

VICTIM-OFFENDER MEDIATION IN THE HUMBOLDT COUNTY JUSTICE
SYSTEM

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A Thesis Presented to

The Faculty of Humboldt State University

In Partial Fulfillment of the Requirements for the Degree

Master of Arts In Sociology

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May 2014

ABSTRACT

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Recent restructuring within the criminal justice system has generated a need to explore alternatives to retributive justice. Jurisdictions across the country have elected to invest and shift toward a restorative paradigm that acknowledges losses while building a better sense of community and holding offenders accountable. This thesis explores the viability of making such a shift in Humboldt County. Victim-offender mediation offers the opportunity to meet the needs of the victim through emotional, material and informational structures. Drawing on interviews and focus groups involving Humboldt County justice system stakeholders, I provide recommendations on how to implement a victim-offender mediation program within the communities of Humboldt County. I use multiple theoretical approaches to explain a restorative justice approach and the likely effectiveness of implementing victim-offender mediation locally.

ACKNOWLEDGEMENTS

There are numerous people who were instrumental throughout the course of this thesis and should be recognized. Firstly, I would like to thank both of my committee members, Dr. Josh Meisel and Dr. Elizabeth Watson, thank you both for believing in me. Josh, thank you for continually pushing me to the next level and reassuring me that I would finish. Betsy, your encouragement and belief in what I am capable of is the reason I was able to finish my thesis. My gratitude for your continued support and confidence in me can never be truly expressed. Thank you both for all your support and encouragement.

Thank you to my research participants who are so passionate about their work and our community. Thank you for your willingness, time and opinions, without your help I could not have learned so much.

There have been new and old friends who kept me focused, cheered me on when I needed it most and provided a much-needed reprieve from it all from time to time. Melanie and Misty, thank you for your incentives to help me finish and most of all Amy for all your time listening to me and editing my writing. I am not sure I could have made it through this without all of your shoulders to lean on.

Lastly, thank you to my employer Glenn, for your understanding, flexibility, and support throughout this process. You were able to make me laugh when I most needed it and provided perspective when I had lost it.

TABLE OF CONTENTS

VICTIM-OFFENDER MEDIATION IN THE HUMBOLDT COUNTY JUSTICE SYSTEM.....	1
ABSTRACT.....	ii
ACKNOWLEDGEMENTS.....	iii
LIST OF TABLES.....	vii
LIST OF FIGURES.....	viii
INTRODUCTION.....	1
Purpose.....	3
REVIEW OF literature.....	5
Current Justice System.....	5
Background of Victim Offender Mediation.....	7
The Process.....	10
How VOM is Understood Theoretically.....	13
VOM, Standpoint Theory and Personal Narrative.....	16
How Restorative Justice Views Crime.....	17
Community and Program Impact.....	18
Normlessness and Anomie.....	19
Three Dimensions of Restorative Justice.....	21
The Impact on Community and its Volunteers through Victim Offender Mediation ..	25
Summary.....	28
METHODS.....	29

Introduction.....	29
Research Design	30
Background.....	32
Sampling	33
Data Collection	35
Limitations	36
Analysis	37
Summary.....	38
FINDINGS	39
Defining Justice	40
What is justice for the victim?	40
Justice as a system.	41
What justice can be.	43
Current Humboldt County Justice System.....	43
Programs already in existence in Humboldt County	46
How does VOM fit in Humboldt County?.....	47
Locals, transplants and old timers; how to make VOM work.	49
Emotional Needs.....	51
Developing an emotional connection.....	51
Mutual respect and forgiveness.	52
Group identity.	54
Funding and Financing a VOM Program	56
Summary.....	57

RECOMMENDATIONS	59
Expanding Existing Programs	62
Where to Start in the Adult System	66
Education and Outreach.....	71
Summary.....	74
Conclusion	76
REFERENCES	77

LIST OF TABLES

Table 1: VOM Outcomes for Stakeholders

LIST OF FIGURES

Figure 1: Victim Offender Mediation Process

INTRODUCTION

The current retributive model of criminal justice consists of the state taking over the resolution of a crime, distancing the victim from the process of justice. In this transfer, it shifts the crime to become abstract and a crime that has been committed against the state. This transfer removes the victim and his/her needs from the process and requires the crime to be solved and restitution to be paid to the state. The opportunity for reconciliation and resolution between the victim and offender is rare and in most cases becomes impersonal and adversarial (Zehr 1990).

Fortunately an alternative to the current model of criminal justice exists through a restorative approach through a Victim Offender Reconciliation Program (VORP) or Victim Offender Mediation (VOM) as it is more currently known. VOM focuses on the criminal act and all stakeholders in an attempt to meet the needs of the victim, offender, and community in a more direct manner, rather than shifting the crime to be against the state. Most VOM interventions are initiated by court referrals and after the offender admits guilt (Dzur 2011, Zehr 1990, Braithwate 2002). Typically concentrated in 2-3 meetings, the encounter is mediated by a trained community member, not a criminal justice professional who represents the power of the state (Dzur 2011, Zehr 1990). Each process is geared towards those involved, therefore the mediators are given broad guidelines in order to individualize the process to the crime, victim, and offender. Albert W. Dzur (2011:372) identifies five goals of the process for the participants:

1. victims describe the impact of the offender's behavior,

2. offenders make amends to victims and the affected parties;
3. offenders make amends to the community;
4. offenders demonstrate healthy behaviors and learn ways to avoid re-offending;
- and
5. the community offers reintegration.

The goals of the VOM process may seem to narrowly focus a crime on the act itself, but the impact can be profound for all parties involved. In addition, the costs are reduced to the state as the process is out of the court system, restitution is direct, and there is a potential to reduce recidivism.

VOM is not for all crimes, offenders or victims. However, when used in certain circumstances such as low-level crimes, stereotypes are broken down and state involvement is no longer needed as direct community participation is facilitated. A victim's need for answers is met, and offenders may be diverted from imprisonment (Zehr 1990). VOM provides a human aspect to a crime that many offenders do not often face and refocuses the impact of the crime on the victim(s) rather than the state. Taken together, VOM has the potential to reduce recidivism by providing an opportunity for the reintegration of offenders back into the community (Bazemore 2001:220). In order for this approach to work, many scholars/criminal justice professionals believe that a crime must be viewed in the social context in which it occurred (Dzur 2011: 370):

“Modern problems with crime have as much to do with the social distance between people, limited understanding of others, and sparse opportunities for meaningful collaboration and communication typical in suburban and urban life as they have to do with specific harmful or offensive actions.”

The participation of the community in resolving crime builds an understanding between offender and community, which encourages acceptance and reduces the future number of crimes.

In order to understand restorative justice and practice VOM through a community-based lens, the idea of what constitutes a community must be clearly established. A church is a community yet the geographical boundaries of those who attend the church may be much greater than the neighborhood in which it is placed. This is why VOM programs must emerge from the community and neighborhood in which they exist. Each community has a different sense of what it needs culturally and physically in order to implement restorative justice and heal the community. The representation and satisfaction of the community through the volunteer base must also be understood.

Purpose

Creating and assessing the use of an alternative approach to the current criminal justice structure in Humboldt County is a complex process. An understanding not only of what justice means to the stakeholders, but also an assessment of whether or not the stakeholders and the community are open to such alternatives is necessary. In the spring of 2013 I conducted focus groups and interviewed those identified by leaders in the justice system and professors as stakeholders to gain a clearer understanding of both the adult and juvenile justice systems in the Humboldt County. This was in order to make

recommendations regarding the feasibility of a victim offender mediation program in Humboldt County. Is the county ready to take a hands-on, community-directed approach to justice, including resolving the damage (specifically to relationships between offenders and the community) caused by criminal acts? Providing an opportunity for the victim and offender to express their experience, ask personal questions such as “why” as well as provide a space for healing, increases the potential to reduce recidivism (Bazemore 1998:772, Umbreit, Coats, and Vos 2004).

The objective of my work is to provide the reader a better understanding of what justice means to the stakeholders of Humboldt County. This thesis specifically seeks to address the following elements:

- The current structure of the justice system;
- differences between a retributive system and restorative approach through a theoretical lens;
- process of victim offender mediation;
- program impact;
- Recommendations for the use of a victim offender mediation program

REVIEW OF LITERATURE

Current Justice System

Currently, criminal justice tends to focus and respond to the offender, rather than the community in which the crime occurred and the victims themselves. As a masculine structured system focused on a punitive result, healing and justice for all parties involved is nearly never met (Bazmore 1998, van Wormer 2009). Justice remains focused on the same question: “what does the offender deserve?” (M. Achilles and H. Zehr 2000:9). Howard Zehr (1997:12) clearly describes a void in the current justice system structure: “the essence of a crime lies in breaking the law rather than the actual damage done to a person.” The official victim becomes the state rather than the person against whom the crime occurred. This is a retributive structure and a structure that many times determines the morality of right and wrong in a patriarchal system that does not allow for the voice of the victims/survivors, women or minorities to be heard. This results in response to crime becoming depersonalized. Basing his definition of a crime on the Bible, Zehr (1997) defines the basis of a criminal act as stemming from a “broken relationship”. As the current criminal justice system is operated, the relationship cannot be repaired as the crime is shifted to be against the state, rather than the victim.

The depersonalization of the criminal justice system often leaves a feeling of bitterness in all parties involved: victim, community, offender and family members. There is an increased risk of misunderstanding, a lack of voice for the victim and

offender as the crime becomes abstract and must be solved by the state. There is a lost opportunity for reconciliation in the current criminal justice system, and yet the popularity of the punitive system continues to increase (Dzur 2011). Policy makers and the public oftentimes think that punishing a crime affirms the disapproval of certain behaviors and provides consequences (Bazemore 1998). Framing outcomes in terms of treatment, healing, or repairing provides an informal, caring approach, an approach that does not match the current masculine structure of the system. Much of the resistance to the use of a restorative approach (such as a VOM) stems from the fact that they are often seen as “soft” on crime, and unable to provide consequences, or what is perceived as not the traditional punishment for a criminal act. However, there is much to be gained by approaching an offence from a restorative lens rather than a retributive lens.

Not only does the patriarchal structure of the current justice system limit positive outcomes, but it also limits women’s autonomy (Coker, 2004). Sandra Harding (2008:119) explains the patriarchal structure using a feminist standpoint by stating:

“The state is male. Violence against women that could look reasonable only from the perspective of men’s social relations between the genders in our particular kinds of societies. Again, biologist, health researchers, and environmentalists identified many more inversions and, from the standpoint of women’s lives, perverse understandings of nature and social relations in the conceptual frameworks of dominate institutions. These frameworks are in fact active agents in forming and maintaining gendered social relations... gender is not just about women, but also about men and, most importantly, the social relations between them.”

Crime against women, or committed by women are seen as wrong based on the dominate culture. The only way to “right the wrong” currently is to conform to the male

perspective, eliminating the woman's standpoint and identity. This approach silences women as well as perpetuates the oppressive system placed upon them. The structure of society makes this a reality, as we all are "forced to live in social structures and institutions designed to serve the oppressors' understanding of self and society" (Harding 2008:119). Women are expected to accept the dominance of the male perspective and many times do not acknowledge a criminal act against them.

Background of Victim Offender Mediation

In any great myth or novel it is at the end when the parties at odds develop empathy, remorse and forgiveness for the other; that makes it a great story. It is not just in stories that our society needs this aspect of healing, it is in our criminal justice system as well. Recidivism will be reduced when a sense of community is built through the use of VORP (Bazemore 1998, Ellis 2006). Many times when people hear restorative justice, specifically Victim Offender Mediation (VOM), or the idea is explained to them, it is understood to be a process that is focused on helping the offender, rather than the victim. However, VOM is approaching the situation holistically, including both the victim and offender with the community. Von Stokkom (2002:355) notes "mediation practices have shown victims who take part attach much greater value to the communicative aspects (being heard, treated with respect) than to material compensation." An offender can be restored to the community, rather than being labeled "criminal" and outcast.

Historically, restorative justice and Victim Offender Mediation processes can be rooted in indigenous practices and were the dominant form of pre-modern justice (Daly 2002, Bazemore 1998, 2007, Braithwaite 2000, 2002). It was in the 11th century that the transition from restorative practices or kin-based dispute settlement in European countries gave way to more retributive practices of transferring an offense to be against the ruling state (Daly 2002). The implementation of VOM in western societies began in 1974, in Canada.

The restorative justice movement through Victim-Offender Mediation programs began in Ontario, Canada in 1974 with an experimental program in the probation department and the local Mennonite Community (Zehr, Howard 2004). Two youth vandalized property and were escorted to the victim's home by their parole officer and a Mennonite volunteer to demonstrate to the teens that restitution was directly related to the actual people they had harmed. From this experiment of giving the crime a face, Victim Offender Reconciliation Programs (VOM), or what are now called Victim-Offender Mediation (VOM), began as a movement of intervention through restorative justice in the juvenile system. Over the past four decades restorative justice has slowly become integrated into the adult justice system as well (Braithwaite 2002 and Wheeldon 2009).

VOM is the oldest and most developed form of restorative justice (Umbreit, at. el. 2004). As a worldwide movement, restorative justice is supported by both policy and practice. In the United States, twenty-nine states have legislation addressing the VOM process (Umbreit at. el, 2004). By the 1990s, restorative justice practices became a movement and were piloted in juvenile justices systems throughout the nation (Bazemore

2001). VOM was started typically in juvenile courts because these courts have much more flexibility in the processing of cases than the adult criminal. By the end of the 1990s thirty-five states had adopted restorative justice principles, making restorative justice more of a norm (Bazemore 2001). Due to its popularity in juvenile justice, today nearly every state is developing restorative justice to better integrate youth into society and prevent their ongoing involvement in the justice system (Elis, 2006; Umbreit et. al, 2004).

Many county justice systems are currently incorporating the VOM process into their justice system practices. States which have incorporated VOM principles into their justice system practices include: Arizona, California, Colorado, Illinois, Iowa, Minnesota, New York, Ohio, Oregon, Pennsylvania, Texas, Vermont and Wisconsin (Umbreit et. al, 2004, Dzur 2011). Though widespread with at least one program in each state, the distribution is not even (Dzur 2011). This can be explained by the structure of our government, giving local governments the autonomy for democracy. This structure results in restorative justice being written into law for twenty-nine states, while the others have acknowledged it in policy statements (Dzur 2011). Restorative justice programs, specifically VORP, look different throughout the country; however the primary purpose is the same: to serve the victim, community and offender.

Most often VOM programs are offered by non-profit organizations, privately funded organizations, as well as community based agencies (43%). Another large portion of the programs are offered by churches or church related agencies (23%). The remaining programs are dictated and run by different agencies within the justice system,

such as probation, correctional facilities, and prosecuting attorneys (Umbreit et. al, 2004). For those programs in operation today, the need for the willingness for all parties to participate is imperative.

The Process

Many aspects of restorative justice are incorporated into the different programs being implemented across the nation in the juvenile justice system as well as the adult system. However, few programs embody all of the core values and processes that restorative justice offers. A VORP process can be applied to almost any type of case, however it must be assessed on a case-by-case basis rather than eliminating a class of offences.

A VOM is successful based on the participants and the type of needs to be met for the victim and offender. Most successful processes are those that have an emotional need to be met, and in all cases all parties must agree to participate voluntarily. The offender must also admit guilt (Zehr 1990). Goals and outcomes vary from program to program as each program and its values and goals are based in the community from which it emerges.

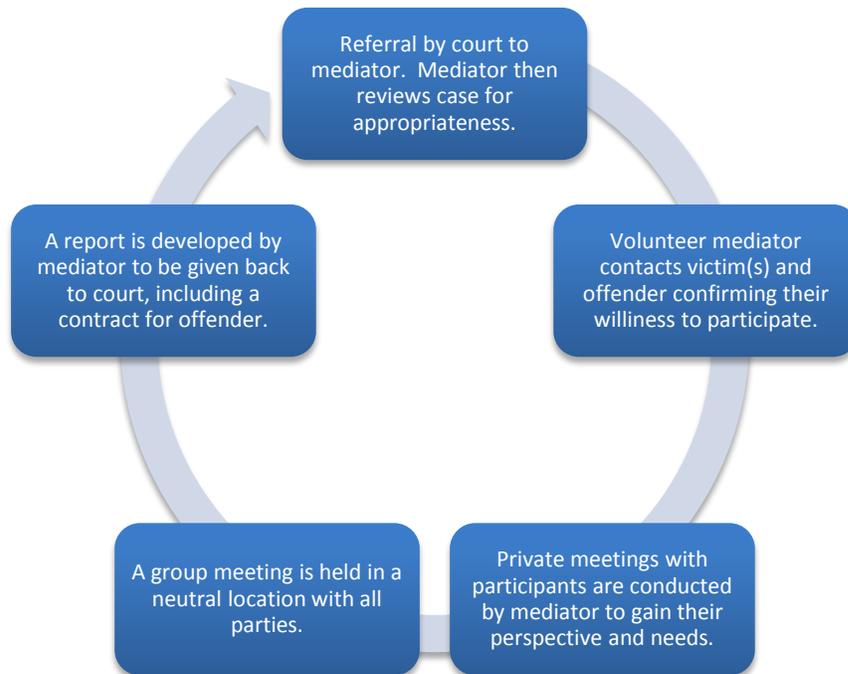
Program assessments have been conducted on programs in New Zealand (Umbreit and Zehr 1996) as well as in the United States (van Wormer 2009; Dzur 2011). These assessments revealed many similar goals and core values among the programs and communities studied, including (Dzur 2011):

- accountability, healing and prevention;
- victims must play a key role throughout the process to ensure their needs are met;
- rehabilitation of the offender;
- service to the victim; and
- reduction in incarceration.

Participating in a Victim Offender Reconciliation Program, or a variation thereof including peace circles or other discussion groups, allows for the appropriate response to the situation to be discussed, understood and the possibility to resolve the current situation and prevent any future offenses. It is the opportunity to break the cycle of negative actions moving forward into the future. This human-centered approach redirects the goal of revenge, otherwise known as restitution, to the goal of understanding (van Wormer, 2009).

To start the process of a VORP and keep the focus on the parties involved and the criminal act, Howard Zehr (1997) explains the process of a VOM in four steps (see figure 1). Beginning with the referral, a trained mediator must review the case and judge its suitability for a VOM process. This is then followed by the volunteer contacting those involved to meet individually and confirm their willingness to participate. Meeting with the individuals privately allows for each to agree to the process, express their version and feelings about the case as well as discuss their desired outcomes. If and when all parties agree to proceed a meeting of all is scheduled in a neutral location with a volunteer mediator facilitating the process.

Figure 1: Victim Offender Mediation Process



In the meeting with all the parties at the table, a review of the facts takes place, feelings are expressed, and a discussion of an agreement on resolving the case follows. For this process to be successful, the offender must admit his or her guilt and recognize the negative impact of their crime, as well as offer an apology. Bas Van Stokkom (2002) expands on this idea of an apology by explaining the concept and actual act of shame, which is also what Braithwaite (2002) claims will motivate offenders to reconnect with the community. It is a sociological need for an individual to act in accordance with societal norms that compels the offender to participate in such a process, as well as the victims' need for the emotional question of "why?" to be answered.

In order for step three of the process to be genuine, the emotional structure of the process and the needs of all parties involved must be a part of the process and addressed. When an offender displays remorse, a victim is more likely to become concerned with a genuine apology rather than needing to receive monetary reparation for the property loss to feel (Van Stokkom 2002). This idea is supported by the teachers and social workers interviewed for the purposes of my research. The teachers expressed the need for an offender to express remorse and receive empathy from the community he or she is a part of, be it a small setting like the classroom, or larger, like the community as a whole. This humanistic approach goes beyond our current adversarial system of a zero sum structure, where there can only be one winner.

A satisfactory process incorporates all the emotional needs and perspectives into the outcome and contract for restitution between all parties. This leads to the last step of the process wherein the mediator develops a report and restitution contract to be returned to the referring agency (Zehr 1997).

How VOM is Understood Theoretically

Restorative justice many times is often understood in terms of its relationship to the current use of retributive justice. Many times this results in a simplistic comparison of *good justice* to *bad justice*. However, it is best to understand justice as a whole, approaching the victim, offender, crime and community fully to best serve all involved. Crime is not one-dimensional; therefore restitution shouldn't be either. No one theory

can explain all types of crime. Generalizing punishment and approaching crime with a zero-sum approach does not consider the victim, community or history of the offender. I have had an attorney explain the current justice system to me as “a system that is focused on the offence and protecting the constitution.” Theoretically, justice is not considering the particular crime and those directly and indirectly affected by it. By shifting the paradigm to view justice through the lens of the victim(s) and offender rather than the constitution, allows for the dichotomy of *good justice* vs. *bad justice* to be removed and the criminal justice system to be more effective. This victim-centered approach allows for agency to be given to a marginalized population. VOM is a step in this direction and is slowly emerging more and more in western justice systems.

VOM emerged in the 1970's as the feminist movement was developing theories around giving voice to those who are oppressed utilizing standpoint theory. Katherine van Wormer (2009) explains standpoint theory as giving voice and providing a vantage point for those who are not part of the dominant culture; this can mean both a feeling of isolation as well as material forms of exclusion. It posits idea that less powerful members of society experience a different reality as a consequence of their oppression (p. 109). Viewing criminal justice through this lens allows for a more holistic reality and experience of a crime. Utilizing VORP, the focus is less on the act of law breaking and more on the peacemaking and building of relationships on the micro-level for the victim, offender, and community.

Both standpoint theory and VOM can be explained as creating an equal playing field while providing a space for the individual to be heard. Much of feminist theory, and

standpoint theory specifically, share values and a basis with restorative justice. This provides the opportunity to hear the vantage points of all parties, as well as consider the specific communities involved. Standpoint theory emphasizes not enforcing a patriarchal system and building and/or repairing community (Elis 2006). However, restorative justice and the VOM process must be considerate and aware of the patriarchal structures within the justice system as well as gender roles of the community.

Kathleen Daly (2002) addresses the concern of restorative justice being viewed as a feminine (compassionate) approach to justice in what she calls a myth of restorative justice; it is a “care” (feminine) response to crime. If viewed through the lens of the binary gender system, it is easy for justice to be referred to in masculine (retributive) and feminine (restorative) terms. However, adding a voice to a crime for all involved does not limit the justice, rather it promotes healing and these are not mutually exclusive objectives. When a criminal act is depersonalized, it becomes less likely that the victim or community receives justice or healing, and more likely that the offender will re-offend. In view of that fact, I argue that idea of viewing justice through a feminine and masculine lens must be discouraged. Crime is human, dehumanizing the act does not allow for justice.

Standpoint theory emerged as a bridge to express the reality and experience for all groups and individuals. It was developed by different scholars across different disciplines and countries: Nancy Hartsock, Alison Jaggar, Hilary Rose, and Dorothy Smith (Harding 2006). The epistemological movement to research “women’s lives” from a women’s perspective occurred during a shift in societal structure around criminal

justice from punitive to restorative, and within the context of the feminist movement. Standpoint theory concepts were and continue to be a resource used to empower an oppressed group, similar to that of restorative justice.

VOM, Standpoint Theory and Personal Narrative

Victim Offender Mediation programs are useful and necessary because they represent an opportunity for truth telling through a personal narrative (van Wormer, 2009:3). Both the victim and offender are heard in the narrative. The individual is heard through one-on-one communication rather than through the impersonal court system. Real understanding - as well as a sense of justice and healing - is achieved only when the process invites and actually listens to the voices of all parties involved. There are many similarities between standpoint theory and restorative justice, not the least of which is neither is adversarial and all perspectives are included in the process. One's vantage point is accepted and heard, rather than dismissed or reformed to fit the dominant culture of the current system.

No longer must the victim put the task of seeking restitution and closure for a crime they experienced in the hands of the State, nor is the power only for the State. Through standpoint theory and restorative justice a sense of community is built and closure is allowed for those involved; victim, offender, and community.

How Restorative Justice Views Crime

Restorative justice views crime as a harm that one individual inflicts on another, their property, the community and the victim's relations with all (Rodriguez, 2007). A crime is the act of harm done, while justice means repairing the harm done (Umbreit, Coats, and Vos 2004). By focusing on the act of the crime, a foundation of giving the victim and offense a voice and face allows for the offender to see the impact of his or her actions, potentially decreasing the likelihood of recidivism. The power and relationship is contained between the impacted and participating parties, not shifted toward the state, preventing a buffer between the criminal act and victim. As Gordon Bazemore (1998:769) clearly states:

“if a crime is in fact about harm, justice cannot be achieved simply by punishing or treating offenders. Rather, justice processes must promote repair or an attempt to heal the wound a crime caused.”

The current punitive justice system does not incorporate or consider the healing of wounds or repairing the damage physically and emotionally as well as restorative justice does for the victim, offender and community.

The willingness to participate on the offender's part becomes a form of education and potentially the process becomes more about the offender rather than the victim and crime itself. In 1998 Gordon Bazemore introduced the concept of VOM as education by arguing that: “being required to face one's victim or face the community and work to repair the harm caused may well be tougher and more painful for the offender than the standard punishments focused on incarceration” (1998:787) When using the VOM

process the offender is encouraged to focus on the victim and the community in which the crime took place. The offender is forced to reflect on why the crime took place as well as see the impact of their actions on the community they are a part of. The positive learning and growth that takes place for both the victim and community by far outweighs any impacts a punitive punishment could have. This is a drawback to the current understanding and moral stance of the justice system. The term justice is used, but in the current structure, who is served justice in a retributive state centered system? The current approach seeks to punish rather than help an offender, as they are labeled “criminal”. Through standpoint theory and VOM the shift in power can be made, allowing for restoration and potentially more success in reducing recidivism.

Community and Program Impact

Many can reflect on the role neighbors, community organizations, churches and other formal and informal groups of people played in our development as children. They influenced our lives and remedied many conflicts within the community. Many problems were taken care of outside the criminal justice system, especially in regards to juvenile cases. However, over the past thirty to forty years, juvenile justice agencies have expanded their reach to such an extent that many conflicts or crimes that previously were remedied within the neighborhood are now brought to the attention of law enforcement, the courts and probation systems. (Bazemore 2002). By taking social control of deviant behavior out of the hands of community members and transferring it into the impersonal

hands of the state, a sense of community responsibility is lost. Mistakes that may have previously been relatively gentle learning experiences have become reasons for youth to become embroiled in the system.

Normlessness and Anomie

In order to maintain a society of laws, human behavior must be regulated by the norms and mores in place to assure compliance. Failures to observe and follow social norms is what Emile Durkhiem (1893) called normlessness. The lack of such acclimation is referred to as anomie (Durkhiem 1893). There must be a consensus of norms and values, and when there is not, the society is in a state of disorganization or new social norms are developed. Restorative justice allows the social disorganization of an individual to be stopped and restoration to society is facilitated, allowing for the community healing/building process to begin. The individual is not to be labeled deviant, but rather a participating member of the community (Wheeldon 2009).

Victim Offender Mediation allows for the collective to use social capital to heal areas of the community and maintain social order. Capital refers to power or resources an individual or group of individuals posses and can use to influence the outcomes and direction of others. Social capital in this context specifically refers to the use of social ties, confidence, honor, and credentials held by those in the community (Siedman 2008:143) The community uses social ties, confidence and connection to reintegrate offenders (Siedman 2008:143). This is done without the power of the state and structure

of the criminal justice system removing those who make up the community, potentially creating social disorder. Removing an individual from society and removing their citizenship for a period of time does not repair the crime or the offender, it further isolates the offender (Bazemore, 2007; Rodriguez 2007). And it completely leaves the victim without meaningful reconciliation or restitution.

Theorist Emile Durkheim explains the need of individuals for the normative order given by society, arguing that it is the internalization of social norms that makes us free. Our goals and what we find most meaningful are supported by strong social organization (Allan 2010:62). Our actions are based on our culture's values and sanctions are put in place when these are violated. This is done through social controls, by reinforcing acceptable behaviors and correcting poor behavior (Calhoun, Craig, Gertieis, J., Moody J. Pfaff, S., and Virk, I 2009). Social controls are created through the collective order of the majority and in turn dominate the individual. Domination is not meant to oppress a group or the individual, instead it is meant to create the space and ability for an individual to attach and become a part of a community. For social control to make an impact it must be done through respect, rather than fear (Calhoun, et. al. 2009; Coker 2004; Singh 2010). A sense of attachment is created through positive social controls when they are respected and not feared, leading to a community that is together and self-regulating as a whole. Currently, the punitive justice system and the use of law enforcement is fear based, leading to a state of de-regulation and lack of limitations, allowing for criminal acts to be the only source of resistance. Not seeing what is a wrong or hurtful action against others can be symptomatic of a state of anomie. For VOM programs to be

effective, the community must organize and develop the programs to meet the needs of the community and its members, not necessarily the needs of the State.

The holistic approach of Victim Offender Mediation allows for the victim, offender, and community to have outcomes that may not have been possible through the punitive model. Using the restorative lens, crime is understood in the broader context of not only breaking a law, but to why it was broken, how and what to do about it. Gordon Bazemore (1998:771) explains that the following three questions are at the core of understanding the crime:

1. what is the nature of the harm resulting from the crime?;
2. what needs to be done to make it right or repair the harm?; and
3. who is responsible?

Three Dimensions of Restorative Justice

Using these questions and the involvement and input of the victim, community and offender the outcomes are maximized and the future of the community is focused on repair. In 1998 Gordon Bazemore defined the three dimensions of restorative justice and what the process of a VOM offers (victim, offender, and community):

Table 1: VOM Outcomes for Stakeholders

Stakeholders	Outcomes
Victim	VOM offers hope of restitution or other forms of reparation, information about the case, the opportunity to be heard, and input and expanded opportunities for involvement and influence.
Community	A VOM process offers the promise of reduced fear and safer neighborhoods, a more accessible justice process, accountability, and the obligation for involvement and participation in sanctioning crime, reintegrating offenders, and crime prevention and control.
Offender	VOM requires accountability in the form of obligation to repair the harm to individual victims and victimized communities, opportunity to develop new competencies, social skills and the capacity to avoid future crimes.

As explained by Bazemore (1998), the crime and process of a VOM becomes so much greater than the restitution and sorting of facts of the crime in order to apply a punitive sentence. A sense of community is established and the offender is given the opportunity to develop a self-identity other than a criminal and potentially be integrated into society, rather than removed. The involvement of the community is what allows for this process to produce the potential results it does.

If, as Bas Van Stokkom (2002) explains by expanding on John Braithwaite's study of *Crime, Shame and Reintegration* (1989), a crime is a breakdown of social bonds

that link an individual to their community, it is vital that the community must be involved in the justice process. For an offender to be reintegrated into a community it is necessary for the community to be involved in the restitution of the crime. It is also important that the crime be fully understood in order to heal the offender, victim, and community. A just response to a crime is for members of a community to respond to the crime, to repair the damaged relationships and build new ones (Bazemore 1998). Focusing on the future, community organizations through churches, services groups and neighborhood groups can repair relationships and focus on the “why” of the question rather than “who is responsible for the crime?” This shifts the idea of justice from the idea of the individual and their guilt in the crime, moving toward process that considers why there has been a breakdown in the social bond between this individual and their community and what can be done to repair it. Accountability needs to stem from a community, not the State, to prevent further criminal acts and recidivism among individual members.

Regardless of why a victim or offender chooses to participate, there is a positive impact from a VOM process on the individuals participating and the sense of community that is built from the process. The VOM process attracts community involvement and gives citizens the opportunity to provide input into sanctioning decisions. The involvement of the community shifts our thinking about crime as an abstract phenomenon which only impacts other people to a better understanding of the needs of the offender in order to prevent further criminal activity (Ellis, 2006, Umbriet and Zehr 1996, and Dzur 2011). It is argued that participation in a VOM within a community is potentially transformative as it “integrates effective ties and emotions based communal norms and

the legal system to provide rational, transcending standards” (Bazmore 1998:804).

Community members are able to reflect on their own lives and build on the community assets.

Building or repairing a sense of community is at the core of restorative justice. It works to repair and heal not only victims, but also offenders and a crime-stricken community. Keeping in mind that justice is not only in the hands of the state, community stakeholders should be involved in the justice process as early as possible (Bazemore 2007). It is the community who should make decisions on how to respond to crime in the neighborhood; after all, it is the community members who may be able to make sense of why a crime or series of crimes continue.

In his 2007 article critiquing retributive policy and its current use in the system, Gordon Bazemore argues that we must rethink the stakeholders' role in justice. The state is responsible for maintaining order, while the community is responsible for establishing peace. The state was not designed to enforce order, however it has morphed into doing just that. A disconnect has occurred in many communities and restorative justice through the use of VOM can potentially rebuild a community identity and repair the broken sense of neighborhood and support. For this restructuring to happen a community must be empowered. Increased community member participation will create informal forms of social control through the building of social relationships. Ultimately, a community must be restored to reduce recidivism and there are many pieces to the puzzle in order to do so (Umbriet, et. al, 2007).

The Impact on Community and its Volunteers through Victim Offender Mediation

While restorative justice research measures victim and offender satisfaction and the impact restorative justice has on recidivism, few studies measure the impact and outcomes for the community and the community volunteers (Souza and Dhama 2008). Karen Souza and Mandeep Dhama conducted a study in 2008, measuring the satisfaction of volunteers in VOM programs as well as the demographic characteristics of who is more likely to volunteer. The majority of volunteers are middle aged, Caucasian women who have an interest in the criminal justice system. One's motivation around volunteerism as well as internal and external factors must be taken into consideration when measuring the effectiveness of a VORP (Souza, Dhama 2008).

The quality or diverse representation of a community through volunteer facilitators is difficult to regulate as outreach is done mainly through the snowball method and word of mouth. The success of the program is also dependent on the community knowledge of the volunteers, because their connections and experience affect the efficacy with which they can provide outreach and act as liaisons with referral agencies such as schools and police (Souza and Dhama 2008). The limitations of the volunteer base thus become the limitations of the program. Standard practices among VOM programs vary, making it difficult to measure the outcomes of the program and volunteer satisfaction. The variance is necessary as each program is community specific, explaining the large variance of implementation of programs across the country. In order to keep a community's needs central to a VOM program, programs must be kept at the

grassroots, community based level in order to be effective and create change in a community.

A core value of restorative justice is that the community should have input on responses to crime and how to approach a criminal act, creating flexibility regarding how crime is addressed in each community (Bazemore 1998). Approaching crime from a grassroots organizational approach is arguably more effective, allowing variance between communities. There are a number of ways to conduct a VOM, from a professional model and approach that includes officials and social workers to the community model I spoke of prior with a grassroots volunteer base. Another core value of restorative justice is to not assert power onto another party, if there is a stakeholder who would like to be involved in the process, the opportunity must present itself and no one person is to be isolated or silenced (Dzur 2011). The professional approach to VOM including social workers and other officials, presents the risk of one stakeholder having power over the other, effectively shifting the process in their favor. Yet, to have a community based process may risk the loss of resources or knowledge of community-specific resources. That aside, a community knows its needs and values better than an outsider and must set the goals and boundaries of each individual VOM. This is similar to how juvenile crime has been handled by previous generations; it was the neighborhood that held the child accountable, not a probation officer who lives in a different neighborhood and has a different outlook for what is needed for the neighborhood.

If the court system were to implement the boundaries (geographical and religious) and regulate volunteer participation, the power of the state would impact the outcomes of

a VOM program. This would be detrimental to a VOM program's success. The cultural needs of a specific community would not be understood nor would they be met as outsiders may be participants in the process and affect the outcomes. The significance of the community member role in a VOM process is as important as the victim and offender since the community situates a crime in a social context (Souza and Dhimi 2008). Members are able to provide solutions to crime control and prevention specific to the community's needs. Diverse community involvement and who is represented in a community is imperative to the success of restorative justice. At the heart of restorative justice is the goal to "right the wrong". At the heart of the traditional punitive system is the collecting of facts, the accused offender receiving a punishment and being required to pay the State back for a crime rather than righting the wrong. The value of retribution being between the victim, community and offender is greater than a "debt to society" being paid to the State and allowing the focus to remain on the offense. Retribution should be paid to the victim and community, not the state, through community service (Bazemore 1998, 2003, 2006 & 2007).

The community-based movement of restorative justice not only benefits those incarcerated and their victims, it presents an opportunity for growth within a community. Many aspects of restorative justice are currently incorporated into the punitive justice system, yet further integration may allow for reduced recidivism, emotional closure and an improvement for communities. By healing the individual, healing within a community can occur.

Empirical evidence on the outcomes of restorative justice and reducing recidivism is difficult to present, as many times victims and offenders speak of their experience and emotional healing from the process anecdotally rather than having statistical data to support the restorative justice movement. Kathleen Daly (2002) studied the outcomes of youth justice programs in Australia and New Zealand to find that 80 percent of offenders completed the agreement made with the victim during the VOM process. Of all victims and offenders interviewed, victims were the least satisfied at 49 percent, yet 80 to 90 percent said the process was fair (Daly 2002:69). A person perceives the system as fair when they are listened to and treated with respect; this creates a sense of affirmation, core to restorative justice (Daly 2002). Outcomes vary among VOM processes, as does the process itself as it is developed based on the criminal act and stakeholders involved.

Summary

Restorative justice many times is portrayed in a dichotomous relationship with traditional forms of justice rather than a holistic alternative to justice that provides a space for a community to heal and repair itself rather than from a systematic top down approach. The literature reviewed suggests that implementation of VOM programs in Humboldt County can and will improve our community, reducing the number of those incarcerated and labeled as system involved, as well as bring the community together and begin a healing process. The goal is to evolve and change the paradigm of justice currently used in Humboldt County. In the next chapter I describe how I gathered stakeholder perspectives on the use and feasibility of VOM in Humboldt County.

METHODS

Introduction

In the previous chapter I reviewed the literature on restorative justice, VOM in particular, and the benefits of VOM versus the traditional punitive system of retribution. Community participation and support is key to the success of VOM and the reduction of recidivism through healing offenders' relationship with the community. Not all VOM and communities are the same and each program must be specific to the community of which it is operating. To determine if VOM is right for Humboldt County and how such a program would be structured, I interviewed those who work in the criminal justice system on a daily basis either individually or in a focus group. Using the snowball method I was able to find participants and collect the recorded interviews to code into useful data evolving from grounded theory. My interest in mediation and vested interest in the community in which I reside fueled my curiosity and determination to better understand the Humboldt County criminal justice system.

Through my exposure to mediation in a dispute resolution graduate course at Humboldt State University, my interest in the victim-offender mediation (VOM) process continued to grow. My interest was and continues to be an exploration of how VOM can influence the community to promote a better understanding and healing as well as decrease the number of criminal acts in Humboldt County, both juvenile and adult low-

level offenders. It was my intent to understand the dynamics of the Humboldt County justice system and if a VOM is a possible alternative to the current structure by having a dialog with those who are impacted or work within the system: offender, victim, family, administrators, law enforcement, legal council and probation officers.

To better understand the needs of the system locally in Humboldt County and to assess the current use of restorative justice practices, I turned to those who work within the system daily. I held focus groups and one-to-one interviews allowing for the volunteer participants to share what restorative practices they currently use and what is working and not working. Also included in the focus groups and interviews was the opportunity for participants to share what it is they would like to see implemented in order to better serve the community through the criminal justice system. Gathering the data from those who work within the system will better equip me to make recommendations about the viability of implementing victim-offender mediation more widely and the community support needed.

Research Design

To understand the meaning of the many terms used throughout my research and focus group process, as well as defining the terms for my own purposes, I began with a literature review to define the common terms used throughout sociology, criminology, psychology and social work research. Terms such as “victim-offender”, “mediation”, “restorative justice” and “recidivism” were used to initiate the literature review and create

a common definition used throughout my writing and in the focus groups. Included in this research was my design of how to gather data. I was able to determine if the use of focus groups and interviews was the best method and why I should use this approach.

In the original design of my research I was only going to create focus groups of stakeholders with similar association with the criminal justice system. For example, law enforcement would meet in a common group, social workers in another, attorneys together and so forth. I chose this design in order to provoke thoughtful conversations among colleagues as well as create a dialogue that provided an opportunity to create solutions to concerns the participants had as well as create a better understanding of each individual's experience. However, once I started collecting my data I found myself having to adjust my design to better meet the needs of the participants as each had individual concerns and accommodations around scheduling as well as confidentiality.

After holding three focus groups I hit a roadblock. I was having difficulty arranging and ensuring participants would attend the scheduled focus groups. I arrived onsite for a scheduled meeting twice to have no participants arrive. Both groups had been confirmed. At this point, I adjusted my approach to hold interviews with those who had responded and confirmed to participate. After following up with those who were unable to attend I learned that they were not comfortable speaking in front of their peers. This was specific to law enforcement and attorneys. Although the design was to gather data through a rich conversation amongst peers, adjusting to interviews still allowed the conversations to take place. These participants expressed a concern around their employment status and repercussions from their participation. They did not want what

they said in the focus groups to be used against them in their work environment. Those participants who were interviewed may have been more candid due to the anonymity of speaking with me one-on-one.

In addition to redesigning my use of focus groups combined with interviews I had to consider the common terms used for each group of participants. To better communicate, gain trust and to gather rich data I had to be able to speak in similar terminology as my participants. In order to do so I turned to the literature as well as let the participants inform me on the appropriate discourse.

Background

My research for the literature review and need to create common definitions understandable to the relevant professionals stemmed from searching the Humboldt State University behavioral sciences databases of sociological articles, focusing on victim reconciliation processes. To assess if victim-offender mediation is an option for Humboldt County I had to first understand what justice means to stakeholders and create a common definition. For the purposes of understanding the theory and basis for mediation I referred to many authors who are authorities in mediation and understanding social conflict, such as Lewis Coser, Mark Umbreit, Gordon Bazemore and Howard Zehr.

After understanding and defining the common terms used in social research around restorative justice and mediation, I formulated questions to guide the sessions held with participants. This demanded that I operationalize theoretical concepts into

terms meaningful to the professionals working within the justice system. These questions and guiding points were developed from my research of victim-offender mediation programs currently being implemented and the assessment of the impact of the programs, as well as my research around the current structure of the punitive justice system.

My questions were pragmatic in nature, designed to help me guide the discussions held in the focus groups and ultimately help me understand the structures of the programs throughout the community in which I live. The guiding questions were developed to understand things such as the participants' professional and personal view of what justice means to them, staffing and training concerns, types of crime the participants think restorative justice could be effective with when used within our community, and the current structure of the justice system.

Sampling

The focus groups included those who work within the justice system; probation officers, law enforcement, the district attorney's office, legal council, social workers and any other volunteer participants identified through the snowball method. To begin finding participants I contacted professors who may know those who work within the system, spoke with friends who work in law enforcement and from there the leads to interested parties expanded. Due to the quant population size of Humboldt County and the need of those who work with victims to protect the anonymity of the programs in which they work as well as those they serve, I found I had to provide the name of who

suggested them as a participant to gain trust. Those who provided me names of individuals of potential participants did not participate in focus groups or interviews, nor did they receive confirmation if those they suggested actually participated.

Finding participants was not difficult, as the topic of restorative justice and participants' roles in the justice system was one many wanted to speak on. I found myself having to limit the number of participants; because once I spoke to one person about my research they recommended many other names of individuals who held a vested interest in the topic. Fourteen teachers and administrators at a community school participated in a focus group together. Two social workers, employees of the Victim Witness Program, and staff of the rape crisis center discussed the idea of justice, mediation and the breakdowns of the current structure of the Humboldt County criminal justice system. Social workers and probation officers who work with juveniles regarding their efforts to keep juveniles out of the system, especially as they mature into adults discussed justice and the use of VOM as an alternative to the current structure. Two sheriff deputies, one tribal police officer, one DA investigator, and two defense attorneys participated through interviews. I would like to note that of those who participated, I knew two of the participants personally. However, I am not close to the participants, rather our paths have crossed in the community and we know of one another. This was not realized until the time of our meeting and I do not think this association impacted their responses and participation in the discussion.

Confidentiality was assured and I ensured that participants understood how their participation would be used. Each participant signed a consent form for the focus group.

The consent form outlined the parameters of the focus group, explained that their participation was completely voluntary and they could stop the process at any time. I explained that the security of their identity and data would be protected. In order to protect the participants, the focus group were recorded and then transcribed, using pseudonyms for all identifying factors, including city name, facility name and all persons' names. Once the focus groups were transcribed the recordings were destroyed. All transcripts, or material relating to the research is stored on a separate thumb drive locked and stored at an undisclosed location.

Data Collection

To begin my research I had to obtain approval from the Institutional Review Board (IRB). This approval included the IRB reviewing what my research question was, participant population, as well as providing a question guide. I developed the question guide used in the interviews and focus groups by reviewing guiding questions used by those who had performed similar research. My questions were designed to create a dialogue among the participants and myself. By using open-ended questions I was able to create a conversational dynamic throughout the interview and focus group process. I wanted to create conversation from which the data emerged as well as the direction of the conversation was directed by those who were participating.

Although the data and themes throughout the conversation evolved organically, I still had a few key points and ideas that I wanted each interview and/or focus group to

address. To understand restorative justice in the context of the participants' professional setting, the idea of justice and what it meant to each of the participants on a personal, professional, and systematic level needed to be understood. I started each process with an introduction to each of the participants including their roll in the criminal justice system, then lead into the idea of justice and how they interpreted it. From there the conversations typically lead into each participant discussing their experience in the Humboldt County justice system, including what is working and what is not working.

All participants were interested in why I wanted to research restorative justice and what it meant to me as well as how it would be utilized in Humboldt County. From there I discussed what VOM was, the need for community involvement and a shift in the paradigm from retribution. Many of the participants referred to this idea as an unrealistic dream. Yet, as we dove into the discussion each participant was able to provide ideas and approaches based in restorative justice that could work and would help improve their job and experience. At the end of each focus group and interview I felt a sense of excitement and support from the participants, wanting to see such a program succeed.

Limitations

As in any research, limitations exist and are something to be accounted for and addressed when analyzing the data. My research design of holding focus groups was to provide the opportunity to have a thoughtful and dynamic conversation among those who work in the criminal justice system. However, this design does not account for those who

have a more powerful personality and have the potential to dominate the conversation. For those who tend to be softer spoken the format of a focus group may cause them to shrink into the background and not speak up even if they have a statement to make. To be better prepared for this dynamic I referred to *Focus Groups, A Practical Guide for Applied Research* (Krueger, Casey 2009) to understand how to lead the conversation and ensure all participants participated.

Through the use of my question guide I opened the focus group/interview by asking each participant to tell me about themselves and their background in the criminal justice system. (Krueger, Casey 2009). As the discussion continued, I wanted to ensure each participant was engaged and I would ask a direct question to those who had not contributed as much as another participant, providing them an opportunity to speak if they would like. This was not a large concern, as participation in my research was voluntary and those who participated were prepared to speak on justice and willing to discuss it at length.

Analysis

My approach to the focus groups was to stimulate a conversation which allowed the data to emerge, rather than to be sought out. I followed a grounded theory approach (Charmaz 2006:25) in which I employed conversation interviewing (2006:25). The data acted back on me, the researcher, guiding the focus groups, as themes emerged in the data collection. I was able to adjust questions, or my

approach to questions based on the reaction of the participants in focus groups. According to Charmaz (2006), grounded theory allows researchers to compare data as the research takes place, allowing the opportunity to *code as you go*, and see where the data is lacking. I was able to adjust my next focus group based on the past responses (Charmaz, 2006:48). This provided me the ability to dig deeper rather than remain on the surface, or strictly follow the guiding questions.

Summary

My research and data evolved as my experience in interviewing and holding focus groups grew. All participants were willing and excited to share their experience as each individual see how the criminal justice system can improve and better serve not only victims, but the offender and broader community. My participants provided many themes and ideas that I was able to code using grounded theory. In the next chapter I present and discuss what the participants expressed and how we can use their experiences to help inform the adoption of VOM in Humboldt County.

FINDINGS

I held conversations with those who work within in the Humboldt County justice system on a daily basis about what justice means to them, the idea of restorative justice, and its role in Humboldt County. From these conversations we brainstormed how and if VOM is a viable option for Humboldt County. Not only was justice described and dissected by the participants, but also my time spent with participants many times developed into a brainstorming session of how to make VOM become a part of Humboldt County as well as identifying stakeholders within the community to aid in the development of such a program. The idea of justice needed to be defined and agreed upon by participants on a personal and professional level. Not only was justice viewed as an end result by most personally, but it was also discussed as a process and system in which many work. From there, county demographics, political alliances, and identifying those who are the stakeholders to educate the community on the use of VOM were discussed. Finding participants who were willing to openly discuss their role in the justice system, how they would like to improve it, and the impact it has on the community as a whole was a challenge in that I had to be trusted, known, and recommended by someone each of the participants knew and trusted personally.

Defining Justice

I had to understand what justice meant to each of the participants before we could have a discussion on the use of VOM and if it is feasible to use in Humboldt County. Each participant viewed justice through a different lens, not only professionally, but also based on cultural beliefs, past experiences as a victim or offender, and familiarity with those who have experienced the criminal justice system. For example, one Native American participant spoke of justice historically in the tribe as something that included shame, integration and learning for the offender. The offender was to fill the void created by their actions. If they killed a son, they were to live with the family that lost a son in order to fill his shoes. This definition is in vast contrast to a defense attorney who viewed justice as upholding the constitution and ensuring the rights of the offender are protected at all expenses. The contrast between definitions is an example of how the current justice system transfers the criminal act to be against the state and the focus is on the constitution, rather than criminal act itself. Healing the harm caused by the crime and reaching justice for all stakeholders is lost, unlike in the example given by the Native American participants.

What is justice for the victim?

The idea of justice was an interesting discussion point because once the question of what justice meant to them was posed, the participants had never considered that another may view justice differently or that justice for all parties involved is very hard to accommodate in the current criminal justice system. Whether it is a police officer,

defense attorney, or social worker, all agreed that justice is rarely achieved for victims. One sheriff deputy stated it simply saying, “Really the victim is getting victimized twice. By the crime and then their tax dollars are paying to have this guy in jail.” One teacher looked at justice and who the victim is at a deeper level:

“If you think of our society now, culture, and community, our victims have been victims for so long on so many levels. Then when they go out and offend to them that is justice. So it is one of those things that they have been put down for so long that they are doing the right thing by offending someone else. In their mind it is justifiable. ‘I have been treated this way, therefore I will treat others this way.’”

Trying to understand why the victim is removed from the court process a social worker used the example of a victim of domestic violence by explaining justice as “the agency views justice as a good outcome where the victim is not re-traumatized by the court system.” Yet, she does acknowledge “It doesn’t feel like there is a chance every time to bring back a balance to the victim. Our process is solely focused on the offender.”

Justice as a system.

Currently, a criminal act is transferred from representing harm to an individual victim to be against the state as an abstract entity. A defense attorney observed that “from a defense point of view, justice is the protection of the constitutional rights.” The DA investigator continued this idea separately in an interview by stating “...well, I guess the courts decide what justice is.” A probation officer described justice as a system within which he works. A sheriff deputy when asked about justice explained it as “locking up the bad guys”. Of the participants who worked in law enforcement or overseeing sentences, justice was defined as a system and/or process rather than an end goal.

Those working in a non-authoritarian role with victims and offenders had a very different view of justice compared to those who worked in the justice system in a more authoritative role. Justice was viewed and explained as an end result. As a social worker explained, and many teachers echoed the same sentiments, justice is “bringing balance back to the victim.” Yet, regardless of the participants’ role in the system, each of these spoke to the idea of justice on a systems level and professional level as something that they have no influence or impact on. Justice is left to the state to decide and dispense. I pushed each of these participants to discuss what justice meant to them ethically or personally and none could answer that question. They referred back to their answer on a systematic level. It was as if justice was not a moral or personal matter for them, it was only the system within which they work.

The victim was not considered in these explanations of justice. Each participant discussed justice to be a structure that they work within and seen as something they have no power to change. The system, in which the participants’ work acts back onto them and impacts their actions. When focused on righting the wrong, as a DA investigator described when he was an officer, the humanity of the crime is removed and the focus of justice becomes the crime, not those individuals or groups who are involved. He gave the example of mandatory action in domestic violence. He relived an experience he had with a case when he had to make an arrest due to a visible red mark. He summarized the story by stating:

“Part of the thing that is wrong with that (mandatory action) is that a lot of the victims get a false sense of security. A restraining order is basically a

piece of paper. The fact is that there is no way in hell that police officers are going to be able to enforce that successfully.” He felt as if he did more harm to the victim by making an arrest and transferring the dispute to involve the state rather than trying to resolve the situation at hand between the two parties. Based on the participants’ ideas of justice, it is rarely reached for the parties involved. Rather justice is seen as obtained only for the State. The State decides what justice is within the court system, leaving the needs of the victim and offender as secondary to the justice being reached for the state.

What justice can be.

The discussion about justice, while focusing on its meaning, soon shifted to the possibility that maybe justice is not attainable. One teacher explained that she thought justice was “...unobtainable because of the generations of victimization on so many levels.” Another teacher supported this thought by explaining, “Justice is not something punitive. The ripples on the pond are there because of someone’s actions; therefore can justice be reached in a punitive system? I don’t think so.” The memory of being victimized remains even when a feeling of justice is met. A social worker identified justice as “rectifying the violation and bringing back balance for the victim.”

Current Humboldt County Justice System

The majority of the participants were receptive to the idea of a VOM or restorative justice program theoretically; however each participant expressed hesitation when asked how to implement such a program. In spite of hesitations regarding how a

VOM program would be implemented, when we dug into the current structure of the Humboldt County criminal justice system and dissected what was working and what wasn't, many considered VOM a viable option for reducing recidivism. Participants also agreed that there is no cookie cutter solution to reducing crime or rehabilitating offenders. Currently in Humboldt County there is The Victim Witness program, which is run through the District Attorney's office. This program, however, does not offer the opportunity for victims to ask the offenders why they committed the crime or understand the crime itself. However, it does offer support, including help with understanding the current court process as well as finding resources available to victims. What a VOM program can offer to victims is the opportunity to ask why and interface with the offender to better understand the crime, why it happened, and allow healing for the victim as well as the community and offender.

All the law enforcement officers I interviewed showed support for VOM, as well as exasperation about the inefficacy of the current system. As one officer said: "I think we in law enforcement think anything would help... on the law enforcement side you have police officers who are sick of the system and that nothing happens." Once a crime is shifted to be against the state when charges are pressed, the crime becomes about the case and the attorney gaining a victory or a police officer closing the case, rather than the crime itself and who was impacted by the crime. An attorney expanded on this idea:

"They [prosecutors] are fighting for their position, and that can get really bad particularly when egos get involved. And with prosecutors it can get bad because they have that other side of justice and it's like wait a minute, if I give them that information then I lose the edge. They forget about the people who are involved in the case."

Changing the approach to the criminal justice system in Humboldt County would not be easy and would take considerable time. One probation officer explained that Humboldt County is currently implementing programs that he studied thirty years ago in school. He suggested that such change will have to come from the courts: “There are other ways to skin a cat. Twenty years of damage has been done by locking up the previous two generations, we need to stop.”

A defense attorney explained this in his interview by stating,

“What doesn’t work is the prison being called ‘Department of Corrections and Rehabilitation’, but it doesn’t do any of that. So you send a young offender 18-23 years old and they do nothing... There are not enough programs or counselors for them to do anything and then they are plopped back here, cannot get a job, they are on parole, what are they going to do? That is what does not work. Enough is enough.”

Each stakeholder group I had contact with seemed to bring a different perspective to the discussion. Whether they came from a place of exasperation like the law enforcement officers, a belief in the system and desire to see it improve, or a call for inter-agency cooperation, like the social workers, all participants agreed that it is the community at large who must be behind the shift in the criminal justice system and who needs to understand the benefits of a VOM program. As an attorney explained, “If you have a DA that supports it (VOM) then it is going to work because the community supports the DA.... I think the community can do it.” He added that sometimes it is how restorative justice is framed that is the problem; the term “program” many times is read by constituents as a cost increase and can be interpreted as coddling, which is unpopular.

A tribal police officer spoke about how the community stakeholders need to come together. He explained that everyone has ideas, but how to enact them is difficult. He posed the question of how to hold an offender accountable who arrives at their community service assignment under the influence of drugs or alcohol. This is something that he has witnessed regularly, and he sees a lack of accountability because expectations from the community vary depending on which stakeholders are taking part. For example, one community member who is charge of a community service opportunity might be satisfied with the person simply showing up on time, whereas another will have the expectation that they arrive on time and sober.

Programs already in existence in Humboldt County

Currently, two restorative justice programs are operating in Humboldt County: the Parent Project out of the Arcata Police Department and Teen Court offered through The Boys and Girls Club. Each program encompasses restorative justice values, the participation of all stakeholders, community, and offer alternatives to juveniles becoming part of the system. Each program spoke of their success rate and ability to meet the needs of all stakeholders.

The Parent Project offers an opportunity for juveniles to have a second chance and right the wrong they caused as well as mend any necessary relationships. This is done through involving the parents from the beginning and requiring that not only do the youth enter a contract to correct the harm done, but the parents as well are held under

contract. It is not a one-size-fits-all program, rather it is contract based, not only with the juvenile, but the guardian as well. Accountability is at the core of the program as well as meeting the needs of the offender in order to prevent recidivism. The Program Director summed it up thusly: “I have them agree to do things to repair not just the crime, but the underneath pieces that have broken the relationships. I try to reset the family.” Programs such as this and Teen Court allow for victim statements to be heard and for the juvenile to understand how their actions impact so many others. Another social worker spoke to people having a vested interest in the community. “So we create volunteer opportunities for the community members to take part. Utilize the community to work with offenders to stick to it.” As a tribal police officer explained, the stakeholders (community members) are a part of the accountability for those involved.

How does VOM fit in Humboldt County?

Understanding VOM theoretically and studying other communities and the effectiveness of their VOM programs is the basis for any recommendations. However, to make recommendations and determine if VOM is a possibility in the community, the community itself must be understood as well. In my research I focused on Humboldt County as a whole and asked the participants questions regarding whether or not our community could be supportive of a program such as VOM. Considering the current structure, could a VOM program be incorporated as an option not only for juveniles, but adults as well?

It was my experience and interpretation based on body language and hesitation at the beginning of the interviews held with law enforcement and those social workers not working in a restorative justice capacity, that they did not support the idea of a VOM program. It was as if it was too abstract and different from what is currently being done in the justice system. Additionally, at the start of the conversation when VOM was first explained it was perceived as being more help for offenders. Supporting such an idea seemed counterintuitive to the role each of the participants held. None outwardly said VOM was a poor idea and something that they would not support, nor would the community. Instead, it was something that they couldn't "see" working or didn't know how to make it work. The first response by these participants were very similar, in that each spoke of how we couldn't change what was currently happening, how would it work, and how would it impact their job. The idea of change and shifting the paradigm of justice seemed far too large of a task to even consider, as there are so many different parties involved. Some also were concerned about how to explain to the community the perception that justice system as helping offenders rather than being tough on crime. However, after discussing the current justice system, how they viewed justice, and the current state of our community, a VOM program became something that was necessary and a vehicle to change the path we are currently on.

The resistance I experienced with participants was expected and something I anticipated when speaking with community stakeholders and doing education and outreach to help such a program. Their unfamiliarity with VOM as well as a lack of mainstream support for this justice program intervention demonstrates the need for

education and outreach. All participants stated change needed to happen, that our current approach is not working; yet it was difficult for each to look at the option of VOM without hesitation.

Locals, transplants and old timers; how to make VOM work.

Participants reported that local political context will have an influence on the potential efficacy of a VOM program. The fact that some areas of the county are more liberal than others factored into the discussions, as did the demographics of the county. Towns with a higher elderly (or what some referred to as an “old timer”) population were assumed to be more resistant to the criminal justice system shifting to a more restorative approach. As a sheriff stated, “I think Fortuna’s idea of justice is probably different than what the average person in Arcata’s idea is. I think it is common to have conservative and liberal areas. Humboldt County is more liberal overall.”

An attorney talked about the *transplants* from southern California who tend to be more liberal and open to alternatives, as opposed to the *old timers* who have been in the community for generations. He stated that a shift toward a VOM program could bring the community closer together in order to work to resolve community problems, rather than working against one another. He compared Humboldt County to the Mendocino area of which he lives part-time and how it is similar in its demographics of *old timers* and *transplants*, however, they are less polarized than Humboldt County.

The political dynamic is deeper than conservative vs. liberal; it includes local and non-local participants. A probation officer thinks that if local people start the movement

it will gain more momentum rather than if someone who is viewed as a transplant spearheads it, because transplants are not seen as invested in the community. To start a VOM program within the Tribal Courts it must also be explained and gain support from the elders, rather than an outsider or the council demanding such a program exist.

For VOM to be successful, participation from the community is necessary, as healing for the community must also take place in order to reduce recidivism. If a community can better understand why a crime is happening and have compassion, it will work toward developing solutions to help prevent the crime rather than punishing the specific occurrence of a crime. A pathway in order to do so must be present or available, and many times that is through a VOM program.

A sheriff's deputy who has worked in the area for many years explained the diversity of the county and the pockets of the community who are more liberal and the others that are more conservative. He did think that the county overall would be receptive to the idea since he felt that the current approach is very slow and it has a negative impact on victims and community. He gave an example of a person who was charged for stealing a pair of jeans.

“It takes so long for justice to be dispensed. I mean we had the Oklahoma City bombing, those guys planned a bombing, did it, and were sentenced to death while we had a guy here before that happened for three strikes for stealing a pair of jeans. He was in jail longer than all of that (Oklahoma City bombing) stuff happening.”

If the current system is having a negative impact on the victims and community as explained by one sheriff deputy, it is time to turn to the community to create change and

build on the opportunity of a VOM. Understanding how a VOM program can and does work and the roles of all stakeholders is necessary to gain support. Breaking down barriers such as a perception of being “tough on crime”, or that “it is too late” for adult offenders must be accomplished.

Emotional Needs

The ability to feel empathy was identified as a factor and concern by all of the groups I spoke with. Specifically, participants identified the need for offenders to develop empathy and have the ability to think about the consequences of their actions for the victim and community. The lack of empathy found among many offenders was cited as a major concern, reducing the likelihood of VOM being effective or accepted by the community. In general, there was an optimistic view of restorative justice and hopefulness that a different approach could be taken. This optimism was seen in the context of the need to change the current pattern of being in and out of jail or juvenile hall that many juveniles and adults are experiencing in the criminal justice system.

Developing an emotional connection.

The majority of the participants spoke to how an offender typically lacks a sense of empathy or remorse, and that emotional connection needs to be developed. A participant stated it clearly when he said “if they [offender] can understand the other side [victim] it [crime] can stop.” A sheriff deputy spoke to who the victims are in “victimless crimes” and that there is always a victim. “There is always a victim, even if it is a drug crime,

there is a parent somewhere who has to see that their child has become a user. That's a victim. My brother was a druggie for a while and my parents were good parents, he wasn't just hurting himself." Other participants who interact with offenders supported this idea. One teacher at a community school spoke on remorse and teaching the concept to students:

"It was difficult for this young man to understand what is meant by remorse. It was his goal to write a letter to the courts and the previous judge had told him he didn't show enough remorse for his crime. For his first letter I asked what remorse meant to him. He didn't understand it. There are layers to remorse, to not only think about yourself, but to think about your family and how it affected the community.... Finally I was the one who said 'what does it feel like to put yourself in the victim's shoes?' I would imagine a lot of our kids have a difficult time putting themselves in the shoes of others to understand how scared these people were as victims."

Another officer noted that children who become offenders are often products of a bad environment and are victims themselves. Their only option becomes offending in order to survive. He continued, by explaining that help is necessary in order to help offenders recognize the victim of their crime.

Mutual respect and forgiveness.

Some of my participants felt that if the opportunity was available to address crime as a dispute between the parties involved, then conflict within the community could possibly be reduced. An attorney "if they [offender] see someone might care about them and listen to what they have to say, they may care more. If they can understand the other side it can stop it." This is the basis of VOM, creating an opportunity for communication and understanding to promote healing, not only for the victims, but also for the

community and offenders in the future. A defense attorney explains this by stating; “if you could get the victim to forgive, that would make a difference. A lot of these offenders have never had anyone respect them.”

Much of the support for the idea of forgiveness leading to increased remorse comes from those participants who work with offenders after they have been accused of a criminal act, such as defense attorneys, social workers, probation officers, and teachers. Of those participants in law enforcement, the majority felt or had an opinion that very few offenders actually care about doing something “wrong.” According to those working in law enforcement, offenders do not seem to make the connection between their criminal behavior and harm done to the community and individual victims. Law enforcement participants work with offenders when they are still considered “suspects” and have yet to be charged with a crime or admit guilt. Their interactions with offenders are in the early stages, before offenders have had a chance to admit to, emotionally process, and acknowledge the crime committed. Offenders view law enforcement as something to be avoided, not to engage with, and people to whom they should provide little information. The interaction between the two has different objectives for both. The offender is trying to avoid the interaction all together out of fear of becoming part of the system, while the officer is focused on the criminal act. Remorse and empathy are on neither party’s mind.

Officers felt that the offender may be sorry, but will still commit the crime because it has become a way of life. An investigator spoke to his experience:

“In my experience very few of the suspects actually care.... They are thieves; they have to have the drugs. They admit their guilt and it is interesting they will tell you things you didn’t know... ‘Oh I stole a car the other day and sold it to

Joe. I feel bad, can I write a letter to the people because I know they have kids, I saw the car seat.”

Another officer supported this idea by adding “They may truly be sorry, but they are still going to do it.” A teacher echoed these sentiments by speaking to his experiences working with kids in a school setting “there is such a divide and the kids talk saying ‘what do I gotta do to get out of it? Do I have to say I am sorry?’” Addressing this idea of lip service is very important, because it impacts the validity of mediation and the perception of mediation as a genuine alternative with successful outcomes. Yet, again, there is no one-size-fits-all solution to the justice system and VOM is another viable option currently not being used.

Group identity.

Each of the officers also acknowledged that the “suspects” are a product of their environment and lack a relationship with the community. One officer argued that even with an extensive past of criminal behavior and associations, the likelihood of recidivism, could be prevented if a relationship is built with the community. If an offender can establish a role within the community other than that of a criminal, then healing has occurred. As the participants explained, one’s behavior is learned in large part from their environment. As Georg Simmel (1955) theorized, behavior has normative specificity in which behaviors are specifically regulated by a group or identity (Allan 2010:221). Norms are always related to group membership, identity and present social location. VOM is an opportunity to change the offender’s group membership, to feel a part of the community, not as an outsider or criminal.

But changing one's behavior can only work if the community is supportive and receptive of such an idea. If an offender develops a relationship with the larger non-offending community by apologizing and reconciling with the victim, that offender gains an opportunity to occupy a new and positive place in the community. A Native American participant supported this idea by giving the example of forgiveness of the offender and recognizing the wrong committed and teaching the offender how to be a better part of the community "We teach the offender why their behavior is harmful, a criminal act is a teaching moment. Once the offender learns from his or her actions and are forgiven they are accepted back into the community." When discussing this, another Native American participant supported this and the idea of reintegration, as he viewed prison or jail as an escape and removal from the community so the offender is never able to see the impact of their actions. He stated, "offenders do not see what they have done, they don't get to learn or be shamed. Shaming is a big part of our culture and when they go away they are able to escape this." The offender is able to escape the emotional repercussions of their criminal act by being removed and placed in prison. When someone is removed a learning opportunity is lost and the community is unable to forgive the offender for the specific criminal act.

One teacher spoke on the subject of probation and how many current programs available do not relate to the crime itself. A person is on probation and must pull weeds or clean the side of the road, but they are not required to repair the damage they caused. A teacher recounted an experience he had with a student and referred to the judge on the

case as a “pioneer” because he sentenced the juvenile to pay to repair the damage he had caused.

“I heard the kid talk about it and he was able to put the money in perspective of what he could have bought. It directly affected him and gave him a chance to reflect. What is going to bring it home for that ten percent is that their hands are sore and their back is sore while they break a sweat and it is not going to go anywhere until they physically and literally paid for the damage caused.”

There is a need for accountability and VOM is a pathway to this.

Funding and Financing a VOM Program

Participants believed support for VOM might be tempered by any added costs to run such a program. As one attorney put it “If it is cheaper, then they (community members) will go for it.” A deputy did not see it the same as the attorney when he spoke of changing the approach to justice. He was currently feeling the impact of the recent realignment from AB 109, where prison inmates are being released and fewer convicted criminals are serving time in a prison, rather staying in the local jail. He was not able to separate the current structure to change it to a restorative approach. He viewed VOM as an alternative similar to rehabilitation, “Those inmates have to go some place, so now that money is in the county to run all these programs.... I think that rehabilitation programs, drug programs they say are going to work, they are not going to work.” I heard from a social worker who voiced similar sentiments when it came to funding current alternatives to incarceration such as rehab. She explained that the waiting list to enter rehabilitation programs is so long that many times offenders are unable to get the

help the courts ordered and the help the offender wants and/or needs. Not only is there the lack of accountability for the offenders that the tribal police officer described, but also there is a lack of accountability for the courts to ensure they are assigning a program that is actually available. These participants were unable to conceptualize VOM as a viable program due to funding hurdles they currently face.

After addressing concerns around funding, community, and accountability, all participants agreed that something needs to change, the current structure of the system is not meeting the needs of the community, nor is it serving justice to the victim or all those involved. As for how to get to the next step in implementing such a program, including understanding the funding needs and gaining community support, many participants were not optimistic. The theory of VOM has support from my research participants, but getting there is another story.

Summary

Through lengthy conversations the participants identified the needs of our community and what needs to change in the criminal justice system while meeting the needs of all parties involved. The need for empathy, community support, respect, and a break in the current cycle of crime were identified as necessary to shift toward restorative justice. Although participants were not optimistic to how VOM may work or help in our community, by the end of our conversation all saw a need and desire for such an approach to justice. Participants looked to me on how to design and implement such a program that the community will accept and buy into.

In my recommendations and conclusion I will address how to develop the implementation of a VOM program in order to gain community support, as well as begin educating the stakeholders in the community necessary to make such a program a success.

RECOMMENDATIONS

The data collected through interviews and focus groups shed light and opportunity on the current justice system of Humboldt County. Participants took the time to voice their personal and professional concerns as well as reflect if a VOM program is viable for Humboldt County based on their professional experience. Many participants were hesitant to support such an idea of VOM based on the assumption of needing to be tough on crime. The lack of empathy on the part of adult offenders made many respondents question the possibility for an adult offender to develop empathy and remorse within the mediation process. By the end of each of the interviews and focus group discussions all participants recognized the need for change to the current structure and how VOM might be an opportunity for justice to be reached for all involved parties, rather than just the state or offender. Change to the current structure of the justice system is necessary in order to reach a balance of justice for all parties involved in an offense: victim, community, and offender.

The current criminal justice system's structure is static in a punitive approach, looking at all crimes through the lens of legal or illegal. It is static in the sense that there is a rigid structure that is prosecuting the offender, and the crime, victim, offender, and community are required to fit into the box of punitive retribution. Rather than the system addressing the crime itself, it focuses on making amends to the State, and ignores the stakeholders who are a part of the crime or the result of the crime. The process for the victim(s) and offender(s) is automatically intractable, causing the need for court hearings,

creating an adversarial interaction between the victim and state while transferring the offense to be against the state. The victims in turn lose their voice. The offender loses any possibility of restored to his/her community as a useful participant. Addressing an offense through the use of VOM, allows for the crime not to be contorted and made to fit in the box of the punitive system, it may be messy, but is likely no longer intractable.

In a VOM the crime becomes an issue that includes stakeholders who see resolution from their various perspectives, and this resolution changes as the process progresses. The victim(s) come to see the crime and a viable solution in terms of “restoration” to the situation before the crime. This could involve financial and/or emotional restoration. The larger community, represented through the process by community stakeholders, sees the situation as one where a solution might involve leaving the stakeholders with a feeling that the right thing has happened. The offender needs to be able to admit guilt, understand the impacts on the victim, to offer an apology, and take concrete steps to “make it up” in any way possible to the victim(s). Restitution is not just financial but must also include being able to empathize and understand the impact of his/her actions. This is similar to one of the steps to recovery in the Alcoholic Anonymous process where one is to apologize and take steps to “make it up to” people the former drinker has hurt. A path for recovery requires concrete steps.

Through the VOM process the crime as interaction between a victim and perpetrator stays central to the process in order to reach justice for all parties involved. The state does not replace the victim in action against the perpetrator. The outcomes may increase positively, as the victim is part of the justice process and their needs are met,

rather than only the needs of the state. The central issues in the dispute are addressed. In order to view a crime through the lens of intractability the crime must be distinguished between a conflict and a dispute (Lewicki, et al 2003). As defined in *Making Sense of Intractable Environmental Conflicts* (Lewicki, et al 2003) a conflict is the “fundamental and underlying incompatibilities that divide parties, while a dispute is an episode that becomes actualized in specific issues and events” (p. 37). In a restorative justice process both must be addressed.

Victim Offender Mediation programs have been operating throughout the nation over the past forty years, gaining momentum over the decades (US Department of Justice 2014).

Starting a VOM in Humboldt County is an opportunity to take part in the paradigm shift in justice as well as to build and strengthen the sense of community in our rural county. It is of particular interest at this time with County struggling to adjust to Assembly Bill 109, Public Safety Realignment and the impact this bill has had on our local jail system and probation department. In order to launch such a transition to a restorative justice process it must be done slowly and in stages in order to gain support and buy-in from the community. Guidance should be sought from existing programs within the county such as Humboldt Mediation Services, Tribal Court, Teen Court and the Parent Project. In addition to looking toward the existing programs for ideas and support to expand, the state of Vermont should be looked at as a model, as they have had proven success with VOM programs throughout the state.

Beginning a VOM program for juvenile cases allows for the expansion of existing programs as well as an opportunity for the community to gain an understanding of how such a program would look and impact the community. This will allow for diversion, assistance to offending youth in order for he/she to understand the impact of their criminal act, and protect youth from the system as adults, and lastly, allows for a greater flexibility in juvenile cases. Restorative justice practices are more likely to be supported due to these factors, allowing for greater community support overall. Many times in juvenile cases parental/guardian participation takes place and allows for more success and support throughout the process for youth. As explained with the Parent Project in Arcata, the focus is on the criminal act of a youth, however their parents/guardians are held just as responsible through a contract, increasing the success of outcomes in that program. Parents/guardians are provided an opportunity to hold the role of an authority to address and correct delinquent behavior, rather than protecting their child from the criminal justice system.

Expanding Existing Programs

To allow for a VOM program to evolve and grow in Humboldt County, it must start and build from a baseline. Arcata Police Department currently runs a program called the Parent Project for first-time offending youth. This is a program that is founded and implemented on restorative justice practices, looking at the whole criminal act, why it occurred, all stakeholders (parents included) and how the youth can repair the damage

caused. Violations range from shoplifting to substance abuse. The program director has the ability and freedom to develop the consequences to the criminal act based on participation from the victim, parent/guardian, offender, school, and any other stakeholders. A contract is developed and agreed upon by all stakeholders, similar to VOM. In a focus group, one participant explained the Parent Project as an opportunity to heal the relationship between offender and parent or another individual, preventing further acting out. They are able to work through to the root of the problem, rather than treating the symptom (the criminal act itself).

While the Parent Project is focused generally on the Arcata and northern county community, Teen Court is funded by The Boys and Girls Club and serves the youth of the greater Humboldt County region. Teen Court operates within the local court system and uses restorative practices to reduce recidivism and prevent first time youth offenders from becoming a part of the criminal justice system. Being able to sustain its existence through a strong base of volunteers of local attorneys, judges, law enforcement, and other necessary administrative support, Teen Court is able to take referrals to serve youth. Volunteers guide and teach local youth about the criminal justice system, allowing for first time offenders to be tried by a court of their peers. Not only is the offender receiving the opportunity to right the wrong directly with the victim while avoiding becoming a part of the criminal justice system, other non-offending youth are able to learn what happens when an offense occurs, potentially preventing others from committing a criminal act.

Both the Parent Project and Teen Court are youth programs built on restorative practices that have proven success. Expanding the Parent Project into other local police departments would allow for youth and families in the greater Humboldt County area to experience healing and potentially have a positive experience with law enforcement. Reducing the number of youth who become a part of the juvenile justice system will reduce the cost involved as well and begin the paradigm shift toward restorative justice in Humboldt County. Expansion of the Parent Project into other police departments is an opportunity to reduce the number of youth in juvenile hall as well. According to the parent project, 97% of youth and families who successfully complete the program and uphold the contract developed by them do not reoffend.. This is the highest success rate in Humboldt County of working with offending youth. However, similar to VOM, the success rate must be understood in the context of the program director selecting the youth who are to participate. Likewise, the youth and his/her parent/guardian must also agree to participate and there must have been an admission of guilt. The success can be attributed to the willingness to participate and change behavior. Again, similar to VOM programs; the process cannot be successful without 100% participation of all stakeholders.

Based on the focus groups and interviews held, expanding the Parent Project is a natural starting point. Focusing on youth will allow for the idea of restorative justice to ease into the community through the juvenile system. As the community warms to the idea of restorative justice, there will be a decrease in backlash, usually expressed as concern that the system is being soft on crime. As stated by many of my participants, youth are in a formative stage in their lives, and can learn empathy. Many participants

felt youth still had a chance and it was not too late to change behavior, while they think it is too late for many adults. The Parent Project has shown success in shifting the paradigm from retributive to restorative justice. Yet, to shift the paradigm countywide, it is best to begin at the grassroots level rather than from the top down.

Law enforcement and the court system must work together and have a similar vested interest in the community. In one interview a law enforcement officer stated that he “just wanted to lock people up, not let them out.” It is with this perception of offenders that the shift from retribution to restorative is near impossible. Expanding the Parent Project into other police departments and reaching the rural communities through Teen Court, the idea of “locking up” criminals will begin to shift for law enforcement. The potential exists for the officers to see the impact a more restorative approach has on the community of which they serve. After serving as an officer on the streets for numerous years and now as an investigator, one participant expressed concern about “locking up” perpetrators, because he has seen the impact jail or prison has on an individual. He understands that the healing opportunity and community support that is necessary to reduce criminal acts by individuals. He spoke to the need for programs to help offenders sober up, reducing property crimes; “When they get sober they get better in regards to committing crimes. Obviously they are not committing crimes because they are clean. Most of the people doing those things are doing it for money, for the drugs.”

Where to Start in the Adult System

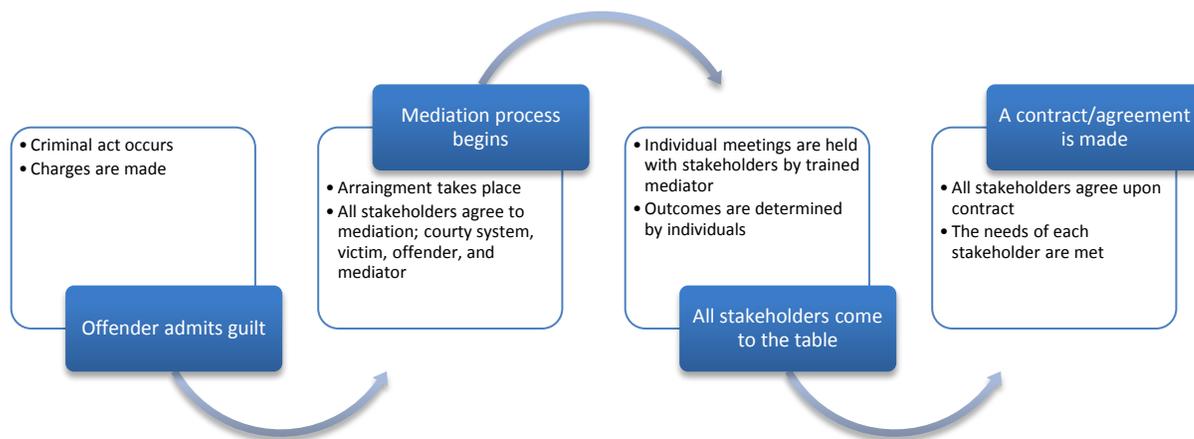
Moving into the adult system will prove to be a much more difficult task based on the many conversations I had with participants during my research. The question of whether or not adult offenders can feel (or even develop) remorse was heavily discussed amongst participants. In addition, a social worker at the Rape Crisis center spoke from personal experience of how the process of VOM allows for the opportunity for a victim to ask why, promoting healing for the victim(s). As explained in the literature, a goal of VOM is to fill a void of better meeting the victims' needs and allowing for healing that may not otherwise occur.

As explained in the literature review, restorative justice takes into consideration the victim, offender, and the community. While participants had concerns regarding offenders' ability to learn remorse or feel empathy, the concern in terms of the victims is that they are given the opportunity to achieve healing that is not otherwise available through the current retributive system. The current retributive system does serve as a buffer for victims, allowing for a sense of security, and ideally preventing a victim to be re-victimized by the offender. In order for VOM to begin and result in a successful process the victim must feel safe and not feel at risk to be re-victimized by the offender. This allows for the outcomes to meet the needs of all parties involved. In addition, the risk of the court system re-victimizing the victim by dismissing the charges against the offender based on a technicality or the victim not clearly understanding what is happening is reduced or all together avoided.

The process of VOM must be looked at as a whole, not just one aspect or stakeholder of the process. It is my recommendation to have VOM be a part of the criminal justice system, impacting the system as a whole. The impact will be felt positively in several ways. First there should be a reduction in the size of the local jail population. Likewise, there should be a reduction in court time spent on cases that are resolved outside the courtroom. In turn, this will result in a cost savings. Finally, there is likely to be a recidivism reduction effect with offenders participating in the mediation process. Such offenders will gain a better understanding of the impact of their actions as well as an awareness of how they can become contributing members of the community, rather than as a criminal.

It is a process that is able to fill a void that currently exists in the criminal justice system. The design of VOM is one that begins after a crime is committed, after guilt is admitted, and at which point all stakeholders - victim, offender, and community - choose to participate to discuss the criminal act and what is fair restitution. Ultimately, this process should result in positive outcomes for all stakeholders. Figure 2 below illustrates the VOM process.

Figure 2 The Victim Offender Mediation Process



Entering the adult system with a VOM program again must start and build support from the community. Programs must be specific to communities with vested interests. As a sheriff's deputy stated, "there are pockets in our community that would be open to a VOM program, but not all of it." Starting in the Native American Community with tribal court is an ideal launching point.

Roughly 10% of the County is Native American. The numbers of Native Americans, both adult and juvenile, involved in the Humboldt County judicial system is well above their percentage of the population. This fact alone makes a VOM a positive alternative. But in addition, restorative justice practices are similar to the historical processes tribes have used to address criminal or what is referred to as "out of balance behavior." It is the community stakeholders who are responsible for bringing a

community together and to begin the healing process, not the state (Bazemore 2007).

Many times a community must be in a crisis to begin to see the need for change and start the conversation for change. In terms of restorative justice processes the dominant culture has much to learn from the traditions of local tribes when addressing deviant behavior. For this reason, the local tribes should be invited to provide leadership and guidance when developing and operating victim-offender mediated processes.

The number of criminal acts occurring in our community and the recent outrage toward the overcrowding of our local jail is opening people's eyes to the fact that the crisis is already here. Discussions and meetings with law enforcement officials have been held in the early months of 2014 addressing the community concern for releasing inmates at late hours of the night and the current process of booking and releasing offenders. Government officials have also spoken to the media about community members speaking directly to them regarding an increase of property crime and vehicle thefts. Throughout the formal and informal discussions being held, many times substance abuse and mental illness is discussed in tandem with the increase to crime rates. For VOM to be successful and a process that will allow for positive outcomes for all stakeholders, it is not appropriate for mentally ill or intoxicated people to participate in such a process.

Speaking with the tribal elders, different groups such as the Indigenous Grandmother Circle, White Earth, and First People's Fund will reach across tribal boundaries and start the conversation with those stakeholders to which the tribal community and county look to for guidance. Starting the conversation with the Native

American community and beginning a VOM program through the tribal court is a good starting point; however, education and outreach must continue throughout the rest of the county.

Southern Humboldt, Garberville in particular, is another community in which a VOM program could begin within the County. Being a part of a family who has lived in the community for years, I understand that many of those who live in Garberville are families who have been there for generations, and who live and resolve many of their disputes with one another without the use of the justice system. A small, tight-knit community such as Garberville is a community where VOM would fit, gain support, and evolve because VOM asks three questions; who has been harmed? What are their needs? Whose obligation are these? It views crime as a violation of relationships, not a violation of laws (Zehr 1997).

Community characteristics that make a VOM viable are those of a tight nit community such as Garberville. Many community members in Garberville choose to live “off the grid” and prefer to strengthen their community by holding conversations on how to better support one another and meet the needs of all community members. Starting a VOM in Garberville will allow for conversations, outreach and education about VOM, and the need for change to our criminal justice system to penetrate the greater Humboldt County community. As well as, the community will be able to heal and build its strength back as the small, tight nit community it is. The community has already begun such processes and conversations on how to address the methamphetamine drug abuse problem and the transient community passing through for seasonal work.

Community support will only be gained by proven success. Starting in small, homogeneous communities where there is membership that holds similar, vested interests and values allows for the success of strengthening the community, repairing the harm done by crime, and reducing recidivism. A local crime will become a problem to solve, with stakeholders having accurate information, instead of an event murky and ripe for gossip. Community stakeholders and leaders participating in VOM will become resources and tools for more community involvement and expansion of a VOM program throughout the county.

Education and Outreach

Reaching these communities and gaining support and participation must begin with an understanding for the need and how VOM can better help the current criminal justice system. To do so, a conversation must be started with stakeholders and with those who are willing and able to continue the conversation. It cannot come from elected officials, political leaders, or other individuals in a position of power. Be it through discussion panels, presentation to civic clubs, or other community groups, the conversation must start from the grassroots. If the conversation stops, a VOM program will not be a success, nor it will gain the necessary community support. To keep the conversation going additional community stakeholders will need to support and begin to hold discussions within their network as well as become part of a VOM process.

Networking and using Humboldt Mediation Services as a resource to help find and train volunteer mediators would continue the ongoing education and outreach. The incentive for community members to become trained mediators is the opportunity to heal their community and strengthen the community of which they are a part. The volunteer mediators would be used as support and assistance to the trained, professional mediators. Ideally, the professional mediators will have an understanding for the cultural needs of our community. Additional research is needed to address how to assure enough community participation to provide enough mediators. It is essential to have community as mediators in order for a VOM program to be a success.

The pool of professional mediators to be a part of this process must be trained experienced professionals in order to avoid the imbalances and misunderstandings that currently occur in court appointed mediation. The goal of a VOM is to meet the needs of the victim and offender, not reach an agreement that appeases the courts; therefore, trained mediators are key to the success.

Shifting toward a restorative justice paradigm is imminent and necessary. As we are seeing as a community, state, and country, the current retributive system is failing future generations and us. This shift will take time, as all change is a slow process. It is my assessment that our community is ready for such a change, however, it must be done strategically and within the communities that are most ready for such a change. As clearly stated by the National Institute of Justice:

“Restorative justice provides a helpful framework for understanding crime and its consequences in a far more balanced perspective. Instead of being offender driven, it leads to policies and interventions that also address the

needs of individual victims and victimized communities. Restorative justice emphasizes the importance of holding offenders personally accountable for their criminal behavior while maximizing opportunities for the active involvement of victims and community members in the justice process.”

Each restorative justice program be it VOM, sentencing circles, or victim impact statements, are specific to the community of which it serves. The best practices and program structure is designed to fit the needs of the community, with the stakeholders directly involved. When implementing VOM it is important to maintain sensitivity to the needs of the victim and ensure that the victim is not re-victimized by the process. This is the responsibility of the trained, professional mediator. In addition to ensuring the victim continually feels safe, the victim should be given choices when ever possible and the opportunity to make decisions when it comes to where to hold meetings, who speaks first, and the time of meeting. Being as VOM is based on each case and is not a fit for all criminal acts, the readiness of both the victim and offender must be assessed. The mediator should always meet with both the victim and offender individually for a pre-mediation meeting in order to review what is going to happen, and determine what their desired outcomes are. After the process, the follow up with the parties involved should be made in order to monitor if the agreement is being upheld and if there are any concerns after the process (National Institute of Justice 2014).

Beginning a VOM in tribal courts such as Hoopa and Yurok as well as in the Garberville area allows for the program to be successful and for the best practices to be upheld as the community has similar values and desired outcomes for their community.

SUMMARY

Over the years punishment has become the equivalent to justice in our current retributive system (Bazemore 2007). However, when asked what justice means, my participants spoke to righting the wrong caused, accountability, fairness, education, and shaming. Only one participant spoke of locking criminals up as a form of justice. I think it is clear our society has reached a breaking point when it comes to incarceration, building prisons and equating punishment to justice.

In terms of fairness, accountability, and righting the wrong the current retributive system offers little to offenders, nor does it offer anything for the victim. Opportunities are limited for the victim, offender and community of which the crime took place. The use of a VOM program fills the void within the current justice system. As VOM programs have emerged over the past thirty years, opportunities for victims to ask offenders why, restitution driven by the needs and desires of the victim, and a better understanding and acceptance of all parties involved have all been promoted. Offenders are able to fully understand the ramifications of their actions and develop a sense of empathy, be it a juvenile or adult offender.

There is no-one-size-fits-all solution to criminal behavior or repairing a community damaged by the generations of incarceration. However VOM is an opportunity not currently being utilized to healing for those willing to participate. My interviews and focus groups with those who work within the Humboldt County justice

system on a daily basis illuminates the frustration and desperation many of my participants are facing in their professional roles. All recognize that a changes needs to occur in order to better serve our community, however none have the time nor the professional support to work towards how to effect change. Each is trying to stay afloat in the system in which they work. Taking one step at a time, Humboldt County can begin to heal, change the current structures of the justice system, and integrate restorative justice practices.

Recommendations: Victim Offender Mediation Program Design Summary

- Primary goal: Provide a fair and safe conflict resolution process for victim, offender, and community;
- Other goals: Reduce recidivism, promote community involvement, lower incarceration rates, and create accountability through higher restitution agreement completion;
- Model programs after the state of Vermont;
- Network and partner with Humboldt Mediation Services as a non-profit umbrella over the organization and administration of the program;
- Develop community support;
- Train community members as mediators and offer monetary compensation for their work
- Secure fiscal support through governmental grants

- Develop referral criteria with those agencies who are most likely to provide referrals

CONCLUSION

Given the current crisis our justice system is in on both a national and local level, any opportunity for improvement should be strongly considered. Victim Offender Mediation is a viable option and a necessary one in order to change the direction in which we are headed. In order for VOM to be a success it is crucial to develop support from key community stakeholders and to continue education throughout the community to gain a better understanding and support. This is a movement that must be done through the community and its stakeholders, no a policy to be implemented from those in a position of power.

With a focus on healing, promoting integration, and reforming not only the current system, but the offender as well, restorative justice practices provide a foundation upon which to accomplish these goals.

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