

Advancing Accountability:
Moving Toward Victim Restoration



*Commissioned by the Juvenile Justice and Delinquency Prevention Committee
of the Pennsylvania Commission on Crime and Delinquency*

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Advancing Accountability: Moving Toward Victim Restoration

In the last decade, three historically significant events reshaped Pennsylvania’s juvenile justice system and provided the impetus for expanding the circle of people it serves to include victims and communities.

- ▶ 1995: The legislature changed the purposes of the Juvenile Act¹ to reflect principles of two philosophies, the Balanced Approach to Juvenile Probation and Restorative Justice. The Juvenile Act now mandates that the juvenile justice system provide programs of supervision, care and rehabilitation that give balanced attention to the protection of the community, **imposition of accountability for offenses committed**, and development of competencies to children who commit delinquent acts.
- ▶ 1997: Pennsylvania’s state advisory group, now known as the Juvenile Justice and Delinquency Prevention Committee (JJJPC) of the Pennsylvania Commission on Crime and Delinquency, formulated a mission statement² for Pennsylvania’s juvenile justice system that, for the first time, introduced the concept of “**victim restoration**.” The JJJPC’s statement of beliefs and guiding principles acknowledges that crime victims and communities are harmed by crime and that juvenile offenders, in order to be held accountable, have an obligation to repair that harm to the greatest extent possible.
- ▶ 2000: Pennsylvania’s Crime Victims Act³ was amended to include provisions relating to victims of juvenile crime in the **Basic Bill of Rights for Victims**.

Together, the Juvenile Act, the JJJPC’s Mission and Guiding Principles and the Crime Victims Act lay out the juvenile justice system’s responsibility to juvenile offenders, crime victims and communities. For the accountability goal, the system determines juvenile offenders’ obligations to the crime victim and community, helps offenders fulfill those obligations and ensures that victims of juvenile crime receive the rights to which they are entitled. This White Paper acknowledges that the juvenile justice system has done an admirable job of ordering offenders to pay restitution and fees to the Crime Victims’ Compensation Fund and to perform community service. The system has also taken great

strides to ensure that crime victims receive adequate notification of hearings, information, court accompaniment and separate waiting areas.

However, in order to “advance accountability” and to achieve the mission of victim restoration, the juvenile justice system must more routinely use restorative justice processes that promote victim restoration and also ensure that juvenile offenders not only fulfill their obligations, but also gain insight and understanding into how their illegal actions harm others.

The JJDCP commissioned a series of White Papers to clarify each of the juvenile justice system’s balanced and restorative goals. As with the first one on competency development,⁴ the National Center for Juvenile Justice conducted background research and prepared the text for this White Paper. The JJDCP and a focus group of juvenile justice and allied professionals, who spent many hours discussing and debating the topic, guided the authors in this task. It is hoped that this White Paper will prompt modifications in policies and practices and change the lens through which the concept of juvenile offender accountability is viewed.



Defining Accountability



In most cases, the best way to define the harm from crime is with input from crime victims. The juvenile offender has an obligation to repair the harm to the crime victim and community to the extent possible. With respect to juvenile offender accountability, the juvenile justice system has a twofold responsibility: to ensure that juvenile offenders meet their obligations and to honor and protect crime victims’ rights.

Since Pennsylvania’s approach to juvenile justice strives to be balanced *and* restorative, the accountability goal is infused with principles and practices from both the balanced approach and restorative justice philosophies. The restorative approach to justice focuses on the harm done to the crime victim and community, what needs to be done to repair the harm and who is responsible for the repair.

Pennsylvania Juvenile Justice

First adopted in 1997, the Juvenile Justice and Delinquency Prevention Committee reaffirmed the Mission, Beliefs and Guiding Principles in 2003.*

Mission:

Community Protection; Victim Restoration; Youth Redemption

Victim Restoration

Our Belief:

In Pennsylvania, a juvenile who commits a crime harms the victim of the crime and the community, and thereby incurs an obligation to repair that harm to the greatest extent possible.

Guiding Principles:

Pennsylvania's juvenile justice system shall:

- ▶ Ensure that the harm to the crime victim and community is understood and considered by the decision makers throughout the juvenile justice process.
- ▶ Inform crime victims about their rights, their cases, and the juvenile justice process.
- ▶ Provide crime victims with access to a wide range of support and services and enable crime victims to actively participate in their cases.
- ▶ Require that community service performed by juvenile offenders be of value to crime victims and communities.
- ▶ Operate the juvenile justice system so that victims of juvenile crime regard the system as responsive, fair and just.
- ▶ Ensure that juvenile offenders understand that crimes have consequences.
- ▶ Ensure that juvenile offenders understand the impact of their crimes on their victims and their communities.
- ▶ Hold juvenile offenders accountable for restoration of crime victims and communities to their pre-crime status, to the greatest extent possible.

Furthermore, all of the services designed and implemented to achieve this mission and all hearings and decisions under the Juvenile Act—indeed all aspects of the juvenile justice system—must be provided in a fair and unbiased manner. The United States and Pennsylvania Constitutions guarantee rights and privileges to all citizens, regardless of race, color, creed, gender, national origin or handicap.

* Juvenile Justice and Delinquency Prevention Committee, Pennsylvania Commission on Crime and Delinquency. (2004). *Mission and Guiding Principles for Pennsylvania's Juvenile Justice System*. Harrisburg, PA: Author.

Victim restoration is deeply rooted in restorative justice philosophy, which views crime as “. . . a violation of people and relationships. It creates an obligation to make things right. Justice involves the crime victim, the juvenile offender, and the community in search for solutions which promote reparation, reconciliation, and reassurance.”⁵

The victim restoration mission requires the system to treat crime victims with dignity and respect, to avoid interactions that may re-victimize them and to protect their rights. However, it does not assume that either juvenile offenders or the juvenile justice system has the power to fully restore crime victims to their pre-crime state. Rather, it acknowledges juvenile offenders’ obligations to repair the harm to the extent possible and the system’s responsibility to ensure that this happens. When the juvenile justice system holds juvenile offenders accountable, crime victims may feel restored.

The “balanced attention” mandate in the Juvenile Act provides the framework for implementing restorative justice practices. Balance does not mean that equal attention must be paid to each of the system’s three goals. Instead, the individualized circumstances of the case dictate the emphasis to be placed on each one. It also means that crime victims, the community, and juvenile offenders should each receive attention from the juvenile justice system and substantially benefit from their interaction.⁶

Nevertheless, offender accountability is unique among the goals because this obligation exists independently of the level of attention that needs to be paid to competency development and community safety, the system’s other goals. Consequently, every juvenile offender should be required to participate in appropriate restorative-based accountability activities to repair the harm done to the crime victim and community. The type and level of participation depends upon the young person’s age, stage of development and mental abilities.

|| Juvenile Offender Obligation

A juvenile offender who commits a crime harms both the crime victim and the community and thereby incurs an obligation to repair that harm to the greatest extent possible. Reparative practices, such as paying restitution or completing community service, have been at the core of the accountability goal and are described in more detail later in this paper.

A Developmental Perspective on Accountability

Adolescent development literature clearly links cognitive, emotional and social development to age. Juvenile justice professionals and restorative justice practitioners must take into account developmental differences when determining how a young person will be held accountable for the offense committed, or planning accountability activities.

A developmental perspective is likely to lead to an adjustment in expectations regarding a 12-year-old's ability to understand and repair the harm versus a 17-year-old's. For instance, a 17-year-old who was caught stealing a pair of jeans from a local retailer may be helped to understand the harm caused by the offense by writing a research paper on the economic effects of shoplifting and then delivering a short presentation on the subject at the local Rotary club. A 12-year-old who committed the same crime might more clearly understand the impact of his/her behavior by talking with a judge, probation officer, attorney or parent, or by attending a victim awareness class, and then writing an apology letter to the retailer.

Basing accountability activities on developmental considerations sets youth up to succeed in their efforts to both understand and repair the harm to the crime victim and thus may ultimately increase victim satisfaction with the process.

Advancing accountability, however, goes beyond restitution or community service. It requires purposeful attention to offender participation in a process whereby juvenile offenders understand and acknowledge:

- ▶ The wrongfulness of their actions
- ▶ The impact of the crime on the crime victim and the community
- ▶ Their responsibility for causing harm.

Wrongfulness of Their Actions

The idea of wrongful actions is closely tied to the moral reasoning concept presented in the *Advancing Competency Development* White Paper, which states: “[D]elinquent youth . . . benefit from instruction on how their thoughts affect their behavior and how their actions affect their quality of life and that of others.”⁷

[The Impact of the Crime on the Crime Victim and the Community](#)

Juvenile offenders must understand the financial, physical, spiritual, social, and emotional impact of their crimes on crime victims and communities.

[Their Responsibility for Causing Harm](#)

Juvenile offenders must acknowledge that the victim and community were harmed by the crime and that they caused the harm. An admission of responsibility for committing the crime is required for most restorative practices.

This process of understanding and acknowledging the wrongfulness of the behavior and the impact on the crime victim and community, together with the obligation to take action to repair the harm, reflects the integral components of accountability. Activities that encourage and support this process—such as listening to a victim impact statement, taking a victim awareness class, completing meaningful community service—are described later. Expectations placed on juvenile offenders in each of these areas, however, must be developmentally appropriate and consider the juvenile’s age, psychological issues, cognitive abilities and the stage of the juvenile court process in which accountability is being addressed.

The ultimate goal of the juvenile justice system’s combined “balanced” interventions is juvenile offenders making and fulfilling a commitment to living crime-free lives. Juvenile offenders demonstrate this commitment by changing their thinking and behaviors, engaging in pro-social activities, and becoming law-abiding and productive citizens.

[Juvenile Justice System Responsibility to Juvenile Offenders](#)

The juvenile justice system is responsible for determining what obligations juvenile offenders incur, based on the individualized circumstances of their cases, and providing the support and services necessary for offenders to fulfill those obligations. As described above, those obligations should include participation in a process whereby juvenile offenders understand and acknowledge the wrongfulness of the crime, the impact of the crime on the victim and community, and their responsibility for causing harm. It is the juvenile justice system’s responsibility to provide opportunities for that learning to take place and to reinforce and support it during all points in the process.

Most importantly, the juvenile justice system also should strive to guarantee that all juvenile offenders take action to repair any harm they have caused. To that end, the juvenile justice system should provide opportunities for 1) meaningful community service, 2) payment of restitution, and 3) participation in restorative justice practices.

|| Crime Victim Rights

The amended Crime Victims Act of 2000⁸ gave basic rights to victims of juvenile crime. Generally, crime victims have a right to information about services available to them, notification of certain significant actions and proceedings, accompaniment by a family member or victim advocate to any proceeding and the opportunity to provide a written or oral victim impact statement. In certain cases, victims also have the right to provide prior comment regarding reduction or changing of a charge. All victims have the right to be restored, to the degree possible, to their pre-crime economic status. (See Basic Bill of Rights Sidebar.)

The Rules of Juvenile Court Procedure for Delinquency Matters, which were adopted in 2005 and became fully operational in 2006, gave further substance to victims' rights in delinquency cases. Under the Rules, all victims must be afforded opportunities to offer prior comments whenever informal adjustment or alternative resolutions are being considered.⁹ The Rules also require that judges' restitution orders specify the amounts to be paid to victims,¹⁰ and prohibit the closing of juvenile cases before all restitution, fines, and costs have been paid in full.¹¹

|| Juvenile Justice System Responsibility to Crime Victims

The juvenile justice system is responsible for insuring that victims of juvenile crime receive the rights to which they are entitled. Collaborative efforts between the court and crime victim advocates in the juvenile justice system support this endeavor. In addition, the juvenile justice system is responsible for insuring that decision makers understand and consider the harm to crime victims and communities at a variety of points in the court process. The victim impact statement is an indispensable tool for doing so.

Victim impact statements benefit crime victims by providing a mechanism by which they can relate information about the event beyond the adjudicated offense—the full emotional, physical, social and financial effects of the crime not only personally but also

Basic Bill of Rights for Victims of Juvenile Crime*

In October 2000, Act 86 amended the Crime Victims Act to include crime victims of juvenile offenders.**

Basic Bill of Rights for Victims of Juvenile Crime

To receive basic information concerning the services available for victims of crime.

To access information regarding whether the juvenile was detained or released following arrest and whether a petition alleging delinquency has been filed.

To be immediately notified of a juvenile's pre-adjudication escape from a detention center or shelter facility and of the juvenile's subsequent apprehension.

To be accompanied at all proceedings by a family member, a victim advocate or other person providing assistance or support.

In cases involving a personal injury crime or burglary, to submit prior comment to the prosecutor's office or juvenile probation office, as appropriate to the circumstances of the case, on the potential reduction or dropping of any charge or changing of a plea in a criminal or delinquency proceeding or diversion of any case, including an informal adjustment or consent decree.

To have the opportunity to offer prior comment on the disposition of a delinquent child, to include the submission of a written and oral victim impact statement detailing the physical, psychological and economic effects of the crime on the victim and the victim's family. The written statement shall be included in any predisposition report submitted to the court. Victim impact statements shall be considered by a court when determining the disposition of a juvenile.

* 18 P.S. § 11.201.

** Pennsylvania Commission on Crime and Delinquency. *Basic Bill of Rights for Victims*. Online. Available: <http://www.pccd.state.pa.us/>.

Basic Bill of Rights for Victims of Juvenile Crime.....Continued

Upon request of the victim of a personal injury crime, to have the opportunity to submit written comment or present oral testimony at a disposition review hearing, which comment or testimony shall be considered by the court when reviewing the disposition of the juvenile.

To be restored, to the extent possible, to the pre-crime economic status through the provision of restitution, compensation and the expeditious return of property which is seized as evidence in the case when in the judgment of the prosecutor the evidence is no longer needed for prosecution of the case.

Upon the request of the victim of a personal injury crime, to be notified of the termination of the courts' jurisdiction.

To have assistance in the preparation of, submission of and follow-up on crime victim compensation claims to the Office of Victims' Services.

If, upon the request of the victim of a personal injury crime committed by a juvenile, the juvenile is ordered to residential placement, a shelter facility or a detention center, to:

- ▶ Receive prior notice of the date of the release of the juvenile, including temporary leave or home pass.
- ▶ Be provided with immediate notice of an escape of the juvenile, including failure to return from temporary leave or home pass; and immediate notice of re-apprehension of the juvenile.
- ▶ Be provided with notice of transfer of a juvenile who has been adjudicated delinquent from a placement facility that is contrary to a previous court order or placement plan approved at a disposition review hearing and to have the opportunity to express a written objection prior to the release or transfer of the juvenile.

To be notified of the details of the final disposition of the case of a juvenile.

on significant others in their lives. The victim impact statement also allows crime victims to state what they need in order to feel that the harm is being repaired. Although victims must not be coerced into providing impact statements, they should know why a statement is being sought and how it will be used. Likewise, since the impact of crime may change over time, victims should have the opportunity to update their statements when appropriate.

In Pennsylvania, crime victims not only have a right to submit written or oral victim impact statements, but statute also dictates that the *statement shall be considered when determining disposition*.¹² Accordingly, the juvenile justice system should develop policies that assign agency responsibility for taking, completing, distributing and applying victim impact statements. Due diligence in acquiring the statements should be required. The court should ensure that statements are forwarded, with victims' approval, to relevant agencies to ensure that repairing the harm to victims is a central part of juvenile offenders' treatment and supervision plans.¹³ Finally, the court must decide how and to what degree the extent of the harm done to the victim will influence its diversion or disposition-related decisions. These issues should be explored and addressed in local jurisdictions.



Roles

Juvenile Court Judges should make every effort to order interventions that promote the overarching mission of juvenile justice in Pennsylvania: community protection, victim restoration, and youth redemption. As leaders of their courts, only juvenile court judges are in a position to create a place of maximum participation for crime victims in the juvenile justice system. Pennsylvania law dictates that judges must consider victim impact statements when determining disposition.¹⁴ Therefore, judges should read every victim impact statement regardless of whether the crime victim is present in the courtroom. As a matter of practice, judges should ask for the victim impact statement and, if one is not submitted, clarify why not. After reading the statement, the judge should ask clarifying questions and emphasize to the offender issues of significance. The judge should also make it clear to the offender that the victim impact statement helped the judge decide on dispositional options.

The juvenile court judge should require that restitution be identified, quantified and collected in a timely manner. If restitution is ordered in a case, court rules¹⁵ require the dispositional order to include a specific amount of restitution to be paid by the juvenile, to whom the restitution is to be paid, and a payment schedule, if determined by the court.

Probation Officers carry out the court's orders. Probation officers should conduct a structured needs assessment that includes questions aimed at gauging juveniles' understanding of:

- ▶ the wrongfulness of their actions
- ▶ the impact of the crime on the victim and community
- ▶ the acknowledgment of responsibility for the harm
- ▶ The willingness to repair the harm.

Based upon that assessment, probation officers should create age and developmentally appropriate recommendations and individualized case plans. Plans should clearly state expectations regarding the accountability goal and identify the actions that each party (juvenile, parent, probation officer, and provider) will take to achieve the goal. Probation officers should ensure that juvenile offenders are engaged in the appropriate activities to fulfill the plans and explain criteria for success or failure, including how the juvenile offender's progress will be monitored and what the consequences will be for noncompliance.

In addition to helping juvenile offenders understand the harm and take action to repair that harm, probation officers have additional responsibilities to victims that include: upholding victims' rights, supplying accurate and timely information, and treating victims with dignity and respect.

Crime Victim Advocates should provide crime victims with information, referrals for services, and supportive counseling and help protect their rights. In addition, it is primarily the responsibility of victim advocates to explain the purpose and use of victim impact statements, and to assist victims in writing the statements when requested. Victim advocates are also in the best position to explain and help victims file for Crime Victims' Compensation.*

* The Pennsylvania Commission on Crime and Delinquency administers the state's Victims Compensation Assistance Program. For more information, contact the program at 800-233-2339 or www.pccd.state.pa.us.

No Contact Orders

One way judges can respond to the safety concerns of victims is through No Contact Orders. Although No Contact Orders are a part of the court record, many jurisdictions do not issue a copy of the order to the victim. Without proof that an order exists, police are limited in their ability to respond to reported violations. Informed of this dilemma by victim advocates, Allegheny County Juvenile Court developed the following order and has given permission for it to be adapted by other jurisdictions.

No Contact Order

And now, to wit, on this _____ day of _____, 20____, it is hereby ordered that _____ may have no verbal or physical direct or indirect contact with _____ nor may said child be on or in close or adjacent proximity to the residence or business property of the above named person.

Any violation of this order shall constitute grounds for said child to be taken into custody and transported to Shuman Detention Center pursuant to Sections 6324 (5) and 6325 of the Juvenile Act.

This Order shall remain in effect for the duration of time that said child is under this court's supervision unless it is vacated by order of this court prior to termination of supervision.

By the court,

Judge

Hearing Officer

Crime Victims should appear in court and participate in the process, provide current contact information and an accurate account of out-of-pocket expenses. It is a crime victim's prerogative whether or not to participate in restorative justice practices, receive certain notifications of court processes and/or submit an oral or written crime victim impact statement.

Defense Counsel should provide the highest quality legal representation possible to juveniles. When juvenile offenders admit to or are adjudicated delinquent of crimes, defense counsel should inform the juvenile about the purposes of the law and that the system has an obligation to ensure that juveniles understand the wrongfulness of their

actions, the effect of those actions on others, including the community and crime victim, and the appropriate steps to be taken to bring restoration to those who have been harmed.

District Attorneys are sworn to uphold the law and protect society. The Crime Victims Act lays out specific responsibilities of the district attorney's office in relation to the crime victim:

*Victims of crime have the following rights: . . . In cases involving a personal injury crime or burglary, to submit prior comment to the prosecutor's office or juvenile probation office, as appropriate to the circumstances of the case, on the potential reduction or dropping of any charge or changing of a plea in a criminal or delinquency proceeding, or, diversion of any case, including an informal adjustment or consent decree.*¹⁶

In addition, at the time of disposition, the district attorney should ensure that the impact of the crime on the crime victim and community is made clear for the court record, solicit restitution information, request restitution from the court and recommend a restorative disposition, including the entry of a specific order of restitution.

Community-Based and Residential Treatment Providers should enhance juvenile offenders' understanding of the impact of crime, guide them in writing apologies, assure that provisions are made for earning and collecting restitution, and reinforce through daily activities the concept of accountability for wrongful actions.

Parents/Guardians should support their children in fulfilling all the obligations they incurred as a result of the crime. Parents/guardians have a degree of monetary liability for the actions of their children and may be directed by the court to make payments not to exceed \$1,000 in the case of one victim and one act or \$2,500 regardless of the number of victims.¹⁷

Community Members can participate in restorative justice practices described later in this paper. The community should provide meaningful community service and work/service opportunities that allow juvenile offenders to earn monies for restitution. Community members should also mentor juvenile offenders and serve as models of pro-social behavior.

Law Enforcement executes applicable provisions of the Crime Victims Act, e.g., notification of arrest and availability of the Crime Victims' Compensation Fund.

Schools, in partnership with school-based probation, should implement restorative justice practices (e.g., restorative school conferencing, circles and victim/offender conferencing) to handle transgressions in the school setting and to facilitate reintegration when appropriate.



Accountability Activities



Advancing accountability in Pennsylvania means that juvenile offenders participate in accountability activities designed to 1) increase their awareness of the wrongfulness of their actions, 2) heighten their understanding of the impact of the crime and 3) take action to restore crime victims to their pre-crime status to the extent possible. Juvenile offenders should participate in some level of accountability activities regardless of whether the case is handled through diversion from court, consent decree or petition. Activities should be developmentally appropriate and take into consideration the offender's age, abilities and disabilities.

|| Tools for Increasing Awareness and Understanding

Victim Impact Statements

However a case is handled, juvenile offenders can increase their understanding and awareness of the harm and what needs to be done to repair that harm by listening to a reading of the victim impact statement. Victim impact statements personalize the effects of crime and highlight information that may not be obvious to juvenile offenders. Additionally, making a connection between the victim impact statement and the disposition makes the disposition more concrete. Judges, probation officers, attorneys and treatment providers should reinforce the lessons learned from the victim impact statement.

Victim/Community Awareness Curriculum

Juvenile offenders also increase their awareness and understanding by participating in *Victim/Community Awareness: An Orientation for Juveniles*.¹⁸ This curriculum is designed to help them understand and acknowledge the impact of crime on crime victims and communities and write appropriate apology letters.

Probation officers, service providers and victim advocates are encouraged to become facilitators of the curriculum and can do so by participating in formal training offered by the Center for Juvenile Justice Training and Research. In addition to step-by-step instructions on using the curriculum, facilitator training includes: setting policy for using the curriculum; developing an appropriate referral process; determining juvenile offender eligibility; and setting the time and place of sessions.

|| Activities that Repair Harm

Juvenile Offender Apologies

Juvenile offenders can take action to repair the harm by writing a letter of apology to the crime victim. Since most juvenile offenders are ill prepared to deliver an apology at the time of the disposition hearing, careful consideration should be given to directing juvenile offenders to apologize in court. A more prudent option is for offenders to write apologies after completing a victim awareness class, so that they have time to process the real impact of the crime.

It is always the exclusive right of the victim to choose if or when to be the recipient of an apology. However, since many victims do desire an apology, the Pennsylvania Commission on Crime and Delinquency issued standards on victim-sensitive apologies that include the following elements:¹⁹

- ▶ Declaration of personal responsibility for the offense
- ▶ Understanding of the harm done to the victim and community
- ▶ A commitment not to repeat the offending behavior
- ▶ A commitment to be a productive citizen.

Crime Victims' Compensation Fund

In Pennsylvania, all adjudicated juvenile offenders and all youth placed on consent decrees are required to pay a minimum \$25 fee to the Crime Victims' Compensation

Fund. This fund is used exclusively to pay victims for eligible expenses (e.g., medical expenses not covered by insurance). After disposition, probation officers should fully explain how the money is used to reinforce the message that juveniles are required to repair the harm done to victims.

Restitution

When ordered by the court, juvenile offenders can take action to repair the harm by paying restitution. Restitution is financial restoration of the victim. It is intended to pay crime victims for out-of-pocket losses directly resulting from the crime, including lost or damaged property, and is a visible sign of the juvenile justice system's responsiveness to victims' needs. In addition to addressing the financial losses of victims, restitution validates and vindicates crime victims' experiences by implicitly acknowledging that the offender, not the victim, was responsible for the losses. Consequently, restitution should always be ordered in appropriate cases.

Monies collected from costs or fees, including a supervision fee, may be contributed to a restitution fund established by the President Judge of the Court of Common Pleas, pursuant to 42 Pa. C.S. §6352(a)(5). These funds are to be used to reimburse crime victims for financial losses resulting from delinquent acts. To provide guidance on these funds, the Pennsylvania Juvenile Court Judges' Commission issued *Standards Governing the Administration of Restitution Funds*.²⁰

Meaningful Community Service

Juvenile offenders take action to repair the harm by performing community service. Community members should be actively involved in selecting the projects and venues of importance to them. Meaningful community service also benefits juvenile offenders by increasing positive relationships between them and their communities.

Community service should never be ordered in lieu of monetary restitution to a direct victim except at the specific request of that victim. Some jurisdictions pay juvenile offenders a fair wage out of their restitution fund to perform community service. In fact, *Juvenile Delinquency Guidelines: Improving Court Practice in Juvenile Delinquency Cases* recommends that: "in order to hold youth accountable and repair damage to victims, juvenile delinquency courts should have programs for youth to earn money to pay restitution."²¹ This type of paid community service offers juvenile offenders a way to make monetary restitution to crime victims while contributing to the community.

Excerpts of Letters Between a Juvenile Offender and Crime Victim Following Victim/Community Awareness Class

“...While I knew that evening that what I was doing was very wrong, I did not realize or think about how badly my actions would affect the people who lived at these houses. I now know that my actions have deeply affected those of you who live in the neighborhood. I understand that my actions may cause homeowners to be afraid and insecure in their own homes. I certainly would not want to feel that way in my home and I sincerely apologize for my behavior...I promise you that I will be a productive citizen in my community and continue to help people that need the help. I am truly sorry for what I have done and assure you that this will not happen again.

“...Thank you for your apology note. We admire your courage and are grateful for your response. From your note it's clear that you are making wise choices now, and that you are working hard to earn back the trust you value.”

Restorative Justice Practices

Juvenile offenders can also take action to repair the harm by participating in restorative justice programs that provide opportunities for direct dialogue with crime victims and community members, including:

- ▶ *Victim/Offender Conferencing*: Involves a facilitated dialogue between the direct crime victim and the juvenile offender. Victim/offender conferencing encourages offenders to take responsibility for their actions, understand the harm and take action to make things right.²²
- ▶ *Restorative Group Conferencing*: Convenes the crime victim, the juvenile offender, and family members and friends of both to express how the crime has affected their lives and decide what actions need to be taken to repair the harm.
- ▶ *Circles*: Includes the crime victim, the juvenile offender, support persons for each and non-related community members, such as a judge or police officer. During a circle, participants try to understand the event and identify steps necessary to restore affected parties.
- ▶ *School Restorative Conferencing*: A problem solving approach to school discipline based on restorative values. The conferencing process assists the

participants (those harmed, the juvenile offender, parents and school personnel) in understanding the harm caused by the misbehavior and takes a solutions approach to developing a plan for repair and reintegration.²³

Direct dialogue benefits crime victims and juvenile offenders by making them active participants in the process. Crime victims have an opportunity to have their questions answered, voice their feelings and have them validated, address issues of security and safety and influence the decision on how the harm will be repaired. Juvenile offenders learn the impact of their behavior, gain insights into themselves and their conduct, internalize the need for improved behavior and receive support for taking action to repair the harm. It is hoped, through their efforts, juvenile offenders earn redemption and become responsible members of the community.

In addition to the practices above, juvenile offenders have an opportunity to repair the harm through other restorative justice practices that involve indirect contact between crime victims and offenders, such as:

- ▶ *Community Justice Panels*: Also referred to as Youth Aid Panels and Youth Commissions. Trained community members sit as a panel to hear cases diverted from the traditional court process. Crime victims should be invited to participate at whatever level they prefer, such as by talking with the panel privately about the impact of the crime, attending the panel, or writing a letter.²⁴
- ▶ *Victim Impact Panels*: Crime victims give a presentation to an audience of juvenile offenders concerning crimes committed against them.²⁵

While these restorative justice practices do not require a conversation between crime victims and juvenile offenders, both groups still benefit. Victim impact panels, in particular, give crime victims the opportunity to talk about the crime and how it affected them and significant others in their lives and provide a chance to heal through activism. Juvenile offenders "...take away not just words but images that may stick with them and help to change their behavior."²⁶ Juvenile offenders become part of the larger community.

Restorative justice practices can take place in many settings, including faith-based, community-based or social service agencies. Effective programs share the following fundamental characteristics:

- ▶ Sensitive inclusion of the crime victim
- ▶ Voluntary participation by all parties

- ▶ Repairing the harm is the primary goal
- ▶ A follow-up meeting to assure compliance with any agreement is conducted
- ▶ Consequences for juvenile offender non-compliance with the process or any negotiated agreement are established.



Measuring Accountability

Pennsylvania's juvenile justice system holds itself responsible for achieving its mission and goals by routinely measuring relevant and agreed upon performance measures. The measures reflect what the juvenile justice system is trying to accomplish and allow stakeholders to track progress and improvement in achieving system goals.

Accountability measures currently collected include: restitution ordered/paid; community service ordered/completed; victim awareness classes ordered/completed; and Crime Victims' Compensation Fund costs ordered/paid. The Pennsylvania Juvenile Court Judges' Commission compiles aggregate information reported by juvenile probation departments on these and other measures and publishes it annually in its *Juvenile Justice System Outcome Report* (see sidebar on page 21).

Whether the juvenile was ordered or assigned to participate in accountability activities and the degree to which the juvenile completed them measure system and individual performance. The current list should be expanded to include other accountability activities outlined herein, including apology letters, specific conferencing and other restorative justice models (see sidebar on page 20). At another level, scores on the pre- and post-test included in the victim awareness curriculum could be used to measure knowledge acquisition. Finally, the composite intermediate outcome measure of a productive, connected and law-abiding youth, described in the *Advancing Competency Development* White Paper, could be used to understand whether youth who successfully completed various accountability activities had better intermediate outcomes than those who did not.

Advancing Juvenile Offender Accountability

The following additional accountability output measures should be considered:

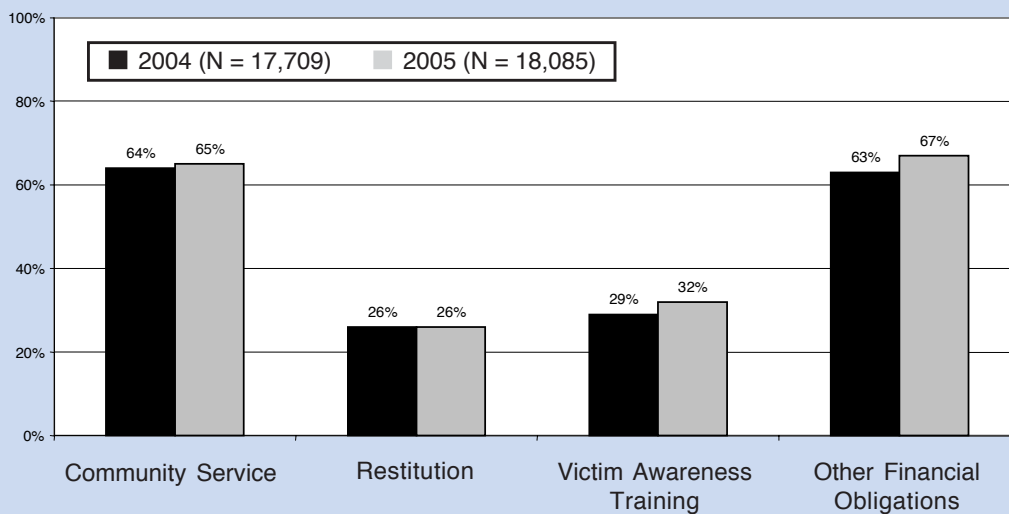
| <i>Activity</i> | <i>Included in Case Plan?</i> | <i>Failed to Complete</i> | <i>Partially Completed</i> | <i>Successfully Completed</i> |
|-------------------------------------|-------------------------------|---------------------------|----------------------------|-------------------------------|
| <i>Letter of Apology</i> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| <i>School Conferencing</i> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| <i>Community Justice Panels</i> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| <i>Victim Offender Conferencing</i> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| <i>Other Restorative Practices</i> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> | <input type="radio"/> |

Lastly, victims are the real barometers for achievement of the victim restoration mission. This White Paper reinforces the active role of victims in juvenile justice. Surveys that measure victim satisfaction would provide an indication of system performance. Therefore, moving forward requires guidelines for conducting such surveys. We will be working with the victim advocacy community to develop various crime victim outcomes and to discuss ways to periodically report the results.

2005 Juvenile Justice System Outcome Report

The *2005 Juvenile Justice System Outcome Report** revealed that two-thirds of juveniles were ordered to perform community service and 94.2% completed their obligation; about one quarter of juveniles incurred a restitution obligation and 85.3% paid restitution in full; and over two thirds of juvenile offenders were ordered to pay fees into the Crime Victims' Compensation Fund and 91% paid in full. One third of juvenile offenders with cases closed in 2005 were ordered to participate in a victim awareness curriculum with 95.8% successfully completing classes. This White Paper has encouraged ordering restitution in all appropriate cases and more purposeful and intentional use of the Victim/Community Awareness curriculum in order to advance the accountability goal.

Percentage of Juveniles Assigned Accountability Activities
Two-Year Trend (2004-2005)



* Pennsylvania Juvenile Court Judges' Commission. (2006). *2005 Pennsylvania Juvenile Justice System Outcome Measures Reports*. Online. Available: <http://www.jjc.state.pa.us/>.



Next Steps



The 1995 revisions to Pennsylvania’s Juvenile Act, the JJDC’s Mission and Guiding Principles, and the Crime Victims Act of 2000 created a synergy that is transforming the juvenile justice system from one almost exclusively focused on juvenile offenders into one that actively engages crime victims and communities. This White Paper re-examines the juvenile justice system’s mission, values and current approaches to offender accountability and the juvenile justice system’s responsibilities to juvenile offenders and crime victims and outlines some important steps in advancing accountability.

But that’s not the end. If juvenile offenders are expected to understand and acknowledge the impact of crime, victim awareness classes should be made available to all appropriate juvenile offenders. To that end, plans are currently underway for developing a cadre of qualified trainers who will be able to teach facilitators how to use the Victim/Community Awareness Curriculum.

Accountability practices should benefit crime victims, juvenile offenders and communities. Restorative practices are widely recognized for doing that. We need to broaden the array and availability of restorative practices and bring restorative conferencing to schools. Victims need to be reimbursed for their financial losses resulting from delinquent acts. The President Judges of the Courts of Common Pleas are empowered to set up restitution funds to do that. We will encourage such development and advocate that restitution be ordered in all cases where it applies and collected quickly enough to help victims to overcome financial difficulties that were the result of the crime.

To achieve the juvenile justice system’s victim restoration mission, we also need a better way of gauging victims’ perceptions of the juvenile justice system, the services they received and their satisfaction with outcomes. By working with the victim services’ community to create and analyze meaningful surveys, we can enhance our current procedures and practices.

Finally, we can continue our commitment to advancing accountability by remembering Howard Zehr's* three questions and letting them guide our policy, funding and programmatic decisions:

Who was harmed?

What do they need?

Whose obligations and responsibilities are these?

* Howard Zehr is widely recognized as a pioneer in restorative justice. He is a professor at Eastern Mennonite University and is the author of *Changing Lenses: A New Focus for Crime and Justice*.

Endnotes

- ¹ 42 Pa.C.S. § 6301
- ² Juvenile Advisory Committee, Pennsylvania Commission on Crime and Delinquency. (1998). *Mission and Guiding Principles for Pennsylvania's Juvenile Justice System*. Harrisburg, PA: Author.
- ³ 18 P.S. § 11.201
- ⁴ Torbet, P. and Thomas, D. (2005). *Advancing Competency Development: A White Paper for Pennsylvania*. Pittsburgh, PA: National Center for Juvenile Justice.
- ⁵ Zehr, H. *Changing Lenses Slideshow*. Online. Available: <http://www.restorativejustice.org/intro/slideshows/zehrslideshow/Zehrslide1.html>.
- ⁶ Pennsylvania Juvenile Court Judges' Commission. (2003). *Pennsylvania Juvenile Delinquency Benchbook*. Harrisburg, PA: Author.
- ⁷ Torbet, P. and Thomas, D. (2005). *Advancing Competency Development: A White Paper for Pennsylvania*. Pittsburgh, PA: National Center for Juvenile Justice.
- ⁸ 18 P.S. § 11.201
- ⁹ Rule 311, Pa.R.J.C.P.
- ¹⁰ Rule 515, Pa.R.J.C.P.
- ¹¹ Rule 613, Pa.R.J.C.P.
- ¹² 18 P.S. § 11.201(5)
- ¹³ Pennsylvania Juvenile Court Judges' Commission. (2003). *Pennsylvania Juvenile Delinquency Benchbook*. Harrisburg, PA: Author.
- ¹⁴ 18 P.S. § 11.201(5)
- ¹⁵ Rule 515, Pa.R.J.C.P.(B)
- ¹⁶ 18 P.S. § 11.201(4)
- ¹⁷ 23 Pa.C.S. § 5501 et seq.
- ¹⁸ Bender, V. (2004). *Victim/Community Awareness: An Orientation for Juveniles*. Harrisburg, PA: Pennsylvania Juvenile Court Judges' Commission.
- ¹⁹ Bureau of Victims' Services, Pennsylvania Commission on Crime and Delinquency. (2001). *Victims of Juvenile Offenders Program Standards and Procedures Manual*. Harrisburg, PA: Author.
- ²⁰ Pennsylvania Juvenile Court Judges' Commission. *Standards Governing the Administration of Restitution Funds*. Harrisburg, PA: Author.
- ²¹ National Council of Juvenile and Family Court Judges. (2005). *Juvenile Delinquency Guidelines: Improving Court Practice in Juvenile Delinquency Cases*. Reno, NV: Author.
- ²² See Amstutz, L.S. and Zehr, H. (1998). *Victim Offender Conferencing in Pennsylvania's Juvenile Justice System*. Akron, PA: Mennonite Central Committee.
- ²³ See Colorado School Mediation Project. (2001). *Restorative Justice for School Communities: A Guide to Understanding the Principles and Practices of School-Based Restorative Justice*. Boulder, CO: Author.

- ²⁴ See Bender, V. (1999). *Best Practice Guidelines for Crime Victim Participation in Community Justice Panels Within Pennsylvania's Juvenile Justice System*. Harrisburg, PA: Pennsylvania Juvenile Court Judges' Commission.
- ²⁵ Bender, V. (1997). *Best Practice Guidelines for Victim Impact Panels within Pennsylvania's Juvenile Justice System*. Harrisburg, PA: Pennsylvania Juvenile Court Judges' Commission.
- ²⁶ Griffin, P. and Torbet, P. (Eds.). (2002). *Desktop Guide to Good Juvenile Probation Practice*. Pittsburgh, PA: National Center for Juvenile Justice.



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