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Correlates of Compliance in Community Diversion Programs: An Outline for Offender Characteristic Analysis

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**Correlates of Compliance in Community Diversion Programs:
An Outline for Offender Characteristic Analysis**

An honors thesis presented to the
Department of Criminal Justice,
University at Albany, State University of New York
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Abstract

Restorative Justice Programs have become an increasingly popular alternative to incarceration. Two restorative programs that exist within the Capital Region of New York are discussed and used as a baseline. This paper will lay the framework for conducting an analysis of these types of programs in order to examine the individual traits offenders partaking in the program poses and whether they affect their likelihood of complying. The information needed to perform a meaningful statistical analysis is established, along with hypothetical potential outcomes.

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I would also like to thank the Albany County District's Attorney's Office Community Justice Outreach center for inspiring this paper. My time as an intern there exposed me to restorative justice procedures in practice, and allowed me to recognize the model, as a whole may need alterations to best suit the defendant and society. Thank you to The Center for Community Justice, Schenectady New York, for speaking with me about your organization.

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Introduction

Restorative Justice is a modern criminology movement centered around the idea that crime injures not only people but communities as well. The goal of an implemented program is to repair the damage inflicted and that all parties, including the community participate in the process (Center for Justice & Reconciliation at Prison Fellowship International, 2005, p. 1). Restorative programs have been implemented both nationally, and internationally, taking on various forms and dynamics (Daly, 2016, p. 9).

As one of the main intentions of restorative justice is repairing the harm caused by crime, community service is a prime method taken on by these programs. The intention is for the offender to address the harm inflicted on communities when a crime occurs. It is also viewed as a vessel of rehabilitation (Center for Justice & Reconciliation at Prison Fellowship International, 2005, p. 3). Offender participation in community service embraces the fact that under justice supervision, the individual enhances their ability to be law-abiding and productive citizens. Furthermore, service to the community acts as a means of rebuilding potential broken relationships between those who disobey the law and those in the community (Bazemore & Karp, p. 3).

Through personal experience, I have familiarized myself with two restorative justice models which may serve as a representation of such programs. Within the Capital Region of New York, Schenectady and Albany County both conduct restorative practices within their communities. Although both County's hold similar political and geographical climates, their programs are not identical, both in their conduct and completion status.

Albany County currently has a community service based restorative justice program in practice. The program is based in the Community Justice Outreach Center (CJOC), a satellite office of the Albany County District Attorney's Office. The Outreach Office is a collaboration of law enforcement offices, public officials, community-based organizations, and community members. The office has several restorative practices they label as alternatives to incarceration for those who qualify. Their services are offered assigned based on specific characteristics such as age, level of offense, as well as other case specific factors (Albany County District Attorney).

The community service program offered by the office is used for low-level, non-violent offenses. The process commanded as follows:

1. Intake: the offender signs a community service (CS) agreement with a judge in court for a predetermined amount of CS hours and completion date, and then contacts or is contacted by the CJOC. The offender is explained the stipulations of the program.
2. Community Service Site Set Up: based on community needs, location of offense, and type of crime committed, offenders are assigned a site.
3. Follow up/case compliance: Documentation of completed CS hours is submitted to the CJOC office on a regular basis. Offenders must demonstrate consistent progress and be completing CS regularly. The CJOC office contacts the offenders regularly to obtain updates on their progress. If the defendant complies with the standards of their agreement, a letter of success is sent to the Court, and the case

is closed and removed from their record. Failure to comply results in a letter of unsuccessful completion. (Albany County District Attorney)

Schenectady County also has a restorative justice program in place through an organization called The Center for Community Justice. The Center revolves around the community offering an array of services, including re-entry, community accountability boards, and community service, among others. The office collaborates with local judges, attorneys, law enforcement, and community groups in conjunction to their programs. They aim to aid individuals become productive members of society and provide alternatives to incarceration that benefit both the offenders and the community.

The Center for Community Justice's community service program is similar to Albany's, in that offenders provide service as a means to rectify their actions and give back to the community they harmed. Individuals must first submit a registration form, in which they state the court their case is being handled in, their charge, hours to be completed, and court date information. There is a \$25 service charge for their case to be handled through the office. After completing the application, a representative will contact the defendant to assign them a location.(The Center for Community Justice, 2020)

Review of the Literature

Logistics of Restorative Justice Programs

Restorative Justice is often used as an umbrella term that encompass several meanings. It can, however be defined as a mechanism of the criminal justice system. In an effort to assign the term a precise meaning, it is defined as an alternative justice program in which crime and/or disputes through facilitated meetings with impartial representatives that can take place anywhere in the criminal justice processes. These programs can also be used for offenses not reported to the police (Daly, 2016, pp. 9-11).

In restorative Justice programs, crime is viewed as a violation of people and the community rather than the traditional justice system which views crime as the breaking of a law (National Institute of Justice). The goal is to decrease the offender's risk of committing future offenses, improve the victim's willingness to forgive offenders, while concurrently increasing both victim and offender satisfaction with the criminal justice system. The entire process is centered upon the following theories: (1) Reintegrative shaming, or publicly acknowledging the wrongdoing that was committed while jointly accepting responsibility. (2) Procedural Justice, the belief that when an individual view the criminal justice system as fair they are more likely to obey the law (National Institute of Justice).

As restorative justice programs continue to reach tremendous growth, there are several concerns in the practicality of implementation. The current published literature is based on practice that is tainted by the varying definitions they deliver. With a growing acceptance and desire to use restorative justice programs, there is a question of how infused these programs should be into our criminal justice system, and at what capacity? There needs to be distinct

guidelines to ensure it is not used too broadly or too narrow. Programs as such also need to be completed on a voluntary basis. If an individual is coerced to participate, the effects are therefore counteractive. Most programs do not take into fact the differences in community values and content such as race, economic structure, gender, and other related factors. There is also a disparity in communities themselves that can lead to differences in how effective the implemented programs are. The variation in crime rates, age-demographics, unemployment, population densities, and poverty levels also lead to discrepancies. (Harris 1998, pp. 59-61).

Restorative Justice and the Community

In order for restorative justice programs to be implemented, there must be community participation. (Rogers, 2018, p.36) Generally speaking, in the context of restorative justice the term ‘community’ refers to anyone who feels connected emotionally, psychically, or in other ways to the victim, offender, or the event itself. Throughout the process, the community remains as the prime stakeholder whose interests and needs must be met (Schiff, 2005, p. 1).

There are three policies community members must adhere to in order to engage them fully throughout the process. (1) Correctional policies must support it, (2) Volunteers should live and work locally, and should be as representative of the population as plausible. (3) It is critical to not only have regular, reoccurring volunteers, but to also have volunteer participants in support of a particular victim or offender. It is also essential to provide a differentiation between these (Rogers, 2018, p. 38).

As community members participate by serving on boards in these programs, in meeting with offenders and victims there is at times a conflict of interest. For example, a young girl was

pushed by her school bus driver during her weekly bus ride because she was being ‘rebellious.’ A member on the community board, a retired school bus driver, talked at length about the burden put on school bus drivers constantly working with youth. At first his insight appeared helpful, but eventually, the other board members and facilitators had to intervene when the young girl began to blame herself (Gal, 2016, pp. 296-297). These instances are inevitable as situations of varying capacity will be applied to these programs. It is critical the community members are diverse and remain professional.

Programs and their Practice

One of the earliest and most effective restorative justice programs is the *Vermont Reparative Probation board program*. Vermont, generally, is predominantly rural, homogenous and holds low crime-rates. Some policy makers argued the “quaintness” of the state seems to place limitations on utility as a model for the rest of the country. However, the dismissal of their model based on the uniqueness of the state is not valid, as all states and communities have their own unique qualities. Vermont currently has 20 community justice centers throughout the state. These centers rely on volunteers who are members of the community who dedicate their time to deliver programs that repair the harm caused by the crime for both parties. This program is centered around giving offenders an opportunity to express remorse and apologize for their actions. The intent of this process is for the offenders to realize the impact of their action (Boyes-Watson, 2004, pp. 687-688).

Analysis of Programs

There are a few major meta-analyses on the effectiveness of restorative justice programs have been published. The available data observes the effects of the programs in a post-evaluation manner. The factors mainly observed include victim and offender satisfaction, restitution compliance, and recidivism. These outcomes have been deemed adequate to measure the effectiveness of restorative justice programs. Previous data collected has observed restorative justice programs in comparison to a non-restorative criminal justice approach (Latimer et al, 2005, pp. 131-132).

In a study of 352 youth referred to a restorative justice program in a small city in the upper Midwest, those individuals remained offense-free significantly longer than the similar 353 in the control group referred to traditional juvenile court (Bergseth & Bouffard, 2013, p. 1062). It is the widely accepted belief that juveniles are more successful in restorative justice programs when compared to adults. However, the Sherman et al. (2015) analysis proved this to be false when adults in the observed programs had a statistically significant amount fewer convictions post-restorative program than juveniles not in such programs.

In terms of types of crimes committed and the effectiveness of these programs, it has been observed that individuals (both youth and adult) who commit violent crimes are more likely to be successful in a restorative program. Bergseth & Bouffard found through a regression analysis, the youths who committed 'other' crimes (not property or violent) recidivated at a quicker rate than those youth referred to traditional processing (Bergseth & Bouffard, 2013, p. 1062). In the analysis done by Sherman, it was concluded adults who had committed a violent

offense were more effective in the program than those who committed property offenses (Sherman et al., 2015, p. 140).

The programs themselves are designed to be satisfying for both the victim and the offender under the assumption if both parties are satisfied, other factors constant, the program is therefore effective. Latimer and Muise conducted a meta-analysis that primarily focused on these aspects. For the sake of this research, I am interested in the offender's experience. The offenders included in this analysis were predominantly white young males. The analysis concluded they were more satisfied with the process than those in the comparison groups, however the results were not statistically significant (Latimer et al., 2005, p.136).

Statement of the Problem

The existing literature on this topic examines the effectiveness of restorative justice programs aggregately as compared to a traditional justice process. There is no analysis of a specific program and the participants taking part in it. The previous studies in the field of restorative justice focus on post-completion factors such as victim and offender satisfaction, restitution compliance, and recidivism (Latimer et al., 2005, p. 135). After extensive research, it is evident there is a gap in the literature on the individuals partaking in a restorative justice, and whether or not they comply. Current studies examine the effectiveness through outcomes such as recidivism, and offender and/or victim satisfaction, through a comparison done against a traditional justice approach. There has not been a study done on offender or program characteristics and how they may relate to compliance.

The community service program in place at the CJOC appears to be a lucrative restorative justice program. However, as I was personally immersed in the process, I found the amount of unsuccessful closed cases remarkable. I believe there may be a correlation between specific factors of the individuals partaking in the program and whether or not they comply. This research seeks to not only discover if this is true, but to also provide insight that can possibly serve to improve the programs based on the results. After speaking with staff at The Center for Community Justice, it became apparent they do not have the same issue of participants being deemed noncompliant.

The research to be outlined is exploratory, seeking to provide grounds for finding what aspects make a restorative justice program successful, and how it may be improved. I

believe these programs cannot be viewed as “one size fits all,” but rather specific to the offender.

Therefore, the following research question is raised:

Are there characteristics of an offender, or of a particular program that affect their completion of a restorative justice program?

Methods

Participants

A sample is to be collected from the case files of the organization. This sample should include closed cases only, and be either over a pre-determined time span, or a designated case number basis. The size of the organization, as well as the extent of the study will dictate which selection method is most feasible.

Procedure

The data will be coded based on certain predetermined characteristic variables of the offenders that may influence their likelihood of complying with the program. During the process of reviewing files, certain variables that are found to be null, or unable to attain will be excluded. Concurrently, other characteristics that are later found relevant will be added.

All defendant names should be assigned a project identification number to conserve privacy. The following variables are to be recorded:

Name:
Project ID:
Case opened:
Case closed:

Independent Variables

The independent Variables seek to gather information regarding the offender in order to analyze their personal characteristics, socioeconomic status, family relations, and criminal history.

Age:
18-25 (0)
26-35(1)
36-45(2)
26-55(3)
56-65(4)
>66 (5)

Sex:
male (0),
female(1)

Employment1:

part-time (0),
full-time(1)
unemployed(2)

Employment2:

employment county

Education:

No degree(0)
Current High School Student(1)
Current College student(2)
High School graduate(3)
College graduate(4)
GED(5)

(if) College Student:

Name of college

Street address:

Town
Street
State

Does the individual have children?:

No(1)
1(1)
2(2)
3(3)
4(4)
>5(5)

Race:

Caucasian (0)
Asian (1)
African-American (2)
Latino(3)
Other(4)

Offense Type(penal law code):

Prior record:

Yes(0)
No(1)

(if) yes, record type:

Arrest(1)
Misdemeanor(2)
Felony(3)

Number of arrests:
Number of misdemeanors:
Number of felonies:

Dependent Variables

The dependent variables inspect the defendant's interaction with the program, and their specific interaction and accommodations within the program.

Community Service Site:

Name, address

Did they change location?

No(0)

1 change(1)

2 changes(2)

3 changes(3)

>3 changes(4)

Did they Receive an extension(s)?

No(0)

1(1)

2(2)

3(3)

4(4)

>4(5)

Outcome

Compliance:

Yes(0)

No(1)

It is also crucial to note information not to be collected. No information that can denote a specific person should be recorded:

Specific birthdates

Specific addresses

Mental or physical health information

Information on open cases

Information on individuals under the age of 18

Results and Analysis

Upon collection of the data, statistical regression and correlation analyses should be run on the data in order to analyze the findings. Graphical comparisons will reveal if there exist certain factors that correlate to noncompliance within the program. All factors should first be examined independent of others. Upon reviewing the results, cross analyses should be tested to determine if there is a mix of characteristics that lead to the highest amount of incompleteness. The analysis will vary based upon the data collected and the particular site itself. Therefore, the most effective method would consist of trial and error of the varying variables recorded to determine how they interact when both present.

Based on my research, and personal experience, I have devised four hypotheses on what I believe the prominent determinants of compliance would be.

Hypothesis 1, Presence of a Criminal Record

While working as an intern at the Albany Community Justice Center, I had several conversations with individuals who were not participating in their assigned program who made statements along the lines of “I don’t care about having my crime off my record, I do not want to do the hours, I will just go to jail for a little instead.” This can be attributed to the criminology behind the labeling theory, which states individuals adapt and behave to how society views them. Often, once one is labeled as socially deviant, they began to adhere and adopt behaviors associated with that label (Tierney, 2009). If an individual is placed into a restorative program, they may lack the desire to eliminate their crime from their record, as they already view themselves as a criminal. Additionally, identifying with deviant norms creates distance between

the individual and society. They may feel the community they are giving service to is not one they are a part of, leading to a lack of motivation and misunderstanding of the goals of the program.

Hypothesis 2, Physical ability to Access their Service Site

If one does not have a reliable means of transportation, being able to arrive to their designated site of service is a major factor in their ability to comply. Reliance on public transportation can often add a significant amount of time needed to arrive at the designated location.

Hypothesis 3, Lack of Child Care

For those with children, if they are unable to make child care arrangements while they are to complete their hours, the service will not be done. It may be the case that many cannot afford to have someone watch their children while they complete their service, or they are unable to find a program or caretaker to do so.

Hypothesis 4, Completion Extension Status

I believe as the number of extensions one receives increases, the likelihood of compliance decreases. This is independent of detrimental events that hinder the ability to complete their assigned hours, such as a death in the immediate family, or severe illness which warrants an extension. I base this upon my personal observations of a major difference between the Albany County Community Justice Outreach Center, and the Schenectady Center for Community

Justice. The Albany county judges are lenient in their decision to grant extensions, while those in Schenectady are extremely selective. Albany County has a notably high non-compliance rate, while Schenectady does not. This may be based on how one begins to perceive the situation as their time is extended. As time passes, they may begin to develop a disconnect, or lack of motivation due to a crippling sense of the importance of complying. Additionally, if one knows they will have continual extension requests granted, they may feel they can take their time completing the program or put it off.

Conclusion and Discussion

The above stated information serves as a proposal for the research to be conducted in order to discover if there are offender, or program specific characteristics that correlate to whether or not they comply with the terms of their restorative program.

The findings of this research can be beneficial restorative programs as it may suggest in order for a program to truly adhere to the principles of restorative justice, they may not be “one size fits all.” If findings prove to be statistically significant, further research and analysis can be conducted on what kind of amendments can be made to the program to make it more successful with respect to the variable outcomes. Restorative Justice programs should be analyzed in this manner in order to adjust the program in a way that best facilitates the offender and the community.

In regard to my previously stated hypotheses on the factors I believe to be most significant, I have devised solutions that could be hypothetically implemented to the theoretical program.

Presence of a Criminal Record Remedy: For those with a previous record, provide education and support. Holding meetings with those who have engaged in previous criminal activity and were successful within the program may give these individuals a different perspective and lift the deviant label they feel they have. It is essential to have a genuine conversation regarding the ramifications of the program, emphasizing that previous acts do not have to dictate future behavior as well as presenting this as an opportunity to become a law-abiding member of society.

Educate them on how their service to the community affects them as well, as they are a part of said community.

Physical Ability to Access their Service Site Remedy: Discuss this factor with the defendant and alter the program to best fit their needs. If they rely on public transportation, find a location that is on their bus, subway, or train line. Communication between the defendant and the office conducting the program is essential, as this seemingly small alteration may have extreme effects on rates of compliance

Lack of Child Care Remedy: The program should be altered to fit the individual needs and concerns of the individual. There are a variety of ways to service the community that may be well suited for an individual without child care. The office should look for opportunities these parents may do that allows them to bring their children who may voluntarily participate as well. The office may also look into having a childcare service at their office for parents to drop their children at while they complete their assigned hours. Lastly, the parents may be permitted to give back to their community through involvement within the children's school. Volunteering as a chaperone for school events, or the Parent Teacher Association allows for services to be rendered in a setting in which their children can be present as well.

Completion Extension Status Remedy: Judges within the courts tied to these centers should be stringent with extensions. Only detrimental events that hinder the ability to complete their

assigned hours, such as a death in the immediate family, or severe illness should warrant an extension.

In summation, restorative justice practices have the capability of forever altering our system of justice. It is my belief that it is a key aspect in the future of justice, embodying the goals of our justice system , as it promotes genuine rehabilitation as well as reparation to the community. In order to be successful, they must be able to serve the community and the offender concurrently. Offender and program characteristic analysis allows the organization to alter their program to increase compliance, rather than following the same procedure for the varying partaking offenders. If pursued efficiently, the future is restorative.

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