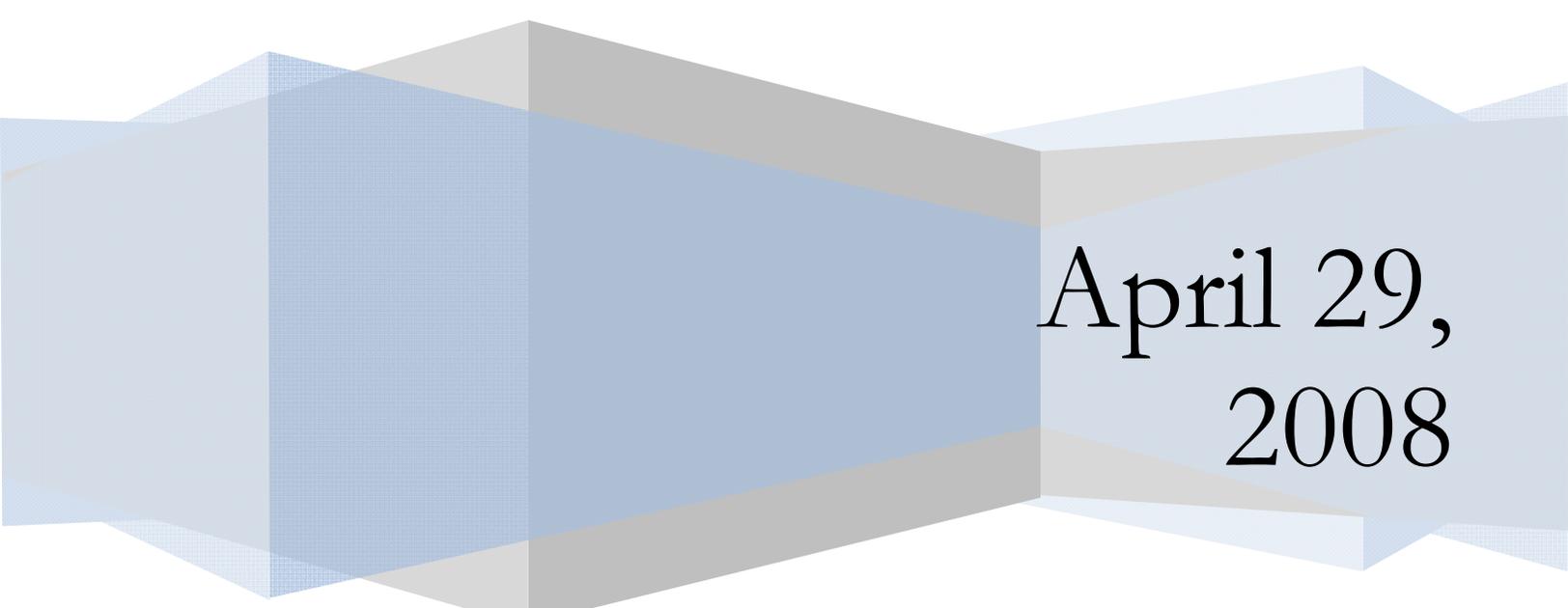


Honors Senior Research Project
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Restorative Justice

A New Approach to Battling Driving Under the
Influence of Alcohol

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On Saturday evening, November 11, 2006, the Gonzales family was driving from a soccer tournament in Santa Fe, New Mexico to their home in Las Vegas, New Mexico when their lives were suddenly cut short by a tragic decision that began in Sacramento, California. Family man Paul Gonzales, a thirty-six year old accountant, his wife Renee Collins Gonzales, a thirty-nine year old school nurse, and their daughters – seventeen year old Alicia Garcia, eleven year old Jacqueline Gonzales, and ten year old Selena Gonzales – were killed instantly when a pickup truck traveling the wrong way down Interstate 25 slammed into their mini-van. The driver of the pickup truck, forty-four year old Dana Pabst, had a blood alcohol concentration of 0.32%; four times the legal limit in New Mexico, because he had been drinking since before he arrived in Santa Fe. In fact, Pabst was drunk even before he boarded the plane from Sacramento to Albuquerque, New Mexico. Pabst continued to drink as he drove from Albuquerque to Santa Fe; a can of beer was found in the bed of the truck he was driving. However, this was not a new scenario for Pabst, a computer technician, because he had been arrested five times previously for driving under the influence of alcohol. Pabst later died of the injuries sustained in the crash, but his actions will not soon be forgotten. Both his family's and the Gonzales' family's lives are forever changed, especially for fifteen year old Arissa Garcia, the sole survivor of the crash. With three dead siblings and two dead parents, she cannot even confront or seek answers from the man who took her entire world away (Simon, 2006:1; Willson, 2006:1).

Stories like the one detailed above are heart-wrenching and tragic, and they occur all too often. In the research conducted by Christopher Bright, Ginny Sprang, and Alexander C. Wagenaar, detailed throughout this paper, it will be revealed that conventional criminal justice sanctions, such as jail time and fines, have not reduced driving while intoxicated deaths or curbed recidivism rates (Bright, 1997; Sprang, 1997; Wagenaar, 2007). In turn, the criminal justice system has not been

successful in dealing with the drunken driving wave that is occurring in society. This paper will demonstrate the devastating number of driving under the influence cases, the predictable failure of current criminal justice standards, and the hope and promise of a new wave of justice – restoration. Finally, this paper will build an adaptable model for dealing with drunken driving offenders, both first-time and repeat offenders, using restorative measures as an effective means of curbing the number of deaths, decreasing recidivism rates, and drastically reducing the number of driving under the influence (DUI) cases, all while restoring the victim, offender, and community to its original state before tragedies like the one above occurred.

DUI Dilemma in the United States

According to the Center for Disease Control, every thirty-one minutes an individual is killed, and every two minutes someone else is non-fatally injured in an alcohol-related crash (“Impaired Driving Facts,” 2007:1). In 2004, the National Highway Traffic Safety Administration (NHTSA) reported that there were 42,836 traffic deaths, and forty-percent – approximately 16,919 – of those deaths were alcohol-related (“State by State Traffic Fatalities,” 2005:1-2). The number of alcohol-related deaths in 2006 increased to 17,602, which represented forty-one percent of all traffic deaths (“Statistics,” 2008:1). In 2005, 414 children were killed in DUI crashes, and forty-eight were struck by a drunk driver while they were walking or riding bikes along the road (“Impaired Driving Facts,” 2007:1). These numbers are truly staggering, given the preventability of drinking and driving.

Despite the increase in the number of deaths, the rates of driving under the influence (DUI) arrests from 1990 to 2005 decreased. Ginny Sprang, in “VIP: An Examination of the Effectiveness of this Program on Lowering Recidivism and Changing Offender's Attitudes About Drinking and Driving,” states that 1.8 million people were arrested for DUI in 1990 (Sprang, 1997:74), and in 2005, 1.4 million drivers were arrested for DUI; however 159 million people self-confessed to

drinking and driving (“Impaired Driving Facts,” 2007:1). People are not changing their attitudes about drinking and driving, they are simply lucky or getting better at not getting caught.

In 1982, blood alcohol concentration (BAC) began being used to measure the “amount of alcohol in a person’s blood” as detailed by Alexander C. Wagenaar in “General Deterrence Effects of U.S. Statutory DUI Fine and Jail Penalties: Long-Term Follow-Up in 32 States” and the Insurance Institute for Highway Safety’s report on alcohol (Wagenaar, 2007:987; “Alcohol,” 2008:2). Since then, it has been used to determine a person’s intoxication level, as well as set legal limits of driving while intoxicated. In fact, 0.08% is the legal limit for BAC in all fifty states, the District of Columbia, and Puerto Rico (“Impaired Driving Facts,” 2007:1). Despite having the same legal limit in all states, “policies do not have consistent effects from state to state” (Wagenaar, 2007:992), and research shows that a very small amount, even less than 0.02% of alcohol in the blood, affects driving skills (“Alcohol,” 2008:1).

Current sanctions¹, as detailed by Mothers Against Drunk Driving (MADD), DUI Penalties, and the Center for Disease Control, used to combat drinking and driving include: license plate or vehicle impoundment or confiscation, license revocation, mandatory confinement for repeat offenders at a minimum security DUI facility, anti-charge reductions, DUI tracking systems, probation technology, ignition interlocks, implied consent, zero tolerance BAC, mandatory alcohol education, sobriety checkpoints, reduction of BAC to 0.05%, and other progressive sanctions (“MADD’s Position on Sanctions,” 2008:1-2; "Ohio DUI Penalties,” 2008:1-2; "Impaired Driving Facts,” 2007:2).

Such sanctions seem comprehensive and consuming, but studies show that these sanctions do not deter offenders from re-offending, or consequently save the lives of those who may be involved in DUI crashes. The studies noted below demonstrate that fines and/or jail sentences are not aiding in the reduction of recidivism rates. In interviews with 125 DUI offenders, Terry L. Schell, and other researchers, found that “many offenders are not responding to existing sanctions

¹ *License plate or vehicle impoundment or confiscation* is the practice of taking away a DUI offender’s license plate and/or vehicle for the duration of a sentence, as imposed by a judge in a court of law. This fine is implemented when repeat drunk drivers continue to drive even after their licenses have been revoked.

License revocation is the practice of taking away a DUI offender’s license, and therefore ability to drive, if the offender’s BAC was higher than the state’s legal limit when the incident occurred.

Mandatory confinement for repeat offenders is a jail sentence, which cannot be reduced or prorated, for those DUI offenders who have more than one conviction. Some facilities offer assessment and treatment options for DUI offenders.

Anti-charge reduction is the view that DUI offenders should serve the maximum sentence their crime permits, and should not be allowed to negotiate for lesser sentences in exchange for guilty charges.

A *DUI tracking system* is an all-inclusive database which records all alcohol-related crime and sentence information, and is accessible by all law enforcement organizations and officers.

Probation technology, including ignition interlocks, prohibits the offender from breaking probation. *Ignition interlocks* are devices installed in cars to prevent the offender from driving while under the influence of alcohol by requiring the offender to submit to breathalyzer tests before the car can be started.

Implied consent demands that drivers suspected of DUI submit to a test to determine BAC. Refusal to submit to testing carries additional penalties.

Zero tolerance BAC laws focus efforts to combat drinking under the legal age, and then driving.

Mandatory alcohol education provides DUI offenders with a personalized assessment of their alcohol addiction. This is usually provided instead of a prison sentence and/or fine.

Sobriety checkpoints are set-up along a stretch of highway or roadway to randomly check the BAC of drivers. These checkpoints are supposed to deter drivers from drinking and driving by imposing a larger risk of being caught.

Reducing BAC to 0.05% lowers the concentration of alcohol in a person’s blood. Current limits are set 0.08% BAC.

Progressive Sanctions monitor the people who are arrested for driving under the influence of alcohol, and give severely harsher sanctions for those drivers who are repeat offenders.

and treatments for DUI” (Schell, 2008:34). DUI offenders who are severe alcoholics are at an even greater risk for continuing to drink and drive, and do not respond to current DUI sanctions, including stiff fines (Schell, 2008:34; Wagenaar, 2008:983). In another study of twenty-eight states that implemented fines for first time offenders from 1976 to 2002, only six states had a decrease in fatal DUI crashes among first time offenders; another three states showed an increase in fatal crashes, and nineteen other states had no significant change in fatal DUI crashes. The same study showed that only two of seven states which implemented significant jail time for offenders, decreased DUI fatalities; the other five states showed no impact on DUI fatalities. In eighteen of thirty-two states that implemented jail time as a means of deterring first-time offenders between 1976 and 2002, only five states had records of decreased fatalities in DUI crashes; two states showed increases in DUI fatalities, and eleven other states had no significant change (Wagenaar, 2008:989).

DUI offenders who have histories of driving under the influence of alcohol are especially immune to current sanctions. In California, in a study conducted by Schell and his associates, thirty-five percent of all drivers with DUI convictions have at least one other DUI arrest on their records in the past seven years. In Washington, 7,800 drivers were rearrested within three years for the same crime (Schell, 2008:33-34). Repeat offenders are 1.8 times more likely to be involved in fatal crashes than first-time offenders (“Alcohol,” 2008:2). Repeat offenders are more likely to be heavy drinkers and have higher BACs. “Drivers involved in fatal crashes with BAC levels of 0.08% or higher were nine times more likely to have a prior conviction for driving while impaired” (“Impaired Driving Facts,” 2007:2).

In *Crime and Reconciliation*, Umbreit argues that DUI is an important crime to recognize and find alternative measures to combat because it, along with white collar crimes, kill more people and cost more in a given year than any other type of crime (Umbreit, 1985:54). In fact, “punishment for property crimes is harsher than those imposed for drunken driving fatalities” (Sprang, 1997:74). The

statistics, as noted above, detail the lack of forceful and direct impact on first-time offenders, as well as the inadequate response to repeat DUI offenders who seem to be harboring serious alcohol addiction or anger management issues.

Marty Price, an attorney and mediator, details a case in which a woman, with two small children and a prior DUI conviction, is involved in a fatal crash while again drinking and driving. Her victim is a young woman – a wife, sister, and daughter. The DUI offender meets with the family of the victim, at their request, and she learns about the vibrancy of the woman whose life she took. The family wanted simple things from the offender, because they knew that nothing could bring back their loved one, including completing her general education degree, volunteering while finishing her prison sentence, and keeping in contact with her two children. These small acts brought the woman to a new realization about her crime and the impact that it had, not only on the victim, but on herself as well. She vowed never to drink and drive again, and promised to keep other people from repeating her mistake (Price, 2007:3-4). This intervention demonstrates the promise of restorative justice practices, while current sanctions demonstrate the failure of the criminal justice system in dealing with drunken drivers.

Failure of the Criminal Justice System

“Few sets of institutional arrangements created in the West since the industrial revolution has been as large a failure as the criminal justice system. In theory it administers just, proportionate corrections that deter. In practice, it fails to correct or deter, just as often making things worse as better,” is the view of the criminal justice system from the eyes of John Braithwaite, an expert in justice (Braithwaite, 2003:84). Braithwaite makes an important claim here, and demonstrates that the traditional system has the power to institute deterrence, but often fails in its goal. The reason for the failure is because the current system is not about justice, but rather injustice, including different prison sentences for similar crimes, differences in treatment of prisoners at different jails, and the

unreasonable stigmatization that occurs. Those injustices are detailed below. Sherry Zachry concurs with Braithwaite's observation, stating, "The traditional system of criminal justice has failed to work and "frequently fails to achieve healing, changes in behavior, and just outcomes" (Zachry, 2004:1).

In 1973, the National Advisory Committee on Criminal Justice Standards and Goals recommended that there be a ten year moratorium on the construction of prisons in order to "maximize development of community criminal justice programs" (Umbreit, 1985:10-11). The recommendations of the Committee went unheard, because in 1975, the biggest prison expansion in the United States' history commenced (Umbreit, 1985:10-11). The 1980's policies of the "war on drugs" and mandatory minimum sentencing brought added attention to the "prison industrial complex," a phrase used by David Whetstone in "Guide to the Prison Industrial Complex," and brought an onslaught of offenders to fill the empty prisons (Whetstone, 2001:1).

With a growing annual budget of nearly fifty billion dollars a year, the United States is addicted to prisons as a solution for dealing with criminal offenders, and is often the only form of punishment within the entire system (Whetstone, 2001:1; Umbreit, 1985:50). The evidence of the prison addiction is clearly shown in the number of prisoners that are incarcerated each year in the United States. In fact, the United States locks up more citizens than any other country on the planet (Umbreit, 1985:50). The United States is home to five-percent of the world's population, but imprisons twenty-five percent of the world's eight million prisoners (Whetstone, 2001:1). As of December 31, 2006, 2,258,983 offenders were incarcerated in federal, state, and local facilities; representing approximately 501 per 100,000 United States citizens ("Prison Statistics," 2006:1). Offenders with sentences of a year or less are housed in locally operated correctional facilities or jails, and offenders with long-term sentences or who have committed particularly heinous crimes are housed in state or federal controlled prisons and correctional facilities ("Jail Statistics," 2007:1). According to the United States Department of Justice, it is estimated that in this country, one in

every fifteen persons will be incarcerated at some point in their lifetime (“Criminal Offender Statistics,” 2007:1).

The prisoners incarcerated in the United States are extremely disproportionate to the make-up of the entire population. For every 100,000 black men in the United States, 3,042 are incarcerated. Only 487 per 100,000 white men are incarcerated (“Prison Statistics,” 2006:1). In fact, almost seventeen-percent of all black males are incarcerated, while only about three-percent of all white males are incarcerated (“Criminal Offender Statistics,” 2007: 1). Veterans of the armed forces are another group of people who make up a large segment of the prison population. In 2004, ten-percent of all prisoners in the United States were veterans, and of that number, forty-six percent participated in or saw a combat situation (“Veteran in State and Federal Prisons in 2004,” 2007:1).

The criminal justice system, in theory, seems to be equal, but in actuality, “one prisoner in one prison is beaten and raped, while another prisoner in another jail is treated very differently; this is especially true in the difference of treatment of white and black offenders” (Braithwaite, 2003:85), providing strength to Braithwaite’s theory of injustice of the current system. Rapes, suicides, and homicides are common occurrences in jails and prisons. The National Inmate Survey (NIS) of 23,398 prisoners in 146 state and federal prisons estimated that almost five-percent of all prisoners are involved in an unwanted sexual act, either with other inmates or prison staff (“Sexual Victimization in State and Federal Prisons,” 2007:1). In 2002, the suicide rate in local jails and state prisons was forty-seven and fourteen, respectively, out of 100,000 prisoners. That same year, three people out of 100,000 in local jails, and four people out of 100,000 in state prisons were murdered (“Suicide and Homicide in State Prisons and Local Jails,” 2005:1). Prisons are supposed to

rehabilitate and deter, but with these types of occurrences happening daily in prisons across the country, it is very unlikely that rehabilitation and deterrence are actual outcomes².

Randy E. Barnett, in “Restitution: A New Paradigm of Criminal Justice,” details the double burden of the expensive criminal justice system to the innocent victims who must suffer crimes and also pay for the supposed rehabilitation and deterrence of offenders (Barnett, 2003:47). Local spending on criminal justice topped 104 billion dollars in 2004, state spending equaled sixty-five billion, and thirty-five billion was spent on federal criminal justice measures. Overall, more than 204 billion dollars were spent on criminal justice initiatives, including: police, corrections, judicial, and legal activities; a nearly 500 percent increase from 1982 (“Local Governments Spend More on Criminal Justice,” 2007:1; “Expenditure and Employment Statistics,” 2007:1). The per capita amount of criminal justice spending equates to 660 dollars. The amount of dollars spent on criminal justice measures does not equate to successful outcomes for offenders or the community. Prisoners are often stigmatized by the prison system and recidivate within only a few years.

The stigma attached to prisons has many negative outcomes for offenders even after they leave incarceration. Nathan Harris details the negative outcomes in “Reintegrative Shaming, Shame, and Criminal Justice.” The disgrace brought on by stigmatization labeling a person as evil, is not respectful or “terminated by forgiveness,” leading to obtaining “master status traits,” and increasing levels of offending (Harris, 2006:328). Braithwaite adds that stigmatizing increases problems and, “treats the acts of people and people as essentially evil” (Braithwaite, 2003:85). In the micro context of the nuclear family, in whatever shape it may be, restorative practices are alive and sound. In small-scale situations, like in families and schools, the focus is on concern and integration. In his

² This, on its surface, is a controversial statement. The focus of this paper is not to engage in the debate of whether prisons deter and rehabilitate, but whether there is another method that can do so in a non-stigmatizing, recidivism-reducing, and victim, offender, and community healing way. The statistics given demonstrate that for cases involving drunken drivers, the current criminal justice practices involving fines and prison sentences are NOT reducing DUI occurrences. Restorative justice, as to be detailed further in later sections, has a proven track record of reducing DUI occurrences. Restorative justice shows promise for other offenders and types of crimes; however, the claim is not being made that restorative justice will work for all cases, nor should it replace the criminal justice system.

studies, Braithwaite determined that “families who are more restorative are likely to have less delinquent children than families who are punitive and stigmatizing” (Braithwaite, 2003:90). The same is true in some contemporary schools. Mediation, anti-bullying, and conferencing programs have dramatically reduced or halved bullying; prompting the school to become less stigmatizing and less brutal (Braithwaite, 2003:90-91). Harris’ study of 1,400 Australian children confirmed Braithwaite’s analysis. In the study, interviews were conducted with parents and school-age children to determine their parenting styles and instances of bullying, respectively. Results showed that parents who were more stigmatizing had children with higher instances of bullying, while parents who were non-stigmatizing had children with lesser instances of bullying (Harris, 2006:328-329).

The same can be expected of restorative justice programs and punitive, stigmatizing criminal justice programs when dealing with adult offenders. With an average jail sentence of two years, there is plenty of time for offenders to become stigmatized and entangled in the “criminal subculture,” as named by Paul McCold and Benjamin Wachtel in “Community is not a Place: A New Look at Community Justice Initiatives” (“Criminal Offender Statistics,” 2007:3; McCold, 2003:296). “John Braithwaite explains how offenders who have been stigmatized by the justice system are drawn together to form their own subcultures” (McCold, 2003: 296). Braithwaite continues in his own article by adding that offenders “treat prisons as an educational institution for learning new skills for the illegitimate labor market” (Braithwaite, 2003:85).

The “criminal subculture” often leads to reoffending once prisoners have been released from correctional facilities. In 1994, fifteen states released 272,111 prisoners, and almost sixty-eight percent were rearrested within three years (“Criminal Offender Statistics,” 2007:3). Another statistic says that two-thirds of all released prisoners will be re-incarcerated within three years (Whetstone, 2001:1). Clearly, the stigma associated with prison systems does not aid in reducing recidivism.

The final and vital goal of criminal justice is to make the country safer, however according to Gerry Johnstone’s forward in *Restorative Justice Reader*, “judicial punishment is neither necessary nor sufficient” to meet that goal (Johnstone, 2003:3). Dean E. Peachey, author of “The Kitchener Experiment” states that a contributing reason to the failure of the criminal justice system is that there is no evaluation or tool used to “measure reconciliation” (Peachey, 2003: 182) of prison punishment. The intention of punishment is “to deprive offenders of the power of doing future mischief” (Barnett, 2003:47), but many scholars beg the question to be answered: “Is the only legitimate form of criminal punishment caging the offender?” (Umbreit, 1985:61).

Comparison of Criminal Justice and Restorative Justice

Restorative justice is an alternative to solely traditional criminal justice measures (Harris, 2006:327). “Conventional criminal justice responds to the hurt of crime with the hurt of punishment, whereas restorative justice is guided by the value of healing” (Johnstone, 2003:5). Crime is first and foremost a violation of the relationships between humans on this planet, and secondly, a violation of the law set forth by courts and government (McCold, 2003:297). The criminal justice system focuses on the second violation, laws, while restorative justice focuses on the first violation, relationships. In focusing on the violation of laws over and above the violation of relationships, “judicial process becomes, not a truth-seeking device, but solely a means to legitimate the use of force” for breaking rules (Barnett, 2003:48). The following table illustrates the core differences between criminal and restorative justice.

<i>Criminal Justice Initiatives</i>	<i>Restorative Justice Initiatives</i>
“What laws were broken?”	“Who is hurt?”
“Who did it?”	“What do they need?”
“How do we punish them?”	“How can those needs be met?”
Focuses on punishing offender	Focuses on harm done to the victim
Modern	Pre-modern
State/formal justice (Western)	Indigenous/informal justice (Eastern)
Offense is detailed in legal terms	Offense is detailed in moral, social, political, and economic terms

Masculine; emphasizing justice	Feminine; emphasizing care
Punitive	Restorative
Exclusive	Inclusive
Single interest	Balance of interests
Coercive	Voluntary
Separate	Encounter
Harms	Makes amends
Ostracizes	Reintegrates
Legal truth	Whole truth

(Daly, 2003:369; Morrison, 2006:209; “Restorative Community Justice,” 2006:1; Van Ness, 2003:271; Zachry, 2004:1; Zehr, 2003:82;)

The core elements of restorative justice, as stated by many restorative justice scholars, including Brenda Morrison and Eliza Ahmed in “Restorative Justice and Civil Society: Emerging Practice, Theory, and Evidence,” are to bring parties together, including the victim and community, to heal relationships, unlike the traditional criminal justice system, where the victim and community have been removed (Morrison, 2006:209).

The other elements of restorative justice initiatives includes: inclusion, a balance of interests, voluntary participation, setting up encounters, making amends, reintegration, and revealing the whole truth. Daniel Van Ness, in his article, “Creating Restorative Systems,” states that these elements are direct opposite of the elements of the criminal justice system, which includes: exclusion, single interests, coercion, separation, harming, ostracism, and revealing only legal truths (Van Ness, 2003:271)³. Restorative justice elements are relationship, healing, and person focused,

³ Exclusivity in the criminal justice system is countered with the restorative element of inclusivity. Exclusion, in the current system, allows for only the offender and government to participate in the punishment, stigmatization, and reintegration of the offender; community and victim are not seen as stakeholders. However, inclusion in the restorative system recognizes equal concern for all stakeholders, including the victim, offender, government, and community (Braithwaite, 2002:567; Van Ness, 2003:271). All are invited to participate in the restoration of broken relationships. Single interests in the criminal justice system are countered with the restorative element of balancing interests. The sole interest in the criminal justice system is finding the guilt of the offender, while the restorative justice system focuses on and attempts to “accommodate the interests of all the parties” (Van Ness, 2003:272-273). Coercion in the criminal justice system is countered with the restorative element of voluntary participate. Restorative justice recognizes that not all offenders and all victims will be served appropriately, and only welcomes those parties who want to voluntarily participate in the restorative process. Separation in the criminal justice system is countered with the restorative element of encountering. Separation in the criminal justice process allows others, not including the offender, victim, or community, to create solutions for the crime. An encounter between the offender, victim, and community ensures that parties have, at least, the opportunity to create their own solutions.

and rejects stigmatization, degradation, and humiliation, according to John Braithwaite, in an article entitled, “Setting Standards for Restorative Justice” (Braithwaite, 2002:567). These elements are very similar to the civil law model.

In the United States, two avenues of law cases can be pursued – criminal and civil. In the current system, there is a division between criminal and civil law (Zehr, 2003:74). The criminal law model is based on five key elements: official attention on harmful acts and perpetrator, transgression of society’s fundamental laws, state initiates legal action against the perpetrator on behalf of society, the offender is punished, and a social stigma is attached to the offender. The civil law model is quite dissimilar, and encourages settlements between parties before the case reaches a courtroom situation. If a settlement is not reached, then the case goes before the civil court, and the focus is on five key elements: attention on harmful act and the loss associated, injury by one person to another, the injured party initiates legal action against the perpetrator and is in control of the case, if found liable, the perpetrator must make good on the losses felt by the victim, and there is little social stigma attached to the outcome of the case (Johnstone, 2003:9-10). The civil law system focuses more on “problem-solving” rather than the “blame game” (Zehr, 2003:79). Restorative justice initiatives look like the civil justice system in its approach to the inclusion of stakeholders, avoiding stigmatization, and making amends, however, restorative justice does place more focus on healing relationships. Restorative justice, like civil law, emphasizes the victim and the victim’s needs, while also making the offender accountable for his/her actions (“Restorative Community Justice,” 2006:1;

Harming in the criminal justice system is countered with the restorative element of amending relationships. Offenders in the criminal justice system “pay for committing the crime by suffering the harm” of a prison sentence, often as the only means of punishment (Van Ness, 2003:272). The restorative justice system offers an opportunity for the offender to take responsibility, and change behavior, as well as the opportunity for the community and victim to heal. Ostracism in the criminal justice system is countered with the restorative element of reintegration. Ostracism leads to stigmatization and building the “criminal subculture.” Reintegration, on the other hand, reintroduces offenders back into society as productive and law-abiding members. Finally, legal truth is countered with the entire or whole truth. Legal truth, in criminal justice terms, is finding out what laws were broken, and who committed broke the laws. The whole truth, in restorative terms, is finding out how and why the crime was committed from the offender’s perspective, as well as the victim and community reaction to the crime (Van Ness, 2003:271-273).

Whetstone, 2001:3). A “major element in enabling offenders to commit crime while maintaining a positive self-image was that they employed a number of techniques of neutralization to dismiss or minimize the effects of what they do (“They can afford it.”, “They’d never miss it.”) or to justify their actions (“They deserved it.”). Marshall continues to say that “a confrontation makes it difficult to maintain such fictions and makes the offender face up to the reality of the harm they cause” (Marshall, 2003:43). The reality is that in a criminal law courtroom victims are hardly seen, and rarely heard. The offender never sees the effects of his/her actions on a real person. In the civil law courtroom, as in restorative justice, the victim is afforded the opportunity to see the offender, if they so choose and the offender is given the opportunity to take responsibility for the crime.

Throughout most of history, people were very reluctant to call in state authorities; they preferred for the community to resolve issues, because “crime is a conflict between people, a violation against a person, not an offense against the state,” as detailed by Howard Zehr in “Retributive Justice, Restorative Justice” (Zehr, 2003:75-79). “Part of the point of restorative justice is to transcend adversarial legalism, to empower stakeholders to speak in their own voice rather than through legal mouthpieces who might have an interest in polarizing a conflict” (Braithwaite, 2002:566). The community has power to produce healthy shame, the kind of shame that produces changes in behaviors and attitudes, as well as reintegrate offenders back into the community as productive members. The criminal justice system produces stigma that leads to an attachment to “criminal subcultures,” and increases recidivism among offenders. “At the end of the day it is better that restorative justice learn from making mistakes than that it make the mistake of refusing to learn” (Braithwaite, 2002:575). The restorative justice system offers many approaches as alternatives to the typical approaches of the criminal justice system.

Restorative Justice System as an Alternative, Not a Replacement

“The teachers of the Law and the Pharisees brought in a woman who had been caught committing adultery . . . They said to Jesus . . . ‘Moses commanded that such a woman must be stoned to death. Now, what do you say?’ He said to them, ‘Whichever one of you has committed no sin may throw the first stone at her.’ . . . He said to her, ‘I do not condemn you either. Go, but do not sin again’” is written in the book of John, chapter eight, verses three through eleven (Umbreit, 1985:47). This passage from the Bible demonstrates how situations change dramatically when a person puts themselves in the shoes of another. Umbreit continues to say, “Just as it is important to place crime in a broader perspective, moving beyond our emotional perceptions to a factual assessment of actual risk, it is equally important to put punishment in a more factual perspective (Umbreit, 1985:50). The soldiers were following strict orders from Moses and were ready to stone the adulterous woman, but when Jesus asked the soldiers about their transgressions, they became understanding, for they too had sinned and were not perfect. The same scenario is true with criminal offenders today.

As citizens of this country and neighbors to these offenders, we have the responsibility to put ourselves in the shoes of another to understand why crimes are committed. Stanley Fish in “Thoughts on September 11 – October 15, 2001 – Condemnation Without Absolutes” states, “the practice of putting yourself in your adversary’s shoes, not in order to wear them as your own but in order to have some understanding (far short of approval) of why someone would want to wear them” (Fish, 2002:3). Understanding does not condone the criminal act nor lessen its offensiveness, but stops condemnation. Fish continues to say, “You don’t condone” an act because you “describe accurately” and why it occurred; “in fact, you put yourself in a better position to respond to it by taking its true measure” (Fish, 2002:2). We have all driven over the speed limit, drank alcohol or smoked cigarettes under the legal age, or are guilty of stealing; we are all culpable of some crime, and therefore it is imperative that we be conscious of our use of condemnation. Peter Allard and Wayne

Northey in, “Christianity: The Rediscovery of Restorative Justice,” mentions another religious text, the Hebrew Scriptures’ stance on understanding and restoration. “In Hebrew scripture, therefore, restorative justice is a peacemaking response to crime for all those persons affected by it” (Allard, 2003:159).

From these religious texts, we can date restorative techniques in justice to thousands of years ago. Restoration is not a new concept, but merely a forgotten idea. According to “The History of Restorative Justice,” by Elmar G. M. Weitekamp, restorative justice has its origins in societies without a named leader or government. These communities used restitution as the most common form of finding justice (Weitekamp; 2003:111). Origins also lie with indigenous communities all around the world. “Canadian indigenous communities are a cultural resource for the whole world. Because they have not been totally swamped by the justice codes of the West, they are a cultural resource, just as the biodiversity of [the North American] continent supplies the entire world a genetic resource. The very people who by virtue of their remoteness have succumbed least to the Western justice model, who have been insulated from Hollywood a little more and for a little longer, the very people who are most backward in Western eyes, are precisely those with the richest cultural resources from which the restorative justice movement can learn” (Braithwaite, 2003:91).

Restorative justice is a commonly used practice in many countries with indigenous roots, such as Canada, Australia, and New Zealand.

In New Zealand, juvenile restorative justice is a commonly-held practice, while criminal restorative justice is used in Australia and England. The only type of restorative justice that has really broken through the dominating criminal justice system of the United States is for family violence (Morrison, 2006:211). The first use of restorative justice or mediation practices in the United States was championed by Barnett in the 1970’s, explains Tony Marshall in “Restorative Justice: An Overview” (Marshall, 2003:30). Since that time, restorative justice movements have been

popping up sporadically across the country, but not in a widespread manner. In 1987, Shanholtz began advocating for a system of community based justice in the United States, and creating neighborhood justice centers (Marshall, 2003:41). Advocacy continued into 2004, when a major breakthrough was announced in HR 4676. The bill was introduced by Representative Robert Portman, a Republican from Ohio, into the House of Representatives. This “Second Chance Act” would give twelve million dollars to fund restorative justice initiatives focused on reducing recidivism and reintegrating offenders into the community. However, this act was never passed into law (Zachry, 2004:2). The problem with restorative justice is that it appears to be soft on crime, a name which all politicians fear being labeled. The reality is that restorative justice is neither soft nor hard on crime, but delivers just justice for the victim, offender, and community.

Despite the intermittent movements around the country and world, restorative justice, in general, shares several ideologies including restoration as, “a process whereby parties with a stake in a specific offense resolve collectively how to deal with the aftermath of the offense and its implications for the future” (Marshall, 2003:28). Restorative justice, also known as “transformative justice,” (McCold, 2003:294) is a “non-adversarial” form of justice, as coined by Gordon Bazemore and Curt Taylor Griffits in “Conferences, Circles, Boards, and Meditations: The New Wave of Community Justice Decision-Making,” (Bazemore, 1997:26) aimed at reconciling, peacemaking, and redressing (Braithwaite, 2003:86; “Restorative Community Justice,” 2006:1). This type of justice “emphasizes the violation of relationships, over and above the violation of rules. With a focus on repairing the harm done, restorative processes have been used to address interpersonal, intra-group, and intergroup conflict” (Morrison, 2006:210). In repairing the situation, the movement’s goal is to restore all the stakeholders involved in a crime, including the victim, offender, and community. Repairing the situation involves fixing the “tear in the social fabric” that resulted from the crime and conflict between the relationships of people (“Restorative Solutions,” 2006:1). Restoring the

stakeholders involves “recognizing the integrity of every person and the reason for their perspective” (“Restorative Community Justice,” 2006:2). The restorative process gives victims a chance to tell, in their own words, just how much damage and hurt the crime caused them, physically, mentally, and emotionally, while simultaneously giving the offender a chance to repair the situation through community service or work done for the victim.

While forgiveness, defined in “The Function of Forgiveness in the Criminal Justice System,” by John R. Gehm, as a “process of ceasing to feel resentment,” (Gehm, 2003:280) is not a key goal, and cannot be expected of any victim or community, it is sometimes a side effect of the restorative process. If forgiveness is to be achieved, there are five crucial parts: recognition, remorse, repentance, restitution, and reform (Price, 2007:4).

While restorative justice is all things mentioned above and more, it is important to note what it is not. Restorative justice is not totally devoted to reducing recidivism statistics, or a replacement for the legal system, but is more a value-added component (“Restorative Community Justice,” 2006:1). The objectives, or goals, of the restorative movement are based on these identified ideologies.

Some of the objectives of restorative justice include: meeting the needs of the victims, helping offenders take responsibility for their actions, and reintegrating offenders into the community (Marshall, 2003:29). The objectives sought are not specific to a particular program across the country. There are programs which are replicated across the country with very little diversity, but that is not a characteristic of the restorative justice movement. It is important the restorative methods are tailored for specific communities as “a way of doing justice with the values of respect, repair, responsibility, reintegration, relationships, and restoration” (“Restorative Community Justice,” 2006:1-2). Any panel, conversation, conference, or meeting has to be “carefully facilitated by a skilled, specially trained, mediator, whose prime tasks are to ensure a safe

and comfortable environment, and establish firm ground-rules for a fruitful exchange which is reaffirming and a positive experience for both parties” (Marshall, 2003:33). The restorative dialogue between stakeholders, according to Nancy Rodriguez’s article, “Restorative Justice, Communities, and Delinquency: Whom Do We Reintegrate,” rebuilds the relationships broken by the act as the community and victim explains the harm caused by the offense, and the offender accepts responsibility. Together, the group can collectively come up with an “appropriate resolution” (Rodriguez, 2007:104). Cooperatively, appropriate decisions are determined because all stakeholders have an equal stake in the restorative process, because the offender is not targeted, and the victim is not left out (Weitekamp, 2003:113).

Restorative justice is a “field where practice often drives theory and rigorous empirical testing is used to develop practice” (Morrison, 2006:210). Because of the emphasis to avoid “cookie-cutter” programs, the practices, methods, and theories vary from location to location. As restorative programs continue to pop-up across the country, they are continuously learning and evolving from past experiences (Zachry, 2004:2; Bazemore, 1997:28).

“Genius of restorative justice as a policy idea is that many of its most precious ideals are invulnerable to state power” (Braithwaite, 2002:564). Braithwaite continues by stating, “We can tell how much power a person has by how many people listen to their stories. When the prime minister [or president] speaks from his podium many listen; when the pauper on a street corner mutters his stories we walk past. The deadly simple empowering feature of restorative justice here is that it involves listening to the stories of victims and accused offenders” (Braithwaite, 2002:564). A “fundamental component of restorative justice” is the ability to reintegrate the situation back into the community by the community” (Rodriguez, 2005:103). Current programs are not run by government agencies, but are run by community organizations that work with government agencies (Umbreit, 1985:106). The red tape, paperwork, and standards of state and government agencies are

cumbersome. Restorative programs managed by community organizations can work in a different manner and ensure that restoration is not inhibited, but while ensuring that restorative justice processes never exceed the maximum that courts would impose (Braithwaite, 2002:567).

In order for restorative justice to be successful for all involved, certain standards must be enforced. Constraining standards protect the dignity of stakeholders, and ensure that all parties have an equal opportunity to share their stories. Constraining standards include: non-domination by one stakeholder over another, empowering all stakeholders, honoring the upper limits of legal sanctions, and not exceeding those limits, listening to all parties, restoring accountability, and respecting all involved as humans and neighbors. The maximizing standards of restorative justice restore elements that were lost in the community after the crime occurred. Human dignity, property, safety, health, relationships, community, environment, emotions, freedom, compassion, peace, and duty, many of which are fundamental human rights declared by the United Nations, are fundamental pieces that are restored following a restorative process. Some standards and goals that are not fundamental or constraining to ensure a successful meeting, but tend to be emergent include: remorse, apology, “censure of the act,” and mercy. As with forgiveness, as mentioned previously, these elements tend to be side effects of being involved with the process (Braithwaite, 2002:563-570). The hope is that “the process of bringing victims and offenders together to reach a mutual agreement regarding restitution will become the norm” in communities across the country and the world (Peachey, 2003:182).

The emphasis on avoiding “cookie-cutter” programs has resulted in a plethora of restorative models around the world, however most models can be classified into four categories of restorative justice processes: community reparative boards, conferences, mediation or victim-offender reconciliation programs, and victim impact panels.

Community reparative boards are rather unique in the United States because they have been widely used in Vermont since the mid 1990's. The boards were started after a 1994 survey among Vermont citizens stated that they wanted more involvement in the criminal justice process. Gordon Bazemore and Mark Umbreit, detail the concept surrounding community boards in, "A Comparison of Four Restorative Conferencing Models."

The Vermont model of community reparative boards works with nonviolent and minor crime adult offenders. A group of highly trained community citizens volunteer their time to meet face-to-face with the offenders; a measure ordered by a judge in a court of law. In this instance the boards are integrated into the criminal justice system itself, which solidifies its uniqueness. The boards are integrated, but are monitored with its own personnel and standards, while still including the court system. The group discusses the nature of the crime, as well as consequences. Together, the board and offender develop an appropriate sanction agreement, including specific actions and a timeline. The offender keeps track of his/her own progress and communicates that progress to the board. The community volunteers monitor the progression of the agreement, and report the outcomes back to the court system. The community volunteers making up the board can work with the victim as well and try to engage the victim in the process; voluntarily of course. The board can offer the victim participation in the board or suggest private mediation with the offender (Bazemore, 2003:228-229; Bazemore, 1997:32-40).

A case involving a nineteen-year old drunken driving offender was referred to a community reparative board by the court system. The offender went before the volunteer board and gave his reasons for driving under the influence. The community reparative board suggested that the offender begin to work at a community service site to pay off the amount of the ticket, complete a defensive driving course and an alcohol assessment, and write a three-page paper describing the negative effects of alcohol. The community board monitored the completion of the decree

(Bazemore, 1997:26). The punishment for the crime may seem juvenile, but the deeds were important in allowing the offender to reflect on his actions and make positive changes to benefit the community through service, and reduce the likelihood of ever driving under the influence in the future. The offender felt ashamed of his actions, but not stigmatized from a prison sentence.

The goals of reparative boards include: promoting citizen ownership and involvement in the criminal justice process, and evaluating the effectiveness of the process in reducing recidivism, increasing community impact, and satisfying the needs of the victim. “At this point, experiential and anecdotal information indicates that reparative boards show much promise as an effective response to nonviolent crime” (Bazemore, 2003:229). Community reparative boards demonstrate great promise as a value-added component to the current criminal justice system in dealing with nonviolent offenders. The community reparative boards restore: the offender by urging accountability for the crime and reintegrating back into society, the victim by providing restitution in the form of work or money, and community by empowering citizens to get involved in the criminal justice processes in their own cities, towns and neighborhoods.

Family or community group conferencing began in the early 1990’s in New Zealand and Australia to target juvenile offenders. Family members were encouraged to attend to shame the juvenile’s actions. Conferencing of a restorative nature can be found in the United States in Montana, Minnesota, and Pennsylvania (Bazemore, 2003:236-241).

There are many stakeholders involved in family or community group conferences. All people who have an intimate stake in the criminal action are encouraged to attend. Before offenders are allowed to participate in the conference, they must admit their guilt regarding the criminal action. Upon the admission, the offender has the opportunity to describe the event, as well as why the action occurred. Subsequently, victims have the opportunity to speak about the harm and impact of the criminal action (“Restorative Community Justice,” 2006:2). Family or community group

conferences are unique because so many people participate in the healing and attitude changing process. The victim brings family or community members who will produce shame, and the offenders bring family or community members who will offer support and plans for reintegration (Braithwaite, 2003:92; Zachry, 2004:3). Trained volunteers arbitrate the process. “Any attempt by a participant at a conference to silence or dominate another participant” is squelched by the trained volunteer (Braithwaite, 2002:565).

The primary goal of family or community group conferences is to educate and allow the offender to feel shame (Bazemore, 1997:33-34). This shame is not stigmatizing in any way, but can be attitude and life changing. The family or community support empowers the victim to be truthful and frank about the criminal action, and not fear the offender. The family or community support also empowers the offender to own up to the action, and offer a plan for restitution. The community as a whole helps the offender reintegrate back into the society as a productive and capable member, and prevent future criminal actions. Victim, offender, and community are restored.

Mediations or victim-offender meetings have been in place for about twenty years in the United States, Canada, and Europe. There are about 320 or so programs in the United States offering mediations, and twice that number in Europe (Bazemore, 2003:225). “Most victim-offender programs limit their service to juvenile and/or property crimes. But as a growing number of programs are finding that a face-to-face encounter can be invaluable in even the most heinous of crimes, many are gradually broadening their scope to include the mediation of carefully screened incidents of more serious crimes and crimes committed by adults. Mediation is being used to help repair the lives of victims and offenders devastated by drunk-driving fatalities” (Price, 2007:1). These mediations are very different from civil court mediations, because the stakeholders involved are in agreement about their roles in the process (Bazemore, 2003:225).

Judges, probation officers, prosecutors, advocates, and law enforcement officials refer cases to restorative measures to have a mediated discussion of the crime between the offender and the victim. Before mediation occurs, the community organization or group sponsoring the mediations carefully “assesses the case for appropriateness” (Price, 2007:1) and determines if the victim is voluntarily willing to participate, and the offender has accepted guilt for the crime committed. These mediations are very sensitive to the victim’s needs. A trained mediator preps the willingness of the victim and offender in participation, oversees the discussion between the victim and the offender, ensures that no re-victimization or stigmatization occurs, and monitors any/all agreements that are reached (Bazemore, 2003:226-227; “Restorative Community Justice,” 2006:2).

During the meeting, the victim explains how he/she was affected by the crime, and asks questions of the offender regarding. Afterwards, the offender is given the opportunity to tell his/her story, accept responsibility for the crime, and tell how he/she has changed (Bazemore, 2003:225-226). Feelings are expressed by both parties in an attempt to reach an agreement regarding the outcome of the crime, and restore the situation (Morrison, 2006:209; “Restorative Community Justice,” 2006:2).

Mediation successes, for both victims and offenders, are common lessons learned. In a two-year period, in one study, almost ninety-five percent of all mediation cases were successfully negotiated. Seventy-nine percent of all victims stated satisfaction with the mediation process, while only fifty-seven percent of victims were completely satisfied with traditional criminal justice procedures. The victims were left less fearful after restorative justice. Offenders also successfully completed restitution for the victims. Eighty-one percent of offenders completed all of their responsibilities as discussed in the mediation, while only fifty-eight percent of offenders in the court system completed their responsibilities. Offenders were less likely to recidivate as well. Only

eighteen-percent of the offenders in mediation processes recidivated, while twenty-seven percent of offenders in the traditional criminal justice system recidivated (Bazemore, 2003:226-227).

Resolution of conflicts and agreements regarding restitution are key goals in mediation. The face-to-face encounter of victims and offenders brings a sense of personalization to the criminal justice process. Offenders are actually seeing those that they hurt, and victims are comforted in knowing that they were not targeted. The restoration occurs when offenders realize that their crimes have a mental and emotional, as well as a physical affect, and when victims are able to take back control of their lives and/or property.

A Victim Impact Panel (VIP) is essentially a combination of conferencing and community reparative boards. An offender will attend court hearings within the criminal justice system until a judge orders the offender to attend a VIP session as part of the probation package. The court clerk will alert the offender, along with registration and requirement information. The main difference between reparative boards and VIP is that members of the panel are victims of the same crime as which the offender is accused. If the offender is guilty of breaking and entering, then those volunteers that make up the panel are all victims of breaking and entering, but not of any offender present. The stakeholders are linked by the common crime, but are unrelated as far as the victim-offender relationship, as detailed by Christopher Bright, author of "Introduction: Victim Offender Panels" (Bright, 1997:1-2). The panels are moderated by a trained VIP coordinator (Sprang, 1997:75-77).

The offenders involved have a first-hand look at the negative consequences that their crimes have on real people. The victims on the panel speak with the offenders in a non-blaming way about the consequences, while continuing to heal from their own painful memories and hurt (Sprang, 1997:75). Research studies of VIP models show powerful statistics for the success of this restorative measure. Bright's study of VIP showed significant benefits to victims; eighty-two percent of the

victims involved in VIP stated that the restorative measures facilitated their own healing. The victims were able to express grief in a supportive atmosphere that was conducive to healing, while significantly “changing offenders’ attitudes about drunk driving.” For offenders, VIP shows dramatic changes in recidivism rates; before the panel, eight-seven percent said they were likely to continue their habits, while after the panel, ninety-percent said they would not continue to drink and drive. “These results were even more dramatic when compared with a control group of nonparticipants and when other variables (such as counseling and elapsed time since crash) were controlled for: participants manifested a higher sense of well-being, lower anxiety and less anger than non-participants” (Bright, 1997:1-2)

Sprang’s study also found similar and even more encouraging results when VIP introduced alcohol addiction counseling. The study of 103 VIP participants and seventy-five comparison group participants showed that those VIP participants who received treatment in a alcohol addiction facility had a ten-percent recidivism rate, compared to a twenty-percent recidivism rate for the comparison group who spent seven days incarcerated (Sprang, 1997:73-74). Sprang’s VIP group was composed of twenty-four felony offenders and twenty-nine offenders who had injured another person in a DUI crash. Both groups were made up of a wide variety of racial and ethnic backgrounds, however predominately white and African American, and the average of the offender was twenty-six years old (Sprang, 1997:77-79). The outcomes of the effect of VIP on the participating group, as well as the comparison incarcerated group are staggering, and are detailed in the chart below.

	<i>Before Attending VIP</i>	<i>After Attending VIP</i>	<i>Before Serving Prison Sentence</i>	<i>After Serving Prison Sentence</i>
Percent of DUI offenders who believed that DUI is not a crime	77.3%	41.2%	75%	66.2%

Percent of DUI offenders thought about the possible consequences of DUI	63.7%	23.7%	60.2%	59.7%
Percent of offenders who were rearrested after 12 months		9.3%		18.7%
Percent of offenders who were rearrested with misdemeanor offenses		8.1%		15.3%
Percent of offenders who were rearrested with felony offenses		1.2%		3.4%
Percent of offenders who would continue to drink and drive	87%	17.5%	91.9%	88%

(Sprang, 1997:79-80)

The goal of VIP is to help the offenders experience shame, while empowering victims to take back control. For DUI VIP, this goal is accomplished by exposing the offender to consequences of their actions, helping them move past the “bad luck” of being caught in the act, breaking down any denial of alcohol addiction, imprinting images in their psyche to remember the next time they are in a dangerous situation, and changing behavior (Bright, 1997:1; Sprang, 1997:76). Shame is a powerful tool in dramatically reducing future recidivism, introducing sorrow and regret into an offender’s life, and altering behaviors.

“Recent years in some Western societies have seen more effective shaming directed at certain kinds of offenses – drunk driving, for example. This shaming has for many adults integrated new categories of wrongdoing (for which they had not been socialized as children) into the moral

frameworks pre-existing from their childhood” (Braithwaite, 1989:78-79). Shame has been mentioned as an important piece to achieving restoration.

Harris’ Reintegrative Shaming Theory (RST) states that shame is a “social communication of disapproval that is critical to reducing offending” (Harris, 2006:328). Reintegrative shaming “controls crime; stigmatization pushes offenders toward the criminal subculture” (Braithwaite, 1989:13). The shaming is respectful of the offender, terminated by forgiveness of the victim and/or offender’s family, does not label the offender, reduces recidivism, and is an emotional response to doing something wrong. The concept of shame, in the theory, produces emotions within the offender at the demonstration of society’s disapproval of an act (Harris, 2006:327-331). Unlike stigma, shame “treats acts of people as bad, but treats people as good” (Braithwaite, 2003:85). Especially in cases of family or group conferencing, it is easy to “capitalize on the fact that people act in a certain way because they want to avoid experiencing the external shame of disapproval by people they care about and because of the internal shame experienced through conscience” (McCold, 2003:296). Shame is effective because it resonates within an offender. Societal or familial disapproval of an act produces emotions within the offender which, in turn, cause the offender to want to change behaviors and terminate the feelings of guilt, embarrassment, and dishonor. Shame is a core element in restoration, and its outcomes add to the list of “successes” of the restorative justice movement.

Restorative justice initiatives claim many successes in the few numbers of programs around the country. From completely changed individuals to strengthened families and communities to mended mailboxes, successes come in many different forms.

A group of teenagers did considerable damage to a very old and expensive ice fishing house. They were apprehended, and referred to a mediation session with the owner of the ice fishing house. Families of the juvenile offenders, as well as the family of the owner attended; as they each had a

stake in the outcome of the meeting. The owner was very upset, because he had spent many years building and making improvements to the house. Also, the house held the fondest memories of time spent with his son. The juveniles expressed remorse in their actions and wanted to help the man make repairs to his property. The owner's son said that before this meeting, he had never heard his father express emotions about him or the time they spent in the ice fishing house. The owner and his son invited the families to a weekend of cleaning up the property, and fishing together. This restorative session brought shame to the teenagers, which resulted in a change of attitude regarding property of others. Also, a father and son's bond was strengthened, as well as the relationship between the families (McCold, 2003:298-299).

Even offender responses like, "I'm sorry," and victim responses like, "Thanks a lot. I was young too, only some of us didn't get caught" are all successes, because they elicit a sense of understanding of the points of views of others involved in crimes (Peachey, 2003:179). However, the successes of restorative justice are usually measured in decreased recidivism rates, and amount of restitution for victims.

Rodriguez's meta-analysis of thirty-five restorative justice cases found that restorative justice is far better than criminal justice alone at reducing crime (Rodriguez, 2005:106). Other studies, including: Braithwaite, 1989; Harris, 2006; Bright, 1997; "Restorative Community Solutions," 2006; and Sprang, 1997 all corroborate Rodriguez's findings.

When an individual commits an offense against another individual, a loss is suffered. Justice is making good on that person's loss. Reparations for the loss can include: money, working for the victim, working for a community organization as selected by the victim, anger management or drug/alcohol addiction treatment, or a combination of measures (Marshall, 2003:32). Restitution is the re-payment given, in many different ways, to the person who suffered the loss. In property crimes, restitution is easier to define. Mailboxes, cars, and paint jobs all have a monetary value with

which they are associated. However, restitution for crimes involving injury or the loss of life is much harder to define (Barnett, 2003:49). There are many advantages to restitution, including: rehabilitation of offenders, saving the money of taxpayers, and a “self-determinative” sentence, while showcasing that crime does not pay (Barnett, 2003:53).

In order for community service “to be restorative, all affected parties need to have the opportunity to participate in determining what community service is done” and how it’s monitored (“Restorative Community Justice,” 2006:3). The Community Service Restitution Program, as detailed in Umbreit’s *Crime and Reconciliation*, provides one example of a successful restitution program. A sample of cases, ninety-six felony and fifty-four misdemeanor, involving 115 adults, has resulted in over 19,200 hours of community service for private and public organizations, and over 100,000 dollars in economic benefits to the community (Umbreit, 1985:109-110). Another restorative justice program demonstrates community service hours equaling 100-150 hours per felony case, with a ninety-two percent completion statistic. Out of 1,092 cases, 1,009 have completed all community service assigned, and has resulted in over 189,000 dollars in economic benefits to victims, schools, libraries, parks, and insurance companies (Zachry, 2004:4-5). Prisoner and Community Together (PACT) found that one day in jail is equivalent to six hours of free work that benefits the community or the victim (Umbreit, 1985:61).

The primary purpose of each restorative model, as well as the function of shame is for all parties to heal from the hurt of the crime committed – an immeasurable success.

Restoring victims includes “restoring: property, injury, sense of security, dignity, sense of empowerment, deliberative democracy, harmony, and social support” (Braithwaite, 2003:86). By feeling a sense of empowerment and regaining dignity, the significance of the crime is not reduced, but it is “letting go of the power that the offense and the offender have over a person while not condoning or excusing the actor” (Gehm, 2003:281).

Restoring offenders includes “restoring: dignity, sense of security, and empowerment,” (Braithwaite, 2003:88) and getting to the root of the reasons for committing the crime. Morrison quotes Tom Tyler as saying, “collateral and direct consequences of punitive strategies to rule-breaking undermines moral development” (Morrison, 2006:213). Michael Schluter, author of “What is Relational Justice,” corroborates Tyler’s statement in stating, “Moral development also appears to be linked to the quality of relationships formed in childhood. Research shows that inadequate or absent parent-child relationships are associated with juvenile delinquency, violence, and a range of psychological disorders” (Schluter, 2003:305). The absence of healthy parent-child relationships may be explained by United States Department of Justice statistics. It is estimated that thirty-one percent of the prison population had a parent or guardian with a drug or alcohol addiction, and forty-six percent of the prison population had an incarcerated family member (“Criminal Offender Statistics,” 2007:3). The absence of a parent or guardian, and/or prison sentences, decreases the moral development of a child, juvenile, or young adult. This lack of moral development causes individualistic tendencies, and a lack of community conscientiousness (Braithwaite, 2003:93). An individualistic inclination “tends to breed selfishness and a lack of empathy, which lays the groundwork for crime” (McCold, 2003:95). Restorative justice brings this information to the forefront, and creates an opportunity for offenders to take genuine responsibility for their crimes. Genuine accountability allows offenders to understand the consequences and make amends to the victim and the larger community (Zehr, 2003:70; “Restorative Community Justice,” 2006:2).

Because the costs and consequences of criminal activity span far beyond the neighborhood, it is important that the community takes steps to restore the situation, while also being enhanced for the future (McCold, 2003:295). “In theory, the collaborative effort between community members and criminal justice agencies produces an effective mechanism of crime reduction that may also lead to solving of other community/neighborhood problems” (Rodriguez, 2005:105). Communities that

venture to reintegrate offenders “instill empathy and strengthen the bond to and stake in the community, thereby producing law-abiding citizens” (Johnstone, 2003:3).

Communities can help offenders find jobs, complete community service, become literate, finish their education, get counseling or addiction treatment, and get needed support. Building a community for offenders gives them a legal outlet for participating and belonging. Reintegration back into society promotes civil and social responsibility, as described by Adam Crawford, in “In the Hands of the Public,” and strengthens community bonds for the future, ultimately making the community safer (Crawford, 2003:314; Marshall, 2003:34-36).

Restorative Model for DUI Cases

“There is no fully elaborated system of restorative/ community justice, not only in the sense that no jurisdiction has fully embraced restorative/ community values and practices but also in the sense that no one has clearly articulated how such a system might work” (Van Ness, 2003:270). The following model for DUI offenders is based on the available research conducted regarding DUI offenders, cases, and deaths; the failure of the criminal justice system in effectively responding to DUI offenders to make society safer; restorative standards that have proven track records of success in other areas, and current models of restorative justice. The proposed restorative justice model will take place at a newly created restorative community justice center.

The Restorative Community Justice Center (RCJC) will work best in a medium-sized city of about 50,000-75,000 citizens. The PACT group has an office in Lima, Ohio; a city of relative size, and has had many successes at this level. This size population has a community feeling in neighborhoods and sections, but the city is still large enough to have some confidentiality for the victim and offender (Umbreit, 1985:61-62). The RCJC will be completely unique in its creation, and will reflect the characteristics of that community.

Research, as detailed above, shows that community organizations or groups are best to handle restorative initiatives. They are able to cut through bureaucratic procedures, unlike government or criminal justice agencies, however it is imperative that the two work together. A community non-profit or faith-based organization with several staff members to mediate and oversee meetings, work with offenders, victims, and community members, and administrate and coordinate the procedures are necessary elements. A list of possible staff members could include: an executive director, director of restorative programs, director of cooperation with local criminal justice authorities, director of fund development, director of finances, several mediators to work with the programs, several administrators/assistants to work with the stakeholders, and community volunteers to work on boards, with stakeholders, on public relations campaigns (interviewing willing victims and offenders and alerting the media to the successes), and in any capacity necessary (Umbreit, 1985:65). “Volunteers need to feel, not only supported and valued, but also that their time commitments are meaningful” (Crawford, 2003:313). Volunteers are essential in integrating the RCJC into the community, and work very closely with the traditional criminal justice system and its actors.

In order to set-up the RCJC, the community group will need funds to undertake this challenge. Seed money from a large private or state public grant should be used to create an endowment to fund future endeavors. In subsequent years, yearly annual funding drives can help build the endowment and support programs. Funding for the RCJC’s programs will be significantly lower than traditional criminal justice measures.

First-time DUI offenders, without fatalities, are referred by the judge at the court hearing to the RCJC for participation in VIP. These offenders will voluntarily agree, on the condition that they admit their guilt of the crime, and will face a panel of drunken driving victims, although not related, and community members. These community members are “ordinary people affected by crime

participating in defining and handling crime problems,” and “assisting ex-offenders in refraining from re-offending” (Johnstone, 2003:1-4). The offender will have the opportunity to share their story, as well as hear the stories of the community volunteers, and work out a restitution agreement that benefits the offender in reintegration and strengthens the community. The panel will proceed in the same way as described on pages twenty-one through twenty-three. The restitution agreement will be monitored by the board and the community organization.

Subsequent DUI offenders, without fatalities, will be referred by the judge at the court hearing to the RCJC for participation in community reparative boards or VIP, depending on the assessment of the RCJC staff. These offenders will voluntarily agree, on the condition that they admit their guilt of the crime. The VIP or boards will function in roughly the same way as described on pages twenty-one through twenty-three, with any restitution plans being monitored by the board or panel.

Victims injured, or families of victims of those killed in DUI crashes will be given the opportunity to meet face-to-face with their offenders. This mediation will be offered to the victim, without coercion or force, on a completely voluntary basis. If the victim is willing and wanting to participate, the offender will be offered the experience, on the condition that they admit their guilt of the crime. Mediation, and any subsequent restitution plan, will be monitored by a trained mediator, as well as the community organization. The mediation will proceed in the same way as described on pages twenty-four through twenty-six.

Key information will be collected to determine recidivism rates, restitution for the victim and/or community, and the degree of reintegration of the offender. Evaluations will determine this information. These evaluations will be part of the original agreement in order to participate in the restorative processes. Evaluations will be conducted six months, one year, two years, and three years after the panel, mediation, or meeting. We know that offenders are more likely to reoffend

within three years, so the evaluation will include that time frame to prevent that statistic from increasing. Appraisals of the victim's experience will be conducted six months and one year after the panel, mediation, or meeting.

“The inclusion of community factors in evaluating a restorative justice framework is appropriate” (Rodriguez, 2005:107). Statistics above show that strengthening relationships with offenders rather than rather than cutting them off decreases the likelihood of recidivism rates. The strengthening of relationships is only capable in restorative environments, and not in criminal justice or prison settings (Johnstone, 2003:6). The outcomes of each evaluation will be reported to the court system, as well as anonymously to the media and community as a whole to show the successfulness of the restorative justice movement.

Models, like the one mentioned above, are completely malleable depending on the surrounding community. Restorative measures, including, but not limited to boards, panels, conferences, and mediations, have proven track records of changing attitudes of the offender, and healing the victim. As long as offenders are treated with respect, and the processes are not re-victimizing the victim, the model has a better chance of achieving success than current notions of “lock ‘em up and throw away the key.”

If Dana Pabst, the drunk driver mentioned in the beginning of this paper, had participated in a restorative justice meeting, perhaps a mediation, panel, or family conference, on any of the five previous occasions he had been arrested for DUI, the situation on November 11, 2006 might have been very different. Instead, he was either fined, given a jail sentence, or a combination of both. In any of the five cases, the traditional criminal justice sanctions did not work, and instead left a man able to continue on his path of destruction – of the Garcia family and himself. Restorative justice “is a starting point toward healing the hurt of injustice, and transforming the conditions that allowed injustice to flourish,” (Braithwaite, 2002:564) while demonstrating promise and hope in a world in

which every thirty-one minutes yields families who are devastated by a preventable and unnecessary crime.

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