

2003 Joint Committee on Audit

Restorative Justice Programs

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Restorative justice programs audited

The Associated Press
Published June 29, 2004

MADISON, Wis. - Milwaukee County offenders who participated in a state-funded restorative justice program were less likely to commit other crimes than those who did not take part, according to an audit released Tuesday.

The state's nonpartisan Legislative Audit Bureau examined pilot programs in both Milwaukee and Outagamie counties that cost the state \$100,600 a year.

The Legislature must decide whether to continue funding the programs after June 30, 2005. Federal money has covered 75 percent of the costs, but those funds are set to expire after next year.

Restorative justice programs promote restitution as part of a case's resolution and often require offenders to meet with their victims.

State auditors found in Milwaukee County, 8.8 percent of first-time offenders who participated in the program were arrested again or charged with another offense within a year. In contrast, 27.6 percent of offenders not in the program offended again.

Outagamie County also reported positive results, but auditors found problems with the way officials calculated recidivism rates. The report recommended county officials compare results for program participants with a valid control group and that Milwaukee and Outagamie counties use a consistent method for calculating recidivism rates.

Eleven other Wisconsin counties have their own restorative justice programs, funded by county money and private grants. Those programs also reported that most of their efforts have been successful, the report said.

Those counties are Barron, Brown, Crawford, Dane, Douglas, Jefferson, La Crosse, Marathon, Marinette, Monroe and Winnebago.

On the Net:

Legislative Audit Bureau: <http://www.legis.state.wi.us/lab>

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Posted July 06, 2004

Editorial: Programs may help state out of its budget mess

A little-known program came to light last week that re-affirms how invaluable restorative justice programs are to the state of Wisconsin.

More than just a tool to keep would-be offenders off the streets by requiring restitution, they may have a dollar value, too. Restorative justice programs could play a vital role in the state getting out of its budget mess.

Auditors of a pilot program for Milwaukee and Outagamie counties made their review public last week. Both had positive things to say. Although the program is 75 percent federally funded and those dollars stop coming next year, 11 counties including Winnebago have restorative justice programs in place.

This pilot program was free publicity that strengthens the hand of the 11 counties to keep using this method. And those 11 counties don't use federal funds to run their programs, either. They use grant money. They use county money.

At the same time that this justice information became public, it already has been known that the state has an ever-growing structural budget deficit. It's high time that calculations be done to see what kind of state-level savings could come from a reduction in prison costs.

Very likely, this could become a significant factor in more than reducing a structural deficit. It could help the reform of Wisconsin's criminal rehabilitation system - meaning those in prison and those who could be on their way to prison in future years.

Why do states have savings with restorative justice programs? It is in part because local governments are encouraged to have programs that work to prevent people from rising to the level of a problem, state-level prisoner in the first place.

These programs are close to a panacea. They can mean an extra cost burden for a county, although grant dollars also are available. Their value is in preventing the first-time offender from repeating. Or, to prevent a non-violent offender from turning violent.

Wisconsin need only look to Minnesota to see a state with a better balance of restorative justice programs. It is a state prison system that has a more manageable budget than Wisconsin, too, by about as much as the structural deficit right now.

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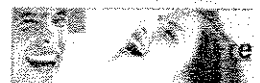
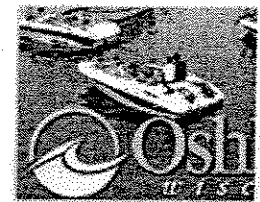


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Restorative Justice Audit



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A Gentler Justice Works Best

Wisconsin State Journal :: OPINION :: B3

Sunday, July 11, 2004

Have the hard wheels of justice gone soft? Getting apologies and giving forgiveness hardly qualify as typical crime control tactics, but they form the cornerstones of trendy "restorative justice" initiatives involving criminals and their victims.

This touchy-feely chit-chat -- with lots of talk about "healing the wounds" of victims, offenders and their communities -- sounds suspiciously squishy. Wouldn't it make more sense to simply lock the baddies in the jug for some hard time?

The answer appears to be no. Evidence is mounting that these alternative programs work better than tough prison sentences alone at cutting crime and its costs to victims and taxpayers.

Instead of dispensing only punishment, restorative justice focuses on repairing personal and community harm done by criminals. The longstanding Restorative Justice Project of UW-Madison's Law School pioneered the approach after research uncovered the important roles that apology and forgiveness can play in criminal law.

The two most common restorative approaches involve victim-offender conferences, which allow an individual victim to meet an offender to discuss the crime and how the offender will make amends; and victim impact panels, which allow groups of victims and criminals to discuss the effects of the crimes.

Restorative justice isn't as soft as it first appears. It doesn't let a criminal sidestep punishment such as prison time. Instead, it adds the obligation to make restitution to victims and the opportunity to achieve rehabilitation.

A new state audit indicates that this combination works better than plain punishment. The Legislative Audit Bureau looked at 11 restorative justice programs in Wisconsin counties operated by nonprofit groups or county agencies, giving special scrutiny to two state-supported programs in Milwaukee and Outagamie counties.

The early results are encouraging. Only 4.3 percent of 47 offenders who participated in Milwaukee County's restorative justice program ended up charged with another crime later, compared to 15.5 percent of those who didn't go through the program. Such evidence is still not definitive, but that's due more to poor recordkeeping by one of the

study subjects, Outagamie County, than questions about overall program effectiveness.

Such programs hold special promise for setting young people straight. Younger offenders caught on drug, vandalism, truancy and lesser violence charges are all ripe for restoration rather than retribution.

Dane County has experimented with a victim-offender conferencing and other restorative-style programs targeting adolescent criminals. The interfaith Madison-area Urban Ministry applies similar principles and tactics in trying to get newly released ex-cons to stay straight after they do their time. Judges order some drunk drivers to meet with accident victims as a way of understanding the harm the drivers could do if they drive drunk again.

Less tangible but equally important, restorative justice helps victims as well as offender. Victims and their families often feel frustrated or angry when the traditional process of justice fails to erase their pain. Through these programs, victims have a voice and direct involvement in doing justice.

If proven effective, the programs make economic sense, too. Many prisoners are repeat visitors, and if a restorative program can cut this recidivism, it will pay for itself many times over.

Restorative justice isn't soft -- it's sensible. As state and local officials seek new ways to reduce skyrocketing prison expenses and inmate numbers, this innovative approach belongs near the top of the priority list of alternatives to traditional prison.

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6. Restorative Justice article

- a. Restorative justice isn't as soft as it first appears. It doesn't let a criminal sidestep punishment such as prison time. Instead, it adds the obligation to make restitution to victims and the opportunity to achieve rehabilitation
- b. A new state audit indicates that this combination works better than plain punishment
- c. The early results are encouraging. Only 4.3 percent of 47 offenders who participated in Milwaukee County's restorative justice program ended up charged with another crime later, compared to 13.5 percent of those who didn't go through the program.
- d. Less tangible but equally important, restorative justice helps victims as well as offender. Victims and their families often feel frustrated or angry when the traditional process of justice fails to erase their pain. Through these programs, victims have a voice and direct involvement in doing justice.
- e. If proven effective, the programs make economic sense, too. Many prisoners are repeat visitors, and if a restorative program can cut this recidivism, it will pay for itself many times over.
- f. Restorative justice isn't soft -- it's sensible. As state and local officials seek new ways to reduce skyrocketing prison expenses and inmate numbers, this innovative approach belongs near the top of the priority list of alternatives to traditional prison

Restorative Justice Programs:
Milwaukee and Outagamie
Counties

Legislative Audit Bureau
September 2004

1

2001 Act 16 Created a Two-
County Program

- ◆ Act 16 authorized 2.0 FTE Assistant District Attorney positions
- ◆ Act 16 created appropriations to fund the program
- ◆ Act 16 created statutory reporting requirements for the counties and an evaluation requirement for LAB

2

Program Expenditures,
FY 2002-03

- ◆ \$100,600 in FY 2002-03
- ◆ Federal Byrne Grant funds are matched by penalty assessments
- ◆ Office of Justice Assistance and the State Prosecutors Office have administrative roles in the program

3

**Restorative Justice
Programs Vary**

- ◆ Victims, offenders, and the community are typically involved
- ◆ Repairing the harm caused by the crime is a primary objective
- ◆ Milwaukee and Outagamie counties operate several programs

4

Milwaukee County Programs

- ◆ Community Conferencing
- ◆ Neighborhood Initiative

5

Outagamie County Programs

- ◆ Drunk Driving Impact Panel
- ◆ Domestic Violence Fast Track
- ◆ Drug Fast Track
- ◆ Community Court
- ◆ Victim-Offender Conferencing

6

Number of Offenders in Restorative Justice Programs

Outagamie County

Program	2002	2003
Drunk Driving Impact Panel	250	242
Domestic Violence Fast Track	95	168
Drug Fast Track	43	51
Community Court	21	6
Victim-Offender Conferencing	6	4
Total	415	471

7

Recidivism as a Measure of Program Effectiveness

- ◆ Act 16 required reporting on recidivism
- ◆ Our independent calculation for Milwaukee County shows reduced recidivism for participating offenders
- ◆ An independent calculation was not possible for Outagamie County

8

Recidivism Rates in Milwaukee County

2002 Cases

	Community Conferencing Program	Control Group
Offenders with No Prior Convictions:		
Rearrested or Charged within One Year	8.8%	27.6%
Rearrested or Charged through 2003	8.8	37.9
Offenders with a Prior Conviction:		
Rearrested or Charged within One Year	27.3	50.0
Rearrested or Charged through 2003	45.5	66.7

9

*started 2003
at 890
37-990*

27-37

*Participants have lower recidivism after 1 year in program
2003-
lower rate of recidivism*

Programs in Other Wisconsin Counties

- ◆ Restorative justice programming is in place in at least 11 other counties
- ◆ Program philosophies and measures of success vary
- ◆ Program structures, funding, and staffing levels vary

10

4 actually charge fees
4 access private funds
① the non-profit Brown
\$140,000 - 3 FTE
② more than \$30,000
to support 1
FTE

Options for Legislative Consideration

- ◆ Appropriate GPR for Outagamie and Milwaukee counties when the current funding expires with FY 2004-05
- ◆ Seek information from the Office of Justice Assistance on the availability of Byrne Grant funds to support programs in other counties
- ◆ Appropriate no funds after FY 2004-05

11

may want to consider

Restorative Justice Programs: Milwaukee and Outagamie Counties

Legislative Audit Bureau
September 2004

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WISCONSIN STATE LEGISLATURE

Joint Audit Committee

Committee Co-Chairs:
State Senator Carol Roessler
State Representative Suzanne Jeskewitz

September 13, 2004

Ms. Carrie Schneider, District Attorney
Outagamie County District Attorney Office
320 South Walnut Street
Appleton, Wisconsin 54911

Dear Ms. Schneider:

The Joint Legislative Audit Committee will hold a public hearing on Legislative Audit Bureau report 04-6, *An Evaluation: Restorative Justice Programs* on Thursday, September 23, 2004, in Room 411 South of the State Capitol. The discussion of this report is anticipated to begin at approximately 12:00 p.m.

As the report relates to restorative justice programming in Outagamie County, we ask that you or appropriate members of your staff be present at the hearing to offer testimony in response to the audit findings and to respond to questions from committee members. Please also plan to provide each committee member with a written copy of your testimony at the hearing.

Please contact Ms. Pam Matthews in the office of Representative Suzanne Jeskewitz at (608) 266-3796 to confirm the participation of your office in the hearing. Thank you for your cooperation and we look forward to receiving your testimony on September 23rd.

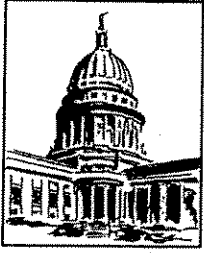
Sincerely,

Senator Carol A. Roessler, Co-chair
Joint Legislative Audit Committee

Representative Suzanne Jeskewitz, Co-chair
Joint Legislative Audit Committee

Enclosure

cc: Ms. Janice Mueller
State Auditor



WISCONSIN STATE LEGISLATURE

Joint Audit Committee

Committee Co-Chairs:
State Senator Carol Roessler
State Representative Suzanne Jeskewitz

September 13, 2004

Mr. E. Michael McCann, District Attorney
Milwaukee County District Attorney Office
821 West State Street
Safety Building, Room 405
Milwaukee, Wisconsin 53233

Dear Mr. McCann:

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Sincerely,

Senator Carol A. Roessler, Co-chair
Joint Legislative Audit Committee

Representative Suzanne Jeskewitz, Co-chair
Joint Legislative Audit Committee

Enclosure

cc: Ms. Janice Mueller
State Auditor

Asbjornson, Karen

From: Chrisman, James
Sent: Tuesday, September 14, 2004 2:33 PM
To: Asbjornson, Karen
Cc: Chrisman, James
Subject: Hard copy of hearing invites

Alison Poe Office of Justice Assistance 131 West Wilson Street, Suite 202 Madison, Wisconsin 53702

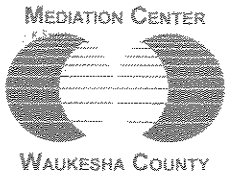
Michael Nyman, Court Administrator

Waukesha County Courthouse 515 West Moreland Blvd., Room C-359 Waukesha, WI 53188

Stuart Morse, Director State Prosecutors Office Department of Administration 101 East Wilson Street
Madison, WI 53702

Cathy A. Warmington, Director Mediation

Center of Waukesha County 414 West Moreland Blvd., Room 204 Waukesha, WI 53188



Karen / Sen. Roessler

MEDIATION CENTER OF WAUKESHA COUNTY
 414 W. MORELAND BOULEVARD, ROOM 204, WAUKESHA, WI 53188
 TELEPHONE: 262-544-1647 E-MAIL: MCWC@WISCS.ORG
 FAX: 262-544-9456 WEBSITE: WWW.WISCS.ORG
 SERVING SOUTHEASTERN WISCONSIN

*Helping
People
Resolve
Conflict*

- Program Operator:** Wisconsin Community Services, Inc
 Mediation Center of Waukesha County, a Program of WCS
 (See Center's history on reverse of page)
- Programs Provided:** Victim/Offender Conferencing
 Youth Accountability Panel
 Facilitations (Consensus Building, Circles)
- Funding Sources:** County funds, federal funds, private grant funds, participant fees, donations
- Population Served:** Juveniles and adults
- Recidivism Data:** No
- Control Group Data:** No
- Program Description:**

The Victim/Offender Conferencing Program, which began in 1983 for juveniles, receives referrals, generally after disposition, in cooperation with the Waukesha County Department of Human Services and the Waukesha County Juvenile Court. In 2003, 43 victim/offender conferences were held. In addition, the Center participates in adult victim/offender conferences on a smaller scale. Referrals for these cases generally come from criminal court. Victim/offender conferencing is voluntary for both the victim and the offender.

The Youth Accountability Panel, a juvenile impact panel, began 2 years ago. This is an alternative for referred juveniles that do not participate in victim/offender conferencing. In 2003, 111 juveniles participated in the panel.

Recently, the Center received a grant to expand the Victim/Offender Conferencing Program and the Youth Accountability Panel into Milwaukee County Children's Court. Development of this program is currently underway.

The Center uses various processes of facilitation in order to resolve group and community disputes.

Programs of the Center are evaluated with surveys. The Center has a long history of having a strong volunteer base. Currently 40 individuals, trained by the Center, assist the Center as volunteers.

Note: Other community justice programs provided by WCS include, but are not limited to, Kick Conflict, Juvenile Intensive Tracking, Juvenile Home Detention Supervision, Juvenile Electronic Monitoring, Juvenile Restitution Program, Juvenile and Adult Community Service Program, Juvenile Sanctions Work Program, Pretrial Service Program, Intoxicated Driver Program, Jail Screening, Driver's Reinstatement Program.



A Program of Wisconsin Community Services, Inc. (formerly known as Wisconsin Correctional Service)

MEDIATION CENTER MISSION

The Mediation Center of Waukesha County promotes and provides mediation and other effective processes of conflict resolution and restorative justice.

MEDIATION SERVICES

Training and Professional Development Programs

Conflict Resolution in the following areas:

- Community
- Juvenile
- Landlord/tenant
- Families
- Consumer/Merchant
- Civil
- Small claims
- Victim/Offender
- Business
- Workplace

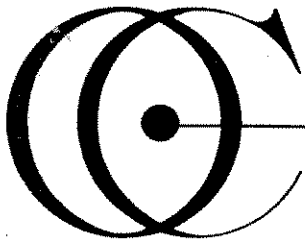
Juvenile Accountability Panel

Kick Conflict Program

AGENCY MISSION

The mission of WCS is to enhance justice, increase public safety, and, in doing so, improve the welfare of the general community.





OUTAGAMIE COUNTY

320 S. WALNUT ST. APPLETON, WISCONSIN 54911 JUSTICE CENTER

CIRCUIT COURT CHAMBERS

CIRCUIT COURT BRANCH NO. 2 PHONE (920) 832-5153

FAX (920) 832-5115

DENNIS C. LUEBKE
CIRCUIT JUDGE

DONNA UTSCHIG
COURT REPORTER

MARY LOU GARVEY
JUDICIAL ASSISTANT

September 22, 2004

Wisconsin State Legislature
Joint Audit Committee

RE: An Evaluation: Restorative Justice Programs

Dear Senator Roessler and Representative Jeskewitz:

It is my understanding the Legislative Audit Bureau has done an audit on the Restorative Justice program in Outagamie County. I want to extend my support of the Outagamie County District Attorney's Restorative Justice grant. This position has helped lend credibility to the restorative justice movement and bring together many different people in our community.

As a judge, I am always looking for creative sentencing options that get to the root of the problem and also hold the offender accountable. In addition, it is important for us to recognize the victims, in a system that focuses on the offender. The Restorative Justice programs in our county, whether it is an impact panel, a fast track program or victim-offender conferencing, have helped address offender accountability, provide treatment and programming to address the problems that may have led to the criminal offense and also include the victim as an integral part of the process.

Restorative Justice programs, like victim-offender conferencing and the victim impact panels, address problems the criminal justice system does not have the ability or time to address. These two programs help educate offenders on the impact their crime has on others by giving a voice to the victims they affect. Hopefully by educating them, they will think before driving while intoxicated or before committing another act of domestic violence. These programs also give victims a voice in the system and chance to help others avoid going through what they have been through. Restorative justice programs improve the criminal justice system and help restore the community in a way the criminal justice system does not.

There are many wonderful restorative justice programs throughout the country, however, very few of them are part of a prosecutor's office. Yet, it is the most logical place for a program to exist because prosecutors have contact with all the different groups within the

criminal justice system. A prosecutor has the ability to bring all these different groups together to share information and develop new ideas. The most recent example of this in Outagamie County is the creation of the domestic violence impact panel. The prosecutor was able to bring together domestic violence advocates, restorative justice professionals, probation agents, the courts, treatment providers and victims to create a panel addressing the impact of domestic violence on victims and children. Because many of these groups do not work directly with each other, they may otherwise not have had an opportunity to collaborate .

I strongly support the work the Restorative Justice prosecutor has done in Outagamie County and encourage the Legislature to continue their support of these very worthwhile programs.

Sincerely,

A handwritten signature in black ink, appearing to read "Dennis Luebke", is written over a horizontal line. The signature is stylized and somewhat cursive.

Judge Dennis Luebke
Outagamie County Circuit Court
Branch II

Testimony of Milwaukee Restorative Justice Coordinator, David Lerman
9-23-04

Regards from EMM

Thank the staff

We are pleased with the favorable audit and report of the RJ programming in Milwaukee and Outagamie Counties, and the additional information about restorative programming in other parts of the state.

I'd like to shape my comments around the ultimate question raised by the audit at page 31— what will happen with these positions in the future, after the current funding expires in July 05. Please know that the Milwaukee DA's Office has submitted in its budget statement this year a request for an additional GPR position to cover the RJ slot — this despite the tough budget situation of the state. The reason for this request is simple: the RJ programming works. We are becoming more skilled at using the tools presented through RJ, and community members are becoming more aware of the positive and powerful possibilities presented by this programming. In conjunction with the Interfaith Conference of Greater Milwaukee, we are holding a community wide half-day conference next week. You are all welcome to come, or send a representative.

Before I update you on the status Milwaukee's RJ programming, I want to highlight the fact that nationally this is a unique program. While there are literally hundreds of RJ programs around the country, very few are operated out of the prosecutor's office. For leadership in this area to come from a prosecutor's office is important for various reasons:

- Prosecutors fully understand the demands of the criminal justice system
- As the "people's lawyer" beginning a new program lends an additional sense of credibility for the victims and community members as they are offered the chance to participate.
- It allows prosecutors and defense attorneys to hear from citizens directly impacted by crime and the CJ system in a less formal and more direct manner. The direct communication allows citizens to give voice to their concerns unburdened by the formalities of the CJ system.
- With the prosecutors directly involved, the collaborative process between community and government agencies around new programming is smoother.
- Coming from the prosecutor's office the restorative programming is a more integral part of the CJ system creating greater acceptance of the change that these programs bring.

The flagship of the Milwaukee DA's RJ Programming is the Community Conferencing Program. Here, we bring together a victim, an offender, and community representatives with two trained facilitators. The conversation usually lasts about 1 ½ hours, and follows more or less this sequence: what happened, what is the impact, and what has to happen to

make things right. Since the inception and through the first half of this year, we have held 177 conferences involving 164 victims and 210 offenders and about 360 community members.

How do we know this is working? Our own recidivism study reveals a %17.2 lower re-offense rate among offenders who participated (14.9 vs. 32.1%). And of course, the LAB staff performed a different study that found 8.8% of offenders who participated were arrested within one year compared with 27.6 of similarly situated non-participants. I've attached a summary of our internal recidivism study to the materials. There is also a short piece that looks at recidivism studies nationally.

But this only answers the offender's side. What about the victims? We do not have the ability to conduct a full-fledged follow up study with victims. But we do send out evaluation forms – I've attached one form for you to get a feel of one victim's response. And, shortly you will hear from other victims who have participated. They have a straightforward, yet compelling story. You will also hear from one of our community volunteers, Roger Brooks. Again, he will share a moving story of why this RJ processes work. I've attached a short piece describing why RJ works from a victim's perspective.

I want to share just a few more vignettes. We are able to add creative conditions in our agreements. For example, one 22 year old drunk driver had to speak to drivers ed class filled with teens. One employee who stole from the company went back to the store's training session with the next crop of young cashiers to speak about what it felt like being led out of the store in handcuffs. In that conference the HR manager said sincerely– I would have helped you with your financial needs if you had just come to me.

This conference helps show the very human side we often see in these conferences. People have the opportunity to show that they want to help other people, people whom it is clear are not life-time offenders, or sociopaths, but just people who make mistakes, - sometimes very dumb ones that require lots of contemplation, and sometimes spur of the moment ones. Restorative Justice works because it humanizes the justice process for the people involved.

We also know it is working because referrals from prosecutors and defense attorneys are increasing. And, a wide variety of people continue to volunteer, and want to become involved as facilitators or community members. People want to be involved in reducing crime and the fear of crime in their neighborhoods. They want to see young people succeed, and become good tax-paying citizens. This programming gives those citizens a real chance to participate in a meaningful justice process.

With this as a backdrop, we have begun two new programs. We've begun to handle a small number of drug cases with a related process that we call Community Accountability Circles. A 17-year-old who could be charged with a felony marijuana offense may be referred to the Community Accountability Circle. This process is similar to the Community Conferencing Program – except that formally there is no victim. Yet,

there is a victim – that being the neighborhood or school where the possession with intent to deliver occurred. Thus, the role of the community members is heightened. We've only completed 8 of these circles, but they are powerful. The young men have had to step forward and complete various tasks, including writing various letters of reflection, attending AODA sessions, or obtaining various ID cards. All of these steps are necessary for these young men to move forward positively with their lives. One of these young men told the assembled people that he simply enjoyed smoking THC and would not stop. Upon learning that he was internet savvy, the group asked him to study about what THC actually does to the body – and then, compose a rap (since we had learned that he was an aspiring rap artist). He did the research, performed the rap, and despite his earlier statements that he would continue to use, we know that he had a clean urine drop.

Finally, Milwaukee's programming around cases has been focused in adult court. We sought and received a Safe and Sound Grant to allow us to expand the Community Conferencing Program to Children's court – and that program is opening as we speak.

Yet another reason we know RJ programming is working is that agencies serving the elderly and a local high school have begun to partner with the DA's office to apply restorative practices with their respective populations. And, other DA's offices have begun to seek input from us on whether there is any application of RJ for their counties.

I have not really spent time discussing another facet of our programming based upon larger neighborhood discussions relying upon the circle process. But you will hear from Lucille Bennett about that.

I closing, I wish to return to the audit. After its publication, the Wisconsin State Journal and the Oshkosh Northwestern issued editorials on the basis of the audit. I've attached copies of those strong statements supporting Restorative Justice.

Ultimately, the question will be how to support these restorative efforts. I believe that there is great power in restorative practices, because these processes allow people to re-connect with one another in a positive way. How odd that crime has the potential to do that – but indeed, using crime as a hook, we have brought people together to talk about relationships in their neighborhoods. And in the process, we have positively impacted victims of crime, and lowered recidivism, and created a meaningful opportunity for many volunteers.

COMMUNITY CONFERENCING PROGRAM

Milwaukee County District Attorney's Office

E. Michael McCann

What is Community Conferencing?

Community Conferencing is a process in which the victim, offender and affected community members sit down together in a safe setting with an impartial facilitator to discuss the facts and impact of a particular crime. During this process the victim can ask questions and express directly to the offender how the crime has impacted his or her life.

Conferencing provides a victim greater access to and voice in the criminal justice process. Conferencing also humanizes the incident more directly for the offender so that he or she may better understand the human consequences of his or her wrongdoing.

How Does Community Conferencing Work?

Referrals to the Community Conferencing Program (CCP) may come from prosecutors, defense attorneys, victim-witness advocates, judges, law enforcement, probation officers, or from victims who wish to speak directly with the offenders. Violent crimes and cases involving drugs or guns will not be accepted.

After a referral is received, the offender is contacted through his/her attorney or, directly, if he or she has no attorney, to determine whether the offender is appropriate for the program. Factors to be considered when making this decision include: acceptance of responsibility for the act, the type of crime, degree of remorse, prior record and the offender's general attitude about meeting with the victim.

If the offender is appropriate, the victim will be contacted to see whether he or she would consider participating. If the victim does not wish to participate in the community conferencing program, the case is processed through other criminal justice procedures.

Three Stages of a Community Conference:

1. Discussion of the facts, from the victim and offender's point of view.
2. Exploration of the impact on affected parties.
3. Decision on how to hold the offender accountable for the harm he or she has caused the victim and the community.

Why Would a Victim Choose to Participate?

Through Community Conferencing victims participate *directly* in the justice process. The process is dignified and respectful. Important points about conferencing are:

- Victims have an opportunity to pose questions about the crime directly to the offender.
- Victims can openly express to the offender how the crime has affected them and their families.
- The process facilitates real and agreed upon steps the offender can take to help restore the harm caused to the victim and the community.
- The offender is made more aware just how his or her actions have impacted the victim specifically and, if appropriate, the community generally.

Key Principles of Conferencing

1. The victim's perspective is *essential* to the conferencing process.
2. Participation by a victim is entirely voluntary.
3. The participants, consistent with the program process and guidelines, help determine case resolution.



RESTORATIVE JUSTICE

Community Conferencing is based upon the principles of Restorative Justice. Restorative Justice engages the victim and affected community members as active and meaningful participants in the justice process.

Restorative Justice seeks to assess the harm done by a criminal act and then determines what can be done to repair the harm while holding the offender accountable for his or her actions.



"We are caught in an inescapable network of mutuality, tied in a single garment of destiny. What affects one directly affects all indirectly."

Rev. Martin Luther King, Jr.

Milwaukee County Task Force on Restorative Justice

The Milwaukee County Board of Supervisors created the Task Force in September of 1998, to explore restorative justice applications and educate the public about restorative justice principles.

The Task Force is a 19-member body including representatives from the following agencies: The Benedict Center, Community Care for the Elderly, Dpt. of Corrections, House of Correction, Interfaith Conference of Milwaukee, Midtown Neighborhood Ass'n, MICAH, Milwaukee County District Attorney's Office, Milwaukee County Sheriff's Dpt., Milwaukee Police Dpt., State Public Defender's Office, 3rd District Community Justice Center, Urban Underground and Wisconsin Community Services.

* Since May, 2000, the CCP has worked with over 250 victims and offenders. What are they saying? *

Victims' Responses:

"It was the perfect answer – I wanted to have the young (offender) meet me – see that I was real and how this impacted my life."

"Defendant was made more aware of importance such behavior has on victim, community and self."

"My feelings upon leaving conference was that defendant has a better understanding of her actions, may be less inclined to repeat."

"It's a meeting where people can discuss what happened and its repercussions."

"The benefit was the door of communication. The strength - I was truly a part of the conference."

"Benefit: to face the offender, and make her face the crime and victim."

"I never would have had this satisfaction by attending a court proceeding."

Offenders' Responses:

"It shows offenders how much they hurt their victim and gives offenders a chance to apologize to their victims."

"I came out of the conference a better human being because I don't ever want to do this again."

"It allows for fair discussion instead of falling through the system."

"I thought that I should give back to the community what I took."

"I get to know how the crime affects everybody else in the community and what they think of it."

"I am much more aware of their {victims} point of view and how much it hurt them."

"I learned a lot from this whole experience and certainly have grown as an individual."

*Responses taken from anonymous CCP evaluations

For More Information about the Community Conferencing Program or becoming a trained Volunteer Community Facilitator, please contact the following:

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Program Director, 414/278-4655
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Katzfey.Erin@mail.da.state.wi.us

Milwaukee County District Attorney's Office, 821 W. State Street, Room 406, Milwaukee, WI 53233

Community Conferencing Program

June 2004

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Milwaukee County Community Conferencing Program

Conferences Held Offense Types May 2000 – June 30, 2004

Crime	Statute Number	Offenders participating in a Conference
Theft – theft by fraud	943.20	102
Criminal Damage to Property	943.01	22
Forgery	943.38	14
Entry into Locked Building	943.15	11
Burglary	943.10	12
Disorderly Conduct / DCWA	947.01	9
Credit Card Fraud	943.41	7
Operating Motor Vehicle Without Owner's Consent	943.23	6
Duty Upon Striking Occupied Vehicle	346.67	5
Graffiti	943.017	7
Injury by Intoxicated Use of Vehicle	940.225	3
Operating while Under the Influence	346.67	3
Retail Theft	943.50	3
Battery	940.19	2
Negligent handling of Burning Material	941.10	1
Arson	943.02	1
Negligent Handling of a Boat	30.68	2
Entry into Locked Vehicle	943.11	2
Identity Theft	943.201	1
Total		210

Community Participation in the Community Conferencing Program

Year	Referrals	Conferences Held	Victims Participating	Offenders Participating	Community Members
2000 (May-Dec)	104	23	22	26	30
2001	123	35	33	43	52
2002	146	37	51	46	75
2003	146	45	38	50	112
2004 (1 st half)	83	37	20	45	91
Totals	602	177	164	210	360

Notes:

1. Referrals. Referrals continue to include non-violent misdemeanor or felony charges. The offender may have a prior record. In order to be accepted into the CCP, the offender must have admitted to wrongdoing. The first quarter of 2004 saw the highest number of referrals in any quarter. During the subsequent 6 weeks, the rate of referrals has gone back to its regular rate – about 3 per week.
2. "Modified Conferences". We have begun to conduct "modified conferences" where the actual victim does not wish to participate, yet has agreed to allow the conferencing process to be used for the particular case. The community members have an added role in these conferences. This also accounts for there being more conferences than victims.
3. Co-defendant cases. Where there are more than one offender per case, a victim may choose to hold separate conferences with each offender, or may ask that the offenders come into the conference in a 'staggered' manner (victim choosing to hear from one first then the next) or simply having one conference for all involved. Most victims have chosen the latter option. This accounts for there being more offenders than conferences.
4. Community members. The numbers indicate community member "slots" filled in all the conferences. Many people participate more than once as a community member. An individual who comes as a support person with a victim or offender is also counted as a community member.
5. Facilitators. We generally have 2 facilitators at each conference. Thus, for 2003 there were 90 (2 x 45) "facilitator slots." Of those slots, CCP staff participated 17 times, and on 11 occasions there was only one facilitator. Thus, there were 62 "facilitator slots" filled by a trained community volunteer.

Milwaukee County District Attorney's Office
Community Conferencing Program

Recidivism Study

EXPLANATION OF TABLES:

UNIT A: Tables 1(a), 1(b), and 1(c) below contain data on the Test Group, which is composed of offenders who have participated in the Community Conferencing Program (CCP), and the Control Group, which is composed of offenders who have not participated in the CCP. Collectively they are termed Unit A.

Table 1(a) reflects the results of Run 1 of Unit A, which assesses the recidivism rate of these two groups in the first three years of the CCP. Table 1(b) reflects the results of Run 2, which assesses the recidivism rate of the same individuals in the fourth year of the CCP. Table 1(c) combines the results of the previous two tables and assesses the recidivism rate for all four years.

UNIT B: Unit B is a subsequent unit of participants and non-participants that has been formed due to continuing referrals to the CCP. Table 2(a) contains data on a new Test Group and Control Group, which are composed of new participants and non-participants in the CCP. Collectively they are termed Unit B.

Table 2(a) reflects the results of Run 1 of Unit B, which assesses the recidivism rate of these two new groups within one year after their cases were referred to the CCP.

RESULTS ANALYSIS:

UNIT A: Run 1 was conducted in January 2003, and captures any re-offenses committed between the date of the offender's conference and the date of the study. Run 2 was conducted in February 2004, and captures any re-offenses committed between 1/24/03 and 2/09/04. While the individual studies are snapshots of a certain period, the combined results are an attempt to follow the participants through their lives post-conference and to gauge the long-term effectiveness of the Community Conferencing Program.

Consistently throughout the study period of Unit A, the recidivism rate of the Control Group is more than twice the rate of the Test Group. This statistic means that a Unit A participant in the CCP was less than half as likely to re-offend than an individual who committed a similar offense but did not receive the benefit of participating in the CCP.

UNIT B: Run 1 was conducted in February 2004, and captured any re-offense committed between the date of the offender's conference and the date of the study. Subsequent runs of Unit B will be performed in coming years, and the data will be combined with Run 1 to gauge the long-term effectiveness of the CCP on Unit B.

While Unit B is significantly smaller than Unit A, the recidivism rate continues to show a positive impact of the CCP.

TERMS:

Test Group (Unit A) is made up of offenders who participated in a community conference between May 1, 2000 and July 31, 2002.

Test Group (Unit B) is made up of offenders who participated in a community conference between August 1, 2002 and July 31, 2003.

Control Group (Unit A) is made up of offenders whose cases were accepted into the Community Conferencing Program, but no community conference was held due to the victim declining to participate. These cases were considered for CCP through July 31, 2002.

Control Group (Unit B) is made up of offenders whose cases were accepted into the Community Conferencing Program, but no community conference was held due to the victim declining to participate. These cases were considered for CCP between August 1, 2002 and July 31, 2003.

Re-Offense is defined as being charged with a new crime, other than Operating after Revocation, in the State of Wisconsin. One case with multiple counts has been considered as one re-offense. New charges were counted only if the offense date post-dated the case that was considered for the Community Conferencing Program. Wisconsin Circuit Court records (CCAP) were checked on January 23-24, 2003 for Run 1 (Unit A), and February 4-9, 2004 for Run 2 (Unit A) and Run 1 (Unit B).

DATA FOR UNIT A:

TABLE 1(a): Unit A, Run 1: Conference date: 5/00 – 7/31/02 Re-offenses between 5/00 – 1/24/03

	Number of Offenders	Number Who Re-offended	Recidivism Rates
Control Group	106	24 *	22.6%
Test Group	101	11	10.9%

TABLE 1(b): Unit A, Run 2: Conference Date: 5/00 – 7/31/02 Re-offenses between 1/24/03 – 2/09/04

	Number of Offenders	Number Who Re-offended	Recidivism Rates
Control Group	106	15	14.2%
Test Group	101	6	5.9%

TABLE 1(c): Unit A, Run 1 & Run 2 Combined: Conference: 5/00 – 7/31/02 Re-offenses between 5/00 – 2/09/04

	Number of Offenders	Number Who Re-offended Run 1	+	Number Who Re-offended Run 2	-	Number Who Re-offended in both Run 1 & Run 2	=	Total Number Who Re-offended Group 1	Combined Recidivism Rate
Control Group	106	24*	+	15	-	5	=	34	32.1%
Test Group	101	11	+	6	-	2	=	15	14.9%

* This number differs from earlier reports of Run 1, because one member of the control group was erroneously listed as having re-offended, when in fact, the case was charged against a person with the same name but a different birth date.

DATA FOR UNIT B:

TABLE 2(a): Unit B, Run 1: Conference Date: 8/01/02 – 7/31/03 Re-offenses between 8/01/02 – 2/09/04

	Number of Offenders	Number Who Re-offended	Recidivism Rates
Control Group	52	7	13.5%
Test Group	47	2	4.3%

Dialogue with Offenders Produces Potential Value to Victims

**Interview with Marlene Young, Executive Director of
National Organization for Victim Assistance**

Interview by Phyllis Turner-Lawrence

Q: From a victim advocacy point of view, how do you feel victim offender dialogue/conferencing processes and the restorative justice movement have evolved?

A: I think we've come a long way in the sense that many more victim advocates are interested in restorative justice and I think that a lot of victims are also. Yet, there is still a big hesitancy about it. The barrier to victims getting involved is their perspective that people who are working on restorative justice are promoting offender issues or are more supportive of the offender. I say that without that being my frame of mind, but I certainly hear that in the field.

I believe that bringing offenders together with victims is not therapy, but can be of a major

In 1975, after receiving her doctorate and law degree, Marlene Young became the research director at the Multnomah County (Portland, Oregon) Sheriff's department, where her research on crime against the elderly became in part an early victim assistance program. In the same year, she banded together with other pioneers in the field to form the National Organization for Victim Assistance (NOVA), where she has served as President (1979-81) and Executive Director (1981 to the present).

Phyllis Turner Lawrence, J.D., presently Prince William County Restorative Justice Program Coordinator, was the Special Projects Coordinator for NOVA for 3 years and is a graduate of the training for trainers programs of both NOVA's Community Crisis Response Team Training Institute and the NIC/BARJ Restorative Justice Academy.

therapeutic benefit for victims. A key point of the restorative dialogue process is for the victims to make clear what they lost from this event, on all levels – emotionally, physically, financially, etc. It gives them a chance to find out why an offender did something or at least the offender's viewpoint on that, so it fills out part of the story, as the victims are trying to put it together in their minds. When victims are able to put their own story together, they are able to exert more power over the experience. This is a part of the process of reconstructing their lives.

Victim offender dialogue/conferencing has to be done with trained facilitators. There's no doubt about that because it's too dangerous for both victims and offenders to get into a dialogue without somebody or some people who know how to help them talk. That would be a worry, but I don't think it's a longtime barrier.

I think victim offender dialogue/conferencing does help victims, and I think it does help offenders. It seems to be a completion of the circle of constructing where do you go from here.

Q: How do you think victim offender dialogue/conferencing might help offenders?

A: I think that particularly for juvenile offenders, they can see the impact on the victims when they have to listen to the victim's side of the story. I think adult offenders too can learn from that. Anecdotes from so-called "victim impact" classes held in prisons suggest that for some inmate participants, the process arouses a sense of empathy they hadn't experienced before. The same is said about offenders involved in restorative justice programs – and that's all for the good.

See Interview on page 10

**Virtual VOMA
On-line**

This issue of VOMA Connections explores Restorative Justice and VOM on the world wide web. For a listing of relevant RJ/VOM web sites, please see pages 6 & 7.

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Sweden

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Other measures might have taken place, like indirect mediation and/or other forms of victim support, etc). About half of the cases concerned minor offenses such as shoplifting and damaging (a fact that shows the projects are in the early stages of development). Ten percent concerned violent offenses. One-third of the mediations included offenders who were younger than 15-years-old, the age of criminal responsibility.

Two limited, qualitative studies of victims and offenders respectively have been carried out during the trial period. These studies show inter alia that when the offender met their individual victim, the chances were good for the offender to achieve an notionally grounded knowledge of the consequences of their offense. This created insight, which is often expected to lead to reduced recidivism. Victims experienced a sense of relief and termination of feelings associated with the crime. Victims also felt better that the offender was no longer anonymous and that they had been "provided with a face."

Conclusions

In conclusion of the trial project, the Council prescribes that the development of mediation projects will continue, and recommends that the social services be the body that undertakes the activity, created independently from ordinary social work. The Council also concludes that clearer legal provisions would give VOM enhanced legitimacy and vigour. The Council also recommends that if the main purpose of VOM is to prevent recidivism, mediation in shoplifting is not strategic as a general measure because most shoplifters do not repeat offenses. Mediation as a crime-preventing measure should therefore be focused towards crime with higher recidivism rates, such as vehicle theft, robbery and theft.

As a general conclusion, the Council states that VOM in Sweden is still in its early stages and in process of further development. With any future expansion of VOM there needs to be increased knowledge and training (especially concerning victim issues), and the increased exchange of experiences between projects.



Interview

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Another way to see it is to emphasize that restitution is not only a contractual obligation to the victim, but also to look at restitution that the offender should owe in some way to the community. This heightens the sense of accountability.

Q: Do you envision the two fields becoming one movement?

A: I certainly believe that victim assistance has to adjust to work with restorative justice projects – otherwise they are letting victims down. And I certainly think restorative justice can include supporting victim assistance. It talks about allowing victims to speak, to participate, be present at all proceedings, so all of that underscores victim rights. In fact, it goes beyond the rights we believe victims should have in the formal system, which we describe as "a voice, not a veto."

Again, the barrier is the perception that people for restorative justice are offender-oriented, not victim-oriented, and it causes problems. I don't see it that way, though. The paradigm of restorative justice and a constitutional amendment for victim

rights is what we are working for at NOVA. But, I can understand why people see restorative justice as a whole as offender-oriented because much of the focus is on the needs of the offenders.

Q: What do you suggest restorative justice practitioners do to try to help alleviate that tension, so that people will feel that if there is an "orientation," it's toward both victim and offender?

A: Emphasize the value of telling the story – victim advocates know of the importance of this for victims.

Explain to the victim that if they hear from the offender, including having their questions answered as best he or she can, it will help them to complete their story. It makes it easier to understand how this awful event happened and helps them put the experience into a better, clearer shape for themselves.

Don't set up the victim to expect that this experience of meeting with the offender will turn either of their lives around or that the repair will be satisfactory, because if you make that pledge and it doesn't happen, they will be doubly disappointed – one more secondary injury.

Ask the victims, "What are your expectations?" Then caution that these specifics might happen or might not, and help the victim think about what it might be like if they don't.

There is sometimes a very subtle imparting to the victim that there is an expectation of forgiveness. Some victims may have a personal need to forgive as a part of the reconstruction of their lives. And in fact, they may never have been told by a mediator that they need to forgive. But they do pick up on that as a goal of having an encounter with the offender. Practitioners shouldn't even allude to it as a goal.

Participation in Victim-Offender Mediation Reduces Recidivism

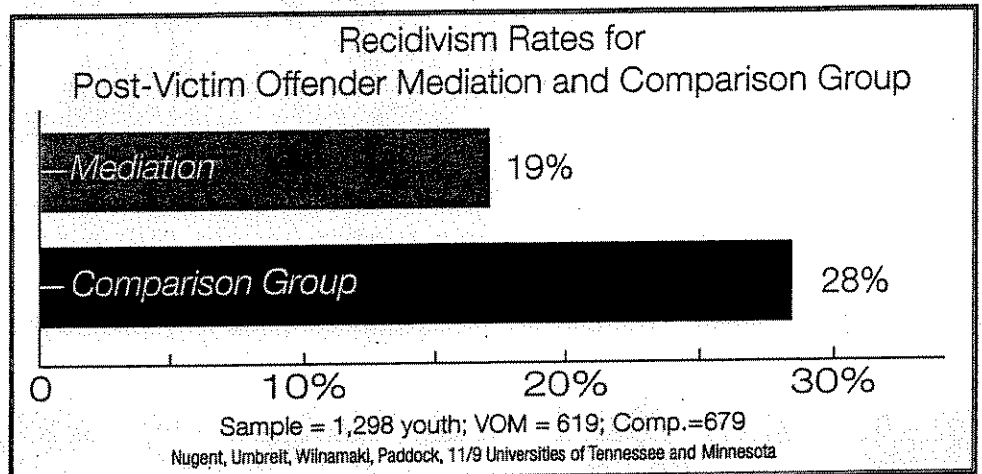
A Study of 1,298 Juveniles Finds a 32% Reduction in Recidivism

by William R. Nugent, Ph.D.,
Mark S. Umbreit, Ph.D.,
Lizabetb Wiinamaki,
and Jeff Paddock



As the field of victim offender mediation has expanded broadly throughout North America and Europe during the past 25 years (with more than 1,200 known programs), it has become the subject of an increasing number of studies. Most of the research conducted on VOM programs has focused on client satisfaction, perceptions of fairness, and the specific outcomes for victims and offenders (Bradshaw & Umbreit, 1998; Coates & Gehm, 1989; Dignan, 1990; Galaway, 1988; Gehm, 1993; Neimeyer & Schichor, 1996; Sikora & Doll, 1994; Umbreit & Bradshaw, 1998; Umbreit & Coates, 1992, 1993; Umbreit & Roberts, 1996; Umbreit, 1991, 1994, 1996; Woolpert, 1991).

Four recent studies (Neimeyer & Schichor, 1996; Nugent & Paddock, 1996; Wiinamaki, 1997; Umbreit, 1993, 1994) have focused on the relationship between participation in a VOM program and subsequent re-offense within a one-year period. This article summarizes the key findings from an article by the authors that examines the extent to which the results of these four studies represent a successful replication series. It has been accepted for publication later this year. These four studies focus on the re-offense rates of a total of 1,298 juvenile offenders, 619 of whom participated in a VOM program, and 679 who did not. Logistic regression procedures were used to test the extent to which the relationship between VOM participation and subsequent re-offense in these four studies was the same. Logistic regression methods were also used to test the replication of results across two of the studies in which several variables related to delinquent behavior were statistically controlled.



Results suggest that the four studies represent a series of successful replications. Results also suggest that VOM participants have a re-offense rate of about 19% over a one-year period, as compared with 28% for juveniles who do not go through a VOM program. This 32% reduction in recidivism was found to be statistically significant. In a related study by the authors it was also found that even those offenders who recidivated committed a less severe offense.

Following is a summary of the key findings extracted from an article by the authors that examines the extent to which the results of these four studies represent a successful "replication series."

The four specific individual studies consisted of the following characteristics and findings:

Umbreit (1992, 1993, 1994) conducted an extensive study of VOM programs in four states. As part of his study, he investigated the re-offense rates of 320 juveniles, 160 who went through a VOM program. The other 160 juveniles in this part of Umbreit's study comprised a matched comparison group that did not participate in VOM. He found that VOM participants had a lower re-offense rate (18.1%) after one-year than did non-VOM participants (26.9%). Umbreit (1994) reported these results as statistically non-significant, though the difference in re-offense rates is statistically significant if a one tail test is used under a directional research hypothesis.

See **Recidivism** on page 11

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Book Review

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justice. But this fact is perhaps the greatest contribution of this book. It is very reassuring to me that someone from a medical background is articulating a restorative justice framework without even being aware of it. It confirms in me that the field of restorative justice has much broader applications than just being limited to criminal justice. And restorative justice can also benefit greatly from perspectives such as Gilligan's which are not included in the traditional realm of restorative justice. This book is a timely reminder that any approach to justice must be a multi-disciplinary effort in order for it to have any advance.

Gilligan has also contributed an emphasis on structural justice which is sometimes missing from restorative justice efforts. The framework which he articulates is more accurately referred to as transformative justice. He argues that in order for restorative justice to be done, it is much more important that we focus on reducing the sources of shame and guilt which abound in our society rather than focusing upon what to do after that shame and guilt have acted itself out in violent ways. His inclusion of structural violence as the most catastrophic violence of our time is refreshing to me. Gilligan's reflections have renewed in me the desire to name and give a name to structural violence.



Recidivism

continued from page 1

A convenience sample of 320 juveniles was drawn in Umbreit's recidivism study. One-hundred-seventy of the juveniles in the Umbreit study participated in a VOM program, and 160 did not. In his comparison group in his study of recidivism, Umbreit consisted of juvenile offenders from the same jurisdiction who were not referred to VOM. The VOM and non-VOM samples in Umbreit's (1992, 1993, 1994) study were matched on the variables of sex, race, and type of offense. About 87% of the

juveniles in Umbreit's study had committed property offenses, and the remainder (13%) personal offenses (most frequently simple assault).

Niemeyer & Schichor (1996) conducted an exploratory evaluation of a large victim-offender mediation program in California. As a part of this study they compared the one- and two-year re-offense rates of a random sample of 131 VOM participants with the rates for 152 non-participants. About 16% of VOM participants had re-offended at one-year as compared to 19.1% of non-VOM participants, a statistically non-significant difference. At two years 28% of VOM participants had re-offended as compared to 23% of non-VOM participants.

Niemeyer & Schichor (1996) used a systematic random sample of 131 juveniles who had gone through the Orange County, California, VOM program. Their comparison group was comprised of all juveniles who had been referred to the VOM program but had not participated for various reasons. About 24% of the 283 juveniles in this study were referred to VOM for serious personal offenses, 15% for minor personal offenses, 16% for serious property offenses, 9% for minor property offenses, 1% for sex related offenses, and 35% for graffiti writing or tagging.

Nugent & Paddock (1996) investigated the relationship between participation in a VOM program and re-offense over a one-year period. This study involved 275 juveniles. Results showed a 37.5% reduction in re-offense associated with VOM participation. This reduction was nearly four times as large as the average reduction in recidivism found in Lipsey's (1995) meta-analysis. Results also suggested that VOM participants committed less serious offenses. Results showed VOM participants committed about 58% fewer minor offenses, and about 31% fewer property and violent offenses, than non-VOM participants (Nugent and Paddock, 1995).

Data for the Nugent & Paddock (1996) study were gathered from existing case records of the Anderson County, Tennessee, Juvenile Court and VOM programs. A simple random sample of 125 VOM cases were selected from existing VOM records, and a simple random

sample of 150 cases were drawn from the records of the Anderson County Juvenile Court that covered a 41-month period prior to the implementation of the VOM program. Both VOM and non-VOM participants were defined such that all juveniles had admitted guilt to the property offense with which they had been charged.

Wiinamaki (1997) subsequently conducted a replication of the Nugent & Paddock (1995, 1996) study. Her study involved 420 juveniles, 203 who went through a VOM program and 217 who did not. Results showed a 38.4% reduction in re-offense associated with VOM participation. Results also suggested that VOM participants committed about 54% fewer minor offenses, and about 16% fewer property and violent offenses, than non-VOM participants. The multi-site study by Umbreit (1994) also found that juvenile offenders in victim-offender mediation tended to commit fewer and less serious offenses during a one-year period than a matched sample of non-VOM offenders.

In the Wiinamaki study a simple random sample of 203 VORP cases were drawn from the Anderson, Putnam, and Cumberland County, Tennessee VOM programs. Wiinamaki also drew a simple random sample of 217 cases in which the juveniles did not participate in a VOM program. Sixty-nine of the non-VOM juveniles came from Anderson County and were adolescents whose victims had declined in the VOM program. Eighty-seven of the non-VOM juveniles were drawn from Putnam County juvenile court records during a time period prior to the start of VOM in that county. Sixty-one of the non-VOM juveniles came from Cumberland County and were adolescents whose cases had not been referred to the VOM program. All juveniles in the Wiinamaki study had admitted guilt to the property-related offense with which they had been charged.



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A gentler justice works best

July 12, 2004

Wisconsin State
Journal,
July 11, 2004

Have the hard wheels of justice gone soft? Getting apologies and giving forgiveness hardly qualify as typical crime control tactics, but they form the cornerstones of trendy "restorative justice" initiatives involving criminals and their victims.

This touchy-feely chit-chat - with lots of talk about "healing the wounds" of victims, offenders and their communities - sounds suspiciously squishy. Wouldn't it make more sense to simply lock the baddies in the jug for some hard time?

The answer appears to be no. Evidence is mounting that these alternative programs work better than tough prison sentences alone at cutting crime and its costs to victims and taxpayers.

Instead of dispensing only punishment, restorative justice focuses on repairing personal and community harm done by criminals. The longstanding Restorative Justice Project of UW-Madison's Law School pioneered the approach after research uncovered the important roles that apology and forgiveness can play in criminal law.

The two most common restorative approaches involve victim-offender conferences, which allow an individual victim to meet an offender to discuss the crime and how the offender will make amends; and victim impact panels, which allow groups of victims and criminals to discuss the effects of the crimes.

Restorative justice isn't as soft as it first appears. It doesn't let a criminal sidestep punishment such as prison time. Instead, it adds the obligation to make restitution to victims and the opportunity to achieve rehabilitation.

A new state audit indicates that this combination works better than plain punishment. The Legislative Audit Bureau

looked at 11 restorative justice programs in Wisconsin counties operated by nonprofit groups or county agencies, giving special scrutiny to two state-supported programs in Milwaukee and Outagamie counties.

The early results are encouraging. Only 4.3 percent of 47 offenders who participated in Milwaukee County's restorative justice program ended up charged with another crime later, compared to 13.5 percent of those who didn't go through the program. Such evidence is still not definitive, but that's due more to poor recordkeeping by one of the study subjects, Outagamie County, than questions about overall program effectiveness.

Such programs hold special promise for setting young people straight. Younger offenders caught on drug, vandalism, truancy and lesser violence charges are all ripe for restoration rather than retribution.

Dane County has experimented with a victim-offender conferencing and other restorative-style programs targeting adolescent criminals. The interfaith Madison-area Urban Ministry applies similar principles and tactics in trying to get newly released ex-cons to stay straight after they do their time. Judges order some drunk drivers to meet with accident victims as a way of understanding the harm the drivers could do if they drive drunk again.

Less tangible but equally important, restorative justice helps victims as well as offender. Victims and their families often feel frustrated or angry when the traditional process of justice fails to erase their pain. Through these programs, victims have a voice and direct involvement in doing justice.

If proven effective, the programs make economic sense, too. Many prisoners are repeat visitors, and if a restorative program can cut this recidivism, it will pay for itself many times over.

Restorative justice isn't soft - it's sensible. As state and local officials seek new ways to reduce skyrocketing prison expenses and inmate numbers, this innovative approach belongs near the top of the priority list of alternatives to traditional prison.

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LOCAL NEWS from **Northwestern**

Posted July 06, 2004

Editorial: Programs may help state out of its budget mess

A little-known program came to light last week that re-affirms how invaluable restorative justice programs are to the state of Wisconsin.

More than just a tool to keep would-be offenders off the streets by requiring restitution, they may have a dollar value, too. Restorative justice programs could play a vital role in the state getting out of its budget mess.

Auditors of a pilot program for Milwaukee and Outagamie counties made their review public last week. Both had positive things to say. Although the program is 75 percent federally funded and those dollars stop coming next year, 11 counties including Winnebago have restorative justice programs in place.

This pilot program was free publicity that strengthens the hand of the 11 counties to keep using this method. And those 11 counties don't use federal funds to run their programs, either. They use grant money. They use county money.

At the same time that this justice information became public, it already has been known that the state has an ever-growing structural budget deficit. It's high time that calculations be done to see what kind of state-level savings could come from a reduction in prison costs.

Very likely, this could become a significant factor in more than reducing a structural deficit. It could help the reform of Wisconsin's criminal rehabilitation system – meaning those in prison and those who could be on their way to prison in future years.

Why do states have savings with restorative justice programs? It is in part because local governments are encouraged to have programs that work to prevent people from rising to the level of a problem, state-level prisoner in the first place.

These programs are close to a panacea. They can mean an extra cost burden for a county, although grant dollars also are available. Their value is in preventing the first-time offender from repeating. Or, to prevent a non-violent offender from turning violent.

Wisconsin need only look to Minnesota to see a state with a better balance of restorative justice programs. It is a state prison system that has a more manageable budget than Wisconsin, too, by about as much as the structural deficit right now.

What should happen is to have one of the Legislature's research bureaus project the prison budgets for the next few two-year budget cycles. Included in these projections would be the

percentage reduction of non-violent offenders coming to prison, based on results of the 11 counties that now use restorative justice programs. The savings will be in the hundreds of thousands, if not the millions.

Likewise, there should be figures available to show what a state-wide implementation of restorative justice programs would do to the prison system of the future if every county had them in place.

The bottom line is that restorative justice programs work. They don't have to cost a lot. The cost is in a state that continues to fund its prison system without thinking of the savings that restorative justice programs at the county level can have.

The Final Thought: The state of Wisconsin should investigate what the future savings of local restorative justice programs can have on future state budgets.

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1st X
offenders

**OUTAGAMIE COUNTY DOMESTIC VIOLENCE
RECIDIVISM STATISTICS**
(as of July 1, 2004)

#5
don't tell
every
thing
every
person who
speaks
of it
save
a life
= well
worth it.

victim's all
they want these people
to get help.

4x5
per yr

Outagamie County Domestic Fast Track Program			
Year	Participants	Participants who Re-Offended*	Recidivism Rate
2002	142	5	3.5%
2003	198	5	2.5%
Total	340	10	<u>2.9%</u>

Did this person commit another DV offense? (only)

Winnebago County Control Group**			
Year	Participants	Participants who Re-Offended*	Recidivism Rate
2002	144	21	14.58%
2003	145	14	9.6%
Total	289	35	<u>12%</u>

* The Fast Track Program only addresses domestic violence in relationships. Therefore, for purposes of this analysis, only new domestic violence offenses were counted.

** Winnebago County does not have a fast track program. A sample of first offense domestic violence offenders were identified during similar time periods as the domestic violence fast track dates. All information was gathered from the Consolidated Court Automation Programs (CCAP).

**OUTAGAMIE COUNTY OWI
RECIDIVISM STATISTICS**

(as of July 1, 2004)

*In addition
to jail*

Outagamie County OWI Impact Panel			
Year	Participants	Participants who Re-Offended*	Recidivism Rate
2002	250	41	16.4%
2003	242	14	5.78%
Total	492	55	11%

Brown County Control Group**			
Year	Participants	Participants who Re-Offended*	Recidivism Rate
2002	262	34	12.97%
2003	146	16	10.95%
Total	408	50	12.25%

* The OWI Impact Panel only addresses drinking and driving. Therefore, for purposes of this analysis, only new driving under the influence of alcohol offenses were counted.

** In Outagamie County, only 2nd offense OWI offenders attend the impact panel. The control group was done by identifying 2nd offense OWI cases in Brown County, which does not have an impact panel and determining how many committed new drunk driving offenses. All information was gathered from the Consolidated Court Automation Programs (CCAP).

Lori M. Thiel
1400 E. Keystone Lane
Appleton, WI 54913
920-428-3905

July 29, 2004

Judge Dennis Luebke
Outagamie County Courts

Re: [REDACTED]

Dear Honorable Judge Luebke:

On July 19th, 2002 my property was vandalized and I was victimized by 5 teens; one of which was [REDACTED]. Since this challenging ordeal a lot of good has come out of the prank that went very bad that summer night.

For starters the 5 teens were brought to justice. Peter being one of the offenders had agreed to go through the victim/offender mediation with my daughter and I. During this session we were able to help him realize his actions caused upset to our lives, fear of being in our own home, damage to our property and betrayal to a friendship he once had with my daughter. Peter was remorseful while expressing regret with what had happened. At that time, he also offered to help with the clean up or help with any yard projects. The mediation was a help to put clarity on what really happened that night and to know Peter was sorry. I believed him.

Since this time I was contacted by Stuart Driessen about Peter fulfilling community service work. I had remembered Peter offering to help me if I ever needed anything and the time had come. During the month of July Peter has been at my home approximately 10 hours per week taking care of yard work and house sitting while I'm out of town. Peter has been cooperative, reliable, responsible and trustworthy every step of the way. Matter of fact, I feel so good about his effort; I've decided to hire him for the remaining part of the summer to help me in my yard.

Judge Luebke, my purpose in writing this letter is to help you understand Peter has grown to be a better person and a respectful person. The harm that was caused to us has been healed. I hope you will consider clearing his record for I see him being a positive influence to our society.

Sincerely,



Lori M. Thiel

Cc:

[REDACTED]
Stuart Driessen

What is Restorative Justice?

Restorative justice is a victim-centered response to crime that provides opportunities for those most directly affected by crime - the victim, the offender, their families, and representatives of the community - to be directly involved in responding to the harm caused by the crime. Restorative justice is based upon values which emphasize the importance of providing opportunities for more active involvement in the process of: offering support and assistance to crime victims; holding offenders directly accountable to the people and communities they have violated; restoring the emotional and material losses of victims (to the degree possible); providing a range of opportunities for dialogue and problem solving among interested crime victims, offenders, families, and other support persons; offering offenders opportunities for competency development and reintegration into productive community life; and strengthening public safety through community building.

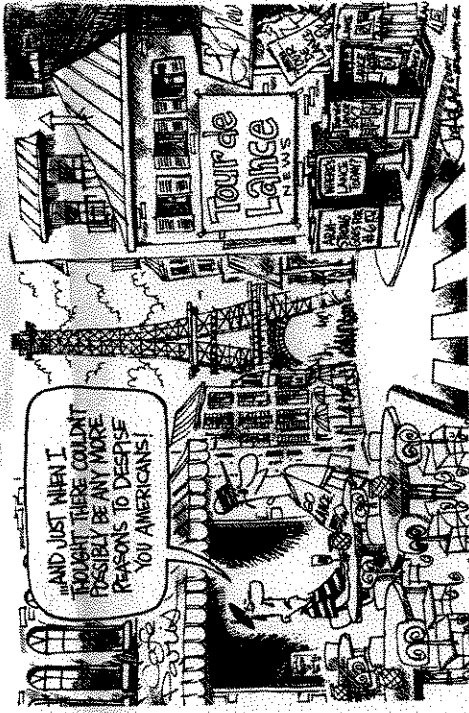
Restorative justice policies and programs are known to be developing in more than 45 states, including a growing number of state and county justice systems that are undergoing major systemic change. Restorative justice is also developing in many other parts of the world, including numerous European countries, Australia, New Zealand, and South Africa. The principles of restorative justice draw upon the wisdom of many indigenous cultures from throughout the world, most notably Native American culture within the United States and Aboriginal/First Nation culture in Canada.

Specific examples of restorative justice include: crime repair crews, victim intervention programs, family group conferencing, victim offender mediation and dialogue, peacemaking circles, victim panels that speak to offenders, sentencing circles, community reparative boards before which offenders appear, offender competency development programs, victim empathy classes for offenders, victim directed and citizen involved community service by the offender, community-based support groups for crime victims, and, community-based support groups for offenders. As the oldest and most widely developed expression of restorative justice, with more than 25 years of experience and numerous studies in North America and Europe, victim offender mediation and dialogue programs currently work with thousands of cases annually through more than 300 programs throughout the United States and more than 900 in Europe.

Research has found restorative justice programs to have high levels of victim and offender satisfaction with the process and outcome, greater likelihood of successful restitution completion by the offender, reduced fear among victims, and reduced frequency and severity of further criminal behavior.

Mark S. Umbreit, Ph.D.
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A gentler justice works best

Have the hard wheels of justice gone soft? Getting apologies and giving forgiveness hardly qualify as typical crime control tactics, but they form the cornerstones of trendy "restorative justice" initiatives involving criminals and their victims.

This touchy-feely chit-chat — with lots of talk about "healing the wounds" of victims, offenders and their communities — sounds suspiciously squishy. Wouldn't it make more sense to simply lock the baddies in the jug for some hard time?

The answer appears to be no. Evidence is mounting that these alternative programs work better than tough prison sentences alone at cutting crime and its costs to victims and taxpayers.

Instead of dispensing only punishment, restorative justice focuses on repairing personal and community harm done by criminals. The longstanding Restorative Justice Project of UW-Madison's Law School pioneered the approach after research uncovered the important roles that apology and forgiveness can play in criminal law.

The two most common restorative approaches involve victim-offender conferences, which allow an individual victim to meet an offender to discuss the crime and how the offender will make amends; and victim impact panels, which allow groups of victims and criminals to discuss the effects of the crimes.

Restorative justice isn't as soft as it first appears. It doesn't let a criminal sidestep punishment such as prison time. Instead, it adds the obligation to make restitution to victims and the opportunity to achieve rehabilitation.

A new state audit indicates that this combination works better than plain punishment. The Legislative Audit Bureau looked at 11 restorative justice programs in Wisconsin counties operated by nonprofit groups or county agencies, giving special scrutiny to two state-supported programs in Milwaukee and Outagamie counties.

The early results are encouraging. Only 4.3 percent of 47 offenders who participated in Milwaukee County's restorative justice program ended up charged with another crime later, compared to 13.5 percent of those who didn't go through the program. Such evidence is still not definitive, but that's due more to poor record-keeping by one of the study subjects, Outagamie County, than questions about overall program effectiveness.

Such programs hold special promise for setting young people straight. Younger offenders caught on drug, vandalism, truancy and lesser violence charges are all ripe for restoration rather than retribution.

Dane County has experimented with a victim-offender conferencing and other restorative-style programs targeting adolescent criminals. The Interfaith Madison-area Urban Ministry applies similar principles and tactics in trying to get newly released ex-cons to stay straight after they do their time. Judges order some drunk drivers to meet with accident victims as a way of understanding the harm the drivers could do if they drive drunk again.

Less tangible but equally important, restorative justice helps victims as well as offender. Victims and their families often feel frustrated or angry when the traditional process of justice fails to erase their pain. Through these programs, victims have a voice and direct involvement in doing justice.

If proven effective, the programs make economic sense, too. Many prisoners are repeat visitors, and if a restorative program can cut this recidivism, it will pay for itself many times over.

Restorative justice isn't soft — it's sensible. As state and local officials seek new ways to reduce skyrocketing prison expenses and inmate numbers, this innovative approach belongs near the top of the priority list of alternatives to traditional prison.

*What does
you think*

RESTORATIVE JUSTICE

Questions for Outagamie County:

In your response to the audit, you note that you have begun to develop a control group for the Drunk Driving Panel and for the Domestic Violence Program.

- Are you continuing to make progress in developing those control groups?
- Do you anticipate developing a control group for the Drug Fast Track and other programs?

You saw considerable growth in your Domestic Violence Program from 2002 to 2003. ✓

- Is that growth continuing this year?
- Do you see the potential for similar growth in your other programs?

Your programs and those in Milwaukee were up and running before this funding was available. ✓

- What are your plans for your current programming if the Legislature does not find an alternative funding source?

What measures of program success would you offer beyond recidivism?

Questions for Milwaukee County:

(for David Lerman) As a member of the Legislature's Special Committee that addressed this issue, you have a long-standing history with the topic.

- What do you hear from other jurisdictions interested in launching restorative justice programs?
- What are the key concerns of jurisdictions with programs that have programs in place?

The programs in Milwaukee and Outagamie are unique among those LAB contacted, in that they are run by the District Attorney offices in both counties.

- What are your thoughts on the benefits of restorative justice programming operated by a DA's office? ⊕ ⊕ ⊕
- Are you aware of other counties considering a similar arrangement?

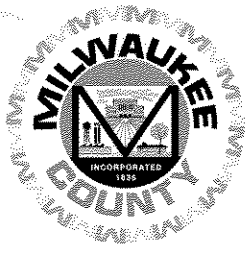
The audit recommends a more consistent methodology be developed for measuring recidivism, and your response notes that some work has been done on that front.

- Is that work continuing?
- What are your expectations for the annual report you'll be submitting in February 2005?

What measures of program success would you offer beyond recidivism?

Your programs and a local Task Force were up and running before this funding was available.

- What growth potential do you see for Milwaukee's programs?
- What are your plans for your current programming if the Legislature does not find an alternative funding source?



SEP 27 2004

Milwaukee County

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September 24, 2004

Senator Carol Roessler
Representative Jeskewitz

Dear Senator Roessler and Representative Jeskewitz,

Thank you for your strong support of the Restorative Justice programming yesterday during the Public Hearing. I appreciated your comments and questions. I am also pleased that you had the opportunity to meet some of our Milwaukee participants.

I wish to clarify the issue of follow-up that was raised. After each conference that ends with an agreement, our CCP Manager, Erin Katzfey, monitors that agreement for compliance. We endeavor to make the agreements as specific as possible. Thus, rather than simply being ordered to 'make restitution', an offender will be asked at what rate s/he will be able to make payments. The agreement will thus specify "50\$ per week beginning September 1". Ms. Katzfey is in touch with victims to ascertain that agreements are being followed. She is also the recipient of various letters of reflection / apology. We have often sent letters back to offenders for further refinement if the letters are insufficient, or contain too many mistakes. It is true that once an offender has completed the agreement and this is reported to either the court or the reviewing prosecutor we no longer follow up with that offender. Yet, it is also clear that if the Conferencing experience is humanizing, as we claim, then we could and perhaps should maintain some sort of contact. And frankly, there are offenders whom I have wanted to recruit to participate as community members in future conferences – but that has not happened yet.

We are limited by a lack of resources. We do rely upon interns from local universities and Marquette Law School, but we still could use more 'people' power to fully maintain and further develop the Conferencing Program and its various offshoots. So, we do what we can, and move forward, creating new possibilities where the opportunity arises. The sheer positive energy exhibited by Karen Jones certainly motivates us to do so.

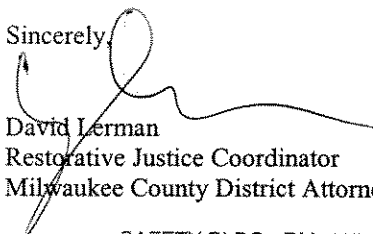
I may have neglected to mention that another other reason we know that Restorative Justice is working is that agencies serving the elderly and one local high school have begun to partner with us to apply restorative practices with their populations. This is an exciting development.

We intend to pursue various avenues to develop a way to measure cost savings for the system when an offender successfully completes the Conferencing Program, as opposed to going through the regular court system.

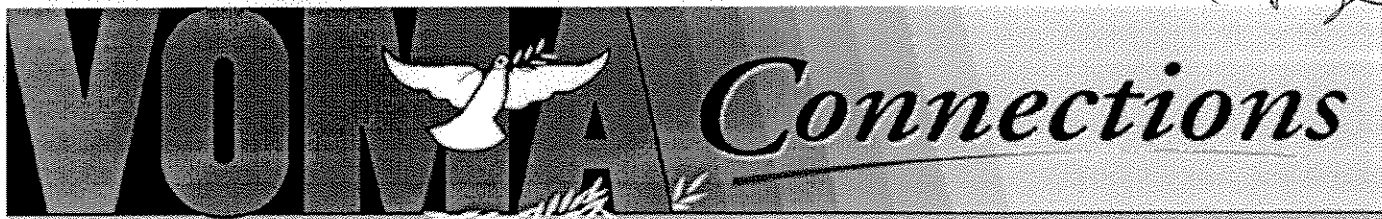
I've attached a short article covering part of 2 pages on the nexus between Restorative Justice principles and drug courts. This is an area that is rich with possibilities. (Sen. Roessler – this is what I was looking for at the end of the day, and could not find).

I will be happy to provide more information about our work, or Restorative Justice in general. I hope that you, or a representative, can attend our half-day conference on Restorative Justice on September 28, 2004.

Sincerely,


 David Lerman
 Restorative Justice Coordinator
 Milwaukee County District Attorney's Office

See next page



Winter 2003/04, Number 16

Promoting and enhancing restorative justice dialogue, principles and practice A publication of Victim Offender Mediation Association

Research

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

by Harrison Braxton

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

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

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

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

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

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

Shame

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

repair the effects of his or her crime.

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

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

Empathic Encounter Continues on page 6

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Parents are a Missing Link

Continued from previous page

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

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

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

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

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

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

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

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

Can Drug Courts & Restorative Justice Co-Exist?

by Russ Immarigeon

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

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

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

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

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

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

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

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

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

Drug Courts & Restorative Justice
Continues on next page

How Can Victim Offender Mediation Challenge Social Injustice?

by Lois Presser

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

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

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

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

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

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

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

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

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

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Drug Courts & Restorative Justice
Continued from previous page

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

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

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

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

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

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

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

Restorative Justice Conference
Sponsored by the Interfaith Conference of Greater Milwaukee

Restorative Justice in Action:
What's being done and what more can be done to Build & Restore Community?

Date: September 28, 2004

Time: 8:00 a.m. registration and coffee;

Program: 8:30 a.m. until 12:00 Noon

Place: St. Martin De Porres Parish, 128 W. Burleigh St., Milwaukee

Program:

8:30-9:10 **Introduction to the Principles and Values of Restorative Justice**
(David Lerman, Asst. DA; Lucille Bennett; Fr. John Celichowski)

9:10 Break

9:20-11:20 Small Group Workshop Briefings (these will run simultaneously and repeat. Each is 35 minutes in duration. Participants can attend all three.)

a) **Community Approaches: Peacemaking Circles; Community Justice Centers.**
(Veronica Azi - 3rd District Community Justice Center, Lucille Bennett, Erik Cole)

b) **Criminal Justice system: Community Conferencing; Drug cases; victim-offender meetings.** (Erin Katzfey – DA's Office, Paige Styler – Public Defender's Office, Karen Jones – crime victim)

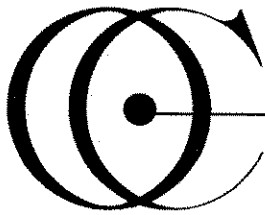
c) **Youth and Schools: Children's Court; mediation; "Kick Conflict"** (Cathy Warmington – WCS, Ed Kovoichic – Principal Bradley Tech High School)

11:30 Wrap-Up and Looking Ahead

E. Michael McCann, Milwaukee County District Attorney

Janine Geske, Marquette University; former Wisconsin Supreme Court Justice

12:00 end



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SEP 29 2004

September 27, 2004

Senator Carol Roessler
Room 8 South
State Capitol
P.O. Box 7882
Madison, WI 53707-7882

Dear Senator Roessler:

I want to thank you for the opportunity to address the Legislative Joint Audit Committee on September 23, 2004 in response to the Legislative Audit Bureau's report on Restorative Justice. I hope that I was able to provide you with a better understanding of the Restorative Justice programs that we have in Outagamie County and answer your questions.

Restorative Justice programs have helped our county better address victim needs as well as the needs of the offender by bringing together a variety of different groups within the criminal justice system. These programs have also increased community-wide participation in the criminal justice system, which helps educate community members and repair the harm that is caused by crime. Having a Restorative Justice prosecutor has been instrumental in establishing these programs and bringing together many different organizations to improve the criminal justice system.

The statistics provided to you at the hearing also show the impact Restorative Justice programs have had in reducing recidivism. Not only do these programs give victims a voice and help educate offenders, but they also work at addressing the specific issue or problem that led offenders to committing crime. As you heard at the hearing and illustrated through the many stories shared with you, these programs hold offenders more accountable and result in more effective sentencing and consequences. The result is a decrease in recidivism.

I invite you to attend any of our programs to get a firsthand view of the impact these programs have on victims and offenders. I have included a copy of my business card in this letter. If I can provide you or the Legislature with any additional information or to schedule a time you can attend one of the programs, please do not hesitate to contact me directly at (920) 832-5431.

Sincerely,

Melinda Tempelis
Assistant District Attorney

Creative revolution.

~~Coaches.~~

- Go back to go new people.

- 1) Small group driving off on bus -
- 2) People from High School School.

S. Straube case

decisions.

~~Partners~~

Carrie ~~S~~ Schneider

Otagami Co

All 2nd VP Panel

All 1st off OR

4 TIMES IN CO

Get into

IF MANSOIFTS. Response

Impact:

results in other

areas costs costs.

cost X is \$

See impact Shookies
family. friends.

A.D.A. - Otagami Co

In June this year (AB report on restorative justice

- 2 Counties programs achieved modest success through 2003
- The Legislature may wish to consider the future of the 2 restorative justice coordinators after FY 2004-05

Report:

- 4 year limit on use Byrne
- in book use modest results
Outcomes not accurately reflect

less than eye of results

→ modest ^{#5}, but very encouraging
how 11 countries doing

Shortcoming of current group
in Outcomes
in quality data

1 more report due
how to develop consistency
8.8 recidivism

very costly to hold them against again

wait 5 years

- in these countries
- co's accountability changing at bit
Daniel for Milw. Co.

Eye with

- can we require Milw. Co.
- co's do intend to finish for Feb 05

Milw Co.

- request a GPR position
- answer offender
- hard to quantify victim side
- criminal justice dehumanizes
- exs 1 - 22 yr. old drunk driver to 17 yr. olds
- cashier took \$ - go back to trainees - what side being escorted out of job is handcuffs
- offender moves forward w better competency
- people becoming aware of process behind

New Page

1 - small group drug offender - 17 yr olds marijuana felony accountability cycle victims - school & community why do & impact
rap artist - create a rap song about what marijuana does to your body
Cook Co has a lot of rap artist

Lucille - program designed for dialogue
talk about needs w/ coming

name

family may have stagnated while

- S. Oaks Groves area
- "Ethan Allen Boys"

circle - trained keeper appoint
people outside the circle

keeper - keeps dialogue going + send
out notices

keepers are volunteers

community shaking the finger
not just judicial

2 days - 3 customers

- several purchases
time worked

99% knew who it was

call the offender

cried + attested

suspension till did more work

started 6 wks prison

17-18 victims

↳ able to reimburse customers

maintain integrity

community conferencing -

giving customer name
went to Off office



community conferencing

- if we & offender agreed if completed this program

- safe, trust & betrayed

- let the offender know what he put all
of our employees through
everyone on edge

- he didn't make excuses
got into tunnel thinking
boy was wrong

wrote str of apology to
& a self help book
- bus ethics

- be on the hot seat

emotionally "losing their neck"

- attending tech college in Janesville

Post Book 4 yrs. facilitator

victim who cares about them
sometimes clearly remorseful
& recruit compassion

victim of drunk driving

1 - facts phase - offender not showing
we get's it

- tendency to get tired when drunk
- no eye contact

2 - effects phase - went after
kid died of drunk driving
made series of deliberate
decisions

3 - agreement - sentence, fine
victim impact panel, victim
\$1,000 for out of pocket
exp's

empathy towards offender

CR

Need more after decision #'s

Vol. in probation - judges not risk takers

people not pd. to do this

whole diff. accountability

most done pre judgment & sentencing

if no funding - up to McCain

Outagamie Co.

CR wants this name

Cairn Schneider, Outagamie

Melinda Tempelis, Outcomes ADA
Cheryl Stinski, Community Rest. Just. Pg

if saved a life - you save 1 life well
worth it → way more than
any number suggests

Winnipeg control

→ pull let offenders
→ 4-5 fast track programs / year
run again → did they commit other
crimes

did this person commit a domestic
violence after b/c that is what
program for
want person to get assistance

CR estimate in other criminal
engagement not crime specific
do you think there is reduction
in recidivism in domestic violence
or drunk driving
not done state - impact generally
to reduce recidivism

impairment DAs be part of the
system - offender, victim,
then work w/ all the groups

collabs among groups

can't quantify voice in system

Robb - was I targeted? Am I safe in my home?

validate feelings → not targeted

young offenders - made bad decisions
vandalize, burglarize

2 kids vandalized a park - not approp

sat w/ member of comm.

= go lay sod + rebuild up what destroyed

DA need to apologize to comm. brd.

DA need to ^{be} corporate what decided in action

Funding Issues -

Clay Stinski - just since 1991

- needs to be a connection w/ DA office
credibility of DA office ability to
get people to the table

- family situation - 2 siblings

100% satisfied victims

funding - want to go to the community
not DA/Kurbaen clark, Robinson

Community self -

need to show as much state funding
as community funding

Kaufert-Cardo proposal - I think we should move slowly

H1

or can

Restorative Justice

non punitive approach

MPS, Marquette
not specific count

Outagamie

crim just, soc serv, schools
nonprofits
sheriffs + MHAAD

recommen^d - Outagamie

An Evaluation:
Restorative Justice Programs
Milwaukee and Outagamie Counties

June 2004

Report Highlights ■

Participation in restorative justice programs increased from 2002 to 2003.

Milwaukee County participants have a lower recidivism rate than nonparticipants.

At least 11 additional Wisconsin counties have restorative justice programs.

Restorative justice programs involve the victim, the offender, and the community in determining how to repair the harm caused by crime. 2001 Wisconsin Act 16, the 2001-03 Biennial Budget Act, created appropriations and authorized 2.0 full-time equivalent (FTE) assistant district attorney positions to serve as the coordinators of restorative justice programs in Milwaukee and another county to be selected by the Department of Corrections, which chose Outagamie County. The two coordinators are supported by federal and state funds, which are provided through the Office of Justice Assistance (OJA) and the State Prosecutors Office and are scheduled to end with fiscal year (FY) 2004-05. In FY 2002-03, \$100,600 was spent on salaries and fringe benefits through the appropriations.

Act 16 requires us to evaluate the success of these restorative justice programs in serving victims, offenders, and the community. Therefore, we analyzed:

- program expenditures through April 2004;
- each county's compliance with statutory reporting requirements;
- oversight by OJA and the State Prosecutors Office, which administer the programs' state and federal funding; and
- 11 restorative justice programs in other Wisconsin counties, which are similar to the Milwaukee and Outagamie County programs but are operated by nonprofit organizations or county agencies.

Key Facts and Findings

In FY 2002-03, restorative justice coordinator expenditures totaled \$100,600.

Milwaukee County operates two restorative justice programs, while Outagamie County operates five programs.

The two counties' programs achieved modest success through 2003.

The information that Outagamie County reported about its programs could be improved.

The Legislature may wish to consider the future of the two restorative justice coordinators after FY 2004-05.

Program Participants

Restorative justice programs typically deal with nonviolent crimes and involve diverse approaches, such as:

- victim-offender conferences, which are led by trained facilitators and allow an individual victim to meet the offender and discuss both the crime and how the offender will make amends; and
- victim impact panels, which allow victims and perpetrators of certain similar offenses to meet in groups and understand the effects of the crimes.

Participation by offenders may be voluntary or mandatory and may occur before or after formal

sentencing. If offenders comply with a program's provisions, the charges against them may be reduced or dismissed.

From 2002 to 2003, the number of offenders in Milwaukee County's Community Conferencing program increased modestly, from 46 to 49. The number of victims served by that program increased from 51 to 55. Milwaukee County does not track the number of participants in its Neighborhood Initiative program, which does not focus on specific offenses.

The number of offenders in Outagamie County's five programs increased from 415 in 2002 to 471 in 2003. Outagamie County reported that its Community Court and Victim-Offender Conferencing programs each served four victims

Milwaukee County	
Community Conferencing	Victims, offenders, and community members discuss crimes and decide how offenders will make amends
Neighborhood Initiative	Community members discuss public safety issues
Outagamie County	
Drunk Driving Impact Panel	Second-time offenders learn from victims the effects of their crimes
Domestic Violence Fast Track	Expedited court process allows first-time offenders to enter treatment
Drug Fast Track	Expedited court process allows first-time offenders to enter treatment
Community Court	Offenders and community members discuss crimes and decide how offenders will make amends
Victim-Offender Conferencing	Victims and offenders discuss crimes and decide how offenders will make amends



in 2003, and its Domestic Violence Fast Track program served approximately 168. Its other two programs do not typically involve victims of the participants.

Recidivism Rates

Early results for some of the programs are encouraging. For example, by early-February 2004, 33 percent of 47 offenders who participated in Milwaukee County's Community Conferencing program from August 2002 through July 2003 were charged with another crime, compared to 13.5 percent of 32 nonparticipating offenders.

We independently calculated recidivism rates for offenders who participated in the Community Conferencing program in 2002. We found that 8.8 percent of participating offenders with no prior convictions were rearrested for or charged with another criminal offense within one year of participation, compared to 27.6 percent of nonparticipating offenders in our control group.

Outagamie County calculated recidivism rates for two of its restorative justice programs. It reported that 8.5 percent of offenders who had participated in its Domestic Violence Fast Track program in 2002, and 24.1 percent of its 2002 Drug Fast Track program participants, were charged with another offense by mid-January 2004. In comparison, 32.8 percent of nonparticipating offenders were charged with another offense.

While Outagamie County's results are positive, we identified problems with the control group used for comparison purposes.

First, the county did not identify a separate control group for each program. Second, the combined control group included offenders from both 2002 and 2003. In contrast, the program participant group consisted of 2002 offenders only.

Because of these problems, it is likely that Outagamie County's recidivism rates do not accurately reflect program results. We did not independently calculate recidivism rates for the two fast track programs because Outagamie County did not provide a comprehensive list of participants until late in the audit process, and it did not identify an appropriate control group.

Outagamie County has not reported recidivism rates for its Drunk Driving Impact Panel program, which served 250 offenders in 2002 and 242 offenders in 2003. We include a recommendation that this be done. Outagamie County's Community Court and Victim-Offender Conferencing programs served too few offenders for statistically meaningful rates to be calculated.

Offenders' compliance with the agreements they sign as a condition of program participation is another indicator of program success. Milwaukee County data indicate that 62.2 percent of offenders who participated in its

Community Conferencing program in 2002 complied with their agreements. Offenders who comply can receive reduced charges or sentences, or the charges against them can be dismissed. We did not conduct a similar analysis for Outagamie County's two fast track programs.

Other Counties' Programs

We contacted 11 other Wisconsin counties that have their own restorative justice programs. Many of these counties' programs are similar to the Milwaukee and Outagamie County programs.

Nonprofit organizations operate restorative justice programs in eight counties, while county agencies operate them in the remaining three. None of the other counties' programs involve oversight by the district attorney's office. The other counties' programs are funded primarily with county funds that may be supplemented by private grants, participant fees, and state funds. Most program budgets are small. The counties also reported that most of their programs have been successful.

Future Considerations

Statutes require the Milwaukee and Outagamie County restorative justice coordinators to report annually on the number of victims and offenders served, the types of offenses addressed, recidivism rates for program participants and

nonparticipants, and the amount of time spent operating their programs. Reports are submitted to the State Prosecutors Office, which forwards them to OJA.

2001 Wisconsin Act 16, which created the four-year pilot program, stipulated that funding for the two restorative justice coordinator positions will end with FY 2004-05. Our report includes options related to future program funding that the Legislature may wish to consider as part of its 2005-07 biennial budget deliberations.

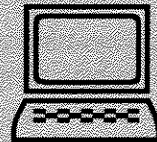
Recommendations

Our recommendations address the need for:

- ☑ Outagamie County to calculate and compare recidivism rates for participants in its Drunk Driving Impact Panel program and a valid control group (p. 23); and
- ☑ Milwaukee and Outagamie counties to use a consistent methodology to calculate recidivism rates, comply with statutory reporting requirements, and submit copies of their 2004 annual reports to the Joint Legislative Audit Committee (pp. 30-31).

Additional Information

For a copy of report 04-6, which includes responses from the Milwaukee and Outagamie County district attorneys' offices, call (608) 266-2818 or visit our Web site:



www.legis.state.wi.us/lab

Address questions regarding this report to:

Kate Wade
(608) 266-2818

The Legislative Audit Bureau is a nonpartisan legislative service agency that assists the Wisconsin Legislature in maintaining effective oversight of state operations. We audit the accounts and records of state agencies to ensure that financial transactions and management decisions are made effectively, efficiently, and in compliance with state law, and we review and evaluate the performance of state and local agencies and programs. The results of our audits, evaluations, and reviews are submitted to the Joint Legislative Audit Committee.

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