

Neighborhood Court

Restorative Justice for a Better Community

by JEFF REISIG, JAKE WHITAKER,
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Imagine a conference room full of seasoned police officers discussing crimes in their jurisdiction, a normal, routine gathering. Next, imagine their reaction to a suggestion from that jurisdiction's chief prosecutor that instead of going to court to obtain justice for certain types of crimes, the chief prosecutor wanted to let citizen volunteers resolve these issues outside of the normal court process. Also, the chief prosecutor suggested that jail time and other types of traditional punishment would never be used. Imagine the silence; imagine their bewilderment.

This is how restorative justice began in Yolo County, California.

Restorative Justice, Explained

Restorative justice is a philosophy that treats crime not as actions deserving of punitive retribution, but as acts that cause harm to people and communities. These can be harms to a direct victim, harms to the community at large, or harms to the individual.

Modern applications of restorative justice emphasize reallocation of resources away from the traditional court system for low level offenses and towards programs that focus on addressing the underlying causes of the misconduct. Howard Zehr, one of the forefathers of the modern restorative justice movement, wrote:

Justice will not be served if we maintain our exclusive focus on the questions that drive our current justice systems: What laws have been broken? Who did it? What do they deserve? True justice requires, instead, that we ask questions such as these: Who has been hurt? What do they need? Whose obligations and responsibilities are these? Who has a stake in this situation? What is the process that can involve the stakeholders in finding a solution?

(See Howard Zehr, *The Little Book of Restorative Justice: Revised and Updated* (2014).)

Zehr's work served as the main philosophical foundation for the development of Yolo County's restorative justice-based criminal diversion program, known as Neighborhood Court. Zehr's teachings also guide the processes and the ideological basis of the training that program volunteers receive. This philosophy does not preclude the traditional "crime and punishment" approach; rather, the systems

can operate complementarily, with traditional forms of punishment reserved for cases where this approach is deemed necessary to the restoration of the community as a whole. Current applications typically rely on prosecutorial discretion to determine which offenses should receive which type of intervention.

Restorative justice also emphasizes recognition of the needs of victims. Neighborhood Court seeks to embody this mission of victim-centricity by allowing direct victims discretion in whether this intervention is offered in their case. If direct victims do not feel this process meets their needs, they can elect to resolve their case through traditional prosecution. However, if they consent to the process, they are able to determine the extent of their participation, and even engage directly with the offender in a joint victim-offender conference (VOC), when appropriate. When applicable, restitution for economic losses to a direct victim is agreed upon prior to the conference process and mandated within the agreement terms.

Restorative justice recognizes members of the community as stakeholders in law enforcement and the criminal justice system. At the beginning of each Neighborhood Court volunteer training, participants are asked to stand in a large circle and toss a ball of multicolored yarn to one another. When participants receive the yarn ball, they are asked to share with the group how they identify as a member of the community, hold the string in one hand, and throw it to the next participant. Once everyone has finished sharing, the result is a web of yarn. This represents the connections that bond our communities together. One of the trainers will then cut one of the strings of yarn, representing the harm inflicted to the community by the commission of a crime. The entire web, the community as a whole, becomes weaker as a result. By focusing on repairing the harms caused by criminal misconduct, restorative justice aims to strengthen the community at large.

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The restorative justice movement is ever-growing, and the implementation of this philosophy takes many forms. The City of Davis, California, Police Department, in partnership with the Yolo Conflict Resolution Center (YCRC), a locally based nonprofit committed to restorative justice practices, uses restorative justice in its own juvenile diversion program. Different variations exist in the juvenile justice system throughout the nation. Ron Brown \safety and the opportunity for rehabilitation.

Humble Beginnings

Yolo County's Neighborhood Court program was inspired by a similar program with the same name originating out of the San Francisco District Attorney's Office. SFDA George Gascón presented his program at a statewide conference for California's 58 elected district attorneys in 2012. San Francisco's program was one of a kind in the state at that time. Knowing Yolo County, it felt like an ideal community to explore the restorative justice approach for quality-of-life offenses that were not adequately addressed by the traditional criminal justice system.

Working with community members who had direct experience in restorative practices, the program's signature three-step mediation process was developed. These individuals later went on to create the Yolo Conflict Resolution Center. As in San Francisco's program, citizens would meet with offenders and victims, resolving certain criminal charges outside of the traditional court system and allowing low-level adult offenders to be redirected out of the criminal courts and into a community-based process.

The entire Neighborhood Court process, from start to finish, is entirely confidential. Nothing expressed to any of the staff members working on this program can be used against offenders in the event that they fail to complete Neighborhood Court, at which point the Yolo County District Attorney's Office proceeds with traditional prosecution.

This is the true "secret sauce" of Yolo County's Neighborhood Court, creating an atmosphere that establishes connections between the offenders, the community participants, and the victims who choose to participate. It emphasizes an open and honest dialogue; as part of the program's eligibility criteria, an offender must be willing to take responsibility for the conduct for

which he or she was cited.

During the facilitated conference, the participant gives an account of the events that led up to the crime that was committed. It starts with allowing participants to share the story from their own perspective and give additional context by discussing the events that led up to the incident. The panelists then (1) ask questions of the participant to understand the circumstances around the crime; (2) work with the participant to identify the harms that the community, the participant, and the victim experienced as a result of the crime; and (3) decide together with the participant the steps that are necessary to make things right (as much as possible), and discuss future intentions on how to avoid repeating the behavior. Volunteers are provided redacted versions of the police reports to reference during the discussion.

In June 2013, the Yolo County Neighborhood Court pilot project launched in Davis, California. The pilot project initially focused on infraction—and misdemeanor-level offenses, primarily alcohol-related offenses originating from an active downtown bar scene, noise complaints against student-hosted parties, and property crimes with low dollar amounts. Arrests for these offenses were common events that presented major community problems in the City of Davis. Particularly for a town with a large university, handling these offenses through the traditional criminal justice system threatened to burden students with convictions that could impede their ability to gain future employment. Throughout the process of developing this program, careful attention was given to the role and rights of direct victims.

As mentioned at the start of this article, it proved somewhat challenging, at first, to convince law enforcement officers that this program was worthwhile. The approach was seen as something very different to the traditional criminal justice system, which naturally creates a sense of cognitive dissonance among those who have spent their entire careers dedicated to protecting public safety. However, many years of solid collaboration, mutual trust, and transparent communication created an environment where leaders in the law enforcement community were able to buy into this new, innovative approach. The pilot program began with the full support of Davis Police Department and the UC Davis Police

Department and has since grown to cover all three of Yolo County's major municipalities.

The restorative justice system coexists with the traditional justice system, relying on the authority of the courts to incentivize participation in Neighborhood Court. Similarly, the restorative justice system also frees up time and energy previously spent on prosecuting these offenses to focus on more serious crimes and improve outcomes. These two systems, ideally, not only can coexist but have the potential to strengthen one another.

Evolution and Expansion

In the years since its inception, Neighborhood Court has continued to grow and evolve. In 2015, the Yolo County District Attorney's Office received a federal Justice Assistance Grant (JAG), providing the additional staffing necessary to expand the Neighborhood Court program county-wide. When this initial grant funding was received, the program's eligibility criteria were also expanded to encompass a wider variety of offenses and offenders. Neighborhood Court originally began as a first-time offender program, but the revised eligibility criteria allowed any offender with no misdemeanor convictions in the past five years and no felony convictions on record to participate. Over time, this eligibility has continued to expand as the program's outcomes have reinforced the effectiveness of this approach.

In considering the scope of the program, the Yolo County District Attorney's Office implemented a gradual expansion as justified by the program's outcomes. At the time of the program's creation, the restorative justice approach was largely untested in the realm of adult diversion programming.

Neighborhood Court receives support from over 200 trained volunteers throughout Yolo County, with six entry-level training opportunities held every year. Recruitment is continuous, with staff participating in over 40 community outreach events annually and maintaining an active social media presence. Neighborhood Court receives substantial support from the UC Davis student population, with active recruitment of students to serve as program volunteers and interns.

Throughout the program's five-and-a-half-year lifespan, Neighborhood Court has developed a wide variety of community partnerships that have expanded the scope of programming available

for participants. These partners include the Yolo County Health and Human Services Agency; Empower Yolo, a domestic violence center/family resource center; the National Alliance on Mental Illness; Mothers Against Drunk Driving; the Center for Intervention based in Solano County; All Leaders Must Serve, a local mentorship program for transition-aged youth; the Yolo County Office of Education and adult schools throughout the county; local libraries; CommuniCare, a federally qualified health center; United Way; the Yolo County Children's Alliance; the Yolo Food Bank; and organizations serving the homeless, such as Fourth and Hope and Davis Community Meals.

Program staff maintain a comprehensive "Menu of Options" to assist volunteers in the agreement crafting process. This list contains 125 distinct resources and assignments categorized by potential needs, including resources for employment, substance misuse, education, behavioral health, and various economic issues.

Due to the success of the program, the Yolo County District Attorney's Office gradually expanded into diversion of more serious misdemeanors and, as of August 2018, nonviolent felony-level charges. Neighborhood Court has accepted referrals for felony grand theft, vandalism, and welfare fraud charges. Diversion also has been offered as part of a plea deal for a combination DUI/resisting arrest charge, where the resisting arrest charge was dismissed after participation in Neighborhood Court and the defendant pled guilty to the DUI charge.

The Neighborhood Court team is advancing the field of restorative justice-based diversion throughout California by making volunteer training and program materials available to similarly minded innovators in other jurisdictions. The Los Angeles City Attorney's Office used Yolo County's Neighborhood Court as a model when developing its own Neighborhood Justice Program. The Neighborhood Court team also has collaborated with officials in Amador, Sacramento, Solano, Sonoma, San Diego, Santa Barbara, Santa Clara, Fresno, Sutter, and Shasta Counties to begin development of their own similar programs, as well as officials in Milwaukee, Philadelphia, and New York City.

In 2017, Yolo County's Neighborhood Court was nominated for the National Criminal Justice Association's Outstanding Criminal Justice Program Award. The Yolo County District

Attorney's Office has presented the Neighborhood Court program at conferences in Cleveland; Anaheim; Washington, DC; New York City; and Salt Lake City, working diligently to spread the virtues of restorative justice throughout the nation.

Success Stories

One of the defining traits of the restorative justice process, in general and the Neighborhood Court model in particular, is the tailoring of outcomes to meet the needs of the specific participants involved.

One participant was concluding her senior year at UC Davis when she was cited for fighting in public after an alcohol-fueled altercation with a friend during a night out. As part of her Neighborhood Court agreement, she engaged with the on-campus student health services and met with an alcohol counselor to complete an alcohol education survey. She was able to examine her current drinking habits and receive information on drinking in moderation and risk management techniques. Following graduation, she went on to become a certified nurse. She was able to gain and maintain her certification without the burden and possible barrier that a criminal conviction could have created.

Another participant, who had to request several extensions to successfully complete his agreement following a public intoxication arrest, shared his positive experience with the program staff. "This took me some time, but I really made life changes. I moved from California and now am a head chef at a distinguished restaurant in Phoenix, Arizona. This program saved my life."

The growing diversity of case types also increased the diversity of participant experiences. One of the first felony welfare cases resolved through Neighborhood Court presented some unique challenges. The participant had lost her job as a result of the felony charge on her record for the offense. She wanted to make amends but was unsure how to do so without any income, and was distraught about how to provide for her family. Her conference included a manager from the local Health and Human Services Agency who participated to represent the county as the victim in the case. The county representative expressed the concern that not only should she repay her debt and not reoffend, but also that she needed to be able to provide for her family as a member of the community. She was put in

contact with its employment services division and quickly obtained an interview for a new job. Program staff were able to serve as reference to verify her involvement in a diversion program so that the felony would not be a barrier to her employability. She is now employed full time and able to make payments towards what she owes. Upon completion of her agreement, her case will be dismissed. This restorative process did not simply pass judgment on this participant and punish her for her misconduct. Instead, this process allowed her to acknowledge the wrongdoing and take steps to restore the victim and make things right, while also being made whole herself!

These stories are just a sampling of the myriad experiences of program participants. By seeking to identify and address the harms and needs experienced in each individual's case, participants are able to reach agreements aimed at empowering them to make more informed choices in the future and avoid repeating their criminal conduct. This also allows participants to take ownership for their actions, take steps toward repairing any harms to the community and/or direct victim, and engage in their resolution in a way not typically seen in the adversarial court process, and the community as a whole benefits when the needs of all of its members are more fully addressed.

Program Outcomes

Since the program began in 2013, Yolo County's Neighborhood Court has resolved over 1,500 cases, and 92.7 percent of program participants have successfully completed their agreements, a substantially high completion rate.

An internal study, designed by the program's independent evaluator and conducted in 2017, found that only 4.8 percent of Neighborhood Court's misdemeanor-level participants were re-arrested within the first year post-completion. A prior study by the program evaluator in 2016 found a 4 percent recidivism rate using the same research design. This low recidivism rate is a strong indicator of the program's success.

As of 2017, the program's caseload was 90 percent misdemeanors, compared to 42 percent during the program's infancy. When excluding low-risk infraction offenders from the completion rate, it is still substantially high at 89.8 percent. As the program has shifted towards a caseload that is

primarily misdemeanor-level charges, detailed analyses of the program's outcomes have proven the effectiveness of the restorative justice approach. The full "Program Recidivism Study: 2017 Outcomes & Analysis" report is available at <http://goo.gl/S934SF>. The "4 Year Report: An Analysis of Program Development, Challenges, and Achievements from 2013 to Present" (2017) is available at <http://goo.gl/FU9eV4>.

The Future

Due to the success of the Yolo County Neighborhood Court, our office will continue to gradually expand the scope of the program, including making restorative justice programming available to a wider segment of the population while directly

confronting substantial societal issues regarding mental health and addiction. The program also will continue to expand into felony-level offenses.

Most importantly, the Yolo County District Attorney's Office is committed to advancing the application of restorative justice throughout California and nationwide. Our Neighborhood Court program has proven the efficacy of this approach in our community. It is a smart, measured application of transformational criminal justice reform. We encourage prosecutors across the nation to join us in this effort. The positive results and possibilities for our communities are too great to do anything less.

Chair's Counsel

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ers in celebrating the first graduating class from the Washington, DC, Mayor's Office on Returning Citizen Affairs Paralegal Fellowship. The fellowship program is designed to give previously incarcerated individuals the opportunity to gain skills and begin a lasting career in the legal field. Participants are selected from a highly competitive pool of applicants and enrolled in the Georgetown University paralegal studies program. Upon completing their studies, the graduates are placed in one-year paralegal fellowships at major Washington, DC, law firms with full pay and full benefits. Various partners came together to make this program a success, including Macy's and Uber. For its part, the Criminal Justice Section supported the program and worked diligently last year to recruit Washington, DC, law firms to participate in the initiative and accept fellows upon their graduation. Of the fellows program, Mayor Bowser said, "Our hope is that this program is just the beginning—that it will not only create new opportunities, but prove what is possible and serve as a model for future programs for our talented and hard-working community of returning citizens." The Criminal Justice Section should be proud of its work with the fellowship program. I believe this initiative is one that will help facilitate successful re-entry after incarceration, and we know that successful re-entry is a key factor in preventing recidivism. That makes this type of

program an incredible benefit both to those who participate and to the community as a whole.

One of the moments from the Paralegal Fellowship graduation ceremony that resonated most with me occurred as the participants walked across the front of the room to receive their diplomas. As each took those steps towards their new lives, people in the audience shouted out in support and to show how proud they were of these achievements. "That's my son," one woman yelled. Another said, "That's my dad." As I listened to family members call out to their loved ones, I was reminded that those who find themselves returning to our communities from incarceration answer to the name mom, dad, daughter, son, sister, and brother. One of the graduates, Kareem McCraney, said during the ceremony, "everyone makes mistakes, but we should deem people worthy of second chances." He added, "in giving second chances, we not only see the best in others, we demonstrate our best selves." Bringing real hope for a new start to our mothers, fathers, daughters, sons, sisters, and brothers should be a top priority for all of us. These types of innovative programs are certainly a priority for the Criminal Justice Section, and I hope we see more programs like this adopted throughout the nation in the coming year.

Each of these memories from 2018 and the beginning of 2019 started as someone's idea.

Eventually, after much work, that idea became a reality that held the potential to change lives for the better. I hope that as we begin to drift more deeply into 2019, you will consider what projects, initiatives, and topics we need to address in this New Year. What areas need our energies? What

issues require our attention and the focus of the larger criminal justice community? The work of the section starts with its members, and I encourage you to begin 2019 by considering where we might go together next.



NEW RESOURCES

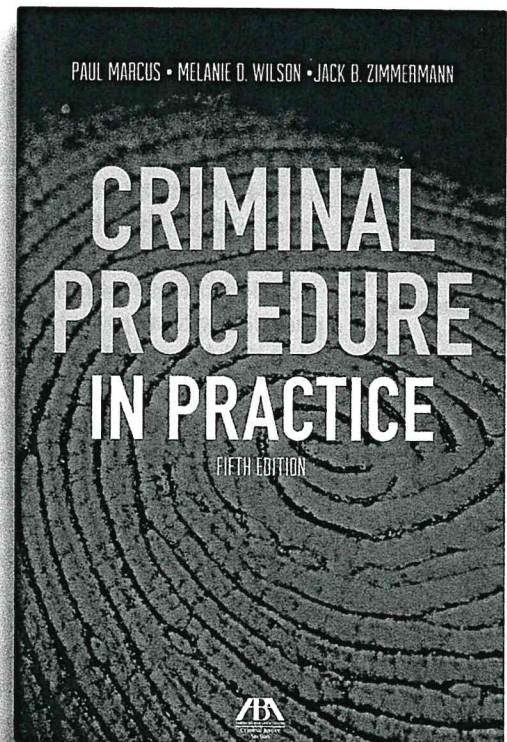
For New Prosecutors and
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Product Code: 5090163
August 2018, 432 pages, 6x9

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