

State of Illinois

Rod R. Blagojevich, Governor

Illinois Criminal Justice Information Authority

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# Implementing balanced and restorative justice

Victim • Offender • Community



A guide for prosecutors

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# Foreword

Created in 1983, the Illinois Criminal Justice Information Authority is a state agency dedicated to improving the administration of criminal justice. The Authority works to enhance the information tools and management resources of state and local agencies, and it serves as a statewide forum for criminal justice coordination, planning and problem solving. It is also responsible for research, information systems development, and administration of federal funds. The Authority's specific powers and duties are spelled out in the Illinois Criminal Justice Information Act [20 ILCS 3930/1 et seq.].

The Authority created this series of BARJ implementation guides to provide profession-specific information on how the BARJ philosophy could be used across the juvenile justice system

ICJIA supports the use of balanced and restorative justice (BARJ) in Illinois' juvenile justice system in accordance with the state's policy on BARJ as outlined in the Juvenile Court Act. In recent years, the agency has made BARJ a research and funding priority. In 2003, the Authority sponsored a statewide BARJ summit attended by juvenile justice professionals across Illinois. The goal of the summit was to develop a statewide strategy to systematically implement BARJ-based programs and principles for juveniles throughout the state.

Participants identified several needs to aid them in the implementation of BARJ principles. One need was continuing education on programmatic applications of the BARJ philosophy. This led to a conference in March 2005 entitled, "Juvenile justice in Illinois: Implementing restorative justice in your community."

The Authority created this series of BARJ implementation guides to provide profession-specific information on how the BARJ philosophy could be used across the juvenile justice system. For more information about BARJ, visit the Authority's website at [www.icjia.state.il.us](http://www.icjia.state.il.us).

# About this guide

This publication is one in a series of guides designed to assist in the statewide promotion of balanced and restorative justice. BARJ is a philosophy of justice that can guide the work of individuals who deal with juvenile offenders, their victims, and the communities in which they live.

## The goals of this guide are to:

- Promote compliance among those working in juvenile justice in Illinois with the state's policy on BARJ outlined in the Juvenile Court Act.<sup>1</sup>
- Improve the response to juvenile conflict and crime by increasing the knowledge and understanding of BARJ by juvenile justice professionals, agencies, communities, and their members.
- Offer strategies, programs, and practices that incorporate the values and principles of BARJ.

*Implementing balanced and restorative justice: A guide for prosecutors* is specifically designed to provide prosecutors with practical BARJ strategies that can be utilized on a daily basis. This guide will provide an overview of a new design for community courts and useful court diversion programs, as well as strategies to use during juvenile court proceedings.

# Balanced and restorative justice

Restorative justice<sup>2</sup> is a philosophy based on a set of principles that serve to guide the response to conflict or harm. Restorative justice principles can guide responses to conflicts in many settings, not just those caused by a violation of law. The balanced and restorative justice<sup>3</sup> model was a concept developed in part by the U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, in order to make the philosophy of restorative justice applicable to the modern U.S. justice system. BARJ uses restorative justice principles to balance the needs of three parties—those identified as offenders or law violators, the crime victim, and the affected community.

BARJ is not a program, but a philosophy with a coherent set of values and principles to guide the administration of justice.

## Principles of restorative justice

The principles of restorative justice<sup>4</sup> are:

- Crime is injury.
- Crime harms individual victims, communities, and offenders, and creates an obligation to address that harm.
- All parties should have an opportunity to respond to the crime, including victims, the community, and the offender.
- The victim's perspective is central in deciding how the harm should be repaired.
- Accountability for the offender means accepting responsibility and acting to repair the harm done.
- The community is responsible for the well-being of its members, including both victim and offender.
- All human beings have dignity and worth.
- Restoration, repairing the harm, and rebuilding community relationships is the primary goal of restorative justice.
- Results are measured by how much repair was done rather than how much punishment was handed out.
- A high degree of crime control cannot be achieved without active community involvement.
- The justice process is respectful of age, abilities, sexual orientation, family status, and diverse cultures and backgrounds, whether racial, ethnic, geographic, religious, economic, or other. All are given equal protection and due process.

BARJ is not a program, but a philosophy with a coherent set of values and principles to guide the administration of justice. The programs described in this guide are based on the philosophy of BARJ and will be referred to as “BARJ programs.” Although BARJ can also be applied to adult offenders, it has gained a wider acceptance in Illinois for use with youth in the juvenile justice system.

BARJ recognizes three parties with an important role and stake in the justice process: victims, offenders, and communities.

BARJ's three main goals include:

- **Accountability.** BARJ strategies provide opportunities for offenders to be accountable to those they have harmed and enable them to repair the harm they caused to the extent possible.
- **Community safety.** BARJ recognizes the need to keep the community safe. Community safety can be accomplished through BARJ strategies by building relationships and empowering the community to take responsibility for the well-being of its members.
- **Competency development.** BARJ seeks to increase the pro-social skills of offenders. Addressing the factors that lead youth to engage in delinquent behavior and building on the strengths evident in each youth increases their competencies.

BARJ recognizes three parties with an important role and stake in the justice process: **victims, offenders, and communities.**

Crime is viewed as harm to individuals and communities, rather than merely a violation of state laws. As a result, the administration of justice is guided not only by the interests of the state, but also the interests of victims and community members. A crime may produce a clear victim, an individual who was directly harmed, or victims who were harmed indirectly. For example, drug crimes may appear to have no clear victim, but families and communities are very much affected when one of their members abuses drugs. The involvement of both direct and indirect victims of crime is necessary in the justice process for offenders to gain a better understanding of the harm they have caused and learn empathy for others.

The BARJ philosophy differs from the dominant justice philosophies of retribution and rehabilitation. Retribution reacts to an offense through punishment, while rehabilitation seeks to improve the individual offender through treatment. In both philosophies, offenders remain relatively passive and are not expected to accept responsibility for their crimes. In fact, retributive and rehabilitative justice systems may encourage offenders to deny responsibility, due in part to the adversarial processes involved in the determination of guilt and appropriate punishment.

Many criminal justice professionals have embraced the BARJ philosophy due to the limitations evident in the absence of accepting responsibility and the exclusion of victims and community members from the justice process. Many BARJ principles and practices enhance the juvenile justice system. Many BARJ-based practices do not, or cannot, apply in all cases. But when the conditions are right for BARJ implementation, better outcomes can be seen for victims, offender, communities, and the juvenile justice system. There is a possible restorative response to any harm or crime, even if the offender is incarcerated.

BARJ has been implemented all over the world, but most extensively in Western Europe, New Zealand, and Canada. Nationally, BARJ has been endorsed by the U.S. Department of Justice through the Office of Juvenile Justice and Delinquency Prevention, which has funded the National Balanced and Restorative Justice Project since 1993. Housed at Florida Atlantic University, the BARJ Project provides training and technical assistance and develops a variety of materials to inform policy and practice related to balanced approach and restorative justice. (*See Appendix for contact information.*)

As of March 2005, at least 16 states included balanced and restorative justice in the purpose clauses of their juvenile courts.<sup>5</sup> In 1998, Illinois' Juvenile Court Act was revised to include a purpose

and policy statement adopting BARJ for all juvenile delinquency cases. Many jurisdictions in Illinois are operating BARJ-based programs and practices and numerous state and local initiatives promote BARJ.

The American Prosecutor's Research Institute also supports BARJ, stating, "It is critically important that the juvenile justice system, and prosecutors in particular, adopt a comprehensive approach to delinquency, one that protects communities, restores victims and communities, and teaches offenders empathy for others, self control and marketable skills. A balanced approach to juvenile justice operates in the best interest of children."<sup>6</sup>

## Benefits of balanced and restorative justice

Research has shown that BARJ:

- Offers a more cost-effective means to handle crime over the traditional court system.<sup>7</sup>
- Reduces recidivism rates.<sup>8</sup>
- Increases satisfaction of victims<sup>9</sup> and offenders with the justice system.<sup>10</sup>
- Improves competencies of offenders.<sup>11</sup>
- Increases completion of restitution agreements.<sup>12</sup>
- Lessens the fear felt by victims of crime.<sup>13</sup>
- Increases community involvement.
- Provides individualized attention and services for offenders and their victims.

## Why should courts use BARJ?

BARJ provides a common philosophy and mission for promoting cohesion and collaboration among those who work in the courts. Specific benefits include:

- The provision of alternatives to formal prosecution for low-level youth offenders.
- The option of a quicker resolution to community problems and delinquency.
- A lighter local juvenile court caseload due to the fact that communities are empowered to address some of the conflict and delinquency that occurs in their neighborhoods.
- A reduction in recidivism and the cycling of youth through the juvenile justice system.

BARJ enhances the work of prosecutors in a variety of ways.

BARJ:

- Provides a common philosophy that guides decision-making by prosecutors and other system professionals while benefiting all parties.<sup>14</sup>
- Provides more options to ease plea negotiation process.

As of March 2005, at least 16 states included balanced and restorative justice in the purpose clauses of their juvenile courts.

A balanced approach to juvenile justice operates in the best interest of children.



- Fosters accountability and public safety.
- Reduces fear of victims of crime.
- Increases victim satisfaction.
- Increases restitution compliance.
- Involves community members in tangible ways in the juvenile justice system.
- Increases citizen understanding and trust in the juvenile justice system.

# The community justice movement

The community justice movement, which includes policing, courts, prosecution, and probation models, has the goal of community involvement in common with BARJ. Community justice aims to increase collaboration with the community to improve the effectiveness of police, prosecutors, defense attorneys, and the courts. BARJ goes a step beyond community involvement by involving all parties who have an interest in and are affected by crime.

Community courts hold promise as a vehicle for improving the practices and performance of the juvenile court, especially when guided by the BARJ philosophy.

## Community courts

Community courts allow victims and residents accessibility to, and participation in, the justice process. These courts are in more than 20 communities in the U.S. and vary according to each community's needs. Because of the increased participation of community members in the justice process inherent in this model, community courts facilitate the improved understanding of local problems and the resolution of local disputes before a crime even occurs. Community courthouses are designed to be accessible and less intimidating to all parties, housing courtrooms, social service agencies, and public meeting rooms in one location.<sup>15</sup>

The Midtown Community Court in New York City has handled low-level civil and criminal cases since 1993. In addition, it makes services that typically are only accessible by offenders, such as Alcoholics Anonymous and GED programs, available to all residents of the community. A 1997 study of the Midtown Community Court reported that it handled an average of 65 cases a day and an annual total of 16,000, making it one of the busiest courtrooms in the city. The court successfully reduced prostitution arrests by 63 percent and illegal vending by 24 percent. The compliance rate for community service was 75 percent, the highest in the city during the year studied. Offenders provided an estimated \$175,000 in service to the community.<sup>16</sup>

## Community courts and BARJ

Community courts hold promise as a vehicle for improving the practices and performance of the juvenile court, especially when guided by the BARJ philosophy. While aspects of community courts are consistent with the principles of BARJ, they may still rely on punitive measures as the formal response of the justice system. Punitive responses do not require the offender to take responsibility for their actions. Punishment excludes victims and community members in the justice process. Victims are left feeling frustrated and their trust in the system is diminished. BARJ seeks to involve victims and offenders in the administration of justice. Community members and victims can be involved through their participation on advisory boards and in BARJ programs.

The planning of community courts has been spearheaded by judges, court administrators, criminal justice commissions, elected state prosecutors, and other political figures.<sup>17</sup> However, many communities will not be able to make such drastic changes to their courts for reasons

such as a lack of funding or support. Regardless, each courtroom can apply practices of a community court while incorporating BARJ principles. Prosecutors can use restorative strategies to make their work more beneficial to crime victims, communities, and offenders.

## Community prosecution

Community prosecution offices and units began developing across the country in the 1990s. Community prosecution is based on the idea that local citizens know more than government agencies about their problems and the conditions that may cause crime. Therefore, prosecutors interact with the community to gain input from its members, educate them on the law and the prosecutor's role, and strengthen resident participation in response to community issues. A county's prosecutor's office may develop a special unit dedicated to a specific issue or geographical area. The unit may consist of a combination of prosecutors, investigators, and other support staff. Attorneys may or may not try cases, and they may attend or conduct local meetings and provide legal assistance to residents regarding housing, family, health care, and employment.

Community prosecution is based on the idea that local citizens know more than government agencies about their problems and the conditions that may cause crime.

## Community prosecution and BARJ

Balanced and restorative justice can be implemented through community prosecution. The American Prosecutors Research Institute (APRI) states:

*“The strategies, programs, and community involvement initiated under a philosophy of community prosecution are a natural fit for a justice system embracing balanced and restorative justice.<sup>18</sup>...Both community prosecution and the balanced and restorative justice approaches involve a strong community component and a departure from conventional charging, sentencing, or disposition alternatives. Not surprisingly, some of the jurisdictions that embrace the community prosecution model are also taking the lead in adopting the balanced and restorative justice philosophy. In 2002, the National District Attorneys Association amended its Resource Manual and Policy Positions on Juvenile Crime Issues to state, ‘Balanced consideration of community protection, offender accountability, and competency development is the recommended philosophical approach to juvenile justice...Prosecutors willing to re-examine the traditional concepts of prosecution and to adopt new roles as community leaders are finding success with both of these innovative, long-term criminal justice models.’”<sup>19</sup>*

By incorporating the community prosecution approach with the principles of BARJ, prosecutors can increase the involvement of all parties affected by crime.

# Putting balanced and restorative justice into practice in the courts

Youth can become involved with a BARJ program at various points in the juvenile justice process. Law enforcement may divert cases to BARJ programming as a part of a formal or informal station adjustment. Prosecutors may choose to divert cases to a BARJ program in lieu of a formal charge or negotiate with defense attorneys for guilty plea agreements requiring participation in the program. Judges can order an offender who has acknowledged responsibility for an offense to participate in a BARJ program. Probation officers may develop conditions of probation, in some cases along with citizens and victims, which follow the principles of BARJ. A detention or corrections center may have offenders participate in BARJ programs, which can aid in an offenders' successful re-entry into the community. In addition, a BARJ program can handle violations of probation or disciplinary actions within a juvenile facility. Finally, offenders may voluntarily agree to participate in a BARJ program or practice separate from any obligations imposed by the court system.

BARJ-based practices also are used outside of the system to handle neighborhood disputes and misconduct in schools.

## The role of prosecution and BARJ

The American Bar Association's Model Code of Professional Responsibility states, "The responsibility of a public prosecutor differs from that of the usual advocate; his duty is to seek justice, not merely convict."<sup>20</sup>

Prosecutor success can no longer be measured by the quantity of convictions or by the imposition of tough sentences. Prosecutors are, in many ways, the gatekeepers of the court system and must make sure that courts are efficient and make the best use of scarce resources.<sup>21</sup> Overcrowded prisons and jails force prosecutors to acknowledge that it is not feasible for all offenders to do time and that other community alternatives must be sought. The reality of court cases is that most offenses are not violent, the majority of offenders plead guilty, and most court cases are resolved through a plea agreement.<sup>22</sup>

Using a BARJ-based approach, prosecutors can examine each case individually to determine the best course of action. When offenders are diverted and not held accountable for the harm they caused, victims are sent the message that the crime was not serious. In contrast, BARJ-based programs, even those that are diversions from the court process, hold offenders accountable to both victims and community. If guided by the philosophy of BARJ, prosecutors can address public safety demands while meeting the needs of the victim and community.<sup>23</sup>

BARJ-based practices encourage collaboration in the courtroom among the judge, prosecutor, and defense, along with victims, communities, and offenders. However, prosecutors still retain some of their traditional roles. The traditional adversarial system is applied whenever a client pleads not guilty or does not elect to participate in a BARJ-based program. In addition, defendants who are repeat offenders or are charged with a serious or violent crime and plead guilty still may not be

When offenders are diverted and not held accountable for the harm they caused, victims are sent the message that the crime was not serious.

**Figure 1: The role of juvenile justice system professionals in the facilitation of balanced and restorative justice**

<p><b>Accountability</b></p>	<ol style="list-style-type: none"> <li>1) Facilitate mediation.</li> <li>2) Ensure restoration (ways for offenders to pay restitution).</li> <li>3) Develop creative and restorative community service options.</li> <li>4) Educate community members on their potential role and engage them in BARJ-based practices.</li> </ol>
<p><b>Competency development</b></p>	<ol style="list-style-type: none"> <li>1) Develop ways for young offenders to increase competency.</li> <li>2) Assess and build on youth and community strengths.</li> <li>3) Develop community partnerships.</li> </ol>
<p><b>Community safety</b></p>	<ol style="list-style-type: none"> <li>1) Develop incentives and consequences to ensure compliance with supervision objectives.</li> <li>2) Assist school and family efforts to handle and maintain offenders in the community.</li> <li>3) Develop prevention capacity of local organizations.</li> </ol>

*Adapted from Bazemore, Gordon and Charles Washington "Charting the Future for the Juvenile Justice System: Reinventing Mission and Management," Spectrum, The Journal of State Government 68 (2) (1995): 51-56.*

able to serve their sentences within the community. Offenders may be able to participate in a balanced and restorative program within a detention or correctional facility.

Prosecutors can use BARJ principles to hold offenders accountable for the harm they caused their victims, build their competency skills, and protect the community. *Figure 1* outlines the roles that justice system professionals can play in meeting the goals of BARJ.

### **Prosecution and victims**

Depending on the type of crime, victimization can range from an inconvenience to traumatization. Each victim's response to crime also may vary. Victims may need empowerment, reassurance, vindication, and an understanding of what happened.<sup>24</sup> Sometimes these needs are not met by the traditional justice system. BARJ-based processes, in contrast, are better designed to meet the range of crime victims' needs. Research suggests that victims are open to sentences that are restorative and often do not desire the incarceration of their offender. In addition, victims want their offenders to receive treatment.<sup>25</sup> Studies also have shown that BARJ practices offer high victim satisfaction and reduce fear and anxiety.<sup>26</sup>

Many prosecutor offices in Illinois employ victim assistance specialists. These specialists typically aid victims through the justice process by assisting with the calculation of restitution amounts, preparing victim impact statements, referring victims to services, and keeping victims apprised of court proceedings.<sup>27</sup>

These specialists can expand their role to discuss the restorative justice process—a process through which victims may be given the opportunity to better understand why they were victimized and reduce their fear of being revictimized. If victims decide to participate in a BARJ program, specialists who are trained in BARJ principles can prepare them for the process, which may include the option of facing their offender. Even if the case is concluded through a plea agreement rather than a trial, prosecutors can continue to work with victims to get them into post-disposition BARJ programming, which can empower them and further the healing process. It should be noted that victim participation in any restorative practice is strictly voluntary.

Significant effort should be made not to revictimize or blame the victim.

Crime can be traumatic. The criminal justice system has often been criticized for being insensitive, unresponsive to victim needs, and even causing further harm. Significant effort should be made not to revictimize or blame the victim. BARJ seeks to treat victims with compassion and sensitivity in an environment that is attentive to each victim's feelings and needs.

# Balanced and restorative justice practices for prosecutors

The following justice practices may already be used in some jurisdictions, but the degree to which they can be considered BARJ-based may vary. BARJ-based practices adhere to the balanced approach by giving equal attention, whenever possible, to victims, offenders, and communities, and are based on the principles of restorative justice. Several ways exist to make current practices more effective and consistent with the BARJ philosophy.

## Current justice practices

### Community service

Community service has long been an option in response to juvenile offending. It has not always been restorative, however. Offenders should be provided, when appropriate, with meaningful community service options. For communities to experience restoration through community service, the service should be both visible and valuable. Ideally, community service will either be linked to the harm caused by the crime or be chosen by the victim(s). It should also take into account the strengths, interests, and skills of the offender leading to increased competencies. Some activities may include tutoring or mentoring youth; helping at faith institutions, shelters, hospitals, or nursing homes; or attending an extracurricular activity that interests them in their school or community. These activities build skills and engage offenders in a positive way by building lasting relationships, which are more likely to impact them beyond completion of their community service.<sup>28</sup>

### Restitution

When applicable, a sentence should include specific ways that offenders will complete payment of victim restitution. However, many young offenders find it difficult to pay. The burden of payment often falls on the offender's parents. Offenders can work to repair the harm they caused, ideally in areas that increase their competencies. For example, an offender can work for a business owner from whom he or she stole or repair damage that was the result of vandalism or graffiti. These opportunities give young offenders the ability to provide restitution to victims, while learning of the impact of their behavior.

Many communities are finding new ways to assist juvenile offenders in paying restitution. In Operation Payback, an innovative program out of St. Louis, Mo., service organizations raise money that allows juveniles to earn an hourly wage for community service. Once earned, the funds are sent to victims by the service organization in the form of restitution.

### Victim impact panels

Mothers Against Drunk Driving held the first victim impact panel in 1982. Victim impact panels allow crime victims of similar offenses to share their experiences and impact of crime with offenders. These panels allow victims to talk with offenders of similar crimes when it might be too difficult or impossible for them to talk with their own offender. This process also allows offenders to learn the impact of their actions, even though they are not hearing it directly from those they have harmed.

Victim participation is voluntary in any BARJ-based response to juvenile offending. Sometimes, victims are unable to or opt not to meet with their offenders face-to-face. Other times there is no direct victim of a crime.

### Victim impact statements

Victims may provide written statements in lieu of meeting with an offender. The statements share the effect of the crime and may influence the sentence or program outcomes. The first use of impact

Victim impact statements share the effect of the crime and may influence the sentence or program outcomes.

Even if the victim declines to receive an apology letter, it may still be a worthwhile undertaking as the exercise will require the offender to consider the harm caused by his or her actions.

statements in the U.S. was in 1976 by the probation department in Fresno County, Calif., which used them to guide sentencing in court.

Although victim impact statements are typically used post-conviction and pre-sentencing, other opportunities exist for use of victim impact statements. For example, in certain BARJ programs, a facilitator reads a statement written by the victim that describes the harm caused by the offender.

### **Apology letters**

Offenders who are unable to apologize to victims in person may write letters to their victims or others affected by their offense. The content of these letters should be reviewed before being shared with victims to ensure that they are sincere and will cause no further harm. Victims should always be asked first if they are willing to receive an apology letter from the youth. Even if the victim declines to receive the apology letter, it may still be a worthwhile undertaking, as the exercise will require the offender to consider the harm caused by his or her actions.

### **Balanced and restorative justice-based programs**

Juvenile BARJ-based programs often have several common elements. They:

- Are offered to juvenile offenders who are willing to accept full responsibility.
- Are provided with participant referrals at the discretion of the juvenile justice system.
- Are facilitated by a trained individual, who may be an employee of a juvenile justice agency, an allied non-profit agency, or a volunteer from the community.
- Involve victims and/or community members in the process, but participation is voluntary.
- Keep proceedings confidential.

The following programs may be used by law enforcement as a condition of a station adjustment, by prosecutors who refer youth to BARJ-based programs as an alternative to formal processing in juvenile court, or by probation departments as a condition of probation. These programs have shown promise and have been replicated in different countries and communities. This is not an exhaustive list and program variations may exist that adhere to the principles of BARJ.

### **Circles**

Circles provide an informal opportunity to bring parties in conflict together to resolve an issue. They also may be used in more formal processes, such as sentence determination. A trained facilitator, often called the circle keeper, allows all interested parties to share any feelings and information related to the conflict or offense. The facilitator may use a talking piece, an object that is passed from person to person indicating that it is that person's turn to speak. By offering opportunities for open and safe communication, these programs resolve conflict,



strengthen relationships between participants, empower all parties involved, and emphasize respect and understanding.

### **Community reparative boards**

Community reparative boards, also known as neighborhood accountability boards, merchant boards, and youth panels in other parts of the country, allow the community to get involved in the justice process by addressing offenders in a constructive way. These boards bring the offender before a panel of local citizens who hold hearings and determine dispositions. Typically, local courts refer cases to the board. Community volunteers go through intensive training to participate on the board. This training might include the board process (or issues related to working with youth), but must also include BARJ-based principles to be restorative.

One reparative board initiative, the Community Panels for Youth Project has operated in seven Chicago neighborhoods since 1997. Panels of community volunteers hear juvenile offender cases referred by the Cook County State's Attorney's Office.

Vermont also has a successful reparative probation program that invites dialogue between citizen volunteers, victims, and offenders to negotiate restorative probation agreements.<sup>29</sup>

By offering opportunities for open and safe communication, circles resolve conflict, strengthen relationships between participants, empower all parties involved, and emphasize respect and understanding.

### **Family group conferences**

Also called community, accountability, and restorative group conferences, family group conferences differ from mediation in that the offender and victim are allowed to bring members of their support systems, typically family members, to the conference.<sup>30</sup> Guided by a trained facilitator, participants are allowed to express their feelings about the young offender and the crime he or she committed. An agreement is developed that describes what the offender must do to repair the harm.

Conferencing allows people to work together to resolve problems through cooperation, support, and empowerment. Research has shown high levels of satisfaction with this program, with participants preferring a conference to a court appearance,<sup>31</sup> as well as lower recidivism rates than traditional court processing.<sup>32</sup>

### **Victim offender conferencing programs**

Victim offender conferencing programs are facilitated by a trained mediator and bring together the offender and victim.<sup>33</sup> A discussion takes place and an agreement for the offender to follow is developed. These programs are also referred to as victim offender mediations, victim offender reconciliation programs, or community mediations. Although the term "mediation" may imply that the victim and offender are equals, this is not the case. The offender has the obligation to restore the victim. Community mediation programs can be designed to involve the community and mediate between a victim and an offender. Research has shown that both parties in these programs have consistently been satisfied with the process. Some say the process is fairer than court proceedings.<sup>34</sup>

### **Other programs**

Youth court programs and community mediation panels have the potential to be restorative when implemented in a manner that is consistent with the BARJ philosophy.

#### **Youth court programs**

Youth courts, also called teen courts and peer juries, are programs in which youth volunteers hear cases of juvenile delinquency or school misconduct and make recommendations. In Illinois, most of

Youth courts offer victims and community members the opportunity to be present at hearings, provide input into sentencing, and receive verbal or written apologies.

Adjustments to current practices can make existing programs more restorative.

these programs operate through police departments for station-adjusted youth as a diversion from juvenile court.<sup>35</sup>

These programs have used the BARJ philosophy to varying degrees. Because of the popularity of youth courts, particularly with police departments in Illinois, a real opportunity exists for these programs to implement BARJ. Youth courts offer victims and community members the opportunity to be present at hearings, provide input into sentencing, and receive verbal or written apologies. Sentences should improve competencies and take into account the interests and talents of offenders. Community service work should be meaningful and related to the offense.

### **Community mediation panels**

In practice, community mediation panels share much with community reparative boards. The goal is to make the juvenile understand the seriousness of his or her actions and the effect that a crime has on the minor, his or her family, the victim, and the community.<sup>36</sup> Although the Illinois' Juvenile Court Act explicitly gives responsibility to the state's attorney for the establishment of community mediation panels, the statute states that these panels should be provided to informally hear cases that are referred by a police officer as a station adjustment, a probation officer as a probation adjustment, or referred by the state's attorney as an alternative to prosecution.<sup>37</sup>

### **Implementation**

Implementing BARJ-based practices doesn't necessarily require the creation of new programs. Adjustments to current practices can make existing programs more restorative. Prosecutors may already incorporate one or more of the core principles of BARJ—public safety, accountability, and competency development. Starting a successful BARJ-based practice or program takes work, but evidence shows that BARJ offers much more than the conventional justice system.

*Figure 2* provides a description of BARJ-based programs and their goals. The programs are very similar. They all follow the principles of restorative justice. However, one program may be more desirable for certain cases than another. Mediation may be preferred when there is a direct victim who wishes to speak face-to-face with the offender. A circle may be better when there is conflict or a crime that has affected a large group of people. A conference may be preferred if the offense directly involves the family and other people close to the youth. A community board may be desired if the offense has a great impact on the community. Ideally, many program options would exist for young offenders.

There are several steps to developing a program. Points to consider include:

- Establishing a referral procedure, and determining whether referrals will be accepted by other entities, such as schools or parents.

**Figure 2: Comparison of BARJ-based programs**

	<b>Description</b>	<b>Goals</b>
<b>Circles</b>	<ol style="list-style-type: none"> <li>1) Involve victim, offender, community participants, and supporters.</li> <li>2) Led by a trained facilitator.</li> <li>3) Allow all parties to share information.</li> <li>4) Lead to an agreement.</li> </ol>	<ol style="list-style-type: none"> <li>1) Provide awareness of victim and community impact of crime.</li> <li>2) Reconnect victim and offender.</li> <li>3) Aid victim in healing process.</li> <li>4) Develop a collective response to crime and conflict.</li> </ol>
<b>Conferences</b>	<ol style="list-style-type: none"> <li>1) Involve victim, offender, and supporters.</li> <li>2) Led by a trained facilitator.</li> <li>3) Allow all parties to share information.</li> <li>4) Lead to an agreement.</li> </ol>	<ol style="list-style-type: none"> <li>1) Provide awareness of victim, family, and community impact of crime.</li> <li>2) Connect all affected by crime.</li> <li>3) Develop a collective response to crime and conflict.</li> </ol>
<b>Community boards</b>	<ol style="list-style-type: none"> <li>1) Involve victim, offender, community, and volunteers.</li> <li>2) Led by trained facilitator.</li> <li>3) Ask questions of victim and offender to illustrate crime's impact.</li> <li>4) Lead to an agreement.</li> </ol>	<ol style="list-style-type: none"> <li>1) Provide awareness of victim and community impact of crime.</li> <li>2) Reconnect victim and offender.</li> <li>3) Empower citizens and reduce criminal justice reliance.</li> <li>4) Develop a collective response to crime and conflict.</li> </ol>
<b>Mediation</b>	<ol style="list-style-type: none"> <li>1) Becomes an option when there is a direct victim.</li> <li>2) Involves victim and offender.</li> <li>3) Led by trained mediator.</li> <li>4) Involves mediated discussion in which both parties share information.</li> <li>5) Leads to an agreement.</li> </ol>	<ol style="list-style-type: none"> <li>1) Provide awareness of victim impact of crime.</li> <li>2) Reconnect victim and offender.</li> <li>3) Aid victim in healing process.</li> <li>4) Develop a collective response to crime and conflict.</li> </ol>

*Adapted from Bazemore, Gordon and Mark Umbreit, "Conferences, Circles, Boards, and Mediation: Restorative Justice and Citizen Involvement in the Response to Youth Crime." Final report for Office of Juvenile Justice and Delinquency Prevention, grant number 95-JN-FX-0024. Washington, D.C.: Office of Juvenile Justice and Delinquency Prevention, 1999: 27-34.*

- Identifying the types of offenses and youth that will be accepted.
- Fostering links with community agencies and groups.
- Determining available community service options.
- Recruiting and promoting the BARJ program in the community.
- Training staff and/or volunteers and educating offenders.
- Developing a process for monitoring, follow-up, and evaluation.

## Evaluation

Prosecutors may gather information through surveys and focus groups designed to help determine victim and community satisfaction with the courts and gain input on what problems exist in their neighborhoods. The same research methods also may be used to measure the impact of BARJ-based practices and programs. BARJ-based practices themselves, including the elements of a formal agreement of a program, such as restitution and community service, should be examined to determine

Although many offices do not have the resources to implement information-gathering techniques, many colleges and universities are interested in providing research support.

whether they are consistent with the BARJ philosophy. In addition, community service completion and restitution compliance rates can be measured. Although many offices do not have the resources to implement these information-gathering techniques, many colleges and universities are interested in providing research support.

Recognizing the need for performance measures that specifically apply to prosecutors whose work is based on BARJ, the BARJ Project, APRI, and the National Center for Juvenile Justice are developing a set of performance measures to help ensure accountability of the juvenile justice system to citizens. The performance measures, or benchmarks, will build a core set of juvenile measures directly related to the goals of BARJ for potential use nationwide. Federal grant funding was awarded to APRI and its partners to carry out a national demonstration project in 2004 in four sites, including one in Cook County. Once established, these performance measures can help guide evaluation of the juvenile justice system and its use of BARJ principles.

# Conclusion

The juvenile justice system has been criticized for failing to be responsive to victims and the communities it serves. Many citizens distrust and fear police and are intimidated by what is often a confusing and overburdened court system. Traditional justice processes encourage community residents to leave the issue of justice to the professionals. But crime affects all members of society, and involvement of local citizens can be vital to the reduction of crime. In *Crime Shame and Reintegration*, John Braithwaite writes, “Low crime societies are societies where people do not mind their own business, where tolerance of deviance has definite limits, where communities prefer to handle their own crime problems rather than hand them over to professionals.”<sup>38</sup> BARJ is able to provide a framework for involving all parties affected by crime in the justice process and has the potential to build societies like those Braithwaite describes.

Restorative justice is a trend both nationally and internationally. Over the past decade, states have implemented BARJ-based practices and programs and have adopted BARJ-based policies for juvenile justice. The U.S. Office of Juvenile Justice and Delinquency Prevention endorses BARJ, and Illinois adopted BARJ as its purpose and policy for responding to juvenile delinquency. This philosophy can guide the work of prosecutors and aid in the administration of justice. Research shows that BARJ-based programming is associated with high satisfaction with the juvenile justice system and low recidivism rates.

This guide is intended to further the knowledge, understanding, and practice of balanced and restorative justice. Agencies are encouraged to move toward a restorative juvenile justice system by using the philosophy of BARJ and the practices and programs described in this guide. The BARJ-based strategies implemented should be geared toward the needs of the community and its individual victims, offenders, and citizens.

# Notes

<sup>1</sup> 705 ILCS 405/5-101

<sup>2</sup> This philosophy is based on practices used in indigenous cultures and religious groups for centuries.

<sup>3</sup> The concept and term *balanced and restorative justice* was developed by the Balanced and Restorative Justice Project, funded by the Office of Juvenile Justice and Delinquency Prevention. The project sought to make the concepts of restorative justice applicable to our modern justice system and its professionals.

<sup>4</sup> Pranis, Kay, *Guide for Implementing the Balanced and Restorative Justice Model*, Washington, DC: Office of Juvenile Justice and Delinquency Prevention, NCJ 167887.

<sup>5</sup> Griffin, Patrick, Linda Szymanski, and Melanie King, *National Overviews, State Juvenile Justice Profiles*, National Center for Juvenile Justice Online (2005).

<sup>6</sup> Harp, Caren, "Bringing Balance to Juvenile Justice." Monograph for U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention grant number 95-MU-FX-0017. Alexandria, VA: 2002.

<sup>7</sup> Native Counseling Services of Alberta, "Cost Benefit Analysis of Hollow Water's Community Holistic Circle Healing Process" Ottawa, Ontario: Solicitor General of Canada, Aboriginal Corrections Policy Unit, (2001).

<sup>8</sup> See e.g., Latimer, Jeff, Craig Dowden, and Danielle Muise, "The Effectiveness of Restorative Practices: A Meta-Analysis," Research and Statistics Division Methodological Series. Ottawa, CN, Department of Justice Canada, 2001.; McGarrell, Edmund, F., Kathleen Olivares, Kay Crawford, and Natalie Kroovand, "Returning Justice to the Community: The Indianapolis Juvenile Restorative Justice Experiment" Indianapolis: IN: Hudson Institute Crime Control Policy Center, 2001.; Nugent, William R., Mark S. Umbreit, Lizabeth Wiinamaki, and Jeff Paddock, "Participation in Victim Offender Mediation and Severity of Subsequent Delinquent Behavior: Successful Replications?" *Journal of Research in Social Work Practice* (2004) 14.

<sup>9</sup> See e.g., McGarrell, Edmund, F., Kathleen Olivares, Kay Crawford, and Natalie Kroovand, "Returning Justice to the Community: The Indianapolis Juvenile Restorative Justice Experiment" Indianapolis: IN: Hudson Institute Crime Control Policy Center, 2001.; Latimer, Jeff, Craig Dowden, and Danielle Muise, "The Effectiveness of Restorative Practices: A Meta-Analysis," Research and Statistics Division Methodological Series. Ottawa, CN, Department of Justice Canada, 2001.

<sup>10</sup> Umbreit, Mark S., "Restorative Justice Through Victim-Offender Mediation: A Multi-Site Assessment," *Western Criminology Review* 1(1) (1998).

<sup>11</sup> Roberts, Tim, "Evaluation of the Victim Offender Mediation Project, Langley, BC: Final Report," Victoria, BC: Focus Consultants (March 1995).

<sup>12</sup> Umbreit., "Restorative Justice Through Victim-Offender Mediation: A Multi-Site Assessment."

<sup>13</sup> Ibid.

<sup>14</sup> Caren Harp and Delaney, John, "Spotlight On: Guiding Principles for Prosecution of Juvenile Crime," *American Prosecutors Research Institute In Re...* (November, 2002) 5 (1).

<sup>15</sup> Feinblatt, John and Greg Berman, *Community Court Principles: A Guide for Planners*, Washington, DC: U.S. Department of Justice, Bureau of Justice Assistance, 1997: 3-6.

<sup>16</sup> Feinblatt, John, Greg Berman, and Michele Sviridoff, *Neighborhood Justice: Lessons From the Midtown Community Court*, Washington, DC: U.S. Department of Justice, National Institute of Justice, 1998: 5.

<sup>17</sup> Eric Lee, *Community Courts: An Evolving Model*, Washington, DC: Bureau of Justice Assistance, 2000, NCJ 183452: 4.

<sup>18</sup> Harp, Caren, Michael Kuykendall, Marcia Cunningham, and Teresa Ware, *Juvenile Delinquency and Community Prosecution: New Strategies for Old Problems*, Alexandria: VA: American Prosecutors Research Institute, 2004: 31.

<sup>19</sup> Ibid, 32.

<sup>20</sup> American Bar Association, "Model Code of Professional Responsibility," adopted 1969, amended 1980: 49.

<sup>21</sup> Gay, Frederick W., "Essay: Restorative Justice and the Prosecutor," *Fordham University School of Law, Fordham Urban Law Journal* 27 (June 2000): 3.

<sup>22</sup> Ibid, 9.

<sup>23</sup> Ibid, 4.

<sup>24</sup> Zehr, Howard, *Changing Lenses: A New Focus for Crime and Justice*, Scottsdale, PA: Herald Press, 1990: 193.

<sup>25</sup> Ibid, 194.

<sup>26</sup> Ibid, 194.

<sup>27</sup> Community service and restitution require supervision by either a community service agency or the police department. Community volunteers may also be trained to monitor youth offenders working in the community.

<sup>28</sup> See Lord, Janice Harris, "A How to Guide for Victim Impact Panels." Mothers Against Drunk Driving (1990) on the World Wide Web [http://www.nhtsa.dot.gov/people/injury/alcohol/VIP/VIP\\_index.html](http://www.nhtsa.dot.gov/people/injury/alcohol/VIP/VIP_index.html).

<sup>29</sup> Karp, David R. and Kevin M. Drakulich, "Minor Crime in a Quaint Setting: Practices, Outcomes, and Limits of Vermont Reparative Probation Boards," *Criminology and Public Policy* 3(4) (2004): 656.

<sup>30</sup> Family group conferences first emerged in New Zealand in 1989 and are based on the country's concept of Maori justice.

<sup>31</sup> Umbreit, Mark and Claudia Fercello, “Practicing Restorative Justice: Family Group Conferencing and Juvenile Crime in the Suburban Metro Area,” *CURA Reporter* (June 2000): 17-18.

<sup>32</sup> Hines, David, “The Woodbury Police Department Restorative Justice Program Recidivism Study,” Interfaith Ministries (2002). *The study found recidivism rates for the family group conferencing program at 33 percent compared to 72 percent of youth processed. In addition, conference participants who recidivated did so after a longer period of time and committed less serious offenses.*

<sup>33</sup> This is different from mediation for civil disputes because there is an admitted wrongdoer and victim, and the main focus is not on a monetary settlement, although restitution is common.

<sup>34</sup> Mirsky, Laura, “A Summary of ‘A Survey of Assessment Research on Mediation and Restorative Justice’ by Paul McCold,” *International Institute for Restorative Practices E-Forum* (June, 2004): 2.

<sup>35</sup> “Teen court” is mentioned in the Illinois Compiled Statutes, 705 ILCS 405/5-330.

<sup>36</sup> 705 ILCS 405/5-310 (1)

<sup>37</sup> 705 ILCS 405/5-310 (3) (a)

<sup>38</sup> Braithwaite, John, *Crime Shame and Reintegration*, New York: Cambridge University Press, 1989: 8.

# Appendix

The inclusion of resources in this appendix does not indicate an endorsement of any agency, program, service, or individual. This appendix is intended to provide a broad range of resources for information on balanced and restorative justice.

## Illinois Resources

### Local Resources

Bloom Township Youth and Family Services  
Mediation and Family Group Conferencing Programs  
425 S. Halsted St.  
Chicago Heights, IL 60411-1212  
Phone: 708-754-9400

Champaign County Victim Offender Reconciliation Program  
Contact: Mark Krug  
Court Diversion Services  
Champaign County Regional Planning Commission  
1776 E. Washington St.  
Urbana, IL 61802-4578  
Phone: 217-328-3313  
E-mail: mkrug@ccrpc.org

Community Panels for Youth  
Contact: Robert Spicer  
Community Justice for Youth Institute  
10 W. 35th St., Suite 9C 4-1  
Chicago, IL 60616-3717  
Phone: 773-842-4987  
E-mail: rspicercpy@yahoo.com

Cook County Juvenile Probation Department  
Contact: Chuck Michalek, Deputy Chief  
Probation Officer  
1100 S. Hamilton Ave.  
Chicago, IL 60612  
Phone: 312-433-6639  
E-mail: michalekchas@aol.com  
Website: [www.cookcountycourt.org/services/programs/juvenile/balanced.html](http://www.cookcountycourt.org/services/programs/juvenile/balanced.html)

Cook County State's Attorney's Office  
Juvenile Justice Bureau  
1100 S. Hamilton Ave.  
Chicago, IL 60612  
Phone: 312-433-7000  
TDD: 312-433-4781

Ford County Family Group Conferencing Program  
Ford County Probation and Court Services  
200 W. State St.  
Paxton, IL 60957-1179  
Phone: 217-379-2221  
E-mail: [probation@fordcountycourthouse.com](mailto:probation@fordcountycourthouse.com)

Macon County Teen Court  
Contact: David Kidd, Coordinator  
253 E. Wood St., 4th floor  
Decatur, IL 62523-1483  
Phone: 217-424-1400  
E-mail: [dkidd723@hotmail.com](mailto:dkidd723@hotmail.com)

Neighborhood Restorative Justice Institute, Inc.  
Contact: Elizabeth Vastine  
155 N. Michigan Ave., Suite 744  
Chicago, IL 60601  
Phone: 312-616-4465  
E-mail: [lizjim.enteract@rcn.com](mailto:lizjim.enteract@rcn.com)

Victim-Offender Conference Program  
Contact: Daniel Smith  
Department of Probation and Court Services  
Eighteenth Judicial Circuit  
503 N. County Farm Rd.  
Wheaton, IL 60187-3942  
Phone: 630-407-8350  
E-mail: [dan.smith@duplicateco.org](mailto:dan.smith@duplicateco.org)

### Statewide resources

Illinois BARJ Initiative  
Contact: Sally Wolf  
Ford County Probation and Court Services  
200 W. State St.  
Paxton, IL 60957-1179  
Phone: 217-379-2221  
E-mail: [probation@fordcountycourthouse.com](mailto:probation@fordcountycourthouse.com)



Illinois Youth Court Association  
Contact: Amy Zimmerman,  
Children's Policy Advisor  
Office of the Illinois Attorney General  
100 W. Randolph St.  
Chicago, IL 60601-3218  
Phone: 312-814-2823  
E-mail: [azimmerman@atg.state.il.us](mailto:azimmerman@atg.state.il.us)  
Website: [www.illinoisattorneygeneral.gov](http://www.illinoisattorneygeneral.gov)

### **Other resources**

The Balanced and Restorative Justice Project  
Florida Atlantic University  
111 E. Las Olas Blvd.  
Askew Tower, Suite 613  
Ft. Lauderdale, FL 33304  
Phone: 954-762-5668  
E-mail: [odixon@fau.edu](mailto:odixon@fau.edu)  
Website: [www.barjproject.org](http://www.barjproject.org)

Center for Restorative Justice and  
Peacemaking  
University of Minnesota  
School of Social Work  
1404 Gortner Ave., 105 Peters Hall  
St. Paul, MN 55108-6160  
Phone: 612-624-4923  
E-mail: [rip@che.umn.edu](mailto:rip@che.umn.edu)  
Website: [www.2ssw.che.umn.edu/rjp](http://www.2ssw.che.umn.edu/rjp)

International Institute for Restorative  
Practices  
P.O. Box 229  
Bethlehem, PA 18016  
Phone: 610-807-9221  
E-mail: [info@restorativepractices.org](mailto:info@restorativepractices.org)  
Website: [www.iirp.org](http://www.iirp.org)

National Juvenile Justice Prosecution Center  
at the American Prosecutors Research Institute  
Contact: Stephanie Muller, Victim Advocate  
99 Canal Center Plaza  
Alexandria, VA 22314  
Phone: 703-518-4398  
Fax: 703-836-3195  
E-mail: [stephanie.muller@ndaa-apri.org](mailto:stephanie.muller@ndaa-apri.org)  
Website: [www.ndaa-apri.org/apri/](http://www.ndaa-apri.org/apri/)

National Youth Court Center  
c/o American Probation and Parole Association  
P.O. Box 11910  
Lexington, KY 40578-1910  
Phone: 859-244-8193  
E-mail: [nycc@csg.org](mailto:nycc@csg.org)  
Website: [www.youthcourt.net](http://www.youthcourt.net)  
Youth website: [www.ycyouth.net](http://www.ycyouth.net)

Restorative Justice Online  
Prison Fellowship International Centre for  
Justice and Reconciliation  
P.O. Box 17434  
Washington, DC 20041  
Phone: 703-481-0000  
E-mail: [rjonline@pfi.org](mailto:rjonline@pfi.org)  
Website: [www.restorativejustice.org](http://www.restorativejustice.org)





**Illinois Criminal Justice Information Authority**

120 S. Riverside Plaza, Suite 1016  
Chicago, Illinois 60606-3997  
Phone: (312) 793-8550  
TDD: (312) 793-4170  
Fax: (312) 793-8422  
[www.icjia.state.il.us](http://www.icjia.state.il.us)

Rod R. Blagojevich, Governor  
Sheldon Sorosky, Chairman  
Lori G. Levin, Executive Director