

Research

## Empathic Encounter: The Relationship Between Self-Reported Empathy, Process, and Outcome in a Restorative Justice Program

by Harrison Braxton

Victim-offender mediation programs offer non-violent offenders the chance to meet with victims and community members, to share their stories and reactions to offenses, to restore a sense of community, and to develop plans for restitution and service to victims and communities. Outcome research on victim-offender mediation programs has found that participation increases the victim satisfaction with the justice system and also lowers offender recidivism.

Although some research has been done on outcomes and public perception of victim-offender mediation, little research has focused on how the process actually works. In reviewing theoretical ideas from the sociology, criminology, and psychology literature, it appears that the victim-offender meeting can be seen as a kind of "empathic ordeal" for the offender.

Both affective and cognitive components are central to the process. First, on the cognitive level, the offender tells his or her version of what happened. Next, the offender listens to the victim give an account of the crime. Third, the offender and victim negotiate an agreement for repairing the impact of the crime. In hearing these effects, the offender is not only gaining empathic understanding by perspective taking and problem solving, but may feel a sense of anxiety or shame in hearing the effects directly from the victim. This shame is the ordeal and the affective component.

In many situations, shame would end any productive dialogue, but because shame and understanding take place in the context of mediation, there is a sense of hope that the damage can be repaired. Instead of causing defensiveness in offenders, as most research on shame suggests, shame in the context of mediation could motivate offenders to make amends. Ideally, offenders are more likely to apologize sincerely, adequately repair the

damage they have caused, be forgiven, and be motivated to behave in a law-abiding fashion as a result of this process.

This study explores to what extent the victim-offender meeting was an empathic ordeal, to what extent the offender did evidence shame, remorse, empathy for the victim, and also how the victim and community panel worked to reintegrate the offender.

### Shame

One of the conceptual underpinnings of restorative justice is the idea of "reintegrative shaming" (Braithwaite, 1989). Braithwaite argues that the social shame of crime is the strongest deterrent and that community standards are stronger in shaping and controlling behavior than legal codes. Naturally, the best reaction to a crime is to use the existing shaming structures within a community to address rule violations. Braithwaite points out that, while retributive measures do shame effectively (though indirectly through a judge rather than within the community), they do not offer an opportunity for restoration of the offender. He argues that, once shaming occurs, the offender needs an opportunity to apologize and repay the victim and community and to be reintegrated into society with a stronger understanding of his or her offense and a renewed dedication to upholding the community standards. Without an opportunity for reintegration, shaming becomes more alienating for the offender. Restorative programs, unlike retributive programs, provide opportunity for the offender to be forgiven and to

repair the effects of his or her crime.

Schneider (1977) describes two kinds of shame. The first is a shame that reflects a moral duty to the rules of society. This shame serves a prohibitive role and is much like modesty or respect. Leith and Baumeister (1998) suggest guilt-proneness is similarly prohibitive. In both shame and guilt-proneness, an awareness of an "other" perspective is needed. It could be argued that, by virtue of the fact that they pleaded guilty to a crime, the subjects were not sufficiently endowed with this first sense of shame or prohibitive guilt.

The second kind of shame Schneider describes is the response to doing something reprehensible, or, rather, of being seen doing something reprehensible. This kind of shame is more "after the fact," and suggests an emotional and physiological response since the affective reaction of shame is to blush and cover one's face. This kind of shame also puts the offender outside of himself or herself and into a frame of mind where he or she can view the action through the eyes of a third party. According to cognitive psychologists, being able to have such a third-party view is a necessary skill in moral development (Gibbs, 1987). In this sense, shame is both a cognitive and emotional process and phenomenon. In a program that is designed to promote healing, effective management of this "after the fact" shame could increase the level of anticipatory guilt or shame in an offender, and thus, a

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## VOMA Connections

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

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

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**Parents are a Missing Link in Restorative Justice Processes**

by Carolyn McLeod

The early years of working with victims and their offenders was a time for learning in what we now call restorative justice processes. We encountered a great number of challenges. Most of our learning was of the "trial by fire" variety. Some of the challenges were because as a group we were wise, but on occasion not so wise; brave, but a bit timid too; and correct in most of our methods, but sometimes mistaken. However, we always wanted the best outcomes for all victims, offenders, and communities harmed by crime.

We were also dedicated to changing what we believed were systemic flaws. As we moved down this new way of "helping," we inadvertently caused ourselves some pretty major problems. We now know we caused a great deal of concern to victim rights advocates, court and law enforcement personnel, and parents of victims and offenders. Fortunately, many of our new approaches and errors in thinking have been corrected, adjusted, or, when called for, abandoned over the past three decades. We have learned to provide restorative justice services to victims, offenders, parents, and referring agents and systems that are safe, meaningful, well balanced, and respected by almost everyone we encounter in practice.

Our learning continues, of course. In this article, we will look at one fundamental practice that changed the way the majority of programs viewed parents only a little over a decade ago. This may be quite a surprise to practitioners who were not around in the early years.

In 1989, the annual, national victim offender mediation conference was held at St. Catherine's College in St. Paul, Minnesota. It was my second conference. Many wonderful workshops were offered, but there were two workshops with titles that I found deeply offensive. As a parent and grandparent, I certainly did not appreciate seeing titles of workshops like "Oh, Those Awful Parents" and "Keeping Parents Out" listed among the offerings. I wanted to know if the titles were just a ploy to draw people into the workshops, so I attended part of "Oh, Those Awful Parents." The title, I learned, was to be taken literally. I heard statements about parents blaming the victim or the co-offender(s) for what

happened. One presenter declared parents often sabotage agreements. The idea of the session, that parents were bad and not to be part of the process, was verbalized again and again. I sat with my mouth open, hardly believing my ears. I popped into the second offering briefly. Here the title "Awful Parents" also accurately captured the message of the workshop. I didn't stay.

As a parent and grandparent, if I were in the offender's family's position, I could not imagine allowing my child to be without support as they faced their victim. I could not imagine being told I could not have the opportunity to tell the victim how sad I was that my child harmed them or to express empathy about what they experienced. If I were the parent of a victim I would feel much the same. I would want to be there as support for my family member and would want to see and sense the parents of the person who harmed my loved one.

The following year, when the call for workshops came out, I was ready with a workshop proposal of my own, which I called "Parents: The Missing Link." My proposal was accepted and I was delighted. I looked forward to presenting my positive experiences of how valuable parents are to the restorative justice process. Some individuals who commit crimes or offenses are not likely candidates for restorative justice. Similarly, some victims are not candidates for these kinds of meetings. Of course, the same can be true of some parents. However, the overwhelming majority of parents of victims and offenders have been very helpful to the process. Parents most often assist and encourage their children to complete financial restitution and to follow through with other terms of agreements.

In that conference workshop there was some, but not a lot of, resistance to changing the position from "parents are bad" to "parents are good." People did have concerns about keeping parents from dominating the mediation, but the reality is that those fears are groundless if all parties have been properly prepared for the meeting. In those days, there was not a lot of training around the importance of preparing prospective participants for meeting. Now we know that it is crucial that parents are given as much time as they need to talk about what they have experienced as a result of the crime during the preparation phase of the process. Parents may need to talk about the loss of trust, how other members of the family

have been affected or how they are ashamed to be seen in public as "everyone" looks down on them because of their child's actions. Much of the discussion with parents in the preparation phase can be pretty heavy hearted. But, if no one ever listens to them what do you think happens to all those feelings?

Prior to the 1990 conference, it seemed no one thought about how a meeting without a parent in attendance would affect victims. Respecting parental authority is modeled when they are included as significant participants in the process. To ban them from the meeting is to undermine their authority. What is the long-term effect of that for the young person who has already demonstrated a need for authority to assist him or her in making good decisions?

Using Tinker Toys, I demonstrated what happens to those who are apprehended for committing a criminal act: Law enforcement officers speak with suspects asking parents to wait outside the room. Next, defense attorneys talk with offenders, while parents watch or may be asked a question or two. There is no time for much discussion. Then, court happens. Probation makes a recommendation for sentence. Parents watch. Defense attorneys speak to judges or magistrates. Parents watch. Prosecuting attorneys speak to judges or magistrates. Parents watch. Judges may question and/or speak with offender. Parents watch. Offenders meet with probation officers. Parents speak minimally. Then, if we add to the disempowerment of parental authority by keeping the parents out, how in the world are they to take over when the youthful offender is released from probation.

When parents are included, what about victims? Most want to see what kind of people would raise a child who would do what offender do. If parents are present, even if they do not participate actively until the end of restorative justice sessions, victims have the opportunity see that offenders' parents are just ordinary people who never wanted their child to make such poor choices. Moms of offenders usually cry, an easy-to-read clue that the parent feels bad about the harms their children have caused. Sometimes Dads cry too. Usually they just look sad.

When parents are involved, what about offenders? They may actually need their

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Young offenders and victims alike may be intimidated, or too fearful, to face other persons without parental support. Assistance in creating realistic restitution plans is another good reason to have parents present.

Respect is something offenders do not usually think about, but it is very important to them in the end. Parents say they actually gained respect for their children from watching them take responsibility for their actions by facing those they harmed. They tell their children they are proud of them for taking responsibility for their actions, even when they were lied to about everything right up until the children sat across from their victims and confessed their part in what happened. This goes a long way toward repairing the breach in parent/child relationships. What a great lesson in life for a young person to learn - people can make mistakes; admit them; do what they can to repair the harms; and your family still gives you love and respect. Who said, "...and the truth shall set you free"?

For young offenders who lie about or minimize their involvement in what happened to their parents, imagine the double-bind situation they put themselves in. They tell the truth to authorities and victims and a lie to those who care most about them, their parents. The guilt is enormous. Guilty kids become depressed

and then, most often, angry. Angry kids act out in a variety of ways. Usually the ways they act out is harmful to them and to others. How sad is this scenario? Keeping parents from an opportunity to learn the truth by barring them from the process increased the likelihood that lies or manipulation of the truth could continue within families. Parents would be confused about why their children agreed to restitution if they were not responsible for the harm. The result could be that they would be less likely to encourage swift completion of restitution.

When parents are involved, what happens to them? Many are grateful to be able to tell the victims how sorry they are for the harm their children caused. Most feel some level of guilt and/or responsibility about their children's actions. Others feel shame. Some do not trust that victims will be fair to their children. They are nearly always surprised and gratefully at the genuine caring and generosity victims often display toward those who caused them harm. The most important reason for having parents present is that this may be the first time they will hear the whole story of exactly what happened. Remember parents are usually excluded from the interview with the police when the story is first told. Parents do not get a copy of the police report prior to sentencing (they may purchase one later). Everyone else in the system has a copy, though, so the details are usually not discussed. This is not an attempt to keep the parents in the dark,

but rather a matter of efficiency. Young offenders are not likely to want to continue to talk about it, so most parents only know about the charges against their children. Once the parents hear what their children did and learn from victims how they were affected they are not likely to sabotage any agreement!

Undoubtedly there were programs like ours that included parents in the restorative justice process when I started my work in this field. But I believe the majority of programs then did not include parents. I'm grateful to know that it is now standard practice to honor and include others when it would be helpful to the parties most directly affected by crime. Parents are an important party in creating safer, healthier communities, and that, of course, is the goal of those who embrace restorative justice principles and practice.

*Carolyn McLeod recently retired after nearly 17 years working in the field of Restorative Justice as trainer, practitioner, and program developer at the local, national, and international levels. She held dual positions as Program Manager for Minnesota's Washington County Community Justice program and Adjunct Instructor with the Center for Restorative Justice and Peacemaking at the University of Minnesota. She was also co-chair of the Minnesota Restorative Services Coalition and a member of VOMA's Board of Directors.*

**Can Drug Courts & Restorative Justice Co-Exist?**

by Russ Immarigeon

Former VOMA board member Sue Weise recently told me that she was starting a new position as drug court coordinator in LaCrosse, Wisconsin, where she's been managing a restorative justice program for some time. When we spoke, Sue said that she was going to see what she could do to bring some restorative justice to the drug court process. Given her work experience and interests, that makes a whole lot of sense.

When revising programs to integrate a new model of practice, it is always useful to listen to other people's experiences. Some while back I copied a helpful Listserve message Jessalyn Nash, who, at the time at least, was the Director of Restorative Resources in Sonoma County, California. Jessalyn wrote the following:

*About three years ago, our Superior Court Judge asked me to work with him in Drug Court using Family Group Conferencing.*

*The courtroom was set up in a large room where up to 10 youth would be sitting side-by-side during the court proceedings; the judge sitting at the same level as the youth. Probation, the District Attorney, a local drug treatment program, and our agency would be in the courtroom. We found the following:*

*1. Court, probation and a local drug treatment program initiate most drug court programs. Therefore, they have specific agenda associated with their involvement in the program.*

*2. Set sanctions are associated with most drug court programs and they tend to conflict with the principles of FGCS, which work with each case individually, rather than rubber-stamping the sanctions across all youth. We also felt it was important*

*for the youth to come up with their program based on their specific needs and the Drug Court did not allow for this.*

*3. It is important to focus on the youth getting sober before beginning any reparations for the victims and community. We continued to emphasize how important it was for the youth to get drug treatment first, then hold a second meeting to focus on reparations.*

*4. There tends to be a punitive approach to when youth slip with their drug use rather than using natural and logical consequences. The court tended to have the youth do "work crew weekend" when they showed up with a dirty urinalysis test rather than increase their attendance to AA meetings or more frequent UAs with additional treatment or move to residential treatment versus outpatient treatment.*

**How Can Victim Offender Mediation Challenge Social Injustice?**

by Lois Presser

As a society, we dedicate more resources and attention to crime, especially street crimes, than to other sorts of injustice. But crimes are the result of, and otherwise tied up with, exploitative relations generally. In view of that fact, I wonder how victim-offender mediation (VOM) might challenge more general forms of injustice than particular crimes.

Many of us fail to see the ways in which corporations and governments, as well as other people, use power to exploit. Among actions that exploit, crimes have the (dubious) advantage of being obvious. A person knows when she has been assaulted. She is typically less aware when her water supply has been polluted, her ethnic group dishonored, or her savings devalued due to another's selfishness. But social injustices begin to gain clarity through *collective reflection*.

VOM instigates collective reflection. In a VOM session, participants usually start out focusing on the individual responsibility of the offender at hand. However, the talk may eventually turn to other, broader injustices. I saw this sort of "refocusing" during a VOM session sponsored by a juvenile court in the Midwestern United States, which I attended last year.

While stopped at a red light, a group of white teenagers in a car threw a water balloon at another car. The driver of that other car was a Black man in his 30s. The victim's windshield shattered; the victim, enraged, drove after the boys but lost them. Eventually, the local police caught up with the boys and brought them in to the police station. Only one was charged with a crime (criminal damages) – the 17 year-old who threw the balloon. This boy met with the victim for VOM. The victim, the offender, the offender's father, a facilitator, a research assistant and I (neither of us actively participating) attended the session.

Peacemaking gestures came early in the session. The offender apologized, saying that he and his accomplices never expected to cause the damage they did. The victim forgave the offender, saying that he too was 'young and stupid' once. Hence there was a mutual empathy. Is that the best VOM can achieve? It was not in this particular case. The victim proceeded to ask the offender and the offender's father

to compensate him for damages to his car. The victim said that though he had incurred medical expenses, he had only had to pay a small deductible. Nervously, the offender's father cut in that his son was only responsible for the window damage. The driver was another boy, and *he* should have to pay for any other damage. A new story of injustice emerged. This other boy was not charged with anything at all. He was, according to both the young offender and his father, the son of a man who was powerful in their county.

A conspiracy between police and this local "big shot" gained clarity as the offender and his father volunteered details about how the police transaction went down. Then the VOM facilitator showed the victim her copy of the police report. Two-sided, it listed all the boys' names. The victim looked at his own copy of the same report. Only one side had been copied for him, which listed only this one offender's name. The session ended with deliberation about how law enforcement represented the elite in this case. Perhaps the victim proceeded to take political action. I have no way of knowing if he did, though I do believe that political consciousness-raising is a prerequisite to action.

So it was that restorative justice talk, sponsored by the government, led to collective insights about institutionalized injustice. I credit the facilitator with not dictating the focus of the session. The standard question posed by this facilitator, to both victim and offender, was an open-ended "How did this crime fit into your life?" Nothing that the facilitator said directed participants to remain focused on the instant offense or their neighborhood. Indeed, the victim and the offender came from different neighborhoods. The victim's concern was class and race privilege in the United States, not his vulnerability within a particular locality. The offender and his father observed such privilege – and how it infringes on the rights of the less powerful – in action. VOM did not actively promote talk about injustice beyond "the crime," but it did not interfere with such talk.

I hope that those of us who plan, facilitate and study VOM will think more about how to promote social justice. For now, I take heart that VOM is at least providing a *forum* for reflecting on social injustices beyond "crime."

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**Drug Courts & Restorative Justice**

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5. *We have minimal residential treatment in our state for youth; one in our county which had very few beds. Most of the youth I worked with were multiple, high level offenders who needed residential care. Many youth had to go to Southern California or out of state for such a program.*

6. *One-half of our cases were successful due to the fact that the drug court program already defined part of the youth's program. For example, a youth from what we were told by the county agency governing drug court, our work increased the success rate of drug court and the families appreciated our process and support.*

7. *Our Drug Court lost its funding due to state cutbacks.*

Jessalyn's comments give us a lot to acknowledge and digest. First, drug courts come in many forms, depending on local practice operations and culture. Before you can introduce restorative justice into drug courts, you should know the state of current practice in your jurisdiction, because that enables or limits what you can do, at least in the short term.

Second, how much of current operations actually fit well into a general restorative justice framework? It might be best to simply strengthen some program options rather than reinvent a whole new program. It's unlikely that drug courts will become restorative justice initiatives all at once, or even with some struggle.

Third, drug court practice, or the practice of any other program model, can inform restorative justice practitioners about what is actually missing from the restorative justice program model. I don't recall much of the restorative justice literature talking about what to do with drug problems.

Finally, implementing restorative justice is not simply about having a good philosophy of how to approach issues, but also about the hardscrabble of putting theory into practice, a process that is never as clean-cut as one might hope. Note bene: Jessalyn's comments acknowledge, wisely I think, that there is always a politics to what we do, there are always conflicts to address (or even raise), and money changes everything, from the level of resources available in our communities to the existence of our organizational foundations.

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reduction in similar offenses in the future.

Amstutz and Zehr (1998) point out that shaming is implicit in victim-offender meetings and that it is not necessary to explicitly shame or degrade the offender. Indeed, too much shame puts the emphasis on the offender and reduces the chance for a productive encounter. Braithwaite and Mugford (1994) underscore the importance of separating the offender from his or her offense; otherwise the offender cannot separate the shame of his or her crime from his or her sense of self-worth.

**Empathy**

Davis (1996) defines four types of empathy. First, there is a perspective taking empathy where one person is able to put him or herself in the role of another. The second type of empathy Davis describes is a fantasy role taking; people have the ability to identify with fictional characters and role-play. These first two types of empathy are generally more cognitive in nature; one can think about or imagine another person's feelings without an affective response to them. Gibbs (1987) points out the importance of inductive thinking by parents or caregivers in developing perspective-taking and moral reasoning in children. The third type of empathy is empathic concern for others. This empathy is more emotional and requires sensitivity to the feeling state of others. It is more like sympathy and has a positive connotation in that it implies caring. Offenders who demonstrated this type of empathy and who were greeted with similar empathy from their victims would be more likely to resolve the emotional effects of their offenses (Braithwaite & Mugford, 1994). The final type of empathy that Davis defines is a reaction to emotional distress of others. This type of empathy, personal distress, is not necessarily a positive or negative attribute, but measures susceptibility to emotional contagion. People who score high on this type of empathy might not be effective in dealing with individuals in crisis. This type of empathy has been linked to negative shame-related emotions, such as hostility and defensiveness (Leith & Baumeister, 1998). In victim-offender mediation, if the process is demeaning and negative, an offender with high emotional distress might be less able to resolve his or her differences with the victim. Conversely, a taste of the victim's distress could be highly motivating to an otherwise unconcerned

offender.

Victim-offender mediation programs offer a restorative possibility for expressions of shame, remorse, and reintegration. Miller and Eisenberg (1988) found an inverse relationship between empathy and antisocial behavior. They hypothesized that vicarious emotional experiencing of others' distress would curtail aggressive behavior. Successful victim-offender meetings provide intense vicarious experiences. Deardorff and Finch (1975) also found a difference between non-offenders or first-time offenders and repeat offenders in level of empathy.

Leith and Baumeister (1998) support the prosocial benefits of perspective taking empathy. They found a positive relationship between empathy and guilt-proneness (and by extension prosocial behavior) although they concluded that personal distress, as defined by Davis, was related to negative outcomes. Victim-offender meetings are, at the very least, a perspective-taking exercise, and hearing all of the effects of the crime may be important to a successful outcome for the offender. Although personal distress may lead to negative shameful feelings, successful victim-offender meetings offer offenders a chance to separate themselves from their crimes, to work through their distress and to come up with ways to restore their victims. Instead of further alienation, offenders should be offered reintegration into the community.

Programs designed to raise victim-empathy in criminal sex offenders have focused on not only the perspective taking empathy, but the empathic concern for and awareness regarding the emotional distress of the victim. Pithers (1993) notes earlier studies which found that simply asking offenders to "put themselves in the shoes" of victims was inadequate for making lasting changes. He found that empathy-training programs, which maximize the emotional experiencing of the victim's feelings (through role-play), were more effective (Hildebran & Pithers, 1989).

As noted above, most of the literature on victim-offender mediation has focused on victim satisfaction and little has focused on the process. Braithwaite and Mugford (1994) listed, as a necessary condition for success, that the "distance between each participant and the other participants must be closed; empathy among all participants must be enhanced; opportunities must be provided for perpetrators and victims to

show (unexpected) generosity toward each other." It makes sense that some sort of empathic encounter that requires both perspective-taking and exposure to emotional distress, in the context of a ceremony of healing, forgiveness, and responsible problem solving would have a deterrent effect for offenders.

Gibbs (1987) notes that, for his Dilemma groups (moral training for conduct disordered adolescents) it is important to avoid both over and under-arousal. Over-arousal leads to defensiveness, anger and hostility, while under-arousal fails to challenge the group members. Successful victim-offender meetings should display some sense of optimal emotional arousal. Wyrick and Costanzo (1999) found that participation in mediation related to severity of offense and time between offense and the meeting. Offenders and victims were more likely to participate when the mediation was closer to a minor crime and later with a more serious crime. These findings support a need for optimal arousal.

**Research Study**

In theoretically perfect victim-offender meetings, offenders might feel a sense of shame and distress - not too much, perhaps, but enough to be motivated to change. They would then hear about and gain greater perspective and understanding of the impact of their crimes. This new experience and understanding would then lead to offenders making amends to victims and communities that are satisfying for all the involved parties. In these ideal meetings, offenders would experience contrition rather than punishment. Upon completion, offenders would feel more successful than stigmatized. Victims would feel a restored sense of fairness, safety, respect for their offenders, and hope that any damage would be repaired as much as possible. Communities would feel a renewed faith in both justice and the possibility for change and restoration.

In designing this study, I had two main questions in mind. The first one was whether empathy had a bearing on process or outcome. In other words, I wondered if an empathic ordeal is more likely to work than just any ordeal and, if so, what kind of empathy, feeling or thinking, was more important? Additionally, I was interested if self-reported empathy is more important to outcomes than observed empathic responding in the meetings? Second, I

International**Reflections on Restorative Justice in South Africa and Serbia***by Marian Liebmann*

In March 2003, I was invited to do some Restorative Justice work in South Africa and then in Serbia. It was pure coincidence that one invitation followed the other so directly, but this prompted me to think about some of the ways in which these two countries are grappling with similar problems.

South Africa is a pioneer in Restorative Justice, with its renowned Truth and Reconciliation Commission. I had been invited to speak at a regional prisons conference in Kuruman (about six hours by road southwest of Johannesburg) about Restorative Justice in prisons and about art and art therapy in prisons. I also ran two Art and Conflict workshops. The head of the prison chaplaincy for the area told me about the efforts being made to introduce Restorative Justice into prisons. Restorative Justice is seen as a religious matter in South African prisons; several workers from voluntary organizations were also practising mediation in their work.

On the way to Kuruman, I had a day in Johannesburg and visited the Centre for the Study of Violence and Reconciliation (CSV), which does a lot of work with victims of violence and of crime in general. They are involved in several victim-offender mediation projects in townships, including domestic violence cases. I met other people doing amazing things, such as drama people coaching young people to do peer education on HIV/AIDS and art therapists running groups for traumatized children in townships.

We spent the second week in Cape Town, where I gave a talk on Restorative Justice for Cape Town Quaker Meeting. The Quaker Peace Centre also asked me to do a workshop for their staff, and we discussed the opportunities for them to engage in Restorative Justice work in connection with the new Child Justice Bill, still in process, but which everyone is hoping will be a restorative piece of legislation.

In Cape Town, I also met Chris Giffard (via information from CSV), who had pioneered conflict resolution workshops in prisons in Cape Town (featured in 'Killers Don't Cry' on BBC2 about a year ago). He

took me on a prison visit to two of the Pollsmoor prisons (there are five altogether on one site of about a square mile). The prison for young men was the most gruesome prison I have seen, with communal cells for 36 or 72 young men (on remand for up to four years), who had nothing to do all day except tattoo themselves with their gang number. A second prison was not quite as grim, but had memories for Chris, who had been a political prisoner there for two years under Apartheid.

While in Cape Town, we also reconnected with Father Michael Lapsley, who started the Healing of Memories workshops (similar in many ways to victim-offender groups) in South Africa and elsewhere. We visited "gardener-mediators" in a township, trained by the Quaker Peace Centre as a resource to their community in cases of conflict.

We were overwhelmed with the kindness and friendliness we were shown everywhere in South Africa, from criminal justice workers to the taxi-driver in Cape Town who beamed at us and said, "Rainbow nation - I'm so proud to be South African." Yet there are many problems, including HIV/AIDS, poverty, violence, and lack of work. It was difficult to hold on to all the contradictions.

After a week at home to 'turn round', it was off to Serbia, where I was training criminal justice professionals (social workers, psychologists, lawyers, judges, students) in victim-offender mediation, sponsored by UNICEF. The course was held in Kapaonik, a winter sports resort with sun and snow - we had long lunch breaks (and then worked till mid-evening) so that course participants could make the most of it.

Serbia is emerging from a period of isolation lasting ten years, during which time sanctions and bombing had left all their institutions run down and in a state of decrepitude. An excellent 100-page report by the UNICEF consultant detailed the neglected children's homes where young offenders were sent, without facilities for activities - in some cases even without heating in their hard winters. The mediation project was part of the package of measures to update the youth justice system, previously quite punitive under the Milosevic regime. However, because the law was seen as too inflexible to accommodate mediation, the first move was to introduce it for those under the age of criminal responsibility (14 in Serbia).

Most workers were extremely demoralised by their professional isolation and their low pay. One person said to me, "We Serbs don't get paid very much, so we don't work very much either." The choice of the ski resort was a way of thanking them for their participation in the project, as they would not have been able to afford a stay there themselves. I was told that only Mafia could afford such luxuries.

Because of their history of isolation, my visit was awaited with great excitement and there were 39 participants instead of the maximum of 20 I had stipulated. However, thanks to the excellent organization by the UNICEF team (and a wonderful interpreter), all went smoothly and the participants' enthusiasm carried things through.

Role plays are always a part of such training and we developed scenarios from local knowledge. Then small groups role-played the mediation process and brought back the agreements they had reached. One of these concerned the theft of a considerable sum of money from a chief executive of a business by a 13-year-old Roma boy living in poverty. The agreements contained complex arrangements to enable the boy and his mother to pay back the money over a period of time. None of the victims saw forgiving the crime or the debt (or part of it) as an option.

Two countries with many differences - their size and climate, their attitudes to forgiveness and the past, their feelings about themselves - but also much in common. Both are struggling to overcome their brutal past, and both are looking to restorative practices to help with the task and with the next generation of children and young people. Let's hope they both get the resources they need to make this future a reality.

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wondered if shame is contained in such a way as to be reintegrative instead of harsh and humiliating?

I generated several hypotheses. The first is that participants who had higher self-reported empathy would demonstrate more empathic understanding and shame in the meeting (and hence, have more productive meetings). The second is that participants who had higher self-reported empathy would be less likely to re-offend. The third is that participants who demonstrated both affective empathy (sympathy, mirrored distress or concern) or shame and cognitive (perspective taking) empathy would have better outcomes than those who demonstrate only one or neither. And the last is that older participants would demonstrate more cognitive empathy and less affective arousal and shame.

To answer these questions about the degree to which victim-offender meetings are an empathic ordeal, I examined the relationships between self-reported empathy and motivation, expectation of success, process measures, and outcome perceptions. I developed a structured process observation, where ratings of the meetings were compared with participants' scores on pre- and post-process measures and also with the participants' immediate and eventual success or failure in the program.

**Participants and Setting**

Participants in this study were juveniles between the ages of 9 and 17 in a small community in the mid-Atlantic region. All had pleaded guilty to a non-violent crime or had a pre-trial diversion based on a guilty plea. Participants were chosen in the order in which they came into the program. Twenty-nine participants were used, with 26 full data sets collected (three participants did not complete the post-test instruments). Some offenders were seen in pairs, since they had committed crimes together.

The study was conducted in three parts:

- the program administrator gave the pre-process battery to participants during intake into the program;
- the experimenter observed the victim-offender meeting, which took place at a local police station; and
- the post-process measure was administered either by telephone or in person at subsequent meetings.

The general structure of victim-offender meetings was for offenders to tell their versions of what happened and then to listen to victim accounts. The panel typically helped to draw out or to amplify important points in the respective stories. In cases where victims were not present, the panel used a narrative, based on conversations with the victim in each case, or a personal victim statement to help offenders understand their crimes. Typically, offenders were encouraged to apologize to their parents as well as to the victims, if present. After the stories had been told, victims and offenders were encouraged to decide what would be important to have in the final agreements. After getting input from the participants, panels met without offenders to finalize agreements.

**Measures***Pre-process measures.*

Participants were given three pre-process measures to determine their initial self-reported empathy and their expectations about and motivation toward the program:

- the Interpersonal Reactivity Index (IRI) (Davis, 1980), a multidimensional self-reported empathy scale that yields a full-scale score as well as four subscales that distinguish between more cognitive and emotional dimensions of empathy; these four constructs – Perspective Taking, Fantasy, Empathic Concern and Personal Distress – are the basis for the process observation;
- the Competence scale from the Multidimensional Self-Concept Scale (MSCS) (Bracken, 1988); and
- a 12-item scale consisting of statements that addressed program goals in terms of the participants' motivation ("I want to understand better how my crime affected my victim"), expectations ("I think I will know better how my crime affected my community"), and self-efficacy ("I am worried that I won't finish this program successfully"); participants were asked to rate the degree to which these statements applied to them.

*Process observation.*

The second part of this study involved a structured process observation, including the presence of a victim, the offer of an

apology, the affect level of the participants, the presence of empathic responses and shame, and the participants' level of satisfaction with the closing agreement.

To measure affect level during the process, the offender's initial affect, affect while telling story, and closing affect were coded ("relaxed," "angry," or "no affect"). Additionally, in mediations where the victim was present, the affect of the victim was coded before, during, and at the end of the meeting. These codes were divided into three categories of affective arousal: low, medium, and high with a point value of 0, 1, or 2. Type of affect was deemed not as significant as intensity, so observed reactions like amusement or happiness during the process carried equal weight as observed distress or anger. These scores were added together to yield a total affective arousal score.

Degree of responsibility taken by the offender was rated on a five-point scale from "none" to "very high responsibility." Whether or not an apology was given was noted, and the genuineness of that apology was rated on a five-point scale from "not at all genuine" to "very genuine." The point in the process at which an apology was offered was also noted.

The presence or absence of empathic responding and shame was noted. Participants either did or did not demonstrate perspective taking, empathic concern, and shame. Perspective taking was defined as demonstrating an "other" point of view in telling the story. Since the panel often prompted offenders to take an "other" view, only initial perspective taking or more advanced answers to prompts ("I guess he felt bad because..." vs. simply "I guess he felt bad") were rated as "yes." Empathic concern was judged on the basis of verbalizations of concern toward the victim or victim's position or by behavior that demonstrated pity or concern for the victim. Shame was defined by blushing, lowering of the head and eyes, or verbalizations of shame or embarrassment.

In meetings where the victim was present, whether the offender mirrored the victim's distress was noted – "yes," "no," or "none expressed." The offender's response to the victim's story was rated on a five-point scale from "very negative" to "very positive." Also, the degree to which the stories matched was recorded on a five-point scale from "not at all congruent" to "very con-



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gruent.”

Victim affect while telling their story was rated on a five-point scale from “very low” to “very high.” The victim’s response to the offender’s version of the story was also noted on a five-point scale from “very unsympathetic” to “very sympathetic.” The victim’s self-blame in telling their story was rated from “very low” to “very high.” Also, the degree to which stories were personal rather than lectures were rated on a five-point scale from “mostly personal” to “mostly lecture.”

The terms of the final agreement were noted. Finally, the perceived satisfaction of the participants’ (family members, offender, victim, and panel) was rated on a five-point scale from “very low” to “very high.” Six of the meetings were observed by a second rater to help with reliability of the observations.

*Post-Process Measures.*

A post-process questionnaire (post-test) was administered to measure offender perceptions of the process at least one month after the initial meeting. These questions again asked about the program goals. Success or failure to complete the program was also noted. Failure was defined as either being removed from the program for non-compliance or incurring another criminal charge. Initially, success or failure at one month was going to be the standard, but because of the lack of any failures at one month, the status of the case at the end of the study became the standard. In any case, all of the participants had been in the program at least twelve weeks, but less than 11 months.

**Results**

*Pre-Process Measures*

As mentioned above, twenty-nine participants (offenders) completed the pre-test and were observed. Twenty-six of these participants completed the post-test. Ages ranged from 9 to 17. The mean age was 14.67 and the modal age was 15. Seventeen of the participants had pleaded guilty to a felony, while the other twelve had pleaded guilty to a misdemeanor. There was a wide range of severity in the felonies, from throwing eggs at a car to stealing and vandalizing a car. Twenty-three were first-time offenders and twenty-one of the participants were boys. There

were no significant differences between boys and girls in terms of offense or age.

Because the Interpersonal Reactivity Index (IRI) was slightly altered and new scales were used, reliability estimates were needed. The subscales (Fantasy, Empathic Concern, Perspective Taking, and Personal Distress) of the reworded IRI and the post-process questionnaire had high reliability while the other pre-process measures did not. Because of the low reliability of these measures, they were not used in data analysis. All of the participants completed the IRI.

*Process Observation*

At the beginning of the process, only nine offenders demonstrated any affective arousal. All of these were rated as having high affect. There was little middle ground on this rating as offenders came in either visibly upset and agitated (swinging around in their chair, tapping the table), or came in displaying little arousal. Some later admitted to feeling more nervous than they looked, but only the objective ratings were used. By contrast, 16 offenders were rated “high” and two more a “medium” on affective arousal while explaining their side of the story to the victim or panel. Only two offenders rated as “high” with eight rated “medium” and the rest “low” at the end of the meeting. These findings are consistent with the model of moving from low to high and back to low affective arousal.

Offender acknowledgments of responsibility were rated between “little responsibility” and “very high responsibility,” with “high responsibility” being the most common rating. Every offender apologized when a victim was present, although some of these were prompted. Many offenders apologized to their parents as well. Ratings of apology genuineness ranged from “somewhat disingenuous” to “very genuine,” with “somewhat genuine” being the most common rating. Ratings of the offender response to the victim story ranged from “negative” to “very positive,” with “neutral” as the most frequent rating. Only 13 victims attended meetings; some offenders responded to written victim statements read to them.

In terms of specific empathic behaviors, only eight offenders demonstrated empathic concern, while 14 demonstrated perspective taking. It is possible that

**Shame in Historical Context**

Shaming is making a comeback in American penal practices, both in the “good form” of John Braithwaite’s “re-integrative shaming” and the “bad form” of orange or striped black-and-white uniforms or even in roadside chain gangs reminiscent of the 1920s and 1930s. Considering this, it is worthwhile to examine John Pratt’s recent article, “The Decline and Renaissance of Shame in Modern Penal Systems,” which can be found in **Comparative Histories of Crime** (Willan Publishers, 2003), edited by Barry S. Godfrey, Clive Emsley, and Graeme Dunstall.

Pratt, a reader in criminology at Victoria University at Wellington in New Zealand, argues that penal shame arises under certain historical conditions, such as “the declining authority of the central state and the collapse of faith in the authority of its penal experts.” In this environment, he says that public insecurities grow, as does insistence that punishment should increasingly follow public belief rather than bureaucratic (official) preferences. Pratt grounds this article with a review of the decline of shaming practices such as dueling and the rise (again) of shaming practices (against newly freed slaves) in the American South after the Civil War.

By and large, Pratt argues, such developments increase traditionally punitive responses. Local context, including memory and culture, can affect, and even ameliorate, such trends. So, while the introduction of a “good form” of shaming, such as reintegrative shaming, is hopeful, Pratt has concerns: “What I would like to see more awareness of is the price – the full price – that we have to pay for this. When we welcome the renaissance of shaming there is no certainty at all that it will take this benign form. Indeed, in the existing political and social climate, amid the prevalence of anxiety and insecurity, there is the potential that when opening the door to this welcome guest, we also usher in its malignant relative, which then becomes a more prominent and powerful presence.” (p. 192)

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gent upon victim presence, since there would be someone to feel "sorry" for. This was certainly true for rating whether or not offenders had mirrored the emotional distress of the victim, where only one offender was rated "yes". Ten offenders displayed shame.

Victims were present at the meetings for 13 of the offenders. In general, victims shared personal accounts of the crime instead of lecturing at the offenders. Affect level varied from "very low" to "very high." All victims were judged to have "very low" self-blame in their stories. Only one victim refused to accept the apology of an offender. Offender and victim accounts of what happened were mostly congruent.

Participants were all more satisfied than not with the restoration agreement. Victim satisfaction was the highest, with a mean of 4.41 and standard deviation of .67 (standard deviations in parentheses). Panel satisfaction had a mean of 4.25 (.59), while family satisfaction was lower with a mean of 3.85 (.99). Offender satisfaction was lowest at a mean of 3.39 (1.03). These findings make sense since offenders bear the brunt of the responsibility to follow through with agreements.

All agreements included restitution, a written apology to the victims and offenders' parents, and community service hours. Often, direct service to victims (repainting a vandalized wall) was part of the agreement. Offender, victim, and panel members often came up with creative ideas to meet agreement goals. For example, one offender who had threatened a drug-abusing friend was asked to interview a substance-abuse counselor to learn more effective ways of intervening. Another offender, who had broken into a small community store, agreed to interview store patrons to get a better understanding of the effect of his crime on the community, and then to write an apology letter to the community based on what he learned.

**Post-Process Measures**

Twenty-six of the participants completed the post-test. Little spread was evident on this measure, with most offenders scoring near the top of the scale. Because of the high mean and low standard deviation, no significant differences between groups were noticed on this measure. On the other hand, the consistently high scores suggest that participants believed they met the

stated program goals, since these goals were the basis for the questions.

Twenty-two of the offenders had either completed or were still in the program at the time of this writing. Seven were returned to court for failing to complete the program or for another offense. Some of these other charges were driving while intoxicated, grand larceny, and violation of probation (for positive drug tests). These charges generally had little to do with the specific offense that brought them into the program.

The length of time that the offender was in the program was often contingent upon the amount of restitution owed and the age of the offender. For example, one 14-year-old offender owed \$4,000 in restitution. Although he had completed the rest of his agreement, he was still in the program at the end of this study. Older offenders typically had jobs (or were able to get them) to help pay costs and could finish more quickly.

**Relationships Between Pre-Process and Process Variables**

Overall, self-reported empathy had little relationship to observed empathy in the process. No significant relationship was found between any of the IRI total or subscale scores and whether empathic concern was observed. Similarly, no significant differences were identified in IRI scores between those who were observed to exhibit perspective taking and those who did not. Significant difference was found between those who did and did not demonstrate shame in the Personal Distress scores on the IRI, although in the opposite direction than was expected. The total empathy (Total IRI) score was also significant and, again, in the opposite direction than expected.

For comparison purposes, participants were broken into a younger group of those under 15 and an older group of those 15 and over. A significant difference was observed in affective arousal between younger and older participants, with younger participants displaying higher arousal in the process. No difference was found in Personal Distress, Perspective Taking, Empathic Concern, or Fantasy scores between groups. Although affective arousal was higher, observed shame was significantly lower among the younger participants. No significant difference was observed in perspective taking or observed empathic concern between the age groups.

**Relationship Between Pre-Process Variables and Outcome**

As anticipated, participants who successfully completed the program had significantly higher self-reported Perspective Taking on the IRI. There were no other significant differences between groups. Interestingly, successful completion was very different between age groups with younger participants doing significantly better.

**Relationship Between Process Variables and Outcome**

The relationships were insignificant between observed perspective taking and successful completion and between observed empathic responding and successful completion. A significant relationship was found between observed shame and successful completion, again in the opposite direction than hypothesized. The presence of a victim had no effect on offender successful completion, panel satisfaction, or offender satisfaction. There was a significant difference in family satisfaction with families being rated significantly less satisfied when a victim was present. It is possible that a few families who had a historical dislike for their children's victims could account for this difference.

**Discussion**

The victim-offender program evaluated in this article seems successful, at least for these participants. While consistently positive results offer strong evidence for the efficacy of the program, they present a few drawbacks for analysis. One drawback is the lack of variability in outcomes. All participants were successful at one month and even at longer intervals most participants continued to be successful. Another drawback is the relatively small sample size, which was due to limited time and resources, since the particular program studied was only able to handle about five new cases per month and some of these cases involved adult offenders.

Despite these drawbacks, four interesting findings emerged:

- the process followed the intervention model for the most part;
- self-reported perspective taking has some bearing on successful completion;

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- shame and empathy have an interesting relationship to each other and to offender recidivism; observed shame during the meeting was associated with recidivism and shame was observed more frequently in those with lower empathy; and
- age has a bearing on outcome and process measures.

*Limitations*

Besides the limitations of size and variability mentioned above, the study has other limitations:

- it is troubling that there is not more of a relationship between the IRI scores and observed empathic behavior;
- the study was not well controlled for other variables or alternative hypotheses; and
- findings may not generalize well to other victim-offender mediation programs since this program was tied to the courts and not completely voluntary.

The process observation was designed to reflect some of the hypothesized variables that make up the IRI. Although perspective taking and empathic concern were observed, there was no relationship between times it was observed and self-reported qualities of empathic concern and perspective taking. It is not clear why these relationships were not found, but the trouble may rest in either offenders "faking good," since the IRI has high face validity, or in a discrepancy between how offenders saw themselves and their actual performance.

It also may not have been clear that meetings were an opportunity for offenders to show accurate perspective taking or empathic concern. Many offenders seemed braced for more retributive than restorative encounters. Indeed, many became more empathic and understanding in subsequent meetings after they had time to process initial encounters. One intervention that seemed to help offenders was to have them write thorough letters of apology after the initial meetings. These letters were often more genuine and thoughtful than initial apologies and seemed to reinforce learning from the initial encounters. For example, one offender who was particularly stoic during the initial meeting

was very emotional and remorseful in a second meeting. He shared that he had been afraid to admit guilt during the initial meeting, but, as he had time to reflect on the impact of his crime and as he wrote his apology letter, he had felt terrible. He shared that he wanted to do whatever he could to apologize and repair the effects of his crime.

Rating empathic concern and whether or not the offender mirrored the emotional distress of the victim was difficult since victims were present in less than half of the cases. Additionally, it was difficult to tell whether any distress was a result of the offender's personal discomfort or was, instead, an empathic connection with the victim.

More basic reasons for these discrepancies might have been poor construct validity in the process observation, or rater bias. It is possible the definitions of observed behaviors had little to do with the intended scale constructs of the IRI.

Many interesting variables were observed and not recorded. For example, some of the offenders had over-protective parents, while other offenders were more like family scapegoats. Parents either shielded or blamed their children, and these reactions may have had profound effects on outcome. Another variable was the relationship between the victim and the offender. For example, in one case of breaking and entering and larceny, the offender had been a regular visitor in the victim's home. In others, the victim and offender were strangers. These different relationships had different implications for both the offender and victim since there was more emotional damage in the cases where the victim and offender knew one another.

Parents often had a relationship with the victims as well. In a few cases, charges seemed more related to family feuding than criminal intent on the part of the offender. A few offenders had vandalized school buildings. In these cases, identifying the specific "victim" was difficult.

One of the problems with focusing on the offender in this study was that restorative justice is a more holistic concept that takes into account the needs of the community and victim, as well as the offender. Since the program was part of the legal system, an inherent bias already existed toward retributive practices. On the one hand, this research project is not fully consistent with the broad perspective of restorative justice

in that it focused on the offender. On the other hand, funding and support for these programs is largely based on the reformation of the offenders, so this type of research is needed to explore its efficacy.

There is a high potential for abuse of this program as "alternative sentencing," especially in the face of harsher punishments for offenders. The problem is that "voluntary" participants, in the face of more stringent juvenile sentencing, have less and less desirable alternatives and may participate in restorative justice more out of fear of the legal system than out of any desire to restore the property and well being of the victims. Some of the offenders in this study may have been less than fully voluntary participants. Additionally, in truly voluntary meetings, it would be expected that all of the victims would participate in the actual mediation. Other restorative justice or victim-offender mediation programs may have very different rules and procedures than this program.

Despite these problems, the program seemed to work the way it ought to work. Offenders learned the effects of their crime on the victim and community, they did apologize and make amends, and they did learn ways to avoid re-offending. They also demonstrated more perspective taking during and after the initial meeting. Additional research would probably find that the victims felt good about their participation in the program.

The initial victim-offender meeting did provide an opportunity for the victim and offender to hear each other's stories. Offenders either understood the effects by listening to the victim and panel, or they were given assignments in their agreements to help them understand their crimes better. In addition, most of the offenders did seem to move into a productive zone of affective arousal.

Shame was more frequently observed in those who had lower self-reported empathy, and those who demonstrated shame had worse outcomes. This finding was in direct contrast to what was hypothesized – that shame would lead to better outcomes and would be a demonstration of empathy. This result is more consistent with the theory that shame is harmful than with the theory of reintegrative shaming. There are a few possible ways of explaining this finding. First, observable shame might have been a clear sign that the offender was

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over-aroused and outside the “zone” of optimal arousal. Other offenders may have felt enough shame to be motivated, but not enough to blush or to cover themselves. Second, and related to the first, offenders with higher empathy might have more accurately anticipated the feelings and thoughts of the victim before the meeting. These offenders may have come in expecting the worst and found, instead, a group of adults willing to help them to solve their problems. Those offenders with lower empathy may have not understood the effects of their crime and may have underestimated the seriousness of the meeting. These offenders may have felt “blindsided” by the feedback and felt a need to protect themselves instead of to listen. In other words, if the first step in restoring the victim was accurate understanding of the victim’s feelings, then those who had more empathy were farther along in the process by the time they got to the meeting and could begin to make amends.

Based on this finding and discussion, two suggestions come to mind: The first would be to help offenders think about how the victim-offender mediation process is different from admitting guilt in court. Preparation would give offenders a better opportunity to enter the meeting ready to listen and to work toward resolution. Preparing the offender might also help reduce the likelihood of victims feeling revictimized by defensive or hostile offenders. Some offenders in the study came in with the idea that “all I have to do is apologize and I’ll get off easy.” Although some panel members were angry at this attitude, these offenders were in the right frame of mind to work toward resolution. Some of the offenders with this mindset, in fact, had some of the most powerful meetings, perhaps because they knew that they would get through the meeting without getting into more trouble. The second suggestion would be to use observable shame as a warning sign to “tone down” any confrontation in the meeting. When shame is observed in the offender, panel members would be wise to back off of the emotional content of the encounter, and re-orient the offender (and victim) to the purpose of the meeting, perhaps with a reminder that it is the offense that needs repairing and not the offender.

Age also seemed to be a significant variable in both shame and outcome. Interestingly, younger offenders had higher affective arousal but less observed shame.

This could be explained by the fact that they were more scared or nervous, and lacked the boldness of older offenders. They may have been too afraid to be ashamed. The young offenders’ success would fit with the hypothesis that those who showed more arousal, up to a point, would do better, however, the relationship between arousal and outcome is still unclear.

There also may have been a bias in the way older offenders were treated by the panel or by the victims. The older offenders may have drawn out more shaming responses and “old enough to know better” lectures from the adults, while younger offenders may have been treated more gently. Older offenders in this study might have been more experienced in committing criminal behavior and therefore, desensitized. In any case, the younger offenders seemed prime for this type of intervention. A possible implication of these findings would be for panel members and the leaders (or perhaps the rater) to examine any biases they might have toward older offenders.

**Conclusion**

An empathic ordeal took place in victim-offender meetings. The meetings helped offenders to accurately understand the effects of their crime from other persons’ perspectives. An ordeal component was also demonstrated by the presence of affective arousal as well as by shame and empathic concern. With knowledge of the effects and motivation to repair any damage, offenders found reasonable ways to make amends and to put these crimes squarely behind them. Nonetheless, self-reported empathy did not translate into observed empathic behavior in initial meetings, but may have helped with outcomes indirectly, by helping offenders to anticipate the nature and purpose of the meetings, as well as victims’ feelings.

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Resources

by Russ Immarigeon

Peacemaking Circles

Living Justice Press (LJP) is a small Minnesota-based publisher that is mainly interested in restorative justice. Like many other people, Denise Breton, a writer living in St. Paul, came to restorative justice through her own means and methods. Moving to St. Paul from Delaware three years ago, a friend familiar with her writing [she is an author of **The Mystic Heart of Justice** (Chrysalis Books, 2001) and several other published works] suggested she should meet Kay Pranis, who was then the restorative justice planner for the Minnesota Department of Corrections. As it turned out, Kay lived about five minutes away from Denise and they soon became friends. As they spoke about restorative justice, Kay mentioned that she had a lengthy manuscript on peacemaking circles she had been working on with colleagues and they were looking for a publisher.

Somewhere in the midst of these conversations, Denise came up with the idea of establishing a publishing group that would specialize on restorative justice titles. In November, LJP released its first title, **Peacemaking Circles: From Crime to Community** (\$15.00, 277 pages), written by Kay Pranis, Barry Stuart and Mark Wedge.

LJP has a three-fold mission regarding restorative justice: to serve grassroots people and organizations seeking constructive, healing approaches to harms and conflicts; to increase public awareness of its principles and practices; and to challenge how people think about justice in their lives and how they can work with others to increase the reality of justice in our lives.

On its website [www.livingjusticepress.org](http://www.livingjusticepress.org), LJP says it is "committed to publishing books that are clearly written, attractively produced, affordably priced, and responsive to the different needs and uses of those now striving to make restorative justice a way of life." In addition to publishing books that are accessible to readers, LJP hopes to publish or republish books that are not widely available in the United States (Denise is hoping she can reprint some of the work of Canadian Rupert Ross) or are out-of-print.

LJP is an all-volunteer publishing firm, supported through contributions and

grants. Future volumes hope to address the use of circles for school problems and violence; homeless, street, immigrant and gang youth; and community groups.

The LJP Website includes sections that nicely address a definition of restorative justice, three core restorative justice practices (victim-offender mediation, family group conferencing, and circles), the outcomes and benefits of restorative justice practices, recurring themes in indigenous perspectives on justice, and resources, including other articles, books and Websites. The LJP Website currently contains an article based on the writing of Ella C. Deloria on four ways of dealing with murder among the Yankton Band of the Dakota Nation. Other articles will appear eventually. Also, reports are given on restorative justice activities and resources in the states of Colorado, Massachusetts, Michigan, Minnesota, Vermont, and Wisconsin (these reports will be updated and reports from other states will be included). Finally, the Website includes various other links to related restorative justice resources.

As far as I know, **Peacemaking Circles** is the first book published on the use of peacemaking (or sentencing) circles in criminal justice settings and contexts (a brief bibliography at the end of the volume points out other books examining the use of circles in other areas). At minimum, this volume should introduce circles to a broad range of criminal justice advocates, practitioners and even policy makers.

Within the range of restorative justice processes that have emerged in recent years, sentencing or peacemaking circles are perhaps among the most recent to catch the imagination of practitioners seeking ways to improve the meaning and application of justice in our communities. Thus, this volume provides valuable substance to a concept that many people only know incompletely or vaguely.

**Peacemaking Circles** is, foremost, a practical guide. While the authors stress that there is no formal guide to running circles, they nonetheless provide a range of clear and concise steps that can be taken in the development and use of diverse circles covering a range of matters and issues. Some of the principles that guide circles include: acting on personal values; including all interests; making circles accessible to all parties; providing equal opportunities to participate; making participation voluntary; guiding circles through

shared visions; participant designed circles; flexible processes addressing individual needs and interests; taking a holistic approach; maintaining respect for all; inviting spiritual presence; and fostering accountability.

The practice that implements these principles includes: preparing for circles; providing equal access to information; setting the tone; facilitating circle dialogue; balancing interests and perspectives; protecting the integrity of the process; regulating the pace of circles; welcoming new people; maintaining focus; and participating as members of circles.

The authors conclude, "Circles provide the space in which we reveal ourselves, uncover our core humanity, and allow others to feel, know, and touch us. We can't walk through the sacred space of circles and merge as we were. We're deepened, and from those depths, we find the power to create our worlds anew." For further information, contact Living Justice Press, 2093 Juliet Ave., St. Paul, MN 55105, (651) 695-1008, [info@livingjusticepress.org](mailto:info@livingjusticepress.org).

Community Conferencing

Over the past five years Calgary Community Conferencing, a project based in Alberta, Canada, has established a multi-agency effort to assist in the restorative settlement of a range of behaviors from bullying and harassment to breaking and entering. In **Beyond the Comfort Zone: A Guide to the Practice of Community Conferencing** (2003), Susan Sharpe writes about the beliefs and principles at the core of the "dynamic and evolutionary" practice of community conferencing. Sharpe's introduction to community conferencing, it turns out, was as a conference participant. As an educational aide, a young student had falsely charged her with sexual misconduct. Although the matter was investigated and dropped by school authorities, Sharpe says she nonetheless felt disbelieved and distant from students. Her conference went exceedingly well and thrust her into her work as a restorative justice advocate and trainer.

Major sections of this worthy volume describe the coordination and effectiveness of Calgary Community Conferencing work with other agencies and institutions, key aspects of community conferencing, facilitator training and professional development, and highlights of Calgary Commu-

### Resources

Continued from previous page

nity Conferencing's development and evolution. For information about obtaining a copy, contact Calgary Community Conferencing, 8989 Macleod Trail SW, Calgary, Alberta T2H 0M2 Canada, (403) 974-1959, or on their website at:

[www.calgarycommunityconferencing.com](http://www.calgarycommunityconferencing.com)

### Law Review Symposium

The Utah Restorative Justice Conference was held at the University of Utah S.J. Quinney College of Law in March 2002. Organized by law professor Erik Luna, the symposium brought together an array of international and national scholars and practitioners, including former VOMA Board member Kathy Elton. Papers from this conference have been published in the Volume 2002/ Number 1 issue of the Utah Law Review. The 18 articles in this issue are divided into four sections: After Professor Luna's introduction, these articles are subdivided into sections on the practice of restorative justice, the theory and jurisprudence of restorative justice, and interdisciplinary perspectives on restorative justice.

Overall, these articles raise a number of critical concerns about the use of restorative justice. Key articles include: Heather Strang and Lawrence W. Sherman on victims and restorative justice; political scientists Susan M. Olson and Albert M. Roybal on the emergence of "restorative justice professionals;" a meta-analysis of victim-offender mediation participation and subsequent delinquent behavior by William R. Nugent, Mona Williams, and Mark S. Umbreit; a review of the literature on psychological outcomes of restorative justice by Barton Poulson; Cornell Law School professor Stephen P. Garvey on restorative justice, punishment, and atonement; Stanford law professor Robert Weisberg on the danger of "community" in restorative justice; John Braithwaite on holism, justice, and atonement; and Darren Rush on myth in restorative justice history. Further information about this issue, including where it can be purchased, is available on the Utah Law Review website (<http://www.law.utah.edu/programs/journals/utahlawreview/>)

### Crime Prevention

In *Between Town and Gown: The Rise and Fall of Restorative Justice on Boulder's University Hill*, law professor Tom Russell's writes in the Utah Law Review about effort to combine community organizing and

restorative justice techniques to thwart student riots, improve landlord practices, and bring students and non-students in the neighborhood together. One of the first consequences of these efforts was an increased reliance on local law enforcement agencies and officers, who the relatively "tolerant" townsfolk had pretty much avoided previously. Thus, community policing is thrown in as one of a range of allegedly restorative justice options for the community. In this way, the article raises some questions, which it does not aim to answer, about the relationship between crime prevention and restorative justice. As far as I know, these two concepts have not received too much consideration in the broad restorative justice literature. In particular, what efforts have been made to integrate the also broad crime prevention literature with what we know about restorative justice? For example, how do lessons learned from crime prevention projects or research apply to restorative justice or fit in with its guiding principles?

At least three new books, well worth investigating, present rich discussions of various aspects of crime prevention matters: **Crime Prevention and Community Safety: New Directions**, edited by Gordon Hughes, Eugene McLaughlin, and John Muncie (SAGE Publications, Ltd., 2002, \$26.00); **Early Prevention of Adult Antisocial Behavior**, edited by David P. Farrington and Jeremy W. Coid (Cambridge University Press, 2003, \$65.00); and **Evidence-Based Crime Prevention**, edited by Lawrence W. Sherman, David P. Farrington, Brandon C. Welsh, and Doris Layton MacKenzie (Routledge, 2003, \$95.00).

### Economics of Criminal Justice

Restorative justice is not simply about integrating new programming within the criminal justice system, but also about challenging punitiveness, the very premise of the criminal justice system. Over the past 20 years, we have begun to see punishment not simply as a philosophical orientation, but also as an economic and industrial factor. Whereas in the 1970s reformers spoke about the criminal justice system, or the (in)justice system for those inclined toward such language, we now speak about the prison-industrial complex, of which the settings restorative justice options hope to influence are very much a part. Surprisingly, little attention has been given these macro-economic concerns. Now is a pretty good time for such (re)assessment, especially as states are

themselves starting increasingly to define their criminal justice priorities in terms of budgetary (economic) concerns.

A good critical overview of the larger criminal justice picture can be found a Vijay Prashad's new book, **Keeping Up with the Dow Joneses** (Beacon Press, 2003, \$17.00). Prashad, the director of international studies at Trinity College in Connecticut, integrates economic, welfare, and prison policies. His separate chapter on prisons introduces readers to the economics of incarceration, the business of jails, prisoner disenfranchisement, and various reform initiatives. Prashad makes a strong case for integrating the work and perspectives of economic, welfare and prison reformers.

### Victim Involvement

In a recent issue of the **International Journal of Victimology** (9/2, 2002), researcher Roderick F.A. Hill examines occurrences of victimless restorative justice cautioning in Thames Valley (UK). Victimless restorative justice seems not quite right, especially if one holds a "victim meets offender" definition of restorative justice. In fact, however, victims often do not participate directly in restorative justice meetings. Clearly this is an issue for further discussion. Here, however, Hill gathers evidence about the consequences of the victim's absence. Hill found that victims were absent in 82 percent of cases involving restorative justice in the Thames Valley Police restorative justice cautioning project. In the U.K., cautioning is the process whereby police administer warnings to persons who have admitted their offenses. Previously, these warnings were often shame-inducing, tear-producing punishments. A shift in emphasis, based on what was learned from Wagga Wagga and similar police-based efforts with restorative justice, resulted in such names as "restorative conference" (when victims attended) or "restorative caution" (when victims did not attend). Hill argues for use of the terms "victim-present caution" and "victim-absent caution" to avoid confusion. In any case, Hill's reviews on cases from early 2000 found several ways non-attending victims can lose restorative justice benefits: if victims are misinformed about the process, if their lack of attendance is seen as disinterest in benefiting from the process, if facilitation of the process is poorly done, or if the victim's voice is communicated wrongfully. Further information about this journal is available from: [jrnls@abapubl.demon.co.uk](mailto:jrnls@abapubl.demon.co.uk).

*Book Review*

**Repositioning Restorative Justice**

edited by Lode Walgrave  
*Willan Publishing* (2003),  
 \$64.95/\$39.95, 351 pages

review by Russ Immarigeon

The International Network for Research on Restorative Justice for Juveniles, spearheaded by Belgian law professor Lode Walgrave of the Catholic University at Leuven, has held at least six important conferences, gathering presenters, paper writers, and participants from several dozen nations. The fifth conference, held shortly after September 11<sup>th</sup>, has now produced two volumes. The first, **Restorative Justice and the Law**, also edited by Lode Walgrave, was reviewed in Summer 2003 issue of **VOMA Connections**. The second volume, just published, constitutes a timely examination of the (re)position(ing) of restorative justice vis-à-vis the traditional, retributive criminal justice system.

Walgrave suggests that restorative justice has made important achievements, including increasing victim satisfaction and improving offender reintegration. But he warns that it has also become a buzzword: "As a buzz-word, restorative justice is sometimes misunderstood and even misused. Paradoxically, one could even say that the most important threat to restorative justice is the enthusiasm with which it is being accepted. Enthusiasm leads to poorly through-out implementation, an overestimation of possibilities, negligence of legal rights, the blurring of the concepts and confusion with regards to the aims and limits of restorative justice."

Thus, Walgrave asserts the importance of positioning restorative justice in relationship with current legal rules, statutes, and arrangements. The hope of this volume, he says, is to reposition restorative justice "to save it from being yet another trendy phrase filled with so many dispersed notions and dubious practices that it would be emptied of its specially renovating meaning."

The 18 articles in this volume are divided into four parts: In the first, "Discussing the Principles of Restorative Justice," Martin Wright, formerly with the London-based Howard league for Penal Reform and the National Association of Victim-Support

Schemes, asks if its time to question the concept of punishment. He assesses recent work by Kathleen Daly, Anthony Duff, and others who stress positive contributions of retributive approaches (*nota bene*: in the mid-1970s, retribution-based proposals for criminal justice sentencing reform stressed drastic reductions in the length of incarceration-based sanctions). Jolien Willemssens (European Forum for Victim-Offender Mediation and Restorative Justice), who expands upon Wright's analysis, and Anne Lemonne (University of Copenhagen), who reports an interesting array of Scandinavian innovations, provide valuable follow-up articles.

The second part of this volume, "Evaluative Aspects of Restorative Practices," reports on specific research issues or research findings: Paul McCold examines assessment research on mediation and conferencing; Nathan Harris looks at evaluation research on family group conferencing; Gabrielle Maxwell and colleagues from Victoria University in Wellington assess differences in the experiences of boys and girls who participate in New Zealand family group conferences; and Isabelle Delens-Ravier writes about juvenile offender perceptions of community service.

The third part, "Extending the Scope of Restorative Justice," consider boundary-stretching restorative justice practices, including restorative justice in schools and in prisons, as well as with adult offenders and with community mediation programs. In the final section, "Positioning Restorative Justice in Different Countries," articles assess the position of restorative justice practices and possibilities in six countries, including Belgium, Italy, Japan, Norway, Serbia, and South Africa.

Wright's article, opening this volume, concludes that community members should offer victims support, offenders should be allowed to take responsibility and make amends, and community organizations should replace state agencies as much as possible in handling cases. Then, importantly, Wright adds that people involved in restorative processes should be allowed to speak more freely than in traditional settings, with the consequence that "much could be learnt about the circumstances which make crime more likely: failures in parenting, in schools, in supervision of buildings and open spaces, in provision of work and recreation and many more." Wright would direct this information to crime reduction efforts being made in the community, but I'm not sure why this

information is not regarded as more central to restorative justice processes, especially if they are entertaining a more broadly conceived concept of restorative justice. Surely restorative involved more than merely responsibility and amends. How can offenders achieve these when other factors, such as those Wright mentions, press quite hard on their lives, and subsequently on their behavior. Do we leave these matters to police or social services operating in non-restorative domains, or do we integrate them into restorative justice, not to overweight restorative justice in favor of offenders but to invest it in addressing factors key to allowing offenders to maximize restorative responses, such as responsibility and amends?

In another important article, Allison Morris and Gabrielle Maxwell, reviewing the New Zealand experience with adult offenders, argue that "restorative justice can be positioned centrally within the criminal justice system to deal not only with juvenile offenders but also with adult offenders and to deal with not only minor offenses but with relatively serious offenses." Moreover, they find that restorative justice processes, community panel hearings in this instance, reduce reconviction rates and establish significant cost savings.

Overall, this volume is valuable for its reporting of the international experiences in restorative justice being practiced throughout the world. While many systems are quite different than those we know in Canada and the U.S., the general challenge of this volume is to assess how much of what is done elsewhere can be applied locally.

*This volume is available, at discounted prices, from International Specialized Book Services, 5824 N.E. Hassalo St., Portland, OR 97213-3644, (503) 287-3093, (e-mail) [info@isbs.com](mailto:info@isbs.com), (website) [www.isbs.com](http://www.isbs.com)*

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

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*Editor's Note***The State of Restorative Justice**

Reflections always seem more natural, or perhaps even expected, as one year passes and another begins. I am, in any case, in a reflective mood these days, the first of the new year.

Two thoughts about restorative justice loom large for me. The first is the impressive extent that restorative justice has become a topic of interest and support on many levels of community life and governmental affairs. This achievement seems sudden, but in fact it is the result of at least two decades work on the part of many people, including past and present members of the Victim-Offender Mediation Association.

Secondly, I've always felt that a close relationship should exist between theoretical and empirical work, the stuff that articles and papers are written about, and practical (or practice-based) work, about

which far too little is said and written about. In the movement toward restorative justice, there may well be a closer relationship between these often disparate acts and that is all for the better.

Recent issues of this newsletter have focused a significant amount of attention on new publications that address restorative justice issues from one perspective or another. In fairness, while **VOMA Connections** has captured some of this new literature, a lot has nonetheless been neglected for lack of space. Looking forward into the as yet uncharted depths of the new year, I can say with some certainty that still more coverage will be given, because the flood gates are truly open in this field and more new works, from challenging essays to comprehensive handbooks, will be rushing toward us, even as we have not fully absorbed the photocopied articles and the freshly bound volumes already stacked high on our desks.

Undoubtedly the sheer number of new publications is a testament to people's interest in and commitment to restorative justice. Less certain, though, is the impact

of this work on what is being done in local communities, congregations, and courthouses. Time and space are two conditions necessary for a full appreciation of what has been done and what is being done. Each condition establishes ground for reflection, interpretation, and revision.

Healthy movements don't stand still. Self-reflection (either self-affirmation or self-criticism) can stir sedentary tendencies, hopefully for the better. As this new year matures, and as we perhaps have some time for thinking about what we read and what we do, I hope readers will make contributions of their own to the text of this newsletter. I ask this not simply as an editor looking for copy, but as an editor looking for copy with the belief that the people doing the difficult, and often forgotten and neglected, work of implementing restorative justice have many things to say that need being heard and thought through.

So, as the year progresses, let us know about your struggles as well as your successes. Most of all, have a happy and exciting new year.

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