people have grown accustomed to the level of incarceration, but that there are now other powerful forces stemming from public dependency. The quantity of private money involved in prison building is such that flyers for Wall Street conferences read, “You, too, can profit from crime,” and “Job opportunities in the corrections industry abound.” Penal policy may be about crime control, but it is also a *commodity* that is politically marketable—and disturbing because of the intersection of power and individual liberty. Other interests are also at play.

The Campaign for an Effective Crime Policy collects news articles about economic interests and prison expansion that tell us how far-reaching the unintended consequences of crime fighting have become. In Frackville, Pennsylvania, the unemployment problem (following the closure of coal mines) vanished after prisons became the fastest growing industry in the state. The resulting 1,500 jobs and a payroll of \$50 million since 1993 have rejuvenated the town, at least in economic terms. State Senator Picola comments, “There is little pressure to put fewer people behind bars. The public views prison spending as it did defense spending during the Cold War. In both cases the public feels the expenditures are necessary for the sake of their safety.”<sup>32</sup> Other states are finding the same solution to economic rejuvenation. Since the private prison market is funded entirely by government, firms need to ally themselves with politicians to sustain the growth. The politicians are often all too willing to cooperate with public pressures about crime and unemployment. In fiscal year 1995, state and Federal governments planned to spend \$5.1 billion in new prison construction, at an average cost of \$58,000 for a medium security cell.

This level of expenditure makes sense, perhaps, in light of public anxiety about crime, until it is recognized that these expenditures are competing with expenditures on crime prevention, treatment, education, rehabilitation of offenders, and developing community capacity for informal crime control. Unfortunately, these links seldom are clearly shown. A telling message is the recent establishment of the Open Society Institute by the philanthropist George Soros, who cites the current response to crime as a major threat to a free democracy in America.

### Who Is in Our Prisons?

Despite a public perception that our prisons are filled with depraved murderers, many people in custody in America’s prisons and jails have committed nonviolent crimes. Many of the crimes are related to substance addiction or mental health problems. The vast majority of the prisoners are poor or illiterate, and too many are minorities. Removing these people from communities does not strengthen those communities nor, in many cases, does it conform with the communities’ wishes. Although dangerous people need to be isolated from civil society, communities need to find their own ways to cope with low levels of deviance. The intervention of the criminal justice system can interfere with communities’ efforts to maintain their own order. The prison *industry* continues to expand with limited public knowledge about its ramifications.



Several facts need to be noted:

- 36 percent of jail inmates in 1991 were *unemployed* prior to entering jail.<sup>33</sup>
- 65 percent of state prison inmates in 1991 had *not completed high school*.
- Nearly 39 percent of all jail inmates, as children, lived in families that *received welfare or public housing assistance*.<sup>33</sup> At the time of their arrest, 20 percent were receiving governmental assistance, including welfare, Social Security, and workers compensation.
- 57 percent of jail inmates in 1989 reported they were *under the influence of alcohol or drugs* at the time they committed their offense.<sup>34</sup>
- The risk of the *mentally ill* being jailed is also high. More than a quarter of all inmates report having been treated for a mental or emotional problem. The *New York Times* has reported that an estimated 1 in 10 of the total inmate population suffers from schizophrenia or manic or major depression.<sup>35</sup>
- 32 percent of jail inmates in 1991 who had been free for at least 1 year prior to their arrest had *annual incomes of under \$5,000*.
- Nearly one in three female inmates in state prisons was serving a sentence for a *drug offense* in 1991 compared with one in eight in 1986.<sup>36</sup>
- 54 percent of those held in local jails in 1996 were already under the jurisdiction of the criminal justice system at the time they were arrested for their current offense.<sup>37</sup>
- 71 percent of those sentenced to state prisons in 1993 were convicted of *nonviolent crimes*, including drug offenses (30 percent) and property offenses (31 percent).
- The negative *effects on children of incarcerated parents* include traumatic stress, loneliness, developmental problems, loss of self-confidence, aggression, withdrawal, depression, substance abuse, and teenage pregnancy.<sup>38</sup>
- Almost 48 percent of female jail inmates and 13 percent of male jail inmates report having been *sexually or physically abused* at least once in their lives; 27 percent of the women said they had been rape victims.
- In 1970, the number of inmates in state and Federal prisons was 200,000 (Sentencing Project). There are now more than 1.7 million

Americans incarcerated, representing a ratio of 1:155 of the population.<sup>39</sup> This represents a sixfold increase in the Federal and state inmate population during the last 25 years.

- Almost 1 in 3 (32 percent) black males in the age group 20–29 is under some type of correctional control (incarceration, probation, or parole), as is 1 in 15 young white males and 1 in 8 young Hispanic males. About 63 percent of jail inmates are African-American. The number of women in prison has increased fivefold since 1980,<sup>40</sup> to 74,730. One in 16 women entering prison is pregnant. Seventy-eight percent of the women in prison have children. It is estimated that about two million children have at least one parent in prison at any given time.<sup>41</sup>

In the book *Psychological Explanations of Crime*,<sup>8</sup> David Farrington states there is clear evidence that the following characteristics are commonly associated with those who commit crimes:

- Low family income
- Exclusion from school
- Mental disturbance
- Poor housing
- Substance abuse
- Experience of violence
- Poor parenting
- Delinquent family/friends
- Unstable employment record

As the New Zealand Justice Department's portrait of the average inmate depicts, "About two-thirds are beneficiaries (of welfare), three-quarters unemployed, half have severe alcohol and/or drug problems (two-thirds of women inmates), half have had psychiatric assessment, half have come from broken homes, nine out of 10 have no formal qualifications."<sup>42</sup> The picture is similar in the United States: prisons are full of people who are poor, dispossessed, vulnerable, sick, illiterate, and addicted. It's the same in every country in the Western world.

### The Case for Prevention in Lieu of Incarceration

John McKnight writes, "The most significant function of the criminal justice system is to compensate for the limits and failures of society's other major systems. That compensation could result in deterrence, removal, or reformation. However, none of these results reforms the other system failures."<sup>12</sup> Information about who is incarcerated and the impact of incarceration raises questions that have been bubbling under the surface for years. How many inmates are in jail or prison directly or indirectly because of defects in our social systems and structures? Imprisoning perpetrators may bring a welcome respite to those concerned about crime, but the relief is short-lived and camouflages important opportunities for community and societal problem



solving. Police officers cannot afford to deny these links between societal defects and crime if they are committed to working with communities on crime, fear, and disorder issues.

Prisons can become schools for crime. Imprisonment damages people: it removes self-responsibility, wrecks relationships, and promotes drug abuse—while costing thousands of dollars per inmate. It would be better to direct the attention at the causes of so much crime—male violence, unemployment, sexual dysfunction, drug and alcohol addiction, racial and cultural alienation, and economic disparity. Statistics are problematic, but these points illustrate how prison is being used to compensate for social systems that allow unemployment, lack of education, unchecked substance abuse, mental illness, parenting problems, and poverty, among other ills, to remain neglected problems in many communities.

As Garland has commented, “The new penal policies have no broader agenda, no strategy for progressive social change and no concern for the overcoming of social divisions. They are, instead, policies for managing the danger and policing the divisions created by a certain kind of social organization, and for shifting the burdens of social control on to individuals and organizations that are often poorly equipped to carry out the task.”<sup>9</sup>

While investments are being made in traditional crime control approaches, the almost surreptitious development of gated communities, private security, and public surveillance carries on in the face of the challenges presented by abandoned urban spaces, fear, and lack of knowledge of how other measures could be effective. What if the investment were spread to create open spaces for new dialogue, diagnoses, proposals, and assessments as to what could be done differently to resolve the problem of crime? What if more effort were put into diminishing the fragmentation of communities, destruction of public spaces, and limitations on freedoms?

Is it not likely that more attention to, and investment in, longer term prevention and intervention strategies would bring about a sustained decline in the level of crime and a reduction in the harmful consequences of fear engendered by this threat to public safety? And if the answer is “yes,” who is responsible for making this happen? What would work to achieve citizen and community engagement in issues that contribute to crime, with the aim of creating real alternatives to the emphasis on incarceration?

As Judge Barry Stuart writes, “Excessive media attention on heinous violent acts, or the hostile details of violence, induces public abhorrence prompting calls for harsh punitive sanctions. A better understanding of criminals and crime will reveal that most people who break the law are not hardened criminals and few of their deeds legally classified involve a degree of moral depravity that would be generally considered repulsive.”<sup>43</sup>

Like the proverbial *sweeping things under the carpet*, the dominance of retributive justice has contributed to avoidance of the commitment to social justice powerfully argued for by the Presidential Commission more than 30 years ago. The result is huge gaps in our understanding of the crime problem. The reliance on incarceration is a strong indication that society does not see in the present justice paradigm any way to tackle the causes of crime, disorder, and harmful behavior.

*What is needed, then, is a framework that recognizes the values and principles of community policing, especially with regard to capacity building in communities and self-policing. The police have a role to play in examining the relationships between problem solving, criminal justice, and punishment—if policing is to move substantially away from short-term reactive solutions that ignore the broader picture.*

## **Conclusion to Part 2: The Crime Problem and the Criminal Justice System**

As Stuart Scheingold wrote, “We are left with a puzzling picture. The currents of reform seem to be pushing the police and the criminal courts in distinctly different directions. The courts are becoming more punitive while the move toward community policing suggests a moderating element in police practice.”<sup>44</sup>

Many of the current paradoxes in law and order stem from the way the crime problem has become an overriding focus for police departments (with the inextricable link between traditional policing and the formal criminal justice system)—and from a deep skepticism among the police and the public about the existence and capacity of *community*. Without attention to these factors, the developments in community policing and problem-oriented policing could remain fragile. Existing tensions are likely to mushroom and to jeopardize positive reform if new practices in policing continue operating within a traditional paradigm of what law and order are about.

There is good reason for skepticism about the prospects for community policing as long as building prisons and recruiting more police are seen as the solutions to crime. Recall the rationale for community policing, beyond promoting good police-public relationships: First, crime is no longer regarded as a series of individual events but as a phenomenon that is having huge consequences for society. Second, the police alone cannot control crime without the involvement of the community.

The ethos of community policing and problem solving is to focus on developing the controls that can deliver informal social regulation in a way that promotes cohesion. The emphasis ought to be on community engagement and empowerment instead of repressive enforcement measures—inclusion rather than exclusion. The idea is to promote self-help, self-policing, and self-organization among communities, with the communities regarding security as a public commodity that can be coproduced by the police and the community. The clamor for tougher sentencing of convicted offenders results from not delivering public safety by informal means.



Policing in a vacuum—without examining the effects of the current politicization of the crime problem, and without examining how the punitive emphasis of the justice system is hiding contradictions and paradoxes—will continue to stunt community policing efforts. Community policing ought not to be viewed merely as a more effective enforcement of the criminal law by the professional police. Community policing requires a sharper focus on citizen and community engagement in crime control.

Alexis de Tocqueville wrote, “Democracy itself has created a new tyrant—public opinion.” In some ways, both the law enforcement community and the criminal justice system have become trapped by the general rhetoric about crime. The result has been a plethora of crime control tactics without any clear strategic direction; community policing and problem solving are developing at the same time as are increased private security, gated communities, and high levels of incarceration. Increasing the technology and hardware available to police departments is in danger of paramilitarizing law enforcement unless these developments are balanced with similar investments in community building and community education in problem-solving policing.

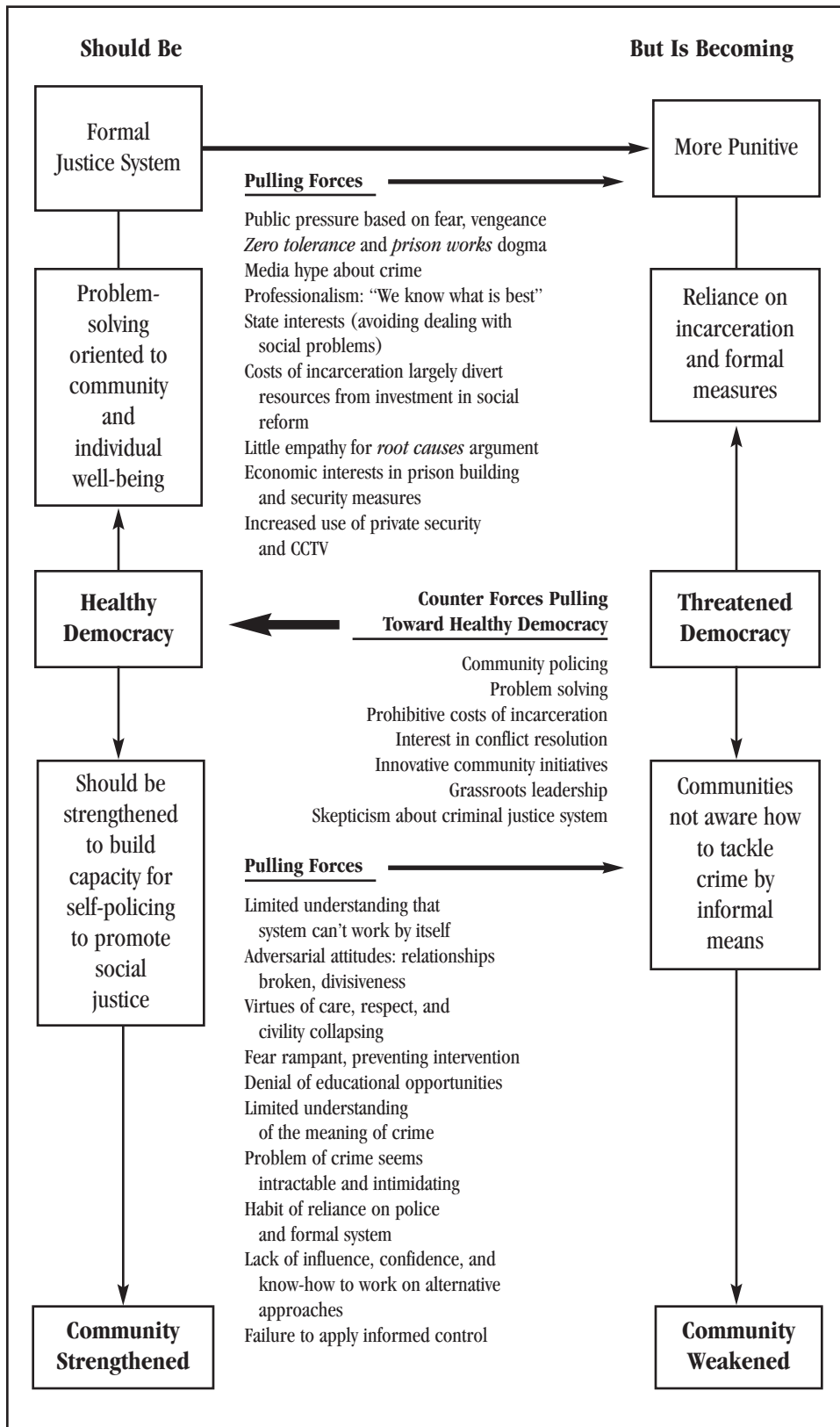
Fear of crime is a dominant force across the country driving “the expansion of private security industries, locks on doors, less eye contact on the street, and emphatic warnings to children to be aware—all have a cumulative effect.”<sup>45</sup>

The withdrawal of citizens from interactions that would strengthen the sense of community—and their dependence on the formal systems of crime control—pose a significant threat to democracy. If the criminal justice system continues to fall short in delivering public safety, and if the potential of communities to regulate themselves continues to be often buried, continued repressive measures and further citizen withdrawal are guaranteed. Thus, the climate of fear and hate toward criminals is jeopardizing the principles of inclusion and of protection of individual rights (see Figure 9). Crime is hugely problematic for any society, but if we reject the importance of working hard on devising solutions that are sustainable and that respect every human being, then we are on a slippery slope. Policing in a free society requires that the police themselves acknowledge this danger. If we want to sustain democracy, then the responsibility of police as well as others is to adopt a stance that supports participatory problem solving, which can deliver public safety without threatening an “open society.”

To build on active collaboration between the police and the public, a coherent framework is needed in which community policing changes can take hold over the long haul. Shaping the framework requires attention to the relationship between policing and criminal justice. *A new paradigm is needed that clarifies the values and priorities of both.* The paradigm is already emerging from several sources. First, there are those who are demanding closer scrutiny of the efficacy and morality of traditional crime fighting. The *war on crime* is expensive financially and democratically, diverting resources from education, health, other kinds of community investment, and solutions to build social cohesion.



Figure 9. Different Forces Operating In Law



A second theme emerging is the notion of *community empowerment* and the need for neighborhood solutions to social problems. Debate is lively about the relevance of community to informal social controls, what relationships are key to minimizing opportunities for crime, and what role the community can play in responding to crime. There are no ready answers to the fundamental questions “How much should crime control be a responsibility of the community?” and “How much control should be retained by the state?”; nor is there consensus on the degree to which the responsibilities should be shared. For many stakeholders, the future should lie in redefining the crime problem in terms that foster cooperation between government and community, with security and safety being public commodities—conditions that need to be coproduced by the state and the people—rather than monopolies of the state.

A third source of the emerging paradigm is the clamor for an approach to the settlement of disputes that is more social and conciliatory than the legalistic, adversarial processes afforded by the formal justice system. The challenge, it is said, is not so much about producing new tactics for traditional crime fighting; rather, the real challenge is to think about exchanges between human beings when dealing with unresolved conflicts that often lead to criminal behavior. The justice system arguably encourages people in communities to tolerate conflict until the law is broken; but this approach does real harm by ignoring opportunities for crime prevention. It also leaves the system operating in crisis-response mode, having to react to situations too developed for more humane interventions.

It is disingenuous to expect that people living in the most blighted inner city areas which now supply the greatest share of persons channeled into the criminal justice system can overcome the effects of high unemployment, segregation, poor schools, business flight, and government neglect and resolve all conflicts on their own.<sup>1746</sup>

There are many, then, who are advocating a different response to crime—and are promoting the notion that short-term changes in the crime rate need to be considered with skepticism. The growing focus on the *well-being* of communities by many police departments, local government, and justice agencies indicates an increasing understanding that a different response is called for.

It is possible that redefining crime to mean more than breaking the criminal law could help to resolve the current paradoxes between the image of *fighting* crime (through well-equipped law enforcement and tough justice penalties) and an image that defines crime and disorder problems in local terms and is all about *reclaiming neighborhoods* through consensus building and cooperation. In other words, we must find a new definition of crime that focuses more on informal social controls and less on a legal approach to the settlement of conflict.





Part **3**

Community Policing,

**COMMUNITY JUSTICE, AND RESTORATIVE JUSTICE**

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Part 3. Developing a New Paradigm

## Part 3. Developing a New Paradigm

In 1977, the Norwegian criminologist Nils Christie wrote insightfully, “Many among us, as laymen, experienced the sad moments of truth when our lawyers tell us that our best arguments in our fight against our neighbour are without any legal relevance whatsoever and that we for God’s sake ought to keep quiet about them in court.”<sup>147</sup>

The prosecution, conviction, and punishment of offenders has a place in crime control, but there are limitations to this approach. Those committing themselves to problem solving should be aware of them. Attaining a healthier balance between law enforcement (using the justice system) and a broader effort to resolve problems is critical.

Take the example of a police department that, in conjunction with the local community, identifies street robbery as an ongoing problem in the neighborhood. The traditional crime-fighting approach would undoubtedly prompt the police department (and the local community) to want to use traditional means to reduce the level of robbery or to seek to eradicate the problem altogether. One way would be either to increase uniform police patrols in the area for a while, thereby deterring offenders, or to mount covert observations with a view to arresting identified perpetrators. Robbery incidents should decline; fear might subside.

This could be construed by some as effective community policing. The public is involved in identifying the problem. The police are active in responding to their concerns and fears, as well as to their expectations that robberies will be reduced. The community may even give valuable information and intelligence to help police identify the culprits. Witnesses may be encouraged to come forward to support evidence-gathering activities to strengthen the chances of convicting those responsible for the crime.

### A Multifaceted Response to Crime

The addition of problem-solving methods might lead to an analysis of why robberies occur in this neighborhood. There might be poor lighting, an ATM machine (an attraction to any opportunistic criminal who observes people withdrawing money in the street), or a fast getaway situation because of the layout of the streets—or the robberies might happen only on some days and at certain times, demanding another line of inquiry. In these cases, *situational crime prevention* strategies may help to remove opportunities for crime that are exploited by offenders. In many cases, removal of these opportunities necessitate the involvement of agencies other than the police, resulting in shared responsibility to prevent further robberies. Responsibility might be shared, for example, with the bank (if the decision is made to remove the cash dispenser from the area) or city hall (if extra lighting is installed or barriers are erected to make access limited).



Clearly, such an approach would be entirely consistent with the ethos of effective partnering between the police and the community to tackle neighborhood problems. Offenders might be detained and successfully prosecuted, the incidence of robbery (and ensuing fear) may well be reduced, and public confidence might be regained.

Two questions need to be asked, however. First, has this addressed the problem? Second, what happens when the police (and the partner agencies) stop this concentration of effort?

Let us look briefly at what is *not* being addressed by this approach. How are the needs of existing victims being met by this response? They have been violated, their possessions removed (and may still be missing), and their sense of safety disturbed. Their fear about being robbed again might persist. The police might well have been sensitive toward them when they reported the crime. The robbery victims may have been lucky and received feedback (directly, or indirectly from media reports, for example) about police activity in the area to detect the offenders or take steps to prevent further robberies. They might even find that their offender has been arrested and taken before the courts. Surely, they will find reassurance from all this attention?

Regrettably, the answer is “probably not.” No two victims experience crime the same way. How they feel, how they think, and how they act at the time of the crime, and subsequently, will vary. For one thing, to the victims, crime is not a single isolated event so much as a disturbance of their world, and the disturbance continues over a period of time. Identifying the impact of a crime requires viewing the victim in individual terms; there is no standardized impact of crime. There are common factors that can be attributed to crime victimization: shock, physical and psychological harm, anger, a sense of loss of control, and a feeling of insecurity. How any one person reacts to these, however, will vary from person to person. Some will manage to handle the disruption on their own or with the support of family and friends. Others may need physiological or counseling assistance over a short or long period of time. Some victims will suffer depression; some will feel rage; some will feel shame or self blame; and others will feel anxiety.

The impact of crime may put the victim on a rollercoaster of mixed emotions over many months (and sometimes years). Feelings can appear, disappear, and reappear; relationships with other people can be affected; and trust can be difficult. It is not always easy to identify the trauma—either for the victim or those around the victim. With the traditional response to crime (even with community involvement and problem solving as described), little, if anything, is done to address any physical and emotional injury resulting from the robbery. Has the victim had an opportunity to express how he or she feels? Or communicate concerns? What happens if the victim feels compelled to move away from the area because of the robbery incident? Or withdraws from normal activities in the neighborhood? In short, the impact and harm ensuing from the crime is unlikely to have been addressed as far as the needs of the victims are concerned.

Turning to the wider community, how have their needs been addressed? Certainly the police's attentiveness will foster trust and confidence, thereby reducing fear. The community might even be involved in working out ways to reduce the incidence of robbery, such as installing extra lighting, promoting changes in the environment, and contributing to neighborhood watches. However, to what extent will the police activity have addressed the problem of the image this community or neighborhood has acquired since robberies became a frequent occurrence? Will this image have a subsequent effect on attracting new residents? Will it deter investment in the area? Will fear ever really be removed if there are witnesses in the community who have seen or heard about the injuries sustained? Will the community opt for security measures that install boundaries such as wire fencing? Will the community always feel the consequences of a crime wave through increased insurance costs, reduced property values, loss of community participation, and antipathy among neighbors?

The impact of crime on the community in both the short and long term will not necessarily be addressed by the activities of the police unless all possible consequences of crime are considered. The harms experienced by the community are unlikely to have been addressed, for example, if the only result is the installation of closed circuit television or extra security patrols. These may reassure people, but the harms addressed in this way can permanently alter community relationships.

And what about the offenders? Those who have already offended and those who are temporarily deterred? Has the police activity thwarted their criminal activities? Have the offenders learned anything about the harm they have done? Has police activity helped to stir their consciences? Have undetected offenders simply gone on to committing other kinds of crime?

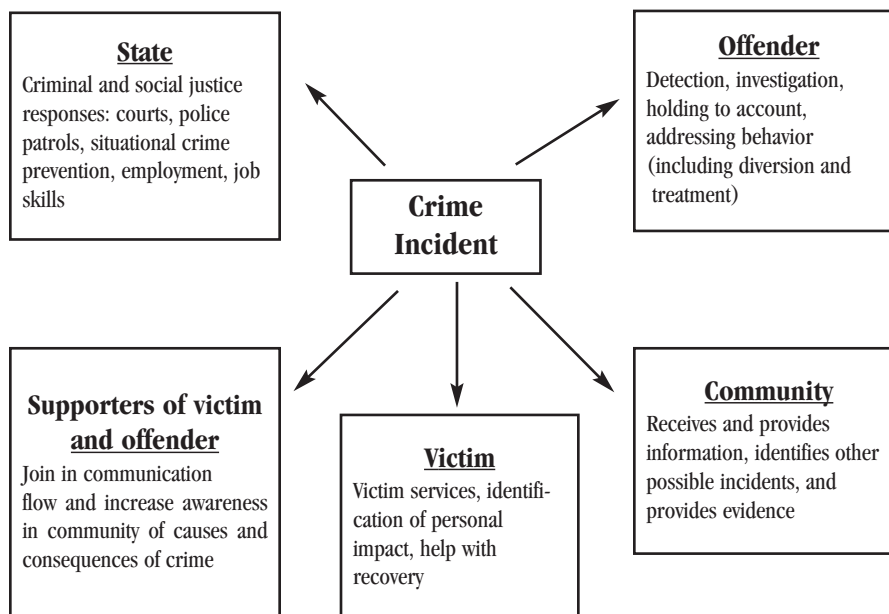
Asking who has been committing these crimes may help to identify the perpetrators but not the reasons behind the offending behavior. Locating offenders is not the same as preventing other would-be offenders. Other lines of inquiry are needed. Perhaps gang activity has been increasing at the same that after school programs have been closing down. Asking the neighborhood might help. What do they need to keep their kids gainfully entertained in the afternoon? How about sports? Is there a field nearby? Might recreational activities keep the gang robberies from starting again? Or maybe the robberies were economically motivated. Maybe a local factory shut down and suddenly local people are out of work and behind on their rent. Different problems require different solutions.

The answers to many of these questions fall beyond the capacity of professional justice agencies and require the mobilization of citizens and communities. It would be unfair to expect the police to deal with all these issues, but identifying them highlights some of the shortcomings of prevalent responses to crime. Crime is not an isolated event with a single consequence. Crime, instead, has a number of consequences (as well as causes): social, economic, psychological, and cultural—stretching out over time. The police can address some of these factors, given a level of sensitivity, fore-



sight, and intelligent use of interventions to address the harm done, and by exploring opportunities for prevention and problem solving. But concentrating on detection and the legal definition of crime alone will be of limited value. Figure 10 provides an overview of a more multifaceted response to crime. Table 3 gives a different perspective, indicating the gaps that need to be bridged to increase public safety.

Figure 10. Components of a Multifaceted Response to Crime



The gap between the legal definition of crime and of responses to broken laws, on the one hand, and the broader understanding and resolution of conflict, on the other, needs to be bridged. Christie understood the difficulties involved in mobilizing a broader response to crime. First, those in the formal system have a stake in defining conflicts and in “stealing” them from the parties involved in the conflict (victims, offenders, communities). Second, as Christie highlighted:

Highly industrial societies face major problems in organizing their members in ways that a decent quota take part in any activity at all... Participation is such a scarcity that insiders create monopolies outside outsiders... . Modern criminal control systems represent one of the many cases of lost opportunities for involving citizens in the tasks that are of immediate importance for them.<sup>47</sup>



Table 3. Bridging the Gap to Attain Greater Public Safety

Aspect of Crime Event	Traditional Approach (Defining Crime by Law)	Gaps To Be Addressed (Beyond law Enforcement) To Increase Public Safety
<p><b>Stakeholder</b> Victim(s) Offender Community Society</p>	<ul style="list-style-type: none"> <li>• Victim needs only partially addressed</li> <li>• Arresting offenders is main focus</li> <li>• Limited attention to long-term community safety</li> </ul>	<p>Full aftermath of crime not addressed for victim, community, offenders (including those not detected) and society as a whole</p>
<p><b>Consequences</b> Loss of security Trauma/depression Anger/fear Disruption to lives Weakened community Frustration</p>	<ul style="list-style-type: none"> <li>• Precludes feelings and emotion, generally uses the victim's account and information from the community only for the case against offender(s)</li> <li>• Selective about the information that is relevant; rules of evidence are paramount</li> <li>• Property and harm recovery are secondary to prosecution</li> <li>• Fear may be partly addressed through extra patrols and CCTV, but does not address all fear/harm</li> </ul>	<ul style="list-style-type: none"> <li>• Failure to address full impact/harm; leaves victim and community having to deal with consequences themselves</li> <li>• Limited information and advice given to community and victims</li> <li>• Offenders who are caught are not aware of the full extent of damage/harm to the victim/community— only aware of the laws broken</li> <li>• Anger, trauma, shock, etc., left to fester; increases hostility, tension, fear</li> </ul>
<p><b>Factors Affected</b> Attitudes Relationships Behavior Levels of trust Community ties People (crime affects people in different ways)</p>	<ul style="list-style-type: none"> <li>• Adds confusion by distorting all available information by a focus on evidence against offender</li> <li>• Excludes people, including victim and community</li> <li>• Professionals focus on establishing guilt or innocence, rather than on safety, problem solving, and prevention</li> <li>• Case-specific, not focused on causes of crime or its full consequences</li> </ul>	<ul style="list-style-type: none"> <li>• Social distance promoted; more opportunities for crime and increased fear</li> <li>• Sense of breakdown or unresolved business</li> <li>• Lack of real understanding of what happened; limited learning</li> <li>• Dependence on formal system often excludes a role for the community</li> </ul>



The obstacles to citizen engagement in responding to the broader impact of crime and its consequences included the following:

- Professionalism, which tends to monopolize crime control
- Citizen apathy, reticence, or lack of knowledge about how to become involved
- The failure to establish opportunities for limiting the power of professionalism and expanding citizen activities in the handling of crime

How can the public be encouraged to participate in the coproduction of public safety? How are members of the public to know when and how they can become involved?

Informal social controls emerge from community development, but such development will not come out of thin air. People want safety, security, peace, and justice, but community participation must be promoted to achieve them. People may be informed about crime, but they do not know how to prevent it or what to do to reduce it. Many people are living complex lives and feel overloaded, precluding their participation in community life. The easiest response to crime is to blame others or to wait for someone else to do something.

How, then, can these challenges be met by new developments in community and restorative justice? And how are these new developments relevant to policing?

### Case Study:

#### It Takes More Than Parents or Paid Professionals To Raise a Child

Kay Pranis from the Minnesota Department of Corrections often opens her conference talks with the question, “How many have experienced having adults other than your parents tell you what to do or how to behave when you were children?” Most people smile as they remember when they were chastised or given guidance as children. Kay goes on to ask another question, “How many of you do that in your neighborhoods today?” There is widespread consensus that adults in neighborhoods are not participating in raising one another’s children. Two consequences flow from this: first, parents alone are left with the enormous task of bringing up their children in the face of the significant challenges inherent in modern society. Second, the implicit message to youth is that their actions and behavior are not important to the community if only their parents (or people paid to intervene in their lives) control their behavior. Much of this situation has to do with fear of getting involved. But it is also an indication that members of the public have relinquished their responsibilities as citizens or simply lack encouragement to promote standards.

## Community Justice

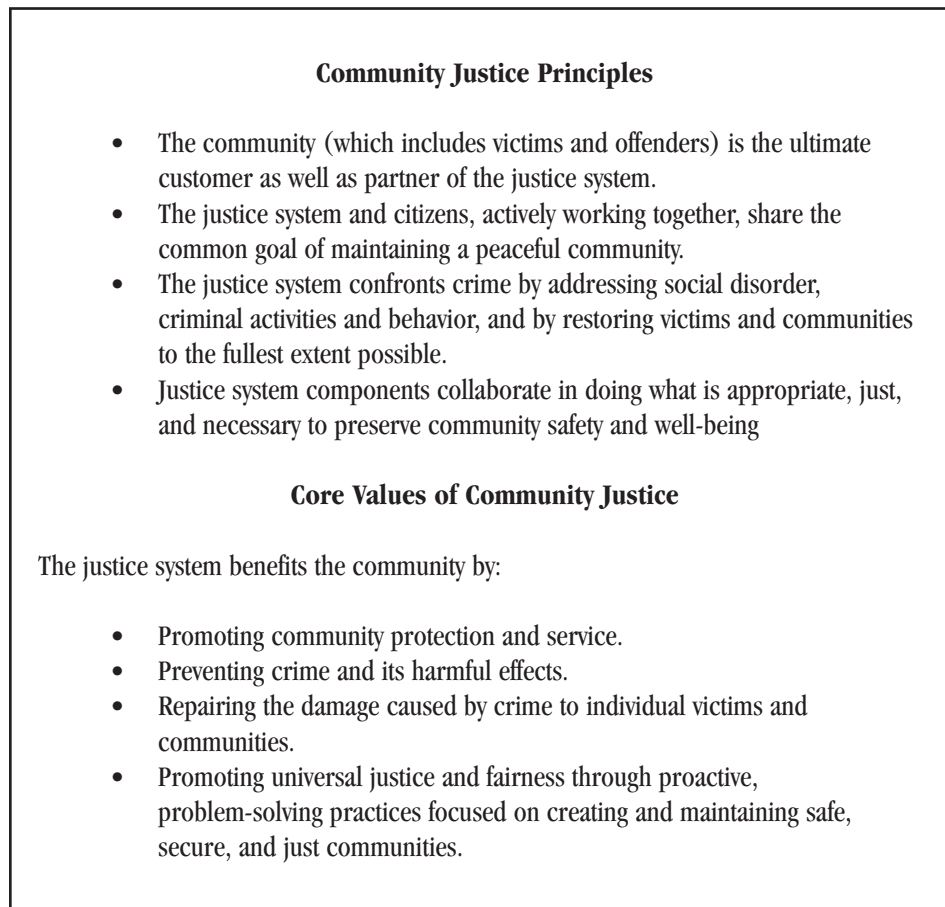
A famous British judge, Chief Justice Hale, some three centuries ago described the clamor for change as “a certain restlessness and nauseousness in what we have and



a giddy humour after something which is new.” Certainly today there seems to be a growing, concerted effort to search for improvements to the criminal justice system. The system is seen to be overprotective of offenders, to isolate victims, and to ignore the fears and concerns of communities. There is a general unease about whether the system is coping adequately with the problem of crime and disorder. Pressures are mounting for the system to reconsider its priorities and to fundamentally expand its focus—beyond the condemnation of crime through the punishment of offenders.

*Community justice* is developing as a part of this thrust for change. As in the case of community policing, the label has come to be applied to a variety of programs, making the essential attributes—and the values underpinning them—difficult to discern. What can be reasonably stated is that developments in community justice are being driven by the recognition that, broadly speaking, crime is a local phenomenon, crime is high on people’s minds, and justice interventions should be responsive to public concerns. The climate is one of trying out new ideas to show that the system can be community oriented. Ed Barajas of the National Institute of Corrections, U.S. Department of Justice (DOJ), has summarized the basic principles and core values of community justice as shown in Figure 11.

Figure 11. Community Justice Principles and Core Values





Although only in the embryonic stages, community justice is already challenging the traditional, concentrated focus of the criminal justice system on prosecuting, convicting, and punishing offenders in accordance with due process of law. Experiments are breathing life into a growing recognition that attention to the individual rights of the accused needs to be balanced with support for community life. Communities are recognized as being victimized by crime and in need of strategies that will reduce fear and make communities more crime resistant. The criminal justice system is increasingly expected to respect, and be responsive to, community concerns, confronting the legal system's traditional adherence to the notion of judicial independence. Criminal justice practitioners are under growing pressure to shape their priorities and work in accordance with community priorities.

Similar to community policing, in which the focus of law enforcement has been broadened to include collaboration to produce public safety, community justice, in some places, is adopting the notion that justice means public safety through collaboration between the formal system and the community. In March 1998, at a national conference sponsored by the U.S. Department of Justice on "Community Justice: Transforming the System To Service Communities," the underlying message was that the state could no longer afford to pretend to be able to provide public security by itself, in isolation from communities. No attempt was made to define community justice. But key themes emerged, including community and professional *partnerships*, identifying and defining *community*, collaborative *problem solving*, and a focus on community *safety*. The term was used to describe a variety of activities and programs, including community policing, community prosecutions, community courts, community corrections, victim services, restorative justice, and crime prevention initiatives.

Community justice, while in danger of becoming a term applied to any activity in which the community is newly acknowledged as a customer of justice, has begun to develop several characteristics or common elements:

- ***Community justice operates at the local level.*** The programs and experiments focus on a particular venue seen to have a clear identity. The Midtown Community Court in New York City, for example, one of the flagships of community courts, is specifically addressing the crime problems in a distinct part of Manhattan, including the notorious Times Square area. The Red Hook Community Justice Center is being set up specifically to deal with law and order problems in an inner city neighborhood of Brooklyn. Baltimore, too, is developing similar programs for its neighborhoods. The criminal justice system is beginning to change from a centralized and hierarchical system to a system with devolved areas of responsibility—not dissimilar to the police beat or precinct. In the new model, the system is organized to be focused externally toward a specific area—one that the local community can relate to.



- ***This localized nature of community justice is provoking changes in the system's priorities, from focusing on the offender to thinking about public safety.*** Like community police officers who are dedicated to an area, community justice helps to connect professionals with realities facing communities at street level and challenges traditional assumptions about the nature of services required.

For example, drug courts, which are part of a movement to establish community courts, are being designed to stop offending behavior while at the same time acknowledging the public safety issues associated with drug-related crimes. While still observing the offender's rights to due process, the focus is also on the offender's recovery and law abiding behavior as part the public safety effort. Drug courts run treatment programs and referral services aimed at reducing an offender's drug problem. The prosecution and defense lawyers, normally operating in adversarial roles, play an important role in defining the strategy for dealing with noncompliance by offenders in treatment programs. They also decide on eligibility and screening criteria.

With the increasing emphasis on collaboration with local communities, neighborhood-based police, prosecutors, and other justice system professionals soon learn that their assessments of what is a priority can be challenged and altered by public consultation. The Community Court in Baltimore, having consulted with local businesses and communities to identify the problems it might target, intends to handle panhandling, loitering, prostitution, graffiti, and other crimes that are perceived to deter tourism and to threaten neighborhood safety. While these kinds of criminal conduct might be dealt with by a court anyway, the difference is that priority has been awarded to these crimes following input from the community. Significantly, the focus extends beyond the offender to local issues of concern.

In other areas, public surveys and community meetings have been used to gather information on what people are concerned about. One community prosecutor in the District of Columbia, after his first meeting with the community, agreed that the atmosphere was tense, with the community clearly displaying their skepticism and lack of confidence in the professional's understanding of their concerns. "I admit we still have a problem," he said. "Lawyers don't ask themselves enough how far their work in prosecuting impacts on the problems experienced on the streets."

- ***Community justice is altering the role of many criminal justice practitioners and widening their focus beyond the legal response of punishment.*** Public defenders who have operated in neighborhoods have discovered that arrested citizens not only have the justice system hanging over their heads. They have legal prob-



lems that fall outside the criminal justice system, including immigration issues, child support demands, child custody battles, and credit and other problems. An offender who fails to comply with orders and judgments on these scores, perhaps because the criminal court has imposed fines or wage attachments, can soon find himself rearrested. Offenders also can have social problems requiring comprehensive case management beyond criminal defense work. In some cases the investigation has led to the avoidance of a court trial after other problems have been worked out by way of mediation or negotiation. As John Feinblatt of the Midtown Community Court says, “An arrest is a crisis. It’s a low period in someone’s life. We figured if we seized that moment, we could use the crisis to reach them.” Reaching them means providing drug treatment, counseling, education, and other services that are aimed at reducing their chance of reoffending and getting into trouble.

The role of law enforcement is being slowly blurred with social work. Public defenders in Harlem, New York City, not only provided legal representation to arrested citizens, but afforded a lifeline to the relatives of the accused with respect to housing, child custody, and employment difficulties that emerged following arrest.

Thus, the new focus is on trying to do things that will stop offenders from reoffending, rather than on punishment. New approaches allow for interventions other than punishment, although treatment and referrals to social services tend still to be seen as part of a court sanction. The Midtown Community Court, exceptionally, offers Alcoholics Anonymous meetings independent of sentencing. Usually, however, noncompliance or failure to complete a program can attract fines or imprisonment.

As with community prosecutors, where “their focus broadens, from the narrow task of assessing legal culpability . . . as defined by written rules . . . to the question of how to deal with the situation,”<sup>48</sup> drug and domestic violence courts are looking at an offender’s situation—as distinct from merely establishing guilt or innocence. The domestic violence courts in Miami, for example, recognizing that domestic abuse requires more than a narrow punitive response to the offender, have operated batterer intervention programs, provided drug treatment supervision, and conducted ongoing case monitoring.

Similarly, the drug courts dealing with substance abuse are looking beyond strict enforcement of drug laws. “Drug courts combine intensive judicial supervision, mandatory drug testing, escalating sanctions and treatment to help substance abusing offenders to break the cycle of addiction and the crime that often accompanies it.”<sup>49</sup> Judges work with prosecutors, defense attorneys, probation officers, and drug treatment specialists to require appropriate treatment for offenders, monitor



their progress, and ensure the delivery of other services (including job skills and education) to help offenders remain drug and crime free. This supportive approach is beginning to have an impact on drug use and recidivism (a drop of up to 55 percent is recorded by some courts).

- ***Community justice is shifting criminal justice from a purely adversarial approach to include problem-solving methods, beyond dealing with the offender.*** The criminal justice professionals may provide legal expertise not only to offenders but to communities concerned with ongoing problems that impact their standard of living. In Spokane, Washington, probation officers are helping residents of high crime areas secure financing to purchase their own homes. Community justice seems also to encourage acknowledgment that many crimes coming before the courts stem from substance abuse, family breakdown, and mental health problems, which the legal system is struggling to deal with. The domestic violence courts are recognizing that the problem of domestic abuse obliges them to look at providing victim protection services and to consider child welfare needs. Judges attend community meetings hoping that heightened awareness will provide victims with more sources of help, and abusers with more informal policing from within the community.

Information sharing forms part of this new effort to address a situation through problem solving. At the Midtown Community Court, judges have access to computerized information on the history and circumstances of individual offenders from a variety of sources; their goal in using the information is to make their responses as relevant to the individual and as constructive as possible. Computer links with the police, probation, courts, prosecutors, and service providers will, in the future, further improve the information flow.

- ***Community justice is characterized by a reduced distance between professionals and lay communities.*** Prosecutors, for example, traditionally confined to their law offices and the court room, are spending time attending community meetings. Connie Cucchiara in the district attorney's (DA's) office in New York went out to the community and asked, "How can the DA's office become a resource to you?" The feedback about the impact of crime on the community can influence decisions about bail and sentencing. In Multnomah, Portland, Oregon, a community task force convened to address growing concerns about crime, sought the involvement of the police and the district attorney to help identify problems and solutions. This kind of interaction is breaking down the perceived (and often very real) barriers between professional practitioners and the lay community, encouraging open dialogue and the sharing of views about what the system should



focus its attention on. This, in itself, is giving both the system and the communities better insights about the crime problem and the appropriate response.

- ***Community justice is creating new lines of accountability.*** The system no longer is looking only at the prosecution and punishment of individual defendants in a reactive manner. It is having to consider the future safety of communities by addressing behavioral issues in the context of some kind of safety plan. The Red Hook Community Justice Center in Brooklyn, New York, for example, plans to offer job training, youth development, drug treatment, counseling, and outreach programs. Decisions about placing offenders in different programs will be greatly influenced by community sentiment about what is required to guarantee public safety.

Professional practitioners are looking externally to assess their own performance. They may be reporting to citizen groups. Such practices radically alter the internal culture of the system. With these new lines of accountability, community justice is arguably most challenging to the traditional system of the various emerging practices. While seeking to address specific public fears about crime and the potential for repeat offending after court interventions, the system is also moving to accommodate victim and community protection as important goals *in addition to* holding offenders to account for their past behavior. The introduction of victim and community impact statements is common in many courts, and these statements are used in decisionmaking by criminal justice practitioners.

Speedier delivery of justice is another objective for some programs, in answer to community concerns about the system's lack of responsiveness. All of these practices are part of the recognition that communities, not just individuals, are victims of crime. Monitoring cases through computerized records is also helping to ensure that court decisions are followed through.

- ***Offender accountability is moving in the direction of accountability to the community, as distinct from paying dues to the state.*** Community courts, part of the community justice movement, are sentencing offenders to *pay back* the neighborhood they have harmed by way of community service. Offenders carry out work that helps to improve the local environment (through street cleaning, graffiti removal, park and garden maintenance, etc.) or help improve community facilities by building shelters, cutting wood for the elderly, and mailing charity flyers. Midtown Community Court figures indicate that community service has produced almost half a million dollars worth of labor since 1995, and the compliance rate for com-



munity service is a high 75 percent. Street crime has declined significantly, and prostitution arrests have fallen by almost 60 percent. These results suggest that the system is sensitive to the idea that the community is an important customer and that the work of the system ought to increase its safety and well-being. The traditional stance of not looking outward or forward is shifting, and the strong focus of the formal system on the offender is starting to be diluted.

- ***Greater community engagement and partnership are emerging from community justice experiments.*** The notion of partnership between the professional practitioner and community members sometimes goes beyond information sharing and problem identification and extends to participation in decisionmaking or in community-based activities stemming from court decisions. Citizen-driven search warrants are allowed in Portland, Oregon, based on trained citizens conducting surveillance on behalf of the police. Information is recorded in logs supervised by the police before a citizen is permitted to telephone a judge for the warrant. The Red Hook Community Justice Center, which aims to be a court as well as to house a number of community services for both offenders and law-abiding residents, has involved the local community in planning the design and activities of the Center. Judges, attorneys, civic associations, school principals, housing officials, business people, and residents have worked together on developing a schedule of processes to follow the arrest of a defendant.

Partnerships between professionals in the justice system and lay people have been established to offer drug treatment, health care, education, and the supervision of offenders in community service projects. This partnering is breaking down the barriers between professional and nonprofessional people, showing that a mix of skills, interests, and concerns can produce innovative responses to crime problems in the neighborhood. Corrections professionals, long used to operating community-based correctional supervision and facilities, are beginning to look on lay communities as potential partners. In Vermont, community boards are assisting in determining the conditions of supervision outside correctional facilities for offenders who are on probation or parole.

Community justice is also spurring collaborative work between justice professionals across the system. In Middlesex County, Cambridge, Massachusetts, a Community-Based Justice Program has brought together professionals across the system and school leaders to share information on at-risk youth whose behavior has been identified as potentially harmful to the community. Priority is given to prosecuting individuals who have been jointly identified as needing close attention from the justice system. Information sharing, communication, and



problem solving are key elements of this community prosecution effort. It is an organizational response to public safety threats. Operation Nitelite in Roxbury, Massachusetts, has brought police and probation officers together to address youth and gun violence. The justice system's effectiveness in tackling recurring crime problems is undoubtedly enhanced by combining its resources to reach a common goal.

The embryonic experiments in community justice give clues as to how significantly the traditional justice system *could* be reshaped or transformed. Making justice meaningful to offenders, victims, and communities, and making professionals more accessible, is no mean feat for a system that has largely insulated itself from community sentiment. The system increasingly is reaching out to communities to find out their concerns and how they would like those concerns addressed. This is new. Having professionals working in consultation with lay people is also new. Working in nonadversarial ways to address identified problems is likely to bring about even bolder efforts to try new skills, provide new services, and apply greater discretion in decisionmaking about crime problems and offenders. Making offenders accountable in meaningful ways that promote a reduction in recidivism, a higher compliance rate for the completion of court orders, and reduced levels of crime, are welcome indicators that interdisciplinary, collaborative efforts pay off. It is also clear that thinking is changing in regard to crime being only a violation against the state. Crime increasingly is viewed as having an impact on neighborhoods, victims, families of offenders, and others; and, increasingly, crime is seen as requiring much more than a legal response alone.

### What is the Vision of Community Justice?

Community justice is an exciting development emerging from grassroots innovation. The grassroots efforts stem from a recognition that improvements are needed in the conventional system of justice. Local criminal justice practitioners and others are translating a variety of ideas into efforts that, increasingly, are exhibiting common characteristics. Inherent in many programs is an acknowledgment that public confidence requires engaging the public and demonstrating that the system is in touch with public concerns. Several initiatives reflect widespread agreement that crime harms communities as well as victims, and that offenders need nonlegal responses to change their behavior.

Like community policing, however, community justice lacks a broad vision. Various efforts are being described as community justice, but there is no specific, fundamental definition or defined goal that is widely accepted. The question this prompts is whether the term *community justice* is being applied too liberally to any attempt to transform the system. Are the core values and principles of community justice really applied in these attempts? Several hurdles need to be overcome for community justice to work toward an agreed goal and to reach its potential of transforming the system.

First, the lack of a common definition is not merely about language. It is about the substantive content of current changes that are heralded as community justice. These

changes need to be examined and a consensus reached about a definition; if too diverse a collection of activities and ideas are lumped under the term *community justice*, the potential power of the concept could be diminished or even lost. As Tony Marshall has said, “It is easy to spoil a good idea!” It is a step forward that the justice system is awakening to the fact that the community is a customer; but consumerism of justice activities will tend to obstruct the development of an appropriate relationship between communities and the justice professional. The result, in all likelihood, will be to minimize opportunities for citizen engagement (beyond a mere supporting role) in responding to crime as a vital player in codelivering public safety. For these reasons, community justice could fail to substantially influence the professional system to work toward a balanced approach between formal and informal crime controls.

Several dilemmas emerge from an examination of community justice activities. These dilemmas suggest the need for caution about overestimating the potential of community justice. To set the stage for this examination, see the list “Community Justice Characteristics That Are Similar to Core Elements of Criminal Justice” (in box). A key difference between community justice and the criminal justice system is that community justice addresses only less serious crimes and offenders.

#### Community Justice Characteristics That Are Similar to Core Elements of Criminal Justice

- Defines harms and effectiveness in same terms: primarily in relation to the offender and what laws have been broken.
- Retains a conventional punishment prerogative—and, almost exclusively, a control mandate.
- Conducts overwhelmingly offender-oriented services.
- Is unable to promote an alternative vision of justice; effectiveness is measured according to traditional criteria.
- Refuses to become involved in interpersonal violence (hence, does not serve the critical needs of classes of victims, such as women, minorities, the poor, youth).
- Seeks to reduce incarceration, but seldom succeeds in reducing the marginalization of offenders and victims in their own communities.
- Affects too few offenders, victims, and communities.
- Fails to address social and community problems that shape crime, i.e., may respond to crime problems but does not seek to prevent crime.

SOURCE: Adapted from Zehr, H., and Mika, H. “Fundamental Concepts of Restorative Justice.” *Contemporary Justice Review*, 1998,1(1):47–55.

A noticeable feature of community justice programs is the concentration on nuisance or quality-of-life crimes. There seems to be no movement as yet to fundamentally transform the formal justice response to more serious crimes: robbery, assault, sexu-





al offenses, and drug trafficking. Possible exceptions are drug courts and domestic violence courts. Courts dedicated to domestic abuse are being widely introduced under the rubric of community justice; however, the professionally operated adversarial approach against offenders still lies at the core of these courts' responses. The community element is often confined to establishing extended services based in the community to cope with abusers' drink or drug problems and providing support to the victims and using them as evidence. The judge retains overall control, and the community engagement is distinctly limited.

When there are such limits on the application and practice of new initiatives, it is questionable how much they differ from the essence of the traditional system. The drug court movement raises further questions about the extent to which real change is occurring. Almost 200 communities have drug courts supported by Federal grants of over \$30 million under Title V of the Violent Crime Control and Law Enforcement Act (Crime Act) of 1994. The pivotal notion is *court supervised* drug treatment. The drug court movement is seen as a key example of community justice, yet the July 1997 General Accounting Office (GAO) Report on drug courts makes no mention of the community being a vital consideration in their establishment. Drug courts did not develop in a vacuum. Rather, the drug courts appeared "in response to the deluge of drug cases (following tougher sentencing laws) and the cycle of criminal recidivism." Drug courts still operate with a retributive lens, notwithstanding the emphasis on treatment for offenders.

There is a familiar ring to this. The parallels with the development of community policing out of the traditional professional model of policing are striking. The criminal justice system has enjoyed a clear mission that for years, by and large, stood the test of time: upholding the law, protecting individual rights by due process, establishing guilt or innocence through clearly defined rules, and determining punishment for those found guilty. The underlying *raison d'être* for such a coherent system is to promote a predictable response to crime in the hope of deterring it. However, like the traditional model of professional policing, the system has developed significant gaps in both its credibility and its capacity to handle the full consequences of crime.

Frustration with the criminal justice system has led to demands related to sentencing, victim's rights, conviction rates, changes in jury makeup, classification of offenses, speed and timing of trial processes, rights of representation, use of evidence and cross-examination, rights of appeal, and funding arrangements. Despite the constant flux, the system is seen to be flagging in its performance against crime and in public confidence. As with policing, there are proponents of more resources to do more of the same—and others who call for more radical changes. Community justice seems to be steering a middle course between bolstering the traditional mechanisms (e.g., through improved information and evidence gathering from public consultation to secure more convictions) and changing the focus to address the impact of crime on victims, offenders, and communities. The common characteristics of community policing and community justice emerge from the perceived need for collaboration and a quest for more accountability to a broader set of stakeholders.

However, participatory problem diagnosis and problem resolution—with greater sensitivity to the full range of consequences of crime—remain limited by the assumption that professionals in the system know what the problems are and by a perpetual tension in their relationship with the community. Current developments might seem encouraging, therefore, until one asks, “How are problems defined?” For example, courts may provide information to the community and solicit input on community concerns, thereby indicating sensitivity to the reality that crime impacts the community. They may conduct treatment services in the community and use services outside the justice system (including housing, education, AIDS counseling, social services). But these interdisciplinary, problem-solving approaches do not necessarily involve the lay community.

Community-based programs do not always entail community involvement. It seems, still, that little value is placed on the participation of ordinary lay people. It is the courts that are providing the services, directly or indirectly (in combination with other professional services). “Indeed,” McKnight has said, “what are now called community services are often major barriers to involvement in the community. The system in this state is, to put it more accurately, providing local services, not community services.”<sup>12</sup> As the experience with community corrections clearly illustrates, however, when facilities or service centers are merely located in a neighborhood—without the involvement of local residents—the result is an isolated program or process that may be said to be in, but not of, the community. Similarly, increasing the flexibility of responses and breaking down formal barriers to communication may increase citizens’ willingness to seek and to receive assistance, but this change does not necessarily increase their involvement as participants in the justice process or allow them to determine what services they would like in their neighborhoods.

The way problems are defined is still primarily related to the criminal law and to resolution by way of due process of law. Community courts seem to recognize that communities are harmed by criminal activity, and to see the offender more as an individual than as another legal party; but the focus remains largely on the offender, and the punitive approach remains a powerful force. Assumptions about the problems of drug and alcohol abuse being primarily infringements of the law contradict known wisdom about addictive behavior: that the addict needs non-shaming and nonjudgmental support from a social network that allows the individual to trust and to experience acceptance. Addicts need support in the context of communities that can provide caring relationships, support to attend treatment programs (such as going with a person to an Alcoholics Anonymous meeting), mentoring, and opportunities to learn life skills to overcome “the toxic shame” always present in any addict.<sup>50</sup>

The new community courts operate, however, with a carrot-and-stick technique, deferring prosecution or a sentence if the offender accepts treatment and completes it, but executing the traditional approach as soon as there is noncompliance. This process preempts the opportunity to respond to problems differently, say through health and education services or by mobilizing community resources. Treatment is a fundamental part of the court program, making treatment a justice issue—and the



courts are seeking total abstinence from substance abuse rather than managed use of drugs.<sup>51</sup> The courts also assume that the judge should conduct monitoring, even though there are other people naturally paying attention to what is happening to the abuser, including spouses, parents, siblings, grandparents, children, and teachers. These characteristics raise questions about the commitment of community courts to resolving problems by means other than traditional due process.

Community justice in the form of community courts may represent a recognition by the formal justice system of the power of community, but it seems premature to suggest that the community is genuinely perceived as a potential partner in tackling crime. If anything, there are signs of increasing professionalized responses rather than promoting community collaboration that leads to community problem solving. This begs the question as to the overall purpose or driving force behind community justice. Is community justice primarily addressing lost public confidence in the courts and the legal system? Is it more about a recognition that criminal conduct is often linked to health, substance addiction, and educational problems (thereby necessitating nonlegal responses that justice professionals are not equipped to provide)? Is it about increasing the relevance of court procedures to citizens who have been previously excluded by the legalistic and professionally driven emphasis on due process? Or diversifying sanctions? Acknowledging that crime is often a social issue? Being more responsive to community concerns?

These are desirable goals. Nonetheless, many of the programs are primarily system oriented and retain much of the current modus operandi of the criminal justice system. Problems are still defined primarily according to legal definitions of crime rather than as part of broader social pathologies that contribute to crime. Alternative responses outside the formal justice system might exist, but these often do not meet their potential as long as criminal justice sanctions are being funded. Thus, the options open to the community remain limited. Although treatment, counseling, and life skills training are growing adjuncts to the legal response, the main focus remains on apportioning blame and establishing sanctions—by professionals, on their terms.

The absence of a coherent strategy with tasks linked to objectives, and a tendency to be concerned with short-term reductions in crime and building public confidence, will ultimately reduce the impact of community justice unless the community becomes an equal partner. Just as the traditional model of professional policing cannot by itself deliver public safety, the formal justice system cannot by itself deliver safer communities. It too, as in the case of policing, needs to learn that collaboration with the community requires substantive partnership activity focused beyond problem identification. The community, along with the justice system, needs to have opportunities for learning how crime can be controlled and what its role is in preventing crime, beyond mere enforcement.

This active community role would necessitate sharing power and resources between the system and local communities. There are few signs of such willingness by the justice system. Some advocates have interpreted community justice as offering “an exciting opportunity to create a new way of doing business *within* the court system.”<sup>52</sup>

Others have suggested that collaboration with the community will “build a public constituency *for the courts* that will support the allocation of adequate resources.” This suggests that community justice is about *increased* use of the professional system, not about balancing formal and informal controls. The attitude is predominantly one of “the professionals know best”—the professionals know the problem and have the answers—while the community merely consumes the services. The community may help to determine what laws and services are needed, but its engagement is minimal.

The development of *user-friendly courts and court watching programs*—and the existence of centralized courts—do not seem to be encouraging neighborhood participation outside the confines of traditional justice parameters. Linkages between the court and the community are largely controlled by the professional system. The professionals choose the community members with whom they wish to do business—hardly likely to repair the mistrust of the system among some sections of the public. The community influence in many community justice programs is limited to decisions about the appropriate sentence to be given to offenders found guilty after the traditional due processes have been completed.

**Case Study:  
Professional Self-Improvement Does Not Mean  
Citizen Engagement**

Operation Spotlight in Maryland offers an exciting vision that recognizes that most crime comes from a small hard core of persistent offenders in a small percentage of neighborhoods. The operation involves a partnership effort among police, probation, juvenile justice, housing, and education to focus on identified crime hot spots and at-risk offenders. The program offers a coordinated effort and seeks to expand the partnership to encompass learning programs, teen pregnancy prevention, and improvements in public safety; community mobilization, however, is interpreted as mobilizing community-based services rather than citizen engagement. Community justice is interpreted as “empowering law-abiding citizens to reclaim their neighborhoods—as they come to expect and receive rapid response from community probation and police officers.” Responsiveness alone, however, will not mobilize self-policing. Indeed, this might further add to community dependence on professional services. Intense supervision and support of offenders is being conducted by police teams working in the community. This will work as long as Federal and other grant moneys are available (\$10.5 million currently), but the question remains: How sustainable is this effort in the future?

The messages to offenders are underpinned by a mixture of the crime-fighting ethos (“If you want to continue down the road of crime, we’ll soon find out about it”) with a preventive, problem-solving message (“If you want to help in building a better future and becoming a productive member of society, we’re here to help—100 percent”). It remains to be seen whether Operation Spotlight will promote the amount and type of direct involvement by community members that can make a real contribution to *solving* identified problems.

Will community justice promote broader acknowledgments that only an active partnership *with* the community can control crime effectively? So far, with the system-driven community justice experiments, it is not clear whether these efforts are intended primarily to improve the formal justice system’s capacity to respond to crime, or



whether community justice is a stepping stone toward giving citizens the capacity to develop informal mechanisms for addressing crime.

With the overall purpose of community justice still unclear, there remains a doubt whether current programs are a means to an end or an end in themselves. Until criminal justice affords citizens greater say in how problems are defined—and how they should be resolved—developing programs and increasing access will not change the role of the community from service recipients to decisionmakers. A more holistic response to crime will also be thwarted and professional insularity will endure, limiting the impact of community justice efforts on justice agencies and their relationship to neighborhoods and citizen groups.

Thus, community justice is exhibiting a number of paradoxes. Crime is seen as victimizing communities, but the professional system continues to control the community's involvement and participation. The apparent accountability to community concerns is still rubbing up against more formal accountability to the law. Crimes are still defined by the system (by law), notwithstanding greater understanding (through problem-solving approaches and information sharing) that much criminal behavior stems from social problems. The primacy of legal definitions contrasts also with the idea of achieving public safety by establishing social norms through *informal* mechanisms—and by establishing, independent of the system, consequences for choosing to break these norms. As Professor Michael Smith wrote, “Establishing and maintaining public safety is properly the work of parents, neighbors, schools, churches, athletic teams, voluntary community service groups, the labor market...”<sup>27</sup>

Confusion about what community justice is may stem from the same predicament confronting community policing: that is, the system has yet to acknowledge that its interpretation of the crime problem may be too limited, that it is skeptical of trusting communities, and that the professionally administered adversarial system is regarded as somehow sacrosanct. The reliance of the community on the system is still an inherent feature of community justice, even though the system is reaching out for support. This runs counter to the widespread recognition of the important benefits to be gained by sharing awareness and promoting dialogue between the system, schools, businesses, and service providers. Federal Weed and Seed programs and PACT (Pulling America's Communities Together) initiatives have helped to create a sense that crime is everybody's business. The focus of the formal system may be expanding beyond simply securing convictions and punishing offenders. The transformation from “a machine to a service” (Chris Stone, Vera Institute) may be starting. But, as Assistant Attorney General Laurie Robinson has said, “We still have a long way to go in community justice.” Until community justice directly involves the community as partners in solving problems, progress will be severely limited.

Clearly, aims could be established to guide community justice developments in the future. The values on which these aims are based will be critical.

[There is a need for] new values which articulate new roles for victims, offenders, and communities as both clients and co-participants in the justice process, and, accordingly, create and perpet-



uate new decisionmaking models that meet their needs for meaningful involvement. For this to occur, however, a rather dramatic change must also transform the role of professionals from that of the sole decisionmaker to one of the facilitator of community involvement and resource to the community.<sup>53</sup>

Chief Justice Hale's description of change may be worth further reflection; a "giddy humour about doing something different" undoubtedly appeals when there is so much dissatisfaction surrounding criminal justice. But the excitement could be seriously misplaced if attention is not paid to fundamental questions. Reform under the banner of community justice requires greater clarity if it is to become a force for changing the delivery of justice in ways that complement the mission of community policing. Such clarity—the community justice vision—should incorporate commitment to citizen engagement and community mobilization to promote informal crime controls, as with community policing. For this reason, police officers need to be wary that developments under community justice may not be pulling in the same direction as that promoted by joint police-public problem solving to support more social justice.

Does restorative justice take us any further?

## Restorative Justice

Largely an unknown concept even 5 years ago, restorative justice has burst onto the international stage like an El Niño of crime and justice. Interest in this innovation is growing rapidly. Restorative justice is stirring up questions that resonate with liberals and conservatives alike, catapulting it to a position of the "popular justice."<sup>54</sup> Paradoxically, its popularity could be problematic: restorative justice is not a simple idea, nor a complete theory. It is evolving, largely through experiment, with a tension between its appeal to common sense and the need for understanding its full implications. It is as if the criminal justice world is potentially on course to developing a whole new kaleidoscope—with some patterns in place, but with more pieces still to be made. There is an understandable excitement, but also the need for patient attention to detail.

### Why Describe Restorative Justice As a New Kaleidoscope?

When we talk about the great web of life, we say the world is a complex place where everything depends on everything else. But ... we teach that they are independent.

—Ray Callaway, Ecologist

In this quotation, Callaway was referring to the interdependence of plants, trees, and grass. Grass, for example, often grows lush beneath trees because trees, instead of spreading shallow, surface roots, sink their roots deep into the soil, thereby allowing the grass to receive water and nutrients. We would think, however, it would be the reverse—that scant grass would grow under the thick foliage of a tree.



In a similar fashion, restorative justice is teaching us the opposite of what many of us have grown accustomed to in the field of criminal justice. It is doing so by posing fundamental questions about crime, conflict, interpersonal relationships, and justice. It asserts that instead of requiring coercion, punishment, and vengeance, crime prevention requires cooperative, consensus-building structures that promote strong relationships and communities. “Positive interactions” is how Callaway describes the essential partnership among plants and suggests that evidence is mounting that these interactions play a vital role in determining the composition of plant communities. Callaway’s *positive interactions* are a nearly perfect analogy to restorative justice’s revolutionary way of thinking about the importance of human interactions in defining our social order. Positive social interactions will strengthen, while poor ones will weaken, the bonds that promote informal social regulation and harmony.

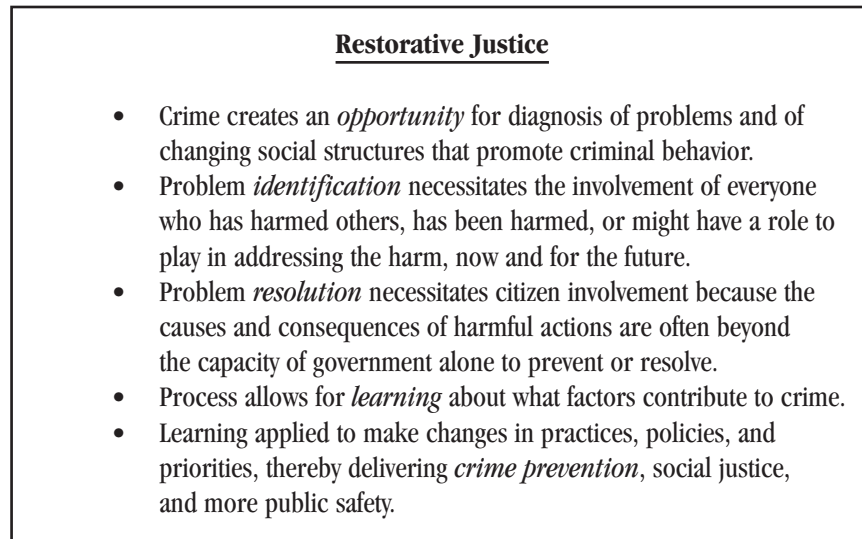
*Restorative justice* is in danger of becoming a popular catchphrase with watered-down definitions; the concept can be confusing for the breadth and depth of its efforts to reform mainstream thinking and practice. Restorative justice, like community policing, can be viewed both on a micro level—in terms of individual programs and initiatives—and a macro level—as an idealistic vision that has the power to support significant change. Its practical application so far is characterized by citizen participation, collaboration, and problem solving, similar to community policing. Restorative justice activities stem from a recognition that it is the community, rather than the justice system itself, that should be the prime site for crime control.

What distinguishes restorative justice as a social movement is that it breaks through long-standing controversy about crime, punishment, justice, and human relations in ways that eradicate polarized views in favor of mutual learning that advances a more forgiving, tolerant, and open society. Restorative justice is neither *soft* nor *hard* on crime—instead, it offers a framework for discovery about the meaning of crime and what is effective in resolving and reducing crime. It challenges us to think differently about what *effective* means. It also could ultimately challenge our current definitions of crime.

As far-fetched as this may seem, restorative justice is already achieving small “miracles”—except they are not miracles at all. What is happening in different parts of the world is the result of ordinary people being prepared to explore new ways that anyone can explore. Restorative justice has “an open, public character... rejects the notion of membership, organizational divisions of roles, and functional hierarchy. The emphasis is on broad egalitarian participation and unselfish dedication.”<sup>55</sup>

For police officers who are community minded, restorative justice offers a powerful vehicle for promoting the kinds of change they often are struggling to achieve—unsuccessfully, through no fault of their own. As Figure 12 outlines, restorative justice switches on the light in an otherwise dark territory of cultural, legal, and organizational obstacles to transforming policing.

Figure 12. Overview of Restorative Justice Process and Potential



So what is restorative justice? And why should the police become involved?

Restorative justice is founded on a set of values that redefine the meaning of policing and justice beyond strategies, tactics, and programs. A descriptive title of an important book on restorative justice, *Changing Lenses*, provides a clue as to the profound nature of the change. The values of restorative justice are defined primarily in relation to crime, but they are transferable to any kind of conflict. The inherent assumptions that underpin the restorative justice paradigm are simple, yet represent an enormous shift from the traditional *rights-based* language of adversarial approaches. Restorative justice is more focused on the *needs* arising from crime and conflict, and acknowledges the interdependence of people—as in Callaway’s ecological findings about plants.

Theoretically, restorative justice recognizes that crime establishes a relationship between the victim and an offender, even when they are not known to each other. Although a victim is not wholly dependent upon an offender (or his subsequent actions), there is a partial interdependence between the two in what Russ Immarigeon describes as a “crime-based relationship.” Victims and offenders may both be affected by the responses, behavior, and attributes of the other. Restorative justice acknowledges this relationship, and its processes seek to address this human dimension of all crime.

*Restorative justice, essentially, offers a balanced approach to meeting the needs of victims, offenders, communities, and society by affording opportunities for dialogue. Such dialogue allows people to understand from each other what crime means and to find agreement as to what should be done to address the issues identified (including victim recovery and offender accountability).*<sup>56</sup> Howard Zehr’s comparison of criminal justice and restorative justice is helpful to attain a sense of the new paradigm:





**I. Defining the problem**

- A. A retributive model defines an infraction and only looks at legal variables.
- B. A restorative model recognizes that the criminal action is a violation of people and notes the importance of the overall context.

**II. Understanding within the model**

- A. A retributive understanding of the primary actors views the offender as a passive recipient of justice—there is no responsibility held by the offender.
- B. A restorative understanding of justice explains that the victim, offender, and the community all have crucial roles to play in establishing justice.

**III. Process within the model**

- A. The process in the retributive model is more authoritarian, technical, and impersonal. It focuses on questions of guilt and of blame.
- B. The process in the restorative model is more participatory, focused on needs and obligations—it encourages the victim and offender to understand each other and requires the offender to take responsibility.

**IV. Solution within the model**

- A. A retributive model focuses on pain—someone has done an injury so he or she is injured in return.
- B. A restorative model focuses on what is needed to correct the problem and who has the obligation for action.<sup>57</sup>

While restorative justice is thought of primarily in terms of crime, as a concept it challenges traditional views about conflict and about how to guide conduct in organizations and between individuals, groups, and communities. In restorative justice, those who are affected by crime and conflict are engaged in processes that allow problem solving through participation instead of through professionals talking for them. *The focus is on identifying harm and on repairing the harm as far as possible based on a shared understanding of who has been harmed and how.* In this way, restorative justice represents a complete reorientation of how we think about justice. It is people centered, and it is about responding to wrongdoing with an open mind and emphasizing shared responsibility.

Restorative justice represents a new dimension to sharing understanding about interpersonal conflict and crime problems and is a potent force for building consensus.



Restorative justice is more than a new framework for tackling crime. It affords a new conceptual understanding of the meaning of participation in a democracy. It is also immensely practical, accessible, and contagious.

Restorative justice recognizes that crime is wrong and that punishment sometimes has a place in reducing safety risks. It would be an error to assume that restorative justice is a *soft option* or is intended to replace the criminal justice system. The dangers of misunderstanding restorative justice are high, especially with its rapid spread *within*, or *alongside*, traditional justice systems. The key to understanding it lies in its vision and values: both are entirely different from those of criminal justice.

### Values and Principles of Restorative Justice

The following are widely accepted among those who have focused on and defined the values and principles of restorative justice:<sup>58</sup>

1. **Crime harms people.** Crime is not only a violation against the state and the criminal law. Crime violates people and relationships between people. The focus should be more on the harms of crime than the laws that have been broken. Crime should be dealt with primarily as having done harm to victims. Crime should also be dealt with as having hurt community peace and safety.
2. **Response to crime should be about repairing the harm.** The response to crime should avoid increasing the harm and, instead, seek to promote conflict resolution through learning and cooperation. The response should not be a win/lose contest in which more harm can be done. The danger in our response to crime is that people become further alienated, disempowered, and less inclined to participate in social life. The opportunity exists for making good the harm and defining people's needs for the future. The response to crime should focus on the way victims and communities can be restored, as much as possible, by having the harm addressed.
3. **Harm is identified in many ways, not only by legal definition.** All kinds of harm are recognized, including emotional and psychological trauma, material losses, physical damage, the loss of feeling secure, the breakup of relationships, and the loss of social interaction.
4. **Responses must be victim centered.** There should be an emphasis on supporting those harmed by crime by enabling recovery and empowerment and by addressing identified needs. The response to crime must be victim centered. The primary victim is the one most impacted by crime. Other victims might include family members, neighbors, friends, and the wider community, including the witnesses to the offense.



5. **The behavior is condemned, but not the offender.** There should be equal concern for offenders. A distinction is made between the behavior and the person who committed the crime. The behavior is condemned, but not the person. The main function of the response to the crime, therefore, is not to punish; rather, it is to foster learning about the consequences of the behavior and to hold offenders actively accountable in meaningful ways to the victim, the community, and to the offender himself or herself.
6. **The offender is supported in his or her efforts to repair the harm and to become law abiding.** Offenders should be exposed to the impact of their behavior and be encouraged to learn empathy. There should be an emphasis on supporting offenders by encouraging them to accept and to carry out their obligations to their victims. These obligations should not be intended as harms but as opportunities for making good. They should be realistically achievable. The emphasis is on voluntary cooperation, teaching, and guidance, rather than coercion and forced measures. The aim is to better equip the offender so he or she is more likely to become a law-abiding, responsible member of the community and society.
7. **Communities are victims too, but also have responsibilities.** Communities are not only harmed by crime but also have obligations to support the victim to recover, and the offender to repair the harm. The emphasis is on collaboration with the parties and their reintegration into the community, rather than on isolation and banishment.
8. **Dialogue between those affected brings conflict resolution into justice.** There should be opportunities for dialogue, direct or indirect, between victims and offenders, as well as for community engagement. The active participation of victims, offenders, and communities in processes that focus on identifying the harms and obligations—and how the harms can be repaired—promotes conflict resolution through peaceful means.
9. **Justice is about building peace, not revenge.** Justice is about harm reduction, healing, peacemaking, and promoting safer communities. Crime is wrong and must be dealt with. The crime is regarded, however, as an opportunity for problem solving and enhancing the capacity of communities for resolving conflict. The aim is to recognize the harm, address the damage resulting from the crime, and promote recovery through cooperation and respect. Restorative justice offers opportunities for strengthening relationships and communities so they may become naturally resistant to crime and disorder.
10. **The state has a role, but the primary role rests with the community.** Crime affords an opportunity for communities to define their



standards in conjunction with the legal authority of the state. The state is not the only actor in responding to crime. If concerns for public safety necessitate the incarceration of an offender, the offender should still be expected to undertake restorative action toward his victim and the community. The state has a role in enabling restorative responses to crime to take place, in safeguarding individual rights, and in applying coercion when restorative actions fail. The state's role is needed if offenders are uncooperative or unresponsive to the community role.

In Part 4 of this report, the application of these values is explored through outlining several models of restorative justice. In a companion document, *Toolbox for Implementing Restorative Justice and Advancing Community Policing*, detailed guidance is given for those wanting to embark on the implementation of restorative justice values.

## History of Restorative Justice

Restorative justice emphasizes the need to repair harms and relationships to strengthen social bonds, improve victims' recovery, and minimize the incapacitation of offenders. In this way restorative justice builds on traditional *peacemaking* practiced by many indigenous peoples and for this reason is not entirely new. Across the world, the imposition of western-style justice systems eroded methods of conflict resolution that had been practiced by Aborigines, Maoris, and First Nations people and had been part of religious traditions for hundreds of years. Restorative justice is a revitalization of peacemaking that emphasizes a journey toward attaining people's connectedness through processes that are nonviolent and needs oriented. This revitalization is relatively recent.

The traditional peacekeeping approach to justice found in many native tribes in Canada, the United States, New Zealand, and Australia was reawakened with the establishment of the first *victim-offender reconciliation program* in 1976 in Kitchener, Ontario. Today there are almost 1,000 victim-offender mediation or reconciliation programs spread across North America, Europe, and in the Southern Hemisphere. Since 1990, *family group conferencing* has emerged from the Maori approach to justice in New Zealand. There are now *community* and *group conferencing* programs in Australia, the United Kingdom, Ireland, South Africa, Canada, and the United States. More recently, the concept of *healing or sentencing circles* emerged from the Canadian Aborigines and Navajo communities.

In addition to these processes, a number of other initiatives have become associated with restorative justice, including victim-offender panels and victim assistance programs that support the principle of harm reduction. Megan's Law has been construed by some as falling under the umbrella of restorative justice since it meets the principle of recognizing that communities are both harmed by crime and responsible for reducing the impact of criminal behavior. A significant number of innovations have involved community participation: *community reparative boards*, *community sanctioning*, and *community impact panels*, for example, were designed largely to



determine how offenders should repair the harm. All these models are using crime as an opportunity for building the capacity of ordinary people of the community to solve identified problems and work constructively toward agreed outcomes.

### Why the Spread?

The rapid growth of the interest in, and practice of, restorative justice are due to a number of trends that support its values and aims. Restorative justice is not just an abstract idea when it is linked to various developments in contemporary thought. Indeed, for many proponents of restorative justice, the values bring together conventional wisdoms on several fronts, making the paradigm seem sound common sense. Among these supportive contemporary developments are the following:

- ***The emergence of the communitarian movement***, which asserts that the pursuit of individual rights and self-interest can conflict with the common good. The focus on community as the means of resolving this tension has become a key element of current debates in medicine, education, local government, and citizenship, as well as public safety. With increasing awareness of the links between healthy communities (in which collective activities promote informal regulation) and a stable social order, significant attention has been directed to building structures for collective decisionmaking and action.<sup>59</sup>
- ***The interest in community building*** and strengthening the capacity of communities from within, which are seen as the antidote to the traditional focus on community dysfunction and the assumption that communities need external help. Instead of looking at communities as half empty, current thinking regards community assets as invaluable resources to be developed, with or without outside support, to find appropriate structures for empowerment.
- ***Concerns about over-criminalization, levels of incarceration, and crime fighting*** against those who, in many cases, suffer a lack of personal, social, and economic support. These concerns have strengthened the case for the minimum use of punishment and imprisonment. A growing interest in social crime prevention, treatment, and nonretributive interventions is apparent, notwithstanding the get-tough-on-crime rhetoric.
- ***Increased frustration of crime victims***, who see their interests sidelined by criminal justice processes. This frustration has prompted calls for more support for victims' rights and properly funded victim services. The current efforts to secure a Constitutional amendment guaranteeing victims minimum standards of information, participation, and rights to restitution are helping to promote awareness of the needs of victims and are generating debate about how these can be met.



- ***The growth in informal decisionmaking processes*** involving greater lay citizen participation. This citizen experience is contributing to the growing support for conflict resolution in lieu of legally driven, professionally dominated adversarial methods of fact-finding and adjudication. Consensus building based on participation, information sharing, and problem solving has been the basis of negotiation theory, mediation, and alternative dispute resolution (ADR) processes that have been applied to reduce workplace tensions, racial disputes, marital problems, white collar crime, and a whole myriad of human conflict.

**Case Study:  
Police Working as Peacekeepers Changes Emphasis on  
Law Enforcement**

In the Royal Canadian Mounted Police (RCMP), 10 percent of the workforce has been trained in alternative dispute resolution (ADR) to improve the handling of workplace grievances and staff relationships. As Commissioner Murray said, “ADR is a common sense approach to conflict resolution—the impact on the police culture has been huge—people are realizing that they are working in the wrong jungle.” For the RCMP, ADR is seen as having boosted morale, changed relationships between line manager and staff, saved costs, and promoted a willingness to talk through problems rather than initiate formal procedures.

- ***The emergence of modern management practices***, which stress the importance of consultation, participatory decisionmaking, respecting individuals irrespective of position and responsibility, moving away from hierarchical structures, and working collaboratively toward agreed goals. The emphasis on more egalitarian arrangements—power sharing, less use of force/enforcement, and promoting diversity—has shaped organizational cultures across the spectrum of private, public, and nonprofit entities.
- ***Therapeutic and psychological theories for dealing with human behavior***, which are challenging the punitive emphasis of criminal justice. As Pranis writes, “We now know from years of research that positive motivators are often more effective than negative sanctions: that relationships shape behavior more than fears. We are making changes in the way we rear children and run workplaces...”<sup>45</sup>

As the Mennonite Central Committee has said:

Restorative justice is not abstract; it's common sense.<sup>60</sup>

### **Is Restorative Justice Only Relevant to Certain Types of Crime?**

Restorative justice can be used for the full range of crimes and in a variety of settings. Although restorative justice is not a panacea for all problems associated with crime control, its usefulness is sometimes underestimated in terms of its real and potential application to different kinds of conflict.



Restorative justice is being used in schools to promote classroom safety and a better atmosphere for learning; in the regulation of corporate crime; in handling interpersonal conflict in organizations, including internal discipline and grievances; and in universities to address campus discipline violations. In the case of crime, the application of restorative justice will be limited only by our imagination and understanding of what can be achieved through a consensus-building model for determining justice. Already restorative justice is being applied in cases of serious, violent crime (e.g., the parents of a homicide victim meeting their child's killer[s]), domestic violence, and sexual and child abuse—as well as in cases that have an impact on the entire community.

Who decides how and when restorative justice should be applied is one of the challenges of implementing this new vision. For now, the field is being developed by individuals and small organizational groups who are choosing to experiment with the application of these values and principles in different situations and settings. Some experiments, for example, have been conducted with more than 100 people participating. Because these issues remain in flux, restorative justice has many unresolved questions and challenges—the inevitable result of the unfolding of a new paradigm.

There are both benefits and distinct dangers to having open or unresolved issues related to how and when restorative justice should be applied. The benefits are that the experiments are generally driven by people who come from a variety of ideological and nonideological stances. There are those who believe in reducing punitive sanctions on offenders, those who hold a feminist perspective (and advocate a care approach to justice), those who see restorative justice in religious or spiritual terms, those who believe in empowering lay people to make decisions, and those who have simply become aware of the shortcomings of the criminal justice system paradigm. These people are driven not so much by rules and systems as by the values and principles long promulgated by people like Howard Zehr, Dan Van Ness, Gordon Bazemore, Kay Pranis, and Mark Umbreit of the United States; Tony Marshall and Martin Wright of Great Britain; John Braithwaite, David Moore, John McDonald et al., and Judge McElrea of Australia and New Zealand; and Judge Barry Stuart of Canada. They all have emphasized the importance of studying the values and principles necessary to support a vision of a better form of justice.

The dangers lie in the rapid acceptance of restorative justice without having understood fully either its implications or its differences from traditional approaches. This has a familiar ring to it: community policing with its full complexity and far-reaching potential for reforming police departments has been co-opted too readily by some who have not paid attention to the original vision.

### **Problems with Applying the Values of Restorative Justice**

Defining the attributes of restorative justice and drawing comparisons with the criminal justice system can shed light on what is restorative justice. However, restorative justice, like community policing, can seem nebulous and overcomplicated unless its core message is understood. An attempt to apply the Delphi process to identify a sin-



gle definition of restorative justice turned into a long debate (largely conducted on the Internet) among experts and would-be experts on the subject. The “definition” runs to several pages! *Restorative justice* as a term has not even found agreement. Some prefer the label *positive justice* (emphasizing community strengthening), and some say *transformative justice* (emphasizing that the response to crime should lead to changes in the conditions that promote crime). There is *relational justice* (reminding us of the fact that crime hurts relationships, which need to be restored), *popular justice* (the delivery of justice should be rooted in lay communities), and *community/neighborhood justice* (justice involving community participation).

Complicating matters further is the rapid growth of programs across the United States and beyond that are called restorative justice, notwithstanding that they hardly reflect the values inherent in the concept. This is troublesome. As with community policing—which is interpreted to mean anything from the deployment of foot patrols to a precursor for community government—restorative justice can be defined narrowly, but also has the potential for an extremely broad interpretation that could alter the meaning of democracy. It is easy to underestimate the contribution restorative justice can make, not only to alleviating crime, but also to establishing active citizen and community groups. *What is clear is that restorative justice, like community policing, is not a program. It is more a way of thinking, a way of life, and a vision that prompts questions that challenge status quo assumptions. Nor is restorative justice confined to a few models or a single strategy.*

Essentially, however, restorative justice is locally based, nonprofessional (although the state still has a role), procedurally informal, and focused on using crime as an opportunity for problem solving and consensus building. It is not a single tool, but rather a whole toolbox comprising different components to address the threats and strengths in contemporary society. It also requires far more than tinkering with traditional formal responses.

For restorative justice to achieve its potential, a common understanding is needed of the values and rationale that should guide the debate, policymaking, and implementation of restorative justice. The values should be revisited constantly to test existing assumptions that we often ignore. This is less easy than one might hope. Most people have been brought up, and grown used to, looking at crime in an entirely different way—a lens which will not quickly erode. Experiments so far have highlighted several areas that show the flexibility needed to distinguish restorative justice from traditional crime approaches. These are summarized below.

## Key Lessons of Restorative Justice Values

The following lessons are based on experience with the restorative justice values and principles cited previously:

1. ***Crime harms people—and in different ways.*** The state and the professionals working for the state can never be assumed to be able to define these harms. The harms are uniquely experienced by those who experience





them. As one crime victim explains, crime is an “intensely personal experience.”<sup>61</sup> *This necessitates the involvement of the parties who have been affected by crime.*

2. ***Response to crime should be about repairing the harm in ways that are meaningful to those involved.*** Victims do not want control; they want to be listened to and taken seriously. Offenders are encouraged to listen to the details of the harm and to take responsibility for making amends for some of the harm rather than feel stigmatized and alienated. Restorative justice is not about asserting *rights* over anyone. Instead the language is about *needs*; thus the repair of harm should be relevant to the victim as well as realistically achievable by the offender. *The victim should have choices about the harm repair, and the offender’s responsibility should be meaningful. The imposition of solutions by professionals will not serve either party well.*
3. ***Harm is identified in many ways, not only by legal definition, and identifying the harm requires perspectives and information from different people.*** Restorative justice involves opportunities for dialogue precisely to identify the harm a crime has done. Such dialogue might seem somewhat cumbersome, except that the investment is worth it; it is important for the parties to be able to tell their story. Being heard is an essential ingredient to recovery and to understanding what has happened. It reveals the full impact of crime. *The processes should involve as many people as possible from among those who have been harmed and those who have committed that harm.*
4. ***Responses must be victim centered.*** Talking about the harm can become emotional and uncomfortable. Far from being seen as an obstacle, this emotion is regarded as key to broadening understanding of the meaning of crime and how to respond to it. This venting can foster empathy, compassion, and a willingness to support the victim to make things better. This support is not viewed as a responsibility solely for professional staff, but also for the offender and the community that promotes citizen care. *The energy that comes from these dialogues can be channeled toward problem solving and crime prevention.*
5. ***The behavior is condemned, but not the offender.*** The dialogue can help to highlight that defining a crime as a particular misdemeanor or felony is extremely limited. The offender’s story helps to show that crime does not happen in a vacuum. His or her behavior may be condemned, but there is likely to be an understanding of the contributing factors that were involved in the commission of the criminal behavior. It becomes clearer that much more is needed than slapping on a sentence, hoping to stop the offender from reoffending. Other steps are usually necessary. In particular, the offender’s accountability should not be so abstract as to have no meaning to the offender or to his victims. Reparation, restitution, an apology, compen-



sation, or voluntary service should be relevant to those involved. The acts of accountability should also be directed to those who have been harmed. *In this way, the offender can retain the support of the community at the same time as his or her conduct is condemned.*

6. ***The offender is supported in his efforts to repair the harm and become law abiding.*** Restorative justice requires offenders to take responsibility for their actions. As in Native American tribes, offenders do not have legal defenders; they speak for themselves and are not asked to plead guilty or not guilty. In this context, responsibility is more often accepted by offenders, and from that acknowledgment of responsibility, learning and reintegration can take place. This precludes the need for punishment in most cases. *Offenders are reconnected with the community while they take active responsibility for their actions.*
7. ***Communities are victims too, but also have responsibilities.*** Community is dependent upon the existence of relationships. Crime harms relationships and these need to be rebuilt; victims need to feel the care of the community, offenders need to feel that they will not be banished, and the community needs to reconnect in order to promote healthy relationships. *Restorative justice recognizes the importance of community involvement in preventing and responding to crime.*
8. ***Dialogue between those affected brings conflict resolution into justice.*** Instead of taking the conflict away from the parties and from those who can help, the idea is that the conflict should be “nurtured and made visible” because we can learn from conflict.<sup>47</sup> *Dialogue promotes peaceful resolution based on understanding, not anger based on misunderstanding.*
9. ***Justice is about building peace, not revenge.*** Restorative justice is a process whereby all the parties with a stake in a specific offense come together to resolve collectively how to deal with the aftermath of the offense and its implications for the future.<sup>62</sup> Empowering communities and the parties to jointly engage in addressing the meaning and consequences of crime promotes understanding, problem solving, and a willingness to work things through. *The focus is on how much harm can be repaired, not how much punishment is appropriate.*
10. ***The state has a role, but the primary role rests with the community.*** If crime affects people, who should then be engaged in processes, we need to rethink the roles and responsibilities of government and community. Governments and system professionals cannot build strong communities. At best they can establish order. Communities, however, have the capacity for strengthening ties, developing mutual respect, and sharing values that help to establish a sense of security and harmony. “As citizens have seen the professionalized service commodity invade their communities,

they have grown doubtful of their common capacity to care, and so it is that we have become a careless society..."<sup>12</sup> *Government cannot tackle crime alone, and communities need help in learning how they can assume more responsibility for reducing crime, fear, and disorder.*

### **Role of the State in Restorative Justice**

One paradox of restorative justice is that, despite being rooted in the idea that conflict should, as far as possible, be dealt with by the parties involved, there is no suggestion that the state ceases to have a role. First, restorative justice processes can be applied at different stages of the formal justice system: as a diversionary process in lieu of prosecution; following a referral by the court after a finding of guilt; as part of the court sanction, post-sentencing, or while a sentence is being served (as in the case of many serious violent crime cases). Few restorative justice processes are set up without the involvement of criminal justice professionals (although once set up, communities have been known to initiate conferences and circles by themselves).<sup>63</sup>

Second, communities are not able to work on their own without support, training, and guidance in the principles and practice of restorative justice. Communities are riddled with obstacles to any realistic involvement in justice making, but these obstacles can be exaggerated. The state has a responsibility to gauge the threats of community biases, weakness, and attitudes, as well as the actual or potential assets inherent in a community.

Third, the state has a role in monitoring what happens in restorative justice. After all, it is possible for some communities to stray away from restorative justice values and to start replicating the punitive emphasis of criminal justice or acting as vigilantes. Some communities have social and economic structures that can promote racism, sexism, and other discriminatory views that run counter to restorative justice values. These demand oversight. Community decisionmaking necessitates an element of accountability to its members as well as to broader society. Only the state can ensure that processes are conducted reasonably, fairly, and within defined parameters.

Finally, restorative justice is not applicable in cases where guilt is being denied by the offender or where a victim is unable to choose to participate (although "surrogate victims" have been used by some programs). In such cases, none of the restorative justice models is able to replace the determination of guilt or innocence, which remains the prerogative of the formal justice system.

### **Relationship Between Restorative Justice and the Criminal Justice System**

Critical to restorative justice is a recognition of its potential as well as its limitations. Restorative justice is not a panacea for the delivery of justice or the control of crime. Society is not in fit shape to discard the criminal justice system. Restorative justice advocates acknowledge the need for incarceration of offenders who are violent or



persist in victimizing others. The criminal justice system is needed for public safety as well as for restorative justice. Restorative justice is a parallel system of justice coexisting with criminal justice. However, the two systems are based on different values, emphasize different objectives, and require separate thought processes. As Judge Barry Stuart writes:

A range of responses to crime is necessary. The formal system has a place, but so too do systems and values flowing from family and community. Currently too much responsibility has been assumed by the formal justice system. We must create a better balance between what the state should and can do, and what the family and community should and can do.<sup>64</sup>

The aim is to apply restorative justice increasingly, whenever appropriate to lessen dependence on the formal system. The formal system cannot deal with all the expectations and demands made on it, nor should it if we are aiming to promote public safety through citizen engagement and informal social controls. Comparisons are helpful to highlight essential attributes of each system. Both have their strengths and weaknesses, as highlighted in Table 4.

There are dangers that restorative justice may be applied only in less serious crime cases or in relation to first-time offenders. Such limited application could reduce the potential of restorative justice to promote informal social controls through citizen engagement and to control crime through a balance of problem solving and learning by a partnership effort.

The benefit of restorative justice is that crime is seen in more comprehensive terms than as a mere breach of the law by an offender. Restorative justice enables the full impact of crime, both in the short and long term, to be shared, understood, and dealt with through the active engagement of citizens—including the victim(s) and offender(s). This means that the problem of crime is defined in more holistic terms and is not left for the police and the government to deal with alone.

The process of restorative justice enables people to better understand the links between cause and effect and how existing conditions promote crime. This learning is often the precursor to active steps being taken to support changes in those conditions. This shifts the *prevention* of crime from being a marginal activity to one inherent in addressing crime.

Crime is no longer seen as an intractable problem, but one that can mobilize communities to take care of their members and to put into place what is required to make crime less likely in the future—without creating divisions in the membership. In this way, communities are strengthened as their relationships are rebuilt, solidified, and developed.



Table 4. Comparison of Criminal Justice and Restorative Justice

<b>Criminal Justice</b>	<b>Restorative Justice</b>
The system is primarily offender-focused	The focus is on anyone crime has impacted
Presumption of innocence imposes a burden of proof on the state; focus is on blame and punishment	Suspect's rights are respected, but focus is on taking responsibility, problem solving, and repair of harm
Reactive to events	Responds with the future in mind
Use of punishment (pain) to deter offenders and to respond to victims' expectations	Some victims may still think punishment is needed; reconciliation, reparation, restitution, compensation applied when appropriate
Victims' needs often marginalized, services are poor; excludes victims from process, but relieves them of burden	Victim has a central role—needs are especially addressed; danger of putting victim under pressure unless sensitively handled
Community sidelined; can weaken community as it has to depend upon formal system	Community participation encouraged; opportunity for community building; some communities can be retributive, which calls for close state supervision
Due process important; procedures are important and predictable	Relationships and outcomes are important and variable
Language is technical and legalistic	Ordinary conversation allows for open dialogue
Adversarial, competitive style	Style is consensual conflict resolution
Reason and rules dominate	Emotion and feelings are allowed
Offenders in a passive role; accountability is limited to punishment or compliance with orders	Offenders encouraged to take active responsibility, but relies on goodwill and community or court supervision
Offender accountability not related to victims' harm; debt is owed to the state	Offender accountable for repairing harm to the victim and community
Offense defined in legal terms; more straight forward	Offense seen in social and moral context, which can be complex but more holistic than legal definition
Crime creates stigma; offender gets a record and can be banished from the community	Stigma removed through restorative action; offender is reintegrated into the community
No scope for remorse or forgiveness; offender often sees himself as victim against the state	Opportunity for remorse and forgiveness (although cannot be guaranteed)
Process is taken over by professionals; victim's hurt cannot be defined adequately by the state alone	Process encourages parties' involvement; victims are treated as individuals, and their feelings are dealt with
Consistency in approach and resolution; emphasis on standardization and proportionality	Unpredictable and encourages variable solutions; responses tailored to needs
Crime is kept simple: the behavior and the offender are firmly denounced; consistent with tough-on-crime attitudes	Crime is made complex because of the distinction between the person and the behavior; difficult to market in current climate
Focus on individual responsibility	Focus on social and moral responsibility of individual and the community

SOURCES: Words are the author's; material adapted from Marshall, T., "Seeking the Whole Justice"<sup>62</sup> and Zehr, H., *Changing Lenses*.<sup>56</sup>



## Restorative Justice and Community Policing

Neither restorative justice nor community policing are abstract ideas, but as concepts they are complex, with a variety of nuances and objectives. Both emphasize participation and citizen engagement, cooperative and collaborative approaches, and problem solving. Operating restorative justice or community policing enables learning, understanding, respect, and shared responsibility. Public dependence on professional experts tends to be offset by community development, and both have their sights on promoting safety and security.

As with any idea that is hard to sum up in a few soundbites, both restorative justice and community policing are susceptible to being seen only in mechanical terms (individual characteristics, programs, or models)—rather than in terms of the significance of their alternative vision of policing or justice, or both. In these cases, the broader goal relates to balancing formal and informal crime controls—to ultimately reduce the risk of repressive “solutions” to “the crime problem” (including fear and disorder) and enhance awareness of the importance and feasibility of developing social solutions that promote care, connectedness, and community. In short, the vision supports the development of a healthy and safe democracy.

Both reform movements have the problem of seeming to demand the impossible and to be unrealistic about contemporary society. For a long time Western societies have been gripped by deeply challenging questions about crime, victimization, and offending behavior. To arrive at any consensus on the path forward, there must be a context in which clear objectives and a coherent strategy can be developed.

In this respect, restorative justice has something important to offer to those attempting to advance community policing. Community policing is evolving and the resulting transformations are promoting democracy; but without the value base rooted in restorative justice, these changes will remain fragile steps without a focus on a clear mission. Restorative justice takes things much further: the basic presuppositions on which activities and decisionmaking are undertaken are far removed from the current mainstream paradigm of retribution and a focus on offenders. While community policing can be a vehicle for shifting attitudes, challenging traditional assumptions, and finding effective ways for delivering a balanced approach to law and order, its implementation requires professional leadership that must steer through a proverbial minefield. There are inspirational police chiefs willing to speak forthrightly on the need for change and how change can come about. But for the most part, accomplishing that change has been an arduous effort. The difficulty has been exacerbated by such factors as the cultural resistance to moving away from the professional model of policing, and skepticism about the capacity of communities to be more than consumers (or complainants) of professional police services.

These factors have called for a kind of creativity that is unusual in bureaucracies; they also call for tenacity, perseverance, patience, and vision. The police culture is what it is for understandable reasons—few people are confronted or deal with the span and



depth of societal problems that police officers do. The work can seem awesome without imposing pragmatic limits to what policing is about and how it should be conducted.

In turn, the notion of *community* can seem ridiculously nebulous and artificial. Police officers are well aware of how disorganized and apathetic different communities can be. It is a common experience for police chiefs to attempt to explore a meaningful dialogue, only to have a few lay voices hammer particular interests, regardless of the common good. It requires a unique set of skills to identify existing strengths and to surmount weaknesses to develop a true partnership based on mutual respect, power sharing, and joint learning. If community policing is evolving slowly, it is understandable in light of these factors as well as the reality of the powerful influence of the attitudes that support the “war” on crime.

*If community policing is evolving, restorative justice is akin to a loud alarm clock—providing a dramatic awakening to the possibility of an entirely new reality.*

Restorative justice provides opportunities for transforming the way people think about law and order and about each other. In the experience of those who have seen the powerful way restorative justice shifts mindsets and promotes shared confidence that problems can be dealt with differently, there is emerging a sense that, almost unbelievably, theory can work in practice.

Where restorative justice and its values have been implemented, what has seemed intractable or hugely difficult has turned out to be not only achievable—but often the catalyst for changes in relationships that otherwise have perpetuated problems, including crime. Restorative justice offers a vehicle for addressing crime in a way that both meets individual needs and works toward broader social needs—the key being empathy. As Gloria Steinem wrote, “Empathy is still the most democratic and therefore revolutionary of the emotions... it turns healthy self-interest into equally healthy altruism—and vice versa.”<sup>65</sup>

It is incumbent on police officers to expose themselves to these insights if community policing is to contribute to, not detract from, attaining the broader goal of striking a balance between formal and informal controls. Police officers applying restorative justice instead of traditional criminal justice would go a long way toward changing their relationships with communities. This kind of change is conducive to power sharing in partnership efforts and to building mutual trust. See “Characteristics of Restorative Justice” (in box), which are entirely consistent with community policing.

There are problems in recommending that law enforcement agencies begin to take an interest in restorative justice: Policing is part of the formal criminal justice system, which has become a powerful machine for delivering “justice,” that is, detecting offenders and handing down tougher sentences. The culture of most police departments supports this rule-oriented ethos in the face of high levels of violent crime and persistent threats to public safety. Elements of some restorative justice processes find quick appeal—namely, the encouragement of offenders to take responsibility and be

### Characteristics of Restorative Justice

- Locally based
- Nonprofessional
- Procedurally informal
- Focused on using crime as an opportunity
- Trying to promote problem solving
- Building relationships and social bonds
- Trying to promote understanding and peace

exposed to the impact of their behavior on others. Failure to ground oneself firmly in *all* of the values of restorative justice, however, threatens restorative justice and undermines the opportunity to learn that there is another route to protecting public safety—other than punishment.

On the other hand, police officers who have been exposed to problem-solving methods and community policing already have many of the skills and insights required by restorative justice. Police officers have, without a doubt, a head start on understanding the real need for improving the status quo of existing criminal justice arrangements. Police see victims of crime not getting the support they need, offenders in the revolving door of a system that often can do nothing to change behavior, and communities frustrated by the impact on their quality of life. The police officer who puts his head above the horizon knows the chances of the *thin blue line* being swamped with 911/311 calls, reported crime, and outbreaks of disorder. *For police officers, restorative justice has much to offer—the promise that they can play a key role in bringing about the kinds of change for which they joined the police: protecting and guiding those who need help, and promoting standards that are widely shared to make homes and neighborhoods safer.*

Part 4, then—following the next section—explores key restorative justice processes, to provide insights into what can be accomplished if the police change their lens. A companion document to this report, entitled *Toolbox for Implementing Restorative Justice and Advancing Community Policing*, provides details on implementation issues to be considered in developing these processes.

### Conclusion to Part 3: Developing a New Paradigm

Conventional wisdom has it that policing and justice represent different functions of the state. In simple terms, the police are there to respond to reported crime, to answer calls for service, and to maintain order. The justice system, on the other hand, is deemed specifically responsible for establishing the guilt or innocence of those charged with criminal offenses and deciding on the appropriate sentence in cases where guilt is proven. Although police are often regarded as the gatekeeper to the formal justice system, the organization, culture, goals, and practices of law enforcement and the courts are shaped by entirely different forces.





Nevertheless, given the conditions in which crime is known to form and given the importance of community engagement in responding to and preventing crime, policing and justice need to be pulling in the same direction. Their priorities need to be the same and their activities better coordinated to provide a more coherent response to the problems of crime.

In more recent years a picture has been slowly emerging of what a fully integrated policing and justice system could look like—one in which community orientation is the thread running throughout the entire fabric of law and order. The leap to join the separate concepts of community policing, criminal justice, and restorative justice is beginning to be made. There have been conferences on community policing in which community justice initiatives have been described, and vice versa. In 1995, in a paper titled “Restorative Justice: A Call for Action,” Marlene Young of the National Office for Victims’ Assistance pulled together the key themes emerging across policing and justice and wrote about “constructing a new paradigm” in law and order. The Victim Offender Mediation Association (VOMA) will dedicate its annual conference this year to the theme of building links between community policing and restorative justice.

*Talk is scarce, however, about developing a comprehensive, integrated community policing and justice system in which community engagement in crime control becomes a fundamental tenet across the board.* This lack of emphasis explains, perhaps, why major reforms are happening virtually independently of one another. Ignoring the potential for such a holistic approach threatens to jeopardize current and future advancements in community-oriented policing and justice for two reasons: first, because the barriers to advancing community engagement and participation in decisionmaking remain obscure; second, because without strong links between community policing and justice, the changes occurring are likely to be superficial, that is, without a firm platform of a shared set of values that underpin the societal response to crime in America. Without strong links, the changes are also in danger of contributing to continuation of a stalemate between support for tougher crime controls and advocating for social justice.

The police have a sense of the dilemma already. In Chicago a national conference in 1998 on the future of community policing explored “beyond the rhetoric” and discussed the obstacles to change and the strategies for overcoming problems to advance the “changing of policing.” It is a familiar theme. More than 10 years ago police leaders were recognizing that “police strategies that worked in the past are not always effective today. The desired goal, *an enhanced sense of safety, security, and well-being*, has not been achieved.”<sup>66</sup> Years later, community justice is emerging with a similar goal: *striving for safe, secure, and just communities*.<sup>67</sup> Momentum to support a common mission for policing and the various components of the justice system needs to be promoted, and the police are well placed to advance the message. Their involvement in restorative justice could be the very catalyst required.

The police have a critical role in helping to bring about a more integrated system for several reasons. First, the police arguably have far greater exposure to a wide range of stakeholders than do their counterparts among the agencies that make up the justice system (prosecutors, the judiciary, corrections, probation officers, and others). They patrol the streets, attend community meetings, and enter people’s homes, often

in connection with matters unrelated to crime and criminal justice. The police are dependent upon the community in fulfilling their enforcement role. Police can only respond to crimes reported by the public; investigating officers need information from the community, and they need community members' cooperation as witnesses. Calls for service represent the most direct relationship between the public and the police as, respectively, recipient and provider of a whole range of services. Perhaps for this reason, it has always been understood that the "police are the public and the public are the police."<sup>68</sup>

Second, policing has always been regarded as having a relationship with the community. The public, even under the traditional professional model, was still regarded as an important ally in providing information, coming forward to report crime, and seeking the assistance of patrol officers. The 1970s still witnessed the police striving to listen to community complaints and to heed tensions. After all, poor police-public relations made policing exceptionally difficult.

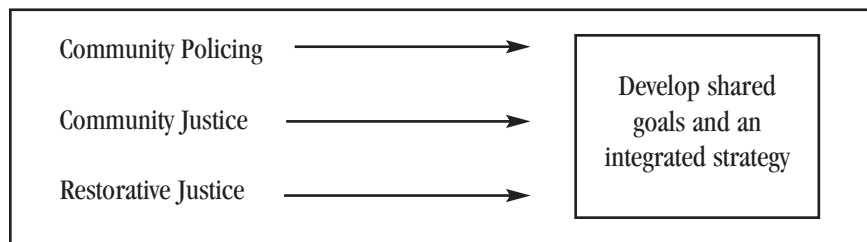
By contrast, the justice system has always encouraged a professional aura of independence from the community in an effort to establish impartiality. This has been an important thread in the *due process* of the trial system and in the critical decision-making phases related to bail, sentencing, parole, and release. The way information and evidence from members of the public are introduced into, and used by, the system has largely been shaped by this ethos of autonomy. It has also influenced the standardization of many practices and policies out of a belief that decisionmaking must be objective and free of inappropriate interference.

Third, policing has significant influence on what happens on receipt of a call for service or information from the public. Police decisions to arrest or to caution are discretionary, and they largely determine what matters go before other criminal justice agencies.

Finally, the police have experimented with community-oriented approaches longer than any of their counterparts. They have gained experience, acquired new skills, developed new tools, and held long debates with communities about the need for and method of delivery of policing.

Figure 13 highlights the challenge: to integrate community policing, community justice, and restorative justice based on shared goals and an integrated strategy.

Figure 13. The Challenge: Integrate Community Policing and Justice



An integrated police and justice effort would reflect an acknowledgment of the following:

- The primary locus of policing and justice delivery should be the community.
- There are limits to what the professionals can do without the active support of citizens.
- Responding to crime requires more than a *reaction* and should include problem solving.
- Offender accountability requires something more than simple punishment prescribed by the courts—the needs of victims and communities should be addressed.
- Crime is more than a violation of the law; it creates harm that has both short- and long-term consequences.
- Accountability means more than legal accountability; it requires fairness, effectiveness, responsiveness, and social accountability.
- Crime requires partnership efforts between professionals, as well as between professionals and the community, aimed at achieving common goals.
- Current experiments should not be conducted in isolation, but as part of an agreed strategy to promote citizen engagement, participatory decisionmaking, problem solving, collaboration, social justice, and upholding the formal system of criminal justice.



Part **4**

Community Policing,

**COMMUNITY JUSTICE, AND RESTORATIVE JUSTICE**

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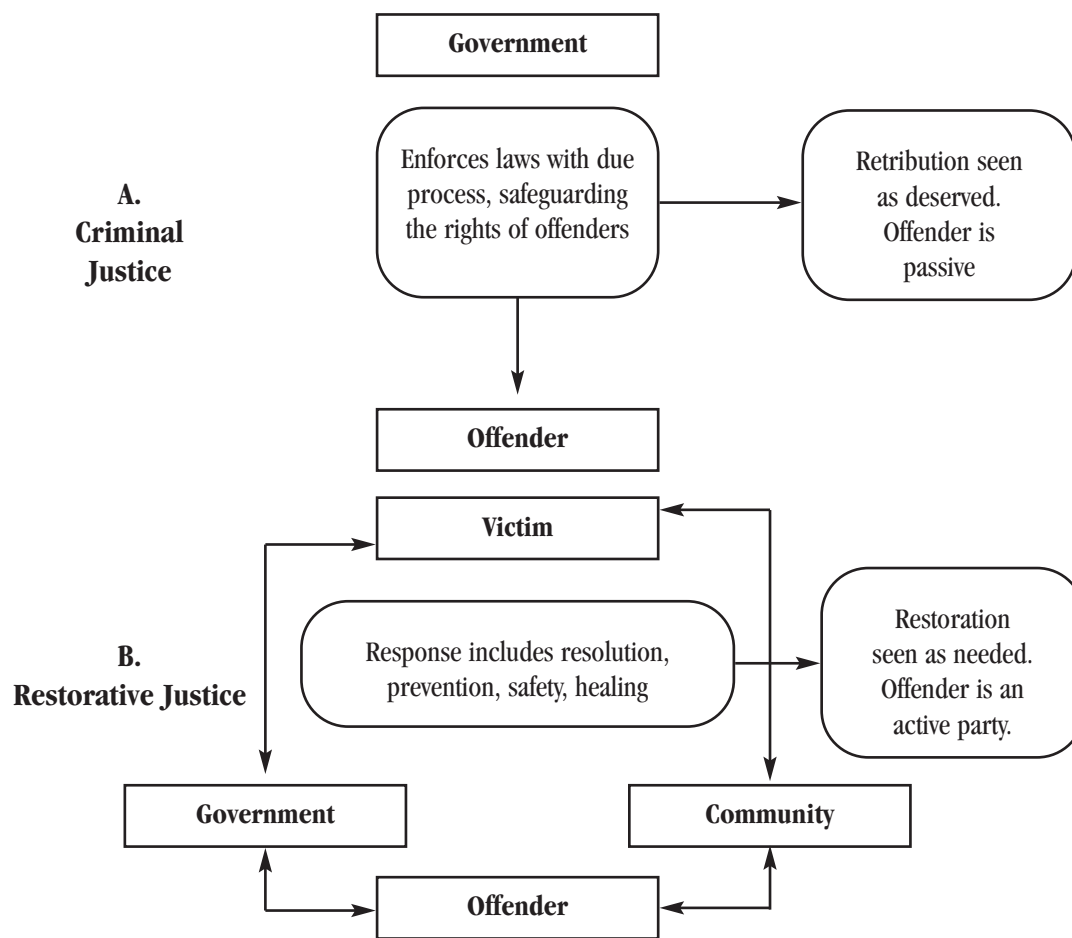
Part 4. Models and Processes Emerging  
Under Restorative Justice

## Part 4. Models and Processes

### Emerging Under Restorative Justice

Restorative justice values are being translated into practical applications that, to varying degrees, embody the essence of the new paradigm: focusing on repairing the harm caused by crime (or restoring those harmed) through involving those affected, including victims, communities, and offenders. The state has a role in most of the processes, either to convene the process or to oversee procedural fairness and effectiveness. Restorative justice seeks to bring balance into the spread of rights and responsibilities among these four players: victims, communities, offenders, and the state. As Van Ness and Strong have illustrated (see Figure 14), the shift is from a criminal justice focus on the offender's relationship with the government to embracing the view that there are other parties affected by crime.

Figure 14. Comparison of Criminal Justice and Restorative Justice Participants and Processes



SOURCE: Adapted from Van Ness, D., and Strong, K.H., *Restoring Justice*, Cincinnati, OH: Anderson, 1997.



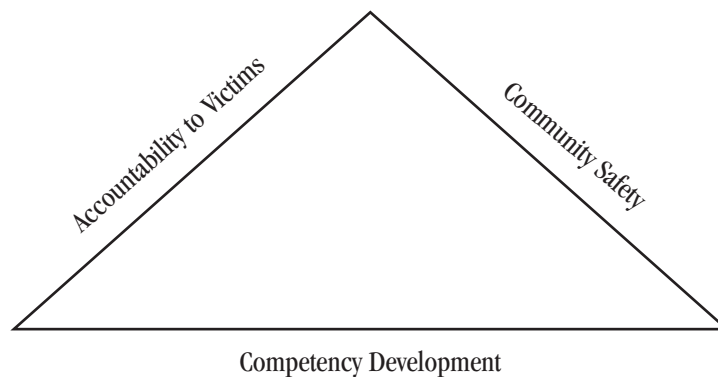
## The Balanced Approach

In restorative justice, attention is paid to the obligations that the offender has towards the victim(s), community, and government and how those obligations are fulfilled through a dynamic process involving the following:

- Restoring the victim and community
- Developing offender competency and reintegration
- Promoting community safety

Since 1992 the *balanced approach*, depicted in Figure 15, has underpinned the balanced and restorative justice (BARJ) model sponsored by the Office of Juvenile Justice and Delinquency Prevention in relation to juvenile justice.

Figure 15. The Balanced Approach in Restorative Justice



Source: Adapted from Maloney, D., Ronig, D., and Armstrong, T., "Juvenile Probation: The Balanced Approach," *Juvenile and Family Court Journal*, 1988;39(3):1–63.

Practices and models under the rubric of restorative justice should address these three goals in equal measure. Some models are more restorative than others in terms of striking the right balance, but each offers lessons for understanding the significance of the various elements of the restorative justice theory. None is a blueprint to be taken off the shelf and applied universally, without adaptation to local or individual circumstances. As Kay Pranis writes, "Each community must struggle with basic questions of values and the community's future; communities can learn more from one another but cannot answer those questions for another."<sup>69</sup>

The next sections examine three key restorative justice models that provide insights into how the values of restorative justice are being explored by different communities.



## Victim-Offender Mediation

A related concept in mediation theory is that ongoing interpersonal relationships make mediation more successful than standard court procedures because of the parties' desire to preserve these relationships and/or their ability to influence each other.<sup>70</sup>

Since the 1970s, as dissatisfaction with the traditional justice system mounted regarding its handling of crime, mediation has emerged as a viable process for addressing the impact of crime on both victims and offenders. Notwithstanding the advent of victim sciences, more information for crime victims, victim impact statements, compensation, reparation, and restitution orders, victims' needs are too often compromised by a system that has focused elsewhere.

When victims are required to attend court, they may feel that they are there only as *evidence* for the case against the defendant(s). Victims routinely experience a situation in which they are given no information, are deprived of compensation, and face courts that are not victim friendly. Meanwhile, offenders are placed in a passive role while the professionals conduct the adversarial system concerned with due process, procedural fairness, adhering to rules of evidence and the objectives of establishing guilt (or innocence), and deciding on sanctions.

Mediation recognizes that the impact of crime is more complex than is reflected by law and legal procedure. Consistent with the notion that crime demands a social response, mediation allows the offender an opportunity to understand what he or she has done by directly (or sometimes indirectly) hearing the victim's story. This process can be painful, for it involves stripping away excuses and defenses so the offender actually feels the pain that he or she created. The process is a catalyst for changing behavior. Mediation allows for "the airing of (victim's) grievances... more complete than in court, as the range of relevance is extremely broad."<sup>71</sup> In other words, mediation releases the stranglehold on the emotions aroused by crime to enable victims and offenders to achieve consensus as to the true consequences of the crime and to reach agreement on the nature of the participants' future relationship. Far from being a contest between the state and the offender, mediation is widely described as a procedure that is conciliatory and therapeutic. The participatory process is helpful to both the offender and the victim and can work in the spirit of restorative justice values.

## Different Models of Mediation

Not all mediation processes, however, have as their objective to provide a service to victims and offenders to explore the ramifications of a crime and the relevant needs and obligations. One of the first mediation programs took place in Ohio, where a prosecutor realized that the backlog of cases in court demanded an alternative, diversionary scheme. A mediation center was set up in New York City in the mid-1970s



aimed at handling cases that involved people who already knew each other. The process worked to develop agreement between parties—who might otherwise have had their dispute dealt with in court—so as to encourage them to carry on some kind of relationship; court appearances were seen as likely to completely sever communication between the parties.

Neighborhood justice centers developed in the late 1970s, primarily seeking to promote an agreement between parties on either civil or criminal matters. Criticism of these initiatives centered on the mediation serving the interests of one party more than the other, and benefiting the justice system more than either of the parties (the first complaint is still a dominant criticism of mediation in cases of domestic abuse). The neighborhood justice centers generally are also more settlement driven than dialogue driven, focusing on attaining an outcome acceptable to the system rather than on accommodating a process of engagement that in itself is of value to the parties.

For this reason, many mediation programs are not necessarily consistent with the values of restorative justice. It was in 1976 that the first known case of mediation took place (in Ontario) in which the therapeutic value of victims and offenders meeting face-to-face after a crime was the main driving force. A Mennonite probation officer and a community volunteer trained in mediation organized meetings between 2 offenders and around 20 victims in a case of car vandalism. The agreement was victims' compensation, payable by the offenders within 3 months. The primary aim was reconciliation, rather than mere reparation. Here the restitution followed the dialogue between the offenders and the victims, which helped the boys understand what they had done beyond wrecking the vehicles. In turn, the victims recognized the boys' willingness to make good the harm, beyond admitting responsibility. The resolution of any conflict requires more than symbolic gestures of declaring blame and punishment: it requires negotiation in which both parties' needs are taken into equal consideration.

With this beginning, the Victim Offender Reconciliation Program (VORP) was set up, and the idea soon spread to Elkhart, Indiana—another Mennonite community. The Canadian initiative, followed by Elkhart's adaptation of the process to place the VORP under a community-based organization, began the development of mediation under a new paradigm. "The old paradigm's focus is on blame-fixing for the past; the new one, while encouraging responsibility for past behavior, looks to the future, problem-solving the obligations created by the offense."<sup>71</sup>

The Elkhart VORP was, therefore, probably the first time the concepts of mediation and restorative justice were brought together. Victim-offender mediation (or *victim-centered offender dialogue*, as it has come to be known in some circles) builds on Christie's argument that human conflict should be "made visible" and "nurtured"—and belongs to the participants. It is they who should determine what is relevant, explore the impact and the implications of the conflict, and come to learn what it means. As Mark Umbreit writes, "Conflict is an unavoidable part of life. Instead of denial, conflict can be embraced as a necessary step in the journey of the individual (or organizational) growth and development."<sup>72</sup>



Victim-offender mediation is a problem-solving intervention in which the parties are brought together by a facilitator (coordinator or mediator) and encouraged to work out how the conflict can be resolved. It is the parties that make the decisions, *not* the facilitator (as in arbitration), thereby ensuring empowerment and self-determination. Mediation in the context of victim-offender mediation is a voluntary, informed process—there is no coercion<sup>73</sup>—that usually follows a structure that paves the way for a smooth progression toward reaching agreement.

### Case Study: Dialogue Brings Empathy

“The father of a murdered daughter doggedly pursued his understanding of justice for her killer. For ten years he hounded the parole board in protest of any consideration of the offender’s parole. His obsession for justice was well-known in any office related to the criminal justice system where he would frequently and freely express his feelings ranging from intense anger to absolute frustration and despair. When he was finally able to sit across the table and face the man who had brought so much pain into his life, they talked and listened to each other non-stop for over two hours. Before they took a break to resume the dialogue later on, the father spontaneously reached out and grasped the hands of the offender—the hands which had taken the life of his daughter—and said, ‘Thank you. You can’t imagine how helpful this has been.’ At the end of the day both told how so much of the ‘weight’ of all those years had been lifted. What the encounter provided was the uncovering of a deep reservoir of emotional strength and resiliency for both the father and the offender. The experience seemed to evoke an extraordinary capacity for empathy and understanding that they would never have imagined they possessed. That did not mean the father practiced blind acceptance or naive pity of the offender. In fact, the face-to-face encounter was most characterized by blunt, brutally honest exchanges.”

SOURCE: *The Victim’s Informer*, newsletter by the Texas Department of Criminal Justice Services, Crime Victim Clearinghouse, Austin, TX, 1997.

## How Can Victim-Offender Mediation Work with Crime?

The idea of a victim of crime meeting face-to-face with the offender(s) is difficult to grasp for many people. Victims who have chosen to participate in a victim-offender mediation process often attract adverse comments from family or friends: “Why would you want to do that?” For many victims, as well, the idea seems odd—if not intimidating. Yet the victim-offender mediation movement has developed rapidly since the Elkhart experiment more than 20 years ago. What are the incentives for victims?

One woman who used to work as a prosecutor and now works in a community-based VORP scheme in Alaska, sums up much of the rationale for victims’ participation: “I didn’t want to encourage the denial in offenders any longer.” She meant, of course, the unintended consequences of a criminal justice system that upholds the ideals of the presumption of innocence and the right to silence, both of which can discourage



offenders from taking responsibility for their behavior. Instead, they wait to see if the prosecution can prove the case against them, or they receive legal advice that discourages their cooperation with the justice process. Offenders' rights are important in maintaining a fair system of justice; in practice, however, these ideals have the effect of encouraging guilty criminals to deny guilt and responsibility. Their attorneys encourage them not to say anything that might incriminate them. The burden of proof rests with the prosecution, which necessitates a focus on the legal definition of a crime—rather than on the social impact of the criminal behavior and on subsequent obligations the offender has incurred by his or her actions.

For victims, victim-offender mediation offers an opportunity to express how they have been affected by the offender's behavior. It is important to understand the trauma that crime victims can experience in order to appreciate their strong desire to tell someone how they feel and how they have been harmed. Also, victims need information: why the crime happened to them, what the offender intended, could they have done something to stop the crime—these can be overwhelming questions, and often only the offender can answer them. The offender may also be the one person that the victim particularly wants made aware of what he or she is suffering. Victims feel that the offender rarely understands what he or she has done; the criminal justice system's interpretation of the victim's testimony as "evidence" tends to remove the human dimension. Victim-offender mediation allows victims to express their feelings, get answers to questions, and be engaged personally in the negotiation of an acceptable plan that addresses both their needs and the obligations of the offenders.

Umbreit and others have conducted evaluations of a number of victim-offender mediation processes to identify to what extent crime victims feel satisfied with their participation and with the agreements reached following negotiations with the offender. Victim satisfaction is consistently high, with 91 percent believing that the offender was adequately held accountable, compared with only 33 percent of the victims who did not go through a victim-offender mediation process.<sup>74</sup> Table 5 compares victim-offender mediation characteristics that have the least restorative impact with characteristics that have the most restorative impact.

Victims' responses to Umbreit's survey suggest that the predominant reasons for their choosing to participate in victim-offender mediation is to receive answers to questions that they have of the offender(s) (82 percent), to have the offender(s) get counseling (82 percent), and to tell the offender(s) how the crime affected them (78 percent). Victims also were motivated by the possibility of having the offender(s) apologize to them (82 percent). Victims who have gone through victim-offender mediation have, without exception, said that victim-offender mediation should be offered to crime victims as a matter of course following a crime. This compares with 72 percent of victims asked the question who had not gone through a mediation process. See "Process of a Typical Victim-Offender Mediation" (in box) for an overview of such mediation.

Table 5. Victim-Offender Mediation: Comparison of Characteristics with the Least and Most Restorative Impact

<b>Least Restorative Impact</b> (Agreement-Driven: Offender Focus)	<b>Most Restorative Impact</b> (Dialogue-Driven: Victim-Sensitive)
Entire focus is on determining the amount of financial restitution to be paid, with no opportunity to talk directly about the full impact of the crime on the victim and the community, as well as on the offender	Primary focus is on providing an opportunity for victims and offenders to talk directly to each other, to allow victims to express the full impact of the crime upon their life and to receive answers to important questions that they have, and to allow offenders to learn the real human impact of their behavior and take direct responsibility for making things right
No separate preparation meetings with the victim and offender prior to bringing the parties together	Restitution is important, but secondary to the talking about the impact of the crime
Victims not given choice of where they would feel the most comfortable and safe to meet, or who they would like to be present	Victims are continually given choices throughout the process: where to meet, who they would like to be present, etc.
Victims are given only written notice to appear for mediation session at pre-set time, with no preparation	Separate preparation meetings with the victim and offender prior to bringing them together, with emphasis upon listening to how the crime has affected them, identifying their needs, and preparing them for the mediation or conference session
Mediator or facilitator describes the offense and then offender speaks, with the victim simply asking a few questions or simply responding to questions of the mediator	Non-directive style of mediation or facilitation with mediator not talking most of the time, high tolerance of silence, and use of a humanistic or transformative mediation model
Low tolerance of moments of silence or expression of feelings	High tolerance for expression of feelings and full impact of crime
Voluntary for victim but required of offender, whether or not he or she has ever taken responsibility	Voluntary for victim and offender
Highly directive style of mediation or facilitation	Trained community volunteers serve as mediators or co-mediators along with agency staff
Settlement driven and very brief (10–15 minutes)	Dialogue driven and typically about an hour in length (or longer)

SOURCE: Umbreit, Mark S. Course Materials on Victim-Offender Mediation. Available from the Center for Restorative Justice & Mediation, University of Minnesota.

Process of a Typical Victim-Offender Mediation

- Preparation of parties before meeting. Offender admits responsibility. Choice to participate.
- Introductory opening statements by mediator to establish ground rules, to explain what the process should focus on, and to remind the parties that their involvement is voluntary and that they may leave at any time.
- “Truth telling” by victim and offender.
- Clarification of facts, sharing of emotions and feelings.
- Review of victim’s losses and options for resolving these.
- Development of an agreed plan.
- Closing statement by mediator.

Why would the offenders choose victim-offender mediation? It is generally assumed that there is an imbalance of power between the victim and the offender: after all, the victim was made vulnerable by virtue of the fact that the crime was committed against him or her. However, many offenders are juvenile, inarticulate, or frightened by the prospect of meeting the victim face-to-face.

I think if I would have had to actually face the people whose homes I burglarized, when I was a kid... I think it might have changed my life. Maybe I would have figured things out sooner—maybe I wouldn’t be an ex-convict now.<sup>75</sup>

Victim-offender mediation demands sensitivity and respect, not only to the victim, but also to the offender. Victim-offender mediation also rejects the notion that the process is less demanding on the offender than is the court process. The process of mediation is not suitable for all offenders, but victim-offender mediation offers offenders an opportunity to assume responsibility for their crime, to become more aware of the effect of their crime on the victim (and community), to use this knowledge to take stock of the future, and to apologize or to offer to repair the harm, or both.

The use of the word *opportunity* stems from feedback received over and over again; offenders (and their guardians) frequently comment on their appreciation of having gone through a victim-offender mediation process. As one parent who participated in a police-run scheme said, “I never did understand why the police could work on chasing people like my son without thinking about the consequences of their activities on people’s lives. This time I see the arrest as having provided a wonderful chance for my son to work with the police to sort himself out. I can’t thank them enough.”<sup>76</sup>

In some ways, offenders are in need of reconciliation—they often understand that their behavior is not only wrong, but also has created obligations. The key lies in creating a safe environment in which they can admit responsibility and work out how they can take action to meet those obligations. The absence of such an opportunity can contribute to the offender’s own rationalization of his or her behavior, e.g., “I was

**Case Study:  
Reconciliation Allows Offender Chance To Repair Harms**

In one meeting between a grieving mother and her son's killer, receiving answers to some of the questions the victim had of the offender helped her to cry aloud and sleep for the first time since the murder happened many months before. While some harms are irreparable (for example, the loss of a child through acts of violence), there are other harms suffered by the family and friends left behind. Some harms can manifest themselves for years, causing serious mental and emotional trauma. For someone who has outstanding questions for an offender—questions often not resolved even after a conviction at court—the offender's willingness to truthfully respond may help the victim to slowly recover some semblance of order in their lives. In this case, the offender's display of compassion helped achieve a reconciliation that was critical for the mother, as she had begun to lose the support of her immediate family, who could not deal with her pain. Such meetings must be conducted only after considerable preparation with both parties and with the support of professional counseling.

drunk at the time”; “They can afford it—they won't miss the money”; “They deserve it”; “I didn't mean to do any harm, I just got angry, that's all.” Hearing the victim relate how the offender's behavior has harmed him or her tends to reduce the power of self-rationalization and denial. Learning from others who share their feelings lays the foundation for an offender to recognize the links between behavior and consequences.

**Why Does Victim-Offender Mediation Work?**

Part of the essence of victim-offender mediation (and other restorative justice models) is that the parties are able to speak about themselves for themselves—and without legal constraints. For this reason, victim-offender mediation processes are highly charged emotionally; it is not uncommon for the mediator (including criminal justice professionals long used to the damaging impact of crime) to be moved by what is shared during the process. There is an intensity to the dialogue that is sometimes uncomfortable and yet critical to the development of a common understanding of what happened, why it happened, and what should be done to address the current situation and future needs for both the victim and the offender. The victim-offender mediation process allows a sharing of information and feelings that is not usually present in traditional processes of justice; and, while the learning may be powerful, it can be transformative for anyone present. The punishment of an offender becomes less important than providing opportunities for the victim to gain a sense of closure and for the offender to gain an understanding of the human impact of the crime.

Allowing the victim and offender to be directly involved in talking about the crime encourages problem solving to become part of the process: there is a dialogue about past events, but this soon becomes focused on a more forward-looking agenda—what needs to be done to avoid future harm.



**Case Study:  
Mediation Can Bring Powerful Emotions That Promote  
Shared Understanding**

Sue Molhan had wanted to meet her son's killer for 9 years before she finally encountered Alfred Lemerick, who had shot her son after a failed robbery. "I wanted him to see my face, my pain. I wanted him to know that when he murdered my son, part of me died, too." Lemerick had pleaded no contest and been sentenced to 27 years in prison. Lemerick wrote to Molhan signaling his remorse. Molhan agreed to meet Lemerick. Molhan shared with him a photo of Stephen and the jewelry that Lemerick had stolen. Lemerick, who had taken a combination of Valium, alcohol, and cocaine before the murder, said, "It is hard to believe it was me there. I can never forgive myself for what I have done." Molhan was sure that Lemerick understood the pain he had caused and has said that she thinks he is rehabilitated. She wrote to the parole board: "If I can do anything to make him feel better about himself—help his daughters—if that keeps him from hurting another individual, then that is what I will do."

SOURCE: "Beyond Disputes," *Boston Globe*, November 20, 1996.

In Langley, British Columbia, victim-offender mediation serves offenders and victims of serious violent and sexual crimes, primarily to promote healing for both parties. Though still in their infancy, programs like the Langley one are being operated in Genesee County, New York; Austin, Texas (by David Doerfler); University of Minnesota (by Mark Umbreit); and Central Michigan University (by Harry Mika). These programs are attracting considerable interest.<sup>77</sup>

These cases can take months to prepare before the parties are convened to a victim-offender mediation meeting. Several meetings may be necessary before the objectives are met. The Langley program uses the following criteria to measure satisfaction:

- Secure the *safety* of both parties.
- *Regain autonomy* and a sense of control for both parties: "For victims, they remain controlled by the offender as a known or unknown figure who dramatically and negatively altered the course of their life. Offenders can also feel the loss of their own moral control which feels (symbolically) to have been given up to the victim whom they have violated."<sup>78</sup>
- Achieve *relatedness*: victim and offender acknowledge the existence of a relationship between them, however hostile or negative, and are able to determine what form of future relationship is possible or desirable.

The Langley project, as with the other victim-offender mediation processes, does not set out to excuse criminal behavior. The key is to acknowledge that the crime happened, to seek ways of coming to terms with what happened, to personalize and to humanize a dialogue—which tends to change unhelpful stereotypes of victims and offenders—and to empower the parties to negotiate an agreed plan. The participants,

not the mediator, are in the driver's seat. They volunteer to participate, can stop the process at any time, and can choose whether or not to carry out any agreement.

## Forms of Restitution

Agreements on plans at the end of a victim-offender mediation process vary: they can include financial compensation to victims for material losses or emotional trauma, work by the offender for the victim or the victim's choice of community service, volunteering for treatment, undertaking education, an apology, or a combination of these—whatever the parties themselves agree upon. The contract between the victim and the offender represents holding the offender accountable to the parties. Consideration should be given to how to monitor fulfillment of the agreement, for the sake of both parties as well as the broader community—which might find the victim-offender mediation process incomprehensible. One way of overcoming the tension between accountability that is acceptable to those who have participated in the process (and therefore have some understanding of why the agreement makes sense) and those who have not, is to publish the agreed plans and the results of future monitoring. *At the time of writing, the results of existing evaluations suggest that offenders fulfill their obligations as specified in agreed plans in almost 90 percent of all cases (Umbreit). This should be reassuring to anyone not present at the agreement.*

To recap, the key ideas of victim-offender mediation are voluntary participation, engagement in problem identification (identifying consequences of harm), and problem resolution (coming to consensus about an agreed plan). Victim-offender mediation is a process that mobilizes the participation of lay community members in the handling, resolution, and prevention of crime. Victim-offender mediation breaks down stereotypical images of victims as well as those of offenders, reduces fear, and promotes understanding of why crime happens and its full impact. Reconciliation is seen to occur when the offender recognizes the human consequences of his or her actions and when the victim sees the offender as another human being rather than as a monster. The key to achieving this reconciliation is a dialogue that involves the expression of personal feelings and of the truth, without the constraints of rules of evidence and due process of law.

Victims can derive enormous benefits from being listened to, being treated with respect and sensitivity, knowing what is happening (and understanding why), being taken seriously, and having questions answered. They also derive satisfaction from having influence on the decisions about how the offender should be held accountable and from knowing that there is less likelihood of the offense being repeated.

Although victim-offender mediation may be viewed by some as a “soft” option, for offenders it can be more demanding than punishment. Offenders are able to speak more openly (and honestly, perhaps) than they would in court, and they have the opportunity to be seen as a human being—with strengths and weaknesses—and to learn from their behavior. Another feature is that the process is likely to promote



action by the offender (and his or her family) to stay away from crime. Victim-offender mediation avoids labeling, stigmatizing, and banishing offenders and promotes rehabilitation and prevention. The more connected an offender feels to the community to which he belongs, the less likely he is to commit crime.

Victim-offender mediation also helps both victims and offenders to feel that they are part of a community and connected to people who care about them. Victim-offender mediation strengthens community relationships and makes communities more resilient to crime. If citizens and communities learn how to deal with offenders, they will also learn what contribution they can make toward building a sense of community in which people recognize that their actions can make a difference in the lives of others—positively or negatively. Restorative justice processes foster citizenship and mutual trust.

In this way, victim-offender mediation has clear benefits over and above many community justice sanctions. Counseling treatment, supervision, life skills training, curfews, and other interventions may be distinctly more helpful than punishment; but processes like victim-offender mediation emphasize relating to other humans and to the community. This emphasis promotes strong relationships that have a greater chance of building offender competency—a key element of the *balanced approach*.

### **Victim-Offender Mediation Mirrors Elements of Community Policing**

Victim-offender mediation provides a framework for understanding and responding to crime that is similar to the framework that operates when police work collaboratively with other agencies and the community. Police-community partnerships operate along nonadversarial lines with the overriding objective of sharing the information, perspectives, and understanding that shed the most light on an issue or problem. Partnerships involve consensus building, shared respect, and identifying common ground with a view to achieving something mutually beneficial. Victim-offender mediation is remarkably similar, even though the catalyst for the meeting(s) is of a different kind.

In collaborative efforts, the partnership activity pivots on identified tensions, opportunities, problems, and aspirations from the viewpoint that no one person alone can resolve problems or achieve social goals. The partnership is formed because there is a sense that no one person or organization is omniscient. In victim-offender mediation, neither party will necessarily see in the other a partner; they are more likely to see an adversary (this is true even in some cases where partnership is seen as desirable, usually because it is jointly perceived that a crisis needs resolving through negotiation or collaboration). Not until the victim-offender mediation process begins (and this is why the skills of the mediator are of paramount importance) may either party see in the other an ally to work with in a spirit of cooperation. A common experience in victim-offender mediation processes is that people begin the meeting believing that they are at opposite ends of a spectrum in terms of agreement and values. Not until the dialogue starts can understanding—and even empathy—become manifest.



### Case Study: Fairness Experienced by Parties Promotes Healing

Three girls were arrested for painting graffiti on a church hall in a village, which used the hall for many social activities. They were among several youths who had daubed green paint on the brick walls and windows. Other youths had broken into the hall and destroyed artwork that had been completed by a club for deaf people. At the victim-offender mediation between the girls, the local counselor (responsible for funding the activities in the hall) and a cleaner (who had spent more than a week making good the damage), the offenders were defensive. The victims were bewildered why anyone would do such a thing. For about half an hour, after both offenders and victims had expressed how they felt, there was still no sign of remorse. Not even the weeping of one of the girls' fathers (who had spent many hours in a voluntary capacity at the village hall) changed the atmosphere. Then the local counselor—one of the victims—said, "I know why the girls aren't saying anything. They feel it's unfair that they are having to go through this when others got off because they haven't been caught." Suddenly one of the girls responded and offered information that they did feel that they were being picked on unfairly, but, nonetheless, they owed the victims and the village an apology. The agreed plan was for the girls to help the hall cleaner for several weeks and to distribute flyers to all the local residents informing them that the hall was open for use again. The victims agreed to ensure that more of the hall's activities would focus on the teenagers in the village. Two years later the hall is alive with activity, and there is talk of building an extension to allow for more activities to take place. There has been no crime in the village since the meeting took place.

In this respect the dynamics of victim-offender mediation are strikingly similar to the dynamics of collaboration: both involve opening a dialogue, breaking down myths and stereotype impressions, gaining understanding or insights, and negotiating a plan that is agreeable to everyone present. In such cases there can be disagreement, taking a particular position, acknowledging differences, looking at options, and making concessions. The atmosphere need not be pleasant so much as purposeful, although the importance of participants feeling safe is critical. In both cases, communication (especially listening), respect, attitude, and motivation are pivotal to a successful meeting. And most people gain from participating in collaboration—everyone wants to be involved in decisions that are likely to affect them. Consensual partnerships and victim-offender mediation are vehicles for helping people make decisions together.

Why victim-offender mediation has not been adopted more readily by police raises interesting questions, particularly in view of the significant progress by the police in partnership activities.

Edelman suggests one possible explanation: society teaches us how to deal with conflict in an adversarial fashion.

If you're angry, show it and get even! If you're upset with somebody, hit them! If you're really annoyed with someone, you pick up a gun and shoot them. If you want to be nice about it, you beat them up—both physically and emotionally. If you want to be truly civilized, you berate them and make them look like fools. And if you want to be super nice, you just sue them.<sup>79</sup>

Conflict, in other words, can be appealing because of the sense of power attained by those involved. Giving up this power can be difficult.

This power issue was brought home after speaking to officers about firearms incidents that prompt operational tactics to identify a gunman, contain him, and then arrest him. Police have the power to close streets, evacuate shopping malls and even whole sections of public land to home in on a suspect carrying a gun. The power can be used sensibly or recklessly (similar to police car chases). It is considered by some to be losing face if the police back down from implementing the full force of the law and their powers. For others, a balance needs to be struck between enforcement and public safety. Conflict resolution by peaceful means takes away the excitement of a chase, getting the bad guy, pinning someone down who deserves it, etc. Some people prefer finger pointing, blame fixing, and *nailing and jailing*—all widely accepted reactions to wrongdoing.

Decisionmaking processes aimed at resolving conflict and tackling crime should shift toward problem diagnosis rather than merely reacting to problems. Diagnosis requires keeping an open mind, to be prepared to learn new things, discover that images are not the same as reality, and realize that although people are different, their needs are reconcilable. Fire-fighting tactics, conversely, will detract from building the sense of trust that enables this diagnosis to happen. For these reasons, victim-offender mediation has a considerable contribution to make in advancing police methods of operation from pure enforcement to enforcement supported by partnership problem solving. The law must be enforced, but the nature of the enforcement can change from focusing on blame to a focus on establishing the real causes and consequences of the conflict or crime. Focusing on the meaning requires the involvement of the perpetrator(s) and efforts to encourage people to speak openly and honestly and to acknowledge their actions.

This plan sounds completely realistic to those who have experienced the power of victim-offender mediation processes. In this context, storytelling has great importance: it can vividly convey real-life situations in which people managed to work out agreed solutions in a way that is the antithesis of the *lens* to which we have grown accustomed—that conflict deserves war and fighting. The alternative is to create a safe environment in which problem solving can take place pursuant to a peaceful negotiation of agreed outcomes. Skepticism will diminish only with experience. For example, an Ontario case in 1976 attracted the criticism that the face-to-face meetings between car vandals and their victims “compromised the integrity of justice.” Today, by contrast, there are more than 200 victim-offender mediation programs in the United States, 30 across Canada, and around 700 in Europe. Victim-offender mediation is being conducted in Israel, South Africa (the Truth and Reconciliation Commission is just one example), and the Far East. See “Mainstream Endorsement for Victim-Offender Mediation” (in box) for another indication of its progress.

### Mainstream Endorsement for Victim-Offender Mediation

To illustrate how widely accepted victim-offender mediation has become in the United States, the American Bar Association endorsed victim-offender mediation in a resolution in 1996. The resolution “urges federal, state, territorial, and local governments to incorporate ... victim-offender mediation programs in their criminal justice processes” and encourages support for research on victim-offender mediation and for the dissemination of those research results.

Adopting the values of restorative justice, however, can change attitudes about wrongdoing, including crime, from hostility to a reaction that embraces the conflict as an opportunity for asking some important questions. These questions include: Why is this happening? What is underlying the behavior or activity (e.g., anger, greed, cruelty, upset, fear, etc.)? What would help to change what has happened? What can we learn from this? Why did we not anticipate this? Could we have prevented it? Restorative justice practice is revealing, over and over again, that lay and professional people alike are discovering new dimensions of the crime problem, prompting Navajo Judge Yazzi to say:

We often don't know what we don't know.<sup>80</sup>

Civilized society requires some kind of accountability for wrongdoing, but this need not necessarily entail punishment. Accountability also need not involve a game of asserting rights over and above the constructive conflict management that promotes strong relationships, social justice, and learning. Victim-offender mediation is one model that is proving apt at humanizing the justice process and is providing new insights on the peacemaking role of policing and law enforcement.

### Family Group Conferencing

I would never have believed we could resolve this problem so easily—I would have bet it all would have blown up. I was even afraid there would be bloodshed. I'm delighted, but I still can hardly believe it.

—Mother of a student involved in a conference following a racial incident in Washington County, Minnesota

Family group conferencing has become a key model under the umbrella of restorative justice, which recognizes that crime harms people and is more than a violation of criminal laws. Family group conferencing also has all the elements of community policing: community involvement, shared ownership and responsibility, collaborative problem solving, identifying ongoing issues of concern, and looking long term.



**Case Study:  
Conferencing Enables People To See Crime as More Than a  
Violation of the Law**

Two 15-year-old youths were out one evening, armed with a screwdriver and a kitchen knife, stealing mirrors and logos from parked cars—not a crime that would usually receive much attention. They were caught, however, and one victim was invited to attend a conference. He was the owner of a BMW and had inherited the car from an elderly gentleman whom the victim used to drive to hospital appointments before his death. The old man had left him the car in his will. The victim was very upset by the theft of the badges and damage to his car, largely for sentimental reasons, and felt bad that he had not protected the gift he had been given. He agreed to meet the youths at a conference that included him, the offenders, and their respective mothers. The police-run conference went very well; at the conclusion, the victim was asked what he felt would be an appropriate way of making good the damage. He did not want financial redress, as the loss was more symbolic than financial. He just wanted the boys to learn from the incident. During the conference, he had mentioned he was a volunteer helper for a charity. Both boys offered to spend a day working with the same charity during their holidays, in their words, “to show we are sorry and do something for people less fortunate than ourselves.” The victim was delighted.

The basic elements of family group conferencing are simple. In the wake of an offense for which guilt is admitted, victims, offenders, their supporters (friends and family), and members of the community are given an opportunity to meet in the presence of a coordinator or facilitator. Conference participants are encouraged to discuss the direct or indirect effects of the incident on them. This identification of the harm is followed by negotiating a plan, agreed upon by all attendees, for repairing the damage and controlling the offender's behavior.

These conferences take place either as a pre-adjudication diversionary technique or pre-sentence after a finding of guilt. Conferencing is not an easy way out for an offender. Taking responsibility for one's behavior, being confronted by a victim, and taking steps to make amends pave the way for individual growth and change. There are two prerequisites to a conference. The offender(s) must admit guilt; and all participation is voluntary. Conferencing is based on the philosophy that justice is best determined by those directly affected by crime. It recognizes that people are more likely to be satisfied with the outcome when they are involved in decisionmaking.

A successful conference ends with a re-acceptance of the offenders into the community of conference participants. The process condemns the behavior but does so in the context of separating the behavior from the person. The facilitator focuses the discussion on condemning the act without condemning the character of the offender. Restorative justice does not preclude the punishment of offenders, but it does not focus on punishment. It is concerned with needs and responsibilities and represents an inclusive approach to crime control distinct from traditional adversarial and exclusionary methods of handling offenders. Making amends to crime victims, a primary focus of family group conferences, also helps to shift the balance from offender punishment to victim restoration. This shift encourages offenders to take active responsibility by making reparations, sharing remorse, apologizing, and seeking to resolve broader difficulties at home and at school.

## Origin of Conferencing

Family group conferencing began in New Zealand following sweeping reform of the juvenile justice system sparked by the 1989 legislation *The Children, Young Persons and Their Families Act*.<sup>81</sup> Years of frustration with a criminal justice system that had failed to curb repeat offending and that was seen to encourage dependency on welfare, provoked discussions for a period of more than 15 years. The process of conferencing was introduced after the criminal justice system came under specific pressure from the indigenous Maori people, who resented a system that had been removing their at-risk children and young offenders from their traditional communities. A fundamental Maori value is that “we are all part of one another and the main purpose of justice is healing for all.”<sup>82</sup> The Maoris wanted the New Zealand justice system to adopt their way of handling conflict. For the Maoris, the main purpose of justice is that everyone is healed.

Since 1989, all young offenders, except in the case of rape or homicide, have been dealt with by conference.

### Case Study:\*

#### Conferencing Has Wide Appeal to Anyone Who Has Participated

Five male graduates from the local high school, three aged 17 years and two aged 18, were detected copying \$20 bills in a color copy machine at a local library. They successfully passed them at four different convenience stores. The U.S. Secret Service decided not to charge these boys with various Federal charges, as its policies lean toward pursuing more serious offenders. The Secret Service agreed, however, to take part in a family group conference so that these young men could understand that they were being held accountable for their actions. The conference was a very emotional one. All five boys, as well as their parents, were in tears. Several hours of community service, as well as reimbursement to the stores involved, was then agreed upon as restoration for the harm caused. The Special Agent in charge of the Secret Service in this area, as well as the investigating agent, the parents, and the victims, were all very pleased with the process and its outcome. All the boys were remorseful and the police department has not had an incident with any of them since.

\*Anoka Police Department, Minnesota.

No one would have called the early conferencing process *restorative justice*. The implementation of conferencing was essentially driven by child welfare considerations and was seeking to mobilize the support of local communities and family and social networks to support children in trouble. The early model, therefore, was not victim-centered; it became so after low satisfaction levels among victims of crime who were not invited, or did not want to attend a conference, became problematic and resulted in amendments to the original legislation in 1994.<sup>83</sup> However, various adaptations of the early child welfare model have come to reflect the balanced approach inherent in the restorative justice paradigm—that of involving victims, offenders, and communities.

There are now several conferencing models around the world, often distinguished by the agency that coordinates them. In 1991, the New South Wales Police in Australia adapted the process in the city of Wagga Wagga and placed more emphasis on the victims. As Police Sergeant Terry O'Connell says, "Make the victim feel important and they will come." In New Zealand youth workers were trained to deal with adult offenders referred by judges who had been impressed with the early efforts of conferencing with children. "Community accountability conferences" were introduced in New South Wales schools to deal with bullying and other misbehavior.

The potential of conferencing is increasingly being recognized across the United States (Vermont, Oregon, Maine, Minnesota, Pennsylvania, Georgia, California, and Indiana have conferencing programs), in Canada, across Europe, including the United Kingdom, in South Africa, and in Israel. Family group conference legislation has been passed in Canada, where the process was introduced in 1996 through schools in Ontario and where the Royal Canadian Mounted Police are developing conferencing as a complement to community policing. In the United Kingdom the police introduced conferencing specifically for juvenile crime in 1994, and social workers replicated the New Zealand welfare model for children at risk. Family group conferences are being used to deal with family violence in Minnesota, Newfoundland, Labrador, and Nova Scotia—and are still spreading rapidly. Police departments in Australia, the United Kingdom, and Canada are introducing conferencing for informal resolution of internal discipline and conflict between staff; and conferencing has also been applied in corporate settings following allegations of corruption, sexual harassment, industrial disputes, and negligence. *Community conferencing* is also being used by resident associations and community groups to deal with neighborhood problems.

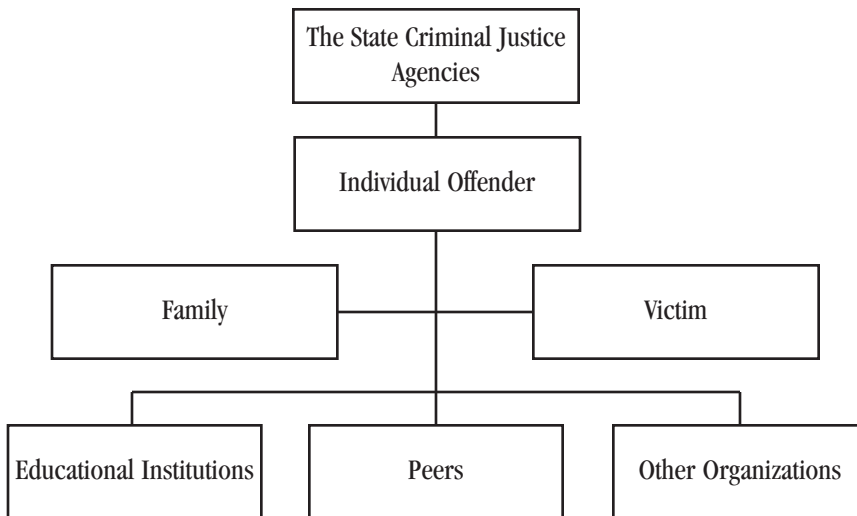
So, what has led to this rapid spread of an idea that has its roots in New Zealand?

### Key Elements of Conferencing

There are a number of key characteristics of conferencing to be understood. First, the process is not hierarchical, but distinctly egalitarian—participants have an equal role to play. Conferencing is not state centered. The coordinator is not a judge or arbiter, rather a facilitator of others. Figures 16 and 17 illustrate the differences between the traditional process and the conferencing approach. In the latter, everyone is seen as having an important role and a contribution to make.

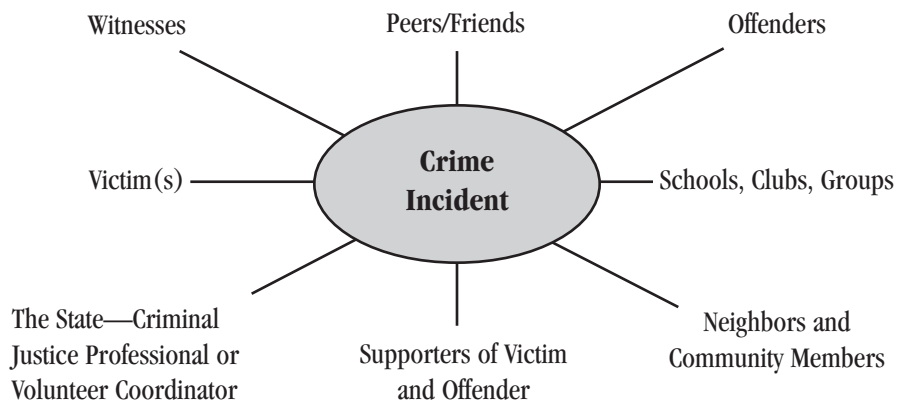
In a conference, a trained conference coordinator/facilitator guides the participants through general discussion of how the crime occurred, how it has affected their lives, and how the crime's harm can be repaired. The facilitator asks the offender or offenders to explain what happened, how they feel about the crime, and what they think should be done. The victim and others are then asked to describe the physical, financial, and emotional consequences of the crime.<sup>84</sup> All participants are given the opportunity to speak and to express their feelings. They can ask questions of each other. In the conference, the offender is faced with the full impact of his or her behavior on the victim, the victim's relatives, and on the offender's own family and friends.

Figure 16. The Position of Offenders in Traditional Criminal Justice Processes



Note: In the traditional system, the offender is pitted against the state. The victim(s), family, and wider community have no particular role to play.

Figure 17. Parties Involved in Conferencing



Note: The victim, offender, family members, and wider community share the decisionmaking role with the state—each is a key player.

The entire group works out an agreement about how the offender may best repair the harm caused. A plan of action is developed, written up, and signed by key participants. The plan may include material restitution to the victim or symbolic reparation in the form of an apology, community work by the offender, help for the offender in finding employment, assistance with drug or alcohol problems—or any preventive approach on which the participants agree. It is the responsibility of the conference participants to determine the outcomes that are most appropriate for this particular



victim and this particular offender. Conferencing is fully participatory and empowering. The discussions, issues, and outcomes are relevant to the participants. They feel ownership of what occurs at the conference and subsequently when the outcomes are implemented.

The conference normally ends with a ceremony that marks acceptance of the offender back into the community, which agrees to oversee his fulfillment of the plan in a supportive, rather than punitive, way. Agreements are monitored by a combination of community surveillance and checking with the offender to ensure that he is able to meet his obligations. Communities have been known to recommend changes in the agreement plan if they see that the offender is having problems that are not of his making. This should be done only in consultation with the victim(s).

Ceremonies can be an incredibly powerful catalyst for reconciliation between the parties. Victims, feeling relieved after the open dialogue, have frequently gone to hold or hug their offenders. Many facilitators deliberately leave the room to allow the parties space or privacy after an offender has shown remorse. For this reason, these ceremonies have come to be seen as *rites of peacemaking*.

### The Power of Family Group Conferencing

“There is nothing magical about a family group conference, but it has the potential to be a powerful learning experience,” wrote Bruce Taylor and Glenn Kummery after their involvement in a conference after an entire school had to be evacuated following the spraying of pepper mace throughout the building.<sup>85</sup> Conferencing requires offenders to confront the consequences of their crime in a far more intensive way than traditional court processes, which tend to be anonymous, impersonal, and emotionally detached. Each stage of the conference is characterized by strong emotions. It is this aspect that makes conferencing complex, notwithstanding its simple sequence of allowing those impacted by crime to explore how they have been affected and of engaging in finding specific ways to heal the harm. One victim made this comment about how he felt at the start of a conference—and subsequently:

I had this enormous amount of anger that I wanted to shout out, but I felt very defensive... I was so angry that I was literally shaking. Then as the conference got under way I was able to say all the things I'd been thinking about for those weeks and explain how angry I was... to put him in the picture of how it affected me made me feel so much better... I felt a great sense of relief of getting it off my chest.

It is evident from many conferences that victims consider the emotional reconciliation to be far more important than material reparation.

Providing people the opportunity to express their feelings and concerns, and to collaborate on how the crime can be resolved in ways that are meaningful to them, underscores the philosophy of conferencing. Judge F. W. M. McElrea, Youth Liaison



Judge for Auckland, New Zealand, suggests that there are three radical changes involved in this new process. They are *the transfer of power from the state to the community*, the use of the family group conference to produce a *negotiated community response*, and the *involvement of victims*, which make healing possible for victim, offender, and the community.

The emerging international interest in family group conferencing reflects a growing discontent with established forms of justice and the increasingly widespread conviction that our “time is out of joint,” that “something in the present is not going well, it is not going as it ought to go.”<sup>86</sup> These concerns are finding expression in a search for new forms of democracy that are more participatory and direct. “The deployment, appropriation, and extension of the Maori practice of bringing families together to respond to wrongs is one of the many terrains that exist today on which this struggle for a more active conception of citizenship” is taking place.<sup>86</sup>

At the heart of conferencing is the belief that the community is best equipped to deal with crime and offending behavior. The community includes those who committed the crime and those who have been victimized by the crime. Both victims and offenders, together with the wider community (including family, neighbors, friends, teachers, shopkeepers, etc.), are needed to understand the meaning and consequences of criminal behavior. Justice is best determined by those directly affected. In the traditional system, the key players are the judge, the prosecutor, and the defense lawyer. With conferencing the key players are the parties, their families, and the community. *The professionals, including the police, are present in a supportive role.*

Family group conferencing seeks a just response to a harmful breach of social and legal norms; the trigger for conducting a conference may be a violation against the criminal law, but the impact on social relationships and community standards is as critical as the legal violation. As Judge Michael Brown of Auckland, New Zealand, explains:

In the old model of justice the judge is in control, representing the state and exercising authority given by the state either to impose punishment or to direct intervention in peoples' lives for 'welfare' reasons. By contrast, in the new model the principal task of the judge is to facilitate and to encourage the implementation of solutions devised by the participants, and to act as a backup if these solutions are not implemented.<sup>82</sup>

What sets conferencing apart from victim-offender mediation and reconciliation programs is its emphasis on responding collectively to crime and to social problems (see Table 6).



Table 6. Comparison of Family Group Conferencing and Victim-Offender Mediation

Variable	Family Group Conferencing	Victim-Offender Mediation
Goals	<ul style="list-style-type: none"> <li>• Offender involvement and accountability</li> <li>• Victim involvement and healing</li> <li>• Restoration of victim losses</li> <li>• Active participation by community, support people, and families</li> <li>• Condemnation of the criminal behavior, not the individual</li> <li>• Reintegration of victim and offender in community</li> </ul>	<ul style="list-style-type: none"> <li>• Offender accountability</li> <li>• Victim involvement and healing</li> <li>• Restoration of victim losses</li> <li>• Mediator in a nondirective role</li> <li>• Conflict resolution between the parties</li> </ul>
Contact with parties before joint session	The FGC coordinator contacts all participants by phone (and may meet with each side separately) to explain the process, to find out from the victim and offender who else should participate in the process, and to secure their willingness to participate in the process.	The mediator contacts the parties (victim and offender) by phone and usually meets separately with each party to explain the process; to hear the person's account of the offense, feelings, and repercussions; to build rapport and trust; and to secure their willingness to participate in the process.
Typical place for joint session	A meeting room in a police department, social welfare office, school, or community building.	A neutral setting such as a meeting room in a library, community center, or church. Occasionally in the victim's home, if requested and approved by parties.
Primary role of coordinator or mediator	To encourage and recruit participants; to set up the conference meeting; to maintain a meeting atmosphere that tolerates silence, pauses, and powerful displays of emotion; to facilitate the participants' condemnation of the offense and affirmation of the victim(s) and offender(s); and to record the parties' agreement.	To educate the parties so they can make a voluntary, informed decision about participating; to help prepare the parties for their participation in the joint meeting; to provide a safe and respectful atmosphere in the mediation session that tolerates silence and pauses; and to facilitate a dialogue in which emotions can be expressed, information shared, and a restitution agreement negotiated.
Typical agenda for joint session	Coordinator introduces participants, explains ground rules and process; offender tells his or her story and others respond to it; parties discuss event and express concerns; parties discuss restitution.	Mediator introduces participants, explains ground rules and process; the victim and offender tell their story, often with victim going first; parties discuss event and express concerns; parties discuss restitution.
Typical length of joint session	1–2 hours	45–75 minutes

SOURCE: Adapted from Umbreit and Stacey, 1996.<sup>89</sup>

The family group conference also has the following advantages over victim-offender mediation:

- Involves more people in the community, who are called to discuss the offense, its effects, and how to remedy the harm, thus contributing to the empowerment and healing of the overall community.
- Acknowledges a wider range of people as being victimized by the offense and explores the effects on those people: the primary victim, people connected to the victim, the offender's family members, and others connected to the offender.
- Gets a wider range of participants to express their feelings about the impact of the crime, and potentially involves them in assisting the reintegration of the offender into the community and the healing of the victim.
- Acknowledges the important role of the family and community in an offender's life.

For these reasons conferencing is emerging rapidly and engendering considerable enthusiasm in many parts of the world—and is likely to spread even further.

## A Shift Away From Punishment

This bold experiment seeks to develop an approach that moves beyond established conceptions of justice as vengeance.<sup>87</sup>

The conference process represents a fundamental transfer of power from the state to the community, the family, and victims. It allows for a negotiated response to crime and is a result of tension between the retributive model and prevention goal of juvenile justice. Across the Western world there are questions about juvenile crime and pressures to move toward hearing youth cases in adult court settings. There are also voices calling for prevention of youth crime. This tension manifests itself in the way family group conferences are implemented. The public is showing that it is not as punitive as is generally assumed. Agreements arising from community participation in conferencing focus on repair, restoration, rehabilitation, victim recovery, and public safety through prevention. Punishment becomes less significant as people know more about the facts and about the offender.

How is this shift from a punitive to a problem-solving, negotiated response achieved? The key lies in the way the process of conferencing is run. With the state removed from the center of the justice system, people are brought together and are invited to care about the impact that the crime has had all around. *A fleshing-out of the incident—how it has affected the victim, offender, and community members present at the conference—promotes deeper understanding of what was going on for the offender as well as of how his or her behavior touched others.* The transformation is the result of people's direct involvement in the determination of harm and how those harmed should be *restored*. The myths that all offenders require a punitive sanction and that only punishment will work are frequently exploded during the course of a conference. Even those who attend a conference intent on seeing *just deserts* imposed, undergo a significant change in perspective—the result of both their empowerment



to shape the outcome and the insights gained from the dialogue. Conferencing allows information to come out that could not be admissible in a court of law. In this way, conferencing affords a broader and deeper impression of what happened.

With the shift away from an emphasis on punishment, the focus is on taking responsibility, reconnecting, changing behavior, and restoring the victim through a series of activities that promote satisfactory outcomes for all concerned. As shown in Figure 18, victims attending a conference rather than court are much more likely to receive an apology from the offender (74 percent compared with 14 percent) and are less likely to fear revictimization (6 percent compared with 19 percent).<sup>85</sup> Participation in a conference can also reduce victim fear, anger, and distress. There are even signs that victims often feel sympathy for an offender after having seen the offender with his or her family and having listened to the offender's life circumstances. Victims often mention the relief they experience at seeing the offender and learning who that person really is.

This dynamic is also complemented by the collective experience of the community participants, who then understand more about the crime and the offender, as well as about the impact and consequences for the victims and the community. Part of the power of conferencing lies in the learning that participants experience when they meet one another and exchange facts as well as feelings. This exchange is a catalyst for changing the way people regard the offender as well as for understanding the needs of the victim. Emotions can effuse from person to person, making it difficult for anyone to shrug off the gravity of the crime's effect on other human beings. Putting a human face on the crime begins the process of empathy and healing. Openly acknowledging feelings and issues promotes a sense of mutual responsibility for building a caring community. This is crucial for addressing the needs of victims and offenders. It is also crucial for building stronger families and communities. Processing conflict in a safe environment is a powerful tool for addressing problems that, left to fester, would create criminogenic conditions.

### **Mobilizing Social Controls**

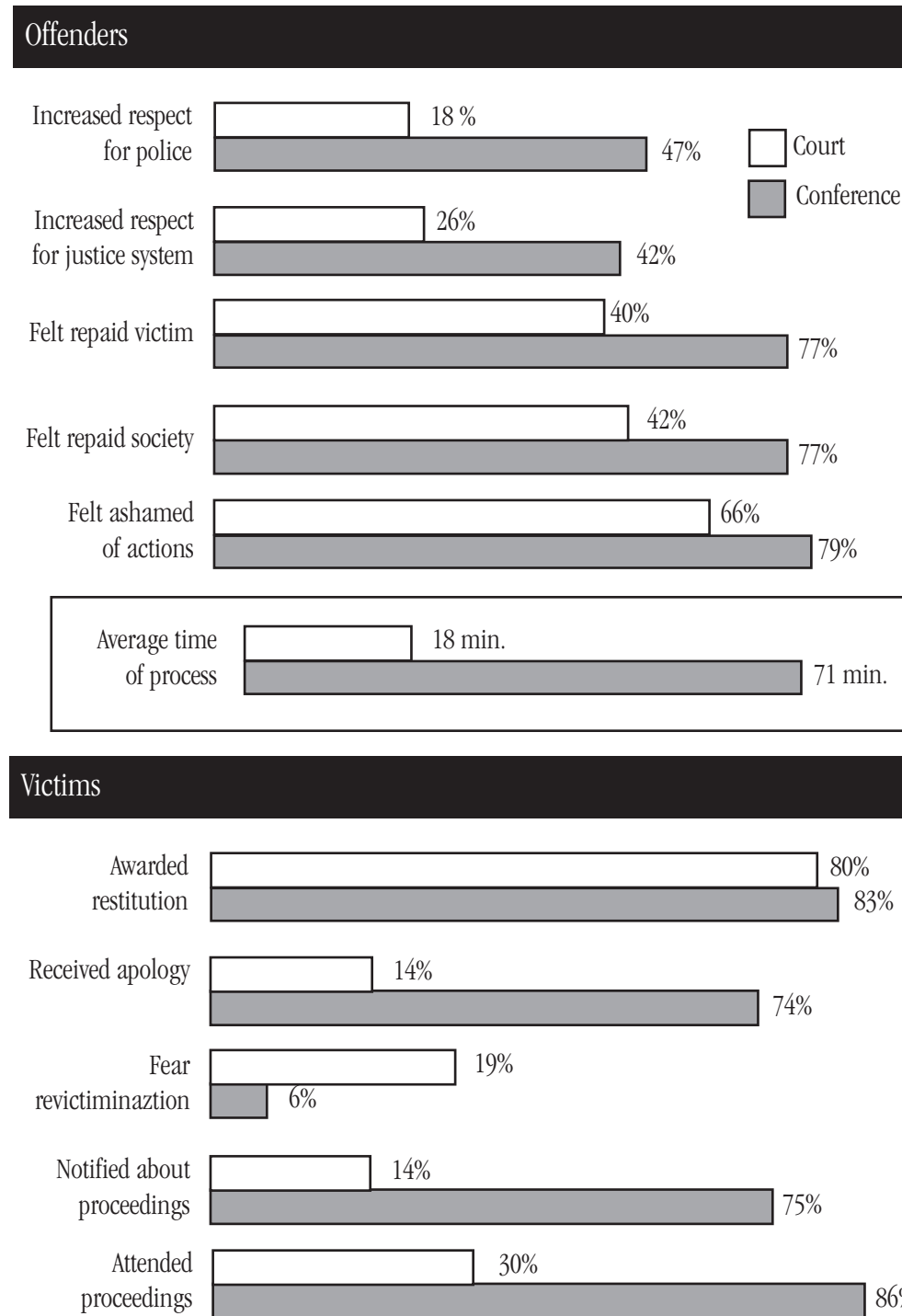
Evidence gathered from conferences reveals a great deal about the interaction in groups and about the power of social networks:

It appears to be a measure of the intrinsic integrity of the conference process that it regularly delivers outcomes satisfactory to all conference participants. This apparent integrity of the process itself would seem to derive both from the nature of the interaction between conference participants and from the ability of the conference process to mobilize and even rebuild social capital.<sup>86</sup>

As a result, conferencing shows what the public can do—instead of promoting the myth that only criminal justice professionals can deal with conflict, thereby eroding opportunities for communities and families to learn their civic responsibility.

Figure 18. Comparison of Views of Conferencing and Court-Case Participants

Does Restorative Justice Conferencing Work?



SOURCE: RISE Project, Canberra, Australia, 1997.<sup>88</sup>



**Case Study:**

**The Community Can Provide Supervision of Offenders, Thereby Promoting Public Safety Through Informal Controls**

The local Fire Department asked the police to arrange a conference with an 11-year-old boy who had started a fire with paper towels at his home. Jeremy attended the conference with his parents. His school's principal, guidance counselor, and teacher also attended, as well as a fire captain and his fire educator. Jeremy was quite surprised to hear how his actions affected his parents—but even more surprised to hear from the school officials how his actions disappointed them, because of how much they thought of him. Jeremy wrote letters expressing his sorrow to the fire department, school officials, and his parents. He was required to meet with the fire fighters 5 months later at the fire station to check in with them, to give a status report on how his summer went, and to be reminded of the dangers of fire setting.

In the traditional system, the law and due process are complex matters requiring legal experts, diminishing the status of the non-expert community. The public is forced to be a mere spectator to a process run by the state that regards the public as having little to offer. The system often sees the community only as dysfunctional. Conferencing offers a radical departure from the traditional focus on the weaknesses of community and offenders. Sharing power with families and communities that surround the parties enables their strengths to be mobilized; and it diminishes or eliminates the prejudices of many professionals toward so-called dysfunctional families and communities. By enlisting these groups in the decisionmaking process, professionals of criminal justice agencies learn about the power of informal social controls and about the capacity of lay people for self-regulation.

**A Sociological Explanation—and Warning**

There are parallels with the process of conferencing and the social disapproval of behavior by people with whom there is a connection. In both instances, the feeling of shame is an important catalyst for the informal enforcement of standards and rules. Conferencing provides a structure to reap the benefits of informal social controls while reducing the chances of discrimination, prejudice, and intolerance. Even conferencing is threatened, however, when community values are out of joint with those of restorative justice.

Braithwaite's theory of *reintegrative shaming* describes as a key element of conferencing the distinction made between the offender and the offender's behavior—and the avoidance of stigmatizing shame that excludes people. He argues against a preoccupation with finding theories for why people commit crime.<sup>90</sup> He suggests, instead, asking the question: Why do most of us not commit crime and comply with rules and procedures? Braithwaite's idea is that most people are deterred from committing crime on two levels: internally, through their sense of right and wrong; and externally, by the threat of disgrace or condemnation by people with whom they have a significant relationship. *Any condemnation, in order to maintain an offender's existing social bonds, should be in the context of care and respect.*

**Case Study:****Conferencing Is an Educative Process, in Different Ways, for All Participants**

A 16-year-old girl phoned in two bomb threats to the local high school. This was not the first time that the school had received bomb threats, and the principal decided not to evacuate. When caught, the youth stated that she had been bored and had wanted to get out of classes. She was suspended from the school. The girl attended a conference accompanied by both parents and a brother. Also in attendance was the school principal, the superintendent of schools, the chairperson of the school discipline committee, the school's guidance counselor, the two secretaries who had answered the phone calls, and the investigating police officer. The girl admitted she had not considered that her behavior would have such serious consequences and on so many people. The two secretaries talked about the effect that the threats had on them and their families. Both had been experiencing added stress and nightmares. The principal talked about the emotional pain of being put in a position where he had been forced to make the difficult decision whether to evacuate the school or not. He explained that in a previous evacuation some of the special needs children had been injured, and that he himself had an infant son attending the school's daycare center. The girl expressed shame and remorse for the harm she had done, and forgiveness was expressed by the victims. To make reparation the girl agreed to write letters of apology to the families of the principal and the secretaries. She agreed to work 1 hour a day with handicapped children in the school's special needs classroom until the end of the school year (7 months). The girl was reinstated into school and successfully completed the terms of the agreement. She has since decided to make special education her life's work.

What would have happened under the formal system?

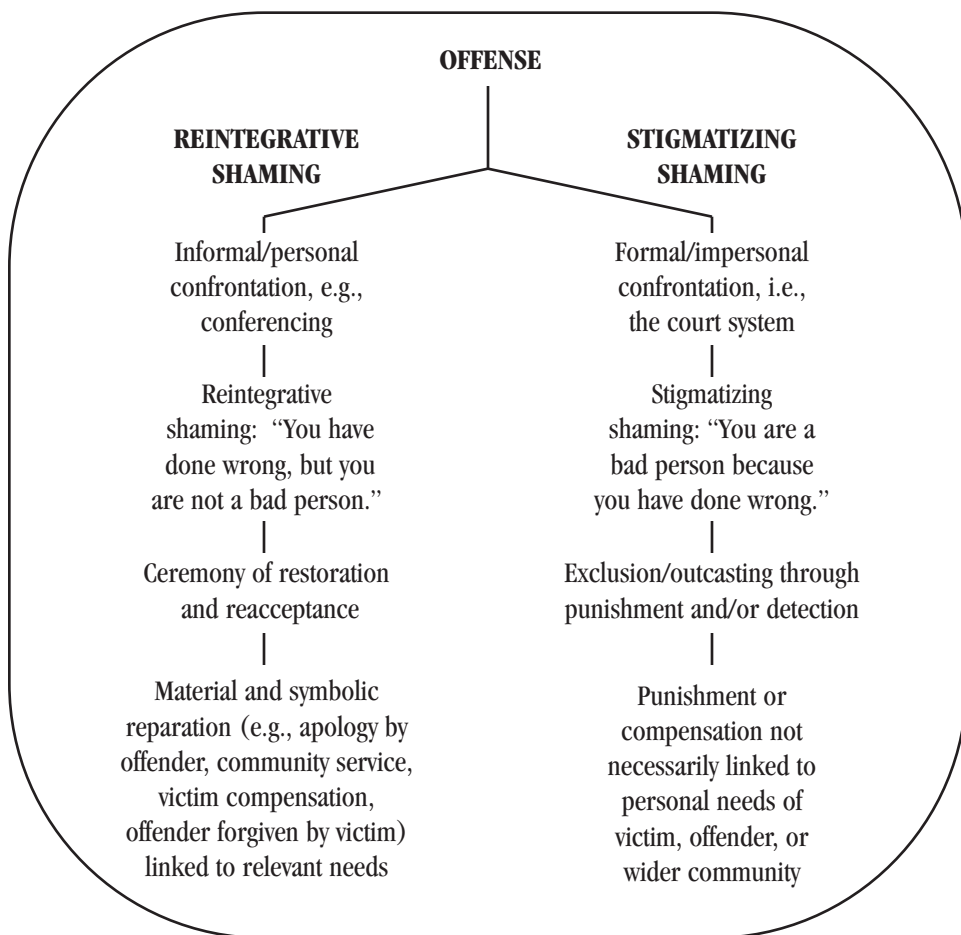
Essentially the philosophy of family group conferencing is that of “participatory democracy in which people are owed respect, valued for any contribution they might have to make, assumed to be capable of making a contribution and encouraged to do so.”<sup>91</sup> This applies to all the participants, including the offender.

Drawing from the Japanese response to crime, where the shaming dimension of their culture plays a significant role (Japan has the lowest crime rates of any industrial nation), Braithwaite argues that when wrongdoers are confronted within a context of supporting relationships, a process of *reintegration* can begin. The confrontation by people who are significant to the wrongdoer creates a shaming experience that differentiates between unacceptable behavior and the person himself. This involves denouncing the unacceptable behavior but includes reacceptance of the individual.

In other words, this *includes* (reintegrates) rather than *excludes* (stigmatizes) the wrongdoer (see Figure 19). This is more likely to effect a change in behavior than are those processes that seek to punish. Care must be taken to avoid *stigmatizing shame*, which can be humiliating and provoke resentment. The threat of social disapproval within a caring, loving, and respectful forum can affirmatively promote changes in behavior.



Figure 19. *Reintegrative Versus Stigmatizing Shaming*



Shame can be a powerful emotion, as illustrated by this story from Victim Services in the Texas Department of Criminal Justice:

An offender had agreed initially to meet with his victim, but as we worked through more and more of the layers of his pain of shame and guilt, he became afraid and decided not to follow through with the dialogue preparation. He told me, “What this process is asking me to do is too hard. I’m to reach down deep inside and face all that I have done and all the pain I have caused... I just don’t think my arms are long enough...”<sup>92</sup>

Don Nathanson describes shame as one of nine innate affects or emotions.<sup>93</sup> In his psychological *affect theory*, Nathanson says that shame is the “central social regula-





tor” that governs our social interactions. Our need to feel good about ourselves—our need to belong—is fundamental to our very existence. Those who experience a sense of shame also experience a sense of “social isolation.” Shame that humiliates or stigmatizes tends to be associated with degrading and exclusionary ceremonies, which, Nathanson suggests, evoke four possible negative responses: attack others, attack self, avoid, or withdraw.

As Becker described in the early 1960s, “Deviance is not a quality of the act a person commits, but rather a consequence of the application by others of rules and sanctions to an ‘offender.’” The deviant is one to whom the label has successfully been applied; deviant behavior is behavior that people so label. According to this theory, the act of labeling a person as deviant proves a self-fulfilling prophecy: once labeled, a person tends to behave accordingly. Contact with the justice system is said to burden people with just such a label. The evidence for this claim is mixed, but it is now accepted that contact with the justice system labels a person, producing a stigma that in turn lowers self-esteem and thus prompts antisocial behavior.

Braithwaite talks about the role that “significant others” play in this process. They, too, experience a sense of shame (a collective shame) about the offender’s actions. Betrayal, loss of trust, surprise, anger, humiliation, and disgust are the emotions and feelings that the offender’s significant others most likely will experience. As the someone who has transgressed, the offender experiences a sense of momentary isolation. How this sense of isolation is dealt with is critical.

### Case Study

#### Shame Can Be a Powerful Catalyst for Changing Behavior in the Context of Caring Relationships

A 17-year-old youth had been caught stealing beer and breaking a shop window. The shop was owned by an Indian family who had persistently suffered racial attacks and was thinking about selling the business. The victim agreed to meet the offender, who attended a conference with his grandfather. The youth showed little remorse, although he admitted the theft and vandalism. Even the victim’s story about the impact on him and his family seemed not to move him. His grandfather, however, told of his shame at hearing about the grandson’s behavior. He related how he and his wife had brought up the offender after his mother abandoned him, and had tried to do the best by him. The grandfather started weeping as he shared the fact that his wife had not been shopping since the boy was arrested; “she is too ashamed to walk in any shop in case people think she will steal like her grandson.” The youth suddenly looked at his grandfather and also started to cry. “I didn’t realize,” he said. “I am sorry, sorry for what I have done, and I will do anything to make up for it.” The youth agreed to a plan of restitution for the victim, to talk to his friends about the impact of racial attacks on the Indian family, and “to do something that will make my grandmother feel proud of me again.” The youth is currently studying business—a shift from his previous intention to work for McDonald’s with the rest of his friends.

Care must be taken to ensure the shaming process is not forced. A Texas judge has incorporated shaming into his sentencing decisions. In one case an offender was required to wear a T-shirt with the words, “I am a sex offender... for life.” In another case, an offender was made to apologize to his victim of domestic abuse on the steps of city hall (notwithstanding the fact that the victim did not want to be there). In Rehoboth, Delaware, local police are putting the photos and name of offenders who commit public nuisances in the local newspaper, hoping to shame them. Forced shaming is seldom helpful in getting offenders to recognize the consequences of their actions in a way that promotes empathy and genuine remorse. Public humiliation may be appealing to hold offenders accountable to the community but this is a dangerous tactic which, while promoting intolerance of crime, only fosters resentment and entrenched attitudes. One offender who was captured for urinating in the street and was advised his name would appear in the local news responded, “It’s no big deal. It don’t bother me a bit. My friends just joke with me. I’m not waiting with 15 guys in a line (for a restroom).”

Offenders use a variety of techniques to protect themselves from the shame of their actions. The collective encounter with the harm done by way of conferencing is often a good chance for breaking down the barriers that young offenders have erected. The sense of meeting eyeball to eyeball with the victim means that the offender cannot stand aloof or detached and allows something of the pain of the victim to penetrate his or her tough exterior. Because conferencing can be highly emotional, offenders actually perceive how their behavior has impacted others. The highly charged atmosphere can produce tears. Any offender unmoved by the victim might be moved by the reaction of his or her own supporters, such as a mother or a sibling. At this point, healing can begin—by the offender taking responsibility for his actions and by making good the harm.

### Case Study

#### Reintegrative Shame Promotes Behavior Change

The offender had been charged with burglary, unlawful mischief, and trespass. Ben was intoxicated when he broke into a vacation home, gaining entry by smashing a door. He proceeded to smash things in the interior of the home. Damages exceeded \$300. The owner of the home agreed to travel 3 hours to attend a conference along with the caretaker of the home. The offender was accompanied by his mother, stepfather, and younger brother. Two other neighbors whose homes the offender attempted to break into also attended. The officer conducting the conference reported that several things made the conference a success: first, Ben hearing from his younger brother how stupid his actions were made Ben feel ashamed; second, concern about their mother having to pay for the damage done by Ben also induced a sense of shame. Also contributing to the success of the conference were the actions of the victim, who relinquished restitution in exchange for Ben’s promise that he get himself turned around.

When the dynamics of conferencing result in the offender taking responsibility and trying to repair the harm done, conferencing can be a vehicle for attaining the ultimate resolution to conflict—a reconciliation between the parties. This reconciliation is construed as true accountability for offending behavior as distinct from the abstract accountability imposed by punishment under the criminal justice system. The essential difference is that conferencing enables offenders to *understand* the need to take responsibility for their actions. For this reason the majority of agreed plans arising from conferences are fulfilled.

Critical, however, to why conferencing is proving effective in bringing about satisfactory outcomes for everyone involved is that conferencing not only encourages offenders to take responsibility, but that responsibility is supported by empowering families and communities to work together to overcome problems identified during the course of the conference. The confrontation allows insights into the life circumstances of the offender, which can promote negotiated plans that focus less on punishment and more on supporting the offender to live a crime-free life. The insights stimulate a willingness to tackle problems in a nonadversarial atmosphere with remarkable results. As Braithwaite has said:

Sometimes moving gestures of healing come from the victim. They waive their right to compensation from an unemployed youth, or invite an offender to their home for dinner after the conference. They may help to find an unemployed young offender a job, a homeless person a home. In one amazing case, a female victim who had been robbed at gunpoint had the offender live in her home as part of the plan.<sup>90</sup>

### Case Study Conferencing Is a Preventive Crime Control Measure

In 1994, first-time offenders in Milton Keynes, United Kingdom, even those under the age of criminal responsibility, were encouraged to take part in conferences. This was part of a police strategy to use an arrest as an opportunity for interventions that involved problem identification and for solutions that engaged youth services, schools, the police, parents, and victims. The conferences revealed considerable information about why offenders were committing crime. Some were under pressure from their peers, others suffering abuse, bereavement, or bullying. The conferences showed that crime happens for many reasons and often because offenders are struggling with troubles in their lives that are irresolvable. One police officer who had participated in several conferences said, "What this is saying to us is that every time we send someone to court we are ignoring a problem. Court cases are nothing more than our failure to find the solution to the problems." What if this view were translated to inmates inside prison? Are not punitive sanctions often the result of unattended problems? Perhaps, in the future, the effectiveness of the criminal justice system will be judged not by how many sentences are given but by how many problems are successfully addressed.

Conferencing not only responds to crime that has already happened. It looks forward and involves elements of crime prevention. Family group conferencing can make juvenile offenders face head-on the consequences of their behavior on other people and also involve these people in designing a plan of action to promote a change in behavior. Family group conferences can satisfy the “get tough on crime” criterion as well as the restorative values of strengthening community. Family group conferences also allow for early intervention when a child comes to the notice of the authorities—without having first to secure a criminal conviction. This early intervention can be pivotal to preventing persistent offending.<sup>94</sup>

### Evaluation of Conferencing

Restorative justice has as its overall aim the increase in public safety and the strengthening of community ties through peaceful conflict resolution. In many conferences, the participants engage in effective problem solving to deal with the causes that may have contributed to the behavior of the offender as well as tackling the conditions that may promote further harm or crime.<sup>95</sup> The results may not readily be evaluated following the completion of a conference and the fulfillment of an agreed plan. Victim recovery is another goal, the achievement of which cannot be assumed overnight. Evaluation of family group conferences proves difficult with regard to issues like recovery, prevention, and recidivism—all of which require longitudinal study.

Nevertheless, factors such as victim and offender satisfaction, their sense of fairness, the level of completion of agreed plans, and the reduction in cases dealt with by the formal system can be measured relatively easily. Evaluation of conferencing has shown that parties who have gone through a conferencing process express a high level of satisfaction and experience conferencing as fair, and that reparation agreements are fulfilled in the vast majority of cases.

Since the introduction of conferencing in New Zealand, youth workers have seen their work loads drop by 80 percent, and the number of youths in custody has dropped significantly (66 percent between 1987 and 1992).<sup>96</sup> An Australian evaluation of the Wagga Wagga model (in New South Wales) reports close to a 50 percent drop in recidivism among young offenders who went through conferences compared with those who went to court, and victim satisfaction has been reported as high as 96 percent.<sup>97</sup> Evaluation of the Bethlehem pilot project showed that 86 percent of participants rated family group conferences as “good” and 4 percent as “bad.”<sup>97</sup>

In Canberra an extended pilot of family group conferences that began in 1994 is being evaluated by the U.S. criminologist Larry Sherman. The design of the Reintegrative Shaming Experiment (RISE) involves the random assignment of eligible cases.<sup>88</sup> The study included 1,400 cases and around 6,400 interviews in three offense categories: drunk driving, juvenile property offenses, and youth violence.

Researchers observed the disposition of every case included in the study and subsequently interviewed all offenders, victims, and supporters involved in the cases. The key criteria for comparing court processing to conferencing are these:

- Prevalence and frequency of repeat offending
- Victim satisfaction with the process
- Offender changes in drinking or drug use behavior
- Equity in sentencing in conferences versus court sanctions
- Estimated cost savings
- Procedural justice and protection of rights
- Police satisfaction and increased effectiveness through less time spent in related activity

The importance of evaluating conferences is heightened by virtue of conferencing being a new model of restorative justice. While victim-offender mediation can draw on at least two decades of experience, conferencing is being explored without precedents and is very much about learning while doing. The design and planning for implementation of conferencing are crucial to ensure that the known benefits of conferencing can be maintained. Useful tips for such planning are provided in the companion document to this report, *Toolbox for Implementing Restorative Justice and Advancing Community Policing*.

## Problems and Concerns

The implementation of conferencing can be problematic:

Mainstream criminal justice systems continue to focus on the offender, continue to assume that retribution has some inherent value, and continue to operate on the assumption that state officials must impose retributive penalties. Accordingly, where referrals are made to some restorative process from within the mainstream criminal justice system, those administering the restorative process have to choose between two positions. A compromise between these two positions has meant that restorative justice programs have, in practice, been both somewhat corroded and somewhat marginalized during the last two decades. Programs have tended to operate on a small scale, and have frequently failed to escape the traditional paradigm according to which official wisdom focuses on some form of punishment for the individual offender.<sup>91</sup>

Moore's warning is to be heeded because of the popular spread of conferencing among criminal justice agencies, which may see restorative justice as a useful means for holding offenders to account without observing the balanced approach and other key values of restorative justice.



The key concerns about family group conferences are as follows:

1. ***Victim participation.*** The participation of victims must be a major aim of the family group conference. Early evaluations found that family group conferences often went ahead without victims' involvement and even without informing them or offering them a chance to participate. When victims were present they were often critical of the fact that their participation seemed peripheral and that their voice failed to be heard. Programs can quickly be seen as a means of working with offenders rather than as a means of serving victims' needs. Practice in many areas has since been corrected in response to the criticisms.

If family group conferences are to contribute to restorative justice, then reparation to the victim and consideration of the victim's needs have to play a full part. This can only be achieved completely if the victim is present as an equal player. Indeed, victims will agree to participate only if the meetings are clearly seen to be dedicated as much to their interests as to any other party's. For a proposed plan to be acceptable, victims must be happy with it. Victims should be encouraged to bring friends and other supporters to offset the danger that the conference might focus only on the welfare of the offender.

Usually victims are interested mostly in rectifying the wrong, in reparation, in an apology, in having the young person come and work for them, or in signs that the offender will change his or her behavior. Sometimes this conflicts with the view of others present at a conference, including criminal justice practitioners. The victim should have a power of veto if the planned outcome is not satisfactory. This represents a significant departure from traditional approaches.

2. ***Considerable interest in family group conferences is widespread, but they can quickly be seen as a powerful means for shaming offenders without addressing the importance of reintegration and reconciliation.*** Family group conferences can mirror the offender and punitive focus of the criminal justice system, particularly when facilitated by criminal justice professionals or when cases are referred by the mainstream court system. Restorative justice can be corroded or co-opted by the punitive bent of the traditional approach to justice.

For example, the Anoka Police Department in Minnesota also was attracted by the shame theory, but soon recognized its potential for controversy: "Shame is something far different than legal guilt. Used properly and with the process of re-integration, most offenders experience true remorse, [and] given the opportunity to amend their actions, do so."<sup>98</sup> Anoka is responding to concerns that its original focus was too much on sanctions. The reintegrative process can be compromised by an inappropriate emphasis on offender shaming. If conferencing operates within a retributive culture, the restorative justice values will be sidestepped. "You cannot punish and reconcile at the same time. This is not a problem of opinion or ideology. It is simply a question of logic."<sup>82</sup>

3. ***Skills are different from those traditionally required.*** The skills and neutrality of the facilitator/coordinator are critical to the success of a restorative conference. The

highly charged atmosphere that is normally present in a conference requires of a facilitator good listening skills, strong observation capacity, and sensitivity.

Tony Marshall highlights the dangers of a criminal justice professional assuming the role; such a professional can find it difficult to act in a neutral manner:

The facilitation of family group conferences requires not only specific skills, but also an appropriate orientation. The facilitator's job is to provide a safe and controlled environment for parties that, initially at least, have reason to be rather afraid of each other, to encourage and to enable each party to have their say and to register their views and needs, and to encourage collaboration in problem solving. It is a job of enabling and empowering people who are not used to "having a voice." A representative of any criminal justice agency at the meeting is better suited to participate as one of the parties (having their own ends and agenda) than as an impartial coordinator.<sup>62</sup>

While Marshall and others<sup>99</sup> have sounded this alarm, experience is showing that some criminal justice officials can acquire the skills required of a neutral facilitator. In any case, good training and supervision are essential.

4. ***Conferencing demands preparation and time.*** Identifying suitable cases, preparing the parties for participating, and giving adequate time and information for parties to choose to attend a conference allows the facilitator to develop sensitivity about the needs and expectations of each person. Coercing people into a conference because it seems an appropriate way of responding to a crime runs counter to restorative principles, yet it is a temptation many practitioners fall into. Part of the problem is that preparing the ground for a conference to take place with the right participation takes time and resources. Planning can take an average of 10 hours, with the actual conference taking between 2 and 5 hours. This can seem a costly use of resources by a system already under pressure.
5. ***Marketing conferences is sometimes difficult.*** Concerns faced by anyone operating conferencing include being seen as running a *soft* option and being expected to prove that levels of recidivism will drop. This can put some pressure on facilitators to dictate the proceedings to ensure that outcomes appear tough on the offender, or to use the conferencing process in only minor crimes.
6. ***"Letting go" by the professionals is a requirement of conferencing, yet some control is needed.*** Allowing participants to decide for themselves how the harm should be restored is critical. Equally important is that offender rights and safeguards are not compromised by conferencing. An admission of guilt may leave the offender without legal representation. The offender may fear that the full range of a community will bear down on him unless the ground rules of the conferencing process are explained and followed. These include the need for mutual respect, the prohibition of any threat toward anyone participating in a conference, and the assurance that agreed plans are fair and realistic for the offender.

7. *Widening the net.* There is a suggestion that family group conferences could overextend justice responses to crime, beyond a formal warning or caution, in cases that otherwise would be seen as minor violations of the law. Widening the net of social control is only desirable if it is fair. There are dangers that the most vulnerable offenders will be singled out. This danger is to be balanced, however, with the view that early interviews, like conferencing, can be powerful preventive tools following the first signs of offending behavior. (See the case study “Conferencing Is a Preventive Crime Control Measure” in the section “A Sociological Explanation—and Warning.”)
8. *Selecting cases for conferencing can be on the wrong criteria.* It also could be argued that selecting cases on the basis of the traditional categorization of crime (felony/misdemeanor) erodes the roles of the victim, offender, and the community. Too great a focus on the offender also can occur in the selection of cases. The Woodbury Police Department, for example, evaluates cases for conferencing according to three criteria: the seriousness of the crime, the offender’s past involvement in the juvenile justice system, and the attitude of the offender. Other considerations include whether or not the offender admitted to committing the act, the fit between the individual case circumstances and the program goals and objectives, and whether the case will be diverted if it is sent to the courts.

These criteria, however, do not necessarily take into account the needs of the victim and community. Choosing whether or not a victim or offender or member of the community should be afforded the opportunity to participate in a family group conference should also be based on criteria related to restorative justice values: whether the parties want to participate, whether they are prepared for their participation, and the extent to which public safety is likely to be advanced by conferencing.

9. *Capacity of family and communities.* Marshall has pinpointed another concern:

One of the greatest innovations of the family group conference is its involvement of the family in sharing the offender’s predicament, and lending support to an individual who is relatively powerless to resist social pressures that lead to misbehavior. But not all families are able to be such a reliable resource. Many are weighed down by their own problems, material as well as relational. There is a danger that families will sign up to more than they can deliver. The family group conference needs to have regard for this fact, which is why looking for resources to support the family may be even more important than those to support the offender.<sup>62</sup>

It is part of the skill involved in facilitating conferences that participants are identified among extended family and community members, e.g., teachers, peers, counselors, an aunt from another city, or others. Offenders might, however, feel intimidated by the presence of so many adults. It is important that the environment feels safe enough to encourage participation by both the victim and the offender. However, assessing the capacity of those present to support the parties is a factor to be considered.



Family group conferences, therefore, are not without implementation problems. Yet they offer vast potential for promoting understanding about crime and how it can be prevented. They also are a natural progression from much that is being accomplished under the rubric of community policing.

## Family Group Conferencing and Community Policing

Restorative justice experiments have been emerging as part of a rapidly growing social movement for criminal justice reform during the 1990s, similar to the policing changes of the previous decade. As with problem solving (which gave community policing added momentum after two decades of haphazard experiment), family group conferencing—following the introduction of victim-offender reconciliation and mediation programs—has added momentum to the spread of restorative justice.

Part of the excitement about conferencing is its potential acceptability to both liberals and conservatives: its focus on a nonpunitive approach appeals to the former; the latter appreciate its strong emphasis on victim involvement and family/community empowerment and on the inclusion of families as part of the solution to crime. Both find appeal in the fiscal savings that are likely to be realized with reduced dependence on incarceration. It is perhaps this broad bipartisan support that creates a climate for police involvement in conferences.

Other benefits also stem from police-based conferencing. Evidence is emerging that conferencing, when discovered by the police, attracts strong support among officers for its pragmatic approach to criminal behavior. While often initially skeptical about restorative justice, police officers exposed to conferencing become some of the most vocal supporters of changing the traditional response to crime. In New Zealand, Australia, Britain, Canada, and the United States, police officers, sometimes operating at relatively junior levels in their respective organizations, have been incredibly active in obtaining training in conferencing skills and in starting programs to deal with predominantly nonviolent crime committed by juveniles who have admitted responsibility. As an indication of the perceived effectiveness of conferencing among police agencies with a few months' experience experimenting with these cases, there has been a growing tendency for such agencies to apply the process to violent crime as well. Officers have also demonstrated remarkable willingness to use conferencing in other conflict situations, for example, internal tensions, missing persons inquiries, truancy cases, and conflict situations between young persons and others. Why is conferencing grabbing the attention of the police?

The police act as gatekeepers to the justice system and have considerable discretion—more so than is often acknowledged—about whether to mount a full criminal investigation in cases that fall into certain categories of reported crime, or to use the cautioning and diversionary court processes at the disposal of most police departments. Conferencing is especially appealing to those who believe in meaningful intervention at the first signs of trouble by a young person. Many police officers recognize that the first time a person comes to their notice for a criminal act is not necessarily the first time they have broken the law. Moreover, for those who support the view that crime acts are an indication of a deeper problem (abuse, bullying, substance abuse,



neglect, etc.), any intervention that encourages problem identification seems a wise course of action. Conferencing provides a means of resolving crime that has already happened and offers police departments a perfect way of reconciling the tension among post facto investigation, crime detection, and crime prevention. Using the same resources to achieve a resolution of a crime that has already happened, while mobilizing families and communities to support long-term problem solving, is particularly desirable in these days of resource constraints.

Conferencing undoubtedly provides a valuable tool for police officers to engage in dialogue with communities and to promote partnership activity across a range of issues that affect safety and quality of life. In other words, police-run conferencing is a good example of problem-oriented community policing and provides an important alternative model to resorting to criminal justice through the courts. Police officers, in determining with the parties involved in conflict who should attend a conference, are also helping to define *the community* as an entity that can help coproduce policing and public safety. Conferencing helps to activate communities that otherwise might be passive or unaware of their potential contribution to the management of crime and disorder problems.

The relationship between the police and the community, especially, can be strengthened through conferencing. Participants who are invited by the police to attend a conference are inclined to think more positively and favorably toward the police simply because of the willingness by the police to listen and allow their views to shape decisionmaking. Most people appreciate the obvious peacekeeping role of the police officer who works in the capacity of a conference facilitator. People also feel better about being involved in a process that inspires community building, and promotes healthy community relationships, than they do about attending an adversarial trial that tends to leave people feeling sour.

One of the more exciting aspects of conferencing is its potential to radically challenge traditional retributive, crime-fighting attitudes among police and lay communities alike, in favor of constructing the crime problem as a community and individual health issue. Police departments that have already operated conferencing bear witness to the revolution that it can provoke in attitudes toward crime and “criminals.” The deep-seated notion that police are the thin blue line fighting an enemy without adequate public support, and without the back-up of an effective justice system, is quickly weakened by police participation in conferencing.

Police Sergeant Terry O’Connell in Wagga Wagga, New South Wales, for example, surveyed his colleagues prior to introducing conferencing and found that around 50 percent were dissatisfied with the juvenile justice system. The two principal reasons for their dissatisfaction were that officers felt that young offenders were not being made to take responsibility for their behavior, and that the decisions of the courts too often neglected (or ignored completely) the needs of victims. Some officers added their view that the families of young offenders often showed no interest in their child(ren) and that many young offenders held the police and the court system in contempt. Notwithstanding these views, the idea of running conferences did not find favor,

although most agreed that the police were key players in influencing an offender's behavior. Any effort to increase that influence was supported; and so police-based conferencing began in 1991.

The first case in Wagga Wagga concerned a motorcycle theft and criminal damage. The victim, angry with the young offenders, nonetheless agreed to participate in a conference. At the conclusion of the police-facilitated dialogue, the offender agreed to arrange the repair of the bike; and he eventually became friends with the victim, after they shared their mutual interest in bikes.

The Wagga Wagga model was based on a number of goals:<sup>91</sup>

- Ensure that the young offender understands the seriousness of his or her offense.
- Minimize the opportunity of the young person reoffending.
- Provide the young offender with an opportunity to accept responsibility for his or her offense.
- Ensure that family and significant others are made accountable.
- Provide the victim(s) with some input into the cautioning process.
- Improve the opportunity for victim restitution or compensation.
- Provide police with an opportunity to contribute in a significant and satisfying way to the processing of young offenders.

Wagga Wagga's experience was a valuable lesson for police departments taking up the process subsequently in Milton Keynes, United Kingdom, where an early experiment with victim-offender mediation in retail theft cases evolved to include the victims' and offenders' supporters and conferencing among the wider community. In 1993, officers were troubled by any suggestion of being seen to decriminalize crime by opting out of the criminal justice system. Within months, however, officers were eager to spread the application of *restorative cautioning* to burglary, assault, motor vehicle crime, and criminal damage. This flip-flop in attitudes was shadowed by the dramatic turnaround of shop staff, who initially balked at the idea of not prosecuting shop theft offenders. Within a year, their National Retail Consortium was lobbying the British Home Secretary to make the scheme national. Five years later, the British government is introducing legislation on youth crime and justice in which conferencing is a key element. Conferencing is also spreading to other forces, including London's Metropolitan Police—in conjunction with other criminal justice agencies and including victim services.

Progress from a single program in Milton Keynes to a nationwide effort to introduce conferencing within 5 years can probably be attributed, in large part, to the police working as part of a multiagency partnership. The partnership helped to gather sup-



port for the rationale for restorative conferencing and to attract participation from social workers, probation staff, teachers, and victim services—people who were influential in the lives of either the offender or the victim. Some officers, however, were clearly more offender-focused than desirable—even to the point of inadvertently using the victim’s story to help them shame the offender, less with an eye on reintegration than on allowing the victim’s experience of harm to speak for itself. Police often overinfluenced the agreed plan, a principal outcome of a conference. These problems were also identified with the Wagga Wagga model; but, with experience, they are being addressed by revisiting the values of restorative justice.

Police can forget, however, how much they are accustomed to seizing control of a situation and exerting authority. Marshall has observed the difficulty police officers experience in maintaining neutrality as conference coordinators, and how police steeped in the adversarial, offender focus of the criminal justice system can tip the balance against the restorative principles of community and victim empowerment. His warning has been heeded, and attention has been given to training and monitoring officers (and volunteers working for the police).

There is every reason to contemplate seriously the involvement of police in running conferences. This role provides a crucial example of police working as a peacemaker in a community, affords opportunities for problem solving in partnership with community and other agencies, and allows police to involve crime victims in decision-making. These benefits challenge the traditional emphasis on professional law enforcement through the courts and promote decentralized, community-based, participatory decisionmaking.

The tension between acknowledging the statutory duty of the police to maintain law and order, on the one hand, and encouraging community and family decisionmaking, on the other, can be hard to deal with. Officers are used to public expectations that their role is one of enforcement and supporting criminal prosecutions; conferencing represents a departure from the popular image of what policing is about, and marketing the concept of conferencing requires sensitive dialogue with those inside and outside the formal justice system.

There are also concerns that the police could be seen as becoming too powerful if left to investigate, to *prosecute* by way of conferencing, and to be involved in determining the outcome of a case. The separation of powers could quickly become compromised unless the police role is balanced with strong influences from community and other professional agencies. For this reason, it is imperative that officers are well trained in *the balanced approach* and the social theory inherent in conferencing. At the same time, conference participation affords an important opportunity to break down stereotypes and myths about crime and offenders, which helps to promote knowledge and understanding for effective problem solving.

In lieu of maintaining protracted criminal investigations to sustain a prosecution, which involves evidence gathering, witness and alibi checks, forensic examinations, etc., conferencing requires only a simpler investigation to establish who was involved and who was impacted by the crime. It is possible (although this has yet to be sub-



stantiated through any evaluation) that more of the guilty offenders would admit guilt in conferences than is currently the case within the adversarial justice system. This possibility has implications for resource distribution to detective units and could support strengthening manpower for community policing. Ideally, detectives would not be excluded from a conferencing role, as their participation could be valuable to changing their overemphasis on enforcement.

#### Case Study:

#### Conferencing Is a Useful Vehicle for Resolving Crime Without Long Investigations

When local high school students caused several thousand dollars worth of damage to a car-wash business during the end-of-school celebrations in October, matters looked complicated because so many offenders were involved. Following initial investigations and straightforward admissions of guilt, two meetings were convened. The first occurred at the high school and led to the election of a group to represent all of the students involved in the incident. The second meeting was held at the car-wash and was attended by students, families, teachers, the owner of the business, and employees. Agreements for compensation—partly monetary, partly involving unpaid work—were easily reached.

It is easy to get absorbed in the details of how to run family or community conferences without looking at the key characteristics that promote the ethos of problem-oriented policing and community policing. Restorative justice and conferencing are hardly known to most American police departments yet would be a powerful catalyst for significant progress in improving police-public relationships, promoting effective problem solving, and encouraging communities to apply social capital toward public safety. Restorative justice would help to break down internal tensions between uniform and specialist units as conferencing proves its effectiveness vis-à-vis crime reduction. It also promotes broad understanding of the countereffects of overprofessionalization and the importance (and validity) of citizen engagement in crime control.

The conferencing model, without doubt, provides an entirely new vehicle for promoting police-public collaboration beyond problem identification. While the police may be initially responsible for receiving the crime report, identifying both victims and offenders, and proactively seeking the attendance of community members at the conference, there is then a shift from the professional monopoly to a shared partnership effort to respond to crime. This is entirely in sync with the prevailing view that the police usually face two distinct challenges: reacting to an event immediately and working to promote long-term community safety.

The conferencing model thereby expands policing beyond fire-brigade work in relation to crime to a broader approach involving consultation and enlisting the participation of others to resolve crime. As a byproduct, the police remove themselves from working along adversarial, *them-versus-us* lines to adopt a strong harmonious relationship with anyone who might be able to help in addressing the crime. The strengthening of relationships extends to the conference participants, who are likely to devel-



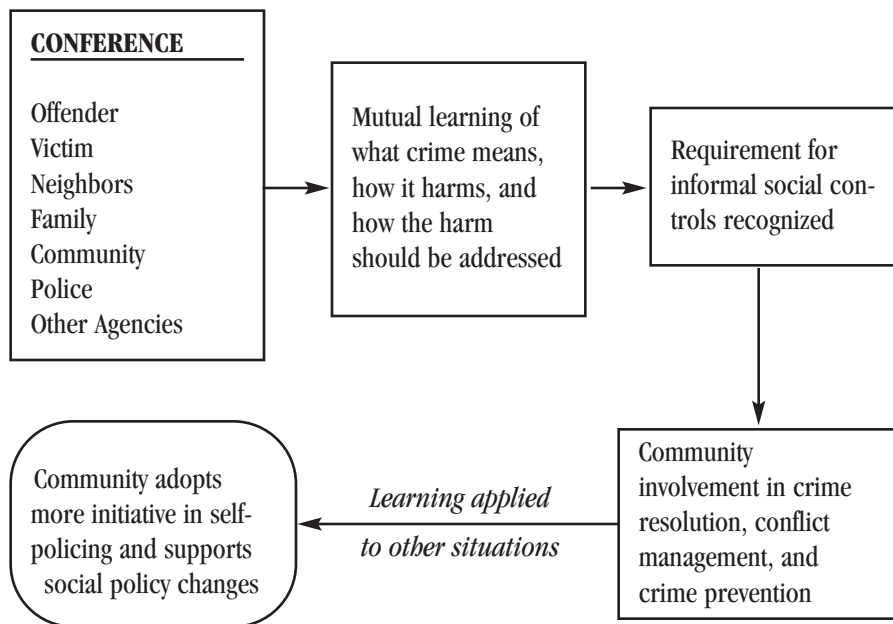
op a spirit of cooperation in which mutual trust, respect, care, and understanding can take place. This even extends to those identified as offenders. Police departments that have run conferencing programs for some months are seeing a general willingness among the police and communities alike to work jointly; and this joint work can be novel simply because the level of mutual trust is heightened.

The conferencing process is not one that should be too alien to the police. The stages involved in running a conference in many ways reflect problem-solving processes adopted under problem-oriented policing. The police, with the help of the victim and offender (and others) will scan the community relevant to the parties to identify who could be a useful supporter and could help the process reach an agreed plan. As with problem solving, no one person or agency representative is seen as possessing all the information required. The understanding of who has been harmed by the crime, and how, requires input from a variety of sources. No one, except possibly the primary victim, has all the knowledge needed to identify the best route to resolving the crime.

In addition, the conferencing process shifts the focus away from looking at crime simply in terms of broken laws. It entails a holistic analysis of the wrongdoing by the offender(s): not only are the facts leading up to, and after, the crime shared; in addition, sharing concerns, fears, hopes, and aspirations breathes life into a vivid picture of the damage that needs to be addressed. In this way, conferencing mirrors the problem analysis that goes on under problem-oriented policing—but perhaps even more powerfully. The dynamics in a conference can be emotionally powerful because participants are engaged in something personal to them; the educative value of sharing information, knowledge, and individual perceptions is hugely significant in building confidence to tackle problems that otherwise might seem intractable.

Conferencing often demolishes myths and stereotypes about victims and offenders, allowing for a broader grasp of the meaning of crime, how it can happen, and how it can be prevented. Although problem-oriented policing has in part been successful in shifting the focus from strict attention to the laws that have been broken to broader economic and social issues, conferencing is an immense stimulant for getting people to view crime in multifaceted terms. Conference participants, including police officers, are inevitably exposed to social justice issues such as weak parenting, skills shortages, substance dependence, and victim empowerment needs, as well as the role and responsibilities of the community in preventing crime. *Conferencing promotes a sense of shared relationship and responsibility toward one another; for this reason, the process is just as vital as the outcome of an agreed plan of action.* This process allows for mutual understanding of everyone's interdependence and contribution. Conferencing promotes tolerance, learning, capacity building, and a feeling of connectedness. The result is less reliance on formal crime control measures and more leaning toward informal social controls that support the vision of coproducing public safety through a combination of professional and lay activities (see Figure 20). In this way the police can begin to relinquish their monopoly on crime fighting.

Figure 20. Conferencing Promotes Self-Policing by the Community and Social Justice



Indeed, where conferencing has taken place, over time the community has been known to initiate for themselves a conference to tackle identified problems affecting the safety and quality of life. Thus the conferencing model produces far more than a commitment to agreed outcomes to address an individual incidence of crime. It breathes life into the concept of community policing in its broadest context, for *it supports a learning process for everybody to recognize that the community can self-police with or without the support of professional police*. If one accepts that the police can no longer be the omniscient force for crime control and public safety, conferencing is an ideal problem-solving tool that the police themselves should welcome.

Furthermore, conferencing promotes a commitment to social justice among lay participants and professionals alike. The exposure to the stories related by the victim, by the offender, and by others will inevitably change people's views on what is required to promote safer communities—beyond what the criminal justice system and punishment can accomplish. Over time this is likely to lead to fewer calls for more expenditures for criminal justice and to greater support for expenditures and investment in social policies that will mitigate the factors currently contributing to crime. The involvement of the police in this shift will fulfill their role of contributing to a safer society and to creating more functional communities dedicated to sustained reduction in crime, fear, and disorder. Additional tools available for achieving such a shift include restorative justice circles.

## Sentencing and Healing Circles

Another model that is beginning to attract wide attention in the restorative justice field is the circle. A *circle* (described either as a sentencing, healing, peacemaking, or community circle) is essentially a community-directed process, in partnership with the criminal justice system, to develop consensus on social and personal problems surrounding crime. The circle uses negotiation, mediation, consensus building, and conflict resolution processes that are designed to ensure the following:

- A voice for everyone and an opportunity to be listened to
- Direct sharing of experiences
- An atmosphere in which problem identification and problem solving can be conducted in a respectful manner
- A focus on improving relationships and addressing the problem in ways that promote harmony
- A better understanding of the circumstances of others and tolerance for diversity
- A shared commitment to implement successfully the agreed plan/sentence

The circle process, drawing extensively on the values of restorative justice, contrasts directly with the adversarial process of the court trial; the goal of the circle process is to find the common ground on which to build agreement on needs, hopes, and the means for their fulfillment. Participation is voluntary, and everyone who attends has an equal voice. The emphasis is on interdependence and connectedness between people, and on promoting healthy connections that improve the well-being of those involved.

The circle sentencing model appears to demand the most extensive preprocess preparation. The admission process generally requires, as a condition of admission to the circle, that an offender petition the Community Justice Committee; visit an elder or other respected community member before a conference can begin; work on a reparative plan, which may involve some restitution to the victim and community service; and identify a community support group. While circles may be convened in some cases without these requirements being met (with the special approval of the Community Justice Committee), the preconference process is generally viewed as a screening device and a key indicator to circle participants that the offender is serious about personal change.

The experience of circles in different parts of the world is showing that while community members are unfamiliar with the judicial process, they seem to have no problem with engaging in a process that encourages them to speak openly and honestly and to accept that everyone is equal and should be respected, and that acknowledges



that their decisions can make a difference to their own lives, as well as to others. Some circles are conducted by criminal justice judges who sit in the circle without a bench, desk, or table and guide the process along in an informal manner. How free-flowing the dialogue becomes is greatly dependent upon how far participants can let go of their individual status and speak from the heart. Judge Barry Stuart was the first judge to use circles in his circuit in the Yukon of Northern Canada:

Community circle processes... enable community values, not just justice values, to dominate and shape exchanges and outcomes. These principles make the difference between a community justice process that primarily serves the community needs and one that primarily serves the needs of a formal justice system.<sup>43</sup>

#### Case Study:

#### Circles Provide a Vehicle for Open Dialogue About Community Problems That Otherwise Could Fester for Years

In the Manitoba Community of Hollow Water in Canada, a *healing circle* identified no less than 48 offenders (out of a population of 600) who had committed sexual abuse. All 48 offenders were brought to justice through a series of community circles in which abused victims and ex-offenders met other victims and offenders simply to share their stories and to end the denial that had been rife for years. To appreciate how this happened, it is necessary to change perspective from the focus on establishing guilt and on punishment to the focus of circles—learning from people who speak from the heart. Hollow Water may sound like an incredible story, but it is one that is being experienced by an increasing number of criminal justice professionals working closely with victims, offenders, and communities.

Stuart suggests that circles build or rebuild communities and rekindle pride in belonging to a community—enhancing self-esteem in members and advancing the overall well-being of the community. Circles, in short, rely on informal social controls within communities by responding to, as well as preventing, crime.

How different are circles from conferences? Both engage citizens, victims, and offenders in processes that seek to address the harm that has been caused by crime; but it is probably an accurate assessment of circles that the primary outcome sought is strengthening community relationships in order to resolve problems. In conferencing, community capacity building is often a byproduct, not a specific goal, with the emphasis more on providing community support to victims' recovery and offenders' reintegration. Table 7 compares circle sentencing, family group conferencing, and victim-offender mediation.



Both the circle and the conference models are consistent with the balanced-approach model. In addition, circles have attracted considerable attention for their community development and empowerment qualities. In conferencing, offenders can often be surprised at the care shown to them by community members. In circles, this care extends often to the affirmation of what is important to the community in terms of shared values. Kay Pranis calls this the building up of “authentic communities” in which members are “consciously raising awareness of their connections with one another, of their shared fate, and of their joint humanity.”<sup>102</sup> This extends the process beyond dealing with the justice issues provoked by a crime to tap into the resources, wisdom, and strength of a community; tapping these resources is vital for gaining a sense of power over what happens to the community, and for how the community handles adversity as well as opportunity. The process is the antithesis of the technical due process of the court system because it introduces soul-searching at the deepest level about why crime happens and how it can be stopped. Table 8 depicts the stages in the circle process.

### **Case Study: Circles Can Be Used for a Variety of Criminal Conduct That Disturbs Communities**

Circles have operated since the late 1980s, and several models have developed. In Minnesota, Judge Steven Ruble began circles in Ojibwe on the Mille Lacs Reservation with a case involving a gang member who had killed his sister's cat. The outcome of the circle was an agreement for the offender to build bird houses and to work as a volunteer with the Department of Natural Resources. In 1994 in British Columbia, a manslaughter trial was delayed pending a community sentencing circle to determine the locals' views after a local teacher had been killed by a drunken youth by gunshot. The circle was open to the public and was attended by 46 people, including the offender and the victim's family. Consensus was reached on the sentence, a period of incarceration; but both the victim's family and the family of the offender spent time with the offender before he was taken away. All 46 sat down to eat a meal at the same table, including the estranged families. “Many prayers were spoken, much anguish expressed, many tears were shed, many confessions were made, and much love and compassion was shown.”<sup>100</sup>

Table 7. Community Decisionmaking Models:  
Administration and Process

Model Variable	Circle Sentencing	Family Group Conferencing	Victim-Offender Mediation
When operation began	Approximately 1992	New Zealand, 1989; Australia, 1991	Mid-1970s
Where used	Primarily the Yukon, sporadically in other parts of Canada. increasing interest in Minnesota and elsewhere in the United States	Australia, New Zealand, United Kingdom, Europe, United states (Montana, Minneapolis, and Pennsylvania)	Throughout North America and Europe
Point in system when used	Various stages; may be diversion or alternative to formal court hearings and correctional process for indictable offenders	New Zealand: throughout juvenile justice system; Australia Wagga Wagga model: police diversion; Thames Valley Police, United Kingdom: police diversion	Mostly diversion and probation option, but some use in residential facilities for more serious cases
Eligibility and target group	Offenders who admit guilt and express willingness to change; entire range of offenses and offenders eligible; chronic and violent offenders targeted by some communities	New Zealand model: all juvenile offenders eligible except murder and manslaughter charges; Wagga Wagga model: determined by police discretion or diversion criteria; United Kingdom: mainly property crime, adults and juvenile	Varies, but primarily diversion cases and property offenders; in some locations, used with serious and violent offenders (at victim's or offender's request)
Staffing	Community Justice Coordinator/Facilitator	Community Justice Coordinator/Facilitator	Mediator; other positions vary
Setting	Community center, school, or public building	Social welfare office, school, community building, and (occasionally) police facility	Neutral setting such as meeting room in library, church, or community center; occasionally in victim's home if approved by other parties
Nature and order of processes	After judge, justice of the peace, or "keeper" opens session, each participant allowed to speak when feather or <i>talking stick</i> is passed to him or her; victim(s) generally speak first; consensus decision making	Coordinator follows script in which offender speaks first, followed by victim and other participants; consensus decision making	Victim speaks first; mediator facilitates and encourages victim and offender to speak; does not adhere to script or force consensus

(continued)

Model Variable	Circle Sentencing	Family Group Conferencing	Victim-Offender Mediation
Who participates?	Judge, prosecutor, defense counsel participate in serious cases; victim(s), offender(s), service providers, support group present; open to entire community	Coordinator identifies key people; close kin to victim and offender targeted, as well as police, social services	Mediator, victim, offender are standard participants (family and others allowed on rare occasions)
Victim role	Participants in circle and decisionmaking give input into eligibility of offender; choose support group	Victim expresses feelings about crime, gives input into reparative plan	Major role in deciding offender obligation and content of reparative plan; expresses feelings about crime and impact
Gatekeepers	Community Justice Committee	New Zealand: court and Criminal Justice Coordinator; Australia, UK, and US: law enforcement and school officials	Victim has ultimate right of refusal; consent is essential
Role and relationship to system	Judge, prosecution, court officials share power with community on selection, sanctioning, follow-up; presently, minimal impact on court caseloads	New Zealand: primary process of hearing juvenile cases; required ceding of dispositional power; major impact on court caseloads. Australia: police driven; variable impact on caseloads; concerns about net-widening	Varies on continuum from core process in diversion to marginal programs with minimal impact on court caseloads
Preparation	Extensive work with offender and victim before circle; explain processes and rules of circle	Phone contact with all parties to encourage participation and explain process; New Zealand model requires offender and family to have face-to-face visits	Typically face-to-face with victim and offender to explain process; some programs use phone contact
Enforcement and monitoring	Community Justice Committee; judge may hold jail sentence as incentive for offender to comply with plan	Unclear; police in Australian Wagga Wagga model; coordinator in New Zealand model; in United Kingdom, independent evaluation by Home Office	Varies; mediator may follow up; probation or other program staff may be responsible
Primary outcome sought	Increase community strength and capacity to resolve disputes and to prevent crime; develop reparative and rehabilitative plan; address victim's concerns and public safety issues; assign responsibilities to victim and offender support groups and identify resources	Clarify facts of case; shame offender or denounce crime while affirming and supporting offender; restore victim loss; encourage offender reintegration; focus on "deed, not need"	Allow victim to relay impact of crime to offender; express feelings and needs; victim satisfied with process; offender increases awareness of harm; gain empathy; agreement on reparative plan

SOURCE: Adapted from Bazemore, G., and Griffiths, C., "Conferences, Circles, Boards, and Mediations."<sup>101</sup>



Table 8. Stages in a Circle

Stage	Activity
Preparation	Identify who will come and remove surprises
Opening	Welcome, ground rules, introductions, creating comfortable atmosphere
Legal stage	Facts, history, probation report
Clarifying facts	Anyone can add information, share feelings and concerns
Seeking common ground	Identify the issues that underlie the crime, alcohol problem, broken family relationship, exclusion from school, gang membership
Exploring options	Examine what must be done to support the victim, what must be done by the offender, what must be done by the community
Developing concerns	Ensure everyone has been heard and all options understood; probe what options are realistic and will gain shared commitment
Closing	Summarize, even if consensus not reached; allow people to leave feeling good

The main lesson to be drawn from circles is that lay members of the community (geographically defined or otherwise) are capable of sharing responsibility for crime control, of problem solving with an eye on the future, and of working in partnership with the formal justice system. The common outcomes of circles not only meet the needs of criminal justice in terms of holding an offender accountable; they also serve the victim, the wider community, and the family or friends of the offender. Plans may involve the following:

- Meeting or working with the victim or his/her family to understand the impact of crime and to support the victim
- An apology to the victim
- Attending counseling, treatment, school, or life-skills courses
- Short prison sentences—combined with other actions
- Voluntary work with people who need help, e.g., neighbors looking after children, shopping for the elderly, teaching reading or writing skills, work with the disabled

- Offenders talking to other offenders<sup>103</sup>
- Help in paying off debts

The result is that attention is paid to those issues that can help the recovery of victims, can improve the capacity of the offender to become law abiding and to make a contribution to society, and can enhance community safety and well-being. While many of these plans coincide with many community-based sanctions of the criminal justice system, the major difference is that they are determined following input from all significant parties—who have experienced a journey of understanding about what happened to whom and have explored how various needs should be met. These needs may focus on material, emotional, physical, and sometimes spiritual needs of the community. Thus, the plans are unique and more meaningful than anything the court system can provide. Another reason why circles are likely to grow is that the process is culture sensitive, which is important for many minorities.

The recidivism of offenders who have gone through a circle is much lower than for those who have not, according to Canadian research. Repeat offending generally involves less serious crimes and less frequent unlawful activity. Circles often lead to close ties in the community, which in turn leads to meetings being organized independent of the authorities to resolve issues that crop up. Circles promote partnership and harmony.

### Types of Circles

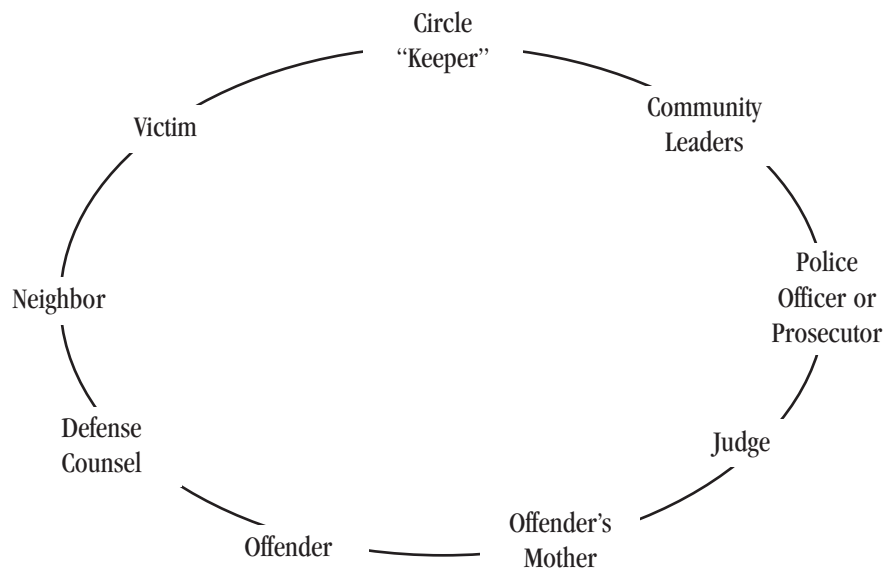
Every participant in the circle is encouraged to draw on his/her life experience to add to the understanding of the problem and to generate possible solutions. Every life story has relevance to finding a resolution which facilitates healing for all those affected by the crime. Circle discussions about individual crimes often become discussions about larger problems in the community. Circles provide a forum for problem-solving to prevent crimes in the future—a forum which operates on core principles of democracy, inclusion, equality, and respect.<sup>104</sup>

—Kay Pranis

The two main types of circles are healing circles and sentencing circles. Figure 21 shows the participants in a circle. Healing circles are held for either the victim (including in cases where no offender has been caught) or for the offender and are conducted privately with those selected to share decisions about what needs to be done. When the circle is for the victim, the focus is on his or her pain and loss and on understanding what would help the victim reach closure and healing. The group may also decide what input they wish to provide to any subsequent plan to deal with the offender. When the offender is the focus, healing circles help to explore the underlying problems associated with the criminal behavior and to support the offender to make changes.



Figure 21. The Makeup of a Circle



A sentencing circle, as conducted in Canada, involves several steps:

1. An application by an offender to the people who decide whether a circle is appropriate
2. Creation of a support community for the offender and for the victim
3. Holding healing circles for both parties separately
4. Holding a sentencing circle in which decisions are made about how the identified problems and harms should be addressed and about what will prevent future occurrences

The circle process is based on Aboriginal concepts of justice, which stress the importance of the spiritual connectedness of people. It rests on the belief that offenders are created, not born, and that healing is possible if problems are aired in a caring and respectful manner.

Communities are operating circles in conjunction with professionals for the criminal justice system; the circles allow for the participation of people who otherwise would have little or no say in the decisionmaking process. The process involves the assumption that everyone has something important to say and that everyone is equal. The combined experiences and wisdom of the group are seen as necessary to ensure that the most appropriate plan is drawn up, thus promoting change in the offender and drawing the whole community closer together.



**Case Study:**

**Circles Reveal Linkages Not Often Recognized in Other Processes**

A woman was arrested for drug possession offenses and referred to a healing circle. During the course of the circle, she listened to those who had family members addicted to drugs and how much they felt her activities must be creating many problems for her family. The woman had not considered the harm she might be doing to others by continuing her drug habit until she recognized her addiction was similar to that of alcoholism. Several years earlier, her husband's addiction to drink had become unbearable and had caused the breakup of her marriage. The circle represented a turning point in the woman's life.

**Circles and Community Policing**

To date, no single police agency has operated circles, although limited participation by the police is taking place. Circles are likely to have an increasing impact upon the police, as much as on the rest of the criminal justice system. Interest in circles is growing rapidly—the result of their focus on community development, victim frustration with the formal justice procedures, and the popularity of conflict resolution through nonadversarial processes. In particular, circles offer a participatory forum that lay citizens find is a natural and comfortable means for dealing with difficult and sensitive issues. Rather than being associated with fighting, circles attribute a different meaning to crime control and conflict solving: genuinely addressing people's problems, needs, and interests in ways that engender social and individual responsibility, rather than focusing on punishment and blame.

Police involvement in circles may wisely be deferred until such time as the police themselves understand that their role should be at least as much about promoting self-policing by responsible communities as about the enforcement of the law. The circle process demands the eradication of any hierarchy among the participants; this is difficult for many officers to imagine, since their traditional role has supported an air of authoritarianism, notwithstanding the principle of policing by public consent.

A stepping stone toward handling crime by conducting (or rather, convening) circles is to use the circle process in partnership efforts; the process affords a means for exploring feelings that might otherwise fester under the surface of a factual exchange of information. Partnering is often difficult because participants have different goals, interests, and problems—and operate in different organizational cultures. A process like circles provides the vehicle for engendering openness and respect, thus allowing differences to be identified that might otherwise act as real obstacles.

Circles are also underpinned by the fundamental principle that no one individual and no one organization is to be viewed in isolation. Instead of supporting the continuance of traditional lines of demarcation and responsibility, circles view responsibility, power, resources, and structures as interrelated.

Then I was standing on the highest mountain of them all, and around about beneath me was the whole heap of the world. And while I stood there, I saw more than I can tell and I understood



more than I saw; for I was seeing in a sacred manner the shapes of all things in the spirit and the shape of all shapes as they must live together like one being...<sup>105</sup>

## Conclusion to Part 4: Models and Processes Emerging Under Restorative Justice

Victim-offender mediation, conferencing, and circles are the current stock of mainstream restorative justice, but by no means the only procedures for implementing restorative justice. *Restorative justice values can be injected into almost anything that involves interactions between people.* Shifting the focus from blaming and shaming only to listening and understanding will smooth many of the tensions created when we focus on *us versus them* rather than on what can be done together. Our tendency to find labels for anyone different from ourselves masks how much we have in common. Restorative justice values and processes allow us to relearn this truism.

An example of the often small distance between victim and offender can be found in the public defender's office in Washington, D.C. The office keeps records of all offenders charged with criminal offenses. It also keeps records of the names of crime victims. The overlap between the two is significant, making the dichotomy between victim and offender somewhat artificial. Many offenders have themselves been victimized and some victims of crime commit offenses. Anyone who commits a crime should be held accountable, but accountability can be accomplished without a climate of vindictiveness in which us-versus-them attitudes dominate.

The benefits of the restorative justice processes apply to crime as well as other kinds of conflict. For the police, each of these processes offers an invaluable tool for promoting problem solving in collaboration with other agencies and the public. They also offer the police an alternative approach for dealing with internal grievances and tensions, and such internal use is helpful in promoting organizational and cultural change.

As Jennifer Lynch, who ran the alternative dispute resolution program for the Royal Canadian Mounted Police, says, "Traditionally police forces created their power-based discipline and grievance systems by simply borrowing from the criminal justice system. Officers in trouble with their superiors would be charged, tried, convicted, and sentenced. But this is no way to deal with conflict with persons who intend to have a continuing relationship after the conflict is dealt with."<sup>106</sup>

Perhaps the most critical point is that these processes offer the police a new framework for developing shared responsibility for policing, between themselves and the public, making policing everybody's business. They provide the tools for moving the emphasis away from the traditional model of professional policing (supported by the community)—to the community actively policing through informal social controls (supported by the professional police). In short, restorative justice processes can support the transition to be made from stage 1 to stage 5 as outlined in Table 9.



Table 9. Changing the Police-Community Relationship in Community Policing

Stage	Police-Community Relationship
1	Police operate separately from community
2	Police provide information to community
3	Police ask community for information
4	Police recognize need for help from community
5	Policing is conducted by the community, supported by the police

How far the various models advance the transition depends on how much they reflect the balanced approach and the values of restorative justice. In turn, this depends greatly on the objectives set for any program as well as the implementation of the processes (including preparatory and overview stages). While each model described so far has elements of community strengthening (as well as crime prevention and victim support), they tend to have their own particular emphasis. For example, modern victim-offender mediation processes focus on serving the interests of victims, in light of the criticism that some previous attempts had focused too much on changing the behavior of the offender. Family group conferences have had as a central concern the *reintegrative shaming* of offenders, which can compromise the satisfaction of victim needs. Victim participation and degree of satisfaction in earlier versions of family group conferences have suggested that victims were used more as props to hold offenders accountable. However, evaluations of these earlier models, particularly in New Zealand and Australia, have helped to promote adjustments to a more balanced approach. Circles and conferences are both concerned with community empowerment and with promoting informal social controls; they may offer the most powerful tools for reducing public dependence on the formal justice system.

If these models are to continue developing along restorative justice lines, however, care must be taken to ensure that the dangers of co-optation by the police and the rest of the criminal justice system are avoided. Co-optation can easily happen, since many professionals are so accustomed to the adversarial approach. Mark Umbreit also warns of the “McDonaldization” of restorative justice should the restorative justice models become institutionalized.



*Revisiting the values and humanistic assumptions of restorative justice is important and will help to avoid “fast-food” versions of the theory.* Community policing has taught this lesson already. The experiments over the last three decades have shown how quickly the focus can stray as departments burden themselves with introducing tactics that are perceived to be suited to the needs of the day. The importance of revisiting the original focus of policing (by the people, for the people) cannot be overstated. Policing, by its very nature, requires both short-term activity and a long-term vision. Restorative justice processes are powerful when human feelings can emerge that promote forward-looking thinking in spite of the need for structures to address the reality of today.

Policing was intended to be about peacemaking when it was begun 150 years ago, but somehow that paramount objective was overtaken. Any disillusionment about the capacity of community, the power of problem solving, and the effectiveness and realism of conciliatory partnership efforts should be eroding, given what has already been achieved in promoting harmony in jointly addressing crime. Restorative justice fosters even more understanding of, and confidence in, the relevance of peacemaking in contemporary society. It builds on previous peacemaking efforts and takes things much further. As McCold and Wachtel describe, “The collaborative processes developed from restorative justice practices are a natural tool for police interested in engaging communities for crime control and prevention and might be called restorative policing.”<sup>107</sup> Indeed, engagement by the police *and citizens* in restorative justice will help revitalize the original meaning and purpose of policing: “Policing by the people for the people.”<sup>108</sup>

*In the companion document to this monograph—Toolbox for Implementing Restorative Justice and Advancing Community Policing—some of the risks and dangers inherent in the implementation of restorative justice are outlined, as well as the issues that require attention to avoid undermining the values of restorative justice.*



Community Policing,

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**Final Comments**

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## Final Comments

The first thing to understand is that the public peace... is not kept primarily by the police, as necessary as the police are. It is kept primarily by an intricate, almost unconscious network of voluntary controls... No amount of police can enforce civilization where the normal casual enforcement of it has been broken down.<sup>109</sup>

Jacobs' quotation is well-known and the importance of informal controls is widely acknowledged. Left to chance and in the absence of strategy, the disproportionate reliance on government controls will continue to have unintended consequences.

The central proposition of this report is that democracy will suffer if policing and justice continue to treat the problem of crime as one requiring more, rather than less, use of a professionally run criminal justice system. The recognized need to invigorate communities and citizens to promote informal social controls will continue to be undermined by the focus on enforcement through legal due process—unless there is a real commitment to social justice. Moreover, as long as social exclusion for those who commit crime is accepted as a solution, and as an inevitable byproduct of maintaining law and order, our understanding of crime will be limited; the result will be more public dependence on the criminal justice system.

Overprofessionalizing the fight against crime and marginalizing offenders are not efficient ways of dealing with threats to public safety because, ultimately, they are unsustainable—at least in a free society. The purpose of policing and justice is to promote universal well-being, by serving as instruments of democracy “by and through which the pressing concerns of all can be heard, their safety guaranteed, their crises addressed, their conflicts interrupted and resolved.”<sup>7</sup>

Attention to democratic values and peacekeeping is too often sidelined, however, in the delivery of public safety. The current focus on the crime problem—usually defined in quantitative terms instead of by its full impact on victims, communities, and society (e.g., gated communities, incarceration, and self-interested individualism)—is counterproductive without a recognition of the crucial role of informal social controls and of joint police-public problem solving. Achieving the goals of participatory crime resolution and prevention requires a national strategy.

The developments in community policing and community justice raise hope that the commitment to citizen and community participation may no longer be seen as a “hopelessly romantic notion.”<sup>30</sup> But hope alone leaves too much to chance. Participatory democracy is critical for promoting responsibility, education, mutual learning, tolerance, and care. These are the necessary preconditions to healthy informal controls and the development of social justice policies to address many of the criminogenic structural weaknesses inherent in current social and economic arrangements.



In short, policing and justice should have as their central aim the strengthening of democracy. Strengthening democracy (and public order and safety) requires that collaboration, building trust, social inclusion, and the concept of modern citizenship are respected for their essential contribution to a well-functioning and healthy nation.

The active participation of citizens and communities in crime control and justice delivery is currently too marginal to provide the safety net required to keep traditional crime fighting from becoming a self-defeating war. Participation has had to compete with the forces arguing for pouring resources into the traditional aspects of professionalism and strengthening the powers of formal systems of control. While the rhetoric has clearly supported community and citizen engagement (at least by way of partnership activity), the energy has primarily been locked into expanding the capacity of the criminal justice system, including the police.

The reasons are understandable. First, skepticism exists of the ability of citizens to be organized to become a *realistic* buffer against high levels of violent crime and disorder, which have bred fear and discouraged community participation. Second, the expansion of the role of citizens and communities is seen to require inordinate attention to all that is involved in coalition building—from identifying willing partners to work together, to developing a distribution of tasks to meeting a common goal. These demands are viewed in the context of insufficient time to address the challenges that most people want resolved today.

The exponential growth of policing and criminal justice budgets has been the result of calls for a seemingly pragmatic response to crime, fear, and disorder. The wisdom of the recommendations of the Presidential Commission more than 30 years ago remain uncontested, but its implementation is compromised by the logic that justifies strengthening the traditional system to fulfill the state's obligation to provide security. So, an increased emphasis on professional police alone (and, as a result, weaker communities) prevails, as does fear of crime, public dependence, and calls for still tougher measures to control crime and the conditions that reap more crime.

Failure to break this vicious circle is already having serious consequences; the lack of participation equals denial, impatience, and intolerance: *denial* that there is a problem (maintaining the myth that government can deliver safety on its own), *impatience* with crime, and *intolerance* of those who are deemed blameworthy.

Several years ago in Spain, a city was gripped by a series of asthma attacks, which resulted in dozens of people needing hospital treatment. The problem persisted for years. Some patients died following an acute attack. The hospital authorities were perplexed as to the cause of these attacks. They sought weather records to determine if an unusual pattern existed in the local climate; new drugs were tried; they arranged for doctors to maintain comprehensive records of all asthma patients; they organized pollution tests and tried to pin down geographic asthma hot spots. All to no avail. Not

until a large consortium was formed of organizations from schools, the business community, health, water authorities, meteorologists, and ecologists, did a clue to the problem emerge: when cargo ships delivered grain to a local river port under particular climatic conditions, polluted water spread to certain sections of the city, spurring the attacks.

The lesson is that we cannot identify and resolve problems by looking only at the obvious, nor by working in a vacuum. Like Callaway's analogy about the interdependency of plant life, we are often unaware of the connections between cause and effect, actions and result, linkages and ramifications.

Crime is no different. It has causes as well as consequences; often these are hidden until we search for the why? how? what? and where? This kind of awareness should influence the operation of policing and justice more than the focus on crime statistics and convictions. Vehicles are needed that expand our tunnel vision and enlighten us about the inter-relationship between humans, their environment, their activities, their interests, and the response that we give to these. The existing tunnel vision necessitates a safety net until enlightenment is more widely shared.

The safety net for a healthy, open democracy will not come from local efforts alone. The *laissez-faire* experiments with community policing and community justice (and even restorative justice) need to correspond to some coherent vision that anticipates future challenges while dealing with today's reality. Although crime reduction is always a desirable goal, the means of achieving it require a framework that makes possible timely and effective action that promotes participation, problem solving, social cohesion, and adherence to values that support, not weaken, an open society.

Such a framework will not force everyone to do the same thing. It needs, instead, to be an overarching infrastructure grounded in agreement about priorities. The priorities must stimulate local initiative and link local experiments so that they pull in the same direction and result in a significant impact. Community policing might have provided this infrastructure but for the emphasis on crime fighting in a punitive climate.

With the new experiments in restorative justice, a framework is now within our grasp that not only tackles crime effectively, but also addresses the conditions that promote crime, fear, and disorder. It does so based on a set of values and processes that are oriented toward resolving problems through collaboration, power sharing, harm reduction, and crime prevention—all achieved by engaging lay citizens who have, until now, been encouraged to slumber. Professional policing—already pushing the envelope toward sharing responsibility with communities for problem solving—has much to offer in terms of encouraging restorative justice's entry into mainstream practice. Its key position as gatekeeper to the justice system, and its contacts with the public beyond the scope of law enforcement, provide opportunities for professional policing to bridge the gap between the existing system of primarily formal controls—and a potentially more healthy balance between formal and informal social (and crime) controls.



Policing is tough, stressful, complex, and problematic, but it is essential to the survival of any democracy. It is confronted with the crises of “here and now” as well as with the challenges that can be anticipated in the future. It is tempting to limit the purpose and role of policing to something that is quantifiable and readily identifiable. But that is not a realistic or productive response to the need. The police should be seen as part of a community, not as a separate entity. It should be policing with the community so that knowledge, experience, expertise, and lack thereof, can be identified; the resulting increase in understanding and awareness can, in the context of democratic values, break down myths and assumptions that too often preclude effective problem resolution.

The police have the advantage of seeing more of the problem than most people. The police have also been constrained by their marriage to a justice system that has, so far, offered the antithesis of community-oriented, problem-solving policing by its exclusion of those who can help identify and resolve problems.

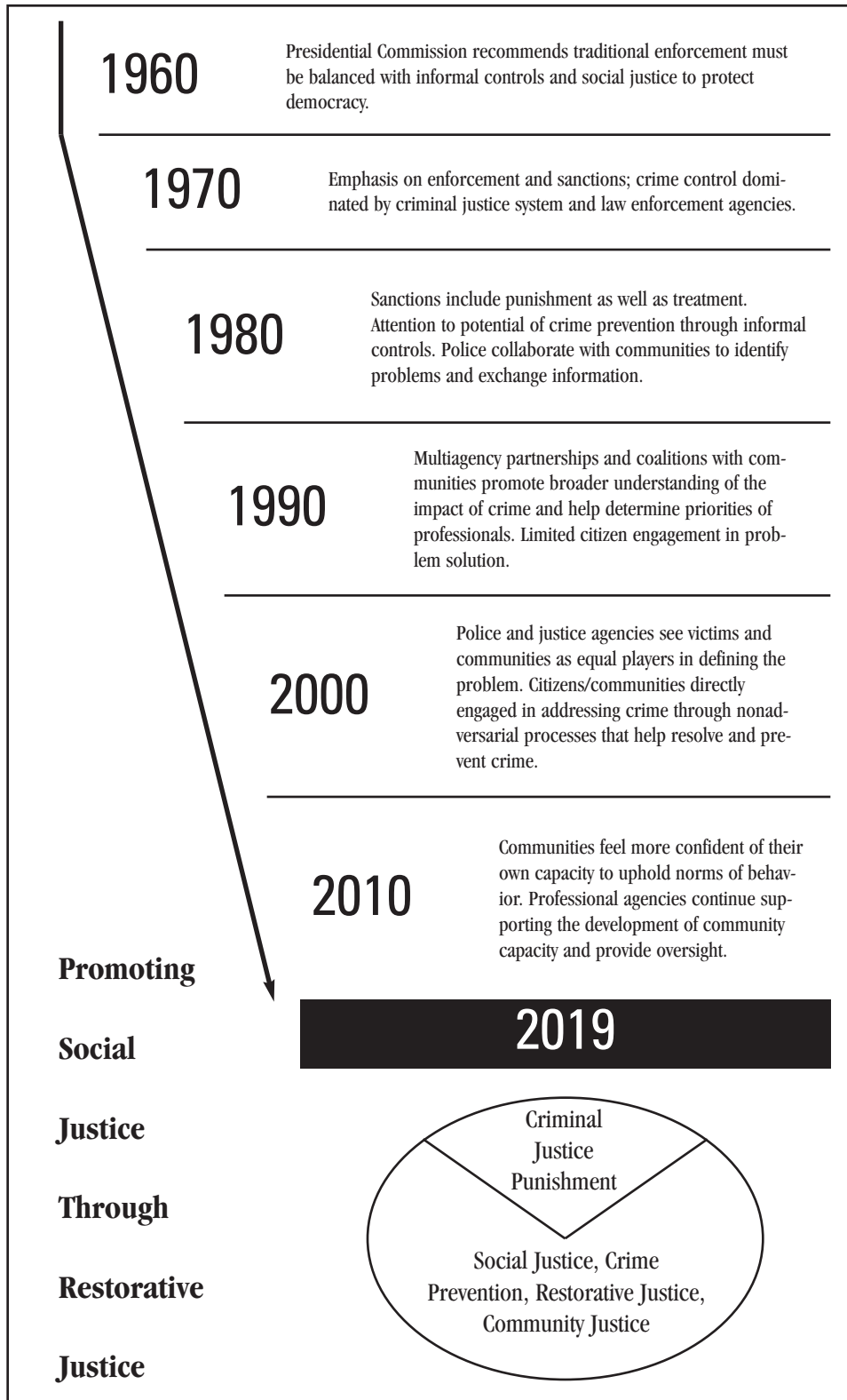
Policing would be wise to deal with the risks and uncertainties confronting contemporary society by tapping into the strengths and support inherent in democratic inclusion and involvement, particularly in light of what the future holds if exclusionary, ultimately antidemocratic measures are retained. This report suggests that the police should be exercising the potentially powerful option—an option that represents a natural progression of developments to date—to begin the application of restorative justice.

It will take time, and not a small amount of suspended skepticism, before local restorative justice experiments become the basis of a framework for an enlightened crime policy at the national level. The key lies in making community-oriented, problem-solving policing not so much about crime fighting as about resilience and guarding against a failure to protect democracy. This is not as lofty an idea as it seems; we are already on that path and will progress, provided we continue to enlighten ourselves through the steps shown in Figure 22. This would be truly a pragmatic response to crime.

Police are leading the way to a community based justice system. It has to be the police to get the rest of us to think about this.<sup>110</sup>



Figure 22. Steps in Dealing Effectively With Crime While Strengthening Democracy and Social Justice



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References and Notes

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## References and Notes

1. I have distinguished these last two throughout the report because of the way the term *community justice* is being applied and discussed. My view is that most applications of community justice retain much of the core elements of *criminal justice* without the change of values prescribed under *restorative justice*. Restorative justice represents more fundamental changes in the approach to crime, thus requiring special attention among the host of new developments. The distinction goes to the heart of the central mission of promoting public safety in a democracy.
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Community Policing,

**COMMUNITY JUSTICE, AND RESTORATIVE JUSTICE**

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**Epilogue: Putting This into Practice**

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## Epilogue: Putting This into Practice

Accompanying this monograph is a handbook for police departments that want to help build stronger communities through restorative justice: *Toolbox for Implementing Restorative Justice and Advancing Community Policing*. The *Toolbox* does not offer universal answers or even a blanket program. What it offers are several components that should be taken into consideration when designing a program.

Each program will have to cater to local needs; running throughout all programs that practice restorative justice, however, are its *values*. These form the essence of the new paradigm, and attempts at implementing restorative justice must begin with an exploration of their meaning and application.

Restorative justice's perspective on crime includes a focus on the harms it does. Implementing restorative justice, therefore, requires redefining crime to include figuring out what the consequences of crime really are. Thus, the *victim* plays a central role in ascribing meaning to the event, with the *offender* and the *community* helping to repair the harm and ward off further harms.

Restorative justice seeks not only *law and order* but *social justice* as well. The social justice goal involves addressing problems that might be contributing to crime and promotes the engagement of citizens in applying informal social controls.

The locus for all restorative justice work is the community—but not all communities have high levels of activity or face the same problems. A restorative justice program needs to devise a way for the state to help activate and support communities, so that their local efforts can complement the broad goals of policing: peacekeeping in the context of a free society.

*Program development* requires thought about all of these factors. Furthermore, any program that wishes to remain healthy will have to test itself against certain *benchmarks*; and these benchmarks, like the program itself, will vary according to the needs of your community.

Restorative justice is still in an experimental stage. Communities have yet to explore and discover the fullness of its benefits. A host of unresolved issues face every practitioner, who therefore will be creating the future of crime control and social justice—and will be building the kind of communities that enrich a participatory democracy.





## Appendix. Restorative Justice Resources

Police Departments Implementing Restorative Justice Processes		
Anoka, MN (U.S.)	Andrew Revering	(612) 421-6632
Carver County, MN (U.S.)	Paul Schnell	(612) 361-1251
Vermont (U.S.)	Wanda Daniels	(802) 295-9425
Wardburg, MN (U.S.)	David Hines	(612) 739-4141
Bethlehem, PA (U.S.)	John Stahr	(610) 865-7162
Genesee County, NY (U.S.)	Dennis Whitman	(716) 344-2550
Milton Keynes (UK)	Ken Webster	011441-908-686664

Copies of “Building Community Partnerships” by Judge Barry Stuart are available by contacting the Aboriginal Justice Directorate, Department of Justice, Canada; telephone: (613) 941-2974.

Campaign for Equity—Restorative Justice  
111 High Street  
Brattleboro, VT 05301  
E-mail: [jwlmrdng@sover.net](mailto:jwlmrdng@sover.net)

Center for Peacemaking and Conflict Studies  
Fresno Pacific University  
1717 S. Chestnut Avenue  
Fresno, CA 93702  
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*For classes in Victim-Offender  
Reconciliation:*  
1-800-909-VORP

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Community Justice Institute  
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College of Urban and Public Affairs  
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Fort Lauderdale, FL 33301  
Telephone: (954) 762-5668  
Fax: (954) 762-5693

Community Justice Project  
Carolyn McLeod  
Washington County, MN  
Telephone: (612) 430-6948

Conflict Transformation Program  
Eastern Mennonite University  
Howard Zehr, Ph.D.  
Harrisonburg, VA 22801  
Telephone: (504) 432-4490



Genesee Justice Program  
Genesee County Sheriff's Department  
County Building 1  
Batavia, NY 14020  
Telephone: (716) 344-2550

Murdered Victims Families for  
Reconciliation  
P.O. Box 208  
Atlantic, VA 23303  
Telephone: (804) 824-0946

REAL JUSTICE  
P.O. Box 229  
Bethlehem, PA 18016  
Telephone: (610) 807-9221  
E-mail: <realjust@aol.com>

Restorative Justice Institute  
P.O. Box 16301  
Washington, DC 20041-6301  
Telephone: (703) 404-1246  
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E-mail: <bprestonjd@aol.com>  
Newsletter: *Full Circle*

Victim Offender Mediation Association  
(VOMA)  
c/o Restorative Justice Institute  
P.O. Box 16301  
Washington, DC 20041-6301  
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Newsletter: *Victim-Offender Mediator*



**FOR MORE INFORMATION:**

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Office of Community Oriented Policing Services  
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Washington, D.C. 20530

To obtain details on COPS programs, call the  
U.S. Department of Justice Response Center at 1.800.421.6770.

Visit the COPS internet web site:  
[www.usdoj.gov/cops](http://www.usdoj.gov/cops)

