

Fall 2014

Breaking Free of the Prison Paradigm: Integrating Restorative Justice Techniques Into Chicago's Juvenile Justice System

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Recommended Citation

Judy C. Tsui, *Breaking Free of the Prison Paradigm: Integrating Restorative Justice Techniques Into Chicago's Juvenile Justice System*, 104 J. CRIM. L. & CRIMINOLOGY 635 (2014).
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BREAKING FREE OF THE PRISON PARADIGM: INTEGRATING RESTORATIVE JUSTICE TECHNIQUES INTO CHICAGO’S JUVENILE JUSTICE SYSTEM

Judy C. Tsui*

TABLE OF CONTENTS

INTRODUCTION.....	636
I. WHAT IS RESTORATIVE JUSTICE?	638
II. RESTORATIVE JUSTICE AS AN EFFECTIVE ALTERNATIVE TO INCARCERATION.....	641
A. Restored Offenders Are Less Likely to Recidivate.....	641
B. Restorative Programming May Be More Cost-Efficient.....	643
C. Juveniles Are More Likely to Be Restored	644
D. Includes Otherwise Absent Victim Input	646
III. THE HISTORY AND CURRENT STRUCTURE OF THE JUVENILE JUSTICE SYSTEM IN CHICAGO	648
IV. POSSIBLE BARRIERS IN FURTHER IMPLEMENTING RESTORATIVE JUSTICE TECHNIQUES.....	653
A. Lack of Community Cohesion	653
B. Perception of Restorative Justice as “Soft”	654
C. Pressure on Policymakers to be Tough on Crime.....	655
D. Chicago’s Lack of Knowledge and Exposure to Restorative Justice.....	657
E. Shortage of Resources	659
V. POTENTIAL SOLUTIONS	660
CONCLUSION.....	665

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INTRODUCTION

In June of 1991, eighteen-year-old college freshman Carin Streufert was visiting her hometown of Grand Rapids, Minnesota, for her summer vacation.¹ After a trip to a local pancake house with friends, Streufert departed on foot at approximately 2:45 a.m. to walk home alone.² Sometime in the course of her travels, Streufert was abducted, raped, and murdered,³ leaving behind her grief-stricken parents, Don and Mary Streufert.⁴

Although Carin Streufert's killers were eventually convicted and sentenced to life in prison for their brutal crime, her parents felt compelled to search beyond the traditional models of punishment to facilitate their own healing.⁵ Rather than settling for retribution, the Streuferts focused on forgiveness and turned toward restorative justice practices and principles as a means toward that end.⁶ The Streuferts founded an organization to address and reduce violence, began holding forgiveness workshops with other victims of crime, and even visited their daughter's murderers in prison.⁷ Through this process, the family found a way to prevent anger from controlling their future, despite knowing that forgiveness could never change their past.⁸

The Streuferts say they have forgiven their daughter's killers, but they still believe that the two men responsible for their daughter's death should remain in prison.⁹ In similar cases involving extremely violent crimes, society may lean toward incarceration as a means to incapacitate the offenders and prevent future offenses.¹⁰ Despite this apparent need to

¹ *Minnesota v. Sullivan*, 502 N.W.2d 200, 201 (Minn. 1993); Robert Franklin, *Terrorism Recalls Pain for Murder Victim's Family*, STAR TRIB. (Sept. 15, 2001, 11:00 PM), <http://goo.gl/AdTFVE>.

² *Sullivan*, 502 N.W.2d at 201.

³ *Id.*

⁴ Franklin, *supra* note 1.

⁵ *See id.* For more on the Streuferts' healing process, see GLIMMER OF HOPE (National Film Board of Canada 1997). The Streuferts' visits with their daughter's killers became the focus of this restorative justice video on allowing victims and perpetrators to come together to understand the repercussions of the crime.

⁶ *See* Franklin, *supra* note 1.

⁷ *Id.*

⁸ Mary Streufert has stated that she has forgiven her daughter's killers: "I'm not going to let what they did sap my energy or ruin my life . . . [but] I still think about my daughter all the time." *See* Franklin, *supra* note 1.

⁹ *See id.* ("I do not wish vengeance on them, [but] I don't want them out of prison right now." (quoting Mrs. Streufert)).

¹⁰ *See* Thomas Mathiesen, *Selective Incapacitation Revisited*, 22 LAW & HUM. BEHAV. 455, 455-56 (1998) ("The concept [of incapacitation] implies that the offender's 'capacity'

imprison the most violent or chronic offenders, detention centers and correctional facilities have questionable appropriateness and effectiveness within the juvenile justice system.¹¹

While restorative justice operated in the Streuferts' case primarily as a healing mechanism for the victim's family, there are other cases in which restorative justice programs have managed to serve an additional role.¹² One of these roles is as an alternative to traditional justice structures like incarceration, particularly for juvenile offenders.

This Comment will argue that the traditional methods of punishment—in particular, detention—often fail to sufficiently address the problems presented by crimes in which the offender is a juvenile. The shortcomings of utilizing detention as the primary method of dealing with juvenile crime create a void in effective response mechanisms, which this Comment argues can be filled by further integrating restorative justice practices and principles into the juvenile justice system. Focusing on the City of Chicago, this Comment examines the present state of the juvenile criminal justice system and identifies possible barriers and solutions to integrating restorative justice practices in a system focused primarily on detention. In doing so, this Comment refers frequently to guidance provided by practitioners of restorative justice from Minnesota, a state is seen by many restorative justice proponents as a model for integrating restorative techniques.¹³

to commit new crimes is to be concretely obstructed or reduced through some sort of confinement.”).

¹¹ See generally ILL. JUVENILE JUSTICE COMM'N, ILLINOIS JUVENILE JUSTICE COMMISSION YOUTH REENTRY IMPROVEMENT REPORT (2011) (reporting on the state of juvenile justice in Illinois).

¹² See Telephone Interview with Nate Kesti, Restorative Justice Program Coordinator, Men as Peacemakers (Oct. 25, 2012) [hereinafter Interview with Kesti].

¹³ See generally Kay Pranis, *The Minnesota Restorative Justice Initiative: A Model Experience*, CRIME VICTIMS REP., May/June 1997, available at <http://goo.gl/gS6LxN>. Minnesota's prevalent restorative justice programs and services can be attributed at least partially to the Restorative Justice Initiative run by the Minnesota Department of Corrections. *Id.* In the early 1990s, following a restorative justice conference organized by community groups and a nonprofit criminal justice agency, the Minnesota Department of Corrections established a committee to explore criminal justice concepts and report its findings to the Commissioner. *Id.* In 1992, a statewide conference on restorative justice was held, and in 1994, the Minnesota Department of Corrections created a full-time job with the title Restorative Justice Planner. *Id.* The Restorative Justice Planner was tasked with examining the myriad ways in which restorative justice techniques could be used in “corrections, courts, law enforcement, education, and communities.” *Id.* Since then, numerous Minnesota communities and institutions have begun using restorative techniques, including schools, police departments, and prisons. *Id.*

I. WHAT IS RESTORATIVE JUSTICE?

Restorative justice is a broad label that encompasses a plethora of different models, roughly bound together by the belief that the traditional American criminal justice system ignores a key step in “rebuild[ing] a sense of justice” because of its somewhat myopic focus on punishing offenders.¹⁴ In contrast, restorative justice techniques generally aim to focus on relationships and to relocate the sphere of power to “their rightful owners”—“offenders, victims, and their respective communities.”¹⁵ Although punishment may play a part in restorative justice techniques, the central focus remains on relationships between the affected parties, and healing reached through a deliberative process guided by those affected parties.¹⁶

The “deliberative process” may take many forms depending upon the nature of the infraction to be addressed and the specific parties involved.¹⁷ The three methods established as “hallmarks of restorative justice” include: victim–offender mediation,¹⁸ family or community group conferencing,¹⁹ and peacemaking or sentencing circles.²⁰

The first method, victim–offender mediation, is a practice that allows a victim to voluntarily face the offender in a secure space with a trained mediator.²¹ Although the primary actors needed for victim–offender mediation are the victim and offender, there may be cases where the two parties are joined by family members or other individuals whom either party wishes to include.²² In mediation, the offender is given a chance to better understand the effects of his crime and to attempt to make amends with the victim.²³ The mediation also allows both parties to “develop a plan

¹⁴ See Michael Wenzel et al., *Retributive and Restorative Justice*, 32 LAW & HUM. BEHAV. 375, 375–76 (2008) (explaining that restorative justice models initially emerged as a challenge to the criminal justice system’s reliance on the belief that retribution is necessary or sufficient to restore justice).

¹⁵ *Id.* at 376 (citation omitted).

¹⁶ *Id.*

¹⁷ See Telephone Interview with Frank Jewell, Former Exec. Dir., Men as Peacemakers (Oct. 24, 2012) [hereinafter Interview with Jewell].

¹⁸ See CTR. FOR JUSTICE & RECONCILIATION, PRISON FELLOWSHIP INT’L, WHAT IS RESTORATIVE JUSTICE? 1 (2008).

¹⁹ See MARK S. UMBREIT, OFFICE FOR VICTIMS OF CRIME, U.S. DEP’T OF JUSTICE, NCJ 176347, FAMILY GROUP CONFERENCING: IMPLICATIONS FOR CRIME VICTIMS 1–2 (2000).

²⁰ See KAY PRANIS ET AL., PEACEMAKING CIRCLES: FROM CRIME TO COMMUNITY (2003); see also CTR. FOR JUSTICE & RECONCILIATION, *supra* note 18, at 2.

²¹ CTR. FOR JUSTICE & RECONCILIATION, *supra* note 18, at 1.

²² See *id.* at 1–2.

²³ *Id.*

that addresses the harm.”²⁴ These mediations are fairly widely used, with over 300 such programs in North America and “over 500 in Europe.”²⁵

The second method, group conferencing originated in New Zealand and brings together the victim and the offender, as well as the friends, family, and other “key supporters” of both parties.²⁶ A group conference is similar to the victim mediation method in that it allows victims to voluntarily participate in shaping the response to the crime and allows offenders to better understand the crime’s impact while simultaneously offering offenders the opportunity to take responsibility for their actions.²⁷ Another function of the group conferencing method not present in the victim–offender mediation model is to allow both parties to connect with key community support.²⁸ Frank Jewell, St. Louis County commissioner and former executive director of Men as Peacemakers (MAP),²⁹ has elaborated by explaining that “family group conferencing is a conference style in which there is a set agenda, people come in and sit on opposite sides of a table, [and] you go very carefully through every piece in exactly the same way every time.”³⁰ Each conference is led by a trained facilitator and “typically begins with the offender describing the incident, followed by each participant describing the impact of the incident on his or her life.”³¹

The third and final method of restorative justice involves peacemaking or sentencing circles, also known as restorative circles. This method is based upon the circle approach, a method originally used in aboriginal cultures to create safe spaces for dialogue before it was eventually

²⁴ *Id.* Restitution plans are tailored to fit the needs of each victim. See MARK S. UMBREIT & JEAN GREENWOOD, OFFICE FOR VICTIMS OF CRIME, U.S. DEP’T OF JUSTICE, NCJ 176346, GUIDELINES FOR VICTIM-SENSITIVE VICTIM-OFFENDER MEDIATION: RESTORATIVE JUSTICE THROUGH DIALOGUE 12 (2000). Restitution may take the form of the offender paying monetary compensation for damages, writing a letter of apology, or performing community service, among other tasks. See *id.* at 11.

²⁵ CTR. FOR JUSTICE & RECONCILIATION, *supra* note 18, at 1.

²⁶ See UMBREIT, *supra* note 19, at 2–3.

²⁷ *Id.*

²⁸ *Id.* at 5.

²⁹ Men as Peacemakers (MAP) is a Duluth-based nonprofit organization that offers many services to the community, including a number of restorative justice programs for juveniles and adults. See *Organizational History*, MEN AS PEACEMAKERS (June 19, 2013), <http://goo.gl/Peya7l>. As of June 2014, MAP has eight employees, and offers programs ranging from Boys Groups—an elementary school-based program for fourth and fifth grade boys, designed to “broaden their understanding of masculinity” and to groom them as future “leaders in preventing violence and oppression”—to holding restorative justice circles to address the harms caused by crime and violence. See *Boys Groups*, MEN AS PEACEMAKERS, <http://goo.gl/T5m8bG> (last visited June 3, 2014); *Restorative Justice*, MEN AS PEACEMAKERS, <http://goo.gl/hZzo8L> (last visited June 3, 2014).

³⁰ See Interview with Jewell, *supra* note 17.

³¹ UMBREIT, *supra* note 19, at 2.

integrated into criminal justice structures as an alternative method of sentencing in Canadian courts.³² Circles can be used for a variety of different ends, including sentencing, addressing internal conflicts in juvenile facilities, and aiding a juvenile's transition and integration upon leaving a facility to reenter society.³³ When used in a sentencing capacity, the goal of circles is to reach consensus between the victim, the offender, their respective supporters, and the community—judges, police officers, and so on—on an acceptable sentence for the crime committed.³⁴ More generally, the goal of circles is to “build[] a sense of community around shared community values” and to address “underlying causes of criminal” behavior.³⁵

Jewell has explained that his organization utilizes the “restorative circle process” as opposed to a “family group conferencing style.”³⁶ Although family group conferences allow the victim and offender to invite “key members of their support systems” into the conversation,³⁷ Jewell said he feels that the circle approach may be more advantageous because it facilitates a higher degree of community involvement.³⁸

Although the three main restorative methods may be distinguished from one another in terms of the parties involved or the exact processes used, their end goals—including empowering victims and providing support to offenders so that they can understand the effects of their own actions—are similar and overlap frequently.³⁹

³² See PRANIS ET AL., *supra* note 20, at xiii, 21.

³³ *Id.* at 21–22.

³⁴ See CTR. FOR JUSTICE & RECONCILIATION, *supra* note 18, at 2.

³⁵ *Id.*

³⁶ Interview with Jewell, *supra* note 17.

³⁷ UMBREIT, *supra* note 19, at 2 (“[T]he facilitator also asks [the victim and offender] to identify key members of their support systems who will be invited to participate as well.”).

³⁸ Unlike victim–offender mediation and group conferencing, restorative circles often involve participation from volunteer community members who are not directly connected to the victim or offenders but can speak more broadly about how a particular crime may have affected the community at large. Interview with Jewell, *supra* note 17; see also PRANIS ET AL., *supra* note 20, at 27–29 (explaining the role of the community and stating that circles are “inclusive” and “primarily reliant on the community”).

³⁹ See discussion *supra* notes 18–20 and accompanying text.

II. RESTORATIVE JUSTICE AS AN EFFECTIVE ALTERNATIVE TO INCARCERATION

The United States has the highest rate of incarceration in the world,⁴⁰ but several factors indicate that this response is ineffective—particularly with respect to juveniles. Some of the primary criticisms of juvenile incarceration include: its inability to effectively address recidivism, its high cost, its failure to account for the decreased juvenile culpability, and its focus on the offenders rather than the victims of crime. In this Part, I explore the rationale behind each of these criticisms.

A. RESTORED OFFENDERS ARE LESS LIKELY TO RECIDIVATE

The first major criticism of incarceration as a response to juvenile crime is its inability to effectively deter youth from reoffending.⁴¹ In Illinois specifically, reports have shown that over half of the juveniles leaving Department of Juvenile Justice facilities are reincarcerated either in juvenile or adult facilities.⁴² More generally, the Department of Justice has stated that almost two-thirds of released prisoners recidivate within three years of being reintroduced into society, a fact that further calls into question the specific deterrent effect of detention.⁴³

While detention may not have the desired deterrent effect, evidence suggests that restorative justice techniques tend to decrease instances of reoffending at a higher rate than court processes.⁴⁴ In particular, studies have shown that low-level juvenile offenders are less likely to reoffend if, rather than being incarcerated, they are allowed to remain within their communities and are given access to community-based programs.⁴⁵

⁴⁰ In 2008, the United States had 2.3 million people in its prisons, almost a fourth of all prisoners worldwide. See Adam Liptak, *Inmate Count in U.S. Dwarfs Other Nations': Tough Laws and Long Terms Create Gap*, N.Y. TIMES, Apr. 23, 2008, at A1.

⁴¹ See ILL. JUVENILE JUSTICE COMM'N, *supra* note 11, at 9.

⁴² *Id.*

⁴³ See BLAS NUÑEZ-NETO, CONG. RESEARCH SERV., RL34287, OFFENDER REENTRY: CORRECTIONAL STATISTICS, REINTEGRATION INTO THE COMMUNITY, AND RECIDIVISM 1 (2008).

⁴⁴ Wenzel et al., *supra* note 14, at 377; see also Nancy Rodriguez, *Restorative Justice at Work: Examining the Impact of Restorative Justice Resolutions on Juvenile Recidivism*, 53 CRIME & DELINQ. 355, 371 (2007) (“When comparing juveniles in a restorative justice program with juveniles in a comparison group, multivariate analysis shows that after 24 months of successfully completing diversion, juveniles in the restorative justice program had slightly lower rates of recidivism.”). Note, however, that effectiveness may vary depending on a multitude of factors, including gender and a previous criminal record. Rodriguez, *supra*, at 371.

⁴⁵ See Elizabeth E. Clarke, *Realigning Illinois Fiscal Priorities in Juvenile Justice*, 98 ILL. B.J. 608, 608–09 (2010); see also *2011 Redeploy Illinois Fact Sheet*, ILL. DEP'T OF HUMAN SERVS., <http://goo.gl/wtaCMf> (last visited June 3, 2014) (“[N]on-violent youth are

According to Nate Kesti, restorative justice program coordinator at MAP, youth who complete MAP restorative justice programs do not recidivate at the same rate as their counterparts who face detention in juvenile facilities.⁴⁶ Kesti stated that the normal recidivism rate three to six months after being released from traditional juvenile justice programs is around 30% to 40%, while statistics gathered by MAP on two of their programs indicated that only one in fifty of the juveniles who completed these programs had recidivated at the six-month mark.⁴⁷

Although decreased recidivism is one important argument for restorative justice, it should be noted that complicating factors make it nearly impossible to accurately predict whether widespread implementation of restorative justice techniques would necessarily result in a corresponding widespread decline in reoffending.⁴⁸ One complicating factor is the issue of self-selection, wherein offenders who voluntarily choose to complete restorative justice programs as alternatives, or in addition to, court processes have natural qualities that make them less likely to reoffend.⁴⁹ Also, youth who end up in restorative justice programs as alternatives to detention are frequently given the opportunity to do so because probation officers or judges specifically identified them as possessing personality traits conducive to alternative techniques.⁵⁰ Another problem arises in the area of reporting errors.⁵¹ Regardless of which definition of recidivism is used, compiling accurate statistics requires researchers to track individuals for a number of years, which is particularly hard to do when releasees cross state lines.⁵²

Kesti also warned against looking solely at recidivism rates, explaining that many in the restorative justice field feel that “recidivism” as defined by the state is too narrow a criterion to be given much weight.⁵³ Instead of

less likely to become further involved in delinquent or criminal behavior if they remain in their home communities and if appropriate services are available that address underlying needs . . .”).

⁴⁶ Interview with Kesti, *supra* note 12.

⁴⁷ This claim is supported by MAP statistics. MAP collected statistics based on recidivism rates for its Restorative Initiative Supporting Kids (RISK) program and its Shoplifting and Theft Offender Prevention Program (STOPP), recorded from October 1, 2009 to June 30, 2010. *See id.*

⁴⁸ *See* Wenzel et al., *supra* note 14, at 377.

⁴⁹ *Id.*

⁵⁰ Interview with Kesti, *supra* note 12.

⁵¹ *See* NUÑEZ-NETO, *supra* note 43, at 10.

⁵² *Id.*

⁵³ Official definitions of “recidivism” differ by state, but many states employ definitions of “recidivism” that do not include specific kinds of offenses that occur after the original violation. For example, some states decline to label subsequent offenses as “recidivism” if they are lesser offenses than the original infraction. Additionally, other states do not count

being guided by limiting constructions of what “recidivism” means, Kesti suggested that restorative justice advocates aim for a more holistic approach to defining recidivism, which seeks to eliminate reoffending at any level, even if such future offenses may not constitute “recidivism” in the eyes of the state.⁵⁴

Furthermore, Kesti argued that restorative justice focuses on contextualizing the crime for the offenders to help them better understand the consequences of their actions.⁵⁵ In fact, of the 223 juveniles referred to MAP in 2012 for restorative programs, 85% of them reported that after completing their program, they were able to “articulate the harm they caused the community and knew how to make amends.”⁵⁶ In comparing that number to the statistics compiled prior to the juveniles’ completion of the program, where only about 25% of the same juveniles were able to articulate how their crimes and subsequent punishment affected others, Kesti noted that these numbers suggest that restorative justice could be an effective tool in teaching juveniles about the consequences of their actions.⁵⁷

B. RESTORATIVE PROGRAMMING MAY BE MORE COST-EFFICIENT

The high cost of juvenile detention centers is a second shortcoming of the traditional model of justice that may be circumvented using restorative justice techniques. In 2010, the Auditor General of the State of Illinois stated that the average cost of keeping a juvenile incarcerated for one year was \$86,861.⁵⁸ Within the city of Chicago, the cost was even greater, averaging \$115,831 annually per resident.⁵⁹ In the aggregate, the money spent incarcerating juveniles in Illinois is staggering—over \$100 million per year.⁶⁰ Although Illinois continues to pump massive amounts of revenue into juvenile detention centers, research suggests that the more efficient path would be to flip the system on its head and invest far more of

the parolees’ actions as recidivism if the individuals commit their new crimes in different states from the original offenses. *See id.*; *see also* ALLEN R. BECK, *RECIDIVISM: A FRUIT SALAD CONCEPT IN THE CRIMINAL JUSTICE WORLD 1* (2001).

⁵⁴ Interview with Kesti, *supra* note 12.

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ STATE OF ILL. DEP’T OF JUVENILE JUSTICE, *COMPLIANCE EXAMINATION: FOR THE TWO YEARS ENDED JUNE 30, 2010*, at 86 (2011).

⁵⁹ *Id.*

⁶⁰ *See* Clarke, *supra* note 45, at 608 (“Illinois . . . spend[s] over \$100 million annually to incarcerate youth in state prisons . . .”).

the state's resources in alternative programming.⁶¹ Indeed, a 2005 study focused on Ohio compared the costs between community programs and incarceration found that the costs of the former were much lower.⁶²

C. JUVENILES ARE MORE LIKELY TO BE RESTORED

A third criticism of harsh punishments, such as incarceration, for juvenile crimes is that blanket incarceration fails to address key differences between adults and juveniles.⁶³ Recent Supreme Court jurisprudence mirrors this criticism and recognizes the need to distinguish adult offenders from juvenile offenders for sentencing purposes. In *Roper v. Simmons*, the Supreme Court held capital punishment of minors unconstitutional.⁶⁴ Justice Anthony Kennedy's majority opinion cited to an earlier Supreme Court case,⁶⁵ in which the plurality opinion explained that "[t]he reasons why juveniles are not trusted with the privileges and responsibilities of an adult also explain why their irresponsible conduct is not as morally reprehensible as that of an adult."⁶⁶ Relying on this argument, the *Roper* Court found that because juveniles have "diminished culpability" for their crimes as compared to their adult counterparts, "it is evident that the penological justifications for the death penalty apply to them with lesser force than to adults."⁶⁷

Following this line of reasoning, the Court went on to rule in *Graham v. Florida* that life imprisonment without the possibility of parole is

⁶¹ *Id.* ("Research suggests our state would be better to flip the funding, and invest twice as much in community programming as in confinement.")

⁶² CHRISTOPHER T. LOWENKAMP & EDWARD J. LATESSA, EVALUATION OF OHIO'S RECLAIM FUNDED PROGRAMS, COMMUNITY CORRECTIONAL FACILITIES, AND DYS FACILITIES: COST-BENEFIT ANALYSIS SUPPLEMENTAL REPORT 21–22 (2005).

⁶³ See Brief of Council of Juvenile Correctional Administrators et al. as Amici Curiae in Support of Petitioners at 4, *Graham v. Florida*, 130 S. Ct. 2011 (2010) (No. 08-7412) (stating that children have distinctly different needs than their adult counterparts with respect to correctional facilities). It is not clear that incarceration is the best or only option for adult offenders either. Many restorative justice advocates have argued that restorative techniques are applicable to adults as well. See, e.g., TONY F. MARSHALL, HOME OFFICE RESEARCH DEV. & STATISTICS DIRECTORATE, RESTORATIVE JUSTICE: AN OVERVIEW 25 (1999) (stating that there is "little basis" for the view that restorative approaches are less appropriate for adults); Leena Kurki, *Restorative and Community Justice in the United States*, 27 CRIME & JUST. 235, 271 (2000) ("The results [of victim-offender mediation programs] are similar . . . in juvenile and adult programs . . .").

⁶⁴ 543 U.S. 551, 578–79 (2005).

⁶⁵ See *Thompson v. Oklahoma*, 487 U.S. 815, 835 (1988); see also *Roper*, 543 U.S. at 553.

⁶⁶ *Thompson*, 487 U.S. at 835.

⁶⁷ *Roper*, 543 U.S. at 571.

unconstitutional as applied to minors convicted of nonhomicide crimes.⁶⁸ According to an amici brief filed in *Graham v. Florida*⁶⁹ by the Council of Juvenile Correctional Administrators, the National Association for Juvenile Correctional Agencies, and others, the justice system must be cognizant of the “unique potential for rehabilitation” among juveniles as compared to their adult counterparts.⁷⁰ As they argued, there is a scientific basis for distinguishing adult offenders from juvenile offenders:

Medical science confirms both the need for categorical distinctions in the treatment of juvenile vs. adult offenders and the importance of addressing the developmental needs of juvenile offenders within both adult and juvenile corrections. Studies conclusively establish that the brain of an adolescent is not fully developed, particularly in the area of the prefrontal cortex, which is critical to higher order cognitive functioning and impulse control. When a juvenile is confined either to the juvenile or adult corrections system, regardless of sentence, the institution is responsible for addressing those neurobiological-based deficiencies by providing the tools for that juvenile’s positive maturation into adulthood. It is therefore incongruous to impose a sentence that fails to acknowledge any such development.⁷¹

Although the Court in this case did not address the issue of restorative justice alternatives, the brief clearly recognized that juveniles have different developmental needs than adults and have an enhanced ability to be rehabilitated.⁷² Writing for the majority in *Graham*, Justice Kennedy largely agreed with the points made in the above-mentioned brief and wrote, “It remains true that from a moral standpoint it would be misguided to equate the failings of a minor with those of an adult, for a greater possibility exists that a minor’s character deficiencies will be reformed.”⁷³ In addition, Justice Kennedy indicated that juvenile nonhomicide offenders have “limited moral culpability.”⁷⁴

Taking *Graham* one step further, the Supreme Court ruled in *Miller v. Alabama* that mandatory life sentences without parole are unconstitutional if applied to juveniles convicted of homicide.⁷⁵ Justice Elena Kagan’s majority opinion referred back to the language in *Graham* indicating the

⁶⁸ 130 S. Ct. 2011, 2030 (2010); see also Adam Liptak & Ethan Bronner, *Mandatory Life Terms Barred for Juveniles in Murder Cases*, N.Y. TIMES, June 26, 2012, at A1.

⁶⁹ Terrance Jamar Graham appealed the trial court’s sentence of life imprisonment (without possibility of parole—because Florida has no parole system) when his sentence was the result of a probation violation, the commission of a second crime. See *Graham*, 130 S. Ct. at 2018–20.

⁷⁰ See Brief of Council of Juvenile Correctional Administrators et al. as Amici Curiae in Support of Petitioners, *supra* note 63, at 3.

⁷¹ *Id.* at 7–8.

⁷² *Id.* at 16–20.

⁷³ See *Graham*, 130 S. Ct. at 2026 (internal quotation marks and citations omitted).

⁷⁴ *Id.* at 2030.

⁷⁵ 132 S. Ct. 2455, 2460 (2012); see also Liptak & Bronner, *supra* note 68.

“lessened culpability” and increased “capacity for change” in juveniles⁷⁶ and opined that “[m]andatory life without parole for a juvenile precludes consideration of his chronological age and its hallmark features—among them, immaturity, impetuosity, and failure to appreciate risks and consequences.”⁷⁷

D. INCLUDES OTHERWISE ABSENT VICTIM INPUT

A final criticism of the traditional juvenile criminal system is that it focuses too much energy on the alleged criminal rather than considering the victims’ needs.⁷⁸ In fact, according to Jewell, the victims are often completely forgotten in the aftermath of a crime.⁷⁹ He stated that when he reached out to victims in hopes of having them attend a circle, victims were “always surprised and interested [because] . . . it is one of the only times anyone calls victims.”⁸⁰

One study, which gauged the effectiveness of victim–offender mediation groups in particular, showed that victims are far more likely to benefit from mediation than a normal court process.⁸¹ Not only were victims less afraid of being victimized after speaking with the offenders,⁸² but they also reported higher levels of satisfaction with the way the aftermath of crime was handled or the conflict was resolved than similarly situated victims who went through the normal court process.⁸³ Participants involved in the mediation process expressed a greater feeling of agency and a belief that the mediation process considers victims’ needs.⁸⁴ As one victim put it, “I was allowed to participate and I felt I was able to make

⁷⁶ See *Miller*, 132 S. Ct. at 2460 (quoting *Graham*, 130 S. Ct. at 2026–27).

⁷⁷ *Id.* at 2468; see also Liptak & Bronner, *supra* note 68.

⁷⁸ See Gordon Bazemore, *Restorative Justice and Earned Redemption: Communities, Victims, and Offender Reintegration*, 41 AM. BEHAV. SCIENTIST 768, 770 (1998) (“[V]ictims have been neglected as clients of criminal justice systems”); see also Paul Cassell, *Why Crime Victims Need Their Own Voice in the Criminal Justice Process*, WASH. POST (Jan. 27, 2014, 8:27 AM), <http://goo.gl/etLSBY> (stating that “crime victims have their own independent concerns in the process that ought to be recognized,” and that our system is seeing a “modest” shift in that direction from a purely “State v. Defendant” model).

⁷⁹ See Interview with Jewell, *supra* note 17.

⁸⁰ *Id.*

⁸¹ See Mark S. Umbreit, *Restorative Justice Through Victim-Offender Mediation: A Multi-site Assessment*, 1 W. CRIMINOLOGY REV. 1 (1998), available at <http://goo.gl/85ftRJ>.

⁸² *Id.* Through assessing victim–offender mediation sites in three cities, researchers saw that prior to mediation, 23% of juvenile crime victims feared being revictimized by the same offender. *Id.* Following mediation, only 10% of victims feared revictimization. *Id.*

⁸³ *Id.* Of the victims studied, 79% of the victims who participated in victim–offender mediation reported being satisfied with the process, compared to 57% of victims who were not able to attend mediation who reported satisfaction with their processes. *Id.* at tbl.6.

⁸⁴ *Id.*

decisions rather than the system making them for me.”⁸⁵ Another victim stated, “The mediation made me feel like I had something to do with what went on . . . that justice had been served.”⁸⁶

It is unsurprising that restorative programs may serve to address victims’ needs more effectively than traditional models, which focus on retribution and just deserts.⁸⁷ In the traditional model, the two main options are punishment or treatment, which creates a false dichotomy between helping the offender and hurting the offender.⁸⁸ This binary conception of the functions of the justice system removes the victim from the discussion and results in an “insular, closed-system focus on the offender.”⁸⁹ Within restorative justice models, on the other hand, restorative justice practitioners always seek and value voluntary victim participation.⁹⁰

This emphasis on victims is present even when victims themselves are not willing to actively participate in the process.⁹¹ In Jewell’s experience at MAP, although many victims choose not to be involved with restorative circles for various reasons, the process in which facilitators reach out “invites victims in and says [they] are important.”⁹² Jewell added that while not all victims participate, many are simply appreciative of the fact that they were contacted.⁹³ Other studies show that victims of certain types of crime are overwhelmingly open to victim–offender mediation.⁹⁴ In fact, one study revealed that even in cases where mediation is not offered as an option, victims expressed interest in meeting the juvenile offender if possible.⁹⁵ Furthermore, a statewide opinion poll conducted in Minnesota indicated that 82% of residents would consider meeting with a juvenile offender who had committed a hypothetical crime against them if the crime committed was a nonviolent property crime.⁹⁶ For these reasons, restorative justice may be able to include victim input in ways that the traditional justice system has failed to do.

⁸⁵ *Id.* (internal quotation marks omitted).

⁸⁶ *Id.* (internal quotation marks omitted).

⁸⁷ Bazemore, *supra* note 78, at 768–69.

⁸⁸ *Id.* at 769.

⁸⁹ *Id.*

⁹⁰ See Wenzel et. al, *supra* note 14, at 375–76.

⁹¹ See Interview with Jewell, *supra* note 17.

⁹² *Id.*

⁹³ *Id.*

⁹⁴ A study of the largest victim–offender mediation program in North America revealed that “75 percent of victims of minor property and personal offenses were interested in participating in the mediation process.” See Umbreit, *supra* note 81 (citation omitted).

⁹⁵ *Id.*

⁹⁶ *Id.*

While restorative justice practices can offer many advantages as compared to traditional modes of criminal justice, the City of Chicago relies primarily upon the latter. The next Part describes the current state of the juvenile justice system in Chicago, which in many ways is ripe for more restorative techniques to be implemented.

III. THE HISTORY AND CURRENT STRUCTURE OF THE JUVENILE JUSTICE SYSTEM IN CHICAGO

In 1899, Illinois established the first juvenile court in the United States.⁹⁷ At the time, the justification for creating the court was to ensure child welfare, and the court focused on providing minors with treatment and rehabilitation.⁹⁸ In these beginning years, the juvenile court was markedly different from adult criminal courts both in terms of substance and procedure.⁹⁹ Bypassing many of the formalistic procedures required in adult criminal courts, juvenile courts were able to control their own intake, consider extralegal factors in handling cases, and forgo judicial action if less formal means seemed appropriate.¹⁰⁰ Although this flexibility was seen as beneficial for the youth, the courts were not required to uphold the same due process standards applicable in regular criminal systems.¹⁰¹ This informal approach began to crumble in the 1960s with Supreme Court decisions requiring juvenile courts to conduct formal hearings and to elevate due process protections for defendants.¹⁰² The original rehabilitative approach then also lost its appeal, as the pendulum swung in favor of a tough justice approach to juvenile delinquency.¹⁰³

With the passage of the Illinois Juvenile Justice Reform Provisions of 1998,¹⁰⁴ Illinois seemed to strike a balance between the rehabilitative and

⁹⁷ See An Act to Regulate the Treatment and Control of Dependent, Neglected and Delinquent Children, 1899 Ill. Laws 131–37 (current version at 705 ILL. COMP. STAT. 405/1-2 (1998)); see also HOWARD N. SNYDER & MELISSA SICKMUND, OFFICE OF JUVENILE JUSTICE & DELINQUENCY PREVENTION, U.S. DEP'T OF JUSTICE, NCJ 178257, JUVENILE OFFENDERS AND VICTIMS: 1999 NATIONAL REPORT 86.

⁹⁸ See SNYDER & SICKMUND, *supra* note 97, at 86.

⁹⁹ *Id.*

¹⁰⁰ *Id.*

¹⁰¹ *Id.* at 90.

¹⁰² *Id.* at 87; see also *Kent v. United States*, 383 U.S. 541 (1966) (holding that juvenile trials must meet the standards of due process and fair treatment).

¹⁰³ See Phillip Stevenson, *The Juvenile Justice Reform Act*, ILL. CRIM. JUST. INFO. AUTH., June 1999, at 1, 1.

¹⁰⁴ Illinois Juvenile Justice Reform Provisions of 1998, Pub. Act. No. 90-0590, Art. 2001, §§ 2001–15, 1998 Ill. Legis. Serv. 1245 (West) (codified as amended at 705 ILL. COMP. STAT. 405/5-101 (2000)).

punitive approaches.¹⁰⁵ This Act incorporated the Balanced and Restorative Justice (BARJ)¹⁰⁶ model in its purpose and policy statement.¹⁰⁷ The Act attempts to balance three broad concepts in juvenile justice:

- 1) hold each offender accountable for his or her conduct, 2) have a mechanism in place that allows juvenile justice professionals to intervene early in an offender's "career," and 3) increase the participation of the community in the juvenile justice process, including the offender's victims.¹⁰⁸

These principles incorporate the most important components of both the rehabilitative and punitive models of justice.¹⁰⁹ Concretely, this means that Illinois, while still relying on detention as a primary means of dealing with delinquent youth, made some significant strides in developing alternative options to strict incarceration.¹¹⁰ In fact, Illinois has been cited as a "model state" in terms of its ability to shift resources towards programs and policies most effective in deterring juvenile crime—specifically those community-based programs existing outside of the traditional juvenile justice system.¹¹¹

Court diversion through the Cook County State's Attorney's Office offers one example of how the BARJ example is utilized.¹¹² There, first-time or nonviolent offenders are not adjudicated but instead are placed in community-based restorative justice programs.¹¹³ Additionally, according to Christine Agaiby, campaign director of the Center on Wrongful Convictions of Youth and adjunct professor of Restorative Justice at Northwestern University School of Law, when juvenile offenders are brought to court in Cook County, judges have the discretion to incorporate

¹⁰⁵ See Stevenson, *supra* note 103, at 1.

¹⁰⁶ Originating in 1993, the BARJ model began as a national initiative led by the Office of Juvenile Justice and Delinquency Prevention (OJJDP). See KAY PRANIS ET AL., OFFICE OF JUVENILE JUSTICE & DELINQUENCY PREVENTION, U.S. DEP'T OF JUSTICE, GUIDE FOR IMPLEMENTING THE BALANCED AND RESTORATIVE JUSTICE MODEL, at xi (1998).

¹⁰⁷ See 705 ILL. COMP. STAT. 405/5-101; see also Stevenson, *supra* note 103, at 1.

¹⁰⁸ Stevenson, *supra* note 103, at 1.

¹⁰⁹ *Id.*

¹¹⁰ See Clarke, *supra* note 45, at 608.

¹¹¹ *Id.*

¹¹² See Cook County is a major metropolitan area located in the State of Illinois that contains the City of Chicago and many surrounding suburbs. See *Cook County Municipal Boundaries Map*, DEP'T OF GEOGRAPHIC INFO. SYS., COOK CNTY. GOV'T (May 9, 2013), <http://goo.gl/zy6q6C>.

¹¹³ See *Juvenile Justice Bureau—Balanced and Restorative Justice (BARJ)*, COOK CNTY. STATE'S ATT'Y OFFICE, <http://goo.gl/huSwHA> (last visited June 3, 2014). In 2011, felony charges were dismissed for thirty-two adult offenders who completed the deferred prosecution program. See *Charges Dismissed for 32 Offenders in Alternative Program*, CBS CHI. (Dec. 14, 2011, 7:12 PM), <http://goo.gl/cN4CmX>. As of 2011, over 370 offenders had been accepted to the program. *Id.*

restorative solutions in sentencing.¹¹⁴ Judge Sophia Hall, a Cook County judge who has explored restorative justice principles, leads the citywide Restorative Justice Committee, which “focuses on the use of restorative justice practices to respond to youth in trouble.”¹¹⁵ The Restorative Justice Committee meetings are attended not only by representatives from the Cook County State’s Attorney’s Office but also by representatives from Chicago Public Schools, the Chicago Police Department, and other Chicago-based institutions.¹¹⁶

Another example of an alternative to incarceration currently used in the state is Redeploy Illinois, a program which provides fiscal incentives to those counties that work to provide a spectrum of different services to address issues faced by juvenile offenders. By addressing such issues as “mental illness, substance abuse, learning disabilities, [and] unstable living arrangement[s],” the program aims to decrease the number of youth incarcerated.¹¹⁷ Indeed, the program has reported a high degree of success in encouraging participating communities to divert youth from incarceration when possible.¹¹⁸

Yet another similar program is the Mental Health Juvenile Justice Initiative, which was created in 2000 by the Illinois Department of Human Services to identify youth within the state’s detention centers who suffer from severe mental illness.¹¹⁹ The Department of Human Services devoted \$2 million to the program, and it has expanded services to all Illinois counties that have juvenile detention centers so that mental health juvenile justice service liaisons can put together community-based programs for detained juveniles who have been diagnosed with “a major affective disorder or a psychotic disorder.”¹²⁰ Once officials determine that a youth

¹¹⁴ Interview with Christine Agaiby, Campaign Dir. of Center on Wrongful Convictions of Youth & Adjunct Professor of Restorative Justice, Northwestern University Sch. of Law, in Chi., Ill. (Apr. 7, 2014) [hereinafter Interview with Agaiby].

¹¹⁵ Sophia H. Hall, *Restorative Justice: Restoring the Peace*, CBA REC., Apr. 2007, at 30, 33.

¹¹⁶ *Id.*

¹¹⁷ See 2011 Redeploy Illinois Fact Sheet, *supra* note 45.

¹¹⁸ Data available regarding Redeploy Illinois’s first six years at test sites shows an average drop of 51% in commitments to the Illinois Department of Juvenile Justice. See *id.* More concretely, this means that over the course of those six years, the program diverted 882 juveniles. See *id.*

¹¹⁹ See KATHLEEN R. SKOWYRA & JOSEPH J. COCOZZA, NAT’L CTR. MENTAL HEALTH & JUVENILE JUSTICE, BLUEPRINT FOR CHANGE: A COMPREHENSIVE MODEL FOR THE IDENTIFICATION AND TREATMENT OF YOUTH WITH MENTAL HEALTH NEEDS IN CONTACT WITH THE JUVENILE JUSTICE SYSTEM 81 (2007), available at <http://goo.gl/IP2xpc>.

¹²⁰ *Id.*

is eligible for the program,¹²¹ the liaison begins constructing a “care plan,” which is specifically tailored for the youth on a case-by-case basis and utilizes other service providers in the community.¹²² After this care plan is established, the liaison then presents the plan to the court, where the judge can evaluate the plan and choose to release the juvenile back into the community to receive treatment.¹²³

A final example of restorative initiatives in Illinois is the Juvenile Detention Alternatives Initiative (JDAI), which was established in 1992 by the Annie E. Casey Foundation.¹²⁴ JDAI’s main goals are to: “(1) reduce reliance on secure confinement, (2) improve public safety, (3) [r]educ[e] racial disparities and bias, (4) save tax dollars, (5) [and] stimulate overall juvenile justice reforms”¹²⁵ In terms of “delivery method,” JDAI endeavors to meet these goals by “provid[ing] technical assistance and training to promote reform and data collection.”¹²⁶

Although such programs and initiatives may bring restorative justice theories and practices into the justice system, advocates of restorative justice must be cautious of their risks.¹²⁷ One such risk is failing to identify “window dressing”:

Perhaps the greatest risk is that of “window dressing,” in which criminal and juvenile justice systems redefine what they have always done with more professionally acceptable and humane language while not really changing their policies and procedures. A few pilot projects may be set up on the margins of the system, while the mainstream of business is entirely offender-driven and highly retributive with little victim involvement and services, and even less community involvement.¹²⁸

While it appears that some of the steps taken thus far in Illinois amount to more than mere “window dressing,”¹²⁹ the established programs

¹²¹ The program aims to provide aid to juveniles in detention centers who suffer from the most serious disorders, as opposed to milder conditions. *Id.* Also, the program tends to screen out youth who suffer from disruptive behavior disorders, unless such disorders are paired with an affective or psychotic disorder. *Id.*

¹²² *Id.*

¹²³ *Id.*

¹²⁴ RESEARCH & ANALYSIS UNIT, ILL. CRIMINAL JUSTICE INFO. AUTH., TRENDS AND ISSUES 2008: A PROFILE OF CRIMINAL AND JUVENILE JUSTICE IN ILLINOIS—1995–2005, at 127 (2008) [hereinafter PROFILE OF CRIMINAL AND JUVENILE JUSTICE IN ILLINOIS], available at <http://goo.gl/A7Inp4>; 2011 Juvenile Detention Alternatives Initiative (JDAI) Fact Sheet, ILL. DEP’T OF HUMAN SERVS., <http://goo.gl/7HWGGR> (last visited June 3, 2014).

¹²⁵ PROFILE OF CRIMINAL AND JUVENILE JUSTICE IN ILLINOIS, *supra* note 124, at 127.

¹²⁶ 2011 Juvenile Detention Alternatives Initiative (JDAI) Fact Sheet, *supra* note 124.

¹²⁷ See Umbreit, *supra* note 81.

¹²⁸ *Id.*

¹²⁹ Indeed, the steps taken by advocates within the Chicago court system, including the formation of committees like the Restorative Justice Committee, seem to have a concrete effect on Chicago’s criminal justice landscape. In particular, the Restorative Justice

are the exception, rather than the norm, and exist “on the margins of the system.”¹³⁰ Despite the clear benefits that these programs reap, they remain “offender-driven” and do not adequately address the needs of the victims.¹³¹

JDAI, for instance, focuses on training and presentations to push its agenda for decreased reliance on incarceration, but it does not seem to provide actual alternatives for offenders or victims.¹³² The Illinois Juvenile Justice Reform Provisions of 1998 also utilizes some restorative justice language by citing the BARJ model, but it does not go as far as to establish a real alternative to incarceration for juveniles in the system.¹³³

Also, some have questioned the way in which the BARJ method applies restorative principles to juvenile offenders’ treatment.¹³⁴ According to criminologist Paul McCold, the BARJ model is not a purely restorative instrument but instead improperly attempts to merge two different types of models—restorative and community justice—at the expense of truly restorative solutions.¹³⁵ In fact, McCold states that “BARJ has muddled the restorative justice paradigm, diluting and distorting it almost beyond recognition.”¹³⁶ Also, Agaiby warns that the BARJ model is effectively

Committee’s efforts have helped educate judges and officers in the justice system about restorative justice options. See Hall, *supra* note 115, at 33.

¹³⁰ One need only look at the allotment of funds in the State of Illinois to see which methods are more widely used and deeply entrenched. While Illinois spends over \$100 million per year to detain juvenile offenders, the money invested in restorative programs is much less. See Clarke, *supra* note 45, at 608; see also SKOWYRA & COCOZZA, *supra* note 119 (noting only a \$2 million investment in juvenile detainee mental health programs).

¹³¹ See, e.g., SKOWYRA & COCOZZA, *supra* note 119 (describing an offender-driven model of providing mental health services without ever addressing crime victims).

¹³² See PROFILE OF CRIMINAL AND JUVENILE JUSTICE IN ILLINOIS, *supra* note 124, at 127; 2011 Juvenile Detention Alternatives Initiative (JDAI) Fact Sheet, *supra* note 124.

¹³³ See Stevenson, *supra* note 103, at 1–2 (explaining that the Juvenile Justice Reform Act “incorporate[s] the most important components of both the rehabilitative and punitive models of justice,” and that under the Act, a minor between the ages of thirteen and sixteen may face an adult sentence if she has been found guilty in an extended jurisdiction juvenile proceeding and then violated the terms of her juvenile sentence).

¹³⁴ See Paul McCold, *Paradigm Muddle: The Threat to Restorative Justice Posed by Its Merger with Community Justice*, 7 CONTEMP. JUST. REV. 13, 18 (2004) (stating that it is damaging to conflate community justice and restorative justice because although the two models are similar in many ways, “they use different means to achieve justice, differ in their concept of empowerment, have different normative priorities, define the stakeholders differently and view ‘community’ in diametrically opposite ways”).

¹³⁵ See McCold, *supra* note 134, at 23–24.

¹³⁶ *Id.* at 14. For McCold, part of the problem with the BARJ model is that it attempts to intertwine community justice and restorative justice models, which have much in common but are ultimately distinguishable. According to McCold, the fundamental difference is how much the paradigms trust and rely upon the community. See *id.* at 20. Whereas in traditional restorative justice the focus is on relationships between the affected parties, BARJ (and other community justice models that rely more heavily on geography to determine

“defunct” in the Chicago area, and that no one is truly holding courts accountable for doing restorative justice-specific work.¹³⁷ According to Agaiby, Chicago is “stuck in community-only models of restorative justice,” meaning that there is no uniform system of implementation, and no one is setting objective standards for restorative justice programs in the area.¹³⁸

Therefore, while officials at the state level in Illinois seem to recognize the value of restorative justice principles within the juvenile justice system, additional steps must be taken to ensure that restorative justice techniques are incorporated in a meaningful way.

IV. POSSIBLE BARRIERS IN FURTHER IMPLEMENTING RESTORATIVE JUSTICE TECHNIQUES

Although by no means an exhaustive list, the main barriers to Chicago further implementing restorative justice into the juvenile justice system in Chicago identified in the course of research for this Comment are as follows: (1) the lack of community cohesion in Chicago, which leads individuals to become less invested in their communities; (2) the perception that restorative justice techniques improperly “coddle” perpetrators of crime; (3) the widespread belief that the primary function of criminal justice systems is to provide retribution and to punish offenders; (4) a relative lack of knowledge about restorative justice practices, specifically among individuals with crucial roles, like judges and probation officers; and (5) the heavy workload of key players in the community, which may prevent them from having enough time or energy to devote to developing alternative programs for juvenile offenders. This Part addresses each of these roadblocks in detail.

A. LACK OF COMMUNITY COHESION

To address some of the barriers to implementing restorative justice techniques in Chicago, it is essential to look first at one of the most integral parts of restorative justice theory: the community.¹³⁹ Because one of the central tenets of restorative justice theory is the idea that certain conflicts should be handled within the affected community, it necessarily follows

interested parties) can impose an “additional burden on the offender to repay the neighborhood symbolically.” *Id.* at 24. Because of this, some of the most common BARJ imposed activities are community service projects, which may be beneficial but are not restorative unless the victim, offender, and other affected parties are given a voice in sentencing or elsewhere in the process. *Id.* at 24–25.

¹³⁷ Interview with Agaiby, *supra* note 114.

¹³⁸ *Id.*

¹³⁹ See Wenzel et al., *supra* note 14, at 376.

that the community should be willing, at least to some degree, to participate in the process.¹⁴⁰

In a city like Chicago, which remains one of the most racially segregated cities in America,¹⁴¹ a lack of community cohesion may make it difficult to cobble together a coalition of members willing to participate in the process.¹⁴² One theory suggests that long travel times, exacerbated by a less than efficient public transportation system, keep Chicago neighborhoods segregated.¹⁴³ Chicago residents themselves have noticed the phenomenon of racial and cultural grouping, and this awareness has manifested in meetings for the 2012 Chicago Cultural Plan, an initiative launched by the city's Department of Cultural Affairs and Special Events (DCASE) to encourage residents and tourists to "explore and shape Chicago."¹⁴⁴ In one such meeting, Chicago residents voiced a desire to address the "lack of cultural interaction among Chicago neighborhoods."¹⁴⁵ If cultural cohesion is an issue in the Chicagoland area, it seems that one hurdle with which advocates of restorative justice will have to contend is the task of recruiting interested community members to engage in the process.

B. PERCEPTION OF RESTORATIVE JUSTICE AS "SOFT"

Another problem with convincing community members to embrace restorative justice alternatives to juvenile detention is the widespread perception that restorative justice is "frilly" or "soft."¹⁴⁶ Although this

¹⁴⁰ *Id.*; Interview with Kesti, *supra* note 12 (stating that community involvement is integral in restorative justice programs).

¹⁴¹ Edward Glaeser & Jacob Vigdor, CTR. STATE & LOCAL LEADERSHIP, MANHATTAN INST., *The End of the Segregated Century: Racial Separation in America's Neighborhoods—1890–2010*, CIVIC REP., Jan. 2012, at 1, 4.

¹⁴² Research conducted in Canada has found that within higher crime areas, community members experience reduced emotional attachment for the community at large. See Timothy F. Hartnagel, *The Perception and Fear of Crime: Implications for Neighborhood Cohesion, Social Activity, and Community Affect*, 58 SOC. FORCES 176, 190 (1979).

¹⁴³ See Jim Dallke, *Isolated by the El: Long Travel Times Contribute to Segregation, Some Say*, MEDILL REPS. CHI. (Mar. 1, 2012), <http://goo.gl/YVICAz>.

¹⁴⁴ Originating in 1986 under the direction of then-Mayor Harold Washington, the Chicago Cultural Plan was revisited in 1995 and again in 2012. See *About the Chicago Cultural Plan*, CITY OF CHI., <http://goo.gl/U0tnb4> (last visited June 3, 2014). In 2012, Mayor Rahm Emanuel instructed the Department of Cultural Affairs and Special Events to update the Chicago Cultural Plan to "identify opportunities for arts and cultural growth for the city." *Id.*

¹⁴⁵ See Dallke, *supra* note 143.

¹⁴⁶ Telephone Interview with Chief Judge Shaun R. Floerke, Minn. Sixth Judicial Dist. (Nov. 9, 2012) [hereinafter Interview with Floerke]. The problem of segregation and divided neighborhoods is not unique to Chicago. In Northern Ireland, for example, the population is

problem is not unique to Chicago, the prevalence of this misperception guarantees that restorative justice advocates in the Chicago area will have to address it. Additionally, as discussed *infra*, Chicago residents have historically adhered to the belief that overly sympathetic methods of responding to offenses only exacerbate the problem.¹⁴⁷

In the course of his work with MAP, Kesti has heard criticisms leveled against community-based programs that characterize the techniques as “molly-coddling” the offender and “providing an easy way out.”¹⁴⁸ These perceptions are at direct odds with the dominant view in the United States about how reactions to crime should be structured and what aims they should fulfill.¹⁴⁹ As discussed above, the American justice system has embraced a punitive paradigm in which “desert [is] the primary rationale”¹⁵⁰ If the public truly perceives restorative justice techniques as “an easy way out” for offenders, it may be hard to convince communities that restorative justice practices properly address the goals of a criminal justice system.¹⁵¹

C. PRESSURE ON POLICYMAKERS TO BE TOUGH ON CRIME

These perceptions directly contribute to another problem identified by Shaun Floerke, chief judge of Minnesota’s Sixth Judicial District. He

fractured according to certain traits or ideologies (e.g., Catholics and Protestants, Nationalists and Unionists), and “many working-class urban communities in particular [are] highly segregated.” See Anna Eriksson, *Challenging Cultures of Violence Through Community Restorative Justice in Northern Ireland*, in *RESTORATIVE JUSTICE: FROM THEORY TO PRACTICE* 231, 238 (Holly Ventura Miller ed., 2008) (stating that “[w]hen considering utilizing restorative justice initiatives to address communal conflict in such areas, [social divisions and the overall culture of violence in Northern Ireland] must be explicitly recognized.”).

¹⁴⁷ See Edwin W. Sims, *Fighting Crime in Chicago: The Crime Commission*, 11 J. AM. INST. CRIM. L. & CRIMINOLOGY 21, 27 (1920).

¹⁴⁸ Kesti was quick to point out the fallacious nature of these claims and argued that restorative justice programs force youth to understand their crimes and consider how those actions affected others, which may be harder for some youths to face than sitting in cells without being forced to reflect upon their actions. Interview with Kesti, *supra* note 12.

¹⁴⁹ See Bazemore, *supra* note 78, at 768–69.

¹⁵⁰ *Id.* at 768.

¹⁵¹ Interview with Kesti, *supra* note 12. Although communities may be resistant to use restorative justice techniques in certain instances, evidence suggests that the general public is “far less vindictive than portrayed and far more supportive of the basic principles of restorative justice than many think.” See Umbreit, *supra* note 81. One study conducted in Minnesota found that more than four of five survey participants would consider participating in a program that would put them in face-to-face contact with the offender of a hypothetical nonviolent property crime. *Id.* Studies further suggest that while the public places a high value on holding offenders accountable, people are also “quite supportive of community based sanctions[,] which allow for more restorative outcomes.” *Id.*

explained that policymakers may be fearful about appearing “soft on crime,” particularly with regard to higher level offenders who are also often the ones who stand to gain the most¹⁵² from restorative justice programs.¹⁵³ This fear may stem partially from the underlying belief in Western criminal justice systems that the correct way to respond to crimes is through retributive action.¹⁵⁴ Such fear is supported by a long history of criticism aimed at those in the criminal justice system who do not apply harsh punishments to perpetrators.¹⁵⁵

In Chicago specifically, residents have historically adhered to the idea that criminals must be punished.¹⁵⁶ One example can be traced back the early 1900s.¹⁵⁷ In response to a 1917 robbery that turned violent, the Chicago Association of Commerce appointed a special committee to investigate and make recommendations for reducing crime in the Chicago area.¹⁵⁸ This group, the Chicago Crime Commission (comprised of over one hundred lawyers and businessmen), concluded that crime proliferation in the city was a result of “soft-hearted sympathy . . . mixed with the application of lawful force” and that such sympathy had rendered law enforcement “feeble.”¹⁵⁹ Additionally, the Commission concluded that there had been too much “mollycoddling” of violent criminals.¹⁶⁰

Even in states like Minnesota, which has embraced restorative justice practices more fully than most,¹⁶¹ community members can be reluctant to utilize restorative techniques in certain situations.¹⁶² Jewell has personally experienced some of this pushback.¹⁶³ When MAP worked with three

¹⁵² This is true in part because higher level offenders face harsher punishment for their crimes.

¹⁵³ Interview with Floerke, *supra* note 146 (explaining that policymakers do not want to appear “soft on crime” and are therefore reluctant to suggest restorative justice solutions).

¹⁵⁴ Wenzel et al., *supra* note 14, at 378 (stating that retribution, or the idea that a perpetrator must be punished “in proportion to the past harm he or she committed” is a common notion in Western criminal justice systems (citation omitted)).

¹⁵⁵ See Sims, *supra* note 147, at 27.

¹⁵⁶ *Id.*

¹⁵⁷ *Id.*

¹⁵⁸ *Id.* at 21.

¹⁵⁹ *Id.* at 27.

¹⁶⁰ *Id.*

¹⁶¹ In Minnesota, “nearly every model of modern restorative practice has been implemented” Kay Pranis, *Restorative Justice In Minnesota and the USA: Implementation and Outcomes*, in ANNUAL REPORT FOR 2003 AND RESOURCE MATERIAL SERIES NO. 63, at 124, 124 (Asia & Far East Inst. for Prevention of Crime & Treatment of Offenders ed., 2004). Additionally, public opinion polling has “consistently demonstrate[d] a strong public leaning toward a restorative approach to responding to crime.” *Id.* at 130.

¹⁶² See Interview with Jewell, *supra* note 17.

¹⁶³ See *id.*

juveniles who had vandalized a building on the University of Minnesota Duluth campus and caused more than \$1 million in damages, some members of the community disagreed with the use of restorative techniques.¹⁶⁴ Jewell noted that there is usually very little resistance from the community when applying restorative justice techniques to juveniles because people tend to believe that youth deserve “extra chances.”¹⁶⁵ In this case, however, Jewell explained, “it was an incredibly public crime—one that everyone in community knew about and had very strong opinions about. There was some push back about appropriateness of restorative approaches.”¹⁶⁶

Beyond the desire for retribution, some members of the public may favor detention because they fear what might happen if perpetrators are allowed to reenter the community.¹⁶⁷ In Chicago particularly, citizens and policymakers may be less willing to entertain the idea of alternatives to prison because of the prevalence of violent crime—particularly on the South Side.¹⁶⁸ This fear may be intensified by overblown news media coverage of crime in urban areas. By the late 1990s, for example, crime coverage constituted roughly 20% to 40% of the average broadcast, despite the fact that actual crime rates had dropped during this period.¹⁶⁹

D. CHICAGO’S LACK OF KNOWLEDGE AND EXPOSURE TO RESTORATIVE JUSTICE

Another possible challenge in further implementing restorative justice practices into the Chicago system is key players’ relative lack of knowledge about purely restorative techniques. As Jewell explained, an essential ingredient to the success of his organization was its ability to connect with key players within the correctional system.¹⁷⁰ According to Jewell, MAP benefitted greatly from the efforts of Cory Reed, a supervisor at the local juvenile detention center. Reed actively worked to educate probation

¹⁶⁴ *Id.*; see also Interview with Floerke, *supra* note 146. In what was described as an “act of extreme vandalism,” the teens shattered windows, discharged fire extinguishers, and left water faucets running, which flooded all three floors of a new science building. Rick Moore, *Vandalism at UMD Causes \$1 Million in Damages*, U. MINN. NEWS (last updated Nov. 19, 2004), <http://goo.gl/dgWhNU>.

¹⁶⁵ Interview with Jewell, *supra* note 17.

¹⁶⁶ *Id.*

¹⁶⁷ See ADAM MENDELOWITZ, *RESTORATIVE JUSTICE: INTEGRATING PEACEMAKING INTO MODERN AMERICA* 5–6 (2008), available at <http://goo.gl/z0dJv4>.

¹⁶⁸ While national homicide rates have dropped in recent years, Chicago’s homicide rate increased between 2011 and 2012. See Jen Christensen, *Chicago’s Record Murder Rate: Don’t Blame Guns Alone*, CNN (Apr. 10, 2013, 8:17 PM), <http://goo.gl/X2kDEV>.

¹⁶⁹ See MENDELOWITZ, *supra* note 167, at 5–6.

¹⁷⁰ See Interview with Jewell, *supra* note 17.

officers about alternative programs and to increase the number of referrals to restorative programs.¹⁷¹ Even with Reed's efforts, however, MAP ran into trouble with waning referrals, especially after Reed's departure from the detention center.¹⁷²

As Judge Floerke explained, probation officers' cooperation is essential, as it is usually the probation officers who make recommendations that specific juveniles be placed in community-based programs.¹⁷³ In Minnesota, both Jewell and Kesti have observed some reluctance on the part of individual probation officers to recommend juveniles to restorative programs.¹⁷⁴ "We've gotten occasional pushback from officers who don't understand the process," said Kesti. "To them it's just another class we can send a kid to, but they're not looking at it holistically or . . . [seeing] that we're fixing a system that is broken."¹⁷⁵ Jewell added that "[p]robation officers are not necessarily very open [to restorative justice], and it's never been clear why."¹⁷⁶

Along the same lines, successfully implementing restorative justice techniques in concert with courts requires winning the support of local judges.¹⁷⁷ As Jewell explained, changes in the court system in Duluth, Minnesota, impacted the flow of referrals into MAP's restorative justice

¹⁷¹ *Id.*

¹⁷² *See id.*; *see also* Interview with Kesti, *supra* note 12 (explaining that there has been occasional pushback from probation officers who do not understand the process).

¹⁷³ Interview with Floerke, *supra* note 146.

¹⁷⁴ Interview with Jewell, *supra* note 17; Interview with Kesti, *supra* note 12.

¹⁷⁵ Interview with Kesti, *supra* note 12. While Kesti noted that the process of working with probation officers can be a struggle, he pointed out that "there are some [probation] officers who really believe in [restorative justice] and believe in the individual." *Id.*

¹⁷⁶ Interview with Jewell, *supra* note 17. Although Jewell asserted that probation officers are often reluctant to embrace restorative options in his experience, Jewell also shared that one of MAP's earliest programs got off the ground in part thanks to a probation officer who was particularly "gung-ho" about the restorative process. *Id.*; *see also discussion infra* Part V. In the State of Illinois, educational resources outlining restorative principles as applied to juvenile probation are available to parole officers. *See* JESSICA ASHLEY & PHILLIP STEVENSON, ILL. CRIMINAL JUSTICE AUTH., IMPLEMENTING BALANCED AND RESTORATIVE JUSTICE: A GUIDE FOR JUVENILE PROBATION 5 (2006), available at <http://goo.gl/B4OoAt> (stating that the Illinois Criminal Justice Information Authority has, in collaboration with a number of juvenile justice practitioners, developed a balanced and restorative justice guide for use by probation officers "on a daily basis"). However, the extent of their use of these guides is unclear. According to Agaiby, despite the fact that probation officers are provided with literature outlining restorative justice procedures, these tools remain optional. *See* Interview with Agaiby, *supra* note 114 ("No one, at review time for officers, sits down and says 'You're not using restorative justice.' There's no accountability.").

¹⁷⁷ *See* Interview with Floerke, *supra* note 146 (explaining that the support of judges is "integral" to the process of increasing restorative justice techniques as an alternative to incarceration).

programs.¹⁷⁸ In the past, state judges specialized in particular areas of law (i.e., domestic violence, juveniles, chemical dependency, etc.), but Duluth has moved back to a system in which all judges cover a broad spectrum of matters.¹⁷⁹ This shift meant that juvenile cases are sometimes tried under judges who have little background knowledge about the various sentencing options available for minors and therefore may not know about the option of sending juveniles to MAP for restorative programming.¹⁸⁰ Although this problem may not be as pronounced in Chicago because the city has dedicated juvenile court judges¹⁸¹ and restorative justice advocates like Judge Hall,¹⁸² offenders over the age of thirteen can still be transferred to the adult criminal court where judges may be less aware of alternative programs for juveniles.¹⁸³ Additionally, as Jewell has stated, the decision to send a juvenile into restorative programs is often spurred by probation officers.¹⁸⁴ As Chicago seems to lack any formal training designed to make officers uniformly aware of restorative justice programs as a viable alternative, it is unlikely to be used regularly. According to Agaiby, this lack of formal training stems largely from the fact that prosecutors have failed to integrate programmatic models.¹⁸⁵

E. SHORTAGE OF RESOURCES

Finally, the fact that restorative justice techniques are extremely time intensive, and may require initial monetary investments to properly train members of the juvenile justice system, can make these programs difficult to establish, even when members of the community are enthusiastic.¹⁸⁶

As for the time commitment, many potential key players in further implementing restorative justice in Chicago may already be stretched too thin.¹⁸⁷ For example, in 2010, two Illinois lawmakers suggested that the Chicago police department was so overextended that the state should lobby to have the National Guard assist police officers in their response to

¹⁷⁸ Interview with Jewell, *supra* note 17.

¹⁷⁹ *Id.*

¹⁸⁰ *Id.*

¹⁸¹ See *Juvenile Court*, CHI. BAR ASS'N, <http://goo.gl/DQf2wW> (last visited June 3, 2014).

¹⁸² See Hall, *supra* note 115, at 33.

¹⁸³ See *Juvenile Court*, *supra* note 181.

¹⁸⁴ See Interview with Jewell, *supra* note 17.

¹⁸⁵ See Interview with Agaiby, *supra* note 114.

¹⁸⁶ See *id.*

¹⁸⁷ See *Lawmakers: Military Could Quell Chicago Violence*, SEATTLE TIMES (Apr. 25, 2010, 6:47 PM), <http://goo.gl/ts7Jnc> (explaining that addressing rampant city violence has drained police department resources).

violence.¹⁸⁸ Jewell experienced a similar roadblock in his work at MAP and stated that when it was first suggested that restorative justice should be more widely implemented in Duluth, police officers, principals, probation officers, and others were trained in restorative methods.¹⁸⁹ Although participants were excited about the program, those police officers, principals, and probation officers “may have done one or two circles and then it just went away.”¹⁹⁰ Despite the fact that these individuals were willing to work on restorative alternatives, many of these individuals had too much work to do already to fully commit to the process.¹⁹¹

Turning to the financial aspect, Chicago, like much of the country, is short on resources to develop new programming.¹⁹² In fact, the entire State of Illinois suffers from such a grave structural deficit that “the risk of non-appropriation of the state money to Chicago exists as the state struggles to raise cash for its own needs.”¹⁹³

In short, restorative justice faces many difficulties in getting properly implemented into the criminal justice system—especially with regard to programs that seek to act as an alternative to more punitive measures. The following Part proposes solutions suggested by existing data and experts in the field of restorative justice.

V. POTENTIAL SOLUTIONS

To pave the way for Chicago to more fully integrate restorative techniques into its juvenile justice system, it is imperative to address the potential barriers one by one.

With regards to the first barrier, the lack of community cohesion, it seems that although racial and cultural segregation within Chicago may prevent residents from identifying with the Chicago community as a whole, the city is constructed by dozens of tightly knit neighborhoods where residents tend to identify very strongly with their subcommunities.¹⁹⁴ In fact, according to Professor Pierre deVise, professor emeritus in public administration at Roosevelt University, “[y]ou have the same kind of cohesion in some Chicago neighborhoods as you would in a small town.”¹⁹⁵

¹⁸⁸ *Id.*

¹⁸⁹ See Interview with Jewell, *supra* note 17.

¹⁹⁰ *Id.*

¹⁹¹ See *id.*

¹⁹² See Greg Hinz, *Illinois' Financial Woes Begin to Zap Chicago Debt*, CRAIN'S CHI. BUS. (Mar. 14, 2013), <http://goo.gl/QXqfng>.

¹⁹³ *Id.* (internal quotation marks omitted).

¹⁹⁴ See Jeffrey Steele, *Chicago Gets Its Strength from Neighborhoods: Communities Give the City Its Character*, CHI. TRIBUNE, Nov. 10, 1993, at 8.3.

¹⁹⁵ See *id.*

Jewell suggested that this is exactly this kind of neighborhood identification that could help restorative justice programs find community support within Chicago.¹⁹⁶ In fact, Jewell argues:

Certain communities [in Chicago] are fairly tight-knit. People have lived there long periods of time. It's possible to [run restorative justice programs] if a kid comes from a neighborhood and that neighborhood is interested. Let's say on the South Side, you have really strong non-profit working in the community and they believe in helping kids; they can offer to work with the juvenile justice system, and they are situated in the neighborhood.¹⁹⁷

Kesti agreed that having ties to the specific community in which the youth resides would help along the process.¹⁹⁸ "Someone that has stake in community should be at the helm," he said. "Normally when someone that is facilitating the process has street cred of being Chicagoan or from specific neighborhood, that is a resource that goes a long way."¹⁹⁹ Furthermore, although community involvement in a tight-knit community may be preferable, close community ties are not necessarily essential to implement restorative justice programs.²⁰⁰ Kay Pranis, a national leader in restorative justice, has argued that criminal events themselves may "provide opportunities for communities to experience constructive collection action, which builds new relationships and strengthens existing ones."²⁰¹

As for the problem with the public's general perception of restorative techniques as easy ways out for offenders, Kesti contends that the reality of restorative justice programs is that they are often much more difficult for offenders to complete.²⁰² According to Kesti, "[i]t's so much more difficult than sitting in cell because [in detention], they just serve their time and count down days and are not necessarily held accountable."²⁰³ In contrast, restorative justice programs hold offenders accountable to "right wrongs and make amends."²⁰⁴ Indeed, researchers have found that juvenile offenders do not see victim-offender mediation, for example, as "significantly less demanding" than other responses to crime utilized by courts.²⁰⁵

¹⁹⁶ See Interview with Jewell, *supra* note 17.

¹⁹⁷ *Id.*

¹⁹⁸ See Interview with Kesti, *supra* note 12.

¹⁹⁹ *Id.*

²⁰⁰ See MENDELOWITZ, *supra* note 167, at 12 (internal citations omitted).

²⁰¹ Pranis, *supra* note 13.

²⁰² Interview with Kesti, *supra* note 12.

²⁰³ *Id.*

²⁰⁴ *Id.*

²⁰⁵ See Umbreit, *supra* note 81.

Although the argument can be made that restorative justice techniques are not, in fact, a “frilly” or “soft” method of dealing with juvenile offenders,²⁰⁶ an additional problem can surface. Available data suggests that restorative techniques hold juveniles responsible for their crimes,²⁰⁷ but restorative justice advocates must find effective ways of conveying this information to the public to neutralize previously held assumptions. Solutions for this problem are directly connected to solutions for the lack of knowledge about restorative justice in general, discussed *infra*.

The next problem to confront is the focus on retributivist goals in criminal justice. Even if restorative justice advocates are able to convince the public that restorative justice is not an easy way out, this assurance still may not address the perceived need to punish in American society.²⁰⁸ One option to counteract this singular focus on retribution may be to remind the public of the current system’s shortcomings and to quantify the benefits of restorative techniques.²⁰⁹ As Judge Floerke explained, “One thing that sells well is success.”²¹⁰ A self-described pragmatist, Judge Floerke himself is not opposed to incarceration in cases where the need is present but focuses on “looking for what works.”²¹¹ According to the judge, these situations require touting numbers and publicizing past successes with restorative techniques.²¹²

Moreover, some data suggest that the public’s obsession with retribution may not be as deeply rooted as some scholars have argued.²¹³ Indeed, one study revealed that four out of five Minnesota residents indicated that they preferred putting funds towards “education, job training, and community programs to reduce crime,” rather than spending on prisons.²¹⁴ This study seems to suggest that some Americans may be open to alternative methods of responding to crime, so long as these options are effective.

In the case of Chicago, perhaps the real focus should be on responding to the fourth roadblock—the relative lack of knowledge about restorative techniques as compared to more traditional practices, like incarceration. Although restorative justice is fairly well known in some communities in

²⁰⁶ *Id.*; Interview with Kesti, *supra* note 12.

²⁰⁷ See Umbreit, *supra* note 81; Interview with Kesti, *supra* note 12.

²⁰⁸ See Bazemore, *supra* note 78, at 769.

²⁰⁹ See *supra* Part III; see also Interview with Floerke, *supra* note 146.

²¹⁰ Interview with Floerke, *supra* note 146.

²¹¹ *Id.*

²¹² *Id.*

²¹³ See *supra* note 151.

²¹⁴ See Umbreit, *supra* note 81.

the United States,²¹⁵ it still exists somewhat “on the fringes” of the American justice system.²¹⁶

To counter this problem, restorative justice advocates can work harder at building connections with key players within the court and detention centers.²¹⁷ As Jewell explained, “You need an advocate within the system.”²¹⁸ According to Jewell, the reason one of MAP’s earlier programs for medium-risk offenders got off the ground was because of the detention center supervisor, who provided MAP with a steady flow of referrals and helped train probation officers in restorative justice, and because of a specific probation officer, who was “gung-ho” about the restorative process.²¹⁹ Judges who preside over juvenile cases are also key figures in the process. Judge Floerke, a former MAP board member, was introduced to restorative justice by a fellow judge.²²⁰ As Judge Floerke explained, “Restorative justice, when you see it, it sells itself. It’s just something innately human.”²²¹

Returning to how best to educate the public about restorative justice, advocates must determine effective methods of teaching people about the intricacies of restorative justice and present it as an attractive option worth supporting. While even now there are notable efforts within Chicago to raise the profile of restorative justice principles and practices,²²² Judge Floerke recommends giving people firsthand exposure to restorative circles to show them how beneficial they can be. He also encourages the use of positive testimonials.²²³ “Telling a story is powerful,” he said. “If you can’t get someone to come and volunteer, share testimonials to move policymakers.”²²⁴

²¹⁵ Native American communities may be particularly familiar with restorative justice because many of them have or have had justice systems that are “restorative in nature.” See MENDELOWITZ, *supra* note 167, at 7. Additionally, noncustodial sanctions—such as community supervision—have generally seen an uptick in recent years as the growth of the U.S. prison population has come under fire, regardless of any increased focus on restorative justice. See Cecelia Klingele, *Rethinking the Use of Community Supervision*, 103 J. CRIM. L. & CRIMINOLOGY 1015, 1018 (2013).

²¹⁶ MENDELOWITZ, *supra* note 167, at 5.

²¹⁷ See Interview with Jewell, *supra* note 17; see also Interview with Floerke, *supra* note 146.

²¹⁸ Interview with Jewell, *supra* note 17.

²¹⁹ See Interview with Jewell, *supra* note 17.

²²⁰ Interview with Floerke, *supra* note 146.

²²¹ *Id.*

²²² For example, the Restorative Justice Committee has fought to give restorative justice a higher degree of exposure. See Hall, *supra* note 115, at 33.

²²³ Interview with Floerke, *supra* note 146 (“The other thing that sells well is success and touting the numbers.”).

²²⁴ *Id.*

Jewell added that another important piece of the public education process is making sure that existing restorative justice organizations keep good records and structure their programs such that the measurable impact and numbers of juveniles served communicate the value of their work to those outside the restorative justice world.²²⁵ While the base concern should be putting together a program that really works and addresses the concerns of victims, offenders, and the community, restorative justice organizations must also make showings to validate their approaches.²²⁶ One example of how to provide effective, cost-efficient services may be to structure circles to accommodate multiple offenders simultaneously.²²⁷ At MAP, Jewell found that his program was able to treat several offenders in the same circle, and that this group setting actually provided additional benefits to the circle process, as the juveniles were able to learn from each others' experiences and provide support to one another.²²⁸

Kesti added that restorative practices are conducive to being tailored to fit the needs of the particular community.²²⁹ Because of the flexible nature of restorative methods, organizations should be able to craft each program to fit the pressing concerns of the community, thereby increasing the number of referrals while also providing a needed service.²³⁰

Additionally, it may be helpful to point out the traditional justice system's shortcomings in terms that engage the self-interest of the average Chicago resident. To this end, Judge Floerke suggests disseminating information about the cost effectiveness of restorative techniques as compared to detention.²³¹ Information about the relative satisfaction of victims who go through restorative programs²³² as well as the number of reports that suggest reduced recidivism through restorative practices²³³ may also convince communities that a shift is in their own best interests.

Finally, as for the heavy workload of key players in the community, Jewell theorizes that the original plan in Duluth failed because it relied too much on people within the system who already had full work schedules.²³⁴ Instead, Jewell said that although strong advocates within the system are

²²⁵ Interview with Jewell, *supra* note 17.

²²⁶ *See id.*; *see also* Interview with Floerke, *supra* note 146.

²²⁷ *See* Interview with Jewell, *supra* note 17.

²²⁸ *See id.*

²²⁹ *See* Interview with Kesti, *supra* note 12.

²³⁰ *See id.*

²³¹ *See* Interview with Floerke, *supra* note 146; *see also supra* notes 58–62 and accompanying text.

²³² *See* Umbreit, *supra* note 81.

²³³ *See supra* notes 44–47 and accompanying text.

²³⁴ Interview with Jewell, *supra* note 17.

essential, advocates outside the traditional justice system should do the bulk of the work.²³⁵ MAP is an example of an organization that works closely with the courts and the regional detention center but operates independently as a non-profit organization, offering a wider range of services.²³⁶ Although the local detention center pays MAP for the restorative justice programs and services rendered, MAP employees are not county employees and are able to dedicate their time to each program.²³⁷ Also, because MAP is partially funded by private grants and government funds, it is necessarily focused on continuing its restorative circles practice and dedicating its energy to making the circles effective.²³⁸

CONCLUSION

Although steps have been taken in Chicago to introduce restorative justice techniques and principles into the criminal justice system, not enough has been done to move such approaches out of the “fringes” of the Illinois criminal justice system, especially with respect to juveniles. The language of restorative justice has become more mainstream, which is most clearly demonstrated in the text of the Illinois Juvenile Justice Reform Provisions of 1998.²³⁹ But restorative techniques unfortunately are still not regularly used in the City of Chicago as alternatives to incarceration. Despite the fact that restorative techniques have not been adopted as primary mechanisms for dealing with juvenile delinquency, numerous studies and experts agree that restorative approaches offer many advantages over the traditional method of detention, including lowering costs to the state and taxpayer,²⁴⁰ possibly reducing recidivism rates,²⁴¹ putting more focus on the victim and the community generally,²⁴² and providing a more fitting response to crime, considering the unique ability of juveniles to be

²³⁵ See *id.*

²³⁶ See *id.*; Interview with Kesti, *supra* note 12.

²³⁷ See Interview with Jewell, *supra* note 17; Interview with Kesti, *supra* note 12.

²³⁸ See Interview with Jewell, *supra* note 17.

²³⁹ See Illinois Juvenile Justice Reform Provisions of 1998, Pub. Act. No. 90-0590, Art. 2001, §§ 2001–15, 1998 Ill. Legis. Serv. 1245 (West) (codified as amended at 705 ILL. COMP. STAT. 405/5-101 (2000)); see also Stevenson, *supra* note 103, at 1.

²⁴⁰ See Clarke, *supra* note 45, at 608–09; see also LOWENKAMP & LATESSA, *supra* note 62, at 21–22; STATE OF ILL. DEP’T OF JUVENILE JUSTICE, *supra* note 58, at 86 (stating that the average cost of keeping a juvenile incarcerated for one year was \$86,861).

²⁴¹ See Clarke, *supra* note 45, at 608–09; Rodriguez, *supra* note 44, at 371; Wenzel et al., *supra* note 14, at 377.

²⁴² See Wenzel et al., *supra* note 14, at 376; see also CTR. FOR JUSTICE & RECONCILIATION, *supra* note 18, at 1–2; PRANIS ET AL., *supra* note 20, at 21.

rehabilitated.²⁴³ And while restorative justice advocates may face many real obstacles in trying to integrate restorative techniques more fully in Chicago, many of the barriers can be and have been addressed in the past by restorative justice organizations in different parts of the country.²⁴⁴

By reaching out to key members in the courts and in detention centers,²⁴⁵ and by effectively disseminating positive information and statistics regarding the advantages of restorative justice,²⁴⁶ Chicagoans may slowly see an increase in the number of residents and policymakers willing to make a change. Perhaps most importantly, advocates must make a concerted effort to expose Chicagoans to restorative justice ideas and to harness the tight-knit nature of individual neighborhoods to actively participate in rehabilitating offenders and in supporting victims of crime.

When restorative justice advocates are able to effectively reach out to community members, legislators, and members of the court, Chicago may finally see a shift wherein the sphere of power in criminal justice is finally relocated back into the hands of its rightful owners—offenders, victims, and their communities.

²⁴³ See Brief of Council of Juvenile Correctional Administrators et al. as Amici Curiae in Support of Petitioners, *supra* note 63, at 4–15; see also Clarke, *supra* note 45, at 608.

²⁴⁴ See Interview with Floerke, *supra* note 146; Interview with Jewell, *supra* note 17; Interview with Kesti, *supra* note 12.

²⁴⁵ See Interview with Floerke, *supra* note 146; Interview with Jewell, *supra* note 17.

²⁴⁶ See Interview with Floerke, *supra* note 146; Interview with Jewell, *supra* note 17; Interview with Kesti, *supra* note 12.