

Research

Why Victims Choose to Meet with Offenders

by Robert B. Coates, Heather Burns, and Mark S. Umbreit

Introduction

Victim offender mediation and conferencing has been adopted in numerous criminal justice jurisdictions in the United States and abroad (Umbreit, 2001). It has become a popular programmatic option under the restorative justice banner. Increasingly, it is being used with victims of serious and violent crime (Umbreit, Vos, Coates, and Brown, 2003). While its proponents increase in number, there remains the question among supporters and detractors alike: "Why do crime victims choose to meet with offenders?"

This question is the focus of the current study. Policymakers wonder why victims would desire to meet with offenders since the popular view is that citizens want to be tough on crime and therefore on criminals. Program administrators struggle with how to best use scarce probation and corrections dollars and worry whether victims will consider these kinds of programs tough enough, or on the other hand, whether victims will use the meetings as an opportunity to "pay back" the offenders. And on the streets, in the neighborhoods, some individuals scratch their heads when they hear about victim offender mediation/conferencing and say, "Not me," while others light up and say, "Yes, I would try that."

A few studies have attempted to address empirically the question of victim participation. Findings suggest that victims who refuse to participate believe the crime was too trivial to merit the time required, or fear meeting the offender, or want the offender to have a harsher punishment (Coates and Gehm, 1985; Umbreit, 1995; Templin, 2002). Several studies indicate that victim willingness to participate is initially driven by a desire for restitution, as a way of holding offenders accountable, to tell the offender about the pain caused, to hear why the crime was committed, to help

the offenders change behavior, and to see that the offenders were adequately punished (Davis, 1980; Coates and Gehm, 1985; Perry, Lajeunesse, and Woods, 1987; Umbreit, 1989; Umbreit, 1995; Niemeyer and Shichor, 1996; Umbreit, Coates and Vos, 2001).

The idea of meeting the person who violated one's own space or person is troubling for many, ridiculous for some, and a way of doing something for others. Not surprisingly this study's findings reflect the common wisdom on the street: Some victims are quite willing to participate in victim offender mediation/conferencing and others are not. In this article, we attempt to ferret out some of the whys.

The Washington County Department of Court Services asked the University of Minnesota Center for Restorative Justice and Peacemaking to conduct a study of adult victims referred to its Community Justice Program's Victim Offender Conferencing Program, focusing on why victims choose to participate or not participate in the program.

In Minnesota, Washington County Court Services has a long community based tradition of attempting to adopt restorative justice principles involving offenders, victims, and communities as the basis for shaping their responses to crime. Conferencing may take place between a victim and an offender, within small groups

that include family members, or in even larger groups including neighbors or other persons designated as significant. Cases, and thus conferences, may involve multiple victims and multiple offenders. Two staff members and over sixty volunteers carry out preparatory work and conference meetings. Most conference meetings take place in local churches or libraries.

How the Study was Done

In order to address the primary question of who participates and why, we had to consider a number of related questions including the following:

- who is referred and why;
- who chooses to participate and who does not;
- what reasons lead to the decision to participate or not;
- how does pre-conference influence participation;
- how was the conference helpful or not helpful; and
- what other unmet needs do study participants identify.

Space limitations in this article allow us to focus only on the questions of who chooses (or does not) and what reasons determine their participation [for a fuller discussion of these questions, see Coates, Burns and Umbreit (2003)].

Victims Meeting Offenders

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VOMA Connections

VOMA Connections is published four times a year by the International Victim Offender Mediation Association.

The Mission of VOMA is promoting and enhancing restorative justice dialogue, principles, and practices. Our mission will be achieved only with a commitment to full diversity and equality of participation for all people. VOMA holds this commitment as central in its work.

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VOMA welcomes contributions, including short articles, literature reviews, case studies, program news, and other interesting information. Photos and graphics are also welcome.

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Internet Dialog

"Simple Society" Statements Focus on Restorative vs. Retributive Justice

Editor's Note: The New Hampshire-based Simple Alliance for Human Empowerment recently organized an electronic dialogue on restorative vs. retributive justice. The "Simple Society" was established in 1993 by John Watkins, who was motivated by his conviction that there are infinitely simpler, more cost-effective and more humane approaches to most of society's problems. According to the group's Website (<http://simsoc.org>), "Complexity is not only a significant barrier to solving problems, it may have become the principal problem. (Watkins) believes that complexity is the result of a fragmented approach to problem solving. The fragmented approach is usually caused by the lack of a unified vision of principled human relationship." In this issue, we reprint edited versions of the "opening statements" of several of those persons who participated in this dialogue.

Kay Pranis

An Internal Compass

Restorative justice for me is not defined by contrast with retributive justice. It is a vision in its own right of a way of being in relationship with one another. It includes guidance for how to work through those experiences that violate that way of being in relationship. It begins for me with an assumption that all humans have an innate desire to be in good relationship with others and that there is a shared set of values among humans that characterizes that good relationship.

Relationships are thus at the heart of being a human. Restorative justice offers a conceptual framework for understanding harm to relationships and steps that move toward repairing the harm and healing the relationships.

There are a number of significant shifts that result from the focus on understanding harm and promoting healing in a framework that assumes an innate desire for relationship and deeply embedded shared values. One that interests me is the shift from external to internal guidance. Most of our institutions and collective structures

use external judgment as the primary method of achieving desired behavior. We use a system of rewards and punishments based on satisfying some standard that is external to ourselves. We are not encouraged to know ourselves deeply in order to follow the internal guidance of the shared core values that define being in good relationship with others.

The external standard, which can never be satisfied, creates a *culture of fear* - fear of failing the standard, fear of ridicule, fear of isolation. Out of fear people create masks and protective layers that separate them from their own core values.

One of the most important contributions of the restorative justice movement is that it is stimulating extensive dialog about values. Among many of the practitioners I know that conversation about values involves a journey of discovering an internal compass that does not require rewards and punishments to point in the right direction.

*Kay Pranis is a trainer/facilitator for peacemaking and the philosophy of restorative justice. She lives in St. Paul, Minnesota, where she was a restorative justice planner in the Minnesota Department of Corrections from 1994 to 2003. She is co-author of **Peacemaking Circles: From Crime to Community** and the author of the forthcoming **Little Book of Circle Processes: A New/Old Approach to Peacemaking**.*

Melanie Achtenberg

Justice, Empowerment and the Future

Although I've worked in six different government departments in 23 years, my first job was as a primary school teacher in a First Nations community (in Canada), isolated from everyone, a fly-in place, closed to the outside world. The experience of this very spiritual and pure community in 1975 has guided my work since. The community changed, of course, after television, radio and telecommunications came in. Now the suicide rate is high. Addiction, and all the violence of the media, creates mirror images in community.

What I learned in this community, managing a policy/ program for Aboriginal offenders, was that all offenders react well and more intelligently to being treated with respect and dignity, regardless of whether

they are psychopathic, sociopathic, addicted, criminally inclined for profit, lost, leaderless, or vulnerable.

In Canada, where 17-18 percent of all offenders under federal sentences (which are at least two years plus a day) are Aboriginal, it was interesting to visit the correctional facilities and witness the responses to a wide range of treatment from Healing Lodges to maximum-security penitentiaries.

I learned that restorative justice, as in sentencing circles or face-to-face circles, does not always work in cases where women have to face their offenders if they are both from remote communities (300-500 people), where they must work and live together daily. In some places, the impact of this re-offends as the women victims feel pressured by families to forgive, knowing that the offender will re-offend and not be taken out of the community for help. Elders may appear at the circle, but sometimes they will not contribute completely due to intimidation, and the in the end, the people who need healing are left as the controllers of the situation, instead of getting treatment.

In most cases, however, when I sat with Aboriginal men and women who had offended I witnessed their lost child, their pain, their overall loss, and the fear that no one cared or this pattern would repeat itself. Many did re-offend when they returned home because the prison culture, as dysfunctional as it is, gave them parameters and a sense of belonging. This is a reason why so many otherwise intelligent youth become involved with street and community gangs. They crave the power, the belongingness, and the respect that these forms of behavior offer.

Respect is a funny word, as in to command respect, or to feel respected at the intimate personal level. Many who command respect don't feel respected.

I found this dynamic everywhere, on both sides. Fear is the seed. As one Elder said, "You become what you feed on. If you feed on anger, you become violent; if you feed on love, you heal. But how can one feed on something they've never experienced, unless one gets to the spiritual energy within and connects to the greater Oneness of the Great Mystery (God)." I agree with one writer's concept that we are spiritual beings having a physical experience, often

*Book Review***Critical Issues in Restorative Justice***Edited by Howard Zehr and Barb Toews**Criminal Justice Press*
\$38.50, 413 pages (2004)**Criminal Justice: Retribution vs. Restoration***by Eleanor Hannon Judah and Rev. Michael Bryant**The Haworth Social Work Practice Press*
\$29.95, 265 pages (2004)**Restorative Justice: Critical Issues***Edited by Eugene McLaughlin, Ross Fergusson, Gordon Hughes, and Louise Westmarland**SAGE Publications, Inc.*
\$32.95, 237 pages (2003)*Reviews by Russ Immarigeon*

Pity newcomers to restorative justice! Or, at least those who like to start their exploration with a serious examination of the empirical and theoretical literature of the field. Restorative justice may well be a hot item at the moment, but unlike other fanciful notions of criminal justice reform in recent decades, restorative justice has amassed a giant – and significant – literature that requires careful attention.

For adventurous newcomers, then, I recommend the new volumes briefly detailed in this review. For veterans of the restorative justice movement, too, these volumes are very valuable because they constructively stretch our understanding of a range of critical issues in restorative justice, not only through examples of its use in different settings, but also in its discussion of contrasting, and often conflicting, views of what is at the core of defining and implementing restorative justice. Restorative justice is anything but a static movement, and its composition reflects a diversity of secular and solemn voices. These volumes do justice for these voices.

In the first volume, **Critical Issues in**

Restorative Justice, Howard Zehr (Eastern Mennonite University) and Barb Toews (Pennsylvania Prison Society) have commissioned over 30 original articles, which are divided into six sections: principles and concepts, stakeholder issues, government and systems, practice and practitioner issues, indigenous and religious traditions, and social justice.

Most of the authors who write for this volume have been at the center of the development of restorative justice over the past few decades. Framed as a play, we could say this volume has an all-star cast. Central issues addressed include: the size of restorative justice's "tent," restorative justice's contribution to crime victims and criminal offenders, the dangers of community or state involvement, the role of legislation, different restorative justice models of practice, professionalization, risk taking, the impact of culture, class and gender, and the role of spirituality. The voices here are not unified; some are even dissenting, or at least skeptical. Importantly, the text of each article is straightforward, getting right to the core of the matters under discussion.

In another recently published volume, **Criminal Justice**, Eleanor Hannon Judah (Associate Chaplain) and Rev. Michael Bryant (Chaplain) of the jail/detention center in Washington, D.C. collect 12 articles highlighting differences between retributive and restorative justice that are at the center of the restorative justice movement. These articles also distinguish a central difference in conflicting definitions of restorative justice, those focusing on material/ economic versus spiritual/ healing changes.

Hannon Judah and Bryant line up an impressive array of authors: Marc Mauer, Michael Coyle, Donald Braman, and Eric Sterling describe the destruction and social costs of our over-reliance on incarceration, its impact on families, and the disingenuousness of current drug policies. Daniel Johnson and Dan Van Ness describe the potential of restorative practices that constructively shift impersonal to personal justice. Daniel Misleh and Evelyn Hanne-man offer an overview of what different denominations and religious groups are doing in the U.S. with restorative justice themes.

Marietta Jaeger Lane gives a personal account of how she evolved after the murder of her daughter. Kay Pranis discusses the practice and efficacy of restora-

tive justice. And, in two especially useful articles, Susan Galbraith discusses specific concerns in why it is important to identify and address women's circumstances and needs in criminal justice (or restorative justice) processing. She places emphasis on social reparation, a matter that Frederic Reamer says social workers should become more involved with. Reamer observes, quite rightly, how social workers have abandoned much of their emphasis on social justice when it comes to their involvement with the criminal justice system.

Lastly, in **Restorative Justice**, Eugene McLaughlin and his British colleagues collect 17 previously published articles for an Open University course reader that presents many essential articles for an understanding of the development and differences of restorative justice practice in various countries around the world, including Australia, Canada, England, New Zealand, and the United States. The volume is divided into three sections: conceptualizing restorative justice; institutionalizing restorative justice; and contesting restorative justice. These articles are more academic in nature, but they are every bit as challenging and informative as more accessible articles in the other two volumes. Here, the authors dig in a little deeper. These articles, classics in their own time, establish a great deal of the historical framework, as well as the substantive and the growing controversies of restorative justice practice.

In their useful introduction, McLaughlin *et al.* acknowledge that the writers collected in this volume are generally "conscious of the importance of drawing upon and contributing to a broader discussion of a 'just society'." Such consciousness, I suggest, is responsible for the considerable strengths, as well as the occasional weaknesses, of all three of these essential volumes.

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Restorative Justice & Public Policy

For New Zealand Green Party, Restorative Justice Targets Prison Population Reduction and Other Anti-Crime Measures

by Green Party of Aotearoa/New Zealand

[Editor's Note: Efforts to integrate Restorative Justice with prison population reduction efforts are very rare. But several years ago, the Green Party of Aotearoa/New Zealand ratified a justice policy position paper, entitled "Making Good," that is the only political party-based position paper I am aware of that integrates addressing the needs of both victims and offenders. Because of its importance, this article will reprint a good portion of the Green Party's paper.]

The New Zealand Green Party's position paper states that justice is about more than solving or responding to crime. "It is about how we create a fair, peaceful and sustainable world." Accordingly, the document identifies important concerns such as rebuilding local economies, celebrating people's diversity, ending violence, and ensuring people's needs.

In those segments of the Green Party document being reprinted here, I have annotated some comments, removed several citations, corrected some statements, and deleted some portions that are distinctly oriented toward New Zealand-specific issues (my comments are bracketed in italics). Words or phrases inserted to clarify the text are wrapped in parentheses. Readers wishing to view the complete document can find it on the Green Party's website: (<http://www.greens.org/nz/searchdocs/policy4754.html>).

Justice Policy - Making Good

Vision

Justice is about more than how we deal with crime. It is about how we create a fair, peaceful and sustainable world. Our Justice policy sits alongside our commitment to rebuilding local economies, celebrating diversity and creativity, ending violence towards each other and our environment and ensuring that people's needs, are met.

The Green Party justice policy begins with creating an inclusive and safe society in

which there is less crime, and the development of natural justice within our criminal justice system, by:

- involving the complainant (victim) as a key participant in proceedings;
- recognizing that crime is primarily a breach between people rather than between an offender and the state;
- promoting a restorative rather than retributive justice system;
- promoting habilitation and rehabilitation in sentencing, rather than punitive measures;
- improving access to the justice system;
- use of a less adversarial approach in courts;
- increasing participation of the wider community in justice procedures;
- encouraging non-violent conflict resolution methods throughout society; and
- reducing levels of domestic violence.

We will give effect to these through our commitment to restorative justice.

Restorative Justice Policy

The present system is failing

New Zealand has the highest rate of imprisonment in the world, after the U.S.A. [New Zealanders frequently over-inflate their rate of imprisonment, which is in the range of 130-150 per 100,000. This pales in comparison with nations such as Russia or China, and such regions as Eastern Europe, central Asia, and even the Caribbean.]

A total of NZ\$246 million or 53% of the total Corrections budget will be spent on locking up offenders this year, compared with NZ\$40 million or 9% of the total Corrections budget to be spent on rehabilitation. [In October 2004, \$1.00 in New Zealand was worth \$.68 in the US.]

Yet despite spending millions a year on locking up offenders we also have a high rate of recidivism. 86% of prisoners will be reconvicted five years after release and 51% of prisoners will be back in prison after five years.

At the same time the current system does not meet the needs of victims. The New Zealand Council of Victim Support states that our current system provides inadequate compensation for losses suffered because of crime, does not allow adequate space for the views of victims to be heard in relation to bail, sentencing and parole

decisions, that victims are often re-traumatized by court processes and that there are inadequate support structures for vulnerable witnesses.

Although legislation such as the Victims Rights Bill, the Sentencing Act and the Parole Act have been, or are in the process of being, passed by Parliament to address these concerns, the rights of victims will never be more than an add-on within an adversarial court system.

The criminal justice system must be based on what works. Our present system is failing. Restorative justice offers a way forward.

What is Restorative Justice?

Restorative justice has three characteristics:

- The victim is at the center of the process. The first priority is to heal the harm caused by the crime;
- Involvement of the community, allowing more appropriate and creative outcomes;
- The focus is getting the offender to take responsibility for what they have done, and take steps to put it right.

Restorative Justice Works

A number of restorative justice pilot projects are currently under evaluation. Many have been in place for some time, such as Te Oritenga Restorative Justice Group and Te Whanau Awhina in Auckland, Te Puna Wai Ora Inc in the Hawkes Bay, Project Turnaround in Timaru, and groups in Levin, Christchurch and Wanganui.

A study done on behalf of the Crime Prevention Unit / Institute of Criminology VUW by (Gabrielle) Maxwell and (Allison) Morris (in) 1999 found that Project Turnaround and Te Whanau Awhina were effective in preventing re-offending and resulted in savings to the justice system.

The work of the Greens in cooperation with Labor and Alliance members of the Justice and Electoral Select Committee helped to make the Sentencing Act and the Parole Act world leaders in the legislative recognition they gave to Restorative Justice. We will be working (*in the future*) for more specific legislation around restorative justice following the outcome of the pilot evaluations.

New Zealand Green Party

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Marae-based Justice and Restorative Justice

The Green Party acknowledges the work being done within the Maori community on developing working models of Maori justice processes and supports this work wholeheartedly. *[Marae-based programs are convened in the ornately carved meeting house, dining hall, cooking area, and sacred space associated at the center of Maori communities.]* There are both similarities and differences between restorative models and Maori Justice models and we recognize that much can be learned from sharing knowledge between these systems. We support the development of Wananga *[educational programming opportunities based in Maori environments]* to transmit and extend such knowledge, and funding for implementation of such processes.

Specific Policies*Advancing Restorative Justice*

We must begin now to both trial restorative justice approaches across the country and build public awareness of the potential of this approach.

The Green Party supports funding:

- adult restorative justice pilot schemes and marae-based justice programs in a variety of cultural and geographical settings;
- a public debate and information campaign about the justice system and restorative processes.

Sentencing Alternatives

Prison is important to protect the community from dangerous offenders. It may also be included as part of a sentencing package resulting from a restorative justice conference. However majority of people in prison are in for non-violent offences, and prison simply makes them more hardened criminals.

The Green Party supports:

- a moratorium on all new prison construction;
- expanded development of habilitation centers as recommended in the 1989 Prison Systems Review;
- expansion of the Diversion Scheme;
- establishing a communication facilitation unit to work with corrections,

courts, prisons, Children and Young Persons and Their Families service, counseling providers and police to monitor the rehabilitation of perpetrators of violence and to ensure their victims are adequately protected and supported;

- setting boundaries for sentencing considering danger to the public; repetitive, serious offending; mental illness, poor life skills or illiteracy; and the necessity for diagnosis and treatment of health issues such as ADD, undiagnosed deafness, addiction, nutritional problems, etc.;
- increased provision for rehabilitation of existing inmates, focusing on self-recognition and acceptance of responsibility, guilt and remorse; counseling; education; conflict resolution and anger management therapy to prevent repeat offending; and support for teaching non-violent means of expression such as arts and technology.

The Green Party opposes the privatization of prisons, but supports "out-sourcing" for rehabilitative programs and services such as counseling and therapy services.

Prison Management

If we are to genuinely create a safer society, prisons need to focus more on rehabilitation and re-integration of inmates into society. Prisons at present make many people more angry, more hostile, and better equipped to commit crime and get away with it. We provide little money for helping people to avoid a life of crime, money that could provide opportunities in education, meaningful work and community development. Yet we seem to have an open checkbook for locking people up after they have done wrong. Over half the total Corrections budget this year will be spent on locking people up. Under 10% will be spent on rehabilitation.

The Green Party supports the time, energy and resources that the Department of Corrections has invested into implementing the new Integrated Offender Management System. This has provided a new assessment tool to reduce re-offending, however more provision needs to be made to address the needs that are identified by this system. We need to refocus our energy and resources to ensure that people in prison do not end up back there once they are released.

The Green Party supports:

- Encouraging inmates to sustain or re-establish family and Whanau *[extended family]* links by simplifying the prison visit process
- Increased accessibility to education programs within prisons so that people have the skills to contribute meaningfully to society once released from prison
- More effective and increased accessibility to drug and alcohol programs within prisons for those that need it
- Revisiting the procedures around methadone treatment within prisons so that registered addicts can continue treatment.
- Review the management and rehabilitation of women in prison, in particular pregnant and nursing mothers.

Domestic/Family Violence

The Green Party is committed to reducing domestic violence. The legal system alone cannot do this. We need to break the cycle of violence. The most common forms of violence against women are domestic and sexual violence. We are committed to rebuilding strong supportive communities and promoting peaceful relationships from the individual to the international level. We honor and support the enormously valuable work already being done to reduce violence and respond to the harm its causes.

The Green Party will:

- Review, with a view to reducing, the cost of obtaining a protection order;
- Resource improved provision of targeted information to women and men about protection orders;
- Fully resource the Domestic Violence Act 1995;
- Increase educational and training programs to deal with attitudes and behaviors that result in violence. These include non-violent conflict resolution in schools for both boys and girls and mandatory attendance at (culturally appropriate) behavior modification courses for men convicted of assault on women;
- Secure financial support for agencies that provide safe houses and refuge for women and children in violent relationships;
- Reduce violence on television by requiring the Broadcasting Standards Authority to monitor the amount of

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violence on all television channels through surveys and report the findings to Parliament each year;

- Require the Broadcasting Standards Authority to monitor and enforce the TV codes of broadcasting practice on the portrayal of violence, in particular the requirement that channels avoid screening programs containing gratuitous violence (i.e. violence not justified by the context);
- Require TVNZ, as a publicly funded channel, to take a lead in reducing the amount of violence on television by developing guidelines on violence for producers and programmers, and committing itself to not screening programs that contain gratuitous violence;
- Provide free counseling and support for victims of violence, in addition to ACC;
- Ensure information about sexual victimization is readily available through various outlets accessible to all; and
- Develop inter-agency protocols designed to initiate a reduction in the incidence of domestic violence.

Human Rights

Upholding and developing human rights and responsibilities is a cornerstone of a democratic society. The Green Party believes that only by treating people with dignity and respect will people begin to respect the dignity of others. People of all ages have the right to security, care, to contribute, be valued and grow throughout their lives. Especially, the young have the right to be cared for and nurtured, adults the right to work and contribute to building New Zealand, and those with experience of life have the right to be valued and to share their wisdom and experience.

The Green Party will:

- ensure the Crown is bound by all human rights legislation;
- combine community education and effective use of legislation to ensure full citizenship rights are extended to all people, in law and in practice;
- ensure that our human rights legislation and practices are in accord with our international obligations;
- investigate the best ways to entrench human rights legislation in New Zealand.

School-based Restorative Justice

New Zealand Educators Develop Restorative Approach to School Misbehavior

by Russ Immarigeon

The Restorative Practices Development Team at the University of Waikato’s School of Education in Hamilton, New Zealand recently issued an exciting 57-page guide to school-based restorative justice practices. In **Restorative Practices for Schools: A Resource** (December 2003), a team of educators at the University explores different ways of introducing restorative justice practices in a school setting, where emerging issues are related to school suspensions, truancy rates, school discipline, and young offenders.

While restorative justice (i.e. family group conferencing) has been introduced on a system-wide basis for juvenile offenders in New Zealand, such has not been the case in school settings, even though an early pilot project showed a 25% reduction in school suspensions.

The project that produced this guide emerged from a national Suspension Reduction Initiative aimed at reducing the levels of Maori student suspensions to those of non-Maori students. Project members felt that school suspension problems were rooted in schools and their communities. While the earlier pilot focused on the use of Family Group Conferences, subsequent work was directed toward broader, more inclusive restorative justice practices, including the notion that standard interveners may well be part of the problem of student misbehavior.

The project’s broader perspective envisions schools that include the following:

- Appreciation, alternative possibilities, and hope replacing judgment, deficit, and failure;
- Addressing issues rather than punishing students;
- Establishing teacher relationships with, rather than authority over, students;
- Restoring order rather than authority;
- Speaking respectfully of one another;
- Hospitality extended to all; and
- Listening to student voices rather than drowning them out.

Overall, this guide examines structural aspects of respectful relationships in schools, including times of welcoming and greeting, practices of care, holding relationship as central to academic achievement, embracing the worthiness of each person, and practices that invite belonging and a sense of community.

The restorative Justice Practice Team that produced this guide examines the practice of respect as a matter of restoring relationships, involving more stakeholders, and focusing on needs and obligations. In describing conferencing processes, the Team observes important challenges in the interviewing process:

- Alternate accounts of problems exist and one person may not hold all relevant information;
- The wrong-doer has other attributes than wrong-doing;
- Problems ought to be faced, not avoided, and worked with collaboratively; and
- Alternative ways exist of understanding problems.

This guide is based not just on restorative practices, but restorative practices devised through “narrative therapy,” an alternative means of conversation (and respect) between members of a community. The guide skillfully outlines aspects of these approaches. It raises many meaningful questions and inquiries about not only what problems have been addressed previously, but also how they might be addressed alternatively. It provides detailed retelling of some episodes in the use of this approach to school misbehavior.

The guide identifies key restorative concepts: accountability, reparation and reconciliation, group decision making, information sharing, cooperative approaches, community base, breadth of outcome, flexibility, reconciliation and reintegration, school culture, community of care, a focus on possibility, alternative stories, and “thick and thin” descriptions.

In undertaking this approach, the guide suggests, it is important to remember that the problem (not the student) is the problem, the focus is on making amends, victim voices must be heard, forgiveness takes time, communities must be involved, and time must be spent developing plans and recruiting support for them.

Copies of this report area available for \$20.00 NZ (including shipping) from Administrator, Wilf Malcolm Institute of Educational Research, School of Education, University of Waikato, Postal Bag 3105, Hamilton, New Zealand, (e-mail) wmi@waikato.ac.nz

Resources

by Russ Immarigeon

Fiction has not played much of a role in debates and discussions about restorative justice. In a recent *Boston Globe* article, however, columnist Ellen Goodman wrote briefly about Elizabeth Berg's new novel, **The Art of Mending** (Random House, 2004, \$24.95), a novel that is more about the power of family secrets and of family restoration rather than wreckage. "If you're careful," Berg writes, "the repair can actually add to the beauty of the thing because it is testimony to its worth." Repair, it seems to me, is often what restorative justice is about, and the role of family secrets is certainly an important aspect of such methods of restorative justice as family group conferencing. So, it might be a good idea to turn to fiction now and then for some new (or old) ideas about restorative justice.

Massachusetts Report

In western Massachusetts, Lucinda Brown and other community members have been working on a Restorative Probation project that brings probationers before a community panel of volunteers, who address offenders and the impact of their offenses on victims, the community, and themselves. Started in 1996, in response to nudging from the state judiciary, this project operates through the local courts in Greenfield and Orange (Franklin County), Massachusetts to heal the harms that crime causes. This past July, Molly Ryan Strehorn, a former intern at the program, completed a qualitative evaluation of its work and impact. Strehorn conducted interviews with nearly two-dozen persons who have completed the program, which reminds me of the Community Boards program in nearby Vermont. She also observed regular meetings and she received completed survey questionnaires from more than three-dozen participants.

The most notable findings were gender differences among study respondents. Women probationers were more often unemployed, more likely to bring guests or support persons with them to meetings, and completed writing assignments more routinely. In terms of listening skills, Strehorn found that women board volunteers were more likely to ask direct questions than men volunteers, who tended to

give advice. Strehorn's 31-page report, "Restorative Justice in Franklin County, Massachusetts: A Qualitative Evaluation," is available at the website of the Center for Restorative Justice at Simon Fraser University (www.sfu.ca/cfri/fulltext/strehorn.pdf).

Social Work & Restorative Justice

In the August 2004 issue of the **International Journal of Offender Therapy and Comparative Criminology**, Edward J. Gumz (Loyola University Chicago) observes that social workers have nearly disappeared from working with people in the criminal justice and corrections systems and have not picked up on the possibilities of restorative justice in addressing some of their concerns about justice system failures. According to Gumz's article, "American Social Work, Corrections, and Restorative Justice: An Appraisal," social workers are shifting their focus from high-risk cases to high-income clients while the courts and prison systems are getting more punitive and overcrowded. Gumz correctly questions the scant contribution of social workers to current criminal justice practice, but he seems overly optimistic about the potential of social work use of restorative justice, especially since the field has not taken to discussing it or writing about it.

Gumz provides some useful background about the diminishing role of social work in criminal justice practice, and he urges social workers to take particular note of restorative justice. He does not, however, give much guidance about how the field might abandon its hands-off posture toward either criminal justice or restorative justice. A copy of this journal is available from SAGE Publications, Inc., 2455 Teller Rd., Thousand Oaks, CA 91320, (800) 818-7243, www.sagepub.org.

New Text

In **Restorative Justice** (Peter Lang Publishing, 2004), Ruth Ann Strickland, of the political science and criminal justice department at Appalachian State University in North Carolina, has written a valuable new introduction to the topic. Strickland's short 143-page volume is not groundbreaking, such as works by Howard Zehr, Dan Van Ness and others, but it is useful, especially for education or training courses on the subject. At its center, she quickly covers the history, theory, general practices and use, and techniques of restorative justice. Individual chapters examine the

relationship between restorative justice and defendants, crime victims, the courtroom workgroup, the community, and corrections. Strickland observes that victims, criminal justice professionals, and communities are giving increasingly positive grades (or "thumbs up") to restorative justice practice. She concludes that restorative justice initiatives have been successful in three areas, as alternative or diversionary programs, as healing or restorative practices, and as sound methods of offender re-entry into community life. Still, she notes that the future of restorative justice is uncertain, especially given the impact and influence of punitive options. She concludes, "The future of restorative justice programs will largely depend on how effective advocates are at building support for them at the grassroots level and how able they are at demonstrating the effectiveness of these bold new approaches to justice. Successful implementation will require an incremental approach as advocates illustrate how restorative justice programs can complement existing status quo arrangements." While supportive, Strickland's conclusion is cautious, perhaps too much so, as restorative justice risks cooptation and collapse if it fails to confront and challenge mainstream practices in cases involving the full range of low end misdemeanors to high level felonies. Strickland recognizes dangers inherent in "widening the net" practices, but does not pave a path to avoid them, either in individual cases or on a system-wide basis. A copy of this book can be purchased from Peter Lang Publishing, 275 Seventh Ave., 28th Fl., New York, NY 10001, (800) 770-LANG, www.peterlangusa.com.

VOMA members and readers of this publication are urged to order these and other restorative justice resources through the amazon.com link available on the VOMA website at www.voma.org. Items purchased in this manner return a small percentage to support VOMA's work.

If you've found a good book, website or other resources that you think would help other *Connections* readers, please let us know. Contact the editor at:

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VOMA News

VOMA Seeks to Start National Database on RJ Practices/Outcomes

VOMA believes strongly, as the research literature shows, that those involved in restorative processes and dialogue feel more satisfied in their sense of justice and fairness, get better results and compliance with agreements, and receive greater care and support from their communities.

More and more, however, private and public funding agencies are requiring us to "prove" that restorative justice and restorative dialogue really make a difference. Of course, we also want to know if our work and the services we provide meet the needs of those we serve, help the healing process of victims, address the issues of accountability and fairness, and build community capacity and sense of safety. Many programs have asked about, or developed on their own, some program evaluation process to answer these questions. It is obvious to us that quality evaluation and data collection will serve all of our individual programs and the field as a whole.

VOMA and the Center for Policy, Planning, and Performance (CPPP), through a grant from the Center for Neighborhoods and Bush Foundation in Minnesota, have developed a comprehensive RJ/dialogue evaluation system. The system includes several discreet sets of evaluative questions for each of the following parties: victims, offenders, friends/family members of both victims/offenders, community representatives, and the government.

One set of questions relates directly to the type of incident and some other demographic information that can be completed by program staff if it is too burdensome for the victim. The questions ask for both qualitative and quantitative information to assess both satisfaction and results/impact. There is also an opportunity to describe the cost per case.

In evaluating RJ program or dialogue services, you would use only those question sets that apply, but you would have all of them available for a full RJ program. You can also delete questions you think are not appropriate and develop your own paper surveys for your clients/parties. However, we would across the full membership begin

asking common and consistent questions and begin gathering common and consistent evaluation information.

We have set up on-line system so that those interested in field-testing the system can enter data from their cases and generate a summary report based on their accumulated data. We are seeking several participants for a field test of this process. No one other than VOMA and you will have access to your data. It will be protected by a security access code to the system.

VOMA will combine all of the organizations data into a national report that can make the case that RJ works. If you find the system valuable, we will seek funding to implement this system for nationwide implementation and data collection. We want to conduct the field text during the first six months of the year and be able to produce a summary report by the end of June 2005.

If you are interested in seeing either paper copies of the evaluation tools or reviewing the full system on line, please contact Russ Retz, who will complete this evaluation project. His phone number at the CPPP/VOMA office is (612) 874-0535, ext.119; you can e-mail him at rreetz@effective.org.

CPPP/VOMA Staff

Doreene Langason is replacing Claire Harris as VOMA administrator. She has been on staff at CPPP as associate administrator for VOMA since the middle of August. She has a Masters Degree in Human Resource Development and is pursuing her doctorate in Educational Leadership at St. Mary's University. Along with a strong educational foundation, she has experience with focus groups, employee training, and developing tools and plans to improve human resource processes and systems. She has worked as a researcher and program coordinator for the National Language Association of Cameroon, where she taught high school for seven years. She is originally from Cameroon and is bilingual in English and French.

Also working with VOMA on the Organization Effectiveness and Transition Grants is Carol Swenson, who has a Master's degree in Geography and a BA in sociology from the University of Minnesota. She has previously done work with non-profit organizations and museums, historical preservation, and public education. She is trained as a mediator (CDR) and will do volunteer VOM work with Annie Roberts. She has also served as a research fellow

and specialist at the Design Center for American Urban Landscape, College of Architecture at the University of Minnesota.

New Grants

VOMA was awarded a \$40,000 Organization Effectiveness Grant by the Hewlett Foundation to focus on fundraising and sustainable revenues for the future. This is being done for several Hewlett grantees as the conflict resolution program at the Foundation is being terminated as of the end of the year. VOMA has also submitted its final grant for two years of transitional funding from Hewlett and will know the end of October if that grant has been awarded. The focus of the grant activities will be exploring long-term partnerships and alliances with other organizations to ensure sustainable and effective services and programs in the future. Co-chairs Dale Landry and Leslie Young will work with Barbara Raye to develop a framework for exploring these new strategic alliances and how to engage all the members of VOMA in this board-lead initiative.

New Partnerships

VOMA is participating in a Collaborative Conference Project with NAFCM, PeaceWeb, FOR, PRASI, and The National Coalition for Dialogue & Deliberation (NCDD) (and maybe others in the future). PeaceWeb is the lead agency and received a grant from Hewlett Foundation (with the support of all five organizations) to explore the feasibility of a joint conference and to develop a business plan with the parties who wanted to proceed together.

These organizations have a shared mission of community-based mediation, reconciliation and restorative justice or peace building. They also have attended each other's conferences but have found that over time, the competition has become a barrier to conferences being a successful and financially rewarding strategy for the future. Two board members, Bobbie Boland and Sheri Gatts represent VOMA on the project. Look for some preliminary report this coming Spring.

VOMA Board Elections

In the next few weeks you should be receiving your ballot for the five board positions that are coming vacant. Please take the time to send in your votes. See www.voma.org for more details.

VOMA 2005 Conference

The VOMA 2005 conference will be held in Philadelphia the week of November 13, 2005. Mark your calendars!

Victims Meeting Offenders

Continued from page 1

The sensitive nature of this research effort must be highlighted here since it affected how we went about contacting and interviewing adult victims referred to the program. In order to address the central question regarding choosing to participate or not, we needed access to persons who had opted not to seek a meeting with the offenders in their cases. It was expected that these individuals would be quite reluctant to participate in a research study aimed at understanding why they made the decision not to participate.

In order to enhance the likelihood of this group participating, it was decided to develop a very brief phone interview instrument with the idea that a short interruption in their lives might be more readily tolerated than a long one. With this in mind, three interview schedules were devised:

- one for those victims who did not have a face-to-face pre-conference;
- one for those victims who had a face-to-face pre-conference but did not meet with the offender; and
- one for those victims who had a face-to-face pre-conference and did meet with the offender.

The average length of time required for the interview ranged from ten to 20 minutes.

The data collection period covered ten months of program activity from January through October 2002. Cases with suits pending, in which offenders declined to participate, and those where the program was unable to reach the victim, were excluded from this study. Names of the 146 adult victims referred to the program were relayed to the research team and formed the referral pool from which our sample was obtained. Each victim received a letter inviting participation in the study.

The total return rate of completed interviews was 28%. Forty-one of the 146 adult victims in our referral pool were interviewed. Eighteen of these 41 study participants met in conference with their offenders. Twenty-three of them did not. Half of the victims who met with offenders during the ten-month study period participated in the study in contrast with 21% of those who had not met with their offenders.

It should be clear that the resulting group

of persons interviewed does not represent a random selection of adult victims referred to the program. They are a collection of individuals who were referred to victim offender conferencing and who agreed to participate in this study. Individual and offense characteristics, between those who opted to participate in this study and those who did not, varied little with the exception of victim gender. While males make up

"My husband and I felt like we had put in enough time."

"We and our neighbors agreed it was a good idea."

slightly more than half of the referral pools, females comprise 57% of our study group. Perhaps this suggests that women are more willing to participate in this type of research effort.

In addition to these victim interviews, six probation officers responsible for intake and referral and nine mediators/facilitators were interviewed.

Deciding to Meet or not Meet the Offender

We now direct our attention specifically to the question of factors that may influence whether or not victims meet with offenders in conference. We divide our sample into those victims who went through the conferencing process and met directly with their offenders and those who did not.

Twenty-six percent of those cases where victims did not meet offenders involved misdemeanors, 17% were gross misdemeanors, and 56% were felonies. Of the total cases that led to a meeting, only 6% involved misdemeanors, 28% were gross misdemeanors, and 67% were felonies.

Eighty-six percent of the cases in which victims did not meet were property offenses and 14% were crimes against persons. In contrast, half the cases in which victims did meet were property offenses and half were crimes against persons. Diversion cases represented 23% of the cases where a meeting was not held. Thirty-two percent of these cases originated at the point of pre-sentence investigation and 45% post-disposition. In

contrast, none of the cases where victims met with their offenders were diversion cases. These cases were evenly divided between pre-sentence investigation and post-disposition.

Although the number of study participants is small, there is a consistent pattern that those cases where victims met with offenders involved somewhat more serious offenses and more offenders who had penetrated the system further. It is particularly striking that none of the cases that resulted in conferences within our sample were diversion cases.

Why this tendency for the "conferenced" cases to be more serious may be partially explained as we considered the reasons victims gave for desiring to meet or not meet with the offenders.

First, though, we should note that while the vast majority of study participants indicated that family members neither encouraged nor discouraged their participating in the program, 26% of those victims who did not meet reported that family did discourage their participation. None of those victims who met the offender said that family members acted to discourage their participation. Those who were discouraged to participate said, "My wife wasn't too interested in it." "My husband didn't agree with the sentence." "My husband and I felt like we had put in enough time." On the other hand, those who were encouraged to participate said, "My family and my boyfriend were supportive." "We and our neighbors agreed it was a good idea." "My husband thought it was a great opportunity. He was angry but supportive."

Participants in this study were asked directly to respond to a series of statements of reasons that victims often give for wanting to meet or not meet with offenders. Interviewees were asked to answer "Yes" if any of the reasons were true for them. The list of reasons has been gleaned from previous studies and from meetings held with administrative staff of the Washington County program.

We have rank ordered victims' reasons for wanting or not wanting to meet with offenders, that is, items receiving the most affirmative responses are ranked number one, number two, and so on. We begin this part of the analysis by considering first those victims who did not meet with

Victims Meeting Offenders

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offenders.

Non-participating Victims

Fifteen victims agreed that they had not wanted to meet the offenders because it was “not worth the time and trouble involved.” The second ranked reason (nine responses) was “the matter had already been taken care of.” The third ranked reason (six responses) was “too much time had already gone by since the crime.” It should be noted that for this group the median number of days from the offense to referral to the program was 115 days and the median number of days between the offense and contact with the program was 154 days. The fourth ranked reason (five responses) given was “I just wanted my money.” The fifth (four responses) was “the system just wanted to slap the wrist of the offender.” Two individuals indicated they “didn’t want to help the offender” and two also said “family or friends said I shouldn’t do it.”

Study participants also had the opportunity to provide further explanation for their reasons. Other concerns included the safety of the meeting: “I didn’t feel I could be civil;” “I would have been in jail;” “I didn’t want to be recognized by the offender;” “I didn’t want her to know it was me.”

The issues of the offense not being worth the time and trouble involved and the belief that the matter had already been taken care of are fleshed out more in the following responses. One victim told us, “I just wanted to forget about it, not bring it up again.” Another said, “I didn’t see the value in it. The guy knew he was wrong.” Other related comments include: “We knew the offender’s mother. He was just acting out, I believe. We just said we want him to stay away from our house.” “It would have been a waste of my time to talk to somebody about that.” “It wasn’t a big amount of money.” “Boys that age do stuff like that. I didn’t want to make a big deal out of it.” “Time had gone by.” “We all thought it was a lot of rigmarole for a mailbox, for something that seemed like not such a big deal. I work two jobs and it’s not convenient for me to work things in.” “It was basically so minor, that I didn’t think it was worth my time.”

Other victims who did not want to meet with the offenders were more focused on the offender and the system. Their comments included: “They didn’t need me to

testify in court. I thought if they can handle it, let them handle it.” “The offenders never took the initiative to speak with me. I don’t see why I should go out of my way to speak to them.” “It was going to be beneficial to the other party if we met. It wasn’t going to benefit me.”

Two groups emerge from these data. The largest group consists of those persons who did not want to meet with offenders because the offense was not serious enough to merit their time or the trouble it would take to go through the conferencing process. And a smaller group consists of individuals who want to do nothing that may help the offender.

Participating Victims

We will now look at the responses of those victims who did want to meet with offenders. In the first place, more of these victims selected many more reasons to explain why they wanted to meet. The highest ranked reason for wanting to meet with offenders with 17 of the 18 victims responding affirmatively was: “I hoped the offender/s would be helped by meeting with me.” Two reasons were tied (16 responses) for the second most frequently mentioned reason ranking: “I wanted to hear why the offender did this to me,” “I wanted the offender to know how his/her actions affected me.” Fourteen respondents indicated they wanted to meet offenders because: “I wanted to be able to ask my questions,” or “It (conferencing) sounded like an interesting process.” The next most often cited reason (13) underscores concern for personal safety: “I wanted to be sure the offender(s) wouldn’t come back and do it again.” And ten study participants reported that they wanted to meet offenders because “I wanted a say in how and when the offender(s) will pay me back or make it right.”

Fewer of these respondents had a need to elaborate on their reasons for wanting to meet with offenders than did those who did not want to meet, but we share excerpts from these explanations since they provide another lens onto the question of why victims choose to meet with offenders. Comments included: “I wanted to hear why he/she did this to me. Why us?” “I wanted to know why he did what he did.” “I did it to give him a perspective, the other side of the coin.” “I wanted to hear both sides of the story. I know what he did was wrong, but understood how things like that happen.” “Our son had done some vandalism and we made him confront and talk to the person. It was probably the

best thing in the world for him. We hope this would be helpful to the offenders.”

Taken together, the reasons most often given by victims who want to meet with offenders form three clusters:

- one set of reasons revolve around wanting to receive an explanation of why the crime occurred, including having the opportunity to have one’s questions answered;
- another set of reasons are more focused on offenders, including that they understand the impact their acts have had and the hope that the offenders would be helped by meeting with victims; and
- a third set of reasons had more to do with a sense that victims are engaged in how offenders make things right so that they won’t come back and do it again.

“I hoped the offender/s would be helped by meeting with me.”

“I wanted to be able to ask my questions”

It is intriguing to us that 14 of the 17 respondents indicated that one reason they chose to participate is that the conferencing process sounded interesting. That certainly speaks to the importance of providing an overview of the steps of conferencing as early in the process as possible.

The two groups, those victims who did not want to meet with offenders and those who did, appear at first glance to be quite different in attitude and expectations. There likely are in fact differing philosophical bents between at least some of the persons in these two groups regarding the nature of justice and the role of the criminal justice system. While this issue was not a focus of the work done here, it certainly can be expected that such differences will exist among victims of crimes just as such philosophical differences exist across the broader society. Still, it also should be remembered that some of those who chose not to meet because of time and perceived trouble involved might have

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made a different choice if the matter at hand had been more serious. As noted earlier, those who did meet with offenders tended to have more serious cases and cases where the offenders had penetrated further into the justice system.

Conclusion

The results presented in this article are fairly consistent with the growing body of literature addressing the question of why crime victims choose to meet or not meet their offenders. Victim offender conferencing is clearly not for every victim. Some individuals will likely be philosophically and/or emotionally opposed to such meetings. Some will conclude that, given

Over 85% of those victims who met with offenders did not wish that the justice system had offered them more

their losses, meeting with the offender is not worth the time and trouble. Other victims, however, welcome the opportunity to meet with the offenders who have violated them. Some of these will do so because they want to help the offenders change their behaviors; some want to tell their stories of the pain caused and see some remorse; some have questions for offenders; and some want a say in how repairing the harm is done and in holding offenders accountable for their actions.

Those victims who do meet with offenders are a highly self-selecting group. It is their choice, for whatever reason, to meet. We know from this study and from a broad range of other studies that victims who choose to meet their offenders come away from the process with high levels of satisfaction (Latimer, Dowden, and Muise, 2001; Umbreit, Coates, and Vos, 2002). Nearly 90% of the victims who met with offenders in this study reported that meeting with the offender had been helpful.

Perhaps one of the more far-reaching findings of this study for the criminal justice system as a whole is that over 85% of those victims who met with offenders did not wish that the justice system had offered them more, while nearly half of those victims who did not meet their offenders wished that the justice system

had offered more. It would appear that the second group of victims completed the justice process more frustrated and dissatisfied than the first group.

This does not mean that crime victims should somehow be coerced or forced to participate. The voluntary nature of participation is crucial to the mediation/conferencing process because choice empowers individuals who have experienced loss due to the offense committed against them and who often feel powerless when facing the trappings of the formal justice process.

In Washington County Court Services, as in any jurisdiction providing mediation/conferencing as an option for crime victims, there is a constant winnowing of cases that may be appropriate for mediation/conferencing. Because the benefits for victims who meet their offenders are perceived by themselves as quite positive and because indirectly, at least, the criminal justice system as a whole is regarded in a positive light by these victims as an outcome of their participation, it behooves referral sources, program intake staff, and mediators to provide the most useful information about this option in as timely a way as possible so victims can make informed decisions about further participation.

The goal of the winnowing process, it seems to us, is to maximize the number of likely candidates for mediation/conferencing, while accepting the fact that many victims will opt out because the crime event was too minor or because they remain philosophically or emotionally opposed to such a meeting.

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Twelve Steps of Personal Peacemaking*

by Mark Umbreit

1. Admit that conflict and violence within yourself and among your relationships consumes too much of your energy, creates stress, and leads to unhappiness.
2. Believe that a power greater than yourself can bring you strength and peace.
3. Make a commitment to connect with a higher power, as you understand it, whether this higher power be understood as God, Yahweh, Allah, Buddha, Krishna, Mother Earth-Father Sky, The Divine, or whatever understanding brings you strength and peace.
4. Make an honest moral inventory of how you have contributed to conflict and violence in your personal relationships, your life in community, and as a citizen of your country and the world. Accept the fact that often your best intentions result in unintended negative consequences upon other people.
5. Admit to your higher power, to yourself, and to others the exact nature of your contributions to conflict and to emotional or physical violence.
6. Focus more on the here and now. Slow down. Breathe deeply. Keep life and your conflicts in perspective. Become responsible for your feelings and behavior.
7. In a spirit of humility and compassion for yourself and all others, seek spiritual guidance in confronting your shortcomings which may contribute to conflict and emotional or physical violence.
8. Make a list of all persons you have harmed and become willing to make direct amends to all such people wherever possible, except when to do so would injure them or others.
9. Continue to be mindful of your actions and their effect on others, and when you have offended another, whether intentionally or not, promptly admit it and apologize.
10. Seek through prayer, meditation, and other self-care techniques, to gain emotional and spiritual strength (in the context of your specific religious or secular tradition).
11. Forgive those who may have offended you. Don't take things too personally. Remember that most people don't mean to offend, but that their actions (and yours) frequently lead to unintended negative consequences.
12. Commit to being an instrument of peace and healing among all those who cross your path in your life's journey. Don't hang onto resentment and anger. Let it go. Remember, the one who benefits the most from forgiveness is the person who gives it. It can bring a renewed sense of freedom and energy to your life.

** Modified version of the internationally embraced Twelve Step Program for recovery*

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Simple Society

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with many previous physical lives (genetic memory or whatever we want to call it). However, because we don't understand the psychopath, in that they lack conscience and awareness, they may still be healed if they can connect with their spiritual energy. We just don't have the tools at this point to perform such healing, but we will get there eventually. Sweat lodges are an attempt to do this.

It breaks my heart that the innate intelligence of many youth is so misdirected. If prisons and society want to heal the wounds and offer some help, then everything must work holistically. Education must be designed with right brain users in mind, those who learn by doing, not by listening and watching. Employment programs must be accessible - get rid of useless qualifications that are nothing but a competitive advantage for the few and ensure that the qualifications required are actually needed. Ensure that everyone has minimum quality standard housing. Reinforce the spiritual, not the profit motive, as the primary motivation for doing your best. Ensure that people learn about nutrition and have access to quality food from cradle to grave, and make it popular to like to be clean and drug free. Media needs to project positive images and not the wasteland we currently see on TV and in movie theaters. People with no imagination to create beauty need to see it from someone else. Beauty heals, so our "facilities and lifestyle" need to reflect as much beauty as possible. Treat people with respect, regardless of their personality disorder. Mental challenge is the spice of life. Too many people are abandoned, leaving a gap for criminal minds to manipulate them. Let's work together to offer options to all levels of intelligence.

I believe it is imperative for any correctional system to provide humane options, not warehouses for people, and to separate the offenders, based on offences of property, from offences of person. Many people are warehoused in intolerable conditions because they have committed economic crimes, as opposed to violence of the person. I think this is the start. No one human will become more human if treated like an animal; we must learn what respect means in all its aspects.

The Golden rule as interpreted by Aboriginal culture is what you do to the web, you do to yourself, so eventually whatever crime you commit, you commit on yourself

because you have to carry this with you psychically, unconsciously or consciously, depending on your state of being. In Healing Lodges, the Elders use sweat lodges to bring to consciousness the causes of problems. This reaches the spirit as well as the mind, the heart, and the body. It's the person they treat, not the symptoms. When the spirit is purified, only good can result. I realize not all Elders are equal. This isn't a panacea, because there are a lot of manipulators, even with this system. There is no perfect world. But there are perfect visions sometimes. We need these glimpses to reflect on when we're trying to build systems to heal the masses of suffering, hurting, offending people.

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James Zion

I've been practicing law for a little over 35 years, and I've seen a lot of years of retributive justice. I have been a victim of violent crime, so I know what it feels like. I have been associated with the revival of the Navajo version of restorative justice since 1982, and when I first became aware of restorative justice in around 1992, I knew it would go somewhere. I've written a lot about the theory of Navajo peacemaking, but it wasn't until February of this year that I started to get a real feel of how theory works in practice.

I hear domestic abuse cases on Fridays in the Crownpoint Family Court, which is a Navajo Nation court in a small community in northwest New Mexico. I am a domestic abuse commissioner, which means that I hear cases and recommend orders to a presiding judge, the Honorable Irene Toledo. I use my take on Navajo peacemaking in hearings, although I don't tell parties that's what I'm doing.

When Judge Toledo first asked me if I would be a domestic abuse commissioner, I wasn't sure about it. I was a bureaucrat for the Navajo Nation judicial system for a long time and saw huge numbers of "domestic violence" cases in the annual

statistics. The Navajo Nation domestic abuse code is very broad and covers relationships and conduct that many codes do not cover. I find small numbers of abuse that consists of shoving and low-level violence. I see a lot of abusive conduct that falls under the heading of "harassment," meaning insults, demeaning statements, put-downs and the like.

I am dealing with criminal behavior. I often get cases where there has been an arrest and where there is a parallel criminal prosecution. That gives me a basis of comparison between what I do and what the criminal side of the court is likely to do.

Navajos, as it is in other jurisdictions, plead guilty at rates around 90%, so criminal cases are very summary. The Navajo Nation jails are grossly overcrowded, so sentencing judges have two options: They can return a defendant to the community under court supervision in situations that normally might call for a jail sentence, or they can put a defendant in an overcrowded jail. There is little opportunity for judges to discuss the offense with a defendant because of high numbers of criminal cases.

In contrast, I am able to get people talking about what is really going on in their lives. My cases usually have three stages: the initial one where people tell me what happened so I can get the facts; a second stage where hopefully I can get people talking about not only what happened but the causes of the event that brought them into court; and a third stage where I discuss what I should recommend to the judge.

It doesn't always work. I get situations where respondents are in deep denial and I have to act as an adjudicator. Most often, respondents admit what they did so we can move on to problem-solving discussions. I see apologies; sometimes they work and sometimes they don't.

The Crownpoint courtroom is in a well where the parties walk down steps through a public seating area into an area with two large conference tables. The parties sit at either end of one of the two tables, and I sit in the middle on the other side. I duck out the back for a smoke between hearings, and I like to enter the courtroom with the parties seated. I go in through a side door where I can get an initial impression

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of what I'm dealing with, and I follow the Navajo custom of shaking hands with the parties.

I like it when I see a lot of relatives sitting in the gallery, because that means that I will be able to get them involved.

We had an in-house domestic abuse training session recently, and as I discussed involving relatives in discussions, a Navajo victim advocate from a nearby State system asked me about the problem of relatives coercing women into agreements they really don't want to make. I replied that I haven't seen that. No one is forced to agree to anything (unless I need to make a decision). I talk with people about each remedy that is available and how it will work in practice.

I find that when the parties and their relatives move beyond the "facts" and start talking about problem-solving, discussions are much more relaxed and open. I usually recommend protection orders to the judge, but they are negotiated with the parties so they will accept them.

I find that the process is particularly helpful in situations when a petitioner (usually a woman) asks the court to permit withdrawal of the petition. The judge automatically denies such motions, and I have an opportunity to engage in a frank discussion of the family situation with couples. They usually agree to a "no future abuse" order and accept recommendations to participate in the local anti-abuse program, alcohol treatment, or both. We hold review hearings on cases, and couples that return after counseling often report that it helps them.

In sum, I find that a restorative approach to one of the most common problems we see as a society is better than the retributive one. We are trying to get people out of a cycle of violence, and violence is learned behavior. Jail time and fines are not good teaching tools.

As I said, when Judge Toledo first invited me to hear domestic abuse cases, I was hesitant. I told her that I would probably drive home on Fridays quite depressed. Instead, I drive home about 125 miles feeling tired but optimistic. I'm tired because helping people find their own solutions is emotionally draining. However, my optimism comes from finding that when people have an opportunity to address their

own problems and make recommendations to the judge through me, they can and will do so.

It's not magic, and people don't always accept a restorative option. There are times when I have to play judge and force decisions upon people. I'm finding that I usually have to do that when younger Navajo couples show up without relatives and they are less attuned to Navajo thinking about respect and relationships.

Is there a lesson for the non-Navajo world in this experience? I think there is. I don't want to bash adjudication and retribution in sentences because there is a role for that, but my experience with the restorative option is that it gives people a meaningful opportunity to face what they did and deal with it. It gives them a chance to make decisions for themselves rather than have a judge do so. When I introduce myself and explain what I do, I often point to the bench behind me and say that I'm not a judge who is going to beat them over the head. (In fairness to Judge Toledo, she is strict but doesn't beat people up.)

I wasn't too sure how my style worked until the court staff said they like it when they see people leaving the courtroom smiling, and I overheard a victim advocate tell some visitors that her clients like the process.

James Zion, JD, of Albuquerque, New Mexico has a private legal practice in the Navajo Nation and is part time faculty at the National Tribal Judicial Center of the National Judicial College. He is on the editorial board of Contemporary Justice Review and speaks and writes frequently on law and the Navajo nation, indigenous justice, and restorative justice.

Todd Clear

Probation and community justice

I have been making two arguments of late: First, I have been saying that interest in restorative justice ought to be broadened to incorporate a deeper and more systemic interest in community justice. Second, I have been arguing that an interest in community justice would have dramatic implications for probation and parole

In June 2004, I gave the McWilliams lecture at the London School of Economics, where I spoke about probation with place-loads, not caseloads.

We can imagine what a probation service might look like, I began, if it began to see itself as a reinvestment strategy in places hard-hit by crime and justice. First of all, the caseload structure would be a superfluous luxury. Probation officers would not have time to supervise cases, they would be too busy working in the community to make the places safer and more effective places for people to live and raise families. There would be there hallmarks of place-load probation.

There would be geographic specialization: These days, almost everyone has a mapping specialist, and we know two facts: every location has its law violators and some locations have great shares of law violators, while others have very few. Probation would open offices in the places where business is greatest, and working in those places would be the specific responsibility of the probation officers housed there.

Some communities would not have probation officers. De-facto, this is the case now, for communities that have no appreciable presence of probationers. For them, probation does not exist anyway. Other communities would have (perhaps) a single officer whose job it was to work with community groups regarding problems interfacing with probation clients. A handful of places would have a concentration of probation officers. Portland's concentration of criminal justice applies to three or four neighborhoods; Columbus no more the six; Tallahassee, three; and so forth. In these neighborhoods, a new "business" would open its doors: probation.

Probation would be characterized by its community partnerships: The work of the new businesses would be to build and leverage resources. Imagine, for example, a community probation initiative that had as its agenda the renovation of substandard housing, promotion of homeownership among probationers, and creation of community associations of probation and non-probation residents. One way this could work is to use probationer labor to support renovation projects. Probationers might work 36 hours on renovation projects, one-third of which is "free (as restitution) and the other two-thirds of which is paid at prevailing market wages. Renovated property could be sold (probationers could have a discounted bid on any property they help renovate) and

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profits used to purchase new properties to renovate. A percentage of all labor could be donated to renovate public space.

My purpose here is not to lay out a fully developed program, but to stimulate some thinking about just what form a fully developed program might take. Every place might have a different slant. Each probation office will face a different set of challenges to build a new way to invest in community life. The main idea is to stop "supervising" probationers and start creating the bases by which they are reintegrated into an improved community life.

The probation officer would practice community probation: Here are some of the things the new business partnerships would do:

- Design collaborations between community groups and criminal justice initiatives that rebuild community infrastructure, create safe community space;
- Help probationers buy their own homes;
- Strengthen the support for schoolwork of children living in the neighborhood;
- Work with families whose members are missing due to incarceration, developing and sustaining their economic well-being of those who remain;
- Develop community membership groups that overcome the sense of alienation permeating community life; and

- Establish alternative child-supervision strategies for families whose parent-aged adults are missing.

The idea is to re-invent the strategies that probation officers undertake in order to make probation work as an alternative to prison. Much has been said about the "what works" literature, but the idea put forward here posits a new conception of what works: not merely probationers satisfying their orders, but communities that produce large numbers of probationers becoming different places.

*Todd Clear, PhD, is a professor at the John Jay College of Criminal Justice, City University of New York, where he is the executive officer of the Program of Doctoral Studies in Criminal Justice. He is the (co)author of four recent books: **What is Community Justice?; The Community Justice Ideal; The Offender in the Community, and American Corrections.***

**VICTIM OFFENDER MEDIATION ASSOCIATION**

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