

Retributive vs. Restorative Just Culture

ICAO/IFATCA Safety Culture Workshop

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Just Culture

Defintion:

Just Culture” is a culture in which front-line operators and others are not punished for actions, omissions or decisions taken by them which are commensurate with their experience and training, but where gross negligence, wilful violations and destructive acts are not tolerated.

Incidents are stress Tests

- Could the outcome have been worse?
- Can you avoid labelling it Human Error?
- Do you treat People well?

Sit back, Be Patient. Relax. Enjoy the bad news

Retributive Just Culture

- Considers Justice in retributive terms
- Dividing human behavior into errors, at-risk acts or recklessness
- Wants the offender to pay back

Shades of retribution

- Honest mistake
- At-risk behavior
- Negligence or recklessness

You have nothing to fear if you have done nothing wrong.

Promises and Warning

Just Culture” is a culture in which front-line operators and others are not punished for actions, omissions or decisions taken by them which are commensurate with their experience and training, but where gross negligence, wilful violations and destructive acts are not tolerated.

Retributive JC tries to draw a line somewhere between acceptable and unacceptable behavior.

Two aspects of Retributive Justice

Substantive Justice:

How regulations and rules are supposed to follow in their jobs must be fair and legitimate

Procedural Justice:

Define legitimate processes for determining rule breaches, offers protections for the accused and governs who should make such determination.

Difficulties in Retribution

- Who did something wrong?
- How to deal with the bad apple?
- What was responsible?
- How can we fix it?

Summary and how to manage the difficulties

- Lack of clarity who draws the line (independent)
- Know the nuances and messy details of daily work
- No possibility to appeal
- No evidence that a retributive JC is increasing the reporting rate
- Retributive JC is not known to promote honesty, openness, learning and prevention
- Powerful people in the organization hierarchy do consider the organization Culture as “fair”

Instead of blaming.....

- Do nothing, sit back and enjoy the bad news
- The past cannot be changed – BUT the relational consequences of the past can be repaired
- Reconstruct why it did make sense to them
- Identify what needs to be done and by whom and how
- Explore ways further in the future for success again

Different Approach

- What was responsible – based on system thinking
- What is the set of engineered and organized circumstances why it end up wrong
- Never ask who is responsible
- Do not offload a failure onto a few individuals
- Its not individuals or systems – BUT Individuals in the system
- Leave discretionary space

Restorative Justice

Definition:

Is a process where all stakeholders affected by an injustice have an opportunity to discuss how they have been affected by the injustice and to decide what should be done to repair the harm.

How to create it

- **First victim:**

Patients, passengers, colleagues or surrounding community who suffer the consequences

- **Second victim:**

The practitioner involved who feel personally responsible

- **Organizational community:**

Likely wanted to know information about the incident and the response to it

Criminalization of error

Criminalization makes things a lot worse for the second victim. Criminalization affirms feelings of guilt and self-blame and exacerbates their effects, which are linked to poor clinical outcomes in other settings.

Blame free is not accountable free !

Retributive JC vs. Restorative JC

- Which rule has been broken?
- Who did it?
- How bad was the infraction?
- What do they deserve?
- Who has been impacted?
- What are their needs?
- Whose obligation is it to meet those needs?
- Retribution might even be a part for restoration

Different ways to create Justice

Retributive

- Wrongdoing creates guilt and requires punishment
- Account is something the offender pays
- Ask who is responsible
- Learns and prevents by setting an example

Restorative

- Wrongdoing create need and obligations
- Accounts is something to tell and listen
- Ask what is responsible
- Learns and prevent by asking why it make sense for people to do what they did

Different ways to create Justice

Retributive

- Focus on what people involved deserve
- Justice by imposing proportional and deserved punishment
- Meets hurt with inflicting proportionate hurt

Restorative

- Focus on what people involved need
- Creates justice by deciding who meets the need coming from the incident
- Meets hurt with healing

Different ways to create Justice

Retributive

- Looks back on harm done and assigns consequences
- Build trust by reinforce rules and authority

Restorative

- Looks ahead at trust to repair and invests in relationships
- Builds trust by repairing relationships between people

How to build up a restorative Just Culture

- A single account cannot do justice to the complexity
- Nobody's account is true or right and others wrong
- It's not about absolute – it's about compromise
- Attention is for the view for below
- Is not about achieving power goals
- It is proportionate and decend

How to enable a Just Culture

- We encourage learning by not blaming
- Understand how the event could have happen
- No punishing of the operator, give them accounts of their contributions to failure
- Avoid Hindsight bias
- Understand how work is done in the organization
- Inform the operational people where the line is between acceptable and unacceptable (Managers can ´t to this)

Hallmarks Signs for your restorative Just Culture

- Promoting the healing of trust, relationships and people
- Empowering first and second victims
- Moving away from asking who did something wrong and what should be done with them
- Recognising that staff are accountable for being part of the healing, learning and improvement process in the aftermath
- Recognising that people involved do have needs for support and ensure that the needs are recognised.

Hallmarks Signs for your restorative Just Culture

- Assign roles and responsibilities for all people involved in the incident
- Forward Looking Accountability rather than backward looking accountability
- Engaging all stakeholders in the post-incident review
- Placing obligations and accountability on leaders to provide support for of those in need

Verify the implementation with staff survey and how many staff to seek professional support after an event

Thank you for your attention

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