

The Implications of Balanced and Restorative Justice for Juveniles in Illinois

By Erin Birt

To put a slightly new spin on an old phrase, “Crime Happens.” Years of research have shown us that crime not only affects offenders and their families; it also has an impact on the victims of the offense, their family members and the overall community.

That same research has also shown that the “normal” or “standard” processes for dealing with offenders – particularly juveniles – does not have the desired effect of preventing them from committing crimes again in the future. In an attempt to reduce the recidivism rate for offenders, the Illinois Criminal Justice Information Authority (“ICJIA”) was created in 1983.

“The Authority works to enhance the information tools and management resources of state and local agencies, and it serves as a statewide forum for criminal justice coordination, planning and problem solving. It is also responsible for research, information systems development, and administration of federal funds. The Authority’s specific powers and duties are spelled out in the Illinois Criminal Justice Information Act [20 ILCS 3930].”¹

In particular, the Authority works to support and promote the use of Balanced and Restorative Justice (“BARJ”) in the state’s juvenile justice system and has created a series of guides to that end.

In their guide for law enforcement officers, the ICJIA states, “BARJ is not a program, but a philosophy with a coherent set of values and principles to guide the administration of justice.”²

BARJ In DuPage County

At a past Child Advocacy meeting of the DuPage County Bar Association, Senior Probation Officer Dan Smith presented information about BARJ and the positive impact it can and does have on reducing repeat juvenile crime in DuPage County.

Smith describes BARJ as a merging of two basic principles: the “Balanced Approach” and “Restorative Justice.”

The “Balanced Approach” views the juvenile justice system as having three clients or stakeholders: the Victim(s), the Offender(s) and their family, and the Community. Restorative Justice is defined as follows:³

- 1) Restoration or repairing the harm and rebuilding relationships in the community are the primary goals of juvenile justice.
- 2) Results are measured by how much repair was done rather than by how much punishment was inflicted.

In his presentation, Smith outlined the goals of BARJ practices which include:

- 1) Giving victims a greater understanding and voice in the reparation process.
- 2) Establishing a forum for people to work out harm that was caused.
- 3) Having the offender held accountable by the people most affected in the criminal act in a way that makes sense.
- 4) Attempting to repair the damage that was done.
- 5) Giving offenders a personal understanding of how the criminal act affects people.

Victim Offender Conferencing (VOC)

One of the key ways to achieve these goals is through Victim Offender Conferencing (“VOC”). In DuPage County, this began as a Probation project with the approval of the Judiciary and in agreement with the States

Attorneys' Office.⁴

VOC is a voluntary process for everyone involved and according to Smith, "The victim's perspective is central to deciding how to repair the harm caused by the crime." In addition, the safety of everyone involved is paramount, and a VOC is NOT recommended if the safety of all participants cannot be guaranteed.

If the juvenile offender will not take responsibility for the harm done and commit to repairing it, the matter is then returned to the court system, states Smith.

Participants sign a waiver covering information learned that cannot be shared with the Juvenile Court. However, Civil Court can order information to be released. If possible, information learned in the VOC should not be shared with the general community, but this is each participant's personal choice rather than a mandate.

VOC In Action

Screening of participants prior to a VOC can help ensure a successful outcome and can begin with a series of questions for both the offender and victim about what happened and how each person feels about it. It's important to ask the victim, "What do you think needs to happen to make things right?" and to ask the offender, "What do you think you need to do to make things right?"

As the VOC begins, the victim can choose whether to speak first or second about the experience, and the offender and any co-offenders are required to explain the situation in detail from beginning to end. The VOC facilitator will help guide the process to keep it civil, will take notes of information presented, and will then ask the participants what they would like done based on the information that was shared.

Victim Impact Circles

This is another option for bringing victims and offenders together for restorative justice. The key purpose is to help build empathy in offenders by helping them understand that their actions are more than just a law being broken. It's also a way to show juveniles the power of their choices, both good and bad. In some jurisdictions, the Victim Impact Circle is used for crimes of aggression as well as property, drug and sexual offenses.

Restorative Practices vs. Zero-Tolerance Policies in Schools

Since the creation of Zero-Tolerance Policies in the early 1990s, extensive research has shown that these programs have had little success in meeting their aims.

"Poorly executed zero tolerance policies do not provide guidance or instruction and often breed student distrust toward adults, nurturing an adversarial attitude. Suspended students suffer academically."⁵

The Illinois Balanced and Restorative Justice website states how restorative practices in schools can achieve positive results that are effective in changing attitudes as well as behavior:

"Restorative practices in schools, inspired by the philosophy and practices of restorative justice, prioritizes repairing harm done to relationships over the need for assigning blame and dispensing punishment. Based in indigenous wisdom and modern restorative justice philosophy, Restorative Practices increase accountability, and both student and teacher satisfaction while using such events as a natural opportunity to promote social and emotional learning, positive youth development, and cognitive psychology."⁶

BARJ Practices in Communities

The restorative practices that work so well in schools are also effective in the community as a whole to make offenders accountable for their actions. Again from the IBRJ website:

"BARJ practices in communities often create opportunities for transformation where youth realize their responsibility and successfully complete outcomes requested. These can include sincere apologies, restitution and community service all of which lead to higher victim and community satisfaction and lower recidivism

rates.”⁷

The strategies and ideals of Balanced and Restorative Justice present interesting prospects for a variety of legal areas, particularly because much of the work can be done without court intervention. Legal professionals in DuPage County and throughout Illinois might do well to incorporate some of the tenets of BARJ into their practices and monitor the results.

-
1. Implementing balanced and restorative justice - A guide for law enforcement officers, p.4
 2. Implementing balanced and restorative justice - A guide for law enforcement officers, p.6
 3. Pranis, K., 1998
 4. Smith, Dan, Restorative Practices Overview: Victim Offender Conferencing, Victim Impact Circle & Circles
 5. The Principal's Partnership: Research Brief on Zero Tolerance Policies, p. 1
 6. <http://www.ibarj.org/schools.asp>
 7. <http://www.ibarj.org/communities.asp>

*Erin Birt served as the Chairman of the DCBA's Child Advocacy Committee from 2013–2016. Her practice is focused on divorce, family law, and Secretary of State Administrative Hearings. As Adjunct Faculty for Aurora University, Ms. Birt taught a master's level course, "**Community Justice**." She holds a J.D. from DePaul College of Law and is an active member of the Collaborative Practice Professionals of Illinois, the International Academy of Collaborative Professionals and the DuPage County Bar Association.*