

## **Welcome**

### **History of Topeka Center for Peace and Justice Mediation Program and Community Victims Panels**

- Victim-Offender Mediation Program was resurrected in 2015 to offer an alternative to traditional criminal justice adjudication for first time juvenile offenders with low level offenses
- The Mediation Program operates in partnership with The District Attorney's Office, Court Services, Kansas Department of Corrections and Washburn University.
- The launch of the Community Victims Panel is to provide community members a chance to participate in the restorative justice process
- The Community Victim's Panel members represent the interests of the broader community and often stand in for the victim, working with mediator and offender to come to a resolution that serves the needs of all parties
- Generally, if there is a victim who wishes to participate in the restorative justice procedure, the case will be handled by TCPJ's Program Director and their mediators. If there is no direct victim, or the victim declines to participate, a Community Victim's Panel session is scheduled for the case. This is not a hard and fast rule; occasionally the TCPJ administrator and mediator will opt to handle a case with a participating victim within the Community Victim's Panel.

### **Restorative Justice**

TCPJ Mediation Program and the Community Victim's Panel are based on a belief in the efficacy of restorative justice as the best means of achieving meaningful resolution of the conflicts arising from first time, low level criminal offenses.

Restorative justice - as it is practiced in our program - is a system of conflict resolution in which first time offenders can bypass the courts and standard criminal case adjudication. Instead, they participate in a collaborative process with a mediator and, in Community Victim's Panel cases, citizen board members who represent the community at large and the victim.

The Community Victim's Panel members listen, help offenders develop a deeper awareness of the harmful effects of their actions on their victims and the community, and assist in developing a restorative plan of action.

### **Principles of Restorative Justice\***

- We are all interconnected
- Crime is a violation of this interconnectedness; a violation of people and interpersonal relationships
- Violations create obligations
- The central obligation is to repair the harm and set things as right as possible
- Crime represents a tear in the web of relationships, ie, the community

### **Restorative Justice is about. . . \***

- Information and truth-telling
- Empowerment for all parties
- Accountability and Responsibility
- Support for all affected by the harm
- Restorative Justice partners with the Criminal Justice system.

### **Restorative Justice is NOT . . .\***

- *Primarily* about forgiveness or mediation, but more about reconciliation and healing
- Designed simply to reduce repeating offenses, but that is an outcome we hope to achieve
- A fixed program or blueprint or a new development, it is a fluid and evolving process

**The Community Victim's Panel members are not judge and jury, they are not into blaming or shaming; they are into facilitating transformation.**

## Restorative Justice Responds to the Needs of All Participants\*

<i>Victims need. . .</i>	<i>Offenders need. . .</i>	<i>Communities need</i>
<ul style="list-style-type: none"> <li>● <i>To know that others are aware of the harm done, both to property and to the person or commercial enterprise</i></li> <li>● <i>Information about the offender and circumstances that led to the offense</i></li> <li>● <i>A plan developed and executed to repair the harm done as much as possible</i></li> </ul>	<ul style="list-style-type: none"> <li>● <i>Accountability that</i> <ul style="list-style-type: none"> <li>○ <i>addresses resulting harms</i></li> <li>○ <i>encourages empathy and responsibility</i></li> <li>○ <i>transforms shame</i></li> </ul> </li> <li>● <i>Encouragement to experience</i> <ul style="list-style-type: none"> <li>○ <i>Personal transformation</i></li> <li>○ <i>Healing</i></li> <li>○ <i>Opportunities</i></li> <li>○ <i>Competencies</i></li> </ul> </li> <li>● <i>Support for integration into the community</i></li> <li>● <i>For some, a sense of self restraint and help understanding the consequences of future offenses</i></li> </ul>	<ul style="list-style-type: none"> <li>● <i>Attention to their concerns</i></li> <li>● <i>Opportunities to build a sense of commonality and mutual accountability</i></li> <li>● <i>Encouragement to take on obligations for the welfare of their members, including victims and offenders and to foster conditions that promote healthy communities</i></li> </ul>

\*From The Little Book of Restorative Justice, by Howard Zehr

## **Community Victim's Panel**

### **What has happened before a Community Victim's Panel meeting?**

- There has been a court referral of a qualifying case to the TCPJ administrator.
- Victims have been contacted and invited to this mediation. At this session, the Program Director will determine if the case can be handled with/without calling for a Community Victim's Panel.
- If the victim has declined to participate, then a Community Victim's Panel is scheduled. In some cases, it is determined that a Community Victim's Panel would be beneficial even if the victim does choose to be present.
- Community Victim's Panel volunteers are given some specifics of the case by the administrator. This includes the name of the offender (to avoid conflicts of interest), a brief description of the referring incident, and time and place of the Community Victim's Panel session. In most cases, the first 3 responders are selected to be on the panel.

### **What happens during a Community Victim's Panel meeting?**

#### ***Part 1: Setting the stage***

The mediator is in charge of starting the meeting, of reading the participation and confidentiality agreements, and getting signatures of all involved.

Community Victim's Panel members introduce themselves, using their name and a brief statement as to why they are on this board. The mediator then invites the offender to "tell us about what happened..."

#### ***Part 2: Discussion and Dialogue: Listening, Questioning and Reflecting***

During this phase of the Community Victim's Panel meeting, there are three communication skills used extensively by the Community Victim's Panel

volunteers; empathetic listening, asking open ended questions, and reflecting back to the speaker. (Often called Active Listening!)

### **Empathetic Listening**

Empathy. . . is the capacity to place one's self in another person's position. And then listen for thoughts, feelings, motivations and needs.

*"If we can share our story with someone who responds with empathy and understanding, shame can't survive." Brene Brown*

*"Most people do not listen with the intent to understand; they listen with the intent to reply." Stephen Covey*

### **Benefits**

- Reduces tensions
- Builds trust
- Encourages the surfacing of information
- Enables participants to access and release emotions
- Creates a safe environment that is conducive to collaborative problem solving

### **Guidelines for Active Listening**

1. Listen by giving your full attention. Bracketing is an essential aspect of empathetic listening. It is setting oneself aside in order to be present to the speaker.
2. Listen to the feelings being expressed.
3. Listen to the needs being expressed.
4. Put yourself in the other person's shoes as best you can.

### **Obstructions to Empathetic Listening include insensitivity to:**

- Our own biases and triggers
- Issues of power, gender, race, class and ethnic differences

## **Open-Ended Questioning**

An open-ended question cannot be answered with a simple yes, no or other very short answer. It is designed to encourage a full, meaningful answer, using the speaker's own knowledge and/or feelings.

Some examples\* for those who have caused harm, ie, the offender;

- What happened?
- What was your part in what happened?
- What were you thinking at the time?
- What were you feeling at the time?
- What thoughts have you had since then?
- Who has been affected by what you have done? In what way?
- How has this affected your relationships with family members?
- What do you think you need to do to make things right?

Some examples\* for those who have been harmed, ie the victim;

- What did you think when you realized what had happened?
- How has this affected you? And others?
- How has this affected your relationships with family members?
- What has been the hardest thing for you?
- Is there anything about this that is still especially hard for you to cope with or process?
- What do you think needs to happen to make things right?

(A closely related way to further exploration is to simply ask the respondent. . ."can you please say more about that".

\*Kansas Institute for Peace and Conflict Resolution (KIPCOR)

## **Reflecting Back**

Reflecting back is essentially restating, using other words, both the feelings and the words of the speaker. The purpose is to allow the speaker to 'hear' their own thoughts and be able to have a better understanding of what they are saying and feeling. This can lead to a clarification of what needs are not being met, and how possibly they could be met.

Although victims are often not present in a Community Victim's Panel meeting, an important role of Community Victim's Panel members is to clarify as much as possible, the harm done to the victim by the offender's actions.

Some guidelines for reflecting back:

1. Focus on the speaker's experience. Stay right with them.
2. Notice content *and* feelings *and* affect.
3. Avoid judgement, evaluation or advice.
4. Give them the space to think and express themselves.
5. Offer a guess at needs.
6. Be briefer than the speaker!

Here's an **example** of something you might hear in a Community Victim's Panel meeting: "*It all happened so fast. My cousin had the bag full of spray paint and next thing I knew he was spraying the side of the building.*"

A Community Victim's Panel volunteer might reflect back along these lines. . .*it sounds like you were feeling helpless because it happened so fast and you didn't know what to do.*

The offender most likely will feel understood and agree with this, which then opens the door to discussion of what he/she could do differently next time. (or other information, feelings and thoughts)

When reflecting back it is important to use **observation** rather than judgment! Observation is related to reflecting and paraphrasing in that it can encourage dialogue because it has a more neutral aspect. Judgment is basically an opinion and frequently stops meaningful dialogue.

"*You lied to me about your grades*" is an example of judgment, vs "*your online grade in math is a C and you told me yesterday it was a B*" is an example of observation.

"*You are letting your life be influenced by some bad people*" is an example of judgement vs "*I have been called to your school 3 times this year, and each time it has been because you and Johnny have been caught smoking in the bathroom.*" is an example of observation.

### ***Part 3: Developing the action plan for repairing harm done***

**Often, a plan includes a letter of apology.**

A good apology includes six elements (from KIPCOR):

- A description of what you did that was wrong
- How you feel now about what you did
- How you think your actions have made others feel
- What you learned from this experience
- Why/how you won't let this happen again
- Anything else you can express to help make right the wrong

Other elements of the plan may include:

- Financial restitution- Already established by Court Services
- Community service at a non-profit
- Other volunteer work in the affected community

**And, finally:**

- The mediator, board members and offender will set a date for completion of the plan- the end of their Diversion.
- Program Director of TCPJ monitors the completion of this action plan.