

## Research

### Community Involvement in Restorative Justice

by Martin Wright, assisted by Orlane Foucault

Advocates of restorative justice often speak of it as benefiting victims, offenders and the community; it makes a neat triangle on a flip chart. But some people have questioned what the word 'community' means. In modern cities, neighbours often do not know each other. There may be a community of people living far from each other with shared interests such as playing tennis or using the internet, a religious community who go to a place of worship, a spiritual community who practise yoga, or communities of people with other shared characteristics, such as being Scottish, or gay. There are communities of people who are near, or beyond, the boundaries of the law, such as drug users or paedophiles. The community is everyone: the shopkeeper, the doctor or nurse – even the bureaucrat from the Ministry of Education or Justice is a member of the community when he or she comes home. Perhaps when thinking of individuals it would be better to use a different word, such as 'members of the public'.

For the point surely is that every citizen wants to live in reasonable safety, without being robbed, defrauded, attacked, poisoned (especially by the pollution of air, water and food), killed in car crashes or blown up by terrorists. There are three main ways in which we can try to protect ourselves or respond: state action, collective action or individual action. The question is, what is the best balance between them?

State action means that we pay taxes to the state, which gives 'an expert service provided by professionals' (Crawford and Clear, 2001: 143), and says in effect, 'Leave it all to us, except that we need you to report crimes and give evidence if necessary. We will provide police, courts, probation and so on. Sometimes you can help on the margins, for example by assisting victims or offenders.' This model

sometimes operates on a rehabilitative basis, but is more often used in a 'crime control' mode; it is likely to lead to more police, prisons, closed-circuit television and so on. Sometimes some of the work is done by private security firms, but the principle is the same. In many western countries the welfare state also provides assistance to all, including victims and ex-offenders, on the basis of need; several countries and states also provide monetary compensation to victims of violent crime. The generosity of these schemes varies widely, and may be largely swallowed up in medical expenses in countries without a free health service.

Collective action has many forms. In early history it was taken by local geographical communities or clans, and this idea has been resurrected in family group conferences, as we shall see. Some is for self-protection: in eighteenth-century England there were Associations for the Prosecution of Felons, to share the legal costs, until this was taken over by the county and later the Crown (Wright 1996: 18). In England until 1986 the police prosecuted; now, as in other European countries, it is done by prosecutors. Insurance is a form of collective action. So are shopping malls, which employ private security firms, and secure housing estates with high fences and guards. Consumer associations use their combined resources to protect the public from various forms of harm, some of it criminal; sometimes they campaign to

persuade Parliament to make certain shady practices criminal. Neighbourhood Watch, School Watch, Farm Watch and so on, mainly for the protection of property, are a type of collective action, although it is often organized by the police. There is also a large amount of altruistic collective action by non-governmental organizations (NGOs), known in England as voluntary or 'non-statutory' organizations, and elsewhere as not-for-profit (*associations sans but lucratif, eingetragene Vereine*): societies to assist offenders, and in the last thirty years victims too. Now they have been joined by mediation services. Any of these may use volunteers and/or paid staff, and may be managed and often financially supported by private citizens, sometimes with additional state funding. Some of these functions may also be organized by the state (central or local government); some of them are trying to repair the harm done by the state, for example supporting victims and other witnesses through the ordeal of giving evidence in court, and helping offenders to overcome the after-effects of imprisonment. Often they are experiments, which would probably never have been carried out by the state without the influence of the NGOs.

Individual action can include work by people who give their time and effort to help to reintegrate offenders, for example

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## VOMA Connections

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

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

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*Historical Roots, Contemporary Proposals*

## Search for Restorative Justice History Leads Back into the Future

by Russ Immarigeon

We know several things for certain about restorative justice. Many computer strokes – and even ink jottings – have given increasingly wide attention to conceptual and theoretical aspects of restoration justice. As some have observed, perhaps too much has been said already about defining restorative justice. If nothing else, some simply have tired of definitional matters and have asked for a halt to this seemingly endless enterprise.

An awful lot has been written about restorative justice over the past decade (Daly and Bouhours, 2004) and the electronic, as well as printed, flow of articles, books, dissertations, newsletters, reports, and websites continues unabated. A fair amount of this attention has focused on the history and development of restorative justice, although I think much more needs doing in this regard, especially before our contemporary memories (if not documents) are deleted or otherwise lost.

Recently, I came across a reference to the work of Albert Eglash, an American psychologist who worked with young offenders in Michigan in the 1950s and who some credit with making first use of the term, “restorative,” in conjunction with criminal justice processes and outcomes. I remember reading some of Eglash’s work in a crime victim course I took many years ago, but I wanted to refresh my knowledge – with special concern about how Eglash referred to restorative justice – so I tracked down a few of his articles. In the course of my reading, news from the San Francisco-based Center for Juvenile and Criminal Justice popped up on my computer about the Fall 2004 issue of its electronic **Justice Policy Journal** (available at [www.cjcj.org/jpi/index.php](http://www.cjcj.org/jpi/index.php)), which contains a thought-provoking article, “A Civic Justice Corps: Community Service as a Means of Reintegration,” written by Gordon Bazemore and David Karp, who are themselves academic advocates of community and restorative justice.

As it turns out, both Eglash individually and the Bazemore and Karp collectively speak about the usefulness of making amends to harmed individuals and communities and

they do so within the parameters of restorative justice. So, nearly 50 years apart, these authors have roughly address upon the same general idea. In this article, I’ll describe and examine the ideas of these writers to assess what they may teach us about our knowledge of and understanding about restorative justice.

### History Unfolds Slowly

Restorative justice is not the only endeavor in search of its history. Consider the matter of including victims in the justice process. Generally speaking, we now know that crime victims were more or less excluded from the justice process until the Reagan administration, when the President’s Task Force on Victims of Crime issued its notable report (Herrington et al., 1982).

However, crime victim advocates were raising concerns before then and certainly these were important in laying a foundation for the task force that issued the Reagan administration’s report. But others have previously integrated victim-related matters in the justice process. My favorite example, because it is a more developed proposal than most, involves the work of Quaker prison abolitionist Fay Honey Knopp (Immarigeon, 2005) who produced the seminal work **Instead of Prisons: A Prison Abolitionist’s Handbook** (Knopp et al., 1976), which tied together proposals for the empowerment of victims and offenders alike. Notably, Knopp et al suggested, “Helping both wrongdoer and wronged to resolve their differences thru mediation, restitution and other reconciliation practices, are alternatives we can build into (a) new system of justice.”

Another, albeit more abbreviated example can be found in a recent historical account of the famous prison reformer, Warden Lewis Lawes, who was the Warden of Sing Sing for over 30 years. In this account, New York Times journalist Ralph Blumenthal (2004) reports that in the 1920s, while Reagan was still a youngster, a Sing Sing prison newspaper argued that prisoners should be allowed to labor and use their wages to pay those family members and perhaps others who depend on them and to compensate their victims. Does this prisoner proposal amount to an early example of a victim compensation or restitution scheme or a restorative justice practice? Undoubtedly there is a connection, but so too is there the certainly that there are even earlier examples, of the origins of these practices.

### Albert Eglash

Journalist Laura Mirsky (2003) recently wrote an illuminating and informative background article about Albert Eglash for the International Institute for Restorative Practices. In the article, Mirsky posits Eglash’s work as a precursor to restorative justice. Eglash, who believes a comparison between creative restitution and restorative justice is apt, says, “I think restorative justice movement has moved my concept in a very constructive direction, far beyond what I had conceived.”

Looking through Eglash’s original articles, linkages between creative restitution and restorative justice are all the more apparent.

As Mirsky reports, Eglash worked closely with various “needy” groups, including alcoholics, the homeless, and delinquent teenagers. He adapted concepts from Alcoholics Anonymous to form such groups as Youth Anonymous and Adults Anonymous. For Eglash, creative restitution required offender (self-determined) involvement, socially constructive and offense-related consequences, and even group-based interaction. Foremost, it involves victim-oriented concerns.

Eglash (1975, 1997) maintained that the first step of creative restitution, which grimaced at simply constructed financial payments, is “concern about the damage and about the victim.” Of secondary concern for Eglash was a “broad meaning of a complete restoration of good will and harmony.” Creative restitution was to make the situation better than it was previously. Eglash believed that court-imposed restitution stripped it of its creativity. He suggested, “In restitution an offender himself participates in determining what is an appropriate step for him to take, in terms of his talent, his abilities and limitations, and the situation. Restitution is a creative, not a mathematical, process.” In this sense, as a voluntary act, restitution becomes part of a growth process, one that counters impulsiveness.

Eglash also placed punishment in opposition to restitution, with the latter being an open process and the former being a closed matter.

Eglash observed, “Friendly critics have suggested that, in place of borrowing an old term like restitution for a new process –

**RJ History**

*Continued from previous page*

pouring old wine into new bottles? – it might be better to find another term.” One of the terms that had been suggested to him was “restoration.” He professed no final resolution for this matter of nomenclature. “My own preference is to use restitution in this broader sense, and to use reparations or indemnity for the narrower term of a mandatory financial settlement.”

In a later article, Eglash (1977) subsequently referred to “restorative justice and its technique of restitution.” In particular, he outlined four characteristics of restorative justice and creative restitution:

- restorative justice focuses primarily on the destructive or harmful consequences of (criminal) behavior, its effects on the victims of the criminal act;
- restorative justice makes victims and their needs an important consideration and gives them an important role to play in achieving justice and in developing a rehabilitative or correctional program;
- in restorative justice the basic requirement is an active, constructive effort on the part of the offenders themselves; and
- creative restitution keeps the offender in the situation but reverses his behavior from one of taking or harming to one of giving or helping.

Eglash concluded, “A restorative approach of *creative restitution* accepts *both* free will and psychological determinism. It redefines past responsibility in terms of damage or harm done, and can therefore accept psychological determinism for our past behavior without destroying the concept of our being responsible for what we have done. Similarly, it defines present responsibility in terms of our ability or capacity for constructive, remedial action and can therefore accept free will for our present, ongoing behavior and for our future contemplated behavior, without destroying scientific explanations of past behavior. Only in restorative justice are determinations of past and present responsibility independent.”

**Bazemore-Karp Proposal**

In a new article, Gordon Bazemore, formerly with OJJDP’s Balanced and Restorative Justice Project and now with the Community Justice Institute at Florida

Atlantic University, and David R. Karp, who teaches sociology at Skidmore College and has written widely on community justice as well as on restorative justice, propose a “Civic Justice Corps” (CJC) that allows parolees to “earn redemption” and “regain community confidence” as they “repair the harm” of crimes they have committed. (Bazemore and Karp, 2005)

According to Bazemore and Karp, the CJC would establish positive identities and social ties for offenders, reduce offender recidivism rates, and enhance offenders’ commitment to their communities. In the article, the authors argue for “a defensible basis for the widespread incorporation of service into the correctional system.” This proposal, they admit, is “utopian,” but they make a good effort to scour through past theoretical and empirical work on community service, as well as social interaction, to build their case. Overall, the article is insightful and thought-provoking. Still, it suffers from insufficient attention to those forces, in local communities as well as throughout state and federal governments, that severely limit the prospects for more than piecemeal change. I am increasingly convinced that little change will come without systemwide reform that results from legislative mandate.

Bazemore and Karp reach four conclusions in their review of the community service literature:

- the general public supports the use of community service as a criminal justice sanction;
- agencies that operate community service programs are highly satisfied with the work offenders complete under their supervision;
- community service has been used as an alternative to incarceration to only a limited extent and has not reduced the use of incarceration in the U.S.; and
- community service does not appear to increase offender recidivism and in some cases actually reduces it, but agencies providing community service options consistently find that this work benefits offenders;

As noted, Bazemore and Karp observe that community service as a criminal sanction is only used as an alternative to incarceration to “a limited extent.” They modestly note what is really a major problem in the application of community-based sanctions, “Although there is some evidence to show that service programs can reduce the use

of incarceration, there has been relatively little demand for such application of service in the U.S. in the past two decades.”

The authors’ focus on this issue is laudatory, although the topic requires greater attention than space allows in this article. Some 25 years ago, M. Kay Harris, now teaching criminal justice at Temple University but then director of the National Council on Crime & Delinquency’s Washington, DC office, wrote that community service is most efficient if used as an alternative to confinement. Harris based her comments partially on the National Advisory Commission on Criminal Justice Standards and Goals emphasis on sanctioning practice that relied on the use of least restrictive alternatives, which suggested the use of incarceration only when all other alternative, community-based options have been attempted (Harris, 1979). Still, few researchers or others have followed up systematically or scientifically on such proposed practice. Furthermore, what is true about community service also holds for restorative justice, which has loosely followed a similar developmental path as community service, with some of the same deficiencies manifesting themselves over time, despite support for more assertive application of potentially paradigm-forming practices.

**Conclusion**

Reform proposals, historically, have come from different places in different times. Similar proposals often come independently of one another. Most importantly, I think, there are only so many ways we can establish or reform a justice system, whether we call such a system a humanitarian system, a just system, a human rights-based system, or a restorative justice system. Over time, it seems, “new” proposals increasingly have antecedents in the past, and not necessarily the all-too-distant past.

In the end, I think it behooves reforms, as well as the reformers themselves, to base these change initiatives on substance that is based – partially at least – on historical practice. Efforts to escape the past are probably foolhardy and myopic, especially since so much of what we’ve tried to do is similar to what we want to do. Repackaging the work of community corrections (or restorative justice) with “new” brand names confuses rather than clarifies, and



*What Should I Put Here Russ???*

## Parallel Justice: A New Framework for Providing Justice for Crime Victims

by Susan Herman & Michelle Webster

Many victims of crime feel ignored, excluded, and profoundly disrespected by the criminal justice system. Opportunities to participate in the criminal justice process are narrowly defined and few. Victims' emotional, physical, and financial needs are rarely fully addressed, if they are addressed at all. We know that crime and victimization tear at the fabric of community life and can fuel conditions that create even more crime. From this perspective, helping victims repair the harm caused by crime is an important investment with wide-ranging benefits for victims as well as for families, communities, and society.

Traditionally, however, access to services and resources to help repair the harm of crime has not been viewed as a critical element of achieving justice for victims. Rather, justice for victims has commonly been viewed as meaningful participation in the criminal justice system and conviction of the offender. While these are important components of justice for victims, they present an incomplete vision of justice. Most victims never have a chance to participate in the criminal justice process because their offenders are never arrested or prosecuted. Furthermore, even if crime victims had every opportunity to participate and be heard in the criminal justice system, many would inevitably remain profoundly disappointed because the clear focus of the criminal justice system is on the offender and not the victim.

Parallel Justice, an initiative being implemented in three states by the National Crime Victim Center, elevates the goal of helping victims rebuild their lives to a fundamental component of justice. Parallel Justice requires us to decouple the pursuit of justice for victims from the administration of justice for offenders. When offenders are brought to the bar of justice, the state holds them accountable for harms suffered by individuals. A societal response says to the offender, "You violated the law, and we will hold you accountable, punish you if it is appropriate, isolate you if needed, and offer you services to help reintegrate you into the community."

Society should respond with equal force to

help the individuals who have been harmed—the victims of crime. Society's response to victims should extend well beyond honoring the right to participate in the criminal justice system. Under a system of Parallel Justice society would say to victims, "What happened to you is wrong, and we will help you rebuild your life." Justice for victims should start with a broad vision of what victims need to rebuild their lives.

### An Important Role for Government

From a victim's perspective, one of the reasons the traditional criminal justice system is inadequate is that it does not have authority to call upon the full range of resources necessary to meet the many needs of victims. Community organizations, friends, and neighbors attempt to fulfill some of these needs. In a system of Parallel Justice, however, there is also an active role for society at large, represented by the state, in repairing the harm. Only the government can marshal the many resources needed to address victims' long-term complicated problems, such as day care, employment counseling and training, substance abuse treatment, or housing needs. A governmental role in responding to all crime victims also conveys an important message. The government can speak on behalf of society at large when it acknowledges that what happened to the victim is wrong.

### Guiding Principles

Parallel Justice provides a framework for responding to crime with two separate parallel paths to justice—one for victims and one for offenders. For every reported crime, our society responds by trying to apprehend, prosecute, and eventually reintegrate the offender. With Parallel Justice, there would always be a distinct set of responses for the individuals who have been harmed by crime. Whether or not an offender is ever identified or convicted, communities would acknowledge and address the harm experienced by victims of crime. Honoring this separate societal obligation to victims is a critical part of providing a just response to crime. Several principles guide the implementation of Parallel Justice:

- *Safety is a priority.* When a crime is reported, in addition to traditional efforts to arrest and prosecute the offender, criminal justice agencies would make the safety of the victim a high priority.
- *Immediate support and assistance.* Every victim of crime would be offered

immediate support, compensation for their losses, and practical assistance.

- *Opportunity to be heard.* Victims would have an opportunity to explain what happened to them, the impact of the crime on their lives, and what resources they need to get their lives on track. This opportunity would be provided in a comfortable, non-adversarial setting. The administrator of this forum would acknowledge the harm done to victims and develop appropriate service plans to marshal government and community-based responses to meet their needs.
- *Service coordination.* Case managers would coordinate victim services and long-term assistance so that victims experience an efficient and comprehensive delivery of services.
- *Outreach to the community.* Creating the public will to support Parallel Justice requires building awareness about the impact of crime experienced by individual victims and how properly addressing those harms will improve community well-being.

### Parallel Justice in Action

Parallel Justice is catching hold. For the past year, the National Center for Victims of Crime has been working with three communities to test the feasibility of the Parallel Justice concept as a new paradigm for society's response to crime. These communities were selected for their experience in forging partnerships and developing multidisciplinary approaches to crime-related issues. They were also selected for the diversity in the type of lead agency that they bring to the project.

- Redlands, California (Redlands Police Department)
- Burlington, Vermont (Vermont Center for Crime Victim Services, a state agency)
- Winston-Salem, North Carolina (Center for Community Safety, Winston-Salem State University)

Each site has enlisted a broad network of participants, including prosecutors, law enforcement, victim advocates, community social and health service professionals, and community leaders and policymakers. Each site has established a multidisciplinary planning team and drafted a project plan. Teams are experimenting with a variety of approaches to re-orient their community's crime policy to be more responsive to

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VOM on Oprah

## Victim Offender Mediation Media Coverage Has Both Potential and Pitfalls

By Susan J. Szmania, Ph.D.

Restorative justice initiatives such as victim offender mediation (VOM) programs are currently enjoying increased national media attention. In the past year, several magazines and television and radio talk shows have devoted space to restorative justice programs. The journalist Jan Goodwin, for example, has published articles on victim offender mediation in the April 2004 issue of *O Magazine* and in the May 2004 issue of *Marie Claire* magazine. On television, coverage has appeared on *The Oprah Winfrey Show* in November 2004 and on *The Larry King Show* in January 2005. Online discussions have also been held, such as one on Oprah's discussion board (oprah.com).

For advocates of restorative justice, this national media attention is exciting. It not only raises public awareness about restorative justice, but it also opens doors for sources of much-needed funding for new and existing programs.

However, this increased media attention requires more scrutiny of how VOM is presented because of the misconceptions that may be inadvertently promoted through the media spotlight. To illustrate the potentials and pitfalls of media involvement in VOM, this article looks at three recent VOM television and online presentations. These sources include *The Oprah Winfrey Show* entitled "Coming Face to Face with Your Attacker" from October 25, 2004 on the topic of restorative justice, the *Oprah After the Show* program that subsequently aired the question and answer session following the main program on a cable television channel, and the oprah.com discussion board in response to the television show.

On her television show, Oprah interviewed three sets of guests who had taken part in some type of VOM program. Oprah's first guests were a grandmother, Linda, and daughter, Ami, who had participated in a mediated dialogue in Texas with Gary, the man who murdered Linda's daughter and Ami's mother. The second guests included a mother, Jackie, from Ohio who went through a VOM session with Lee, the man who killed her daughter in an automobile collision. The final segment of the show brought together Sue with Dale, the man hired to assassinate her in a murder-for-

hire case. The Resolve to Stop the Violence Program in San Francisco, California mediated this case.

The *Oprah After the Show* program was aired on a different television channel a few hours after the main program aired. It presented the thirty-minute question and answer session with the show's guests and audience. The online discussion board was posted on oprah.com one day before the show, and respondents posted for nearly a month after the *The Oprah Winfrey Show*. There were 106 posts to the board during that time.

This collection of media presentations points to several important issues about how VOM is presented to the public. I begin with a short review of the positive attributes of the media spotlight on VOM. Then, I will discuss potential pitfalls of media attention on VOM, including issues of closure, case suitability, and the naming of restorative justice programs.

By raising these issues, I hope to engage the VOM field in an examination of what we have achieved and suggest areas where we need to promote our programs more clearly.

### Potential Benefits

Overall, *The Oprah Winfrey Show* did an admirable job of presenting the general VOM process to the large national audience. Several scenes from a documentary film "Meeting with the Killer" were shown to give a visual of how the VOM process takes place. The audience saw how VOM participants go through a lengthy preparation process and how difficult the face-to-face meeting is for both the victims and the offenders. It was also made clear that the VOM process must be victim-initiated. Finally, Oprah discussed the need for offenders to be accountable, show victim empathy, and recognize the impact of their actions in their communities as well.

### Pitfalls

#### Closure

Victim advocates are careful about using the word "closure" when speaking about the VOM process. Closure connotes an end point, and, for many victims, closure is not what they are seeking. Yet, the issue of closure often comes up when discussing VOM. In fact, one of Oprah's first questions to her guests was about closure. Linda, whose daughter was raped and murdered, explained that she wanted the offender knew who she and her family were as people. She explained that she asked to take a picture with the offender in her mediation to humanize the process.

Another guest, Jackie, whose daughter was killed in an automobile collision, said that she felt like getting revenge for months after the crash. She even carried a gun around in her pocket to find the offender and "make his family hurt as much as (her) own." For Jackie, closure was far from her mind, but she eventually felt that the mediation session was an important step in allowing her family to resolve their anger, breathe a sigh of relief, and let the "dark cloud" hanging over the family disappear. Importantly, Jackie was able to ask Lee about her daughter's last moments alive during their face-to-face meeting.

Sue and Dale's relationship showed another outcome for a VOM session. After their mediation, Sue and Dale, who was released from prison after serving twelve years in prison for attempted murder, met each other and wanted to work for good. Together, they went to prisons to speak about the crime and how it affected their lives. They both gained a tremendous amount from visiting prisons together. When pushed by Oprah about the nature of their relationship now, Sue explained that they have established "a relationship based on a traumatic incident but we have a relationship that is very intimate."

These examples all show that closure is a term that restricts the enormous possibility of the VOM experience. For each victim and offender, the results are likely to be different. Some of the difference may have to do with whether or not the offender is still incarcerated. Some of the difference may have to do with the individual needs of the participants. In all cases, however, it is important for practitioners to stress that reaching closure is different for every person and may even change over time.

#### Case Suitability

Another issue raised by the *The Oprah Winfrey Show*, as well as several online posts on oprah.com, concerns the suitability of cases for the VOM process. This issue came up primarily in response to the case involving Jackie and Lee. This case involved Lee, an inexperienced truck driver, who hydroplaned and slammed into the car of Jackie's daughter, Nikki. Nikki was killed almost on impact. An investigation after the crash found that the tread on Lee's tires was below the legal limit. Several online posts reacted to this case by asking why it was part of VOM in the first place. Both Oprah and visitors to the online discussion board viewed the crash as an accident. As one post stated, "It was an accident, it isn't like some of the other instances. Lee did

## 2004 Mini-Grants Awarded

The 2004 Mini-Grants have been awarded to nine individual and organization members. Current and former board members Dale Landry, Annie Roberts, Sue Wiese, Jan Bellard, Sheri Gatts, Shadell Permamand, and Carolyn McLeod reviewed the proposals.

Each recipient will be asked to provide a summary of their project, agree to make a presentation at the next appropriate VOMA conference, and provide an article for the newsletter. If a product is being developed, it is expected that the product be made available at cost to VOMA members.

Congratulations to the following. We wish you success in your work.

### Category 1.

*Increase/expand VOM/RJ programs*

- \$2,000 to Westshore Dispute Resolution Center—Muskegon, Michigan
- \$2,000 to Community Mediation Services (RJ Coalition of Newfoundland and Labrador)—Canada
- \$2,000 to Wisconsin Community Services—Milwaukee, Wisconsin
- \$500 to Good Shepherd Mediation Program—Philadelphia, Pennsylvania

### Category 2.

*VOMA Training and Technical Assistance Program*

- \$2,500 to RJ Coordinator of MCC Canada in Winnipeg
- \$2,485 to Victim Offender Meeting program of Kittitas County in Ellensburg, Washington

### Category 4.

*Individual fellowships and research*

- \$2,000 to Susan Sharpe, Seattle, Washington
- \$1,515 to Howard Zehr, Harrisonburg, Virginia
- \$1,500 to Wanda Joseph, Brethren, Michigan

### Category 3.

*RFP's for national/international product(s) for VOMA*

No funds were awarded. An RFP will be issued for specific products.

*News from St. Paul*

## Recent Advances in VOMA Management Services

*by Dale R. Landry, Barbara Raye, and Leslie Young*

The last few months have been busy for us. But we are pleased to announce that the elections for new board members have been completed. We welcome Jane Riese (Region A) as a continuing member along with Kerry O'Donnell (Region A) and Sandra O'Brien (Region B) as new members. Additional appointments are still under consideration by the board and will be determined in the coming months.

We cannot welcome these new members, however, without thanking those who are going off the board. The past three years have seen significant transition in the environment in which VOMA operates. It has required a board committed to diversity and to hard work and decision-making. We didn't have a conference this year, so did not publicly thank those who have left or completed their terms. Leaving the board over the last several months have been: Jan Bellard, Hans Boserup, David Doerfler, Harley Eagle, Bruce Kittle, Annie Roberts, Shadell Permanand, and Drew Smith. Each brought wisdom and vision to VOMA. We appreciate their service and wish them well.

We would also like to take this opportunity to thank Shadell Permanand from the Conflict Mediation Services of Downsview, Toronto, and Carolyn McLeon of Maple Grove, Minnesota, for their recent kind donations.

The 2004 mini-grants have also been approved. We received ten applications in Category 1; seven in Category 2; zero in Category 3; and four in Category 4. Nine grants were awarded for a total of \$16,500.00. The remaining funds will be re-issued in an RFP for specific research-to-practice products that can serve the whole membership. Thanks to current and former board members Dale Landry, Annie Roberts, Sue Wiese, Jan Bellard, Sheri Gatts, Shadell Permamand, and Carolyn McLeod for reviewing the proposals. Thanks to all of you for the inspiring work you do every day in the field.

VOMA continues to work with a coalition of seven organizations (NAFCM, PeaceWeb, NCDD, PRASI, CRC, FOR, VOMA) to explore

projects in common. We have agreed to pursue four initiatives at this point: 1) the development of regional networks and training efforts, 2) a proposal to develop a template for a youth peace building conference that can be replicated throughout the country, 3) some shared marketing materials, and 4) a pre-conference session on the role that mediation (and our field) has in the area of social justice. Please look for expanded training efforts this year in collaboration with these groups.

We are also continuing to work with the National Coalition of Dispute Resolution Organizations (NCDRO). A new service this year will be the ability to monitor state and national legislation of interest to all of us. It is also exciting to see continued national media interest in restorative justice. It isn't yet clear if our process and values can be marketed as an entertaining television show, but we will see. The VOMA writing group has started working with PRASI to prepare reflective pieces regarding our practice by people with perspectives and experience that have not been included, historically, in discussions of restorative justice. They intend to offer a session at our annual conference in Philadelphia later this year. Thank you for all your help in responding to our listserv requests.

The board's focus is of continued value to VOMA's membership and the evolving direction of our organization. Thanks to Duane Ruth-Hefflebower for work improving our website. We encourage you all to visit if you haven't done so lately. Over the next few months we will complete a feasibility study, identify priorities for building more formalized structural alliances (or merger) with other organizations that share our mission, and prepare a business plan. We will be asking your input and advice on these matters and other ways to better meet the needs of VOMA members and the field as a whole.

Last but not least, we encourage you to make extra effort to attend the VOMA conference this year. We will benefit from being together, having important dialogue about the future, and enjoying the enriching program being developed by our Conference Committee (Doris Luther, Jane Riese, Andrea Verswijver, Bruce Kittle, and Lorraine Stutzman Amstutz, who is serving as conference coordinator). We thank them all in advance for their work and look forward to a wonderful conference.

Best wishes to all of you for a healthy and happy Spring. As always, we welcome your comments and suggestions.



Resources

## Resources for Restorative Justice

by Russ Immarigeon

### School-Based Restorative Justice

David Karp and Thom Allena have edited a valuable new collection of articles and case studies about the use of restorative justice at colleges across the country. In **Restorative Justice on the College Campus: Promoting Student Growth and Responsibility, and Reawakening the Spirit of Campus Community** (Charles C. Thomas, Publisher, \$48.95, 290 pages, 2004), Karp and Allena capture their experiences, as well as those of others, with the introduction of restorative justice techniques to address college campus disciplinary matters in upstate New York, New Mexico, and other locations. Karp, who teaches at Skidmore College in Saratoga and is the author of three books on community justice, and Allena, who is based in Taos, New Mexico where he teaches as well as consults about restorative justice, define restorative justice as an effort to establish offender accountability, victim and community reparation, and reduced risks of reoffense. In the first section of the book, articles provide an overview of the introduction of restorative justice to the college community and describe the strengths and weakness of contemporary campus judicial practices. The second part includes articles that describe integrity boards, restorative conferences, and mediation, while the third part covers a variety of campus issues, such as alcohol abuse, hate crimes, fraternity and sorority culture, and sexual victimization, and restorative responses to them.. Case studies are also given in each section that describe restorative processes undertaken in cases that involve such "offenses" include pellet guns, destruction of property, excessive drinking, plagiarizing, and illegal non-handicapped parking in handicapped parking spaces. In the final section, social worker Pat Oles describes the introduction, and the dilemmas, of restorative justice at Skidmore College. Overall, this volume is written by academics and practitioners who are clear-headed, practical, and insightful, with the meaningful ability not just to reflect on their work, but also to restrict critically and constructively on what is done well and what can be improved. *Copies are available from Charles C. Thomas, Publisher, Ltd., 2600*

*South First St., Springfield, IL 62704, (800) 258-8980.*

Another valuable volume on school-based restorative justice is Belinda Hopkins' **Just Schools: A Whole School Approach to Restorative Justice** (Jessica Kingsley Publishers, \$39.95, 208 pages, 2004). In this book, Hopkins advocates a five-step "whole school approach," which she believes can effectively change school-based behavior, including making schools safer, reducing exclusionary practices, creating a culture of inclusion, raising morale and self-esteem, increasing attendance, addressing bullying behavior, and even reducing staff turnover and burnout. Hopkins' five steps consist of owning and developing a restorative justice vision, establishing and developing a steering group, identifying and establishing a training team, developing and supporting the training team, and engaging in policy and organizational review. Hopkins, who is the Director and Lead Trainer of Transforming Conflict ([www.transformingconflict.org](http://www.transformingconflict.org)), a London-based center for restorative justice in education, also provides extensive demonstration and illustrative resources. *Copies are available from Jessica Kingsley Publishers, PO Box 960, Herndon, VA 20172-0960, (866) 416-1078; (website) [www.jkp.com](http://www.jkp.com).*

### Comparative Practices

Belgian law professor Lode Walgrave offers valuable insights into his development as an **International/ Comparative Criminology/ Criminal Justice**, edited by John Winterdyk and Liqun Cao (de Sitter Publications, \$49.95, 2004). Walgrave's essay also focuses on interesting comparisons between the use of restorative justice (and other interventions or penalties) in civil law versus common law countries. In the former, such as Belgium and other European nations, government (or "the State") is seen as more representative of its citizens advocate of restorative justice in an autobiographical essay published in **Lessons from** (or the community) than in the latter, such as the United States, where skepticism about government rules supreme. Walgrave makes some mistakes. He equates the contributions and influence of Aboriginal or Native peoples in Australia, Canada, New Zealand, and the United States on the growth and development of restorative justice in respective nations, for instance, whereas the truth, I believe, is more imbalanced, with Maori contribution in New Zealand, for example, being much

more influential than Native American contributions in the United States. These imbalances, I suggest, are reflections of the colonial, political, and repressive histories of each country. Still, Walgrave makes the important point that restorative justice is practiced differently, and that we should be at least marginally skeptical of superficial similarities (and even differences) about the practice of restorative justice in individual countries. As Walgrave observes, "(L)ocal judicial and socio-cultural contexts largely determine the diversity in how a common theoretical and socio-ethical view on RJ is made concrete in practice." *Copies are available from International Specialized Book services, Inc., 920 NE 58<sup>th</sup> Ave., Suite 300, Portland, OR 97213-3786, (503) 287-3093.*

Singapore makes widespread use of restorative justice in its treatment of juvenile offenders. In **Rebuilding Lives, Restoring Relationships: Juvenile Justice and the Community** (Eastern Universities Press, \$39.00, 419 pages, 2003), Singapore judges Richard Magnus, Lim Hiji Min, May Lucia Mesensas, and Valerie Thean have edited a strong collection of practitioner and consumer perspectives, along with a small but solid group of academic essays, that highlights international uses of restorative justice practice. The academic articles, in the last part of this volume, offers three excellent surveys of juvenile offender-oriented practice: Chief District Judge D.J. Carruthers compares juvenile offender-oriented restorative justice practices in Singapore with those practiced in his homeland of New Zealand; Irish jurist Dr. Willie McCarney, who is associated with the International Association of Youth and Family Judges and Magistrates, reports on international approaches to restorative justice, including those in Australia, Canada, France, New Zealand, Northern Ireland, the United Kingdom, and the United States; and Dr. David M. Altschuler of Johns Hopkins University examines American use of intermediate sanctions and community interventions for juvenile offenders. Several appendices list extensive resources for Singapore-based services. Judge Carruthers concludes, "At the present time we are full of hope and optimism, but it seems to me to be an important message from our experience to say that family Group Conferences simply on their own, whilst useful, important, reconciling, and possessed of their own strength and dynamics, also need

### Resources

*Continues on next page*



# Resources

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an enormous amount of preparation, work, and linking with the community to be fully effective." In the earlier sections of this volume, the editors focus on the actual practice and impact of restorative justice in Singapore, with reports about juvenile and family courts, case law and case studies, and restorative and community interventions. This volume, which is a joint project of the Subordinate Courts and the Ministry of Community Development and Sports, includes many descriptive and insightful statements from agency managers, magistrates, governmental officials, court workers, teachers, aftercare officers and, most importantly, young offenders. These reports cover both juvenile justice and child protection services. *Copies are available from International Specialized Book services, Inc., 920 NE 58<sup>th</sup> Ave., Suite 300, Portland, OR 97213-3786, (503) 287-3093.*

Meanwhile, the European Forum for Victim-Offender Mediation and Restorative Justice has just issued a useful report that chronicles and assesses the growth of restorative justice throughout Europe. In **Mapping Restorative Justice: Developments in 25 European Countries**, British law professor David Miers and Forum coordinator Jolien Willemsens have updated and expanded a 2001 report Miers prepared with Home Office funding. The earlier report covered 19 European countries, which the current one covers 25. In each country section,

## Conflict resolution, mediation and restorative justice

The Fall-Winter 2004 issue of **Conflict Resolution Quarterly** (Vol. 22, Nos. 1-2) is a special issue on "Conflict Resolution in the Field: Assessing the Past, Charting the Future" that contains 15 articles and commentaries. This issue, which is published for the Association for Conflict Resolution, comes at a time when the William and Flora Hewlett Foundation is ending its funding of conflict resolution and mediation projects and organizations. The issue reports and critiques research in seven fields: family mediation, court-connected mediation, community mediation, employment dispute resolution, environmental conflict resolution, conflict resolution education, and mediation and restorative justice. Of particular note, Mark Umbreit, Robert Coates, and Betty Vos of the University of Minnesota's Center for restorative Justice & Peacemaking review

the victim-offender mediation research, especially those (largely positive) findings related to victim-offender mediation program characteristics, participant characteristics, participant satisfaction, fairness, restitution, diversion, recidivism, costs, and meta-analyses. Umbriet, Coates and Vos conclude that victim-offender mediation increases victim healing, offender responsibility for their behavior, and community participation in "shaping a just response to law violation." Howard Zehr comments on this article, placing restorative justice as a further evolution of victim-offender mediation. For Zehr, who teaches at Eastern Mennonite University, restorative justice provides "a conflict transformation approach that allows wrongdoing to be named and addressed and provides a concept of justice appropriate to this interaction." He argues that we need to avoid dividing the world into individual and distinct spheres with separate languages and practices. "To learn from each other," he concludes, "we will have to develop a common language or at least find ways to understand one another's language." *Copies of this issue are available for \$40.00, plus \$5.00 shipping and handling, from Jossey Bass, 989 Market St., San Francisco, CA 94103-1741, (888) 378-2537, (website) [www.josseybass.com](http://www.josseybass.com).*

## Offender Reentry

Offender reentry, thanks to governmental overuse of imprisonment as social policy, is an even hotter topic these days than restorative justice. Advocates have long argued about the financial and other consequences of overusing incarceration as a criminal sanction. Largely, however, to deaf ears. But the chickens have come home to roost and states are now scurrying about looking for ways to reduce prison population *to save taxpayer dollars*. So much for principled practices! In **When Prisoners Return: Why We Should Care and How You and Your Church Can Help** (Prison Fellowship, \$9.95, 143 pages, 2004), Justice Fellowship President Pat Nolan, a former prisoner himself, offers some helpful, practical ideas about how to make this situation work for people and their communities. Nolan's Christ-centered approach overemphasizes the "moral nature" of criminal offending, but it does not neglect the importance of jobs, health care (including addiction treatment), and economy. Also importantly, Nolan places emphasis on community life and resources. Moreover, he recognizes the importance of routine advocacy work that ties problems

such as criminality and its consequences to the ability of local resources to effectively address these matters. Restorative justice, he says, plays a vital role in offender reentry. At least one-half of the book consists of useful and various resources in communities around the United States. *Copies are available from {Prison fellowship, PO Box 1550, Merrifield, VA 22116-1550, (703) 478-0100, (website) [www.prisonfellowship.org](http://www.prisonfellowship.org).*

*VOMA members and readers of this publication are urged, where possible, to order these and other restorative justice resources through the amazon.com link available on the VOMA website at [www.voma.org](http://www.voma.org). Items purchased in this manner return a small percentage to support VOMA's work.*

## News from St Paul

## VOMA Conference

Plans are well under way for the 21<sup>st</sup> annual VOMA conference to be held in Philadelphia, Pennsylvania, October 24-28, 2005. We are looking forward to a broad spectrum of trainings on Monday through Wednesday that include basic training in victim offender mediation/conferencing, implementing restorative processes in schools, dialogues in crimes of severe violence, mediating parent-teen conflicts, and addressing sexual abuse restoratively to name a few.

The conference portion of our week together will begin on Wednesday morning with the long-anticipated documentary on Crimes of Severe Violence in Pennsylvania by independent producer/director Rachel Libert followed by over 30 workshops that will run through Friday at noon. These workshops include issues in starting a community mediation/victim offender program, challenges of the traditional practice of law in cooperation with the mediation process, fairness in mediation, foundational restorative justice values and philosophies, dialogues in prison settings, practitioners of color exploring what they bring to the process, issues in re-entry, collaborating with victim services, and many others.

We especially look forward to national collaborative efforts with organizations such as NAFCM, PRASI, PeaceWeb, NCDD, CRC and FOR to co-sponsor training and workshops at this year's conference.

**RJ History**

*Continued from previous page*

in the fog of confusion much of value gets lost in the mist.

As restorative justice ages, I think the heart of its substance may separate into functions as disparate as rehabilitation or victim services. Serving victims and offenders together has certain merits, but rigid, ideological insistence on their “togetherness” disallows necessarily distinct options that can fruitfully be provided both of them, separately and deservedly.

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**VOM Media Coverage**

*Continued from previous page*

not go out looking to do this.”

In VOM cases of severe violence like the ones presented on Oprah, the issue of suitability is one that must be confronted. The distinction between “premeditated” murder and “accident” is one that strikes a chord for many people. VOM practitioners may intuitively feel that such a distinction is unnecessary because victims and offenders are ultimately the people who decide on issues of suitability. However, public reaction to cases like Lee's is overwhelming. Even those who question suitability of questionable cases respect the needs of those involved. As the online post about this case concludes, “If (VOM) helps both of the families involved, then it is worth it.”

**Name**

As initiatives based on concepts of restorative justice continue to grow, advocates in the field must begin to pay closer attention to the language used to name programs. Throughout her television show, Oprah referred to the VOM programs with the blanket term “restorative justice.” It was not until the *Oprah After the Show* discussion that Ellen Halbert, a VOM mediator and victims' advocate from Austin, Texas, explained that restorative justice is an “umbrella term” for many processes, including family group conferencing, victim impact statements, and VOM.

Throughout the country, programs based on restorative justice have different names. In Texas, for example, the statewide VOM program for crimes of severe violence adds the word “dialogue” to the VOM name. Other programs, like one in Milwaukee County for nonviolent offenses, use words like “community conference.” Each program, depending on community needs, should be expected to show some differentiation between terms used in their titles.

**Parallel Justice**

*Continued from page 5*  
crime victims' needs.

The Parallel Justice concept offers a new framework for thinking about what it means to achieve justice for crime victims. Lessons learned from this experimentation will be shared with other communities. Given the power of the concept and the commitment of the participants, the project brings us one step closer to a better life for victims of crime.

*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,*

Despite name differences, however, it should be noted that words like “dialogue” or “conference” highlight the centrality of communication in restorative justice mediation.

These naming differences point out the need for more study of the VOM process. New research is needed to examine the communication that occurs during VOM sessions. Currently, most existing VOM research focuses on the preparation and impact of the programs. This existing work, while important and necessary, must be expanded beyond these basic evaluations. Analysis of what happens during VOM sessions is vitally needed for training and preparation. Although obtaining access to VOM videotapes presents some research challenges and confidentiality concerns, there are many important insights to be gained from such work.

**Conclusion**

This is a pivotal time for restorative justice work and more importantly for VOM advocates. We have the opportunity to speak about our programs to a public that seems willing and ready to listen to us. We should seize the momentum from this increased media attention to shape policy and procedures for VOM programs. At the same time, we must be vigilant to the ways our work is portrayed by the media. There are many pitfalls to increased media exposure for any organization or program, especially when sensitive topics are involved. However, there are many ways we can turn such pitfalls into transformative potentials. Certainly, VOMA members and supporters are equipped to handle such a task.

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*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 NCVC 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](http://www.ncvc.org).*

**Community Involvement**  
*Continued from page 1*

house owners who rent rooms, employers who provide jobs, teachers who accept difficult children into their class, foster parents, and people in NGOs who take the trouble to arrange for offenders to do work for them as part of their reparation. There is sometimes a fear that 'do-it-yourself' justice will involve vigilantes or even lynch mobs; restorative justice, however, offers another form of public participation, based on the ideal of repair, supported and supervised but not controlled by the state. The state system of criminal justice remains available for cases where for any reason restorative processes cannot be used or are not sufficient, but the hope is that it too will increasingly operate as far as possible on restorative principles.

This paper is written from an English perspective. Conditions are obviously different in different countries, so readers will have to translate the ideas (as well as perhaps the language!) to see whether they apply elsewhere. The survey which will be described later tries to make a start towards finding out the situation in several countries; but it gives only a rough sketch of the differences, and not the reasons for the differences. That will have to wait for more detailed research.

**A model of community-based restorative justice**

It has been pointed out that there are differences between restorative justice and community justice. Restorative justice is primarily reactive, and tends to deal with individual cases; community justice looks not only at the wider effects of the crime after it has been committed, but also at the social pressures which lead people to commit crime. Its advocates would also maintain, however, that social reforms should be introduced because they improve everyone's quality of life, and not merely because they may reduce crime (Crawford and Clear 2001). This paper considers the idea that the advantages of restorative justice are even greater if it is also community-based (or 'democratic', as defined by Wright 2000), that is, if there is a considerable amount of involvement of members of the public. But it recognizes that there are limits to this, and some difficulties of principle, as well as practical ones of putting it into effect.

**The indicative survey: the concepts behind the questions**

This section outlines some characteristics of community-based restorative justice, and describes a small survey to give a preliminary indication of the extent of community involvement in Europe. Then, after a note on the limitations of the survey, we will present a brief summary of the findings. The outline is over-simplified for clarity of presentation; obviously many of the statements need qualification.

(1) It would start in schools: children would be shown how to resolve conflicts in a problem-solving way using peer mediation, showing respect for each other, and focusing not on blame but on finding a constructive way forward. One question in the survey asks, without going into detail, whether each country has begun to introduce these ideas.

(2) With regard to crime, a restorative approach would begin by showing concern for victims. Some victim support organizations have expressed concern that victim/offender mediation could absorb disproportionate resources, leaving too little for the majority whose offenders are not caught. The next question therefore asks whether there are services for victims.

(3) Then, a question must be asked about services for offenders, because assistance to offenders is nearer to the 'restorative' end of the spectrum than to the 'punitive' end.

(4) The next question concerns community (neighbourhood) mediation. Although this is primarily concerned with civil disputes such as conflicts between neighbours, it has a crime preventive aspect, because it may prevent some disputes from escalating into a crime. Unresolved neighbour disputes in England in recent years have sometimes led to property damage, violence and even death. In June 2003 for example one man shot and killed his neighbour after a two-year dispute over a hedge between their gardens, and other similar cases have ended in prison sentences, and in death through a heart attack (*Independent*, 16 June, *Independent Review* 25 June 2003). Even when a crime has been committed, it is possible for the disputants to refer their case to a community mediation centre rather than to the police; or the police may recommend them to do so. When there is serious violence or murder, of course, any such resolution through mediation will have to be in

addition to, not instead of, the normal legal process.

(5) This brings us to mediation specifically linked to crimes: victim/offender mediation. In addition to the questions about whether services are operated by NGOs or the state, and by volunteers or employees, we asked whether the services are available for all offenders or for juveniles only. The restorative ideal should be concerned with victims as much as with offenders; therefore, those which are available only for young offenders, and thus exclude victims whose offenders happen to be over the age of 18, are not fully restorative.

(6) A development of the idea of victim/offender mediation is conferencing: it is similar, but the family (preferably including the extended family) and supporters of the offender and victim are also present. The idea is that with more people taking part, the group dynamics will produce more ideas for resolving the situation, and often offers of help for the person concerned in fulfilling his promise to make reparation and in making a new start. Since it involves more people, this is one step closer to the idea of community-based mediation. A similar group of questions was therefore asked about this.

(7) When a case goes to court, because it cannot be resolved by a restorative process, or is too serious to be left to that process alone, there would have to be sanctions, but they would be restorative ones, using community service wherever possible. We asked:

(a) Whether this is used more, or less, restoratively. It is more restorative if it is regarded primarily as reparation, making amends to the community; less so if it is seen mainly as punishment (as in England, where 'community service' was re-named 'community punishment' in Criminal Justice and Court Services Act 2000, although this is expected to be reversed after opposition from the probation service). With regard to the reintegrative ideal of R J, we asked three more questions:

(b) Do offenders meet the people who benefit from their community service? It is assumed to be more restorative if, for example, they are assisting wheelchair users or the residents of an old people's home which they are decorat-



**Community Involvement***Continued from previous page*

ing, than if they are merely picking up litter, cleaning graffiti or mowing the hospital lawn – although in those cases too, it would be beneficial if local residents or patients were to meet them afterwards.

(c) Do offenders work side-by-side with ordinary volunteers? This is reintegrative because it shows them that many people give their own time to help others, and allows informal contact between offenders and members of the public who are not offenders (or not currently). Failing that, they can work alongside staff. These were the ideals of the probation service when community service was first introduced in England; at the other end of the spectrum are what probation officers called 'chain gangs' – the chains are only metaphorical, but the offenders work in groups, with an overseer rather than a person sharing the work. Even punishment can be reintegrative when it is shared, as was shown by the governor of an English Borstal (young offenders institution), Sir Almeric Rich, in the 1930s, who would carry out the punishment, picking up stones from the fields, alongside the young man on whom he has imposed it (Wright 1983), to show that he shared responsibility for their misbehaviour.

(d) The last question on community service asks whether the offender receives any official thanks, or a certificate, when he has completed the work. This is a sign that the work is appreciated: it was imposed not because it was unpleasant, but because it was valued. Some young people even use their certificate when applying for jobs: it may be the only evidence they have of achievement.

(8) A good programme includes follow-up, a few weeks after mediation has taken place. This has two functions. It shows the participants that the programme is concerned about their future welfare, and does not lose interest in them. It is also a method of data collection for purposes of quality control; although it is not practicable to ask a large number of detailed questions, it gives people a chance to express their feelings and opinions.

In some cases we hope that a question about a particular practice may prompt

people to consider introducing it if they have not already done so.

**Community involvement**

In each case, in accordance with the communitarian ideal, we asked whether the services are operated by NGOs or the state, or both, and secondly who does the work.

(1) The most communitarian method uses volunteers, often 'ordinary' people with full-time jobs who offer some of their spare time, or those who are retired or unemployed. They undergo training, and are usually supported and supervised by full-time professionals. This is what Aertsen and Peters (2003) call "l'approche bottom up de la justice restauratrice"

(2) 'Lay workers' or 'lay mediators' in this paper means the same kinds of people as those who become volunteers, but unlike volunteers they are paid a fee for each case.

(3) Thirdly, there are full-time employees of NGOs. They often have professional qualifications, and are thus different from the volunteers and lay workers, but they are in touch with the community through the management of the NGO, which often includes volunteers in the above sense. Some NGO committees, however, are partly or mainly composed of state employees. Local NGOs can be members of a national one, called in England an 'umbrella body'; this develops the ethos of the work, and may have a system of accreditation to maintain the standards of the work done by local members.

(4) State employees are the fourth category. In this survey we did not distinguish between those who work for local or national agencies, nor between those who are employed full time for the task in question, and those who are for example police or probation officers and spend only part of their time on this task. There is a danger that in the latter case they may not use mediation in all suitable cases, because of the pressures of their primary work, and that the ethos of their main job may sometimes take precedence over that of restorative justice.

**Limitations of the survey**

The survey makes no claim to the title of 'research'; we have called it an 'indicative survey'. It had its origin in a paper on 'Restorative justice outside the criminal justice system: How far have we come?',

which I presented to a conference of the European Forum for Victim/Offender Mediation and Restorative Justice in Oostende in October 2002. As a small beginning towards answering this question, the Secretariat of the European Forum distributed a questionnaire to participants. To increase the number of replies, Orlane Foucault kindly helped by approaching contact persons in other countries in which there are members of the Forum; she also analysed the replies and contributed to the comments on the findings. Replies were received from fifteen countries: Albania, Austria, Bulgaria, Czech Republic, Denmark, England and Wales, Estonia, Germany, Hungary, Iceland, Israel, Luxembourg, Portugal, Sweden and Switzerland. These countries are not necessarily representative; for example, no reply was received from Norway, which has been in the forefront of community-based mediation using volunteers for a decade. We were encouraged by the optimism of one country, which indicated that it has 'future plans' for all forms of mediation.

So as not to cause 'questionnaire fatigue', the questions were designed to be answered quickly, without giving exact figures; for example, it asked questions such as 'Is this service available in a few areas, in many areas or nationwide?' The questions required 'Yes/No' answers, although some respondents took the trouble to give more information. It should therefore be borne in mind that, for example, two NGOs in Iceland might serve the same proportion of the population as fifteen in Germany. The questionnaire was kept short; for example there were no questions about 'equal opportunities': the involvement of all sections of the community by offering training to mediators without previous paper qualifications, and by recruiting mediators from all ethnic and linguistic groups.

*We are grateful to all the respondents for their time; but because they were only asked for approximate answers, we will not identify the individual countries or respondents. An indication of the approximate nature of the survey is that from one country, two people answered, and their answers were not always the same! (In such cases we generally used the more inclusive answer: for example, if one said there were state services and the other said there were NGOs, we counted both.) Thus the answers received can be subjective: the respondents have answered on*

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*the basis of their personal knowledge, but without further research they cannot know the whole system existing in their country.*

No attempt was made to restrict respondents to precise definitions of terms such as non-governmental organization (NGO). In some countries, such as France, 'NGO' means some associations with a certain recognition at a national or international level; whereas in other countries every kind of local association can be seen as a NGO. In some cases much voluntary work is organized through NGOs, in others much of it is done by individuals on their own initiative. It is likely that some other concepts, used in the research, could have different meanings according to the countries, and these need to be explored in a more comprehensive survey.

## Findings

On each of these dimensions, how widespread were restorative practices in each of the 15 countries that responded, and how much community involvement did the survey find – bearing in mind its very tentative nature?

### (1) Schools

The use of peer mediation by its nature has high community involvement, since it has no contact with the criminal justice system except in the most serious cases; it also has a high level of restorativeness. We found that it is used in 11 of the fifteen countries, but in only 4 was it at all widespread – the others had just a few projects.

### (2) Services for victims

These are moderately restorative, since they assist the recovery of victims but do not involve dialogue with offenders. They are found in all 15 countries, and are nationwide in 10 of them. As regards community involvement, there are victim support NGOs in all of them, and 11 have state support as well (though in one country this was limited to compensation for criminal injuries, and in another it was described as 'dysfunctional'. Eleven countries use individual volunteers, and three more, paid lay workers. Most (12) have full-time NGO employees as well, but only 8 have state workers.

### (3) Services for offenders

These are also only moderately restorative, because they involve no dialogue with

victims nor reparation. They are found in all the countries; in all but one of them they are nationwide. Most countries have both state and NGO services. Eleven countries use individual volunteers, 10 have full-time NGO workers and 14, state workers.

### (4) Community mediation

This is highly restorative, because by definition the parties speak to each other (or at least communicate indirectly). It is not so widespread as the services for victims and offenders, being in only 8 countries, and nationwide in only 3 of them. They all have NGOs, and 4 of them have state involvement as well. Five of them use volunteers, and 6 have NGO workers. All have the possibility of people referring themselves 'for disputes which are not criminal, or do not have to be treated as criminal'.

### (5) Victim/offender mediation

This is available in 13 of the countries, but nationwide in only 5 of them. Seven have services in only a few areas. In ten of the countries the services are delivered by NGOs, most of them (6) with state agencies as well. Volunteers are used in 6 countries, overlapping with 8 that use lay workers. The process is inherently restorative, but should be available to all victims, so we asked in which countries the service was limited to juvenile offenders and their victims, or to adults. The answer was that 2 countries had services for juveniles only, 2 for adults only, and 10 for both – but this may conceal that within those countries some of the local services may be more restricted.

### (6) Victim/offender conferences, family group conferences

This can be a highly restorative process, because of the extensive involvement of the community, but it has hardly begun in the countries studied. Only 2 say that they have introduced it, one nationwide, one in a few areas; two have experimental projects, and in two more conferencing is done occasionally, for example by social services. Two involve the community even more by using volunteers. Only one offered the service to both adults and juveniles.

### (7) Community service

This is available in 13 of the countries. No question were asked about the process, although community service could be regarded as more restorative if agreed by the victim and the offender rather than imposed by a court. Here the focus of the

questions was on whether it is perceived as a restorative measure or was regarded primarily as a punishment. This question was posed directly; only one country said that it was seen purely as reparative, four saw it as combining reparation and punishment, but the majority (8) regarded it as a form of punishment. Further questions explored ways in which the community service might be felt to be more restorative, inclusive or reintegrating.

Do the offenders meet the people who are benefiting by their work? In 5 countries they do, and in four more 'sometimes'. The other 4 said 'No'. Another aspect of inclusiveness is whether the offenders work in a separate group, or with members of the community who are helping with the task voluntarily, or with members of staff. Five work alongside volunteers, and 11 with staff – although the question did not make clear whether this meant that the staff were doing the work as well, or merely supervising the offenders. Another sign that the work is seen as reintegrative is that the offender receives some form of thanks after completing it. This happens in 5 countries, one of which issues a certificate; 9 countries said No, one of them suggesting that this is seen as inappropriate for a punishment.

### (8) Follow-up of victims

Finally, a way of showing that the service is focused on the wellbeing of victims as well as of offenders is by a follow-up contact to ask how they feel about the process. This is also of course a method of quality control. Only 4 countries have routine follow-up of victims (we did not ask about the results of the follow-up); in 9 countries there is none, although one mentioned scientific evaluation programmes.

## Making community-based restorative justice work

The survey showed that both NGOs and volunteers are active in many countries, assisting victims or offenders and providing mediation. The idea has attractive features, but it is not always easy to put into practice. There are both theoretical and practical considerations.

We will consider *organized* voluntary activity; there are also, and we hope there always will be, individual people of good will who assist victims, offenders and other people in need without using the label

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'volunteers'. But victim/offender mediation by its nature does need to be organized, both to bring victims and offenders together and to liaise with the criminal justice system. It can be organized entirely by the state, with full-time professional state employees; but since the ideal of restorative justice is to enable the individuals affected by the crime, or harmful act, to take a personal part in resolving it, it is consistent with that philosophy to see whether members of the community can also take an active part in facilitating the process. This section will consider some aspects of involving the community: individual volunteers, problems with volunteers, paid lay workers, independence of NGOs, and funding.

*Individual volunteers*

The use of volunteers has many advantages. They can be drawn from all sections of the community, and not only the university-educated middle class. They can come from municipal housing, from manual jobs, from minority ethnic groups and people with disabilities. It may be questioned whether they are *representative* of these groups (Crawford and Clear 2001); but an election would be very complex to organize, and would probably produce only a low number of votes. In any case, the people who are good at getting elected are not necessarily those with the qualities to make a good mediator. If there is no voting procedure, they will be self-selected, and care needs to be taken in the recruitment and training of volunteers to draw them in from as wide a range of people as possible; assessment would come at the end of the training course. Since volunteers are often people with full-time jobs, they are available in the evening and at weekends, which are the times likely to be most convenient to victims (and to offenders if they have jobs); but it is desirable to have some volunteers who are free during the day (self-employed, unemployed or retired), because some victims are on shift work, or do not want to go out after dark.

Experience has shown that volunteers with basic training, including role-plays, can have a sound understanding of the principles and techniques of mediation. They can work in a professional way, and because there are no staff costs, it is practicable to mediate in pairs. This makes it possible to have an evaluation at the end of each session; part of the training includes learning how to give and receive constructive criticism. Trenzcek and

colleagues (2003) refer to the advantages of using people from different social groups, and point out that the use of two mediators (co-mediation), which is desirable for reasons of quality assurance, is costly without the use of volunteers. One experienced organizer, however, says that in the large conurbation of the West Midlands, in England, 1800 victims were contacted in one year, and she doubted whether this would have been possible using only volunteers (Tudor 2003).

In the community mediation service where I am a volunteer and member of the management committee, a third volunteer is present at mediations. He or she is also a trained mediator, but acts as 'receptionist', greeting the parties when they arrive and keeping them apart until they come together in the mediation room; he or she also offers refreshments at the beginning and sometimes at the end while the agreement is being written, and deals with any other unforeseen events, such as looking after a child which one of the parties has unexpectedly brought to the meeting. The receptionist takes no part in the actual mediation, but contributes to the mediators' evaluation afterwards as a detached observer. At least one service uses a different model of co-mediation, with one staff member and one volunteer; when volunteers have acquired some experience, they may consider making a career change and applying for a job as a full-time mediator or administrator.

*Problems with volunteers*

Turning to the question of organization, it has to be said that there are difficulties in organizing volunteers. Many of them lead active lives and have only limited availability, some do not always return telephone messages. Ideally the government would legislate to require employers to allow employees a certain amount of time off for work of this kind, just as (in England) they are allowed time to serve on juries or in the Territorial Army (military reservists) and sometimes to act as lay magistrates. A few large companies have schemes in which they second a member of staff to an NGO for a year or so, to gain wider experience. A government which really wanted to promote volunteering would shorten the working week, as was done in France recently for other reasons; and it would *reduce* the normal age of retirement from full-time work, not increase it, as has recently been discussed in Germany and the United Kingdom. Even if hours were not shortened, it would be helpful to allow flexible hours, which would be popular with

many workers (*Guardian*, 2 January 2003).

I must admit that one NGO with which I am involved is currently having difficulties, both in finding enough volunteer mediators who are willing and able to give enough time, and in finding people to serve on the management committee. And this in a country with a strong tradition of voluntary activity. The difficulty of finding time is one reason for employing lay helpers or sessional workers, who are, as explained above, from similar backgrounds to those of volunteers, but are paid for visits and mediations. Another reason is 'equal opportunities': it is a principle of mediation that no one should be prevented from helping by their personal circumstances. It is normal for mediation services to pay volunteers' expenses for travelling, child care and so on; those with low incomes may not be able to afford the time at all, for example if mediating prevents them from working overtime. Payment of a fee may thus make it possible for them to act as mediators.

*Paid lay mediators*

Part of the ideal of RJ is involving 'ordinary' people from all sections of society. This is more likely to be achieved if there are no prior entry qualifications for training courses; there will of course be assessment at the end, and some self-selection may take place during the course. There are practical difficulties, such as those mentioned above; also some people say that mediators are better motivated if they are paid (for example to be reliable in doing what they undertook to do, and attending in-service training to keep their skills up-to-date). On the other hand, if the mediators are attracted by the fees into mediating almost full-time, will they no longer be 'typical' members of the community but quasi-professionals, and even compete with one another to get more cases?

Also, although volunteers can work very competently, there may be cases of unusual complexity or duration for which salaried staff are necessary. An intermediate position is taken by Austria, where probation officers are trained as mediators, but they work only as mediators, not as probation officers. They have of course originally been trained in the probation service, so they are likely to have absorbed its values; but we can never eradicate every influence on the mediators - all will bring some previous attitudes with them,

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because of their gender, age, ethnicity, occupation, and so on.

Perhaps a tradition of voluntary activity is actually a need to involve people in a process of community involvement. Even in countries where it is not so strong, this is a culture that can be raised with information, experience and political encouragement.

But we must be aware that it would take a long time, since mentalities are not so easy to change! There may be advantages in the practice in some services in Belgium, where mediation is carried out by NGOs but also by professionals employed by the local municipalities. It is a way of involving the inhabitants who pay for such a service by their taxes, and a kind of community involvement with safeguards. Although they are working outside the penal system, their relations with it can be facilitated by the cooperation between police and local authorities, for example.

In many ways the idea of members of the community helping each other voluntarily is an attractive one, which may produce a special relationship with the people to whom the service is offered. (This is what Victim Support, in the United Kingdom, believes.) However, perhaps a real community involvement is somewhat utopian because of all the practical difficulties. For the moment, we need to go "slowly but surely", just as other RJ practitioners have done to enter the criminal justice system. In short, we could say that there are pro's and cons for different methods, and people in each country will have to consider which is best in their circumstances.

### Independence of NGOs

We would argue that it is preferable that mediation should be run by an organization which is primarily concerned with mediation, and not with offenders, victims, or criminal justice, as a guarantee against the pressures and priorities of the criminal justice system. It could deal with a broader range of case, including civil disputes, than just the ones implied in the judicial system. We also think it is preferable, if paid staff act as mediators, that they should be primarily mediators (police, probation officers and so on may mediate, but there is a risk that their professional ethos will outweigh that of mediation). There seems to be general agreement that the same individual should not act in two different capacities in the same case. Local media-

tion services, and individual mediators, can be encouraged to become members of a national 'umbrella body', which will offer training and support.

### Funding

Even if volunteers work at a low cost, governments should not think that they provide a service at no cost. Volunteers have to be recruited, trained, supervised and supported. Quality assurance is necessary, but takes time and money: there is a tendency for the process of assessment and accreditation to be bureaucratized, which may entail a burdensome amount of record keeping. In a service which is accountable to the criminal justice system, that too will require efficient record-keeping – in addition to the work of maintaining the liaison, explaining restorative justice to new judges, prosecutors and probation officers, and so on. A local NGO is often a member of a national 'umbrella body', and it takes time to maintain this relationship – possibly by taking part in courses and conferences or its governing body. All this requires adequate levels of staffing.

How is this to be paid for? Some NGOs receive money from charitable trusts, especially when they are being established; but for running costs they usually have to look for funding from local or national government agencies. If a government believes in the involvement of active citizens in work such as mediation, it needs to make sure that they can spend most of their time in doing the work and maintaining standards, and not making incessant applications to meet the criteria of the latest headline-catching government initiative. Nor is it desirable to obtain all the funding from one source; it could dry up as a result of a change of government policy. Moreover, one of the advantages of NGOs is their freedom to experiment, and funding which was provided for only one narrowly defined purpose could limit this creativity. On the other hand, government funding can be a helpful discipline, if it makes sure, without excessive bureaucracy, that adequate standards of service are maintained.

Funding can also be a partial answer to the question of representativeness. If the government takes the pressure off by providing most of the funding – including the salaries, which are the largest single cost in organizations of this kind – then the NGO has to find the remainder, from local authorities, criminal justice agencies, charitable trusts, donations from churches

and from businesses, collections at public meetings, and whatever fund-raising methods are popular in the country concerned. In order to ask for financial support, the organization has to undertake publicity to explain its work and answer questions – in other words to be answerable.

### Conclusion

This survey may indicate that in some countries the tradition of volunteering is not so strong; however, people may do voluntary work without attaching that label to it, for example by looking after an elderly relative or a child; or they may not be able to volunteer because in order to earn a living they have to work long hours, or spend time to save money (by shopping around for bargains, or repairing their homes for example). Volunteering necessitates a lot of energy, time and "don de soi", or altruism.

Maybe we should have a new way of making international comparisons. Instead of comparing the Gross Domestic Product, average incomes, car ownership and so on, perhaps we should use surveys or censuses to look at how many people have enough spare time for voluntary activity for the community, and how much they contribute to support it financially – either through direct giving or through taxation. This would include not only social welfare, but arts, sports and other community activities. We might speculate that countries that scored highly on these criteria would be fairer and have less crime.

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