

VOMA Quarterly

Volume 9, Issue 2 A Publication of the Victim-Offender Mediation Association Spring 1998

RESTORATIVE JUSTICE IN RUSSIA

By Eric Ian Shank, M.A.

Eric Ian Shank, M.A., is a graduate student of Dispute Resolution at Nova Southeastern University in Fort Lauderdale, Florida. This past summer, he worked at the Moscow Center for Prison Reform in Russia, and was fortunate to have had the opportunity to share some Western approaches to restorative justice--including victim-offender mediation-- at a conference on alternative sanctions at the Sakharov Center, and at a seminar sponsored by Friends House Moscow. This article offers a brief synthesis of the lessons learned from the experience, and examines some of the challenges faced in trying to implement Western-style mediation within the context of the Russian criminal justice system.

The collapse of the Soviet Union at the beginning of the decade, long anticipated by the West, has had unfortunate consequences for the Russian people. The social and economic institutions which supported the population for seventy years disappeared virtually overnight, leaving the Russians to fend for themselves amidst a torrent of reckless foreign and domestic speculation. The recent spread of Russian organized crime has been well-publicized abroad, and endlessly dramatized by Hollywood; what is less well-known, however, is that everyday living conditions have become much more unstable in Russia since the demise of the USSR, and have resulted in a crisis on many levels.

(Continued on page 2)

THIS ISSUE OF THE VOMA QUARTERLY PRESENTS A TRIO OF INTERNATIONAL ARTICLES THAT DEMONSTRATE THE VARIED AND ENTHUSIASTIC APPROACHES WITHIN VOMA AND



**VOMA 15th
Annual
International
Conference in
Tucson, AZ**

September 15-19, 1998

Register Today

**VOMA
c/o Restorative Justice Institute
P.O. Box 16301
Washington, DC 20041
703-404-1246
voma@voma.org**

What's Inside!

Restorative Justice in Russia	1
1998 VOMA International Conference	3
Restorative Justice Buzzes Around Guam	6
Mediation in the Italian Juvenile Justice System	8

Restorative Justice in Russia

(Continued from page 1)

Russia's overflowing pre-trial detention centers and prisons bear witness to the fact that current social and criminal policies are not working effectively, and that new means of intervention are needed to deal with the rising tide of popular unrest that plagues the country.

There have always been paradoxes in Russian culture. One of them is that while the Russians truly value close interpersonal ties--family, friendship and informality--they are often incapable of sustaining a larger sense of community and order without an authoritarian power to impose it, or a major catastrophe to unite them. This paradox serves as an excellent starting point for a discussion on the possibility of introducing restorative practices into the Russian criminal justice system, because it gives us not only the reasons why such reforms are badly needed, but also why they may work, as well as what challenges will need to be overcome on the road to building a civil society.

Russian society is now in an acute stage of crisis. The line between legal and illegal activity has all but been washed away in a deluge of short-sighted and contradictory legislation, and a white-collar crime wave of staggering dimensions has taken over the country, gradually seeping outward into the international community. Unfortunately, since this "grey" economy is so intimately tied to official state business activity (keeping the sinking state afloat), the main perpetrators are rarely brought to justice; instead, it is the poor who are victimized, being held in hellish pre-trial detention centers for up to three years, for petty offenses born out of poverty,

There have always been paradoxes in Russian culture. One of them is that while the Russians truly value close interpersonal ties--family, friendship and informality--they are often incapable of sustaining a larger sense of community and order without an authoritarian power to impose it, or a major catastrophe to unite them. This paradox serves as an excellent starting point for a discussion on the possibility of introducing restorative practices into the Russian criminal justice system,

frustration and the will to survive. Very often, a brief incarceration for a misdemeanor becomes a death sentence, due to the high incidence of untreated tuberculosis in Russian prisons.

In the West, Victim-Offender Mediation came about largely in response to an outcry from Victims' Rights groups, who drew attention to the need to allow victims to play a more active role in the disposition of their cases. Not only did victims often feel twice victimized (once by the offender, again by the state), but they also rarely received direct compensation for their losses. Victim-Offender Reconciliation Programs (VORPs) allowed victims to finally confront the ones who had wronged them, and allow the process of psychological healing to begin.

Concern for victims' rights was also a driving factor in this past summer's efforts to introduce mediation in Moscow; however, of equal or greater concern to those involved in the initial process was the need to divert juvenile, first-time and non-violent offenders away from the leviathan Russian penal system. Thus, although the overall goal of instituting a balanced community mediation project remained consistent with Western practice, the initial impetus was more offender-driven than victim-driven.

Although Russia's high-context norms make for a society based on close interpersonal ties, formal mediation is not currently practiced within the Russian court system, and the desirability of third-party intervention is questioned by conventional wisdom. There is an old saying in Russian, "Tretii lishnii"--meaning, literally, the third person is superfluous. (The word mediator, in Russian, means a guitar pick!)

(Continued on page 4)

1998 VOMA Annual International Conference!!

The heart of downtown Tucson will be the site of the 15th Annual International Victim Offender Mediation Association Training Institute and Conference.

Tuesday, September 15th through Saturday, September 19th will provide a learning and networking opportunity for those interested in Restorative Justice and Victim Offender Mediation.

This year's Conference promises to be another great one. VOMA will bring in experts to discuss:

- * What innovative practices in victim-offender mediation are being used; how do they work and how well do they work?
- * What other innovative practices and programs of Restorative Justice are being used; how do they work and how well do they work?
- * How can we determine whether programs that are being labeled "Restorative Justice," are truly restorative?
- * What is the importance of community involvement and how can it be achieved?
- * What standards and guidelines are needed to assure that Restorative Justice programs will provide their services competently and ethically?

As in past years, there will be a three-day Training Institute followed by a two days of Conference workshops.

As always, a three-day "beginning track" will address the needs of those who come to learn the basics of victim-offender mediation and restorative justice - how to mediate juvenile offenses/criminal cases and how to set up an run a victim-offender mediation program.

For the first time, this year, as a part of our "Innovative Practices" theme, we will be offering a Training and Conference "track" devoted to the mediation of severely violent crimes. Other "tracks" will focus on a variety of intermediate and advanced issues.

The Training Institute and Conference will be held at the Holiday Inn City Center, 181 West Broadway in downtown Tucson.

The hotel is located in the heart of the Historic and Arts Districts, and guests can walk to some of Tucson's most unique shops, art galleries, museums and historic sites. There are over 25 restaurants which range from fast food to fine dining within just a few blocks. Guests may take advantage of the spectacular Arizona climate in an outdoor pool and sun deck on the second floor.

The hotel provides complimentary airport transportation.

With a special room rate of \$59.00 single/double occupancy (plus 9.5% tax and \$1.00 city surcharge), conference participants will enjoy very affordable lodging in this newly renovated hotel. If you wish, you may contact the hotel directly at (602) 624-8711.

The Theme ...

"Innovative Practices in Restorative Justice and Victim Offender Mediation."

The Quarterly

THE QUARTERLY

VOMA is excited about future issues of the Quarterly.

Future topics will include discussions on a range of important on-going issues within the victim offender mediation and conferencing community, including: direct/indirect mediation models, fundraising for VOM programs, serious and violent crime dialogues, and international perspectives.

Authors who are interested in contributing to the Quarterly are welcome to submit articles to the Publications Committee to Beverly Moore (see Board Directory).

The Victim-Offender Mediation Association is an association of individuals, organizations, governmental entities, educational institutions, and students with an interest in mediation, restorative justice, or the criminal justice system.

Restorative Justice in Russia

(Continued from page 2)

However, the modern practice of dispute resolution has existed in one form or another throughout Russian history--during the 1960's, the Soviets even experimented briefly with mediation in rural areas, with a short-lived project called "Comrades and Courts".

Russian folklore is full of tales and fables detailing wise and foolish decisions and the pursuit of justice. One famous legal anecdote from the turn of the century tells of a young lawyer, sent into the countryside to observe justice being done according to the obshchina, or customary law. Two peasants, Ivan and Igor, had a quarrel over the use of a certain plot of land. The village elders of the obshchina consulted each other, and decreed, "Ivan owns the rights to the land; Igor has no rights to the land. Therefore, the land shall be divided--Ivan gets two-thirds of the land, and Igor will get one-third." The young lawyer objected, saying that if Igor had no rights to the land, then he shouldn't receive any of it. The elders replied, "Land is just land...but these people need to live together for the rest of their lives".

During an interview last summer with Valery Abramkin, director of the Moscow Center for Prison Reform, it was learned that over 90% of all criminal cases that pass through the Russian legal system go straight through the police (militsiya) and the Prosecutor's Office (Prokuratura) to the penal system, with no chance of third-party intervention. Indeed, those held accountable under this system are lucky to even get a jury trial, a mechanism only recently instituted by the revised Russian constitution. Thus, at the time, it was believed that any cases which might be suitable for testing an experimental Victim-Offender program would have to come from the remaining 10% of criminal cases--which are misdemeanors, funneled through the offices of local Justices of the Peace.

However, since this past summer, a thorough reading of Russia's Criminal Code and Code of Criminal Procedure by Moscow activists has revealed that there are, in fact, provisions which would allow mediation to take place according to the Western VORP model. Articles 9 and 27 of the Code of Criminal Procedure and Article 76 of the Russian Criminal Code allow for the withdrawal of criminal

(Continued on page 5)

"One of the main concerns in trying to implement any form of ADR within the Russian criminal justice system is the potential for abuse it may bring"

Restorative Justice in Russia

(Continued from page 4)

charges if the crime was a minor first offense, and of a non-violent nature. These provisions would permit the Prosecutor's office to refrain from prosecution, under the conditions that 1) the victim withdraws his/her request to prosecute the offender according to legal rules and procedures, and 2) that the offender agrees to restore the victim's losses.

Balanced VOM programs in the West hinge on the interrelationship between victims, offenders and communities. Their ultimate success depends on effective collaboration and communication between the courts and probation offices, drug and alcohol rehabilitation programs and community volunteer projects, churches and schools, to name but a few vital social institutions. Perhaps the main problem in attempting to adapt Western-style VOM for the Russian criminal justice system is that in Russia, these social institutions either do not exist, or they are not supported nearly as well as in the West. The criminal justice system in Russia is a huge bureaucracy of several branches, but none of its many limbs are really devoted to the equitable treatment or rehabilitation of offenders. There is a federal security service, a ministry of internal affairs, a militia, a state Prosecutor's office, a court system and a penal system--all

geared toward the apprehension and incarceration of suspected criminals (or those who have fallen out of favor with the wrong authorities, and do not have the means to bribe their way out); however, there are relatively few governmental or community programs for social work. Youths are treated much the same as adults, only with separate detention facilities.

One of the main concerns in trying to implement any form of ADR within the Russian criminal justice system is the potential for abuse it may bring, especially in view of the fact that the due process of law we take for granted in the West is just now being introduced in Central and Eastern Europe. In the West, traditional ADR practices have come to serve as a valuable adjunct to formal court proceedings; they perhaps work as successfully as they do because much of the dispute resolution that is done informally is done "in the shadow of the law," so to speak--that is, we have more formal measures in place, which we can rely on should other approaches fail. In Russia, the formal measures which uphold the criminal justice system are themselves no guarantee of justice; it is feared that attempts to bypass the new constitutional legal system altogether may result in even more serious miscarriages of justice.

For example, the offering and accepting of bribes (*vzyatki*) and the misuse of positions of public trust in Russia is seen as entirely

normal, a routine part of everyday life. Everyone does it, and everyone knows it, and the practice has permeated all strata of Russian life. It is therefore easy to imagine how this might prove a serious detriment to a mediation program, especially if it would allow criminals a way out of imprisonment. To work effectively, there can be no hint of duress or deceit in a reconciliation program; in present-day Russia, this may not yet be a realistic hope. However, it would ultimately be a tragedy not to try to introduce a restorative philosophy to the Russian criminal justice system, merely because of the chance it might be abused; it could certainly be no worse than the existing system.

Thus, there are provisions within existing Russian legislation which would allow for the development of an experimental Victim-Offender Mediation program, and there are restorative justice activists in Moscow and the United States who are now lobbying for its funding and approval. Signs of obtaining grants to continue training and begin implementation are encouraging at this point.

There are problems, however, which must be overcome in order to introduce Restorative Justice practices in Russia, much as there are in the West:

Criminal justice authorities must be convinced that a shift in paradigm is not only socially beneficial, but cost-effective as well.

(Continued on page 6)

Restorative Justice in Russia

(Continued from page 5)

Restorative changes in the justice system must be accompanied simultaneously by structural changes in social and community institutions. Structural changes must also gradually be accompanied by an attitudinal change, as Russia transforms into a civil society based on the rule of law. These changes will take time and effort, faith and perseverance, but ultimately can be achieved in the foreseeable future.

(Eric shanke@nsu.acast.nova.edu) is currently collaborating with VOMA Board Member Marty Price, in offering consultative assistance to Moscow restorative justice activists Mikhail Fliamer and Rustem Maksudov (flam@glas.net). Comments, criticism, questions and words of encouragement are most welcome from all readers.)

Register for Conference

"Restorative Justice Buzzes Around Guam"

by Patrick M. Wolff

For the first time in Guam, a day-long conference espousing the virtues of restorative justice was held last August. The conference was sponsored by Guam's Inafa' Maolek mediation group. Although most US VORP programs work primarily with juvenile property offenses, Guam's Inafa' Maolek mediation group provides mediation for juvenile crime of personal violence as well. Many key people in Inafa' Maolek are driven by their religious faith and belief in the importance of Christian conciliation. It fuels their involvement in this work, yet they respect the separation of church and state in handling court mediation referrals.

The restorative justice conference attracted 67 persons (many of them influential members of the local community) and was followed by a 16-hour Victim Offender Mediation skills training, which was completed by 26 persons. Keynote speaker

and VOM trainer Marty Price (a VOMA Board member) provided presentations and training, including an opening keynote on "Restorative Justice" and a lunchtime speech on "Mediating Drunk Driving Manslaughter Cases." There were also two morning Pre-Mediation Demonstrations separately with an offender and with a victim, and an afternoon VOM Mediation Demonstration.

Conference attendees included a broad cross-section of government and private agencies including: Mental Health and Substance Abuse Agency; staff persons with Child Protective Services and Adult Protective Services; leaders from 4 different churches (Catholic and Protestant); Prison Fellowship chaplain; M.A.D.D. representative; victim advocates;

"Many key people in Inafa' Maolek are driven by their religious faith and belief in the importance of Christian conciliation."

(Continued on page 7)

Restorative Justice Buzzes Around Guam

(Continued from page 6)

private attorneys; a handful of prosecutors; Youth Correction staff person; Catholic Social Services; and AmeriCorps Volunteers from the University of Guam. In addition, a noon panel of Guam dignitaries consisted of two Superior Court judges, the president of the Guam Bar Association, and the U.S. Attorney for Guam.

Although there was an unusually aggressive wall of hostility from three prosecutors, their opposition seemed to focus on mediating serious criminal cases and sexual assault/domestic violence cases. And the usual resistance from politicians and victim service staff was not present. Rather, victim advocates were confident they wanted mediation available to victims in Guam. As a direct result of the conference, Inafa' Maolek president Patrick Wolff was invited by Guam Community College officials (Criminal Justice Academy) to speak about victim-offender mediation to law enforcement training cycles for customs officers, police officers,

and correctional officers.

Ironically, even though the three prosecutors were critical of the mediation demonstration, they stayed throughout the conference and one of them afterwards offered Inafa' Maolek assistance with a room within the Attorney General's Office for mediation (since Inafa' Maolek has no office space of its own). Some government leaders were "on board" with Restorative Justice, especially US Attorney Fred Black, Judge Tydingco-Gatewood, Justice Weeks, and Prosecutor Bonnie Brady.

Commenting on the host organization, Inafa' Maolek, Price summed it up this way: "They are an incredibly dedicated bunch of people doing a lot of good work on a shoe string." He added: "And their use of youthful mediators on the co-mediation VOM cases is on the cutting edge of the learning curve in that arena."

Conferees made mostly positive comments on the conference final

(Continued on page 8)

"... victim advocates were confident they wanted mediation available to victims in Guam."

Executive Committee Report Bruce and Lorraine, Co-chairs of VOMA

The VOMA Board of Directors held its mid-year board meeting last March in Florida. We were hosted by our Administrator, Bill Preston of the Restorative Justice Institute. The meeting was very productive and we again realized the benefits of adding the mid-year meeting to our schedule in order to stay on top of all that is happening within the Association.

An important project VOMA is development of an Advisory Board as an effort to maintain contact with the leaders of the restorative justice and victim offender movement. Dr. Mark Umbreit and Howard Zehr have agreed to serve.

Another important issue is the "international" aspect of VOMA. VOMA is committed to being an international organization, however, most of our membership is from the US. In conversations with people in other countries, particularly our friends in Canada, we find that there is a "sense" that VOMA is a US organization. VOMA needs advice and participation from people and programs from other countries.

In order to encourage this international discussion, VOMA is excited to present this issue of the VOMA Quarterly. Three articles from Russia, Guam and Italy demonstrate the varied and enthusiastic approaches within victim offender mediation and restorative justice around the world.

Restorative Justice Buzzes Around Guam

(Continued from page 7)

evaluations: "Mediation as an alternative to resolve problems is a good approach."

Postscript by Nelda S. Flynn

A Terribly Tragic Postscript to the well received restorative justice conference and two day training was the death of 31 year old VOM Trainee, Therese Chrisostomo on 29 September 1997.

Therese and her seven year old daughter, Erica, were murdered from multiple gunshot wounds by her 31 year old ex-husband who then shot himself. Pacific Daily News, Guam's local newspaper, reported that Therese's brother Mike said his sister was a victim of spousal abuse.

Jayne Flores, a local columnist for the Pacific Daily News, began her weekly column on 5 October with the following: "Break the silence against family violence in our community. The irony of this well-intentioned theme is that the silence was shattered by shotgun blasts that destroyed three lives on the eve of Family Violence Awareness Month."

Another irony is that Therese, now a dead victim, was a social worker for the Adult Protective Service of the Department of Public Health and Social Services. Fellow VOM trainees recall Therese as attractive and outgoing and a vibrant, curious woman who worked well in the small role playing groups.

Mediation in the Italian Juvenile Justice System: A Mediation Service Project

by Anna Costanza Baldry, Melania Scali, Laura Volpini

Restorative justice principles, introduced into the Italian juvenile criminal justice system in 1988, reflect the United Nations' Standard Minimum Rules for the Administration of Juvenile Justice. According to these rules, the juvenile criminal justice systems within the countries conforming to these recommendations should favor the protection and promotion of the rights of young offenders by helping them take responsibility for their actions while paying their debts to society for the crime committed.

The Italian juvenile justice system reflects the idea that deviant behavior of young offenders is the result of combined causes related to the society, the family and the personality of the individual juvenile. Therefore, the purpose of any sanction inflicted should protect the juvenile while holding him or her accountable for the criminal action. According to this system, a sanction should be inflicted only if the offender is accountable, which means that he or she was conscious of the illegality and the consequences of the action when committing the offense.

After the young offender is held accountable, the aim is to minimize the use of custody, providing alternative sanctions which focus on rehabilitation, reintegration and socialization. Some of these include "orders," an obligation to stay at home, or assignment to a community home. All these initiatives require intervention and cooperation of both state and local social service agencies.

Another alternative sanction order is "suspension of trial and probation." Juvenile probation is a new tool in the Italian criminal juvenile justice system, and has quite a different form than most of the probation orders currently existing. Juvenile probation is based on the suspension of the trial, not of the sentence. But as Palomba indicates, it follows the same philosophical principle of probation: the aim is to try to

avoid imposing a punitive sanction on the young offender provided that he or she behaves satisfactorily during the specified period.

(Continued on page 9)

"... any sanction inflicted should protect the juvenile while holding him or her accountable for the criminal action."

Italian Juvenile Justice

(Continued from page 8)

In order for the juvenile to benefit from juvenile probation, social workers from both state and local social service agencies (acting as probation officers) jointly develop a project that the offender must agree to complete. The implementation of the project is based on objectives which demonstrate the complexity of this alternative sanction. In addition to the basic aim of all probation orders, which is to avoid sanctions and implement rehabilitation, another goal is to promote the psychological development of the young offender based on their social adjustment their own sense of responsibility. In order to do this, the juvenile is given the opportunity to restore the damage caused by the offense through reparation to the victim.

It is the presiding judge who determines the probation order in a juvenile criminal case. The law refers at this point to the possibility of victim and offender mediation based on the idea of reparation: "The judge may apply prescriptions aimed at repairing the consequences of the crime and at promoting reconciliation between the juvenile and the victim."

"The Mediation Service's goal is to strengthen victim-offender mediation through implementation of research, seminars, and actual referral of cases."

The above analysis shows that the Italian juridical system is primarily offender-oriented, and that most of the activities and decisions within the juvenile criminal justice system are mainly taken in the interest of the juvenile offender. The process by which sanctions are usually determined rarely takes victims into consideration. Although the legislation provides opportunities for the victim to have an active role in the process, research demonstrates that reparation is often arranged without asking victims about their needs, without letting them express their feelings, and without providing the opportunity to dialogue directly with the offender to address questions that would otherwise go unanswered.

The Italian criminal justice system confirms the idea that any restorative justice attempt to deal with crime is forced into a rehabilitative system that is "offender-focused" (Bazemore and Umbreit, 1995). In fact, the juvenile justice system is the only one in Italy where victim-offender

mediation has been introduced, and it is only in a few parts of Italy that victim/offender mediation services

(Continued on page 10)

Your VOMA Board of Directors

Lorraine Stutzman Amstutz, Co-Chair

MCC Office on Crime and Justice
2501 Allentown Road
Quakertown, PA 18951
215/536-2733 (fax same, call first)
amstutz@fast.net

David Doerfler, Nominating/Membership

Victim Services, Dept. of Criminal Justice
PO Box 13401 Capitol Station
Austin, TX 78711
800-848-4284 or 512-406-5441
fax 512/406-5417

Kathy Elton

Mediation Programs Coordinator
Administration Offices of the Court
230 South 500 East, Suite 300
Salt Lake City, UT 84102
801/578-3982
kathye@email.utcourts.gov

Kim M. Fink-Adams, Vice-Chair

The Mediation Center
189 College Street
Asheville, NC 28801
828-251-6089, ext 26
fax 828-232-5140
tmc@buncombe.main.nc.us

Kathy Hall, Secretary/Conference

Iowa Mediation Service
1025 Ashworth Road Suite 202
West Des Moines, IA 50265
515/223-2318
fax 515/223-2321
amh335@aol.com

Bruce Kittle, Co-Chair

Restorative Justice Project
975 Bascom Mall, Room 4318
Madison, WI 53706-1399
608-262-4013
fax 608-263-3380
bakittle@facstaff.wisc.edu

Doris Luther, Ethics & Standards

PO Box 335
Cumberland, ME 04021
207-829-5775

dluther@igc.apc.org

Carolyn McLeod, Public Relations

Community Justice Program, Washington
County Court Services
P.O. Box 6
Stillwater, MN 55082-0006
612-430-6948
fax 612-430-6947
mcleod@co.washington.mn.us

Beverly Moore, Publications

Your VOMA Board of Directors

cont.

Community Mediation Services
44 West Broadway, Suite 202
Eugene, OR 97401
541-344-5366
fax 541-687-8392
mediate@efn.org

Dorothy Barg Neufeld, Nominating/ Membership
Mediation Services
583 Ellice Ave, 3rd Floor
Winnipeg, Manitoba, Canada R3B 127
204-774-2469
fax 204-772-4776
mscr cr@web.net

Marty Price, Conference
19813 NE 13th Street
Camas, WA 98607
360-260-1551
fax 360-260-1563
martyprice@vorp.com

Ann Warner Roberts, Fundraising
1406 Palace Avenue
St.. Paul, MN 55105
612-699-4532 (same for fax)
annwarnerroberts@compuserve.com

Barbara Schmidt, Conference
Kansas Children's Service League
1365 N. Custer
Wichita, KS 67203
316-942-4261
316-943-9995
bschmidt@kcsf.org

Susan Wiese, Treasurer
Mediation Services-Franciscan Skemp
La Crosse County Administrative Center
400 North 4th Street, Suite B01
La Crosse, WI 54601
608-784-7322
wiese.susan@mayo.edu

Administrators
Bill Preston and Greg Richardson
Restorative Justice Institute
P.O. Box 16301
Washington, DC 20041-6301
703-404-1246
fax 703-404-4213
bprestonjd@aol.com
grichardjd@aol.com

Italian Juvenile Justice

(Continued from page 9)

are actually taking place (Bari, Milan, Rome, Turin).

Although victim-offender mediation services are available within the juvenile justice system, it is not clear at which stage mediation should take place: as part of the assessment order (in which the judge orders an assessment of the personality of the juvenile and evaluates the seriousness of the offense by analyzing the consequences and the impact on the victim), or during probation (when the juvenile works toward helping repair the damage caused to the victim).

Following is a discussion of a new, independent neutral Mediation Service set up by a group of five experts at the Department of Social and Developmental Psychology of the University of Rome "La Sapienza." The Mediation Service was created in late 1996. Its' goal is to strengthen victim-offender mediation through implementation of research, seminars, and actual referral of cases.

Under Italian law, mediation can be introduced in the following context:
• "Suspension of trial with probation" where it is clearly stated that during probation, efforts

should be made for the offender to be "reconciled" with the victim and "repair" the damage caused. • "Assessment of the personality of the young offender," which requires the judge to decide which sanction is most suited for the juvenile. Mediation can help assess the personality of the youth, enabling him or her to learn the consequences of their actions by meeting with the victim and learning about the victim's suffering. "Discharge due to the insignificance of the action committed." In this regard, mediation can help to determine whether the action committed was insignificant or not by taking into consideration the impact and consequences for the victim. • During alternative sanctions, mediation can also take place as one component of the sentence.

"...decisions within the juvenile criminal justice system are mainly taken in the interest of the juvenile offender."

Types of crime that the Service works with are misdemeanors and minor crimes such as personal injuries, damaging, insults, threats, theft, robbery, brawl, and minor sexual abuse. Most relevance is given to those crimes committed in the offender's social context (school, sports centers, residential areas) where it is likely

(Continued on page 11)

Italian Juvenile Justice

(Continued from page 10)

that the victim was known to the offender prior to the crime.

The Mediation Service works with young offenders, between 14 and 18-years-old, both Italians and foreign, who have no problems with drugs or alcohol. Victims are usually individuals, over 14-years-old, although sometimes institutional or organizational victims (especially in cases of vandalism) are considered.

The Mediation Service handles cases directly but can also supervise those administered by social service agencies in charge of young offenders. Since its inception, the Service has dealt with 11 cases, 8 directly and 3 supervised from referrals by social service agencies. Cases are referred to the Service either by social services or directly from the judge.

When a case is referred, one or two members of the Service get in touch with the social worker in charge of the young offender in order to screen the case and analyze the feasibility of mediation. In some cases the Mediation Service is responsible for contacting both offender and victim. In other cases, the Service contacts only the victims and the social worker is

responsible for contacting the young offender.

Intakes with the offender and the victim are scheduled separately in order to give each party the opportunity to tell their story and express their feelings. The first step is to get in touch with the victim by sending them a letter explaining what the Service offers, what mediation is and how the victim might benefit from participation. In cases where the Service is also responsible for the offender, a letter is also sent to the offender (otherwise the social worker will get in touch with him or her).

A phone call following the letter provides further information and details about the possibility of scheduling a visit to discuss possible advantages to participation. When the victim is under-age, a parent is also contacted and decisions are made jointly between the Service and the juvenile and their parent.

During the initial separate visits, the victim and offender

have the opportunity to express their feelings and give their version of the event. Relevance is given to the analysis of expectations and to

the explanations of the rules and aims of the meetings. Special attention is given to the victim, for whom the visit usually provides the first opportunity to tell someone about their story and express their feelings. It is not always possible to schedule a face-to-face meeting because both parties do not always agree to participate.

Due to the small sample size, it is difficult to generalize results. However, it is possible to say that both victims and offenders can benefit from these meetings because it is often the first time that they've had the opportunity to tell their story and have someone with whom to confront. The small number of cases referred to the Mediation Service is due to both the shortage of referrals from judges and the difficulty of contacting victims.

Support to victims and assistance to victims and witnesses in court is not yet well established in Italian culture. In this regard, the Service is one of the first agencies in Italy to provide victims the opportunity to express their feelings about the crime. The Service works with victims to help them understand the benefits of meeting with the offender. It is hoped that with support and encouragement, victim-offender meetings will be scheduled.

Given that the service it is still in its experimental phase, further development of procedure are needed to evaluate the (positive) effects of mediation.

“Support to victims and assistance to victims and witnesses in court is not yet well established in Italian culture.”

VOMA MEMBERSHIP

- ◆ **AGENCY** membership is available to any organization that has an interest in the mediation process, the philosophy of restorative justice, or the criminal justice system. Annual agency dues are \$150.00.
- ◆ **INDIVIDUAL** membership is available to those persons interested and/or involved in victim-offender mediation and reconciliation programs. Annual individual dues are \$40.00.
- ◆ **STUDENT** membership is available to **full time** students. Annual student dues are \$15.00.

VOMA MEMBERSHIP BENEFITS INCLUDE THE QUARTERLY PUBLICATION, AN ANNUAL DIRECTORY OF MEMBERS, ACCESS TO VOMA RESOURCES, AND AGENCY DISCOUNTS ON THE ANNUAL CONFERENCE.

Membership Application

Name/Contact Person
Title
Program Name (if agency membership)
Mailing Address
City State Zip Country
Telephone Fax Amount Enclosed
e-mail address New? Renewal?

Victim Offender Mediation Association

**c/o The Restorative Justice Institute
P.O. Box 16301
Washington, DC 20041-6301
Tel (703) 404-1246
Fax (703) 404-4213
E-MAIL: VOMA @VOMA.ORG**