

# Punishment or Accountability?

by Ron Claassen

Punishment has been equated with accountability for a long time. In a VORP Community Justice Conference (CJC) case yesterday, I again saw how hard it is for people to make any distinction between them.

What I observed was significant internal struggle with several participants. On the one hand they were delighted that the offender was accepting responsibility and agreeing to do a number of things they had been wanting the offender to do but had so far been unsuccessful in convincing him. Not only was he agreeing to make these changes, he was also agreeing to come back to the group to demonstrate that he had kept his agreement.

## *Community Justice Conference ends in constructive, restorative sentence*

by Ron Claassen

Our story this month is about a VORP Community Justice Conference (CJC) meeting that has already been discussed above. The co-mediators were Roxanne Claassen, John Nash, and Ron Claassen. The names and some details have been changed to protect the identities of the participants.

The offense was a non-violent felony, a residential burglary. Jay Griffith had met individually with James (the offender) and his parents and with the victims. On the day of the joint meeting, Jay was sick and asked us to lead the meeting.

We met at the College Community Church - Mennonite. Mediators and Phil Erdman, representing the probation department, arrived early. We expected about 12 people so we set up some tables and chairs. When the victims (Howard and Ann) arrived they had decided not to bring their children. So we took two chairs out. When the offenders and family arrived, they had decided to include a family friend and his wife who were planning to provide employment for James. So we added some chairs again.

We discussed the purpose of the VORP CJC meeting, the process and groundrules. Everyone agreed. We discussed that if we finally all agreed on a plan for the best way of handling this situation, we would write it up, sign it, and submit it to the court. Our agreement with the court is that unless there are some serious oversights that the court is

But even though he was agreeing to these things, several in the group continued to struggle with the fact that none of these things we were agreeing to were designed to impose pain on him. For some reason, it didn't seem right that all of the agreements were things he also thought would be good things to do. He was agreeing to not repeat a similar offense, to work part-time, to pay restitution and to change some very long established habits including his long-standing resistance to school. His advocates, (parents and friends of the family) were delighted with his decisions and expressed their delight. And, they talked about how lucky he was to have the opportunity to participate in this kind of process. One observed that when he had been caught for something similar

to this, he was incarcerated. He told how he hated that. They continued to use language that indicated they thought he was getting off easy.

The victims of this residential burglary continued throughout the process to express that their desire was to know that the offender recognized that what he had done to them was unfair, wrong, and that it by doing this he had unfairly invaded their lives. Since they got back many of the stolen items, they would like to get back the remaining items, if possible, but it was more important to them that he would get his life to a point where he wouldn't do this again, that he would help some other boys who were at risk to make a decision not to do something similar, and that he would take advantage of school so he could contribute as much as possible in a constructive way in the future.

They were not asking for punishment in the sense of imposing retribution or pain on him.

Our offender was agreeing to the things that his family, family friends, and the victims wanted yet it seemed like he was getting off easy.

Jane Nelson, author of Positive Discipline, notes that it is very interesting how we have come to the place that the adults feel like they haven't done what is expected of a good parent, teacher (and I would add criminal justice system) unless we impose pain on a young person who is acting badly. She says it is interesting that we feel we must make them feel worse in order to get them to act constructively.

Archbishop Desmond Tutu, leader of the Truth and Reconciliation Commission in South Africa, who is dealing with the worst of human atrocities, says the only way to stop the cycle of violence is re-

aware of, our plan will become the restorative justice sentence.

We started with James (offender - age 17) telling what he did and his experience. He said that a recent acquaintance invited him to go with him to get some stuff. They would knock on a door and if people were there they asked to see someone and then said they must have the wrong house. When they found a house where no one was home, they went around back and entered the detached garage. James stayed outside and gathered up the items brought out and they carried them to another acquaintance's house. That acquaintance's mother asked who the stuff belonged to and when there wasn't a good explanation, she called the police. James told the truth to the police

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Please consider the changes made in the lives of

Howard and Ann, and James and his family, and consider if you would be willing to help make that possible for others.

While volunteer mediators work with most of the cases, we need staff for training, liaison work with probation and the courts, mediator support, and follow-up.

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## Accountability creates climate for change

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storative justice. He says "Restorative Justice is about restoring the personhood that is damaged or lost." "Restorative justice is about the profound inability of the retributive justice to effect permanent change and closure, even on the great human atrocities."

As demonstrated in this case, the VORP CJC process is not an easy out. It is a profound acceptance of responsibility and accountability in the presence of victims, family, friends of the family, and other community representatives. Making the changes that have been agreed to and following through on the agreements made is not an easy thing to do.

Asking the question "do you plan to keep your agreement" in the presence of respected people, is real accountability. The goal of accountability is to create the climate and occasion for making constructive internal changes that lead to more civil behavior. And, as we all know, habits and patterns of behavior are not easy to change. But we also know that change requires a decision. The VORP CJC process elicits decisions for change while punishment is simply requires following orders for a short period of time.

We really want to make it as easy as possible to say no to violating others and say yes to becoming accountable for agreements to do the things that are civil and constructive.

## Family finds constructive ways to respond to son's offense

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and told who the other person was. He was over 18.

When he finished we invited the victims, or anyone who would volunteer, to summarize what he had said. Howard (victim) summarized and when asked James said that he had accurately summarized what he intended to say.

Next the victims were invited to tell how they experienced the offense. Howard started by telling about his experience. He arrived home first and when he did he heard the alarm. He first went into the house, very cautiously, and with a great deal of fear, thinking someone might still be in the house. He didn't find anything disturbed in the house. When he went outside, he noticed a backpacking shovel outside the garage. When he went in, he saw that many tools were missing. He felt really mad. At that point he wasn't as ready to talk about it as he is now.

James was asked to summarize. It wasn't easy but he had listened intently and did a very accurate summary.

Ann (victim) said, "I arrived home and

when I opened the garage door I immediately noticed missing tools. I was scared at first and when I found out that Howard was OK I was livid, really mad. How could anyone ever think it was OK for them to just come and take our things? One of the items still missing is a socket set I bought Howard for his birthday. The tools can be replaced but that gift can't be replaced. It feels like a very serious violation." At this point, one of James' family members added, like being raped, I've also been burglarized.

James then summarized what Ann said.

After some questions for clarification we turned our attention to two main agenda items: How to restore equity as much as possible and what need to be changed to make the future safer and more constructive for everyone.

After some discussion the idea of saying I'm sorry came up. James' future employer asked if he wanted to say sorry to the victims. James said yes and turned to them and offered a very sincere apology. Phil (probation) then asked James if there was anyone else in the room who he thought he should apologize to. After some pause, he said yes and began to cry. He then

turned to his mother and apologized to her. We then brought out the tissue as many needed it.

After much discussion about how to make things as right as possible, an agreement emerged that focused on not repeating a similar offense, regular employment when not in school, getting back into a regular school program (he was on an independent study program), getting some leadership training (possibly through Boys and Girls Club), and speaking to younger students about what he had learned in this VORP CJC process. Adults agreed to help open doors and James agreed it was his responsibility to do what he had agreed to do. He didn't shy away from accepting the responsibility. We noted that trust will grow when the agreements made are kept. We set up a follow-up meeting for three months from now. After writing the agreement, all signed it and shook hands before leaving.

As they were leaving, step father and mother noted that James had never before told them exactly what he had done and they appreciated how the process seemed to help them all talk more constructively about what had happened.

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