

Part **3**

Community Policing,

COMMUNITY JUSTICE, AND RESTORATIVE JUSTICE

Part 3. Developing a New Paradigm

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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.”¹⁴⁷

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?

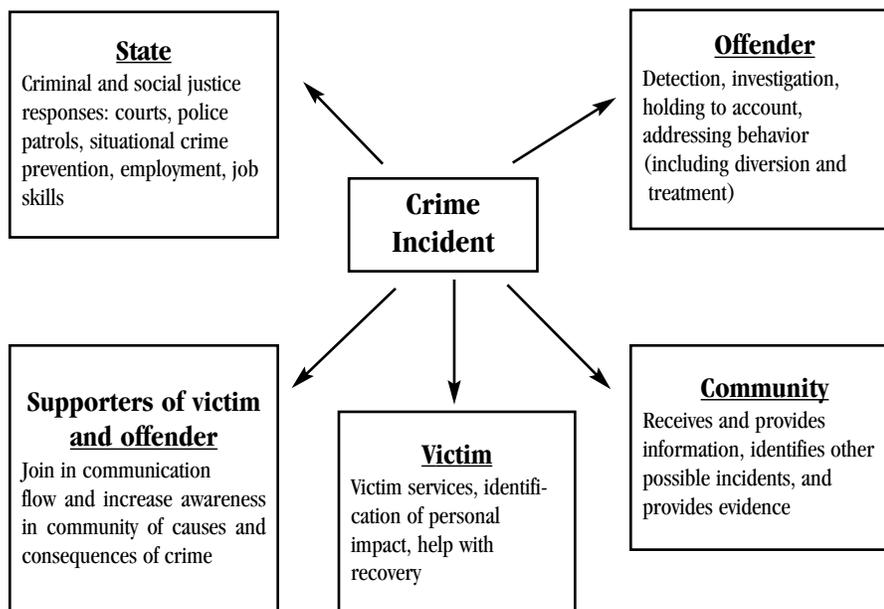
Asking who has been committing these crimes may help to identify the perpetrators but not the reasons behind the offending behavior. Locating offenders is not the same as preventing other would-be offenders. Other lines of inquiry are needed. Perhaps gang activity has been increasing at the same that 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.⁴⁷



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



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

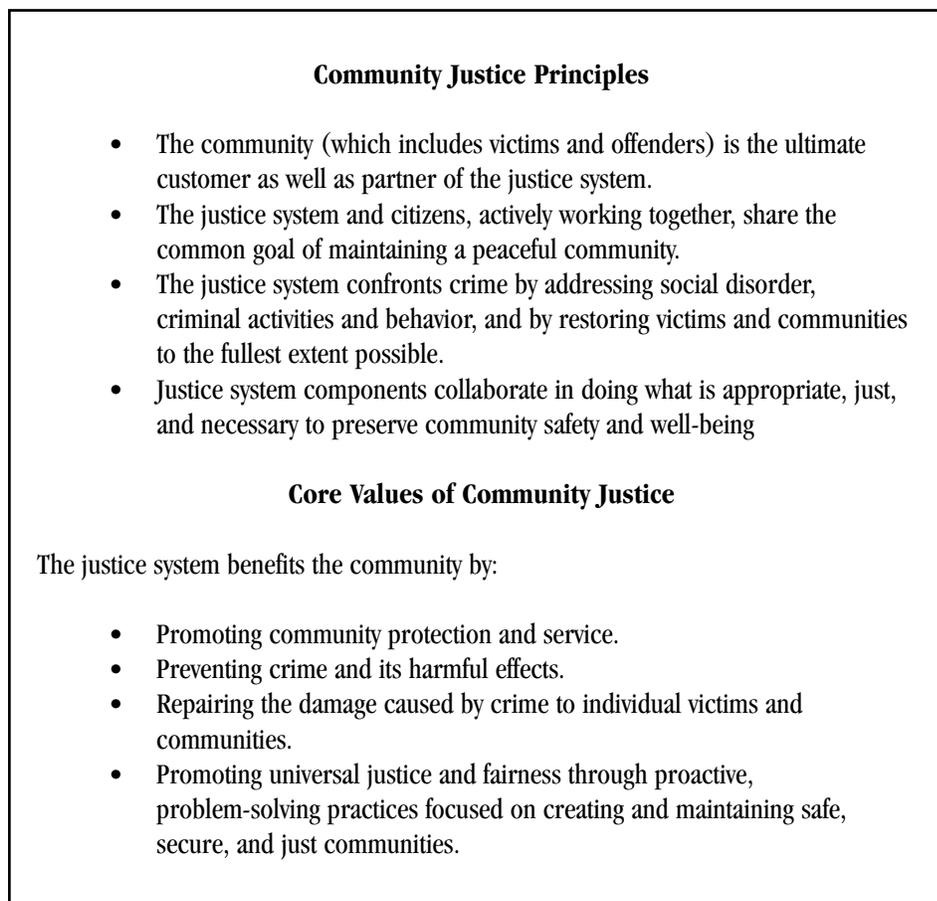
A famous British judge, Chief Justice Hale, some three centuries ago described the clamor for change as “a certain restlessness and nauseousness in what we have and



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,”⁴⁸ 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.”⁴⁹ 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.”¹² 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.⁵⁰

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.⁵¹ 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.”⁵²

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 *olving* 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...”²⁷

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.⁵³

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."⁵⁴ 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.

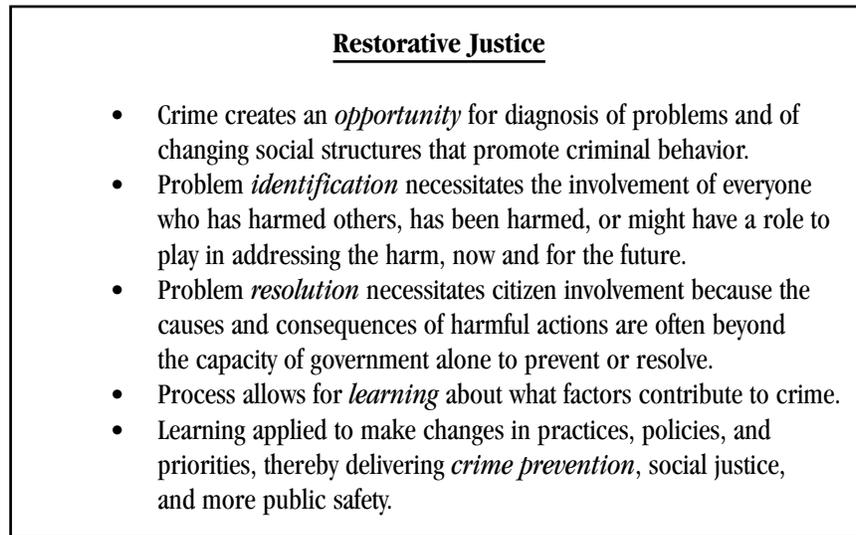
Restorative justice is in danger of becoming a popular catchphrase with watered-down definitions; the concept can be confusing for the breadth and depth of its efforts to reform mainstream thinking and practice. Restorative justice, like community policing, can be viewed both on a micro level—in terms 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.”⁵⁵

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).*⁵⁶ 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.⁵⁷

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:⁵⁸

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.⁵⁹
- ***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...”⁴⁵

As the Mennonite Central Committee has said:

Restorative justice is not abstract; it's common sense.⁶⁰

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.”⁶¹ *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.⁴⁷ *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.⁶² 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..."¹² *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).⁶³

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.⁶⁴

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

Criminal Justice	Restorative Justice
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"⁶² and Zehr, H., *Changing Lenses*.⁵⁶



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.”⁶⁵

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.”⁶⁶ Years later, community justice is emerging with a similar goal: *striving for safe, secure, and just communities*.⁶⁷ 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."⁶⁸

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.

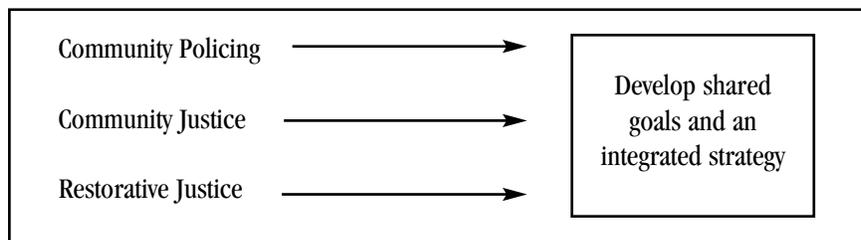
By contrast, the justice system has always encouraged a professional aura of independence from the community in an effort to establish impartiality. This has been an important thread in the *due process* of the trial system and in the critical decision-making phases related to bail, sentencing, parole, 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.

