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RESTORATIVE JUSTICE

Report to the Criminal Justice and Public Safety Committee, January 1, 2004

In 1997, the Legislature authorized the Department of Corrections to develop certain programs based upon the principles of restorative justice. Restorative justice places the needs of the victim and the harm done by the offending behavior at the center of the process by which the offender is sanctioned and held accountable. The programs developed rely upon the participation of the community in the process. There has been interest in the programs by the community with over two hundred citizens trained to facilitate community resolution team meetings for juvenile offenders. The process has diverted very few cases from the traditional criminal justice system – 30 juvenile cases in 2003, and the Community Reparation Board for adult offenders heard three cases in 2003.

Community Resolution Teams for juvenile offenders are an alternative means by which non-violent offenders are held accountable to the victim and the community. A Community Resolution Team consists of a group of six to forty local citizens who volunteer to serve their community by receiving training in the principles of restorative justice. These citizens apply their restorative justice training to the cases of nonviolent, juvenile offenders within their community

The primary goal of the Community Resolution Teams is to attempt to resolve the case to the satisfaction of the victim(s). The Community Resolution team also endeavors to promote an understanding of the impact that crime has on both its victim(s) and the community. The final goal of the Community Resolution Team is to promote offender accountability.

After reviewing the police report, a Juvenile Community Corrections Officer and the local police department determine whether the case of a nonviolent, juvenile offender would benefit by being referred to a Community Resolution Team or if the case should be turned over to the Juvenile Court System. If the case is referred to a Community Resolution Team, the offender, victim(s) and community are given the opportunity to voice their opinions about the case; the Community Resolution Team aids the juvenile offender in attempting to resolve/repair the harm to the victim(s),

WHO IS TYPICALLY PRESENT AT A COMMUNITY RESOLUTION TEAM MEETING?

- three to four Community Resolution Team members,
- the victim(s)
- a victim supporter
- the offender
- the offender's guardians, and
- the police officer involved in the case.

The offender, his family, the victim, victim supporters, the community and police officer participate in a group meeting facilitated by a trained community volunteer. As an example - the victim has the opportunity to explain that the vandalism of his mailbox may have seemed like a big joke to the youth, but actually resulted in the victim being unable to receive mail for the week it took to replace the mailbox, the expense of buying the mailbox, and the frustrating search for someone to install the new mailbox when the victim doesn't have those skills himself. An outcome of the conference could be that the juvenile will pay to replace the mailbox and perhaps even install it for the victim, as well as apologize either in writing or in person. The result has a much greater impact on the juvenile than an impersonal appearance in a Courtroom.

During 2003, 30 cases were heard by seven teams. The 30 cases included 14 criminal mischief, 10 thefts, 2 vandalism, 3 assaults and 1 disorderly conduct. 18 victims were in attendance at the 30 conferences. Site visits were made to five sites. Training was held in March for 24 participants. A survey of the Juvenile Community Corrections Officers was conducted in May (see attached).

On July 1, 1999, a pilot Community Reparation Board project was launched in Ellsworth to work with adult offenders. A number of Ellsworth area residents volunteered to be members of the board.

The guidelines were drawn up by the community members themselves, receiving technical assistance from probation officers Candice Kiefer and Rena Hegg. Since that time cases have been heard. The following information is provided by the Hancock County Community Reparation Board.

The Hancock County Community Reparations Board (HCCRB) provides community-based post-conviction sentencing adjuncts and alternatives for offenders in certain crimes. (Juvenile cases, domestic assaults, and sexual offenses are not eligible under Maine's Community Reparations Board legislation. See MRSA, Title 17-A, § 1204-A.)

The Hancock County Community Reparations Board believes that crime creates an obligation and an opportunity for the offender – not merely to accept his or her punishment, but to help make things right with both the victim and the community. The Board also believes that to the extent possible, victims and offenders should both be enabled to feel that they belong to our community.

The Board pursues its mission of reparations and inclusion by providing, through facilitated dialogue (“conferencing”) between victims, offenders, and community members:

1. A chance for victims to be thoroughly heard
2. A chance for offenders to feel a personal accountability
3. A chance for each to understand the other's experience better
4. A chance for a more inclusive exploration and discussion of reparations or restitution options than the Courts can easily enable.

The HCCRB is comprised of community volunteers who are trained in restorative justice principles, and who are committed to encouraging a greater sense of safety, peace and understanding in the community.

HOW IT WORKS:

The process begins with the convicted offender being directed to participate in the dialogue/conference by the Judge. Although the offender is under the supervision of his/her probation officer, the probation officer is not a part of the dialogue/conference unless the offender asks him/her to be there as a support person.

During the conference, the offender listens as the victim(s) discusses the offense(s), and then talks about his/her own experience of the crime, including anything she/he wants to describe about events leading up to the crime. Community members also discuss their feelings about the crime and the individuals involved, conveying as much positive regard for each as is possible, and voicing their interest in community safety.

This exchange allows victims an opportunity to speak plainly about the many and varied personal impacts of the offense(s), allows community members to be similarly heard, allows offenders to begin to understand the deeper and wider human consequences of their acts, and allows offenders themselves to be heard. This enables offenders to accept a greater responsibility for the harms they have committed, and enables community members to express their concern for the safety and well-being of the community at large.

Ideas for making reparations or providing restitution are then discussed and worked into an agreement between an offender and a victim. Agreements might require that the offender pay restitution, perform community service, formally apologize to the victim, attend victim impact classes, get counseling, or pursue education. This process works best when the offender not only agrees to such terms, but also suggests them.

With the exception of restitution payments, reparations requirements imposed by the HCCRB may not extend longer than six months from the date of the agreement. Compliance with agreements is monitored by a single (voluntary or designated) member of the Board, and any failure to comply with the agreement constitutes a violation of probation, which is reported to the offender's probation officer. The decision as to whether the offender is referred to the Court for a revocation of probation hearing will rest with the probation officer.

Upon completion of the reparative agreement the victim(s), offender(s) and other conference participants are invited to a post-conference gathering to conclude the proceedings and affirm the community's wish to welcome the offender into the community. The victim may speak about his/her experience of the process and the offender will be asked to discuss what she/he may have learned from it.

The Hancock County Community Reparations Board believes that involving offenders, victims and the community together is central to understanding the obligations and benefits of being a member of the community, whether it is a village, a city, or the world.

RESTORATIVE JUSTICE

Three Programming Priorities:

- Accountability
- Competency Development
- Community Protection

Seven Core Values of Restorative Justice

- Crime is an offense against human relationships
- Victims and the community are central to the justice process
- The first priority of justice processes is to assist victims
- The second priority of justice responsibilities to victims and to the community for crimes committed
- The offender will develop improved competency and understanding as a result of the restorative justice experience
- Stakeholders share responsibilities for restorative justice through partnerships for action.

VICTIM-OFFENDER PROGRAMS

Benefits to Offenders:

- Provide a means for offenders to understand the impact of their crime on victims and communities
- Offer incentives for personal accountability in the forms of apologies, financial restitution and community service.
- Facilitate a positive learning experience and competency.

Community Service Innovative Approach:

- Letting the victim offer the court recommendations for the offender's community service.
- Ordering first-time, non-violent offenders, who have a special skill, to perform community service for a victims' rights organization.

IMPACT OF CRIME PROGRAM – MAINE DEPARTMENT OF CORRECTIONS

The Impact of Crime program is an educational approach designed to teach offenders about the human consequences of crime. Offenders are taught how crime affects the victim and the victim's family, friends, and community, and how it, also, affects them and their own families, friends, and communities. Specific modules address property crimes, sexual assault, domestic violence, child abuse and neglect, drunk driving, drug-related crimes, violent crimes and homicide. Victim impact classes have been adapted for both adult and juvenile offenders in Maine correctional facilities.

A key element of the classes is the direct involvement of victims and victim service providers. They tell their personal stories of being victimized or of helping victims to reconstruct their lives after a traumatic crime as part of a victim impact panels, composed of three to four victims of various types of crime examined in the curriculum. When the panel format is used, the class participants may ask questions at the end of the presentation, but usually do not engage in discussion with the victim presenters.

Goals:

The goals of victim impact classes include:

- Teach offenders about the short-and-long-term trauma of victimization.
- Increase offenders' awareness of the negative impact of their crime on their victims and others.
- Encourage offenders to accept responsibility for their past criminal actions.
- Provide victims and victim service providers with a forum to educate offenders about the consequences of their criminal behaviors, with the hope that it will help to prevent future offending.
- Build linkages between criminal and juvenile justice agencies and victims and victim service organizations.

Implementation:

The victim impact class program is a 12-week curriculum. Strong support and involvement from crime victims, victim service providers and community members are essential to program planning, development and implementation. Like any other program that brings offenders together with victims, it is essential that both participating offenders and victim speakers be carefully screened to ensure that they are appropriate candidates for this intervention. Every precaution is taken to avoid any retraumatization of the victims involved. They are thoroughly prepared before coming to the class and debriefed afterwards.

A new goal for the program is to provide an opportunity for offenders, after completing the course material, to conduct fund-raising activities or a community service project to benefit victims.