

*Victim/Offender
Dialogue & Restitution*

Book Review: Victims of crime and community justice

In his recent book, Brian Williams gives an account of the current state of assistance to victims in the United Kingdom, with comparisons to developments abroad. The book also includes a helpful discussion of the development of victim assistance over the past three decades. Here is Martin Wright's review of the book.

By: Brian Williams. London: Jessica Kingsley Publishers, 2005. 176 pp. ISBN-13: 978-1-84310-195-6 (pbk) £16.95 / US\$ 28.95

The British government is saying that it wants to 'rebalance the criminal justice system in favour of victims'. It is trying to do so within the conventional system, although some would argue that the best way would be to shift towards more informal, community justice. Not that that is always ideal – it needs safeguards – but it has great potential if it is restorative.

Brian Williams provides a useful summary of what has been happening in this field in the United Kingdom, and he has included a welcome perspective on developments in Europe (unusually for a British criminologist, he cites some references in French). He is sceptical of government initiatives like the Victims' Charter, introduced without consultation or preparation in 1990. He casts a critical eye over compensation (from the state and from offenders), and describes improved care for witnesses in the UK and North America, with special reference to a Canadian family violence court – whose effectiveness depends on the availability of support programmes.

There is a useful discussion of community justice; it needs to be fair and accountable, but could be dominated by interest groups and/or authoritarian. Some programmes have little direct involvement of victims, like the reparative boards in Vermont, USA the community justice centre in Liverpool, and (for understandable reasons) the circles of support and accountability which support sexual ex-offenders rather than shunning them. There is more community involvement in the peace committees in South Africa, which seem to be one of the most promising developments on the current scene. Williams also describes some of the numerous recent British innovations such as 'community safety partnerships', and the 'febrile' way some pilot projects were 'rolled out' before research results were known.

A chapter is devoted to restorative justice and its implications for victims. Williams warns against well known pitfalls, such as legitimizing criminal justice rather than replacing it and using the term itself loosely, but he quotes Walgrave's neat encapsulation of the essential difference between a communitarian and restorative society, based upon trust, respect, participation, responsibility, solidarity and mutual support, and one (which he does not label but might be described as authoritarian), based upon threat, coercion or fear (p. 63).

Restorative justice does however raise potential problems, especially in its current implementation, such as being paternalistic or not genuinely voluntary; these may be the price paid for moving some restorative values to the centre of the justice system. Some programmes involve police, which does not fit the original aim of reducing state involvement. But there have been successful innovations, such as family group conferences and the South African peace committees; Williams mentions examples from Denmark (but it is no longer running) and Austria, which works with domestic violence cases (but, like much English practice, it has no community involvement, which, given his title, one might have expected the author to mention).

Considering how to improve the position of victims, Williams spells out how many victims are not especially punitive, but are used by politicians 'in the service of severity'. Some details are omitted, for example the benefits trap (large compensation awards count as 'capital' and victims therefore lose their means-tested state welfare benefits), and courts' failure to give compensation orders priority over fines as the law requires; he states that 'nowhere in Europe' is there a system for paying compensation up-front to victims, to be paid back to the fund in instalments (pp. 94-8), but the 'resocialization funds' in Germany and elsewhere do just that. Elsewhere however he shows that he writes from practical, not just theoretical, knowledge, for example about the way victim contact work was foisted on the probation service with no extra resources (pp. 107-8). He gives examples of 'real improvements' in the treatment of victims, including cases of domestic violence.

Williams concludes that some changes ostensibly to meet victims' needs were made for political reasons, such as victim statements. Victims of some crimes are ignored, such as corporate crimes; he is sceptical of regulatory approaches, which he says did little for thalidomide victims, for example; ignoring regulations can have fatal results, as with the corrupt flouting of building regulations when there is an earthquake (in Turkey), or the exploitation of Chinese cockle-pickers (in England). He makes the point that since women trafficked for prostitution are having sex against their will, their clients are rapists and should be treated as such. Williams ends with a challenging list of subjects needing reform, or at least research, and calls on victim support organizations to press for them.

This book is useful not only as an introduction to the subject, with an account of the development of victim services in the last three decades, but also as a review of the current state of assistance to victims in the United Kingdom, with some welcome comparisons from abroad. Practitioners will find some helpful suggestions and information, and it should certainly be read by policy makers and those who advise politicians.

Martin Wright
November 2006

Working for Healing with Victims and Offenders in New South Wales

Since 1999, the New South Wales Department of Corrective Services has been home to the Restorative Justice Unit. In this article, Kate Milner, manager of the unit, provides an overview of the Unit's work with victim offender conferencing and a new re-entry initiative. A downloadable version of the article is attached.

The mission of the New South Wales Department of Corrective Services is to 'Manage offenders in a safe, secure and humane manner and reduce risks of re-offending.' It is also home to a Restorative Justice Unit (Unit), established in 1999. As manager of the Unit, I have some resistance to harnessing our victim-offender conferencing initiatives too firmly to the 'reduction of recidivism' horse. The reduction of an individual offender's risk of re-offending may be a happy by-product of participation in a victim-offender conference. It is not however the stated aim.

In New South Wales, there are three criminal justice conferencing programs¹. While there are some commonalities among these programmes; each has distinct characteristics. The other two programs operate as alternatives to court processes and are therefore outcome focussed to the extent that the conference agreements stand in place of a court order. As an outcome agreement can be reached in the absence of a victim of crime, these programs do not require the presence of the actual victim. The Restorative Justice Unit, on the other hand, focuses more on providing a healing process than on achieving agreement as the outcome of the conference. This is because our program operates at a post-sentence stage of the criminal justice system. Conferences are conducted in respect to offences for which the offender is already either in custody or under the supervision of the Probation and Parole Service. Under such circumstances there already exists an 'outcome' in the form of a 'sentence'. Yet, there is often much conflict left

¹ Youth Justice Conferencing Program of the NSW Department of Juvenile Justice www.djj.nsw.gov.au; Young Adult Conferencing Pilot of the Crime Prevention Division, Attorney General's Department of New South Wales www.lawlink.nsw.gov.au

unresolved by the traditional operation of the criminal justice system. Whilst our program aims at facilitating a consensus about how to reduce the harm caused by the offending, the primary aim of the process is to address unresolved issues and to provide a process for transforming negative emotions associated with conflict into positive emotions associated with co-operation.

The Unit's two Restorative Justice Conference co-ordinators and facilitators receive an average of three referrals each week. Across the board, about one in seven of these initial referrals results in an intervention. If the initial referral comes from the victim of an offence, the rate increases to one in two. We follow a clearly articulated and robustly tested process in receiving referrals, assessing their suitability, contacting the parties concerned, and preparing for, facilitating and following up an intervention. Staff belief in and adherence to the process engenders the confidence for people to participate.

The Restorative Justice Unit functions within an inherently security focussed and risk averse environment. After seven years of operation we have successfully safeguarded the integrity of our processes in overcoming many of the challenges presented by the complexity of our operating environment. Corporate confidence in our processes is such that last year we gained the support necessary to bring together a parolee and another offender who killed his father. Our policies and procedures open the victim-offender conferencing process to most types of offences with additional practice guidelines in place in relation to particular offence types and other specific aspects of a matter.

Initially, the Unit was envisaged as mainly handling property offences and other offences attracting shorter or community-based sentences through conferencing. These matters are the traditional focus of restorative justice conferencing in the criminal justice setting. However, the cases which actually result in conferencing show a different trend altogether. In our post-sentence experience with adult offenders, victim-offender conferencing primarily takes place in relation to three particular offence categories:

- 20% relate to murder or manslaughter

- 14% to dangerous driving occasioning death
- 35% to armed robberies.

Interpersonal violence generates a dynamic between offenders and victims conducive to a desire for further dialogue as can be seen in the following vignette:

Jim had been involved in crime since he was 16. He didn't do drugs or alcohol, but he didn't do work either. His main source of income was the proceeds of armed robberies. He always told himself that he had never hurt anyone, not badly anyway, because most people did what he told them when he pointed the gun at them. They'd be frightened, maybe even shocked, but they'd get over it.

The service station on the highway was an easy target that night – no one was inside except the attendant and his daughter. Jim and his mate went through the usual routine, producing the gun, and demanding the money. The attendant and his daughter handed over the money and stood back against the wall, exactly as they were told. Jim packed the money into a bag, and the robbery was over. Simple.

Except that on the way out Jim thought he heard a noise. He turned to check, and as he did so, he pulled the trigger. For a split second before he raced for the car, he thought he saw the attendant duck, or was he falling? And then he was in the car and the tyres were screeching and Jim and his mate were speeding along the highway. And that's all Jim knew for sure, until he saw on the news that night that the attendant had been shot and killed. Three months later Jim was arrested for murder, and was given a 12-year sentence.

Six years later Jim applied to meet with the attendant's daughter, Clare, who'd been in the service station that night. When a facilitator from the Restorative Justice Unit contacted her, Clare said she didn't want to meet with Jim - she didn't trust his motives. Since the murder, Clare had become increasingly anxious. Because Jim pleaded guilty, and because she hadn't been told when the trial was on, she didn't hear any details in court, so she was left to imagine why her father had been murdered. She couldn't work out why Jim had shot her father as he was leaving. Had they done something to make him pull the trigger as he left? Or was it a contract killing dressed up as a robbery? If not, what had led Jim to choose their shop? And what would happen when Jim got out of gaol?

After a few weeks, Clare called the facilitator back, and said that Jim could write her a letter, via the Restorative Justice Unit, explaining why he wanted to meet with her. Jim wrote the letter and the facilitator

delivered it. After reading the letter and talking it over, Clare decided she would meet with Jim after all.

After several months of preparation for all involved, a Victim-Offender Conference was held in the gaol, with Jim, his psychologist and his brother, and Clare, her aunt and a Victim Support officer. The conference lasted for 3 hours. Jim listened while Clare retold of the horror of that night; realising that her father was dead; how she stood staring at him, too frightened to move, until she realised she was screaming; how she saw strangers run into the shop to help and how she tried to hide from them, thinking they were the robbers returning to kill her; how for over 6 years she had not been able to be alone at night nor go out at night, and of the effects that had had on her marriage and her children; and of how for 6 years she could not stop feeling guilty for her father's death.

Jim also listened while Clare's aunt told of how the murder had affected her and the whole extended family; how they'd all become afraid and distrusting; how family members couldn't bear to watch each other's pain and fear, and so grew apart. Jim's brother talked of the effect of Jim's imprisonment on his sons, both of whom had been beaten up at school, and of how Jim's mother had become a recluse to avoid being stared at in the small town where she lived.

Jim answered the questions that Clare and his brother put to him, and acknowledged the harm he had done. He outlined steps he'd taken to improve his employment prospects and other preparations for his release, and offered to write a letter of apology to his mother and the two boys and to Clare's family, but no formal agreement was entered into.

However, in the following months, Clare reported that she felt 'lighter', that she had lost her sense of guilt, and that she was much less anxious since Jim had answered her questions. She stated that the conference was 'probably the best thing I've ever done for myself in my life'. Jim's brother reported that he no longer felt so resentful or worried about Jim coming home and Jim reported that he felt a new determination to do some good with his life.

From our experience with victim-offender conferencing, the Unit is now exploring another application of restorative practice – offender family group conferencing. This intervention brings together an offender with family and other community members to discuss issues in a safe and supportive environment. Families of prisoners are often victims of crime. A 2004 report stated, “While as a society we have come some way in recognising the needs

of primary victims and, to a lesser extent secondary victims, the needs of families of those who are incarcerated, or the tertiary victims, have received very little attention."². Crime is also an intergenerational problem, according to Tudball in 2000: "4 out of 10 of people in custody in Victoria also had a parent or other close relative who had been in prison"³

In line with the increased corporate and strategic focus on the transitional needs of offenders, a framework to broaden accessibility is underway. Offender family group conferences can have particular relevance around the time of release: easing transition, clarifying the roles of family members in relation to offending behaviours and maximising the potential for successful community integration. The following vignettes explore the usefulness of conferences between offenders and their relatives:

John wanted to move back home on his release, but his mother refused on the grounds that John had been too violent in the past. John wanted to show his mother that he had changed when he was in prison. A Family Group Conference was organised for John, his parents, brother, and parole officer, during which his mother outlined her fears of living with him again. John outlined the work he had done in prison to address his violent behaviour, and he and his parole officer answered some of his mother's questions. The family devised a 'code of conduct' for John during his probation, after which they would review the situation.

Marilyn's mum had broken off contact with her, because Marilyn had broken too many promises. Marilyn wanted her mother's support when she tried again to beat the drugs. At the FGC, a 'contract' was made, that Marilyn would have to honour before her mother would support her again. The contract involved three members of the family, a DOCS worker, and a community support agency worker. Marilyn now feels that a lot of old hurts have been aired and dealt with, and that she has some achievable goals for her release. She also has a sense of hope about being reunited with the family.

The Restorative Justice Unit will continue to build on the experience gained from seven years of victim-offender conferencing. Our aim will remain 'working with victims of crime, offenders and the community for reconciliation and healing'. Perhaps Successful expansion of offender family group

² Standing Committee on Community Services and Social Equity. (June 2004) The forgotten victims of crime: families of offenders and their silent sentence

³ Tudball, N. (2000) Doing It Hard, VACRO, Melbourne.

conferencing will also facilitate a more comfortable future 'hitching' of our restorative justice cart (or at least some of its contents) to the department's primary 'reduction of recidivism horse'.

Kate Milner and the Restorative Justice Unit team can be contacted via email at restorative.justice@dcs.nsw.gov.au