

# The Fundamental Principles of Restorative Justice

“Crime is fundamentally a violation of people and interpersonal relationships...

Violations create obligations and liabilities...

The community’s obligations are to victims and to offenders and for the general welfare of its members....”\*

\* Howard Zehr and Harry Mika, “Fundamental Principles of Restorative Justice” *The Contemporary Justice Review*, Vol. 1, No. 1 (1998), 47-55.

## Restorative Justice is NOT...

- **Primarily about forgiveness or reconciliation.** ... (it) does provide a context where either or both might happen. There should be no pressure to choose to forgive or to seek reconciliation.
- **Mediation.** In a mediated dispute... parties are assumed to be a level moral playing field, with responsibilities that may need to be shared on all sides. .... in most restorative justice encounters, a wrongdoer must admit to some level of responsibility for the offense.
- **Primarily designed to reduce recidivism or repeating offenses.** Reduced recidivism is a byproduct but restorative justice is done because... Victims’ needs should be addressed, offenders should be encouraged to take responsibility... regardless of whether offenders catch on and reduce their offending.

- **A particular program or a blueprint...** it is a compass, not a map. At a minimum, restorative justice is an invitation for dialog and exploration.
- **Primarily intended for comparatively minor offenses or for first-time offenders.** ... experience has shown that restorative approaches may have the greatest impact in more severe cases.
- **A panacea nor necessarily a replacement for the legal system.** ... crime has both a public dimension and a private dimension. ... the legal system focuses on the public dimensions; ... restorative justice seeks to provide a better balance in how we experience justice.
- **Necessarily an alternative to prison.** ... restorative justice approaches may also be used in conjunction with, or parallel to prison sentences.
- **Necessarily the opposite of retribution.** A primary goal of both retributive theory and restorative theory is to vindicate through reciprocity, by evening the score. Where they differ is in what each success will effectively right the balance. “

\*Zehr, Howard, *The Little Book of Restorative Justice*, Good Books, 2002, pp. 8-13.

GALLATIN



COUNTY

## COURT SERVICES

### Justice Councils

Restorative Justice  
in  
Gallatin county

1709 West College  
Bozeman, MT 59715  
406-582-3700  
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## Who Participates in a Justice Council?

- \* A defendant's defense and prosecuting attorneys may prepare a pretrial diversion agreement on a non-violent offense. If the Court accepts the agreement, the defendant may be required to participate in a Justice Council as one of its conditions. Once a defendant has successfully completed all of the diversion agreement's conditions, the charge(s) may be dismissed or modified.
- \* Following a guilty plea or a guilty verdict, the Court may sentence an offender to a justice council.

## Crime, the Community and Restorative Justice

Criminal activity disrupts the balance of its direct victim(s) and overall community stability. A victim may sustain direct material and emotional losses. The community may experience increased apprehension and insecurity. The offender may experience societal stigma, lost employment opportunities and the burden of fines/restitution.

Restorative Justice provides the structure under which community members guide an offender's re-integration into the community as one of its productive members.

### The Justice Council's Role and Obligations.

A victim's reparation is the Council's primary consideration. The Council must: 1) challenge an offender to understand the scope of the damage and his/her stake in it; 2) address the

form of victim reparation that is appropriate for the circumstances; and 3) explore underlying problems that may have precipitated the offense.

The Offender's Obligation. The offender must: 1) accept responsibility for the distress or damage inflicted upon the victim (where applicable) and the community; 2) voluntarily make amends under the guidance of the council; and 3) be willing to make positive changes in his/her life.

If an offender and a victim are willing and prepared, the Council may schedule a face-to-face Victim/Offender dialogue. Its purpose is to provide an avenue for conflict resolution, redress, and in some cases, reconciliation.

## Reparative Agreements "Putting Right the Wrong"

After the Council's initial interview with the offender, the parties mutually agree upon what actions need to be taken to restore balance to all parties, including the offender. They draft a Reparative Agreement, a contract with the Council.

The Council monitors an offender's progress through follow up meetings. Once an offender has met all of the Reparative Agreement's conditions, the Council submits a compliance report to the Court. An offender's failure to fulfill those obligations may result in Council sanctions or further Court action.

## Restorative Justice in Gallatin County

Gallatin County Justice Councils consist of trained volunteers of diverse backgrounds, occupations and age groups. Each Council member brings his/her life, educational and professional experiences to the program. By doing so, the members collectively represent the true community in the judicial process.

Training is provided at no cost and continuing education is provided at quarterly peer group meetings.

Volunteers are assigned one 2-1/2 to 3 hour evening council a month and typically retain a council seat for two years.

If you are interested in becoming a Justice Council member, contact Barbara Rainey at Court Services at 582-3710 or at [barbara.rainey@gallatin.mt.gov](mailto:barbara.rainey@gallatin.mt.gov).

