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Neighborhood Accountability Boards: The Strength of Weak Practices and Prospects for a “Community Building” Restorative Model

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ABSTRACT

In the mid-1990s, restorative justice practices became known to a number of criminal and juvenile justice practitioners and justice

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reform advocates. While the excitement about “conferencing” models from New Zealand and Australia brought international attention to restorative justice, long-standing and “new” North American practices—including Victim-Offender Mediation (“VOM”), Peacemaking Circles (“Circles”), and other models-gained both popularity and expanded application. This Article addresses Neighborhood Accountability Boards (“NABs”), one such popular restorative decision-making model. Although criticized by some restorative justice advocates, we argue that NABs may fill a niche as a neighborhood level “community building” response to lower or mid-range crimes that is capable of serving a larger and more diverse population of offenders, victims, and their families than other restorative models. Based on an underlying theory of pro-social connection through reliance on “weak ties,” we argue that NABs may provide broader instrumental social support for offenders and victims from community members and families. Moreover, by offering local social, community, and family support, NABs may help ameliorate the conditions that foster crime and conflict management at the neighborhood level.

INTRODUCTION

Although Victim-Offender Mediation (“VOM”) became a sound and very popular option in some parts of the United States by the 1980s, it was not until national experiments with Family Group Conferencing (“FGC”) in Australia and New Zealand that restorative justice gained almost worldwide attention. In addition, John Braithwaite’s concomitant development of reintegrative shaming theory was consistent with the goals of most of these restorative practices, bringing international academic interest to restorative justice.¹ In the United States, NABs also took root as another popular restorative model.² This Article addresses the role of NABs as a

1. See JOHN BRAITHWAITE, CRIME, SHAME AND REINTEGRATION (1989); John Braithwaite & Stephen Mugford, *Conditions of Successful Reintegration Ceremonies: Dealing with Juvenile Offenders*, BRIT. J. CRIMINOLOGY, Spring 1994, at 139.

2. Gordon Bazemore & Curt Taylor Griffiths, *Conferences, Circles, Boards, and Mediations: The “New Wave” of Community Justice Decisionmaking*, FED. PROBATION, July

highly localized restorative decision-making model for juvenile and criminal justice reform that seeks to engage victims, offenders, families, other citizens, and community groups as resources in an effective response to crime.³

Sometimes known by such terms as youth panels, reparative boards, or community accountability boards (among others), the concept underlying NABs in the United States can be traced back to New Jersey's Youth Aide Panels that began operating as early as the 1930s.⁴ While these early examples of community involvement with troubled youth were not likely informed by a restorative approach, they did seek to provide courts with an alternative that would encourage community support for "at risk" youth. Scotland's more modern use of "youth panels" provides a current example of a Board model that indeed became viewed as a restorative justice effort in the 1990s.⁵

The first restorative panels in the United States originated in 1994 in Great Falls, Montana and Boise, Idaho, followed shortly thereafter by panels in the counties of San Bernardino and Sacramento, California.⁶ In the early 1990s, Vermont also began laying the groundwork for what was likely the first statewide use of panels for adult offenders—a probation-based model known as "reparative boards" designed to serve as an alternative to jail or short-term prison sentences.⁷ Vermont's juvenile justice authority instituted a youth-focused "reparative panel" program for juvenile offenders in 2000.

Today, NABs are viewed by many practitioners as one of four structurally different restorative decision-making models. While there

1997, at 25, 31.

3. Gordon Bazemore & Mark Umbreit, *A Comparison of Four Restorative Conferencing Models*, JUV. JUST. BULL., Feb. 2001, at 1, 3–5.

4. H. TED RUBIN, *Diversion to the Community: Neighborhood Accountability Boards in Santa Clara County, California*, in JUVENILE JUSTICE: POLICIES, PRACTICES, AND PROGRAMS 20-1, 20-1 to 20-10 (2003).

5. See RESTORATIVE JUSTICE FOR JUVENILES: CONFERENCES, MEDIATION AND CIRCLES (Allison Morris & Gabrielle Maxwell eds., 2001); Niall Kearney et al., *Restorative Justice in Scotland: An Overview*, 4 BRIT. J. COMMUNITY JUST. 55 (2006).

6. MARCUS NIETO, CAL. RESEARCH BUREAU, PROBATION FOR ADULT AND COMMUNITY OFFENDERS: OPTIONS FOR IMPROVED ACCOUNTABILITY 6 (1998).

7. David R. Karp & Lynne Walther, *Community Reparative Boards in Vermont: Theory and Practice*, in RESTORATIVE COMMUNITY JUSTICE: REPAIRING HARM AND TRANSFORMING COMMUNITIES (Gordon Bazemore & Mara Schiff eds., 2001).

are many “within-model” variations and multiple names for most restorative conferencing practices, the four prominent distinctive models are: VOM, FGC, Circles, and NABs.⁸ Each model has gained recognition as a decision-making alternative to the more traditional, primarily punitive criminal justice system employed in the United States and abroad.⁹

Despite some disagreement concerning the degree to which NABs constitute a “true” restorative practice,¹⁰ they have arguably found a place along the continuum of non-adversarial restorative decision-making practices. Specifically, NABs fill a space that relies heavily on community volunteers and is both less formal than court processes and less intense than either FGCs or Circles. It can also be said that the relative “restorativeness” of NABs (as in other practices) cannot necessarily be assumed because of title alone, and is thus best assessed by examining specific practices in individual programs.¹¹ Notwithstanding the growth and continuing presence of NABs in more than a dozen states and numerous municipalities,¹² studies of these programs are more limited in number than research on FGCs and VOM, though a number of recent rigorous studies indicate NABs have a positive impact.¹³

The most valid criticism of NABs has been their limited success in engaging and placing priority on crime victims’ participation.

8. Bazemore & Umbreit, *supra* note 3 (discussing and comparing the four models).

9. *Id.* at 1.

10. See Paul McCold, *Paradigm Muddle: A Response to the Responses*, CONTEMP. JUST. REV., Mar. 2004, at 143, 143 (arguing that restorative justice should be distinguished from community justice, instead of being characterized as “restorative community justice”).

11. GORDON BAZEMORE & MARA SCHIFF, JUVENILE JUSTICE REFORM AND RESTORATIVE JUSTICE: BUILDING THEORY AND POLICY FROM PRACTICE 155, 327 (2004).

12. See, e.g., NIETO, *supra* note 6; Nancy Rodriguez, *Restorative Justice, Communities, and Delinquency: Whom do we Reintegrate?*, 4 CRIMINOLOGY & PUB. POL’Y 103 (2005).

13. See generally EDMUND MCGARRELL, U.S. DEP’T OF JUSTICE, OFFICE OF JUVENILE JUSTICE & DELIQUENCY PREVENTION, RESTORATIVE JUSTICE CONFERENCES AS AN EARLY RESPONSE TO YOUNG OFFENDERS (2001). While this study refers to the model assessed as FGC, in point of fact, the practice actually more resembles a NAB more than an FGC. For this reason, we have included it as a reference for NAB evaluation. See generally David R. Karp, Gordon Bazemore & J.D. Chesire, *The Role and Attitudes of Restorative Board Members: A Case Study of Volunteers in Community Justice*, 50 CRIME & DELINQ. 487 (2004) (reporting findings from a survey of volunteers serving on Vermont Reparative Probation Boards); Rodriguez, *supra* note 12, at 117; James Bonta et al., *Exploring the Black Box of Community Supervision*, 47 J. OFFENDER REHABILITATION 248, 251–52 (2008).

Though not limited to NABs, this problem is partially related to the structure of these programs, their inability or disinterest in engaging victims, and possibly to a lack of victim interest in participation because of most NAB cases' relative lack of seriousness.¹⁴ This state of affairs is not necessarily characteristic of all NABs, however, and some practitioners have demonstrated that NABs are capable of improving victim involvement when leaders and supporters prioritize and find resources (such as assigning staff) for this purpose.¹⁵ Indeed, some NABs or related models boast relatively high rates of victim participation¹⁶ and may, by responding to issues of local crime and deviance, be helping to set normative standards of community behavior.¹⁷

In this Article, we argue that the strength of the NAB model may lie *not* in its adherence to strict standards of a “pure” restorative process, but rather in its ability to serve other equally important community-building and social justice goals by fostering and building stronger local relationships. In this regard, one avenue for consideration in the still-evolving role of NABs can be seen in what might be termed “micro-communities.” For example, faith communities and neighborhood associations may indeed build on what have been referred to as “parochial controls” in order to manage conflict and promote collective efficacy.¹⁸ These controls operate as a mid-level intervention between formal governmental controls and “private controls” exercised by family members.

In this Article, we first review the literature on NABs and explore their various applications in the United States and abroad. We then examine the strengths and weaknesses of the model and consider the potential capacity of NABs to facilitate community building and promote normative standards of conflict resolution and social

14. BAZEMORE & SCHIFF, *supra* note 11, at 207–08.

15. *Id.* at 197–98.

16. See MCGARRELL, *supra* note 13, at 6.

17. See BAZEMORE & SCHIFF, *supra* note 11, at 77–80 (discussing norm affirmation and values clarification as one of the dimensions of community-building).

18. See generally ROBERT D. PUTNAM, *BOWLING ALONE: THE COLLAPSE AND REVIVAL OF AMERICAN COMMUNITY* 78 (2000); Francis T. Cullen, *Social Support as an Organizing Concept for Criminology: Residential Address to the Academy of Criminal Justice Sciences*, 11 *JUST. Q.* 527, 537 (1994).

support. NABs should not be seen as replacing or dominating other restorative models that may offer a more intentional focus on victim-offender needs or more assertive attention on underlying causes of behavior, however. Instead, we suggest that NABs, because of their neighborhood base, may be more capable of achieving capacity-building objectives than other restorative practices. Indeed, from another perspective, NABs may benefit from a community base that more easily responds to victim and offender needs within a localized neighborhood context. By contrast, other models are often centrally located within either court or justice centers that are less sensitive to the context in which crimes may occur.

Finally, we discuss important theoretical variations in models of changes associated with the type of support offered to offenders, victims, families, and communities. Specifically, we argue that the difference between the social support component of NABs and other restorative practices is the NABs' primary reliance on what sociologists have referred to as "strong vs. weak ties."¹⁹ "Strong ties" are those associated with families, extended families, and organic communities which rely heavily on expressive, often emotive, social control and support.²⁰ "Weak ties," on the other hand, are based on more casual relationships and encounters, which in modernity are nonetheless the kind of connections needed to find a job, gain access to higher education, and call on advocates for support in times of trouble (e.g., arrest, trouble in school, etc.).²¹

Ultimately, we suggest that NAB models reflect a choice between two practice extremes. The first choice amounts to what is essentially an informal "weak court," with little impact and authority and wherein citizens essentially act as "juries" in very minor cases (not unlike many Teen Courts). The second, however, is a viable community-based practice capable of bringing citizens together in support of problem-solving crime prevention and intervention at the neighborhood level that could successfully process a wide range of

19. See generally Mark Granovetter, *The Strength of Weak Ties*, 78 AM. J. SOC. 1360 (1973); Rose Laub Coser, *The Complexity of Roles as Seedbed of Individual Autonomy*, in *THE IDEA OF SOCIAL STRUCTURE: PAPERS IN HONOR OF ROBERT K. MERTON* 237, 242-43 (Lewis A. Coser ed., 1975).

20. See Granovetter, *supra* note 19, at 1361.

21. See *id.*

cases—both independently and in support of partnerships with criminal justice agencies.

LITERATURE REVIEW

Most important in the consideration of restorative justice models is a general commitment to basic values about the response to crime. In addition to challenging dominant retributive justice strategies, these models also embrace a different, more robust form of accountability that lays the groundwork for a different model of criminal justice. Restorative models call for and incentivize a new design that begins with engaging communities in localized justice processes grounded in both parochial and private controls.²² By enabling offenders to make community reparation in conjunction with compassionate and localized social support,²³ these approaches challenge the retributive punishment and traditional treatment models that typically operate in isolation from community input.

Principles of Restorative Justice

Restorative Justice practices are grounded in three core principles: (1) justice requires that responses to crime *repair harm* to persons hurt or injured by the criminal act; (2) *all stakeholders should be included* in the response to crime as early and often as possible; and (3) *partnerships between government and community* are central to a comprehensive justice response that seeks to expand the role of community involvement.²⁴ As an overarching philosophy of addressing victim and community needs in the aftermath of conflict and harm, restorative justice is more than a program model. Rather, restorative practices share a common distinguishing characteristic: offender(s), victim(s) or a victim representative, a facilitator, and

22. See Albert Hunter, *Private, Parochial and Public Social Orders: The Problem of Crime and Incivility in Urban Communities*, in *THE CHALLENGE OF SOCIAL CONTROL: CITIZENSHIP AND INSTITUTION BUILDING IN MODERN SOCIETY* 230, 240 (Gerald D. Suttles & Mayer N. Zald eds., 1985).

23. See Cullen, *supra* note 18, at 549.

24. See DANIEL W. VAN NESS & KAREN HEETDERKS STRONG, *RESTORING JUSTICE* 43–48 (3d ed. 2002); BAZEMORE & SCHIFF, *supra* note 11, at 27–30.

other family and community members sit face-to-face in an informal meeting (a non-adversarial process) to consider a crime's impact or harm done to both victims and the community.²⁵ To repair this harm, participants then develop a plan that meets the needs of those most affected by the crime.²⁶ The dialogue process is not intended to establish guilt or innocence, assign blame, or impose punishment, and the participants do not rely on formal legal procedures or attorneys to reach decisions.²⁷ What makes the specific encounter and the process itself "restorative" is "the extent to which the process adheres to a *set of core principles and a focus on the overall goal of repairing the harm crime causes.*"²⁸

Bazemore and Schiff distinguish four broad programmatic variations which, over the last several decades, have seemed the most structurally and procedurally stable.²⁹ These models include victim-offender mediation/dialogue ("VOM/D"); FGC; Boards; and Circles.³⁰ Variation between the four approaches differs primarily based upon who attends and participates in the conference, who facilitates the dialogue and how the process is guided, what structure is employed for ongoing management of program operations beyond each individual encounter, and what dominant philosophy guides the process.³¹

The United States Board Experience

As of 2001, there were approximately 230 individual youth NABs in the United States.³² In recent years, states with active NABs include Arizona, California, Kansas, Florida, Missouri, Oregon, Texas, Minnesota, Pennsylvania, Utah, and Vermont.³³ The most

25. BAZEMORE & SCHIFF, *supra* note 11, at 36.

26. *Id.*

27. *Id.*

28. *Id.*; see also VAN NESS & STRONG, *supra* note 24, at 49–50; Russ Immerigeon, *Restorative Justice, Juvenile Offenders and Crime Victims: A Review of the Literature*, in *RESTORATIVE JUVENILE JUSTICE: REPAIRING THE HARM OF YOUTH CRIME* 305, 307–08 (Gordon Bazemore & Lode Walgrave eds., 1999).

29. BAZEMORE & SCHIFF, *supra* note 11, at 37.

30. *Id.*

31. *Id.*

32. See *id.* at 101.

33. See *id.* at 106–07; Rodriguez, *supra* note 12, at 108; Albert W. Dzur, *Civic*

well-known example of NABs in the United States were established in Vermont after citizens expressed the belief that they could handle non-violent offenders in the community better than the criminal justice system.³⁴

Vermont's reparative boards, like most NABs, are generally composed of small groups of trained citizen volunteers who conduct public, face-to-face meetings with adult offenders convicted of minor nonviolent offenses and who have been court-ordered to participate in the process.³⁵ As of 2003, sixty-seven reparative boards with approximately four hundred volunteers had handled 7742 cases in Vermont.³⁶ In this process, volunteers: (1) meet with offenders to develop sanctioning agreements; (2) monitor offenders; and (3) submit periodic compliance reports to the court.³⁷ Most adult non-violent felons and misdemeanants sentenced by NABs are required to make restitution to victims, perform complete community service, or both. Finally, while members have relatively wide discretion in the deliberation process, they are encouraged to follow certain general guidelines:

- “(1) Victims (if present) [have the opportunity to] describe the impact of the offenders’ behavior;
- (2) Offenders [agree to] make amends to victims[, other] affected parties[, and their communities;
- (3)] Offenders demonstrate healthy behaviors and learn ways to avoid reoffending;
- [(4)] The community [assists with the] reintegration [process].”³⁸

Implications of Restorative Justice Theory: Citizen Participation and Criminal Justice Policy, 36 POL’Y SCI. 279, 280–81 (2003).

34. See JOHN DOBLE & JUDITH GREENE, NAT’L INST. OF JUSTICE, ATTITUDES TOWARD CRIME AND PUNISHMENT IN VERMONT: PUBLIC OPINION ABOUT AN EXPERIMENT WITH RESTORATIVE JUSTICE 2, 22 (2000), available at <http://www.ncjrs.gov/pdffiles1/nij/grants/182361.pdf>.

35. Bazemore & Umbreit, *supra* note 3, at 3.

36. Dzur, *supra* note 33, at 298.

37. Bazemore & Umbreit, *supra* note 3, at 4.

38. Dzur, *supra* note 33, at 299.

As early as 1997, and only two years following the program's inception, data indicated that 82 percent of participating Vermont offenders completed their community sentences without further court-involvement.³⁹ In addition, the program resulted in a 3 percent decrease in recidivism compared to those offenders who received traditional probation.⁴⁰ The Vermont Department of Corrections ("VDOC") also implemented a program for juvenile offenders in 1999.⁴¹ Despite initial concerns about punitive intent expressed in some NABs, an independent survey of NABs members indicated overwhelming support for reintegration and rehabilitation rather than punishment.⁴²

Several states followed, or simultaneously implemented variations on, the Vermont model. For instance, the Maricopa County Arizona Juvenile Probation Department created Community Justice Committees in 1995 to deal with their increasing juvenile crime rate.⁴³ Similarly, in Oregon, Community Justice Centers and Merchant Accountability Boards addressed youthful theft and shoplifting.⁴⁴ California has also successfully operated NAB programs for non-violent, generally first-time juvenile offenders in San Bernardino, Santa Clara, San Jose, and Sacramento counties since the mid-1990s.⁴⁵ In the Midwest, Missouri has also experimented with neighborhood boards and other forms of conferencing.⁴⁶ In 2000, Salt Lake City implemented its "Passages" program which, though not an official NAB, has all the elements of a restorative board process.⁴⁷ In 2003, the Florida Department of Juvenile Justice (FDJJ) funded and implemented thirty-three NABs

39. Mark Hansen, *Repairing the Damage: Citizen Boards Tailor Sentences to Fit the Crimes in Vermont*, 83 A.B.A. J. 20, 20 (1997).

40. *Id.*

41. See Dzur, *supra* note 33, at 298; Bazemore & Umbreit, *supra* note 3, at 3 n.5.

42. See Karp, Bazemore & Chesire, *supra* note 13, at 498-501, 503.

43. Rodriguez, *supra* note 12, at 108.

44. Dennis Mahoney & Deevy Holcomb, *In Pursuit of Community Justice*, 33 YOUTH & SOC'Y 296, 306-08 (2001).

45. See NIETO, *supra* note 6, at 6; BAZEMORE & SCHIFF, *supra* note 11.

46. STATE OF MO. FAMILY COURT-JUVENILE DIV., NEIGHBORHOOD ACCOUNTABILITY BOARDS (Dec. 2010), available at <http://www.courts.mo.gov/hosted/circuit22/Juvenile/2011%20Juv%20docs/Neighborhood%20Accountability%20Board.pdf>.

47. Susan M. Olson & Albert W. Dzur, *Revisiting Informal Justice: Restorative Justice and Democratic Professionalism*, 38 LAW & SOC'Y REV. 139, 153 (2004).

for first-time juvenile offenders in thirteen counties throughout the state; in 2005 the FDJJ reported sponsoring seventeen NABs in fifteen judicial circuits in a variety of government, not-for-profit, school, and faith-based agencies (though only a few of these currently remain active, largely due to cuts in the FDDJ budget).⁴⁸ Finally, one of the largest and most long-standing programs, originally known as the “Community Panels for Youth,” has served much of the Chicago area for over a decade, based on a model program begun with law students in a clinic at Northwestern University.⁴⁹

U.S. School Accountability Boards

Restorative practices are becoming progressively more common in a variety of criminal and non-criminal justice settings. For example, School Accountability Boards (“SABs”) are an increasingly common restorative response to school disciplinary issues. Schools around the United States, as well as internationally, have been experimenting with restorative practices to deal with disciplinary problems *in* school rather than suspending and expelling “problem” children who later end up under juvenile justice jurisdiction.⁵⁰ SABs are becoming a popular school-based restorative model wherein peer groups of students, faculty, staff, and sometimes external community members, consider and respond to a youth’s challenges in an inclusive and relationship-driven community. School-based restorative practices have been implemented in Florida, Illinois,

48. FLA. DEP’T OF JUVENILE JUSTICE, NEIGHBORHOOD ACCOUNTABILITY BOARDS: A GUIDE TO LEARN MORE ABOUT NEIGHBORHOOD ACCOUNTABILITY BDS. 8 (2003), *available at* http://www.djj.state.fl.us/Prevention/nab/NAB_GuideBook.pdf; Department of Juvenile Justice, *2005–2006 Neighborhood Accountability Board List*, DJJ, http://www.djj.state.fl.us/Prevention/documents/NAB_Providers.pdf (last visited Mar. 22, 2011).

49. Community Justice for Youth Institute, *About Us*, <http://cjyi.org/about-us> (last visited Mar. 22, 2011).

50. See FLORIDA STATE CONFERENCE NAACP, ADVANCEMENT PROJECT & NAACP LEGAL DEFENSE AND EDUCATION FUND: ADDRESSING THE SCHOOL DISCIPLINE CRISIS IN FLORIDA 10–12 (2006), *available at* <http://www.advancementproject.org/sites/default/files/full%20report.pdf>; Ronnie Casella, *Zero Tolerance Policy in Schools: Rationale, Consequences, and Alternatives*, 105 TCHRS. C. REC. 872, 885 (2003); Jeanne B. Stinchcomb, Gordon Bazemore & Nancy Riestenberg, *Beyond Zero Tolerance: Restoring Justice in Secondary Schools*, 4 YOUTH VIOLENCE & JUVENILE JUST. 123, 124–25 (2006).

Colorado, California, Pennsylvania, New Mexico, Arizona, Michigan, and Minnesota, with SABs standing as the model of choice in several of these states.⁵¹ Although there has been relatively little rigorous impact evaluation, formative research suggests generally positive results from restorative practices in schools.⁵²

At the post-secondary level, Skidmore College in New York incorporated restorative justice measures into its internal integrity boards, which are comprised of “four students, one staff member, and one or two faculty members.”⁵³ In this model, a group of board members who receive extensive training in restorative practices represent a cross-section of the local university population who hold students accountable for honor code violations and other minor offenses.⁵⁴

The International Landscape of Boards

Outside of the United States, Canada and the United Kingdom have the most experience with the board model. Unlike the United States, both Canada and the United Kingdom have created national oversight structures designed to address juvenile crime and which are charged with implementing and managing restorative initiatives in multiple jurisdictions. Canada’s passage of the Youth Criminal Justice Act (“YCJA”) in 2003 led to the establishment of Youth Justice Committees that use citizen volunteers trained in restorative practices to help manage minor cases.⁵⁵ In the United Kingdom,

51. See David Karp & Beau Breslin, *Restorative Justice in School Communities*, 33 *Youth Soc’y* 249 (2001); Stinchcomb, Bazemore & Riestenberg, *supra* note 50, at 132; Nancy Riestenberg, *The Restorative Recovery School: Countering Chemical Dependency*, 16 *RECLAIMING CHILD. & YOUTH* 21 (2007).

52. See Gordon Bazemore, Sandra O’Brien & Mark Carey, *The Synergy and Substance of Organizational and Community Change in the Response to Crime and Conflict: The Emergence and Potential of Restorative Justice*, 5 *PUB. ORG. REV.* 287, 305 (2005); Riestenberg, *supra* note 51, at 22; Stinchcomb, Bazemore & Riestenberg, *supra* note 50, at 132–33.

53. David Karp & Susanne Conrad, *Restorative Justice and College Student Misconduct*, 5 *PUB. ORG. REV.* 315, 321–22 (2005).

54. *Id.* at 322.

55. Doug Hillian, Marge Reitsma-Street & Jim Hackler, *Conferencing in the Youth Criminal Justice Act of Canada: Policy Developments in British Columbia*, 46 *CAN. J. CRIMINOLOGY & CRIM. JUST.* 343, 345, 349 (2004).

boards have been implemented as Youth Offender Panels to deal with juvenile offenders accused of both minor and more serious offenses.⁵⁶

In Canada, approximately sixty to seventy community accountability programs (convened by either the police or the Crown) are available as an alternative to court decisionmaking or sentencing for relatively minor offenses.⁵⁷ Youth Justice Committees made up of citizen advisors to the Youth Court generally host community accountability programs and other restorative practices such as FGCs, VOMs, or Circles in all provinces except British Columbia.⁵⁸ The breadth, scope and “restorativeness” of these programs varies widely from province to province, however.⁵⁹

Unlike the Youth Justice Committees in Canada, the Youth Offender Panels in England and Wales deal with more than just minor crimes. Overseen by the Youth Justice Board established in 1998, these panels are available throughout the United Kingdom in both “quaint and not-so-quaint settings”⁶⁰ and are the primary sentencing mechanism for youth aged ten to seventeen.⁶¹ Under this system, local Youth Offending Teams (“YOTs”) are overseen by local Youth Offending Services, and are comprised of representatives from the police, probation, social services, health, education, drugs and alcohol misuse, and housing officers who coordinate cases for each young offender.⁶² After receiving a Referral Order from the court, the youth is brought before a Panel consisting of at least two community members, including a chair who leads the discussion and

56. See Theo Gavrielidés, *Restorative Justice: Are We There Yet?: Responding to the Home Office’s Consultation Questions*, 14 CRIM. L.F. 385, 386–87 (2003) (finding that over 27,000 juvenile offenders go through these panels annually); Adam Crawford, *Involving Lay People in Criminal Justice*, 3 CRIMINOLOGY & PUB. POL’Y 693, 694 (2004).

57. Hillian, Reitsma-Street & Hackler, *supra* note 55, at 348–49.

58. *Id.* at 349.

59. Brenda Morrison & Colleen Pawlychka, *Juvenile Justice and Restorative Justice: Reflecting on Developments in British Columbia*, in YOUTH AT RISK AND YOUTH JUSTICE: A CANADIAN OVERVIEW (John A. Winterdyk & Russell Smandych eds., forthcoming Apr. 2012).

60. See Crawford, *supra* note 56, at 694.

61. ADAM CRAWFORD & TIM NEWBURN, YOUTH OFFENDING AND RESTORATIVE JUSTICE: IMPLEMENTING REFORM IN YOUTH JUSTICE 11, 59 (2003).

62. *Youth Offending Teams*, YOUTH JUST. BOARD, <http://www.yjb.gov.uk/en-gb/yjs/youthoffundingteams/> (last visited Apr. 11, 2011).

a representative from the YOT.⁶³ Unfortunately, victims are very rarely present.⁶⁴

Research on Boards

There is limited research available on the impact of neighborhood boards. The most comprehensive research to date has been conducted on Vermont's Reparative Boards,⁶⁵ Maricopa County, Arizona's Boards⁶⁶ and the Youth Offender Panels.⁶⁷ These studies found a mix of generally positive outcomes regarding volunteer and victim involvement, offender sanctions, and community engagement, albeit with some concerns about the strength of certain restorative justice components in some programs, such as volunteer "representativeness" and community engagement.⁶⁸

Very early research from California suggested that the combination of mobilizing an effective, localized volunteer base and decreasing recidivism rates encouraged expanded development of NAB programs, and some estimates reported savings to the State, in two counties alone, of up to \$12 million.⁶⁹ Rodriguez suggests that recidivism in Maricopa County, Arizona, may be lower among youths processed through NABs than among comparable youths in "other diversion programs" in the twenty-four months following successful completion of the NAB diversion program. Moreover, completion of reparative agreements, restitution, and community service was also higher among NAB-processed youth.⁷⁰

While there has been no comprehensive evaluation of the Florida NABs, anecdotal evidence from one county⁷¹ suggests a 96.8 percent success rate for NAB youth compared with 13 percent for

63. CRAWFORD & NEWBURN, *supra* note 61, at 60.

64. *Id.* at 127 (acknowledging a distinct lack of victim presence at most panel meetings).

65. See David Karp, *Harm and Repair: Observing Restorative Justice in Vermont*, 18 JUST. Q. 727 (2001).

66. See Rodriguez, *supra* note 12 (analyzing the effect of Maricopa County's restorative justice program on recidivism).

67. See CRAWFORD & NEWBURN, *supra* note 61.

68. Karp, Bazemore & Chesire, *supra* note 13, at 488.

69. NIETO, *supra* note 6, at 15.

70. Rodriguez, *supra* note 12, at 111, 117–19.

71. LEE CNTY. HUMAN SERVS., RESTORATIVE JUSTICE ANNUAL REPORT (2010).

traditionally-processed youth, due in part to a recidivism rate as low as 3.2 percent (vs. 87 percent for non-NAB youth) and a cost savings of \$1,470 per NAB-processed youth.⁷² Although not technically a NAB, Indianapolis's juvenile program operates similarly; based on a long-term random assignment study, it continues to demonstrate success when compared with other diversion programs.⁷³

Some research on the United Kingdom's Youth Offending Teams (YOTs) reports significant challenges, including insufficient funding, inefficient service delivery, ineffective recruitment and retention of staff, growing caseloads, and a low satisfaction rate (48 percent) among juvenile clients.⁷⁴ Canadian accountability programs have been similarly criticized due to their location in government organizations, which effectively limits community engagement and authoritative policymaking in areas such as appropriate case severity.⁷⁵

WEAKNESSES OF THE NAB MODEL

While the limited empirical evidence available suggests that NABs are a viable and useful intervention model, conceptual and practical challenges arise from limited victim participation; community exclusivity; and (at times) narrow, routinized, and unimaginative informal sentencing approaches. Moreover, inconsistent and inadequate volunteer training, as well as insufficient volunteer recruitment and retention, have been cited as challenges to the restorative impact of NABs.⁷⁶ In the following paragraphs, we consider both the surface and subtle implications of each of these concerns.

72. See FLA. DEP'T OF JUVENILE JUSTICE, *supra* note 48.

73. MCGARRELL, *supra* note 13, at 3, 9.

74. Christina Stahlkopf, *Political, Structural, and Cultural Influences on England's Youth Offending Team Practices*, 18 INT'L CRIM. JUST. REV. 455, 462–65 (2008); Chris Fox, *Inspection of Youth Offending Teams 2003–2008*, 56 PROBATION J. 286 (2009).

75. Hillian, Reitsma-Street & Hackler, *supra* note 55, at 349, 353, 359–62.

76. See BAZEMORE & SCHIFF, *supra* note 11, at 110; McCold, *supra* note 10, at 21; CRAWFORD & NEWBURN, *supra* note 61, at 184–215.

Victim Participation

The most prevalent criticism about NABs as a restorative practice is perhaps the inconsistent inclusion of victims in the decision-making process.⁷⁷ Victims, the argument goes, are both central and essential to true restorative practice, so their exclusion, whether intentional or circumstantial, limits the degree to which the process can truly be considered restorative.⁷⁸ Without active victim participation, the practice may become yet another punitive, deterrent, rehabilitative, or reintegrative offender-focused intervention designed exclusively for and about offenders and their needs.

Karp and Drakulich found that as many as 90 percent of victims failed to participate in the reparative board process.⁷⁹ Some were inadequately contacted by the VDOC and some were not interested in participating.⁸⁰ However, among those who did participate, the vast majority were satisfied with the process and the outcome of the case.⁸¹ Crawford contends that victim inclusion is hampered by two factors: the manner in which concern for youthful *offenders*⁸² dominates the process and, likewise, the fact that “[p]resenting victims with *real* choices over attendance, input, and participation requires adaptations of cultural assumptions and working practices” that are not designed with victims in mind.⁸³

The challenges presented by incorporating the needs, interests, and participation of victims is exacerbated by cultural and systemic expectations that do *not* include victims as key stakeholders in any justice process, either in the United States or abroad. An examination

77. Bazemore & Griffiths, *supra* note 2, at 34; Crawford, *supra* note 56, at 695–96; Kathleen Daly, *Justice in Many Rooms*, 3 CRIM. PUB. POL’Y 651, 652 (2004); David Karp & Kevin Drakulich, *Minor Crime in a Quaint Setting: Practices, Outcomes, and Limits of Vermont Reparative Probation Boards*, 3 CRIM. PUB. POL’Y 655 (2004); BAZEMORE & SCHIFF, *supra* note 11, at 206–09; Rodriguez, *supra* note 12, at 103; CRAWFORD & NEWBURN, *supra* note 61, at 213.

78. HOWARD ZEHR, CHANGING LENSES: A NEW FOCUS FOR CRIME AND JUSTICE 184 (3d ed. 2005); McCold, *supra* note 10, at 15.

79. Karp & Drakulich, *supra* note 77, at 666–67.

80. *Id.* at 666.

81. *Id.* at 667.

82. Crawford, *supra* note 56, at 695.

83. *Id.* (emphasis added).

of Youth Offender Panels in the United Kingdom revealed that roughly 30 percent of identifiable victims were never notified about panel meetings.⁸⁴ A significant number of victims who *were* notified felt that their involvement and participation in the panel meeting was limited, and 70 percent of victims who left the meeting early reported not receiving any information about the content of the eventual contract.⁸⁵

The NAB model has among the lowest victim participation rates of all restorative approaches. Victims' advocates suggest that this is a fundamental flaw among *all* restorative practices and that as long as victims remain a peripheral part of an offender-oriented, adversarial, and retributive justice system, they will never be fully and adequately recognized as critical participants in the justice process.⁸⁶

*Exclusivity: Identifying, Defining and Understanding
the Role of the "Community"*

A variety of conceptual issues surround both intentions and experiences of NAB community involvement, and both the boundaries and definition of "community" are ambiguous. Braithwaite and Mugford and others contend that the appropriate definition of community in restorative processes is the "community of care," or those persons who define themselves as having been directly or indirectly affected by the event.⁸⁷ With NABs, however, community is also a geographical consideration—that is, members of the local neighborhood tend to be the designated community representatives. Nonetheless, there is no apparent reason why NABs could not incorporate both the community of care and the broader community of place. Indeed, there are examples of neighborhood programs offering a wide range of conferencing options incorporating a broad approach to community representation as well as establishing a strong neighborhood-centered volunteer base. As suggested earlier,

84. CRAWFORD & NEWBURN, *supra* note 61, at 185.

85. *Id.* at 205.

86. SUSAN HERMAN, PARALLEL JUSTICE FOR VICTIMS OF CRIME 51 (2010).

87. *See generally* Braithwaite & Mugford, *supra* note 1.

such programs build on parochial controls while also tapping into and supporting the private controls of families.

Crawford claims that community involvement is crucial to empowering offender behavioral change, and that localized practices which are fostered, administered and “owned” by volunteers enable a more dynamic and inclusive dialogue in response to youth crime.⁸⁸ Others contend that “community” representation on NABs is exclusive and non-representative, and therefore neither “includes” nor involves the young offenders being sanctioned. Some United Kingdom Youth Panels seem to have done well at reflecting community membership,⁸⁹ while others have been less successful at engaging a representative cross-section of community members.⁹⁰ In relatively ethnically homogenous Vermont, NABs seem to have recruited a large and fairly representative group of community members, as have NABs in a predominantly African-American neighborhood in Albany, New York.⁹¹

These disparate examples indicate the robustness of NABs, but also beg the question of why some are able to become centers of community support and collective efficacy while others are not. While Vermont’s demographics may lend itself to successful board practice because of its rural, homogenous, and relatively crime-free milieu, Boyes-Watson speculates as to whether this model is transferrable to urban, heterogeneous, high-crime communities that suffer from high rates of poverty, low education, large families, high unemployment, poor schools, densely populated public housing projects, active street gangs, open-air drug markets, prostitution, deteriorated housing stock, and limited capital investment.⁹² While such considerations have not been empirically examined, increasing numbers of culturally and economically diverse states such as Arizona, California, and Oregon continue to implement variations on the reparative board model.⁹³

88. Crawford, *supra* note 56, at 695.

89. *Id.* at 697–98.

90. CRAWFORD & NEWBURN, *supra* note 61, at 77–79.

91. Karp & Drakulich, *supra* note 77, at 697; Karp, Bazemore & Chesire, *supra* note 13.

92. See Carolyn Boyes-Watson, *The Value of Citizen Participation in Restorative/Community Justice: Lessons From Vermont*, 3 CRIM. PUB. POL’Y 687, 689–90 (2004).

93. See, e.g., Karp, Bazemore & Chesire, *supra* note 13, at 502–03 (indicating that the

A potential challenge to community representativeness on NABs is that only those community members with time, willingness, and interest will choose to serve. That typically leaves retirees, non-working adults without young children, and other self-selected groups. The degree to which such limited representation affects outcomes is unclear. Karp, Bazemore, and Chesire found that, unlike the offenders they held accountable, Vermont representatives tended to be older and white, with both very “stable residence histories” and surprisingly strong educational backgrounds.⁹⁴ Offenders, on the other hand, tended to be younger, poorly educated, often minority men.⁹⁵ Moreover, civic-minded volunteer programs like NABs tend to attract representatives who may share agendas, values, and perspectives, which—as Karp and Walther contend—may or may not be consistent with those of their intended recipients. Karp and Walther contend that such volunteers may not truly represent the offenders and their respective communities, thereby limiting the degree to which offenders feel empowered by the process.⁹⁶ Moreover, as a central goal of community justice is to reintegrate offenders back into their communities, critics question whether older, middle-class adults are truly capable of understanding what it takes to successfully reintegrate a poor youthful offender of color into a community about which they know little. In order to make restoration meaningful, defining “community” and ensuring that representative volunteers are included in decisionmaking is crucial to successful offender reparation and reintegration.⁹⁷

Understanding community roles requires consideration of the degree to which such self-selected and potentially non-representative community members may detract from offenders’ civil and constitutional rights to a fair trial, a jury of their peers, and equal

“civic mindedness of [Vermont] long-term residents[] and the time availability of retirees” explains the predominant demographic representation of board members).

94. *Id.* at 493.

95. *Id.* at 503.

96. David R. Karp & Lynne Walther, *Community Reparative Boards in Vermont: Theory and Practice*, in *RESTORATIVE COMMUNITY JUSTICE: REPAIRING HARM AND TRANSFORMING COMMUNITIES* 199, 214 (Gordon Bazemore & Mara Schiff eds., 2001).

97. See Adriaan Lanni, *The Future of Community Justice*, 40 HARV. C.R.-C.L. L. REV. 359, 380 (2005).

treatment under the law. Moreover, the degree to which offenders feel coerced into either participating or agreeing to conditions set by the NAB remains ambiguous. While offender rights may only be modestly protected in traditional court processes, there are at least minimal provisions for their preservation, as well as recourse for abuses that do not exist in voluntary NAB boards.⁹⁸ When compared with traditional judicial processes, Karp and Drakulich suggest that the voluntary nature of NAB community membership and the inability of *pro se* juvenile offenders to contest the inclusion of particular NAB members (as they otherwise could during jury *voir dire*) may result in less representative participants than are present on traditional juries.⁹⁹

Though evidence from empirical studies of *other* restorative processes suggests participants perceive high levels of procedural fairness, a distinct lack of empirical data about NABs makes it difficult to decipher the degree to which young offenders *truly* feel that their rights have been protected or denied by the NAB process (or the court, for that matter).¹⁰⁰

Punitive, Authoritarian or Limited Sanctioning Options

In addition to the general pattern of low victim participation, another early critical response to NABs was the court-like, and allegedly punitive, atmosphere in some communities (e.g., in some Vermont neighborhoods). While later research on NAB member attitudes indicated far stronger advocacy for restorative and reintegrative approaches (and an almost complete absence of support for punitiveness),¹⁰¹ a more court-like structure has clearly survived in some NABs.

Due to limited or inadequate training, NAB members become prey to the routinization of cases and agreements, leaving little room for creativity and diluting the very flexibility that characterizes the restorative process and is essential to repairing harm, making

98. Karp & Drakulich, *supra* note 77, at 678–79.

99. *Id.* at 679.

100. See, e.g., James R. Bonta et al., *An Outcome Evaluation of a Restorative Justice Alternative to Incarceration*, 5 CONTEMP. JUST. REV. 319, 331 (2002).

101. Karp, Bazemore & Chesire, *supra* note 13, at 498, 500, 503.

restitution, and reintegrating victims and offenders. In the United Kingdom, inconsistencies in the quality of facilitators and volunteers in restorative justice practices have generated a call for the creation of an accreditation process to address the training needs of volunteers.¹⁰²

Finally, there is the potential that youth and adults sanctioned through NABs who fail to meet their obligations may be subject to increased, harsher, or longer sanctions upon being called to account for such failure. As is common among traditionally-sentenced offenders who violate conditions of probation, failing to satisfy conditions set by the NAB may result in additional sanctions imposed, or possibly even jail time as an expression of the court's dissatisfaction with the offender's efforts. While this may not differ from traditional processes, it seems important that a restorative process not fall prey to the same punitive recourse inflicted by the court.

Community Volunteer Engagement and Training

A particularly powerful aspect of NABs is their reliance on volunteer panel members who are seen by both victims and offenders as people who care and are genuinely invested in the process, as opposed to people who, like their judicial counterparts are compensated for their participation in the process.¹⁰³

Identifying and recruiting a diverse and qualified pool of volunteers and then providing them with adequate training and support remains challenging for NABs in light of the considerable inconsistency among NAB volunteers' training, backgrounds, and experiences.¹⁰⁴ NABs require a specialized pool of volunteers who are expected to perform a difficult task requiring both a basic understanding of the criminal justice system and an intimate knowledge of services and needs within the community. In addition, Boards may "require a significant and ongoing time commitment."¹⁰⁵

102. Gavrielidés, *supra* note 56, at 416.

103. Karp, Bazemore & Chesire, *supra* note 13, at 505–06.

104. Hansen, *supra* note 39, at 20; Karp & Drakulich, *supra* note 77, at 660–61; Boyes-Watson, *supra* note 92, at 689.

105. Lanni, *supra* note 97, at 381–82.

These requirements may deter ordinary citizens from volunteering and attract only activists and the fortunate few with spare time for extensive volunteer activity. For example, when the Salt Lake reparative board program was created, there was such a poor volunteer response that the initial board members were chosen largely through personal contacts of the prosecutor. Susan Olson and Albert Dzur have pointed out that in recent years an additional problem has surfaced in the Vermont reparative board program. Citizen board members have begun to manifest signs of professionalization by holding annual conferences, setting up e-mail networks, and requesting recognition as paid officers. Rather than providing a mechanism for popular participation in the criminal justice process, there is a danger that . . . reparative board programs will result in transferring sanctioning power to unrepresentative, unelected individuals, effectively creating “mini-judges” who have no specialized training or educational background for the job.¹⁰⁶

STRENGTHS OF THE NAB MODEL

Despite their drawbacks, NABs also include a variety of benefits often missed by restorative justice “purists.”¹⁰⁷ Advocates suggest that NABs may accomplish a variety of other objectives not addressed by other restorative models: increased accountability for offenders who might otherwise receive neither services nor sanctions, cost savings (compared to traditional court processing), potentially better case management than that offered by overwhelmed and overburdened probation officers, and offender reintegration through community involvement and perhaps some form of civic engagement.¹⁰⁸ We focus here on several positive aspects of NABs often overlooked by restorative justice theorists, including the benefit of a localized response to crime and harm; the capacity of NABs to engage a large and dedicated cadre of volunteers who may ultimately

106. *Id.* at 382.

107. McCold, *supra* note 10, at 143.

108. NIETO, *supra* note 6, at 15–16.

raise local collective efficacy at problem solving and government mobilization; and the possibility that “less is more” when considering the appropriate amount of intervention to respond to relatively minor crimes and offenders.

Community Collective Efficacy

The neighborhood location of NABs places victim and offender within the community, thus contextualizing the impact of crime. This localized and relatively immediate response to crime may serve to build a local capacity for general problem-solving, as well as an increased guardianship and mentoring of neighborhood youth. Restorative programs located within the court or other judicial entities, on the other hand, may struggle to engage key stakeholders and effectively address victim, offender, and supporter concerns (as well as the harm itself) without this important neighborhood locus. Alternatively, the local NAB may have greater success at engaging the community and empowering citizens to understand, manage, and redefine the nature of their crime and justice problems, as well as the role of the government systems dedicated to serving them. Moreover, the best NABs have access to a standing cadre of volunteers who bring a range of perspectives and resources to address the harm or conflict, and can take some action even when victim or offender do not appear at the conference.¹⁰⁹

Healthy neighborhoods that successfully self-govern often have well-developed and varied mechanisms for neighborhood decision-making and action, long traditions of political activism and local organizing, and have attracted support for several community-building initiatives funded by government and private foundations.¹¹⁰ On the contrary, neighborhoods affected by high crime and incarceration rates are likely to be disparate, transient, and disconnected residential urban enclaves in which residents do not feel any natural sense of connectedness.¹¹¹ Of course, NABs are not

109. See BAZEMORE & SCHIFF, *supra* note 11, at 205–06.

110. Robert J. Chaskin, *Fostering Neighborhood Democracy: Legitimacy and Accountability Within Loosely Coupled Systems*, 32 *NONPROFIT & VOLUNTARY SECTOR Q.* 161, 165 (2003).

111. Sandra O’Brien & Gordon Bazemore, *A New Era in Governmental Reform: Realizing*

immune to the milieu of the neighborhoods in which they reside and will reflect this same organizational capacity. Despite this, NABs can hopefully provide an opportunity to engage residents in the justice decisionmaking of which they are typically simply passive recipients.

One of the most important principles of restorative justice is to redefine the roles and relationships between communities and their governments—that is, to shift the role of government from that of authoritative decisionmakers to facilitative problem solvers.¹¹² In a restorative structure, government no longer “tells” communities what they need and what will be provided for them, but rather responds to the requests of communities who have defined their own needs and then requested the support of government professionals to accomplish those objectives. Communities then marshal their own resources, particularly those not available to or through government pathways, to accomplish goals that meet both government and community needs. NABs provide a convenient and viable mechanism for fulfilling this principle.

The presence of a NAB demonstrates community commitment and organization in support of the criminal justice system.¹¹³ Through NAB participation, community members ultimately may learn new skills and enjoy increased confidence in their capacity to solve local problems, and not simply just those limited to criminal and juvenile justice issues.¹¹⁴ Thus, NABs may have an important role to play in building community collective efficacy and in shifting the relationship between government professionals and community members. Moreover, NAB members may develop relationships with local employers as a way of helping offenders reintegrate and prevent future offenses,¹¹⁵ thus enhancing community capacity for civic engagement and youth development.¹¹⁶

Community, 4 PUB. ORG. REV. 205, 213 (2004).

112. VAN NESS & STRONG, *supra* note 24, at 46–48; BAZEMORE & SCHIFF, *supra* note 11, at 68–88; O’Brien & Bazemore, *supra* note 111; at 207.

113. NIETO, *supra* note 6, at 16.

114. *Id.*; O’Brien & Bazemore, *supra* note 111, at 213.

115. O’Brien & Bazemore, *supra* note 111, at 216.

116. Gordon Bazemore & Jeanne B. Stinchcomb, *Civic Engagement and Reintegration: Toward a Community-Focused Theory and Practice*, 36 COLUM. HUM. RTS. L. REV. 241, 251–52 (2004); Gordon Bazemore & W. Clinton Terry, *Developing Delinquent Youths: A*

Collective efficacy may also include developing and maintaining civic engagement projects for NAB-served youth. Bazemore contends that if community service sentences are completed in a neighborhood setting where both victim and offender reside, meaningful sanctions can not only contribute to neighborhood well-being, but also engage youthful offenders who are monitored by involved neighbors.¹¹⁷ For example, in Deschutes County, Oregon, youthful offenders sentenced to community service built houses in partnership with Habitat for Humanity.¹¹⁸ As a result, those offenders made lasting, positive contributions to improving the lives of fellow community members while simultaneously erecting permanent monuments that will serve as visible reminders of both community reparation and the benefits of sweat equity. These sorts of community service projects, when designed and carried out by NABs, can promote collective efficacy not only by increasing both adult problem-solving and normative standard setting, but also by encouraging youth development and productive civic engagement.

*Modernity, Weak and Strong Ties, and Restorative Process:
When "Less is More"*

The presumptive answer to the important "why-it-works" question in much of the restorative justice literature is "the reintegrative shaming process" and an increase in offender empathy and remorse. While important, these explanations that are grounded in the emotional *affective* impact of strong family interaction and influence may bypass or de-emphasize the role of more *instrumental* connections that could otherwise create new opportunities for reintegration and healing for both victims and offenders.

On the other hand, some theorists and researchers speculate that restorative justice processes achieve their sustained effects on reoffending due in part to their ability to facilitate prosocial connections and create relationships of "social support." These, in

Reintegrative Model for Rehabilitation and a New Role for the Juvenile Justice System, 74 CHILD WELFARE 665, 696–98 (1997).

117. Gordon Bazemore, *Whom and How Do We Reintegrate? Finding Community in Restorative Justice*, 4 CRIMINOLOGY & PUB. POL'Y 131, 136 (2005).

118. Mahoney & Holcomb, *supra* note 44, at 309.

turn, make important differences for offenders throughout their life.¹¹⁹ Some of these relationships are indeed based on strong emotional ties, but empirical studies find that resilient young people who, despite exposure to high risk environments, stay clear of involvement in crime or other deviant behavior (e.g., drug abuse) may have done so through instrumental, rather than affective, relationships.¹²⁰

In the view of some restorative advocates, NABs may seem inferior because they appear not to evoke the strong expressions of emotion commonly experienced with other restorative models. However, the social support component of NABs may be different in its relative reliance on what sociologists have referred to as the *weak ties*¹²¹ established by community volunteers with victims, offenders, and their respective supporters. “Strong ties,” on the other hand, are those associated with extended families and traditional communities that rely heavily on emotive social control and support. For example, early immigrants to the United States naturally found support and comfort in extended families bound together by strong familial and cultural ties.¹²²

“Weak ties,” however, such as those potentially produced by NABs, are primarily those needed to find a job, gain access to higher education, get support from a mentor, and achieve other necessary goals. For the most part, restorative conferencing approaches such as family group conferencing and victim-offender mediation in particular, essentially rely on the impact and input of immediate and possibly extended family in their attempt to engage the *strong ties* of the family group. Conferences for young and adult offenders that include parents, grandparents, aunts, or other relatives tend to draw upon the strong ties designed to evoke emotional reactions from offenders and victims who realize that they are both supported (and,

119. Gordon Bazemore, *The Fork in the Road to Juvenile Court Reform*, 564 ANNALS AM. ACAD. POL. & SOC. SCI. 81, 88 (1999); Cullen, *supra* note 18, at 542–45; BRAITHWAITE, *supra* note 1, at 30.

120. Bonta et al., *supra* note 100; EMILY E. WERNER & RUTH S. SMITH, OVERCOMING THE ODDS: HIGH RISK CHILDREN FROM BIRTH TO ADULTHOOD 70 (1992).

121. Granovetter, *supra* note 19, at 1361.

122. Coser, *supra* note 19, at 242–43.

in the case of offending youth, held accountable) by family and extended family.¹²³

We suggest that NAB practitioners have a choice that varies at the extremes from a practice that essentially operates as a weak “court” with little stakeholder input or authority and where citizens act as “juries” in very minor cases, to a viable community-based program capable of bringing citizens together for prevention and intervention at the neighborhood level. NAB practice may be (appropriately) less intensive in response to some minor crimes and harms. Yet, it is possible that NABs appeal to different theories of change, and specifically to the *instrumental*, rather than *affective*, emotional ties that can result in basic, utilitarian skills and community engagement. Indeed, both kinds of ties are important for different reasons, and each can be linked directly to distinctive theories of change.

In contrast to the strong ties of Durkheim’s *gemeinschaft* societies, which rarely reached beyond extended family,¹²⁴ weak ties such as those that engage the input and assistance of neighbors, or even strangers, may mobilize both support for victim and offender as well as disapproval of behavior that harms individuals and communities. While restorative conferences may feature some mixture of both strong and weak tie focus, the more frequently discussed family group conferencing model appears to build on the “strong ties” of the traditional extended family. NABs, on the other hand, may meet different needs and even address different harms than other restorative practices; intentionally capitalizing on the “weaker” instrumental ties that bond larger groups of community members together without the strong emotional or “affective” component of families.

Moreover, as NAB members may include neighbors and possibly family members, an offender’s propensity to commit new crimes against their immediate and intimate community of care may

123. See Lawrence W. Sherman, *Reason for Emotion: Reinventing Justice with Theories, Innovations and Research—The American Society of Criminology 2002 Presidential Address*, 41 *CRIMINOLOGY* 1, 15 (2003).

124. See generally EMILE DURKHEIM, *MORAL EDUCATION: A STUDY IN THE THEORY AND APPLICATION OF THE SOCIOLOGY OF EDUCATION* (Everett K. Wilson ed., Everett K. Wilson & Herman Schnurer trans., 1961) (1925).

substantially decrease.¹²⁵ Bazemore and Schiff's qualitative research suggested increased connections between adults and youth participating in NABs because, as some adult NAB volunteers reported:

- “We aren't getting paid to do this.”
- “We can exercise the authority that parents have lost.”
- “We live in their community.”
- “We give them input into the contract.”
- “We catch them off guard.”
- “We have been there, we can relate.”
- “They hear about the harm from real human beings—us and the victims.”
- “We follow-up.”¹²⁶

Finally, members may also take on a variety of tasks that expand their social justice roles¹²⁷ in developing the community's capacity to both prevent and intervene in events of crime and disorder.¹²⁸ Such ties more commonly strengthen instrumental, rather than simply emotional, connections with neighbors, teachers, employers, and community leaders, as well as families.

CONCLUSION

In this Article, we have considered a restorative justice process model—neighborhood accountability boards—that has become quite popular while also occasionally finding itself maligned by advocates of other restorative models. Three of the four major restorative

125. See Jeff Randall, Cynthia Cupit Swenson & Scott Henggeler, *Neighborhood Solutions for Neighborhood Problems: An Empirically Based Violence Prevention Collaboration*, 26 HEALTH EDUC. & BEHAV. 806, 807 (1999).

126. BAZEMORE & SCHIFF, *supra* note 11, at 307.

127. See Karp & Walther, *supra* note 96, at 209.

128. BAZEMORE & SCHIFF, *supra* note 11, at 308; Gordon Bazemore, *Restorative Justice: Theory, Practice, and Evidence*, in 21ST CENTURY CRIMINOLOGY: A REFERENCE HANDBOOK 750, 755 (J. Mitchell Miller ed., 2009).

process models, including NABS, have been shown in numerous impact evaluations to be effective in delivering crime victim satisfaction, reducing recidivism, and other desirable outcomes.¹²⁹

While all models have strengths and weaknesses, NABs potentially offer a neighborhood-based approach that can incorporate restorative processes as well as enhance social capital for the purpose of building collective efficacy. In practice, NAB models may appear similar to other models and may even choose to incorporate elements of other conferencing dialogue processes such as peacemaking circles or family group conferencing in specific situations. We argue here that NABs' *theoretical* strength is in their appeal to the value of *weak ties* that may provide essential instrumental support and guidance to offenders and victims. Their *practical* strength is their capacity to build collective efficacy at the neighborhood level through encouraging and engaging community members to become involved in local youth and justice issues.¹³⁰

Restorative programs in general provide important opportunities for neighborhoods and their occupants to come together to improve safety and support for their families. *Parochial controls* (such as those imposed by neighborhoods, schools, and faith-based institutions) that are enhanced by *private* controls (such as those offered through strong family ties) may ultimately minimize the need for strong *public controls* by police or the courts.¹³¹ Restorative processes and outcomes that build individual and collective skills may contribute to the "bonding social capital" needed to enable the collective to affirm and enforce its norms and values. This may then transform into "bridging social capital"¹³² that can be used to leverage government resources to support community members, as well as provide a link between families, their neighborhood institutions, and

129. See, e.g., Mark S. Umbreit, Betty Vos, Robert B. Coates & Elizabeth Lightfoot, *Restorative Justice in the Twenty-First Century: A Social Movement Full of Opportunities and Pitfalls*, 89 MARQ. L. REV. 251 (2005); Rodriguez, *supra* note 12, at 123; Bonta et al., *supra* note 13, at 251–52; Bonta et al., *supra* note 100, at 331–32.

130. See Robert J. Sampson, Stephen W. Raudenbush & Felton Earls, *Neighborhoods and Violent Crime: A Multilevel Study of Collective Efficacy*, 277 SCI. 918, 923 (1997).

131. See Hunter, *supra* note 22, at 238.

132. PUTNAM, *supra* note 18, at 22–23.

public controls and supports.¹³³ This may, as in the current example, at least indirectly address social justice issues that can ultimately improve the conditions and efficacy of localized neighborhood institutions.¹³⁴ Ideally, when well-envisioned, managed, and maintained, NABs may offer the possibility of an efficacious, community-building, decisionmaking model that capitalizes on strengths not found either in other restorative models or in any available justice strategy.

133. See Hunter, *supra* note 22, at 239.

134. See Karp & Walther, *supra* note 96, at 209.