

Juvenile Justice System in U.S.: Punishment vs. Restoration

Xintong Bu

*Troy High School, Fullerton, USA
bellasway1227@gmail.com*

Abstract. High recidivism rates among juveniles nationwide exemplify the failure of punitive models used to address juvenile crime. While juvenile justice is purportedly focused on rehabilitation, the majority of sanctions imposed by the juvenile justice system are punitive in nature. Detention and other forms of punitive sanctions in the juvenile justice system can impede youth's educational experiences, further exacerbate pre-existing mental health problems and limit youth's potential for healthy development. These adverse consequences illustrate a disconnect between punitive justice systems and the psychological dynamics of adolescent development that is characterized by heightened emotional vulnerability; nonetheless, adolescents exhibit substantial potential for growth and change. This paper will review the application of punitive and restorative justice models to juvenile offending through a developmental, psychological, and empirical lens. This paper will assert that punitive justice models focus on guilt and control and fail to consider the relational or contextual variables that may contribute to juvenile offending. Conversely, Restorative Justice employs a framework centered on responsibility for repairing the damage done to others, empathy toward victims, and reintegration into the community; therefore, Restorative Justice is more closely aligned with the developmental needs of adolescents. This paper will synthesize current research regarding recidivism, mental health, and systematic inequality to evaluate both the potential benefits and drawbacks to implementing Restorative Justice. In conclusion, this paper will argue that there must be a paradigmatic shift from punishing juveniles to restoring them to create a juvenile justice system that promotes accountability, equity and long-term community safety.

Keywords: Juvenile justice, punishment, restoration

1. Introduction

Historically, the juvenile justice system in the United States was established to promote rehabilitative purposes. During the last few decades, however, reform efforts have resulted in the juvenile justice system evolving into a punitive philosophy comparable to those used in adult criminal courts. The punitive sanctions utilized (i.e., incarceration, court-imposed sanctions, expulsion from schools, and surveillance) are predicated on the belief that punishment will educate youth to "learn" a lesson so as to modify their behavior. However, research has unequivocally shown that punitive sanctions are ineffective in lowering recidivism rates, promoting community safety, and typically increase the problematic behaviors they aim to decrease [1,2].

Be advised that papers in a technically unsuitable form will be returned for retyping. After returned the manuscript must be appropriately modified. In comparison to adults, adolescents continue to develop at a unique pace; specifically, adolescents are more emotionally reactive, less able to manage impulses, and more susceptible to influences from their peers due to the ongoing process of developing their brains. Conversely, adolescents have a remarkable capacity for development and change. Consistently, research demonstrates that environments that provide structure, relational accountability, and emotional support produce positive outcomes for youth whereas environments that center on fear and/or isolation are generally unsuccessful [3]. Despite the mounting scientific evidence regarding juvenile development and its implications for decision-making regarding adolescents, many judges continue to base their decision-making regarding the disposition of adolescents on instinct rather than empirical data; consequently, many judges misestimate the degree of culpability exhibited by the youth and underestimate the impact of trauma, immaturity and environmental factors [3]. As a consequence of the disparity between scientific evidence supporting juvenile development and the judicial practices that are based on this scientific evidence, a number of juvenile offenders are subjected to adverse and inequitable outcomes.

Furthermore, the use of punitive sanctions tends to be disproportionate to the youth who are members of minority groups and low-income youth. The disparate treatment rates among these youth are reflective of systemic inequalities in policing, education, and community resources. For example, Black and Brown students are suspended and expelled at greater rates, are arrested in school at greater rates, and are detained at greater rates than their White counterparts for similar offenses [4]. The aforementioned rates contribute to the School-to-Prison Pipeline and are a source of prolonged cycles of trauma and incarceration for youth. Systemic racism impacts not only who receives punitive sanctions but also the manner in which youth who participate in the juvenile justice system experience the lasting negative consequences of participation in the juvenile justice system.

On the other hand, restorative justice is a completely different model. Rather than deciding how severely youth must be punished for their actions, restorative justice seeks to identify the harm produced, determine the needs of each party, and find ways to hold the youth responsible for their actions. In contrast to punitive sanctions, restorative justice focuses on dialogue, empathy and reintegration rather than isolation. The results of research studies have indicated that restorative programs have been effective in increasing victim satisfaction, improving accountability, and reducing recidivism rates for a variety of types of restorative programs [5]. In general, the use of restorative justice provides adolescents with the opportunities to restore relationships damaged as a result of their actions, acknowledge the impact of their actions on others, and develop healthier decision-making processes.

Although there are a number of advantages to the utilization of restorative justice, a number of obstacles exist to the implementation of restorative justice. Many of the obstacles to the implementation of restorative justice include funding limitations, concerns regarding the level of acceptance of restorative justice from local communities, and opposition to restorative justice from legal entities that are concerned about loss of authority/power and/or decreased efficiencies [6,7]. However, the growing body of research continues to demonstrate the developmental appropriateness and long-term benefits of the use of restorative justice.

This paper will examine the theoretical, developmental, and empirical differences between punitive and restorative responses to juvenile offenses. The research employed in this paper draws from a variety of disciplinary areas and argues that restorative justice provides a more effective, equitable, and developmentally supportive method of responding to youth crimes. Ultimately, the

transition from punitive to restorative juvenile justice is necessary to develop a juvenile justice system that is based upon scientific evidence, fairness, and true public safety.

2. Literature review

2.1. Theoretical framework – Punitive Justice

The modern U.S. juvenile justice system is greatly influenced by retributive justice theory. Retributive justice theory is based upon the idea that an individual who has broken a rule deserves to be punished in proportion to what he/she did wrong. The philosophy behind retributive justice theory is that pain is a lesson that will teach the person to refrain from breaking rules again in the future and will enforce social norms [1]. However, retributive justice theory relies upon the assumption that all individuals make rational decisions and regulate themselves in a consistent manner. Neither of these assumptions apply to the adolescent brain.

Additionally, retributive justice theory embodies many of our moral intuitions regarding guilt/blame and free will. The Nevada Specialty Court paper points out that many times a young person's harm causing behavior is caused by factors beyond his/her control, such as trauma, socioeconomic inequality, and neurodevelopmental issues and unmet mental health needs [1]. Punishment may give us the emotional desire for revenge; however, it will never change a young person's behavior nor provide the tools necessary to regulate their emotions. Punishment typically leads to feelings of shame, separation, and foreclosed identities.

Systemically, punitive models reinforce hierarchical structures of power. Judges and Officers have complete control over the young person, forcing the young person to follow the law without having any say in the process, and the victim is usually seen as an afterthought. Although punitive methods can lead to temporary compliance with the law, it will never create internal accountability or prosocial motivation. This is especially damaging to the young person at a time when they need to feel safe enough to explore new ideas, develop their sense of belonging, and find ways to grow and develop as an individual.

In conclusion, punitive justice views misbehavior as a moral failing of the individual and not a developmental need—a premise that is at odds with current research. The lack of fit between punitive justice and developmental science has led to recidivism and long-term damage to the young person, highlighting the necessity for developmentally based alternatives.

2.2. Theoretical framework – Restorative Justice

Restorative justice represents a theoretical approach to justice that focuses on healing, accountability, and the involvement of the community. Rather than viewing the breaking of a rule as an abstract violation against the state, restorative justice views harm as a relationship issue between actual people with real needs [5,8].

As noted previously, this method uses empathy, perspective taking, and cooperative problem solving—skills that adolescents are still developing. Research using the Restorative Justice Attitudes Scale has demonstrated that the use of restorative processes increases both empathy and accountability by requiring the young person to consider the impact of their behavior [8]. Additionally, restorative justice practices meet the adolescent needs of belonging, competency, and autonomy.

Common restorative justice practices include community circles, victim offender mediation, family group conferences, and diversion programs. Community circles and the like foster open

communication, joint decision making, and reintegration into the community versus exclusion. It is important to note that restorative justice does not remove consequences; it simply changes how the consequences are experienced, reflecting the young person's sense of responsibility as opposed to suffering [9].

Restorative justice is also a way of addressing broader structural injustices. By including families and communities in the process, restorative justice acknowledges that harm occurs within the context of poverty, racism, and trauma. Therefore, restorative justice offers both behavioral accountability and structural compassion.

Collectively, these tenets represent a justice model that incorporates concepts of development, healing, and community safety—values particularly relevant for youth who are still in the process of developing their identity and learning to emotionally regulate.

2.3. Empirical evidence on recidivism

Research data consistently shows that punitive approaches do not decrease recidivism for youth. Detention typically increases the likelihood of future system involvement, detracts from a juvenile's education, and harms their mental health, all of which contribute to continued cycles of harm [2]. Conversely, restorative justice programs have shown compromise in reducing recidivism in various settings, for different types of offenses, and among different populations.

Meta-analytic studies have been one of the sources of empirical evidence. The meta-analytic study funded by the United States Department of Justice found that restorative programs resulted in moderate, statistically significant reductions in recidivism for most youth participants [5]. Specifically, diversion programs and well-structured conference models produced the greatest results. Additionally, youth reported greater perceptions of accountability and satisfaction compared to those processed through traditional court systems.

Other studies have documented that restorative practices result in improved school-related outcomes, decreased suspension rates, and enhanced relationships between youth and authority figures. School stability is perhaps the best predictor of reduced offending.

On the other hand, punitive methods have had the opposite effect. Detention has been shown to lead to increased dropout rates, decreased future earnings, and diminished community connections. Youth who experience detention, even briefly, have higher rates of adult incarceration compared to their peers who were diverted from detention [7].

RAND's policy analysis supports this evidence and further documents that community-based alternative programs not only reduce recidivism but also provide additional benefits for mental health and educational stability [2]. Overall, the evidence supports the notion that restorative and rehabilitative approaches are more aligned with developmental science and achieve the same ends as traditional punitive justice.

2.4. Social and emotional impacts

Adolescence is a time for forming identities. Punitive environments make it clear to youth that they are "bad" or "irredeemable." This is likely to cause adolescents to feel shame and reduce their desire to want to change their own life and behaviors [6,10]. In addition to the negative effects of being punished and experiencing stigma, youth of color (who are disproportionately represented in those being punished) will also be impacted by racism and structural inequality [7].

There is research showing that restorative justice produces healthier emotional development in youth, by focusing on empathy, communication, and relationship building. Therefore, youth learn

how they harmed others and learn without experiencing shame. Research shows that when youth feel heard rather than condemned, they will accept accountability for their actions in a restorative process [8]. Victims of crimes also have the opportunity to heal emotionally in a restorative justice process through dialogue with the offender. The victim can voice their needs and obtain clarification regarding the events of the crime.

2.5. Challenges and critiques

While research supports the idea that restorative justice is a viable alternative to punitive models, there are many barriers to implementing restorative justice. A significant challenge is institutional resistance. Many judges, prosecutors, and law enforcement are accustomed to punitive systems and have concerns regarding the effectiveness and legitimacy of restorative justice models [6]. Therefore, until some form of leadership and training occurs, many restorative justice programs will not be recognized as legitimate alternatives to punitive models by the judicial system.

Another major challenge to implementing restorative justice models is funding and infrastructure. Restorative justice models require trained facilitators, pre-meeting planning, safe space for dialogue between victims, offenders and other stakeholders involved in the process and community partnership, among other things, that require significant resources [11]. Nebraska's statewide analysis also identified funding inconsistency, employee turnover, and lack of accessibility in rural areas as factors that have limited the growth of restorative justice programs across the state [11].

Additionally, public misperceptions of restorative justice can also contribute to the resistance to the model. Many individuals equate accountability with punishment and therefore have difficulty building political support for alternative forms of accountability such as restorative justice [5]. Additionally, not all restorative justice programs are implemented with fidelity. Poorly constructed or coerced restorative justice programs (e.g. teen court models) tend to produce fewer desirable results [5].

Lastly, restorative justice cannot eliminate the effects of systemic injustices. Structural racism, poverty, and educational inequities play a role in shaping the behaviors of youth prior to any contact with the justice system. Therefore, restorative justice programs should be implemented along with broad reform efforts that include affordable housing, access to mental health services, and equitable school funding.

These challenges illustrate the need for thoughtfully developed implementation plans, sustained investment in these programs, and coordination across systems to implement these programs.

3. Discussion

The evidence supports that instead of focusing on punishing youth for criminal behaviors, we should focus on creating opportunities for them to learn how to make good choices and to be responsible for those choices. When youth are involved in the process of resolving conflicts and making restitution for their wrong-doing, they are better able to understand the consequences of their actions and they are less likely to act out again in the future.

In addition, because of the large number of youth who suffer from some form of mental health issue, restorative justice would allow for these youth to receive treatment in lieu of punishment. A majority of detained youth have a diagnosed mental illness, suggesting that our existing systems do not take into consideration the factors that may contribute to the misbehavior of youth.

As mentioned previously, studies have been done concerning a short term therapy called Acceptance and Commitment Therapy (ACT). This type of therapy has shown that youth who

receive therapy are better able to control their emotions and make decisions about their own behavior. Therefore, the use of ACT could be beneficial to youth who commit crimes. In addition, research studies have shown that when youth receive interventions that focus on developing self-esteem and increasing their confidence, youth are better able to manage their emotions and make healthy lifestyle choices [12].

Studies concerning the "school-to-prison pipeline" have illustrated that the disciplinary policies used in schools mirror the inequities found in the juvenile justice system and funnel students of color into systems that closely resemble adult prisons [4]. As a result, the impact of punitive systems extend far beyond the individual youth experiencing such systems and have a negative impact on the entire community.

On the other hand, restorative justice represents a different direction of addressing wrongdoing. Rather than placing emphasis on punishment, restorative justice seeks to promote dialogue and help youth reintegrate back into the community after they have committed a crime.

Broken relationships and damaged communities are the direct result of wrongdoing. However, addressing wrongdoing through restorative justice recognizes the impact of the harm caused to individuals and communities rather than simply adhering to laws and codes. Furthermore, restorative justice utilizes a public health model of recognizing the interconnected relationship of trauma, environment and behavior. Restorative justice promotes social capital by enhancing the relationships between youth and adults. Social capital is the most important predictor of long-term well-being.

There are, however, several practical considerations regarding the implementation of restorative justice. First and foremost, due to the lengthy nature of restorative justice, it cannot be seen as a quick fix to the problems facing the juvenile justice system. Successful restorative systems will require the continuous investment of time and money from states and local jurisdictions [11]. Therefore, it is crucial to provide continued financial support and training for individuals facilitating restorative processes.

Secondly, education of parents, teachers and the general public need to occur so that all parties understand that accountability can be provided in a compassionate manner without being permissive. Thirdly, the success of a restorative justice program will depend largely on whether the program is culturally responsive. Because each community is unique in its history, culture, needs and available resources, a successful restorative justice program must reflect the cultural and ethnic diversity of the community in which the program is located. Furthermore, a successful program will include collaboration with community leaders, incorporate Indigenous practices and be developed by and for the youth being served by the program.

When restorative justice is implemented in an authentic manner, there is great potential for positive transformation of both the individual and the broader community. Ultimately, if the goal of restorative justice is to reduce crime, then a restorative approach must be utilized. Restorative approaches build trust, foster healing and encourage youth to become productive members of their communities.

The research evaluated throughout this study illustrates the shift away from an inquiry as to whether or not restorative justice is "effective" and rather how to integrate the use of restorative justice in a sustainable and equitable way in the juvenile justice system. The literature clearly indicates that restorative justice produces superior results to punitive measures relative to the reduction of recidivism rates, meeting the developmental needs of youth, and addressing fairness among all racial and socio-economic groups. With awareness of the limits of punitive models by

policymakers, judges, educators, and communities, restorative justice offers a holistic model of healing and not harm.

4. Conclusion

The U.S. Juvenile Justice System has reached an important turning point. Attitudes toward juvenile justice policy have been shaped by a "punitive" era of juvenile justice. These policies are no longer aligned with the emerging body of knowledge from the fields of developmental psychology, mental health and recidivism studies. Adolescents develop and mature; as such, they require support, relational experience and opportunities to grow. A restorative justice approach aligns with these developmental needs and also fulfills community expectations for individual and group accountability, and victim reparations.

Numerous studies demonstrate that punitive approaches to youth consistently fail to produce positive long-term outcomes, cause significant damage to marginalized youth and their families and fail to meet the needs of victims. On the other hand, restorative justice programs promote accountability, foster empathy and provide healing—two highly ethical and practical goals. Currently, however, several barriers exist which prevent restorative justice from becoming implemented with fidelity (i.e., restorative justice programs adhering to the core values of restorative justice), and resource constraints exist to prevent the widespread use of restorative justice.

While implementing a focus on restoration within the juvenile justice system will involve some expense, the long-term benefits of such a system far outweigh the immediate costs. In the end, a justice system focused on restoration as opposed to punishment is a better system—both more effective and more humane. The creation of a system that focuses on restoration is dependent upon the continued and collective efforts of all stakeholders involved in the juvenile justice system—including policymakers, legal professionals, educators and community members. If the ultimate goal is to improve public safety and the general well-being of youth, then it is necessary to start by transforming the juvenile justice system into one that focuses on restoration.

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