Re-Thinking Justice
Victim Youth Conferencing leading the way in Restorative Justice for Nebraska

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Brief Introduction to Restorative Justice
Defining Restorative Justice

- Restorative justice is a theory of justice that emphasizes repairing the harm caused or revealed by criminal behavior.

- It is best accomplished through cooperative processes “where those primarily affected by an incident of wrongdoing come together to share their feelings, describe how they are affected, and develop a plan to repair the harm done or prevent a reoccurrence”.

“Restorative justice (RJ) is a process to involve, to the extent possible, those who have a stake in a specific offense and to collectively identify and address harms, needs, and obligations, in order to heal and put things as right as possible.”

Howard Zehr (2002, p. 37)
Disparate views of justice

**Criminal Justice**
- Crime is a violation of the law and the state.
- Violations create guilt.
- Justice requires the state to determine blame (guilt) and impose pain (punishment).

**Restorative Justice**
- Crime is a violation of people and relationships.
- Violations create obligations.
- Justice involves victims, offenders, and community members in an effort to put things right.

**Central Focus:**
- **Criminal Justice:** Offenders getting what they deserve.
- **Restorative Justice:** Victim needs and offender responsibility for repairing harm.
### Typical Restorative Justice Programs

#### School Practices and Discipline
- Peer Mediation
- Peacemaking Circles
- Restorative Conferencing
- Truancy Intervention

#### Criminal Justice
- Victim Offender Mediation
- Restorative Panels & Accountability Boards
- Peacemaking & Healing Circles
- Victim Empathy Classes
- Re-Entry Circles & Supports

#### Transitional Justice
- Truth and Reconciliation Commissions
- Indigenous, village-based courts

#### Conflict and Dispute Resolution
- Intergroup, Intertribal, Interfaith Dialogue Forums
- Parent-Teen Mediation
- Facilitated Family Conferencing
- Workplace Setting Resolution Processes
Typical Program Values

▪ **Encounter**: Create opportunities for victims, offenders and community members who want to do so to meet to discuss the crime and its aftermath

▪ **Amends**: Expect offenders to take steps to repair the harm they have caused

▪ **Reintegration**: Seek to restore victims and offenders to whole, contributing members of society

▪ **Inclusion**: Provide opportunities for parties with a stake in a specific crime to participate in its resolution
Nebraska’s System Structure

- Nebraska Supreme Court’s Office of Dispute Resolution and statewide mediation centers
- Mediation centers have been working over 25 years with Counties, Clerks of District Courts, County and District Judges, County Attorneys, Probation, Schools, and the public
  - Neighbor disputes and small claims mediation
  - Community conflicts / community planning
  - Divorce and custody mediation
  - Child welfare and juvenile justice conferencing
Nebraska’s ODR-Approved Mediation Centers
## Restorative Justice in Nebraska's Juvenile Justice System

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<thead>
<tr>
<th><strong>Pre-Adjudication</strong></th>
<th><strong>Post-Adjudication Pre-Disposition</strong></th>
<th><strong>Post-Disposition</strong></th>
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<tr>
<td>Petition Filed?</td>
<td>Detention Hearing?</td>
<td>In Detention?</td>
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### Diversion

- **Citation/School Referral**
  - Victim Youth Conference (ODR)
  - Other Diversion Restorative Practices
  - Truancy Mediation

### Pre-Adjudication

- Expedited Family Group Conference
- Pre-Hearing Juvenile Family Dialogue
- Victim Youth Conference

### Post-Adjudication Pre-Disposition

- Expedited Family Group Conference

### Post-Disposition

- Expedited Family Group Conference

### Returning Home?

- Juvenile Mediation
- Victim Youth Conference
- Family Group Conference (Justice Youth and Family Conference)

### Refer When Appropriate

Self-Referral * Private attorneys * County Attorneys * Juvenile Court Judges * Probation
Empirical Support for RJ
Empirical Support for RJ

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<th>Findings</th>
<th>Sample Characteristics &amp; Method</th>
<th>Reference</th>
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<tr>
<td>Youth who participated in VOM demonstrated <strong>26% reduction in recidivism</strong></td>
<td>Examined 9,307 juveniles in 19 sites United States</td>
<td>Nugent, Williams, &amp; Umbreit (2003)</td>
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<td>RJ dialogue programs (VOM &amp; FGC) contributed to a <strong>26% reduction in recidivism</strong></td>
<td>Examined 11,950 juveniles in 25 sites; tracked recidivism 9-48 months 4 Countries</td>
<td>Bradshaw &amp; Roseborough (2005)</td>
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<td>Participation in VOM demonstrated a <strong>34% reduction in recidivism</strong></td>
<td>Examined 9,172 juveniles in 21 sites United States</td>
<td>Bradshaw Roseborough, &amp; Umbreit (2006)</td>
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<td>When researcher involved, diversionary RJ programs (VYC &amp; FGC) <strong>significantly reduced recidivism</strong></td>
<td>Examined 28 experimental or quasi-experimental studies in 33 independent samples</td>
<td>Schwalbe et al. (2012)</td>
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<td>RJ conferences resulted in modest, but <strong>highly cost effective reduction in recidivism</strong> (3.7-8.1x more cost effective)</td>
<td>Examined 15 randomized control trials (RCTs) US, UK</td>
<td>Sherman et al. (2015)</td>
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<td>Diversionary RJ programs <strong>significantly reduce juvenile recidivism</strong></td>
<td>Examined 21 studies, including 5,209 treatment group participants and 13,049 comparison group participants. US, CAN, AU, NZ, W. EU</td>
<td>Wong et al. (2016)</td>
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Common Themes in RJ Evaluation

- Recidivism rates
- Victim Satisfaction
- Offender Satisfaction
- Cost-effectiveness
Nebraska’s RJ Data Management

- Establish common system of data-collection
- Record common moderators (e.g. gender, race, SES)
- Regular data monitoring
Take a moment to reflect...

Think about a time during your adolescent years (ages 10-25) when YOU CAUSED HARM or offended someone OR WHEN YOU WERE HARMED or offended by someone else.
Nebraska’s Victim Youth Conferencing
What is Victim Youth Conferencing?

- A process that provides interested victims an opportunity to meet their offender.
- Meet in a safe and structured setting with a trained mediator.
- Engage in a mediated discussion of the crime.
- The victim is able to tell the offender about the crime's physical, emotional, and financial impact; to receive answers to lingering questions about the crime from the offender.
- The offender is directly involved in developing a restitution plan for the offender to pay back his or her financial debt.
Nebraska’s Statutes: Juvenile offender and victim mediation

- Juvenile diversion statutes: VYC (juvenile offender and victim mediation) is one of the objectives in a diversion agreement, upon agreement by the victim, NRS 43-260.06(6).

- County or city attorney can use this service as a diversionary option as outlined in NRS 43-274(3)(a)-(f).
Three Points of Access in Nebraska’s System

▪ Form of diversion prior to the youth going to court (County attorney/diversion refers)

▪ After the youth goes to court but before he/she is adjudicated on the crime (Court orders)

▪ After adjudication (Court and/or Probation order)
Restorative Justice Partnerships

- Counties and county attorneys
  - Juvenile diversion programs; Local partners with mediation centers, Schools
- Crime Commission juvenile service grants
  - Community based aid grants
  - Community comprehensive juvenile service plans
- State Court Administrator’s Office: Office of Dispute Resolution (ODR)
- Regional ODR-approved mediation centers
The VYC Process

Youth Commits Offense

Intake and Initial Sessions with the Youth and Victim

The VYC Conference

Follow-up
The VYC Process (cont.)

- **Tier 1**
  - Pre-court referrals from the County Attorneys’ offices after a school-based incident and usually involving a citation from law enforcement

- **Tier 2**
  - Court diversion referrals from County Attorneys or Courts pre-adjudication

- **Tier 3**
  - Court adjudicated cases referred by the courts for youth with or without probation.

- **Other**
  - Private parties or self-referrals

The three tiers can be generally summarized into three different sources: *Schools, County Attorney, and Judges.*
The VYC Process (cont.)

• **Initial Contact**
  • Youth and Victim are contacted by an RJ Facilitator within 2-weeks of the referral

• **Initial Private Sessions**
  • Clarify the role of the facilitator
  • Capture detailed information about the case from each party’s perspective
  • Explain the VYC process
  • Determine appropriateness for face-to-face conference

• **Preparation Meetings**
The VYC Process (cont.)

• Introduction

1. What happened? (Story-telling Discussion)

2. What was the effect? (Impact Discussion)

3. How can the situation be made better? (Reparations Discussion)

• Closing Time
1. What happened?

Main Goal: Identify the relevant information and feelings about the offending incident and relate the issues to the present. (Discuss the facts, feelings, experiences, etc.)

- Offender (and sometimes victim) goes first to tell their story
- Other party is invited to ask any questions
- Other present, including facilitators, ask more questions
- Victim (and sometimes offender) goes second to tell their story
- Other party, other participants, facilitators ask more questions
- Mores storytelling is invited to cover feelings, motives, context, etc.
- Ideal is for both parties to talk directly back and forth to each other
2. What was the effect?

Main Goal: Discuss the impact and consequences of the offending incident on all parties and assist the parties in reaching a deeper understanding and connection. (Discuss the impacts and consequences.)

- Victim is invited to summarize how they were affected
- Offender is invited to respond or to echo back what was heard
- Others present, including facilitators, ask more questions
- Facilitators extend conversation to how others were affected
- Ideal is for both parties to empathetically connect with each other
3. How can the Situation be made Better?

Main Goal: Address all possible solution ideas for reparation and determine which ones the parties mutually choose to put into a written agreement. (Discuss options and create agreements.)

- Victim is invited to share their requests for reparation
- Offender is asked to respond to those ideas and to add any
- All present surface possible options before evaluating them
- Options that are mutually agreeable and realistically achievable are written on pads and eventually transferred to an agreement form
The VYC Process (cont.)

- Reparation Plans
- Outcomes from VYC Conference
  1. Apology (Verbal or Written)
  2. Restitution
  3. Community Service
  4. Services for the youth offender
  5. Other Remedies
When a victim declines

Surrogate Victims and Community Members can:
- Speak as a representative victim in a similar crime/offense.
- Speak as a representative of the community that is more widely impacted.
- Speak as an advocate for restorative outcomes
When face-to-face is inappropriate

▪ Victim Relay Option – a facilitator receives and *relays* the victim’s information during the conference.
  – Impact Statement
  – Restitution Request

▪ Victim Surrogate Option – a surrogate speaks about his/her own similar experiences when he or she was a victim to an offense.
Building Capacity
Recruiting Referral Sources

- Mediation engaged in outreach to stakeholders statewide that resulted in an additional 12 counties prepared to refer youth to VYC in 2019

- Mediation Center staff reached out to 1,148 stakeholders, including courts, county attorneys, probation, schools, and city and county officials in 56 Nebraska counties through meetings and presentations to promote VYC and form partnerships.
Maintaining Diverse Facilitators

- In one county, roughly 60 of the 164 youth participating in the program were minority youth.
- Diversity of facilitators may make youth feel more at ease during the process.
- Recruitment from communities including:
  - The LGBTQ
  - Ethnic Minority Communities
  - Younger Facilitators
- Community Outreach
Program Management

▪ **Restorative Justice Coordinator** *(Center-based)*
  - Engages in local outreach, manages RJ facilitators and affiliates, manages data-collection

▪ **Restorative Justice Program Analyst** *(ODR)*
  - Provides support to the six ODR-approved mediation centers in implementing the VYC program statewide, oversees system-wide data collection
External Evaluation Results

Center for Restorative Justice & Peacemaking, University of MN
Evaluation Questions

**Descriptive:**
Demographic and program specific data - Who is served and under what conditions?

**Normative:**
Process evaluation - What's working, what can be improved and is fidelity to best practices maintained?

**Impact:**
Outcome evaluation - What's different as a result, why and how do we know?
2017-18 Referral Sources

- County Attorney: 42.1%
- Diversion: 42.1%
- Court/Probation: 15.3%
- Juvenile: 0.5%
Shift to Greater Prevention

VYC Pilot 2015-16
- Tier 1 County Atty Pre-Court: 23%
- Tier 2 Diversion: 12%
- Tier 3 Court Adjudicated/Probation: 59%
- Other: 0%

VYC Enhancement 2017-18
- Tier 1 County Atty Pre-Court: 42.10%
- Tier 2 Diversion: 42.10%
- Tier 3 Court Adjudicated/Probation: 15.30%
- Other: 0%
VYC Youth Diversity: 2017-18 (n=216)

- White: 46.3%
- African American/ Black: 16.2%
- Hispanic/ Latino: 14.4%
- Native American: 1.4%
- Asian: 1.9%
- Other: 4.2%
- Unknown: 15.7%
Decision to Participate in VYC

- Victim and Youth Agreed to VYC: 45%
- Victim Declined: 50% (Used Surrogate or Substitute)
- Youth Declined: 2%
- Both Victim and Youth Declined: 3%
2017-18 Outcomes for Youth and Victims: Short term

**Goal:** 95% of VYC’s will result in a reparations agreement.
- → **Actual Result:** 100% of 159 VYC’s resulted in a reparations agreement with the youths.

**Goal:** 95% of reparations agreements will be fulfilled.
- → **Actual Result:** 94.2% of 159 youth have successfully fulfilled their reparations agreements, and 5.8% have partially fulfilled their reparations agreements. No case has been closed without full or partial fulfillment of the reparations agreement.

**Goal:** 97% of youth, their parents, victims and surrogates will report satisfaction with VYC.
- → **Actual Result:** 95% of youth, their parents, victims and surrogates who completed a post-VYC conference evaluation survey reported being extremely satisfied or satisfied with the VYC overall.
Post-VYC Survey Responses

<table>
<thead>
<tr>
<th>Category</th>
<th>Felt Prepared</th>
<th>Satisfied with Reparations Agreement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Youth with Victim</td>
<td>93.5%</td>
<td>94.7%</td>
</tr>
<tr>
<td>Youth with Surrogate</td>
<td>94.4%</td>
<td>94.4%</td>
</tr>
<tr>
<td>Victim</td>
<td>82.4%</td>
<td>94.1%</td>
</tr>
<tr>
<td>Surrogate</td>
<td>100.0%</td>
<td>100.0%</td>
</tr>
</tbody>
</table>
Is the justice system more responsive?

<table>
<thead>
<tr>
<th></th>
<th>Disagree</th>
<th>Neutral</th>
<th>Agree</th>
<th>Strongly Agree</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Victim</strong></td>
<td>0%</td>
<td>29%</td>
<td>59%</td>
<td>12%</td>
</tr>
<tr>
<td><strong>Youth</strong></td>
<td>1%</td>
<td>10%</td>
<td>50%</td>
<td>39%</td>
</tr>
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Nebraska’s Recidivism

**Figure 1**: Success Rates for Cases Closed between Jan. 2015 and June 2018 (n=349)

- Successful Fulfillment: 143, 41%
- Partial Fulfillment: 35, 10%
- Unsuccessful: 9, 3%
- Not Reported: 159, 46%

**Figure 2**: Rate of recidivism based on total referred cases (n=439)

- Recidivists: 68, 15.5%
- Non-Recidivists: 371, 84.5%
Time for Discussion

- Questions
- Comments
Thank You!

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