

Title: Strategies to Promote the Social Movement of Restorative Justice (RJ) in Corrections

Contribution to the Restorative Practices International Inaugural Conference Twin Waters Towers Resort Sunshine Coast 16-19 October 2007.

1 Introduction

Welcome to this 45 minute presentation which is based upon the theme of this conference which is “best practice in restorative justice –aiming for transformational change”. I am not sure if I know yet what best practice is in restorative justice or whether I have experienced any transformational change in Victoria. But I will try to place a few ideas before you.

The topic of this presentation is “strategies to promote the social movement of restorative justice in corrections”. In this paper I look at the recent history of promoting youth justice conferencing in Victoria in the criminal justice system. I apply Bill Moyer Movement Action Plan (MAP) model of social movements to these developments which proposes an eight stage model of how social movements typically progress and four roles that social activists need to play to progress the movement along the path. I suggest what stage I think the restorative justice movement in corrections is at in Victoria and what strategies Bill Moyer suggests this stage of the movement calls for. He also suggests there are broader strategies that all social movements face as we move into the challenges of the 21st Century and I have identified these strategies as they apply to the social movement of restorative justice in corrections. I also argue for a more integral approach to research in restorative justice based on Ken Wilber’s model and link this to key research questions for evaluation of restorative justice conferencing models. Other issues and obstacles to progressing restorative justice are identified and I argue that public education needs to become a priority for the social movement to progress to the next stage.

Perhaps I should define my terms first. I view restorative justice as a broad term that includes any practices that “seek to heal the impact of offending and make things right for victims, offenders and their respective communities”¹ This definition would include programs such as mentoring for offenders and support service for victims. However most of my experience in restorative justice is with group conferencing which would be classified as a “fully restorative method of RJ” in that it includes all elements in restorative justice paradigm, namely offenders, victims and their respective communities of care. In this paper my focus is primarily on the development of group conferencing as a form of RJ.

I am applying the Bill Moyer definition of a social movement as

¹ For a detailed discussion on definitions of restorative justice and rationale for this definition see section 5.2 Pg 44-47 of “A policy discussion paper on the development of a young adult restorative justice conferencing program in Victoria. Jesuit Social Services Publication Available on www.jss.org.au

“collective actions in which the populace is alerted, educated and mobilized, sometimes over years and decades, to challenge the power holders and the whole society to redress social problems or grievances and restore critical social values”.

As Bill Moyer goes on to state, *“This definition does not focus on one organization but instead on collective actions carried out by a number of different organizations all of which might be said to be a part of the same movement. In the MAP (Movement Action Plan) definition social movements go beyond the scope of changing government policies and structures to challenge all those who exercise power to maintain the status quo. “²*

Before commencing here is more background material on who I work for and why we are in the business of restorative justice.

2 Brief history/Identified need

Community Justice Program (Jesuit Social Services)

I work for Jesuit Social Services in Victoria which delivers the Childrens Court based youth justice group conferencing program to all the metropolitan childrens courts in Melbourne. There are three group conference convenors with Tony Hayes heading the team as Program Coordinator and Russell Jeffrey and myself as convenors. Other non government agencies deliver the program across the state of Victoria to all Childrens Courts, offering a deferral of sentence option for young people who would otherwise receive some form of community supervision order from the court.

History of Group Conferencing in Victoria

In Victoria, the pilot programs for group conferencing commenced in 1995 and were initiated by philanthropic trusts that had pioneered the development of family group conferencing in Victoria. The primary aims in Victoria were to avoid net-widening to young people who would not otherwise receive a supervisory order, ensure young people’s rights were respected by the process, and achieve diversion from youth justice supervision. Victoria’s program is voluntary, not mandatory like other Australian States, and young people must consent to the referral.

Jesuit Social Services and Restorative Justice

Jesuit Social Services is a catholic social service agency. The Catholic Church in its social teaching has always had a long standing interest in social justice and in crime and its effective healing. As per the stated mission of Jesuit Social Services, we aim to “stand in solidarity with those most in need” including victims and offenders and their respective communities. These are the people most excluded from decision making by the current criminal justice system. Over the years Jesuit Social Services, in co-operation with other Church organizations has developed action critiques of the prison system in Australia, provided a Christian analysis’s of the criminal justice system and visionary statements on Criminal Justice inspired by the potential of the restorative justice framework to reform current practice and obtain better outcomes for its

² Doing Democracy By Bill Moyer New Society Publications 2001 Pg 1-2

customers-the offenders, victims and their respective communities³. This vision included practical demonstration projects to show how new ways of working would achieve better outcomes in adult corrections and for victims and communities affected by crime.

In July 2003, when Jesuit Social Services started delivering the youth justice group conferencing program, Father Peter Norden, Policy Director for the Ignatius Centre for Social Policy and Research, challenged the agency to come up with a proposal that would “add value” to the existing program by further enhancing and consolidating the existing program and expanding the reach of restorative justice in Victoria into the adult criminal justice system.

Jesuit Social Services emerged from the current Brosnan Centre program which commenced in 1977 and provides pre and post release support services for some of the most marginalized young people leaving adult youth justice centres and prisons in Victoria up to age 25 years. Since that time Jesuit Social Services has expanded its range of services to meet new and diverse needs in the Victorian communities. These include:

- *Connections* which works with young people with mental illness and drug problems
- *Gateway* which provides pathways to education and employment for young people with complex needs
- *Support after Suicide* which helps young people and children bereaved after a suicide, and
- *XLR8* which provides adult mentoring for young offenders and children leaving child protection services.⁴

One of its major strengths is in its focus across a number of program areas on the critical early adult transitional years as the young adult person transverses the critical stages from childhood and adolescence to adulthood. Using this particular strength of experience and knowledge with this target group, Jesuit Social Services proposed a policy project to consider the issues in extending the existing youth justice group conferencing program to young adults aged up to 25 years.

3 Implementation pathways

The project was funded and it had two aims: further consolidation of the existing youth justice group conferencing program which still had no legislative base and extending the program to young adult offenders up to age 25 years.

³ See Prison The Last Resort A Christian Response to Australian Prisons, Punishment and Christian Values, A Christian Analysis of the criminal justice system in Australia Brosnan Centre 1992, Making Things Right A vision for criminal justice Catholic Social Justice Series No 28 by Peter Norden SJ Australian Catholic Social Justice council NSW 1996, and Crime and Punishment, Moving from retributive to restorative justice published by Jesuit Social Services November 2002

⁴ For a complete list of services provided by Jesuit Social Services in Victoria go to www.jss.org.au

Consolidating the existing youth justice group conferencing program/Achieving legislative provision

In September 2004, an opportunity arose for making a submission to Government for the proposed amendments to existing legislation in Youth Justice in Victoria. Victoria operated without a legislative framework for group conference from 1995-2007 using existing legislation. A subcommittee of the Group Conferencing Advisory Group was formed. Because of short timelines for external submissions, this committee prepared a draft submission which included draft legislation, for the government to consider within two weeks. A minimalist approach to the legislative framework was agreed upon so that the program could continue to develop target groups, alongside the essential legislative protections and safeguards. These included a “sentence discount guarantee” for young offenders who choose the option that the court “must take account of their participation in the process” and impose a lower sentence in the sentencing hierarchy if their participation is successful. In addition there was a guarantee imposed on the court that failure in the process could not result in a more severe sentence. This submission helped contribute to the Governments decision to include specific group conferencing legislative provision in the Children Youth and Families Act of 2005.

Developing Young Adult Restorative Justice Group Conferencing Proposal

Funding was obtained from the Myer and Reichstein foundations to commence the policy work and a “key stakeholders and advisory group” comprising 18 participants was established to steer the project. A policy discussion paper was written which aimed to openly discuss the issue involved in developing and adjusting the existing model for the adult court for young adult offenders. This was distributed widely to the Victorian community of interest via hard copies and internet access.

Feed back on the young adult proposal was obtained from a wide range of individuals and organizations and a final written Proposal was developed in July 2006 that incorporated the feedback in the final report on the development of a young adult restorative justice conferencing proposal. This model identified three avenues of referral to the program:

- via the existing *Criminal Justice Diversion Program*,
- the pre-sentence *deferral of sentence option*, and
- the post sentence *therapeutic* option for young adults on existing correctional orders.

In relation to the first two options the proposal requires that the young adult offenders complete their outcome plans prior to obtaining diversion or returning to court for sentencing. (In the existing Youth Justice group conferencing program outcome plans can be implemented after the courts have imposed a sentence.) But all the other positive elements of the existing youth program have been retained in the young adult program including voluntary access and the range of ways victims can participate.

At this time, our community justice team had offered the existing Attorney General Rob Hulls the opportunity to witness a group conference. He saw for himself the power of the

process where the victim is able to dialogue directly to the offender and his family and I think he was impressed that the process was no “soft option”.

Jesuit Social Services met with the Attorney General to discuss the Final Report along with formal meetings with other key stakeholders such as Victoria Police, and the Victoria Legal Aid and the Victorian Law Foundation. At the meeting with the Attorney-General it was proposed that the Neighbourhood Justice Centre in Collingwood would be one site where this program would find a supportive environment to be trialed. Currently a tender process is underway for the development of this program over the next 2 years.

4 Outcomes to date

This section summarises the outcomes achieved by the restorative justice movement in Victoria in adult and youth corrections.

Statewide Consolidation of Youth Justice Group Conferencing

Victoria has a statewide youth justice group conferencing program delivered through non-government agencies to all Childrens Courts. We have a legislative basis to the program which guarantees a sentencing discount for young people who complete the program satisfactorily, and legal representation in the group conference. When young people fail they do not receive any penalty from the court. Widening the net of the youth justice system has been avoided by requiring the court to only use the program in cases where they would otherwise impose a supervisory order. The purposes of group conferencing are stated in legislation and police must attend all group conferences.

The results have included a very high rate of diversion from supervisory orders (86%) and lower levels of re-offending in comparison to young people from similar offending backgrounds who are placed on probation.

Young Adult Restorative Justice Group Conferencing Pilot to Proceed in 2007-9

A young adult restorative justice pilot program is soon to commence in Victoria funded by the Department of Justice and located at the new Neighbourhood Justice Centre in Collingwood. It incorporates all three streams of referral outlined above and a guarantee to review progress should referrals be low after the first 6 months of the pilot. It also incorporates opportunities to develop alternative restorative justice models and participate in innovative crime prevention strategies using community conferencing amongst other approaches.

5 Major Issues and obstacles for Restorative Justice Movement in corrections in Victoria.

Bill Moyer Movement Action Plan (MAP) for social movements identifies four roles for the social activist. These are:

- *A good citizen (not a rat bag)*. Restorative Justice values must be framed to resonate with the broad values of the Australian community. These values would include a fair go for all, the need for safe communities, respect and participation regardless of background or circumstances.
- *Rebel (putting issues on the social agenda)* The public need to be challenged by the social movement. For example, the Victorian Association of Restorative Justice (VARJ) recently held a meeting in which Marcia Neave, a Supreme Court Judge in Victoria argued that some sex offences ought to be considered for restorative justice intervention because the court process, on its own, fails to address adequately the real needs of victims.
- *Change agent* (Moving the debate forward via reform and paradigm shift)
- *The reformer*(moving to action and development of action plans to achieve realistic reforms.)

He argues that activists must be useful at all roles to become effective.

Bill Moyer identifies 8 stages that successful social movements pass through over potentially decades on their paths to successful implementation. These are

- Normal times (where serious problems in the existing system are not recognized)
- Challenging official institutions (where some failures begin to be recognized)
- Ripening Conditions
- Take off
- Perception of failure (where activists feel identity crisis and feel powerless)
- Majority Public Opinion
- Success
- Continuing the Struggle.

Each stage has goals and potential pitfalls. There can also be sub-movements within each stage where specific goals may need to be developed. For example I can perceive that restorative justice as conferencing is in the take off stage at present. Bill states that, at this stage, the emphasis for the activist should become aiming to get the public spotlight on the process through creating public dissonance and winning the sympathy of public opinion. He specifically states, “it is not a goal or expectation to get the power holders to change their minds, policies or behaviour at this stage”. One of the chief pitfalls during this stage is thinking that the correctional system, for example, will suddenly change and start adopting restorative practices. Equally failure by activists to acknowledge the “monumental success of getting this far” to take off can also be a pitfall as this can lead to burn out and depression.

I do not propose to give a detailed explanation of his theory as it is easily available to readers on the internet. I just wish to acknowledge his theory as appropriate to our movement and helpful in maintaining activist commitment over the decades that it will take if restorative practices will really impact on corrections. RJ as a social movement is a diverse process that has included both failures and successes. It ebbs and flows and relies on activists to generate enthusiasm and action on all fronts. It is primarily

concerned by giving those people excluded from decision making an opportunity to participate and be empowered in the process. It can sometimes feel as though the correctional authorities has already made its mind up on RJ and has placed it in a useful but marginal box not central to their mainstream work of custodial care and correctional case management.

As activists for RJ we have to keep in mind that we are at the very beginning of a paradigm shift that may take decades to proceed in which RJ will move from a marginal practice to a mainstream approach with the correctional approach becoming the marginal approach maintained for those who are dangerous to the public or otherwise unable to take responsibility for their actions.

Indeed we are still in the very early days of discovering what good practice in RJ is and what the key elements are that make a real difference in people's lives. The Bill Moyer MAP Model can help to make us realize just where we are and how far we have to go. It gives some broad general guidelines on what the goals are in every stage and possible pitfalls and suggest appropriate strategies. Here are some of his strategic guidelines for all social movements (including RJ) in the 21st century:

- Expand state, national and international efforts to address *immediate* problems that systems are facing. Corrections is primarily a reactive business. If RJ can provide a response to an immediate issue, then you become politically relevant and on the radar screen for the politicians. For example, in Victoria, the reintegration of sex offenders is a major headache for corrections. How can RJ respond to this immediate challenge? Perhaps the accountability and support networks model used in Canada could be explored to support and complement the existing professional supervisory and case management model used.
- Maintain a grand strategy, so that you do not loose sight of what your overall aims are in the heat of the daily challenges that RJ practices can throw upon the dedicated practitioners. In Victoria, Jesuit Social Services and VARJ will continue to play a role in promoting a comprehensive vision for RJ in corrections.
- Ensure RJ is ecologically sustainable in the long term. We need to spread the approach into the community through embracing the sessional model with community leaders and other professions such as mediators. We need to consider minimizing our use of motor vehicles by regionalizing services and even localizing responses.
- Ensuring RJ achieves social justice objectives by ensuring that participants are linked to the formal resources they need as well as informal resources.
- Include personal and cultural transformation as a central strategy for creating a peaceful world and insisting that RJ evaluations include the internal subjective and cultural subjective dimensions of reality and not simply the external dimensions that measure behavioral outcomes such as recidivism or completion of outcome plans, (although these are very valid measures of program impact). This strategy needs to include the opportunity for personal and cultural transformation of the RJ practitioners so that RJ activists in their social

movement actually model the kind of peaceful behaviour that they are espousing for the rest of the world. Perhaps this latter objective may be the hardest to achieve because it demands that we learn how to avoid being triggered and responding reactively rather than from a peaceful, enlightened inner calmness and joy, at all times. This should be our objective, at least.

In this respect Moyer refers to the work of Ken Wilber and his integral approach to reality. Wilber suggests there are four quadrants of reality that need to be addressed for any comprehensive understanding of any phenomena, including RJ. I have placed his 4 quadrant model as it applies to restorative practices for comprehensive evaluative purposes. Without capturing data from all four quadrants, evaluation is limited.

Table 1 Integral Four Quadrants Model of RJ Evaluation

Internal Subjective Domain	External Behavioural Domain
What was the attitudes and feelings of the participants ?	Was the outcome plan implemented ?
Was there acceptance of responsibility by the offender?	Did the young person reoffend?
Intersubjective Cultural Domain	External Social Systems
Were the support and family networks engaged?	Were formal systems engaged to address systemic social justice issues?
Were appropriate normative values reinforced?	Were victims appropriately compensated and supported?

For example using the current evaluation approaches favoured by correctional authorities for RJ, an offender could complete an outcome plan and not reoffend for 6 months after his group conference and be considered a success. What has this picture omitted? At the conference he paid lip service to accepting responsibility. His attitude to offending has not changed. He has only complied with the external requirements to ensure he gets a good court outcome. Immediately after his 6 month Good behaviour bond is over he reoffends in a more serious way. I am sure you would not think he was a success. But unless we measure internal domains around degrees of acceptance and relationship building are we not missing important elements in the process of evaluating the real impact of RJ?

Other issues and obstacles to RJ in corrections include:

- General perception that it is too soft and lenient and also too severe and hard at the same time
- Obtaining too few cases because it is voluntary and almost half decline the offer
- Challenges to the neutrality and fairness of the process and the need for improved standards of practice

- Potential for use as net-widening corrections rather than a real alternative to corrections
- Promising too much and not delivering on perceptions of the process by participants
- Doing unintended harm to participants
- Being co-opted into corrections and losing the identity of RJ as a social movement.

Given that we are at Stage 4 Take off in Bill Moyer model, I think that public education needs to be our priority in the RJ movement. The Victorian Association of Restorative Justice commenced operation in June 2005 and aims to promote restorative practices across many fields of human services. It provided the initial training for all new group conference convenors in 2006 and developed a DVD for educational and promotional purposes for the Department of Human Services. This DVD was completed with the assistance of the Victoria Police Multi media unit and the Victoria Law foundation. But more needs to be done in the field of public education and the use of multimedia responses will be critical in educating the public in RJ as a social movement.

6 Conclusion

This paper looked at the progress to date of RJ as a social movement in Victoria. There have been some gains in further consolidation of the existing youth Justice group conferencing program and the successful development of a pilot young adult group conferencing program to take place in 2007-9 at the new neighbourhood justice centre in Collingwood. After an evaluation, the program may extend to other adult courts across the state.

The paper used Bill Moyer MAP Movement Action Plan Model of a social movement and identified that Victoria was primarily at Stage 4 “take off “ point in relation to the development of RJ in Corrections. A critical strategy at this stage of the movement is the development of public education strategies to build a public platform for RJ. Some of the pitfalls and challenges facing the RJ movement were discussed and strategies were suggested that are appropriate to the current situation including an integral approach to program evaluation that captures all domains of reality.

7 References

A policy discussion paper on the development of a young adult restorative justice conferencing program in Victoria published by Jesuit Social Services September 2005 Available at www.jss.org.au Click on research.

Crime and Punishment published by Jesuit Social Services November 2002

Development of a Young Adult restorative justice conferencing proposal for Victoria-Final Report July 2006. published by Jesuit Social Services July 2006 and available at www.jss.org.au Click on research.

Doing Democracy by Bill Moyer New Society Publishers 2001

Report on the Juvenile Justice Group Conferencing Program Effective Change January 2006

Report on the Juvenile Justice Group Conferencing Program Stage 1 Draft Effective Change April 2005

Restorative Justice A New Paradigm? By Stephen Monterosso Curtin University of Technology Curtin Business School Working Paper Series February 2007

Restorative Justice in the Twenty-first Century- A social movement full of opportunities and pitfalls by Mark Umbrett, Betty Vos, Robert Coates, and Elizabeth Lightfoot November 2006

Restorative Justice Program and Process Evaluation: An Integral Approach
By Shannon A Moore Conference paper June 2003 Centre for Restorative Justice Simon Frazer University

The past, present and future of restorative justice: Some critical reflections by Kathleen Daly and Russ Immarigeon Contemporary Justice Review 1 (1) 1998 pgs 21-45.

Paper Written by: Mark Griffiths, Community Justice Program
Jesuit Social Services
10 Dawson St Brunswick, Victoria PO Box 284 3056
Email mark.griffiths@jss.org.au Phone 03 93877871