In the last issue of JustSouth Quarterly, my article, “Stop Casting Stones: The Failure of Punitive Crime Policy,” focused on what does not work in criminal policing. A key point to remember about the failure of punitive crime policy is that getting “tough on crime,” through more arrests, more incarceration, harsher sentences, and imposition of the death penalty contribute to a “vicious cycle” of violence itself.

Penitive crime policy incorrectly assumes that formal social controls, like the police and the criminal justice system, are the most important levers for controlling crime. They are not.

The most important things influencing whether or not someone commits a crime concerns whether or not she thinks they are doing right or wrong and whether the community that she belongs to thinks a particular action is right or wrong. Scholars call this “informal social control,” and it works through both “internal” controls like conscience, internalized moral norms, etc., and “external” controls constituted by an individual’s primary relationships, including loved ones, families, friends, peers, and the community.

Contrary to what many believe, offenders, even the most serious, obey the law most of the time, and even most people in communities with the highest levels of crime obey the law most of the time—and desire to do so. In Los Angeles, for example, there are approximately 400 organized gangs with about 65,000 gang members in the city. A 2009 estimate shows that there were 141 gang homicides. That means that 64,859 gang members (assuming one gang member per homicide), and at least 259 gangs, did not kill anyone that year.

So when the press or the public assumes that “guns have become the preferred method of dispute resolution,” it does not comport with the facts. As David M. Kennedy of the National Network for Safe Communities explains, “Far more often than not, good sense prevails.”

Contrary to what many believe, offenders, even the most serious, obey the law most of the time—and desire to do so. In Los Angeles, for example, there are approximately 400 organized gangs with about 65,000 gang members in the city. A 2009 estimate shows that there were 141 gang homicides. That means that 64,859 gang members (assuming one gang member per homicide), and at least 259 gangs, did not kill anyone that year.

First, too often, the criminal justice system fails victims. Imprisoning a perpetrator does little for the ongoing suffering of victims. The U.S. bishops lament how the system “neglects the hurt and needs of victims or seeks to exploit their anger and pain to support punitive policies.” In human dignity the bishop calls the faithful “to stand with victims in their hurt and in their search for healing and genuine justice. This includes, of course, the children of the incarcerated, who themselves are seriously harmed by their parents’ misconduct.”

Second, perhaps ironically, the traditional system does not call offenders to account—for example, the system encourages defendants to plead not guilty. The common good emphasizes that “punishment, in addition to defending public order and protecting the safety of persons, has a medicinal scope: as far as possible it must contribute to the correction of the guilty party.”

CST’s concern for rights and responsibilities means that offenders must be held accountable. The “test for the rest of us,” the U.S. bishops explain, “is whether we exercise our responsibility to hold the offender responsible without violating his or her basic rights.”

The bishops highlight how the Sacrament of Penance has “much to teach us about taking responsibility, making amends, and reintegrating into the community.” This includes contrition, confession, satisfaction, and absolution.

Restorative Justice (RJ) is an alternative criminal justice practice that emphasizes repairing the harm of unjust behavior. As Howard Zehr, a leading founder of the RJ movement explains, RJ emerged in the 1960s to react against three problems of how the traditional system: 1) fails victims, 2) does not call offenders to account, and 3) does not address broader community needs.

First, too often, the criminal justice system fails victims. Imprisoning a perpetrator does little for the ongoing suffering of victims. The U.S. bishops lament how the system “neglects the hurt and needs of victims or seeks to exploit their anger and pain to support punitive policies.” In human dignity the bishop calls the faithful “to stand with victims in their hurt and in their search for healing and genuine justice. This includes, of course, the children of the incarcerated, who themselves are seriously harmed by their parents’ misconduct.”

Second, perhaps ironically, the traditional system does not call offenders to account—for example, the system encourages defendants to plead not guilty. The common good emphasizes that “punishment, in addition to defending public order and protecting the safety of persons, has a medicinal scope: as far as possible it must contribute to the correction of the guilty party.”

CST’s concern for rights and responsibilities means that offenders must be held accountable. The “test for the rest of us,” the U.S. bishops explain, “is whether we exercise our responsibility to hold the offender responsible without violating his or her basic rights.”

The bishops highlight how the Sacrament of Penance has “much to teach us about taking responsibility, making amends, and reintegrating into the community.” This includes contrition, confession, satisfaction, and absolution.

Contrition expresses “genuine sorrow, regret, or grief over one’s wrongs and serious resolution not to repeat the wrong.” Confession is “clear acknowledgment and true acceptance of the harmful behavior.” Satisfaction concerns how the offender makes “compensation or restitution for the wrongs or harms caused by one’s sin.” Finally, absolution occurs when “Jesus, through the ministry of the priest and in company of the church community, forgives the sin and welcomes the person back into communion.”

Third, too often, broader community needs remain neglected. CST and RJ both stress the common goods of the needs of victims, the accountability of offenders, and the need to repair harms against the entire community.

CST and RJ find deep roots in Hebrew scripture. The bishops explain that the Covenant at Mount Sinai required punishment for violation of the commandments, demanded repair, and called the people to restore relationships within the entire community. RJ concerns biblical shalom.

Although commonly translated as “peace,” the deeper meaning of shalom involves God’s “unifying love” that saves and redeems all relationships.

Jesus extends the Covenant when he calls upon the Father’s “unifying love” through his ministry. Jesus denounces leaders who “tie up heavy burdens and lay them on people’s backs but they will not lift a finger to move them” (Mt 23:4). He rejects punishment for its own sake for a woman caught in adultery (Jn 8:1-11), and he calls the faithful to visit the imprisoned, care for the sick, feed the hungry, and house the homeless (Mt 25).

Like the Good Samaritan (Lk 10), the faithful are called to “stop and help victims of crime recover from their physical and emotional wounds.”

As Michael J. Kennedy, S.J., Executive Director of the Jesuit Restorative Justice Initiative, explains, the hope of restorative justice ultimately resides in the deeps of the Paschal Mystery where only God heals our brokenness by bringing life out of death.

ENDNOTES
3 Ibid., Responsibility, “Catholic Social Teaching.”
4 Carcinism of the Catholic Church, #2266, accessed May 7, 2012 at http://www.vatican.va/archive/ENGS0015_/PZ2.HTM
5 Ibid., Responsibility, “Catholic Social Teaching.”
6 Ibid., Responsibility, “Scriptural Foundations.”
7 Ibid., Responsibility, “Scriptural Foundations.”
8 Ibid., Responsibility “Scriptural Foundations.”