

## *From Canada*

---

# **RESTORATIVE JUSTICE — WORKING TOWARD HEALING, PEACE AND FORGIVENESS**

---

**by Rod Carter**

This paper is prefaced with the statement that I am an expert of one thing only, my story. I have been in prison as prisoner 3887Y. I am an ordained minister with the United Church of Canada. I have been a prison chaplain. I am presently on the faculty of Queen's University. By virtue of these experiences, this paper will be a collaboration of corrections, theology, prisonerization and jailhouse slang!

My story is personal and experiential, interspersed with my understanding of restorative justice. It will not be hardcore research or statistics, although there will be some of that. This is because within a restorative justice framework one can only go so far with statistical figures and research and then one reaches a tragedy, a broken heart, pain and horror.

It is my contention that a correctional system driven only by statistics and research eventually fails because it ends in polarization and academic debates, which in themselves are forms of violence and exclusion of the offender, victim and community. They do not utilize the most reliable research method — which is active listening, being a participant observer.

My evidence will be anecdotal because I believe that human story is more valuable than charts, graphs and data. This is not to say there is no place for research and statistics. I believe there is, and I cite, *Restorative Justice: An Evaluation of The Restorative Resolutions Project*, compiled by the Solicitor General of Canada in October 1998. I find narrative and story to be stronger conveyers of truth.

I will also limit most of my opinions because I remember the story of a death row chaplain ministering with a prisoner walking to the gas

chamber. The chaplain said to the prisoner, “When they strap you in the chair and drop the cyanide capsule take a deep breath and it won’t hurt as much”. The prisoner looked at the chaplain and said, “How in the hell do you know?”

There are hundreds of definitions of restorative justice. The one I lean toward has Jewish roots. One Rabbi describes it as addressing the hurts and needs of the victims, the hurts and needs of the offenders, in such a way that they and the community might be healed.

Our aboriginal brothers and sisters incorporated many inventive forms of conflict resolution to restore the peace within the community. A recent history of this was initiated by two Mennonites Mark Yantzi and Dave Worth in Kitchener, Ontario in 1974.

The principles of restorative justice are important because they guide, advise and define the process. These principles include:

- Restorative justice begins with oneself. If one has not integrated the principles of restorative justice such as accountability, honesty, healing, justice and repentance one cannot succeed in restorative justice since one cannot give away what one does not have.
- Restorative justice initiatives are voluntary: all who apply them may not be ready or prepared.
- Each stakeholder, victim, offender and community has equal representation: they are the central resources.
- Restorative justice initiatives can be applied in any situation from the most serious crime, to a schoolyard conflict and to nations at war.
- The principle components of restorative justice initiatives are opportunity for all to speak, consensus on the consequences, freedom of emotional expression and commitment to create safer communities with more peaceful people in healed and restored relationships — as far as that is possible.
- Professionals and experts may suggest and assist in developing a restorative justice initiative but they play a peripheral role: the process is “owned” by the victim, the perpetrator and the community.
- Listening and truth telling are essential for success.
- Crime prevention is the penultimate goal of restorative justice.

## **Offender**

Let us first look from the offender's perspective. When a person commits a crime, he or she has betrayed the community because peace in the community has been stolen and shalom vandalized. At that moment, obligations are registered upon that person.

These obligations under a restorative justice model call for full admission of the wrongdoing, full admission of who was damaged by the behaviour, commitment to right the wrong by doing reparation, making apology or delivering restitution, and being willing to be held accountable and willing not to reoffend.

The criminal justice process can make a mockery of these obligations. Too often, the process sees duelling lawyers on their way to high unearned wages. In the mean time the offender, the victim and the community are only incidental to this process. The restorative call to non-adversarial truth telling is undermined. If one is found guilty or pleads guilty, a restorative approach would seek to utilize imprisonment as a last resort. Many alternative forms of resolution would be explored and considered. If imprisonment is the court's decision, a prisoner experiences what is termed institutionalization or prisonerization. Criminologists view these differently but I contend this process involves three aspects or burdens.

When I was sentenced to a three and a half year term of imprisonment in October of 1967 one old timer at Kingston Penitentiary told me to play the three monkeys. After further inquiry from me he said, "You don't hear anything, you don't see anything and you don't speak anything". This was not very complicated prison psychology but it has saved many a life, notwithstanding its attendant demoralization, of which I will write momentarily. During prison, I missed women, children, animals, colours and banana splits — and freedom!

Prisonerization is a process familiar to all offenders. It is a gradual process of assimilation into the norms, values and expectations of the prison world. This occurs as a result of physical separation from society and loss of contact with family and friends.

Other contributing factors that promote institutionalization are the lack of privacy, absence of control over many aspects of daily life and time, the continuous routine of prison life, different dress, language

and rules, limited decision making power, lack of responsibility and challenges. There are also pressures to conform to the inmate subculture, including the infamous inmate code. One writer referring to the inmate code said, “You talk about the inmate code, but that’s bull shit. There’s a higher code that we all answer to, and it says that when we purposely bring more suffering into the world, our own lives will suffer as well.”<sup>1</sup>

I will focus on the three aforementioned areas where an inmate must learn to survive or suffer the consequences. Physical survival is the first burden of doing time. One creates an aggressive stance or attitude; almost unconsciously, prisoners adopt defiant postures. One story illustrates this well. It is about a cobra that goes to a saint and says, “Please give me teachings so that I can be more spiritual”. The saint says, “Well, first of all, don’t bite people anymore.” So, the cobra goes back down the mountain, happy that the saint has accepted him as a student, and he sits by the village path all day long, thinking over the saint’s advice. But after a couple of days, people begin to notice him, and since he’s sitting so still and looks so happy, the people get curious. After a few more days, unafraid of the cobra by now, some of the children have started poking him with sticks and teasing him, throwing pebbles at him, kicking dirt on his head; a few cruel adults too, toss garbage on him and kick him when they walk by him. After about a week, the saint walks down the village path and sees the poor cobra sitting there all bruised and bloody and full of mud. The saint says, “My God, what’s happened to you?” The cobra replies, “I was just following your instructions, master; I don’t bite people anymore.” Realizing all that had happened, the saint looks down lovingly at the cobra and says, “But I didn’t tell you not to hiss!”<sup>2</sup>

Prison is rough. Those who live there adopt defiant postures and try to grow eyes in the back of their heads and sleep with one eye open. For those unable to adopt some form of toughness a Yiddish proverb applies, “If you can’t bite, don’t show your teeth”. These guys are the most vulnerable and damaged. The evangelism of violence haunts their days and their nights! I saw many carried out, some moving and some not! I had been in the army before going to prison and had some familiarity with unarmed combat. In prison the trouble is that the

combat is generally armed. Since I worked in the carpentry shop I carved a fine shank from hardwood which would not set off the metal detectors and might save my life. The cost here, as one can imagine, is that one's feelings are often flattened and a form of desensitization occurs.

A second burden of doing time is mental survival, preserving sanity. The prison world makes no pretence of being unique. Common sense, reason and logic are defined by the power holders, the "heavies". They rarely have guns and keys, but they have a strong influence on the operation of the prison. One method of surviving mentally is to recognize the senselessness of living in prison and to engage in dark humour. It is for the same reason Sr. Helen Prejean, author of *Dead Man Walking*, named her web site Live Nun Talking. One needs this type of humour when helping prisoners survive. Reading and engagement in correspondence courses are valuable resources for staying mentally challenged. Education is worth more than a second glance and has opened many a prison door. The greatest benefit is found in the liberation of the mind; one feels released from limited thinking and possibilities. It opens the way to new visions and new methods of getting by in the contemporary fast-paced world.

The third aspect of doing time is moral survival. All prisoners face this and ultimately they question how to ignore this monstrous evil when they see it. They all witness it. The prison chaplain, if he or she is trusted, may be a resource in this regard, especially if the chapel is regarded as sanctuary and the chaplain a voice of conscience. Ultimately there are many imaginative techniques for transcending and surviving prison. How impacting are jail and prison chaplains and other caring staff in creating a restorative justice perspective?

Come back with me to 1967. I came through a process that pigeon-holed me at many turns. There was so much that was depersonalizing and dehumanizing: for example:

- to the Ontario Provincial Police I was simply an arrest.
- to the Crown Attorney I was guilty at the outset.
- to the media I was a 3" X 2" column.
- to the jury I was time off work without pay.
- to the Judge I was an interruption from the golf course.

- to my lawyer I was a case that would result in a ski trip to Switzerland.
- to the Admission and Discharge guards I was a # in need of delousing.
- to the prison doctor I was just another “behind”.
- to my classification officer I was a chance to practise his amateur psychology.

All those actions were examples of non-restorative justice.

On the other hand, personalization and respect, what one might term, early restorative features were happening:

- to Officer Tom Rathwell and his able key I was a decent kid who made a mistake. He saw no bad people, only good people who had done bad things.
- to the Padre, Ron Nash, I was a human being named Rod Carter, not #3887Y.
- to my boss in Hobbycraft, Mr. Robinson, I was a trusted inmate clerk.
- to the psychiatrist, Dr. George Scott, I was of sound mental health; everybody was saying I was crazy except my shrink.
- to my family and friends I was still the same “old Rod”.
- to the National Parole Board, those merchants of hope, I was an assumable risk.
- to my parole officer, Mr. Hunt, I was trusted for passes out of my area and approved for early termination of parole reporting to the police.
- to the RCMP and the Solicitor General I was worth granting a Queen’s Pardon.

“What a person is, is more important than what they do.” Sr. Helen Prejean said. “No one should be judged by their worst act, because there’s more to each one of us than the worst thing we’ve done in our lives.” Someone else said, “Thou shalt not nail another to his or her past”.

As one draws close to release time one may meet with the National Parole Board. We quipped that their favourite song was the Byrds, “*You Ain’t Goin Nowhere*”. But I was approved by the National Parole Board for parole! By then they had heard the Beatles “*Ticket to Ride*”. They gave me a paper suit, cardboard shoes and a few

bucks. I began the process of deinstitutionalization and reintegration back into society. Sometimes this is accompanied by “gate fever”, jail slang for high anxiety. In my rehabilitation efforts in prison I took the trade of an auto mechanic and furthered my education in two grade levels. Once released I utilized education and religion as major resources in my renewal. I was absolutely, positively, 100 per cent totally committed to not re-offending. I promptly married a lawyer — just on the off chance!

In terms of restoration, my parents and friends played a crucial role, as did my parole officer, college instructors and pastor. They received me home in a loving and non-judgmental way. I enrolled in College and began counselling with my pastor. Education is worth more than a second glance and has opened many a prison door. In time I picked up a B.A. degree and a Master of Divinity degree.

Books, story tellers and teachers have enriched me. Many people along the way gave me a helping hand with no strings attached. My experiences were learning places, some were easy — but many were tough. When a “teachable moment” arrived a teacher would appear. Anything I am able to pass on is my way of saying thank you to all those people who stopped to help me take the next step in life.

Each way out of prison is as unique as each person. Rehabilitation is a call to design a program of improvement and a dare to introspect. It is the responsibility of the individual assisted by the Correctional Service of Canada. Programs assist but programs do not change people; people change people. I believe in the potential of individuals resourced by the system to make lasting change. At the outset one must admit one’s involvement in criminal behaviour — notwithstanding many tell lies at the outset and plead not guilty knowing they are guilty. Everyone must take personal responsibility for the hurt to victims through their actions and be willing to make restitution where possible.

Some common impediments to rehabilitation or restoration are unwillingness to take responsibility for wrongdoing, minimizing involvement, blaming others, making excuses or being unwilling to admit needs and to accept help. The common ones are, “I didn’t even

go in the bank, I was just driving the getaway car” or “I only used a knife in the robbery, not a gun”. Little comfort to the victims! I minimized the injuries I inflicted upon the man I robbed and was not willing to offer restitution. I had yet to realize that robbery is not a disagreement about money. Also I had to learn that I was one of the 90 per cent of people in crime who do not belong there because I was no good at it. It is mistakes and informants that bring criminals down. In my case that has since been corrected with the help of many people.

### **Victims**

The other person in the criminal event is the victim. I will let the victims’ voices speak for themselves.

The victim of a sexual assault said, “I’m not 100 per cent over it. Mainly it is fear. Fear of the dark, fear of strangers. You can get it under control, but it is always there. I have never walked back and forth from work on my own. Mark has always met me. I know I will never get back to being the same. I will just learn to live with it.”<sup>3</sup>

A victim whose partner was shot and killed said, “John’s death is still incredibly raw. It is harder to get over because no one was ever caught. I genuinely had no idea why he was shot — it is an absolute mystery. I am continually asking myself, Why? Why did I fall in love with him only to lose him five days after our son was born?”<sup>4</sup>

A victim of robbery explained, “I am angry about him running off with my car, but mostly I feel humiliated by the way I was cheated by a supposed friend whom I had trusted. I did not leave my house for a month and had weeks of sleepless nights. To this day, I am embarrassed to tell the story.”<sup>5</sup>

Another victim said, “Set up the prosecutor against this criminal, someone to bring my accusations against him. Let him have a trial, but find him guilty, for even his prayers are a crime. I hope he does not live long, so that someone else gets his job, so that his family is left without him. I would like to see his creditors take everything he has. I hope he is left alone, without love, with no descendants, cut off even from God.”<sup>6</sup>

Finally the voice of a bank teller following a robbery; “So, first, you are startled. Then the reality crashes down on you because they want



it to be like that. They want you to focus quickly and fully on them so that you will be completely under their power and will efficiently do what they want you to do. Then you go numb. It is only afterwards that you feel sick. And for years you feel a miserable combination of fear and anger whenever you are startled excessively and unnecessarily by an unfamiliar sound. Somebody raises their voice in a disagreement with an assistant manager, and you break out in a sweat.”<sup>7</sup>

These are anguished and angry voices, expressions of hostility and legitimately so.

These voices remind us that victimization is a devastating experience that affects many areas of a person’s life. Minor offences can even be deeply traumatic, even life-altering.

Everyone needs three components in life to build a sense of safety and wholeness. These are autonomy, order and relatedness. Crime is a denial of the personhood of victims, a failure to value them as individuals. Autonomy or a sense of self-determination is fractured by crime. Order or a sense of context is disintegrated by crime. Relatedness or a degree of confidence in others is undermined by crime.

Incidentally, I do not believe in victimless or non-violent crime. One ought always to remember that there are innocent offenders and guilty victims.

Other commonly expressed needs of victims include:

- The need for a safe place; physically, symbolically and emotionally.
- To have assurance that the act will not recur to them or others.
- They need to mourn what happened.
- They need an “experience of justice”.
- Victims need opportunities to tell their stories and to vent their feelings. It was the concentration camp survivor Elie Wiesel who said, “If you can tell the story you can bear the pain”.

For the sake of clarity and sensitivity let me acknowledge for victims of crime what I feel restorative justice is not. It is not a rush to encourage the victim to forgive the offender. One needs to go

through the stages of fear, anger, grief, guilt, helplessness and shame. Feelings of revenge are natural and normal, automatic responses to being victimized. Forgiveness can never be forced; it is too sacred. Forgiveness does not mean forgetting. To forget would diminish the horrible event, the lost innocence. Bishop Tutu who convened the Truth and Reconciliation Commission in South Africa since 1995 said, “the words forgive and forget do not belong together; if anything the pairing should be remember and forgive.” Extending has been helpful for some victims in their journey through the painful event and has never been entertained by others. Each is equally worthy.

I need to assert that we must all work to ensure that no victim is blamed or re-victimized.

### **Community**

The third aspect of restorative justice is community. The community’s ability to deal with conflict was stolen from them long ago. They are in a period of rediscovery. An American initiative refers to it as “re-neighbouring the hood”, the reacquiring of community values and commitment to take responsibility for justice-doing by dealing with wrongdoing. Lawyerless justice is proving effective, efficient and includes the victim, offender and community.

What good is the law if it prevents one from receiving justice?

Former FBI Director J. Edgar Hoover declared that, “justice is incidental to law and order”. He was one of many people and politicians who promised to do away with prisons and were sneeringly call “Club Fed”. Presumably, they want to ensure no prisoner ever dares smile for a camera again. These are the politicians who bellow for longer sentences and harsher conditions without the slightest sense of the gravity of what they demand. These are the politicians “who have never spent a single night in hell”.

In Canada’s most recent federal election campaign we heard crime and punishment electioneering like ... “two strikes and you’re out”, and the endorsement of longer harsher prison sentences and new prison construction. If long harsh prison sentences worked the United States would be the safest country in the world. This is certainly not the case. Between two and four per cent of its population is in prison

or on parole or probation. That is more than the population of the country of Norway.

It has been said, “a conservative is a liberal who’s been mugged, a liberal is a conservative once arrested”.

People inherently understand justice and many of them are working to develop and deliver restorative justice initiatives such as:

- victim — offender mediation
- family group conferencing
- reintegrative shaming
- circle sentencing
- lifestyle sentencing
- circles of support and accountability
- community service

The results are extremely encouraging.

One example that caught my attention was the gathering of American veterans of the Vietnam War and Vietnamese people. They gathered in small sharing groups to focus on self-expression, apology and forgiveness. In one group, a veteran apologized to a Vietnamese nun. “I needed to say, ‘Please forgive me for the suffering I helped cause’.” Sr. Phuong said fiercely, “That was then. This is now.”

Studies and stories indicate the following justice initiatives and strategies are working, according to the United States Justice Institute:

- anti-bullying programs in school
- family therapy and parent training about delinquency
- life skills classes and coaching in thinking skills for high risk youth
- literacy programs

They find the following do not work:

- scared straight programs
- boot camps
- electronic monitoring

In the prison context restorative justice can take many forms.

Examples are:

- mediation centres to work with offenders and/or staff members in a locked conflict with the goal to resolve the conflict at the lowest level thus preventing escalation of the dispute
- Prisoners working with youth at risk
- Prisoners and staff contributing and donating to a variety of charities such as the Children's Wish Foundation, United Way and the Terry Fox Annual Run
- Alternatives to Violence programming
- Victim sensitivity training
- Victim offender mediation which may involve direct mediation such as face to face meetings, or indirect mediation such as a go-between mediator or letters

Successful victim offender mediation can serve the victim by:

- Allowing the opportunity to ask questions about the reason for the offence
- putting a face to the crime
- putting the crime behind them

For offenders the process gives the opportunity to:

- apologize
- learn about the effects of the crime on the victim
- put right some of the harm done, if feasible
- take responsibility for the future

The benefits of these kinds of community work are:

- the rehabilitative effect on prisoners
- improved relations between prisoners and prison staff
- a better atmosphere in the prison
- meeting the needs of the local community
- improved public relations between prisons and the general public

To speak of community values, has to do with the inclusion of all and with the promotion of the public good. They are the simple and yet complex concepts that underlie not one religion, but many: not one tradition of laws, but the notion of justice itself.

What I mean by community values? They:

- do no harm
- take care of your neighbour
- take special care that all the children receive deep love from adults and that they have the love and safety of the larger family of their communities
- exclude no one, rather embrace all regardless of their differences from oneself

In a nutshell I am talking about the application of the Golden Rule, “Do unto others as you would have them do unto you”.

Such values are part of community initiatives that work toward public good and civil society. These include Mothers Against Drunk Driving (MADD), Crime Stoppers, Neighbourhood Watch, Block Parents and Citizens Against Violence Abdicating its Termination (CAVEAT). All are working to create safer communities and prevent crime.

Canada has approximately 300 restorative justice initiatives happening across the country. These include young offender crime together with very serious offences such as causing death by impaired driving as well as arson. They are initiated at various stages in the criminal justice process. It may be at the outset of the crime where a court hearing may be replaced by a restorative resolution. It may be done once the offender is sent to prison or it may occur following the release of an offender.

Restorative justice, practised at its best today, offers a path away from vengeance and toward healing. The traditional adversarial legal system separates the victim and offender, effectively disempowering them. It can create mean and vindictive individuals. Restorative justice provides opportunities for those affected by crime to be directly involved in responding to the harm it causes. It offers support and assistance to victims and holds offenders directly accountable to the people they have violated.

The process is totally voluntary and anyone can back out at any time.

Forgiveness is never the stated goal of the process. Yet restorative justice does offer a safe place in which forgiveness can be explored by any victim wanting to take that path.

The results of restorative justice projects have been overwhelmingly positive. Over the last 25 years, more than 45 states have developed 300 RJ initiatives. Europe has approximately 900 programs. New Zealand, Australia and the Scandinavian countries have programs. One study cites 96 per cent of victims who have used restorative justice would recommend it to other victims.

Restorative justice also helps to heal offenders because it puts them in direct contact with people affected by their actions — thereby personalizing their criminal acts. Since perpetrators participate in creating the method of restitution or amends, they accept their accountability more easily.

The community aspect is an integral part of restorative justice. Crime does not happen in a vacuum. The process helps offenders learn about the impact of their behaviour and how it trickles down, including interactions with police officers, family members and neighbours.

Restorative justice is an open invitation for alternative approaches. It brings victims, offenders and the communities together to find a solution acceptable to all. It is not an “us versus them” or “duelling lawyers” approach. Momentum is mounting. As a practitioner, teacher and student of restorative justice, I, along with many others, seek the healing transformation that restorative justice can deliver.

In summation, restorative justice is not a panacea for the crime committed in Canada, because it realizes that often, “the chief cause of problems is solutions”. Restorative justice does attempt, and usually succeeds, in putting a face and name to the victim and offender. It recognizes the responsibility and capability of the community to resolve the situation wherein the harm was done. Restorative justice is not “bleeding-heartism” or another “hug-a-thug” approach but calls those who offend to total accountability, full admission of who was damaged by their actions and a commitment to make necessary changes to regain their rightful place in community. Restorative justice can be a beacon which guides everyone who seeks to bring some healing from evil in the world.

Restorative justice calls everyone to these virtues:

- acting with due restraint in one’s impulses

- acting with due regard for the rights of others, and
- showing reasonable concern for distant consequences

1 Bo Lozoff *We're All Doing Time*. (Durham, NC: Human Kindness Foundation 1989. p. 165

2 Ibid., p. 144

3 London Times MM Weekend Edition, October 1999 p. 24

4 Ibid., p.25

5 Ibid., p. 25

6 Lisa Lampman *God and the Victim*. p. 137

7 Ibid., p. 138

*Rod Carter teaches on the Restorative Justice Program at Queen's Theological College, Kingston, Ontario, Canada.*

*He holds the copyright on this article. carterr@post.queensu.ca.*

JUSTICE REFLECTIONS: 2003

ISSUE 3