

Study Guide

The Little Book of Restorative Justice

By Howard Zehr

Part I: Introduction

- What are your impressions of and associations with the term "restorative justice?" What have you heard, and from what sources?
- Discuss the "restorative justice is not" items on page 8 and following. Do any of these surprise or concern you?
- What are some implications of the statement, "Restorative justice is a compass, not a map?"
- "Restorative justice focuses on needs more than desserts." Are you comfortable with this? What are some of the implications?
- On pages 16-18, the author lists but does not discuss a number of offender and community needs. Explore these lists a bit. What do they involve? Do you agree with them? How might these be addressed?
- If you have been a victim (or offender), or know someone who has been, what do you think you would need and want from a justice process? Does it match with the author's suggestions?
- Suggested exercises: Exercises 1 or 2 below.

Part II: Restorative Principles

- The author says that restorative justice is based on a simple, almost universal, idea about offending and responsibility. Do you agree? Is this consistent with your family experience or culture?
- Compare the chart of "Criminal Justice" and "Restorative Justice" on page 21. Is this an accurate representation? What are some of the implications?
- How do the needs and roles of various "stakeholders" fit within the two concepts of justice? To what extent are they addressed by the two approaches? Are there others that should be included?
- In his discussion of the "three pillars" of restorative justice, the author suggests that obligations may involve more than the offender's obligation for the harm caused. What are some of these potential obligations, and whose are they? What does this suggest about justice?
- Why is the "who" and the "how" such an important part of a justice experience? Do you agree?
- The author argues that "putting right" requires us to address not only harms but causes.

Where might this take us? What are some possible implications for society and for how we understand wrongdoing?

- The author suggests that offenders often see themselves as victims. What possibilities and concerns does this raise for you?
- The author says that restorative justice is based on several underlying concepts or values; these include the idea of "interconnectedness" and respect. What does this suggest for justice and for other areas of life? Are there other values that should be included?
- Suggested exercises: Exercises 1,2,3 below.

Part III: Restorative Practices

- Discuss the possible risks and benefits for victims, offenders, and/or communities of a restorative approach in general. (This is probably best done in small groups with each group addressing one "stakeholder" group.)
- What are potential risks and benefits of the various restorative justice models that the author summarizes on pages 47-54?
- If restorative justice were applied to school, work, or church environments, what might it look like? What special issues would be involved?
- Suppose you were to try to create a restorative prison environment following these principles. What might it look like? What areas of life and culture in prison would be affected?
- Suggested exercises: Exercises 3,4,5 below.

Part IV: Conclusion

- Does the concept of justice outlined here connect with your own personal experiences, beliefs, or traditions? How or how not?
- How does restorative justice connect with, or contradict, your religious tradition?
- What traditions, experiences, and approaches do you see as contributing to the restorative justice "stream?"
- What suggestions do you have for implementing restorative justice in your own community? Where would you start? Where and how might it connect with the criminal justice system in your community?
- Suggested exercises: Exercises 4,5 below.

Suggested Exercises:

1. Continuum Exercise.

Suggested in conjunction with Part I or, depending on the questions used, Part II.
(Suggested time: 10-15 minutes.)

These are useful as discussion-starters and as a way to break the ice. They encourage participants to explore their assumptions or biases.

Identify a large, open space in your room. Identify one end of the space as one of the "poles" of the continuum, and the opposite end as the other pole. Using the questions below, ask each person to place themselves on this continuum, based on what they think. They may stand at the far ends, or anywhere in between.

As they stand there, ask them to talk about why they placed themselves where they did. Here are some possible questions:

Do you tend, because of your experience or work, to be more aware of victims or of offenders? (Follow-up question: what does this say about your view of justice, and about society's?)

In doing justice, which is more important: truth or consequences? (Follow-up question: How does each of the two concepts of justice contribute to, discourage, or shape these goals?)

In your view, are offenders best viewed as "choosers" or "victims?" That is, is crime best seen as a free choice or as a response to conditions and contexts?

2. What Makes Us Do the Right Thing?

This exercise can be used in conjunction with Part I or II. (Suggested time: 15-30 minutes, depending on whether small groups are used.)

This exercise is intended to help participants identify and explore what they already know about human motivation, including the role of punishment. It can be done either with the whole group or in small groups. Instructions are provided below.

Summary of the Exercise:

1. Why do we do the right thing most of the time?
2. Think of a time when you were victimized or unfairly treated. What were your feelings? What were your needs?
3. If we had a good process in the community to resolve conflict and harm, what would that process involve?

Common Sense in the Community¹

by Kay Pranis

The knowledge we need for doing justice in a different way exists in the community. Ordinary citizens already possess the basic understandings necessary for a fundamentally different approach to resolving the harm of crime.

In my experience, posing the key questions about community safety from a capacity orientation elicits responses from community which could be the foundation of a community based, restorative approach to crime. I have used a two-step process in a wide variety of community and professional groups to explore the group's perceptions about key questions.

The criminal justice system is used to keep human behavior within certain bounds so that we can live safely with one another. When we consider the hundreds of choices made by each person each day, it is remarkable how much of the time we comply with laws, rules, and regulations. To an amazing degree we do follow laws and rules.

When I ask groups, "What are the forces shaping our behavior which cause us to follow the rules and obey the laws?" they typically generate a list of 10 to 15 items. A sample list follows:

- * Values
- * Norms of the community
- * Fear of legal consequences
- * Fear of social disapproval
- * Sense of involvement and belonging
- * Internal controls
- * Desire to avoid embarrassment
- * Gender roles and expectations (socialization)
- * Feeling of inclusion
- * Education
- * Laws and policies or regulations
- * Peer standards and expectations
- * Personal capacities
- * Culture
- * Socioeconomic needs

When I ask groups which of these forces they think are the most powerful in shaping behavior, nearly every group identifies two major forces 1) values or morals (an internal force—how we see ourselves) and 2) a sense of belonging and the associated fear of losing those relationships (an external force—how others see us).

When asked which of the forces on the list is used to shape behavior through the criminal justice process, groups conclude that the system relies almost exclusively on "fear of legal consequences" to shape behavior. It is important to note that this is only one of numerous forces shaping behavior, and it is not perceived to be one of the most powerful forces.

Trying to manage behavior primarily through the use of fear of legal consequences is like trying to move something heavy with the wrong end of a lever. You exert tremendous

amounts of force, but see very little movement at the other end. The public clearly does not see legal threats as the most effective tool to get the behavior we want from people.

In a discussion about where these other forces operate—from where they derive their power—participants note that most of those forces, particularly the most powerful ones (values and sense of belonging), are integral to family and community relationships and function in those contexts. If the response to crime is to tap into the power of those forces, it must operate in the context of family and community relationships.

After exploring the public's perceptions about behavior motivation, I ask the group to imagine a process or processes in the community to resolve conflict and harm. They are asked to identify what characteristics they would want the process to have. What would they want to be able to say about the process or processes? The lists generated by dozens of different groups have been remarkably similar, regardless of training or background of the participants. A typical list identifies the following criteria as important for these processes.

An effective community process to resolve conflict and harm should:

- * Be egalitarian—everyone has an equal voice.
- * Involve all interested parties—the community, the victim, the offender, and the system.
- * Be safe for participants both physically and emotionally.
- * Be clear and understandable.
- * Produce changes in behavior.
- * Promote healing.
- * Include monitoring of agreement and evaluation of outcomes.
- * Be voluntary for participants.
- * Use consensus-based decision-making.
- * Be achievable.
- * Condemn the behavior.
- * Provide opportunities for reintegration.
- * Focus on repair of the harm.
- * Provide opportunities for learning.
- * Provide rewards for positive behavior.
- * Hold all participants responsible for their appropriate roles.

This exercise is not intended to produce a complete and definitive description of this community-based process, but to sketch the outlines of the vision of the group about a good way to resolve conflict and harm.

I then ask, "How many of these criteria are met by our current process for resolving conflict and harm?" In these discussions, participants have concluded that our current process falls far short of these standards for an effective way to resolve conflict and harm in the community.

I have engaged in this dialogue with groups across the United States, in rural and urban settings, among lawyers, corrections professionals, civic groups, and church groups. The results are amazingly consistent. When I did these exercises with a group of inmates in a

high security prison, I got the same lists. My experience in doing this with so many different groups taught me that I had no new wisdom to impart. It changed my understanding of my job. I originally thought of myself as doing community education. I now think of my job as creating spaces for people to be in touch with their own wisdom. There are two critical characteristics of that kind of space. It must be reflective and it must be respectful.

The knowledge we need in order to create a different way of responding to harm in the community already exists in the community. It is not knowledge about fundamental values and principles or behavior and process that is needed from the professionals and academics. What communities need from professionals is affirmation and facilitation. The community needs structure and forums that allow it to act on its own knowledge of human behavior and effective process.

1Excerpted and adapted from Building Justice on a Foundation of Democracy, Caring, and Mutual Responsibility from the forthcoming book, *A Call to Transformative Justice* by Kay Pranix.

3. "Four Sectors" Exercise

(Victim, Offender, Community, Government/System)

by David Dyck

This exercise can be used with any section of the book, although it probably works best with Parts II or III. When used with Part II, it will help them anticipate the practice issues raised in Part III. (Suggested time: 30 minutes or more.)

The exercise is intended to help them explore real-life needs of victims, offenders, and communities as well as ways they may or may not be met by a justice process. Instructions are provided below.

Note #1: This is a small group analysis/discussion exercise, not a role play. Your assignment is to listen to each person's story and then analyze/discuss. You are not to "take on" the role of anyone.

Note #2: "Needs" and "responsibilities" are defined here in terms of those elements that persons must have and/or must "take up" if they and/or the community are to move forward, heal, and achieve a sense of community peace and well-being/balance.

1. *Ask participants to form groups of five.*
2. *Assign each person to read a story:*
 - Robert (victim)
 - Garnett (offender)
 - Robert's parent
 - Garnett's sister
 - Police Officer or a crown attorney

3. *Pin up flip chart paper with:*

- Victim
- Offender
- Community
- System/Gov't

on the left side of the paper, and columns labeled Needs and Responsibilities at the top of the paper.

4. *Do a "round" (using a "talking stick"), taking the following steps:*

- Listen carefully to each person's comments.
- When s/he is finished, list the needs that this person has/may have (discuss and brainstorm as a group; educated guesses are fine). There may be needs that are only hinted at, can be inferred from what is said, or that the storyteller may not be fully aware of him/herself.
- Record in point form. Be very concise – a word or two. If you can't agree, write it down anyway in the spirit of brainstorming! (Take 3-5 minutes per person for a total 20-25 minutes.)
- After groups have listed needs for all five people, facilitator may instruct them to brainstorm about each party's responsibilities in the same way (another 10-15 minutes).

5. *Discuss (free flowing) in the Plenary:*

- What is likely to happen with this case in the current system?
- How will Robert experience this? His friend/relative?
- How will Garnett experience this? His friend/relative?
- Which of the listed needs are likely to be met effectively?
- Which of the listed responsibilities are likely to be taken up? Which are not?
- How might a meeting between the parties facilitate the meeting of some of the needs and the taking up of some of the responsibilities?
- Other comments/observations

Roles for “Four Sector” Exercise.

by David Dyck

Robert’s story: *I was absolutely stunned by the attack. I never thought that something like that could happen to me. To be attacked in the street by a total stranger?! It’s the kind of thing you hear about on the news, but I guess I just didn’t think it would ever happen to me. Now that seems so naïve. This city is obviously a dangerous place.*

And I guess I just don’t understand why he did it. Did I do something to warrant that? I don’t think so...I know that a fender bender doesn’t warrant what he did. Does it? The truth is I’ve actually been afraid to go outside or drive since this happened. I don’t tell too many people that, though. I guess I’m pretty pissed off at the jerk who did this. But, more than anything, I have mostly just been wanting to ask why. And to make him understand how hellish this has been on me and my family. Does he get that or does he just think this is a big joke? I’ve heard he’s an alcoholic. So what...is he just going to get drunk again and again and end up doing this to someone else? His kind must be stopped from hurting people.

Garnett’s story: *I was totally drunk the night of the assault. My girlfriend has since dumped me. She said that this was the last straw with my alcohol problem. My family, especially my mother and grandmother, were horrified at my behavior. My grandma is especially worried because my dad was an alcoholic who drank himself to death more than 10 years ago. She thinks I’m going down the same road, but I’m not. I keep telling her that but she doesn’t believe me. I just did a really dumb thing.*

I felt so stupid and crappy with the police cruiser in front of our house, my sister crying and my mother screaming at me. A bunch of neighbors were looking out their front windows. Besides getting dumped, I’ve had to make three appearances in court. Each time it has cost me big bucks for my lawyer and taking time off work. My mom says I should stop feeling sorry for myself and remember what I did to that guy. I guess she’s right. But it has been tough on me too. I do want Robert to know it won’t happen again. And I’ll pay for whatever his expenses were. I’d like to apologize to the guy for overreacting, I guess.

Robert’s parent: *I am so upset about what happened to Robert. I’m also very afraid that it might happen to him again, or to someone else I love. I’m also very angry. How dare someone treat my son that way? This jerk needs to be held accountable. I think he should have to pay for what he did in some way. You can’t just go around attacking people, kicking them when they’re down. Does this guy even feel an ounce of remorse? Or does he just think this is funny? Why would he do this to a total stranger? Part of me wishes we could just go and do the same thing to him. Mostly, I just want Robert to be safe from now on.*

Garnett’s sister: *Well, I knew Garnett had problems, but this really threw me for a loop. He’s never done anything this extreme before. Some of my friends know my brother got charged. I’m embarrassed and I’m really mad at him. It’s pretty hard to look my neighbors in the face after the scene at our place last month. I definitely think this proves once and for all that Garnett needs help with his alcohol problem. I still love my brother. And I’m willing to do whatever I can to help him never to hurt another person. But he can be so self-centered sometimes. I just don’t know if he gets*

it. And the pressure of the whole situation really gets to me. I find myself arguing with him and my mother a lot more these days. The house is really tense on the days he goes to court.

Police/Crown Attorney: *This is a pretty typical case. Guy gets drunk at a party and assaults someone. Although they usually assault someone they know, here it was a total stranger. I'm committed to doing my job and charging/prosecuting people like Garnett. That's the only way this kind of behavior will ever be stopped. It's hard to deal with victims and their families, though. They usually expect a lot more than I or the law can realistically provide. Too much TV I guess. I try to answer their questions and give them time if they call me, but it's hard for them to accept that they really aren't central to what I do. It's a good thing there's Victim Services. Regardless, my ultimate goal is to protect my community.*

4. Case Study Exercises

Best used with Part III. (Suggested time: 30 minutes or more.)

This exercise is designed to allow participants to compare and apply the two approaches to situations outside the criminal justice system.

Two case scenarios are given below. Note that what the author of this exercise terms "retributive" justice is the criminal justice model as summarized on p.21 of *The Little Book of Restorative Justice*.

Case Study 1: Conflict in the Faculty Lounge

by David Dyck

Scenario

Maryana and Howard are both instructors at a college. Chiu, a 19-year-old Chinese-Canadian student who immigrated to Canada two years ago, had recently come to Maryana's office near tears. Chiu said that he had asked for extra time for an assignment but that Howard said he couldn't have it. Maryana was frustrated and raised her concern with Howard in the faculty lounge, telling him that he needed to show more sensitivity. Harsh comments were then exchanged. Things escalated to the point where Maryana admits she called Howard a "f__ing dinosaur." Howard has since reported the incident as "obscene verbal harassment and abuse." He has requested that an investigation towards disciplinary action be undertaken immediately.

The History:

- This was not the first exchange between Maryana and Howard.
- At one point, Maryana told Howard her own story of struggle when she moved to Canada in the 1970s from eastern Europe and how she'd been helped by sensitive teachers. Maryana hoped he would "get the message."
- Howard listened to her story and felt for her experience. Ultimately, however, he felt she was indirectly trying to tell him what to do and felt irritated by this.

Background:

Maryana (aged 34; employed by college for five years):

- Believes she is there to help students not only train for a specific career but to become "whole people and responsible citizens."
- Believes strongly in promoting cultural sensitivity within the college system and community.
- Admits she made "a big mistake" in making the comments she did.
- However, she also feels Howard contributed to the escalation of the situation.
- Before she swore, she alleges that he told her that she should "stop coddling Chiu" and that "the job market in Canada doesn't reflect your bleeding-heart values!"
- Maryana first felt humiliated by his comments and then by her own outburst.

Howard (aged 55; employed by college for 26 years):

- His goal is to prepare students for their chosen profession and for "real life" in a "dog-eat-dog world."
- He is concerned about doing too much "hand-holding" since he believes that giving special attention to students like Chiu will only set him back in the long run. In general, he is opposed to what he sees as "the contemporary malaise of institutions catering to special interest groups."
- He was deeply offended and humiliated by Maryana's comments because at least six other faculty overheard them. This is bothering him more than anything.

Working from the Two Approaches – Retributive and Restorative:

- If the college leadership/officials were working from a retributive understanding, what immediate action would be taken following this incident (days, weeks, and months to follow)?
- If the college leadership/officials were working from a restorative understanding, what immediate action would be taken following this incident (days, weeks, and months to follow)? How might the stakeholders be included? What concrete responses/solutions might be developed?

Case Study 2: An attack in the school parking lot

by David Dyck

Scenario

A grade 11 student, Ronny, was beaten up by a group of boys in the school parking lot immediately following a big school basketball game. Ronny's father called the school principal the next morning. The principal has since discovered that Ron and the boy who led the attack (Dominique) are in the same class at school.

Background:

Ronny:

- is a grade 11 student who is struggling academically.
- Ronny was kicked in the head in the attack and is sporting a huge black eye.
- Ronny's father is very angry about this situation and thinks the matter should be dealt with strictly by the police. He also believes Dominique should be suspended for the rest of the school year.
- Along with his buddies, Ronny admits to having "shoved" some of the other kids (including Dominique) on one occasion because "they pissed us off by hogging the basketball courts."
- Ronny downplays the significance of having called Dominique "a few names" at the basketball game on the night of the fight and says, "It went both ways." Ronny's father agrees and says, "Kids call each other names. That's just life."

Dominique:

- is a grade 10 student who does quite well academically.
- Dominique admits that he and two friends beat up Ronny after the basketball game. He also admits that he kicked Ronny in the head.
- Dominique says he has taken a lot of bullying from some of the bigger kids, especially from Ronny, who is "a real loudmouth."
- Dominique says that Ronny took money from him on one occasion and often makes racist comments about Dominique's ethnic background (Ronny denies this adamantly).
- Dominique's mother says she doesn't support Dominique's behavior in terms of the attack and has grounded him. She also said she "almost gave him a whipping" but decided he is getting too old for it.
- She believes that Ronny is a bully and should be suspended for his racist taunts and for stealing money from other kids. She says bullying can't be tolerated and that if Ronny isn't punished he'll "just keep doing it until someone else will have to whip him again."

Working from the Two Approaches – Retributive and Restorative:

If the school/officials were working from a retributive understanding, what immediate action would be taken following this incident (days, weeks, and months to follow)? What concrete responses would be developed?

If the school/officials were working from a restorative understanding, what immediate action would be taken following this incident (days, weeks, and months to follow)? How might the stakeholders be included? What concrete responses/solutions might be developed?

5. Guiding Questions Exercise

Intended to be used with Part III-IV. (Suggested time: 30 minutes or more.)

This provides an opportunity for participants to apply and test restorative justice.

Create or adapt from real life a case story (or use a case scenario from the Case Study exercises listed below) involving wrongdoing. Use the five Guiding Questions of Restorative Justice to try to fashion a just response. This is probably best done in small groups.