Day 2: Restorative Responses to Harm

Today’s Agenda

- Parking Lot
- RJ Core Questions Deep Dive
- Identifying Harms, Needs, and Solutions
- Intro to Conferences
- Conference Role Play
Restorative Facilitator Role

• Multi-partiality
  “All in for everyone.” - D. Fisher

• Hold space & trust the process

• Offer process not promise

• Put the people and the harm in the center

• It is not about you – you are providing a process for the people most connected to an issue to address it

• Goal: to clarify harms & needs and explore methods & strategies to meet needs, repair harms
Core Questions Pair Share

25 Minutes

- Storyteller 1 (10 min).
- “I caused/experienced a harm…”
- Storyteller 2 (10 min).
- “I caused/experienced a harm…”
- Debrief (5 min)
Identifying Harms, Needs, and Solutions

Types of Harm

- Material/Physical
- Communal/Relational
- Emotional/Spiritual
- Inflamed Structural/Historical

Harm

Center for Restorative Justice
sandiego.edu/rj
Theory of Needs

Rosenberg’s Nonviolent Communication (NVC)
- Universal list of needs
- Detangling needs and strategies
  - Strategy “I need him to be fired”
  - Need “Safety”

Repairing Harm

What can be done to repair the harm?

<table>
<thead>
<tr>
<th>Emotional/Spiritual Harm</th>
<th>Material/Physical Harm</th>
<th>Communal/Relational Harm</th>
<th>Inflamed Structural/Historical Harm</th>
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</thead>
<tbody>
<tr>
<td>Acknowledgement</td>
<td>Repair</td>
<td>Community Service</td>
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<td>Apology</td>
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<td>Systems Change</td>
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<tr>
<td></td>
<td>Recovery</td>
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Rebuilding Trust

What can be done to rebuild trust?

Identify Harm
- What happened?
- What impact did this have on you?
- What was the hardest thing?

Identify Need
- Because of this harm, do you have a need for…?
- Based on Rosenberg theory of needs

Identify Solutions
- What can be done to meet this need?
- What else?
- Reality check

Harms → Needs → Solutions

“Harms create needs. Justice is meeting needs. True justice is healing.” Judah Oudshoorn
Grok for Harms

**Storyteller**
- Picks a NEGATIVE feelings card associated with a harm you once experienced
- Keep it secret
- Tells the story about when you felt that way

**Listeners**
- Deal out all needs cards
- Play one card that best represents storyteller’s needs

**Storyteller**
- Discusses how close each card is, and picks the winner

**Winner**
- Guesses feeling card
- Then others go 1st round the circle to guess
- Winner provides summary reflection

**New round/New Storyteller**
- Rotate cards; redistribute played cards

**Needs card winner = 3 points**
**Feelings card winner = 2 points (1 point if hint round)**

**Summary reflection by winner:**
- Regarding the incident of ____
- One of harms you experienced was______
- The situation made you feel __________
- And you had a need for _________
- Ask: What is one thing you could do to meet your need for _______?
Conference Process

RJ Conference – The Basics
Basic RJ Process

Pre-Conference
- Referral
- Outreach
- Assessment
- Preparation

Conference
- What happened?
- What was the harm?
- How can we repair harm and rebuild trust?

Post-Conference
- Mentoring
- Agreement monitoring
- Assessment

Voluntary meeting
Trained facilitators

Conference Role Play
Closing Circle

1 word check out

Day 3
Restorative Case Flow, Reintegration, and Synthesis
Today’s Agenda

- Opening Circle
- Restorative Reintegration
- RJ Case Management
- Synthesis & Closing Circle
- Snacks & Goodbyes
Restorative Reintegration

Whole Campus Approach

Tier I
Build and Strengthen Relationships

Tier II
Respond to Conflict and Harm

Tier III
Support Reentry

Circles of Support and Accountability
Restorative Conferences
Community-Concern Circles
Community-Building Circles

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A Restorative Case Management Approach

Restorative Resolution
- Focus on harms and needs
- Storytelling and listening
- Finding collaborative solutions
- Supportive

Investigative Resolution
- Focus on fact-finding and sanctions
- Determination of responsibility
- Assessing Credibility
- Adversarial
OCR Regulations – Quick Summary

- Voluntary
- Requires formal complaint
- Both parties give “written consent”
- May not require participation in informal resolution
- May not offer informal resolution unless a formal complaint is filed

- “Any person who facilitates must be well trained”
- Any time prior to agreeing to a resolution, must be able to withdraw from informal and resume formal process
- Cannot offer informal resolutions in cases with employee respondents and student complainants.

Restorative Flow

1. First Meeting (Taking Report)
2. RJ Intake and Assessment
3. Preconference/Prep Meetings
4. Restorative Intervention
5. Follow-Up
First Meeting with Complainant

• Take Report; Listen for Needs
• Explain options if complainant wishes to file a Formal Complaint
• Restorative options:
  – Initiated by the complainant
  – Approved by the TIX or designee (explain limitations if there are any)
Intake and Assessment

When a case gets to an RJ facilitator, they need to do their own intake and assessment. This is a voluntary process for all -- including the facilitator.

- If the facilitator feels that the process is not being entered into voluntarily by the parties (ex. coerced) they should pause and check in.
- If the facilitator feels that parties are not entering in good faith, they should pause and check in.
- If the facilitator feels that the process is likely to cause additional harm, they should pause and check in.
- Facilitators can stop the process.
  - These assessment instincts are honed and developed over time;
  - Handouts/checklists here to help you.

Synthesis
Form a Wagon Wheel

Closing Circle

What’s becoming clear to me is…
One thing I’d like to say is…
Introduction to Restorative Justice and Campus Sexual Harm

Nina Harris & Kaaren M. Williamsen
December 2-4, 2023

Day 1: Circle Practice and RJ 101

Land Acknowledgement

At the USD Center for RJ, we acknowledge that the land on which we gather is the traditional territory of the Kumeyaay Nation that was stolen and colonized. This acknowledgment is meant to hold space and honor those to whom this land belongs. We acknowledge and honor the past, the present and the future to help all heal from our collective wounds and work towards dismantling the ongoing injustices brought on by colonization.
Take care of yourself

Bathrooms
Coffee and Food
Breaks
Parking Lot
Asking us to help

What to expect...

Our work will be interactive.
We will be modeling and practicing skills together.

Our work will be self-reflective.
We will take time to check in with our current practices and aspirations.

Our work will be iterative.
We will build up and repeat concepts to support learning.

Training Overview

Day 1
Overview of RJ
Tier 1: Community Building through Circle Practice

Day 2
Tier 2: Responding to Harm and Intro to Restorative Conferences

Day 3
Tier 3: Restorative Reintegration, Evidence of Effectiveness
Today's Agenda  
Circle Practice and RJ 101

- Opening Circle
- Intro to RJ & Intro to RJ for Campus Sexual Harm
- Healing Centered RJ
- Circle Experience for Community Building
- Campus Climate Circles
- Closing Circle

Interactive Learning Boards

Opening Circle
Why did we do this Opening Circle?

- To check in, be seen, be heard
- To respond to a prompt to connect more deeply with each other
- To build our learning container
- To share our values & create community agreements
- To experience use of a talking piece for turn-taking

The Circle Framework

**Essential Elements for Constructing the Circle**

*Key Praxis*

The Circle is a structuredaking process that nurtures connections and empathy, while honoring the uniqueness of each participant. The Circle can hold pain, joy, despair, hope, anger, love, fear, and paradox. In the Circle, each person has the opportunity to speak his/her truth but cannot assume the truth for anyone else. The Circle embraces difficult emotions and difficult realities, while maintaining a sense of positive possibilities. The Circle is deeply rooted in an understanding of profound interconnections to the nature of the universe.

The Circle Keeper uses the following elements to design the Circle and to create the space for all participants to speak their truth respectfully to one another and to seek resolution of their conflict or a greater understanding of one another’s perspective.

- Seating all participants in a circle (preferably without any tables)
- Centerpiece
- Talking piece
- Values round
- Guiding questions
- Thematic dialogue
- Closing round
- Reflect/appreciate

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“Centerpieces change the space
Talking pieces change the pace”
Gina Gutierrez Karp

Center for Restorative Justice
sandiego.edu/rj
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The 5 C’s of Circles

Convening
Connection
Collaboration
Content/Concern
Closing

Break
15 Minutes

Restorative Justice
"Restorative justice is a process to involve, to the extent possible, those who have a stake in a specific offense and to collectively identify and address harms, needs, and obligations, in order to heal and put things as right as possible."

Howard Zehr, Created first RJ program in U.S.

Restorative Practices Defined

"Restorative practices use the restorative justice principles of participation, empathy, problem solving and respectful dialogue to build healthy and equitable relationships between people and to repair relationships when conflict occurs.

The term is commonly used in schools (and some workplaces) to describe efforts to create a calm, supportive and cooperative institutional culture where the quality of the relationships between people enables everyone to thrive and succeed together."

Chris Marshall Diana Unwin Chair in Restorative Justice Victoria University of Wellington

Restorative Justice

- Philosophy and set of practices
- Crime is a violation of people and relationships, not just laws, creating needs and obligations. Restorative justice aims to involve, as much as possible, the parties most impacted by the crime.” (Zehr 2002).
- Four key principles: inclusive decision making, active accountability, repairing harm, rebuilding trust (Karp, 2015).
- Restorative justice for sexual offenses requires adaptation (Koss, 2010).
The Why of Restorative Practices

To build community and strengthen relationships
To create a brave container for difficult dialogue
To focus on responding to and repairing harm
To collaborate on next steps for response

Restorative Justice: THE WHAT
RJ 101: Principles and Practices

Basic RJ Principles

- Focus on harms and needs rather than law or policy
- Non-adversarial and multipartial and relational
- A variety of practices such as circles and conferences
- Empowered, collaborative decision-making process
Expanding RJ Movement

Schools
Workplaces
Families
Juvenile Justice
Criminal Justice
Genocide
Human Rights
Violations
Historical Harms

Core RJ Practices and Origins

- Youth Justice
  - New Zealand Maori Justice and 1989 Act
  - Australia Community Policing 1992
- Criminal Justice
  - Alternative Dispute Resolution
  - Mennonite VORP 1978, Indiana
- Indigenous Rights
  - First Nations/ Native American Justice
  - Native Law Center 1975
  - Yukon Sentencing Circles 1991
- Criminal Justice
  - Truth Commission
  - Truth and Reconciliation
  - Reconciliation

Emergence of Transformative Justice

- RJ within systems, TJ outside systems
- Language and framing solidified at INCITE! Conference in 2000
- Political and abolitionist framework
- TJ & RJ overlap in addressing harm, key processes, relational and collaborative approaches
Whole Campus Approach

Tier I: Build and Strengthen Relationships
- Circles of Support and Accountability
- Restorative Conferences
- Community Concern Circles
- Community-Building Circles

Tier II: Respond to Conflict and Harm
- Support Reentry

Tier III: Support Reentry

Asking Different Questions

Traditional Discipline
- What rules were broken?
- Who did it?
- What do they deserve?
- Offender-focused/Punitive

Developmental Discipline
- What rules were broken?
- How did you get in this mess?
- How can you make better future decisions?
- Offender-focused/Supportive

Restorative Justice
- What harm has been caused?
- What can be done to make things right?
- What can be done to rebuild trust?
- Balanced focus/Supportive

RJ Questions by Tier

Tier I: Community Building
- Who are we?
- What are our stories?
- What are our core values?
- What is important to us?
- What kind of community do we want?
- How do we want to treat each other?
- How will we all contribute?

Tier II: Responding to Harm
- What happened?
- Who has been impacted? In what way?
- What are the harms to be addressed?
- What needs do we have?
- What will make things right?
- How do we rebuild relationships?
- How do we address this in a restorative way?

Tier III: Reintegration
- How do we support this individual?
- How do we support harmed parties?
- Has the individual taken responsibility?
- How do we prevent recurrence?
- How will we welcome this person back?
- What resources do we need for successful reintegration?
RJ is an Exploration of Harms & Needs

Harm

- Emotional/Spiritual
- Material/Physical
- Communal/Relational
- Inflamed Structural/Historical

Early Adopters: Motivated to expand options...

In looking at the number of reports that we were getting compared to the number of students who wanted to go through an investigation process... we were losing a lot of people. They wanted something to be done, but they did not want to go through a formal investigation process for any number of reasons....

Even... when a student goes through the investigation process, goes through a hearing and receives an outcome that on paper is favorable to them, that does not give them a sense of justice. And I think that's true for both complainant parties and respondents...

The investigation process doesn't easily allow for any sense of justice or true resolution for the parties who are going through it. It certainly serves the due process requirements of Title IX, but not the necessarily the human side of it for parties going through it.

(Former Title IX and Dean of Students)

Reporting and Adjudication

- 834 Female Students
- 284 (34%) Sexually Assaulted
- 16 (6%) Reported to Campus
- 5 (2%) Filed Formal Complaints

Holland & Cortina 2017
Survey at Midwestern University

Concerns about traditional criminal justice approach

*The wishes and needs of victims are diametrically opposed to the requirements of legal proceedings…Indeed if one set out intentionally to design a system for provoking symptoms of traumatic stress, it might look very much like a court of law.*

J. Herman, 2005, p. 574

Administrator Concerns (Williamsen, 2017)

*Retraumatizing for the survivor/victim*

Is it a forgone conclusion that any process that requires a review of the event and a review of other people’s recollections of the event and other people’s assessment of your behavior and your credibility in light of this event, is it possible to do that in a way that’s not retraumatizing? My experience is no.

Even though that’s fair. That’s the fairest way to have a fair outcome, right, is everybody has access to all of the information that we’re gathering. We’re trying to figure out what happened and make sure that both parties have full access to all of the information… and they have a right to rebut and expand and clarify and respond. That in and of itself does damage.

Carol, student conduct administrator
**Survivor Needs & Justice**

According to SVs [survivor/victims], satisfying their justice needs rests on the extent to which they:

1. contribute input into key decisions and remain informed about their case,
2. receive response with minimal delay,
3. tell their story without interruption by adversarial and sometimes hostile questioning,
4. receive validation,
5. shape a resolution that meets their material and emotional needs,
6. feel safe.

*Koss, 2010, p. 221*

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**Early Adopters**

Study of 10 early adopters, representing 7 institutions and 1 former administrator now independent consultant.

- RJIA -- Restorative Justice Informed Approaches
- Terms varied:
  - Alternative Resolution
  - Adaptable or Adaptive Resolution
  - Informal Resolution

- Facilitators:
  - Designated restorative facilitator
  - Student conduct officer
  - Ombudsperson
  - Title IX Coordinator
  - Faculty/staff volunteers
  - External consultant
  - Senior student affairs professional

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**Early Adopters**

Early adopters used a variety of practices in their Restorative Justice Informed Approaches (RJIA). These practices informed by RJ philosophy and practices as well as mediation, dispute resolution, various conflict resolution practices.

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<thead>
<tr>
<th>Practice</th>
<th>Modality</th>
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<tbody>
<tr>
<td>Circles</td>
<td>In person</td>
</tr>
<tr>
<td>Dialogues</td>
<td>Via Zoom</td>
</tr>
<tr>
<td>Conferences</td>
<td>Shuttle (no direct contact btwn parties)</td>
</tr>
<tr>
<td>Shuttle agreements</td>
<td>Combination</td>
</tr>
</tbody>
</table>

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Early Adopters

Basic Restorative Flow
➔ Complainant request & Title IX Coordinator approval
➔ RJIA facilitator intake with each party
➔ Preparation with each party
➔ Voluntary restorative engagement
➔ Finalizing restorative agreement (if agreement reached)
➔ Title IX Coordinator approves agreement
➔ RJIA facilitator follow up with the parties


Early Adopters - RJ Champions

It's important for those in the Title IX worlds to [not] be afraid to get creative and … to look outside of the law and outside of the box.

(TIJC)

Pair & Share

“Something I can share about me is…”
Whole Campus Approach

Tier III
Support Reentry

Circles of Support and Accountability

Restorative Conferences

Community-Centric Circles

Community-Building Circles

Tier II
Respond to Conflict and Harm

Tier I
Build and Strengthen Relationships

Where do you see the greatest opportunity to apply this in your context?

Circles of Support and Accountability

Restorative Conferences

Community-Centric Circles

Community-Building Circles

Fania Davis
Co-Founder, Director
Restorative Justice for Oakland Youth, RJY

What resonates most for you?

What does it mean to truly be accountable?
Restorative justice is a way to prevent or respond to harm in a community with an emphasis on healing, social support, and active accountability. RJ includes a variety of practices with many rooted in indigenous and religious traditions. Some practices help prevent harm by helping people build relationships and strengthen communities. Other practices respond to harm by helping to clearly identify harms, needs, and solutions through an inclusive and collaborative decision-making process.

What is Restorative Justice?

After lunch…

Bring the small object that represents something about you, your values or your work.

Healing-Engaged RJ
Healing-Engaged RJ

Trauma is an emotional, psychological, physical, and/or neurological response to a real or perceived threat to life, well-being, or safety. It is subjective, meaning an experience that is non-threatening for one person may be traumatic for someone else.

Healing-Engaged RJ

Cycles of Violence

Healing-Engaged RJ

Trauma-Informed Restorative Practices

Take 5 minutes to read handout
Healing-Engaged RJ

In groups of three, review and discuss the following sets of questions from the "Trauma-Informed Practices Handout" (pg 13);
20 minutes

Round 1
Review the Safety and Trust questions; reflect on your current campus practices.

Round 2
Review the Choice & Control, Collaboration, and Empowerment Questions; reflect on your current campus practices.

Round 3
Review the Training Questions and reflect on your current campus practices.

Restorative Justice: THE HOW
Tier 1: Community-Building Circles

Holistic Approach

Tier I
Build and Strengthen Relationships

Tier II
Respond to Conflict and Harm

Tier III
Support Reentry
Model Circle:
Story Sharing

Community-Building Circle:
Meaningful Objects

Round 1: Share your piece, starting with facilitator
Round 2: Return piece to person on your left, starting with facilitator
- Honor the story by reflecting
- Open to circle for connections

Break
15 Minutes
Holistic Approach

Tier I
Build and Strengthen Relationships

Tier II
Respond to Conflict and Harm

Tier III
Support Reentry

Circles of Support and Accountability

Restorative Conferences

Community-Concern Circles

Community-Building Circles

From Community Building to Community Concerns

Community-Building Circles
- Strengthen relationships
- Build empathy and trust

Community-Concern Circles
- Identify issues of community concern
- Elicit multiple perspectives
- Collaboratively design customized solutions

Campus Climate Circle
Can’t wait to see you tomorrow!

We will take our restorative practices to the next level: How do you build on community to respond to an incident of harm?

Today was all about community-building circles (Tier 1)

Tomorrow is all about responding to harm restoratively (Tier 2)