

Fairfax County Virginia's Integrated Restorative Justice Program

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By the end of 2013, Fairfax County will have in place a unique, integrated trio of restorative justice programs for juveniles, where county schools, juvenile courts and police officers can refer cases for restorative justice handling. Although many county school, court and police personnel are receiving restorative justice training, many of the cases will be facilitated by trained professionals under the aegis of a non-profit organization, the Northern Virginia Mediation Service (NVMS) and paid under a memorandum of agreement with Fairfax County.²

NVMS designed its core school-based program in 2007 and with progressive Fairfax County agencies has nurtured a deep-rooted partnership marked by commitment, cooperation and collaboration. The effort has led to a two-year old juvenile courts-based RJ program and a police-based RJ program now emerging in 2013. While the three programs are not identical and are at different levels of maturation, their focus on juveniles has linked them; information sharing is high and they are all true to core restorative justice principles.

Three Restorative Justice Programs in a Nutshell

NVMS-School Program

The NVMS-school RJ program is the oldest NVMS RJ program. In 2007 NVMS commissioned a select group of mediators to design a restorative justice program. Drawing mostly on core restorative justice principles enunciated by Howard Zehr of Eastern Mennonite University and others, the NVMS group designed a RJ program focused on juvenile court offenders in Fairfax County, the largest county in Northern Virginia. Fairfax County, VA, is a large county of 395 square miles and a population of over one million residents.

Early on NVMS elected to redirect its program at the Fairfax County Public Schools (FCPS). The FCPS is the nation's 11th largest school district, operates about 200 schools and serves about 185,000 ethnically diverse students.

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² The Northern Virginia Mediation Service, Fairfax, VA, is a local, non-profit organization offering a variety of conflict resolution services, including restorative justice facilitation, training and consulting for local courts, public schools, police departments and communities. Although principally active in Fairfax County, NVMS also works with other jurisdictions in Northern Virginia and the greater Washington, DC region. www.nvms.us,

Choosing the 3,000-student Westfield High School in Chantilly, Virginia, as a potential pilot, NVMS facilitators handled the first case in June 2008, at the very end of the 2008 fiscal year. All FCPS schools are eligible to participate: its base schools (elementary, middle, secondary, high schools) and alternative schools and centers as well. However, most of the case referrals to date have come from a handful of high schools and middle schools.

The NVMS-FCPS Program is centered on offering an alternative to traditional discipline processes, consistent with the FCPS' "Student Rights and Responsibilities," (SR&R), Chapter II Rules of Conduct and Disciplinary Procedures. Significantly, for the 2014 fiscal year the SR&R has undergone significant revisions to include and promote use of restorative justice for discipline matters where appropriate.

The FCPS has in place no less than 129 codes reserved for disciplinary infractions. While the discipline cases referred to NVMS are diverse, they tend to be concentrated in a handful of categories, e.g., fighting, bullying, hostile and threatening behavior, disrespect, and property-related offenses. More recently, attendance was added.³ In addition, for students whose past discipline infractions led to their assignment away from base schools to highly structured alternative learning centers, base school principals have been given the option of employing restorative justice for base school re-entry conferences. The Program has not yet handled extreme discipline matters (e.g., substance abuse, aggravated assault and weapons); however, based on practice experience in other jurisdictions in the juvenile justice arena, restorative justice processes would be well-suited for such applications.

FCPS' restorative justice approach is not monolithic but encompasses a continuum of restorative justice practices keyed to the nature of the situation and whether the objective is prevention or intervention: restorative conversations, classroom circles, conflict circles, attendance circles, restorative justice conferences, re-entry conferences and restorative behavior intervention seminars. Of these possibilities, NVMS facilitators have been employed mostly for conflict circles and conferences.

Cases are referred by senior administrative staff although other school professionals are increasingly involved. For example, where special education students are involved school counselors offer useful support. Where cases present possible crime implications, School Resource Officers (SROs), police officers assigned to schools, can be involved too.

NVMS employs a 2-facilitator model for each case. The NVMS-FCPS Program draws on an NVMS pool of about twenty trained facilitators, many of whom also are certified and

³ Virginia's recent decision to decouple class attendance from classroom grades has generated a huge spike in attendance problems leading to several cases referred to the NVMS-FCPS Program; virtually all of these cases are handled in circles comprising a group of students with attendance problems and usually segregated by gender.

practicing mediators, and all must satisfy Fairfax County background checks. Although NVMS facilitators are available to handle cases for all of the FCPS schools and serve many, NVMS facilitators for a time had a scheduled onsite presence in two of the county's largest schools and those schools generated most of the referrals. The onsite schedule deserves special mention for several reasons: it gives facilitators a better sense of the ebb and flow of the school day; it generates more cases; and it presents more opportunities for informal consulting with a wider group of school staff. Nonetheless, starting with Fiscal Year 2012 FCPS elected to eliminate NVMS' onsite presence at designated schools in favor of a program that would encourage broader school participation in a very large, very diverse school district.

Two NVMS RJ program co-coordinators allocate referred cases, maintain records, and participate with FCPS staff in FCPS restorative justice training several times a year for school personnel. The program co-coordinators also engage in frequent outreach efforts, including presentations at conferences, briefings for local groups on request, articles for newsletters, webinars, etc.⁴ A seven-person leadership team manages NVMS team issues, and the entire NVMS team holds frequent team meetings.

Under an NVMS-Fairfax County memorandum of understanding reviewed annually, NVMS facilitators receive modest stipends on a case-by-case basis and co-coordinators receive an extra allowance for scheduling and basic recordkeeping. Members of the NVMS RJ leadership team also assist in FCPS training and mentoring trained but inexperienced school personnel and receive a modest hourly training fee. NVMS itself receives a modest allowance for administration (e.g., accounting, invoicing, file maintenance, training, planning support and hosting meetings for RJ team activity).

In its first five full years of activity the project has grown swiftly:

<u>Fiscal Year</u>	<u>No. of Cases</u>	<u>Funding</u>
2009	8	Fairfax County grant
2010	32	Fairfax County grant
2011	78	Reprogrammed FCPS grant funds
2012	14	Private donations

⁴ See, e.g., David T. Deal, "School-Based Restorative Justice: Ten Lessons Learned, 3rd National Conference on Restorative Justice, Raleigh, Panel on School-Based Restorative Justice, North Carolina, June 8-11, 2011. See also NVMS' March 13, 2013, practice-oriented webinar, "Restorative Justice Applications in Our Community and Yours," <http://www.adrhub.com/forum/topics/march2013webinar>.

2013	52	FCPS budget
2014	TBD	FCPS budget

NVMS-Juvenile Court Program

Based on the NVMS-FCPS RJ program success, in 2011 Fairfax County's Juvenile & Domestic Relations Domestic Court (JDRDC) hired NVMS to train a cadre of youth services professionals, mostly probation officers, and have its most experienced facilitators mentor newly-trained JDRC facilitators via a co-facilitation arrangement.

The NVMS-JDRC arrangement resulted in 14 cases over a two-year period and in early 2013 JDRDC elected to renew and fund its project for Fiscal Year 2014.

NVMS-Police Department Program

In early 2013 the Fairfax County Police Department (FCPD) decided to explore an RJ program itself which would allow school-based SROs and patrol officers in the community to refer juveniles directly to RJ, thereby avoiding court involvement for select, minor crimes. There followed a series of meetings in the March-August 2013 period where a small group of NVMS, FCPS, JDRDC and FCPD representatives discussed how an FCPD RJ program might be integrated with the existing FCPS and JDRDC programs each of which employ NVMS facilitators to complement trained County facilitators.

While the Fairfax County schools, juvenile courts and police are fundamentally different organizations with different missions and different operations protocols, from the outset the group recognized that appropriate handling of juveniles was common ground. By mid-summer 2013 the group reached the consensus that integration made sense and endorsed prompt start-up of the NVMS-FCPD segment once some important operations matters were examined: processes for handling funding, inter-agency and facilitator-referrer communications, common database management, compliance monitoring, and other administrative matters. For the upcoming year, a modest number of cases are expected and the pilot project is expected to yield important information that should smooth integration.

Although the NVMS-Police Department program is not yet operational, its character is simple. Unlike the NVMS-FCPS school program and NVMS-JDRDC juvenile court program where trained Fairfax County professionals and facilitate RJ cases, under the NVMS-FCPD program SROs and patrol officers do not contemplate being facilitators, only referrers. Where the offense is school-related, the SRO confers with the school administrator and for appropriate cases, the matter is referred to FCPS headquarters where FCPS staff or NVMS facilitators handle the case. Where the offense is community-related, the patrol officer instead confers with the JDRDC intake staff; if eligibility requirements (i.e., no prior convictions) are satisfied, the case is

facilitated by NVMS or co-facilitated by NVMS and JDRDC facilitators. If neither the SRO nor patrol officer wants to refer the case to RJ but needs to take action, the case is filed in the ordinary manner and enters the court system, although JDRDC intake may still elect to divert the case to RJ, in which case JDRDC and NVMS facilitators handle the case as they have already been doing under the NVMS-JDRDC program

Six NVMS-Fairfax County Program Strategies That Made a Difference

Program details aside, at the heart of NVMS-Fairfax County restorative justice programming are five key features that have been central to our success and might offer other jurisdictions guidance.

1. Cultivate a sound working relationship with the client served. From the outset, NVMS has had a healthy working relationship with Fairfax County Public School professionals committed to a restorative approach. In the early years of the NVMS-FCPS RJ program, a few veteran FCPS professionals served as active liaisons with school administrators and conducted frequent RJ trainings and briefings for professionals throughout the system; for those early years specific case referrals came to NVMS directly from school administrators.

However, with FCPS' hiring of a full-time, very experienced RJ specialist, Vickie Shoap, in Fiscal Year 2011 the NVMS-FCPS protocols changed appreciably. First, the new RJ specialist undertook the compilation of an information package that identified core RJ materials and adopted a common RJ vocabulary culminating in a 60-page FCPS "Restorative Justice Facilitator Training Manual." The RJ specialist also began a three-level training program for school professionals that continues today.⁵ Process-wise, all case referrals from schools are now directed to the RJ specialist herself who employs rigorous screening criteria and, for RJ-suited cases, then decides to handle the case internally or refer it to NVMS for facilitation. Given the expanding restorative training within FCPS, many cases are handled by FCPS facilitators; however, given the increasing volume of cases in Fairfax County's almost 200-school system, many cases are referred to NVMS under an annually reviewed memorandum of understanding that prescribes facilitator qualifications, background checks, process consistency and payment arrangements.

Underlying all of this activity is a deeply rooted NVMS-FCPS partnership driven by personal commitment, collaboration and cooperation, greatly enhanced by the conspicuous lack of turnover among key NVMS facilitators. In addition to referring cases to NVMS for facilitation, the FCPS RJ specialist has further leveraged FCPS monies by employing the most experienced NVMS facilitators to assist in FCPS training, crafting sections of the training

⁵ FCPS employs a three-level RJ training regime: Level 1 Understanding and Applying Restorative Justice; Level 2 Facilitating Restorative Circles; Level 3 Facilitating a Restorative Discipline Conference.

materials, and mentoring trained but inexperienced FCPS facilitators. Lastly, beyond the NVMS-FCPS RJ program, FCPS' RJ specialist has been energetic in her advocacy of RJ among senior FCPS management and centrally involved in the broadening circle of RJ involvement to include other Fairfax County agencies outside FCPS, notably, the juvenile courts and police department.

2. Maintain a Competent Facilitator Pool. Without a pool of trained and reliable pool of facilitators who can deliver needed RJ services, no meaningful partnership can be sustained. While assembling a critical mass of people interested in restorative justice and conducting start-up training is itself a challenging, maintaining a pool competent and available to handle a large number of diverse cases is even more challenging for several reasons.

NVMS found that given the short fuse for many RJ cases, and the need for many cases to be handled during the day, the facilitator pool needed to include several retired or semi-retired people.

Trained facilitators, without hands on actual facilitation experience, are not ready to be lead conferences. Even with a crystal clear understanding of the model, practical considerations abound that can derail a well-planned process: unexpected substantive issues, logistical surprises (e.g., fire alarm), 11th hour reluctance on the part of a key participant, late arrival by a participant, unavailability of a co-facilitator, etc. The NVMS-FCPS Program uses several devices to bridge the training-practice gap and assure competency: limiting use of observers in favor of second chair facilitators; using a two-facilitator model; sharing actual experiences at monthly meetings of the entire pool and discussing issues that have arisen; scheduling mini-trainings on selected issues; periodic refresher training; encouraging supplemental training on an individual basis (e.g., classes at nearby Eastern Mennonite University); inviting guest speakers; and circulating helpful materials culled from key restorative justice centers (e.g., International Institute for Restorative Practices).

Lastly, the NVMS RJ team has just adopted a development track with four distinct skill stages: pre-certification, certification, lead facilitator and mentor. This certification scheme is expected to aid facilitator assignments and create incentives for facilitator skill development. While restorative practices are not identical to mediation and RJ facilitators need not be certified mediators, core mediation skills (i.e., comfort with neutrality, self-determination, confidentiality, listening skills) are especially well-suited to application of restorative practices.

3. Track Lessons Learned. Practice in actual cases is where the RJ "rubber hits the road" provides critical lessons for the programs. Irrespective of your ability to document evidence-based outcomes, collect your lessons learned. Such lessons are likely to encompass a wide range of topics: utility of a 2-facilitator model; importance of pre-conferencing; what preparations for a conference minimize distractions; how to deal with unexpected events or

issues, etc.⁶ While lessons learned information is fodder for articles and the like, their more important use is personal and team growth.

4. Adhere to Best Practices. NVMS and FCPS have collaborated in the formulation of Restorative Justice Best Practice Standards.⁷ Best practice standards are best viewed as a resource for facilitators that can identify preferred practices while recognizing that situations present themselves that make the preferred approach impracticable. Best practice standards are not a rigid set of rules and are not inherently constraining. For example, a co-facilitator may not be available, unforeseen issues may arise, etc. As a complement to restorative justice training and training materials, the FCPS Best Practices serve as a resource for facilitators, answering common “What if. . . ?” questions and identifying alternative approaches that stay true to basic restorative justice principles. NVMS expects that the Best Practice Standards it employs will not be limited to its FCPS experience and will evolve over time to suit application venues as case experience grows and lessons learned accumulate.

5. Document your experience. Given the emotional energy expended in many restorative justice sessions, once it is over, it is tempting to “call it a day” and not invest in the extra time soon thereafter to assure that an adequate record has been created. Maintaining an adequate record of the process is critical; this includes creating a file including signed consent forms, participant post-session evaluations, relevant notes, any written agreement, relevant follow up information, etc.⁸

An adequate record makes it possible for authorities to monitor the situation and follow up as necessary. An adequate record also allows the program to monitor itself, observe case trends, record outcomes, etc. An adequate record also offers facilitators and the referring authorities some protective evidence if some later criticism of the process surfaces. To facilitate record keeping the NVMS-FCPS Program has created an evolving package of materials inclusive of the key forms needed for an adequate record: a consent form, an agreement form, a participant and facilitator evaluation forms, a diversity form, and an agreement form or outcome summary form. Having copies of the appropriate forms ahead of time and routinely using them assures that adequate records are created.

⁶ See, e.g., David T. Deal, “School-Based Restorative Justice: Ten Lessons Learned,” 3rd National Conference on Restorative Justice, Panel on School-Based Restorative Justice, Raleigh, NC, June 8-11, 2011.

⁷ Vickie Shoap & David Deal, “Restorative Justice Best Practice Standards,” RESTORATIVE JUSTICE FACILITATOR TRAINING MANUAL 7-10, Fairfax County Public Schools (2013).

⁸ An “adequate record” varies depending on the restorative practice used. For example, while a full blown, formal joint conference lends itself to full documentation, a less formal circle typically does not involve consent forms nor lead to a written agreement.

6. Press for Evidence-Based Outcomes. Perhaps the most challenging task for a successful program is documenting evidence-based outcomes. Evidence-based outcomes are the cornerstone of maintaining adequate program funding, especially in a down economy where “soft” programs are in head-to-head competition with other, more concrete programs (e.g., providing food, clothing, lodging) and are vulnerable to budget cuts and non-renewal of grant funding. Toward this end, NVMS has undertaken a rigorous effort to assemble a refined database that will facilitate program monitoring, serious evidence-based research, inter-agency collaboration and, hopefully, government or foundation grants.

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