

Restorative Justice in Elder Abuse Cases

Opportunities and Challenges for Accountability

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What do we mean by "Restorative Justice?"

Also called Restorative Practices, Restorative Strategies...

Restorative Justice is a theory of justice that focuses on repairing the harm created by the offender, often through rehabilitation or reconciliation with the victim and the community at large.



1

1) helping the offender to avoid future offenses.

2

2) providing closure to the victim.

3


3) holding the offender accountable through appropriate sanctions.

4

4) recognizing the harm to the community for "victimless" crimes.

Goals of Restorative Justice

Two Views of Justice



Conventional System

1. Behavior is a violation of the rules of the state
2. Violations create guilt and punishment
3. Justice involves the state determining blame (guilt) and imposing pain (punishment)

Restorative System

1. Behavior is a violation of people and relationships
2. Violations or offenses create obligations to "right the wrongs"
3. Justice involves victims, offenders and the community working together in an effort to make things right

What is the End Goal?

Conventional

End goal: The offender is punished and gets what he/she deserves

Restorative

End goal: The victim's needs are identified and the offender is responsible for repairing the harm


The Questions We Ask Matter

Conventional System

- What statutes have been broken?
- Who did it?
- What do they deserve?
- How should we punish them?

Restorative System

- Who has been hurt?
- What are the needs of the parties?
- Whose obligation is it to repair the harm?
- How do we prevent this from happening again?



What Types of Restorative Justice Might Work in Elder Abuse Cases?

Peacemaking or Peace Circles

- Used to address conflict that occurs within families, neighborhoods, schools, residential facilities, or other public spaces.
- Also used to identify shared values and create dialogue around difficult topics (racism, immigration, etc.) where there has been no incident or crime.
- Talking piece is passed between individuals and only the person possessing the talking piece can speak and be heard without interruption.
- Victim may or may not participate

What Types of Restorative Justice Might Work in Elder Abuse Cases?

Elder Panels

- A group of older community members who "adjudicate" cases or provide sentences to cases
- May use storytelling, community norms, and cultural values
- Diverted by a judge or probation officer; Victim is not required

Victim Offender Dialogue

- Facilitated meetings between those victimized and offenders, where a trained facilitator creates dialogue between the victim and offender, both in a one-on-one meeting, and meeting all together. The offender often has to admit guilt first.

What Types of Restorative Justice Might Work in Elder Abuse Cases?

Victim Impact Panels

- An education/prevention strategy to inform offenders of how the offense is harmful to the victim/community
- Often used with 1st time offenders
- Diverted by prosecutors; Often used in DUI/DWI cases - may be the most researched RJ practice - shows large changes in recidivism
- Victim is not required to participate. Others may sit in for the victim.

Discussion



Which models do you think might work in Elder Abuse cases?



What are the challenges you can foresee in adopting a model?



What are the benefits to victims? Service providers?

Case Example 1

Mona is 75 years old, lives alone in a 2 bedroom rental

Her nephew Jonathan has recently been released from prison

Her prescription medicine went missing after his last visit

Jonathan cannot find a job and has been living at the Rescue Mission

Mona is considering allowing Jonathan to move in with her

Discussion

What are the red flags?

What assurances would you need before making a referral to RJ?

What is your role moving forward?

What are your goals for Mona?



Case Example 2

Gregg is 89 and was the victim of identity theft

His granddaughter Joli was the main suspect but there was not enough evidence to indict

Joli has admitted that she has a gambling addiction

Other family members would like to confront Joli

Gregg states that he wants to find closure

Discussion

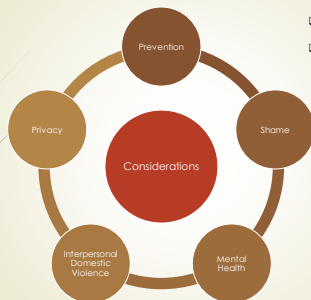
What are the red flags?

What assurances would you need before making a referral to RJ?

What is your role moving forward?

What are your goals for Gregg and his family?





- ☐ What types of cases would work best?
- ☐ Who should run a program like this?

- ☐ How do we create buy-in from referral sources?
- ☐ Is there any legal leverage?

Next Steps

- A local group of service providers, including
 - ◆ Syracuse University's College of Law Elder Abuse Clinic,
 - ◆ Syracuse University's Aging Studies Institute,
 - ◆ Adult and Long Term Care Services,
 - ◆ Vera House,
 - ◆ New Justice Services,
 - ◆ The Center for Court Innovation
 have been meeting to discuss the opportunities and challenges of adopting a restorative justice model in Onondaga County
- SUCOL and ASI are leading a Research Project called, "Exploring Restorative Justice as a Remedy for Elder Abuse and Exploitation"



Questions/ Comments?

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