



Justice Connections

A joint publication of NAFCM, PRASI and VOMA

Practice Notes

Making Sense of North American and South African Differences in the Practice of Restorative Justice

by Susan Sharpe and George Lai Thom

Introduction

Best practice is a widely shared value in restorative justice. Practitioners seek to achieve it, their agencies promise to provide it, and everyone else expects it. But what "best practice" actually means in terms of facilitator behavior has not been established, or at least not broadly enough or persuasively enough to be endorsed as "best practice in restorative justice."

Various combinations of judgments and skills are proposed as standards for facilitators to meet and for evaluators to look for, but there is not yet enough evidence to settle competing claims about what is essential for "best practice." Some broad agreement exists, however, at another level, where basic perspectives are taken as givens. One seemingly persuasive tenet is that the restorative justice process, irrespective of the form it takes, must exemplify the core principles and values that define the field. Another is that the restorative justice process must be culturally appropriate for the people involved.

These convictions are usually expressed independently, in response to different issues. It is easy to accept each on its own merits, seeing them as separate criteria to be met in separate ways. At least, it was easy for one of us (Susan) to do that—considering each of them a fundamental requirement of "best practice" without ever considering them both at once. That changed when the two of us began talking about victim-offender mediation (VOM) in cases of violent or otherwise traumatic crime. (Authors' note: In this article, the terms VOM, mediator, and

mediation refer exclusively to such serious cases.)

It happened that Susan began taking specialized training for VOM, in North America, at about the time George began doing the same thing in South Africa. What she heard in her training courses was consistent with what both of us had learned through professional literature, conference presentations, and discussions with experienced mediators -- a combination of resources that had given both of us the same understanding of how VOM was generally done in Canada and the US.

As we understood it, VOM in cases of very serious crime required cautious approach, careful screening, in-depth preparation, and heightened attention throughout; cases often unfolded slowly as mediators helped participants ready themselves for an emotionally difficult experience; most mediators framed their role as aiding participants on a healing journey, and some took an explicitly therapeutic approach. (This understanding might not have been correct, but it is what each of us had gathered from a variety of sources before we first talked about it.)

Susan embraced this approach and planned to emulate it in her work.

George understood and respected it, but decided he could not take it to South Africa. For one thing, communication and transportation hurdles would make extra preparation meetings a luxury. In addition, the South Africans he worked with were generally more private than tends to be the norm in North America, and he believed a strong focus on emotional preparation would feel intrusive to them.

At the same time, George was adamant that VOM must be done properly and he insisted on resources he needed for doing it well. This paradox -- why his work could not be done the same way if he wanted it to have the same level of quality -- made us wonder about core principles and values in relation to cultural appropriateness. If "best practice" requires both, how do they fit together? Is it a simple translation, a change in one direction? Or does culture also have an influence on the core principles? Either way, how does the mediator determine which changes to make to achieve cultural appropriateness?

We had a chance to start looking more closely at that question in 2006, when Susan

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*Organizational Update***Recent Developments Among Our Partners**

The Practitioners Research and Scholarship Institute (PRASI) welcomes requests by organizations and other groups of people who wish training and support to write about their experience and work. Through retreats, help in establishing peer support, technical training, and dialogue intended to overcome those internalized messages that impede people from writing, especially those who experience marginalization in society. Conflict resolution on all levels is still a main theme.

NAFCM's new officers are in place: Dr. Barbara Timmons-Strahl has agreed to serve another year as Co-Chair. She is joined by Commie Bear King as the other Co-Chair. Gene Johnson is the new Vice Chair. Tom Wahlrab and Matt Fairbanks continue as Secretary and Treasure, respectively. They are joined by Kristy Bradish as assistant secretary and Caroline Harmon as assistant treasurer.

The NAFCM development committee is launching the second annual letter campaign. The policy committee has developed a draft of a training curriculum certification document and launched a conversation about it. The membership committee has conducted an analysis of NAFCM membership and has suggested an effort to reach out more directly to the educational communities. NAFCM committees are seeking individuals that represent a wide diversity of culture and practice. The NAFCM Annual Membership meeting was held at the Thrill Marshall Center in Washington on April 25. More than thirty NAFCM members and supporters gathered to discuss the organization and the field.

VOMA continues to explore funding for the development of a joint alliance for restorative justice and shared administrative resources in a new collaborative structure. At June's annual membership meeting in Miami, VOMA said good-bye, with great appreciation, to outgoing board members Jane Reise, Dale Landry and Andrea Verswijver. VOMA also celebrated the work pro-

vided by long-time restorative justice leader and VOMA member Duane Ruth Heffelbower, who has served for more than ten years as the VOMA webmaster. Duane will be transitioning his duties to a yet unnamed successor.

The second annual conference co-sponsored by VOMA and the American Association of Community Justice Professionals (AACJP) was held from June 8-15 in Miami, Florida. The conference brought together victim service researchers and advocates with corrections professionals and Restorative Justice practitioners to discuss issues in the field, best practices, and how relationships and work can become more connected between the three groups. Trainings, workshops, keynote speakers, events, and with paper discussions combined to make it an interesting and exciting exchange of ideas and learning. Upcoming editions of *Justice Connections* will include articles and reports that are emerging from presentations that were initially given at this important gathering.

Justice Connections

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

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

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Community Mediation

Fourteen Months in a FEMA Field Office: A Special Kind of Community Mediation

by Linda Baron

In late August 2005, the leaders of NAFCM, VOMA, and PRASI, met at the National Cathedral in Washington, DC to explore possible partnerships. At that time I was the Executive Director of NAFCM. I came to the meeting with concerns about the future of the organizations, but high hopes that the meeting would result in creative collaborations that would benefit all the organizations and their constituencies. I also came with uncertainty about my own future. After many years working on the staff of organizations in the dispute resolution field, I was leaving NAFCM and had no specific plans for the future.

The meeting was a stormy one, as the potential partners sought ways to collaborate without losing the individual identities each valued. I reflected on the fact that my own involvement in efforts to forge inter-organizational partnerships was coming to an end. Although the three organizations did not commit to a new alliance at the meeting, one of the outcomes of the conversations that began that August was this publication, **Justice Connections**, a collaborative effort of VOMA, PRASI, and NAFCM.

As these leaders in community mediation and restorative justice were meeting in Washington, another storm was brewing. The hurricane that would become known as Katrina was gaining strength along the Gulf Coast and made landfall by the end of the week-end. When it did, people around the world watched their television sets, trying to absorb the enormity of the disaster, and many sprang into action to contribute their abilities and resources to the response and recovery. Mediators began e-mailing each other, asking how they could put their skills to use. Soon the Federal Emergency Management Administration (FEMA) distributed a call for conflict resolution specialists. I submitted my resume,

adding my name to the list of those willing to be part of a cadre of disaster assistance employees (DAE's), reservists who could be called to active duty in the event of a natural or man-made disaster.

New approach to mediation

I was selected to become part of this new FEMA initiative. Soon, I filled out numerous forms, got fingerprinted, and was issued a badge and government credit card. In late October 2005, I reported to FEMA headquarters in Washington, DC for orientation, an informal conversation in the office of the cadre manager, Rob Scott, FEMA Disaster Attorney and former Executive Director of the Northern Virginia Mediation Service. There the first three hires, Carolyn Pritchard, Executive Director of Peaceful Alternatives Mediation Center in Madison Heights, Virginia, Sandi Adams, an experienced mediator from Wilmington, North Carolina, and I were handed copies of the Stafford Disaster Relief and Emergency Assistance Act that gives FEMA its basic operating authority, the 154-page FAAT Book (FEMA Acronyms, Abbreviations, and Terms), and a three-ring binder with lists of phone numbers, copies of travel regulations, and other information assembled to provide us with basic knowledge about FEMA's rules and procedures. Thus oriented, we went home to pack, to make plans for absences of unknown durations, and to wait for deployment.

Over the next few weeks Carolyn was deployed to Montgomery (Alabama), Sandi to Baton Rouge (Louisiana), and I was sent to Biloxi (Mississippi). For the next two years (2005-2007) additional mediators were hired and deployed to field offices in Virginia, New York, Georgia, and Florida. Many of these newly hired staff had worked in community mediation programs and their background and experience proved to be particularly appropriate

for the work we were doing. A popular misconception among those who heard about the cadre was that we would be working in the community, possibly mediating between the community and FEMA. Instead, our focus was on the FEMA workplace and while we occasionally did some limited ombudsman-like problem-resolution for applicants for FEMA assistance, we were strongly discouraged from intervening outside of the workplace.

My journey to Biloxi

On November 17, 2005 I received a phone call deploying me to Disaster 1604 and was told to report to the Imperial Palace in Biloxi. Two days later I flew to Biloxi on a plane filled with relief workers from public agencies and churches from around the country. On landing, my first impression was of blue-tarped roofs, collapsed buildings, twisted street signs, and the total absence of traffic signals. National Guardsmen patrolled the coastal highway, and small wooden signs along the road advertised debris removal services. After many wrong turns, I finally found my way to the Imperial Palace, a badly-damaged, but still standing casino that provided both sleeping rooms and offices for FEMA employees and the employees of other federal and state agencies.

One large hall of the Imperial Palace was partitioned with six-foot dividers to create offices for each FEMA division – Logistics, Planning, Finance, External Affairs, Human Services, and so forth. I was issued a laptop computer, cell phone, and given a folding table in the Equal Rights Office (ERO). At that time, ERO was staffed by a DAE from Ohio, an employee of the Community Relations Service of the Department of Justice, from Colorado, and an employee from the Office of Equal Rights of the State of California. They in-

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introduced me to FEMA staff and gave me a place to perch while I tried to figure out the role of ADR in FEMA and my role in the organization.

FEMA, itself, has a relatively small permanent full-time work force. When disaster strikes, FEMA relies on DAE's, employees of other federal and state agencies, and local residents hired as temporary workers. The reservists and local residents, generally referred to as "local hires," do not belong to unions and have no recourse to grievance procedures or the kinds of employee services available in other workplaces. One of the major reasons for forming the cadre was to provide these employees with a forum for the resolution of their conflicts. Most FEMA field offices have an Equal Rights Office and all employees are required to attend a trilogy of classes covering equal rights and sexual harassment. Staff in these offices provide counseling and mediation to employees claiming discrimination or sexual harassment, but many workplace conflicts do not fall into those categories.

Mediating for FEMA

Mediating in FEMA was nothing like the court, community, and agency-based programs that I was familiar with. There were no intake forms, no dedicated mediation rooms, no established protocols or procedures, and no one knew much about mediation and conflict resolution. In most mediation programs, mediation is an alternative to something – an alternative to litigation, prosecution, investigation, or some other kind of more formal process. In FEMA, when workplace disputes become intolerable, someone is usually "released" (i.e., sent home). That person may eventually be deployed to another disaster, and might even find himself working next to the same person he had a conflict with in the last disaster. One of our tasks, as in any workplace mediation program, was to facilitate more satisfactory resolution of conflicts both for the present situation, and for the future.

FEMA employees are highly skilled, hard working and dedicated to the task of helping individuals and communities recover from disasters. High stress levels were a factor in many, if not all, of the conflicts. Until spring of 2006, employees worked ten-hour days, six days a week. Most of the local hires had been affected by the storm and many were applying for FEMA assistance. Some lived in crowded conditions in FEMA trailers. Many were dealing with thorny insurance issues and difficult contractors in the process of repairing their homes. Others were trying to do the work themselves on their limited time off. Many DAE's had been away from home for months and didn't know how much longer they would continue to be deployed. Issues at home required their presence, but going home sometimes wasn't an option.

During the response phase, the need to hire and deploy workers trumped training, and there was often little consensus about proper procedures. Untrained, inexperienced workers were caught in the crossfire between managers who had different ideas about interpreting regulations. The term "FEMA-flexible" was often invoked in a mocking way to describe the frequency of operational changes, but that flexibility contributed to the stress of employees, who had little control over their work lives. Employees who worked directly with storm victims taking applications for assistance, overseeing mobile home parks, recertifying families for eligibility to remain in trailers, and assisting trailer occupants to find new housing had large caseloads and were under pressure to meet quotas that were often unclear.

Military-style organization

FEMA is, in many ways, a military-style organization and many managers have served in the military. Some have risen through the ranks of FEMA, but have received little management training. And DAE's from outside Southern Mississippi may not have understood the culture of the coastal community. Many local hires also had prior military experience, but others came from casinos and small busi-

nesses and were not accustomed to the management style they encountered. Local hires were committed to helping their communities, pleased to be part of the recovery process, and proud of their role, but frustrated by their lack of training and frequent procedure changes, and troubled to be representing an agency that was so often criticized by their friends and neighbors. Local hires and DAE's alike were uneasy being part of a much maligned agency dealing with a task of unprecedented proportions.

As mediators, we were "embedded" in that workforce and subject to the same conditions experienced by the rest of the employees, but allowed to function fairly autonomously. We tried hard not to appear to be part of management, but we were members of the Command Staff, which gave us some semblance of authority. At the same time, the Chief of Staff in Biloxi, a Coast Guard retiree, understood the voluntary nature of mediation and never referred cases to us, citing the principle of avoiding command influence.

Because mediation was new, we tried to be accessible and conducted training and orientations so that employees would know about our services. Unlike other mediation programs in which mediators are neutral outsiders, unknown to the parties, as part of the workplace we were already known to many employees before they came to talk with us about their disputes. Our clients were the people we chatted with in the lunchroom and on the parking lot, the ones who prepared our travel vouchers, repaired our computers, and renewed our security badges. They weren't necessarily looking for neutral outsiders, but came *because* they already knew us and trusted us. Employees generally came looking for someone who would hear their side and maybe give them some advice. Managers often asked us to intervene to help settle a conflict that was interfering with work. To avoid the appearance of partiality, I limited my contact with employees outside the office. Other conflict resolution specialists

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Conference Report

Restorative Justice in Controversial Settings

by Martin Wright

Bullying knows no boundaries

A tragic case brought bullying to the headlines in Hong Kong in 1997. A 14-year-old, Luk Chi-wai, was tortured to death after suggesting to a fellow pupil who had been beaten up that he should report it to the police. Thirteen boys were sentenced, four to life imprisonment and the rest to long terms. If this was meant as a deterrent, it failed; bullying continued, and in one case another teenager was kicked and punched in a classroom while classmates filmed the attack with their mobile phones.

Professor Dennis Wong, of City University, Hong Kong, reported this (and showed some of the video clips) to a British Society of Criminology conference on restorative justice at Nottingham Trent University in January 2007. Large-scale studies of pupils and teachers in 29 secondary and 47 primary schools found that 17 and 24 per cent of secondary and primary pupils admitted bullying, while 18 and 31 per cent, respectively, had been bullied.

Wong selected four secondary schools, interviewing about 200 to 350 pupils in each; School A had gone a long way towards a whole-school restorative approach, B and C partly, and D had not really adopted it. Tabulated data showed that after the test period, significant differences were found on factors such as positive perceptions, sense of belonging, lack of empathy and different forms of bullying.

Wong, himself a former youth worker, says that as bullying often entails a cycle of revenge, whole-school restorative intervention should be used, and can reduce it markedly where there is a high level of support from the school management.

NOMS and RJ

What does the National Offender Management Service (NOMS) do for restorative justice? Brian Stout, of De Montfort University, Leicester, explained how the government appointed

Lord Carter, a businessman and chair of the English Sports Council, to review correctional services in England and Wales. His report, *Managing offenders, reducing crime* (2003) proposed to combine the prison and probation services as NOMS, with ten Regional Offender Managers; supervising offenders was to be separated from providing interventions. It was proposed that a single person should be responsible for each offender all the time he is in the criminal justice system, and the idea of "contestability" was introduced, by which the private and voluntary sectors would be invited to compete to manage offenders in the community and even to manage prisons. However, Martin Narey, former director of the prison service, said that this cannot succeed unless prisoner numbers are at a manageable level. There were some 750 responses to these proposals, of which only 10 were in favor. The government is nevertheless going ahead with Carter's proposals, as announced in the response of the then Home Secretary David Blunkett, *Reducing crime, changing lives* (Home Office, 2003). To begin with, five per cent of the probation budget is to be used to buy in services, rising to 10 per cent.

Following the government's strategy document on restorative justice, the Blunkett report stated that restorative interventions would have an equivalent place with rehabilitation, punishment and public protection, and that *where restorative justice projects are available*, offender managers will be expected to assess offenders' suitability for them and broker their involvement as appropriate' (emphasis added). Its consultation document (*Together we can...*) on the involvement of communities in civil renewal contains a section on restorative justice, which it says can address hurt to victims and help offenders come to terms with their actions, possibly with face-to-face meetings; but the document is vague and lukewarm, Dr. Stout said. Once again it describes the findings of international research as "mixed," and it does not

say what it means by 'working towards' restorative approaches. It admits that victim work does not fit easily into targets and timescales.

In 2006, NOMS issued an *Offender management model* positing that meeting the needs of victims through restorative approaches is an objective of offender management, and offender managers are encouraged to pursue a restorative outcome – but not in all cases – and they will have no direct contact with victims except to pass on information about the offender. Labor costs, however, are high. Unpaid, voluntary work in custody is described as an indirectly restorative approach.

Asking how we will judge whether NOMS is restorative, Stout considered Gordon Bazemore and Mara Schiff's criteria: the principle of repair, stakeholder participation and the transformation of government roles and relationships. They did not include involvement of the community. For Kathleen Daly, who is evaluating Australian restorative justice initiatives, the essentials were repair of harm, dialogue and negotiation, which do not figure in NOMS. NOMS's own definition is indirect reparation, managing risk, and victims being worked with by someone else. This prompts the question, "Does restorative justice have an equivalent place in NOMS to more familiar interventions?"

RJ in NI

Jonathan Doak of the University of Sheffield and David O'Mahony of Durham University observed that Northern Ireland is making progress in a restorative direction. Restorative justice was built into the youth justice system by the Justice (Northern Ireland) Act 2002. It follows the New Zealand model, and requires courts to refer cases except where a life sentence is imposed. Victims are present in 24 per cent of restorative conferences, and victim representatives in an-

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other 34 per cent. Seventy-nine per cent of victims said they attended because they wanted to help the young person. Lawyers can take part, but only to advise young persons that they must speak for themselves. Normally the agreed contract is the sentence, but courts can refer a case back to a conference, or reject the agreement and pass a sentence, but it must give reasons.

Until now there has been little engagement with community-led restorative justice schemes, but the Nationalists (Sinn Fein) have now said that they will co-operate with the police, so there may be less resistance to bringing in the community. Jonathan Doak thought that restorative justice may boost democracy and civil society, importing its values to society at large. He thought, however, that the state-led sector is taking over from the voluntary movement. There has been support among police, probation officers and magistrates, and there is talk of working with adult offenders and instituting a Truth and Reconciliation Commission.

R J and Imprisonment

Gerry Johnstone of the University of Hull noted that restorative justice is a social movement to change the response to crime. Restorative justice, however, has had little success in dislodging prison. Restorative justice is in a sense the opposite of imprisonment: it does not aim to impose harm on offenders but encourages them to repair the harm they have caused. It includes rather than excludes; it involves stakeholders rather than experts, and aims to find a solution that benefits all.

Prison, in contrast, requires people to obey rules, not to take responsibility, it prevents reparation, and makes it harder for the community to integrate ex-offenders. The restorative justice movement has done little to reduce imprisonment, as Russ Immarigeon (2004) has pointed out: the reduction of imprisonment should be included among the aims of restorative justice; professionals should be educated; it should work with prison-bound offenders; and research should look at diversion from prison.

Now, however, there are requests for restorative justice *in* prisons. This appears to be a contradictory and dangerous idea, which could make prison more attractive to sentencers and legitimize it. It could however lead to a new model of imprisonment, not just warehousing: prisons would be not for retribution and exclusion but places where repairs are made. This would require a new relationship between prisons and the community, and a new purpose of imprisonment – to prepare prisoners for return to the community. Prison would be an opportunity to work for the benefit of others (as in the Inside-Out project) and think of victims; it would also be used to deal with conflict within prisons. It can make valuable contributions. Prisoners, for example, refurbished the Albert Park in the northern English town of Middlesbrough.

These ideas would lead to creative tension between prison traditions and the attitudes of restorative justice advocates, and rejuvenate the early ideals. It could also change community attitudes.

References

Immarigeon, Russ (2004). "What is the place of punishment and imprisonment in restorative justice?" In: H Zehr and B Toews, eds. *Critical issues in restorative justice*. Monsey, NY, Criminal Justice Press, and Cullompton, Willan Publishing.

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The Twig

by Gary Moore

December 2006, Biloxi, MS

What souvenirs
Can one take
From such a place,
Where every twig's
A broken dream?
Where every piece
Of flotsam underfoot
Stands epitaph
To someone's
Silent scream?
What does one pick
From such a mass
To bring away as trophy
Or bestow with love
And say: Here,
A piece of what I've been?

The question hangs
Like empty sea
Upon the empty beauty
Of these ruins.
But then in desperation
Comes a clue,
A ghost of hope
For meaning:

Perhaps, it says,
The answer lies
In taking in
What can't be
Taken home,
And pulling through the heart
The things too pained
To put into
One's travel bag—

To synthesize,
And take home what is neither
Purely them, or purely you,
But is a union of the two:
As pieces of this ragged world
Come through the eye
Into the heart,
Becoming something
Neither you
Nor they were at the start—
Something without substance
Weightless, airless
As a dream,
Yet made of all
The pieces of oneself
Adhering to the inflowed thing
In its transit through your soul,
Like barnacles of self
Grown on the twig—
Becoming something else
That neither of the two

had been.

Case Study

The Death and Resurrection of a Catholic Parish in Post-Katrina New Orleans

by Orissa Arend

Suncere Ali-Shakur, with his short dreadlocks, sunglasses, black shirt, and implacable expression on his round face, cuts quite a contrast against the ancient white masonry rectory as he hangs out of a second-floor window. NBC is interviewing Sun while he waits for his dinner to be hoisted up on a rope. The newly-restored copper dome on the adjoining church is a shining beacon in this historic cultural incubator, the New Orleans neighborhood called Treme.

A beacon of hope is sorely needed in the blighted but beautiful section of the city with its Creole cottages painted Mardi Gras colors adjacent to the French Quarter. Most of the residents are working-class people who haven't been able to afford to come home yet although their houses didn't take water. Landlords have raised rents way out of sight.

The dome belongs to St. Augustine Catholic Church, which was built in 1842. Enslaved people, people who owned slaves, and free people of color all worshipped there together. It serves as a spiritual and cultural hub for New Orleanians of many denominations and for visitors from abroad. The church is noted for its Jazz masses, its dynamic pastor, its showcasing of Mardi Gras Indians, local musicians, as well as Creole, Haitian, and European traditions and art. With our homes and families and social networks disrupted, many of us found particular solace in a return to our church home and beloved pastor, Father Jerome LeDoux. He remained at the church during the storm to do what he could to help those who were unable to leave.

In early February 2006, the Archdiocese of New Orleans announced a plan, in response to storm-related financial losses, to combine parishes and to close seven churches. Under

this plan, our parish was declared dead, and the church was to be taken over by a neighboring parish and its priest.

A congregation organizes

The St. Augustine congregation came together in shock, mourning, confusion, and anger to decide what to do – not an easy task for a diverse group of people who were young and old, black and white, rich and poor, conservative and revolutionary. And all of us were reeling from the multiple recent traumas of loss and displacement after Hurricane Katrina. But we did agree that we had to do something!

Our first steps were to write letters, say prayers, contact the media, raise money, and launch a formal appeal. But even with friends in high places, none of it worked. Archbishop Alfred Hughes stood firm in his decision to close our parish. On the Ides of March it was a fait accompli.

That's when all hell – or all heaven, depending on your point of view – broke loose. An assortment of young people who had originally come to town from the Beneficent Elsewhere to help us gut houses and clean up seized the rectory at the request of parishioners. They barricaded themselves inside and stayed for 20 days. Even our elders who had never questioned Catholic or white authority figured, "Well, what do we have to lose?"

Lawyers, strategists, and activists of all stripes set up a constant vigil on the sidewalk and in the courtyard next to the church dedicate the Unknown Slave. Work and prayer were punctuated with food, song, poster art, and soulful Jazz for an ever-expanding band of well wishers. But when the new priest arrived to say mass with ten armed bodyguards, a spontaneous protest arose in the church. People carried signs into the sanctuary.

The new priest, claiming that he feared for his safety, beat a hasty retreat. The Archbishop then declared the altar defiled and closed the church itself as well as the parish.

An Americorps mediator

Only days before, I had enlisted Suncere as an AmeriCorps mediator and completed a seminar in conflict resolution with him. Ted Quant, director of Loyola University's Twomey Center for Peace through Justice, was Suncere's mentor. Quant is a St. Augustine strategist and experienced facilitator. All of our strategists appreciated the importance of offering a face-saving solution to the impasse. And yet the intransigence of the Archdiocese, their guards with guns, and their spin about outside agitators disrupting mass led me to give up all hope of a negotiated settlement. This was deep into Lent.

But nobody came to lock the church doors. Nobody carried the revolutionaries bodily out of the rectory. Al Sharpton, Jesse Jackson, and Marc Morial all stopped by to wish us well. Local and national media swarmed all over us. Suncere and his cadre ate well with hauled-in meals. They passed their days doing a little house cleaning. The church secretary with her perfect, flip hair-do climbed in and out of a window to get to her computer. A food and supply give-away program for hurricane victims ran full tilt in the parish hall. We were far from dead.

Archdiocese responds

Ten days after the disrupted mass, Ted Quant got a call from the spokesperson for the Archdiocese asking him to negotiate a resolution to the dismal stalemate. Quant pointed out that he was not neutral, that he sided with St. Augustine pa-

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sought to achieve the same goal by socializing with everyone, thus not appearing to be aligned with any group or individual.

Confidentiality and communication

Another related challenge of mediation at FEMA was maintaining confidentiality. The details of the disputes and the content of agreements were, of course, confidential, but participation in mediation was difficult to conceal where offices are divided by flimsy partitions and gossip is rampant. As in many places, there was resistance to using our services because of the perception that conflict is bad and that surfacing conflict is to be avoided. There was often a stigma associated with seeking our services and whenever I walked into someone's cubicle, I knew that there was an immediate assumption that the person I was visiting was involved in a conflict. Initially I avoided talking with people after they came to see me because I didn't want them to be embarrassed or stigmatized. But after some months that seemed awkward and unnecessary, so then I tried very hard to talk with as many people as possible to convey that conversations with the conflict resolution specialist was normal and natural.

At FEMA, the workload is heavy and the style of many managers was developed from years of fighting fires and combating hostile enemies. Some managers were experienced program managers, but had little experience managing people. The storm wiped out many jobs on the coast and most managers tried hard to keep local hires employed, but they weren't skilled at motivating staff or providing effective feedback. And at FEMA, personnel are sometimes viewed simply as resources, action is favored over process, and communications with employees isn't always valued. As conflict resolution specialists, we often coached managers about different ways to manage conflict. Some managers didn't have the time or patience for what we were suggesting, but were very open to trying new ways.

One day an experienced DAE came to see me after she had been abruptly relieved of certain responsibilities that she enjoyed. It wasn't unusual for employees to be released, transferred, or given new assignments without explanation, but this employee was extremely distraught. I talked with several people in her chain of command and, at her request, convened a meeting with those individuals. I coached her about how to present her concerns and in the meeting she explained that she wasn't objecting to the changes, but she wanted to know the reasons. At the end of the meeting, the manager who was over her direct supervisor commented, "All my management experience was in the military, and that's just not how we did things, but I can see there's another way."

As members of the FEMA community, we introduced another way of dealing with conflict into the workplace culture. We trained, mediated, facilitated, advised, coached, and, most importantly, we offered a safe space where employees could talk and express their feeling about issues in their lives and in their work.

Returning home

On January 15, 2007, after 14 months of deployment in Biloxi, New Orleans, and Baton Rouge, I boarded the Amtrak Crescent in Picayune. Twenty-six hours later I was back home in Washington, DC and two days later started a new job as Interim Executive Director of the Association for Conflict Resolution. When ACR hires a permanent executive and a new disaster strikes, I will be available for deployment again. I continue to be a community mediator and consider the work of the ADR Cadre as community mediation in the true sense of the term, providing mediation by members of the community for the community.

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New Orleans
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rishioners. The response was, "That's OK. We know you can be fair."

Speculation abounded as to why the Archbishop might change his mind, something that no one in New Orleans could recall happening here ever before. Some said it was pressure from on high resulting from all the bad publicity about hitting people when they were down. Me, I'll go with the oft-used Catholic "explanation." which is that some things are just a mystery.

Reconciliation

Two days later a settlement emerged. Both sides were pleased, but both had made significant compromises. The parish will remain open and independent. It will get an administrator to help us meet benchmarks over the next 18 months.

The revolutionaries flung open the doors to the rectory. The Archbishop held a reconciliation service to bring back the sacrament. It began in the dark. Amid incense and holy water and a sermon about the prodigal son the lights came on. The next day, Palm Sunday, our Father LeDoux, Archbishop Hughes, and the take-over priest celebrated mass together. Suncere and the Archbishop hugged each other.

On Holy Thursday the spokesperson for the Archdiocese washed our feet. On Good Friday pilgrims from all over town made our church the third stop as they walked the Stations of the Cross. At the fish fry that evening, stories of the successful mediation were spilling forth like points of light on a star that signifies a miracle.

It was a good Lent. It was a hard Lent. Each of us had participated personally and communally in a first-hand experience of death and resurrection.

Orissa Arend is a mediator, psychotherapist, and community organizer in New Orleans. She can be reached at arendsaxer@aol.com.

*Resources****New Resources for the Practice of Restorative Justice***

by Russ Immarigeon

"Little Book" News

Over the past several years, Good Books' important series, **Little Books of Justice & Peacemaking**, has published ten short volumes focusing on various aspects of restorative justice and related matters, such as Biblical justice, strategic negotiation, strategic peacebuilding, and photography.

This past year, the Illinois Criminal Justice Information Authority (ICJIA) has begun offering six of these books at no cost in order to promote the use of restorative justice for juvenile justice in Illinois. As part of this effort, the following books from the series are available: **The Little Book of Restorative Justice** by Howard Zehr; **The Little Book of Family Group Conferences** by Allan MacRae and Howard Zehr; **The Little Book of Circle Processes** by Kay Pranis; **The Little Book of Restorative Discipline for Schools** by Lorraine Stutzman Amstutz; **The Little Book of Restorative Justice for People in Prisons** by Barb Toews; and **The Little Book of Conflict Transformation** by John Paul Lederach. There is a limited supply of these books and the people or organizations eligible to receive copies is guided by the grant fund used to purchase them. Only those based in Illinois, for example, are eligible. In order to request books, please contact the ICJIA at (312) 793-8550 or at (e-mail) cja.irc@illinois.gov. For those of you in other states, it would be great if your state were to purchase these books for distribution for a similar, or even broader, purpose. Perhaps people at the ICJIA will be able to help pave the way.

In the meantime, two other books in this series have recently appeared in print, and two more are expected this coming summer, bringing this impressive series to 14 volumes. Recently released are **The Little Book of "Cool Tools for Hot Topics": Group Tools to Facilitate Meetings When Things are Hot** by Ron Kraybill and Evelyn Wright and **The Little Book of Trauma Healing: When Violence Strikes and Community Security is**

Threatened by Cindy Yoder. In July, or thereabouts, you will be able to purchase **The Little Book of Dialogue for Difficult Subjects: A Practical Hands On Guide** by Lisa Schirch and David Campt and **The Little Book of Victim and Offender Conferencing: Bringing Victims and Offenders Together in Dialogue** by Lorraine Stutzman Amstutz. All of these books are approximately 80 pages (some are slightly longer) and each costs \$4.95. Ask the publisher if there are discounts for mass purchases or other reasons. For copies and further information, contact Good Books, PO Box 149, Intercourse, PA 17534, (800) 762-7171, (website) www.goodbks.com.

Evidence-Based Practices

Social scientists Lawrence W. Sherman of the University of Pennsylvania and Heather Strang of the Australian National University recently completed an extensive review of the "randomized trial" research literature concerning various affects of restorative justice on offenders, victims, communities and the criminal justice system. In **Restorative Justice: the Evidence**, Sherman and Strang report the results specific to offender recidivism and to the utility of restorative justice for youth and criminal justice systems. This document contains four representations of the research results – an abstract, the abstract and a three-page executive summary, the abstract and an introductory overview of the whole report, and the full report itself. Sherman and Strang report 36 studies from the United Kingdom and elsewhere internationally that compared the use of restorative justice with conventional practice. Restorative justice practices included face-to-face meetings with victims, offenders and others involved with particular crimes, and court-ordered financial restitution. Most of the studies involving the latter form of intervention were conducted in the 1980s, while studies of the former type were from the 1990s and 2000s. Sherman and Strang report that restorative justice interventions reduce repeat offending, double offenses entering the justice system as diversion

from criminal justice, reduced crime victim post-traumatic stress symptoms and relate costs, provided more satisfactory outcomes for both victims and offenders, reduced victim inclinations toward revenge, reduced criminal justice costs when used as a form of diversion, and reduced offender recidivism more than incarceration. Sherman and Strang conclude, "The evidence on (restorative justice) is far more extensive, and positive, than it has been for many other policies that have been rolled out nationally." *Electronic or paper copies of the report are available from The Smith Institute, 52 Grosvenor Gardens, 3rd Fl., London SW1W 0AW, England, (e-mail) info@smith-institute.org.uk, (website) www.smith-institute.org.uk. For correspondence about the report's content, contact Heather Strang (Heather.Strang@anu.edu.au).*

New Applications of Restorative Justice

In the Shadow of Death: Restorative Justice and Death Row Families (Oxford University Press, 2007), written by social workers Elizabeth Beck (Georgia State University), Sarah Britto (Central Washington University) and Arlene Andrews (University of South Carolina), is a compelling study of how capital punishment affects the lives of families members of men and women who are on Death Row in the United States. The authors argue, "Offenders' family members are important in their own right, and their stories and experiences provide insight into the complicated nature of the human condition." Violence, the authors say, is "an extreme violation of relationships" and they suggest restorative justice policies and practices "to find ways to hold offenders personally responsible while also addressing the needs of victims, offenders and communities that arise from crime." For this study, the authors interviewed members of 55 families, and conducted two focus groups with 12 persons. They also spoke with defense team members, restorative justice advocates, and death pen-

*Book Reviews****Handbook of Restorative Justice***

review by Russ Immarigeon

Handbook of Restorative Justice

Edited by Gerry Johnstone and Daniel W. Van Ness

Willan Publishing

\$49.95 (paper), 650 + xxii pages (2006)

One thing is clear: Restorative justice has had strong appeal in its several-decades-old history, and it is still developing its vision and its constituency. In this compelling and relatively cost-efficient **Handbook of Restorative Justice**, co-editors Gerry Johnstone, a law professor at the University of Hull and Daniel W. Van Ness, executive director of the Center for Justice and Reconciliation at Prison Fellowship International, gather nearly 30 original chapters from approximately 40 internationally recognized authors who cogently cover seven sections of topics, such as the roots and ideals of restorative justice; restorative justice's processes, outcomes and stakeholders; and the social context, evaluation, global appeal and future of restorative justice. Johnstone and Van Ness also provide helpful introductions to each section and a useful, end-of-the-book glossary of key restorative justice terms. Overall, this volume is a valuable resource for anyone from community members to governmental officials who wish to explore, or expand upon, the potential and practice of restorative justice.

Content

Johnstone and Van Ness give succinct definition to restorative justice: "Advocates of restorative justice argue that traditional ways of responding to wrongdoing tend to leave the needs of victims, perpetrators and communities unmet and leave the harm caused by wrongdoing unrepaired. They advocate alternative approaches designed to make wrongdoers aware of the nature and magnitude of the harm they cause to other people and of their obligations to atone for that harm through constructive and reparative gestures and deeds. Such reparative action, they suggest, can pave the way to forgiveness and reconciliation, the reintegration of wrongdoers into the community and the healing of victims' trauma."

Six articles open this volume, delving into the ideas of reparation and restorative justice, including engagement and empowerment; contrasts with retributive justice; and various restorative values and alternative visions of restorative justice. On the latter, Margarita Zernova and Martin Wright examine process- versus outcome-focused versions of restorative justice, the role of coercion within restorative justice, and restorative justice's relative reformism or radicalism.

Barbara Raye and Annie Roberts of the Victim-Offender Mediation Association outline an well-developed array of restorative justice processes, including victim-offender mediation, conferencing, circles, and restorative dialogues (indirect dialogue, facilitated victim-offender dialogue, facilitated victim-offender-supporter dialogue, facilitated all-party dialogue, guided dialogue and directed dialogue). Mara Schiff discuss how to satisfy the needs and interests of restorative justice stakeholders, and Christopher Bennett addresses the needs and interests of victims.

Subsequent articles examine the relationship between feminist and victim movements with restorative justice and application of restorative justice in cases involving juvenile justice, schools, policing, prisons, truth commissions, and terrorism and religious violence. Several articles cover restorative justice evaluation issues and outcomes.

Internationally, separate discussions from various authors of restorative justice's use in Africa, Asia, Europe, Latin America, North America and the Pacific region, as well as an overview from David Miers, attest to its use globally. Instructively, Dobrinka Chankova and Van Ness list a variety of "similarities and differences" in restorative justice's growth worldwide: resonance with traditional informal methods of dispute resolution; dissatisfaction with current criminal justice practices; the international exchange of information, research studies, and program ideas;

diversity in the use and understanding of restorative justice; comparative support from community, social and legal contexts; the continuity of an interplay between theory and practice; and the importance of statutory authorization.

Finally, several authors assess the future of restorative justice in terms of particular issues: Lode Walgrave of Belgium explores the integration of criminal and restorative justice, South Africans Ann Skelton and Makubetse Sekhonyane look into the relationship between human rights and restorative justice; and Canadian scholar George Pavlich examines ethics, universal principles and restorative justice. Johnstone wraps up this section with a summary of criticisms leveled against restorative justice, including vagueness and incoherency, exaggerated claims of achievements or potential, the failure to deliver deterrence or, indeed, justice in particular cases; and dependency on the traditional criminal justice system.

Conclusion

One of the great curiosities of restorative justice – one not given its due in this or many other books on the topic – is that for all its advocates' efforts to promote "an alternative vision of justice" there is little said about how restorative justice actually challenges many current practices, rather than enlarging criminal justice's hold on people's lives and their ability to confront the conflict facing them. On a positive note, articles in this volume calmly counter "extravagant" claims of early advocates of restorative justice (restorative justice also had its carefully cautious advocates, among them Howard Zehr). Still, some important matters have gone missing. My favorite example (or gripe), for instance, is the failure of restorative justice to counter the imposition of incarceration. Barb Toews in **The Little Book of Restorative Justice for People in Prison** (Good Books, 2006) and Dan Van Ness in this volume have done an excellent jobs of showing how restora-

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Improving Mediation Practice

Co-mediation: Two Heads are Better than One

by Barbara Timmons Strahl

I am always amazed at how different people look at the same situation differently. It is for this very reason that co-mediation or co-facilitation is such an invaluable tool. Whether you are mediating, facilitating a restorative justice dialogue, or training potential mediators or facilitators, having someone to work with can be an immensely rewarding experience. Or, it can be an immensely frustrating experience.

Unfortunately, all too often, we have mediators leave a co-mediation experience wondering, "What the heck was that?" While co-mediation has some definite benefits over mediating solo, there are also some cautions and some extra work involved.

Benefits

Let's talk about benefits first. Co-mediation can be a richer experience for both the parties and the mediators. Mediators can model diversity and conflict resolution in action. With two, you have twice as many eyes and ears. What one does not pick up, the other may. You also have time to rest, or to take a break. When you run out of steam, your co-mediator can pick up the slack.

Two mediators allow for a variety of divisions of labor. Maybe you just alternate steps in a mediation or maybe one person focuses on the emotional components while the other mediator tends to the storytelling. Maybe you ascribe to the lead mediator method, in which case one mediator handles the brunt of the work, but the other mediator functions as a back-up for anything missing. There are lots of options for dividing up this work.

Briefing

How do you make this fascinating interaction work? The first step is critical. That involves preparing or briefing. Co-mediators need to talk with each other about the roles they will play and how they will divide the work. They need to talk about their individual strengths and weaknesses. They need to talk about their styles and what they need from their partner. They need to

get comfortable with each other. This may include setting up the room together. It might just be taking a minute to chat and learn a little something about each other. It's crucial that mediators arrive early to accomplish these tasks. Running in at the last minute usually does not work out well.

Debriefing

Okay, so now the mediation is finished. But, the collaboration is not. Debriefing is as important to this endeavor as the briefing was. Be careful here! The tendency is to talk about the mediation and what the mediators thought about each party's issues. While this might be helpful, it is more important to talk about the mediators' performances and how they worked together.

Begin by asking each other what was done well, what you would like to see repeated in a future mediation. It's important to pat each other on the back and celebrate skill. Don't stop there though. Next, talk about what you would like to do differently next time or what you would like your co-mediator to do differently next time. Be sure you use good active listening with each other so that you thoroughly understand the other's perspective. But, always remember that feedback, by its nature, is optional. Follow this with a discussion of each stage of the mediation. Look at what was done well and what you would do differently.

Always thank each other at the end. Appreciate the gift you received from your co-mediator's feedback.

The Neighborhood Justice Center in Las Vegas, Nevada has developed a feedback form that can be used to guide debriefing. This form is included in every mediation file. There are also forms included for anyone who might be observing a mediation, so they too can be part of the debriefing discussion. Observers often have a unique view of a mediation, because they are not having to work it. Please contact us at the Clark County Neighborhood Justice Center, 1600 Pinto Lane, Las Vegas, Nevada 89106, 702-455-3898,

or bts@co.clark.nv.us if you are interested in a copy of this form.

Dr. Barbara Timmons Strahl is a Senior Mediation Specialist at the Clark County Neighborhood Justice Center in Las Vegas, Nevada and the chair for the National Association for Community Mediation. She can be reached at bts@co.clark.nv.us.

Correction

Two errors were made in the printed version of the article, "Parallel Justice: A New Framework for Providing Justice for Crime Victims," which appeared in **VOMA Connections**, Winter 2005, Number 19: 5, 10. The authors of this article are Susan Herman and Michelle Webster, not just Michelle Webster. Information about the authors includes the following:

Susan Herman originally conceived and became an international proponent of parallel justice while serving as executive director of the National Center for Victims of Crime, where she spearheaded innovative approaches to serving victims, including bringing victims into community policing; developing safe housing for intimidated victims and witnesses; helping communities develop multidisciplinary responses to stalking; initiating a national dialogue on the effectiveness of victim compensation programs; and raising awareness about the unmet needs of teenage victims of crime.

Michelle Webster is director of special projects for the National Center for Victims of Crime where she manages the development of policy and practice initiatives, including a parallel justice demonstration project.

For more information on "parallel justice" contact the National Center for Victims of Crime, 2000 M Street, NW, Suite 480, Washington, DC 20036; (202) 467-8700, www.ncvc.org.

These changes have been made on the electronic version of this article, which is available at www.voma.org.

Improving Mediation Practice

Mediation and Activism: Beyond the "Salvage" Paradigm?

by Deepika Marya

A Shift in Practice

The subtitle of this article may seem cryptic at first. It names a cultural paradigm that reflects a desire to rescue something that may actually be beyond repair. It refers to practices in the field of mediation that are organized around mainstream ideas and understanding of what mediation as a field for resolving conflict can offer and some assumptions made by the public at large about social justice consciousness of mediation as it is commonly practiced in the United States.

People resort to mediation to resolve issues that may range from one-on-one disputes involving personal and/or public matters to entire organizations looking for a way out of a sticky situation with another organization. What people often find meaningful in this is the opportunity to make peace without going through litigation that can only damage relationships. But the meaningfulness of mediation is not restricted to amicable outcomes that parties may reach. It represents an avenue through which some parties feel they can bring to the table issues related to identity and social and cultural inequities, so that the discussion is larger and more meaningful than bargaining for material inequities between parties. This is a recent shift in the field that I find very beneficial and challenging at the same time.

Role of Activism

The role of activism in society is that of a trial blazer for change on any number of issues. Arguably it asks all of us to stretch the boundaries of our thoughts and visible realities to accommodate new ideas and representations. Activism is about shaking the status quo and forcing society to rethink its old patterns and formulas. Tradition in this case is often replaced by new understandings of relationships between society and its citizens. Specific groups and populations have brought about much change in the

country due to their activist work that has changed the fabric of this nation for good.

Examples from activism around race, gender and sexuality abound in the past fifty years alone. One element central to activism is the critique of the other side that has resulted in the inequities. This critique is often the driving force for change and activist agendas. What is starkly different here to "peaceful" resolutions reached in a mediation is that the two sides must remain opposed to each other for genuine reform and change, and gentle negotiations as suggested by mediation is not the practice or avenue sought out. This is important to consider since I have found in my work as a trainer of mediators that more and more of them see mediation as having a dimension that makes it suitable for radical change.

Amidst the uneven existence of oppressors and the oppressed in society lie the vast middle class that is "middle" not only by virtue of its economic freedom from penury and lack of limitless resources, but also by reference to an ideological position that sees the world through a liberal lens that has forgotten the hardship of being at the bottom. This middleness is also the terrain of the mediator who must look after the interests of both parties, even though one may have a moral and ethical ground for a grievance and the other may not. Regardless of the mediator's propensity towards one party over the other, the profession demands we support both parties. Although this may cause a moral dilemma for the mediator, it is standard practice in mainstream Anglo-American mediations.

This middle ground of the mediator cannot be translated into the arena of activist work. Where the two sides are opposed in interests and the outcome need not fulfill both parties, the mid-

dleness of the mediator is hard to trace. Mediation in the service of social change can only take us thus far and not beyond that.

Mediation & Social Change

So what role can mediation play in the name of social change? Since the conventions of mediation practice in the United States will not make room for radical practices where ethics and morality are the equilibriums to be maintained, the task of the mediator can be expanded to include the moral underpinnings of the narrative presented by the disputants.

In this way, both can hear the framing of the dispute from the other person's perspective. While this is a window of opportunity for both parties to listen to the other side, it does not have the edge to push a point of view that may greatly benefit society. It does not allow either party or the mediator to speak for a perspective that may be beneficial after all.

This lack and inability to advocate for equivalences, which are beyond the material gains and behavioral modifications that may have been requested, is the limitation of mediation that activists looking towards this method of problem-solving should keep in mind. There is no possibility for circulating what may seem the right answers. While activism could learn from mediation how to minimize the difficult edges that make change seem less threatening to the powers that be, it must maintain its sharpness in looking ahead to a new approach to life rather than to an old one that has been ever so slightly modified.

Importance of History

What is common to both activists and mediators is engagement with history, although both look at what that

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means quite differently. For mediation and the disputants, history with the other party is usually pretty recent. This history may be only a few years, although there are exceptions to the case. This history is isolated to few people and few incidents. There is no stocktaking of the larger context to evaluate the dynamic being played out between the parties. For activists, history is usually a long duration of continuous oppression that asks for change. This discrepancy is important to consider if mediation is used as a tool by activists. Since it will cut short the consideration of the past because the people involved are no longer present, the two remain incompatible to what information and stories are part of the present. Also, our idea of conflict is so embedded in individual narratives of personal injuries that the process cannot look beyond this paradigm to talk about continuing cycles of inequality.

Having said that, what mediation has to offer to people who are fighting for social justice in their work and outside it is the use of story telling as a tool for gathering information and making it available to the public. The story of oppression through the eyes and in the voice of a person, along with a macro-cosmic picture, can provide richness to the narrative that makes it accessible while it is also providing an historical overview. In our postmodern world, where most people do not have the time to gather all the relevant information on a subject, stories can help generate interest and pull people's curiosity.

Both activists and mediators are working to eradicate difference and conflict in society, but the specific methods used by most in both areas find them sometimes on opposite sides of each other before they realize it. Both have much to offer society and it need not be a two-in-one deal that will leave us suspicious and frustrated.

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ality abolitionists. The authors also describe the work of victims and offenders who have worked together against capital punishment. They write about the work of defense-initiated victim outreach efforts to bring victim families and capital offenders together in restorative justice settings. In addition, the authors detail innovative methods of countering the institutional failures of education and mental health in the lives of offenders and their families. The authors conclude, "Facing violent crime, exploring its roots and subsequent damage, and responding from a place of understanding and compassion rather than fear may ultimately create a safer, more just society."

Copies are available for \$35.00 from Oxford University Press, 198 Madison Ave., New York, NY 10016-4314, (800) 445-9714, (website) www.us.oup.com.

Restorative Justice & Sex Offenders

In the September/ October 2006 issue of **Sexual Assault Report**, University of Arizona Professor of Public Health Mary P. Koss (mpk@u.arizona.edu) has written a defense of the use of restorative justice with certain sex offender offenders and their victims. Koss is co-founder of RESTORE, a Tucson-based program initially funded by the city's police department to address misdemeanor sex offenses such as acquaintance rapes and public masturbation. Koss describes the program's referral, preparation and conference, and monitoring and reintegration stages. While the program is currently being evaluated, Koss reports, "RESTORE has faced terrible obstacles including system lethargy and inertia, frequent staff rotation, turnover, political scandals, and poor morale at justice agencies, continuing traumatizing interactions of justice personnel with victims, and constant concerns about program sustainability." She argues that victims have the most to gain from programs such as RESTORE and hard work is necessary "to create the prerequisite political and collaborative climate to advocate for funding to nurture new programs and to achieve attitudinal and behavioral changes in current criminal justice practices." **Sexual Assault Report** is a bi-monthly, national

newsletter, edited by Joan Zorza, that is published by the Civic Research Institute, Inc., PO Box 585, Kingston, NJ 08528, (609) 683-4450, (website) www.civicrosearchinstitute.org. Annual subscriptions cost \$159.00, plus \$10.95 shipping and handling.

Forgiveness

In Forgiveness, Mercy, and Clemency (Stanford University Press, \$24.95, 256 pages, 2007), legal scholars Austin Sarat and Nasser Hussain collect seven original papers from a March 2005 conference held at Amherst College in Massachusetts, where both men teach. Mere adherence to law, the editors suggest, is short-sighted; the concepts of forgiveness, mercy and clemency are necessary "(t) o humanize the world in which we live." But these are little understood concepts. In this volume, Sarat and Hussain make an effort to open some new territory in which to explore these concepts. Articles examine "the paradox of mercy in the daily administration of criminal justice," the absence of mercy in the "law and politics" of clemency hearings, pardoning practices that stem from a perspective guided not by retribution but by "our daily practices of living with one another," the temporal and revisionist qualities of mercy and forgiveness, and the links between amnesty and amnesia. For Sarat and Hussein these essays "point toward an enriched understanding of the links and disjunctures among forgiveness, mercy, and clemency and of the registers of individual psychology, religious belief, social practice, and political power that circulate in and around those who forgive, grant mercy, or pose clemency power." *Copies: Stanford University Press, 1450 Page Mill Rd., Palo Alto, CA 94304-1124, (800) 621-2736.*

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restorative justice can be integrated into prisons, but few writers have shown how restorative justice can lead *criminal justice decision makers* to keep people out of prison in the first place.

The Johnstone-Van Ness Handbook of Restorative Justice can be obtained from Willan Publishing, c/o ISBS, Inc., 921 NE 58th Ave., Suite 300, Portland, OR 97213-3786, (503) 287-3093.

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was invited to South Africa for other work. She stayed on to learn more about how George's practice differed from VOM done in North America and spoke with several other South African mediators who had done a few serious cases each. This article briefly summarizes what we observed and suggests potential implications.

Two caveats are important: this discussion is based on a very preliminary exploration, not on an empirical comparison of matched variables. Susan did interview participants from many of George's VOM cases and she talked with other mediators who had handled a few cases each, but only to get an overview of VOM in SA and to help her better understand what George was doing differently and why.

Second, we have framed this discussion as a comparison of VOM practice in SA and North America, knowing that this frame obscures much of the reality. It glosses over differences in VOM practice within each of the three countries, and between Canada and the US, and ignores how much they have in common. This is the equivalent of an aerial view, suitable because our aim is not to document actual practice on the ground. Our purpose is to point out a pattern that is more visible from that distance, calling attention to the need for proper research on the ground.

Differences in North American and South African Perspectives

As we scanned the major features of VOM in North America and South Africa, several differences stood out in relation to policy, participation decisions, and preparation.

Corrections Policies

Most VOM takes place while the offender is incarcerated and therefore requires assistance from the institution where the person is held. About one-third of states in the United States allow VOM for incarcerated people, but only when requested by that person's victim; this protects victims' right to privacy from further intrusion by the offender. Canadian policy allows for

VOM cases originating with offenders, but only if the request is forwarded by institution staff who see it as an appropriate option for the offender and screened through a national corrections office. In those cases, the invitation is made through someone already known and trusted, such as a victim advocate. In contrast, all of the South African cases we looked at were offender-initiated, stemming from prison programs where people learned about restorative justice and then wanted an opportunity to make amends for their crimes (typically aggravated assault, rape, or murder). By and large, those overtures were generally welcomed, even by victims who opted not to participate.

A second policy governing VOM in North America is that offenders may not receive any benefit in exchange for participating in VOM. Consistent with the principle of voluntariness, offenders, like everyone else, are expected to participate for their own reasons and take their own benefit from it. North Americans like this policy because it reduces the risk of offender manipulation and frees victims from any concern that their choices might help or hinder the offender. But the policy was perplexing to people we mentioned it to in South Africa, where participation in victim-offender dialogue is broadly seen as an appropriate basis for early release. In our conversations about this difference, people asked, "Why would there be a policy against recognizing someone's effort to make amends?" More to the point, "When someone has had a change of heart, why would you keep them in prison?"

Participation Decisions

Voluntary participation is as strong a VOM value in South Africa as in North America, but the value is expressed differently. In both, it is common for an entire family to join the initial meeting to learn about VOM. They may discuss risks and benefits, but eventually each family member decides, "Yes, I'll do it" or "I'm not going to."

In South Africa, there is often just one decision for the family -- "Yes, we'll do this" or "We're not interested" -- a decision sometimes reached by the group and sometimes made by the head of

the family. This difference plays out in the number of people who take part in facilitated dialogues. In North America, these meetings often involve just one or two victims and the offender. In South Africa, they typically bring half a dozen or more people to talk with the offender as a family unit.

Purpose

In North America, victims in a VOM often want to get answers to their questions or convey the full extent of the harm; offenders often see it as a way to help the victim, and perhaps also for their own psychological or spiritual benefit. Mediators typically describe VOM as part of a healing journey.

Clearly South African victims and offenders have those same needs and motivations, but their primary reason for participating is relational, not personal. They saw VOM as a vehicle for reconciliation, and reconciling was the right thing to do. In case after case we heard people stressing the value of mediation because "It is so important to make peace."

Readiness

In Canada and the U.S., professional literature and training programs stress that "best practice" involves helping both parties prepare themselves for meeting each other, both to reduce their emotional risk and to help them get what they want from the encounter. Typically, this means at least one more session with each party, often several, to help them identify their goals and fears and to plan strategies for dealing with a range of possible scenarios. Most of the South African cases we looked at had no additional meeting between the decision to participate and the joint session between victims and offenders.

Reasons for Differences

Why do these differences appear? Victims and offenders have the same range of needs, motivations, and preferences in both cultures. Yet practice and policy address only part of that range. In both cultures, for example, there are victims who need to feel safely out of offenders'

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reach and other victims who need to hear a self-generated apology from the offender. In both cultures, there are offenders motivated by remorse and other offenders motivated by self-interest. Why do VOM practice and related policies favor meeting some needs over others, or supporting some motivations at the expense of others? And why are different priorities chosen in different places?

Looking for reasons why South African and North American policy and practice have evolved differently focused our attention on other differences between the two cultures -- primarily differences as to which values are primary. For example, offender-initiated VOM is probably permitted by authorities and welcomed by victims in South Africa because of the strong cultural expectation that someone who has done wrong must come and apologize for it. North Americans have the same belief, in principle, but not the same expectation that it will govern behavior. A rape case we looked at was reported to the police only because the offender's parents failed to apologize to the victim's parents for what their son had done. Another victim -- a man who was permanently disabled in a shooting -- refused mediation because the offender had never phoned or written to apologize.

South Africans' willingness to reward VOM participation with early release from prison is consistent with the strength of another cultural value -- forgiveness. Forgiveness is also a strong value for many North America's, and many victims would be glad to see their offenders released. But many others reject the notion of forgiving their offenders, and probably the majority struggle with conflicting feelings and expectations (their own or others') about whether or not to forgive. Certainly South Africans sometimes refuse to forgive, and people there may struggle with it too. But the rightness of forgiveness is imbued in the South African culture and forms a powerful social norm. The strength of this value does not mitigate the strength of participants' pain, remorse, or expectations of accountability, but it does provide a point of reference that surfaces

easily and often in people's comments about why they see VOM as so valuable and why they choose to participate in it.

South Africa has a communitarian culture, where people live their lives within a framework shaped by extended family and community. Making joint decisions about participating in VOM and participating as a family unit are consistent with that framework. People live independent lives, but that independence still operates within the orbit of surrounding relationships. Canada and (especially) the U.S. have individualistic cultures, where people are more likely to structure their lives around personal goals. Many people seek and have strong bonds with family and community, but such bonds tend to be considered a luxury rather than the default stereotype, and assumed to be less important than financial or professional goals in influencing major life decisions. Thus, North American practitioners tend to be startled on hearing that families often make joint decisions about whether to participate in VOM (and disapproving of allowing such decisions to be made by the head of the family and imposed on other family members). Individual autonomy is highly prized enough that specifying each person's voluntary participation would be redundant.

The difference we saw in purpose is also consistent with other aspects of the two cultures. Both Canada and the U.S. are western societies, favoring individual goals and encouraging self-sufficiency and personal achievement. In that context, and particularly given that serious crime usually has a serious impact on the victim's life (as well as the offender's), it makes sense that personal healing would be VOM's primary purpose in North America. It equally makes sense that reconciliation would be a primary purpose in South Africa's communitarian society, where people prize their connections to family and community, and where people live in such close quarters and have to rely on each other to such an extent that maintaining good relations has to be a priority.

As we look at these differences, what stands out is the assumptions shaping

the choice of priorities. Mediators and policy makers in South Africa and North America are making different assumptions—based on good evidence—about what participants are likely to experience (from each other or from the VOM process) and about how they will interpret that experience. Will they find something intrusive or compassionate, respectful or disrespectful, or supportive or controlling? Those assumptions yield different judgments about how to manage risk and help participants achieve their goals and, therefore, different policies and different process decisions.

Conclusion

We see these differences in VOM practice as markers of differing assumptions (and thus predictions) about what participants might experience and what significance it might have for them, which in turn reflect primary values that help to define the two cultures. If that is the case, what might it say about best practice?

We see three implications. First, it would indicate that cultural appropriateness is not simply an add-on, i.e., not a matter of translating (parts of) a process into a different format or bringing into it something derived from local tradition. Nor is it primarily an admonition, a reminder that mediation should be made culturally appropriate when introduced in a different culture. Instead it seems more of an observation that best practice is appropriate to the culture where it serves. In other words, culture shapes practice everywhere, not only when it is imported from somewhere else. This means that standards for best practice must be culturally contextual.

Second, the influence of culture needs to be recognized and accounted for in efforts to define best practice—not only for the sake of sound theory and stronger research, but also to guide practice choices. If standards for best practice depend on cultural context, then mediators and their evaluators need more guidance in how to assess the expression of core restorative justice principles and values, in order to know when and how to adapt some form

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of the process and when to preserve some form, even though it is unfamiliar, for the sake of fidelity to that core.

Third, this is a reminder that cultures differ within North America and South Africa as well as between them. George works primarily in crowded townships and isolated villages where people are marginalized, and where large numbers of people are poor, illiterate, and unaccustomed to professional intervention that probes their emotional lives; he practices differently from other South African mediators because he grew up in the same kind of similar community in South Africa and understands how people living there see the world, including VOM opportunities that come knocking on the door. He knows that VOM for urban South Africans, who are increasingly westernized, might resemble North American VOM more closely than it would his current practice.

Canada and the U.S. also contain different kinds of communities with different priorities have communitarian communities, where VOM needs to be practiced differently from in mainstream communities.

Finally, this observation of the link between "best practice" and culture suggests reasons for VOM practitioners -- and presumably others -- to be more mindful of how culture has shaped their own notions of best practice. Awareness that "bad" practice in one place might be "good" practice in another might help facilitators anchor their practice in attentiveness to participants needs, allowing their convictions about best practice to be more porous.

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