CRIME AND
CRIMINAL
JUSTICE
CONCEPTS AND
CONTROVERSIES

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SAGE
crimes or enforce other forms of community-based punishments, the college disciplinary process is rather limited in this regard. Campuses can suspend an individual for a period of time or expel someone from a particular campus or system. In other cases, symbolic punishments such as being prohibited from attending graduation are used. There is also the tension between supporting the victims in this process and not violating the rights of those accused of such acts. Furthermore, in some cases, victims who have brought forth cases are subsequently punished for violating the campus’s honor code.

Finally, while Title IX requires colleges and universities to provide these services to students, many of these requirements are unfunded, meaning that state and campus budgets are left trying to determine where the resources to provide these services will come from. As we have seen, the failure to provide these resources means that campuses become vulnerable to grievances and lawsuits from victims.

**DISCUSSION QUESTIONS**

1. What sort of resources does your campus have to prevent acts of rape and sexual assault? Do you believe these tools are effective?

2. How does your campus respond to allegations of rape and sexual assault? Do these responses address the needs of victims?

3. What sorts of reforms would you suggest to college officials on your campus to help improve prevention and intervention efforts?

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**CURRENT CONTROVERSY 5.2**

**Is Restorative Justice an Effective Tool for Victims?**

—Kimberly J. Cook—

**INTRODUCTION**

While some people correctly point to ancient traditions of indigenous cultures as the starting point for RJ, the modern application of this practice is fairly young. In the 1980s, New Zealand began implementing what they called *family group conferencing* as a means to address juvenile offending. The practice there stemmed from a Maori tradition (*whānau*) in which the extended family of offenders (and victims, whenever possible) would meet with the offenders to discuss what happened, why it happened, and how it could be repaired to the satisfaction of the community, the victim, and the extended families. Eventually, the practice became routine within the juvenile court system and adapted within the adult courts as well.

Australia adapted the practice in the 1990s and established *diversionary conferencing* programs in some limited jurisdictions that eventually spread throughout the country. The idea for diversionary conferences was to “divert” juvenile offenders out of the formal court system by offering them an opportunity to take responsibility for their actions and make amends at the same time. This early Australian application of RJ was housed within local police departments and sessions were conducted by specially trained police officers. The sessions provided space for victims and their supporters to describe how the crime injured them so that the offender could hear it firsthand; it also provided offenders time to explain their behavior, take responsibility for it, and possibly apologize and then make amends.

In addition to diversion programs, some RJ initiatives are therapeutic in design. An example of a therapeutic RJ program is the postconviction Victim–Offender Mediated Dialogue program in Texas. It provides opportunities for victims and survivors of violent crime (including homicide) to meet with the
As part of a restorative justice program, victims and offenders meet to talk about the crime and experience of victimization. Research indicates that such programs can be a therapeutic and healing option in some cases. Under what circumstances might this not be a positive experience?

**PRO**

Restorative Justice Is an Effective Tool for Victims

During this early phase of the development of restorative justice practices involving juvenile offenders, scholars such as John Braithwaite, Lawrence Sherman, and Heather Strang tested the program to determine whether RJ was an effective approach compared with those of conventional courts in cases involving non-violent crime, some violent crime, and drunk driving. In order to be approved for this program, the young person responsible for the crime was required to admit responsibility and the injured persons had to be willing to participate. The tests documented that for the most part, victims of crime were much more satisfied with the diversionary conferences than victims whose cases went to the conventional court; also, young people responsible for the injuries were more satisfied than young people whose cases went to court as well. Typical resolutions included paying back the cost of what was lost or damaged during the offense, agreeing to stay out of trouble, and apologizing for the crime. These early findings inspired jurisdictions from around the world to build RJ programs within their communities.

Making amends in cases of severe violence, such as the rape and murder of a young woman, is impossible. Taking responsibility and offering genuine information to the victim's survivor is possible. In one case, a mother and her granddaughter (who was five when her mother was murdered) met with the man who killed their daughter/mother thirteen years after her death. The victims were able to talk about aspects of their daughter/mother's life that were important for them to share with the offender—her little daughter, the new baby she just found out she was carrying, their family's loss when she died, the pain of their grief, the loss of their sense of security, and many other aspects of how this tragedy affected their lives. He was able to explain how messed up he was as a boy and as a teen when he did this, how he was abandoned by his parents to a series of abusive foster care situations, his attempted suicide when he was 8 years old, being in juvenile detention at a very young age, getting in trouble with the law, poor school performance, and no guidance throughout his sad young life. He also showed how deeply he had regretted that violent act every day of his life. The offender shared with them his victim's final words—"God will forgive you, and so do I"—which always haunted him. This knowledge was a gift of comfort to the victims because it affirmed for them that their family member's last act was peaceful and loving even as she faced the horrific reality of her own death. They spent about nine hours talking to each other, crying, being silent, holding hands, praying, and also laughing, hugging, and taking photos together. It seems incredulous to imagine such a meeting, but such is the capacity of restorative justice.99

Research into RJ programs shows promising results: Victims feel more satisfied and heard, and offenders have a place where they can take responsibility and genuinely offer their apologies to those who suffered from their actions. There are many organizations that promote restorative justice, and searching online will yield a wealth of information. Ultimately, as Professor Braithwaite says, "If crime is about injury, then justice should be about healing." Participants in restorative justice programs have stated that these meetings can create the space and the opportunity for healing to occur.40
CON

Restorative Justice May Not Be the Best Option for Victims

On the other hand, scholars and practitioners caution against using restorative justice in some cases. Concerns can hinge on whether the offender is truly remorseful for his or her actions. For instance, imagine a situation in which a battered woman might desire an RJ-based remedy for her needs and her children's needs, but her abusive (former) partner continues to be manipulative and emotionally abusive. During the meeting, he may behave in ways that trigger her continued trauma rather than provide opportunities for healing and moving forward. Such situations must be avoided, and facilitators need to be perpetually vigilant regarding the possibility of continued abuse of victims and survivors. Furthermore, some scholars and practitioners suggest that RJ may not be well suited for culturally specific situations. For example, some scholars argue that victims of gendered violence within Indian cultures would likely continue to be victimized given powerful cultural emphasis on women's submission and the patriarchal power of men.41

CONCLUSION

Restorative justice programs have been successful in many settings. Not only do such options provide crime victims and communities the opportunity to serve as active participants in the criminal justice experience, but programs can also provide avenues for healing. However, such a model does not fit all offenders and all victims. The challenge is understanding when and where such programs would be the most effective.

DISCUSSION QUESTIONS

1. Do you think restorative justice programs offer an opportunity for closure for victims of crime?
2. What are the challenges that exist in implementing these types of programs?
3. How might the criminal justice system learn from this approach?

KEY TERMS

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DISCUSSION QUESTIONS

1. In what ways does the criminal justice system fail to meet the needs of victims?
2. How does the experience of secondary victimization and blaming the victim impact rates of reporting crimes?
3. How do perspectives such as routine activities theory and lifestyle theory help explain the risks of victimization?
4. How does the National Crime Victimization Survey add to our understanding about the presence of crime in society?