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# Establishing Balanced and Restorative Justice in Your Juvenile Court: The Judge's Role

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Support for "Balanced and Restorative Justice" as a framework for addressing juvenile crime has been building steadily for a decade now—among lawmakers, juvenile justice professionals, and members of the general public alike. That's hardly surprising. "BARJ" may still be an awkward and unfamiliar acronym, but it sums up a vital consensus regarding what justice for juveniles ought to look like, both as a process and as a goal.

A substantial minority of the States now use at least some of the language of the balanced and restorative approach to express the ultimate purposes of their juvenile court systems, and intervention and corrections programs operated in many others have been consciously designed in accordance with these principles. Indeed, the ideal at the core of BARJ—that of a broader juvenile court mission that embraces victims, offenders and their communities as clients of the justice system, with legitimate claims on its attention and resources—seems likely to transform the nation's approach to juvenile crime in the next century.

Until now, however, efforts to reform local juvenile justice systems along balanced and restorative lines have more often been led by juvenile probation officials, district attorneys, and the occasional community activist than by juvenile court judges. Judges, by virtue of their general stature and influence as much as their control over the day-to-day operations of the nation's juvenile courts, are uniquely positioned to manage change in this area, to

give it direction and focus. Nevertheless, for every juvenile court judge who is taking advantage of the opportunity to exercise leadership in BARJ implementation—to incorporate its principles into judicial decision-making, to welcome victims into the courtroom, to foster community-court partnerships—there seem to be many others who are merely reacting to changes introduced by others, or resisting them.

In the spring of 1999, the National Center for Juvenile Justice, with funding from the Office of Juvenile Justice and Delinquency Prevention (OJJDP), convened a two-day roundtable of a dozen juvenile court judges,

administrators and researchers in Pittsburgh, PA, to explore issues surrounding judicial leadership in BARJ implementation. Participants—who were chosen for their interest and expertise in balanced and restorative justice, court

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operations and system change—shared strategies and techniques based on their own experience in stimulating and managing change in their home jurisdictions. They discussed the various roles a judge may play in the effort to transform the culture of a juvenile court, along with obstacles that must be overcome, ethical quandaries that must be resolved, and routines and attitudes that must be reconsidered in light of the balanced and restorative model. In the process, they generated a number of useful suggestions for colleagues around the country who are engaged in a similar effort to incorporate balanced and restorative principles into the conduct of their work.

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### FIRST THINGS FIRST: BARJ FUNDAMENTALS

Briefly, balanced and restorative justice is an individualized approach to juvenile justice that balances three basic goals: accountability, community protection, and competency development.

- A justice system promotes accountability by insisting that offenders are held responsible for the crimes committed and accept responsibility for the harm they have done, and work to make amends to their victims and to the victimized community. But accountability doesn't work in a vacuum. Those to whom the offender is accountable—that is, victims, their families, community members and institutions—must play a role in the process: helping to choose and shape sanctions, monitoring compliance, providing resources, information, and feedback to the system.
- A justice system contributes to community protection by taking the public's safety into account in all its planning and decisionmaking. But here again, a community that is denied an active, creative role in its own protection can never be made safe. That's why a balanced approach to public safety is more likely to lead to collaboration with the community in prevention, early intervention, and structured supervision of juvenile offenders—through intensive community-based probation, school mediation programs, neighborhood dispute resolution boards, and the like—than to mere confinement.
- A justice system serves competency development when it enables juvenile offenders to leave the system in a better position to be peaceful, productive citizens than when they entered it. That means helping offenders to get whatever they need—work skills, learning skills, empathy and anger management techniques, intergenerational connections—to make their own way out of the destructive cycle of delinquency.

Finally, a balanced approach to these goals devotes appropriate attention and resources to each of them, recognizing that the achievement of any one depends ultimately on the others—that you cannot have safe communities without teaching young offenders the skills to live peacefully in the future, for example, or insisting that they accept responsibility for their past.

### JUDICIAL LEADERSHIP AND BARJ

The handful of ideas at the heart of balanced and restorative justice (see "First Things First: BARJ Fundamentals") are simple, sensible ones—"It's not rocket science," as one workshop participant put it. Nevertheless, for a juvenile justice system that has long been used to focusing its attention on offenders alone—whether as objects of treatment or retribution—the simple acknowledgment of the separate interests and claims of their victims and their communities requires a fundamental shift in orientation. With that shift comes new roles for the individuals working in the juvenile justice system, and new priorities and expectations for the system as a whole.

The effort to translate balanced and restorative principles from the realm of purpose clauses and mission statements to that of everyday juvenile court routine requires judicial authority—formal and

personal, practical and moral authority; authority inside the courtroom and out. Even if judges did nothing more than preside over delinquency proceedings, their willingness to incorporate restorative considerations into disposition decision-making, and their attitude towards victim and community participation in the process, would be vital to successful BARJ reform. But of course the typical judge's influence extends much farther. Juvenile court judges directly or indirectly dictate ground rules and set expectations for virtually everyone in the court system, and many outside of it. For attorneys, probation officers, detention staff, clerical workers, service providers—not to mention victims, witnesses, offenders, and their families and supporters—it is the judge who sets the tone, from first to last. "We have inherent respect," as one workshop participant put it ruefully, "until we blow it."

Alluding to power outside the courthouse—power to explain, to persuade, to motivate—the same judge

added on a more serious note, "You have the bully pulpit. You have the obligation, responsibly and carefully, to use it." On issues affecting children, juvenile court judges have traditionally been acknowledged as sources of practical wisdom. From the very beginning they have used their public positions to enlist support for the work of their courts, to speak out forcefully against unwise legislation, and to urge investment in prevention, early intervention, and training and treatment for juvenile offenders. In this sense, they have not simply enforced "community standards," but helped to shape them over time. It's no secret that fear and the desire for retribution have come to dominate public discussion of youth crime in recent years, tempting jurisdictions all over the country to resort to juvenile justice policies that are often incomplete and shortsighted and occasionally destructive and dangerous. But where judges have accepted their historic responsibility to lead and elevate the public debate, the results have been more encouraging. By speaking up in the

community, judges can contribute to a wider understanding and acceptance of balanced and restorative justice principles, and a more thorough and permanent foundation for balanced and restorative reforms.

**ASSESSING YOURSELF AND YOUR COURT**

But isn't everybody victim-friendly nowadays? Doesn't every juvenile court judge order restitution and community service as a matter of routine? Aren't offenders all over the country being "held accountable" already? Many judges, in the words of one workshop participant, take a quick look at balanced and restorative justice and say, "We've been doing that all along." Have they?

Not always. For all its apparent familiarity, its appeals to common sense and communitarian tradition, BARJ is a significant *departure* from past juvenile court practice—and acknowledging this is the first important hurdle for judicial leaders aiming at real reform. Getting over the hurdle takes some candid self-assessment—the kind that looks beyond the mere rhetorical embrace of balanced and restorative principles, to the practices that back them up. (See "An Organizational Self-Assessment.")

Obviously, if mastering the verbal formulas were all it took, leading the transition to a balanced and restorative approach would be easy. But in how many jurisdictions, for instance, do case-scheduling practices reflect real consideration for victims? When are community members so much as consulted regarding the "community service" they actually need? And how often is "accountability" understood to mean anything more than "getting tough"?

A thorough BARJ self-assessment could begin with a hard look at the experience of crime victims in your court. Are they given opportunities to let you know what they and their families have suffered, their

**WHERE DID BARJ COME FROM?**

Briefly, balanced and restorative justice is the product of a convenient union of two complex concepts.

The "Balanced Approach" to juvenile justice policy was first advocated in 1988 as a way to harmonize the "best interests," "just deserts," and "public safety" goals of the system (Maloney, Romig and Armstrong, 1988). The principles that define the balanced approach—community protection, offender accountability, and competency development—are reflected in the system's response when courts consider the possible relevance of each principle in each case. The converging interests of the offender, the victims and the community at large must be considered when developing case plans and all should benefit from contact with the system.

"Restorative Justice" is a framework for responding to crime that, while of ancient vintage, traces its modern development in the U.S. to a handful of experimental "victim offender reconciliation" programs mounted in Canada and the U.S. in the 1970's (Zehr, 1990). These programs aimed to help offenders recognize the harm they had caused and the need to repay the victim for the loss incurred. Restorative justice, with its focus on rebuilding disrupted relationships, developed largely outside the courthouse walls, independent of formal court processes.

The accountability component of the balance approach—with its emphasis on restitution and community service—paved the way for the merger of the two concepts in an OJJDP funded "Balanced and Restorative Justice" (BARJ) project in the early 1990's.

views regarding appropriate sanctions, their future safety concerns, and similar matters? Do they receive routine notification regarding case developments? Is there anyone on staff who is trained and given responsibility for accommodating or assisting them in any way? Is the goal of restoring and repairing their lives a priority in disposition decision-making? Is any effort made to get their feedback when the case is over, to find out whether they have questions or complaints about the process or the outcome, or to recruit them or their advocates into the system—by having them serve on planning or advisory boards, for example?

The same sorts of questions must be asked of your court's relationship with the community it serves. Is it a partnership? Who speaks for the community in your court system, and when? Do community members participate in designing, structuring, and supervising community

service activities for offenders? How are community volunteers recruited and trained to share in the work of turning offenders around?

With regard to offenders in your jurisdiction, are they expected to *better* themselves while in the system—to learn skills, to make progress, to demonstrate some measurable cognitive, behavioral, vocational, or social improvement—or just to stay out of trouble? And how would you know either way?

In most cases, candid answers to questions like these will reveal that achieving a truly balanced and restorative juvenile justice system is going to take work. The sections that follow contain practical guidance regarding how to go about that work, based on the experience of judges who have done it themselves.

### MAKING ROOM FOR VICTIMS

There was a time when crime victims were frankly regarded as intruders in the juvenile justice process—at best a distraction, at worst an overt threat to “the best interests of the child.” Now many juvenile courts, without being actively anti-victim, nevertheless continue to practice what might be called passive victim-avoidance. In fact, a recent study of judges’ attitudes found that, although many declared themselves in support of victim participation in the justice process, a persistent level of discomfort with the whole idea remained (Bazemore and Leip,

1999). Some judges, the authors found, were just not used to it yet. Others were uneasy with the injection of what they saw as an unpredictable emotional element into what should be a rational, ordered process of fact-finding and decision-making. Still others associated the “victims’ rights” agenda with contemporaneous political movements to stiffen the sanctions, curtail the jurisdiction, limit the discretion, and abolish the traditional rehabilitative orientation of the juvenile courts—all of which they staunchly opposed.

But judges participating in the NCJJ workshop warned that the common assumption that “all that victims want is

retribution”—or, more generally, that victims’ desires are necessarily in conflict with offenders’ needs—may often be mistaken. One judge recalled a case in which he employed “active listening” with the victim of a particularly destructive burglary, to lead her from what she *seemed* to be saying—that, as he put it, “she wanted the book thrown at the kid”—to what she really meant: that she wanted his help in *cleaning up the mess*. Another judge described an even more familiar pattern, in which victims’ initial ardor for vengeance cools down in the face of reality: “They may have demonized the offender, but when they see this *runty kid* in the courtroom, they get a different perspective.”

### AN ORGANIZATIONAL SELF-ASSESSMENT

One fairly simple assessment instrument specifically designed to measure the extent to which juvenile justice agencies and systems have embraced balanced and restorative justice principles was designed by the Pennsylvania Juvenile Court Judges’ Commission, and has reportedly been favorably received by those who have used it. *Balanced and Restorative Justice in Pennsylvania’s Juvenile Justice System: Organizational Self-Assessment* is a 4-part document, with sections devoted to “The Victim,” “The Offender,” “The Community,” and “The Juvenile Justice System.”

Each section consists of a series of statements relating to the local system or organization, to which the user responds by choosing a number from 1 to 7, indicating a place on the range from strong agreement to strong disagreement. In the section on “The Victim,” for example, there are statements like “Victims are regarded as clients of the juvenile justice system” and “Victims of juvenile crime regard the juvenile justice system as responsive, fair, and just.” The section on “The Offender” asks users to consider the extent to which “Juvenile offenders are expected to work actively to restore victims’ losses” and “Juvenile offenders are involved in activities and programs that develop measurable skills and competencies and make a positive contribution to the community.” The section on “The Community” asks whether “The community shares responsibility for the monitoring and reintegration of juvenile offenders,” while the section on “The Juvenile Justice System” asks whether “Juvenile justice agencies seek to recruit volunteers and hire employees with values consistent with balanced and restorative justice.” Each section also contains an open-ended portion, in which users are given an opportunity to list ways in which the organization being assessed is working to achieve the goals of balanced and restorative justice, and to suggest other practical steps that could be taken.

The instrument is designed to be completed first by individual organization members, working without conferring with one another. Afterwards, the same instrument can be used as a basis for group discussion.

For more information, contact Susan Blackburn of the Pennsylvania Juvenile Court Judges’ Commission at (717) 705-2290.

In fact, workshop participants agreed, there is no simple answer to the question, What do victims want? You have to ask them, or you’ll never know. Often, as a third judge pointed out, “The victim cares as much about the *process* as the result.” To be included, to be consulted—not to be ignored—is the essential thing.

Measures that serve to bring victims into the justice process might include any or all of the following:

➤ **Orientation:** Encountering the juvenile court system for the first time can be absolutely bewildering to crime victims. An orientation program, brochure, or video that explains victims’ rights, describes juvenile court procedure and terminology, and recommends sources of support services can help.

➤ **Notification:** Consistent, accurate, and timely notification letters concerning important developments and proceedings in a case make informed victim participation possible. Many jurisdictions automate the notification process, and integrate it into the case management system. Some use automated voice response technology to allow victims 24-hour access to case status information over the phone.

## CIRCLE SENTENCING AND OTHER RESTORATIVE JUSTICE SANCTIONS

Some communities in recent years have begun turning away from the usual run of offender-centered diversion and disposition programs, to experiment with alternatives that focus on restoration, reintegration, and community-building:

- *Victim-Offender Conferencing:* Juvenile offenders can be helped to recognize the human consequences of their actions through dialogue with those they have harmed. Properly structured and supervised victim-offender conferencing can have significant benefits for the victims of crime as well. Under a typical arrangement, during the first part of the meeting, the victim is given an opportunity to express feelings directly to the offender, and the offender is allowed to attempt to explain his actions and motives. The second phase of the meeting involves a review of the victim's losses and the development of a plan for repaying/restoring the victim to the greatest extent possible.
- *Family Group Conferencing:* A broader, more elaborate variation on this model, only recently introduced in this country (through the efforts of justice professionals from Australia and New Zealand, where the practice originated in a Maori conflict resolution ritual), family group conferencing brings more participants to the table—not only the offender and the victim, but their families and supporters, unrelated adults whose opinions matter to the offender or who can give voice to the community's view of the offense, other community residents who represent both indirect or secondary victims of the offense and potential resources towards the reintegration of the offender, etc. The emphasis here is on conveying the community's disapproval of the offense without disowning the offender. But as in circle sentencing (see below), the group attempts to find a way to repair the damage caused by the crime through consensus.
- *Circle Sentencing:* This alternative sanctioning process traces its origins to the aboriginal people of the Canadian Yukon, but has now gained a foothold in several rural and suburban Minnesota counties, as well as urban Minneapolis-St. Paul. Sentencing circles (also known as "community circles" and "peacemaking circles") are groups of neighborhood volunteers who attend meetings with juvenile offenders—and if possible their victims, as well as family members on both sides—to work out consensus approaches to restoration, rehabilitation, and reintegration. Referring judges, prosecutors and defense attorneys sometimes attend sentencing circles, but the process is distinctly extra-judicial. For one thing, offenders must admit wrongdoing and apply for acceptance into the circle beforehand, and subsequent steps are taken by agreement only. Circle members not only decide what the offender must do to be reintegrated into the community, they involve themselves in that reintegration process. And offenders, having "graduated" (some circles actually hold ceremonies to mark the event), are in turn encouraged to participate in subsequent sentencing circles.

➤ **Victim Impact Statements:** Whether it is oral or written, live or recorded on audio- or videotape, collecting an impact statement assures the victim that his or her views are valued while giving the court vital information on the human consequences of the crime, the victim's preferences regarding disposition, any willingness to participate in victim-offender programming, etc.

➤ **Victim Satisfaction Surveys:** Routinely checking with victims through a simple evaluation form—to see whether they were adequately assisted and informed, whether they felt their voice was heard, whether they got what they wanted out of the process, etc.—has obvious benefits, both for the juvenile justice system and the clients it serves.

➤ **Victim Outreach:** Making contact with victims groups, and recruiting victims and victims' advocates onto planning and goal-setting bodies, helps ensure that the victims' point of view is institutionally represented.

➤ **Victim Services Coordination:** Staffing a permanent unit to oversee all victim services and develop a coordinated response to victims' needs may be the most efficient and direct way of welcoming victims into the juvenile justice process.

### CONNECTING WITH THE COMMUNITY

"We've worked hard to *teach the community* what we're doing."

That, in a nutshell, is how one workshop participant explained the secret of his successful tenure as administrative judge of a good-sized urban juvenile court system. His methods included what he described as "dog and pony shows"—regularly scheduled bus tours conducting local press, school officials, government leaders, and members of the general public to the scattered facilities of the court and its service providers, for a look at the way they work and why they are needed. "People say it's *schtick*, but so what?" More broadly, he advocated candor and a willingness to engage the public any time, anywhere: "Tell them what your position is and tell them why... What you can't do is stand for nothing."

The results of this approach in his county, in terms of public understanding and support of the juvenile court's mission, have been impressive. In one remarkable instance, when an established community-based intensive supervision program for juvenile offenders had to change its quarters, two city neighborhoods actually *competed* to host the new site! It made sense—intensive, structured supervision of a neighborhood's young offenders makes *everyone* safer. Still, it's something you don't see every day.

Enlisting community collaboration in the work of the juvenile court involves more than just teaching the public—it involves listening to it as well. Service club meetings, religious gatherings, neighborhood celebrations, and other such events present judges with opportunities to educate themselves as well as others—to engage in what one judicial writer called that “continuous dialogue with the public regarding children, parenting, [and] the responsibility of the institutions surrounding children,” upon which the vitality and growth of the juvenile courts depend (Edwards, 1992).

But neither teaching nor listening is enough: judges must do all they can to recruit community members into direct participation in the juvenile justice system. Participation is a form of investment—which is to say, a form of ownership. With ownership comes a sense of personal

responsibility for the problems and prospects of the community's young people. That's why, in jurisdictions experimenting with BARJ across the country, places have been found for community volunteers on juvenile court planning and advisory bodies, in victims' services units, in the structuring and supervision of community service programs, as members of informal dispute resolution panels and community mediation boards, as participants in circle sentencing, family group conferences and other restorative sanctioning programs, and as mentors, tutors, trainers and employers for offenders engaged in the work of reintegrating themselves into the community.

Judges attending the NCJJ workshop cautioned their colleagues not to overlook the contribution that direct participation from the local *business* community can make. For instance, one described a successful initiative in his jurisdiction that simply enrolled delinquents in the local Junior Achievement program—to teach them, he said, “how to make money the legitimate way”—and offered jobs in the courthouse snack bar to those who completed it. That's community ownership, mentoring, skill-building, and reintegration in one package—yet without the assistance of the business community, it would not have been available to the court at any price. “You can't buy relationships,” as another workshop

participant put it succinctly.

### DEVELOPING COMPETENCY (I.E. PROTECTING THE COMMUNITY)

For judges frustrated with the current political climate—and particularly the way many law- and policy-makers seem willing to abandon the traditional rehabilitative mission of the juvenile courts in favor of a narrow and spurious “toughness”—BARJ represents a historic opportunity. Precisely because it is a *balanced* approach to youth crime, the new philosophy is capable of combining aims and uniting constituencies that are usually assumed to be at odds. It brings together restorative, rehabilitative, and peace-keeping missions in such a way as to deepen and strengthen all three. There is no sense in trying to separate or prioritize them—in wondering whether, from a balanced and restorative perspective, it is accountability, public safety, or offender competency that is the juvenile court's most important goal. As one workshop participant asked facetiously, “What's the most important leg of a three-legged stool?”

Competency development is about changing the thinking and behavior of offenders, giving them the knowledge, skills, and connections they need to become peaceful and productive. In other

### “THIS UNSUSPECTING WOMAN WAS SURPRISED BY A JUVENILE OFFENDER WITH AN AX.”

The “unsuspecting woman” in the above quotation—which happens to be the attention-grabbing caption on a public information poster distributed by the Deschutes County Community Justice program in Bend, Oregon—is one of the many (pleasantly) surprised recipients of free firewood cut by juvenile offenders participating in a community service program “to help those in need keep warm throughout the winter.” According to the fine print, Deschutes County's young offenders have provided the area's poor with a total of 1,500 cords of firewood: “If we're going to be tough,” the pitch concludes, “let's be productive.”

Besides offering an impressive example of public education and engagement, the Deschutes County program suggests possibilities for community service that go well beyond the familiar trash-picking/busy-work models. Elsewhere in the country, juveniles are working with their elders in community gardens, restoring trails and stream beds under the tutelage of college students, building homes with Habitat for Humanity, manning county-supervised “crime repair crews” that respond quickly to local acts of vandalism—the idea is not simply to put kids to use, in other words, but to put them to *good* use; to allow them to convey a *needed* service or benefit, to be *seen* conveying it, and to *learn* something in the process.

words, as a practical matter, it is a *rehabilitative* goal. But while it may focus directly on individual offenders, it is strongly associated with larger communal goals—especially the goal of securing the public from the danger posed by ignorant, alienated, unsocialized, unemployable and lawless youth. In the balanced and restorative model, then, skill-building, anger management, empathy-development, mentoring, job training, and similar helping strategies are regarded as *public safety* measures as much as anything else. They are effectively destigmatized by their association with—that is, by the way they are balanced and supported by—victim- and community-centered values.

The same is true in reverse as well. No matter how appealing the notion of accountability to victims may be to our sense of what is fitting and right, no matter how urgently justified we may be in demanding community protection from our court system, these aims by themselves are incomplete and unattainable—without a practical, scientifically informed strategy for actually changing offenders’ attitudes and behavior. Fortunately, the growing body of support for balanced and restorative justice initiatives suggests that the general public is at least as capable of recognizing this as those in the juvenile justice field.

**THE BALANCED APPROACH,  
ON THE BENCH**

Obviously, a juvenile court judge’s best opportunities to put balanced and restorative justice principles to work will arise in the context of presiding over and making decisions in individual cases. It might mean going beneath the surface of a stilted or superficial victim impact statement, to draw out details and put a human face on the offense. Or taking advantage of the simultaneous presence of the offender and the victim in the courtroom, to try to impress the former with a sense of the real consequences of his crime, or secure some sort of explanation or apology for the latter. It

**OUT IN THE BOONDOC’S: SPECIAL CONSIDERATIONS  
FOR RURAL COURTS**

McKean County, in rugged North-Central Pennsylvania, has its share of juvenile offenders, but—like lots of other rural, one-judge districts—few of the resources available to more populous counties when it comes to rehabilitating them. The situation calls for improvisation: informal recruitment of caring adults, ad hoc partnerships with local businesses, the cobbling together of a system of supports using energy, imagination, and judicial leadership rather than money alone. “Boondoc’s”—a year-round remedial education and supervised work program for adjudicated delinquents in McKean County—offers a good example of the sort of creativity that is called for, and the success that can attend it. With a minimum in the way of overhead and paid staff, Boondoc’s makes maximum use of the one form of conspicuous wealth the county has plenty of—great outdoors—by putting juvenile probationers to work building trails, shoring up erosion, making improvements to trout stream beds, and so on, side by side with adults from local conservation and sportsmen’s groups. It’s the sort of transforming “wilderness experience” that can cost big bucks to simulate for urban delinquents—but here the cost is minimal, the skills learned highly relevant, the juvenile-adult relationships local and lasting, and the physical improvements of permanent benefit to everyone in the county. For more information, contact McKean County Juvenile Probation, McKean Co. Courthouse, 500 Main St., Smethport, PA 16749, (814) 887-3365.

might mean insisting on specificity and completeness in social reports. Or taking the extra trouble to be sure that the principal parties to a case, as well as their family members and supporters in the courtroom, understand what you are doing and why.

It surely means conscientiously taking the goals and values of the balanced and restorative justice approach into consideration before making any significant decision or order, signing off on any diversion agreement, or otherwise exercising your power as a juvenile court judge. Those goals and values will not dictate your decisions, of course. There is nothing mechanical or formulaic about the balancing process, or any constant weight to be assigned to the various factors regardless of the circumstances of individual cases. Here those attending the NCJJ workshop were in complete and vocal agreement with one judge who said that balancing the goals of BARJ meant giving them “equal *consideration*, not equal weight.”

Among the most important ways that judges can lead in the implementation of the balanced and restorative approach is to be open and alert to restorative possibilities in the disposition of the cases on their dockets. “It’s the disposition that’s the art form,” as a judge at the workshop put it. All over the country juvenile court judges have been exercising remarkable creativity in this area, ordering offenders to

- Submit written apologies to their victims.
- Perform direct services for their victims.
- Make amends indirectly by performing services for victims of similar crimes, or by serving charitable or other organizations chosen by their victims.
- Pay “supervision” fees to fund victim restitution programs, earn and pay restitution money themselves, or agree to repay restitution funds paid by their families.
- Attend victim and crime impact awareness classes.
- Work on crime-scene clean-up crews.

In addition, in communities that have begun experimenting with restorative sanctioning alternatives, judges are steering offenders into “sentencing circles,” family group conferences, and mediated dialogue with their victims (*See sidebar, “Circle Sentencing and Other Restorative Sanctioning Innovations”*).

### THE BALANCED APPROACH, OFF THE BENCH

There are ways for judges to apply balanced and restorative justice principles off the bench as well as on, around the courthouse as well as in the courtroom. In all too many jurisdictions, they would be well advised to look first to the reform of their case scheduling practices. “Cattle call” scheduling—in which all of the day’s cases are called for the same time in the morning, and a restless crowd of victims, witnesses, offenders, families and supporters cool their heels and wait their turns in lobbies and hallways, often missing whole days of work or school for nothing—is still scandalously common in this country’s juvenile courts. A “madhouse” atmosphere “that slowly dissipates each day”—that’s how one workshop participant described the typical scene. And nothing could be more directly contrary to the spirit of balanced and restorative justice. Indeed, the practice seems almost *calculated* to keep victims out of the justice process, and discourage any community collaboration in solving the problems of delinquent youth.

Juvenile court judges would also do well to use their formal and informal authority over court administration and services staff to promote balanced and restorative values and principles. Obviously, in hiring and promotions, a civil, helpful, and welcoming approach with victims and members of the public should be encouraged and rewarded—and the closed, hostile, “bureaucratic” style denounced and punished. Staffers, regardless of their formal titles and job descriptions, can often provide important

links and contacts with the community the court serves as well. The “community,” in fact, doesn’t exist in the abstract—it is somebody’s cousins, piano teachers, friends’ grandmothers, and so on. A shrewd judge makes use of the actual, living people in the courthouse to reach the actual, living people outside it.

Judicial authority over juvenile probation departments presents a particularly important opportunity to put balanced and restorative justice principles to work. As, in effect, the juvenile court’s foot soldiers, probation officers are critical to implementation. If they ignore it—or, as some workshop attendees complained, simply learn to mouth its platitudes, without actually incorporating it into their work—balanced and restorative justice will go nowhere; if they take it up, it will take off. Fortunately, recent trends in juvenile probation—not only a growing acceptance of the balanced and restorative outlook, but widespread movement towards decentralization, neighborhood offices, nontraditional hours, intensive supervision in hot-spot communities, and school-based operations—are very much to be encouraged. These are precisely the sorts of changes that seem likely to break down barriers between probation/corrections and the community, and lead at last to the establishment of “community justice.” Judges can throw their weight behind these changes—and help to overcome the inevitable resistance in the probation departments they work with. One judge at the workshop predicted a complete change-over in his jurisdiction, from district-based to community- and school-based probation, in “a few more years,” and added: “People [in probation] who are afraid of that *should* be.”

Finally, judges at the workshop recommended maintaining close contact with ancillary service providers and programs, and frequent visits to their facilities. “Let them see your face,” one advised. This is necessary, not only to follow up on particular dispositions, to stay informed regarding the actual

workings and effectiveness of the programs upon which you rely—but also to articulate your vision of the work you are jointly engaged in; to motivate; to inspire; to lead.

### CHANGING THE SYSTEM, ONE STEP AT A TIME

Balanced and restorative justice is not a program, or even a set of programs. It’s a new way of doing business. That means you can’t simply add BARJ to what you’ve got now. You have to *change* what you’ve got now, in light of BARJ. It’s a matter of whole-system reform, and that takes “relentless pressure, gently applied,” as one workshop attendee put it. “Or gentle pressure, relentlessly applied.”

System reform has its own array of techniques—assembling key stakeholders, hammering out a vision, setting definite goals, committing to an action plan, devising concrete measures of success, and so on—which ought to be familiar enough by now. In any case, this is no place to add to the already extensive literature on the subject. But the NCJJ workshop did yield some specific tips and suggestions on bringing about court system reform—based on the common sense and practical experience of veteran judges—that are well worth passing along.

*Change routines first; attitudes will follow.* Balanced and restorative justice may be a philosophy, but you don’t implement it by philosophizing. You have to make definite, tangible changes in *practices*, and count on values and attitudes—the culture of the court system—to change with them over time. “If you wait for the culture to change,” warned one workshop participant, “you’re going to wait forever.” Mission and values statements must be operationalized in clearly articulated court rules and policies, administrative orders, disposition and detention guidelines, and staff protocols governing every situation. But coming to a universal understanding about these matters before acting on them isn’t



possible, or necessary. "Don't wait for everybody in the department to get it," a judge at the workshop advised. "Find those who do get it and build on that—drag everybody else along."

*If you can't lead the charge, sponsor the charge.* Not all juvenile court judges are skilled administrators or system planners; many could not spare the time from their dockets even if they were. But judges can be effective sponsors and conveners as well as drivers of system change. In fact, a number of court systems have found it useful to employ specially designated BARJ coordinators to manage the everyday work of reform—surveying staff and assessing policies, facilitating

meetings, devising guidelines, setting targets, tending lines of communication, and so on. But even in those situations, judges play an important role by opening doors, making introductions, and otherwise showing that they endorse the movement for change. When judges speak, people listen. When judges invite, people show up.

*Keep your fights behind closed doors.* Any push for change will involve friction, resistance, misunderstanding and fear. Acknowledging this, a workshop participant nevertheless advised, "Achieve as much consensus as possible." And when it's necessary to argue, "Close the door."

*Stay on course by following the numbers.* One judge described what he called a kind of "snapshot" performance-monitoring technique he had devised for his court. It consisted of a handful of "critical measures"—statistical information that, at his direction, his staff collected and submitted to him every month: total intakes, restitution ordered/paid, community service hours ordered/completed, dispositions and placements, and recidivism. These measures might not tell him everything—but the idea, he said, was to keep the snapshot simple. That way, no matter how busy he was, he could monitor his court's progress in balanced and restorative justice implementation regularly, and at a glance.

## EVALUATING BALANCED AND RESTORATIVE JUSTICE INITIATIVES

You can't maintain the balanced and restorative justice model in your court system without finding ways to document successes and identify failures. Your evaluation strategy should be to devise tangible measures of system and program performance that are relevant to six broad goals—community protection, victim involvement, juvenile accountability, competency development, interagency collaboration, and community engagement. To be useful, the evaluation of a balanced and restorative justice reform initiative should quantify and describe both what the effort has been, in the broadest sense (program inputs and processes), and what it has achieved (intermediate and long-term outcomes).

- **Program Inputs.** Document the resources devoted to implementing your balanced and restorative justice initiative. These are, in effect, the raw materials that go into producing balanced and restorative justice: time spent in strategic or operational planning, funding allocated or redirected, new staff hired or old positions redefined, training or technical assistance procured, equipment purchased, construction projects completed, and so on.
- **Program Processes.** Document the specific activities that have been carried out in the process—the development of new programs (victim/offender mediation, job skills training, and the like), the promulgation of new policies (making satisfying victims a high priority, for instance), the establishment of new procedures (requiring probation staff to address all areas of the balanced approach in case plans).
- **Intermediate Outcomes.** Measure the extent to which each program or procedure is achieving particular objectives associated with balanced and restorative justice: community protection (number of new offenses, severity of new offenses, number of court-involved youth actively participating in structured after-school activities, and so on), victim involvement (the number of victims of juvenile crime receiving services from the juvenile court, for example), accountability (the rates at which community service hours are successfully completed or restitution is paid), competency development (the number of court-involved youth who are staying in school and making progress), interagency collaboration (the number of staff members participating in cross-training programs), and increased community involvement (the number of presentations made by juvenile court staff in the community).
- **Long-term Outcomes.** Measure the long-term impact that your balanced and restorative justice reform has had on the behavior of delinquent youth, the attitudes of victims of juvenile crime, and the nature of the communities in which they live. Measures of the long-term success of balanced and restorative justice initiatives may include reduced crime committed by juveniles, reduced anxiety among victims of juvenile crime, increased satisfaction with the juvenile justice system on the part of victims and community members, increased employment rates among court-involved youth, and a measurable increase in victim empathy among delinquent youth.

For more information on ongoing efforts to measure the performance of balanced and restorative justice initiatives in Pennsylvania, contact Douglas Thomas (NCJJ) at (412) 227-6950 ( ).

*Measure what matters most.* Don't restrict yourself to performance and outcome measures that suit the old ways of doing business, but not the new. "You have to change how you measure success," a workshop participant pointed out. And remember that, as a judge, you are in a position to insist upon the regular collection of these new kinds of data. Victim satisfaction ratings, offender grades and graduation rates, dollars earned legitimately, tasks accomplished, community groups involved, disputes settled—these are all positive, relevant and potentially quantifiable achievements of the balanced and restorative approach to juvenile justice. They matter as much, in their way, as "recidivism in the first year." And the mere act of paying attention to them *as numbers* tends to send the message that they matter.

*Build expectations that will outlast you.* Judges move on. In fact, given the (often unwise and unfortunate) judicial rotation practices that still persist in many jurisdictions, juvenile court judges tend to move on all too soon—sometimes jeopardizing the reforms they took the lead in establishing. But workshop participants were agreed that the best guarantee of the permanence of balanced and restorative justice reforms is an engaged community. Once victims and community groups are brought into the justice process, and made to feel that it is theirs, it is no easy matter to shut them out again—no matter who is the judge.

**SUPPORTING ONE ANOTHER'S LEADERSHIP**

The balanced and restorative vision holds great promise for rejuvenating the juvenile justice system, clarifying its values, and broadening its support. But it cannot fulfil that promise without the active leadership of individual judges, and the wholehearted support of the judicial profession. Fortunately, those attending the NCJJ's 1999 workshop on judicial BARJ

leadership, from which most of the practical advice in this report has been distilled, have indicated their willingness to form the beginnings of a peer-to-peer consultation network for interested judges (See "*Judicial BARJ Leadership Network*"). Judges and others interested in learning more about the balanced and restorative justice movement, its initiatives, and ways to incorporate its principles into their work are urged to contact those in the network, and begin the work of shaping a new juvenile justice system for the next century.

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**JUDICIAL BARJ LEADERSHIP NETWORK**

Judges and others seeking information, advice and support on BARJ implementation issues are invited to contact any of the following participants in the National Center for Juvenile Justice's 1999 workshop on The Role of the Juvenile Court Judge in Establishing Balanced and Restorative Justice Initiatives:

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### ABOUT THE NATIONAL CENTER FOR JUVENILE JUSTICE

The National Center for Juvenile Justice (NCJJ) was founded in Pittsburgh, Pennsylvania, in 1973 by U.S. District Judge Maurice B. Cohill, Jr. NCJJ is a private, non-profit organization dedicated to improving the quality of justice for children and families. This mission is pursued by conducting research and providing objective, factual information that is utilized to increase the juvenile and family justice systems' effectiveness. NCJJ is the Research Division of the National Council of Juvenile and Family Court Judges, but has its own charter and policy board and is responsible for raising its own operational support. The Center concentrates its efforts in three areas of research: applied research, legal research, and systems research.

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