

# WRAPAROUND AND THE JUVENILE COURT

## Practical Problems in Intergalactic Communication

by John Franz

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A current pop psychology book carries the catchy title, "Men are from Mars, Women are from Venus." If the genders are from two planets, it sometimes seems like human service professionals, especially those using holistic approaches like wraparound, and lawyers, especially those caught up in a contested juvenile court action, are from separate universes.

The goal of this article is to examine the underlying conflicts between these two methods of solving human problems, suggest a framework for identifying commonalities as well as discrepancies in the two world views, and offer a few practical hints for building a bridge across this great divide.

### **Caroline - a girl lost in both worlds**

A hypothetical scenario may be a helpful way to visualize these issues. Caroline is 14 years old. She was three the first time she was named in a juvenile court dispositional order. At that time it was found that she had been physically and sexually abused by her mother and father and then abandoned. Afterwards she lived from time to time with her Aunt Rachel, but also had stops in 9 different foster homes and experienced several psychiatric hospitalizations.

At the age of 12 she was found delinquent for battery to a foster parent. The court placed her in a residential treatment center where she stayed for a year and a half. Upon her release she was returned to her Aunt Rachel, who said she wanted to try one more time.

That was six months ago. Two months ago she was excluded from school because of her disruptive behavior. The school did agree to provide tutoring in her home three times a week for three hours. Aunt Rachel took Caroline to a psychiatrist who said that maybe this was all caused by a bipolar disorder and started her on a different medication. Aunt Rachel also asked for more help from social services and they said that they would put Caroline on the waiting list for a new program that provided something called "wraparound services."

However, two weeks ago, before any new services could be started, Caroline was taken into custody. She and two other youths were charged with the sexual assault of a 9 year old neighborhood girl whom they convinced to skip school and "hang out" with them in Aunt Rachel's basement while Aunt Rachel was at work.

Caroline was immediately placed in secure detention. That night she attempted suicide by breaking a light bulb and using the sharp edges to cut her wrists. At present, she remains hospitalized on the locked psychiatric unit of the local hospital.

The case has received a great deal of publicity and the prosecutor wants a correctional placement. Caroline was probably the leader and primary actor in the attack. He is even thinking of asking for waiver into adult court. The public defender is concentrating on a defense based on an aversive reaction to the medication ordered by the psychiatrist and will concede nothing but a plea of not guilty by reason of mental disease or defect. The prosecutor's minimum is a plea to first degree sexual assault, but in return he would drop the kidnapping and conspiracy charges.

Enter Tim, a staff person from a local non-profit agency who finds himself appointed to facilitate the development of a child and family team for Caroline.<sup>1</sup>

He starts by calling the social worker assigned to Caroline's case, who tells him to forget it, send this one back, and pull out another assignment. "It's out of our hands," he says. "Leave it to the lawyers and newspapers to decide what will happen to this girl."

### **The war of the worlds**

At first glance it seems as if Tim has no choice but to either postpone or cancel the development of a wraparound team for Caroline. The prosecutor just laughs when Tim tries to explain how wraparound builds on the strengths of a child and family. The public

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<sup>1</sup>For an introduction to the wraparound approach, see "Some Notes on Wraparound and Paradigm Shifts" in the April, 1994 issue of the Calliope Journal.

defender has some interest but says most of that treatment stuff will have to wait until the legal battles are done - which in this case could take months. Even the hospital staff are of little help. They cannot imagine Caroline living anywhere but an institution for years to come.

Caroline seems to agree. "I'm going to be locked up somewhere, the only question is whether it will be in prison or a hospital," she tells Tim in passive resignation.

Caroline's sudden but total passage across the knife-edge distinction between victim and transgressor leaves Tim dizzy. While waiting in the hall for one of Caroline's seemingly endless string of court hearings, Tim comments to the social worker, "Up until a few weeks ago, the question was, 'how can we help this young lady?' Then there was no rush. Now the only issue is how to punish her, and its full steam ahead. Does anyone think that spending years in prison or in a state hospital will make her better?"

The social worker shakes his head and gestures at the stream of people heading up and down the corridor past their bench.

"You don't understand, Tim. Caroline is now a major blip on the community's radar. People don't want kids around who do the things she did to that little girl. They no longer care what kind of treatment she may or may not need."

### **Searching for commonalities**

Still in pursuit of an answer, Tim meets the public defender for lunch. He asks her if she can explain the apparent abyss between the legal and treatment systems. The lawyer says, "Think about it, Tim. Why do we have courts in the first place? What are they supposed to do for the community? We need a common forum for the identification and punishment of people who violate the social code and a relatively reliable way of solving disputes. The alternative is vigilantes and lynch mobs."

Tim shakes his head over his grilled chicken Caesar salad and asks, "But isn't there also some social utility to helping a 14 year old girl who is as much trapped by the horrors that were done to her as those she has done to her victim?"

The public defender adjusts the lapel of her dark blue pinstriped suit coat and smiles.

"That's what I have to argue every day. And to some extent I think most people would agree that the community as a whole benefits and probably functions better when we support those with the greatest needs. But it gets real problematic when a person with a great need has also done a great wrong."

The lawyer becomes thoughtful as she finishes her croissant sandwich. Finally she says, "I'm trying to find some way that your wraparound thing can help Caroline, but it's hard. In court, there are really only two key questions: is she guilty, and, if so, which of the available dispositions should the court impose? If I lose on the question of guilt, I don't see how wraparound can keep her out of corrections."

"I think we can come up with a plan that would help her," Tim says. "But I don't know whether anyone will pay any attention. Wraparound also has two key questions, but they're different from yours. Number one, what are Caroline's biggest unmet needs? Number two, how can we meet those needs, building on her strengths, any naturally occurring supports she has available and whatever new resources we can create?"

"You're right," the public defender comments as they divide up the lunch bill. "There's not a lot in common here. But I can tell you this, if we're going to get anywhere in court, we'll have to show how wraparound can meet the community's big needs first. And maybe then we can talk about what it can do for Caroline."

### **A compass for two universes**

Are there any points of connection? Any unifying themes that apply in both systems? In fact, there is a lot in common. Courts and human service systems have been closely linked for years. One way to visualize the similarities and differences is to compare three basic aspects of the way both systems operate. The three facets are each system's mandate, method and authority.

*Mandate* is the basic goal toward which a system is expected to direct its efforts. Laid out on a continuum, system mandates might extend from one pole where the focus is on meeting the needs of individual clients and providing positive outcomes for them. At the other end, the emphasis would be on the needs of the community for safety and effective resolution of conflicts.

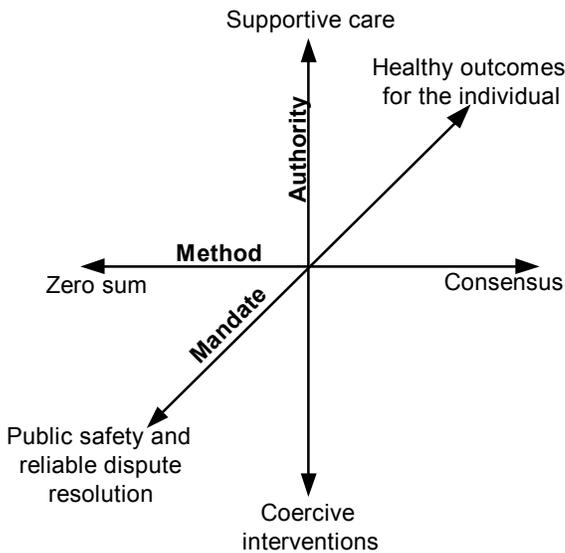
*Method* is the primary technique used by the system for selecting a plan for accomplishing the mandate. At one end of this spectrum lies zero-sum decision-making, such as jury trials, where the only available answers are black and white, guilt or innocence. At the other end lie consensus-based techniques such as those used by wraparound teams, which permit a much finer gradation of choices.

*Authority* is the nature of the tools a system has available to carry out its mandate. Voluntary, benign supportive services would be at one end of this scale, and

at the other would be highly coercive strategies such as jail, fines and contempt.

These components are inter-related and can be seen as forming the axes in a three dimensional chart. Any court or human service agency will actually occupy a range of the space defined by the three measures, because each system will have a variety of options that can be used. And it is likely that mapping actual practices in most communities would result in overlaps in several dimensions. Chart One presents this model.

**Chart One: A System Compass**



**Building bridges across the interstellar void**

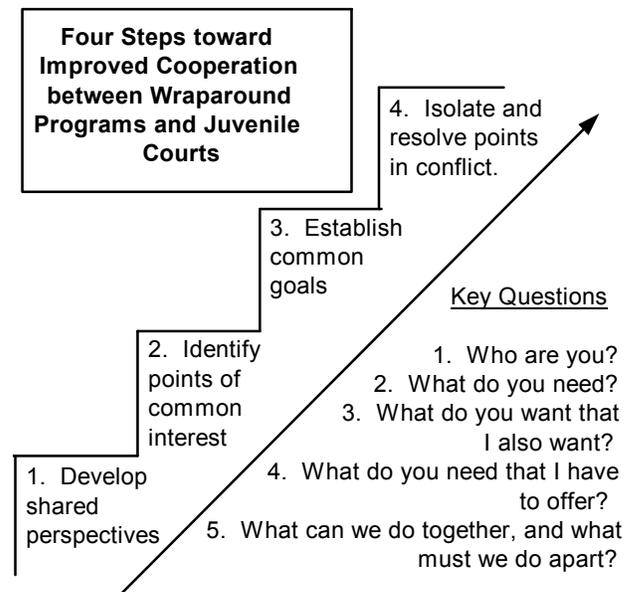
A good example of how these polarities are modified in certain circumstances can be found in the Children’s Code. In essence it creates a legal system in which there is an attempt to reach a balance between coercion and care, between protecting the public and helping the child and family and between zero sum outcomes and informal consensus. The phrase “best interests of the child,” as ambiguous and ill-defined as it is, comes as close as anything to capturing the intent of this change.

Similarly, while human services systems may have an ideal close to the opposite ends of each of these scales from those occupied by the courts, in certain situations (child protection interventions, for example) they tend to move closer to the center and even beyond.

Thus, in Caroline’s case, there may be more to build on than the public defender and social worker suspect. But at the moment, whatever commonalities might exist are buried by the level of conflict, which has pushed the systems to functional rigidity.

One way to begin to ferret out the possibilities for common action is for everyone involved to try looking at the situation through each other’s perspectives. That can form the basis for some common understanding. From there it may be easier to begin to see how each of the systems is dependent to some extent on the other system - even if at the outset they seem to have totally different ways of dealing with the world. The next step would be to discover shared values and goals. Once these commonalities are unearthed, the remaining conflicts can be identified and appropriate mechanisms selected for resolving them. This process can be seen as four stages or steps toward better understanding between systems, as in chart two:

**Chart Two**



In this process, representatives of each of the systems involved have to be able to state objectively the role they are required to play and the range of options they really have along the three axes of mandate, method and authority. In a sense, each participant has to ask the other, “Who are you and what do you need?” With those answers in hand they can go on to solve the tougher problems like, “What do you want that I also want?” and “What do you need that I have to offer?” Once those are dealt with they can finally get to the kernel issues of what can they do together and what will they have to work out separately.

**Finding an answer for Caroline**

Too much damage has been done to and by children with lives like Caroline’s to pretend that there is any easy answer that will magically solve all of their problems after a few meetings between the systems.

On the other hand, one can imagine someone, perhaps Tim, who has the advantage of being new to the situation, bringing people together to work out some of these issues. It is not impossible to conceive that in such discussions the prosecuting attorney would admit that he would be willing to balance the need for a perception of immediate punishment with a new service response that could give Caroline a better chance than the system's previous efforts. Similarly, many of the treatment providers might agree that while they felt great sympathy for Caroline, they were nonetheless deeply disturbed by her conduct and concerned that without a strong response by the justice system an awful message would be sent to the community. They might also be concerned that enough structure be put in place to make sure that Caroline would not be an ongoing threat to other children. In addition, everyone might agree that despite her past, Caroline needs to find a way to begin to make amends for what she has done, if only as a way of starting down the long road to dealing with what has been done to her.

These understandings don't constitute a plan of care for Caroline - just a platform which may make it possible to come up with a plan. The group working on the service proposal will have to acknowledge the validity of community and neighborhood needs as well as those of Caroline and the people who will be caring for her.<sup>2</sup>

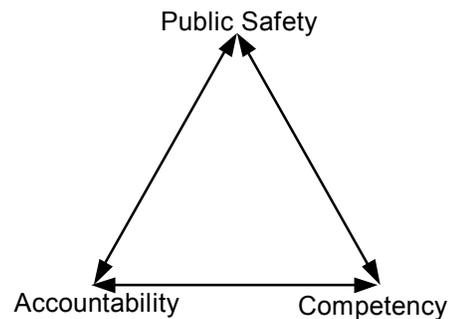
This process of consolidating individual and community needs is adapted from Dennis Maloney's

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<sup>2</sup>If you are connected with a wraparound project that is struggling with the difficulty of developing an interface with the juvenile court on challenging cases such as Caroline's, you might consider using the scenario as the basis for a mock child and family team meeting. Select folks to play the parts of Caroline, Aunt Rachel, The Social Worker, The Prosecutor, The Public Defender, Tim, a teacher from the last school Caroline attended, a psychologist from the hospital and other folks whom you imagine might be part of the team. See if you can come up with a set of options that balance individual and community needs. One suggestion to the facilitator: try adding a community and neighborhood domain and perhaps a juvenile justice system domain to the strengths and needs assessment phase of the planning process. Do a separate bubble chart on each, if that is the technique you use, and treat each as a service center to be supported through the wraparound process.

"Balanced Approach to Restorative Justice"<sup>3</sup> Although his method has many elements, a key point is the need to develop juvenile justice interventions which balance the goals of protecting public safety, assuring offender accountability and increasing client competencies. He postulates that many interventions fail because of an overemphasis on one of these goals to the detriment of the others. The ideal response is symbolized by an equilateral triangle, as in chart three.

**Chart Three**  
**The Balanced Approach to Restorative Justice**



**Open a subspace channel to Starbase, Mr. Spock**

With improved understanding, more formal connections between wraparound and the juvenile court can be developed. Right now, most programs using wraparound are outside the statutory loop of responsibility. Although wraparound is certainly one of the resources a court worker can look to when developing a dispositional plan, it is still the worker who is on the line.

But wraparound is a process, not a program. Anyone can do it. All it takes is a facilitator, access to flexible resources, and the support of a second level group that links the systems of care and the community's key stakeholders. Should a juvenile court reach a sufficient level of confidence in this process that it wanted to establish a direct link between its orders and a community-wide, interdisciplinary, no-holds-barred response, there may be a statutory means for doing so.

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<sup>3</sup>Maloney, D., Romig, D., & Armstrong, T. (1988) "Juvenile Probation: The Balanced Approach," *Juvenile and Family Court Journal*, 39 (3). The federal Office of Juvenile Justice and Delinquency Protection is testing pilot programs based on this method in several states.

can be reached through his website at [www.paperboat.com](http://www.paperboat.com).

Section 48.069 of Wisconsin's Children's Code describes the powers and duties of disposition staff. It indicates that both county departments and licensed child welfare agencies can carry out the dispositional objectives and provisions of the chapter. A list of those duties follows in the statute, the last of which is the open ended provision, "Perform any other functions consistent with this chapter which are ordered by the court." s.48.069 (1) (e), Wis. Stats.

If a community wanted to set up a wraparound program directly linked to the juvenile court, it could do so in a two-stage process. First, the various participating systems, such as mental health, education, child welfare, etc. could structure their joint participation and responsibilities through an interagency agreement or series of contracts. One aspect of these agreements usually includes naming a specific agency or group of agencies to coordinate the wraparound process.

Second, the court can designate the identified coordinating agencies as dispositional providers under s.48.069 and issue an directive specifying their duties and responsibilities when clients receiving wraparound are also under the jurisdiction of the court. This combination can directly link the juvenile justice system with all the other agencies whose cooperation is necessary to effectively serve children with complex needs and their families.

These arrangements and orders won't prevent disagreements, but if they are based on a mutual understanding of the different needs, obligations and powers of each of the participating systems, the documents will at least give everyone a clearly marked playing field for working out their problems.

### **Moving from the twilight zone to the comfort zone**

Although it may sometimes seem like all wraparound programs want to do is avoid responsibility by blaming everything on their clients' emotional problems, and that all the courts and prosecutors want to do is blindly administer punishment to satisfy the public's growing desire for vengeance, there is more than enough room here for inter-species communication.

And the first step is always to say hello.

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