

Community Justice Initiatives: Issues and Challenges in the U.S. Context

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IN AMERICA DURING the 1990s, a so-called “community justice” movement gained popularity. In theory, this movement offers a means to 1) bring less formal justice processes to neighborhoods, and 2) increase citizen involvement in crime control efforts (Barajas 1995; Bazemore and Griffiths 1997; Bazemore and Schiff 1996; Griffiths and Hamilton 1996). Whether referred to as community justice, restorative justice (Zehr 1990), or even community restorative justice, a wide variety of programs are said to illustrate principles that underlie the approach. Depending on the commentator, these programs include victim-offender mediation and reconciliation, conflict resolution, family group conferencing, circle sentencing, reparative probation, restitution, community service, and victim services (Bazemore and Griffiths 1997; OJJDP 1998; Umbreit and Coates 1999). Some commentators include community policing, neighborhood courts, and community capacity-building and revitalization (Barajas 1995; NIJ 1996a).

Bazemore and Griffiths (1997) warn that the term “community justice” may be too broad to properly reflect the specific influence of restorative justice principles. In both Canada and the U.S., for example, community justice sometimes refers simply to the handling of justice decisions by local communities or indigenous groups (NIJ 1996b; Griffiths and Hamilton 1996).

In such cases, the full set of restorative principles and goals may not be embraced. The purpose of this paper is to clarify the goals and values underlying the diverse approaches

often categorized in the U.S. as “community justice,” to identify inconsistencies and contradictions that may exist among these approaches, and to suggest points of divergence among the approaches that may cast doubt on the usefulness of the term “community justice.”

Community justice is often contrasted with a retributive justice and punishment approach (Bazemore and Umbreit 1995), but it also has been framed as a counterpoint to traditional individualized treatment, where the argument goes that there is a lack of concern for crime victims, whether they be individual victims or the community (OJJDP 1998). Viewed by its proponents as a new paradigm that offers an alternative to sanctioning and supervision based on either retribution or traditional treatment assumptions (Bazemore 1994), community justice is sometimes described as a balanced and restorative justice model in which accountability, competency development, and community safety are each addressed.¹ In this instance, the primary goals are 1) to repair the damage or harm experienced by individual victims and the community, and 2) to meet the needs of victims, communities, and offenders (Bazemore and Griffiths 1997).

It is immediately clear that depending upon the viewpoint an extremely wide variety of programs can fall under the label “com-

munity justice.” Umbreit and Coates (1999) argue that community restorative justice is not a particular program, but rather a set of principles. Bazemore and Griffiths (1997) note that defining community justice as a program may serve to limit the vision and practical application of what they regard as a more holistic response to crime. The danger, of course, is that the community justice label becomes so all-inclusive that it ceases to have much meaning and it becomes whatever anyone says it is. As a result, it would be difficult if not impossible to identify, in practical terms, what it is about a community justice intervention that might produce the desired outcomes.

Critical Dimensions and Principles: Old and New Wave Community Justice

Recognizing this danger, scholars, researchers and proponents have specified to various degrees the principles or dimensions that reflect most closely the core values they believe embody community justice. For example, Bazemore and Griffiths limit the focus in their 1997 article on community justice decision-making to those efforts seeking to promote citizen involvement in sanctioning and dispute resolution. Included are victim-offender mediation (VOM) programs, family group conferencing (FGC), circle sentencing (CS), and reparative probation boards. They regard these four types of programs as the “new wave” of community justice initiatives. These can be contrasted with earlier efforts in America in the 1970s to promote community participation in justice through neighborhood-based dispute resolution centers.

¹There is a Balanced and Restorative Justice (BARJ) Project in the U.S. funded by the Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice. It is a joint project of the Community Justice Institute, Florida Atlantic University College of Urban and Public Affairs, and the Center for Restorative Justice & Mediation, University of Minnesota School of Social Work.

Bazemore and Griffiths (1997) observe that while the earlier efforts may have been designed to increase the public's willingness to seek and receive assistance, these efforts did not establish distinctive roles for citizens to determine the nature of the sanction given and how it could be carried out (see, for example, McGillis and Mullen 1977; NIJ 1996a). The dimensions of interest in these "new wave" community justice initiatives are:

- Who participates and what constitutes the community?
- What is the role and function of crime victims?
- Who are the gatekeepers?
- What is the relationship of the community to the formal justice system?
- What kind of preparation and follow-up occurs?
- How is enforcement and monitoring handled?
- What is the primary outcome being sought?

It becomes apparent from these seven dimensions that "new wave" community justice is essentially restorative justice concerns and priorities attached to approaches seeking more direct involvement of citizens in justice and corrections.

Umbreit and Coates (1999) focus quite explicitly on six restorative justice principles, utilizing these as the means by which several types of community justice programs (e.g., family group conferencing, circle sentencing, victim-offender mediation, reparative probation) can be classified. The principles are:

- 1) Crime violates social relationships, both personal and those resulting from being members of communities. (Nature of crime)
- 2) The proper goal of justice is to repair the damage done and restore relationships, personal and communal, to their original state to the extent possible. (Goal of justice)
- 3) Victims of crime must have the opportunity to choose to be involved in the process of justice. (Role of victims)
- 4) Offenders committing criminal acts must have the opportunity to accept their responsibilities and obligations toward individual victims and the community as a whole. (Role of offenders)

- 5) The local community and its resources must be brought to bear on the needs of victims, offenders, and their families as well as in prevention. (Role of local community)
- 6) The formal justice system must continue to work to ensure victim, offender, and family involvement that engages all participants without coercion. (Role of formal juvenile justice system)

In practice, the multiple goals of community justice along with the specific impacts and outcomes of primary interest being sought by the various participants and interests are not always clear-cut and congruent, which can be problematic and contribute to confusion, if not classic goal displacement. While accountability, competency development, and community safety may be of equal interest in community justice values and principles, it is critically important to determine the extent to which these three often mentioned goals are 1) conceptually consistent, logically related, and not contradictory; 2) specified concretely enough that it is clear what is required for their implementation; 3) actually being pursued (i.e., implemented) as specified; and 4) being met, meaning that the community justice intervention is having the desired result.

Imbalanced Community Justice

Balanced and restorative justice, at least in language, has been incorporated into the juvenile codes (i.e., state law) of states across America (Freivalds 1996; Juvenile Justice Update 1999; Levrant et al. 1999). Just how truly balanced the community restorative justice approach reflected in the codes is and how well the approach is being implemented remains a very open question. This is far from a purely theoretical or academic issue, as a diverse spectrum of often conflicting and adversarial juvenile justice and political interests have jumped on the community justice bandwagon. Such diversity of interest need not signal a new commitment to balanced crime control policy. According to Levrant et al. (1999, pp.5, 6):

Conservatives and liberals alike support the emphasis on addressing the needs of crime victims and holding offenders accountable for the harm they cause (Clear 1994; Zehr 1990). Liberals, however, are most attracted to restorative justice because of its potentially humanistic and

balanced approach to justice. Restorative justice moves away from a state-centered definition of crime to a definition that accounts for the injuries suffered by victims and communities (Van Ness 1986). Thus, rather than blaming or punishing the offender through incarceration, it focuses on repairing the harm done to victims and communities through a process of negotiation, mediation, victim empowerment, and reparation (Bazemore and Maloney 1994)...Restorative justice appeals to conservatives for different reasons. Conservatives see restorative justice as an extension of the victims' rights movement that seeks to involve victims in the criminal justice process and to compensate victims for the losses incurred from crime (Schafer 1976; Van Ness and Strong 1997). Rather than the balanced approach to justice advocated by liberal proponents, conservatives endorse restorative justice as a means of securing more justice for victims. In so doing, they often attempt to increase the punishment of offenders at the expense of restoration.

True to form, the conflicting political views about community restorative justice have found expression in numerous debates across America over what state law should specifically say. It appears in general that the conservative approach to community restorative justice, at least at this point, has prevailed over the liberal approach. Several examples highlight this observation. While the Illinois Juvenile Justice Reform Act of 1998 provides for teen courts and community mediation panels to hear relatively minor offense cases and gives victims in juvenile proceedings the same rights as victims in criminal proceedings, it also establishes new criminal history and finger-printing requirements, limits police authority to resolve certain delinquency cases without court involvement, expands existing provisions automatically transferring certain juvenile cases to criminal court, and authorizes longer detention of youth (Juvenile Justice Update 1999). In short, not unlike changes enacted in 1995 in Pennsylvania (see Table 1), it appears that most of the changes in Illinois law serve community protection and accountability goals. Particularly since the changes involving criminal records and expanded victims rights may have the most immediate impact (Juvenile Justice Update 1999), and since there can be a sub-

TABLE 1*Highlights of Changes to Pennsylvania's Juvenile Act From a Balanced Approach Perspective*

New Provisions to Juvenile Act	Protection of Community	Accountability for Offenses	Competency Development
Dissemination of fingerprints and photos for investigation purposes	X	X	
Expansion of offenses excluded from juvenile court jurisdiction	X	X	
Changes in standards for judicial waiver	X	X	
Expanded public access to juvenile hearings	X	X	
Juvenile probation to provide schools with information an adjudicated delinquents	X		X
Court may order parents to participate in child's treatment/supervision/rehabilitation		X	X
Retention of juvenile court jurisdiction to obtain fines, costs or restitution		X	
Juvenile files and records available for adult bail hearing	X	X	

Source: Juvenile Justice Update, 1996

stantial disconnect between statutory direction and actual practice, the issue of balanced community justice over the longer term should be of considerable concern. These examples are not unique, but rather illustrative of what has been taking place across America. Indeed, so called "get tough" reforms can be found in many of the provisions contained within state-level juvenile codes all over the United States (Altschuler 1999; OJJDP 1997).

Consequences, Contradictions, and Pitfalls

Beyond the issue of balance, several other lines of criticism have emerged regarding unanticipated consequences and pitfalls of community justice. Levrant et al. (1999) argue that community restorative justice should be viewed and implemented with great caution as it possesses the potential to do more harm than good and to have no meaningful effect on offender recidivism. Among the unanticipated consequences contemplated by the researchers are that: 1) it will serve as a means primarily to get tough with offenders; 2) it will not be restorative for victims, offenders, or communities; 3) it will be more of a symbolic than substantive reform; and 4) it will reinforce existing race and class biases in the American justice system.

Perhaps most ominous is the assertion by Levrant et al. that well-established principles of effective offender intervention are at best

ignored, and at worse contradicted in the practice of community restorative justice. For example, when the matching of sanctions to offenders is primarily based on the nature and extent of harm caused by the crime, community restorative justice fails to recognize that the seriousness of the offense does not indicate an offender's risk of re-offending (Correctional Service Canada 1989; Goldkamp and Gottfredson 1985). Might low-risk non-violent offenders be subject to unnecessary sanctions and services because concern about victim restoration outweighs concern over offender recidivism? This is especially troublesome since the application of intensive supervision and services to low-risk offenders can actually backfire and increase recidivism (Altschuler 1999; Andrews et al. 1990; Clear 1988; Clear and Hardyman 1990; Neithercutt and Gottfredson 1974). Levrant et al. further argue that victim-offender mediation and victim-impact panels provide only short-term confrontations with victims that fail to teach offenders pro-social ways of behaving. In short, Levrant et al. (1999, pp.22,23) regard as particularly "...disturbing that advocates of restorative justice have ignored the research on the behavioral change of offenders in favor of the hope-based on a new and unproved criminological theory—that brief interludes of public shaming will change deeply rooted criminal predispositions." They suggest that while merging community restorative justice and rehabilitation would be a daunting task,

in no small part because of fundamental inconsistencies, it would still be worthwhile to explore bringing together the two paradigms.

Cultural Complexities

In another line of criticism, Umbreit and Coates (1999) warn that restorative justice efforts, particularly those involving conflict resolution (i.e., family group conferencing, circle sentencing, victim-offender mediation) are greatly influenced by one's cultural milieu, and thus, care must be taken to account for cultural differences that could easily lead to confusion or even disruption of the whole process. Differences in customs, communication styles (e.g., vocal inflections, pace of speech), and body language (e.g., eye contact, physical distance between conversants) can make the practice of community restorative justice exceedingly complex (Sue and Sue 1990). Particularly where great heterogeneity exists, such as in the United States, the potential for misinterpretation, bias, and discrimination cannot be overlooked.

Such concerns are hardly restricted to community restorative justice efforts. Community policing (Berrien and Winship 1999; Community Policing Consortium 1994) and community courts (Rottman 1996) are far from universally perceived as benign and fair in their administration of justice. Some victim rights groups have supported extremely harsh sanctions, favoring strong, tough de-

terrence and punishment over rehabilitation or restorative justice (Bazemore and Umbreit 1995; Elias 1993).

Conclusion

Going to the very heart of community justice is the fundamental question of whether goals and purposes associated with the constituent approaches that comprise community justice are irreconcilable to the point that the term itself has outlived its usefulness. To take one example, when victims or the justice system (i.e., prosecution and courts) in the United States believe that "justice" is synonymous with punishment and deterrence exercised through lengthy incarceration, it is often the case that other purposes, whether they be rehabilitative or restorative, are not of particular interest and may be regarded as a form of "coddling" offenders. "Doing time" in a facility is viewed by some as "justice" precisely because the sanction is seen as harsh, depriving, demanding, and properly retributive; any other purpose such as rehabilitation or restoration only serves to dilute and undermine the intent of punishment. It may be of no concern that the offender emerges embittered, angry, disadvantaged, or even vengeful. Similarly, when community justice exercised through neighborhood panels relies on a community service sanction that alienates or stigmatizes offenders, it can hardly be regarded as restorative even when the victimized party is satisfied with the punishment.

The ultimate issue regarding any of the community justice approaches mentioned is just how balanced each one is with respect to achieving accountability, public safety, and competency development. Given the distinctions and incompatibilities mentioned, one must ask how much of a balance between the three goals is feasible. If equivalency among the three goals is not realistic in practice, which of the goals is more likely to overshadow and dominate the others? Does this overshadowing of one goal at the expense of the others tend to occur more with particular types of community justice, certain kinds of offenses, or particular groups of people on the basis of income, nationality, race, age, etc.? In the final analysis, the potential for each type of community justice to truly provide either balanced, restorative or rehabilitative justice clearly requires close examination and rigorous research. If particular sanctioning approaches offer a more realistic potential to balance the goals of accountability, public

safety and competency in a community context, then it would be far more meaningful and coherent to focus on the specific approaches and not on ill-defined, overly ambiguous, and confusing categories that make it virtually impossible to ascertain what specifically can be accomplished through the use of various community-based strategies.

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