



# Center for Restorative Justice & Peacemaking

An International Resource Center in Support of Restorative Justice Dialogue, Research and Training

School of Social Work  
College of Human Ecology  
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## *Executive Summary*

# RESTORATIVE JUSTICE CIRCLES IN SOUTH SAINT PAUL, MINNESOTA

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## ACKNOWLEDGMENTS

We set out to help tell the story of how circles are used in South Saint Paul. To do that we have talked with many victims and offenders, many who keep the circles, many who volunteer from the community, and many who work within the formal justice system. And we have also sat in circles and shared in the process of personal transformation and community renewal. Not all circles exhibit these qualities in any great depth; some, however, are simply profound witnesses to what is possible when a victim meets with an offender in the context of community. We could have interviewed twice as many persons and participated in a lifetime of circles and we would still never be able to tell the story of circles in its entirety. As in any intense human interaction, there are aspects which are not easily described with numbers or words. Some simply defy description.

We want to thank the South Saint Paul Restorative Justice Council for inviting us to study the circle process. Very special thanks are due Barbara Gerten, SSPRJ Community Liaison; Mary Leadem Ticiu, Restorative Justice Coordinator for the South Saint Paul Schools, and Stacy Elliott Sarff and Michael Stanefski, Restorative Justice Planners for the South Saint Paul Schools, for their patience and effort in helping identify possible study participants and for keeping us informed about upcoming circles. This study could not have been done without their timely help and insights.

We want to thank Ann McDiarmid with the Dakota County Community Corrections, the agency which funded this effort, for her continuous support, encouragement and assistance during the research process.

We want to thank each of the individuals who participated in this study for it is their collective story that we share. To those who spoke with us, to those who agreed to let us join them in circle, we say thank you.

We tried to enter each interview and each circle with respect for the people and for the process, and now we respectfully submit this report.

## INTRODUCTION

"Circles" are currently emerging as a process and structure to enhance local community involvement in matters of justice. While viewed as an old way of including community members in dispute resolution, circles have been recently revitalized, if not repackaged, as another option within the developing restorative justice paradigm. Use of circles has generated considerable interest and a fair number of passionate adherents. Proponents speak of the "sacred quality," of the "power," of the "inclusiveness," of the "restorative nature" of the circle. Little descriptive

information is available about how circles function to meet the purpose of restoring justice and how the circle experience is received by a variety of participants.

Peacemaking or restorative justice circles can take many forms and can occur at most any place in the justice process. Circles of understanding, healing circles (for offender and family, for victim and family, for offender, victim and community), sentencing circles and review of sentence compliance circles are just some mentioned in the literature.

Circles incorporate many of the components of justice reform efforts of the past decades: a strong emphasis upon local community member participation, making the circle community based; bringing victim and offender together in face to face interaction as does victim/offender mediation; and involving victim and offender family members and friends such as in family/group conferencing. And yet proponents of circles purport to do more by reaching back to Native American and First Nation traditions of doing justice which predate Western criminal justice, by explicitly empowering each individual in the circle as an equal, and by explicitly lifting up the relationship between justice and the physical, emotional, and spiritual dimensions of individuals in the context of community and culture.

In the United States, one of the oldest efforts to adapt circles as a restorative justice approach has been carried out by the South Saint Paul Restorative Justice Council (SSPRJC). Circles in South Saint Paul are of many types. There are application circles, circles of understanding, healing circles, support circles, agreement circles. Circles for conflict resolution are also used extensively in the elementary schools and in the junior high school.

This study uses a qualitative approach to describe the incorporation of restorative justice or peacemaking circles in South Saint Paul. The study was designed with the assistance of the South St. Paul Restorative Justice Council and Dakota County Community Corrections. Our purpose is to describe the nature of circle work and how participants perceived the impact of circle on themselves, their community, and the formal justice system.

Data were gathered during an intense six week period. Interviews and observations occurred sporadically throughout the day and evening and took place on ever day of the week. A total of sixty-two individuals were interviewed. These included fifteen victims/family members, fifteen offenders/family members, eight circle keepers, seventeen community representatives, and seven individuals who worked within the formal justice system. Thirteen circles were observed.

## **KEY FINDINGS**

### **Typical Case Referred to SSPRJ**

- Misdemeanor
- Pre-charge
- Referred by police
- Juvenile

### **Circle Participation**

- Circle participants include victims and family members, offenders and family members, community representatives, circle keepers, and often individuals from the formal justice system.
- Participants choose to participate in a circle in order to express their feeling about the incident, their desire for the offender to take responsibility for his/her actions, and concern regarding the future relationship between victim and offender.
- While two-thirds of victims and offenders initially felt uneasy entering a circle, three-fourths reported

feeling comfortable speaking in the circle. They attribute the change in feelings to the opening words of the circle keeper and the use of a talking piece which gave them an opportunity to speak and to listen without interruption.

- Participants indicated that circle keepers needed to be focused and organized, nonjudgmental, good listeners, compassionate, respectful, patient, clear regarding ground rules, and understanding.

### **Circle Process**

"We are human and human beings make mistakes and it's okay to make mistakes. Circles have a chance to fix those mistakes in a good way." Circle Keeper

- Typical length one and half to two hours.
- Most cases require three or more circles.
- Number of participants quite varied, but typically involve ten or more persons.
- Circle keeper will open circle thanking people for coming and explaining why they have gathered. A talking piece is used giving each individual an opportunity to speak without interruption. Focus of a circle usually moves from hopes for the circle, to the incident or conflict and feelings about it, to amends, to the future.
- A follow-up, check-in circle is usually held at a time after the offender has had an opportunity to make amends.

### **Impact**

- "In the circle you can't turn and run," said the sister of an offender. A mother of a victim reported: "I was able to let them know the impact of what they did; the continued fear of invasion of what was going to happen next." A second grader who had been bullied on the playground: "They apologized. The last three days there were no fights!"
- Most important outcomes for participants: That the offender had an opportunity to accept responsibility and to be held accountable; focus on future relations between victim and offender; the opportunity to express feelings about the incident; awareness of support from the community.
- Participants reported liking best: connection with people in the circle; changed attitude and behavior; telling one's story and listening to others; and the chance to help other people.
- Participants reported liking least: the circle process requires too much time and sometimes people talk too long.
- Victims and offenders would recommend the circle process to others in similar circumstances.

### **PROGRAM DEVELOPMENT ISSUES**

As other jurisdictions and communities consider adapting restorative justice circles, a number of program and policy issues arise from this study which should be considered.

1. The centrality of shared values. We cannot overstate the emphasis placed within the SSPRJ on values. Any group embarking on developing circles for whatever purpose will want to take time to explore who they are,

what values shape them, and which values will most likely define their work within the context of circles. Whether the values are numerous or whether limited to only a few such as love, respect and trust, they need to be made explicit and named on a regular basis. In South Saint Paul, values are often seen printed on pieces of paper lying on the floor forming a circle within the circle of humans, or at times they are listed on a wall chart, but they are present. Some would contend that shared values are the "lifeblood" of circles.

2. Broad based support and involvement. The South Saint Paul Restorative Justice Council is comprised of individuals who have a long history of involvement in the community activities as well as folks who are relatively new to the community. Most Council participants are also engaged in the faith communities of South Saint Paul and bring with them a degree of church institutional support. Several key criminal justice decision-makers are active in the Council. Leadership within the Council also can be traced to the school system. Retirees, laborers, business owners, and professionals are active in the work of the Council. Individuals from nine to nearly ninety were observed speaking and being heard in Council planning meetings. Much of the strength of the circle, it is argued by some, derives from the diversity of its participants. It is a cross-sectional slice of the community. At its best, the circle is a gathering of folk with a shared focus.

3. Time. Any group seriously considering adopting circles as a way of dealing with conflict must be prepared to make a huge commitment of time. It takes time to build the relationships required to explore the nature of conflict and its causes. It takes time to sit in a circle and listen to the stories of its participants. Nearly everyone in this study indicated that the time commitment involved was a downside to circle participation. Many of these same folks stressed the importance of making and taking the time.

4. Involvement and burnout. Given the intensity of circle work, both time wise and emotionally, it is not reasonable to expect that the same individuals will work with every case or even with every circle in a given case. A continuing concern, then, is recruitment of new participants. The introduction of new members underscores again the continuous need for discussion of those values which define the group and shape its work.

5. Equality of the participants. Central to circle work is the heartfelt belief that all individuals in a circle are equal. That belief is translated directly into mutual respect, the opportunity for each person to speak, and the responsibility to listen openly to everyone. We found no one in this study willing to dispute this core belief. However, the translation of the belief into words is often made in a way that some find demeaning. A fairly common refrain heard was "there are no experts here; each person around the circle is equal." This was most often understood as a criticism of professionals, particularly those involved in the justice system. But as we discovered in interviews, it was sometimes taken by those without professional degrees as a poorly veiled way of making them feel okay about being there. The irony was pointed out that those making these statements were most often professionals themselves, but in a different context. And some respondents within the Council expressed fear that a new status was emerging: circle expert.

Groups desiring to work with circles will need to decide for themselves how best to speak to the central equality of the circle without putting anyone down. It occurs to us that an affirming alternative way of speaking of this equality is to acknowledge that all sitting around the circle are indeed experts. For each sees the world, conflict and conflict resolution through a particular set of life experiences. Each, whether nine or ninety, whether a Ph.D or eighth grade certificate holder, whether a laborer or a professional, has wisdom to share within the circle.

6. Preparation. A group considering adapting circles for victims and offenders to resolve conflict will need to give thought to how much preparation they believe is desirable with the participants before bringing them together in the same circle. It will be important for new circle initiatives to examine the important role that in-person preparation of victims and offenders has played over the years in making other forms of restorative justice conferencing (such as victim offender mediation) more victim sensitive, as well as offender sensitive, through clarifying expectations and minimizing pre-conference anxiety. It may be helpful to remember that some who have been involved in circles in a wide variety of communities believe that preparation, adequate or inadequate, can make or break a circle.

7. Follow-up. In order to have credibility and integrity within the community and with the formal justice system, a group doing circle work will need to take seriously follow-up to agreements made in circles. Did the offender follow through with the expected community service or monetary repayment? It may be important in some situations for individuals to come back together in a circle to affirm or celebrate the completion of an agreement. Some victims ask why this is needed.

8. Decision-making by consensus. There was no more heated or troubling issue facing the SSPRJ during the course of this study than the issue of consensus. In practice, in a given circle when the talking piece is passed one last time to determine if everyone accepts the proposed agreement, verbally declaring acceptance one by one can be very powerful. Yet there are situations where consensus cannot be reached easily and this is where explicit expectations regarding consensus as a decision-making process must be clear and shared. In this study, individual after individual indicated that consensus "doesn't mean I necessarily agree with the decision, but it means it is a decision I can live with." "Consensus emerges from the dynamics of living together," said one respondent. "One must often give up something to have consensus."

9. Auspices. No doubt many groups contemplating getting involved with circle work are already existing entities. Nonetheless, auspices under which the group works is important in numerous ways including philosophy, funding eligibility requirements, and record keeping

10. Training. Council members in South Saint Paul spent eighteen months gathering information, going through training programs, and planning before considering a case. In the long run, experience with circles will provide a group with the best grounding for further shaping and refining approaches that best meet their own needs and match their own skills. Short of that kind of experience base, training is imperative.

## **POLICY ISSUES**

1. Types of cases most appropriate for circles. There was really little agreement among the study respondents as to what type of offenses were most appropriate for circles to deal with. Officials from the police department and the county's attorney's office were most concerned about avoiding significant risk to the public. Cases involving assault, violence, and sexual assault would not be appropriate in their view. As noted in the beginning of this report, most of the cases handled by the Council were misdemeanors and low severity felonies. Others in the study would eliminate few if any offense categories from possible circle work. The judge would not see circles handling sex offender or murder cases. On the other hand, corrections staff suggested that circles would be particularly useful with sex offenders returning to the community.

There is widespread agreement among Council members and system administrators that circles may work best with "messy cases." These include situations where the level of crime may not be particularly severe, like destruction of property, but where there are a large number of offenders or victims; or circumstances where the offender is too young to expect much response from the formal system; or in cases where the community is the direct victim; or in situations where it is difficult to differentiate victim from offender.

Others suggest that a key variable is remorse or the lack thereof. These persons contend that an offender who admits guilt but displays little or no remorse is a prime candidate for circle processing because of the presence of the community helping to tell the story of the impact of crime is much more likely to trigger remorse than standing before a judge or simply paying a fine.

It is important to note that Judge Barry Stuart, the pioneer of circle sentencing in the Yukon, works primarily with quite serious cases involving multiple recidivists, suggesting that the extensive time and resources required for peacemaking circles are primarily warranted in such cases, rather than very minor cases involving first time offenders that are diverted from the justice system.

2. Location of circles within the justice process. Any group undertaking circle work in the context of the justice system will need to work out where circles best fit in the over all justice process. This will likely vary from jurisdiction to jurisdiction and community group to community group. Although no one in this study suggested it, one could certainly make the case that given the labor intensive nature of circles it be saved for the most difficult cases - that does not mean the most serious offenders. Most of the Council participants in this study seemed comfortable with handling diversion cases and focusing almost exclusively on juveniles. There was a strong sense of commitment to the young people of South Saint Paul which carried over into the work with circles. The possibility that diversion programming is a way of widening the net to involve offenders in the system who would not otherwise be in it did not arise as a matter of concern.

Most of those interviewed were not particularly enamored with the notion of circle sentencing per se. They saw circles as being extremely beneficial in a number of ways: as circles of understanding, healing, agreement, and support.

There was widespread agreement - this is one of the few areas on which all the system decision-makers agreed - that circles offer a tremendous potential reservoir of resources to individuals transitioning back into the community from institutional living. One system person noted that circles could be very helpful in supporting level three sex offenders coming back into the community: "The community can see that the person has a human face and the person will know that the neighbors are watching and are prepared to help."

Use of re-entry circles for offenders leaving prison and returning to the community, including sex offenders, appears to be one of the most underutilized, yet promising, applications of circles.

There are also those in the Council who would prefer not to deal with "cases" within the criminal justice system, but rather to deal with conflicts which naturally occur within the community. These persons contend that circles are best suited to deal with conflict stemming from the "isms:" racism, sexism, classism and so on.

3. Place of circles within restorative justice options. Most of the individuals connected with the SSPRJ were aware of other restorative justice options such as victim offender mediation and family group conferencing. Some had been trained in these other approaches as well as in circles. While some persons thought circles was the best option for every one, we asked, "given limited resources in terms of money and labor, how would you use the three restorative justice options about which you know the most?"

Victim offender mediation was usually referred to as the most desirable option if the offender was remorseful and fairly open with feelings, or if restitution was a primary goal. The community was represented in the presence of the mediator, often a volunteer.

Family group conferencing was often referred to as too scripted, but when respondents were pushed to say more, it was seen as valuable for people who were alienated or alone and needed fairly long term support.

Circles, as indicated above, were the option of choice in cases when the whole community is impacted or in situations where the offender admits guilt but is not remorseful. Circles are strongest at bringing community presence to bear in terms of long term support as well as a vehicle for communicating a community's loss and pain.

Several respondents noted that these options blur and overlap in given cases.

## **CONCLUSION**

There is no question that the people making up the SSPRJ - young and old, non-professional and professional, non-system and system - are an extremely committed and dedicated group of individuals. The willingness to contribute hours and hours to the work of circles, to the ongoing discussions of the nature of a workable

relationship between the Council and the formal justice system, and to the continuous sorting out of values and their meaning for the group is uncommon. Many community based groups have imploded in the face of much less intensity. So what can we conclude is the potential of all this effort?

Potential impact on the formal justice system. Because of the sheer volume of individuals annually processed through the formal justice system, it is unlikely that the circle process as practiced in South Saint Paul will have a measurable impact on that flow. The strength of the circle is making time for community members to help victims and offenders sort out complex underlying issues. Whether one chooses to focus on diversion cases, or serious cases, or transition cases, the number of cases dealt with will be determined by the complexity of cases and availability of volunteers. Potentially, more cases could be handled by streamlining the circle process, but at some point a group will risk simply going through the motions to increase its caseload. And still it likely will not be able to handle enough cases to impact the huge numbers going through the system.

Circles conducted by community groups offer the justice system an additional intervention option and certainly may be very significant and desirable in certain cases. At this point, it appears that system decision-makers are trying to sort out how best to use the limited resources which circles provide. Circles are becoming one more option within the justice tool kit. The question remains where does any given formal system want to use those resources: prevention, diversion, court processing, corrections programming, or transition from institution to community?

If councils were active in every neighborhood as some proponents envision, would they then have substantial impact on the formal justice system? Possibly. Such impact might possibly occur because of prevention efforts undertaken at the local neighborhood level and because of the increased awareness of community members regarding the workings of the formal justice process. But such widespread impact appears quite wishful for now.

Does this mean that circles have no place working with individuals caught up in the justice process? Absolutely not. Their potential impact is considerable.

Potential impact on victims and offenders. The data gathered in this study support the contention that restorative justice circles can have positive impact on individuals. Whether or not circles can process large numbers of people, they can have tremendous impact on those who do go through circles. Victims felt supported by the community and welcomed the opportunity to participate meaningfully in the justice process. Offenders were a little more mixed in their responses. While some saw the circle process as one more hassle in their lives to be endured, others were encouraged by the acceptance they felt and were pleased to make some attempt at repairing the harm they had caused. And of course the ultimate testimony came from two offenders who claimed that circles had "changed their lives."

And for people engaged in circle work, a single transformed life justifies all the time and emotional energy given to the process.

Potential impact in the community. The potential of circles for having positive impact in the community, it seems to us, is quite substantial. Repeatedly, participants in the SSPRJJC attest to the merits of restorative justice circles in the local community. Justice, for these individuals, has become a personal matter. Crime happens in communities and somehow communities need to be involved in responding to law violation. The Council is a place where community members learn directly from formal justice decision-makers about crime and society's traditional responses and it is where these decision-makers hear how at least some constituents react to crime and the competing values underpinning justice.

Council participants have strengthened their own sense of being part of a community and of sharing responsibility for what happens in its boundaries. The sense of community pride is quite evident as we talked with these individuals. And there is pride in being able to point to a group of youngsters on the street, call them by name, and have them respond. There is a desire to be part of something that makes a difference and for many

of our respondents that desire has been met by participating in circles. As one circle keeper said, "I don't know everything about working with kids. This is just one guy's experience. But I haven't found anything better yet (than circles), and it's not for the lack of looking."

In South St. Paul, restorative justice circles in the schools present a most promising use of circles. The school is a community within the community. It has the responsibility for educating the youth of the community. That education takes place in classrooms, on field trips, on athletic fields, on debate teams, in music halls and numerous if not countless other places. In South Saint Paul that education also happens in the give and take of circles. Elementary students learn something about problem solving methods - approaches which may contrast with those they have witnessed at home. Students have a place to go when they feel intimidated, alone, and hurt. Teachers have another option for working through conflict before it explodes in the classroom making teaching difficult if not impossible. Staff have another way of sorting out differences and weighing decisions which affect everyone in the building.

How many fights are prevented? How many students feel better about themselves and their school? How many parents feel more connected to the school system which intimidated them when they were young? How many young people did not cross over the line from participating in a prank to participating in a crime? How many hours of teaching have been saved by reducing tension and conflict? Answers to these kinds of questions are difficult to obtain because we are dealing with the notion of prevention. Data gathered by the school system are promising. What we will never know, of course, is did giving students more stake in their school including working out conflict with each other and with teachers prevent a catastrophic act of violence? What we do know is just as the potential for violence is present within a school so is the potential for reducing factors that contribute to violence.

A quest for balance. South Saint Paul is a very homogenous community. It has strong communal roots. Some would complain that these roots are eroding. Others desire to adapt to the change and influx of new residents while building a stronger community. The question remains: how will restorative justice circles function in more diverse communities and neighborhoods? We expect that the answer to that question depends on how well diverse communities are able to balance interests. The restorative justice circle is, to a large extent, about balance. It attempts to balance justice to include the interests of victims as well as offenders along with those of the broader community. It attempts to balance the interests of justice professionals with those of community residents. It attempts to balance a vast array of values some of which are in tension with each other. It attempts to balance heritage.

The notion and feel of balance in the SSPJRC can be found in the value triangle of love, law and learning. It is also found in the circle which is continuous with only temporal beginnings and endings. The Council has adapted and continues to adapt the circle process in ways that best fit its own community. For example, some groups who adapt the Native American talking circles to restorative justice will smudge at the beginning of each circle. The SSPJRC began following that practice but has discontinued smudging because it does not fit their own heritage. Other communities will also have to make choices about what fits and what can be added. They will decide how their own diversity can best be integrated into the work of circles. Their own values may look somewhat different. The symbols adopted from community to community for talking pieces and centerpieces may look dramatically different. Again, as Judge Stuart suggests, it is imperative that the circle process be flexible to the vision of each community (Stuart, 1996).

There is no lockstep restorative justice circle method to be followed. There is a "way." There is a frame of mind and an openness of heart which discovers how best to proceed in a particular context. It is the lack of an ironclad set of rules for doing things and the dependence upon discovery which frightens some observers. Yet it is this openness which sparks creativity and fresh insight. Perhaps the most important reoccurring challenge for those engaged in restorative justice circles is reaching a tenuous, respectful balance between the need to be focused on doing the work of the circle and the need for discovery, for being the circle.

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