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TITLE: ***Conferences***, ***Circles***, ***Boards***, and Mediations: The "New Wave" of Community Justice Decisionmaking
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Case 1--After approximately 2 hours of at times heated and emotional dialogue, the mediator felt that the offender and victim had heard each other's story and had learned something important about the impact of the crime and about each other. They had agreed that the offender, a 14-year-old, would pay $200 in restitution to cover the cost of damages to the victim's home resulting from a break-in. In addition, he would be required to reimburse the victims for the cost of a VCR he had stolen estimated at $150. A payment schedule would be worked out in the remaining time allowed for the meeting. The offender also had made several apologies to the victim and agreed to complete community service hours working in a food bank sponsored by the victim's church. The victim, a middle-aged neighbor of the offender, said that she felt less angry and fearful after learning more about the offender and the details of the crime and thanked the mediator for allowing the mediation to be held in her church basement.

Case 2--After the offender, his mother and grandfather, the victim, and the local police officer who had made the arrest had spoken about the offense and its impact, the youth justice coordinator asked for any additional input from other members of the group of about 10 citizens assembled in the local school (the group included two of the offender's teachers, two friends of the victim, and a few others). The coordinator then asked for input into what should be done by the offender to pay back the victim, a teacher who had been injured and had a set of glasses broken in an altercation with the offender, and to pay back the community for the damage caused by his crime. In the remaining half hour of the approximately hour-long ***conference***, the group suggested that restitution to the victim was in order to cover medical expenses and the cost of a new pair of glasses and that community service work on the school grounds would be appropriate.

Case 3--The victim, the wife of the offender who had admitted to physically abusing her during two recent drunken episodes, spoke about the pain and embarrassment her husband had caused her and her family. After she had finished, the ceremonial feather (used to signify who would be allowed to speak next) was passed to the next person in the ***circle***, a young man who spoke about the contributions the offender had made to the community, the kindness he had shown toward the elders by sharing fish and game with them, and his willingness to help others with home repairs. An elder then took the feather and spoke about the shame the offender's behavior had caused his clan--noting than in the old days, he would have been required to pay the woman's family a substantial compensation as a result. Having heard all this, the judge confirmed

that the victim still felt that she wanted to try to work it out with her estranged husband and that she was receiving help from her own support group (including a victim's advocate). Summarizing the case by again stressing the seriousness of the offense and repeating the Crown Counsel's opening remarks that a jail sentence was required, he then proposed to delay sentencing for 6 weeks until the time of the next circuit court hearing. If during that time the offender had: met the requirements presented earlier by a friend of the offender who had agreed to lead a support group and had met with the community justice committee to work out an alcohol and anger management treatment plan; fulfilled the expectations of the victim and her support group; and completed 40 hours of service to be supervised by the group, he would forgo the jail sentence. After a prayer in which the entire group held hands, the *circle* disbanded and everyone retreated to the kitchen area of the community center for refreshments.

Case 4--The young offender, a 19-year-old caught driving with an open can of beer in his pick-up truck, sat nervously awaiting the conclusion of a deliberation of the Reparative *Board*. He had been sentenced by a judge to Reparative Probation and did not know whether to expect something tougher or much easier than regular probation. About a half hour earlier before retreating for their deliberation, the citizen members of the *Board* had asked the offender several simple and straightforward questions. At 3 p.m. the chairperson explained the four conditions of the offender's contract: 1) begin work to pay off his traffic tickets; 2) complete a state police defensive driving course; 3) undergo an alcohol assessment; and 4) write a three-page paper on how alcohol has negatively affected his life. After the offender had signed the contract, the chairperson adjourned the meeting.

INTRODUCTION

WHAT DO these cases have in common? Each of the above scenarios illustrates a successful conclusion of one variety of a nonadversarial, community-based sanctioning process now being carried out with some regularity in North America, Australia, New Zealand, and parts of Europe. As decisionmaking models, these processes represent one component of what appears to be a new community justice movement in the 1990s concerned with bringing less formal justice processes closer to neighborhoods and increasing the involvement of citizens in the justice process (e.g., Travis, 1996; Barajas, 1995; *Bazemore* & Schiff, 1996; Griffiths & Hamilton, 1996). Referred to by such terms as restorative justice (e.g., Zehr, 1990; Hudson & Galaway, 1996; *Bazemore* & Umbreit, 1995), community justice (Griffiths & Hamilton, 1996; Stuart, 1995a; Barajas, 1995), and restorative community justice (Young, 1995; *Bazemore* & Schiff, 1996), these initiatives are becoming a topic of high-level national and cross-national discussion and debate in the U.S. and Canada (NIJ, 1996a, 1996b; Depew, 1994) and have already had significant state/provincial, territorial, regional, and even national policy impact.(FN1) While they by no means exhaust the range of approaches to citizen involvement in the sanctioning process,

together the four case examples illustrate some of the diversity, as well as common themes, apparent in what appears to be an emerging "new wave" of approaches to community justice decisionmaking.

The first case is drawn from the files of one of approximately 500 victim-offender mediation (VOM) programs in the U.S. and Canada. Offenders and victims who have agreed to participate meet in these sessions with a third party mediator to arrive at a reparative agreement and allow victims to tell their story and get information about the offense (Umbreit, 1994). Though still unfamiliar to some mainstream criminal justice audiences and marginal to the court process in many jurisdictions where they do operate, VOM programs--originally, and still frequently, referred to as Victim-Offender Reconciliation Programs (VORPs)--now have a long and respectable 25-year track record in Europe, Canada, and the U.S.

The second example describes a typical conclusion of a family group *conference* (FGC). This new model in its modern form was adopted into national legislation in 1989, making it (at least in New Zealand) the most systemically institutionalized of any of the four approaches. By most accounts, it would appear that dispositional decisions in all but the most violent and serious delinquency cases in New Zealand are made in an FGC (Maxwell & Morris, 1993; Alder & Wundersitz, 1994; McElrea, 1993). Based on the centuries old sanctioning and dispute resolution traditions of the New Zealand Maori and now widely used in modified form as a police-initiated diversion approach in South Australia, FGCs are now also being implemented in cities in Minnesota, Pennsylvania, Montana, and parts of Canada.

The third scenario describes a *circle* sentencing (CS) *conference*, an updated version of the traditional sanctioning and healing practices of Canadian Aboriginal peoples and indigenous peoples in the Southwestern United States (Stuart, 1995a; Melton, 1995). *Circle* sentencing was resurrected in 1991 by supportive judges and community justice committees in the Yukon Territory, Canada, and other northern Canadian communities. The strategy is designed not only to address the criminal behavior of offenders, but also to consider the needs of crime victims, families, and communities within a holistic, reintegrative context. Within the "*circle*," crime victims, offenders, justice, and social service personnel, as well as community residents, are allowed to express their feelings about the crime and the offender as well as to offer their suggestions as to how the offense and the needs of the victim and the community can best be addressed. The significance of the *circle* is more than symbolic: all persons in the *circle*--police officers, lawyers, the judge, the victim, the offender, and community residents--participate in the case deliberations. Through this community-system partnership, a determination is made as to the most appropriate action to take in addressing the needs of the victim and the offender.

Finally, the fourth case is taken from the files of the reparative probation program, a Vermont innovation in which nonviolent offenders are sentenced by the court to a hearing before a community reparative *board* (RB) composed of local citizens. These *boards* became operational

early in 1995 as part of a newly mandated separation of probation into Community Corrections Service Units (designed to provide supervision to more serious cases) and Court and Reparative Service Units (that coordinate and provide administrative support to the *boards*). Composed of five local citizens, the *boards* now make dispositional decisions for eligible probation cases referred by the courts, and if the target goals of state correctional administrators are met, may soon be hearing an estimated 60 percent of these eligible cases (Dooley, 1995; 1996).

The purpose of this article is to describe the four new decisionmaking models and examine how each involves citizens and community groups in several critical components of the sanctioning process. In doing so, we compare and contrast these models on a number of key operational dimensions with the objective of providing a general framework within which the myriad of alternative justice practices currently being described by at times ill-defined and vague terms such as "community justice" and/or "restorative justice" can be categorized and objectively analyzed.

BACKGROUND AND LITERATURE REVIEW

Table 1 describes the origins and current application of the four decisionmaking models and summarizes several differences and similarities between them in administration and process. While the models share a nonadversarial, community-based sanctioning focus on cases in which offenders either admit guilt or have been found guilty of crimes or delinquent acts, they vary along several of these dimensions of staffing, eligibility, and point in the system at which referrals are made. Notably, eligibility ranges from minor first offenders to quite serious repeat offenders (in the case of *circle* sentencing), and the models differ in point of referral and structural relationship to formal court and correctional systems. With the exception of the Vermont reparative *boards*, decisionmaking is by consensus, but the process and dispositional protocol vary substantially--ranging from ancient rituals involving passing of the "talking stick" or feather in the case of *circle* sentencing (Stuart, 1995a) to the more deliberative agenda followed in the hearings of community *boards* (Dooley, 1995).

WHAT'S NEW AND WHAT'S IMPORTANT?

Although the impact of these administrative and process differences should not be underestimated, except for victim-offender mediation, the other models are relatively new--at least to the modern Western world (Melton, 1995; McElrea, 1993)--and thus may be expected to continue to evolve as they are adapted to local circumstances. Currently, then, more important than these distinctions are common elements that distinguish these "new wave" decisionmaking models from both current and past attempts to "devolve" justice process to local neighborhoods. These elements grow out of the shared association with the principals and practice of restorative and community justice.

Focused on changing the primary goal of justice intervention from punishment or treatment to reparation of harm and altering the justice process to include and meet the needs of victims, communities, and offenders (Zehr, 1990; Van Ness, 1993; *Bazemore* & Umbreit, 1995), restorative justice has been generally associated with practices and processes such as restitution, community service, victim-offender mediation, victim services, and a variety of conflict resolution processes. The term "community justice" is being used by some officials in both Canada and the U.S. as a broader umbrella concept which also encompasses community policing, neighborhood courts and justice centers, community development and "community-building" interventions, "beat probation," and a variety of delinquency prevention programs (NIJ, 1996a; Barajas, 1995).

Depending upon who is describing it, the group of interventions currently being labeled as "community justice" or "restorative community justice" may therefore refer to a wide array of programs, practices, and "community-based initiatives" including community policing, "weed and seed" programs, neighborhood revitalization, and drug courts, as well as the sanctioning and victim reparation programs and processes now commonly associated with restorative justice (Young, 1995; Travis, 1996; Robinson, 1996; Barajas, 1995; Klein, 1995; *Bazemore* & Schiff, 1996; NIJ, 1996b).(FN2) Such programmatic approaches to implementing community justice have often been useful in demonstrating innovative intervention strategies not easily initiated in existing bureaucracies and bringing policing, delinquency prevention, courts, and corrections services closer to neighborhoods. However, defining community justice as a "program" may limit the vision and practical application of a distinctive, more holistic response to crime to a specialized unit or individual assigned a specific function (e.g., Goldstein, 1987). The programmatic emphasis also may increase both jurisdictional and professional insularity and ultimately result in little or no systemic impact on justice agencies and their relationship to neighborhoods and citizen groups. Given the diversity of programs and initiatives being discussed under the banner of community justice, it is first important to place the new decisionmaking models in the somewhat more limited category of efforts to promote citizen involvement in sanctioning and dispute resolution.

DIMENSIONS OF COMMUNITY JUSTICE AND COMMUNITY DECISIONMAKING

Efforts to increase community participation in sanctioning and dispositional decisionmaking process are nothing new, even in recent criminal justice history. In the late 1970s, the Law Enforcement Assistance Administration (LEAA) of the U.S. Department of Justice supported "neighborhood justice centers," also referred to as "dispute resolution centers," in several U.S. cities (McGillis & Mullen, 1977; Garafalo & Connelly, 1980). The four new-wave models also should be viewed in the context of a more recent effort to bring courts, prosecution units, and defense teams to local neighborhoods. A recent publication of the National Institute of Justice

(NIJ, 1996b), for example, describes a variety of initiatives to locate prosecution and defense services--as well as entire courts--in neighborhoods and adapt their service to provide a better fit with the needs of local citizens (NIJ, 1996b).

Both the older dispute resolution approaches and the new community court and court units often have been effective in increasing accessibility of justice services to citizens by changing the location of programs or services so that they are geographically available to neighborhoods, increasing flexibility of service delivery (e.g., better hours, more diversity), and encouraging informality in the decisionmaking process--relying whenever possible on dispute resolution, negotiation, and mediative practices rather than legal rules and procedures (Harrington & Merry, 1988, Rottman, 1996). As the experience with community corrections clearly illustrates, however, when facilities or service centers are merely located in a neighborhood without the involvement of local residents, the result is an isolated program or process that may be said to be in, but not of, the community (Byrne, 1989; Clear, 1996). Similarly, increasing flexibility and breaking down formal barriers may increase citizens' willingness to seek and receive assistance, but it does not necessarily increase their involvement as participants in the justice process, or even necessarily allow them to determine what services they would like in their neighborhoods.

Unfortunately, the emphasis on programs and accessibility of services has contributed to a one-dimensional definition of community justice. Ultimately, neither developing programs nor increasing access will alone change the role of neighborhood residents from service recipients to decisionmakers with a stake in, or feeling of ownership in, what services are provided and how they are delivered. Hence, what appears to be most new and significant about the four new models is that in defining distinctive roles for citizens in determining what the criminal sanction will be, as well as how it may be carried out, they add an important dimension to both earlier and ongoing community justice initiatives (e.g., McGillis & Mullen, 1977; NIJ, 1996a).

What is the relevance of these apparently esoteric sanctioning and decisionmaking models to probation and parole, victim advocates, treatment providers, and other intervention professionals? Notably, an increasing number of state departments of corrections, probation and parole services, and juvenile corrections systems and probation services are adopting one or more aspects of community and restorative justice policy (e.g., Dooley, 1995; Pranis, 1995). What appear on the surface to be simply informal alternatives to court are therefore being viewed by some administrators as having greater significance to the objectives of probation and parole. This is because they may offer a new avenue for achieving a wide and deeper level of citizen involvement in the rehabilitative, sanctioning, and surveillance missions of community corrections that has been difficult to attain through a focus on offender supervision alone. The prospects for increasing community involvement, the nature of the process of engaging citizens, and the role(s) assigned to the community are therefore the most crucial dimensions for contrasting approaches to community decisionmaking.

CONTRASTING THE MODELS: ENGAGING COMMUNITIES IN COMMUNITY JUSTICE

Community is an amorphous concept that is unfortunately often used in such a way as to obfuscate, rather than clarify, issues of citizen involvement in government-sponsored processes. As Gardner (1990) points out, however, it is not difficult to be more specific in breaking down "the community" into component parts for purposes of discussion about citizen involvement and participation. Community may be defined, for example, as a neighborhood, a church, a school, a labor union, a civic or fraternal organization, an extended family, an Aboriginal band or tribe, a support group, or other entity.

As table 2 suggests, the way community is defined in justice decisionmaking models is a critical factor affecting the nature and extent of citizen involvement and ownership. In the case of victim-offender mediation (VOM), for example, the community is defined for all intents and purposes as the victim-offender dyad. In *circle* sentencing (CS), on the other hand, the community is defined as all residents of a local neighborhood, village, or Aboriginal band. In addition, the list of characteristics in table 2 addresses several general questions about community justice decisionmaking which provide useful points of comparison between each model. We examine two of these issues in detail in the remainder of this section.

First, what is the role and function of crime victims, relative to offenders and the community, in the process? In the formal justice system, the bulk of attention is directed toward the offender, first with regard to his or her guilt or innocence and second with regard to appropriate punishment, treatment, or monitoring. The community is an increasingly important, albeit distant, concern (e.g., Barajas, 1995; Clear, 1996). Because victims have been so neglected as a client of both formal and community justice approaches, it is important to examine the role of crime victims, vis a vis the role of community and offender, in each community justice process.

Second, one of the most interesting and important differences between the community decisionmaking models is the extent to which preparation before the process and followup is viewed as vital to success. Put differently, community decisionmaking models may vary a great deal in the view of the decisionmaking ceremony itself as primary (and thus spontaneous) or merely one step in an ongoing process that will hopefully result in a complete response to crime. Clearly, the preparation stage of community decisionmaking offers perhaps the greatest opportunity to engage citizens in the process and to ensure their meaningful participation (Stuart, 1995a; Umbreit, 1994). In addition, even more at issue among some critics of these models (Alder & Wundersitz, 1994) is the enforcement and followup approach for sanctioning plans and agreements that result from each process (see table 2). Moreover, the focus on sanctioning, monitoring, and enforcement in these decisionmaking processes provides the most critical linkage with, and has the greatest implications for, community corrections.

VICTIM-OFFENDER MEDIATION

Role of the Victim and Other Coparticipants. Increasingly, modern VOM programs seek to give first priority to meeting the needs of crime victims (Umbreit, 1994). Specifically, victims are given maximum input into the sanction, referred for needed help and assistance, allowed to tell the offender how the crime has affected them and request information about the crime, and, to the greatest extent possible, are repaid for their losses. As shown earlier in table 1, toensure that the victim feels empowered, or at a minimum is not more abused or overwhelmed by the process, victims speak first in mediation sessions. While both victim and offender needs receive priority over the needs of other potential players in the community justice process (parents, relatives, other citizens), in an important sense the victim is also the primary client. The victim must, after all, consent to the process while the offender is often a less than willing participant (Belgrave, 1995). Hence, in contrast to other models, most research studies report that victim satisfaction with VOM has been uniformly high (e.g., Umbreit & Coates, 1993; Belgrave, 1995).

Monitoring, Enforcement, and Preparation. In VOM, there is apparently some degree of variation between programs in monitoring and enforcement. In many programs, it is common for the mediator to assist offender and victim in devising a schedule for reparation, and the mediator may even ask that the participants agree to a followup meeting to review progress (Umbreit, 1994). In other programs, probation or diversion staff may follow up, depending on the offender's court status; other mediation programs may have paid staff who are charged with monitoring functions, or VOM may be one part of a larger restitution program responsible for development and enforcement of the reparative agreement (Schneider, 1985; Belgrave, 1995). On the front-end, VOM practitioners are perhaps the most adamant of any community justice advocates about the importance of extensive victim and offender preparation before the mediation session. The most widely accepted model encourages extensive pre-mediation discussion with both offender and victim involving at least one face-to-face contact (Umbreit, 1994). In fact, many practitioners argue that up-front preparation is often more important than the session itself in bringing about a successful result (Umbreit & Stacy, 1996).

REPARATIVE *BOARDS*

Role of the Victim and Other Coparticipants. In the early months of operation, victim involvement in most Vermont RBs has been minimal (Dooley, 1996). While their participation has been strongly encouraged by state officials who developed and now monitor the programs, it remains to be seen to what extent citizen *board* members will want to take on the at times demanding task of contacting and engaging crime victims in the justice process. RBs have been informed to a large extent by a restorative justice model (Dooley, 1995;1996). Moreover, the strong commitment on the part of some local *boards* to seeing that victims are repaid by offenders ultimately may provide greater motivation for increasing involvement when it becomes

more clear what value mediation, or other forms of victim-offender dialogue, may have in improving completion rates (Umbreit & Coates, 1993). ***Boards*** have also been encouraged by administrators to refer offenders and victims to victim-offender mediation programs in communities where they are available and when victims agree to participate.

Monitoring, Enforcement, and Preparation. As table 2 suggests, enforcement responsibilities in the form of recommending revocation or termination of the 90-day offender contract are assigned to the ***board*** members themselves although the final decision is apparently made by a probation administrator who may recommend violation to the court if conditions are not met or require additional corrective actions. The reparative coordinator, a probation employee, is responsible for monitoring contract compliance (Reparative ***Board*** Program Description, 1995). While monitoring procedures and policy are perhaps the most formally developed in RBs, case preparation is apparently limited to a brief intake interview with the offender to gather information about the offense for the ***board***. Victims may or may not be contacted though presumably loss information is required for the hearings and may be provided from police records via court or probation.

FAMILY GROUP *CONFERENCES*

Role of the Victim and Other Coparticipants. The complexity of the challenge of victim protection and empowerment when one moves beyond the small group or dyad to the larger community is even more apparent in FGCs. FGCs are perhaps the strongest of all the models in their potential for educating offenders about the harm their behavior causes to victims. From a restorative perspective, however, the concern is that the priority given to offender education will--as appears to be the case when ***conferences*** are held with little or no victim input or involvement (Maxwell & Morris, 1993; Alder & Wundersitz, 1994)--overshadow or trivialize the concern with meeting victim needs (Belgrave, 1995; Umbreit & Zehr, 1996). In direct contrast to both VOM and CS, the standard protocol for FGCs requires that offenders speak first. This is believed to increase the chance that young offenders will speak at all in the presence of family and other adults. In addition, speaking first is said by FGC supporters to help offenders "own" their behavior early in the session, to let their support group know what happened, to give the victim a different perspective on the crime and on the offender, and even put the victim at ease (McDonald et al., 1995).(FN4)

The centrality of concern in FGCs with shaming and reintegrating offenders, however, may lead to some interesting twists in terms of how positive victim outcomes are conceptualized and thought to be best achieved. As one recent Australian attempt to evaluate victim outcomes illustrates, even objective observers may become vulnerable to giving primary focus to offender outcomes:

Conferencing engenders in the offenders and their supporters a sense of shame through providing the victims with a forum to explain directly to all experienced in the process. Such an explanation is sufficient for the expression of a sincere apology for the harm flowing from the offence. In a successful *conference*, the shame experienced by offenders, in turn, gives rise to the expression of forgiveness by victims, while the outcome can provide for material restitution. (Strang, 1995, p. 3) (emphasis added)

As suggested in this explanation, the essential "business" of the *conference* appears to be on getting offenders to experience shame (cf. Alder & Wundersitz, 1994). The "benefit" to the victim is an apology and perhaps material restitution. While either or both may meet the primary needs of many victims, other concerns may be neglected or not even considered. Moreover, if the ultimate motive is forgiveness for the offender, the process may be slanted in the direction of eliciting an apology from the offender, and victims may feel pressured to forgive the offender or become so resentful at the implication that they should that they refuse to participate (Umbreit & Stacey, 1996). Others have expressed concern in FGCs about the lack of concern with victim empowerment, protection against abuse or retaliation, and use of victims as "props" or to meet offender needs (Umbreit & Zehr, 1996). While victim participation and victim satisfaction has been an ongoing problem in FGCs (Maxwell & Morris, 1993), it is unfair to conclude that most FGC advocates are not concerned with victim needs (see Moore & O'Connell, 1994; Braithwaite & Mugford, 1994). Moreover, like all such criticisms of alternative community models, the critique of FGC from the victim's perspective should be made first with reference to the extent of reparation, empowerment, and support available within the current, formal system (Stuart, 1995b). However, as FGC models evolve, it will be important to examine the extent to which the priority commitment to offender shaming and reintegration may diminish the capacity of FGCs to involve and attend to the needs of crime victims.

Monitoring, Enforcement, and Preparation. FGCs also are responsible for preconference preparation and play a major role in enforcement. In New Zealand, preparation is viewed as critical, and face-to-face meetings are now generally held with the offender and family, with phone contacts made to the victim (Hakiaha, 1995). In the Australian model, by contrast, practitioners rely primarily on phone contacts to explain the process to both offenders and victims and apparently place much less emphasis on preconference preparation. This lack of preparation appears to be based on the belief that spontaneity is best. Some coordinators, for example, argue that hearing the victim's and offender's stories before the *conference* may even diminish the impact and focus of these stories (Umbreit & Stacy, 1996). Recently, however, some proponents of the Australian model appear to be placing greater emphasis on the need for ensuring accuracy of facts, checking with participants, developing a plan, and ensuring that key participants and their support groups are present at *conferences* (McDonald et al., 1995). As is the case in courts

that lack programmatic approaches to restitution and community service, compliance with reparative obligations appears to be generally left to the offender (Moore & O'Connell, 1994) although in the New Zealand model *conferences* can be reconvened for failure to comply (Maxwell & Morris, 1993). Monitoring and enforcement responsibilities are not made explicit although the Australian model appears to anticipate that police officers are ultimately responsible for enforcement (Alder & Wundersitz, 1994).

CIRCLE SENTENCING

Role of Victim and Other Coparticipants. As with VOM, proponents of the *circle* sentencing process are concerned with protecting the victim, providing support, and hearing the victim's story. In sentencing *circles*, after the prosecutor has presented the case against the offender, victims and/or their advocates generally speak first. In the *circle* this is done to avoid an "imbalanced focus on the offender's issues," which may cause the victim to withdraw or react by challenging offenders (Stuart, 1995b, p. 7). The telling of the victim's story is viewed as important, not only for the victim, the offender, and their supporters, but also for the community as a whole. CS advocates may encourage a friend or relative to speak on behalf of the victim when he or she is not willing, but they emphasize the value of residents hearing the victim's story firsthand whenever possible (Stuart, 1995b).

Because the process is so open and community-driven, however, a potential concern is that the importance given to the victim's needs and the victim's point of view in *circle* sentencing may vary widely. As appears also to occur in some FGCs, the seriousness of offender needs may slant the focus of the group to execution of the rehabilitative and offender service/support plan rather than toward meeting the reparative and other needs of the victim (Maxwell & Morris, 1993; Umbreit & Stacey, 1996). In addition, the extent of effort required on the part of the offender before the event itself (discussed in the following section) may result in *circles* stacked with offender supporters who have little relationship to victims. Achieving appropriate balance between victim, offender, and community needs and representation in the *circle* is a task left to the Community Justice Committee. In this regard, an innovation of CS not apparent in any of the other processes is the victim support group (Stuart, 1995b). This group is formed by the Community Justice Committee, generally at the time the offender petitions for admission to the *circle*, but may develop or be enhanced at any time including during the *circle* ceremony itself.

Monitoring, Enforcement, and Preparation. Perhaps because its community empowerment and healing goals are most ambitious, the *circle* sentencing model appears to demand the most extensive preprocess preparation. The admission process generally requires, as a condition of admission to a *circle*, that an offender petition the Community Justice Committee, visit an elder or other respected community member for a *conference* to begin work on a reparative plan which may involve some restitution to the victim and community service, and identify a community

support group (Stuart, 1995b). While *circles* may be convened in some cases without these requirements being met (with the special approval of the Community Justice Committee), the preconference process is generally viewed as a screening device and a key indicator to *circle* participants that the offender is serious about personal change. Hence, it is not uncommon that *conferences* are canceled or postponed when these steps have not been taken (Stuart, 1995b). When the preliminary screening process works well and offenders meet the preconference obligations, however, a *circle* sentencing session can actually seem less like a hearing about dispositional requirements than a celebration of the offender's progress, as well as an opportunity for victims and offenders to tell their stories.

This preparation and support on the front end appears also to extend to follow up on the back end. In this regard, monitoring and enforcement of the conditions of the *circle* sentence, which often include an extensive list of reparative responsibilities, treatment requirements, and (in Aboriginal communities) traditional healing and community building rituals, is assigned to the *circle* participants. Offender and victim support groups formed through the Community Justice Committee also monitor offenders and advocate for victims to ensure that agreements made within the *circle* are carried out. In the case of sentencing *circles*, agreements are subject to review by a judge, who will ask for routine reports from the justice committee and the support groups. Judges may strengthen the enforcement process at the conclusion of the *circle* by assigning or reaffirming the assignment of community monitoring responsibilities and may withhold a final decision about jail terms or other sanctions pending completion of obligations to be verified at the followup hearing.

DISCUSSION

"So we make mistakes--can you say--you (the current system) don't make mistakes ... if you don't think you do, walk through our community, every family will have something to teach you.... By getting involved, by all of us taking responsibility, it is not that we won't make mistakes.... But we would be doing it together, as a community, instead of having it done to us. We need to find peace within our lives ... in our communities. We need to make real differences in the way people act and the way we treat others.... Only if we empower them and support them can they break out of this trap." (Rose Couch, community justice coordinator, Kwanlin Dun First Nations, Yukon, Canada, cited in Stuart, 1995b)

The perpetual absence of "the community in community corrections," either as a target of intervention or as a coparticipant in the justice process (e.g. Byrne, 1989; Clear, 1996), may be due in part to the inability to identify meaningful roles for citizens in sanctioning crime. This article has described four alternative community decisionmaking models and contrasted the way each

defines and operationalizes the role of citizens and community groups in the response to crime. As illustrated by the examples of the Vermont Reparative *Boards* and as a growing number of community justice initiatives being initiated and led by corrections departments in states such as Minnesota and Maine indicate (Pranis, 1995; Maine Council of Churches, 1996), such citizen involvement in community sanctioning processes may have significant implications for community corrections. In the processes discussed here, there appears to be significant potential for changing the current dynamic in which the community is viewed by justice agencies as a passive participant. When probation and parole professionals can identify citizens willing to participate in a community sanctioning process, they may also have identified a small support group willing to assist with offender reintegration as well as victim support.

"RIDING THE WAVE": CRITICAL ISSUES IN COMMUNITY JUSTICE DECISIONMAKING

As restorative and community justice decisionmaking assumes an ever higher profile at senior governmental policy levels, there are a number of critical issues which must be addressed. Because these new decisionmaking structures and processes, like all criminal justice innovations, are likely to come under close scrutiny, the failure to address several concerns could prove fatal.

The need to evaluate community justice decisionmaking initiatives. Despite the proliferation of restorative and community justice programs, there is a paucity of evaluation research which would provide an empirical basis for determining whether these initiatives are successful in achieving their stated objectives. Critics of *circle* sentencing (c.f. LaPrairie, 1994), for example, point out that there have been no empirical analyses of the extent to which sentencing *circles* prevent and/or reduce crime and disorder in communities or whether sentencing *circles* function to reduce recidivism rates among offenders processed through the *circles*. In an extensive critique of *circle* sentencing LaPrairie (1994, pp. 82-83) states:

> It has been claimed that sentencing *circles* have the following benefits: (a) they reduce recidivism, (b) prevent crime, (c) reduce costs, (d) advance the interests of victims, and (e) promote solidarity among community members. These are all measurable and should be put to the empirical test.

Many restorative and community justice initiatives have objectives that are far more holistic than traditional crime control responses, which have typically utilized recidivism rates as a primary outcome measure. An evaluative framework for these approaches would, therefore, have to include measurable criteria to assess outcomes of "community empowerment and solidarity," "victim interests," and "crime prevention." The relative importance assigned to such outcomes as community and victim involvement, offender shaming, reparation to victims, dispute resolution, and healing will also determine how one gauges the effectiveness of any model. However, as new, more appropriate standards emerge for evaluating the impact of community justice, the

most important concern, as suggested by the quote from one of the key practitioners of community justice at the beginning of this section, is that the basis for comparison be the reality of the current system rather than an idealized version of its performance.

Discretionary Decisionmaking: Ensuring Accountability in Community Justice. The community justice decisionmaking models discussed in this article are often proposed as alternatives to the legal-procedural approach to dispositions and sanctioning assumed by the formal justice process. However, the capacity to determine guilt or innocence has not been developed within these models as it has in the formal criminal justice system. Further, concerns have been raised as to the mechanisms of accountability in community justice decisionmaking. Griffiths and Hamilton (1996, pp. 187-188), in considering the development of justice programs in Aboriginal communities, have therefore cautioned:

Care must be taken to ensure that family and kinship networks and the community power hierarchy do not compromise the administration of justice. As in any community, there is a danger of a tyranny of community in which certain individuals and groups of residents, particularly those who are members of vulnerable groups, find themselves at the mercy of those in positions of power and influence.

The often dramatic and dysfunctional power differentials within communities may make true participatory justice difficult to achieve and may instead produce harmful side effects in some settings (Griffiths & Hamilton, 1996). Ironically, those communities most in need of holistic, restorative-based justice programs that encourage community residents to become involved in the disposition and sanctioning process are often precisely those communities that are the most dysfunctional and may have only limited interest in and/or capacity for such involvement. Specific attention must be given to the development of strategies for empowering communities and recruiting and retaining the participation of community residents.

Protecting the Rights and Needs of Crime Victims. Ensuring that the rights of victims are protected is a critical, but potentially divisive, issue in any community justice process. While victim alienation and exclusion from the formal justice system has been a primary catalyst in the search for alternative forums for responding to crime and disorder (e.g., Young, 1995; Umbreit, 1994), concern has been expressed by many observers that community justice decisionmaking models may not give adequate attention to the rights and needs of vulnerable groups, particularly women and female adolescents.

In Canada, Aboriginal women have voiced concerns about the high rates of sexual and physical abuse in communities and have questioned whether local justice initiatives can provide adequate present and future protection for victims (Griffiths & Hamilton, 1996). Additional concerns as to whether the sanctions imposed on offenders by community justice structures were

appropriate also have been voiced. In a study of violence against women in the Canadian Northwest Territories, Peterson (1992, p. 75) found that Aboriginal and Inuit women were concerned about the attitudes toward violence held by community residents and how this would impact the operation of community justice initiatives: " T here can be differences that develop along generational lines ... older people may evidence a tolerance of violence against women that is no longer acceptable to young women." Unfortunately, the failure to address these critical points has led to situations in which community justice initiatives undertaken by Aboriginal bands have been first criticized by Aboriginal women and then discredited in their entirety.

The Formal Justice System: Collaboration or Cooptation? A critical issue surrounding the development and implementation of community justice decision making models is "who controls the agenda?" Traditionally, the formal justice system has maintained a tight rein on initiatives that have been designed as "alternatives" to the criminal justice process. This is evident in the origins and evolution of youth and adult diversion programs, which appear to have become another appendage to the formal justice process. The inability or unwillingness of decisionmakers in the formal criminal justice system to share power with communities is likely to result in net widening, rather than the development of more effective alternative decisionmaking processes (Blomberg, 1983; Polk, 1994).

If the new decisionmaking models follow the pattern of development of earlier neighborhood dispute resolution--and to a lesser extent the pattern of VOM as the oldest of the new models--one would anticipate a significant addition to the richness and diversity possible in alternative sanctioning but little impact on the formal system. Both VOM and FGCs (with the exceptions of those in New Zealand) are ultimately dependent on system decisionmakers for referrals, and the potential for power sharing is minimal. If these models are to avoid these now traditional fates for such programs, community advocates will need to begin to work with sympathetic justice professionals who are also committed to community-driven systemic reform in what have become intransigent, top-down, rule-driven criminal justice bureaucracies.

But while a primary objective of proponents of community justice decisionmaking is to have such initiatives institutionalized as part of the justice process, the danger is that system control will lead to the top-down development of generic models of community decisionmaking. Hence, the degree of institutionalization that some of these approaches have been able to achieve in a relatively short time and the rather dramatic results in terms of system/community collaboration (especially in CS) that appear to be possible is both promising and risky. While the high profile given to community justice initiatives may result in grant funding for research and programs, such system support is no guarantee of long-term impact of the type envisioned in the community and restorative justice literature. Moreover, in the absence of substantive community input at the design and implementation phases of specific initiatives, this administrative focus may even result in cooptation or watering down of these approaches in ways that ultimately function to undermine

the philosophy and objectives of community justice initiatives (Van Ness, 1993). From a community justice perspective, perhaps the biggest challenge to reparative ***boards***, for example, is the fact that they have been implemented in the system itself. On the one hand, RBs may have the greatest potential for significant impact on the response of the formal system to nonviolent crimes. Moreover, the commitment of administrators to local control may also result in the community assuming and demanding a broader mandate. On the other hand, as a creation of the corrections bureaucracy, RBs may expect to be at the center of an ongoing struggle between efforts to give greater power and autonomy to citizens and the needs of the system to maintain control or ensure system accountability. Ultimately, ***board*** members also may be challenged to decide the extent to which their primary client is the community or probation and the court system.

In this regard, of the four models, ***circle*** sentencing appears most advanced in an implicit continuum of the importance given to the decisionmaking role of communities. As such, this model provides the most complete example of power sharing in its placement of neighborhood residents in the gatekeeper role (see table 2). Acting through the Community Justice Committee, the community is clearly the "driver" in determining which offenders will be admitted to the ***circle***. Eligibility in ***circles*** is apparently limited only by the ability of the offender to demonstrate to the Community Justice Committee her or his sincerity and willingness to change. Surprisingly, the most promising lesson of ***circle*** sentencing has been that when given decisionmaking power, neighborhood residents often choose to include the most, rather than the least, serious offenders in community justice processes (Stuart, 1995b; Griffiths & Hamilton, 1996). As a result, however, courts and other agencies in Canadian communities experimenting with ***circle*** sentencing have experienced ongoing tension over the extent to which power sharing with the community should be limited and whether statutes are being violated.

IMPLICATIONS AND CONCLUSIONS

Systemic reform toward community justice must not begin and end with new programs or staff positions, but with new values which articulate new roles for victims, offenders, and communities as both clients and co-participants in the justice process, and, accordingly, create and perpetuate new decisionmaking models that meet their needs for meaningful involvement. As is fundamental to the principals and values of restorative justice, the capacity of these models to impact and even transform formal justice decisionmaking, and ultimately correctional practices, seems to lie in the potential power of these co-participants, if fully engaged in meaningful decisionmaking processes. For this to occur, however, a rather dramatic change must also occur in the role of professionals from one of sole decisionmaker, to one of facilitator of community involvement and resource to the community (***Bazemore*** & Schiff, 1996).

One limitation of this article has been that in describing these four processes as independent

models, we have perhaps exaggerated distinctions between processes that are in fact borrowing insights from each other as they are adapted to meet local needs. Hence, it is important not to impose restrictive definitions on what is clearly a dynamic and evolving movement. However, a primary purpose of this article has been to provide a general framework for describing the dimensions of community justice decisionmaking in order to avoid indiscriminate and arbitrary, all inclusive, groupings of programs and practices under what are, for the most part, ill-defined terms such as "community justice." The importance of such comparative discussions at this relatively early stage of the development of the various programs and strategies is to highlight similarities and differences across the four emerging models and to prevent, or at least minimize, the "community-policing syndrome": the widespread application (and misapplication) of a generic term to a broad range of initiatives without a clear understanding of the differences among interventions or benchmark criteria that can be used to assess consistency with fundamental principles (e.g., Mastrosky & Ritti, 1995). In the absence of an effort to distinguish what should and should not be included under the umbrella of community and restorative justice, and to further define success in these interventions, a unique and valuable opportunity to develop more effective methods for enhancing citizen involvement in the response to crime and disorder will have been missed.

Added material

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TABLE 1. COMMUNITY DECISIONMAKING MODELS: ADMINISTRATION AND PROCESS

	Circle Sentencing	Family Group ***Conferencing***
Time in Operation	Since approximately 1992	New Zealand (NZ)-- 1989; Australia-- 1991
Where Used	Primarily the Yukon, sporadically in other parts of Canada	Australia, NZ, cities & towns in Montana, Minneapolis, & Pennsylvania
Point in System	Used at various stages; may be diversion or alternative to formal court hearings and correctional process for	NZ--throughout juvenile justice system; Australia Wagga-Wagga model-- police diversion

indictable offenses

Eligibility and Target Offenders who admit NZ model--all
juvenile
Group guilt and express offenders
eligible except
willingness to change; murder and
man-
entire range of offenses slaughter
charges;
and offenders eligible; Wagga-Wagga
model--
chronic offenders determined by
police
targeted discretion or
diversion
criteria

Staffing Community Justice Community
Justice
Coordinator Coordinator

Setting Community center, Social welfare
office,
school, or public building school,
community
building,
(occasionally)
police
facility

Nature and Order of After judge, justice of the Coordinator
follows
Process peace, or keeper opens "script" in
which offender
session, each participant speaks first
to ***board***
allowed to speak when followed by
victim and
feather or "talking stick" other
participants;
is passed to him or her; consensus
decision-
victim(s) generally speak making
first; consensus
decisionmaking

	Reparative ***Board***	Victim-Offender Mediation
Time in Operation	Since 1995	Since mid-1970s
Where Used	Vermont	Throughout North America and Europe

Point in System One of several probation Mostly diversion
and
options probation option
but
some use in
residential
facilities for
more serious
cases

Eligibility and Target primarily Group and offenders; in used violent victim's	Target group is nonviolent offenders; eligibility limited to offenders given probation and assigned to the ***boards*** (some ***boards*** have been given discretion to accept violent offenders)	Varies, but diversion cases property some locations, with serious and offenders (at request)
Staffing	Reparative Coordinator (probation staff)	Mediator--other positions vary
Setting such as library, community occasionally in	Public building or community center	Neutral setting meeting room in church, or center; victim's home if approved by other parties
Nature and Order of first; Process facilitates but and does script or	Mostly private deliberation by ***board*** after questioning offender and hearing statements; some variation emerging	Victim speaks mediator encourages victim offender to speak; not adhere to force conse

TABLE 2. COMMUNITY DECISIONMAKING MODELS: COMMUNITY ROLE AND INVOLVEMENT

	Circle Sentencing	Family Group ***Conferencing***
Who Participates? identifies ("The Community") kin of offender as services	Judge, prosecutor, defense counsel participate in serious cases. Victim(s), offender(s), service	Coordinator key people; close victim and targeted, as well police, social

	providers, support group present. Open to entire community. Justice Committee ensures participation of key residents.	
Victim Role	Participates in ***circle*** and decisionmaking; gives input into eligibility of offender; chooses support group	Victim expresses feelings about crime; gives input into reparative plan
Gatekeepers	Community Justice Committee	NZ--court and Criminal Justice Coordinator; Australia & U.S.--law enforcement and school officials
Role and Relationship to System	Judge, prosecution, court officials share power with community, i.e., selection, sanctioning, followup; presently, minimal impact on court caseloads	NZ--Primary process of hearing juvenile cases; required ceding of disposition power. Major impact on court caseloads. Australia--police driven. Variable impact on caseloads; concern regarding net-widening
Preparation	Extensive work with offender and victim before ***circle***; explain process and rules of ***circle***	Phone contact with all parties to encourage participation and explain process; NZ model requires offender and family have face-to-face visits
Enforcement and Monitoring	Community Justice Committee; judge may hold jail sentence as incentive for offender to	Unclear; police in Australian Wagga-Wagga model; coordinator in NZ model

	comply with plan	
Primary Outcome Sought	Increase community strength and capacity to resolve disputes and prevent crime; develop reparative and rehabilitative plan; address victim's concerns and public safety issues; assign victim and offender support group responsibilities and identify resources	Clarify facts of case; shame/denounce crime while affirming offender; restore victim loss; encourage offender reintegration; focus on "deed, not need"
	Reparative ***Board***	Victim-Offender Mediation
Who Participates? ("The Community")	Reparative Coordinator (probation employee); Community Reparative ***Board***	Mediator, victim, offender are standard participants (family and others allowed on rare occasions)
Victim Role	Input into plan sought by some ***boards***; inclusion of victims currently rare but being encouraged and considered	Major role in decision re: offender obligation and content of reparative plan; express feelings regarding crime and impact
Gatekeepers	Judge	Victim has ultimate right of refusal; consent is essential
Role and Relationship to System	One of several probation options for eligible low-risk offenders with minimal services needs; plans to expand; some impact on caseloads	Varies on continuum from core process in diversion and disposition to marginal programs with minimal impact on court caseloads

	anticipated	
Preparation	Preservice training	Typically face-to-
face		
	provided by ***boards***; no	with victim and
offender		
	advance preparation for	to explain
process; some		
	individual hearings	programs use phone contact
Enforcement and	Condition of probation;	Varies; mediator
may		
Monitoring	coordinator monitors and	follow up;
probation or		
	brings petition of	other program
staff may		
	revocation to ***board***, if necessary	be responsible
Primary Outcome	Engage and involve	Allow victim to
relay		
Sought	citizens in decisionmak- ing process; decide	impact of crime to offender; express
feelings		
	appropriate reparative plan for offender; require	and needs; victim satisfied with
process;		
	victim awareness education and other	offender increase awareness of harm;
gain		
	activities that address	empathy; agreement
on		
	ways to avoid reoffend- ing in the future	reparative plan

FOOTNOTES

1 The most concrete impact in the U.S. can be seen in Vermont itself, where reparative ***boards*** based on the restorative justice perspective are now state policy. Other states that have adopted restorative justice as the mission for their corrections departments include Minnesota and Maine. State juvenile justice systems in Pennsylvania, Florida, New Mexico, and Montana, among others, have adopted restorative justice principles in policy or statute. In the U.S., a series of high-level work group meetings have recently been held within the Office of Justice Programs at the request of the Attorney General, which in turn have sparked several national and crossnational forums on community and restorative justice (NIJ, 1996a; Robinson, 1996).

2 For the remainder of this article, we use, for convenience, the generic term "community justice" to describe this overall movement and set of philosophies. However, this does not reflect a preference for this term, and, in fact, as the discussion here suggests, community justice may well be too broad to reflect the more specific influence of restorative justice on decisionmaking models. While restorative justice, or community restorative justice, thus more accurately may characterize the interventions of interest here, the issue of terminology is somewhat political and

often less relevant than the nature of the interventions being described. Community justice also is frequently associated in Canada with a political transfer of justice decisionmaking power to local communities or indigenous groups (Depew, 1994; Griffiths & Hamilton, 1996).

3 The original group of neighborhood dispute resolution centers differed from the new models in that they generally dealt with a more narrow range of cases, focusing primarily on domestic and neighborhood disputes rather than crimes per se and also appear to have been motivated primarily by an attempt to relieve overcrowded court dockets (Garafalo & Connelly, 1980).

4 Critics of this approach suggest that it is symbolically important that the victim speak first, and one compromise that has been proposed gives the victim a choice of whether he or she precedes or follows the offender (Umbreit & Stacey, 1996). FGC advocates argue that the facilitator can avoid situations in which an offender speaking first might anger a victim by a less than repentant, or less than accurate, portrayal of the incident by coaching the offender and possibly challenging aspects of the offender's story in advance. Facilitators are also encouraged to prepare the victim for what he or she may feel is an unfair account of the incident by the offender (Moore & O'Connell, 1995).

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