

**RESTORATIVE JUSTICE
ON THE COLLEGE CAMPUS**

RESTORATIVE JUSTICE ON THE COLLEGE CAMPUS

Promoting Student Growth and Responsibility, and
Reawakening the Spirit of Campus Community

Edited by

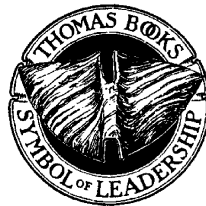
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To Gina, Julia, and Abby, who balance my labor with love.

David R. Karp
January 2004

I want to express my heartfelt appreciation to my beloved coach and guide, Larry, and to Paul, a true brother in every sense, for their continued support of this project and of me.

Thom Allena
January 2004

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PREFACE

Since 1996, we have been advancing the idea that restorative justice is the best approach to campus disciplinary problems. One of us (Thom Allena) helped the University of Colorado implement the first restorative program in a large university setting. The other (David Karp) helped to do the same at Skidmore College, a small liberal arts college. The settings are different, and so are the practices developed: Thom trained staff to conduct restorative conferences, while David adapted Vermont Department of Corrections' Reparative Probation Program for use by Skidmore's Integrity Board. The differences, however, are less important than the common underlying philosophy of restorative justice and its suitability to the disciplinary problems of college students, be they big 10 or little arts.

Restorative justice is a new response to criminal incidents. It has quickly become an international movement with programs proliferating particularly in the United States, Canada, Great Britain, Australia, and New Zealand (Roche 2003). It has become a dominant model guiding juvenile justice practice in the United States with substantial federal support (Office of Juvenile Justice and Delinquency Prevention 1998). It is increasingly used in K-12 school communities (Karp and Breslin, 2001; Cameron and Thorsborne, 2001). Restorative justice can be defined as a collaborative decision-making process that includes victims, offenders, and others seeking to hold offenders accountable by having them (1) accept and acknowledge responsibility for their offenses, (2) to the best of their ability repair the harm they caused to victims and communities, and (3) work to reduce the risk of reoffense by building positive social ties to the community.

Although some colleges and universities have adopted restorative practices, very little has been written about its use in the college setting (but see Karp, Breslin, and Oles, 2002; Warters, Sebok, and Goldblum, 2000). Colleges and universities are surprisingly lagging behind others in their exploration, experimentation, and institutional adoption of restorative practices. Nevertheless, enough work has been done to merit focused attention. We have assembled a distinguished group of scholars and student

affairs professionals to examine the problem of student discipline and the potential of restorative justice as a proactive, educational response.

This book has four sections. The first section provides an overview of restorative justice and an evaluation of contemporary practices in student judicial affairs. The second section introduces the major restorative practices: accountability boards, conferencing, and victim offender mediation/dialogue. Each chapter that describes a practice is followed by a case study illustrating how the models have been used. The case studies not only illustrate best practices, but also identify obstacles and issues to consider.

The third section identifies particular problem areas from binge drinking to plagiarism to date rape. The authors provide an overview of the nature and prevalence of each problem, and again case studies follow for illustration. Several case studies consider particular applications such as a conference to address the misconduct of a student with a drinking problem. Two case studies look at broader policy and program questions such as the failure of speech codes to effectively address bias-motivated harassment and how restorative practices may provide an effective alternative. The second looks at the sexual assault services provided at one university and how its attention to victims' needs exemplifies the restorative justice concern for addressing the harm of an offense. The final section of the book includes an epilogue that speculates on the promise of restorative justice for the current generation of students and their particular set of assets and challenges.

We are grateful to our colleagues who contributed to this volume, and especially to the student affairs professionals nationwide who are willing to try new practices in their efforts to improve the lives of those who live, work, and study in the campus community.

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**RESTORATIVE JUSTICE
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Part I

INTRODUCTION

Chapter 1

INTRODUCING RESTORATIVE JUSTICE TO THE CAMPUS COMMUNITY

DAVID R. KARP

THE DISCIPLINARY PROBLEM

Although restorative justice is a new concept, there are already dozens of empirical evaluations demonstrating its effectiveness in criminal justice (see Braithwaite 2002 for a review). Participants tend to be more satisfied by their experiences with this process as compared with traditional court processes, and recidivism rates for offenders in restorative justice programs are lower than for those who received traditional sentences. On the basis of its rapid proliferation and successful outcomes, we find sufficient grounds for its adoption in campus judicial affairs. But there are other reasons as well. Restorative justice may be particularly well suited to campus communities because of their democratic and egalitarian ethos and educational mission.

The problem of student misconduct has several interrelated dimensions. First, students arriving on campus as freshmen experience a sudden, dramatic loss of supervision. Many of these students have not developed strong internal controls to regulate their behavior. This is especially true for students coming from very authoritative homes, where self-regulation was not cultivated (Colvin, 2000). For students whose behavior has been largely dependent on external controls, the liberated college environment may come as quite a shock.

Second, arriving students, who are anxious to make friends and establish a sense of belonging, are strongly pressured by peers to “party” with alcohol and other drugs. Prior research suggests that students overestimate the actual degree of alcohol and drug use by other students and seek to conform to the perceived norm (Perkins and Berkowitz, 1986). Research also shows that drug and alcohol use, and binge drinking in particular, is correlated with reduced academic performance. Even students who exercise modera-

tion are affected by property damage and unwanted sexual advances (Wechsler et al., 1994).

Third, student culture is at odds with mainstream society and legal codes with regard to drug use and underage alcohol consumption. Survey data from 2001 reveal that 85 percent of college students had consumed alcohol in the year prior to data collection and 36 percent had smoked marijuana. It should be noted that 65 percent of the survey sample was under age 21 (Core Institute 2003). College alcohol and drug policies, which obviously must comply with the criminal law, are accorded scant legitimacy among students. This dissensus creates an adversarial relationship between students and administration (as well as campus safety officers). Faculty members are caught in the middle and tend to remain awkwardly neutral about student extracurricular conduct. Campus life is strangely bifurcated. Students describe professors as their primary non-peer role models, yet the social control faculty exert in the academic sphere does not extend to the students' residential lives. In that realm, students largely fend for themselves.

Fourth, colleges typically rely on coercive techniques to gain compliance with college policies and the criminal law because they have had little alternative. Since college administrations cannot rely on student internal controls, and since dissensus precludes them from appealing to universal moral codes, administrators are forced to increase surveillance and punitive sanctions. This creates a conundrum because higher educational institutions in the United States often operate as cloistered liberal polities. While campuses generally repudiate authoritarian social control, they increasingly rely on the techniques of the police state to enforce campus policies. However, campus safety departments are rarely adequately staffed to accomplish coercive control, municipal police are not invited on campus, students remain largely free to consume drugs and alcohol at will, and an unlucky few are subject to increasingly harsh penalties when they are caught. Failing to achieve any deterrent effect, a common student reaction is that a few students are unfairly singled out for a punishment and call for campus officials to look the other way and leave them alone.

Fifth, because a quarter of the student body is new each year, disciplinary approaches must be educational and ongoing. Smith and Dickey (1999) describe a Milwaukee neighborhood street corner where the drug trade thrives. In a three-month period in 1996, 94 drug arrests were made, and most of those arrested were convicted and sentenced to two years in prison. Nevertheless, the drug trade continued unabated. The removal of one dealer merely created the opportunity for the next dealer to stake his claim on the corner. Just as Milwaukee police officers could not arrest their way out of the drug problem, colleges cannot effectively respond to student disciplinary problems (including the drug trade) through apprehension and removal. The continual student population turnover guarantees that indi-

vidual-level solutions cannot resolve community-level problems. Instead, solutions must continuously strive to socialize students to be community members who are able to consider the consequences of their behavior on the welfare of the community (DeJong et al., 1998).

The restorative approach described here offers a communitarian alternative to liberal avoidance and conservative crackdowns. It is an approach that focuses on moral education by integrating academic learning, student participation in the campus judicial process, and restorative justice principles. The approach is a response to both individual misbehavior and campus dissensus.

RESTORATIVE JUSTICE: PRINCIPLES AND VALUES

Restorative justice is an approach to criminal offending that emphasizes values of democratic participation, inclusion, and stewardship (Clear and Karp, 1999). Restorative justice encourages dialogue among victims and offenders to construct plans of action that hold offenders accountable and meet victims' needs. This approach may be effectively extended to the college arena, where misconduct is not always illegal, but often is a violation of campus honor codes and college policies. Restorative processes help educate community members about the need for civic commitment and build student capacity for evaluating the impact of their behavior on the community. They also legitimate college policies by creating not only due process, but also consensus around behavioral standards and equitable responses to misconduct. Offender accountability is central, but it is balanced with a concern for reintegration—which is defined by an offender's ability to regain trust through demonstrated good citizenship. The restorative values of repairing harm, reintegration, and community building is reflected in Figure 1.1.

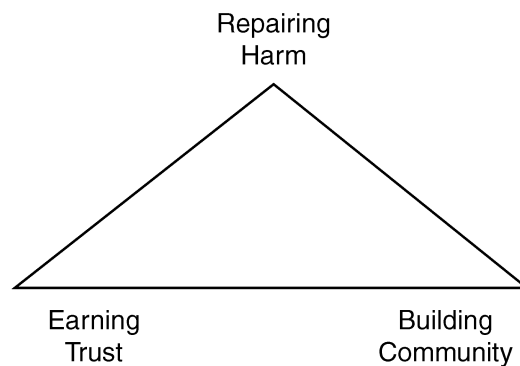


Figure 1.1 Restorative Justice Principles

Our approach is particularly concerned with the use of restorative justice in a well-defined community—the campus community. As such, we stress four principles to guide student judicial practices (Karp and Clear, 2002). First, the judicial system must be *accessible* to the student community. Students must know of the campus policies, which should be communicated clearly with a minimum of legalese. Practices of the judicial system should be consistent and respectful, but not rigidly bureaucratic.

Second, community members should participate actively in the process. On the college campus, this means that students should have active roles in the process, as should faculty, staff, and administration. *Community involvement* includes the active participation of offenders¹ in the decision-making process. Equally important is the voice of victims or “harmed parties.” More generally, a mechanism should exist to recruit volunteers in the community who are interested in the judicial process. A justice system is legitimated when participants in the process believe that others who participate represent the broader community. Without democratic representation, those who are sanctioned are less likely to view the process as just (Tyler, 1990).

Third, sanctioning should focus on repairing harm. Here, accountability is defined not by the proportional harm imposed on the offender, but by the offender’s obligation to make amends for the harm he or she has caused. Bazemore and Walgrave (1999) define restorative justice as “action that is primarily oriented toward doing justice by repairing the harm that has been caused by a crime” (p. 48). If a window has been broken, the offender’s obligation is to fix it. It is not possible for the offender to take responsibility for all types of harm; he or she, for example, cannot repair emotional harm. Nevertheless, the obligation remains for the offender to take steps toward ameliorating such harm through apology, expression of remorse, or victim-offender mediation. Communal harm can be repaired through community service work.

Fourth, the offender also incurs an obligation to reassure the community that he or she will not cause further harm to the community. The community, in turn, must strive to *reintegrate* the offender. This reciprocal process begins with an identification of offender risk factors. If the offender needs academic tutoring, psychological counseling, or other competency needs, these should be made available. Sanctions should be guided by the objectives of restoration and reintegration so that harm is repaired and offenders can become productive community members. Accountability is demonstrated through expressions of remorse and commitment, and through the completion of tasks negotiated as part of the sanctioning process.

1. We use the terms *offenders* and *victims* because that is the convention of criminologists. But in practice, we use terms that are less symbolically tied to criminal justice, such as *respondents* for offenders and *harmed parties* for victims.