

# Program offers an alternative in justice system

## Initiative brings together victims and accused

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Staff writer

When a swastika was burned into a Brighton street 18 months ago, many in that community responded with anger and fear.

They condemned the action as bigotry, and held a candlelight vigil near the scarred pavement.

Rachel Rosen, though, was confused.

A Jew and the daughter of Holocaust survivors who lives in the neighborhood where the symbol was found, Rosen said one of the three boys involved — and one of the two who were later charged with a felony for their actions — had been a close friend of her daughter since middle school.

He'd been to their home for religious meals and had celebrated Jewish holidays with them. "It just made no sense that this was an act of anti-Semitism," Rosen said.

The community needed an explanation, the victims needed healing, and the boys needed to see the effect their careless actions had on people for whom the

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## Restorative

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Nazi symbol evoked intense emotion, she said.

Those things occurred, said Rosen, not because of a criminal conviction, but because of Partners in Restorative Initiatives — a nonprofit group dedicated to promoting healing by bringing together victims and their offenders to discuss the events that led them to one another.

In most cases, the court diversion program can mean a lighter sentence for defendants in exchange for a deeper acknowledgment of their actions, which victims often find more meaningful than punishment. Programs in other communities have been prolific, but locally only about a dozen cases go through the process each year, despite advocates on all sides of the judicial system.

The night the three boys met with more than 20 members of the Jewish community and others to hear how their actions had affected them was profound, Rosen said.

"I was so blown away. We all were," Rosen said. "It was really transforming for everybody and it was so powerful because it brought the boys to the understanding of how there can be really serious consequences for something that they thought was an innocuous prank."

It was a transformation that could not have happened through a typical criminal justice process, she said.

"Those three kids will never be the same again. They will think about the way they act," she said. "For all the money we would have spent on the judicial system, it wouldn't have accomplished that."

### REPAIR THE HARM

The overall goal of PiRI, which opens a two-day conference on restorative initiatives at Rochester Institute of Technology today, is to build communities and



Rosen



Newton



Green



Argento

resolve conflicts in three main areas: courts, schools and the community at large.

When working in schools and the community to address issues such as bullying or neighborhood conflicts, the group holds Peace Circles, which bring people together in classrooms, libraries and other locations "to build a sense of community and respect, helping to prevent conflict."

In the criminal justice system, PiRI acts as a bridge between victim and offender.

The offense can be as small as harassment, or as serious as assault or burglary, said Rev. Alan G. Newton, who directs the court segment for PiRI.

Typically, cases are referred to PiRI by a prosecutor, a defense lawyer, a judge or a victim themselves, Newton said.

If all the parties agree, the criminal proceedings are suspended.

The case is then assigned to a trained facilitator and a co-facilitator, who schedule a "community conference" — a 90-minute meeting at a location selected by the victim to include the facilitators, the victim, the offender, and others in the community who may have been affected by the offender's actions.

"We spend time talking about what happened, have the person who committed the offense share what they did, and have the people in the room talk about how it affected them," said Newton, who is also a trained facilitator.

"We focus on repairing the harm that's been done instead of focusing on the blaming."

At the end, "if people are feeling they are ready to move forward we come up with an agreement and

that's what is taken back to court."

In the case of the Brighton incident, community members came up with an agreement that included community service.

Rosen said she could not disclose the details of that agreement, but suggested that the service was "relevant to the Holocaust and issues of bias and prejudice."

Publicly, the case closed quietly.

On the day in August when the teens met in Brighton Town Court to face charges of misdemeanor of fifth-degree arson and a felony of first-degree aggravated harassment, acting Town Justice Robert P. Connors called the teens to his chambers individually, then took the bench and announced the two cases had been resolved privately.

Through their lawyers, the families of both teens declined comment for this story.

Rosen and Newton said a deep healing occurred behind the scenes, which is typical of PiRI's cases.

"There is a transformative moment for the victim that is really quite remarkable," Newton said.

In one case, for example, the father of a boy who'd been assaulted was consumed with anger and wanted to confront the offenders.

"Within 30 minutes of the conference the father said 'This is the first time since it happened that I've not been angry,'" Newton said.

Another case involved an elderly couple who'd been assaulted by drunker teens and were frightened to the extent that they were close to moving from their home and community.

When they confronted the young men responsible "who couldn't even remem-



Barraco

ber what they did except for what police reported what they did, the couple let go of their fear, and they stayed," Newton said.

"It's about restoring some sense of normalcy to their lives," Newton said of victims. "They get to ask the question: Am I the target? Why me? They are empowered because they get to participate in the outcome of what happens to them.

"That is a piece of our justice system that is almost always skipped over."

## UNDERUTILIZED DETERRENT

In some communities across the country, restorative justice agencies handle thousands of cases.

The local PiRI, however, handles just about a dozen cases per year, despite having facilitators "trained and ready," and despite having advocates among prosecutors, defense lawyers, and judges.

"We've been on a long road to convincing the justice system that this is worthwhile," Newton said.

District Attorney Mike Green said he "fully supports" the program, particularly in the town courts where roughly 25,000 misdemeanors and violations are handled annually: "In terms of trying to get it off the ground, we felt like that was the best place to get started."

His office refers numerous cases to PiRI, but not all end up in the process.

We are only one part of what has to be a three-part agreement between us and the defense and the judge," he said. "There are many more cases that we would have used it in, but we are only one of the legs to the stool."

When she was a town justice in East Rochester, now County Court Judge Victoria Argento was the leading advocate for the program.

She and her clerk, Kim Cammilleri, who is now Argento's judicial secretary, estimated they referred about 100 cases to the program.

Of those, about 25 or 30 were accepted for the process.

"We started with lower level violations cases, like harassment stuff, and grew into doing cases like resisting arrest with officers, drug violations. We were able to spread it pretty wide to a bunch of different areas," Cammilleri said.

"It seemed like it worked pretty well," Argento said. "Especially in a small town when you have misunderstandings between people who see each other all the time where conflicts occasionally come up."

Argento has not had any of her county court cases — typically more serious felony cases — move through the program, but is meeting with judges next week to try to promote the program.

Some speculate privately that defense lawyers are reluctant to allow their clients to participate because it requires an admission of culpability; or because they fear their client could make matters worse if they behaved inappropriately in the conferences with victims; or because they don't want to ask their clients to do more than is required.

Others, like Argento and defense lawyer Ted Barraco, who represented one of the defendants in the Brighton case, believe the resistance to the program is a lack of familiarity.

The Brighton case "was the first time I'd heard of it," Barraco said. "But under the proper circumstances, I could see it becoming very popular."

Restorative justice "made a lot of sense" for the swastika incident, he said, in which the defendants had no criminal history and no specific victim.

"In a typical criminal proceeding, the system doesn't take the real lives of the participants into account. So often you're either guilty or you're not,

## IF YOU GO

Walk-ins are welcome to the Partners in Restorative Initiatives' 2011 Western New York Restorative Justice Conference.

**When:** 8:00 a.m. today through 4 p.m. Friday.

**Where:** Rochester Institute of Technology, One Lomb Memorial Drive, Student Alumni Union.

**Cost:** \$200 for both days, \$125 for one day; for students, \$60 for two days, \$30 for one day.

**For more information:** Call (585) 473-0970 or go to Partners in Restorative Initiatives' website: [pirirochest.org](http://pirirochest.org).

and nobody seems to care about either the background of the defendant or the needs of the victim. But here, those things are brought into play," he said.

Both Green and Barraco questioned whether the program would be as effective in cases of severe assault or a history of problems between a victim and offender, but agreed with Newton that the program could be tailored to most crimes.

"In the more serious cases, it might not mean that the offender would not go to jail, but they could get a deeper insight into what they did," Newton said.

And that has translated into lower recidivism rates across the country in communities that have programs, he said.

"This is a way to diffuse a lot of that cycle," Newton said. "These young people go into the court system or the jail system and they start feeling victimized themselves and they lose any sense that they have harmed somebody."

"They've never heard that story of how they've harmed them, so they're going only with the sense of 'This is how I've been harmed, this is how I'm affected.' That's the warped perspective they end up having because they've missed out on that piece — they haven't heard from the people they've hurt." □