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Restorative Justice: Unique Challenges for Rural Communities

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Restorative Justice: Unique Challenges for Rural Communities

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Over the past thirty years, a number of communities across North America have implemented restorative justice programs as an alternative supplement to their traditional criminal justice systems.[2] (applewebdata://D0FA53BC-476E-4790-BA6C-6356400F926B#_edn2) By viewing crime as a violation of individuals and personal relationships, restorative justice programs bring penitent offenders face-to-face with their victims and trained community supporters with the goal of resolving conflicts and reducing the likelihood of reoffending.[3] (applewebdata://D0FA53BC-476E-4790-BA6C-6356400F926B#_edn3) Recidivism success is one reason why these programs are so highly regarded: according to a long-term study in Longmont, Colorado, the town's recidivism rate dropped in the past decade from over 32% to just 10% after first-time offenders were provided a restorative justice alternative.[4] (applewebdata://D0FA53BC-476E-4790-BA6C-6356400F926B#_edn4) Restorative justice programs have also been shown to be significantly more cost-effective than traditional judicial practices (in one study, saving over \$1500/year per participant).[5] (applewebdata://D0FA53BC-476E-4790-BA6C-6356400F926B#_edn5) The programs tend to produce higher satisfaction rates among both victims and offenders.[6] (applewebdata://D0FA53BC-476E-4790-BA6C-6356400F926B#_edn6)

Despite the alluring results that can come from restorative justice, rural Kentucky has yet to see significant investment into it.[7] (applewebdata://D0FA53BC-476E-4790-BA6C-6356400F926B#_edn7) Only the state's largest and fifth-largest cities[8]



(applewebdata://D0FA53BC-476E-4790-BA6C-6356400F926B#_edn8) of Louisville[9] (applewebdata://D0FA53BC-476E-4790-BA6C-6356400F926B#_edn9) and Covington[10]

(applewebdata://D0FA53BC-476E-4790-BA6C-

6356400F926B#_edn10) have established related community justice programs; while in Lexington, the University of Kentucky[11] (applewebdata://D0FA53BC-476E-4790-BA6C-6356400F926B#_edn11) and Fayette County Public Schools[12] (applewebdata://D0FA53BC-476E-4790-BA6C-6356400F926B#_edn12) have incorporated restorative justice principles into their student conduct procedures.[13] (applewebdata://D0FA53BC-476E-4790-BA6C-6356400F926B#_edn13) Smaller communities such as Maysville have started the discussion [14] (applewebdata://D0FA53BC-476E-4790-BA6C-6356400F926B#_edn14) with moderate support, but have encountered setbacks that more urbanized cities did not.[15] (applewebdata://D0FA53BC-476E-4790-BA6C-6356400F926B#_edn15)

This is because the legal infrastructure in rural areas is different from more populous communities. For a restorative justice program to succeed, there must be intensive support from a number of community stakeholders—with each stakeholder facing their own unique obstacles. From the legal sector, for example, a judge must be willing to issue and abide by novel sentencing standards, a prosecutor must balance victims' or others' desire for retribution against the public interest in reducing recidivism, and a defense attorney must overcome the instinct to instruct their client not to admit guilt or speak to the victims.[16] (applewebdata://D0FA53BC-476E-4790-BA6C-6356400F926B#_edn16) In many restorative justice cases, the arresting police officer is included in part of the dialogue.[17] (applewebdata://D0FA53BC-476E-4790-BA6C-6356400F926B#_edn17) Significant support is needed from community partners as well: educators, religious leaders, and local organizers must each dedicate time and attention to offenders while they rehabilitate through the program.[18] (applewebdata://D0FA53BC-476E-4790-BA6C-6356400F926B#_edn18)

Rural restorative justice advocates face a dilemma when there is only one judge or attorney with the authority to approve such a program: it becomes an "all-or-nothing" situation that can fall apart after the first stakeholder opts out, because there are no alternatives available. Because both the risk and reward are so great, each stakeholder should be fully apprised of their role in the restorative process and make their commitment known before the program begins.

[1] (applewebdata://D0FA53BC-476E-4790-BA6C-6356400F926B#_ednref1) University of Kentucky College of Law, J.D. expected 2021.

[2] (applewebdata://D0FA53BC-476E-4790-BA6C-6356400F926B#_ednref2) Patricia Hughes & Mary Jane Mossman, *Rethinking Access to Criminal Justice in Canada: A Critical Review of Needs, Responses, and Restorative Justice Initiatives* 34 (2001), https://www.justice.gc.ca/eng/rp-pr/csj-sjc/jsp-sjp/rr03_2/rr03_2.pdf.

[3] (applewebdata://D0FA53BC-476E-4790-BA6C-6356400F926B#_ednref3) U.S. Dep't of Justice Office of Juvenile Justice and Delinquency Prevention, *Effectiveness of Restorative Justice Programs* (July 2017), <https://www.ncjrs.gov/pdffiles1/ojjdp/grants/250995.pdf>.

[4] (applewebdata://D0FA53BC-476E-4790-BA6C-6356400F926B#_ednref4) Madeline St. Amour, *Restorative Justice Program in Longmont Sees Success, Spotlights Community*, Longmont Times-Call, Dec. 22, 2018, <https://www.timescall.com/2018/12/22/restorative-justice-program-in-longmont-sees-success-spotlights-community/>.

[5] (applewebdata://D0FA53BC-476E-4790-BA6C-6356400F926B#_ednref5) Bryant Jackson-Green et al., *Making Illinois Smart on Crime: First Steps to Reduce Spending, Ease Offender Re-Entry and Enhance Public Safety* 12 (2015), https://files.illinoispolicy.org/wp-content/uploads/2015/08/CrimJustice_Report-1.pdf.

[6] (applewebdata://D0FA53BC-476E-4790-BA6C-6356400F926B#_ednref6) Rebecca Beitsch, *States Consider Restorative Justice as Alternative to Mass Incarceration*, PBS Newshour (Jul. 20, 2016), <https://www.pbs.org/newshour/nation/states-consider-restorative-justice-alternative-mass-incarceration>.

[7] (applewebdata://D0FA53BC-476E-4790-BA6C-6356400F926B#_ednref7) This is in comparison to the state's Drug Court system, a specific type of restorative justice that has become very successful in Kentucky. Since the program's inception in 1996, Drug Courts have been established in 113 of Kentucky's 120 counties. Ky. Admin. Office of Courts, *Kentucky Drug Court: Saving Costs, Saving Lives* (2017), <https://kycourts.gov/courtprograms/drugcourt/Documents/KYDrugCourtSitesMap.pdf>.

[8] (applewebdata://D0FA53BC-476E-4790-BA6C-6356400F926B#_ednref8) Ky. State Data Center, *Total Population (2010-2018), Sorted by City Name* (May 24, 2019), http://ksdc.louisville.edu/wp-content/uploads/2019/05/subcoest2018_alpha.xlsx.

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[11] (applewebdata://D0FA53BC-476E-4790-BA6C-6356400F926B#_ednref11) Univ. of Ky. Office of Student Conduct, *Restorative Justice*, <https://www.uky.edu/studentconduct/restorative-justice>.

[12] (applewebdata://D0FA53BC-476E-4790-BA6C-6356400F926B#_ednref12) Fayette Cty. Public Schools Dep’t of Equity, School Support & Community Engagement, *Restorative Practices*, <https://www.fcps.net/restorative>.

[13] (applewebdata://D0FA53BC-476E-4790-BA6C-6356400F926B#_ednref13) *Community Restorative Justice Can Transform Outcomes*, City of Maysville (Aug. 15, 2017), <http://www.cityofmaysville.com/community-restorative-justice-can-transform-outcomes/>.

[14] (applewebdata://D0FA53BC-476E-4790-BA6C-6356400F926B#_ednref14) *Public Input Sought on Community & Restorative Justice*, City of Maysville (Oct. 31, 2017), <http://www.cityofmaysville.com/public-input-sought-on-community-restorative-justice/>.

[15] (applewebdata://D0FA53BC-476E-4790-BA6C-6356400F926B#_ednref15) Interview with Lisa Dunbar, City Clerk, City of Maysville, Kentucky (Jan. 1, 2020).

[16] (applewebdata://D0FA53BC-476E-4790-BA6C-6356400F926B#_ednref16) *Id.*

[17] (applewebdata://D0FA53BC-476E-4790-BA6C-6356400F926B#_ednref17) Beitsch, *supra* note 6.

[18] (applewebdata://D0FA53BC-476E-4790-BA6C-6356400F926B#_ednref18) Dunbar, *supra* note 15.

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