



# RESTORATIVE JUSTICE

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NJJN WEBINAR

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Elizabeth Clarke, President, Juvenile Justice Initiative

[www.jjustice.org](http://www.jjustice.org)

@jjinitiative

# Juvenile Justice Initiative

- *Dialogue, Education & Advocacy*
- Policy advocacy on issues re children & emerging adults in conflict with law
- Focus:
  - Incarceration/detention as a last resort
  - Juvenile court for prosecution of children/emerging adults
  - Fundamental fairness and human dignity for all children and emerging adults
  - Compliance with highest standards of human rights
- Independent - privately funded – **no government funds**

# RJ a big deal in U.S. and worldwide

- Over 4,000 participants at national RJ conference in Oakland, Calif last year
- RJ in Northern Ireland since 2003 - the juvenile code requires consideration of an RJ conference upon a finding of guilt in every juvenile case – the law since 2003 – data shows reduced repeat offending, reduced incarceration, higher levels of satisfaction by all participants – and helps instill peace-building skills in community

# Restorative Justice

- A complex notion that is evolving.....largely out of dissatisfaction with the lengthy, costly & excessively punitive proceedings in criminal courts.....mediation on civil side is similar evolution out of similar dissatisfaction with court process
- A VISION of justice that is based on **participation, dialogue and reparation**, rather than retribution/punishment
- A VISION of justice based on fundamental human rights, addressing the needs and obligations of all parties involved within practices that incorporate legal safeguards.

# Restorative Justice is NOT

- Quasi-criminal proceedings such as peer juries
- Proceedings that pressure persons to make admissions (purportedly for accountability)
- Proceedings that utilize punishment .....especially sanctions that are out of proportion to the underlying conduct at issue
- Proceedings that make accountability public – that use shaming, etc

# BUT Justice that is truly restorative

- Has lower rates of repeat offending
- Has better outcomes with reintegration into society
- Has higher levels of satisfaction for both “victim” and “offender”
- Enhances community understanding of the underlying forces behind offending, including poverty issues such as housing instability, lack of employment, etc
- Enhances community responses to offending
- Builds peace-building skills in all participants

# Must be fully integrated to address bias in system.....

- Be wary – problems with integrity of RJ processes if used for diversion in system with overly zealous and biased policing.
- *Restorative Community Conferencing* – a report from Impact Justice on youth diversion program in Alameda County – quote from facilitator: ***I've had ....situation where the person arrested was Black and the other person in the fight was White and not charged. And they've talked about it and resolved it but still there is one "responsible" person. That's a real conflict for me because it seems like we are doing someone else's dirty work because he shouldn't have been arrested in the first place.....***notes that need circles at the school and with the police.

# Works better with serious cases

- **Research shows that low-risk youth do better without intervention**
- San Francisco's Make it Right program –
  - Felony cases
  - No DA ever present in conferences
  - Funded by Dept of Children/Youth/Families
  - Preliminary stats show has significantly lowered recidivism rates



# Convention on Rights of Child (CRC)

## Article 40

- Youth Justice that is guided by CRC Article 40 specifies that any legal processes for children in conflict with the law should:
  - ....promote.....the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.

# A Rights Based Approach to Restorative Justice

- Principles of rights-based restorative justice:
  - **Non-discrimination**, Equality and Mutuality CRC Article 2
  - Well-Being and **Restoration** CRC Article 3
  - Survival, Development and Safety CRC Article 6
  - **Participation** & Voice CRC Article 12
  - **Proportionate** and Humane Responses CRC Article 37
  - **CONFIDENTIALITY**
- In 2003, Canada enacted the Youth Criminal Justice Act (YCJA) – the first piece of federal legislation integrating the core CRC human rights and principles of restorative justice – along with adolescent development.

# North American Council on JJ

- Paper on Restorative Justice with 10 points for Improving and Implementation of RJ, including:
  - During restorative processes, all the parties involved shall enjoy **fair trial guarantees**, to avoid secondary victimization and ensure fairness of the proceeding. Restorative principles, such as **voluntary participation, confidentiality, proportionality, and neutrality of the mediator**, should be guaranteed by law;
  - Government agencies and other entities responsible for delivering the restorative service should **gather and collect information** on the implementation of restorative juvenile justice.
  - Facilitators shall be offered **high quality training**, both as a precondition to get in contact with children, and throughout their experience in restorative practices;
  - Government agencies and other entities responsible for providing restorative services should be subject to **regular monitoring and inspections** of their practices;

# Need to ensure

- CONFIDENTIALITY of all statements made in Restorative Justice Proceeding.....
- PROPORTIONALITY of any remedy that comes out of Restorative Justice Proceeding.....

# IL Proposed Supreme Court Rule on Confidentiality

- Where a restorative justice practice is convened, neither **the fact that it has been convened**, nor anything said or done with the practice is admissible in any court or tribunal, unless this privilege is waived, in court or in writing, by the party or parties about whom the information concerns or is subject to the exemptions below. Any waiver is limited to the participation and communication of that party only, and the participation or communications of any other participants remains confidential and privileged unless waived by the other parties. Further, this information is not subject to discovery or disclosure in any judicial or extra-judicial proceedings.

# RJ Community Court began in August of 2017

- Juvenile Court Judge – but court handles emerging adults up to age 26 – charged with non-violent felonies.....if complete successfully, record is cleared
- Located in conference room in community provider office in impacted community – North Lawndale – with a Community Defender office (lawyers live in community)
- Court convened around conference table – court role to review compliance with repair of harm agreement – but agreement developed by community in circle – no system involvement in community circles

# Chicago RJ Cmnty Court

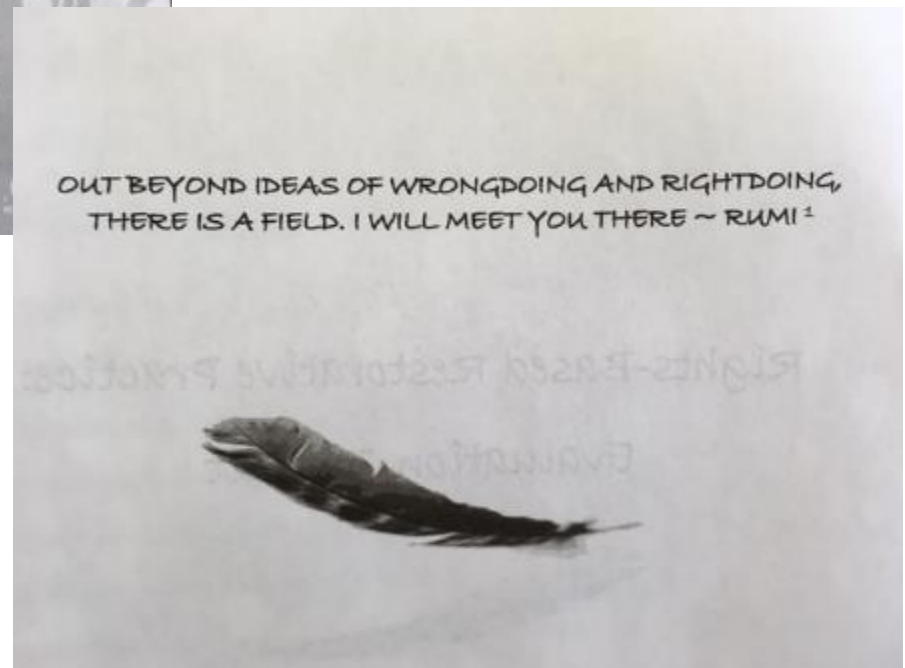
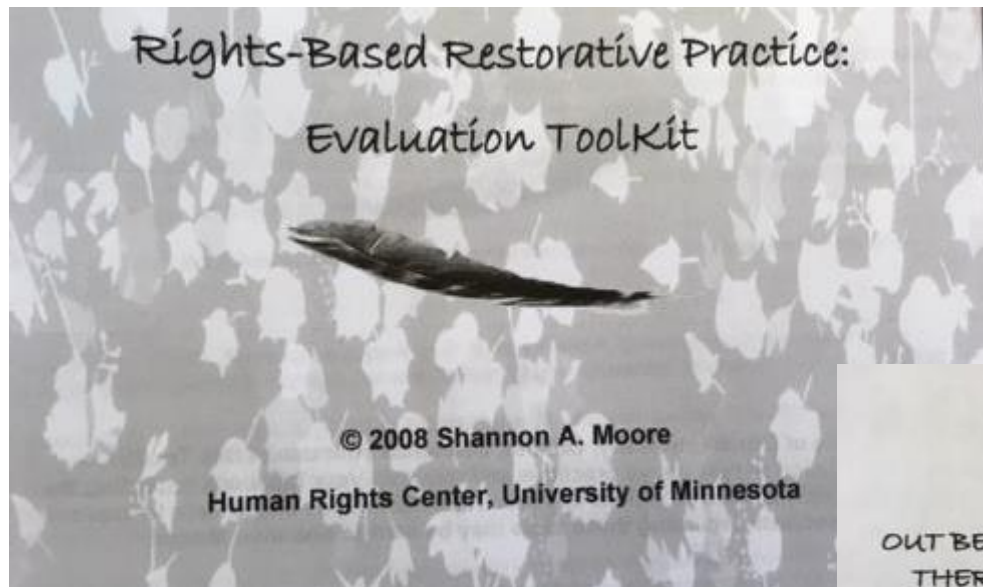


# Rights protection in RJ Court

- Agreement with prosecutor for full confidentiality
- Felony cases & monitoring to avoid net widening
- Trained circle keepers
- Evaluation being underway
- Ongoing dialogue between system & community



# Rights-Based Approach to RJ



# Questions?

- THANK YOU!
- STAY INVOLVED!!!!!!!!!!