THE IMPLEMENTATION OF RESTORATIVE JUSTICE IN THE JUVENILE JUSTICE SYSTEM AND THE IMPACT OF COMMUNITY JUSTICE BOARDS IN PIMA COUNTY

By
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A Thesis Submitted to The Honors College
In Partial Fulfillment of the Bachelors degree
With Honors in
Public Administration and Policy

University of Arizona

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Abstract

The criminal justice system is filled with theories regarding the treatment of convicted offenders, one such theory is the restorative justice approach. This approach stands apart by aspiring to educate offenders while repairing community bonds. If this approach has the intended impact when implemented in the juvenile justice system, it presents an alternative to the traditional system by reducing the number of repeat offenders and preventing new offenders from arising because of the increased community involvement. In order to assess the effects and implications of restorative justice, the Community Justice Boards program of Pima County was looked to as an example of the application of background and theories pertaining to restorative justice in the juvenile justice system. Moreover, the potential benefits, short comings, and cost effectiveness of the implementation of restorative justice programs were examined. The findings that arose from the research conducted on the topic of restorative justice include that they have the possibility of being cost effective. Further, this form of policy has positive impacts on community involvement as has been the case with the Pima County system, but could benefit through the expansion of offenses addressed and a firm level of monitoring to ensure these programs do not stray from their goals.

Defining Restorative Justice

Definition of Restorative Justice

The term restorative justice can have a variety of meanings for those who attempt to implement this form of justice within their communities. However, within this paper the examination of the restorative justice theory and programs that attempt to implement this form of justice will be defined as follows:
“Restorative justice is a theory of justice that emphasizes repairing the harm caused by criminal behavior. It is best accomplished when the parties themselves meet cooperatively to decide how to do this. This can lead to transformation of people, relationships and communities.”

While this definition of justice appears to encompass what many believe to be the purpose of the criminal justice system, a focus on restorative justice allows for deviations from the traditional criminal justice system. These deviations arise when one considers that much of the focus within the traditional criminal justice system revolves around retribution through harsher punishments. On the other hand, a restorative justice focus removes the focus from the transgressor and instead attempts to address the needs of all parties. This includes the promotion of active involvement of the victim through interaction with the perpetrator of the crime as well as involving the families (support systems) of both victim and perpetrator.

Specifically, traditional restorative justice programs can be classified under three types; victim offender mediation, family or group conferencing, and peacemaking or sentencing circles. The first of these forms of restorative justice programs entails that victims and offenders meet, with the consent of the victim, and discuss the harm that was caused with the intent of creating a sense of mutual understanding between both parties. As of 2004 there were 300 of this type of program in place in North America and 400 in Europe, indicating widespread understanding, or belief, of the notion that victim-offender interaction can help the victim find closure and the offender understand the impact of their actions.

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As for family or group conferencing there is again an interaction between the victim and the offender with the express intent of promoting healing for the victim and understanding for the offender, but in this situation these key participants are able to involve their community support systems. Because of this added support, the impact of the program is thought to have a greater possibility of forming the future behavior of the offender. By involving support systems the offender is not only able to view the impact of their actions on the victim but they are also given the opportunity to understand the full extent of the impact of their actions on their own loved ones. Furthermore, this form of restorative justice was drawn out of traditional New Zealand practices within the social services department and was modified for the Australian justice system and currently has a place in North America, Europe and southern Africa.¹

Finally, peacemaking, or sentencing, circles were designed to involve all parties in sentencing process in order to come to a consensus about the appropriate measures to be taken with regard to retribution. This process, like the others, promotes healing for the victim and helps the offender find understanding. However, this form of justice goes one step further by giving the offender a means of taking responsibility for their actions. Moreover, by giving a voice to various parties in the sentencing process, a sense of community is developed in an aspect of society that is usually reserved for the judicial system. The system of community derived punishment was evolved from Native American traditions and is being used in North America.¹

In each of these forms of community justice, the underlying theme appears to be repair from within the community. By bringing together offenders and victims, this form of justice works to bring about a sense of community from incidents that tend to destroy communal bonds. Furthermore, both parties, through this system, have the opportunity to find closure and the offender is expected to refrain from reoffending after they have apologized and learned the full
impact of their actions. Thus, rather than modifying behavior through harsh punishments, restorative justice programs generally seek to resolve deeper issues that may have led to the crime and in so doing prevent the path of crime from escalating. Furthermore, as was noted, this form of justice emerged in several countries in Europe and North America, as well as in Australia and has roots in historical community practices lending affirmation to its legitimacy.

*History of Restorative Justice and Its Spread*

Restorative justice is not a new principle but has in fact existed in various forms within ancient civilizations including Rome and Greece and is present in longstanding philosophies such as Buddhism and Confucianism. So strong was the foundation of restorative justice was in North Asian religions that the peaceful Buddhist leaders still maintain that the worse a crime is, the more opportunity there is for restoration. In particular, it was instilled within the Hindu culture, as well as within the other North Asian cultures, which forgiveness is to be granted to those who have attempted to atone for their crimes.² This is not so surprising when one considers the religious affiliations of this region, including Hindus, Toaism, and Buddhism, are known for their peaceful approach to even the most hostile situations by building community bonds upon peace building principles.

Moreover, fostering a sense of forgiveness for even the most heinous crimes echoes the manner of thinking that underpins the restorative justice system in that this system emphasizes the opportunity for offenders to ask forgiveness. Furthermore, atonement is attempted through joint discussion among community members, as well as the victim and offender, in order to establish the proper means of repairing the damage done through crime. Other early establishments of restorative justice are also, as previously mentioned, found in Native American practices of community enforcement of shared morality and conferences on

punishment. This can also be seen in the native New Zealand community involvement in the justice system.

More than holding ties to ancient cultures; restorative justice has stood the test of time and has emerged in contemporary justice systems, becoming an increasingly popular alternative to the traditional punitive justice system. The movement toward a restorative justice model, is not new, but its recent recognition, especially within the juvenile justice system, results from recognition of failing within other endeavors and the belief that this system can provide improved results. Specifically, within the juvenile justice system, the avenues traditionally followed include the justice model focused on retribution and the welfare model that primarily focus on providing rehabilitation. The results of the fluctuation between these models were viewed, by some, to have produced unsatisfactory results because of the extremes they presented. Thus it stands to reason that restorative justice marriage between the other extreme forms of justice would be able to take the effective portion of each approach to better address the problem of juvenile delinquency. Even with the positive views and spread of restorative justice there are still questions over the wide spread adoption of the theory.

Some of the more fervent claims of ineffectiveness of restorative justice are heard from those who support a more active role for the court system which include lawyers and judges. A great deal of the criticism of restorative justice results from the lack of formal participation by the criminal justice system; however, one group that has supported restorative justice is the police force. With this in mind, it is important to consider the motivations of each of these parties. In particular, restorative justice to a degree removes importance from both lawyers and judges while the police force has nothing to lose by supporting the program. Thus the police force can perhaps be looked upon as a somewhat impartial judge of the impact of the programs.
Furthermore, despite opposition in New Zealand and Canada, the judicial system helped to overcome the strong oppositions to the restorative justice through their widespread dedication to integration and promotion of reconciliation throughout the community. As for the results of the widespread implementation of restorative justice within these regions and the theory in general there still exists a level of uncertainty over the effects of such programs.

*Examples of Restorative Justice and Benefits*

Even with such uncertainties with regard to the true impact of restorative justice there are still noted benefits that have resulted from the implementation of justice programs. If one were to consider all of the supposed benefit of restorative justice, it would be enough material to analyze in separate document, for this reason a brief outline of the benefits will be set forth. The optimistic influences of restorative justice reform include, but are not limited to the following:

I. Meeting the needs of victims better than current criminal justice practices

II. Meeting the needs of offenders better than current criminal justice practices

III. Meeting the needs of the communities better than current criminal justice practices

IV. Is predicted to reduce the rate of criminal activity more than current criminal justice practices as per the Reintegrative Shaming Theory, the Procedural Justice Theory, the Defiance Theory, the Self-Categorization Theory, and the Crime Prevention Theory each of which will be explored later

V. Deters crime better than current criminal justice practices that are founded upon deterrence theories
VI. Incapacitate crime better than those criminal justice practices that are founded upon the Theory of Selective Incapacitation

VII. Rehabilitates criminal justice practices better than the Welfare Model criminal justice practices

VIII. Are more cost effective than criminal justice practices founded upon the Economic Analysis of Crime

IX. Practices Secure Justice better than criminal justice practices rooted in Just Deserts Theories

X. Can Enrich freedom and democracy

As a result of the immensity of the expected benefits, only a few will be touched upon in relation to the implementation of restorative justice.

The results of the implementation of restorative justice programs have undergone several studies that have examined victim, offender, and community satisfaction with similar positive results for each group. What is meant by satisfaction in this situation is whether or not participants would consider participating in such a program again and whether or not they felt reparations were carried out. In a survey done by Umbreit and Coates’s of United States mediation programs, 79 percent of victims who cooperated in all four stages of the program were satisfied as opposed to the only 57 percent of victims who were satisfied after not receiving mediation. While in both instances there was a relatively high level of satisfaction there still appears to be a significantly greater positive reaction to restorative justice measures. Similar results were found in a study conducted by the Australian Ministry of Justice in 1994 with 95 percent of victims reporting satisfaction with the restorative justice process. With regard to the victim receiving a benefit from the implementation of restorative justice programs, the results
can be viewed as support for these programs and a showing of the positive feelings of victims toward their experience.

As for the experience of the offender, the results are even more resoundingly positive. When Umbriet conducted a survey in 1992 of the United States restorative justices system it was found that 89 percent of offenders felt as though the results were fair and an 80 percent perception of fairness was reported by four Canadian studies in 1999.\(^1\) The significance of the sense of fairness helps to support the restorative justice goal of mending community ties through offender cooperation while allowing community involvement. Additionally, in Western Australia the Ministry of Justice reported a 95 percent offender satisfaction rate in 1998 as a result of their Juvenile Justice Teams and the restorative justice model that had been put into place in this area.\(^1\) Similar results were found with regard to studies of other restorative justice programs. What this level of satisfaction translates into are offenders who were contented with their contact with the victim and the entire reconciliation process. With such a large amount of satisfaction among this group of participants, it can be inferred that the process is a positive one in which offenders are held accountable and accept their crimes and are perhaps more receptive to learning from their mistakes.

Accountability and acceptance on the part of the offender are then expected to result in offenders who have learned from their mistakes and will no longer commit crimes. Further, by repairing community ties and creating community awareness from this too, the result is expected to be a reduction in crime stemming from a stronger community. The expectations of a stronger community as a result of restorative measure can be seen in the case of bread riots in India where the government has traditionally viewed justice for the victims as being merely compensation for damages. However, it has been pointed out that in the communities where the riots took place,
with no after action to repair community bonds through restorative measures, the result was further unrest within the region and little improvement in the situation. For this reason there has been a call within this region to get the community involved to foster accountability and repair damages through relationship building found in restorative justice measures. This situation can be translated into the other portions of the criminal justice system in which there is only one offender because even in these instances there is a breaking of community bonds. In these instances there too has been an inclination to take heavy handed government action that defines justice as harsh punishment. Similarly this approach does very little to involve the community or foster relationships, and it has been suggested that a more community based approach be taken to produce more satisfactory results.

When taken together, the positive reactions of victims, offenders, and the community that result from restorative justice measures it becomes somewhat clear why a reduction in crime rates is expected from these programs. If offenders and victims are willing to come together under a system that they both feel they can benefit from and learn from one another and find peace in the midst of crime the program itself will become more strongly rooted within the community. Contributing to the support of these programs is the increased responsibility given to the community as they, not a judicial hand, are responsible for mending the breakdown in communal bonds. If a program has the recognition of the community as something positive its legitimacy will earn it the respect of all members of the community including offenders. For this reason offenders are more open to taking responsibility and feel the full accountability of their actions in light of their impact on the community as a whole. After being immersed in their community and coming to the realization that they have a responsibility to their fellow man to

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monitor their own actions, this can result in more responsible community members less likely to commit crimes.

**Community Justice**

The term community justice is often used interchangeably with restorative justice and in light of the emphasis on community as an integral portion of the restorative justice process previously mentioned, the use of these terms interchangeably appears appropriate. However, this is not necessarily the case and for this reason the term community justice will be highlighted along with the key deviations from restorative justice in order to better put forth the integral aspects of restorative justice. Furthermore, there are overlapping portions of the restorative justice movement and the community justice movement but these are two separate movements that approach crime with a different mindset.

Community justice movements hold the view that crime is a societal issue that affects the community and emphasizes prevention within the criminal justice system as a means of better improving life within communities.\(^4\) This somewhat diverges from the restorative justice approach which works to repair relationships between victims, offenders, and the community. These two methods converge on their approach in which they aim to obtain community involvement and give the community a voice through empowerment. However, the fact that a program is deeply rooted in the community does not necessarily mean that these programs fall under the umbrella of restorative and community justice. For example, Neighborhood Watch programs, which have often been classified under both models, offer community empowerment but do not specifically work to repair the community in the aftermath of a crime. As a result, it appears as though this program better matches the community justice model in light of the emphasis on community crime prevention.

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Other efforts to develop community base justice programs include programs that aim to prevent violence, poor economic development and delinquency prevention. A snap shot of the wide scope of community-based programs can be viewed in Figure 1. Along the horizontal portion of the matrix is a list of community based programs segmented by the organizations that sponsor them. While the vertical axis indicates communities within states and the black dots indicate the programs present within those communities. The immense variety of programs that are able to be classified as community based programs speaks to not only the broad definition of community justice but also the in depth nature of these programs. They attempt to address community problems in order to prevent societal breakdown, and thus the large array of programs that are rooted in avoiding societal factors that result in crime is not surprising. In fact the inclusion of the community in so many crime prevention measures further affirms their importance in the criminal justice process whether it is through community or restorative justice programs.

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Furthermore, the aspect of community empowerment seen in Neighborhood Watch programs and other community based programs can be seen as a unifying aspect, which results in some confusion over restorative and community justice programs. Within the community justice model, the notion of community empowerment is based on the notion that the criminal justice system attempts to integrate the opinions of the community into their practices allowing for community involvement. The goal is to have the community participate in crime prevention and operate as an extended police force as they attempt to prevent crime. Again, the focus of community justice is to involve the community in an attempt to solve the social problem crime presents by building community bonds through empowerment through their involvement in the criminal justice process. If the community repairs those aspects that may fuel crime such as unkempt neighborhoods, they can help to prevent criminal activities they merely have to be given a voice and responsibility.

On the other hand, in the restorative justice process, the notion of community empowerment still entails that the community participates; however, with different expectations than that of community justice. In particular, the typical restorative justice programs enlist the assistance of the community in community boards, community mediation, resolution centers, and other similar programs. In each of these instances of restorative justice, the expectation is that the community come together to build the relationships that are destroyed through crime. Their participation in the justice process is rooted in the notion that crime does not only involve the offender and victim, but also affects the community. For this reason, in order to fully address offenses it is believe to be important for the community to have a voice in the justice process in order to better ensure the morals of the communities. More than temporary mediation with the assistance of the community, the overarching goal is to develop strong community participation
to bring about healthy community members less likely to reoffend. All in all it is expected that through community involvement victims can find support and offenders can be enlightened about the full extent of the impact of their actions.

To further emphasize the positive impact of the “de-professionalization,” or the emphasis placed on community involvement and gradual removal of criminal justice administrators, are the benefits that result from this movement. Restorative justice hinges upon victims and offenders being willing to come together and communicate with one another. However, this is only truly successful when both sides have the support they are in need of to make it through the difficult process. Furthermore, it should be pointed out that family members may provide better comfort than a lawyer. Increasing voluntary participation in these programs results in more opportunities for reconciliation and more feelings of fairness on the part of the offender. As a result, community participation actually helps to drive the existence of restorative justice programs. All in all, both community and restorative justice programs are driven by their removal of responsibility from formal authorities and involving the community in their initiatives.

Four Models of Restorative Justice

After having explored the role of community and the importance of these participants in the restorative justice process, it is time to explore the four forms that generally characterize a restorative justice process and the varied forms of community involvement. These four models include victim offender mediation, community reparative boards, family group conferencing, and circle sentencing. Each of these has their place within the restorative justice system as they

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attempt to inspire communication to build community and involve the community to varying degrees.

The first of these models is victim offender mediation which as its name implies relies upon the willingness of the victim to face the offender and engage in communication about the offense in question. Such programs have been in place for over 20 years in the United States, Canada, and Europe with 320 programs in the United States and Canada and over 700 in Europe as of February, 2001. Generally this method of restorative justice is implemented for less serious crimes involving juveniles but has been pushed to also take place for more serious offenses involving both adult and juvenile offender. Generally, these programs can be characterized by a meeting between the victim and the offender outside of an official criminal justice venue, in the presence of a mediator, and the two are allowed to share with one another and in some instances all parties involved come to an agreement about some form of retribution for the offense. The goals of such programs, as described by the *Juvenile Justice Bulletin* are as follows:

- “Supporting the healing process of victims by providing a safe, controlled setting for them to meet and speak with offenders on a strictly voluntary basis.
- Allowing offenders to learn about the impact of their crimes on the victims and take direct responsibility for their behavior.
- Providing an opportunity for the victim and offender to develop a mutually acceptable plan that addresses the harm caused by the crime.”

As can be seen from these goals, it is clear that the overarching result is hoped to be restoration of the damages done through relationship building as opposed to pure retribution carried out by the court system. Moreover, the initiation of this process is done through reference from official
members of the criminal justice system including judges, attorneys, and police officers. These programs are often utilized as an alternative to formal prosecution and usually rely on the offender having already admitted guilt and taking responsibility for their actions.

As for the role of the community within this program, the community participants include the victim, offender, mediator, as well as support systems for both sides. Including the victim and the offender as members of the community is done with the purpose of emphasizing their role as community members, and their voluntary participation in these programs also emphasizes the importance of community. Furthermore, the support system for juvenile offenders often entails the participation of parents, and for the victim this could consist of anyone they feel would best be able to support them in the difficult process of confronting an offender. Additionally, community involvement is also somewhat informal in that locations are volunteered for the mediation to occur and are generally places the victim would feel most secure meeting in. As was noted much of the emphasis is on providing healing for the victim and making them comfortable with the process in order to bring about satisfaction with the process.

Diverging slightly from this form of restorative justice are the community reparative boards which have a slightly more defined role of community.

Community reparative boards consist of a panel of community volunteers that meet with offenders and take responsibility for developing agreements with offenders and monitoring whether or not offenders fully carry out the parameters of the agreement. All members of the panel are volunteers from the community who receive intensive training. The whole program is monitored by the court system as the panels are required to submit reports to the court with regard to the participation of the offenders. A general description of the process is that an offender will meet in person with a board of community, an agreement will be made over
reparations, the offender is then charged with keeping a record of their reparation process to submit to the board, and the board submits the documentation to the court system. As a side note, these programs have existed in the United States in some form since the 1920’s and the contemporary version of this program, similar to the one described, have been in place since the mid-1990’s. Once again the goals for this type of programs as per the *Juvenile Justice Bulletin* are as follows:

- “Promoting citizens’ ownership of the criminal and juvenile justice systems by involving them directly in the justice process.
- Providing an opportunity for victims and community members to confront offenders in a constructive manner about their behavior.
- Providing opportunities for offenders to take personal responsibility and be held directly accountable for the harm they caused to victims and communities.
- Generating meaningful community-driven consequences for criminal and delinquent actions, thereby reducing costly reliance on formal justice system processing.”

These goals are similar to those of victim-offender mediation, however, this model places more emphasis on those not directly involved in the offense (victims and offender). For example, community members are given the responsibility of addressing crime within their community and removing some of the burden from the formal justice system. In doing so the result is expected to be more personalized consequences for actions against the community, thus better suited than the standard sentencing that often occurs in the traditional system.

As for community involvement, the community members involved are not surprisingly the victim, offender, support systems, the panel, and a probationary employee as the administrator. It is apparent from the description of the program that the community plays a more active role in
the retribution development for the offender. Similar to the mediation model, the victim has a voice with regard to the punishment developed, but in this model, community volunteers also have a voice. This places even more importance on community cooperation and responsibility. While in this model, there is increased emphasis on the role of community volunteers the next model, family group conferencing, brings the community involvement back to those closer to the victim and offender.

Family group conferencing is, as its name suggests, characterized by the participation of the families of those people most affected by a crime. This model of restorative justice has its roots in native New Zealand culture and the modern version of the tradition was adopted in the country in 1989 and has recently been adopted in the United States and parts of Canada. The general process for this type of restorative justice entails that a conference facilitator contact both victim and offender to arrange a meeting that will include whoever each party would like to have as a support system. At the meeting everyone involved describes the impact of the offense on their own lives, the victim is given the opportunity to suggest a desired outcome, everyone collaborates on a solution, and at the end an agreement is made to hold the offender accountable. This system is very much like the victim-offender mediation model but in this instance the family members (support systems) all have a voice in the conference and the offender is given even more insight into the full extent of the impact of their crime. From this shift in influence the expected positive impact is expected to be:

- “Providing an opportunity for the victim to be directly involved in the discussion of the offense and in decisions regarding appropriate sanctions to be placed on the offender.
- Increasing the offender’s awareness of the human impact of his or her behavior and providing the offender an opportunity to take full responsibility for it.
• Engaging the collective responsibility of the offender’s support system for making amends and shaping the offender’s future behavior.

• Allowing both offender and victim to reconnect to key community support systems.”

Much like victim-offender mediation there is emphasis placed on allowing the victim to have a voice in the process and having the offender enlightened about the impact of their actions but in this model there is even more focus placed on the support system and claiming of responsibility by these groups. Furthermore, all parties are given a voice in this process as they collectively come to an agreement about the proper outcomes. Such goals are indicative of the increased community involvement of this model as opposed to the more victim-offender focus of mediation programs.

The extent of community involvement can be viewed by the participants in this model which include victims, offenders, coordinator, and support systems which can include family and friends from both the victim and offender. While these parties are very similar to those in the mediation model, their roles are somewhat more involved than in the former model. No longer are the support systems passive figures but possess an active voice. This in a sense gives the community outside of the isolated victim and offender a more important role. Not only are they present to help ease the process and create satisfaction for the wounded party, but they serve as enlightenment for the offender. For this reason, community members close to the crime are crucial to the effectiveness of this program. The last model of restorative justice, circle sentencing, also utilizes some of these important participants, giving them a similar role, but focuses attention on the sentencing and involves formal criminal justice members.

In particular circle sentencing is a program that brings together the traditional justice system and restorative approach at times, and provides healing for both the victim and the
offender. This model can be traced to aboriginal people in Canada and American Indians and is currently in place in the United States and Canada. The general process for the circle sentencing model is that first the offender must agree to participate; both victim and offender engage in healing with a circle of supporters, a circle is formed to derive a sentence for the offender and then the circle monitors the offender’s commitment to the sentence. When this model is implemented the expectations are as follows:

- “Promoting healing for all affected parties.
- Providing an opportunity for the offender to make amends.
- Empowering victims, community members, families, and offenders by giving them a voice and a shared responsibility in finding constructive resolutions.
- Addressing the underlying causes of criminal behavior.
- Building a sense of community and its capacity for resolving conflict.
- Promoting and sharing community values.”

This list of goals does not appear to diverge from any of the previous models save from adding to the notion of addressing the possible causes of the crime and spreading community values held by the community. By including these two goals, there appears to be an attempt to prevent the offender from reoffending by holding them accountable to their fellow community members.

More than bringing forth the aim of prevention, this model also works more closely and depends more heavily on the formal criminal justice system along with community member involvement in the process. This is not out of the ordinary, considering that some of the other models were partially dependent upon the formal system. The community members involved in this program includes the victim, offender, judge, prosecutor, a defense team for serious crimes, support systems, and is open to all members of the community. Each of these members plays a
crucial role. Firstly, this model requires the cooperation of the traditional system and then opens the system up to the input of those affected by the offender’s actions. In this sense there is an all encompassing dependence on the community as this process brings together community restoration and the traditional process. Here again, the goal of community involvement in the restorative justice process is to teach the offender and repair communal bonds.

*Balance in Restorative Justice Programs*

With much of the focus on empowering the individual and removing professional control, restorative justice experiences the problem of creating a balance in the program so that the benefits of the traditional system are not lost. Finding a balance is especially important when implementing restorative justice programs in the juvenile justice system. In particular, there is a need to ensure that accountability is truly established, the community’s safety remains a priority, and offenders develop competencies to help them move forward. There is a particular project, the Balanced and Restorative Justice Project (BARJ), which endeavors to ensure that this balance exists within restorative justice programs implemented in the juvenile justice system.

The “balanced” approach shares the same mission of restorative justice and the spread of this form of justice. Additionally, it emphasizes that in order for such programs to be developed and thrive, the victims, offenders, and community need to be equally a part of the program and their needs must be met. BARJ has worked with juvenile justice systems to implement a balanced model of restorative justice and has done so by implementing the balanced approach as seen in Figure 2. Figure 2 shows each participant has a crucial role to play in the successful implementation of the program. This approach is very much in line with the previously discussed examples of restorative justice. However, while each member did play a crucial part in the other restorative justice models, this balance approach gives each participant equal weight and ensures
that participants are not lost in the system that could easily be shifted to address the needs of one particular group.

Figure 2

The BARJ has made it their intention to transform traditional juvenile justice systems to reflect restorative justice, but have eased the transformation through the balanced approach. Specifically, they have utilized the following steps in their transformation process:

- “Develop consensus around common goals and performance objectives of the balanced approach mission.
- Assess current practices and policies for consistency with those goals and objectives.

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• Establish action steps and benchmarks for gauging progress and ensuring movement toward the goals and objectives.

• Begin using the mission actively each day to guide decisions.⁸

In each of these steps, it is clear the emphasis is on remaining on track with the goals restorative justice and obtaining the consent and input of the community. As a result of restorative justice’s dependency on the community, the development of a common belief with regard to the purpose of the program is supported. If a program is implemented without the support if the community there is little to suggest that the community will be as committed to the program. Thus by engaging in community collaboration, the community is likely to have more of a vested interest in ensuring the program’s success. Taking this notion a little further, the BARJ also asked that jurisdictions that chose to implement the balanced approach follow the following guidelines:

• “Identify the stakeholders in the work of juvenile justice.

• Involve representatives of the stakeholders in all planning.

• Assess the current status of the agency with respect to BARJ policies and practices by asking:
  
  o “How are resources spent?
  
  o What are the current performance outcomes for agency intervention?
  
  o Who benefits (victims, community members, juvenile offenders, juvenile justice professionals)?
  
  o How does staff spend their time?
  
  o What are community perceptions about juvenile justice?
  
  o What are victim perceptions about juvenile justice?
  
  o Who has input into disposition decisions?
What is the level of community involvement in the juvenile justice process?

What factors determine case handling?

- Identify discrepancies between current practices and BARJ goals and objectives.
- Identify the most promising opportunities for change.
- Set specific goals based on the information you have gathered.
- Create an ongoing advisory process involving stakeholders.
- Measure results.
- Modify plans periodically based on results.\textsuperscript{8}

In attempting to ensure that restorative justice programs are successful, BARJ is careful to maintain order and focus while maintaining a watchful eye on these programs to verify that they meet the community’s needs, and correct them if necessary. Members of the community are encouraged to lend their input about possible improvements in programs so that they are more than merely participants in the program but are actively involved in the implementation. Furthermore, when a program places significant interest in removing control from formal authority, there is an especially strong need to establish order. As a result of the strong communal ties of such programs, it logically follows that the community share in maintaining order within such programs because of their vested interest in the program. Thus the fact that BARJ continuously calls upon the community for support and modifications to restorative justice programs molds well with the interests of restorative justice, while facilitating the successful development of the program.

As previously mentioned, beyond establishing criteria for developing successful implementations of restorative justice within the juvenile justice system, there was a particular focus placed upon accountability, competency development, and community safety. Each of
these is included as a central focus of a balanced system for a reason. Firstly, what is meant by instilling accountability within these systems is the same as the notion of accountability already established within the other restorative justice models. However, in the balanced approach, special emphasis is placed on providing the right accountability strategy to be taken with regard to offenders. Specifically, accountability is not associated with imprisoning an offender to ensure public safety. Instead accountability strategies should focus on having the offender take responsibility for their actions and make amends with the community through some form of reparation. Additionally, the victims’ voice should not be lost in the process by giving them, along with the community, a voice in the sentencing process while allowing the offender to learn during the process, rather than having institutions fully takeover the punishment process and removing the “human” factor. Again this is not radically different from the purpose of the other restorative justice models but focuses more on maintaining goals and putting the implementation on the right track in all of the restorative justice areas.

Similarly, the notion of competency development does not stray from the restorative justice focus of allowing the offender to grow through the process of recognizing as well as taking responsibility for their wrong doing. However, by specifically focusing on ensuring that the offender does learn from the process, the balanced approach attempts to prevent such restorative programs from straying off course and becoming a forum for purely retributive action taking place by the community. The spirit of restorative justice is expected to be upheld as the individual offender is given the opportunity to obtain forgiveness and is held accountable for righting the wrong they perpetrated against the community. Additionally, it is hoped that the offender will emerge from the restorative justice process a changed individual who has learned
from their mistakes and has been educated with the knowledge needed to move forward in their lives.

Lastly, community safety is also held as a priority in the balanced approach as a means of avoiding community endangerment as a result of a lax system. There are some who are in opposition to restorative justice measures because they believe retribution through harsh punishment and imprisonment are the best approaches to keeping the community safe and deterring offenders from reoffending. As a result the balanced approach appears to emphasize the fact that keeping the community safe is at the core of a successful restorative justice program. In such a system, the community is given the opportunity to have a voice in the punishment of the offender. They are also able to share their views about the impact of a crime. In other words, the community is not left powerless in this system and can take measures to repair the communal flaws that may have lead to the original offense as they learn from the offender’s perspective. All in all, the balanced approach seeks to provide a system, in which the key participants are not lost in a system that lacks order, but instead are held with equal importance as they learn from one another and move forward having learned something that they can utilize to improve their lives.

There is nothing radically different about the balanced approach to restorative justice, but instead it is a method of implementing restorative justice principles by the BARJ project. The intention was that with this organized approach to implementation, the programs would be able to fully experience the benefits of restorative justice with the reduction of possible flaws that may emerge in such systems. Smooth implementation finds support by those who push for the effectiveness of restorative justice and maintain that restorative justice should not merely be a side note to the traditional criminal justice approach but should be seen as a viable alternative, especially within the juvenile justice system.
Restorative Justice in the Juvenile Justice System

There has been a multinational shift toward implementing restorative justice within the juvenile criminal justice system as opposed to the traditional approach. In order to establish the reasoning behind the push toward restorative justice in this area, the traditional system must be examined. Interest in an official juvenile justice system can be traced to the 1899 establishment of the Chicago Juvenile Court, which has since left a legacy of a separate court system for juveniles in most of North America and Europe.

The reasoning behind the decision to separate youth from the adult system stems from research that was produced indicating that youth were not fully culpable for their offenses. Stemming from its early beginnings, the juvenile justice system focused mainly, not on establishing guilt and carrying out harsh punishments, but on rehabilitating youth and avoiding severe punishments. Additionally, youth were viewed, and are still viewed, as being better benefited from being taught because of their malleability. However, this trend of an informal system that did more for correcting youth than to punish them for their actions was forced to evolve with the evolution of youth crime.

More specifically, with the spread of urbanization there was also increased diversity and the escalation of youth crime. The somewhat informal system that placed much of the control in the hands of a single judge resulted in some concerning biases in the system with increased juvenile crime. These biases appeared to negatively impact minorities and the financially disadvantaged. From the apparent short comings in this system came child advocacy groups that pushed for the 4 D’s which include: decriminalization, diversion, due process, and deinstitutionalization. This movement echoes the original juvenile justice system which placed teaching youth at the

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forefront of the system. However, the inclination in the system they reacted against and what is still being argued over was the harshness of punishments that should be handed down to youth offenders.

As was mentioned, the juvenile justice system evolved with the changing face of juvenile offenses and this included not only a more biased system but also a harsher stance on youth crime, translating into more severe punishments. The mindset of the process shift was that because youth were thought to have been members of society that were more free to make decisions in their lives when they were caught committing a crime of their own volition, they were in need of a severe punishment to correct their actions. They were no longer viewed as the helpless victims of poor societal development but were fully in control of their actions and were beings to be feared. With an increase in youth crime there was also the view that these individuals made decisions to harm and were not able to be controlled. By inspiring this fear in the community there was a call from some for harsher punishments and an almost merging of the adult system and the juvenile system by transferring more youthful offenders into the adult system. Despite the belief that such tactics would inspire fear in the “uncontrollable” young offender there is no significant evidence exists to suggest that harsher punishments actually deter offenders.

It has been suggested to a degree that the traditional juvenile justice system has teetered between an approach that appears to be more restorative in nature and a retribution approach but the portion that shares traits with restoration in that is does not do much for the victim. As has been discussed, victims are key to restorative justice, and when rehabilitation is endorsed in the juvenile justice system, the victim’s needs are set aside and focus is placed purely on the offender. Specifically, in the rehabilitative approach judges generally attempt to protect the
offender from the anger of the victim. In the process of saving the feelings of the offender, the victim is left with no outlet for their emotions as a result of the crime committed against them. With this in mind, it appears as though the restorative approach brings with it the advantages that are said to stem from the rehabilitative approach while combining the accountability of the retributive approach.

Some of the positive aspects of the aforementioned rehabilitative approach are similar to what has been set forth for restorative justice. In particular, the rehabilitative approach seeks to teach offenders and to help them develop a means to overcome what has brought them to the point of offending. Studies of such programs found that there was a 10 to 12 percent reduction in reoffending. Furthermore, this system attempts to modify the process to fit the offender by providing them with the necessary resources to make self improvements. This again is similar to the restorative approach that seeks to provide a support system for the offender and looks at each individual’s situation to develop a process for them that will best help them learn from the offense. Overall, both approaches focus on the offender’s development but beyond the difference in the role of the victim, the fact that the rehabilitative approach often seeks to shield the offender the same cannot be said for the restorative approach. In fact, confronting the offender with the aftermath of their crime is a core component of the restorative approach as they are held completely accountable for their crime. In this sense the restorative approach mimics the harsher process.

After having established the battle within the traditional juvenile justice system, the role of restorative justice within this system should also be established. Restorative justice faces a number of challenges when finding its place within this system that is already occupied by two approaches, and in doing so it works to find a marriage between the two. In finding this
combined approach restorative justice is so similar to rehabilitation in its treatment of the offender it must establish outcomes that set it apart from the rehabilitative in order to clearly find a place within the already crowded system.

To better understand the manner in which restorative justice takes root within an existing juvenile system and finds its place while creating desired results the implementation of a restorative justice program within the school system in Wales will be examined as an example of what truly sets restorative justice apart. In May 2000, a Youth Justice Board that served both England and Wales moved forward on the implementation of a restorative justice program within the local school system. This program was integrated into the system as a disciplinary tool used to address offenses including bullying and truancy. As for integrating this system within the existing school disciplinary structure, three basic components were at the foundation; conferences with school staff and outside agents, training school staff, and peer mediation. As this restorative justice program was implemented within a school environment as opposed to the traditional juvenile justice setting, some of the traditional players previously presented are different but still play similar roles with a shared goal. More specifically, the actors in each component of the implementation process are those who are affected by the student’s behavior and key persons who are able to show the student the full extent of the results of their actions.

One example of the implementation process outlined in the research of this experimental restorative justice program is one that involved a student who was caught pulling a fire alarm. In this instance, the student was faced with a meeting that involved the student’s parents, a local fire chief as well as a student who had committed the same offense in the past. Through this conference the student was expected to learn from the experiences of the other offender as well.

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as learn the impact of their crime from the fire chief. Rather than reverting to a strict punishment that would be used to remove a disruptive student from the environment without an explanation the effort was made to correct the actions through learning. In this sense, the contrast from the retributive approach is clear because the student was not merely handed an arbitrary punishment but was treated with a personalized approach. Also seen in this example of restorative approach is the fact that the student was forced to face the results of their poor decision. In fact, the student was held accountable by community members and was not spared the embarrassment of taking responsibility for their actions in front of their parents and peers.

With regard to the results of the implementation of this program, the restorative justice program experiment in the school system did have positive results favoring this methodology. The results of the follow-up survey of participants yielded found that 92 percent of conferences, such as the one discussed, resulted in agreements for future changes to alter behavior and 96 percent of agreements were upheld. Additionally, 93 percent of participants stated that they appreciated the opportunity to be listened to and felt that they were fairly treated in the process. While this is consistent with the goals of restorative justice, this represents an overlap with the rehabilitative approach and the fear that the offenders become the center of focus with little to prevent future discretions because the system was too soft on the offender. On that note, in this instance there were no statistically significant results that suggested lower levels of victimization or attitudes after the implementation of the program. However, it should be clarified that this study did not measure whether or not offenders reoffended and measure the general number of occurrences so this does not necessarily mean that the program did not work but perhaps did not have a wider reach than those who were in direct contact with the program.
Furthermore, as was previously touched upon, there is a need for balance within restorative justice programs and a lack of balance within programs can lead to less than satisfactory results. In this instance, the general student body was not studied closely and the results of the program were centered upon the students who had undergone the conferences as a result of their offenses. Thus it is not clear whether or not the entire student body was benefited from the implemented by the restorative justice program within the school setting. On other hand, the staff was consulted at the end about the results of this implementation and suggested that in order to implement a successful restorative justice program, clear communication and definition of specified tasks and goals are necessary. As a result, it was suggested that the Department for Education and Skills should be the one to implement such a program. The reasoning behind this conclusion stems from that fact that there was a need to cultivate a sense of relevance within the program and the school system. In other words such programs should arise from within the system because they are better aware of the needs of such institutions. If a restorative justice program is prepared to meet the needs of the community it is serving then it will be better able ensure the necessary balance is maintained. As was seen in this instance, much of the focus was placed on the offender and this can be partially attributed to the outside nature of the implementation and the lack of connection to the community in which the program was implemented.

**Juvenile Justice System**

*The State of the Nation’s Youth*

After having looked as the restorative justice process and an example of its implementation in a juvenile setting there is a need on the part of the youth of the United States for a justice system. More specifically, if an evaluation is to be done on the implementation of a
restorative justice process as opposed to a traditional justice process the mindset of the nation’s youth should be established to assess the compatibility of the suggested system. With regard to the youth of the United States there is little doubt that there is a need for a juvenile justice system. As for whether or not the restorative justice process has a place among juvenile offenders is somewhat unclear because there are arguments as to whether or not this process has a place at all, but there are signs that it would be compatible among the nation’s youth.

A 2002 National Survey showed a trend in youth culture toward closeness to their immediate family. 37 percent of high school students named their mother as a role model and 30 percent named their father.11 As a result of their admiration for their parents it is likely that this generation, along with subsequent generations would be more heavily influenced by their families; the people closest to them. Thus, if a youth in this generation were to find themselves on the wrong side of the law it is possible that a program that involves the people they are closest to as a means of support and allows them to express their feelings about an offense, then it seems likely that this generation would be more apt to listening and learning from the process. Furthermore, 74 percent of all teens stated that they had a very close relationship with their parents or guardians.11 Again this indicates that when faced with a misstep with the law, youth will look to their close ties, their parents, for advice. Thus involving parents, the restorative justice process should be well placed in this generation.

Although the parental connection appears to be strong, it should not be assumed that all teens have this stable relationship with their parents. In fact it may be the case that teens have committed an offense as a result of disconnect with their parents. However, the restorative justice process is somewhat individualized and goes beyond the surface of the crime by involving all those affected by the crime. In allowing the family to be a part of the process the

11 Alvin D Cohn, Juvenile Focus, (Federal Probation).
disconnection can be discovered and given room to be repaired in the entire process that inspires learning and change. Furthermore, despite the fact that this generation appears drawn to familial ties there are other underlying factors within this generation.

Another trend that is increasingly prevalent among the youth of today is their interest in the internet and television. For example, in the same 2002 survey, 20 percent of parents stated that their children spent an exceedingly long time online and 43 percent of children under the age of two were reported to spend some time every day watching television.\(^1\) This attunement to the internet and television can indicate a separation from familial closeness. This indicates that there is a sharing with family but a lack of interaction with the local community. That being said, a program that involves local community members could still be useful because some crimes committed could still involve the local community.

However, with the increased pervasiveness of the internet, there is more communication with a wide range of people that is not limited to the community in which a juvenile lives. Additionally, the nature of juvenile offenses may expand beyond the norm and could even give rise to a new set of problems among youth that have yet to be addressed by laws. When an offense extends beyond the communal borders there is a need to expand the process. Thus it becomes necessary to instill flexibility in the restorative justice process, making it so that the process is still able to accommodate all members involved in the offense. Furthermore, unlawful activities among youth are often found in areas where the traditional societal bounds are not readily established, this often occurs in gang relationships where traditional authority is challenged.\(^2\) With the emergence of a wide range of access to the internet, there is a possibility of the line of authority to be blurred. With the rise of an internet culture, it is likely that an authoritative body will need to be established and in the meantime youth will commit legal
offenses. It is the community of family and friends surrounding the vulnerable youth who should step forward and set the bounds of what is acceptable in order to prevent these young people from crossing the line into the illegal. With the help of restorative justice, all the necessary parties are brought together to help create the authoritative body needed to prevent future illegal acts among youth in this area. There is no guarantee that this will have the desired effect but considering the circumstances there is a need for some form of community involvement to assist in the emergence of the this somewhat new territory of cyber space.

In light of these challenges and assisting vehicles for the implementation of the restorative justice process it is also necessary to consider what it is that leads to delinquency. In a study published by the United Nations that delves into the factors surrounding juvenile delinquency it was found the social context as well as gender heavily influence the emergence of youthful offenders. Particularly the crime rates among male juvenile and young male adult offenders is more than double the crimes rates for corresponding females. A possible reason for prevalence of juvenile crime among males is their immaturity and ignorance of the future consequences. However, this could be true of female youth which makes this a contributing factor for all juvenile crimes. As for the crime rate among young males it is suggested that their association with close knit groups, such as gangs, is a leading factor that has lead this group to commit a significant number of offenses over their female counterparts. The most popular crimes among these group offenders include theft, robbery, and rape. Also among these crimes are murder and assault, however, these crimes are generally not premeditated among these offenders. The lack of premeditation with regard to the more serious offenses lends credence to

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the notion that these offenders are not driven by intention but more heavily swayed by their emotions to commit violent offenses.

More than being a characteristic of young males, the occurrence of youth offenses can also be characterized by other factors which include, but are not limited to socioeconomic factors, the surrounding culture, as well as increased urbanization. With regard to the socioeconomic factor, the existence of poverty is often the result of employment instability as well as low incomes. The presence of poverty in a region can result in youth committing crimes as a result of a need to contribute to the household which may mean theft or other illegal activities such as selling or helping to sell drugs. Furthermore, a low wage often requires that parental figures be forced to work more, which in turn results in many children adopting role models or influences that may not be desirable. This in turn can result in gang activity as a means of finding support that is not felt at home. While this is a possible result of the frequent absence of parents as a result of work, this is not to say that children will always join gangs or find undesirable influences. There merely exists the possibility that without official authoritative figures, youth will gravitate more toward their peers to influence their decisions.

Moreover, the presence of poverty, or the absence of authoritative figures, alone are not enough to determine whether or not a child will carry out pursuits that lie outside of the law. One such factor is the culture within which the child is raised and the goals set by that culture. In some cultures, the goals that have become the norm do not align with the goals set by society as a whole and contradict what has been deemed legally acceptable. Further, the goal may fall within the bounds of the law but as a result of the circumstances members of a certain culture feel as though only illegal means exist for meeting societal standards. An example of this would be the culture of materialism across America where children are exposed to the notion
that in order to have value they need valuable material goods. If certain obstacles prevent them from meeting this societal aim, the culture that surrounds them, say their peers, condones this choice because they too have encountered similar barriers and have not found a legal means of meeting this societal standard. As for a goal that lies outside the bounds of legality, an example of this can be seen rites of passage for youth in order to join certain groups. In areas where gangs are prevalent, youth often aspire to be members of these groups because of the apparent power they yield or the feeling that they have no other “viable” options. In order to join, admittance usually entails committing an illegal act whether it is rape, theft, or murder. Even without this introductory process, gang activity in and of itself characterized by illegal activities.

Furthermore, children without strong parental guidance may not always turn to illegal activities but with the presence of a culture that appears to condone such activities, they appear more likely to fall on the wrong side of the law.

As can be seen the community surrounding youth contributes to the resultant behavior of members of society and on this note the presence of an urban community or increased urbanization has given rise to communities that appear to foster delinquency among the younger members. One possible reason for the increased criminal activity in urban areas is that lack of personal attention given to crimes and the weakened influence of community ties and control as a third party is given the control over such behavior.\textsuperscript{12} Youth in these urban communities are held accountable for their actions by people they feel no connection to, because of this, these youth may not feel the presence of authority as closely or take their presence into account before they make the decision to carry out certain acts. However, if they have community members they have respect for and would be the people that hold them accountable for their actions, then there is the possibility that juveniles would be deterred from committing certain acts. If youth feel as
though they would be disappointing people they feel close to, or care about then it is likely that they will choose not to offend or upon gaining awareness of the impact of their actions choose not to reoffend.

With a movement toward more urban areas in this country as well as the depth of the economic distress that has been felt as of late by many American families it appears that the nation’s youth will be susceptible to the committing offenses. As was previously noted, teens are looking more to their parents as an influential force but are at the same time becoming more detached from local communities. From these factors, there is an inclination to conclude that in order to have impact on juveniles, communal ties must be strengthened and parental figures will be the most influential factors when molding the actions of their children. This lends some support toward the implementation of restorative justice programs which do inspire communal participation as well as parental involvement. Here again it should be noted that there is nothing that says a restorative justice program is the only or even the ideal strategy for American youth. These factors that shape America’s youth merely suggest that communal involvement as well as the creation of a positive culture that aligns goals with legality could lead to a reduction in juvenile offenses and produce a more stable youth culture.

*Juvenile Offenders and the Juvenile System*

With the thought of possible contributing factors to the development of juvenile delinquency in mind it is now time to define a juvenile delinquent. According to the National Criminal Reference Service a juvenile delinquent is:

“A person not yet 18 who has been adjudicated for delinquent act by the juvenile justice system; or, for purposes of disposition, a person not yet 21 who has been adjudicated as an offender by the juvenile or criminal justice system for acts committed
prior to his or her eighteenth birthday, which would be considered either juvenile
delinquency or a crime.”

This definition is not specific and can be summarized as someone who has not yet reached the age of majority who has committed a crime and is prosecuted within the juvenile justice system. It is very straightforward but lacks information about the juvenile system as a whole. Additional information that would assist the assessment of the juvenile system is definitions of what constitute various offenses within the system as well as a description of the jurisdiction of the juvenile justice system.

For the first of these descriptions, a report by the National Criminal Reference Service of the juvenile justice system in 1980 outlines the factors taken into account when looking assessing whether or not the crime was serious. These criteria include: ‘violence or injury to persons, property loss or damage, and chronocity or petition of offenses.’ The crimes that meet these criteria include the following:

- “homicide or voluntary manslaughter
- forcible sexual intercourse
- aggravated assault
- armed robbery
- burglary of an occupied residence
- larceny/theft of more than $1,000
- auto theft without recovery of the vehicle
- arson of an occupied building

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• kidnapping
• extortion
• illegal sale of dangerous drugs”\textsuperscript{13}

Through this list of serious crimes, the extent to which juveniles have been responsible for crimes is revealed. In other words, while the notion of juvenile crime may call to mind minor offenses such as truancy issues or theft of small ticket items, juvenile offenses are not limited to minor offenses. With that in mind, it can be deduced that perhaps the reason that traditional retribution with harsh punishments is supported by some despite the youth of the offender. This can be seen in case of murder in which the victim is no longer present to participate in a conference with the offender as is traditionally done in some restorative justice models. However, this does not mean that restorative justice cannot be applied to the more serious instances of juvenile delinquency. Furthermore, a serious offender is defined as:

“A serious juvenile offender is defined as one whose offense history includes adjudication for five or more serious offenses…or one who is adjudicated for one or more offenses whose severity is equal to homicide or forcible sexual intercourse...”\textsuperscript{13}

This definition slightly more detailed than the previous definition of a juvenile offender and is further clarified by the accompaniment of a list of the particular offenses that must be committed to classify a juvenile offender as a serious offender. There is no clear manner with which to designate a means of dealing with these particular offenders but what can be grasped from these definitions is a glimpse into the manner in which the system classifies offenders.
After having established the manner in which offenders are segmented within the system with regard to their offenses, it is pertinent to obtain a view of the reach, or jurisdiction, of this system. The following list is a comprehensive description of the juvenile justice system’s jurisdiction and the varying reach and protocols across the 51 jurisdictions within the United States.

- “The juvenile court has jurisdiction over youths under 18 in 39 jurisdictions, over youths under 17 in eight jurisdictions, and over youths under 16 in four jurisdictions.
- In 37 of the 51 jurisdictions, the time at which the jurisdiction of the court attaches is the date of the offense.
- The duration of juvenile court jurisdictions extends until age 21 in 32 jurisdictions, and until ages 18, 19, or 20 in all except one of the others (which does so until age 23).
- All except ten of the 51 jurisdictions provide for exclusive original jurisdiction over juveniles by the juvenile court.
- In ten jurisdictions, provisions are made to exclude certain serious offenses from the jurisdiction of the juvenile court. In ten jurisdictions also, there is concurrent jurisdiction between and criminal courts.
- The waiver of jurisdiction from juvenile court to criminal court is designed for the serious offender. All but three of the jurisdictions permit waiver. Twenty-six of the jurisdictions require either a felony or a specified serious offense before waiver to the criminal court. In almost all of the jurisdictions, a waiver hearing is required before a juvenile can be transferred to criminal court.”

The last two factors in the list are of particular interest because of their relation to the notion of the serious offender and the manner in which these offenders are dealt with within the juvenile
system. Specifically, juveniles who have committed serious offenses appear to have the possibility of being diverted out of the juvenile system to the criminal system. In these instances the juvenile system appears to hold that their system is not as appropriate for handling these crimes as the criminal system. The reason for the utilization of the criminal system for these types of offenses could be because the nature of the crimes calls for a harsher punishment than is traditionally passed down in the juvenile system.

This action of deferring severe cases to the criminal system creates an overlap between the juvenile and adult system and whether or not the harsher punishments that result are truly effective in bringing closure to families of victims or allow for deterrence is still questionable. In fact, through this overlap in the system, those same problems that are traditionally discussed about the criminal system are brought to light. Issues that include a lack of rehabilitation and a focus on punishment are often associated with the sentences handed down in the criminal system and are connected with the youth that are merged into the adult system. Even more, a concern arises with placing juveniles in the adult system about the possibility of recidivism or escalation in offenses as a result of their exposure to adult offenders and the decreased focused on rehabilitation.

*Description of Juvenile Offenders*

While the manner in which juvenile offenders are classified and dealt with within the system has been identified, a clear picture of this offender has yet to be set forth. The crime these offenders have committed does not provide an understanding of these offenders. In particular, the nature of some of the crimes committed by youthful offenders may lead some to view these offenders as being defined by their actions without looking further into the early behavioral indicators. Additionally, the nature of some of the offenses can make it easy to forget that those
who have committed the actions are still not fully grown. All in all, there is a tendency to dehumanize more brutal offenders whether they are young or full grown, but it is important to keep in mind that there are contributing factors to the decisions people make.

With regard to juvenile offenders, there are some correlating factors that can serve as indicators of future offenders as well as more serious offenders. In a study undertaken by the University Of Washington School Of Law pertaining to juvenile delinquency it was found that there are several early childhood behaviors and circumstances that were common among juvenile offenders. These characteristics include conduct problems early in life, aggression, early serious juvenile offenses are an indication of adulthood incarceration, the absence of parents, poor academic performance, and the most chronic offenders are identified by their misbehavior in elementary school.14 Each of these has been looked to as common themes among juvenile offenders with varying degrees of contribution to the end behavior.

While the influence of family life plays a role in whether or not a young person chooses to carry out acts of delinquency, this factor was by no means a determinant of such behavior. In other words, even though there was a connection between a dysfunctional home life and delinquency, the presence of conduct issues was a more prevalent indicator. Despite this evidence there is nothing that says that a dysfunctional home environment does not contribute to misconduct and later delinquency. All that is can be derived is that children who appear to misbehave when they are younger will likely partake in delinquency when they are older. This appears to be a somewhat obvious indicator of future activities and should be utilized as a means of preventing escalation full scale delinquency.

From what has been presented, the face of the juvenile offender is a young male who has acted out in school, had difficulties learning, and has absentee or dysfunctional parental figures.

This is the average juvenile offender and should be looked to as a reminder that they are human beings who in their own way have cried out for attention. Acting out in the academic setting can be interpreted as a cry for help and it is up to adult members in the communities in which these youth live to recognize that these young people are in need of assistance. Furthermore, young people are not fully developed mentally; in fact, in a study conducted at Dartmouth College of 18 year old college freshmen there is a stark difference with of a 25 year old.\(^\text{15}\) A lack of full development may result in youth being less culpable for their actions. Juveniles are not fully aware of the consequences of their actions, especially at the time they are carrying them out. As a result, this has led to the reasoning that they do not deserve as harsh of punishments as adults and this thought process is to a degree extended to all offenses carried out by juveniles, which include the serious offenses.

**Pima County Community Justice Boards**

*Outlining the Details of the Program*

A view of the juvenile justice system has been set forth along with a thorough view of restorative justice and the programs that have been driven by this theory. It follows that the specific use of Community Justice Boards in relation to the aforementioned factors will be set forth in order to apply the information presented. Firstly, Community Justice Boards are a specific application of the community reparative boards discussed earlier as one model of restorative justice. Thus they are at their core a program that calls members of the community together to form a forum that holds juveniles accountable for their actions and allows the victim to weigh in on the course of action. Furthermore, a more personalized approach of establishing

\(^{15}\) *Susan Knapp, “Brain changes significantly after age 18, says Dartmouth Research,” Dartmouth News* (February 2006).
consequences as the boards take into account the circumstances of offenders and work to establish fitting reparations.

As for the specifics of the form of restorative justice, the manner in which the boards are established and maintained should contribute to understanding the Community Justice Boards. The Nation Criminal Justice Reference Service has put forth a handbook that is meant to guide the implementation of a community advisory board, which is another term for a community reparative board. Of particular interest is that when setting the guidelines for who should be chosen as a participant on these boards, emphasis was placed on obtaining members that are representative of the community the board will serve, this includes socioeconomic condition, ethnicity, and cultural and religious affiliation. The handbook warns against choosing experts in the justice system such as lawyers and social workers. While it would appear as though these members of the community would be better suited for such a position, they are not necessarily the most representative members of the community. Having the opinion of the average community member who is not as well acquainted with the traditional system may allow the boards to work beyond the bounds of the traditional system to bring about a positive change. Furthermore, the handbook makes the recommendation that the members hold varying views of the juvenile justice system. Maintaining a diverse group of board members may serve the purpose of assisting the board in making difficult decisions because of the presence of varied viewpoints as well as avoid a single minded board.

The emphasis placed on selecting appropriate board members speaks to the importance of developing a successful community led program. These boards are not simply vigilante groups thrown together but are carefully screened through a process that includes background checks. As a result of the level of care and intention placed into selecting members, the decisions passed

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down by these boards should be given the same level of credence lent to those imposed by the traditional juvenile justice system. Even more than being chosen through a selective process, the board members are trained for the duties they are to perform, they are bound by a set of by-laws, are unable to work alone but can only proceed with an action with the confirmation of the entire group, and obtain input, as well as lend input to juvenile justice officials. Overall, these community driven programs are carefully crafted with the intent of maintaining an organized process.

**Community Justice Boards in Pima County**

The Community Justice Boards that have been put into place in Pima County to address juvenile offenses are among the well founded organized community programs previously discussed. To better establish an understanding of this particular community based justice organization, the specific composition and inner workings of the program will be discussed. Speaking to the legitimacy of these programs is that the fact that the Pima County organization is run with the endorsement and under the watchful eye of Barbra LaWall, the Pima County Attorney. The program is put forth with pride by the Pima County Attorney’s office as a mark of success. Currently the office boasts twelve community justice boards around Pima County in order to best serve the entire region.

For this particular program, the goals are clearly set forth along with the guidelines for implementing the program. When the program was begun in Pima County by Barbra LaWall in 1997 the intent was to direct attention toward first and second time juvenile offenders with the help and support of the community. Additionally, this program was modeled after similar restorative justice systems that had already been put into place including the one previously

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mentioned that was put in New Zealand. Furthermore, the goals and thought process that contributed to the development of this form of justice system are identical to what has been seen as the purpose of restorative justice. More specifically, the goals of the program are to educate young offenders to prevent them from reoffending, give the victim a voice, and gain the participation of community members. Another goal that has not been specifically mentioned with regard to restorative justice is that of relieving some of the burden placed on the traditional system.

By diverting some of the lesser offenses to the community based program, the intention appears to be to free up the juvenile system for more serious offenders. With that community shouldering some of the burden that is traditionally placed on the courts, it is probable that the result will be financial savings. Whether or not there is truly a financial savings, and if there is whether or not it significant will be discussed in a later section. Additionally, in allowing the traditional system to focus on the more serious offenses, there is some expectation that once the system is able to focus on a small number of issues, they will more adequately handle such situations. Overall, the Community Justice Boards are not only in alignment with the goals of traditional restorative justice but have the possibility of adding another dimension of cost savings and benefits to the traditional system that support the implementation of such programs.

As for the process set up for the Community Justice Boards and the offenders eligible for the program, they are both somewhat systematic. Offenders, for example, are recommended to the program by a probation officer if they meet certain criteria which include that the juvenile has admitted to the charges against them, their parents have agreed to program participation, the juvenile is not heavily involved in gang activity, and the juvenile does not suffer from mental illness. These criteria are in addition to the offender having been involved in one or two minor
offenses. Such specifications for eligibility for the program indicate that the program is intended to address a certain type of offender, perhaps one that the Pima County Attorney believes would be more likely to benefit from participation. More than clearly defining the type of offender that will be processed through the program, the program itself is defined by a process with clearly identified steps.

The first step in the process involves the juvenile actually committing a misdemeanor and then entering the juvenile justice system. From this point the minor misdemeanors are put under the consideration of the probation officer who is given the discretion to refer the case based on the aforementioned criteria. Once the case is referred to the Community Justice Board, the chair of the board will initiate a review of the case, taking into account police reports. Following a review of information pertinent to the case, the Family Conference is carried out. The Family Conference phase consists of families shedding light on particulars that may have contributed to the offense, as well as providing a safe environment while sharing their concerns. Additionally, the offender is also expected to take responsibility for the offense, and is given the opportunity to share their thoughts. The victim is given a voice to express their reaction to the crime including how they were impacted by the events, and after this has taken place the board is left to consider the situation in its entirety, taking into account the extraneous factors, including social setting, which may have contributed to the carrying out of the offense. After taking into account of the social conditions as well as familial factors, a punishment is handed down in the form of a letter of apology, community service, an education program, graffiti abatement, or restitution. Each of these steps is clearly defined in the process and is set up to be carried out in an orderly fashion for each case that is presented to the board volunteer. The clarity in the manner in which these
steps are laid out speaks to the effort taken to produce a program that is able to be smoothly run by volunteers.

Overall, it can be seen that the steps outlined for the Community Justice Board in Pima County are very much in line with restorative justice. Much like the other restorative justice programs presented, this particular program allows the victim to have a voice in the process, focuses on teaching the offender, invites community involvement, and is a diversion for the traditional justice system approach. Additionally, the program has been established so that its legitimacy is not challenged by maintaining a clearly ordered process. As was previously discussed, it is possible that restorative justice processes, as a result of community involvement, be questioned or blown off course. However, by the orderliness of the process and its connection to the traditional court system, it appears as though measures have been taken to ensure that the program is properly monitored and recognized as having some weight in the eyes of offenders and participants.

**Problems Measuring Success in Criminal Justice Programs**

With the presentation of restorative justice and program implementation, as with all criminal justice programs, the inclination to assess success or effectiveness arises. However, there are flaws in the evaluation of programs, especially those within the criminal justice system, that make it very difficult to truly measure the impact of these programs. For this reason, whether or not Community Justice Boards, as well as restorative justice programs as a whole, are successful will be considered in light of the various difficulties that arise when assessing such programs. In fact, as a result of the unreliability of truly establishing success, judgment of the programs will not be carried out and suggestions for possible changes will be given based on the expressed goals of such programs in mind.
Difficulties Finding Measures of Effectiveness

Before assessing whether or not a program has been successful at doing what it was meant to do, a decision needs to be made about what the program was actually meant to do and how the results of such goals will be measured. This seems somewhat intuitive; if one is going to measure something then there needs to be something to measure. With regard to programs involving the criminal justice system, identifying measures of success turns out to be quite difficult. The reasons for such difficulties are explored by Jonathan D. Casper and David Brereton in Evaluating Criminal Justice Reforms. Their exploration of the manner in which criminal justice reforms are explored shed light and doubt on data that is presented assessing the success of a program.

More specifically, problems arise when parsing out the latent and manifest goals, which can cause confusion over establishing whether or not the program has carried out the intended purpose and if it has not, whether or not this results in a failed program. Latent goals are defined as the goals that were established when the program was brought about. While the manifest goals are those that arise after the program has been put into effect, and it is the results of the program that bring about these suppositions about the programs goals.\(^1^9\) Neither type of goal is a poor measure of a program’s success, but the existence of both highlights the fact that the effects of a program are not clear upon creation of the program. Furthermore, these two types of goals can present difficulties when they are contradictory. For this reason Casper and Brereton place emphasis on program and policy creators, taking into account the incentives of the participants in the program, and the effect this will have on the way the program is implemented.\(^1^9\) Perhaps more importantly, the existence of two end goals makes the assessment of criminal justice programs a nearly impossible task.

\(^{19}\) Jonathan D. Casper and David Brereton, Evaluating Criminal Justice Reform, (Law & Society Review, 1984) 121.
Further even when a program is assessed, there is not only a need to identify the measures of success in light of the varied points of view in the programs implementation, but there is a bias that comes to the forefront of some results due to those with different interests in the program. One such issue that can be called into question when a program is being evaluated is the time period of the results being presented. If the results of a program are being doted as having provided an improvement from prior circumstances, timing could shift the results in favor of confirming a stated program goal. What is meant by the importance of timing is that there could be other factors at a certain period that could boost the results attributed to the program or create a dimmer view of the time period before the program. In other words, it is possible timing could manipulate results in order to portray a program of making more of a positive contribution than it actually did. Because of these occurrences, Casper and Brereton endorse research of programs that choose to employ random assignment to groups that experience the program and others that are considered a control or one that can be compared to in order to establish the effect of the program. Evaluations that do not employ such methods can cause one to question the validity of the results, especially when consideration is given to who has endorsed the assessment.

Overall, what has been seen in relation to evaluating criminal justice programs in particular is competing interests that make this process exceedingly difficult. For this reason, attempting to establish criteria for measuring success can become overwhelmingly complicated because there are multiple parties with various views of what the program’s purpose is or should be. Additionally, when considering program evaluations because of the level of interest in the success of criminal justice programs, the results should not be taken without carefully looking into the manner in which the study was carried out. Criminal justice programs are heavily
influenced by those implanting the program and there results can be heavily influenced by those with a stake in the program’s success. All of this comes together to make an accurate judgment of criminal justice initiatives nearly impossible.

**Public Misconceptions When Assessing Program Success**

Despite the fact that it is fairly difficult to judge criminal programs based on a technical analysis, the judgement of the public is also thrust upon them. In particular, public opinion can be looked to at times as a measure of whether or not an initiative has met the expectations of citizens. Generally, the influence over certain policy implementations on the part of the criminal justice system is unclear. However, the fact that restorative justice programs foster and thrive within the community makes it important to assess the reliability of the public when establishing a program’s success and what the public’s expectations are of the criminal justice system. In order to do so, Julia V. Robert’s *Public Opinion, Crime, and Criminal Justice* which looks into the influence and accuracy of public opinion will be utilized. More specifically, Robert establishes the fact that criminal justice policy makers are not fully aware of the public’s true opinion, and that the public tends more toward rehabilitative measures than toward heavy retribution.

The concept of needing to be tough on crime is one that has been touted by countless politicians as they appear to believe that’s where the public’s interest lies. In fact, in some cases found by Robert, the public does indeed appear to state that the system should be more severe in its retributive aspect, however, it is also pointed out that the public is unaware of true crime rates, which is in part due to media bias.\(^20\) Despite the fact that the public appears to believe that crime is an increasingly urgent problem, there is evidence to suggest that some of the opinions put forth by the public are unfounded. For example, in a 1987 survey of Canadians, two-thirds of the

public underestimated the maximum sentence for theft. Such results can be seen as an indication of not only the public’s ignorance of sentencing in the criminal justice system, but shed light on why the public has called for more retribution. If the public has asked for punishments to be increased and in general they believe the punishments are more lenient then they actually are, it is doubtful that the public is able to fully support the stance.

Furthermore, the claim that the public seeks tougher punishments is one that is somewhat unfounded, to a degree, by the public’s lack of knowledge of what the sentences are and there is actually room to suggest that the public would support programs that focused more on rehabilitation. For example, in a 1989 survey conducted within the United States, 72 percent of respondents rated rehabilitation as being “very important.” Taking this fact into account with the lack of true knowledge of sentencing, there is room to suggest that the public would support criminal justice programs that sway away from the pure retributive approach. While this is not definitive, there is room to infer that a shift toward a less traditional system would be supported by a more informed public.

The interests of the public were viewed in light of the composition of the adult justice system, and there is reason to believe that opinions of the juvenile system would be even more in support of less retributive measures. Moreover, public support for rehabilitation leads to the notion that the introduction of restorative justice measures would be welcomed within the communities they are introduced into. Having the approval of the public may not be especially crucial in the traditional criminal justice where there is little public access, but the basis of restorative justice’s success is the support of the community. Success as measured by the public is somewhat unclear as a result of their lack of awareness, thus it becomes somewhat irrelevant when establishing when a program in the adult system has been successful. Furthermore, in the
eyes of the public, a tougher program for youth may not be considered a “success”, or at least appropriate, when the public’s feelings toward rehabilitation are taken into account.

**Analysis of Restorative Justice**

*Analysis of Community Justice Boards in Pima County*

Resulting from the difficulties encountered when evaluating the “success” of criminal justice initiatives, the analysis of the Community Boards in Pima County will focus on what has been reported to be the program’s results with careful attention to what could be influencing those results. In presenting the Community Justice Board program, Pima County notes the following as outcomes:

- “Twenty-two percent recidivism rate after 12 months from completion of the program
- Ninetyn-three percent compliance rate
- Ninety-eight percent satisfaction rate for both parent and youth”

These outcomes are unsurprising when considered along with the results from other restorative justice programs that were previously discussed. In particular, the last two outcomes are very similar to what was found in the implementation of the restorative program in the school setting. Participants found that they were satisfied with the process and the majority of youthful offenders were compliant with the terms of the process.

While these results reflect positively on the Community Justice Boards, they are not indicative of whether or not the programs were effective, or clear as to what is meant by satisfied or compliant. Moreover, the report presenting the results is rather vague with regard to presenting the outcomes of the program. In particular, it is unclear as to what is meant by satisfaction or compliance. Satisfaction was defined in the other studies to mean that the victims or other participants not be opposed to participation in if future encounters with the justice
system were to occur. There is no such clarification made and for this reason there is no certainty that this is what is meant but an assumption can be made that satisfaction has a common meaning between studies. With this in mind the outcomes focus on the offender and their family without regarding the opinion of the victim.

The fact that offenders and their families are “satisfied” with the program can be questioned as a result of the varying motivations that influence policy analysis. It is in the interest of the Pima County Attorney’s Office to present results in favor of programs that have been put into place and endorsed by the office. For this reason the choice to include the satisfaction rates of the parties who benefited from the program appears to slant the results in favor of the program. Specifically, juveniles avoid detention in a juvenile detention center through diversion into the Community Justice Boards and parents are saved the pain of watching their child incarcerated.

Furthermore, in the results presented, more than perhaps slanting the evidence in favor of the program by revealing only one perspective, compliance remains undefined. Compliance was a concept that was utilized in the restorative justice program involving the implementation of restorative justice in a school in England and it meant that the offender had followed through with the process and carried out the agreement that had been developed in the process. However, the use of compliance in this instance could mean that the participants followed through with all the steps of the process but does not necessarily mean that they followed through with the punishment handed down by the Community Justice Board. As a result of the lack of clarity, there is a noted hesitancy to conclude that the program is successful on these groups. If offenders merely comply with the program but fail to carry out the sentences handed down by the Board, there is room to suggest that the program is not respected or fully enforced. There is nothing to
suggest that compliance does not include participants carrying out the full measures that the program entails but the lack of clarity does allow for questioning of the information.

Finally, the list of outcomes looks to the recidivism rate of program participants to only be twenty percent. Further recidivism can be defined as follows:

“Recidivism is the repetition of criminal behavior. A recidivism rate may reflect any number of possible measures of repeated offending—arrest, court referral, conviction, correctional commitment, and correctional status changes within a given period of time.”21

Recidivism can be considered a traditional measure of the impact of criminal justice programs. For this reason the inclusion of a recidivism rate as an outcome is not surprising and allows the program’s results to be compared to other program impacts. Additionally, there is no national average recidivism rate because the criminal justice programs in each state vary to such a large degree that the average would be somewhat inconsequential.21 As for this instance, the significance of a recidivism rate of twenty percent can be compared to Arizona’s average recidivism rate of twenty-five percent as of 2006.21 The difference of five percent appears to be a significant difference, but there are other things that should be taken into account before establishing the true significance of these results. Firstly, the fact that the recidivism rate was measured twelve months after having gone through the programs bodes well for the results. In particular, there is evidence to suggest recidivism rates are much lower when measured less than twelve months after the initial encounter with the justice system.21 Thus the twenty percent rate can be considered a positive result and a fairly accurate measure of the initial impact of the

program. This number may change if the measure were taken at an even later date, but it is sufficient for these purposes, especially when considering that it is most common for states to use the twelve month mark in their measures of recidivism.

Possibly contributing to the lower recidivism rate is the type of offender that is encountered in the system. With the strict criteria for those who are eligible for the program, there is a narrow type of offender and there is an effect known as “net widening” that takes root in these programs. Richard J. Lundman calls into question certain results of success within juvenile justice programs in light of what he calls “net widening,” a process in which offenders that would traditionally not have gone through the system are placed in the system. In other words there are lesser offenses processed through programs, which in turn produces more positive results. With regard to the Community Justice Boards in Pima County it appears as though this may be the case. Offenders put through the system are specifically narrowed to the minor offenders and those entrenched in gang activity are excluded from the process. In turn it appears as though the program has been modified to ensure an image of success. Participants in the program are not chronic offenders and perhaps would not have been introduced into the juvenile system had the program not been in place. These offenders are perhaps even less likely to reoffend than the more serious offenders. From this information it can be said that the program has not been challenged or cannot be compared to the traditional system which has been burdened with more chronic offenders.

In order to better assess the potential of restorative justice, increasing the offender pool in the direction of more serious offenders should be considered. By including more serious offenders the recidivism rate reported by the program would perhaps hold more weight.

Comparing the traditional system with one that encounters less severe instances of delinquency

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is not a sound comparison. Repairing community bonds has been expressed to be the underlying goal of all restorative justice programs, and to reserve this restoration for the minor offenses shows a lack of confidence in the process as it appears to be assumed that these programs are only suited for less complicated repairs. Furthermore, it is possible that the reason Community Justice Boards have not been applied to more serious juvenile offenders stems from the belief that these offenders should be subject to more severe outcomes than are passed down by the boards. However, by limiting the implementation of restorative justice programs, such as Community Justice Boards, it further limits the ability to find full support for the program or establish its true impact over the traditional approach.

Establishing whether or not a program has been successful is an elusive feat, and the Community Justice Boards are no exception. The results suggest that the program has met some goals with regard to accommodating the offender as well as deterring a large majority of offenders put through the process. However, each point of success has been called into question for one reason or another, exhibiting the complexity of the juvenile justice system. There is always room to question whether or not there is truly a causal relationship between the programs and the results attributed to them. For these reasons, judgment of the Community Justice Boards cannot be carried out, it can only be said that the program strongly promotes restorative justice values and appears to hold positive opinions from offenders and their families while providing some form of recidivism relief.

Cost Comparison

Cost will be defined in terms of the actual fiscal differences between traditional juvenile detention and the Community Justice Board implementation. The concept of cost will also be stretched to include the community interests and implications of either approach to juvenile
justice. There will be some overlap of the two uses of cost in a thorough a discussion of recidivism in the context of fiscal and social implications. In the end, the comparison lends support to the implementation, or continued support, of restorative justice programs.

When performing the cost analysis, it is important to establish what the fiscal aspect of each approach is. As for the tradition juvenile justice system in Arizona, there is a large cost that stems from the incarceration of juvenile offenders. The cost of housing juveniles in an Arizona correctional facility in 2007 was about $314 a day per juvenile and $340,062 a day of the average incarcerated population. This number may perhaps seem small when considering the cost of other governmental activities but it is staggering when one considers that Community Justice Boards present a little to no cost option as participants are employed on a volunteer basis. The exceptions include the probation officer who recommends the case and those involved in the investigation of the juvenile’s offense, both of which take place with or without the Community Justice Boards. Furthermore, for the Fiscal Year 2011/2012, Pima County reported that the Juvenile Court had a total expenditure of $32,403,953 with Probation Services comprising the majority of the expenditure at $15,885,394, and Detention Services comprising the second largest portion with a total of $8,371,749. These figures not only further give weight to the notion that the traditional system is rather expensive, but they highlight some areas where improvements can be made to the system.

The implementation of the Community Justice Boards in Pima County fully began in 1998 so the figures reported include the effects of restorative justice on the cost of the Juvenile Justice system in Pima County. However, it has also been established that the Community Justice

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Boards have only a limited number of cases diverted to them, cases that would perhaps not have led to detention if left to the Juvenile Court. Further, the Community Justice Boards, if allowed to expand their participant pool, could be considered a lower cost alternative to the traditional system. This is pure speculation at this point because there will still be a need for the traditional system as it is the body that oversees the community run program. The area that would be most feasible to contract would be the detention centers through alternative consequences for various offenses which shy away from isolation and accommodations provided by the Juvenile Justice system.

Beyond developing a means of lowering costs through alternative repercussions, there is a possible advantage for the community. While there are possible cost advantages by decreasing the number of juveniles placed in the traditional system, if restorative justice measures are able to reduce recidivism rates there is a fiscal and social benefit to be had. Whether or not the implementation of restorative justice measures for more serious offenses will have a significant impact of the recidivism rate is yet to be tested within Pima County. What can be said for certain is that improving recidivism rates from those seen in the traditional Juvenile Justice system would contribute to a cost reduction. Moreover, if there is a way to reduce the number of juveniles who encounter the system and are detained there would be fewer costs due to their being fewer offenders, or offenses, to occupy the tradition Juvenile Justice system. If juveniles are detained more often their sentences increase and the cost on the system increases. Thus, if they are deferred to a system that does not include detention as an outcome and can improve behavior by reducing the number of youth who reoffend and will be forced into more costly recourses the cost saving would be realized.
More than cost savings as a result of fewer repeat offenders, a reduction in societal costs can also be brought about by the expansion of restorative justice measures. With regard to the general public, through cost saving measures, the community would be able to benefit from increased funding of other programs such as education or extracurricular activities. If less funding is needed by the Juvenile Justice system there is more funding available for initiatives that can improve the lives of members of the community. Additionally, through diversion away from the detention center approach, the problem of overcrowding could be addressed to improve the lives of those offenders who have no choice but detention.

Of the all of the juvenile detention facilities in the United States thirty-six percent of them experienced overcrowding and in these situations there was an increase in suicidal tendency among juveniles in these facilities.\textsuperscript{24} The negative impact of having facilities that have reached capacity has taken its toll on the youth put into them. While there are those who think that offenders deserve severe retribution for the crimes they have carried out, it must also be taken into consideration that these are juveniles being dealt with. It seems somewhat cruel to place these young offenders into a toxic situation that does nothing to help them improve their lives. Overall, it appears as though there is room for a cost reduction in the traditional juvenile system and that the Community Justice Board restorative justice initiative could present a viable mean of producing that cost reduction.

\textit{Potential Pitfalls of Restorative Justice}

While restorative justice programs have been presented as a viable option as an addition to the juvenile justice process and one that could be given the opportunity to spread there are some warnings for those who support such programs. The intent of restorative justice is one of healing, fairness, and creating a forum for victims and offenders alike to share and repair. For
this reason such programs do not intend to cause harm to anyone involved, but this is not always the case and in fact inadvertent harm is very possible especially when inexperience is involved. In *Opportunities and Pitfalls Facing the Restorative Justice Movement* several examples are presented in which the use of restorative justice did not meet the needs of the parties involved. Such failures in the restorative justice process, however, should be taken as cautionary tales rather than signs that restorative justice should be shied away from.

One such cautionary tale discussed was that of a negligent homicide case in which the wife of the victim was given the opportunity to speak one on one with the defendant to form an agreement. In this case the victim was assigned a victims advocate who was inexperienced in restorative justice programs and the judge who arranged the mediation was equally uninformed and was merely well intentioned in his attempt to invoke restorative justice measures. Measures were not taken to produce a safe and comforting environment was and she was unprepared to face the person who had caused her husband’s death.25 The victim, already vulnerable, was put in a position to experience victimization for a second time as a result of the ill thought out approach taken. If there is something to be learned from this occurrence, it is that even the most well intentioned programs can cause harm if not carefully implemented. This is especially true of restorative justice because of the fact that it seeks to make a connection between fragile persons and someone who has caused them harm. A lack training or planning can result in a program producing more harm than good for the fragile victim the program is attempting to help.

More than potentially harming the victim, poorly monitored restorative justice programs can bring about community based programs that ignore the victim and focus on shaming the offender. There is an instance mentioned of a community based board that was composed of

three elderly male board members. In the hearing carried out by the board they served more as a judgment panel harshly questioning the offender and vilifying the offender for their actions. Additionally, the victim was not even mentioned the hearings completely alienating one essential party in the restorative justice process.25 Here again is another possibility for the restorative justice to be turned on its head and put forth unintended harm. If left without appropriate monitoring it can be quite easy for a community based programs to become a forum for the community to create self gratifying justice without taking into account the core principles of restorative justice. For this reason there is a need to closely monitor programs that empower the community and have a body removed from the community to govern over the program and ensure that it is fulfilling its intended purpose.

As for whether or not the pitfalls are present in the Community Justice Boards put into place in Pima County, there is reason to believe that the program has been structured to prevent such failures. In particular, board members are trained so that they are aware of the restorative justice process and goals. Furthermore, the process is structured to a degree that there is little room for deviation, which prevents participants from derailing the program and moving it in a destructive direction. Lastly, the program is overseen by the Pima County Attorney’s office and has the assistance of the Juvenile Court, two bodies that can monitor the program and ensure that it is maintaining the spirit of restorative justice.

**Conclusion**

Restorative justice has the possibility of strengthening community bonds and preventing the escalation of offenses on the part of juvenile offenders. Furthermore, it is possible that implementing community based programs can provide a cost effective avenue that bypasses the traditional juvenile justice route. Moreover, the restorative justice approach focuses on bringing
about a sense of forgiveness on the part of the community for the offender, allowing the victim to have a voice in the entire process, and presenting the offender with the opportunity to learn from their infraction. Pima County Community Justice Boards present a balanced example of a well managed restorative justice program that has thus far managed to avoid the pitfalls these types of programs can encounter when the participants are left unmonitored or uninformed. As a result of the community basis for these programs, there is room for them to be drawn off course by the interests of the community volunteers who may not be well informed of end goals of restorative justice. Further the Community Justice Boards could be served by expanding their reach to include more serious juvenile offenders in order to measure the level of impact these programs can have beyond lesser infractions. Overall, there is promise in the potential fruits of restorative justice programs if the implementing body is aligned with restorative justice principles.
Works Cited


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