



Gabrielle Treiling, Gordon MacCammon, and Courtney Tomeny

October 3, 2017

Restorative Justice on College Campuses

College campuses in the United States consistently punish students for minor infractions. Siena College is one of these schools, and its retributive nature doles out punishments for easily adjustable problems. Restorative Justice is a community building technique that focuses on mediation more than retribution.

Introduction

The restorative justice movement has grown rapidly, not only within the criminal justice system, but also within primary and secondary educational institutions. Post-secondary institutions however, have been reluctant to research and implement restorative justice practices on their campuses. This report will analyze the costs and benefits of implementing restorative practices on college campuses. The report will first inspect underlying themes of the student misconduct framework at Siena College. Then, it will consider and assess the numerous arguments both in favor of and against restorative justice practices.

Currently, the campus judicial affairs system at Siena College is largely retributive, meaning that students are punished in proportion to his or her offense in accordance to the rules laid out in the Siena College Student Handbook. The consequences of most offenses are either a fine, a meeting with a Resident Director, or a combination of the two. This punitive system creates an adversarial relationship

between administrators and student, and is highly representative of a traditional criminal justice system (Kara and MacAlister 2010).



Current Policy at Siena College

The Siena Life Student Handbook serves as the campus policy and is updated each academic year. The 2015-2016 Siena Life Student Handbook is 151 pages long and outlines policies, guidelines, conditions, and regulations which exist to govern the student body. The handbook describes the punitive measures that are taken against students who are found to have violated policies by vandalising school

school property, consuming alcohol, and a variety of other issues.

One example of an offense which may result in a fine is damage to the college property. If a student is responsible for damaging or vandalizing something, such as a bathroom sink, he or she is responsible for paying to repair the damages. Any student found “abusing resident privileges” is subject to discipline and “in all cases, the responsible party will make restitution” (Siena College Handbook, 2016). If the party responsible for such damages is not identified, the entire residential floor is required to split the damage costs of communal area damage. For these fines, the student account is billed directly, and they cannot contest the payment even if they can prove they were not responsible for the damage.

Siena students are expected to refrain from consuming alcohol if they are under 21 years old and to be responsible when consuming alcohol if they are of age. For students under the age of 21, there are several violations which accompany violating this regulation. Along with alcohol related punishments, students who break quiet hours during a certain time are fined a minimum of \$50 and could face further punishment if the administration deems it necessary (Siena College Handbook, 2016). These violations include possession of alcohol, being in the presence of alcohol, or having an empty alcohol container. For students who are 21 and over they can be documented for having alcohol in the presence of individuals under 21, having more than the “reasonable quantity limit,” and for having an open container. Students can also be disciplined for being publicly intoxicated or for using devices that promote “rapid consumption” such as tables used for

beer pong (Siena College Handbook, 2016). Students who are documented for alcohol-related violations are required to meet with the Resident Director of the building where the violation occurred. Based on a student's history of past violations, the Resident Director decides a student's punishment. These punishments can include fines, an educational meeting concerning alcohol/substance abuse, and possibly residence hall probation or alternative housing. Students who are found to be more serious or more persistent violators can face suspension or expulsion if alternative housing is not a suitable punishment (Siena College Handbook, 2016). These punishments are also in effect for students found to be violating the college drug policies which include possession of illegal drugs, the intended or actual sale of drugs, presence of prescription drugs that have not been prescribed to the student and misuse of prescription drugs (Siena College Handbook, 2016).



The punishments used to discipline students differ depending on the nature of the violation. For students who violate the Code of Conduct, they may face expulsion, dismissal, suspension, temporary suspension, withholding of degree, or revocation of admission or degree. Students who live on campus and violate the student Code of Conduct can also be suspended or dismissed from campus housing, temporarily suspended from campus housing, or put into alternative housing where the students are

unable to pick their own housing or roommate.

Students can also be given a written warning and/or be required to pay a fine or restitution.

Although there are numerous violations in which a fine is the punishment, there is a restorative practice on Siena's campus in the form of a Student Conduct Review Board. "The Student Conduct Review Board is a peer review board, which adjudicates cases involving alleged violations of the Code of Conduct by fellow students" (Siena College Handbook, 2016). Students are referred to the Student Conduct Review Board if they are charged with a "first time violation of the Persistent Violator Policy." A "persistent violator" is a student that has "prior findings of responsibility for two or more incidents involving similar violations of the code of conduct while on social, residence hall or disciplinary probation" or a student who has "prior findings or responsibility for three or more violations during the semester" (Siena College Handbook, 2016). The student review board can appeal the violations but often gives the same punishments that would be delivered by other means. Students have the choice of opting out of a hearing in front of the Student Conduct Review Board and can choose to have an administrative hearing instead.

The Siena College Student Handbook is very explicit in detailing what is considered a violation and will constitute a write-up. This continuum of regulations are defined by punishments and fines, rather than reintegration and healing. Thus, a more restorative approach can be taken in order to ensure that students face less punishments for minor infractions.

What is Restorative Justice?

The main components of a restorative program are the inclusion of all parties reaching an appropriate solution to make amends for harm, and the reintegration of all parties into the community (Center For Justice and Reconciliation, April 2016).

A formal definition of restorative justice is "a theory of justice that emphasizes repairing the harm caused by criminal behavior" which "is best accomplished through cooperative processes that allow all willing stakeholders to meet, although other approaches are available when that is impossible. This can lead to transformation of people, relationships and communities" (Center For Justice and Reconciliation, 2016). Since there are numerous practices, programs, and procedures which may be broadly defined as restorative justice, it is difficult to have one consistent definition. Restorative practices allow for flexibility and adaptability on a per instance basis to solicit the most impactful and enriching processes for participants. These programs may be, but are not limited to:

- **Community Accountability Boards:** These boards allow the communities to have a voice and address offenders of crimes which impact the community as a whole. The ultimate goal is for the offender and the community representatives to reach a "reparative agreement" to repair the harm perpetrated by having the offender go in front of the board and coming to an agreement on how make it up to the community (Albany County District Attorney, April 2016).
- **Circles of Support and Accountability:** This model Consists of a core member, typically the



victim, and numerous volunteer community members who are charged with facilitating dialogue, as well as the offender of the crime to ensure that the both parties are able to better understand the other (Fox, 2013). This process is initiated by the community, and is intended to benefit all parties involved.

- **Victim/ Offender Panels:** This form of restorative justice allows a former offender to express his or her remorse and regret for committing a crime to current offenders so they can understand the impacts of their actions on themselves and the community (Center For Justice and Reconciliation, 2016). It also allows former victims of the crime to express how this offense has impacted his or her life.

Why Restorative Justice is Difficult

Although there are many cases of satisfied victims in the context of his or her case, there is no denying that it is often difficult to gauge the long-term effects of restorative justice practices. Often, communication with the involved parties is limited after the chosen restorative practice is completed,

making it difficult to qualitatively categorize if the solution still stands. Furthermore, it is difficult to know if the process has a lasting effect on the involved parties as intended (Center For Justice and Reconciliation, 2016).

There are several studies which look at victims who are not willing to meet with the offender to engage in restorative practices. This happens often within demographics that are generally distrustful of the governmental structures within a community and identify his or her support network as not including police authorities. (Braithwaite, 1999). The willingness of a victim to participate also greatly depends on the nature of the crime, the amount of time since its occurrence, and the nature of the victim's relationship with the offender. Victims may also be hesitant to participate in the process because it requires that the victim allow themselves to become vulnerable. (Victims Week, 2015).

Why Restorative Justice works

Many participants have reported having a higher approval rating within their communities when engaged in the restorative justice framework. Restorative practices are also successful in decreasing recidivism, due to the fact that offenders are able to gain a greater sense of accountability and ownership for his or her crime. Restorative justice practices also foster a stronger sense of community on college campuses due to the increased stake the community has in the process as compared to the typical punitive system (Restorative Solutions, 2016).

Many victims have reported having higher approval ratings of restorative practices, and the same can be said about offenders. Robert Braithwaite believes that there is “evidence of offenders being restored in the sense of desisting from criminal conduct is encouraging with victim-offender mediation, conferencing, restorative business regulatory programs, and whole-school anti-bullying programs” (Braithwaite, 1999).

Dr. David Karp of Skidmore College believes that restorative justice practices thrive on college communities because “of their democratic and egalitarian ethos and educational mission” (Karp, 2004). The current adversarial relationship between administrators and students fostered by the retributive punitive system, is damaging to the campus community as a whole. Dr. Karp also believes that “restorative processes help educate community members about the need for civic commitment and build student capacity for evaluating the impact of their behavior on the community” (Karp, 2004). The number of schools, large and small, adopting restorative justice programs are growing. Skidmore College, Siena College’s neighbor, has spearheaded a restorative justice training program and has assisted numerous colleges both locally and beyond state borders with implementing programs on campuses.

Schools With Alternative Justice Programs in Restorative Justice

Skidmore College is leading numerous research projects focusing on improving the lives of people who are both victims and perpetrators in the punitive justice system. The system in place at

Skidmore holds conferences on victim/offender mediation. They also emulate indigenous practices, featuring restorative justice circles using a “talking piece,” or a physical item which indicates the right to talk openly, allowing for facilitation between both parties in a peaceful manner (Skidmore College, 2016). Their justice boards produce a structure of conduct and standing that is drawn from faculty and students, to focus on the principles of restorative justice, and identify and repair harm. They allow for private deliberations and avoid making their own determinations about sanctions to encourage active



participation between offenders and harmed parties. The final restorative practice is the administrative hearings that rely on one-on-one hearings to manage caseloads and emphasize identifying harm (Skidmore College, 2016).

Another college that has implemented extensive practices is the University of San Diego. USD provides safe meditative space for impacted members and parties that they may repair and rehabilitate. The University offers Community Circles, which are conferences, mediation, and workshops that work toward lowering punitive practices and allow for a means of restoring the community and helping the people who have been affected learn what happened. Conferences are used to address the larger concerns of USD and look at social issues like sexual assault awareness. Mediation is used when two parties feel negatively impacted by the other and cannot come to terms on

their own. Community circles allow for a constructive environment in which both parties can discuss what they feel or need. The conferences are meant for student conduct cases where a student expresses remorse for harming the campus community and accepts responsibility in the action (University of San Diego, 2016).

SUNY Albany also utilizes restorative justice practices with their use of a student conduct board, in which students volunteer to act as a Community Accountability Board for campus incidents and student conduct cases. The Board is designed to produce an appropriate sanction, and allow for practices to prevent serious write-ups and mediate with the offenders. This practice allows for the students to accept responsibility and prevent a harsher sentence, as well as repair any harm to the community. They also implement retributive disciplinary procedures that include write-ups and hearings, much like Siena, but at a lower rate thanks to the restorative program it has implemented (University at Albany, 2016).

Policy Recommendations

While a complete upheaval of the current student misconduct system is unlikely, there may be room for improvement at Siena College.

Implementing some restorative practices does not necessarily mean the complete removal of the traditional aspects of the Siena College student misconduct system. Through a two pronged approach, Siena may be able to first revise the existing framework of the Student Conduct Review Board so it utilized for more cases than it currently receives. The Board should deviate more from the traditional hearing structure and emulate mediation

and conferencing services. This would allow the community to reap the benefits of restorative practices without fully converting to them. Secondly, implement mediation in the first level meeting students have, such as meetings with a Residence Director. Siena College should deviate away from the exclusionary practice of giving out fines. Fines are not preventive to the issue, and foster an adversarial relationship between the administrators and the students. Rather, the punitive system should allow students to have the option of paying a fine, or engaging in some form of restorative mediation to realize his or her wrong doing. Change is incremental. Complete upheaval of the existing system is both unfavorable and unfeasible, however it is important that these steps are taken in the direction of restorative practices that would aid the Siena community as a whole.

References

Braithwaite, John. 1999. "Restorative Justice: Assessing Optimistic and Pessimistic Accounts". *Crime and Justice* 25. [University of Chicago Press, University of Chicago]: 1–127. Accessed 2016. <http://www.jstor.org/stable/1147608>.

Community Accountability Boards." Albany County Defense Attorney. Accessed 2016. <http://albanycountyda.com/Bureaus/RevJohnUMillerOR/CommunityProsecution/CommunityAccountabilityBoard.aspx>.

Fox, Kathryn. 2013. "Circles of Support and Accountability." State of Vermont Department of Corrections. Accessed 2016. <http://www.doc.state.vt.us/about/reports/circles-of-support-accountability-final-report/view>.

Kara, Farzana, and David MacAlister. "Responding to Academic Dishonesty in Universities: A Restorative Approach." *Contemporary Justice Review* 13, no. 4.

Karp, David. "Restorative Justice On the College Campus: Promoting Student Growth and Responsibility and Reawakening the Spirit of Campus Community." 2004.

Restorative Solutions. "Restorative Justice for Colleges & Universities." Restorative Solutions. Accessed 2016. <http://restorativesolutions.us/schoolprograms/schools/colleges>.

Skidmore College. "Campus RJ." Skidmore Project on Restorative Justice. Accessed 2016. <http://www.skidmore.edu/campusrj/campusrj.php>.

The Center for Justice and Reconciliation. "Victim Offender Panels." The Center For Justice and Reconciliation. Accessed 2016. <http://restorativejustice.org/restorative-justice/about-restorative-justice/tutorial-intro-to-restorative-justice/lesson-3-programs/victim-offender-panels/>.

The Center for Justice and Reconciliation. "What Is Restorative Justice." The Center For Justice and Reconciliation. Accessed 2016. <http://restorativejustice.org/restorative-justice/about-restorative-justice/tutorial-intro-to-restorative-justice/lesson-1-what-is-restorative-justice/>.

University at Albany. "Get Involved." University at Albany-SUNY. 2016. Accessed 2016. <http://www.albany.edu/studentconduct/involved.php>.

University of San Diego. "Menu of Restorative Justice Opportunities." The Office of Ethical Development and Restorative Practices. 2016. <http://www.sandiego.edu/conduct/restorative-justice/menu-of-restorative-justice-opportunities.php>.

Victims Week. "The Limits of Restorative Justice." Government of Canada, Department of Justice, Electronic Communications. Accessed 2016. http://www.victimsworld.gc.ca/symp-colloque/past-passe/2009/presentation/arl_g_1.html

Community Policy Institute

The Community Policy Institute builds capacity surrounding policy within the Capital Region. We provide researched-based policy information to our community partners who use the information to modify best practices and advocate for policies that will further the development and effectiveness of direct community engagement.

This brief was produced by CPI Undergraduate Fellows, community experts, and faculty.

Gabrielle Treiling
Courtney Tomeny
Gordon MacCammon

Funding generously provided by:

The Review Foundation
&
The Corella & Bertram F.
Bonner Foundation

SIENACollege
Community Policy Institute