

Sociology 3395: Criminal Justice & Corrections
Lecture 22: The Dynamics of Restorative Justice Sessions:

* Restorative justice is currently popular in criminology/social policy:

- as an alternative paradigm to the punitive model
- as a way of including the victim

* Problem: despite theory/ empirical reviews, insufficient data is available on the *interactional* dynamics between victims and offenders

* In response, I've been involved in conducting an observational study of victim-offender sessions

Methodology:

* I and my colleague, Don Clairmont, attended 28 sessions: (April 2003- April 2004). Detailed field notes were taken

* Sampling has been an ongoing procedure

* Ethics procedures: our role is noted to all participants

* Transcribed field notes are being analyzed using Q.S. R. NUD*IST

* Data collection is largely complete: a final paper will be written this year by myself and Don Clairmont

Preliminary observations:

(1) Session characteristics:

- relatively few sessions scheduled relative to crime statistics

- many sessions canceled / parties don't show up
- limited victim involvement
- offenders largely male, Caucasian and working class
- victims included adults, teens, and institutions
- offender supporters more evident/ largely parents
- 40 different facilitators (2/3 female/ 2/4 Caucasian)
- charges largely involve theft, assault, B+E & mischief
- resolution contracts negotiated in all but 2 sessions. Common terms include apologies, restitution, community service, essays and counseling

(2) The politics of description:

- procedures officially *designate* parties “victims” or “offenders”
- these are notably reinforced by facilitator’s opening
- gives one party an initial rhetorical/ representational advantage
- the other party must respond to this

(3) *Rhetorical* use of the victim role:

(i) “Offenders” as shield:

- contrition: “I have changed/ have already suffered”
- downplaying role: peer pressure/ singled out/ abused/ disorders
- stalling (often unsuccessful)

(ii) “Offenders” as sword:

- victim doesn't have “clean hands” (e.g. provocation)

(iii) “Victims” as sword:

- seriousness of offender’s actions/ what could have happened

- costs/inconveniences incurred
- shock and disrespect
- exacerbating factors (e.g. special occasions/medical conditions)

(iv) “Victims” as shield:

- offender already accepted responsibility
- impugned actions were necessary
- actions not personal/doing my job
- offender already had chances/must earn trust

(4) Victim Contests:

- disputes over who is the “real” victim/ biggest victim
- outcomes:

- | | |
|---|----------|
| (i) escalation/session terminated | (12.5%) |
| (ii) successful facilitator intervention | (12.5%) |
| (iii) “papering over” differences | (12.5%) |
| (iv) one party wins/outcome in favor | (20.83%) |
| (v) victim role expands/vehicle to resolution | (41.67%) |

(5) The role of supporters:

- supporters often parents of the parties/ very active in the process
- “offenders” parents: excuse behavior, emphasize their parenting, children’s suffering, victimization, “changes”, and ensure final agreement fair. Some also dispute facts/ responsibility
- “victims” parents emphasize children’s (and own) suffering/ respond to allegations
- “offenders” parents shaming offender (can swing outcome)
- parties claiming victimization through process
- police officers countering self-serving claims

(6) Facilitators and Reintegrative Shaming:

- “reintegrative shaming” usually left to parties (therapeutic hands off approach)
- common phases: intro/incident/contract
- rapport with “victims” through identifying issues/ summarizing
- more direct with “offenders” claims (e.g. questioning role)
- unlike traditional mediation (parties not equal)
- important skills:

(i) coordinating strategies of drawing out offender (“velvet fist”)

(ii) preventing unsuccessful end of session (“another session?”)

- much *variation* in skill/ activity level of facilitators (some manage claims/ power dynamics; others easily pushed into coalitions through successful victim claims). A matter of concern.

Conclusion:

* This preliminary research is shedding light on an empirically neglected aspect of restorative justice

* Major factors:

- session characteristics
- politics of description
- rhetorical use of the victim role / victim contests
- the role of supporters
- skill of facilitators

* Our work is ongoing