

THE JOURNAL OF THE AMERICAN PROBATION AND PAROLE ASSOCIATION



W W W . A P P A - N E T . O R G

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president's message



BRIAN LOVINS
PRESIDENT

I am excited to assume my role as President of APPA as of July 1. I want to take a minute to thank Tim Hardy, who has led APPA through a tumultuous time in the face of COVID-19 and the call for racial and social justice spurred on by the murder of George Floyd. Tim was also at the helm during a period of infrastructure change at APPA, as over the past six years APPA has been undergoing a transformation. Starting with Susan Burke and Erika Preuitt's leadership and continuing with Tim's presidency, APPA has been focusing inward and restructuring so it can better serve our network of probation and parole professionals. We have taken risks during this process, and it has required considerable energy and resources, but all that hard work has definitely paid off and will continue to do so in the future. If COVID-19 has taught us one lesson, it is that to take care of others you must be healthy yourself.

While the last two years have been challenging, we've emerged stronger than ever. Once it became clear that in-person connections had to be placed on hold, Tim challenged APPA to pivot quickly and helped shepherd in a new way of operations—virtual APPA. Veronica Cunningham and her staff took up the charge and delivered the first fully virtual institute. We learned quickly that what counts most is not the physical space in which we work. It is the people we work with every day and the great strengths they bring to the table. While we will continue to deliver in-person summer and winter institutes—exciting events where colleagues across the world converge on a designated city to connect and learn from some of our field's experts—we also recognize that there are many who cannot attend in person. For this reason, APPA is going to expand its presence throughout the year by pivoting to a 12-month professional networking and development model. This will allow community corrections professionals to better connect with others across the world, giving them access and helping them more easily learn about potentially beneficial ideas, practices, and research, and it also provides a platform to celebrate the great work done every day of the year.

As we more fully utilize all aspects of the hybrid virtual/in-person space, we envision *Perspectives* evolving as well. With Kim Kras and Jason Stauffer at the helm as co-editors, we plan to shift *Perspectives* from a quarterly journal to a multimedia platform that provides real-time content to the field and promotes ongoing dialogue, allowing

for interested persons to read, react/respond , and develop ways to promote best practices and advance community corrections. This new platform will begin to emerge in the fall of 2021 and comes fully online in early 2022. The new look and feel of *Perspectives* will bring energy and excitement to practitioners and researchers alike.

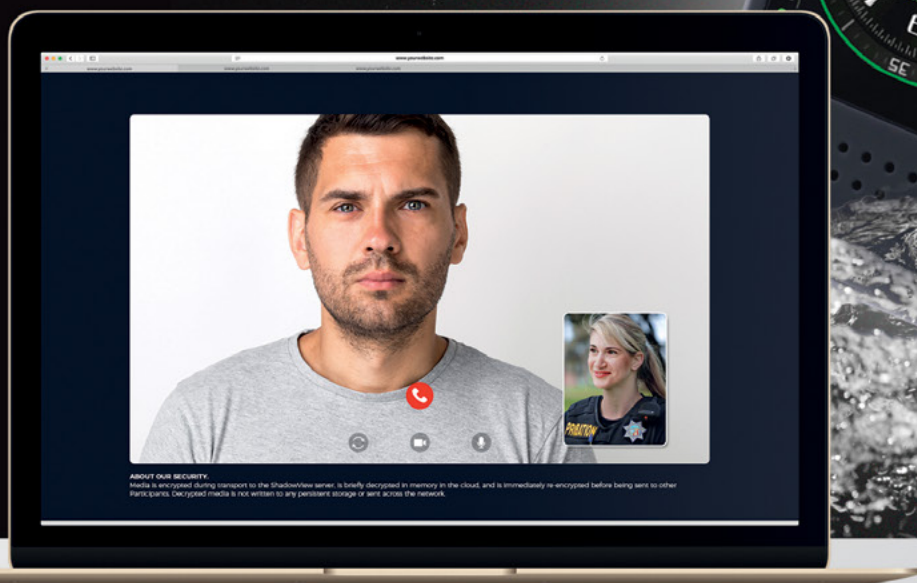
With that said, this edition of *Perspectives* kicks off a deep look into two areas of great interest: the international community and restorative justice. We often look outside the United States' borders to learn about great work that has been implemented within other countries and cultures in community corrections as well as prisons and reentry. This edition continues that outreach. This collection of articles gives insight into restorative justice practices in Canada, Czech Republic, and the United Kingdom. They also describe the use of restorative justice interventions for a broad array of persons on supervision, including those convicted of serious crimes—as exemplified by Canada's work in this arena. Since restorative justice practices in the United States are often reserved for front-end diversion programs and juvenile justice interventions, this makes for interesting reading. Greater emphasis on understanding the harm to the victim and community and on finding paths to restoration may well lead to better reintegration and reconnection to community's social fabric.

I look forward to the next two years as we continue to evolve, celebrating our successes, learning from our failures, and working together to move the field of corrections forward. Please join me in thanking all members of the past Board of Directors for their hard work while congratulating the incoming Board and supporting them as APPA pivots to a 12-month model. We will certainly strive to do our best for all APPA members—and, indeed, for all who are working in this field.








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from the executive director

It is a pleasure to read this edition of *Perspectives*—an international perspective! Too often those who live in the United States feel like our country is the most advanced and dominant. To the extent that our attitude causes us to close our eyes to advances elsewhere, we are losing opportunities to learn from our colleagues across the globe. Good ideas rarely travel across borders as readily as new culinary adventures, and that's regrettable.

Having traveled to more than 50 countries in my lifetime has given me a great opportunity to get a first-hand introduction to other criminal justice systems. I've been introduced to their missions and goals as well as their models and organizational structures. Such visits are always refreshing and exciting. Best of all, I've seen the value of the work being done. Setting aside travel glitches caused by COVID, it is quite satisfying to see what seems to be an increase in the number of Americans traveling to countries like Norway, Japan, and even Singapore to learn more about their programs and supervision strategies.

Learning about up-and-running restorative justice programs in other countries is an excellent example of the international sharing I'm talking about. Even with a strong conceptual underpinning and considerable interest in pursuing such programs here, there is always a gap between an idea and its implementation. Developing the best program is not a matter of snapping one's fingers. The authors in this issue help us understand what needs to be done to set up and run effective programs—and ensure the empiric research that needs to accompany that endeavor. Moreover, they cover different aspects of the criminal justice field. It's never one size fits all.



VERONICA CUNNINGHAM
APPA EXECUTIVE DIRECTOR/CEO

I love the reference to restorative justice and believe in it. Too often the victim is not a part of the discussion, so the increasing interest in expanding programs to address that need is gratifying to see. What do you think? If we could get a glimpse of our criminal justice processes five years from now, will an increase in effective restorative justice programs be one of the shining lights in program development? I hope that will be the case.

As always, a great deal of work went into putting this issue together. I extend my sincere thanks to each of the authors who produced these interesting articles as well as to the editors and the International Committee. Nice job!

A handwritten signature in black ink that reads "Veronica Cunningham".



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INTERNATIONAL RESTORATIVE JUSTICE SPECIAL EDITION INTRODUCTION

We are pleased to bring you this issue of *Perspectives* devoted to topics in international community supervision with an emphasis on restorative justice efforts. Our colleagues on the APPA International Relations Committee, chaired by Julie Truschel, have done a tremendous job collecting articles describing varying restorative justice practices being practiced abroad. We are encouraged that those around the globe see the healing value that restorative justice can bring to criminal justice processes. We think you will enjoy what you see and can learn from these diverse perspectives and practices.

Kim and Jason

INTERNATIONAL RESTORATIVE JUSTICE

Welcome to this special edition of *Perspectives* dedicated to international restorative justice that is brought to you by APPA's International Relations Committee. Our members have connected with colleagues from different countries who offered their expertise on this topic and shared operational examples showing how this wonderful model is allowing people to repair the harm caused by their actions.

Restorative justice is defined in the Oxford Dictionary as "a system of criminal justice which focuses on the rehabilitation of offenders through reconciliation with victims and the community at large."

Given that the world community is unsettled in so many ways, supporting any operations connected to reconciliation are certainly worthy of our attention.

Within this collection of articles is an informative introduction provided from the European Forum on Restorative Justice, and you will also learn about a mediation model from Canada for federal offenders who have committed serious crimes, an entire probation system oriented around reconciliation in the Czech Republic, and a national program in the United Kingdom for practitioner accreditation. All this is interspersed with important supportive materials from our own National Association of Community and Restorative Justice (NACRJ).

We hope you will enjoy learning more about restorative justice and might consider the addition of such elements into your local operations. If you already utilize these practices, perhaps an expansion can be considered. Offender rehabilitation is a primary goal for everyone working in the field of criminal justice. Learning about restorative practices that are already working for others gives us the opportunity to leap forward in our own efforts to promote rehabilitation without getting held back in the early stages of program development. This work is important, and I am grateful we don't need to reinvent the wheel!

Sincerely,



Julie Truschel

APPA International Relations Committee, Chair
Community Supervision Solutions, President
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INTERNATIONAL RESTORATIVE JUSTICE



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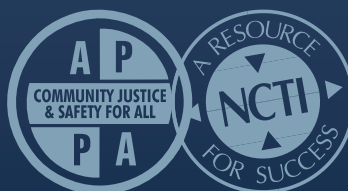
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Unless previously discussed with the editors, submissions should not exceed 12 typed pages, numbered consecutively, and double-spaced. All charts, graphs, tables, and photographs must be of reproduction quality. Optional titles may be submitted and selected after review with the editors.

All submissions must be in English and in American Psychological Association (APA) Style. Authors should provide a one-paragraph biography, along with contact information. Notes should be used only for clarification or substantive comments, and should appear at the end of the text. References to source documents should appear in the body of the text with the author's surname and the year of publication in parentheses, e.g., to (Mattson, 2015, p. 73). Alphabetize each reference at the end of the text using the following format:

Mattson, B. (2015). Technology supports decision making in health and justice. *Perspectives*, 39(4), 70-79.

Hanser, R. D. (2014). *Community corrections* (2nd ed.). Thousand Oaks, CA: Sage.

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A BRIEF INTRODUCTION TO RESTORATIVE JUSTICE AND ITS RELEVANCE TO PROBATION AND PAROLE

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INTERNATIONAL RESTORATIVE JUSTICE

Long before there were police services, long before there were courts, long before there were prisons, and long before there were probation and parole officers, people lived in communities where, from time to time, one community member would steal or damage something of value, offend another community member, or actually hurt someone.

People understood the distress of being harmed and wronged. They knew that, in a close community with scarce resources, material loss might not only be a matter of survival but also a matter of honour. They knew that if these matters were not addressed to the satisfaction of the victim—and the rest of the community—the result would be acts of revenge and family feuds that could fragment the cohesion, stability, and cooperation required to live in tough circumstances.

Wishing to avoid banishing or injuring the perpetrators, the elders would convene the community to listen to the victims' grievances and to respect their feelings. The members who had been responsible for the harm would be expected to respond to this through a sincere expression of remorse and an act of reparation or making amends, thus restoring the community's respect for them.

These rituals also served to clarify the norms of the community, to emphasize the need to respect others, to strengthen the shared viewpoint that solidarity was in the interest of all members of the community—and to accept that justice was best served through talking rather than violence. This form of justice has served people for thousands of years and continues in many parts of the world to this day.

Society has, of course, become more complex. The nation state is a relatively

modern development in the history of human societies, and the type of criminal justice system that involves law enforcement, courts, and corrections has only existed for around 200 years. Nonetheless, it has developed very quickly into a complex, highly technical, and bureaucratic system employing a diverse range of professionals.

There is a risk, I believe, that this system has become distanced from those it serves. Has it, in the words of Nils Christie (1977), stolen the conflict of crime from citizens? Christie argues that conflicts were valuable opportunities for citizen participation and for the clarification of norms. These functions have been taken over by legal and criminal justice professionals, resulting in the marginalization of victims, perpetrators, and the community. Is it possible in a modern society to address injustice and undo or alleviate the suffering it causes through processes based on the old ways of respect, solidarity, and dialogue?

The modern form of restorative justice sets out to answer that question in the affirmative.

The first case of restorative justice being used in a modern era criminal justice system is generally acknowledged to have taken place in 1974 in the small town of Elmira in Ontario, Canada (Caldwell, 2002). Two young people vandalized 22 properties. Significantly, it was a probation officer, Mark Yantzi, in conjunction with a Mennonite prison support worker, Dave Worth, who took the initiative to gain the judge's permission to facilitate a meeting between the two young people and the victims of the vandalism. The meeting was effective, and satisfactory reparations were made. In spite of this success, the practice of restorative justice has struggled to

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become part of mainstream probation and parole work. I believe a great potential is lying dormant.

The European Forum for Restorative Justice (EFRJ) defines restorative justice concisely as “Connecting people to restore just relations” (EFRJ, n.d.). This short phrase contains some of the key values and principles of practice of restorative justice. We stress the importance of bringing the people most affected by the harm of a crime together to participate actively in a process which aims to restore justice to the way they live together in society. The EFRJ expands on this definition with:

Restorative Justice is an inclusive approach of addressing harm or the risk of harm through engaging all those affected in coming to a common understanding and agreement on how the harm or wrongdoing can be repaired, relationships maintained, and justice achieved (EFRJ, n.d.).

Restorative justice responds robustly to the harm caused by crime because it is value-led and evidence-based. When a crime is committed, it is more than a breach of the criminal law that must be processed through criminal justice procedures by various professionals. We believe that a criminal offence is a violation of some of the key values of modern democratic societies. Any crime represents a severe lack of respect for another’s *human dignity*. For many victims this disrespect matters much more than financial loss or even physical injury. A crime is a conscious failure to act according to our obligations towards our fellow citizens. If breaches in social obligations are not addressed rigorously, the complex network of relations that create cohesive and stable societies can fragment, causing further criminal and anti-social behavior. *Solidarity* requires direct accountability by those who fail in

their obligations to those who have been harmed. We believe that there is no greater accountability than having to account for your harmful actions to the person whom you have harmed and then to make every effort to right the wrong and restore what has been lost, damaged or violated. This is what we mean by *justice*. The process of restoring human dignity, solidarity, and justice is a process of inquiring into the truth of what happened and of what matters through dialogue. This truth is not only factual (evidence-based) but also narrative (each person’s lived experience) and dialogical (the truth that emerges through listening and being listened to with respect).

The key principles of practice that make this work include:

1. The principle of restoration

Depending on the context, restorative processes can provide a meaningful experience of justice:

- through restoring what has been damaged, lost, or violated by an unjust harmful act to the greatest extent possible,
- through restoring broken relationships
- through restoring dignity, respect, and the feeling of safety to the greatest extent possible
- through providing what the perpetrator of harm needs to achieve desistance from further harming others
- through providing what is needed within wider (institutional or social) systems to prevent further harm.

2. The principle of voluntariness

Participants choose to participate. This

means the process must only occur if all prospective participants, after having received appropriate information about how the process will work, freely give the facilitator permission to organise and facilitate the process.

3. The principle of inclusion

Each individual restorative process is carefully designed and facilitated to fit the needs and capacities of the participants and will be accessible, sensitive, and adapted to the diversity of the participants' gender, domestic responsibilities, racial or ethnic origin, language, disability, religion or belief, age, and sexual orientation.

4. The principle of participation

Restorative processes must sustain the safety, respect, and fairness required for participants to speak and express themselves freely, honestly, and in their own way. No party should dominate the process and restrict the participation of others. Research supports the argument that restorative processes are most genuine and satisfactory when parties can meet directly.

5. The principle of commitment

Parties involved in the process are held accountable and supported to fulfill the commitments and complete the actions agreed upon through a restorative process.

6. The principle of confidentiality

While there are specific exceptions to confidentiality, this principle provides a space in which the participants feel safe to engage in a truthful dialogue, ultimately encouraging mutual understanding.

But does restorative justice work?

When someone asks this question, it often means they want to know if restorative justice reduces re-offending. However, to some extent that question originates in a different paradigm—the criminal justice paradigm focused on public protection through managing risk, deterrence, and rehabilitation. Restorative justice is designed to address and restore what has been lost, damaged, or violated by a specific harmful incident to the satisfaction of all parties. So, what does the research say?

If engaged skillfully, victims, perpetrators of harm, and those in the community generally want to participate in restorative justice. Victims will meet those who have offended against them for many reasons, including to ask questions, seek reparations (Shapland et al., 2011), advance their healing, and, in some cases, see if they can prevent reoffending and hopefully lead to a safer society (Van Camp, 2017). Most offenders wish to repair the harm that they have caused (Vanfraechem et al., 2010) and want to express their remorse (Shapland et al., 2011). Sometimes the offender is motivated by wanting to avoid prosecution (Vanfraechem et al., 2010). The community's understanding of the crime can result in the reintegration of offenders and more support for victims, and the participation of people from the community may persuade the offender to take more responsibility (Vanfraechem et al., 2010).

Using restorative justice processes, victims and offenders usually have a much more satisfactory experience of justice. Restorative processes engage the participation of victims and perpetrators more effectively than the

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traditional justice system (Laxminarayan, 2011). Victims' needs and interests are taken into account (Vanfraechem et al., 2010). Offenders also believe that they are treated more fairly than through traditional justice (Strang, Barnes, Braithwaite & Sherman, 1999). Both parties associate restorative justice with fair treatment (Latimer et al., 2005). Offenders appreciate the opportunity to meet the victim, to actively participate, and to express remorse (Shapland et al., 2011). They have been found subsequently to have a more positive attitude towards police and law (McGarrell et al., 2000). Restorative justice often helps offenders to strengthen relationships with their friends or relatives (Shapland et al., 2012), encouraging desistance processes (Lauwaert & Aertsen, 2015).

Restorative justice saves money. It reduces the costs of reconviction (Shapland et al., 2008). Victim-Offender Mediation takes a third of the time needed for non-mediated cases (Umbreit et al., 2001). Moreover, meeting with the offender has been shown to have long-term health benefits such as reducing the post-traumatic stress symptoms of victims and providing therapeutic benefits for family members of homicide victims—both of which can reduce health costs (Sherman & Strang, 2007).

Also, in case you were wondering, restorative processes result in positive outcomes. Research has found that restorative justice was more successful in improving victim and offender satisfaction, decreasing recidivism of offenders, and increasing offender compliance with restitution when compared to more traditional criminal justice programmes (Latimer et al., 2005, Shapland et al., 2011). Studies consistently

state that restorative processes achieve at least 85% satisfaction among victims (Shapland et al., 2011; Jacobson & Gibbs, 2009; Beckett et al., 2004; Strang, 2002; Strang et al., 2006; Umbreit & Coates, 1993; Umbreit et al., 2001). They also reduce the victim's fear of further harm (Morris & Maxwell, 2001). Studies confirm that restorative justice stimulates desistance from offending (Morris & Maxwell, 2001; Shapland et al., 2008; Sherman et al., 2000; Robinson & Shapland, 2008; Schütz, 1999; De Beus & Rodríguez, 2007; Bradshaw & Roseborough, 2005; Latimer et al., 2005; Shapland et al., 2011). This is due to feelings of remorse, not being made to feel one is a bad person, feeling involved in decision making, agreeing with the outcome, and meeting and apologizing to the victim (Lauwaert & Aertsen, 2015). The restorative process can be said to confirm a pro-social identity in many cases.

Comparisons between the practice of restorative justice and probation practice

I spent 25 years working with the Probation Service during a period of extremely violent civil conflict in Northern Ireland. I worked in the community, courts, and prisons. I thought it was the greatest job and felt privileged to engage with such a diverse range of people struggling to find a way to live in society without harming others. Towards the end of my career, I became involved in the movement to base probation practices on research and empirical evidence (Chapman, 1995; Chapman & Hough, 1998). I have very happy memories of attending the APPA conference at Norfolk, Virginia, in 1998 to present a program that I co-designed, Stop, Think and Change.

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I left probation to take up a career in training and research, a career which eventually led to a full-time position as a lecturer and director of the Masters Programme in Restorative Justice at Ulster University. Since then, I have focused my teaching and research on restorative justice. In view of pertinent legislation in 2002 as well as Ulster University's design and delivery of a practice model with training, Northern Ireland is one of the world's leaders in this field.

Yet after many years I have not lost my fascination and affection for probation. I want to conclude this article with some reflections on some of the distinctions between restorative justice practices and probation practices.

As a probation officer I spent a great deal of time with offenders but hardly ever met a victim. I never thought that this was strange, because this was normal throughout most of the criminal justice system. We assume that victims wish to be protected, and consequently we keep offenders apart from them and often from society in general, whether through custody or risk management techniques. It was disconcerting to learn that, once they feel safe, many victims want to meet those that have harmed them. They want to make sure that perpetrators know how much harm they have caused, and they want to ask questions that only their perpetrator can answer. As I observed these encounters, I realized that in my role as a probation officer I could never hold individuals so accountable for their actions. I have also seen how relieved victims have been after their meetings and how they feel that they have reclaimed the power and control so cruelly stolen by the offender.

Of course, I was also interested in the effects on the perpetrator of participating in the restorative process. I realized that I had spent much of my time trying to get offenders to understand the consequences of their past actions and to take responsibility for their behavior. In doing so, these consequences were often subject to imagination, cliché, and exaggeration for effect and I was focusing on responsibility for actions in the past which were irreversible. In a restorative meeting the consequences of harm do not have to be *represented* because they are *presented* by those who have suffered from them. The nature and severity of these harms are often idiosyncratic and impossible to imagine, even by the most empathetic among us. As one young man told me while waiting to meet his victims, "I will not know what I am sorry for until I listen to them." Evidence-based practice is founded on general principles that provide a guide or map for what you can expect and how to respond. Practice-based evidence is the real territory and requires responses to actual situations.

The restorative process starts with responsibility for past harm but focuses more on active responsibility for future actions to repair the harm and avoid harming others in the future. I also noticed that when an individual makes a promise to do something in the presence of those who were hurt as well as significant members of their family and the community, that promise is much more likely to be kept. As a probation officer, I struggled to get 60 to 70% of people through their order. The figures for the completion of agreed action through restorative justice in Northern Ireland were 90 to 95%. Intrinsic commitment is far more effective than extrinsic compliance.

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I believe that at the core of these distinctions lies a philosophical orientation. The criminal justice system and its agents act as if the problem is the person. And that person is the criminal who must be caught, tried, and punished through a combination of retribution, risk management, or rehabilitation. For restorative justice the focus is on the harm that people inflict on each other. The people affected—the victim and perpetrator and those close to them—become the solution, determining what needs to be restored and what action needs to be taken for restoration.

This process of restoration can be carried out at any stage of the criminal justice process, including as prevention, as part of diversion from prosecution, during the pre-sentence stage, while a sentence is being served, or during reintegration. It also can be done to address historic injustices. It can be done irrespective of the seriousness of the offense. My current research is into victims of sexual crime, domestic violence, and other grave offenses, and the outcomes for the victims have been extraordinary.

I have learned that this reorientation requires a different kind of professionalism. I find the metaphor of scaffolding useful. What if the outside of a house needs to be repaired, but the crack is high up in the wall? The job requires scaffolding to provide a strong and safe platform on which to carry out the repair work in an area that otherwise would be difficult and dangerous to reach. The restorative practitioner provides the scaffolding so that the victims, perpetrators, and those close to them can engage in this difficult task with confidence that the process will be safe, controlled, respectful, and just.

Let me present one last distinction that was

inspired by Miles Davis, a jazz genius who also had his share of run-ins with the forces of law and order. After a member of his band played the wrong note at an important concert, Miles said: “When you hit a wrong note, it’s the next note that you play that determines if it is good or bad.” (Hancock, 2016). Our culture condemns people for their wrongful actions and is very slow to forgive or forget. Restorative justice places the focus on “the next note” and asks us to judge people by what they do to clear up the mess of their wrongful actions.

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Have you ever wondered how many restorative justice practitioners it would take to change a light bulb? Just one, because practitioners are experts at repairing connections!

Frivolity aside, facilitating restorative justice processes, which support individuals as they heal and transform, requires real skill and care. Restorative practitioners repair emotional connections, and as is the case for electricians who fix electrical connections, there is real risk of harm when not done properly. Therefore, the skills, knowledge, and understanding of those individuals who do this work are crucial. While the structure for training restorative facilitators is widely developed, the arguably more important system that establishes, monitors, and advances the competencies of practitioners is often not prioritized or even established. Taking reasonable steps to address the need to ensure practitioner competence is important. Utilizing skilled restorative practitioners is instrumental in ensuring optimal benefit for employers and, most importantly, the participants in the process. The alternative is not acceptable.

The Role of a Restorative Practitioner

We can now benefit from the growing and convincing body of research on the impact and effectiveness of Restorative Justice (RJ) and its outcomes for victims and offenders. For example, in the United Kingdom a series of research studies funded by the Ministry of Justice demonstrated that "...restorative justice provides 85% victim satisfaction, reduces the frequency of re-offending, and provides value for money by saving £9 for every £1 spent on RJ" (Restorative Justice Council, 2011). A subsequent study looking at the impact of RJ on post-traumatic stress symptoms (PTSS)

for victims found that RJ conference meetings decreased the traumatic effects of crime, with conference participation leading to lower PTSS six months after the process (Angel, 2005). Strang and colleagues conducted a systemic review on restorative conferences (Strang et al., 2013). A conference is a restorative process in which victims, offenders, and other impacted individuals are brought together in a structured and carefully prepared meeting led by facilitators to discuss the incident and the resulting harm and to agree on ways that the harm can be repaired. That systemic review found that RJ conferences reduced levels of trauma and fear of offender for victims, increased victim satisfaction, reduced costs to the criminal justice system, and led to a reduction in re-offending.

Due to the need to prove that RJ is a credible and useful process within the criminal justice system, less time and attention has been paid to some of the more intricate aspects of the practice itself, such what exactly is it that leads to positive changes for victims and offenders alike. The Restoring the Balance research project (Hallam, 2015) examined the success of a victim-initiated RJ pilot project and interviewed referrers, offenders, and victims about their experiences. A key finding from this study—a finding that goes some way toward answering the question about what causes positive change—was about the importance of the relationship between the victim and the facilitator: "Without doubt the relationship between victims and their facilitators has been key to the project's success. Each victim regarded his or her facilitator as outstanding... Victims have felt recognized, validated and valued at a time when they needed support" (Hallam, 2015, p.

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51). The study also uncovered that RJ is often seen as “risky” (a perception that has considerable negative implications), but facilitator skill can mitigate the risk. “Evidence from this study suggests that when restorative justice is delivered by experienced and skilled facilitators, the risk to victims is minimized” (Hallam, 2015, p. 52).

It seems clear, then, that a significant part of a successful restorative justice process is the trust and relationships that are built. It is about the quality of the space that is created and held by practitioners, a space that allows for the exchanges between participants to happen and hopefully for repair and resolution.

As experienced restorative practitioners in the justice field, we have had the privilege of supporting numerous individuals through restorative processes and being present during moments in their lives that were transformative—moments where responsibility was taken, harm was acknowledged, shame was reduced, and there were flickers of connection, a reminder of the humanity that joins us. Life, in some small part, was restored. These are powerful and rewarding experiences for the practitioner when compared to the traditional case management focus within our current criminal justice service, which seems particularly devoid of a focus on relationship and connection.

What Makes It Safe? Setting the Standards for Restorative Justice

Restorative work has huge potential for participant and practitioner alike, but it must be done well. Thus, assurance is needed that it is safe to work with specific practitioners and that they are likely to be effective. Braithwaite (2002) reminds us that

a debate about standards in restorative justice is important but troublesome. As we have already acknowledged, there is risk of considerable harm, such as further victimization or stigmatizing shame, if RJ is done poorly. Just as we wouldn’t welcome into our home an electrician who doesn’t follow electrical safety standards when fixing wiring, we should not expect citizens to accept practitioners into their lives to guide them through complex emotional processes without a similar system of regulation. Standards are a necessary layer of protection.

Power is an essential theme in restorative practice, and power imbalances between participants need to be managed to avoid domination of one participant over another. RJ aims to empower citizens, and as a “bottom-up social movement” it can enable individuals with traditionally less power to speak their story (Braithwaite, 2002, p. 563). While there is no doubt that we need to have some system of communicating what is expected of practitioners to deliver safe and effective restorative processes, it is also necessary to avoid regulation that is so onerous and restrictive that it detracts from the specific ability of RJ to empower, balance power, and meet the changing needs of participants

Clearly, therefore, the goal is to have the right level of standards. A system which monitors and recognizes practitioners is a way of protecting participants from powerful domination by professionals and from further harm, but it must also protect the practice from becoming too restrictive and hence not being restorative at all.

How we respond to this issue is important. In Europe, the European Forum for Restorative Justice (EFRJ) is currently consulting on standards

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of practice, recognizing how essential it is that a restorative justice service should adhere to standards of good practice (see <https://www.euforumrj.org/en> for more information). In England and Wales, the structure of standards is outlined by the National Occupational Standards (NOS) framework, with NOS units for various professional disciplines such as justice and health. Our UK journey with RJ standards began in 2006, when 13 NOS units for restorative practice were developed by a group of experienced practitioners and Skills for Justice (part of the Skills Sector Council). Each unit contains a series of criteria about the practice, knowledge, and understanding expected across the range of restorative practices, including initial contact, co-working, using restorative practices for community issues, and evaluating outcomes from a restorative process. These NOS units created a very helpful guide for restorative practitioners and their managers as to what needs to be considered when facilitating safe and effective restorative processes. They encourage deep reflection and ultimately lead to respectful practice.

The Journey to Accreditation

Although the RJ NOS were created in 2006, there was no vehicle for practitioners to formally consider their practice against the standards, leaving them mainly unutilized. However, in 2011, the Restorative Justice Council (RJC) for England and Wales developed and launched an accredited practitioner register. This provided a system for individual practitioners to demonstrate that they understood and worked to the RJ NOS. The RJC register has recently been revised to include different practitioner levels (see www.restorativejustice.org.uk), allowing employers

and service users alike to consider whether a practitioner is working to best practice.

For the practitioner, the task of demonstrating that your practice meets the standards required for joining the register is no small undertaking. Although the NOS are a guide, they include multiple elements and criteria that can, at times, appear overwhelming. However, while the accreditation destination is important, perhaps a practitioner only becomes ready during the journey itself. The process of self-reflection, of reviewing your practice and cases against these pointers of practice, is in itself a powerful mechanism for making practice better and safer for everyone.

The course run by the Royal Borough of Greenwich¹ (a local council area in London) is a collective way to take that journey to accreditation. The Level 5 program combines practical facilitator training with theoretical understanding, and the academic aspect is supported by a local university. The practical facilitator skill-based training centers on the appropriate NOS units, helping to “interpret” them for practitioners so they begin to understand and recognize these from the start. The academic assignments support a deeper level of knowledge development, enabling the practitioner to understand “why this works” instead of just following the steps and hoping for the best. This holistic approach, which includes assignments and observations of practice, puts practitioners through their paces, requiring a high level of both reflection and detail. However, it has been a real joy to see individual practitioners develop so they can complete an assignment that convincingly applies shame theory to RJ practice. It is

1

The first author leads this course

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likewise a joy to conduct an observation where practitioners facilitate carefully and effectively, almost effortlessly meeting the required NOS. Having a system for accreditation like this is certainly important and safe, but it can also be incredibly empowering. As the Course Leader and a practitioner myself, it gives safe boundaries and reassurances that this transformative work that we love is always respectful of the people we serve—and is and having the powerful impact it should.

The Standards in Action: A Case Study from the London Probation RJ Unit **By Liz Dixon**

When London Probation Trust decided to pilot Restorative Approaches in 2012, with a view of working with victims as well as offenders, they were guided by the Restorative Justice Council (RJC) and experienced accredited practitioners. This helped everyone, particularly new facilitators who had only received the rudimentary four-day training, to better understand the role of RJ principles and the meaning of empowerment and accountability in practice. By working to the NOS with accredited practitioners, we were able to keep our enthusiasm and “egos” in check as we built a good foundation with underpinning knowledge and awareness. This helped us develop a deeper appreciation of restorative practice itself. While some training consortiums give the dangerous impression that RJ simply involves mastering a few techniques, our unit aspired to support our practitioners to understand and work to the NOS, as we realised this would give us professional confidence, inform our practice, and keep everyone safe.

The Probation Trust was awarded the RJC Restorative Service Quality Mark even before

we had a single face-to-face conference, which demonstrated the importance of having safe systems with dynamic ongoing risk assessment and risk management processes. We understood that these elements were as important as developing skills and techniques—something that usually preoccupies facilitators at first. I would equate restorative accreditation with any other occupational activity. Teaching assistants can train to be teachers, and nursing assistants can train to be nurses. The rudimentary training helps you understand the basics, but as a competent RJ facilitator you also need the underpinning knowledge and skill set to satisfy the harmed and those responsible for the harm that we are there to assess and assist. There was also a real need to persuade courts, colleagues, police, parole boards, and victims services that we were a safe pair of hands. Restorative Justice within the criminal justice system requires a multi-agency approach, and our partners need to see that we know what we are doing, will keep people safe, and ultimately will satisfy the participants’ needs and promote healing. Our Professional Quality mark from the RJC provides the reassurance that our facilitators are accredited or working towards accreditation, and this became very important for everyone.

As a way to maintain awareness and adherence to the standards in order to support our practice, we developed a twice monthly practitioner forum—a forum which continues to this day. Experienced accredited practitioners are regular contributors to the forum, and our consultant, who was instrumental in setting up the NOS in 2006, provides further invaluable experience, knowledge, advice, and

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support. The forum is an important space for practitioners to discuss cases, share dilemmas, and manage risk, and its impact cannot be underestimated. For example, two facilitators from the unit were working on a serious and complex manslaughter case, and they were unsure as to whether it was “conference ready.” A case discussion at the forum allowed for collective reflection on their practice with a supportive group and helped them consider what guidance the relevant NOS units brought. This gave them the confidence to wait and work further with the person responsible for the harm so that he was better able to account for his actions, thereby satisfying the victim and helping him take responsibility, and this resulted in a more transformative RJ conference.

In some organizations that we work alongside there appears, at times, to be a rush to go to conference when cases are not ready or when a different form of RJ is not explored which would better suit participants’ needs. The research from *Restoring the Balance* (Hallam, 2015) highlights how poor practice can result in further harm. For example, the report mentions a case where the offender was not supported after the conference and he was left thinking that he had done something wrong, which undermined his experience (Hallam, 2015).

As a RJ unit working in London with some of the most serious and complex cases in the adult criminal justice system, we aspired to reach the accreditation and registration process, as it helps to cement the restorative principles in practice and keep everyone safe. Individual practitioners from the unit have pursued various

accreditation routes, including the Greenwich Level 5 course and we supported this because we could see that a deeper understanding of the processes and purpose meant that we could maximize communication and manage our own expectation. Understanding the practice standards enabled us to listen to challenging stories from the harmed and the persons responsible for the harm and then decide the safest course of action. It thereby allowed us to work restoratively to acknowledge the harm and promote healing in a safe way. This realization about the importance of reflection of our practice against the standards has been one of the most critical aspects of the development and advancement of the RJ unit to date.

As in many countries, a movement is under way in the UK to ensure that safe and effective RJ processes are a well-resourced and respected part of the criminal justice system, available to all those that need and want them. It has not been a linear or easy process by any means. However, the journey has taught us that for RJ participants to feel safe, and for the processes to be effective, we need to have a framework in place that ensures a high level of skill and integrity of the practitioners doing the work. There are different ways of responding to that need, but we have found that developing and using standards along with having a practitioner accreditation system is a powerful way to do this. RJ is about healing and finding a new way forward after harm; the focus should always be on the outcomes for those most affected by the situation. For the best outcomes to happen, participants need to feel they are in safe and skilled hands.

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Author Bios

Rachel Quine trained as a restorative justice facilitator in 2006, gaining accreditation in 2012 and worked as a RJ practitioner in the UK youth justice system for nearly a decade. Becoming the RP Coordinator for Royal Borough of Greenwich in 2014, she wrote the RA Level 5 accreditation programme, securing approval for the course from the University of Greenwich and RJC. Rachel is the lead trainer and has supported many individuals to become accredited via the course. She completed a MSc in Restorative Practice with Ulster University receiving a distinction and still regularly facilitates RJ cases.

Liz Dixon trained as a probation officer in 1986 and she has been the Senior Probation Officer and manager of the London CRC RJ Unit since 2012. She is an experienced RJ facilitator, working on many complex and sensitive cases and was recently awarded an MBE due to her services to rehabilitation and restorative justice.

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Overview of Restorative Justice Basic Principles

Definitions:

Restorative Justice is a process to involve, to the extent possible, those who have a stake in a specific offense and to collectively identify and address harms, needs, and obligations in order to heal and put things as right as possible (Zehr, 2002, p. 37).

Restorative justice is not simply a way of reforming the criminal justice system. It is a way of transforming the entire legal system, our family lives, our conduct in the workplace, and our practice of politics. It is a vision of holistic change in the way we do justice in the world (Braithwaite, 2002, as quoted by Umbreit & Armour, 2010, p. 9).

Goals:

Restorative justice practices aim to:

- Put decisions into the hands of those most affected by crime;
- Make justice more healing and, ideally, more transformative; and,
- Reduce the likelihood of future offenses.

Requirements:

Achieving these goals requires that:

- Victims are involved in the process and come out of it satisfied and with a sense of healing;
- Offenders understand how their actions have affected others and take responsibility for those actions;
- Outcomes help to repair the harms done and address the reasons for the offense (specific plans are tailored to the specific needs of both victims and offenders);
- Victims and offenders both gain a sense of "closure," and both are reintegrated into the community.

Guiding Questions:

- Who has been hurt?
- What are their needs?
- Whose obligations are these?
- Who has a stake in this situation?
- What is the appropriate process to involve stakeholders in an effort to put things right?
- What is needed to repair the harms and address underlying needs of victim?
- What is needed to address the needs of offenders to prevent future offending?
- What is the role of the larger community in repairing harms and addressing needs in order to promote safer communities?

Principles:

- Victim-centered (not offender-centered) processes;
- Focus on the harms of crime rather than the rules or laws that have been broken;
- Show equal concern and commitment to victims and offenders, involving both in the process of justice;
- Work toward the restoration of victims, empowering them and responding to their needs as they see them;
- Support offenders while also encouraging them to understand, accept, and carry out their obligation to right the wrongs they have caused;
- Recognize that while obligations for repair may be difficult for offenders, those obligations should not be used as harms (i.e., punishments), and their obligations must be achievable;
- Provide opportunities for dialogue, direct or indirect, between victim and offender as appropriate.
- Find meaningful ways to involve the community and respond to the community bases of crime;
- Encourage collaboration and reintegration of both victims and offenders, rather than coercion and isolation;
- Show respect for all parties - victims, offenders, justice officials, and other stakeholders;
- Give attention to the possible unintended consequences of the restorative practices used.

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"Shaping Justice for the 21st Century"

RELATIONAL JUSTICE MODELS

RESTORATIVE JUSTICE

Victim Focused

Crimes as Harms to People and Relationships

Goals – Repair of Harms

Victims, community,
government, offender
Direct accountability to victims
and community
Possibility of earned redemption
for offenders
Improved collective efficacy

Crime Prevention through:

Re-norming neighborhoods
Non-adversarial processes
Informal dialog processes
Individual empowerment
Restoration

COMMUNITY JUSTICE

Neighborhood Focused

*Crimes as harms to quality of life
(adverse social conditions)*

Goals – Community Building

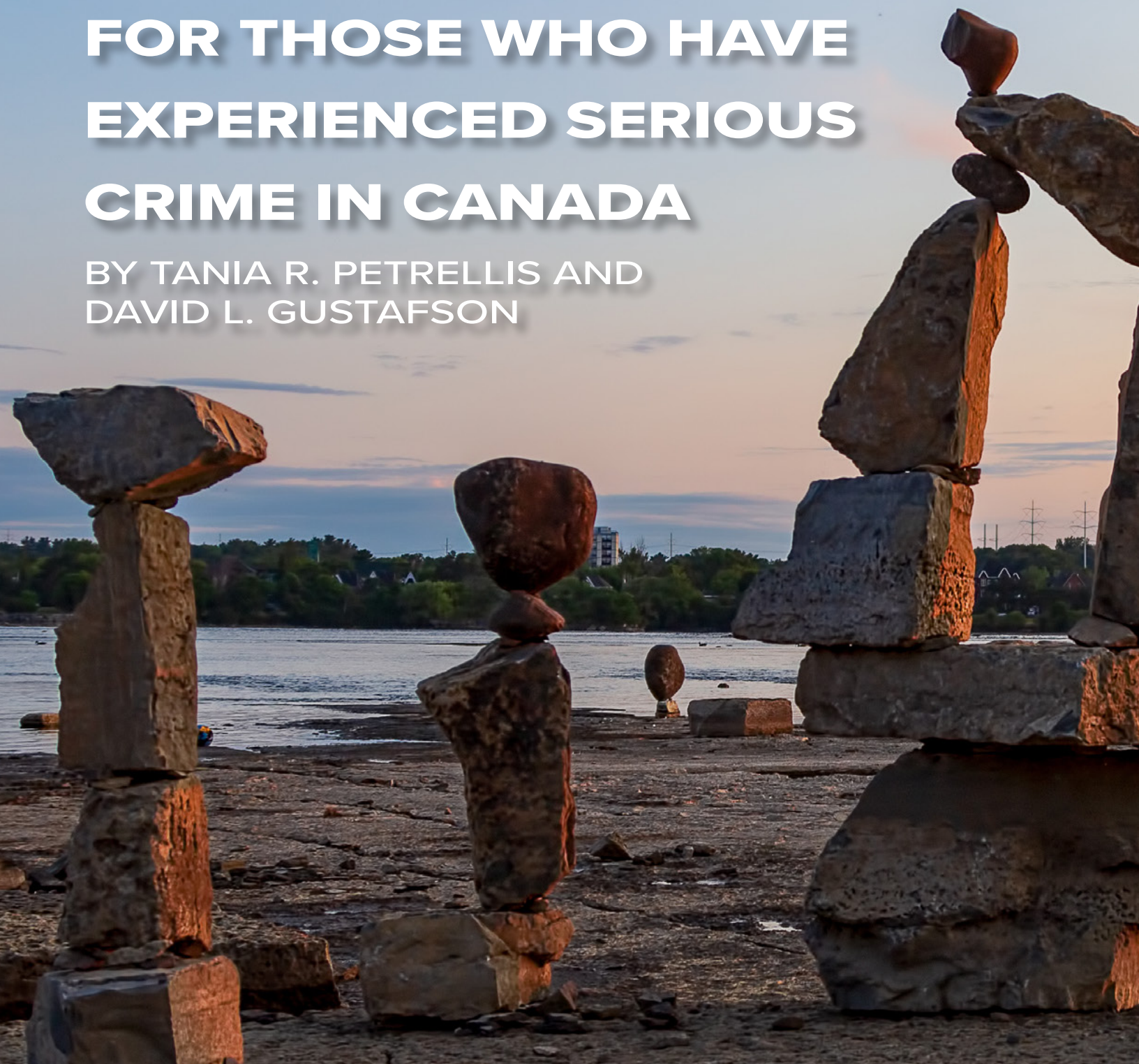
Increasing social capital
Improved quality of life
Ameliorating adverse social
conditions in neighborhoods

Crime Prevention through:

Community empowerment
Assertion of pro-social community
standards
Improved quality of life
Use of city services
Formal justice processes
Surveillance

TRANSFORMING LIVES: DEMONSTRATING THE POWER OF VICTIM- OFFENDER MEDIATION FOR THOSE WHO HAVE EXPERIENCED SERIOUS CRIME IN CANADA

BY TANIA R. PETRELLIS AND
DAVID L. GUSTAFSON



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“There can be nothing as viscerally real and elucidating as the victim-offender mediation process; consequently, there can be no greater opportunity for true insight and healing. I am grateful that the program found me and eternally grateful to the dedicated men and women who handle the process with such care and grace.” –Adam

Introduction

In 2004, the Correctional Service of Canada (CSC) rolled out a nation-wide therapeutic and trauma-informed victim-offender mediation program named Restorative Opportunities (RO) for use in the federal correctional system. This program was piloted and further developed in the 15 years prior to its national launch by the Fraser Region Community Justice Initiatives Association (CJI). From the outset, it was informed by research and the experience of the program founders in the application of restorative justice (RJ) approaches, clinical counselling, and offender treatment.

Stories that emerged from an evaluation at the end of the pilot phase described “healing” outcomes and “unanimous support” from participants (Roberts, 1995). CSC staff spoke of the “transformative power” of the process for the inmates on their caseloads and the victims they met prior to and after the facilitated dialogues.

What follows is the account of one of those cases involving the murder of a young man, with accounts by the victim’s mother, the offender, and the Institutional Parole Officer (IPO) who witnessed the victim-offender

dialogue. All participants consented to the use of their first names for this article.

Case Study: A Catalyst for Change

Jason was a young man gunned down in a random, senseless shooting following an altercation, as described by Heather, his mother:

On Feb 24, 1996, my son Jason was murdered by Adam. It was a brutal, random act that put me and my family on a path we did not want to go down. The shock, pain, grief, and wreckage became our constant, unwanted, uninvited guests.

Adam, the young man who drew and fired the weapon, was charged, convicted, and sentenced to life without possibility of parole for 25 years. He struggled while incarcerated, and in 2002 he was transferred to the Special Handling Unit (SHU) in the province of Quebec due to his violent behavior.

In British Columbia, Heather continued to look for ways to cope, including through her faith, which became a source of strength in her life. She reflects:

How would I ever be able to come to a place of forgiveness for this hateful person who took the life of my precious child? I was not sure how this was ever going to be possible. Close friends suggested I start

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to pray for Adam and for myself, to make me willing to choose to forgive. This has been a long arduous journey, but it has been my journey to freedom. The steps into freedom took me down many paths: grief, unanswered questions, desperately needing to understand something that made no sense, and finally, the path to peace.

Heather's first communication with Adam occurred in November 2006, when she wrote him a letter while he was at the SHU. She asked for him to respond to some questions left unanswered through the criminal justice process. She also took the opportunity to tell Adam about Jason, as he had not even known her son. She described how his senseless act changed her life and the lives of her children. She concluded the letter by telling Adam that she forgave him because she had decided not to let his choice to murder her son define the rest of her life.

Many months later, Heather received a reply from Adam. The style and wording of the letter did not match the angry, aggressive, defiant 19-year-old she remembered at trial. He answered some of her questions, and his tone had shifted to one of candor and vulnerability. He wrote:

I must admit that, as you were a stranger to me, whatever feelings of guilt and remorse I've felt towards you were somewhat academic. There was always a comfortable sense of distance. Then your letter arrived. Having been struck now by your sincerity and almost brutal openness, that distance falls away. I can no longer consider you, your son and family impersonally. I was truly appalled to discover the depth of the harm caused by my actions that night. Perhaps you understand now how I recoil from talk

of forgiveness. I am keenly aware I am unworthy of it. My only hope is that someday you can believe how sorry I am; not simply because of what it cost me but for all that I have denied and taken from you.

She tucked the letter away, glad for it but with lingering concerns about his sincerity due to reports of continued violent behaviour.

Adam recalls his initial contact with Heather:

So it began, with a letter full of brutal illuminations. She had questions that I tried to answer as honestly and thoroughly as possible. I knew that I owed her a great deal more, but I was glad for the chance to give her that much, at least.

I spent the next few years pondering her words; going over that letter again and again. It was very difficult coming to terms with the extent of harm I was responsible for. It really was so much worse than it had ever occurred to me. That comprehension was also the most potent catalyst for change. It's taken time. It hasn't been easy or entirely successful, but 15 years later, those words are a part of me and the letter stays with me like a relic.

Two years after this exchange, Heather received a letter from CSC Victim Services advising her that Adam had been transferred to the Kent Institution in the province of British Columbia. She wondered about the move, being aware that a transfer from the SHU must indicate that Adam's behavior was improving. She reached out to CJI to ask if they could facilitate a face-to-face meeting with Adam when she was ready. In May of 2009, a meeting with the man who murdered her son was arranged, which Heather describes as follows:

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It was, without a doubt, the most emotionally charged and powerfully healing day of my life. Together with my husband, Dave, Sandi, and Dr. A, Adam and I spent four hours together. I remember every detail of that day. For the first time, I saw a glimpse of Adam's full humanity and was given the gift of knowing that I had truly done what I needed to do and was right where I was supposed to be. By the end of the day, as I walked out of the penitentiary, I felt lighter, like I was lifted off the ground. Heaviness, bitterness and hate had dropped away, leaving only freedom and a deep sense of peace.

Adam's experience mirrors Heather's, as he describes:

When I walked into the chapel at Kent Institution to meet her for the first time, I wasn't sure what to expect. I was nervous and had no idea how to proceed. Luckily, it wasn't our facilitators' 'first rodeo.' By their reassuring presence, and gentle guidance, the morning unfolded into the most profound experience of my life. Incredibly, it ended with a hug. I came away from that meeting hoping so much that I was able to provide a fraction of the peace that I received.

Six years later, in September 2012, Michelle, a Federal Institutional Parole Officer (IPO) in a medium security institution in BC, was told that Adam was assigned to her caseload. She was aware that he had spent the first 16 years of his sentence shuttling back and forth between a maximum-security prison and the SHU, designated for those who require the highest institutional supervision in Canada.

Michelle shares the following about her experience as Adam's new IPO:

Adam informed me that while in maximum security he met the mother of the man he had shot to death and they had exchanged letters. When I asked what that experience had been like, he became quiet and told the story of how in awe he was of her forgiveness.

Over the course of the next five years, Adam demonstrated significant progress: he was no longer a behavioural concern. I raised with him the prospect of beginning to develop a plan for gradual release into the community but he continually said he did not think he was ready.

In March 2017, CSC Victim Services informed Heather that Adam was applying for Escorted Temporary Absences (ETAs) and requested a victim statement. She asked to meet with Adam a second time, in hopes of seeing for herself what progress he made. On April 25, 2017, that meeting occurred, and this time Michelle, Adam's IPO, was invited to be present as an observer.

Michelle describes the experience:

I had not foreseen what I was about to observe. Although I knew the victim's mother was forgiving, I had no idea of the extent that this was to prove true. She spoke candidly and eloquently of her loss, but focused, as well, on Adam, wondering how he was doing. I could not believe the grace and concern for his well-being. During the meeting, she asked me whether I was prepared to assist in his release, as she believed he now deserved to move on with his life, even if he did not.

Heather describes what she had witnessed in this meeting with Adam:

Once again, I saw changes in Adam, a deepening of what I had seen at our previous meeting: humility, remorse, sincerity. His responses to my questions were thoughtful. He displayed genuine

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concern regarding the well-being of my family. Through our conversation he took full responsibility for his crimes and the actions that had so harmed others. He spoke of his own family and the meaningful relationships he had formed with others, within the prison, and in the community. He also spoke for the first time of his hopes and plans for the future.

Following that meeting, Heather wrote her victim statement, in which she expressed, “Adam should be given every opportunity to access all the help and support he can to facilitate his release and to move forward toward a meaningful and productive life.”

Michelle comments about her own view of Adam’s readiness for release:

I tend to be conservative when making recommendations, my paramount concern being to ensure the release is as safe as it can possibly be for both the community and for the offender. On that basis, I began to work with Adam to begin his reintegration into the community, starting with a transfer to a minimum-security institution. Adam was humble, still believing he did not deserve to be released because of the life he took.

I am referred to as a “hard-nosed” parole officer, but over the next few months, I managed to persuade Adam that he deserved to move on with his life; a view firmly reinforced for me by his victim’s mother. Adam finally agreed to the transfer to minimum that would set the stage for his release to the community.

Heather concludes with this thought:

My hopes and prayers for Adam are that he is finally able to forgive himself and move forward, knowing that in having taken responsibility and served the sentence imposed, he has earned

the right and is deserving of a second chance.

Adam concludes by saying:

There can be nothing as viscerally real and elucidating as the victim-offender mediation process; consequently, there can be no greater opportunity for true insight and healing. I am grateful that the program found me and eternally grateful to the dedicated men and women who handle the process with such care and grace.

Research in Support of RJ

This case study provides a real-life example of a successful restorative justice process and illustrates both participants’ personal journeys in addressing the harm produced by the act of violence. RJ is also supported by a body of research that points to the direct benefits for participants and the indirect benefits for correctional staff. Victims who participated in victim-offender mediation gained greater control over their safety and their lives, and the process offered a measure of closure (Roberts, 1995). Offenders, in addition to personal growth, reported a greater commitment to addressing their criminogenic needs, and staff confirmed a higher commitment by those offenders to participate actively in their correctional plan (Roberts 1995).

CSC research has shown that RO shows promise in reducing recidivism (Stewart et al., 2013). The trend suggested that after one year of release, offenders involved in a face-to-face meeting had fewer returns to custody despite lower reintegration potential and motivation ratings. Another study demonstrated that RO participation, par-

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ticularly when meetings were offered in the community, resulted in a lower rate of revocation. The results also suggested that RO participation while incarcerated may reduce revocation rates over time (Stewart et al., 2018).

In 25 cases randomly selected from a pool of victims and offenders that met face-to-face, 97% of the victim respondents felt they were disempowered, disrespected, or subjected to secondary victimization by the criminal justice system, but they unanimously reported that participation in victim-offender mediation empowered them and provided an opportunity to “impact the offender’s thinking.” The majority of offender respondents reported that their program participation assisted them in creating a “new life script” and to be capable of living the hopes and expectations their victims now had for them to live crime-free (Gustafson, 2018).

CSC RO Correctional Results Report (2020) provides correctional results for 280 offenders who completed a face-to-face meeting with victims. Of the 228 offenders who participated in a face-to-face meeting and were subsequently released, 98% did not re-offend within one year of the meeting; 91% did not re-offend within five years; and 89% did not re-offend by year 10. Comparatively, of a sample of offenders who did not participate in a face-to-face meeting, 84% did not re-offend after five years.

Restorative Justice and Victim-Offender Mediation Services

CSC defines RJ as an approach to justice that focuses on addressing the harm caused by

crime and meeting the needs of those involved. RJ processes provide opportunities for safe and voluntary dialogue between victims, offenders, and communities. Participation in restorative justice processes can lead to the meaningful accountability of offenders, the recognition of harm and loss, positive change and forward movement for participants, feelings of satisfaction, improvements in health/well-being, and safer communities.

In partnership with Criminal Justice Initiatives, CSC has maintained the Restorative Opportunities program based firmly on the values and principles of RJ for over 30 years. While RO exists in the criminal justice system, it is completely voluntary for all participants and is confidential. Any information about participation is kept separate and outside of the offender’s file and is not used or reported on for decision-making purposes. This creates a protected and safe space to have honest, truthful, and transparent discussions untethered to the correctional or parole process.

Over the years much has been learned, including the importance of customizing processes based on the participants’ expressed needs and empowering them with choices. When dealing with serious crime, a one-size-fits-all approach and prescribed timelines can cause greater harm. Also, victims of severe violence are not interested in participating in a process that serves to benefit the offender’s sentence or parole. Victim participants want to be sure that the offender’s motivation to participate is to meet their needs as a victim—helping them in their journey towards justice and healing, letting them see that the

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offender acknowledges what was done, and preventing any further harm. It is for this reason that the RO program continues to be described as victim focused and offender sensitive.

RO processes are facilitated by highly trained, community-based professional mediators experienced in restorative justice and victimology as well as in working with people affected by crime and trauma. They focus on the people, moving the focus away from the punishment (i.e., the sentence and correctional plan) and toward what matters most to those involved. It gives people a tangible understanding that transformation can happen and that accountability is not just expressed but cemented between the participants. It gives them hope.

Parole Officers (POs) play a very important role in the program by referring offenders. They offer valuable insight into offenders' progress and level of motivation as well as their likelihood of making themselves available for communication with the victim(s). POs can also shed light on whether offenders express remorse/accountability and whether their reasons to participate seem sincere. If the victim initiates a request for mediation, the PO helps RO staff and mediators determine whether the offender would be suitable to participate and whether there are any concerns.

Some POs have been invited to attend victim-offender mediation processes as the offender's support person, while others have observed, provided there is agreement from all participants. While many POs have raised the potential benefits of reporting on participation in the RO victim-offender mediation process, for a truly restorative justice process to occur, they are not

able to. However, many will note the behavioral changes and improvements in the offender through their independent interactions as part of their casework, independent of any reference to the offender's participation in the program.

Conclusion

Participants in victim-offender mediation often note unexpected outcomes beyond the needs identified. Victims describe being heard, becoming empowered through choice, and seeing for themselves if the offender is remorseful and accountable. They describe "justice" finally being achieved. Offenders describe their participation as more difficult than serving time for the crime they perpetrated. It requires gaining insight and understanding about oneself and what was done and then having to discuss it with the person who was harmed. This deeper inter-relational understanding based on the lived experience and exchange between offender and victim strengthens the tools offenders acquire through CSC programs and services to change, remain crime free, and reintegrate into society. POs observe changes of significance that include a reduction in violent behavior and charges, an increase in motivation and level of accountability, increase in correctional plan program completion, and more successful reintegration into community.

By telling their story, Heather, Adam, and Michelle feel they were able to honor Jason's life and provide strong proof of how RJ contributes to safer communities. Through our efforts to share the work that CJI and CSC have done together over the years, we have increased understanding

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of a valuable way to address crime based on the human needs created when a serious wrong has been committed. Agencies in other countries have learned from our experience and implemented their own RJ programs.

Author's Note

The views and opinions expressed in this article are those of the authors and may not necessarily reflect the policies and perspectives of the Correctional Service of Canada.

Acknowledgement

We would like to extend our gratitude to Heather, Adam, and Michelle for sharing their experience and for their contribution to this article.

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20 YEARS OF THE PROBATION AND MEDIATION SERVICE IN THE CZECH REPUBLIC

BY ANDREA MATOUŠKOVÁ,
MIROSLAVA JAKEŠOVÁ



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History

The Probation and Mediation Service of the Czech Republic¹ is quite a young organization compared to those in other European countries. Historical developments in the 20th century, especially the Second World War and the communist government which came to power in 1948, made the way for establishing the very first Czech probation service more challenging. Nearly 50 years of relative isolation from the surrounding world provided the country little opportunity to develop institutions which could truly serve the public interest and function responsibly and effectively in fulfilling democratically accepted mandates for governance.

The Probation and Mediation Service was established in direct connection with sweeping systematic changes in the country's criminal law, criminal policy, and criminal judiciary. These systematic changes of the criminal justice system involved not only the reform of criminal law from its previous totalitarian-based, repressive character but also a reform of the repressive prison service system and the introduction of new, innovative methods of punishing and correcting offenders.

The reforms made in criminal law were characterized by introducing new alternative sentences and measures. Emphasis was placed on elements of crime prevention, including mentoring and a more educational approach in connection with the correction of offenders. Another major focus was reducing the number of people held in overcrowded prisons—a need that attracted great interest—

but increased attention was also paid to impacts on crime victims and means of providing assistance to them. Experts started to discuss the introduction of alternative methods of criminal conflict resolution.

The various reform measures were accompanied by an increased awareness and shift of perspective on the part of those working in various fields, such as academia, non-governmental organizations, and the judiciary, as well as society in general. Added to this was considerable knowledge gained by studying international trends and practices, and the end result was a decision that the Czech Republic could not do without an unified national institution to oversee and effectively address these emerging criminal justice challenges. As in many democratic countries in Europe and other parts of the world, a new entity was established for this purpose—the Probation and Mediation Service, which was officially created by the Act on Probation and Mediation in 2000 (Act No. 257). The concept and form of the Act were notably influenced by restorative justice programs in other countries, and the Service was established with the vision of achieving enhanced effectiveness by placing all elements of probation and mediation services under one umbrella.

The Probation and Mediation Service

The Service commenced operations on January 1, 2001. With an initial staff of fewer than 100 people, it started working in 74 service centers spread across the Czech Republic. The Service deals with the securing of a practical execution of alternative sentences and measures. It leads the accused and offenders to not violate the law again and to attempt to make important changes

¹ For the purpose of this article we use the Probation and Mediation Service or the Service.

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in their lives. It also helps crime victims in the process of recovering and getting back their lives.

A strong argument can be made that it is the Service which in great part protects society against crime and its repetition. The trained probation officers and assistants in the Service serve as mentors, inspectors, and guides who lead offenders to responsibility and a more positive way of life. They also help and attend to the needs of crime victims, work to address criminal conflicts, and create and develop small and large networks of cooperation involving offenders, victims, the judiciary, the local community, non-governmental organizations, and other specialists.

The results achieved in the last 20 years certainly validate the initial concept that effectiveness would be enhanced by working under one umbrella. From the very beginning, the Service has been able to perform to a high standard in carrying out both probation and mediation activities. Mediation activities primarily include victim-offender mediation and other activities that may settle conflicts that would otherwise instigate a prosecution. The probation activities include the preparation, execution, and supervision of alternative sentences and such measures as community service, parole with probation supervision, suspended sentence with probation supervision, house arrest, or prohibition to enter sports, cultural and social events. The Service also carries out probation and mediation activities mandated under the Youth Justice Act of 2003 (Act, 2003).

The Probation and Mediation Service works within all stages of criminal proceedings. However, most of its activities are carried out in the pre-trial stage. These include mediation activities that

create conditions for the possibility of application of diversions in prosecution via the the victim-offender mediation program. Probation activities create the conditions for imposing alternative sentences and measures, (particularly community service and house arrest) and ensuring that probation supervision replaces custody. The enforcement stage includes probation activities such as supervision over people with suspended sentences and people released on parole, including offenders who have committed serious crimes.

Twenty Years Later

Today, the Probation and Mediation Service is a well-established and smoothly operating institution that in 20 years of operation has built up its position to the point where it has a good reputation among judges, public prosecutors, police officers, local governments, public institutions, the non-governmental sector, and other specialists. Last but not least, it also has garnered positive attention from abroad, as evidenced by a number of international activities and projects. As mentioned earlier, the Service started off with less than 100 employees, mostly probation officers and assistants, but it has now grown to having nearly 600 employees that include victim counsellors and project staff.

Over the years, the Service successfully completed numerous projects. Within the last eight years these have included included *Why me? I* and *II*² projects focused on providing help to crime victims, the *On the Right Path I* and *II*³ projects aimed at combating juvenile delinquency and setting up Youth

2 Probation and Mediation Service. *Why me? II*. <https://www.pmscr.cz/en/why-me-ii/>

3 Probation and Mediation Service. *On the Right Path II*. <https://www.pmscr.cz/en/on-the-right-path-ii/>

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Teams, and *Fragile Chance I* and *II*⁴.projects that implemented and/or expanded existing practices of Parole Boards and introduced new restorative programs.

One of the newest restorative programs is *You Matter Too*,⁵ whose main objective is to raise offenders' responsibility for unlawful behavior, increase their ability to empathize with crime victims, strengthen perspectives on their criminal behavior, help them understand risk factors related to this behavior, and, eventually, raise awareness about their inner protective areas (or mechanisms) in a way that helps prevent them from reoffending. This particular program came into existence after completion of the *Fragile Chance II* standardized program offered in Czech prisons. The Probation and Mediation Service adapted that program for implementation outside the prison environment and will offer it in newly established Program Centers from 2021 on.

A second program introduced within *Fragile Chance II* is called *Development of Restorative Practice*. This program has been implemented in six regions, and its main objectives are to support communication and cooperation between prisons, local probation centers, local NGOs, state social services, etc.; to cover missing programs that could help offenders to reintegrate effectively; to increase awareness of restorative justice principles focusing on prison staff, external experts, and community; and to implement those principles in new programs. Since 2017, there have been many activities and small projects initiated by the program, including (1) a series of seminars and workshops conducted by probation and prison specialists in cooperation with public places such

as libraries or universities in order to bring the idea of restorative practice potential to experts and laymen, (2) new programs for offenders and their families (including Father's Day program, family circles, and workshops for offenders' families to discuss life in prison), (3) programs for offenders aimed at increasing empathy and the understanding of victims' needs and impacts of a crime (including workshops with victim specialists), and (4) programs for supporting offenders motivated to "do something" for others such as building a new guest room for children visiting their mothers in prison or cleaning public areas.

The beginning of 2021 meant start-ups in four regions for a project called *Back to Life*. Under the auspices of this project, new Program Centers in these regions started operating and will offer various programs aimed at juveniles, young adults, and adult offenders. In addition, the very first Probation House in the Czech Republic for offenders conditionally released from prison with probation supervision will open in 2022.⁶

Planning for the future has not been neglected. In 2017, a long-term strategic document was developed and adopted by the Czech government to guide the Service.⁷ Called "Probation and Mediation Development Concept until 2025," it focuses on some key areas for further development in probation and mediation activities in the Czech Republic. This blueprint provides a vision and concrete steps for advancing probation and mediation in criminal matters in the next eight years through the progressive fulfillment of strategic goals.

4 Probation and Mediation Service. *Fragile Chance II*. <https://www.pmscr.cz/en/fragile-chance-ii/>

5 Vnímám i Tebe

6 Probation and Mediation Service. *Back to Life*. <https://www.pmscr.cz/en/pdp3-back-to-life/>

7 Probation and Mediation Service. *Probation and Mediation Development Concept until 2025*. https://www.pmscr.cz/download/2017_Koncepce_PM_do_roku_2025_EN.pdf

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Mediation

Every work day, mediation meetings are commencing all over the Czech Republic. Even though the COVID-19 pandemic caused the number to temporarily drop,⁸ mediations are still one of the core activities provided by the Service, and victim-offender mediation is the most common and most applied restorative justice program. Most often the mediation process takes place in the pre-trial stage, but mediations in the enforcement stage are not unusual.

Mediation in prosecution is considered to be a tried, tested, and functional method to arrive at an alternative solution for an offense—an alternative, that is, to traditional criminal prosecution. Mediation allows a criminal case to be handled in an informal way outside the courtroom. The mediation process is regulated by the Act on Probation and⁹ and the Criminal Procedure Code¹⁰, which authorize public prosecutors and judges to terminate or suspend prosecution if a successful mediation has occurred. In most cases, this is done through so-called diversions.

In mediations, everything is managed and coordinated by mediation specialists—specially trained probation staff members. In accordance with Section 7, Article 5, of the Act on Probation and Mediation, “The officer of the Probation and Mediation Service may not execute in the same

case the tasks of probation and mediation.

“ Thus, if an offender and victim are interested in undergoing mediation, a mediation specialist who is a different probation officer than the one handling the enforcement of probation must arrange the mediation to guarantee the impartiality of the mediator.

The victim-offender mediation process requires detailed preparation, including knowledge of the case, orientation in the prosecution, and knowledge of principles of damage compensation. Of note,

- The probation officer (in this case mediation specialist) needs to be trained on how to manage the mediation process safely so that the victim will be protected and the mediation contributes to the settlement of conflicts and, if applicable, to a quick settlement of caused damage.
- Mediations are generally concluded by an agreed-upon and well planned meeting between the victim and offender—or their close relatives and supporters, if appropriate.
- The mediation specialist evaluates possible risks that may result from negative reactions of the victim on meeting with the offender. In this context, the officer should, in advance or in cooperation with the victim, assess the nature of the conflict and take into account the nature of the damage suffered by the victim. It is highly important to us that the victim not be exposed to any traumatic experience or secondary victimization.

The Service can begin mediation-related activities upon a request from an offender, victim, public prosecutor, court, social and legal protection

8 In 2020, the Probation and Mediation Service carried out 471 mediations, a nearly 38% decrease from the 768 mediations carried out in 2019.

9 Probation and Mediation Service. *Act on Probation and Mediation*. https://www.pmscr.cz/download/EN_ABOUT_PROBATION_AND_MEDIATION_ACT_aktual_2014.pdf

10 *Zákony pro lidi, Zákon č. 141/1961 Sb. Zákon o trestním řízení soudním (trestní řád)* <https://www.zakonyprolidi.cz/cs/1961-141>

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of children authority, cooperating persons, or institutions. The Service itself may also initiate mediation activities—usually based upon the information provided upon the commencement of a criminal prosecution, as obtained from the police. The police inform both the accused and victims about the possibility of cooperating with the Service. In cases where the offender is an adult, the police inform the Service about select cases where the involvement of the Service is deemed appropriate. In cases involving a juvenile prosecution, the police are to inform the Service about all cases of criminal prosecution. This requirement is set forth in the Probation and Mediation Act, which says:

...in suitable cases in the realm of mediation also without an assignment mainly on request from the side of the offender and the victim. In such cases they immediately notify the respective body involved in a criminal proceeding, which can decide that the matter should not be mediated, and mediation will further not be pursued.

The Penal Act and the Criminal Procedure Code do not stipulate any limits for the commencement of mediation activities, but the Service imposes an obligation to inform a relevant public prosecutor about the fact that it is beginning involvement in a particular case. If the mediation might interfere with the investigation process, the Service cannot pursue it.

The Service predominantly focuses on criminal cases where interpersonal relations were disrupted (cases where both the offender and the victim have previously known each other because they are, for example, neighbors, friends, or

family members) or where the victim was physically hurt (crimes of negligence and deliberate crimes). The Service mostly conducts mediations in the pre-trial stage, but it may become involved in the trial and/or enforcement stages as well. In the pre-trial, stage, it is up to the victim and offender whether they take part in the mediation or not. The mediation process is most often pursued in cases of criminal negligence (more than 40% of cases), vandalism (21%), and robbery and bodily harm (9%).

Over the 20 years the Service has been in operation, mediation has become a common and significant practice. Service staff carry out direct mediation, but also intermediate possibilities of the application of diversions in the prosecution indirectly between the parties (the victim does not meet the offender), offer and provide an individual support and assistance to crime victims. This activity saves the courts work, in turn freeing them up to deal with more serious and complex cases. The mediation activities carried out by the Service are appreciated not only by judges, public prosecutors, and police officers, but also by victims and offenders.

Crime Victims

Since its foundation, the Probation and Mediation Service has come a long way in its approach to crime victims. The original concept proposed by law assumed that the Service should deal with offenders as well as victims, and not only within the mediation process. According to restorative justice principles, the correction and reparation of an offence by the offender is simply not complete as long as the situation of the crime victim is omitted.

At the beginning, it was not easy to get the victims involved. The traditional conservative approach

of the judiciary, which paid attention to victims and injured parties rather formally, played a role in this. Similarly, probation services all around the world traditionally paid attention primarily to crime offenders. Bringing victims more to the forefront was a brand new concept. The crime victim with his/her needs is already part of case work. The concerns of the Service employees about contacting the victims played a role, too.

Over the course of time, the restorative approach began to win out in the practice of the Service, and this was in great part due to probation officers' own positive practical experience and the favorable responses of crime victims themselves. We have learned that above all we need to talk to people who have become crime victims—and we should not be afraid of raising questions. Our experience has taught us that we need to respect the impact of the traumatizing incident on the victim irrespective of the prosecution stage, because there are two separate processes, which in many cases take place independently of each other (e.g., several months may elapse after the assault before the offender is identified and prosecution starts).

Today at any of 74 Service Centers across the Czech Republic there is a probation officer specializing in mediation and victim's counselling. Moreover, by 2020 there were 56 specialized counselling offices established under the auspices of the *Why me? I and II* projects. That year the Service provided help and counselling to 4,306 crime victims.

Future of the Probation and Mediation Service

To some extent the future of the Probation and Mediation Service has been outlined by the aforementioned Probation and Mediation Development Concept until 2025. The unfortunate COVID-19 pandemic caused unexpected challenges, however, forcing everyone to revise and update measures, protocols, and methodological standards. It is a credit to the Service that during the 2020 and 2021 lockdowns it never shut down completely and continued working with clients, conducting mediations and providing help to crime victims. The extent to which the pandemic may hamper the Service's ability to meet its goals and projections in the next few years is not yet clear.

Overall, the service has built a strong foundation with a clear record of success that holds promise for the long-term future as well. The professionals working in the Service will continue to perform their essential work—but always with an eye to improving programs whenever possible and getting better and better outcomes.

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