

Criminal Justice Coordinating Council

JUVENILE JUSTICE WEBINAR SERIES: SESSION 5

RESTORATIVE JUSTICE AND THE JUSTICE SYSTEM: FAIRNESS, ACCOUNTABILITY AND THE ADMINISTRATION OF JUSTICE

Panelists:

- **Thalia Gonzalez**, Senior Scholar, Georgetown Law Center on Poverty and Inequality
- **Cymone Fuller**, Co-Director, Restorative Justice Project, Impact Justice
- **Jonathan Scharrer**, Director of the Restorative Justice Project, University of Wisconsin Law School
- **Marilyn Armour**, Professor and Founder, The Institute for Restorative Justice and Restorative Dialogue, The University of Texas at Austin School of Social Work



December 7, 2021

1:00-3:00 pm

Virtual Event

Introduction

On December 7, 2021, Criminal Justice Coordinating Council (CJCC) conducted the fifth session of the Juvenile Justice Webinar Series, themed “Restorative Justice and the Justice System: Fairness, Accountability, and the Administration of Justice”. Four panelists—who are nationally-recognized restorative justice advocates, practitioners, and researchers—were invited to discuss how restorative justice works and provide some examples of models used to implement restorative justice.

Kristy Love, CJCC Deputy Executive Director, welcomed the attendees to the final Juvenile Justice Webinar session of 2021. She explained that CJCC facilitates a number of workgroups, one of which focuses on Restorative Justice (RJ). She explained that the workgroup is composed of representatives from youth-serving agencies in the District who share their successes as well as their challenges with respect to implementing and evaluating restorative justice programs and practices. Ms. Love then introduced the panelists for the meeting. The panelists included:

- **Thalia Gonzalez**, Senior Scholar, Georgetown Law Center on Inequality
- **Cymone Fuller**, Co-Director, Restorative Justice Project, Impact Justice
- **Jonathan Scharer**, Director of the Restorative Justice Project, University of Wisconsin Law School
- **Marilyn Armour**, Professor and Founder, The Institute for Restorative Justice and Restorative Dialogue, The University of Texas at Austin School of Social Work



Examples of Restorative Justice

Ms. Love's first question for the panelists was to explain what is RJ and how it works. Ms. Gonzalez explained that RJ is not necessarily a list of programs, nor does it have a clear blueprint for how it should be implemented. Rather, RJ is a set of practices as well as a theoretical standpoint. For example, one way that RJ changes the nature of the criminal justice system is through changing language. Instead of referring to people as "victims," RJ uses the term "people harmed." Ms. Gonzalez said that RJ can be incorporated into existing constructs, such as the justice system or education system, or it can be implemented independently.



Mr. Scharrer provided some examples of RJ in the form of diversion programs. He stated that individuals can be diverted to an RJ program at any stage of the justice system: pre-arrest, pre-charge, as part of a plea agreement, or post-adjudication. Mr. Scharrer also stated that RJ can be used to supplement the traditional justice process as opposed to being an alternative. These programs work by giving the offender an opportunity to participate in a

program tailored to their needs. If they are successful with the program, they are not charged with a crime, or if they are participating in a post-charge diversion program, the charge is removed. This benefits the offender by allowing them to avoid a conviction and keeping them from showing up in the criminal justice system.

Designing Programs and Practices

Ms. Fuller explained that RJ practices are rooted in Indigenous practices from around the world. She stated that Impact Justice utilizes eight core values that help keep their programs aligned with the original premise behind RJ and ensure that RJ is not unduly influenced by the traditional justice system in which it operates. These values state that RJ should be:

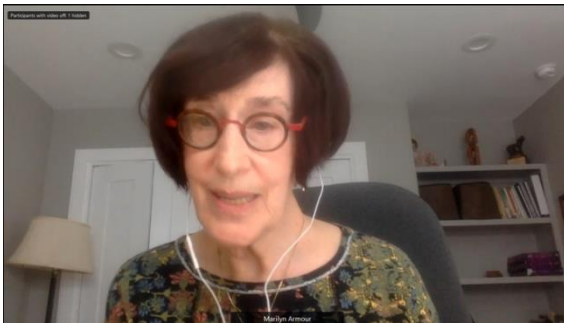


- Oriented around the needs of people harmed
- Designed to end racial and ethnic disparities in juvenile and criminal legal systems
- Focused exclusively on pre-charge diversion
- Structured to prevent net-widening in the juvenile legal system
- Dedicated to a strengths-based approach to healing harm
- Rooted in relationships – how to nourish, deepen and heal them
- Committed to protecting participant confidentiality
- Created and held by community and community-based organizations

Best Practices and Specific Models

Ms. Fuller advocated for the community conferencing model. She explained that when a young person is arrested, the district attorney's office offers the youth and the person harmed the option to participate in the RJ program. Once they are enrolled, a trained facilitator meets with both the responsible youth and person harmed, as well as their caregivers and key community members, to decide how they wish to participate in the program. The steps in the community conference process are to identify everyone's needs, agree to a restorative plan, do what the plan requires, and assess outcomes. This program sees the value of including members of the community as well as the families of the people involved who help facilitate the necessary support and identify goals for each person to complete the program. The community conference process usually takes anywhere from six to nine months.

Challenges with RJ Implementation and Evaluation



Ms. Armour offered her insight, explaining that historically, community conferencing has helped to reduce recidivism. The problem with earlier programs, however, is that they excluded victims. Ms. Armour argued that the goals of RJ and the goals of the criminal justice system often clash. Some examples of this are that RJ is values-driven whereas the criminal justice system is rules-driven, and RJ focuses on equity while the criminal justice system tries to maintain equality.

She stated that research has shown that while RJ is impactful when looking at recidivism rates, there is little research on its effect on other outcomes such as: victim empowerment, its ability to connect people harmed to the community, and the relationship between facilitators and those participating in programs. Ms. Armour suggested that in order to evaluate these other outcomes, researchers have to be willing to implement more qualitative research methods as opposed to randomized controlled trials (RCT), which is the gold standard. Considering that participation in an RJ process is voluntary, randomly assigning individuals to a control group and a treatment group is not possible.

The other panelists agreed with Ms. Armour's assessment. Ms. Gonzalez suggested that given the limited scope of existing RJ research, practitioners can learn from research on diversion programs, as well as best practices with respect to social and emotional learning for K-12 schools. Mr. Scharrer explained that RJ facilitators should first ask themselves what are the goals, and then design their program or practice to help achieve those goals. He also noted that it is important for facilitators to ensure that their program and practice designs promote fairness and equity. Ms. Fuller added that the goals and outcomes are established by the participants, and the role of the facilitator is to implement a process that will help accomplish those goals. She also noted that it is important to document the process so that it can be readily evaluated and replicated. Ms. Fuller cautioned that some programs use RJ as an umbrella term for a variety of different practices that may not necessarily reflect what RJ is supposed to be about.

KEEPING RJ-INVOLVED YOUTH AWAY FROM GUNS

Ms. Love acknowledged a question from the chat and posed it to the panelists. Mr. Scharrer offered to answer, stating that while he could speak only anecdotally, he has heard that youth often carry guns more for the

purpose of protecting themselves and less for the purpose of using it for violence. He has also heard youth, including youth facing violent charges, say that participating in community conferencing was the first time they have felt accepted and cared about. He explained that RJ asks why a youth does something and looks at the underlying needs of the youth involved. Ms. Armour also stated that research suggests that RJ has been more effective at preventing recidivism when used to address violent offenses versus property offenses.

GENERATING BUY-IN FOR RESTORATIVE JUSTICE

Ms. Armour shared her hopes for finding ways to make RJ more transparent to the public. She also stated that we need to encourage the public to shift from a punitive to restorative mindset. She also noted that RJ has a lot of support from schools, yet many teacher training programs have not incorporated RJ into their curriculum; therefore, teachers are often not exposed to RJ until well into their careers. There is a similar issue with respect to lack of RJ training for persons seeking careers in the criminal justice system. Ms. Gonzalez agreed, stating that a punitive mindset often comes from a place of racism, specifically anti-Blackism, and that the criminal justice system can be used as a tool of subordination, which RJ seeks to change. She articulated that what drives someone to buy into RJ varies on their aims. Whether a person or program is driven by data, legal means, or economic means, the stance on RJ may be different.

What Is on The Horizon for Restorative Justice/What Are Your Hopes? What Advice Would You Give to The Other Partners?

Ms. Love asked the panelists two final questions and allowed them to choose which one they wanted to answer. Mr. Scharrer said that he would like to see RJ be incorporated in the justice system faster. He explained that they are seeing communities becoming more aware and accepting of it, and ultimately, RJ will go where it is most directed. Ms. Armour stated that the beauty of RJ is how versatile it is and how it can offer options that were not there before. She hopes that more happens in the research field, and that we begin to put more significance on the process of RJ and not just the outcomes. Ms. Fuller expressed a wish that people will see RJ



not as a criminal intervention, but a public health strategy and a community involvement opportunity. She also would like to see it become the default option for dealing with juvenile justice instead of the criminal justice system, similar to New Zealand. Ms. Gonzalez offered her advice to participants, stating that when creating programs, do not try to do everything. Rather, partners should focus on their aim, decide where their work fits in the RJ movement, and move forward from there.

Closing

Ms. Love thanked the panelists and attendees for their participation in the session and encouraged everyone to complete the participant survey, which would be emailed shortly after the session.

Key Takeaways

- RJ is driven by a set of principles and values that address harm through relationship-building as opposed to punishment.
- There is no one preferred program or practice design; rather, the design should be determined by the goals set by participants
- Evaluations should focus on outcomes as well as process; and outcomes should include more than just recidivism, but also empathy, victim empowerment, inclusion of the offender back into the community, academic achievement, etc.
- RJ should be infused into curricula for persons studying to be educators and criminal justice practitioners.