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# **Community Justice and a Vision of Collective Efficacy: The Case of Restorative Conferencing**

*by Gordon Bazemore*

One of the most visible manifestations of recent efforts to develop a more active and empowered role for both community groups and citizens in the justice process can be seen in the recent emergence of a variety of informal community decisionmaking models now being implemented with some frequency throughout North America and the world. This paper examines restorative conferencing as a case study in the involvement of crime victims, offenders, and other citizens as active participants in a nonadversarial sanctioning response to youth crime, generally focused on repairing harm. The purpose of this paper is to link conferencing both to a broader vision of the citizen and community role in a more effective response to juvenile crime and to a larger effort to build community “collective efficacy.” After describing the origins of restorative conferencing and its potential application to a range of crimes, offenders, victims, and communities, I outline a general theory of conferencing and then contrast emerging “theories-in-use” associated with various conferencing models. Finally, challenges to implementing these decisionmaking approaches, especially in the current juvenile justice context, are presented along with a general strategy for moving forward within a vision that explicitly links these microconflict resolution models to broader efforts to build community capacity and to expand the role of citizens in the justice process.

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In cities and towns across the United States and Canada—as well as in Australia, New Zealand, and parts of Europe—family members and other citizens acquainted with a young offender or victim of a juvenile crime gather to determine what should be done in response to the offense. Often held in schools, churches, or other facilities, these family group conferences are facilitated by a community justice coordinator or police officer. They aim to ensure that offenders face up to community disapproval of their behavior, that an agreement is developed for repairing damage to the victim and community, and that community members recognize the need to reintegrate the offender after he or she makes amends. Based on the centuries-old sanctioning and dispute resolution traditions of New Zealand's Maori aboriginals, the modern family group conference was adopted into national juvenile justice legislation in New Zealand in 1989. This approach is now widely used in various modified forms in Australia; parts of Europe; communities in Minnesota, Pennsylvania, and Montana; other American States; and parts of Canada.

In Canadian cities, towns, and villages, as well as in several communities and neighborhoods in the United States, community members sit in a circle listening to offenders, victims, their advocates, and others speak about the impact of crime. When a “talking piece” is passed to an individual, and it is his or her turn to speak without being interrupted, he or she may comment favorably on rehabilitative efforts already begun by the offender. Speakers in these *circle sentencing (CS) sessions* also express concern for the victim or the continuing threat posed by the offender. At the end of the session, participants attempt to come to consensus about both a rehabilitative plan for the offender and an approach to healing victim and the community. Circles are a recently updated version of ancient sanctioning and settlement practices adapted from the traditions of Canadian aboriginals (Stuart 1996)—as well as those of indigenous people in the Southwestern United States (Melton 1995).

Throughout North America, as well as in many cities in Europe and other parts of the world, crime victims and offenders meet with trained mediators to allow the victim to tell his or her story to the offender, express his or her feelings about the victimization, make the offender aware of the harm caused by the crime, and obtain information about the offender and the offense. At the conclusion of most *victim-offender mediation* or victim-offender *dialogue* sessions, the victim and offender work with the mediator to develop a reparative plan that ensures that the offender will provide appropriate restoration to the victim and/or the community.

In hundreds of neighborhoods in Arizona, California, Colorado, Pennsylvania, and other States, local volunteers on community panels—also known by other names such as neighborhood accountability boards, reparative boards, and

youth diversion panels—are charged with designing informal sanctions that often require young offenders to make restitution to their victims, complete community service projects, provide service to the victim, or, in some cases, meet with or apologize to the victim. Although these panels and boards have existed in many communities for decades as diversion programs that attempted to address the needs of young offenders, a number are now adopting a restorative justice focus by recommending informal sanctions, and some are experimenting with more participatory decisionmaking processes. In Denver, for example, citizen members of neighborhood accountability boards, developed as part of a community prosecution initiative, receive both preservice and ongoing refresher training in restorative justice principles and decisionmaking approaches.

In Bend, Oregon, businessmen participating in a merchant accountability board at a local shopping mall hear cases involving shoplifting and vandalism committed by juveniles. Subsequently, these businessmen make decisions on appropriate sanctions for the offenders, which often include apologies, restitution, and community service projects either related to the offense or designed to beautify the Bend downtown environment.

Throughout the city of Edmonton, Alberta (Canada), community volunteers, sponsored and initially trained by community-oriented police officers, conduct “community conferences” in response to a wide range of offenses, as well as local disputes.

There is something different going on in many communities across North America and around the world in the response to youth crime. Offenders, crime victims, their families and friends, and others are engaged in informal meetings to try to address issues that crime has raised for all who have felt a stake in an offense(s). The goal of these encounters is not always clear to observers; the process and objectives will, in some cases, be understood differently by participants.

As suggested by the previously described variations, the process and immediate outcomes sought may be modified in various ways in different models and in different locales. This variation in what will be referred to generically in this paper as *restorative conferencing* seems in part to be a function of different meanings associated with familiar and not-so-familiar terms and phrases, such as “making things right,” “healing,” “repairing harm,” “empowering stakeholders,” “holding offenders accountable,” “giving victims a voice,” and “reintegrating offenders.” Influenced in use of these terms by larger *restorative justice* and *community justice* movements, participants in these encounters seem concerned about acknowledging personal responsibility for crime and about ensuring that young offenders receive appropriate sanctions that allow them to make amends

to those harmed by the offense. More generally, the process may involve elements of problem solving, conflict resolution, dialogue, norm affirmation, reintegration, and denunciation of unacceptable behavior.

In some cases the specific session observed may seem to simply replicate court protocols, albeit in the absence of formal guidelines. However, those who continue to participate will generally experience a more open and inclusive process, and those who listen to discussions of what organizers of these services are trying to accomplish will take note of a different form of discourse. Consistent with dialogue about community responsibility for youth socialization, as captured in phrases such as “it takes a village,” this discourse is also about a more “ambitious vision of justice” in which courts move beyond consideration of rights and proportionality to “do the work of restructuring relationships that have come apart . . . to construct a whole set of social relationships that ought to be guided and shaped by justice and mutual responsibility” (Moore 1997). However, this vision is often less about expanding the responsibility of courts and other justice agencies and more about building better community-driven responses to crime that activate and empower local social control and support processes. Indeed, after years of focus on the need for more programs and services—and recently on the need for more punitive juvenile justice responses—there is a noticeable shift toward a focus on the role of family, schools, neighbors, churches, and other nonprofessional groups. And after decades of placing responsibility for the socialization and social control of young people in the hands of expanding expert systems of service and surveillance, proponents of these new visions seem to recognize the limits of individualized, case-focused, professional responses that are unconnected to efficacious communities.

Although system-driven service, surveillance, and punitive responses continue to dominate, there are ongoing signs of a growing desire to recreate a collective informal response to youth deviance and crime. Though government cannot, as Mark Moore (1997, 27) suggests, “create love, or tolerance, obligation, or duty,” it can “create the occasions” in which these might be discovered. Especially in response to youth crime and trouble, there is some cause for optimism that “creating these occasions” may begin to empower a community-centered response.

Although restorative conferencing is not only about a new approach to juvenile justice decisionmaking, there is a special hope that, as part of this larger shift in focus, conferencing may become just one important part of a holistic effort to engage communities in a more effective response to youth crime. Indeed, because young people are generally viewed as at least somewhat less blameworthy than adults, and therefore more malleable, and because accountability for youth crime is more likely than adult crime to be viewed as spread among

other entities such as family, youth development and service organizations, and socializing institutions (especially schools and faith communities), many citizens may be willing to support approaches that might be viewed as less relevant responses to adult crime, such as family group conferencing. It is perhaps not surprising then that, with a few notable exceptions, the greatest number of restorative conferencing experiments have been implemented as youth justice alternatives. From another perspective, the fact that one primary impetus for experimentation with restorative conferencing has been a wider international crisis in juvenile justice systems (McElrae 1993; Feld 1999; Bazemore and Walgrave 1999) may also create cause for concern. This state of affairs leads many to regard youth crime and justice as something of a test case for experimentation with restorative justice alternatives. Both optimistic and pessimistic scenarios for the future of conferencing are possible, based on the alternative hypothesis that conferencing represents either more or less than meets the eye.

The previously noted case illustrations, as well as many similar examples, are indeed an indication that something promising and different is emerging in response to youth crime. However, in these same jurisdictions, and in most other U.S. communities, other very different processes are also at work. A pessimistic scenario, in which the potential of conferencing is not fulfilled, is grounded in a realistic assessment of the growing national and international crisis in juvenile justice systems that have both expanded their reach and increased the overall punitiveness of their general response. This hypothesis that conferencing will amount to less than meets the eye suggests a vision of these new responses as a trivialized diversion program that is simply appended to current mainstream system responses and thereby part of an expansionist agenda.<sup>1</sup> The pessimistic scenario will be considered at various points throughout this paper, and it will be addressed systematically when examining various implementation options for restorative conferencing. In part, however, the ability of conferencing to avoid these two fates will depend on mobilizing support for a broader vision of a third future: a sustainable community-building role for conferencing. Linking conferencing to broader concerns, both practically and conceptually, is central to the alternative, optimistic scenario for the future of conferencing.

## **The Optimistic Scenario: Conferencing as *More Than Meets the Eye***

Although justice policymakers have long recommended community-based approaches to corrections and policing and have at times promoted informal, neighborhood dispute resolution as an alternative to courts (e.g., Garofalo and Connelly 1980), several characteristics of the new restorative conferencing

models suggest broader concerns than a change in the location and user-friendliness of existing criminal justice intervention (U.S. Department of Justice [DOJ], National Institute of Justice [NIJ] 1996; Bazemore 1998a). Indeed, to the extent that conferencing approaches operationalize core principles of restorative and community justice, these restorative conferencing interventions share a common normative emphasis on involving those most affected by crimes in a response focused on objectives distinct from those that receive priority in formal sentencing and dispositional processes.

The term *community justice* has been used generally to describe a preference for neighborhood-based, more accessible, and less formal justice services that, to the greatest extent possible, shift the locus of justice intervention to those most affected by crime (Barajas 1995; Clear and Karp 1998).<sup>2</sup> According to one definition, community justice includes “all variants of crime prevention and justice activities that explicitly include the community in their processes. Community justice is rooted in the actions that citizens, community organizations, and the criminal justice system can take to control crime and social disorder” (Karp 1997, 3).

*Restorative justice* is a new way of thinking about crime that emphasizes one fundamental fact: Crime is a violation of individuals, communities, and relationships. Crime, therefore, “creates obligations to make things right” (Zehr 1990, 181). If crime is about harm, “justice” must amount to more than punishing or treating those found guilty of lawbreaking. Restorative justice therefore includes all responses to crime aimed at doing justice by repairing the harm or “healing the wounds” crime causes (Van Ness and Strong 1997).

Conferencing models are being widely discussed by proponents of restorative justice as techniques for providing victims and offenders with a more just and a more satisfying resolution in the aftermath of crime.<sup>3</sup> Supporters of conferencing claim a number of advantages, including providing victims with information, a voice in the justice process, and opportunities for redress; offering offenders the opportunity to make amends and to be held accountable while making them more aware of the harm they caused; respecting the family unit and providing opportunities for parents and extended family to act responsibly toward their children while receiving support; and increasing the likelihood that offenders will meet reparative obligations and be reintegrated into their communities (Hudson et al. 1996a; Umbreit 1994, 1999; Braithwaite and Mugford 1994). Any one of these assertions makes conferencing an important topic for theory, policy, and research discussion. Indeed, the practical importance of variation in models should exist primarily in their relative ability to accomplish one or more of these goals.

A premise of this paper, however, is that a focus on the individual benefits conferencing may offer to the offender, victim, and family alone may diminish the importance of a role for conferencing that is potentially far more significant. Yet, although all conferencing approaches to some degree share a commitment to deprofessionalizing the response to crime, there have been few attempts to strategically link the conferencing process to a broader vision of the citizen and community role in responding to crime and conflict. Equally problematic for those wishing to understand and evaluate restorative conferencing as an intervention within a social science, empirical research agenda is the failure to link these interventions to larger theories of crime and community (e.g., Sampson and Groves 1989; Skogan 1990). This lack of connection with broader etiological theory is in no way unique to conferencing (Gaes 1998), and it is indeed difficult to identify diversion or treatment programs that go beyond the individual or family level of intervention centered around individual and group counseling techniques.<sup>4</sup> It is unfortunate, however, precisely because certain theories-in-use in restorative conferencing are highly consistent with recent statements of social disorganization theory (Bursik and Grasmick 1993; Sampson 1995; Rose and Clear 1998) and with research that suggests that neighborhood “collective efficacy” in response to youth crime and disorder is a major predictor of lower offense rates (Sampson, Raudenbush, and Earls 1997). If conferencing practice is to direct itself toward community-building goals, these linkages need to be specified and elaborated.

Though such linkages are difficult, they are not impossible. To make a connection between these microlevel efforts to involve citizens and community groups in justice decisionmaking and more macrolevel efforts to strengthen community, it will be necessary to examine conferencing as an intervention approach that is more than an isolated program implemented as a diversion option or delinquency treatment alternative. Through a different lens, it is possible to focus on what conferencing might become, given a broader vision.

Based on the hypothesis that there is more to conferencing than meets the eye, it is possible to examine restorative conferencing as a general case study in citizen and community decisionmaking in the response to youth crime. I will therefore outline what Braithwaite (1998) has referred to as an “immodest theory” of what could be accomplished through an expansion of restorative conferencing. Such an optimistic vision has several components that include many of the previously mentioned conferencing objectives for individual offenders and victims. But this vision is also consistent with community justice’s concern with collective outcomes. As Canadian Judge Barry Stuart (1995, 6), a primary proponent of circle sentencing, states:



*By engaging citizens and community groups in decision-making about sanctions, conferencing may thereby expand participation in rehabilitative and public safety functions.*

[C]ommunities should not measure the success of any [community-based initiative] based upon what happens to *offenders*. The impact of community based initiatives upon victims, upon the self-esteem of others working [in the community justice process], on strengthening family, building connections within the community, on enforcing community values, on mobilizing community action to reduce factors causing crime—and ultimately on making the community safer—while not readily visible, these impacts are, in the long run, significantly more important than the immediate impact on an offender’s habits. (emphasis added)

This vision/theory has three related parts. First, at a micro level, conferencing seeks primarily to mobilize social support (e.g., Cullen 1994) around individual victims and offenders (Braithwaite 1998) by engaging citizens and community groups in a more meaningful, effective, and sustainable response to crime. Here, within a restorative justice framework, practitioners already are beginning to move away from a sole concern with individualized objectives; indeed, the concept of “repair,” and certainly the focus on rebuilding and/or strengthening relationships in restorative interventions (e.g., Van Ness and Strong 1997), presumes a focus on collective outcomes.

Second, at a middle-range level, sustained citizen involvement has been the missing link in current community justice initiatives (Rosenbaum 1988; U.S. DOJ, NIJ 1996; Boland 1998). In those efforts, the primary objective is to activate community social control and support mechanisms. Within a larger restorative community justice agenda (Young 1995, Clear and Karp 1999; Dunlap 1998; Van Ness and Strong 1997), conferencing has the potential to provide viable and empowered roles for community groups and citizens in decisionmaking about the response to crime. Moreover, though clearly intended as a response to crime, the conferencing process tends to blur the distinction between intervention and prevention. In doing so, conferencing may provide a kind of bridge for connecting sanctioning, public safety, and rehabilitative functions now compartmentalized in criminal justice bureaucracies. By engaging citizens and community groups in decisionmaking about sanctions, conferencing may thereby expand participation in rehabilitative and public safety functions (Bazemore and Griffiths 1997; Stuart 1996). It is also at this mid-range level that restorative conferencing may contribute directly or indirectly to community building and collective efficacy through, for example, “initiatives to foster community organization in schools, neighborhoods, ethnic communities,

and churches, and through professions and other nongovernmental organizations that can deploy restorative justice in their self-regulatory practices” (Braithwaite 1998, 331). Included at this level are any other activities that mobilize informal social controls as well as social support mechanisms (Rose and Clear 1998) and that serve also as educational tools through which community learning can occur (Stuart 1996; Hudson et al. 1996b).

Finally, at the macro level, some advocates of restorative conferencing have argued that there is ultimately a need to

design institutions of deliberative democracy so that concern about issues like unemployment and the effectiveness of labor market programs have a channel through which they can flow from discussions about local injustices up into national economic policy-making debates. (Braithwaite 1998, 331)

Here, some have postulated that conferencing may contribute to a “democratization of social control,” whereby a kind of “bubbling up” becomes possible as social justice issues are increasingly aired in community justice forums linked intentionally to what Braithwaite has described as vibrant social movement politics (Braithwaite 1994; Braithwaite and Parker 1999). As Pranis (1998, 3) suggests in her discussion of the possibilities inherent in circle sentencing and other conferencing approaches for addressing such issues:

The problem of crime is generating opportunities to understand and practice democracy in the community in new ways. It has become clear that creating safe communities requires active citizen involvement. This calls for a reengagement of all citizens in the process of determining shared norms, holding one another accountable to those norms and determining how best to resolve breaches of the norms in a way that does not increase risk in the community.

## **Purpose, Objectives, and Specific Focus of This Paper**

Although the macro focus on linking the conferencing agenda to social justice issues is an important agenda, this paper will emphasize micro and (especially) mid-range interventions in considering the potential of restorative conferencing for community building. Specifically, I will explore the meaning and implications of these new approaches for accomplishing two primary objectives: (1) changing the nature and effectiveness of the response to crime through meaningful citizen involvement in sanctioning processes that emphasize intervention outcomes beyond punishment and treatment of the offender; and (2) building community capacity or collective efficacy to sustain and expand these responses. Objective 1 will involve examination of theories in use that are relevant to the

impact of the participation of nonprofessionals and community groups on sanctioning outcomes. In other words, what difference might citizen involvement make in achieving various sanctioning and crime control objectives? Objective 2 will require an examination of the rationale for, and challenges to, building collective efficacy in a historical period in which it appears to many observers that social control has become exclusively a state rather than a community function.

The community-building role for conferencing is also premised on an implementation strategy that acknowledges the difficulty in mobilizing and activating citizens for what is essentially a transfer to communities of responsibilities for tasks now performed by government. In addition to these primary objectives, this paper will briefly consider a general implementation agenda for expanding conferencing. This agenda is based on the realization that restorative conferencing is unlikely to have anything other than marginal impact without systemic reform in the mission of justice agencies and a transformation in the role of criminal and juvenile justice professionals. Although some communities on their own may mobilize to demand a more participatory form of justice, in most locales such a change requires some degree of professional support and leadership. Achieving the vision of an active community therefore is unlikely, if not impossible, without a reformulation of professional roles.

Several important concerns about restorative conferencing will not be addressed here. First, this paper will neither contrast strengths and weaknesses of various models nor attempt to provide an up-to-date profile of conferencing approaches. In some cases, new models appear to be emerging overnight, and readers will need to look elsewhere for detailed descriptions of process and structural differences between conferencing models (e.g., Stutzman Amstutz and Zehr 1998; Stuart 1997). Ultimately, nothing short of a complete national inventory is needed to determine the range of variation in conferencing models from community to community.

Second, though this document is aimed in part at a research audience, the narrative can in no way be viewed as a research report. I will draw on completed and ongoing studies to provide evidence for, or raise questions about, the likelihood that restorative conferencing will be used, for example, for large numbers of cases that vary widely in seriousness, or to speculate about the prospect that these interventions will attract sustained citizen participation. But while a growing number of studies provide encouraging findings, relatively little data are available relevant to the concern here with the citizen role in conferencing. Although there is great value in developing rigorous experimental designs aimed at comparing conferencing outcomes with those of court proceedings and other informal decisionmaking processes (e.g., Sherman et al. 1998;

Umbreit 1999), there is also much work to be done in order to determine what various models are trying to accomplish and how they seek to achieve their goals. It is also necessary to focus attention on emerging issues in the restorative justice movement because, depending on the fate of this movement, there may be little, or much, to evaluate in future years. Hence, evaluation issues are addressed in this paper primarily in terms of proposing principle- and theory-based dimensions that may help researchers identify restorative conferencing when they see it. Because the paper will ultimately raise more empirical questions than it answers, it may also be helpful to those seeking to develop a research protocol.

Prior to addressing the primary objectives of this paper, however, it is important to develop a working definition of restorative conferencing. I will then briefly examine restorative justice more critically as a social movement, suggest a generic restorative theory of conferencing, and contrast emerging theoretical tendencies in various conferencing models.

## **What Is Restorative Conferencing and Where Does It Come From?**

### **A working definition**

Though conferencing is often equated with restorative justice (e.g., Marshall 1996), conferencing is best viewed as the sanctioning/problem-solving component of a broader restorative model. Such a model also includes such reparative sanctions as restitution, direct service to victims, and, community service. It would also include a set of appropriate policies, programs, and most important, a set of principles for responding to crime and harmful behavior in both formal and informal decisionmaking arenas (Bazemore and Walgrave 1999; Van Ness and Strong 1997). For purposes of this paper, I define a restorative conference as an encounter in which stakeholders in a crime come together to discuss how to repair the harm caused by an offense, following a finding of guilt and/or an admission of responsibility by one or more offenders. In doing so, stakeholders will generally seek a resolution that, to the greatest extent possible, meets the mutual needs of victim, offender, and community and will attempt to determine obligations or sanctions whose objective is to repair the harm.

This working definition also says what conferencing is not: It is neither an adversarial process nor an informal encounter of the type common in diversion programs in which juvenile justice professionals simply decide how an offender will be punished or helped. This definition is, however, open to a diverse set of nonadversarial decisionmaking processes that address the aftermath of crime

by seeking to heal and repair the harm caused by crime to individual victims, communities, offenders, and relationships through an effort to involve these stakeholders in the process (Van Ness and Strong 1997).

Because conferencing is an emerging field, much of the variation in process and structure seems to be in part a consequence of understandable efforts to localize and adapt generic models to meet diverse needs; however, it may also be a result of attempts by various organizations with a vested interest in one model or another to maximize “product differentiation.” The fact that most conferencing models—including victim-offender mediation, the oldest and most firmly established—are currently borrowing from other models to create hybrid approaches makes such absolute distinctions meaningless. Although this approach runs the risk of being overly eclectic in defining restorative justice or restorative conferencing, defining restorative justice too narrowly may exclude many current, emerging, and potential variations and prototypes, if and when practitioners ask the right questions and abide by certain principles (Zehr 1990).<sup>5</sup>

Most are now aware that restorative justice is not one program or process. Moreover, there is nothing inherently restorative in any conferencing model, and whether some approaches are more or less likely to be implemented in a restorative way is an empirical question. For those rightly concerned that an excessively liberal gatekeeping process will quickly fill the restorative justice “tent” with a large group of traditional practices that have now taken on different names,<sup>6</sup> the principle-based general definition should allow for inclusion of a variety of interventions and policies that will be evolving along a continuum of “restorativeness,” toward repairing more of the harm for more stakeholders, more of the time. Unlike black-and-white distinctions, a principle-based definition would allow one to rank various approaches along multiple dimensions, based on their potential to meet a variety of restorative objectives. Thus, although I will refer to four generic ideal types that highlight emerging variations in intervention theories, this does not imply the existence of any pure models or exclude other approaches.

## Origins and influences: “Old” and “new” restorative justice movements

Practices and settlement processes now labeled as “restorative justice” have roots in virtually all ancient human societies. Acephalous societies generally preferred reparative and often ritualistic responses to crime that sought to restore community peace and harmony as an alternative to blood feuds that generally had devastating consequences for community life (Weitekamp 1999).

The emphasis on vengeance later became more formalized, more predominant, and also somewhat more structured in the late Middle Ages as feudal lords and kings consolidated social control and the response to crime through the power of the state, in essence inventing retributive punishment (Spierenburg 1984). Van Ness and colleagues (1989) argue that the Norman invasion of Britain marked the beginning of a paradigm shift, a turning away from the understanding of crime as a victim-offender conflict within the context of community, and moving toward the concept of crime as an offense against the state. William the Conqueror and his descendants saw the legal process as an effective tool for centralizing their own political authority. Eventually, anything that violated the “king’s peace” was interpreted as an offense against the king, and offenders were thus subject to royal authority. Under this new approach, the king, and gradually the state, became the paramount victim, and the actual victim was denied any meaningful place in the justice process. As this occurred, the emphasis on reparation to crime victims was gradually replaced with the emphasis on punishment of the wrongdoer by the state, in what is now referred to as “retributive justice” (e.g., Zehr 1990).

Although reparation in the form of restitution and community service has been used occasionally by U.S. courts in this century (Schafer 1970), these sanctions did not become widely popular as sentencing options until the 1970s. Restitution, community service, and, to a lesser extent, victim-offender mediation have been used since the 1970s with some regularity in U.S. criminal and juvenile courts and are often administered by probation and community diversion programs (Galaway and Hudson 1990; Schneider 1985; Umbreit 1994).

In the 1990s, these and other reparative sanctions and processes are again receiving a high level of interest as part of a broader movement alternatively labeled restorative justice (Zehr 1990; Hudson et al. 1996b; Bazemore and Umbreit 1995), community justice (Barajas 1995; Griffiths and Hamilton 1996; Stuart 1995), and restorative community justice (Young 1996; Bazemore and Schiff 1996). In the United States, a series of high-level discussion workgroup meetings were recently held within the U.S. Department of Justice’s Office of Justice Programs at the request of the Attorney General, and restorative justice has sparked national and international discussion and debate in Australia, Canada, New Zealand, the United States, and several European countries (Robinson 1996). As Shaw and Jane (1998) observe, an international restorative justice movement “has become the subject of increasing interest among governments and sectors of the justice system who formerly paid little attention to its potential, leading to a snowballing expansion of policy and practice.”

According to Shaw and Jane (1998), the modern restorative justice movement in Canada can be understood as having three developmental phases. With slight

modifications and amendments, these adequately characterize the U.S. situation as well:

### **Phase 1 (1970s)**

Building on the ideas of Christie (1977), that conflict should be viewed as property that essentially has been “stolen” by the state, a neighborhood justice movement (Garofalo and Connelly 1980; Harrington and Merry 1988) emerged that emphasized neighborhood courts and local dispute resolution. The Mennonite community at this time began to support nonadversarial mediation and reconciliation approaches, out of which modern victim-offender reconciliation programs and victim-offender mediation and dialogue programs were developed. The focus of victim-offender mediation on individual harm and interpersonal conflict between victim and offender—and a similar emphasis in neighborhood justice on individual dispute resolution—has carried over into restorative justice practice today. In youth justice, the diversion and alternatives to incarceration movements also formed a critical basis of general support for informal alternatives, including restorative justice, especially in the United States (Shaw and Jane 1998; Schneider 1985).

*Modern restorative justice also appears to be moving toward a systemic reform focus, one that represents a departure from the emphasis on programs to an emphasis on transformation in goals, process, definition of clients, and organizational structure and culture.*

### **Phase 2 (1980s)**

This decade saw great expansion in victim-offender mediation programs (Umbreit 1999), in part as a result of great interest in restitution and community service programs as a means of institutionalizing reparative sanctions in juvenile courts. This period brought an emphasis on programmatic alternatives to both disposition and diversion as well as a proliferation of local alternative diversion projects that included mediation and/or reparative sanctions (Schneider 1985).

### **Phase 3 (1990s)**

It has only been in the current decade (especially in its second half) that a more highly developed restorative justice movement, clearly associated with mounting dissatisfaction with the formal justice system, fear of crime, increasing costs, overrepresentation of minority youth, and other problems, has emerged. According to Shaw and Jane (1998), the 1990s also ushered in a “community phase” in restorative justice.



The community emphasis had always been present in some discussion and practice (e.g., Van Ness et al. 1989), but it had been minimized by the programmatic focus and the emphasis on individual victims and offenders in previous decades. Modern restorative justice also appears to be moving toward a systemic reform focus, one that represents a departure from the emphasis on programs to an emphasis on transformation in goals, process, definition of clients, and organizational structure and culture (Bazemore and Washington 1995; Dooley 1998; Umbreit and Coates 1998).

Today, restorative justice policies and practices are clearly “on the ground” in local communities, States, provinces, and even entire countries. In some cases, such as in New Zealand, disposition of all delinquency cases, with the exception of murder and rape, are handled in community family group conferences. Additionally, in the State of Vermont, where most nonviolent felons and misdemeanors are sentenced to make reparation to the victims by community boards, restorative justice plays a dominant role in criminal justice policy (Belgrave 1995; Dooley 1996). Significant State and local impact can also be seen, for example, in Minnesota, Ohio, and Maine, and other States that have adopted restorative justice as the mission for their correctional departments. State juvenile justice systems in 30 States, including Colorado, Florida, Idaho, Illinois, Montana, New Mexico, and Pennsylvania, have adopted restorative justice principles in policy or statute (Bazemore 1997; O’Brien 1999). Though this level of interest and activity at a systems level would not have been predicted even 5 years ago, most restorative justice initiatives remain limited to small experiments and are often lacking in even a vision of systemic reform (e.g., Bazemore and Walgrave 1999). Moreover, what has been loosely referred to as a restorative justice movement should more accurately be viewed as a loose coalition of restorative justice advocates.

## **Why now?**

There are no easy explanations for the growing interest in restorative justice at a time when criminal and juvenile justice systems in most States appear to be embracing a punitive model, and juvenile justice administrators struggle to maintain a treatment emphasis within a general focus on crime control and

*There are no easy explanations for the growing interest in restorative justice at a time when criminal and juvenile justice systems in most States appear to be embracing a punitive model, and juvenile justice administrators struggle to maintain a treatment emphasis within a general focus on crime control and retribution.*



retribution. Much of this interest seems to have emerged during a unique period of convergence between diverse justice philosophies and political, social, and cultural movements. Broadly, modern restorative justice appears to have been directly influenced by new developments in the victims' rights movement and an expanded role for victims in a community justice process (Young 1996); the community and problem-oriented policing philosophy and movement (Sparrow, Moore, and Kennedy 1990; Goldstein 1990; Rosenbaum 1994; Skogan and Hartnell 1997); and renewed interest in indigenous dispute resolution and settlement processes—at times accompanied by political efforts (especially in Canada) to devolve criminal justice responsibilities to local communities (Griffiths and Hamilton 1996; Melton 1995).

Although some have suggested that restorative justice may be simply another strategy for getting tough with offenders (Levrant et al. 1999), there is no evidence for this assumption either in practice or in the philosophical statements of restorative justice advocates. Restorative justice is in no way a lenient approach; it is, however, grounded generally in a strong critique of punishment, and specifically of retributive justice (Zehr 1990; Bazemore and Walgrave 1999). A critique of both rights-based, adversarial perspectives and social welfare models (Braithwaite and Petit 1991; Bazemore and Umbreit 1995; Walgrave 1995) has also affected the evolution of the new restorative justice movement. Clearly, some faith communities have been both supporters and practitioners of restorative justice, and several denominations appear to be expanding involvement today (Braithwaite 1998; Shaw and Jane 1998).<sup>7</sup> In another way, the women's movement and feminist critique of patriarchal justice (Harris 1990; Bowman 1994) has also been linked to the restorative critique of the punitive paradigm and has probably influenced the restorative justice tendency toward inclusiveness, as well as its related challenges to hierarchical decisionmaking.<sup>8</sup>

To put conferencing in context, it is important to raise larger questions that address political, economic, and ideological influences. Although a thorough consideration of political and economic influences is beyond the scope of this paper, it can be said that there are competing views about the motivation behind government interest in restorative justice. Some have emphasized the association of restorative justice with cost savings and fiscal get-tough policies (Daly and Immarigeon 1998). On the political side, others have emphasized that community and restorative justice must be viewed in the context of the legitimacy crisis facing former welfare-state, postindustrial governments such as Canada, New Zealand, and the United Kingdom (Crawford 1997). In Canada, in particular, the response to this crisis has seemed to be devolving justice, as well as social welfare functions, to local communities—especially Aboriginal communities.

In the United States, the conservative movement certainly mounted an attack on social services in the 1990s. However, criminal justice expansion has proceeded at an unprecedented pace, and restorative justice generally and conferencing specifically have been championed by advocates across the political spectrum (Pepinsky and Quinney 1991; Colson and Van Ness 1989). Moreover, political/economic influences on restorative justice do not lend themselves to easy categorization as conservative, liberal, or otherwise. In New Zealand, for example, though cost saving was certainly on the agenda in that country's movement to institutionalize family group conferencing (Daly and Immarigeon 1998), there was also evidence of ideological leadership in search of a more progressive, less punitive, and more culturally appropriate response to youth crime (McElrae 1996). The dominance of this more progressive vision and implementation focus, moreover, has been most clearly illustrated by recent opposition from sectors that are more supportive of the incapacitative and deterrence-focused policies that preceded restorative justice reforms in that country (Ministry of Justice 1998). In Canada, devolution of justice functions has been accompanied by relatively large amounts of funding to local communities—a policy that has been criticized for a top-down focus that provides support for new staff positions in the name of community justice and empowerment (Griffiths and Corrado 1999). Similarly, although there are also many valid concerns about cultural imperialism, as illustrated by rather insensitive efforts to impose specific conferencing models on indigenous communities in Australia (Cunneen 1997; Barga 1996), it is interesting that the New Zealand reforms were viewed as importing concepts and techniques from indigenous culture into existing Western justice systems (McElrae 1993).

Although a tendency toward overhyping new interventions among proponents of restorative conferencing and toward overusing anticourt and antisystem rhetoric may indeed justify some of the criticism of restorative justice (Harrington and Merry 1988; Daly 1996), there is also a danger in pervasive efforts to deconstruct reform movements that fail to recognize genuine differences in goals and motivation. And though there is certainly some truth in arguments that restorative justice has become popular because it has met certain needs of political economies, virtually all reform movements that have implications for power sharing and community participation could also be analyzed this way (e.g., Cohen 1985). A competing hypothesis is that the motivation behind recent efforts to implement restorative policies was neither primarily economic nor political, but more akin to a “muddling through” approach. At the ideological level, a more constructive critical approach can be taken, which is also useful in understanding the different tendencies and theories in use that become apparent as one examines conferencing in practice. Here, Harrington and Merry's (1988) analysis of neighborhood justice and mediation in the 1970s and 1980s may provide a useful protocol for assessing the movement

around restorative conferencing. Their emphasis on “multiple ideological projects”—often defined primarily in opposition to an assumed status quo—points to competing objectives within the mediation movement. These objectives were based on three frames of reference: social transformation, personal growth, and social service delivery. As I will describe later, parallel struggles are apparent within the modern restorative justice movement, but there are new and distinctive emerging ideological and theoretical tendencies.

Although the quest for a proactive community may certainly be viewed as nostalgic (Crawford 1997), the restorative justice movement seems also to build on a realistic element of anxiety about the loss of community capacity to address youth crime, trouble, and conflict. Related to this is a legitimate concern about the growth and expansion of the criminal justice system, its increasing consumption of resources, and the fear that this expansion has itself diminished community capacity to manage conflict (Rose and Clear 1998; McKnight 1995; Bazemore 1999b). There also appears to be something genuinely appealing about the restorative orientation that may rise above, or at least sidestep, two long standing strands of discourse in criminal and juvenile justice policy reform. Specifically, the restorative focus on repairing harm seems to challenge the terms of the punishment-versus-treatment and the crime control-versus-libertarian debates. In the discourse of restorative and community justice, repairing harm and building community capacity to respond to crime and conflict thereby replace punishment and treatment as a new continuum for intervention (Van Ness and Strong 1997; Bazemore 1998a). In addition, distinctive new concerns of restorative and community justice suggest a new continuum for reform, focused neither on expanding government crime control nor on simply ensuring the protection of rights and limiting intervention. Restorative justice advocates will ultimately stand with libertarians on many issues because they, too, question the value of much government intervention and are especially critical of the professionalization and expansionism of criminal justice that has, in turn, individualized the response to the collective troubles of victims, offenders, and communities (Christie 1977; Bazemore 1999a). The new vision, however, is not anti-intervention, and it is much more than a government “hands off” approach. Restorative community justice seeks rather to promote a community “hands on” approach, and to do so in part through government action in a significantly different role.

## **Where Conferencing Fits: Applicability, Generalizability, and Utility**

Despite these divergent political and cultural influences, restorative justice seems to be uniting a growing number of community leaders and justice

professionals around an emerging consensus that neither punitive nor rehabilitation-focused models are meeting the needs of communities, victims, and offenders. When viewed in light of these multiple influences, the diversity of conferencing approaches should come as no surprise. In this regard, restorative justice is best viewed not so much as a set of practices, but as a group of principles that may generally guide the development of rather diverse processes, programs, outcomes, and management strategies, while also shaping the relationship between government and community in the response to crime. As Morris and Maxwell (in press) observe:

[T]he essence of restorative conferencing is not the adoption of one model of conferencing; rather it is any model of conferencing which reflects restorative values and which aims to achieve restorative processes, outcomes and objectives. We would suggest, therefore, that there is no “right way” to deliver restorative conferencing. The key question is not “does the New Zealand model of conferencing work better than the Wagga-Wagga model, RISE or whatever?” but rather “are the values underpinning the model and the processes, outcomes and objectives achieved restorative?”

## **Administration and process**

Despite this acknowledged need for a focus on principles and values, it is nonetheless possible to identify several conferencing prototypes that have become prominent in recent years. Exhibit 1 describes the origins and current application of four “ideal type” restorative conferencing models and summarizes some differences and similarities among them in administration and process. Although the models share a nonadversarial, community-based sanctioning focus on cases in which offenders have either admitted guilt or been found guilty of crimes or delinquent acts, they vary according to staffing, eligibility, and the point in the system at which referrals are made. Notably, eligibility ranges from minor first offenders to serious repeat offenders (in the case of circle sentencing), and the models differ in point of referral and structural relationship to formal court and correctional systems. With the exception of most reparative boards or youth panels, decisionmaking is by consensus, but the process and dispositional protocol vary substantially—ranging from ancient rituals involving the passing of the talking stick or feather, in the case of circle sentencing (Stuart 1995), to the somewhat more formal deliberation process followed in some communities by board or panel members (Dooley 1996).

Finally, the process of managing dialogue also varies significantly among models, based on the nature of the role played by conference facilitators. Although reparative boards and youth panels use a chairperson to guide board members

Exhibit 1. Restorative conferencing models: Administration and process

Model	Circle sentencing	Family group conferencing	Reparative boards (RBs) and youth panels	Victim-offender mediation
<b>Time in operation</b>	Since approximately 1992.	New Zealand (N.Z.)—1989; Australia —1991.	Since 1995 (RBs); since 1920 (panels).	Since mid-1970s.
<b>Where used</b>	Primarily the Yukon; sporadically in other parts of Canada.	Australia, N.Z.; cities and towns in Montana, Minneapolis, Pennsylvania, and other States.	Vermont; selected jurisdictions and neighborhoods in other States.	Throughout North America and Europe.
<b>Point in system</b>	Used at various stages—may be diversion or alternative to formal court hearings and correctional process for indictable offenses.	N.Z.—throughout juvenile justice system; Australian Wagga Wagga model—police diversion, U.S.—mostly diversion, some use in schools and postadjudication.	RBs one of several probation options; panels almost exclusively diversion.	Mostly diversion and probation option. Some use in residential facilities for more serious cases.
<b>Eligibility and target group</b>	Offenders who admit guilt and express willingness to change. Entire range of offenses and offenders eligible; chronic offenders targeted.	N.Z. model—all juvenile offenders eligible except murder and manslaughter charges. Wagga Wagga model—determined by police discretion or diversion criteria.	Target group is nonviolent offenders; eligibility limited to offenders given probation and assigned to the boards.	Varies, but primarily diversion cases and property offenders. In some locations, used with serious and violent offenders (at victim's request).
<b>Staffing</b>	Community justice coordinator.	Community justice coordinator.	Reparative coordinator (probation staff).	Mediator—other positions vary.
<b>Setting</b>	Community center, school, other public building, church.	Social welfare office, school, community building, (occasionally) police facility.	Public building or community center for both.	Neutral setting, such as meeting room in library, church, or community center; occasionally in victim's home if approved by other parties.
<b>Nature and order of process</b>	After keeper opens session and allows comments from judge, prosecutors and defense present legal facts of the case (for more serious crimes); each participant allowed to speak when feather or "talking stick" is passed to them. Consensus decisionmaking.	In Wagga Wagga model, coordinator follows "script" in which offender speaks first, followed by victim and other participants. N.Z. model not scripted and allows consensus decisionmaking after private meeting of family members.	Mostly private deliberation by board after questioning offender and hearing statements, though some variation emerging in local RBs; in youth panel, members generally deliberate.	Victims speak first; mediator facilitates but encourages victim and offender to speak; does not adhere to script.
<b>Managing dialogue</b>	Process of passing "talking piece" manages dialogue after keeper initiates.	Coordinator manages dialogue.	Board chair manages; participants speak when asked.	Mediator manages.

Sources: Adapted from Bazemore 1997; Bazemore and Griffiths 1997.

through their questions and discussion with the offender, victim, and other participants, family group conferences rely on a coordinator to manage the discussion by ensuring that the offender, victim, and other participants are encouraged to speak (coordinators rely on a protocol or script in the Wagga Wagga or “Real Justice” model of conferencing) (McCold and Wachtel 1998). In victim-offender mediation, the mediator manages the dialogue by encouraging the victim and offender to take primary responsibility for expressing their feelings and concerns, ensuring that each respects the other’s right to speak and probing occasionally to keep the discussion flowing. In circle sentencing, on the other hand, participants rely primarily on the process itself, which requires that only one person speak at a time and only when they are handed the talking piece. Although each circle has a “keeper,” the role of this individual is not to manage the dialogue, but simply to initiate and ensure that the process is followed (and occasionally summarize progress).

## **Applicability/generalizability**

Perhaps the greatest challenge for advocates of restorative conferencing today is to determine and specify when and for what offender and victim populations the various conferencing models most readily apply. Related to this question is the question of effectiveness or potential utility for various populations of offenders and victims. For researchers, the question of applicability is closely tied to the issue of external validity or generalizability. For policymakers, it is practically translated as a question of replicability, eligibility, and the wise use of both system and community resources. For both groups, there is good news about the general applicability of conferencing that may challenge expectations and stereotypes and not-so-good news about the current ability of the field to provide clear answers to these questions.

## **The not-so-good news**

The diversity of conferencing models, and the creativity in implementing new approaches, is both an advantage and disadvantage. Similarly, the fact that conferencing models are highly informal, open, and user-friendly is also a strength that carries limitations in application. Thus far, conferencing has proved to be highly adaptable to the needs of various communities, and various models seem to be quite portable; for example, family group conferencing and circle sentencing, used initially as dispositional and diversion alternatives, have been adapted for use within secure facilities for juvenile offenders and as conflict resolution procedures in schools (Pranis 1998).

The difficulty is that unlike staff involved with interventions that include carefully crafted program manuals that clearly define eligible populations,

conferencing practitioners lean more toward deliberative admission decisions on a case-by-case basis. In addition, admission to the process is not about matching an intervention with the needs and risks presented by an offender (though that is part of it); rather, it is about trying to respond to the needs of victim, offender, and community, based on their willingness and commitment to participate (Stutzman Amstutz and Zehr 1998).

In this context, difficulty is not limited to determining what kind of response is most effective for whom, under what conditions. It is also difficult to determine the most effective use of conferencing resources. There is, for example, an apparent difference in labor intensity between such models as circle sentencing and community boards, for example. To date, however, there is not much evidence that practitioners have adopted clear standards for determining when a case needs the intensive attention provided by a circle process or intensive victim-offender dialogue, for example, rather than simply a board hearing (or even a restorative counseling session with police officer, victim, and family on the street). Although there is certainly some ongoing dialogue about developing a continuum, or menu, of restorative options appropriate to the difficulty or complexity of various cases (i.e., the needs of victim, offender, and community represented), the emergent nature of conferencing approaches, along with the tendency of some practitioners to promote their own preferred model, has added to the difficulty in developing guidelines for appropriate use. Because conferencing models have relied so heavily on community volunteers—who are supported primarily by community police, probation officers, and other such liaison staff—there has been less concern about appropriate use of labor-intensive resources. However, from another perspective, community participation is also an important resource that may be quickly exhausted if citizens feel that the problems they are being asked to solve are trivial ones. Indeed, in the experience with circle sentencing in parts of the Canadian Yukon, community groups given discretion over which cases to admit to circles often have shown a willingness to take the most difficult cases (i.e., the most serious and violent offenders) (Griffiths and Hamilton 1996). As Judge Barry Stuart (1995, 8) suggests, “When community people have input into who is accepted into a community sentencing process, they don’t just pick the ‘cream puffs’ . . . they pick the guys who have been wreaking the most havoc on them for years.”

Stated another way, the failure to carefully plan strategic and efficient use of conferencing resources might ultimately create a situation in which a variety of conferencing models in a community compete for the same low-level diversion or prediversion cases, as is often now true of such programs as teen courts and other juvenile diversion programs.



## **The good news**

The bottom line is that the field does not know much about the relative applicability or relative effectiveness of various conferencing models. On the other hand, there is a growing body of practical experience pertinent to the question of where conferencing models might best fit within (or alongside) the current system and their effectiveness in producing positive outcomes. For example, numerous studies of victim-offender mediation and dialogue (Umbreit 1999) and a growing number of studies of various family group conferencing models (Maxwell and Morris 1996; Sherman et al. 1998; McCold and Wachtel 1998) report a significantly greater sense of fairness and reduction in fear (for victims) in comparison with the court process, as well as greater overall satisfaction and feelings of fairness for victim and offender when contrasted with other decisionmaking processes, such as court dispositional hearings. Conferencing has also fared well in empirical studies in achieving other positive intermediate outcomes, such as completion of restitution obligations, as well as reductions in recidivism (e.g., Umbreit 1994; Morris and Maxwell in press), when compared with such intervention alternatives as probation-based programs. Technically, however, conferencing as a short-term decisionmaking model should not be compared on such outcomes with formal intervention programs for offenders because conferencing is not generally viewed as an alternative to such interventions. Offender treatment programs will, by definition, focus more extensively on addressing the individual needs and risks of offenders (though generally to the exclusion of consideration of victim and community needs) and should therefore be expected to have a greater impact on reoffending than would a one-time conferencing encounter. In general, when the standard of comparison is, appropriately, a more formal decisionmaking process, such as a court system, conferencing models of all kinds generally fare better on virtually all outcomes. From this perspective, the more normative criticism that conferencing pays inadequate attention to individual differences between offenders and victims, at the expense of community, is also less valid.

The more specific questions around conferencing's applicability and generalizability usually come in two forms: (1) How appropriate are conferencing models for more serious and chronic offenders? and (2) How applicable are such models in culturally diverse, low-income communities?

### ***Serious and chronic offenders***

Regarding applicability with serious and chronic offenders—depending on how the question is framed—an appropriate answer is a qualified and contingent yes, no, and maybe. The answer often is “maybe,” because, with a few exceptions, there has been little research to date comparing success rates for more



serious or chronic offenders relative to other offenders. However, ongoing research in Australia, which features a randomized comparison between serious offenders in conferencing and those in control groups, will soon be able to address this issue (Sherman et al. 1998).

With the exception of some reparative board models and conferencing approaches that were developed for crimes unlikely to involve an individual victim (e.g., impaired driving), the answer is clearly “no” if the victim does not wish to participate. In far too many cases in the United States, the answer is also no where decisionmakers have placed excessive eligibility restrictions on admission.

The answer, perhaps more than generally anticipated, however, is “yes,” if victims are offered a viable conferencing option (Morris and Maxwell in press). Models such as victim-offender dialogue and mediation have been adapted over the years for the specific purpose of allowing a response to violent crime that could meet the needs of victims who, among other things, were seeking answers from offenders who committed a violent crime against them or one of their family members (Umbreit 1999). Such meetings will typically take place within secure facilities in the case of very serious crimes. However, victim-offender meetings have been successfully conducted as a response to a variety of assault cases and other violent crimes in community settings, often subsequent to a period of incarceration (Gustafson and Smidstra 1989; Gustafson 1996).

Other conferencing models, such as circle sentencing, never adopted eligibility criteria restricting admission to certain offender or offense profiles. Therefore, some programs admit serious offenders to the process in community settings (Stuart 1996; Griffiths and Hamilton 1996). Such admission has at times been the result of a delicate negotiation based on strong support from judges, who at times have persuaded prosecutors of the value of this alternative approach to developing a sentencing recommendation. These criminal justice decisionmakers participate, along with defense counsel and community members, in circles involving felony or indictable cases. So far, the few small experiments with circles in the United States have been restricted to less serious cases, although circles are being used within facilities in Minnesota and as a reentry process for offenders in juvenile facilities returning to the community (Pranis 1998).

Finally, the 10-year experience of New Zealand, where family group conferencing has been used as the primary dispositional decisionmaking process in response to all juvenile crimes—with the exception of murder, rape, and aggravated assault—is perhaps most convincing in regard to the applicability of conferencing to chronic and violent offenders. Also interesting to note is the fact that generally high rates of victim participation (65 to 80 percent) do not

appear to decline, and may even increase, in conferences involving more serious crimes (Morris and Maxwell in press). Together with the more limited experience with circles and victim-offender mediation, and the recent willingness of Australian decisionmakers to experiment with conferencing as a response to violent crimes as part of the Reintegrative Shaming Experiments (RISE) evaluation studies (Sherman et al. 1998), these findings suggest that limitations placed on types of offenses allowed in conferencing are primarily a function of reticence on the part of criminal justice decisionmakers rather than empirical evidence. Though more research is needed that examines the relative success of serious offenders in conferencing, numerous possibilities remain open, especially if decisionmakers are open to modifications in the conferencing setting (e.g., increased security measures). Moreover, when these programs are viewed properly, as alternative decisionmaking processes rather than as sanctions, it is possible to envision them as a gateway to more intensive and incapacitative alternatives when needed, with the added benefits of input from community members. Unfortunately, even with this understanding, decisionmakers in the United States overall have been reluctant to cede discretion to the community over more serious cases, and most U.S. programs continue to focus on low-level to moderate-level crimes.

### ***Diverse communities***

Other common questions are concerned with the extent to which restorative conferencing is applicable across cultural, ethnic, gender, and socioeconomic lines. Although the 25-year history of victim-offender mediation can be said to have its origins in predominately middle-class communities in the Midwest and Canada, mediation programs now operate in a wide variety of communities, including highly urban and rural contexts, and serve offenders from a wide range of backgrounds (Umbreit 1999). Other conferencing models—especially family group conferencing and circles—have their primary origins in Aboriginal cultures and communities and have recently been adopted in and adapted to Western settings (McElrae 1993; Melton 1995; Stuart 1996). Today, internationally, restorative conferencing is being implemented in diverse cultural contexts ranging from Africa and Asia to Europe, including a range of ethnic communities in Westernized countries like Australia and Canada.

In the United States, pilot programs for various family group conferencing models, boards, and circle sentencing now operate in African-American, Hispanic, and Asian communities, as well as in predominately Caucasian communities in cities including Baltimore, Chicago, Denver, and Minneapolis. Yet, although there is no national inventory that can provide a profile of what populations are predominately served by these programs, a best guess, given the

track record of diversion programs in this country and the predominately low-to-medium range of offenses generally targeted by most programs, would be that the population of offenders and victims participating is disproportionately white and middle class. Similarly, though no data are available on gender composition of conferencing programs, the best guess would be that they serve predominately male offenders—though whether the proportions are different than those in other community-based programs is unknown.

Effectiveness and sustainability in these diverse environments is, as might be expected, a question that cannot yet be answered based on the short history of these pilot programs. Because conferencing has yet to establish a long track record in any type of community, or (with the exception of victim-offender mediation) in dealing most effectively with any specific type of offender and victim, it is difficult to predict whether it will fare better or worse in various ethnic versus Caucasian communities and/or in urban versus rural or small-town communities. There is no evidence, however, to suggest lack of applicability across cultures or socioeconomic levels. Although some have questioned its potential effectiveness and acceptability in urban minority neighborhoods, some practitioners working primarily or exclusively in African-American neighborhoods, for example, are suggesting that conferencing has more, rather than less, resonance with the needs, values, and resources in these neighborhoods (Landry 1999). A part of this apparent compatibility is certainly linked to the role of faith communities in such neighborhoods—and their increasingly prominent role in restorative justice practice (Van Ness and Strong 1997). But although this faith community involvement might once have been said to be limited to the Mennonite church, certain Catholic parishes, or Navajo and other indigenous spiritual leaders—and hence assumed to be not easily transferable to secular or other faith contexts—involvement in restorative justice now appears spread across a wide variety of denominational and nondenominational sectors. However, although there is clearly a spiritual element in restorative justice, the conferencing process operates almost exclusively in secular contexts and can in no way be associated with one religion or religious orientation.

The problem of adaptability and cultural sensitivity is one faced by all justice reform efforts.<sup>9</sup> Although restorative conferencing, like all other interventions, will likely struggle with cultural and socioeconomic adaptability, its commitment to flexibility in addressing individual and collective needs of communities and citizens in restorative justice may give conferencing a clear advantage in this regard. A key to the transferability of restorative conferencing may well be in the search for common ground, as described earlier. This search is one that seeks to build on universal and communal norms in diverse contexts (Schweigert 1997) by allowing emotional expression that may identify sources of remorse, shame, and bonding, even among such violent offenders as gang members. As is

the case with adaptability to serious and violent offenses previously discussed, the intensity of crime and related problems in many ethnic communities, their traditional “under-service” by justice and social systems, and their sometimes antagonistic relationship with formal social control authorities may make such communities more, rather than less, appropriate candidates for restorative conferencing.

## **What Is Conferencing Trying To Do? Restorative Justice Principles, a Generic Theory, and Specific Focal Concerns**

### **What does restorative conferencing look like?**

Understanding the diversity in conferencing approaches and the often unpredictable dynamics that emerge in these informal processes is important in understanding what justice professionals and citizens expect to accomplish in these encounters. The following case examples provide a glimpse of this diversity and its implications for both theory and practice.

#### **Case 1**

After approximately 2 hours of sometimes heated and emotional dialogue, the mediator felt that the offender and victim had heard each other’s story and had learned something important about the impact of the crime and about each other. They had agreed that the offender, a 14-year-old, would pay \$200 in restitution to cover the cost of damages to the victim’s home resulting from a break-in. In addition, the offender would be required to reimburse the victim for the cost of a VCR that he had stolen, estimated at \$150. A payment schedule would be worked out in the remaining time allowed for the meeting. The offender also made several apologies to the victim and agreed to complete community service hours working at a food bank sponsored by the victim’s church. The victim, a middle-aged neighbor of the offender, said that she felt less angry and fearful after learning more about the offender and the details of the crime, and she thanked the mediator for allowing the mediation to be held in her church basement.

#### **Case 2**

After the offender, his mother, his grandfather, the victim, and the local police officer who made the arrest had spoken about the offense and its impact, the youth justice coordinator asked for any additional input from the approximately 10-member group of citizens assembled in the local school (the group included

two of the offender's teachers, two friends of the victim, and a few others). The coordinator then asked for input into what the offender should do to pay back the victim, a teacher who had been injured and who had a set of glasses broken in an altercation with the offender, and pay back the community for the damage caused by his crime. In the remaining half hour of the approximately hour-long family group conference, the group suggested that restitution to the victim was in order to cover medical expenses and the cost of a new pair of glasses and that community service work on the school grounds would be appropriate.

### **Case 3**

The victim, a middle-aged man whose parked car had been badly damaged when the 16-year-old offender crashed into it and also damaged a police vehicle after joyriding in another vehicle, talked about the emotional shock of seeing what had happened to his car and his cost to repair it (he was uninsured). Following this, an elder leader of the First Nations community where the circle sentencing session was being held, and an uncle of the offender, expressed his disappointment and anger with the boy. The elder observed that this incident, along with several prior offenses, had brought shame to his family—noting that in the old days, he would have been required to pay the victim's family a substantial compensation as a result of such behavior. After he finished, the feather was passed to the next person in the circle, a young man who spoke about the contributions the offender had made to the community, the kindness he had shown toward the elders, and his willingness to help others with home repairs. Having heard all this, the judge asked the Crown Council (Canadian prosecutor) and the public defender, who were also sitting in the circle, to make statements; he then asked if anyone else in the circle wanted to speak. A Royal Canadian Mounted Police officer, whose police car had also been damaged, then took the feather and spoke on the offender's behalf, proposing to the judge that in lieu of statutorily required jail time for the offense, the offender and the speaker should be allowed to meet on a regular basis for counseling and community service. After asking the victim and the prosecutor if either had any objections, the judge accepted this proposal. In addition, he ordered restitution to the victim and asked the young adult who had spoken on the offender's behalf to serve as a mentor for the offender. After a prayer in which the entire group held hands, the circle disbanded, and everyone retreated to the kitchen area of the community center for refreshments.

### **Case 4**

In a recent reparative board hearing in Vermont, a young man sat before the board members for a driving-while-intoxicated conviction. In such cases, board

members generally ask the offender how he is managing without a license (which is invariably suspended by the judge) after such convictions. While pursuing this line of inquiry, one board member had his chance to find common ground:

BM1: How do you get to work?

Offender: My friend, we both work up at Middlebury.

BM2: Who are you working for up in Middlebury?

Offender: [Name of contractor.] They're out of Boston.

BM2: Yeah, what are you doing up there?

Offender: Slate roofing.

BM2: Which building do you work on now?

Offender: On the college. It's a huge building.

BM2: Yeah, I'm working on the same building.

Offender: You are?

BM2: Yeah. The science building.

Offender: Yup! That's where it is.

BM2: I thought I'd seen you before.

Two consequences seemed to follow from this brief interaction. First, the offender immediately relaxed, smiling for the first time in the hearing, feeling he could identify with at least one person on the board. Second, there was an implication that his future behavior could be monitored. He might, in fact, see this board member again soon on the job (cited in Karp in press, 15).

On the one hand, as suggested by these cases, conferencing in practice can at times work well for all stakeholders. In some instances, what goes well is often simply a brief moment of human connection between one or more participants, as in the board encounter and circle sentencing cases. Conversely, on other occasions, the process may seem to be out-of-sync with the needs of stakeholders and may even appear to be in danger of causing additional harm.

The extent to which conferencing processes are directed toward restorative justice goals, however, is based on their degree of adherence to certain core principles. The importance of restorative principles is often illustrated most clearly in their absence—in those extreme and (fortunately) rare disturbing cases, in which, for example, a police officer seeking to “shame” an offender browbeats him in an effort to bring tears or a victim feels revictimized because of a clear imbalance

*If crime is fundamentally about harm, then the first principle of a restorative approach is that justice requires healing or repair.*

of offender supporters in the encounter (Braithwaite and Parker 1999). Some negative cases may reflect a lack of training in principles or a lack of preparation of participants. Still others may illustrate possible obstacles presented by cultural bridges that are simply difficult to cross given the unique mix of participation and/or facilitators present at a given conferencing encounter (Umbreit and Coates 1998). Positive and not-so-positive outcomes may also reflect limitations in the conferencing model itself.

Most important, these cases illustrate a wide range of intent and understanding of objectives in these informal decisionmaking processes. Answering the question, “What is conferencing trying to do?” is not an easy undertaking because the answer will depend in part on the unique capacities and goals of the model being considered and, at times, on the unique needs and concerns presented by the configuration of stakeholders/participants. Although not all conferencing interventions consistently pursue restorative goals, it is possible to provide a general sense of what conferencing is seeking to accomplish within the normative framework of restorative justice.

## **Conferencing and restorative principles: A normative framework**

Beginning with the premise that crime is more than lawbreaking, the primary assumption behind a restorative response is that justice cannot be achieved by simply punishing or treating offenders. Based on this assumption, Van Ness and Strong (1997) have articulated three core principles of restorative justice.

### ***Principle 1***

If crime is fundamentally about harm, then the first principle of a restorative approach is that justice requires healing or repair. The focus on repairing harm gives priority to a range of interventions, from monetary restitution and community service to apologies, victim service, and participation in victim and community impact panels. Repair also requires a commitment to different ways of making decisions about the terms of accountability in the response to crime. As a core principle, repairing harm may also have multiple meanings in different contexts, and it may also have implications for how stakeholders pursue public safety, sanctioning, and rehabilitative objectives (Bazemore and Walgrave 1999).

### ***Principle 2***

The fact that harm cannot be understood in a vacuum suggests that repair cannot be achieved in the absence of input from those most affected by crime. Hence, the second core principle of restorative justice is that victims, offenders, and community members be provided with opportunities for input and participation in the justice process as early and as often as possible (Van Ness and Strong 1997). The need to engage community members and groups, as well as victims and offenders (and their families and supporters), as stakeholders has been a source of creative tension and tremendous energy in restorative juvenile justice reform (Bazemore and Walgrave 1999), and the proliferation of restorative conferencing approaches is in part based on the need to provide more user-friendly forums for dialogue and input.

### ***Principle 3***

In addition to community, victim, and offender, justice systems and justice professionals are also stakeholders in restorative justice. Aside from providing legal authority, policy support, and resources, juvenile justice systems are now discovering that the new focus on repairing harm, and the need to actively involve three new stakeholders in decisionmaking, requires a change in the relationship between justice agencies and communities. The third core principle—that repairing harm requires a rethinking of the respective roles of government and community in the response to crime (Van Ness and Strong 1997)—is moving some justice systems away from the role of expert in a case-driven response toward a more facilitative one, based on problem solving and capacity building.

From a restorative perspective, the current justice process is also premised on the wrong questions. Today, when a crime is committed, most juvenile justice professionals are primarily concerned with resolving three issues: Who did it, what laws were broken, and what should be done to punish or treat the offender? Although these questions of guilt, lawbreaking, and appropriate sanctions for offenders are important, alone they may lead to a limited range of insular and one-dimensional interventions. As one juvenile justice professional has suggested:

Treatment and punishment standing alone are not capable of meeting the intertwined needs of the community, victim, offender and family. For the vast majority of the citizenry, juvenile justice is an esoteric system wrapped in a riddle. Support comes from understanding, understanding from involvement and participation. Community involvement and active participation in the working of a juvenile court is a reasoned response . . . [Currently] community members are not solicited for input or asked for their



resourcefulness in assisting the system to meet public safety, treatment and sanctioning aspirations. (Diaz 1997)

Viewed through the restorative lens, because crime is understood in a broader context, three very different questions receive primary emphasis. First, what is the nature of the harm resulting from the crime? Second, what needs to be done to make it right or to repair the harm? Third, who is responsible for this repair (Zehr 1990)?

Defining the harm and determining what should be done to repair it is best accomplished with input from crime victims, citizens, and offenders in a decisionmaking process that maximizes their participation (see principle 2). The decision about who is responsible for the repair focuses attention on the future rather than the past and also sets up a different configuration of obligations in the response to crime. No longer simply the object of punishment, the offender is now primarily responsible for repairing the harm caused by his or her crime. Justice agencies and systems would, in turn, be responsible for ensuring that the offender is held accountable for the damage and suffering caused to victims and victimized communities by supporting, facilitating, and enforcing reparative agreements. But, most important, as principle 3 implies, the community plays a critical role in setting the terms of accountability and in monitoring and supporting completion of obligations.

Following principle 1, a general theory of conferencing must focus on how stakeholders can best repair the harm of crime as a primary outcome. The first task must therefore be to define harm in terms of the needs of crime victims and other stakeholders. Restorative conferencing is, in this case, first an assessment process for understanding what each stakeholder needs to have restored. Victims, for example, are likely to need choices, including whether or not to participate in a conferencing process. Should they choose involvement, they will often be motivated by a desire to have losses restored, to receive information, to have input into the disposition or sanction, to reduce fear, and to hear a concrete expression of the value placed on them by the community (Umbreit and Coates 1998; Bazemore et al. 1998). Young offenders will need to learn that their actions have consequences, to have input into the obligations for repair, to have the opportunity to accept responsibility, to be supported in fulfilling these obligations, and, ultimately, to earn their redemption back into the good graces of the community through having developed new relationships with law-abiding adults (Maloney 1998a).

Community members may need to express disapproval or even outrage at the offender's actions in order to affirm communal norms, but they may also need to connect in some way with other families and neighbors. Citizens may themselves benefit from the support they provide to others, as well as from the new

connections established. As Hudson and colleagues (1996b, 3) observe in the case of family group conferences:

Conferences help to illustrate the responsibility of citizens to participate in community affairs. The reciprocity evident in the family group conference process helps emphasize the point that people can benefit from the challenge and opportunities of helping others. Receiving help can actually weaken one's self esteem but giving help as well as receiving it empower[s] people and strengthen[s] their sense of self worth.

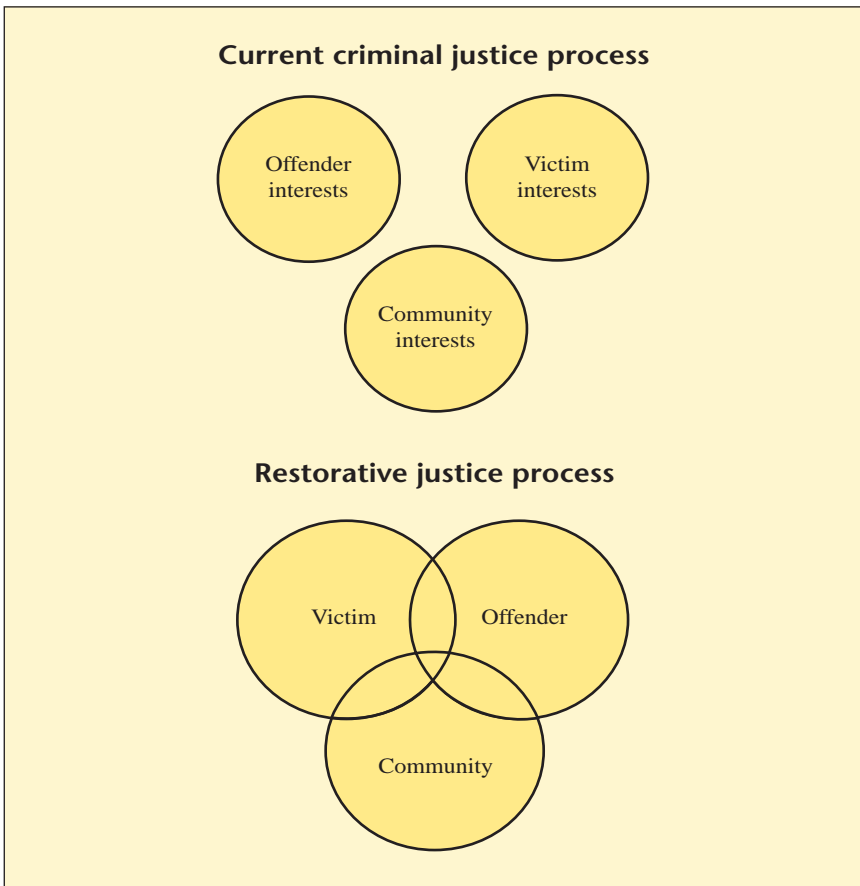
Following with the second principle of stakeholder involvement, a theory of conferencing would be concerned with how conferencing may promote the kind of meaningful stakeholder participation needed to define the harm, then develop a satisfactory plan to repair the harm. Such a plan should define clear roles for each of the three stakeholders; although the offender is primarily responsible for the repair, the conferencing process would be expected to elicit meaningful and inclusive participation in a way that is generally not possible in the court environment or other formal setting. A theory of conferencing would also postulate that conferencing encourages problem solving, dialogue, compromise, and resolution in a process that allows emotional expression (Umbreit and Coates 1998).

The third restorative justice principle is addressed in conferencing to the extent that government, in the form of the justice system, cedes discretion and resources to the community to accomplish the necessary stakeholder involvement and repair. All the while, government is expected to maintain an oversight role and general responsibility for supporting the community in addressing reparative objectives (Pranis 1998; Van Ness and Strong 1997). A theory of conferencing would specify the conditions under which community groups and citizens begin to truly influence decisionmaking processes while allowing justice professionals to ensure fairness (Braithwaite and Parker 1999).

## **Connecting, finding common ground, and building relationships: Toward a generic theory of conferencing**

A key distinction between restorative conferencing and other informal dispute resolution processes is a highly intentional three-dimensional focus on the roles and needs of victim, offender, and the community. Although the current system views the needs and interests of these stakeholders as incompatible, a restorative justice process is essentially a search for common ground (Stuart 1997). Hence, in addition to the effort to meet the individual needs of each stakeholder, there is a concern with identifying and meeting mutual needs. As exhibit 2

## Exhibit 2. Stakeholder interests and common ground: Objectives of alternative decisionmaking processes



suggests, this common ground—where one can find a merger of interests of each stakeholder—is often a small plot, but it is viewed in restorative justice as the most fertile soil for achieving meaningful repair. Restorative outcomes can also build on the intersection of interests of any two stakeholders, thus expanding the area of common ground.

The magic of a restorative conferencing process, as described by many participants, is in how creative solutions seem to emerge when the dialogue allows for an inclusive and genuine expression of stakeholders' needs (Stuart 1996; Stutzman Amstutz and Zehr 1998). A generic theory of restorative conferencing might have as a key proposition that the best solutions and the most effective

outcomes are achieved when the conferencing process seeks to address the needs of all three stakeholders. Put another way, such a theory would suggest that it is unlikely that positive outcomes can be achieved for one stakeholder in the absence of an effort to engage and meet the needs of the other two.

There is also something important about stakeholders in a crime making connections in a process that allows safe expression and dialogue. Here it is implied that coming together to resolve a problem may itself produce a healing effect to the extent that it breaks down the sense of isolation felt by victims, offenders, and their supporters in the aftermath of a crime (Marshall 1996; Stuart 1996). Initially, this may result in a reduction in fear (Umbreit 1999; Morris and Maxwell in press) and increase the level of general satisfaction with the justice process for all stakeholders (Sherman et al. 1998). Ultimately, rebuilding, strengthening, or establishing new relationships is a central long-term goal of the restorative process and, at least implicitly, a central component of what is meant by the notion of repairing the harm (Van Ness and Strong 1997; Braithwaite and Parker 1999). One practitioner (Pranis 1998, 10) provides the following logic for this focus on relationships in the context of community:

- The fabric of community is the weaving of relationships.
- Crime harms relationships and thus weakens community.
- Our response to crime needs to attend to these relationships to rebuild or strengthen the community fabric.

As Morris and Maxwell (in press) suggest, connectedness may be a difficult concept to measure. However, one approach to evaluating the effectiveness of a restorative conference or conferencing model might be to ask whether or not the process, and/or subsequent actions to follow up on conferencing agreements achieved the following:

- Created new positive relationships or strengthened existing relationships.
- Increased community skills in problem solving and constructive conflict resolution.
- Increased participants' sense of capacity and efficacy in addressing problems.
- Increased individual awareness of and commitment to the common good.
- Created informal support system or "safety nets" for victims and offenders (Pranis 1998).

This idea of relationship building provides a key link among various models of conferencing as well as between conferencing and theories of community and crime (e.g., Skogan 1990; Bursik and Grasmick 1993). More broadly, relationship building is also linked to emerging theories that may challenge medical and public health perspectives on communities. Unlike the focus of the latter on community risks and deficits, these new perspectives emphasize resiliency and strength at the individual level, and community resources at the social ecological level (Benson 1997; McKnight 1995). For example, as McKnight observes, the ascendancy of the professions and service systems often brings with it a decline in the capacity and authority of citizens and community: “[T]he citizen retreats; the client advances” (1995, 106). At the community level, the service/medical establishment emphasizes what McKnight calls the “half-empty” portion of communities and thereby thrives on disease and deficiency as its “raw material.” The raw material of community, on the other hand, is capacity, and communities are built using the capacities and skills of needy, deficient people: “No community was ever built by a group of ‘full,’ unneedy people. Communities are built in spite of the dilemmas, problems, and deficiencies of needy people” (p. 76).

The importance of relationships in the conferencing process is grounded in this sense of community as interconnected networks of citizens who have tools and resources to promote healing and reintegration. At the micro level, processes such as conferencing may help to reconnect victims and offenders whose relationships have been weakened by crime with new sources of support in a kind of naturalistic ceremony of reintegration (Braithwaite and Mugford 1994; Bazemore 1999a). Specific intervention theories associated with various conferencing models will vary, however, in the relative importance given to relationship building and collective outcomes. Moreover, competing perspectives give more importance to the restorative process—the coming together of stakeholders—than to outcomes based on the principle of repair (Marshall 1996; Bazemore and Walgrave 1999).

## Specific intervention theories

More important than the administrative and process differences that characterize these ideal approaches to conferencing is the relative priority given to different restorative justice goals as well as the apparent differences in underlying assumptions or theories in use that guide the restorative justice effort. Distinctive focal concerns and priorities of each of the four models have been shaped by four “sensitizing concepts” that constitute distinguishable themes within the restorative and community justice literature. Each of these themes emerges from a slightly different ideological or theoretical critique of the adversarial/retributive justice process (cf. Harrington and Merry 1988), and in turn, puts forward a

somewhat different hierarchy of concerns and objectives in the community justice process. Hence, any proposed generic theory of conferencing may not be easily identifiable at any given point in the process in models where more attention is given to some specific focal concerns than others.

First, the four decisionmaking models, to different degrees, share a belief that the primary goal of the justice process should not be punishment or treatment, but rather holding the offender accountable to the person or persons he or she has harmed. This accountability/equity theme gives a primary focus in the conferencing process to ensuring that the emphasis is on the offender's obligation for repair rather than a discussion of needs or punishment. Based generally on an equity theory or an exchange model, as applied in the response to crime (e.g., Schneider 1990), the emphasis is on restoring balance, not by harming the offender but by requiring that he or she make amends for the harm done to victims and victimized communities. Bottom-line objectives for models that are primarily influenced by this orientation are to ensure that the offender hears about the harm caused to individual victims and the community; that he or she "owns" or accepts responsibility for the harm; and that a plan is developed to ensure the offender will take action to repair the harm to the greatest extent possible.

Second, all conferencing models generally seek to involve and to provide a more empowered role for crime victims in the process. To some degree, and in different formats, this includes opportunities for verbal input. What may be labeled an interpersonal dialogue theme in conferencing gives maximum attention to this need for victim input and for respectful dialogue between victims, offenders, and other participants. Focusing its critique on the lack of opportunities for victims to be heard, as well as to hear from other stakeholders in the formal process, this theme is also based on a concern that crime victims may be used as a means to an end (e.g., diverting offenders, increasing prosecution). To avoid this outcome, victims should be involved in decisionmaking as active participants, with information and feelings that need to be expressed. Conferencing or other decisionmaking processes, in which the mediator or coordinator cuts off dialogue, may alienate victims unnecessarily, limit emotional expression, and reduce overall satisfaction with the process (Umbreit 1998a). Such processes are referred to by one advocate of the dialogue theme as "settlement driven" because the mediator or coordinator seems concerned with maximizing the number of agreements rather than allowing open expression (Umbreit 1999). As victim-centered processes also concerned with the needs of the offender, conferencing approaches influenced by the interpersonal dialogue theme, in contrast, encourage minimum interference by mediators or coordinators and promote maximum opportunities for safe interpersonal communication, primarily between victim and offender. In contrast to the accountability/equity model, approaches based

on interpersonal dialogue themes may also give lower priority to outcome (e.g., completion of the reparation agreement) than process, a point addressed in more detail later.

Third, each model is in some way concerned with sending offenders an emphatic personal message of disapproval about the impact of crime. Each is, therefore, consistent with a newer theme in restorative justice, which is based on an emerging theory of crime and social control known as *reintegrative shaming* (Braithwaite 1989; Makkai and Braithwaite 1994; Moore and O'Connell 1994). The reintegrative shaming critique challenges any process that does not maximize the role of community members—especially those closest to the crime and those most intimate with the offender, such as family and extended family as well as the victim—in expressing disapproval of the offense and imposing consequences in an informal sanctioning process. It would be equally critical of a process that promoted what advocates of reintegrative shaming call “stigmatizing shame” (Braithwaite and Mugford 1994), which also did not provide for re-acceptance of and support for the offender following the shaming ceremony. The reintegrative shaming perspective is also broadly concerned with the larger sociological issue of the absence in what Braithwaite labels “high-crime societies” (or high-crime communities) of a common commitment to norm affirmation and maintaining community tolerance limits (Braithwaite 1989). Unfortunately, some conferencing programs may amount to a reduction of a macro normative theory about how communities produce and manage the process of social control and justice (Braithwaite 1989; Braithwaite and Petit 1991) to a micro intervention apparently aimed at shaming individual offenders. The infusion of restorative justice principles appears to be reshaping and broadening this narrow application in such a way that the emphasis on shaming may be taking a back seat to ensuring repair, supporting both victims and offenders, and promoting accountability. In practice, though some family group conferences may continue to put primary emphasis on shame, many now give primary attention to mobilizing social support for both offender and victim (Braithwaite and Parker 1999). The bottom-line objective of the sanctioning process in the models influenced primarily by reintegrative shaming is to create a context in which the offender will be made to experience feelings of nonstigmatizing “discretion shame,” which will ultimately facilitate community bonding and reintegration (Moore and O'Connell 1994).<sup>10</sup>

Finally, each approach shares some degree of commitment to challenge the traditional boundaries of the criminal justice process. Drawing in part on a world view common among indigenous peoples, the new models share a more holistic understanding of the justice process that tends to blur Western distinctions between community development, quality of life, spirituality, social justice, and criminal justice issues (Yazzie 1993; Melton 1995; Griffiths and Hamilton



1996). This understanding moves beyond the focus on changing the offender to an emphasis on the need for interventions and outcome standards for the justice process that give equal emphasis to peacemaking and to community change objectives (e.g., Melton 1995; Stuart 1996). In this sense, this theme implies a vision of justice that is transformative as well as ameliorative or restorative (Morris 1994; Belgrave 1995). What may be referred to as a community healing/capacity-building theme (Griffiths and Hamilton 1996) focuses its critique on weaknesses in the breadth and depth of community participation in most formal, as well as many alternative, decisionmaking processes. It is also most concerned with achieving collective rather than individual outcomes. The bottom line in this healing/capacity-building perspective is, therefore, an insistence on meaningful community participation not only in the justice process but also in problem solving, in conflict resolution, and in building or rebuilding damaged relationships. Breakdowns in these community relationships are argued to be the primary source of crime. Constructive citizen participation in their maintenance and repair and in resolving conflict and mutual support is, therefore, viewed as key to strengthening the capacity of communities to control crime (Stuart 1995; Morris 1994).

Notably, the reintegrative shaming, community healing/capacity building, accountability/equity, and interpersonal dialogue perspectives also have their own theoretical logic that can be used to develop propositions about the impact of conferencing processes on offenders, victims, and community. Thus far, at the level of implementation, each perspective appears to have exerted a more dominant influence on some models than on others, influencing the way in which the community is defined, the role assigned to the victim vis-a-vis the offender and other citizens in the process, and the unique mandate assumed by or granted to the community for such tasks as gatekeeping. It has been suggested that the strong influence of the dialogue theme in victim-offender mediation, for example, gives highest priority to victim needs and empowerment, while the influence of the community healing perspective on circle sentencing in part may be responsible for its more fully developed focus on active roles for citizens and community groups in a more holistic healing process. Although complete discussion of the four perspectives and their influence is beyond the scope of this paper, exhibit 3 suggests that each is associated with a different hierarchy of possible restorative justice objectives. Hence, as proponents of each model continue to evolve, adapt, and borrow insights from practitioners of other approaches, the contrasting priorities of each approach suggest some general empirical propositions inherent in each perspective. The influence of these priorities on each decisionmaking model and on its relative capacity to achieve victim satisfaction, community involvement, offender sanctioning and reintegration, and other community justice objectives is thus an important topic for future empirical research.

### Exhibit 3. Models, theories, and objectives in restorative conferencing

Objectives	Models			
	Circle sentencing	Family group conferencing	Boards and panels	Victim-offender mediation
Ensure victim restoration	I	HI-I	I	HI
Shame/denounce offender	NA	HI	NA-SI	NA-SI
Involve citizens	HI	I-HI	HI	NA-SI
Share power	HI	SI-I	I	NA
Meet victim's needs	I-SI	SI-I	SI-I	HI
Protect victim	I	I	NA-SI	HI
Empower community	HI	NA-SI	HI	NA
Involve victim	SI-I	I	NA-SI	HI
Primary theoretical base	Community healing	Reintegrative shaming	Accountability/equity	Interpersonal dialogue
Key:				
HI—Highly important		SI—Somewhat important		
I—Important		NA—Not applicable		
Source: Adapted from Bazemore 1997.				

It is also possible to entertain the possibility that none of these theories are really pertinent to explaining the positive impact on participant satisfaction documented in studies thus far. An alternative hypothesis is that the simple fact that more time is allotted to hear their case than is true in the court process accounts for greater levels of satisfaction. Another explanation consistent with theoretical work and research in procedural justice (Tyler 1990) would suggest that it is simply the fact of being treated fairly that accounts for satisfaction, rather than the completion of restorative outcomes, the focus on repairing harm, or the extent that a citizen-driven rather than a professionally managed

process helps parties connect or strengthen relationships. Some more recent work, however, also suggests that fair procedures make a difference precisely because they tend to communicate respect, emphasize pride in the group, and appeal to symbolic relationships (Tyler 1994; Tyler, Degoey, and Smith 1996). These findings also highlight the relational aspect of justice process encounters (Tyler 1994) and parallel the findings from recent studies of New Zealand family group conferencing. In the latter studies, the authors concluded—after considering a simplistic version of the procedural justice hypothesis that suggested satisfaction in conferencing was due to merely “having a say” in the outcomes—that victims were often dissatisfied when their recommendations were ignored or when outcomes were viewed as inappropriate (Morris and Maxwell in press, 13).

These questions about why restorative or other decisionmaking processes may influence participation satisfaction are by no means resolved, however, and key issues about the relative importance of restorative process versus restorative outcome remain unanswered. Moreover, research focused on restorative conferencing processes has yet to seriously examine relationship building as a key intermediate variable that may influence long-term outcomes. For now, it may be said that procedural justice theory, adapted to the consensual process of restorative justice, presents alternative hypotheses about conferencing outcomes. Ultimately, however, as Braithwaite (1998) suggests, what is distinctive about a restorative process may have less to do with fair procedures and more to do with deliberative justice:

The Western criminal justice system has, on balance, been corrosive of deliberative democracy, though the jury is one institution that has preserved a modicum of it. Restorative justice is deliberative justice; it is about people deliberating over the consequences of crimes, and how to deal with them and prevent their recurrence. This contrasts with the professional justice of lawyers deciding which rules apply to a case and then constraining their deliberation within a technical discourse about the rule application.

For purposes of this paper’s focus on the citizen and neighborhood group roles in enhancing both individual and collective outcomes in nonadversarial decisionmaking, what is important is how different priorities in various conferencing models might contribute to, or detract from, the attainment of these objectives. For example, how important is the dialogue between victim and offender, relative to ensuring that a maximum number of offenders is held accountable by repairing the harm or that a maximum number of victims receives reparation? Specifically, how important are each of these—as well as such objectives as denouncing the crime or maximizing citizen participation—in making things better for individual victims, offenders, and the communities in which they live? How important are these intermediate outcomes for increasing a community’s

capacity to control crime and for enhancing collective efficacy? Is it possible that a focus on any one of these objectives may diminish collective efficacy or harm individual offenders, victims, or their supporters, or damage the relationships among them? Optimistically, it may be said that each objective of conferencing is an important contributing factor to both individual and collective outcomes. Pessimistically, no one is certain about the answers to such questions or about the relative importance of each objective. Although uncertainty is to be expected, especially in field experimentation that is attempting to apply general principles in complex community contexts, the challenge for research and theory is to develop testable logic models, or intervention theories, which map and link inputs with various processes and intermediate outcomes. An even greater challenge is to link these intermediate outcomes with more long-term indicators of strengthened communities and restored victims and offenders.

To establish a base for making these difficult connections, it is important to explore in a practical and theoretical way why community involvement might make a difference for individual-level intervention outcomes and why conferencing might enhance collective efficacy. Based on the previous discussion, I suggest that the social relationship can become a core theoretical concept, helpful in linking restorative conferencing to both sets of outcomes.

## Why Community Matters

“Government is responsible for preserving order; the community is responsible for preserving peace” (Van Ness et al. 1989, 8).

Children grow up in communities, not programs. Development is most strongly influenced by those with the most intensive, long-term contact with children and youths—family, informal networks, community organizations, churches, synagogues, temples, mosques and schools. Development is not achieved only through services, but also through supports, networks, and opportunities. (American Youth Policy Forum 1995, 6)

By contrast, *public* controls can operate in the neighborhood without regard for *private* and *parochial* controls, although often not as well. For instance, the police can do their jobs regardless of the state of the local PTA. Further, police can make the streets safe so residents can attend the local PTA meeting. They cannot, however, make residents want to attend that meeting. Only well-functioning private controls can manage that. (Rose and Clear 1998, 294; emphasis added)

Is it not possible that the previously described restorative processes could not be designed and fully staffed and administered by paid justice professionals? Given the difficulties and risks in involving community members in decisionmaking, would juvenile justice systems not be better off adding staff and increasing training to allow courts, police, probation offices, and others to pursue restorative objectives?

A core premise of this paper is that ordinary citizens and community groups make a significant difference in achieving crime control and justice outcomes on two levels. First, community involvement can make a difference for victims, offenders, and their supporters, in the response to all crimes committed. Second, at the community level, citizen involvement in social control leads ultimately to lower crime rates and safer communities as communities learn and begin to affirm their collective efficacy (Sampson, Raudenbush, and Earls 1997). Though few in the restorative and community justice movements assert that the state has no role in a restorative process, the state is inherently viewed as limited in its ability to bring about meaningful changes for victims, offenders, and communities (Stuart 1995).

*Restorative conferencing is based in part on the assumption that the involvement of citizens and community groups—especially those attached in some way to victim and offender—will result in better outcomes for the latter.*

## **Transforming individual victims, offenders, and citizens**

Restorative conferencing is based in part on the assumption that the involvement of citizens and community groups—especially those attached in some way to victim and offender—will result in better outcomes for the latter. Moreover, several large restorative conferencing efforts have been based on the premise that citizens will be more supportive of justice processes to the extent that they participate in these processes (Dooley 1996; McElrae 1993). Outcome measures for restorative conferencing are not widely agreed upon. Although research provides strong empirical support for positive victim outcomes as a result of conferencing, theory linking conferencing to victim and community satisfaction is underdeveloped. However, several strands of theory are relevant to offender and other crime control effects that may result from community participation in such interventions such as conferencing. These may in turn suggest parallel theories of victim satisfaction and reintegration.

Although restorative justice practice is not associated with a specific etiological framework, restorative justice principles are consistent with several traditions in criminological theory (Karp 1997; Bazemore 1999a). At the macro level, ecological theories of community and crime focus on the relationship between structure and culture, as manifested in social disorganization and the inability of informal controls to limit deviant behavior (Sampson and Groves 1989; Karp 1997). At the micro level, social control perspectives (e.g., Hirschi 1969) emphasize the importance of the bond individuals have with conventional groups. This bond can be viewed as culturally and structurally fixed in the roles that individuals assume in the context of community groups and socializing institutions (e.g., family, work, school). This thereby accounts for informal constraints on deviant behavior, based on affective ties to significant others (teachers, parents), as well as on a more rational “stake in conformity” that limits individual criminal involvement by the risk posed by offending to future conventional opportunities (Briar and Piliavin 1965; Polk and Kobrin 1972). For those concerned with correctional intervention to rehabilitate offenders, a focus on strengthening this bond can also inform a reintegrative strategy.

At a more intermediate, interactional level of analysis, consistent with such social learning theories as differential association (Sutherland and Cressy 1978), the conferencing response to crime seeks to mobilize the influence of intimates and “communities of concern” (Stuart 1997) around the offender in order to promote resolution, accountability, victim awareness and reparation, and reintegration. Such informal processes may indeed be the first step in what some have labeled “reintegration ceremonies” (Braithwaite and Mugford 1994). Such ceremonies are clearly distinguished from the “status degradation ceremonies” of the formal court process and the isolation experienced by offenders in retributive processes (Garfinkel 1961; Stuart 1995; Wright 1991), which, consistent with the insights of societal reaction and labeling perspectives, are often said to be criminogenic (Becker 1960).

Though evaluation of conferencing is in its infancy, the consistency of findings from several unrelated bodies of research with the logic of conferencing interventions is also apparent. Specifically, research on the resiliency of children and youths who thrive and mature normally in high-risk environments suggests that—all other things considered—it is the presence of supportive adults in the lives of young people (not punishment or treatment interventions) that makes the difference (Rutter 1985). Similarly, longitudinal research on delinquents, including violent ones, also seems supportive of the view that relationships that facilitate access to conventional roles in work, family, and community account for maturational reform among young offenders (Elliott 1994). Finally, the research on community collective efficacy, noted earlier and discussed later, also has indirect implications for the prevention of and response to youth

crime. Specifically, in those communities where adults feel comfortable with, and capable of, sanctioning and support of other peoples' children—and generally where community members “do not mind their own business” (Braithwaite 1989)—crime is low.

At the individual level, this community-level finding could be translated into an intervention agenda designed especially to reconnect young people and adults and to promote both support and social control on the part of community and neighborhood organizations. Together, these theory and research literatures appear to support a naturalistic model of informal control and offender reintegration in which young offenders undergo reform as they build or strengthen relationships with law-abiding adults through experiences in new roles in which they are allowed to contribute to the community (Bazemore 1999a; Polk and Kobrin 1972). Conferencing in its current form may, of course, do nothing to support such relationship building; in the worst case, it may further weaken relationships. There have, however, been numerous examples in the relatively recent history of conferencing of how social support for offenders (Cullen 1994) can be mobilized as a common feature of the conferencing process (Braithwaite and Mugford 1994; Pranis 1998; Bazemore 1997; Stuart 1996). It is reasonable to suggest as an initial hypothesis that this support follows somewhat naturally from a process in which community members are invited to express feelings about the crime, hear the views of others—including offender and victim—and participate in decisionmaking that affects these stakeholders, while at the same time addressing public safety, censure, and reintegrative needs. If it can be shown that offenders, subsequent to the conferencing experience, follow through with their reparative obligations and “earn their redemption” (Maloney 1998a) in the eyes of conference participants, community acceptance may be a more likely outcome, and social support may be more likely to be forthcoming. This idea should be viewed at least as a hypothesis for empirical examination in systematic studies of offender reintegration following conferencing. Given the often similar and, at times, even greater reintegrative needs of victims, parallel hypotheses about support for victims in conferencing and its relationship to long-term satisfaction could also be developed and tested.

## **Collective efficacy and intervention in context**

The theoretical discourse around the concept of collective efficacy (e.g., Sampson, Raudenbush, and Earls 1997) is highly consistent with what has become a national dialogue about the role of citizens (other than social service or juvenile justice professionals) in the socialization of young people. Captured in this dialogue by such phrases as “it takes a village” and such initiatives as “communities that care,” these ideas have been focused primarily on the need to rebuild community support for youth development (Benson 1997; Hawkins



and Catalano 1992). Collective efficacy theorists make an important contribution to this dialogue with the added emphasis on the impact of informal neighborhood-centered sanctioning and social control.

A story told by the former lieutenant governor of Minnesota (cited in Pranis and Bussler 1997) illustrates the structural and cultural gap between youths and adults and the need to reestablish such informal controls. Lieutenant Governor Benson and her family were walking through a glass enclosure in Minneapolis, leaving a basketball game to return to a parking ramp. They passed a group of young adolescents engaged in horseplay. Because of the large amount of glass and the need for other people to pass through the area, Benson asked the youths to stop their activity. She continued on her way. Her son, however, noted that the boys continued fooling around. He turned and said, "Boys, didn't you hear what she said?" The lieutenant governor looked at her watch and added, "Now, we don't want you to get hurt, and by the way, isn't it time for you to go home?" As the Benson family turned to leave, one of the boys tugged the sleeve of the lieutenant governor and asked, "Do you work here?"

The lieutenant governor's story reflects one citizen's attempt to achieve social control based on an accepted community norm: safety. The story also reflects two points about our society: (1) The adolescent behavior toward the adults is a norm; (2) the adult behavior toward the adolescents is not a norm (Pranis and Bussler 1997). Many baby-boomers and older generations can recall a time when adults in their neighborhoods or small towns took responsibility for looking after neighborhood children other than their own. In effect, community members, with the encouragement and support of police, schools, and other institutions, often took care of problems that now end up in juvenile courts or diversion programs. One of the things neighborhood adults did, as Braithwaite (1989) states, was reinforce community standards, norms, and expectations. These adults set community tolerance limits and, through verbal or other sanctions (including telling parents), often persuaded youths to refrain from whatever troublemaking or annoying behavior in which they were involved. Thus engaged in expressing disapproval of behavior they viewed as wrong, neighborhood adults were generally able to maintain a relatively strong system of informal social control.

If asked whether adults engage in such informal sanctioning in our neighborhoods today, most people would have to acknowledge that they and their neighbors do not. There is widespread agreement that adults in the community are not participating in the rearing of other people's children in the ways they have in the past. Moreover, from their life experiences, today's youths expect that the only people who will speak to them about their behavior in public are members of their immediate family and people who are paid to do so.

As Pranis and Bussler (1997) remind us, the past 30 to 40 years may well be the first time since humans formed communities that parents, alone, have been expected to socialize their children to community norms 24 hours a day, without the reinforcement from other adults in the community, wherever the children may be. Indeed, the overwhelming nature of such an assignment contributes to the enormous stress experienced by families. Yet, the most important implication of this structural and cultural reality is for children and youths.

If the only adults who intervene in the lives of young people, other than family, are those who are paid—police, teachers, youth workers, and probation officers—then children may interpret this to mean that others do not care about them, that they do not belong to the community, that they are unimportant to the community. The implicit message to youths today—that the only ones who will bother with their lives are immediate family and professionals—is an extremely corrosive one that reinforces a world view quite distinct from the one many adults were socialized to accept. This is a world that does not encourage empathy or a sense of a common good larger than the individual interest (Pranis and Bussler 1997, 6).

Collective efficacy is, of course, not a program or even a policy. Although it may be certainly said that, at a macro level, communities achieve efficacy over time due to a variety of historic events, community and restorative justice concepts invite policymakers and theorists to think about implications for intervention of these core components of social disorganization theory. Building on the empirical and theoretical work of Sampson (1995) and others who have studied the impact of informal social control, Rose and Clear (1998) have recently speculated about the importance of both private (e.g., family) and parochial (e.g., school, church, neighborhood associations) controls (Hunter 1985) in maintaining low-crime neighborhoods, and the implications of both for justice intervention.<sup>11</sup> Depending on how conferencing programs are structured and implemented, they may weaken or strengthen both forms of informal controls. Alternatively, they may build on and enhance these controls. On the one hand, conferencing programs that tap into cultural and structural resources of community thereby provide the “space” and a vehicle for exercising informal sanctioning and social control. On the other hand, if the community role is poorly specified and citizens are ineffectively engaged, the former result is likely, and an expansion of justice-related services focused on individualizing the crime problem and removing at-risk community members may be anticipated:

A preliminary hypothesis is that services that are heavily focused on deficiency tend to be pathways out of community and into the exclusion of serviced life. We need a rigorous examination of public investments so that

we can distinguish between services that lead people *out of community and into dependency* and those that support people in community life. (McKnight 1995, 20; emphasis added)

After at least three decades of professionalization of tasks once handled by families, neighbors, teachers, clergy, and others, many communities will need time to discover or rediscover their collective efficacy in responding to crime and conflict. The good news is that a growing number of justice professionals seem to recognize that they have reached a crossroads in which neither the path toward a just-deserts focus nor an emphasis on better management, with due concern for what works in treatment intervention, seems to be a viable strategy (Dunlap 1998; Boland 1996; Perry and Gorczyk 1997). Although this paper will later consider the potential of the community justice movement to begin connecting theories of collective efficacy to intervention practice in the conclusion, it is important to acknowledge that these supportive professionals face a number of problems. A primary one is the practical distance between the theoretical and empirical basis for a new, more holistic approach focused on strengthening communities and the current intervention roles and job descriptions of police officers, probation and community corrections workers, prosecutors, and other juvenile justice professionals. Such professional limits on creativity in the response to crime indeed beg the questions of how criminal justice agencies can influence community capacity to prevent and respond to crime and disorder, as well as whether it should be their role to do so (Crawford 1997, ch. 6).

## Implementation and Evaluation Challenges

In the vision of restorative conferencing presented in this paper, citizens and community groups are viewed as resources in interventions designed to address the needs of victims, offenders, and communities. They are also viewed as leaders who begin, at the micro level, to build collective efficacy. Issues of implementation in this optimistic model would focus first on how citizen participation can be engaged and sustained. A second general concern is how juvenile justice agency mandates and professional roles can be changed to facilitate citizen involvement and community building. If, as argued thus far, restorative conferencing offers more than meets the eye, policymakers who support implementation of conferencing and, especially, evaluators who must assess both quality of implementation and impact must also consider the possibility of a less optimistic future.

## **The current reality: Conferencing as *less than meets the eye***

Today, thousands of cases are processed through U.S. juvenile courts and systems that are ever more bureaucratic in nature and increasingly punitive in focus. At one end of these systems, there has been a profound increase in this decade in the number of offenders transferred to adult courts, and there is a much greater array of mechanisms (e.g., statutory provisions, prosecutorial direct file) in virtually every State for executing such transfers (Torbet et al. 1996). Although a number of these offenders will serve time in adult prisons whose populations now include unprecedented numbers of juveniles, on the other end of the system are traditional juvenile court decision-makers who, having lost much of their discretion over placement of serious juvenile offenders, seem ironically to be playing a greater role in the response to minor offending, youth conflict, and trouble. As some of these decisionmakers reassume jurisdiction over truants and other status offenders, for example, courts seem to be taking increasing responsibility for problems that two decades ago were handled primarily by schools, families, and community groups.

At both these extremes, and between them in probation and day treatment interventions for moderate-risk offenders, youths are processed, monitored, and treated in programs that are increasingly professionalized in focus and increasingly disconnected from communities. Although the juvenile court may survive efforts to abolish it (Feld 1999), as suggested by the title of an article arguing for retention of the court subtitled “Leaving bad enough alone” (Rosenberg 1993), the primary rationale behind support for retaining the court may be that criminal courts and adult corrections are viewed by most people as worse. Although there are better reasons for preserving a juvenile court, and realistic models for reform (e.g., Bazemore 1998b), valid concerns may be raised that restorative conferencing for young people may simply be appended to juvenile justice systems, also adding other numerous and rather dubious programs and innovations as part of a desperate search for legitimacy.

If there is good news in the fact that many juvenile justice systems are offering an open door to restorative conferencing, there is some concern that this entrance may also be a “trap door.” Unfortunately, conferencing is now being literally dropped into, or alongside of, juvenile justice systems that are quickly becoming more retributive in nature, while seeking to retain some semblance

*If there is good news in the fact that many juvenile justice systems are offering an open door to restorative conferencing, there is some concern that this entrance may also be a “trap door.”*

of a commitment to a social welfare/treatment agenda (Feld 1999; Torbet et al. 1996). In most instances, little consideration has been given to how and whether the restorative justice agenda fits, or does not fit, with the priority of these new dominant orientations. As a consequence, some conferencing models seem prone to taking on a life of their own as ancillary programs outside the context of communities and irrelevant to dominant justice system responses to crime. At best, they may accomplish many of their individual healing and reparative objectives, albeit for relatively small numbers of individual participants. At worst, they may perpetuate an individualized form of justice that merely replicates court processes without safeguards or become an irrelevant or even harmful appendage to diversion programs.<sup>12</sup>

In the context of this expansionist agenda, one underlying concern of some community justice advocates and proponents of collective efficacy theories is that justice systems may themselves undermine the capacity of communities to resolve their own crime problems directly and/or their capacity to maintain core institutions of socialization and influence. The decline of civil society in turn necessitates even further intervention by the state, which creates a downward spiral of disorder and disenfranchisement (Skogan 1990). Although some have emphasized the negative impact on community social control of incarceration policies within larger punitive paradigms (Cullen and Wright 1995; Rose and Clear 1998) in the youth crime context, it is important to ask questions about the ways in which generally more benign juvenile justice interventions may have reinforced a process by which community adults and adult institutions appear to have become hapless in socializing young people.

Several developments in U.S. juvenile justice policy have expanded the government role in social control while undercutting the community's role. The 1960s movement away from informal neighborhood policing, which emphasized local responses to crime, toward centralized intake bureaus where juvenile justice professionals process young offenders through courts and treatment programs (Wilson 1967) is one example. Similarly, three decades of failure in the experience with juvenile diversion programs in the United States (Polk 1984; Ezell 1992) can teach related lessons about the intrusiveness and expansiveness of early intervention programs and the social service bureaucracies that support them. The general problem with diversion was, moreover, more complex than is reflected in the term "net widening." Rather, the professionalization and centralization of the response to youth crime was associated with an expansion of the justice system role and with a failure to distinguish between interventions that strengthened both youths' commitments and youth-adult relationships and those that further stigmatized and excluded young people, isolated youths from conventional adults, and usurped the community's responsibility. The problem,

moreover, was not government itself, but a failure to define a suitable role for government. When the role of the justice system is not clearly defined in concert with the community's role, justice and service bureaucracies are likely to overextend their reach, and programs will often make matters worse by aggravating processes of marginalization (McKnight 1995).

### **Systemic change: Changing government roles, relationships, and mandates**

One practitioner, Pranis (1996), has envisioned an evolving relationship between justice systems and communities in which the government role is slowly transformed in relation to an expanded community role. This change in the system role, from an expert crisis manager with no need for input to a partner with the community, occurs as citizens take on more responsibility and provide more input in an emerging collaborative process. Stages along the way may reflect intermediate steps in which the justice system attempts to become more information driven (Clear 1996) and community focused (a stance in which information is seen as valuable and interventions focus on community-level outcomes; citizen involvement, for example, is seen as an important goal), before reaching the highest level of collaboration in which the system may be said to be community driven.

In the case of restorative conferencing, one specific component of this emerging new relationship is the extent to which a conferencing process depends on courts or other government agencies. Some relationship with formal justice agencies is almost always necessary (e.g., for referrals). What is at issue, however, is the extent to which the process is driven by system needs—for example, to reduce court dockets or divert offenders—rather than the needs of citizens, victims, and offenders (Van Ness 1993). The issues of discretion and gatekeeping also raise questions about the degree of power sharing in decisionmaking and the role of the formal system in the process. Unintended consequences of collaboration with formal agencies might include co-optation of the conferencing process (Bazemore 1997; Griffiths and Hamilton 1996); extreme independence, on the other hand, may lead to irrelevance and marginalization.

*The problem facing youth justice reformers today is that the responsibility of juvenile justice agencies for youth socialization has become far too broad at a time when their jurisdiction, mandate, and discretion have been drastically restricted.*

To allow restorative conferencing to flourish as a community-building response to youth crime, juvenile justice agencies and juvenile justice professionals will need to exercise leadership to facilitate what is essentially a transfer of at least some power to community decisionmakers. The problem facing youth justice reformers today is that the responsibility of juvenile justice agencies for youth socialization has become far too broad at a time when their jurisdiction, mandate, and discretion have been drastically restricted. With extensive use of restorative conferencing options, a revitalized future juvenile court and justice system could acquire a broader mandate and vision while, at the same time, assuming less responsibility for decisionmaking tasks best accomplished by citizens and community groups.

A broader mandate and circumscribed responsibility for the court, within the context of an expanded role for the community, might have several implications. First, the court has legal and advocacy functions that will be even more important in the future, and it should have an active leadership role to play in restorative community justice. Even assuming systemic change that drastically reduces the formal role of the court and expands the informal role of the community, the formal roles of judges, prosecutors, defenders, and the legal system are unlikely to be in jeopardy. Restrictions on the responsibility of the court would be felt primarily in the dispositional realm. Specifically, the court would, as illustrated most explicitly by the New Zealand reforms (e.g., McElrae 1993), cede primary decisionmaking power to the community for determining the nature of sanctioning responses to youth crime. Once guilt has been admitted or determined, in the majority of cases, community panels or conferences, with facilitative support from the court, could make these decisions more sensitive to the needs of crime victims, offenders, and their families. Braithwaite and Parker (1999) have, in addition, suggested that the court should maintain a review and oversight role to protect against possible "tyranny of the community" and unfairness to offenders and victims, if and when these emerge in the informal setting of conferences.

Second, freed from a large part of its dispositional responsibilities, the court's authority could be used to support a larger community and social justice agenda by influencing school policy, housing practices, family support services, and access to employment and recreational activities. While becoming an advocate for victims' needs, the court might also use its legal authority to remedy institutional practices in schools, the workplace, and communities that may not only violate the human rights of young people and their families but also diminish the likelihood of their healthy development. At a more micro level, the most important change would involve a transformation in the role of juvenile justice intervention staff from service and surveillance providers within a casework



framework to facilitators of community justice that is focused on collective, as well as individual, outcomes (Dooley 1998; Maloney 1998b).

## **The community role and citizen involvement**

The tentative theories and sensitizing concepts proposed thus far in support of expanding the importance of citizen and community involvement in response to youth crime also raise fundamental empirical implementation questions about whether, and to what extent, community members are willing to participate. In addition, the implicit assumption that community groups practicing the conferencing process will build skills and capacities necessary to sustain such process is an untested one. Though conferencing is a new and emerging field, the now extensive research literature on the citizen role in community crime prevention is less than hopeful in its conclusions about both of these issues (e.g., Rosenbaum, Lurigio, and Davis 1998). Numerous studies of citizen participation in prevention initiatives suggest generally low levels of participation, and predictive factors indicate that those communities and individuals most affected by crime are the least likely to get involved. Regarding sustainability, Rosenbaum's "implant hypothesis"—in which it is suggested that formal social control agents can sow seeds of informal crime prevention in communities that will grow into strong, vibrant, and resilient neighborhood ventures—has not yielded positive findings for those hopeful about the prospects for community capacity building:

[This research] leaves unanswered the fundamental question of whether the *introduction* of a community crime prevention program (and Neighborhood Watch in particular) can make a difference in the perceptions, attitudes, and behaviors of local residents. The important question here is whether informal social control (and other processes supposedly activated by watch-type programs) can be *implanted* in neighborhoods where they have not naturally developed. Let us refer to this as the implant hypothesis. (Rosenbaum 1987, 108; emphasis in original)

The suggestion that conferencing programs are much better suited to build and sustain local capacity for informal social control is based on logical (and hopeful) assumptions that the more empowered decisionmaking roles offered by conferencing will make the difference in both participation and the ability to build community. This logic and hope, however, is not yet supported by strong evidence.

Currently little is known about the empirical determinants of community participation in justice decisionmaking generally, and in conferencing specifically. What has been learned from the conferencing experience, however, seems to

challenge the commonly accepted wisdom of an apathetic public. Though they are only case studies, the experience in New Zealand with family participation and victim involvement in family group conferencing has been positive, as has the participation rate of victims, families, and support group members in some other forms of youth conferencing in the United States and elsewhere (Hudson et al. 1996b; Maxwell and Morris 1996; McCold and Wachtel 1998). Citizen involvement in Vermont's reparative probation program has sustained statewide volunteer boards for nearly 5 years (Perry and Gorczyk 1997), and hundreds of citizens in an estimated 10 States have participated in neighborhood youth panels or accountability boards that have existed in some jurisdictions for several decades (Bazemore 1997). What is not well understood at this time are the predictors of citizen involvement and the correlates of sustained participation. We are also both optimistic and uncertain about the extent to which restorative conferencing interventions can engage citizens in a more efficacious manner than other volunteer initiatives in juvenile justice.

At this stage in the development of restorative conferencing initiatives, a key implementation and evaluation issue is to develop dimensions for, and begin to assess, how community is defined and targeted for intervention, how citizens are recruited and involved in the conferencing process, and what role citizens and community groups are allowed to play vis-a-vis the role of the juvenile justice professional when and if discretion is shared and transformation occurs in the relationship between justice systems and the community (Bazemore 1998a).

## Discussion

Although I do not wish to minimize the potential healing value to even small numbers of victims and offenders who participate in conferencing programs that may persist as small, marginal alternatives, I have argued here for a much broader role for conferencing and a very ambitious agenda in community building. Such an agenda would seek to move conferencing beyond the level of a few diversion programs to the status of a full-fledged alternative, community-based decisionmaking process. At a minimum, this agenda would seek to avoid the potential harm of conferencing as it may be used to simply expand the reach of the formal system.

Because it is in communities, not courts and programs, where standards of behavior are affirmed and individuals are held accountable for their actions, it is not surprising that the formal juvenile and criminal justice response has had minimal positive impact. Indeed, David Moore (1994, 11) writes that although "formal procedures of the justice system provide important safeguards for rights," these same procedures may also

[D]eprive people of opportunities to practice skills of apology and forgiveness, of reconciliation, restitution, and reparation. In assuming responsibility for social regulation when a citizen breaches a law and thereby challenges the moral order, the modern state appears to have deprived civil society of opportunities to learn important political and social skills.

Is it possible to reverse this process by clarifying both a government and community role in crime control? In an important sense, restorative conferencing may be viewed as part of an effort to rediscover a collective response to crime as a community concern in an era in which this response has been increasingly individualized and the citizen role in informal sanctioning and social control has been greatly diminished. A reinvention of viable neighborhood responses will not therefore be easy. Some communities may be highly resistant to taking on increased responsibility after being told for years to “leave crime to the experts” (Rosenbaum 1988). In addition, as suggested in an early critical review of the community policing experience in the 1980s, community justice may ask too much of citizens who must

[S]hake off fear of crime by forming “partnerships” with the police, and re-establish community norms that will successfully resist the encroachments of the criminal element. Unfortunately the early returns from the field suggest that successes in this regard are modest, that community policing initiatives have so far failed to tap the great wellspring of “community” believed to lie waiting for the proper catalyst. (e.g., Rosenbaum 1988, 375)

## **Moving forward: Conferencing, efficacy, and community justice**

Given the limitations of current responses, where does restorative conferencing fit into a larger, if appropriately modest, vision of community collective efficacy? I have implied thus far that involvement in nonadversarial restorative conferencing may be one indicator of an emerging new relationship between government and community in the response to crime, with the latter in a more empowered leadership role (Pranis 1996; Van Ness and Strong 1997). To begin to outline a strategy for moving forward, it is important to first place conferencing within the larger context of an emerging community justice movement.

*By engaging citizens in the concrete task of crafting a practical response to crime, based on defining harm and developing obligations or sanctions focused on repair, conferencing may provide a key element heretofore missing in community prevention initiatives: sustained community involvement.*

The promise of conferencing models is that they will provide a context for citizens to come together for a practical purpose in a process that may mobilize and link (through participation of family members, neighbors, and community groups) both private and parochial controls. Such controls have proven in community crime prevention efforts to be most difficult to activate, in part because community police and other practitioners have been unable to identify meaningful roles for community members beyond initial attendance at community meetings (Skogan 1998; Buerger 1994). By engaging citizens in the concrete task of crafting a practical response to crime, based on defining harm and developing obligations or sanctions focused on repair, conferencing may provide a key element heretofore missing in community prevention initiatives: sustained community involvement (Rosenbaum 1988; Rosenbaum, Lurigio, and Davis 1998). By bringing families and other sources of private control together, conferences may develop informal resource networks or channels of communication and dialogue that lead to stronger parochial controls (cf. Hunter 1985; Rose and Clear 1998).

The apparently more micro agenda of restorative conferencing (private controls) may complement the generally more macro focus on community building and other collective outcomes of community policing and other community justice interventions (parochial controls) (cf. Crawford 1997, ch. 6; Clear and Karp 1999). On the one hand, it can be said, for example, that community policing interventions may pay inadequate attention to the individual and interpersonal needs of victims and other stakeholders directly associated with individual incidents of crime. Meeting such needs is, of course, the primary concern of most practitioners of restorative conferencing. Because they generally owe primary allegiance to the individual participants in specific restorative encounters, these practitioners may, on the other hand, ignore larger community concerns (and remain somewhat marginalized in their impact). Restorative conferencing advocates can therefore learn much from the more macro perspectives of some community justice advocates—especially those focused on the need to minimize the harm of intervention on the collective efficacy of minority neighborhoods (Rose and Clear 1998). To the extent that these differences in micro versus macro focus remain, they can be made to work together in a way that is mutually reinforcing.

## **Moving forward: Conferencing, efficacy, and community learning**

Regarding restorative conferencing, proponents of the theory of collective efficacy might pose two related questions. The first would be whether or not such interventions could become so widespread that they were available and widely

used in response to youth crime by police, schools, and courts. Although this question would imply that conferencing should become a neighborhood institution, an even broader question might be: How can such an intervention create a climate in which a restorative process is the normative response to conflict and harm?

Prior research on the sustainability of conferencing notwithstanding (Rosenbaum, Lurigio, and Davis 1998), the answer to both questions must assume a community learning process. As Judge Barry Stuart (1995, 8) has suggested, community learning requires practice:

When citizens fail to assume responsibility for decisions affecting the community, community life will be characterized by the absence of a collective sense of caring, a lack of respect for diverse values, and ultimately a lack of any sense of belonging. Conflict, if resolved through a process that constructively engages the parties involved, can be a fundamental building ingredient in any relationship.

Although assessing community learning may seem complex in one sense, in another, such impacts are gauged by the extent to which processes are repeated successfully and by the extent to which conferencing programs begin to address more serious problems and to accept more serious offenders. In essence, each restorative conferencing ceremony can also be viewed as a demonstration that, when successful, builds confidence elsewhere in the community that citizens are capable of resolving conflict. As Hudson and colleagues (1996a, 3), suggest:

Conferences can also be seen as an educational tool, a forum for teaching and practicing problem-solving skills. Family members can learn and practice these skills and learn about the strengths of family members and the resources available to them; young offenders can learn that their actions have real consequences for victims and that they are able to make amends.

Proponents of restorative justice approaches are indeed engaged in micro attempts to build community from the ground up using the vehicle of sanctioning ceremonies. Although the prospect of such activity causing systemic change in criminal justice seems remote, other examples of community organizing suggest that it is often one signifying incident (e.g., a police shooting) that mobilizes neighborhoods to implement reforms. It might not stretch this analogy too far to argue that new awareness of the crime problem in a community, growing problems with neighborhood young people, concern about increased victimization, or a particularly disturbing case could provide a wake-up call to at least a few citizens or neighborhood groups, who then band together to initiate fundamental change in the response to crime.

Moreover, the cultural significance of stories about both personal victim and offender transformation and community and relationship building that are becoming common among conferencing practitioners may begin to provide a counterbalance to the crime horror stories that dominate the media and drive criminal justice policy (Pranis 1998). In so doing, the stories could enhance the strength of emerging grassroots support by providing a kind of folklore that illustrates a much wider range of possibilities in the community response to crime. In addition, consistent with Naroll's theory of "snowballs" (1983), as the conferencing process is repeated, discussed, and publicized often enough in what some see as a period in which policymakers sense that they have reached the limits of the punitive and individual treatment responses, a broader cultural learning process may be initiated (Stuart 1995; Braithwaite and Mugford 1994). Such a process may allow these alternatives to slowly seep into the cultural repertoire of potential responses to crime and to the harm that crime causes.

Although the hope for cultural change in a direction supportive of restorative conferencing by means of widely repeated demonstrations of successful restorative responses seems farfetched, Schweigert (1997) suggests that the emerging restorative justice agenda for "community moral development" has several characteristics in common with other successful social change movements. These include a blending of means and ends, or process and outcome (e.g., conflict resolution and informal social control mechanisms), that allows for multiple and ever widening impact, as the means themselves result in outcomes which are unforeseen by the actors involved, yet are consistent with the basic principles. Moreover, restorative justice reforms build on community assets (Benson 1996), follow the lead of "citizen politics" in their adaptability, and focus on local communal traditions while using professionals as catalysts and facilitators. Restorative conferencing demands and encourages collaboration and allows for "free space" or "space between places" in social relations, where individuals and communities and the formal and informal intersect. The latter characteristic encourages victims, citizens, and offenders in conferences, mediations, and other processes to resolve conflict in a way that is potentially transformative for communities and that integrates effective ties and emotions, based on communal norms, with the universal norms of the legal system that provides rational transcending standards (Schweigert 1997).

## Conclusion

This paper has argued for a broader and more optimistic vision of conferencing that connects these informal decisionmaking models to a broader community justice movement and to a theory of collective efficacy. A core component of this linkage is the concept of the social relationship and the basic idea that

crime is both a result and a cause of weakened relationships. In the context of community, restorative conferencing advocates might envision their mission as seeking to break the cycle of crime, fear, and weakened relationships with an intervention agenda that has a primary objective to repair harm by strengthening interpersonal and community relationships. In making stronger relationships a primary intervention outcome, they may offer a more holistic approach to addressing sanctioning, safety, preventive, peacemaking, and rehabilitative needs. Ultimately, restorative justice suggests that the capacity of these models to affect and even transform formal justice decisionmaking lies in their commitment to the potential power of victim, offender, and community, if fully engaged as partners in meaningful decisionmaking processes. If citizens increase participation in conferencing processes that express or operationalize restorative principles and that actually achieve sanctioning, rehabilitative, and public safety objectives, they may in turn begin to demand more involvement in decisionmaking.

The real gamble for advocates of restorative conferencing is that citizens will indeed want to learn how to resolve conflict and to respond more effectively to crime. Yet, from a restorative justice perspective, one important root cause of crime is community conflict and disharmony. And because neither justice nor public safety can be achieved by a government war on crime, peacemaking, dispute resolution, and rebuilding right relationships may be seen as the most viable, if not the only, alternatives (Van Ness et al. 1989).

## Notes

1. In some jurisdictions (especially in the United States), conferencing will therefore compete for low-level cases with police cautioning, teen courts, arbitration, and other diversion alternatives. In other jurisdictions (e.g., South Australia and much of Canada), conferencing may be carefully placed within a continuum of restrictiveness to minimize net widening. Such placement, however, may also circumscribe and compartmentalize application of these approaches (Griffiths and Corrado 1999).
2. Although the community justice movement in the 1990s was strongly influenced by the community-oriented policing literature and practice of the 1980s (Wilson and Kelling 1982; Sparrow, Moore, and Kennedy 1990), community courts, community prosecution, community defense, and a range of preventive initiatives are now also included under the community justice umbrella (U.S. Department of Justice, NIJ 1996). In some instances, a community justice initiative may include a restorative justice focus; in other cases, the two may be highly compatible, if not indistinguishable. In Denver's community prosecution initiative, for example, restorative conferencing is a fundamental feature of a larger initiative aimed at the overall goal of building community capacity to respond to crime.



3. Although this paper focuses on conferencing as a decisionmaking process to determine sanctions, many conferencing processes are highly portable. Many are being used in schools to resolve conflict and avoid student suspension, in residential facilities to respond to infractions, and in a wide variety of settings as a preventive or problem-solving measure.

4. With the exception of some youth development initiatives (Pittman and Fleming 1991), selected "communities that care" programs (Hawkins and Catalano 1992), and some school-based organizational reform initiatives (Gottfredson and Taylor 1988), few juvenile justice interventions are even implicitly linked to broader theories of community. Even efforts to view families as part of a social ecological system for purposes of multisystemic inventory do not seem to engage theories of the community and crime, and certainly the most highly touted intervention programs in the "what works" literature appear to be based primarily on theories of individual disturbance (Andrews and Bonta 1994) without reference to a community or institutionalized theory perspectives (Gaes 1998; Bazemore 1999b). In the absence of a community-level perspective, practitioners as well as theorists may be vulnerable to what Sampson and Wilson (1995, 4) refer to as "kinds of people analysis" that cannot take account of "how social characteristics of collectivities foster violence (and crime)."

5. Such exclusion occurred, at least inadvertently, in the first few years of this decade when most people who knew the term essentially equated restorative justice with victim-offender mediation. It is important to note that there are multiple variations of generic conferencing models, such as family group conferencing, that are based on important distinctions between whether the process is administered by police officers, point in the system when conferencing occurs, and so on (Hudson et al. 1996a). It is impossible to do justice to these variations in this paper. The idea of asking the right questions, based on such principles, will be expanded in more detail in this paper. This inclusion of a variety of decisionmaking encounters under a heading such as "restorative conferencing" will no doubt be opposed by many practitioners who identify conferencing with one model, such as family group conferencing, or with a particular type of process, such as mediation or consensus-based decisionmaking.

6. In the United States, where it is fair to say that restorative justice is not as widely understood as it is in much of the world, restorative justice has been incorrectly presented as everything from "shaming" sentences (Kahan 1996) to confrontational approaches such as Scared Straight (Levrant et al. 1999) to more benign and generally progressive interventions, such as Boston's Operation Nightlight Program, which have no clear relationship to restorative justice. This inclusiveness may perhaps be viewed as positive in the short run because it has helped to broaden interest in restorative justice and conferencing in a very short time.

7. Faith communities, in fact, supported restorative justice in the 1980s primarily as an alternative to incarceration and as a philosophy sympathetic to community concern with prison inmates. Though this tendency remains today, it has been muted to some extent by the new emphasis on victim needs in the restorative justice movement.

8. Finally, it is important to note that restorative conferencing has also been influenced and supported, at least indirectly, by several parallel movements with no direct relationship to criminal justice. In fields as diverse as industry, labor relations, education, environmental regulation, hospitals, organized religion, and family dispute resolution, various conferencing models, including circles and family group conferencing, have been used for some time as conflict resolution techniques. Some have also noted that the movement is linked to much broader changes in the way decisions are being made and conflict is being resolved in a variety of institutional contexts. Use of conferencing in schools, for example, has implications for making conferencing and restorative values a part of both the broader culture and the repertoire of responses to harmful behavior, and such applications may ultimately increase the resilience and sustainability of these approaches (Shaw and Jane 1998). There are also more opportunities for alliances with parallel reform movements in criminal justice that have not been fully exploited in the restorative movement in the United States. These include other nonadversarial approaches, such as drug courts, therapeutic jurisprudence, peer mediation, and some teen courts.

9. Regarding gender differences, conferencing may be implemented in such a way that it overlooks important differences and is even insensitive to the needs of young women in the same way that this has occurred in other intervention and treatment programs (Bloom 1998; Adler and Wundersitz 1994). On the other hand, its fundamental emphasis on the importance of relationships and emotional expression may ultimately make restorative conferencing even more appropriate than other interventions in work with female offenders and victims.

10. In this sense, reintegrative shaming departs both from retributive approaches, which in condemning the act also condemn the actor, and the welfare model, which views unacceptable acts as symptoms of deeper problems that should invoke sympathy for the offender rather than condemnation. Communities should neither excuse nor condone the unacceptable act but also should not condemn the actor (Hyndman, Moore, and Thorsborne 1994). As some have suggested, differences between reintegrative shaming and stigmatization (or disintegrative shaming) resulting in “disgrace shame” may be subtle in implementation, and even completely blurred when police officers (rather than family and intimate adults) take the primary role in the shaming ceremony (Adler and Wundersitz 1994).

11. The primary focus of these authors is in fact on the thesis that the increase in incarceration has greatly weakened both forms of control in poor and minority neighborhoods.

12. In this context, it is also important to address the question of potential negative effects that might result from proliferation of restorative conferencing (e.g., Levrant et al. 1999). This empirical question of unintended harm must, of course, be asked in light of a thorough consideration of many other longstanding juvenile and criminal justice interventions already known to cause demonstrable pain to young people and disruption to community life (Rose and Clear 1998). A comparative examination of the unintended consequences of preventative, treatment, and diversion programs generally viewed as benign, for example, is likely to reveal that these have increased the number of young

people who are channeled into systems that are essentially about illegitimate identities (Polk 1994). From this perspective, one must not ask simply whether restorative conferencing may inadvertently cause harm to offenders or victims but, rather, if it will exacerbate harm due to largely pervasive problems, such as net widening.

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