

## **THE PAINTBALL CASE**

The Paintball Case  
*A Restorative Justice Case Study*

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The Paintball Case: A Restorative Justice Case Study

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### **About the Author**

Tom Cavanagh is a scholar, writer, and facilitator of restorative justice. He facilitated a private forum called, "A conversation about restorative justice in Colorado," as part of the Institute on the Common Good at Regis University in Denver.

He is currently a Ph.D. candidate at Colorado State University in Educational Leadership and an Affiliate Professor of Management for the School for Professional Studies at Regis University. He worked as a court reporter for the District Court in Fort Collins.

He is an honors graduate of Regis University in Denver, with a MS in management. His undergraduate work was completed at Carroll College, Helena, Montana, where he received a BA in English, and Lamar (Colorado) Community College, graduating with an AA in Liberal Arts.

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## **Abstract**

“The Paintball Case” is a case study, similar to those used to teach people about the law or management. The intent of this case study is to teach people about restorative justice based on a real life application.

District Court Judge Fred McElrea, of Auckland, New Zealand, a pioneer in the application of restorative justice processes in the courts, made these comments about “The Paintball Case”:

“I think this a great case study - informative, educative and insightful. What was most impressive was the boy’s offer to donate part of his eye if that would bring back her sight. The second reaction I have is to marvel at the way in which restorative justice helps build community bonds that were not there before - for example, the common interest and empathy of the two families. Lastly, it brings home how simple it really is to get these things going! That is because this sort of process is second nature to most people, whereas the court process is an artificial, ritualized procedure that obscures people’s real feelings and desire for reconciliation.”

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## **The Paintball Case: A Restorative Justice Case Study**

### **The Offender**

Fort Collins lies in Northern Colorado and is known as the “Choice City,” because it is one of the popular places to live in the United States. As a result this conservative city of over 10,000 people, known for its university and agriculture heritage, is growing rapidly and experiencing the joys and pains of rapid growth.

One evening in April of 1998, 15 year old Justin Barton and two of his cousins were together for the evening in Fort Collins, Colorado. Early in the evening the teenagers were at the Foothills Fashion Mall. They ate dinner at Taco Bell and went to a coffee shop. While driving around, the boys passed Swenson's Ice Cream Parlor. After Justin's cousins told him he could not go paintballing with them, Justin reached into the trunk, though the back seat, pulled out a paintball gun, and fired into a group of girls at the store.

As he fired the gun, Justin noticed a young girl quickly turn her head. His cousins said, "Justin, what are you doing?" Justin replied, "I think I shot a girl in the face."

### **The Victim**

The same evening, 15 year old Jorel Travis went bowling with her friends and then on to Swenson's Ice Cream Parlor. While Jorel and her friends were eating their ice cream in front of the store, shots came out of the window of a Volkswagen Jetta. A paintball struck Jorel, resulting in permanent blindness in one eye.

## **The Court Proceedings**

On June 8th, Justin appeared in juvenile court to answer to the charge resulting from the paintball incident. The charge was second degree assault with a deadly weapon. At the time of the incident, Justin was on probation for a charge of attempted theft.

Justin pled guilty to the charges before Juvenile Magistrate Joseph Coyte, as part of a plea agreement. The plea agreement called for a sentence to probation, with the terms and conditions to be set by Magistrate Coyte. The maximum possible sentence for Justin was two years probation and 45 days in jail. If he were charged as an adult, the possible incarceration was two to eight years in the state penitentiary.

## **The Motivation**

The motivation affecting the outcome of the paintball case was based on a desire of both the offender and victim to meet face to face. Justin wanted to talk to Jorel. When he entered his guilty plea, Justin explained, "I never wanted to hurt anybody, but I was being very thoughtless at the time. I understand if you never forgive me. If you don't get your vision back, I would be happy to donate the part of my eye you need." Soon after the incident, Jorel expressed her desire to meet with Justin. "I'd like to talk to him to see how he really feels about it." Both Jorel and her mother, Rene Bone, were described as being motivated to resolve the case by educating people about the dangers and harm of paintball guns and preventing such an incident from happening again. Jorel and her mother were neither malicious nor vindictive.

## **The Conference**

Because of the willingness and desire of Justin and his family and Jorel and her family to meet, probation officer Mort Gallagher suggested this case was ideal to use a family group conference, a restorative justice process for healing the harm of crime. Although Justin and his family expressed apprehension, they agreed to attend the Conference.

The family group conference was held at the United Way office, a neutral location. The conference was held the day before the sentencing to accommodate the presence of everyone who wanted to attend. Flexibility was the key to bringing people together who were concerned about the incident. Justin was living with aunt and uncle. His mother lived in Texas, and his father resided in Pennsylvania. Both wanted to Attend.

Bernadette Felix was the probation officer for Justin at the time the incident occurred. Justin came to her soon after the incident and admitted his involvement. Bernadette talked with Magistrate Coyte about the planned family group conference and obtained his support.

Leslie Young, a trained mediator for family group conferences and a Loveland police officer, coordinated the process and made the necessary contacts and arrangements. Fifteen people

attended the conference. One person was designated to record the main points during the dialogue.

At the conference people were seated in a circle, with no tables or other barriers. Jorel, her family, and one of the girls present at the incident sat to the right of Leslie. To the left of Leslie sat Justin, his family, and other people present at the scene of the offense. Bernadette sat in between the two groups.

The four-hour conference began with Leslie giving an overview of the conference process and reminding the participants that participation in the process was voluntary. Justin began by talking about the incident. The harm resulting from the crime was expressed by Jorel explaining what happened, how she felt, and what she hoped to get out of the conference. Jorel's mother Rene was expressive. She talked about the outcomes and harms resulting from the offense and particularly that she lost her job.

Then the discussion went around the circle. The victim's friends and family members talked about the effects of the incident on their lives. Justin's family and friends next told of the effects of the offense on them, including an aunt who was blind in one eye since birth and an older cousin who was a poor role model for Justin regarding paintball gun shooting.

During this sharing Justin was visibly moved and cried. A key theme during the discussion was concern for the safety of others involved with paintball guns and of the need to inform others of the dangers of paintballing.

Leslie turned the discussion to answering "what" questions concerning the harm resulting from the incident: What needs to happen? What do we want to accomplish? What do we need to do? In line with the key theme of the conference and in place of community service, the group decided they wanted Justin to talk to school children and write a letter to the local newspaper and teen magazines about the risks and dangers of Paintballing.

Justin's family assumed financial responsibility for the out-of-pocket expenses incurred by Jorel and her family. An uncle to Justin offered to provide a computer for Jorel. Justin's grandmother offered to give rides to Jorel when her mother was busy. In order to pay the financial obligations, Justin needed a job. One of the people present thought her husband could provide Justin a job in carpentry. All present agreed to initiate a write-in campaign to legislators requesting the public be warned of the dangers of paintball guns.

Justin read a letter of apology to Jorel, in which he again offered to donate his eye to the victim. The letter was prepared prior to Justin's first meeting with Bernadette, who was his probation officer at the time.

Leslie prepared a copy of each point of the conference that was reached by consensus. This paper formed the agreement of those present. During a break, the final agreement was

prepared, and each person responsible for performing a certain part of the agreement was asked to sign the document.

In speaking about the conference, Bernadette said, "Initially it was very tense, but as it went on, people were able to come together as a team. It was a real powerful experience." The conference was concluded by Leslie thanking those present for working through this difficult process to help heal and repair the harm resulting from the incident. The formal meeting was closed, and an informal discussion continued, including the exchange of telephone numbers among those present and the two mothers hugging.

### **The Sentencing Hearing**

The day after the conference was the sentencing hearing in front of Magistrate Coyte. The friends and family of Justin and Jorel mingled in the hall before court and sat together in the courtroom. Several people talked about the conference. Bernadette described the conference and gave a copy of the final agreement to the court and the Attorneys.

Magistrate Coyte expressed support for the agreement. He sentenced Justin to two years of probation and 45 days in jail. The jail term was suspended, except for six days in jail on weekends. The victim's family was opposed to any jail time. After the sentencing hearing, Jorel and Rene expressed to Justin they were upset with the jail Time.

Two days after the sentencing hearing, Bernadette and Justin met to review the terms and conditions of his probationary sentence. Further discussions were held about the ongoing needs of Jorel, focusing on healing the relationship of Justin with his family, friends, and the community and building a relationship with Jorel and her family and friends.

On September 10, 1998 a letter to the editor from Justin appeared in the Fort Collins "Coloradoan" entitled "Teen learned the hard way about paintball-gun dangers." In the letter Justin described the dangers of paintball guns in general and the specifics of the incident resulting in the injury to Jorel. He expressed to the community how sorry he was for hurting Jorel and how such a result should have crossed his mind before he shot the paintball gun.

### **Questions**

1. Read this case history through the court proceedings. What would most likely be the outcome of this case in your community? What values would prevail in your community for handling this case?
2. What restorative justice core values are exemplified in this case history?
3. How were these questions answered in the case history: What harm resulted from the paintball incident? How can we heal the harm? Who is responsible for healing the harm?

4. What would your community need to do to create a restorative justice approach to incidents such as presented in the case history?