

Appendix 1 - Restorative Practices and the Community Conference

This first section explaining the Social Discipline Window is drawn largely from ... Restorative Justice in Everyday Life: Beyond the Formal Ritual, Ted Wachtel, "Reshaping Australian Institutions Conference: Restorative Justice and Civil Society," ANU, Canberra, February 16-18, 1999

The Social Discipline Window

We can construct a useful view of social discipline by looking at the interplay of two comprehensive variables, control and support. We define "control" as discipline or limit-setting and "support" as encouragement or nurturing. Now we can combine a high or low level of control with a high or low level of support to identify four general approaches to social discipline: neglectful, permissive, punitive (or retributive) and restorative. We subsume the traditional punitive-permissive continuum within this more inclusive framework.

The *permissive approach* (lower right quadrant) is comprised of low control and high support, a scarcity of limit-setting and an abundance of nurturing.

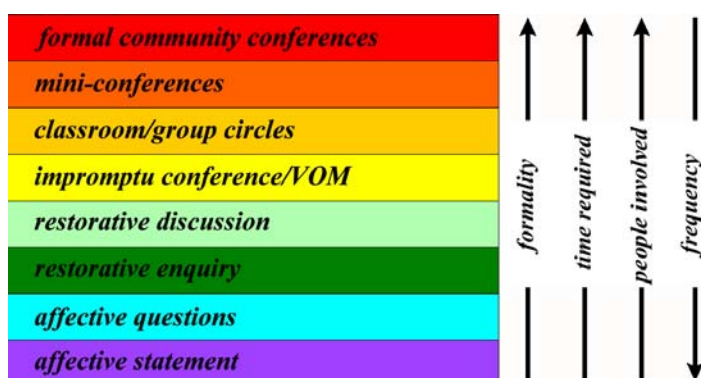
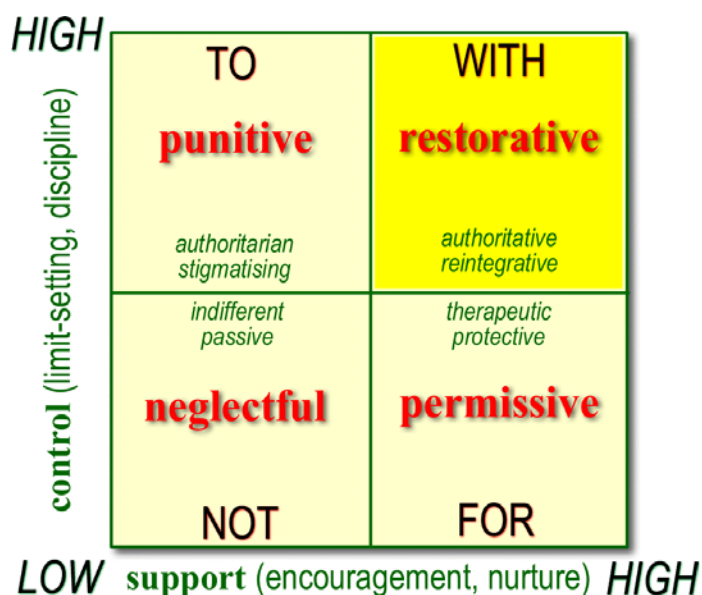
Opposite permissive (upper left quadrant) is the *punitive (or retributive) approach*, high on control and low on support. Sadly, schools and courts have increasingly embraced the punitive approach, suspending and expelling more students and imprisoning more citizens than ever before.

The third approach, when there is an absence of both limit-setting and nurturing, is *neglectful* (lower left quadrant).

The fourth possibility is *restorative* (upper right quadrant). Employing both high control and high support, the restorative approach confronts and disapproves of wrongdoing while supporting and valuing the intrinsic worth of the wrongdoer. In using the term "control" we are advocating high control of wrongdoing, not control of human beings in general. Our ultimate goal is freedom from the kind of control that wrongdoers impose on others.

This social discipline window can be used to represent parenting styles. For example, there are neglectful parents who are absent or abusive and permissive parents who are ineffectual or enabling. The term "authoritarian" has been used to describe the punitive parent while the restorative parent has been called "authoritative." Further, we can apply John Braithwaite's terms to the window: "stigmatizing" responses to wrongdoing are punitive while "reintegrative" responses are restorative. A few key words—NOT, FOR, TO and WITH—have helped clarify these approaches for our staff at the Community Service Foundation's schools and group homes. If we were neglectful toward the troubled youth in our agency's programs, we would NOT do anything in response to their inappropriate behaviour. If permissive, we would do everything FOR them and ask little in return. If punitive, we would respond by doing things TO them.

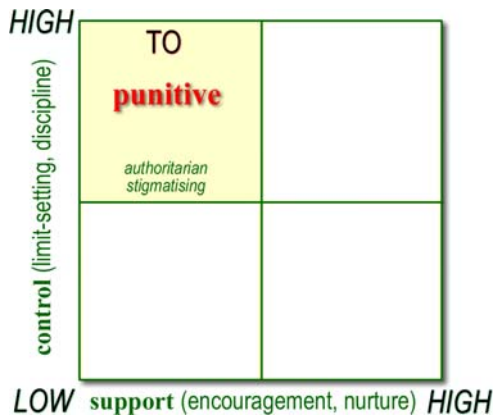
But responding in a restorative manner, we do things WITH them and involve them directly in the process. A critical element of the restorative approach is that, whenever possible, WITH also includes victims, family, friends and community—those who been affected by the offender's behaviour.



The term "restorative practice" could refer to any response to wrongdoing which falls within the parameters defined by our social discipline window as both supportive and limit-setting. Such responses fall on a spectrum of action including everything from a simple *affective statement* - "John, I'm so disappointed that you've done that" - through to the *formal community conference*.

Each response as we move up the spectrum involves more people, takes more time, involves a larger community of care around the individual concerned, and is likely to be less frequently needed.

A further note on Punitive Vs Restorative responses



Punitive Responses

The defining characteristic of the punitive response is not just that it involves punishment, the inflicting of pain. Rather, the punitive response is primarily one in which the 'solution' is imposed on the offender without their direct involvement, and usually without the involvement of those affected by the wrongdoing.

In a standard punitive response, the seriousness, the significance and the meaning to the community of the offending behaviour is judged by a third party, and found to be in need of a response. The third party then determines what the offender must now do to serve the interests of 'justice.' It is in this sense that the punitive response is sometimes referred to as 'retributive.' The response is done 'TO' the offender.

The offender (and the victim) are not involved in the process other than to accept what it is they now have to do and to go through the motions.

This approach is termed *authoritarian* since it bases its validity on the *authority* of the third party responding to the wrongdoing. It is *stigmatising* since it casts the offender as being outside the community of care by not separating the deed from the doer.

Restorative Responses

The Restorative response to wrongdoing focuses on two fundamental questions - 'What harm has been done?' and 'What needs to be done to repair the harm?' It asks these two questions within the community of care around the individuals concerned, and aims to work 'WITH' both the offender and victim as much as possible in repairing the harm done.

It is an *authoritative* approach since it derives its validity not from the positional (or even moral) authority of a third party charged with sorting out the problem, but rather by appeal to the value of respect for all concerned and empowering those involved to find ways to solve their own problems.

Restorative responses are re-integrative in that they seek to maintain the community of care around the offender to enable him to learn empathy and to make amends. They clearly separate the deed from the doer, enabling the offender to re-establish his standing in the community through the support of those who care for him.

Approaches, responses, and techniques, which do not put the onus back onto the students themselves to be involved in fixing the problem, are unlikely to be restorative. Indeed, some responses that might at face value appear to be a restorative practice can in fact *be used in a punitive way*. If, for example, it is determined by someone outside the conflict or wrongdoing that an apology to the victim is required from the offender - without him (or the victim) having any say in the matter - then requiring that apology is most likely a punitive response. It is not an outcome determined *with* the student as the result of a developing awareness of the harm he has caused and a genuine effort on his part to make amends. It becomes simply a hoop through which he will need to jump to be left alone - not unlike being assigned a detention.

The conference process is a Restorative Practice not simply because it has as its aim the intention to repair the harm done, but also because it actually works *with both the victims and the offenders to find the solution*. Indeed it relies on the victim, the offender - and their communities of care - themselves solving the problem caused by the wrongdoing. It is clearly re-integrative since it structures in both support for the offender and the means for him to regain his standing in the community.

The facilitator's role in the conference is to enable this restorative process to occur. The scripted nature of the conference ensures that this process of the participants working out the solution to the problem remains the focus of the conference, and ensures that the facilitator, however well-intentioned he/she may be, does not interfere with the process and inadvertently impose a punitive response which would short-circuit the emotional learning available for the offender, and the potential for healing in the victim. It is the facilitator's role in the conference - via the script, by controlling the dynamics of the conference and by enforcing the ground rules - to ensure that the participants have the opportunity to work restoratively.

