



# Justice Connections

A joint publication of NAFCM, PRASI and VOMA

## *Informal Justice*

### “People’s Law” and Restorative Justice: The Success of Circle Sentencing in New South Wales

by Suneti Rekhari

#### **Introduction**

Informal sentencing procedures in remote Indigenous communities of Australia have been occurring for some time, but it was in the late 1990s that formalization of the practice began in urban areas with the advent of Indigenous sentencing and circle courts. These circle courts emerged primarily to address the over-representation and incarceration of Indigenous people in the criminal justice system. The first Indigenous urban court was assembled in Port Adelaide, South Australia in June 1999 and was named the Nunga Court. Courts emerging since in other states are based on the Nunga Court model, although they have been adapted to suit local conditions. The practice of circle sentencing was introduced in New South Wales (NSW) in Nowra in February 2002.

#### **Aims and Impact of the Circle**

Based on the Canadian model of restorative justice (Lilles, 1995), the aims of circle sentencing were to make court processes more culturally appropriate, to engender greater trust between Indigenous communities and judicial officers, and to permit a more informal and open exchange of information about defendants and their cases (Marchetti & Daly, 2004). An evaluation of the court process conducted in 2003 (Potas et al., 2003), carried out by the Judicial Commission of New South Wales and the NSW Aboriginal Justice Advisory Council (AJAC), revealed its success on many levels only a year after its introduction. These included:

- A reduction in the barriers that currently exist between the courts and Aboriginal people;

- Improvements in the level of support for Aboriginal offenders;
- Support for victims, and promoting healing and reconciliation
- Increasing the confidence and generally promotes the empowerment of Aboriginal persons in the community;
- Introducing more relevant and meaningful sentencing options for Aboriginal offenders, with the help of respected community members; and
- Helping to break the cycle of recidivism.

Circle sentencing as developed in the Australian Aboriginal context has many of the attributes of family group conferencing, while avoiding many of the criticisms levied against international restorative justice programs. The diversity of Aboriginal communities in NSW meant that the framework of the model was kept flexible to reflect this; it also allowed local Aboriginal communities to adapt processes to meet their own culture and experiences. This had a major impact on each jurisdiction, which varied in their approaches, making each court literally indigenous to the concerns of particular people and groups. Judicial officers also used culturally sensitive practices when on circuit, incorporating the views of Elders

or respected members of Indigenous communities, further adding to the cultural sensitivity of the process.

#### **Case Example**

Although the practices are seen to be experimental and fluid, they will lead to changes in how justice is carried out for Indigenous people. The following example from the evaluation report of the AJAC and the Judicial Commission of NSW (Potas et al., 2003) reveals this clearly. It illustrates the nature and form of the circle court proceedings where traditional court proceedings are replaced by counselling and advice offered by circle representatives from the offender's own community.

On 7 May 2002 a circle sentencing hearing was convened for a 28-year-old male offender who lived in Nowra. He had previously been convicted of driving under the influence of alcohol while disqualified and resisting police at the time of arrest. The notes of the presiding magistrate indicate that on 22 October 2001 the offender, after consuming alcohol, abused, threatened and head butted the police when they attended the scene. Instead of arresting the offender, the police took him to his maternal grandmother who agreed to look after him. A further assault occurred on 8 March 2002 when he

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*Organizational Update***We Carry On...**

NAFCM, PRASI, and VOMA continue to seek ways to work closer together as we pursue our own specific mission-related work.

The PRASI anthology, now complete, will be published soon. PRASI still conducts ongoing writing circles and writing support activities throughout the country to encourage the voices of those who, historically, have been excluded from the literature of the field and whose experience will greatly inform our work.

PRASI will provide a training and workshop at the next annual VOMA conference (June 11-13, 2007) in Miami, held in conjunction with the American Association of Community Justice Professionals (AACJP), a new organization that brings together offender treatment, victim services, and restorative justice practitioners, researchers, and advocates in conversation and learning about evidence-based and best practices. PRASI will do the same thing at the *Minorities in ADR* conference in Columbus, Ohio (May 16-18, 2007).

Over 400 people attended this conference last year (for further information about workshop proposals and registration, go to [www.voma.org](http://www.voma.org)). At this conference VOMA will also hold its annual membership meeting and collaborative conversations will occur with NAFCM and PRASI leaders and members, who will also be present.

VOMA is pursuing funding for the development of a new international network/alliance of restorative justice open to everyone and International Center for Restorative Justice Leadership as well as collaborative demonstration projects in direct service areas. This initiative is consistent with VOMA's strategy to build collaborative relationships to strengthen and broaden its success.

NAFCM continues its own networking and advocacy on behalf of the practice of community mediation. It is working to develop relationships with other national organizations that share NAFCM's concerns and community orientation and, ideally, have branches, chapters or affiliates located in areas where NAFCM also has member centers. It is also joining new conferences and meetings that have not historically been in the conflict resolution field, including the National Alliance

for Faith and Justice, the Center for Community Safety, the National Organization of Concerned Black Men, the Center for Social Gerontology, AmericaSpeaks, and Neighbor Network. NAFCM is also exploring stronger relationships with individuals and groups using alternative communication and media vehicles to advance the practice including web-based learning, teleconferences, and radio broadcasts.

We continue to shift and restructure in the post-Hewlett funding era. Over the past few months, we have seen major transitions in colleague organizations: BARJ (Balanced and Restorative Justice) will have a reflection and planning for the future meeting in April 2007 in Florida. Linda Baron, formerly of NAFCM, NCPCR, and the ABA, is now interim director at ACR as it goes through a process of repositioning after the resignation of David Hart and several other top employees. Peace Web (formerly NCPCR) is ceasing its original purpose of international conferences and convening and will use its resources to support the work of a new youth focused group called the Nonviolence Youth Leadership Alliance.

**Justice Connections**

Justice Connections is a joint publication of the National Association For Community Mediation, the Practitioners Research And Scholarship Institute, and the Victim Offender Mediation Association.

We welcome contributions, including short articles, literature reviews, case studies, program news, images and other interesting information.

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*Reflection***Restorative Justice: The View From My Window**

by Kay Pranis

It's winter time as I write this – sometimes called “kiva time” – a time for quiet, for moving slowly, for reflecting. I am often asked, “How is restorative justice doing?” So, I turn my reflections toward that question.

First I will share some of the frame around my window. I am a chronic optimist – which profoundly shapes my view of the world. On the other hand I believe that we create the world we believe in – from that perspective being an optimist is in itself a contribution to a better world. Additionally, one of the most important things I've learned in this work is how little I know and how little I can see. I offer this reflection with the understanding that it may be such a tiny view that it is not relevant for others.

I believe that the restorative impulse (a phrase I first heard used by Howard Vogel at the Hamline University School of Law) is spreading and strengthening – in Minnesota, nationally and internationally. It's a quiet revolution, like water seeping through the ground – often not visible, but moving inexorably to achieve balance. I am convinced that the restorative justice movement is slowly, steadily gaining strength and that the struggles the movement faces are the right struggles – how to live up to what we claim we wish to be.

Since I was laid off at the Minnesota Department of Corrections in March 2003, I have been working independently – primarily doing circle training around the U.S. and occasionally in Canada. I travel to new sites that are just beginning to explore or implement restorative approaches and I travel to places that have been doing restorative work for years.

**New sites, old sites**

In the new sites I see energy and excitement, indicating that seeds are continuing to be planted and to sprout and take root in new soil. In the more experienced sites I see commitment,

expansion of the vision to more applications and a growing understanding that restorative work is as much about our inner work as the outer work.

This is what I see through my window – a collage of images reflecting the depth and breadth of the restorative impulse I encounter in my work:

- Chicago Public Schools dropping 'zero tolerance' language and adding restorative language to their Uniform Code of Discipline.
- A “restorative parenting” class offered in Minneapolis, Minnesota.
- A gathering sponsored by the Annie E. Casey Foundation regarding faith based re-entry initiatives framed around restorative justice.
- The adoption of the 'talking circle' process for dialog groups reflecting on a new exhibit on Race at the Science Museum of Minnesota.
- An 'Excellence in Teaching' award at St. Joseph's University, Philadelphia, given to Don Haldeman, who teaches only in circle format.
- The use of the peacemaking circle process to work through environmental conflict in a small farming community on the shores of Lake Huron in Ontario.
- A recent article in *The Nation* about Salt Lake City mayor Rocky Anderson, noting, “Instead of pushing for more and more low-end offenders to be sent to jail or prison, he has built one of the country's most innovative restorative justice programs, for which he was nominated for a second World Leadership Award . . .”
- The availability of a restorative approach to staff conflict in all the prisons in Minnesota.
- The spread of the peacemaking circle process in Costa Rica.
- Cross system collaboration in Chicago bringing together former adversaries – passionate defense advocates and police working together in a restorative framework.

- A pilot project using a restorative approach to family violence in Arizona.
- A common values framework based on restorative justice identified among reformers in education, social services, workplace, criminal justice and community in Minnesota.
- Restorative approaches identified as an innovative human rights tactic by the New Tactics project of the Center for the Victims of Torture.
- Cardozo Law School Symposium on restorative justice.
- Six peacemaking circle trainings held in the Atlanta area in a fifteen month period.

Some of these examples are small; some are huge. It's just my personal list of what feels alive and well and expanding. Many of you reading this have an even more extensive list of your own examples of the vibrancy and scope of restorative work.

**Personal work, expanded work**

But what is reassuring to me even more than my list of examples is the deep personal work I observe being done by those I encounter working in restorative justice. I believe taking the values and ethic of restorative justice inside ourselves is the best way to assure its survival through whatever challenges arise. It is not easy work to look at our own transgressions and to be accountable for the impact of our behavior on others. However, restorative justice teaches us that we are not diminished by acknowledging mistakes or harm. Restorative justice makes it safe to be wrong or to mess up – as long as we are willing to acknowledge that, hear from those we have impacted and work toward making amends.

The philosophy of our work is the safety net under our work. It allows for making mistakes and then

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making course corrections. We don't have to always be right. We just have to be willing to hear

when we are not getting it right and work with those who can see what's not right to make corrections. Humility, it turns out, opens doors and windows to new ways of seeing and understanding ourselves and others.

Surrounding the collage of images above, holding it together in its disparate pieces, I see a deep commitment by practitioners to living the values embodied in restorative justice. I find many practitioners making shifts in their lives far beyond their restorative program practice. Many practitioners are incorporating a restorative ethic into all their involvements – personal, community or workplace. I see people using a restorative lens to examine their own actions and reactions with family, co-workers, neighbors and even adversaries. When we can apply it among ourselves and with those we formerly saw as enemies, we are growing strong.

Once deeply seated, the restorative ethic is not easily dislodged. It appears to satisfy fundamental human needs and desires and is thus less dependent on external rewards and approval to be sustained. Though programs may come and struggle and perhaps disappear, if those involved internalize the restorative vision they are likely to carry the ethic to their next efforts wherever those are.

I am continually in awe of the strength and character of the restorative justice movement, especially in the United States where it is clearly counter to perceived political and cultural realities. There is no central organizing force. There is no formal authority vested in restorative justice. Relatively few financial resources have been devoted to restorative justice. The general tone of national dialog by our political leaders is inconsistent with restorative justice. And yet, it is now a force to be reckoned with. And, as indicated above, it appears to be broadening and deepening.

I think the restorative justice movement is a marvelous example of a leaderless, self-organizing movement. It is held together by a powerful set of shared values and principles. The values and principles have a universal appeal that emphasizes our common ground while allowing distinct local variation according to custom, resources or needs. The values and principles of restorative justice engage the heart and spirit as well as the head. The high level of integration of mind, spirit and heart supports alignment with a big vision without requiring centralized control of the move-

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ment. The restorative justice movement is an embodiment of the idea of "thinking globally and acting locally."

While working on this I became aware of another important element of my optimism. The growing interest in applying restorative principles to larger social questions, particularly to historical harms in the U.S., reinforces my belief that restorative justice is a potentially powerful tool for pursuing social justice. The Center for Justice and Peacebuilding at Eastern Mennonite University, under Howard Zehr's leadership, has initiated a project called "Coming to the Table" that is exploring the possibility of applying restorative principles to dialog between descendants of former slaves and former slave owners. Howard Vogel is exploring the model of the Truth and Reconciliation Commission for possible applications to traumas in U.S. history. A recent book published by Living Justice Press places the Dakota Commemorative March in Minnesota in the frame-

work of restorative justice for native people.

### Conclusion

I believe restorative justice will be sustained and will make a long-term difference only if it goes beyond dealing with individual crimes or incidents. It is the ability of restorative justice to apply on both the micro and macro levels that gives me so much hope. The experience at the micro level helps us to understand how we might think differently at the macro level. For instance I believe that what we have learned about victims' needs helps us to think about what can be done about historical harms: the need to tell the story, to have the harm acknowledged, to hear that what happened was not the fault of the victim and to have a voice in deciding how best to repair the harm. For me that framing of victim needs gives very helpful direction for what can be done now about harms that happened in the past. We are not all helpless victims of what has already happened. It is possible to respond constructively to the needs that result from those harms.

I believe restorative justice can help us build a more just and equitable society, but I do not think that will be easy, or is the inevitable result of today's restorative justice movement. Getting there will require passion, patience and persistence in addition to the humility mentioned earlier. There are many potholes and sinkholes along the path, but if we apply the philosophy inside and out, it is a self-correcting mechanism. I remind myself over and over, "I don't need to figure it all out so that I never make a mistake. I need to be willing to hear when what I am doing is not working for someone else. Then together we can figure it out."

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*Personal Narrative*

## Meeting Offenders: How A Restorative Justice Program Changed A Robbery Victim's Life

by Tanya Nelson

On September 4, 1999, the way I view the world changed forever when I was robbed at gunpoint at an ATM. Here I am, almost seven years later a changed person, excited to talk about what Restorative Justice and Victim/Offender Conferencing have done for me. To my own surprise, I have found Restorative Justice has the power to take away much of the anger I felt, empower me, and ultimately give me a sense of peace I never thought I'd have again.

Many emotions are brought to the surface with a crime like this. Anger is at the top of this list. When I think about what started this path for me on that holiday weekend, I recall the dim lighting of the area around the ATM, the headlights of my car beaming onto the houses across the street. But mostly, I remember the franticness, the chaos and my stunned frozen reaction to the violence. After being robbed and pistol-whipped, it was hard to wrap my mind around how sick it was for someone to do that to another human being. I just couldn't. Quoting from my victim impact statement to the court just nine days later:

*"Since the battery and robbery, I have felt, at best, uneasy 24 hours a day. I detest the nights. I sleep with the lights on and wake when I hear strange noises. I don't feel safe at home, either. I don't feel safe anywhere. I loathe being alone, especially after dark. I am absolutely terrified at night."*

Further into the statement, I expressed my anger:

*"What shocks me most about it is the obvious sense of entitlement these people had. They felt they were owed the money and belongings they stole and at no point hesitated to consider any amount of compassion. I did not*

*even know them. They invaded my life."*

After all this time, those words are still difficult to read.

Knowing the first offender, "Mick" (the one without the gun) was just turning 16, the judges, the public defender and the families, including my own, began discussing the future. His future! This infuriated me, all of the talk about Mick, his education, his potential and his brief prior record. I thought my dad would dream of the opportunity to go after this guy during the court proceedings, but he didn't. Instead, he

On September 4, 1999, the way I view the world changed forever when I was robbed at gunpoint at an ATM

and my mom probably gave equal time discussing Mick's future and what was just and me. I felt betrayed by the justice system, spending so much time on the offenders. It felt like our society was giving permission for people to behave this way and I was forced to accept it. Mick plead no contest to armed robbery and received five years for his role in the robbery, as well as 10 years of probation for Recklessly Endangering Safety.

During the fall of 1999, Mick's accomplice was brought in on suspicion of being the offender with the gun. I'll call him "Josh." He was something else. Smug and unwavering in his denial, his family came to the court proceedings and glared at me as if I was the one who hurt their boy. He was just 14 years old, but had the presence of someone much older and with incredible charisma. He would not admit his guilt, so I felt it was me against him,

good versus evil. I set aside every other emotion I was willing to show publicly to make it through the court proceedings, which ran into the following spring. Only my anger at these people fueled my days.

Privately, I struggled with all of the post-traumatic stress. My friends probably thought I was off my rocker with some of my paranoia. I finally took myself to a shrink, mostly because I wanted to be as strong as I could for all of that was happening. To say I had a chip on my shoulder would be an understatement. I was angry because I thought no one could understand how I felt, nor would I want them to see what I did on September 4th. I was frustrated when Josh opted to go to trial the following April.

With Josh's trial date approaching, I was nervous, knowing there was no way I could remember every last detail of the event. The case was largely dependant on me and I didn't want to be the reason J was set free. The week of jury selection, something happened that was the first step in the path to today. I was called to the DA's office to read a letter from Mick to Josh. Most likely, Mick would be testifying against his friend and felt the need to explain himself. After many months at a juvenile correctional facility, Mick had gained some perspective. I will never forget this part of the letter.

He wrote, "Jail isn't easy, it's a headache but think of what w[e] done to that lady and imagine that was you[r] mother or aunt or grandmother." With a somewhat desperate tone he explained, "I don't want to hurt you or your family. I did it so you and I can let that lady[']s family rest knowing that we are suffering for what we done."

Some part of me felt a sense of gratitude to Mick for putting him-

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self at risk by writing this letter and agreeing to testify against his friend. It was the first time I felt conflicted about any of the mess. J was waived to adult court on the charges of Armed Robbery and first degree Recklessly Endangering Safety. He was sentenced to 20 years, the first eight of which were in prison. I was lucky to have felt some sense of justice when it was all over. Life had to then move forward.

As a victim, it was hard to understand how something like this crime could've happened. I couldn't see how badly I needed something to channel all the thoughts into.

In the spring of 2001, the Victim-Witness Specialist from the DA's office called to ask if I'd be interested in speaking to the kids about the crime at the juvenile corrections facility. (Mick would not be present, of course.) I agreed. The Victim-Witness Specialist was the first person to recognize Restorative Justice could be an outlet for me. Soon after, I met the coordinator of a local Restorative Justice program and began speaking to her accountability groups. Looking back, I know the kids I met represented *my* offenders. I was frustrated with their insensitive actions and when the story was finished, they knew it. The Restorative Justice coordinator let me become involved with the group to any extent I could handle. Eventually though, it became natural for me to want to know each kid a little, to find out how they got to the position they were in. After all, it didn't happen overnight.

Over the next months, I became a facilitator as well and spoke if she needed me. Restorative Justice demands one thing from the offender, the victim and the community--openness. I've never been great at it, especially with otherwise strangers. And so it went, the sense of distrust and bitterness toward my offenders and the justice system was replaced by many honest and open discussions in Restorative Justice circles. It's a sneaky little concept. It creeps in and makes the victim of a crime see the big picture and look past the anger to work the problem, one person at a time. It

earns loyalty subtly and slowly as it widens your perspective. I didn't notice this five years ago, but I know it now.

Restorative Justice, in my opinion, represents life. Truly, anyone involved in it gets out of it what they put into it. To use the word "empowering" doesn't quite sum it up. My next step was to speak to a group of adult offenders. Before this, I felt it was a waste of time. What was the point? If these people committed the crimes as adults, why bother using valuable resources on those who would be in prison years or a lifetime? The first adult group I spoke to were parolees. It went okay, but I still couldn't translate all I'd learned to how Restorative Justice could work for adults. Then in June of 2004, I attended the Restorative Justice section of the "Challenges and Possibilities" group for three consecutive days at another correctional facility. I went not as a speaker, but as a volunteer in the field. Before it began, I asked questions to get some kind of idea of what to expect. I couldn't conceive of what I might learn from more than 40 felons. The "Challenges and Possibilities" facilitator told me, "I can't explain it, you just have to see it."

It's strange, but sprinkled throughout all of this have been bits of irony and humor. I can't overlook the fact that I often ended up sitting next to offenders who were serving time for armed robbery. The first day of "Challenges and Possibilities," that's exactly what I did. I just sat there waiting to see what would happen. So there I was, one of just a few outsiders, taking turns speaking in a giant circle with these people. We were all learning. A topic would be brought up and all of us would speak to it from our own experience. There was a sense of trust, of confidentiality. It is difficult to summarize, but I felt the blending of all of these different people's backgrounds, their spirits mixing together to finally *feel* the sum total of all they'd seen.

The survivors who spoke were so open to the experience, too. Every one of them painted a perfectly clear picture of what happened to them or their loved one, and the offenders responded not with pity, but an ability to convert the survivor's stories to their own crimes. I learned with them the

undeniable connection we all have, despite our backgrounds. It wasn't hard, either. During the breaks, I held conversations with the offenders about anything and everything. I understood the place of Restorative Justice with adults and all types of crimes. Think about it. Before I got involved with Restorative Justice, I guarantee you'd find me terrified to be where I was and unable to find the words to express the core of how the robbery had affected me. Outside the prison one day, a local judge familiar with Restorative Justice asked me, "Well, what do you think?" I could say only "This is the way."

Restorative Justice seems to be a cathartic journey, which in a way, one must explore on their own--to put oneself into potentially nerve-wracking situations to be able to learn what there is to learn. On the other hand, once those individual elements (the victim, the offender and the community) are put together, the potential can be achieved. It takes Everyone's participation--everyone's openness to get to the essence of Restorative Justice. It isn't about budgets or bureaucracy, politics or affiliations with the left or the right wing. I would have intimidated my way out of this a long time ago if I felt I must fix the whole world. What I learned is it's about all those parts coming together. When I left that final day, I thought, "I get it." My newly acquired understanding of "the big picture" had given me a confidence that cannot be taken away ever again. It is truly a gift.

Many times throughout this, I've been asked by juvenile and adult offenders alike, "Would you ever want to meet either of your offenders?" I used to swear, "Never." Josh demonstrated no such worthiness and continued to have problems in prison. Mick was a completely different story. In the fall of 2004, it occurred to me one day. No one brought it up. No one suggested it or anything. So it's true what you've heard, it just happens. I was thinking of Mick, who'd since turned his life around pretty well since getting out of prison. His letter crossed my mind a thousand times since I read it. They weren't just words. He followed through with his education and long

*Practice notes*

## Restorative Justice, Non-Violence And The Next Generation of Young People

by Vickie Shoap

*The ultimate weakness of violence is that it is a descending spiral begetting the very thing it seeks to destroy. Instead of diminishing evil, it multiplies it. Through violence you may murder the liar, but you cannot murder the lie, nor establish the truth. Through violence you may murder the hater but you cannot murder hate. In fact, violence merely increases hate. Returning violence for violence multiplies violence, adding deeper darkness to a night already devoid of stars. Darkness cannot drive out darkness; only light can do that.*

*Hate cannot drive out hate; only love can do that.*

*Dr. Martin Luther King Jr.  
Eutaw, Alabama 1966*

Many of the young offenders I work with are facing serious criminal charges because of the violence they participated in. An e-mail message recently came across my desk cautioning readers to be more careful with the language we use. The writer reminded us that our very words could contribute to an already violent society. The e-mail message was promoting a series of teaching materials meant to educate teenagers about the dangers of violence and the alternatives to violent behavior.

The materials were described as "hard-hitting." I was intrigued. It was the graphic description that got me interested in looking at the materials. I have tried all types of visual materials, group exercises, and well thought-out strategies to teach non-violence to my young clients. None of what I was offering had any real effect on their attitudes towards violence. Maybe fighting fire with fire would bring better results.

### Identifying the Problem

Many of the young offenders in the area where I live and work -- about 40 miles west of Washington, D.C. -- have grown up in war-ravaged countries, are gang-involved, or have lived most of their young lives in homes where violence of tongue and/or fist is a daily occurrence. Talking to them about alternatives to violence is like a comedy routine. Telling them that they can walk away from a violent challenge or they can teach the people they live with about practicing non-violence is like telling them they can become a rocket scientist for NASA. It is, of course, very possible; it just doesn't make sense to them. Not in their world. Not while they're just trying to survive every day.

I ask my clients if they have ever

"It means that I have to create respect for myself, and the only way I'll be respected is to fight and win."

heard of Dr. Martin Luther King Jr. or Mahatma Gandhi. The responses are often accurate, although sometimes very comical. One young man told us in a class recently that Gandhi was "that hash-smoking guy who sang with the Beatles and starved himself in India to oppose the government." Ask them about Notorious BIG or some revolutionary figure from their home country that promoted violence as a way of overcoming oppression and they light up with passion eager to share their knowledge and immortalize the hero.

Video games, violent movies, and the Internet have all been blamed for our increasingly violent kids. Our re-

sponse is to lock them down, isolate them further, and plague them with fear of continued harsher punishment. No matter who or what you blame, violence *is* a workable solution to many young people for the disrespect, isolation, and fear they face everyday.

### Responding to the Wrong Solutions

The dilemma we face is how do we respond to a wrong solution that these young people believe so strongly in. A solution that promises them respect and status among their peers is not easily dispelled.

I have used a video on several occasions that depicts a school fight that ends up with a shooting on the basketball court and then the same scenario only with alternate ending wherein the fight ends in a conversation between the two main characters -- the shooter and the victim. They decide not to fight and instead to talk it out and resolve their issues. I ask the participants if they think this would work and if they can see themselves in the second scenario. Following the 'after school special' jokes, which I find very amusing, we settle into a serious conversation.

Mostly they say, "No way! Shoot first, ask questions later." They believe that *they* may be able to "talk it out," but the other person would not be able to do so, and they would then be attacked.

I respond, "So, it is a self-defense reaction then?" They respond, "No, it is a respect issue."

"What does that mean?" I ask. They say, "It means that I have to create respect for myself, and the only way I'll be respected is to fight and win." I add, "If you walk away then, you'll

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be disrespected?" "No," they finish, "I will be dead."

These young people don't value non-violence because it means they lose somehow. We know that when people get entrenched in winning or losing it's hard to see any other path out of the conflict. I ask, "What if walking away from a fight meant you would be even more respected?" They say, "That would never happen." I respond, "What if it did though, hypothetically, for the sake of the conversation, let's pretend." They reply, "Naaahhh, it would never be that way so why bother."

### Modeling the Remedy

I tell them about civil rights protesters in the 1950's and 1960's being beaten with sticks and driven back with fire hoses and killed along the roadsides of Alabama and Georgia. And I tell them that many of them sitting in the room have basic civil rights, like the right to vote or the right to enter a public place without being asked to leave simply because of the color of their skin because of those brave folks who did not fight back with fist but fought with their voice and their faith. They do not know how to respond. The concept is alien to them. One young man responds, "Man, that was a long time ago, it's different now."

Most people have to practice a new skill before they become proficient at it, before it feels comfortable to them. Belief that the skill will actually be beneficial to the person or that they will derive some kind of pleasure from learning the skill has to come before practice. We have to help kids to believe in non-violence and then we have to model it and finally, give them opportunities to practice it.

### Back To Community

The very nature of restorative justice programs is that we show respect to all parties involved in the crime. One of the ways we hold offenders personally accountable to their victims is by helping the offender to understand how the crime has affected the victim's life. Another way is by modeling

empathy. We don't treat the offender with the same violent actions that he or she has forced on others. When we ignore the foundational values of the juvenile justice system, which were to rehabilitate young offenders, then we are being violent.

A promising option is to work toward creating social justice programs in our schools and courts that promote personal accountability without punitive consequences that force kids out of the community and into jails, gangs and crime ridden neighborhoods. I was sent a case a few years ago in which a 17-year-old honors student with no prior behavior problems was expelled from the public school because she had a nail file in her purse. The file was made of metal, long, and pointy. The security guard said that it was a weapon and she was kicked out of the school under the no tolerance for weapons discipline code. When I asked the officials if they felt threatened by the girl they said, "No, but what if she stabs someone with it, then what?" Eliminating irrational and unfounded fear would go along way toward teaching and modeling peace.

### Dispelling the Myth, Restoring Hope

Another solution is dispelling the myth that violence will actually solve the problem. I asked one young offender who broke the nose of another student at school, "Okay, you hit him because he talked badly about your girlfriend, right? Did you feel better after you hit him?" He replied, "Not really, but it stopped the problem." I pressed further, "Oh, really. Are you friends now?" He continued, "Well no, but he doesn't bother her anymore." "What did he say about her?" I inquired. He told me, "He said that she was a thief." But I added, "Does he still think that she's a thief, along with the rest of the school?" The young man said, "Well, probably but who cares." I concluded, "But you didn't solve the problem; he still thinks she's a thief."

I have given up looking for "hard hitting" teaching materials on non-violence that will effectively reach today's teenagers. Instead, I bring out my King, Gandhi, and Lennon. The rapper Tupac writes about the hope-

lessness of violence in the city, "the children is illin, the streets is filled with bullets, the bodies is drop-in," "losing his homies to the cemetery," and the idea that there is another way if his 'homies' would only listen. This message seems to get teenagers' attention. Still, I believe in the dream and today's kids deserve to know hope.

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## NCPRC: In Memoriam

Mary Adams Trujillo writes: "A few weeks ago, I received an email announcing the death of an old friend. My friend was only 24 years old and has not been well for the past several years. Nevertheless, I was shocked and saddened by this news. I thought back on the invaluable friendships and experiences connected with our association and felt a deep sense of loss and regret. My friend was the **National Conference on Peacemaking and Conflict Resolution (NCPRC)**. Many of today's peacemakers were nurtured in NCPRC's workshops, seminars, and gatherings. Many "old timers" of the field gave their finest in the service of NCPRC. Many of those people who were influenced by NCPRC require some collective acknowledgement of NCPRC's passing. To this end, we invite readers to share NCPRC stories, memories, and lessons learned from NCPRC. Specifically, write me directly at [mtrujillo@northpark.edu](mailto:mtrujillo@northpark.edu) about what attracted you to the NCPRC community, what you loved (or hated) about the conferences, why you left, and what organizations or peacemaking directions have replaced NCPRC for you? Hopefully I will be able to use these "reports" for an article in a subsequent issue of Justice Connections.



*Book Reviews***Crime And Morality and The Safety Utopia**

reviews by Russ Immarigeon

**Crime and Morality: The Significance of Criminal Justice in Post-modern Culture**

By Hans Boutellier

Preface by Michael Tonry

*Kluwer Academic Publishers*

\$49.95 (paper), 181 + xii pages (2000)

**The Safety Utopia: Contemporary Discontent and Desire as to Crime and Punishment**

by Hans Boutellier

Foreword by Sir Anthony Bottoms

*Kluwer Academic Publishers*

\$49.95 (paper), 153 + xiii pages (2004)

In **Crime and Morality** and **The Safety Utopia**, Dutch theorist Hans Boutellier has written two books, one stemming from his doctoral dissertation and the other a follow-through volume, that posit victims and offenders at the moral center of criminal activity. These are important studies because they make an effort to provide theoretical grounding for the relationships between victims and offenders that are at the core of community-based mediation and reparative or restorative justice. In addition, Boutellier is keenly aware that neither victims and offenders nor the "treatment" provided them through criminal justice processing are separate from their communities, and that communities are also affected by the criminal activities and injuries of its members.

**Morality**

In **Crime and Morality**, Boutellier argues that morality is increasingly at the center of "law and order" policy and politics, and victimization or victimization, two distinct concepts, are in turn at the center of this morality. "In a morally fragmented world," says Boutellier, who readily integrates the work of Emile Durkheim, Max Weber, Richard Rorty and other social scientists into his argument, "the victim' is the reason why we need a policy on

crime. I am not only referring here to victimhood in a concrete form we can all identify with emotionality, but also to a more generalized victimhood in terms of damage done to society. From this perspective, a policy on crime is a construction of the state to cope with the criminal or potential criminal and the victim or potential victim on behalf of the people. As the perpetrator of suffering and damage, the criminal is held morally accountable, and the victim inspires public normative action on the basis of criminal law intervention. The state is justified to engage in this intervention because it takes the side of the victim and simultaneously respects the perpetrator of the criminal act as a moral subject. The public evaluates the state on how credibly and humanely it applies these simple points of departure."

**Safety**

In **The Safety Utopia**, Boutellier adds the dimension of safety as a controlling metaphor for "law and order" policies and politics. Modern culture, Boutellier argues, manifests "a utopian desire for a convergence of maximum freedom and optimum protection." Boutellier places vitality and safety together, two sides of the same coin. He notes "Vitality is a common denominator for numerous phenomena characteristic of contemporary society such as the dominance of the market with kits emphasis on having a good eye for business, being willing to take risks, and competing." He continues, "The drive behind so many forms of crime is not essentially any different than *positive* forms of vitality (emphasis in original)."

Paradoxically, Boutellier observes, "A vital society generates a great need for safety and thus comes up against an undeniable paradox: if liberal freedom is to be unreservedly celebrated, its boundaries need to be set." The contrast between "maximum freedom and optimum protection" sets the stage for a morality-centered society. For Boutellier, "The accompanying mo-

ality is one of offenders and victims, of child molesters being driven into a corner and silent marches, of a call for more severe punishment and the awareness that it won't help anyway."

**Conclusion**

Boutellier's essays in these notable volumes stimulate our thinking about matters that previously seemed clear, or perhaps unnecessary to examine. But the practice of community mediation or restorative justice must explore these matters. They are, after all, distinctly centered on concepts, and relationships between, victims, offenders and communities. Accordingly, it is necessary to know the history, or the emergence and evolution, of these concepts and relationships in the name of community mediation and restorative justice.

The history of these endeavors has been given too little attention, an outcome that should surprise no one because so much of our history of criminal justice sanctioning over the past three decades, not to mention over longer stretches of time, has been relegated to avoidance and neglect. Boutellier, reasonably, takes a Dutch perspective, so we are left to take the challenge of locating American, Australian, British, Canadian, New Zealand and, indeed, larger African, Asian, and European histories and perspectives.

Also of little surprise, there is much within Boutellier's text to take at arm's length. Boutellier, like all authors, is limited by the nature and details of those resources available to him. What is of value here is his presentation and analysis of these resources. In providing a possible foundation for victims, offenders and communities, Boutellier, in fact, gives us a foundation from which to build upon an understanding, and appreciation, of our daily work.

**Crime and Morality and The Safety Utopia** can be obtained from *Kluwer Academic Publishers*, 101 Philip Dr., Norwell, MA 02061 (800) 426-3797.

## ***New Resources For The Practice Of Mediation And Restorative Justice***

by Russ Immarigeon

### Mediation Resources

**The Blackwell Handbook of Mediation: Bridging Theory, Research and Practice** (Blackwell Publishing, \$109.95, 448 + xvii pages, 2006), recently edited by Margaret S. Herrman, is a rich collection of 22 articles, including Herrman's introductory and end-of-the-book comments, that skillfully engage readers through comprehensive coverage of critical components of mediation theory, research and practice. Herrman observes that conflict is inevitable, and even necessary, and that mediation, as a passion as well as a field of work, is non-static in nature. She says, "No single skill set or style of intervention helps everyone, and in some situations a narrowly-defined skill set clearly exacerbates negative consequences of a conflict." Herrman organizes the articles in this valuable collection into four sections that cover "setting the stage for a dialog," "mediation and negotiation set in their contextual frames," "exploring powerful internal dynamics," and "extensions." Among the authors are Craig McEwen on variations in mediation programs, Rosselle Wissler on the role of antecedents and procedural characteristics in mediation, Brian Polkington and Pat McDermott on workplace mediation, Donald Saposnek on mediation in child custody hearings, Morton Deutsch on difficult conflicts Dean Pruitt on "mediation at the millennium," and Tricia Jones and Daniel Shapiro write separately on emotion in mediation. *Copies are available from Blackwell Publishing, 350 Main St., Malden, MA 02148, (800) 835-6770, [www.blackwellpublishing.com](http://www.blackwellpublishing.com).*

**The Handbook of Conflict Resolution: Theory and Practice, Second Edition** (Jossey-Bass, \$75.00, 940 + xiv pages, 2006), edited by Morton Deutsch, Peter T. Coleman and Eric C. Marcus, is a significant collection of 37 articles that provide "the theoretical underpinnings that throw light on the fundamental social psychological processes involved in understanding and managing conflicts at all levels: interpersonal, intergroup, organizational,

and international." The articles in this volume, a dozen of which are completely new to this edition, while the others have been updated from the book's first edition, each contain three sections covering theoretical ideas, the implications of these ideas for understanding conflict, and "the implications of these ideas for educating or training people to manage their conflicts more constructively." The full array of articles herein are divided into eight parts, covering interpersonal and intergroup processes, intrapsychic processes, personal differences, creativity and change, difficult conflicts, culture and conflict, models of practice, and future directions. Morton Deutsch opens the volume with two essays on cooperation and competition, and justice and conflict; Roy Lewicki examines trust, trust development and trust repair; Francisco Gomes de Matos looks into language, power and conflict resolution; Janice Steil addresses gender, conflict and family; Sandra Sandy maps out the development of conflict resolution skills from preschool to adulthood; Peter Coleman reviews intractable conflict; and Bridget Moix estimates religion, conflict and conflict resolution. Overall, the articles in this volume are well written and assessable to newcomers as well as veteran advocates and practitioners. *Copies are available from Wiley Publishers, 111 River St., 4th Fl., Hoboken, NJ 07030, (201) 748-6395, [www.josseybass.com](http://www.josseybass.com).*

### ***Consejeras de familia***

In a new book, **The Politics of Crime Control** (Oxford University Press, \$90.00, 333 + ix pages, 2007), which is a collection of articles dedicated to the British criminologist David Downes, Declan Roche reports on an important development in restorative justice that has emerged from the poverty- and violence-stricken section of Aguablanca in Cali, Columbia, a city notorious for its illicit drug trade and high level of gang violence. In Aguablanca, women (*consejeras de familia* or family advisors) have organized weekly meetings wherein they receive training and support for activities that include homes for pregnant girls, youth centers, mi-

crofinancing and other economic strategies, organic gardening and mediation and conflict resolution skills. *Copies are available from Oxford University Press, 2001 Evans Rd., Cary, NC 27513, (800) 445-9714.*

### **In the Journals**

The Fall 2006 issue of **Conflict Resolution Quarterly** (Vol. 24, No. 1) contains four articles of immediate interest: In the first, "Conflict Resolution and Bully Prevention: Skills for School Success," Roberta Heydenberk, Warren Heydenberk and Vera Tzenova of Lehigh University in Bethlehem, Pennsylvania studied the responses of 673 third-, fourth- and fifth-grade students in an anti-bullying program at two suburban Philadelphia elementary schools, where a local conflict resolution group provided these students seven training sessions that included affective vocabulary, social and emotional literacy and conflict resolution skills. Findings of the two-year study include students feeling safer in school, staying out of fights more, reporting less bullying in their classrooms, using conflict resolution skills routinely inside and outside the classroom, and improving peer relationships. In "the Effect of Victim Offender Mediation on Juvenile Offender Recidivism: A Meta-Analysis," William Bradshaw, David Roseborough and Mark Umbreit, who teach and conduct research in Tennessee and Minnesota, conduct a meta-analysis of 15 studies examining the impact of VOM on juvenile recidivism. Mark Umbreit and Rina Ritter then conduct a case study of dialogues in Israel between an Arab offender and a Jewish victim. Finally, researcher Susan Szmania, who has written in these pages, reports on communication styles of mediators in cases involved severe violence. *Annual subscriptions to Conflict Resolution Quarterly cost \$82.00 for individuals and \$240.00 for agencies or institutions (single copies cost \$42.00, plus \$5.00 for shipping and handling) and can be obtained through Jossey-Bass, 989 Market St.,*

### Resources from p10

San Francisco, CA  
94103-1741, (888)  
378-2537.

In the **Review of Policy Research** (Vol. 23, No. 4) for July 2006, guest editors Timothy Hedeem (Kennesaw State University) and Linda Baron (formerly with NAFCM, now with ACR) introduce four articles that highlight "emergent models and concepts in popular decision making. Lisa Blomgren Bingham (Indiana University) examines "upstream, midstream and downstream" forms of engaging public participation; Portland, Oregon "ombudsman" Kristen Erbes assesses site-based management of a Hawai'ian school dress code; Beth Gazley, Won Kyung Chang and Lisa Blomgren Bingham (Indiana University) examine collaboration and cooperation in community mediation centers; and Lorig Charkoudian and Carrie Wilson (Maryland Association of Community Mediation Centers) use interview data to look into disputant preferences for accepting or rejecting mediation (e.g., relationships between length in involvement with disputes and willingness to enter mediation). *Copies can be obtained through membership in the Policy Studies Organization ([www.ipsonet.org](http://www.ipsonet.org)) or through Blackwell Publishers, 350 Main St., Malden, MA 02148, (800) 835-6770.*

Late this past summer, the **Journal of Social Issues**, published for the Society for the Psychological Study of Social Issues (SPSSI), issued a special volume (Vol. 62, No. 2) on "Restorative Justice and Civil Society." For this issue, guest editors Brenda Morrison and Eliza Ahmed (Australian National University) have collected 10 articles that examine different aspects of restorative justice theory, research and practice. Nearly all of the article authors are widely known: Declan Roche assesses various dimensions of restorative justice; Gay Maxwell and Allison Morris look, with some caution, at youth justice-related restorative justice practices in New Zealand; Heather Strang and her colleagues review victim evaluations of face-to-face restorative justice conferences; Tom Tyler examines rule breaking within the contexts of restorative justice and procedural justice; Nathan Harris describes restorative shaming; and Eliza Ahmed, Brenda Morrison and Valerie Braith-

waite study restorative justice approaches toward school bullying. *Copies can be obtained for \$25.00 from the SPSSI, 208 "I" St., Washington, DC 20002, [spssi@spssi.org](mailto:spssi@spssi.org).*

### Victim Services

For close to 20 years, evaluations and surveys of crime victim services programs have consistently shown not only that relatively few victims make use of services available from these programs, but also that much of the "crisis intervention" programming common to these programs does not generally improve the psychological well being of victims. Further elaboration of these matters can be found in an article, "The Efficacy of Victim Services Programs: Alleviating the Psychological Suffering of Crime Victims?," that was published recently in the December 2006 issue of the journal, **Criminal Justice Policy Review**. According to its authors, Barbara Sims, Berwood Yost and Christina Abbott, who are academic researchers in Pennsylvania, restorative justice may improve victim responses to intervention services, in part because it provides more than short-term counseling to move victims beyond the psychological trauma resulting from victimization. Within the field of restorative justice, Mary Koss, Paul McCold, Ted Wachtel and others have advocated such an approach, and perhaps it is indeed time to dig more deeply into the implications for programs and services of such observations. *Copies of this article can be obtained from SAGE Publications, 2455 Teller Rd., Thousand Oaks, CA 91320, (800) 818-7243.*

### International perspectives

Michael Tonry has an interesting article in a new collection of articles on **Institutionalizing Restorative Justice** (Willan, 2006, \$45.00). In brief, he says that restorative justice (or other "progressive" reform measures) is not very likely to "succeed" in states that have highly moralistic values or traditions of harsh punishments. It is more likely to succeed, he suggests, in states with low imprisonment rates and "relatively progressive" penal cultures. There are exceptions, of course, and he points to Sweden, which does not use restorative justice widely even though it has a low incarceration rate (in terms of "alternatives," Sweden is big on day fines).

Overall, Tonry lists six "conducting conditions" (Tonry gets this term from Hans Boutellier) for the successful implementation of restorative justice: existence of Aboriginal cultures with traditions of informal dispute resolution, relatively non-moralistic cultural traditions about punishing offenders, relatively low levels of politicizing criminal justice policy, non-partisan methods of selecting criminal justice practitioners, relatively disparate political authority within government, and relatively modest levels of harsh punishment.

For the record, Tonry also offers six "constraining conditions" (a term also from Boutellier) that would limit restorative justice, or by implication other "progressive" reforms: moralistic cultural attitudes toward punishing offenders, politicized crime policies, partisan selection of criminal justice officials, authoritarian government with centralized political authority, and high imprisonment rates. *Copies can be purchased from Willan Publishers, c/o ISBS, Inc., 920 NE 58th Ave., Ste. 300, Portland, OR 97213-3786, (800) 944-6190.*

### Writers wanted

**Life Blossoms** is a literary effort to collect the poetry and prose of immediate family members (e.g., spouse, sibling, parent, child, grandchild, or grandparent) of homicide victims as well as individuals who have been convicted of homicide. The goal of this project is to establish a "dialogue of healing" for all those affected by such crimes. Those persons who have completed victim/offender dialogue/mediation in a homicide case and would like to share their experiences should mail an inquiry to the project. To learn more about this project contact our website or write directly to our address below and a packet of information will be sent you detailing the project, submission guidelines, and where to send your material. The result of this endeavor will be a publication that will be used to promote Victim Offender Reconciliation (VOR) programs involving homicide cases. For more information, contact **Life Blossoms**, PO Box 321, Cliffwood, NJ 07721-0321, [life\\_blossoms\\_info@yahoo.com](mailto:life_blossoms_info@yahoo.com), [www.geocities.com/life\\_blossoms\\_info](http://www.geocities.com/life_blossoms_info).

*"Never a Dull Moment"*

## **Community Mediation Challenges Bring Blessings, Stifle Burnout**

by Patrick Michael Wolff

Mediating high conflict relationships and even "ordinary" conflict cases may produce burnout, especially if you mediate too many cases in too short a span of time. But it is never boring. Every dispute is different and brings new challenges and subtle blessings for the peacemakers who intervene in the fray.

Guam's Inafa' Maolek Mediation Center, like many such centers across the United States, tries to be all things to all people. This means not only mediation and restorative justice services, but also conflict resolution training services for a diverse variety of groups throughout the community who request such services. The challenge of customizing workshops to meet these needs is another slice that adds spice to this wonderfully exciting work.

### **Diverse Clients**

Inafa' Maolek has been active continuously since 1983 during which time we served hundreds of different clients, such as community groups, schools, businesses and government agencies. Yet we continue to embrace weekly requests for assistance from new organizations. Within one week, recently, two different federal agencies called to request a "conflict resolution in the workplace" training for their staff. Other requests for assistance have included:

- Life Teen Guam, a Catholic Youth outreach in two village parishes asked us to provide peer mediation training for their young adult leaders
- Sanctuary, Guam's non-profit runaway shelter, asked our Peace Theater to provide a drama training for their youth workers;
- A local protestant church requested a workshop on "Apology & Forgiveness";
- Guam's Hotel and Restaurant Association invited us to provide a workplace mediation orientation as guest speaker for the monthly

meeting of its Human Resource professionals;

- Pacific Islands Bible College inquired about a per mediation training for all its frosh students newly arrived from various islands of Micronesia, including Chuuk, Pohnpei, Yap, Palau and the Marshalls;
- In a recent month, we offered a course for educators (called "Conflict Resolution in Schools") through our University of Guam, and have now been asked to conduct a special education mediation course on a neighboring island;
- We have been asked to train Child Protective Service staffers in Restorative Justice group conferencing for child welfare (dependency cases involving abuse/neglect) cases;
- A Department of Defense middle school, one of the few schools with whom we had not previously worked, asked us to train selected 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> graders in peer mediation. It will be one of a dozen such schools that will receive a 10-hour training this fall semester; and
- At a recent Early Childhood Education Fair, several schools requested our workshops on bullying, dating violence, sexual harassment, rumors and gossip, and racial-ethnic conflict.

### **Mediator Benefits**

Volunteer mediators get no remuneration, but that does not mean they get nothing from doing it. Most of Inafa' Maolek mediators describe the good feeling derived from helping others work out their differences. With each dispute we mediate we improve our understanding of conflict and hone our peacemaking skills. We also learn vicariously from the disputants what not to do to avoid escalation of conflict in our personal lives.

I recently mediated a land dispute that had dragged through nearly two years

of court proceedings with each couple having spent in excess of \$50,000 on legal fees and restraining orders against each other. After two hours of an emotional, tear-filled mediation the parties reach an agreement to jointly ask the court to lift the restraining orders for a week for them to talk directly about their dispute. This became the opening that enabled them to settle their case. Although the ultimate settlement did not occur in the mediation room, all four disputants were delighted about the role Inafa' Maolek had played in paving the way for resolution by helping them remove obstacles to effective communications.

### **A Home Burglary**

In another case, I was privileged to be the sole mediator in a victim offender mediation process stemming from a home burglary that occurred after midnight while the victim's family was in bed.

"How did this crime affect me? My whole world was nearly taken away from me because I was falsely accused"

Pre-mediation for the male, teenage co-offender was done by one of our college age mediators and me. That offender was remorseful, and both he and his parents were willing to participate in the joint meeting. His only question was about the other co-actor, who was an older teen, whose case was charged in adult criminal court in front of a different judge who had not referred the latter to media-

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tion. I was clear about explaining this to both families before we began the joint meeting.

Our case manager held a pre-mediation session with R.T., the male head of the victim household, by telephone because he had previous mediation experience with Inafa' Maolek, and thus was familiar with our mediation services. In fact, he lived on the same street in the same village as the offenders and was actually the one who requested Restorative Justice with the offender "because we are neighbors."

I had been the mediator when R.T. came to Inafa' Maolek previously and I remembered him and his parents, one of whom had worked for me in a previous job and the other had played basketball against me. However, the grandfather of the teen offender (I.C.) had also worked with me in prior employment. These minor conflicts are not atypical of life for a mediator in a small island community, but they did not prevent me from being a neutral, unbiased mediator.

Although the offender family was 45 minutes away, causing transportation problems, we nevertheless spent two hours together (the last hour after the air conditioners in our building had been switched off).

R.T. brought along his daughter who was traumatized by the burglary, as one of the offenders had taken action toward raping her when they got scared and ran off. However, because she could not see the responsible party in the dark, she suspected her stepfather (R.T.), who got investigated by CPS. In the mediation, we allowed the teen daughter "to share" (while crying), and we used this object lesson to emphasize the far-reaching extent of unintended harms, as suggested through the girl's unanswered questions, such as "Was it you or the older guy who tried to remove my panty?" or "Why was there a pair of scissors placed on the dresser near my bed?"

Through this experience I.C. got a vivid picture of the terrible crime for which he might have been implicated had the older male consummated a sexual assault.

Although none of the stakeholder participants were rehearsed, each conducted him- or her-self as if following a script designed to depict the ideal burglary type.

R.T., spokesperson for the family whose home was burglarized, was articulate in expressing the heart of the victim. He said he requested Restorative Justice for reparative ("to help my own family to heal") and for rehabilitative ("to turn this kid around") reasons. He also said, "None of us really wants to be here today, but the satisfaction I want from this process is in knowing you (I.C.) will stay out of trouble from now on."

"How did this crime affect me? My whole world was nearly taken away from me because I was falsely accused of committing child molestation against the stepdaughter I've raised the past seven years. And there was this deep void in this house where she would not even look at me."

"Our whole neighborhood is in shock. Some people want to start shooting to protect their property. My own parents wanted to punish you by keeping you in jail as long as possible, but I wanted to be able to forgive you and help you. But if I had woken up and caught you in my house I wouldn't have been so nice. I am a black belt in martial arts and I could break your neck in a few seconds. Would you like to mess with me? I didn't think so. But when we discovered that we had been burglarized I felt rage and my pride was hurt because I felt I failed to protect my family."

"I teach martial arts at my studio and I'm willing to teach you free of charge if you're interested. I'll even transport you if you need a ride."

I.C., the teen offender, displayed remorse and embarrassment and shame, and he said he was sorry to both R.T. and his stepdaughter, S.C.

I.C.'s grandmother (and his guardian) was also exemplary in several ways:

- She started apologizing to the victims from the moment she walked into the mediation room, saying how embarrassed and ashamed she feels;
- She pointed out how she is blood-related to S.C., stepdaughter of R.T.;
- She admitted that some decades earlier she had been raped and knows how awful it was, so she offered to be a good listener for S.C. any time she wished to talk about it; and
- To help build bonds of friendship between the families she invited the R.T. family to their beach party the next day.

In the end, it turned out that the adult co-actor is related by blood to the victim. Moreover, the victim shared a prior incident wherein R.T. chastised that boy's stepfather after the boy stole \$20 from R.T.'s son, so that boy's stepfather punched him in the face in front of R.T. Thus, the burglary may have been an act of retaliation.

### Conclusion

Peacemaking work is messy, and we don't always witness the win-win resolution we want for the disputants. However, because every case is unique and disputant behavior is so challenging, it keeps us coming back for more. The fallout from unresolved conflict is so devastating to our human experience that people seek ways help and skills to restore their equilibrium or peace of mind. Community mediation centers are places where such help is available.

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since repaid his share of the restitution. Why couldn't I translate what I spent three years learning in Restorative Justice into a Victim/ Offender Conference of my own?

As I learned over the next six months before the conference, Mick had some things on his mind, too. It was definitely ironic to learn during the planning two things. First, Mick paid the restitution through the local Restorative Justice program, where I'd spent a great deal of time. The Restorative Justice coordinator would be one of two mediators. Second, years before, the "Challenges and Possibilities" facilitator worked for the juvenile correctional facility where Mick had been, and she remembered him. We simply never had occasion to mention his name. She would be the second mediator. During their pre-conference discussion, Mick and she remembered each other in positive ways. Oddly enough, it was a comfort to me that Mick would have a preset sense of trust with those two. Nevertheless, I wondered, "Why do I even care if he's comfortable?" I did, though. I knew, in the end, this would be an unbelievably giant step for me. As his victim, this would show the biased part of me. This was my own situation.

The conference day finally came. The Restorative Justice coordinator walked Mick into the room. He was visibly nervous, as tears rolled down his face almost right away. The ground rules were repeated for us and off it went. My goal for the day was to allow him to know who I was as a person, not just some woman he robbed. Maybe if I etched my personality clearly enough to him, the next opportunity he would have to make a bad decision, he'd choose the right one instead. I was the only one in my car the night of the robbery, so it was surreal to have someone, anyone else, acknowledge the fact that it actually happened. Mostly, though I needed to hear everything that was going on in his mind all the way through his sentence and even after. Was he worthy of my belief in him, all the way back to that letter? He was continuously baffled about why I'd ever want to meet with him. I could

only say "I don't know. It's just a process I went through." It wasn't one particular thing. It was many. It was a perfect example of Restorative Justice. Being alone, Mick revealed, was his way of keeping himself out of trouble. I found myself giving him advice on how that doesn't help things. It was like a normal conversation at times. Talking to someone, a family member or a trusted friend, might be a better option, I suggested. He talked about why he wrote the letter, and how, in court, he'd apologized to me for what he'd done. "Do you remember that?" he asked, hoping I had. I didn't. I told him very bluntly how I wanted him to "rot", as I put it, during those awful court proceedings. He told me about an apprenticeship program he was in. Upon getting out of prison, he got a job at McDonalds. In his imagination, he could see me one day walking into his job, being face-to-face and having to wait on me. Now that's funny. How strange it was to find he had the same kind of anxiety I was having about being caught of guard seeing him in public.

We were both very open and clear during the talk, which lasted four hours. Indeed, there were periods of awkward silence. The mediators would pick up on this and bring up a different topic. On one of these occasions, I was debating whether or not to say something that was on my mind for months. It was a realization I knew was truth. Could I or should I say it? I managed to get out the words, "I care what happens to you." Mick was stunned to hear this. At the core of the conference was one basic concept shared by both of us. It was equally as hard for him to hear those words as it was for me to say them. Clearly, he was tormented by the memory of what he'd done every day since.

Forgiveness isn't a term I use. Instead, I believe it can be found by an offender in the way they conduct their lives after the offense. It would be easier for him to think I hate him and for me to actually hate him. Feeling *this* way is actually more difficult than hating. In my heart, I know he earned those words and he deserved some kind of acknowledgement for it. It was something I had to do. As he left that day, I stood up, put my hand out and we

gently shook hands. I was absolutely mentally drained when I got home.

Mick and I, no matter what happens, are connected. Restorative Justice made it undeniable. To this day, I wonder how he's doing. I've heard from his parole agent recently he's had a setback, which may send him back to prison to serve the remainder of his sentence. I hope not, though. Success is possible for him. I'm sure of it. Whatever happens, I've received more than I can ever give. Seeing the conference through has given me a sense of peace, even closure, I couldn't otherwise have. By giving Restorative Justice a chance and putting my soul into it I got so much back. I am more myself now than I have been since high school. My sense of humor is back with a vengeance and my appreciation for life is staggering. Ask anyone who knows me. I definitely credit Restorative Justice because it has helped me understand life, in general, better. Being robbed at gunpoint is certainly a life-altering, terrifying experience I never want to relive. Most people still walk around thinking it can't happen to them. I know otherwise. But with the help of Restorative Justice, I've reestablished my priorities and have a trust in my abilities as never before.

Since I became involved with Restorative Justice, I've spent endless hours asking myself 'what makes it so different, so worthy of my loyalty?' My answer is just this-the concept itself is pure and uncomplicated. Its foundation is strong because it is centered on, even anchored by, the wills of survivors of crime. True Restorative Justice programs have the ability to begin to repair lost connections to ourselves, the community and even the offenders. There are other victims out there, certainly, who could use the programs I had to transform their lives and to become powerful advocates for Restorative Justice. The changes I have experienced make me feel privileged to be a part of it every day of my life.

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was on bail. This time, he attended the home of his de facto wife where, again while highly intoxicated, verbally abused her, threatened her with a corkboard before punching her in the mouth. He continued to threaten and abuse her for the next hour before she managed to escape to a relative's home.

During the course of the circle court proceedings the offender's solicitor began by explaining that the offender suffered from depression, alcohol abuse and substance abuse to which one of the community representatives of the circle replied, "We know about his childhood. We've known him since he was born."

*Representative 1: Is this the first episode of domestic violence?*

*Offender: Yes.*

*Victim support: Wrong.*

*Victim: That's not true, he has struck me before and not always when he was intoxicated.*

*Representative 2: Domestic violence is not a part of Aboriginal culture.*

The circle representatives frankly discussed the offender's alcohol problems and the future of his relationship with the victim.

*Representative 1: You have respect for the Elders, you should respect your partner, this can't go on. Stop climbing into a bottle. You must realise the temptation will always be there to drink, but you have to resist.*

*Representative 4: I don't see a future in this relationship.*

*Victim: I agree, I can't put up with it any more. I love you, but I can't put up with it.*

*Magistrate: The circle should consider an AVO. [Author's note: An AVO is an Apprehended Violence Order and is taken out by a person (in this case the de facto wife) who fears violence or harassment from their harasser (in this case the offender). It is a similar injunction to the Temporary Restraining Order in the*

*United States. If the offender knowingly contravenes a prohibition or restriction specified in the AVO, they can be subject to a fine, imprisonment, or both.]*

*Victim support: Yes.*

*Offender: I know it's over.*

Later, the reason for the offender's animosity towards the police emerged. The offender spoke of two occasions where the police were reluctant to assist him. One incident involved a gun pointed at his head and a second when he had been brutally beaten by two bouncers at a local hotel.

*Offender: The police never done anything for me, I've rung them and they haven't done anything for me, I feel like I've got no rights whatsoever. I got hit over the head with a bar stool and they did nothing for me.*

*Solicitor: A person was charged, but the case dismissed.*

*Police Victim: Look, cops have baggage too, I've policed for 15 years and I don't have a heavy hand. My dealings with you have probably not been a good relationship, but I was giving him a lift home.*

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*Representative 4: I was a hot head as a young bloke, I haven't fallen in love with the Police Force. You get good police and bad police, but you have to accept that they have a difficult job.*

*Representative 3: Previous assault on you by others was not by the police, you shouldn't take it out on all the police.*

*Representative 4: You can't dwell on the past for other injustices.*

*Police Victim: You are an angry man, you should get to appreciate that not all cops are a problem for you. You showed considerable respect for your Nan [maternal grandmother]...I thought it was a huge imposition on her having regard to your intoxica-*

*tion, we were only too happy to take you to hospital but you didn't want to go.*

*Victim support: We always take injured to hospital.*

...

*Prosecutor: You were a danger to the police. Parliament has recognised that police are a special class of victim. Police don't enjoy being vulnerable.*

*Offender: I'm sorry. I'm sorry to you and I'm sorry for my Nan.*

*Police Victim: I accept your apology.*

*(Traditional handshake taken in the center of the circle).*

### After the Circle

The sentence the offender received for common assault was 200 hours of community service — lawn mowing, gardening, attending counselling; and he was given a two-year AVO. For police assault he received imprisonment for six months and one week, suspended on the following conditions: that he attend substance abuse counselling, accept supervision and attend anger management counselling as directed by an Elder chosen by the Nowra Aboriginal community, accept supervision and guidance of his maternal grandmother, not consume alcohol for any reason whatsoever and not enter premises where alcohol is sold.

Three months after sentencing, the Aboriginal Project Officer presented his progress report on the offender, which was very positive indicating that his life had changed for the better. His grandmother reported that she was pleased with his progress and that he assisted her around the house. He had remained drug and alcohol free. The report also referred to the offender's relationship with his de facto wife, the victim of the domestic assault, stating that he had moved on after coming to the conclusion that this relationship proved futile and both were better off going their separate ways. The report also stated that what impressed the offender the most about circle sentencing was the ability to express himself freely

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in Aboriginal English, rather than the complicated legal jargon used in other courts. He appreciated not being sent to jail and receiving a second chance as this helped him gain a little more faith in the criminal justice system. He also appreciated being dealt with by people he knew and respected, the community Elders, who cared about him and who assisted him in determining his future. The nature of the sentence carried out by the offender in this case illustrates how circle sentencing, and particularly local Elders, benefit healing of the offender. Other examples of circle sentencing trials only continue to illustrate its success.

### People's Law

In July 2003, at the Local Courts Annual Conference in Sydney organized by the Judicial Commission of NSW, a group of circle sentencing participants from Nowra shared their experiences with the NSW magistracy. Delegates and attendees of the conference were moved by the accounts of the experience of circle sentencing in the Nowra

community. One Elder commented succinctly on the participation of community representatives in sentencing decisions, and said: "This is not white man's law any more. This is the people's law." It is hoped that judicial officers and other legal officials, Elders, community members, paid workers and volunteers continue to work in a dedicated way to make these new justice practices meaningful and effective to both Indigenous and non-Indigenous people, and overturn more than two hundred years of skewed colonial justice practices.

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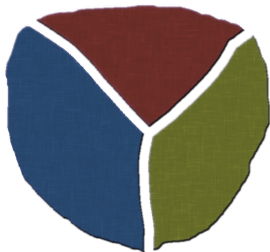
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