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Birds of a Feather: A Response to the McCold Critique of Community Justice

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This essay responds to McCold's critique of community justice (McCold, 2004, this issue). First, McCold fails to define or portray community justice accurately, especially by failing to acknowledge seminal writings about the concept. His distorted portrait becomes a 'straw man' that exaggerates differences between community justice and restorative justice. Second, I identify several ways in which the models are complementary, and identify how community justice may support and enhance restorative practices. Finally, I argue that their commonalities far outweigh differences, and that the proper focus of action should be on both models' differences with the traditional, retributive court.

Keywords: Restorative Justice; Community Justice; Volunteers; Reparative Boards; Community; Corrections

Introduction

Paul McCold (2004) worries that community justice is a threat to restorative justice. As a proponent of both, I disagree. In this essay, I respond by comparing McCold's vision of community justice—a vision that is both unappealing and inaccurate—with the vision advanced by others and myself. I will argue that community justice is a valuable complement to restorative justice.

Since I know McCold to be among the most voracious readers of the restorative justice literature, it is surprising that he has advanced such a vitriolic attack on community justice without citing *any* of the important writings that describe the philosophy and practice of community justice. Although I might have missed a few myself, I believe the most developed statements include the following: my own work with Todd Clear (Clear & Karp, 1999; Karp & Clear, 2000); an edited volume focusing particularly on community corrections (American Probation and Parole Association, 1999); Caroline

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Nicholl's (1999) monograph focused on policing; and a review essay by Leena Kurki (2000). These works, though each making its own contribution, have much in common, describing a community justice perspective that is consonant with restorative justice. Like McCold's effort, many of these writings explore the relationship between restorative justice and community justice, but they come to very different conclusions.

Below I highlight four ways in which McCold's characterization is atypical and creates unnecessary tension between the two perspectives. McCold creates a 'straw man,' a distorted version of community justice in order to exaggerate differences, privilege the restorative justice philosophy, and posit 'serious threats to the restorative justice paradigm' that do not exist.

Community Justice as Straw Man

First, McCold appears to have different standards of assessment for what constitutes restorative justice and community justice. In McCold's view, any program that incorporates some aspect of community justice is representative of the full model, whereas only a narrow subset of what are more generally considered restorative practices meets his standard for that model. Thus, McCold writes, 'except for imprisonment, almost any criminal justice effort presumed to combat crime in high crime areas seems to qualify as community justice' and 'most community justice programs are oriented toward traditional criminal justice objectives of increased surveillance and detection of offenders' (McCold, 2004, p. 17). By this standard, a lynch mob would qualify as a community justice practice.

True enough, I have described and edited case studies of some programs under the banner of community justice (for example, Karp & Clear, 2002) that give me pause because they only partially represent the model. Nevertheless, they are what exist, and therefore, are worthy of analysis and illustration. For restorative justice, McCold subscribes to a very narrow definition placing accountability boards outside the model. However, it is more common that boards are described a part of the restorative model (see Bazemore & Umbreit, 2001). Where boards are widely used, for example in Vermont, Colorado, Arizona, and California, practitioners also describe boards as a restorative justice practice, using this term more commonly than community justice. It is not a bad idea to debate the merits of various practices but my point here is that McCold applies different and unusual standards to restorative justice and community justice. By widening the community justice standard to include the kitchen sink, it then becomes easy to criticize or fear it. By narrowing the restorative justice standard, McCold dismisses the complementary restorative elements of community justice practices, such as boards, which others typically recognize.

Second, McCold artificially differentiates restorative from community justice by stating that community justice places 'little value … on providing opportunities for the offender to face those specific people who were injured' (McCold, 2004, p. 22). His evidence for this comes from my own evaluation of Vermont's reparative probation program where an unfortunately small number (13%) of victims participate in board

meetings with offenders (Karp, Sprayregen, & Drakulich, 2002). In numerous meetings with program staff and a survey of board members (Karp, Bazemore, & Chesire, forth-coming), it is clear to me that they all strongly endorse victim participation and have tried hard to elicit it. The difficulties have little to do with priority than the logistical challenges of implementation and, ultimately, the disinterest of victims. Boards differ from conferences because they proceed in victimless cases and when victims choose not to attend. This is a significant advantage over conferencing where such cases are referred back to the retributive court. The important point is that the practice—with low victim participation rates—often fails to realize program goals but this is quite different from arguing that community justice devalues face-to-face encounters between victims and offenders. As Todd Clear and I have written:

> Community justice begins with a process of defining immediate parties to criminal inci-dents and/or criminogenic situations. The community justice process is concerned fore-most with victims and offenders … Community justice is likely to be most successful when those involved in the justice process are directly related to the incident. (Karp & Clear, 2000, p. 342)

Third, McCold misunderstands community justice when he contrasts its indicators of success with restorative justice. He writes, 'Restorative justice is deemed successful when all the direct stakeholders, especially the victim, report they are satisfied that justice was done in their case. Community justice is considered successful only when the quality of life in a given place improves' (McCold, 2004, p. 20). Stated in this way, the two models are defined in opposition, implying that stakeholder satisfaction is not a criterion of success in community justice. But how is 'quality of life' measured? One indicator *is* stakeholder satisfaction. Todd Clear and I articulated four general outcomes: restoration; reintegration; community capacity; and community satisfac-tion (Karp & Clear, 2000). This is illustrated in Figure 1. Jodi Lane, Susan Turner and I further elaborate the model (Karp, Lane, & Turner, 2002), distinguishing between objective outcomes such as receipt of restitution, and subjective outcomes such as satis-faction with the restitution amount negotiated. We argue that success, in terms of subjective measures, includes satisfaction that 'justice was done.' This parallels what McCold describes for restorative justice but also includes satisfaction in feeling safe and in having a sense of community. McCold is right that success is measured differently. In community justice, because the lens is wider, there are additional indicators, but they do not replace or conflict with the restorative ones.

Fourth, McCold mistakenly believes that community is a concept well-defined in restorative justice and poorly defined in community justice. He writes, 'Because restor-ative justice defines community as natural networks of personal relationships, commu-nity is perceived in a very positive light … Community justice advocates are ambivalent about their regard for community' (McCold, 2004, pp. 20–21). Such ambivalence would be especially odd since a primary purpose of community justice is to identify the role of the community in the criminal justice process. Todd Clear and I provide an extended analysis of community, ironically in a chapter called 'A positive view of community life.' In brief:
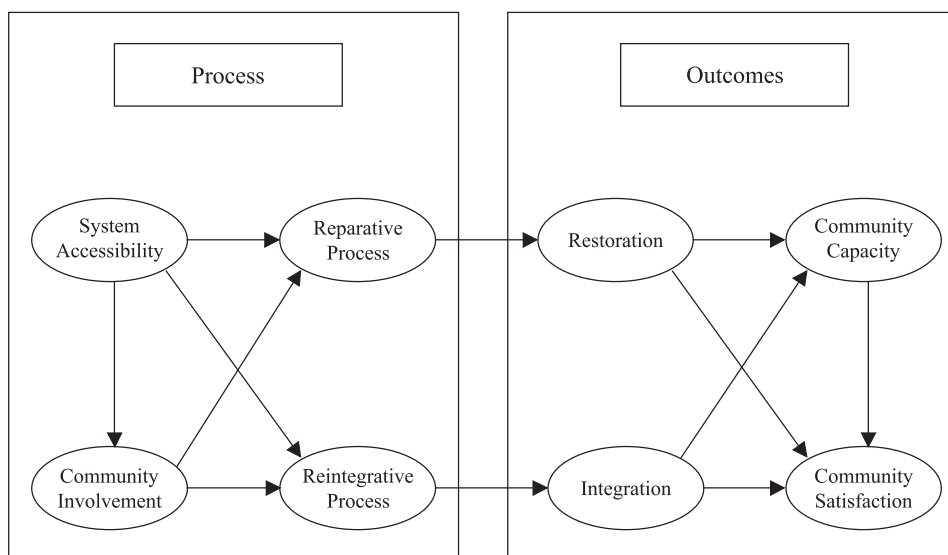
Figure 1 Community Justice Model

> We think of community as the place from which we hail and the safe haven to which we owe our self-knowledge. In this sense, *community* is an entity—a geographic area or a group—to which we belong. But we also think of community as a quality of social existence: an indication of solidarity, shared practices and traditions, and emotional connectedness. This kind of community cannot be located on any map … For each of us, community is the complex interlocking of human relationships upon which we rely to live daily life. (Clear & Karp, 1999, p. 60)

Whether or not this is a good definition of community, it is certainly a 'positive' one that implies 'natural networks of personal relationships.' We include 'place' or a geographical definition of community but also recognize its limits and concur that social networks also define communities. The community concept is so important to community justice that it deserves fuller attention. In the next section, I describe what community justice—and what the community—have to offer restorative justice and why I think the two perspectives are complementary.

A Positive View of Community Justice

Community justice and restorative justice are complementary perspectives, each focusing on a different unit of analysis. Restorative justice is a micro-level perspective emphasizing an interpersonal decision-making process and its outcomes for the stakeholders of particular crimes. Community justice is a macro-level perspective with the community, not the individual, as the unit of analysis. In my view, community justice subsumes restorative justice without conflicting with it.

Todd Clear and I argue that restorative justice is an essential ingredient of community justice. We identify seven justice-related dimensions, restorative justice being one

Table 1 The Tasks of Parties to Criminal Incidents

	Offender	Victim/onlooker	Community institutions
Norm affirmation	Admit responsibility	Specify harm of offense	Articulate local standards
Restoration	Repair harm	Determine requirements for restoration	Provide restorative opportunities for victims and offenders
Public safety	Demonstrate commitment to law-abidingness	Identify conditions for reducing fear and resentment	Safely reintegrate offenders; insulate victims

of them. The first three are illustrated in Table 1, which also describes the roles of various stakeholders (see Clear & Karp, 1999).

Norm affirmation is a process by which a group or a community articulates behavioral expectations. This process is aided by the participation of community members who bear witness to the values and standards of the community. In conferencing models, parents or grandparents often play this role. In circle practices, particularly in indigenous communities, community elders play the role. In board models, community volunteers (who may be retirees/elders or reformed offenders or other upstanding citizens) serve in this role. Norm affirmation processes not only typify behavioral expectations but also define what it means to be a member of a community, broadening offenders' (and other participants') understanding of their role in the collective life of the community (Karp, 2002).

The second principle, restoration, recapitulates the restorative justice perspective. The third, public safety, acknowledges that any criminal justice process that keeps offenders in the community addresses the issues of recidivism and community fear of crime. Table 2 illustrates a second set of principles, highlighting an important distinction between restorative and community justice (Clear & Karp, 1999). The former is particularly concerned with reactive criminal justice practices—those that are responsive to criminal justice incidents. The latter is also concerned with prevention by identifying criminogenic conditions and seeking community-based practices to ameliorate them. These principles are described in detail in chapter five of our book (Clear & Karp, 1999). They include the reduction of social inequality and social marginalization, and community practices that target rational choice decision-making (mutuality) and moral decision-making (stewardship). Each of the principles considers macro-level changes to social institutions and practices in order to build community capacity and strengthen democratic and egalitarian practices. These locate the healing practices of restorative justice within a larger context of community building (see also Bazemore, 2000; Braithwaite, 2000; Braithwaite & Parker, 1999; Pranis, 2000).

McCold is especially critical of boards, also called 'community justice citizen sentencing panels' as a community justice practice. I have seen many boards in action and I would never say they are heaven on earth. I also serve as a member of one—our

Table 2 Principles of Egalitarian Community Justice

	Equality	Inclusion	Mutuality	Stewardship
Criminogenic condition	Social inequality	Social disintegration	Free-rider opportunity structure	Social/moral disorder
Moral concern	Fairness *over* social subordination	Participation *over* ostracism	Cooperation *over* defection	Self-transcendence *over* egoism
Sense of community	Fulfillment of needs	Membership	Influence	Emotional connection
Individual competencies	Mastery *over* skills deficit	Sociability *over* prejudice	Social identification *over* isolation	Self-control/empathy *over* indifference
Collective outcomes	Distributive justice over concentration of poverty	Social integration over oppositional culture formation	Social coordination over collective failure	Moral order over excessive individualism

college 'integrity board,' which hears cases of student misconduct from policy violations such as plagiarism to criminal offenses. On some days, we seem to do well. Victims attend, tears are shed, offenders actively participate in the decision-making, and creative solutions are agreed upon. The meetings are cathartic, fair, and consistent with principles and guidelines for practice. On other days, things do not go so well. Victims do not show, offenders are recalcitrant, board members use stigmatizing language, the contract feels arbitrary or punitive. But we have a process that invites participation and strives toward restoration and reintegration. Those have become the shared values of the board.

This is quite different from a summary decision-making process by a sole administrative authority that seeks to inflict punitive harm and outcast the offender from the community. The real line in the sand is between adversarial/punitive models and communitarian/restorative models, not the one drawn by McCold between restorative and community justice. Boards are not a perfect practice but I will conclude by speculating on how they may be especially valuable, and not as easily dismissed as McCold would want. The core distinction between boards and other restorative models is the addition of trained volunteers who regularly hear cases.

First, as mentioned earlier, volunteers help affirm normative standards. One way that they do this is by listening to the stories of victims and offenders and locating them within the larger life of the community. The process of creating a 'community of memory' helps offset the disintegrating forces of American individualism:

> A community is involved in retelling its story, its constitutive narrative, and in so doing, it offers examples of the men and women who have embodied and exemplified the meaning of the community … The stories that make up a tradition contain conceptions of

character, of what a good person is like, and of the virtues that define such character … A genuine community of memory will also tell painful stories of shared suffering … not only of suffering received but of suffering inflicted … They carry a context of meaning that can allow us to connect our aspirations for ourselves and those closest to us with the aspirations of a larger whole and see our own efforts as being, in part, contributions to a common good. (Bellah, Madsen, Sullivan, Swidler, & Tipton, 1985, p. 153).

Volunteers carry memories of prior cases and develop repertoires of responses to oft-repeated claims of offenders, telling stories of role models and alternative ways of living.

Second, volunteers can identify and articulate community harms that may be overlooked in conferences that include only victims and their supporters. Of course, this is true for the voluminous victimless crimes that erode the quality of community life. Resident volunteers can describe the effects of street prostitution that is visible to themselves and their children, the fear engendered by drunk drivers, drug dealers, vandals, or aggressive panhandlers, or the indirect costs imposed on consumers by shoplifters. In one board case I observed, the victim of a theft at an Aikido studio spoke about the costs to himself of losing a wallet. Interestingly, the Aikido instructor participated as an affected party. He spoke of a 'breach of trust' and the less tangible harms to the community life of his dojo. Such speech about community harm is a common element of board meetings.

McCold questioned whether community service is a restorative practice, highlighting how it is a central feature of community justice practices. As a restorative response to community harm, it seems a natural fit within the restorative paradigm. Of course, community service is sometimes imposed punitively; chain gangs are a 'ceremony of status degradation' (Garfinkel, 1956). But if the service is negotiated as part of a collective and inclusive decision-making process, linked to the harm caused by the offense, and serves as a means to reintegrate the offender by offering an opportunity to learn skills and demonstrate prosocial behavior, then community service is consistent with both restorative justice and community justice. If the service is shoveling manure while wearing an orange jumpsuit, it is neither.

Third, to build on Granovetter (1973), volunteers allow for the 'strength of weak ties.' Although they are not necessarily close to the offender or victim, they provide links to local resources and a broad social network. These may help reduce the marginalization of offenders, enabling them to form bonds with the conventional community. The volunteers, particularly as they gain experience, will know of community resources for victim and offender assistance, mentoring, and community service. If not directly, they may provide links to systems of social support to victims and offenders that buttress the support provided by their friends and families.

Finally, volunteers, again as they gain experience, begin to see recurring patterns in the needs of victims and offenders. In order to respond more comprehensively, they may lobby for the creation of assistance programs, seeking to change public awareness, and public policy. Thus, they may provide the best bridge between micro-level restorative responses and macro-level community change. In Vermont, one consequence of the boards program has been the desire by board members to seek such

changes by creating community justice centers. These organizations not only manage their own board 'caseloads,' but provide other justice services, programs, and advocacy work.

One last point: Paul McCold is particularly hostile to the BARJ project, seeing it as: a government takeover of restorative justice; oblivious to restorative justice research findings; conceptually 'muddled'; 'masquerading as restorative justice'; confusing 'criminal justice professionals throughout the US'; and the reason the 'US falls behind the rest of the world in development of restorative justice.' Evidence for such claims is not provided. I will assume that Gordon Bazemore will mount a defense of BARJ, and will not try to do so. I am sad, though, that the tone of this essay is so hostile that it might foster unnecessary and unneeded divisions within the restorative justice community. Recently, I conducted training for several probation departments in New York State. At the end of the day, participants were enthusiastic about restorative justice but were overwhelmed by fiscal cutbacks, and did not think they had the time or resources to incorporate restorative practices. A better future lies with a restorative justice community that can inspire enthusiasm in criminal justice and legislative leaders, lobby for required resources, and build public support. I doubt it will come about by trashing kindred spirits with unsupported hyperbole.

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