

Victorian Association for Restorative Justice

Occasional Newsletter: July 2014

A handful of colleagues formed the Victorian Association for Restorative Justice [VARJ] nearly a decade ago. Since 2005, VARJ has:

- advocated for restorative justice, through our website, occasional newsletters, courses and forums;
- provided quality control by drafting best practice guidelines, reviewing legislation, and developing a model of accreditation for group conference convenors and programs;
- coordinated support for professionals in the field by advising colleagues in the regions, linking practitioners and researchers, and organising conferences.

This time last year, VARJ had just finished hosting our June Conference *Broadening Restorative Justice* at the MCG. Committee members were relieved and delighted by the size and success of the Conference. Around three hundred people attended an enjoyable, informative, inspiring event. There was a strong sense of community among colleagues doing important work in areas where restorative practices are now well established, and also testing new applications.

An event like the 2013 VARJ Conference begs the question:

WHAT NOW?

2014 has been a year of consolidation for the VARJ committee. As we approach the August AGM, we are looking to expand our membership, and reinvigorate the movement for restorative justice across Victoria. So where is Restorative Justice in Victoria just now, and where might it be headed?

Firstly there have recently been some valuable new publications in our field.

A comparative review answers the perennial question "***Does restorative justice reduce reoffending?***" with a confident Yes:

<http://www.abc.net.au/news/2014-02-14/international-study-finds-crime-levels-cut-after-offenders-meet/5259960?section=act>

The report is:

Restorative Justice Conferencing (RJC) Using Face-to-Face Meetings of Offenders and Victims: Effects on Offender Recidivism and Victim Satisfaction. A Systematic Review

It is available at:

<http://www.campbellcollaboration.org/lib/project/63/>

Authors Heather Strang and Lawrence Sherman have been involved with restorative justice for over twenty years. They were involved in ground-breaking studies in the Australian Capital Territory, and then across the United Kingdom. In their new Campbell Collaboration meta-study, they report the results of ten comparable experiments. Each experiment reported post-treatment data of repeat crime two years after cases were randomly assigned to either Restorative Justice Conferencing [RJC] or to more traditional criminal justice processing.

The authors write:

“The evidence of a relationship between conferencing and subsequent convictions or arrests over two years [...] is clear and compelling, with nine out of 10 results in the predicted direction... The impact of RJC on 2-year convictions was reported to be cost-effective in the 7 UK experiments, with up to 14 times as much benefit in costs of the crimes prevented (in London), and 8 times overall, as the cost of delivering RJC. The effect of conferencing on victims’ satisfaction with the handling of their cases is uniformly positive...”

The authors conclude that:

“RJC delivered in the manner tested by the ten eligible tests appear likely to reduce future detected crimes among the kinds of offenders who are willing to consent to RJC, and whose victims are also willing to consent [...] Among the kinds of cases in which both offenders and victims are willing to meet, RJC seem likely to reduce future crime. Victims’ satisfaction with the handling of their cases is consistently higher for victims assigned to RJC than for victims whose cases were assigned to normal criminal justice processing.”

ABC Radio National’s *Life Matters* program addressed the report in a segment entitled “Crime hurts: How justice can heal” [Thursday 13th March]:

<http://www.abc.net.au/radionational/programs/lifematters/crime-hurts--justice-should-heal/5312812>

The Australian Institute of Criminology has also recently released *Restorative justice in the Australian criminal justice system*, a report by Jacqueline Joudo Larsen:

<http://www.aic.gov.au/publications/current%20series/rpp/121-140/rpp127.html>

The report author concludes:

“Recently endorsed Restorative Justice National Guidelines are intended to provide guidance on outcomes, program evaluations and are an important step towards promoting consistency in the use of restorative justice in criminal matters across Australia.

Three key challenges face restorative justice into the future:

- *Extending restorative justice to adult offenders;*

- *Extending restorative justice to serious offences;*
- *Achieving ‘restorativeness’*

The evidence base on restorative justice would benefit from future research extending the focus from asking ‘does it work?’, to considering how, when and for whom it works best in order to contribute to the growing evidence that seeks to provide a more nuanced understanding of the circumstances under which restorative justice is most effective.”

For those of us who have been working in this area for many years, it is a relief to see mainstream attention turning to this “more nuanced understanding of the circumstances under which restorative justice is most effective”. Demonstration projects in our part of the world are seeking to answer “how, when and for whom it works best”.

For those interested in **justice system applications** of restorative practices, a recent TED talk is relevant:

[Daniel Reisel: The neuroscience of restorative justice](#)

UK-based researcher Dan Reisel offers three lessons from his work over the past fifteen years.

One: we need a changed mindset. “For too long we’ve allowed ourselves to be persuaded of the false notion that human beings can’t change, and, as a society, it’s costing us dearly.” Two: We need cross-disciplinary collaboration. “We need people from different disciplines, lab-based scientists, clinicians, social workers and policy makers, to work together.” Three, we need to use our own brains, our own amygdalas, and rethink our view of prisoners [...]. [Otherwise, how are prisoners] ever going to see themselves as any different? Wouldn’t it be better [...] to spend time in jail by training [ones] amygdala and generating new brain cells? [...] Surely that would be in the interest of all of us.”

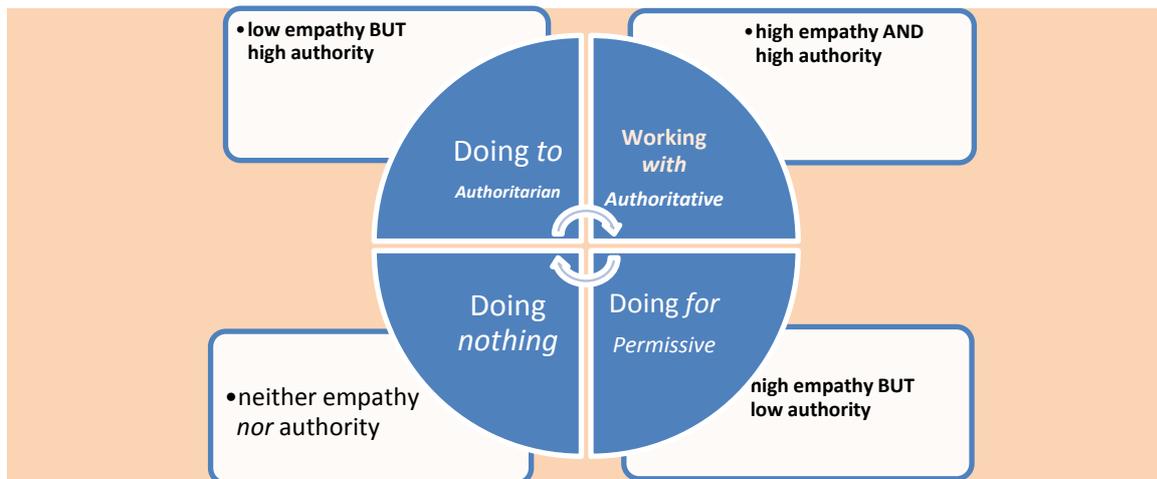
Meanwhile, there are important current developments for restorative practice in a range of areas:

WORKPLACES

A dilemma faces workplaces nationally around **the notion of bullying**. An aggrieved party requests that senior management and/or a board adjudicate in response to the question: “*Did an incident &/or pattern of incidents constitute bullying?*” The dynamic of the requested intervention is a (i) *debate*, followed by (ii) a *unilateral decision*. If an adjudicator answers “*Yes*” (there was bullying), the next request is then to do something *for* the aggrieved party by doing something *to* the accused party.

Whether the initial adjudication is *yes* (there was bullying) or *no* (there wasn’t), the parties most directly involved will need to *repair / rebuild* a relationship, if they are to work *with*

each other again. These distinctions of *doing to / for* and *working with* are well known to educators as the categories of *authoritarian*, *permissive* and *authoritative* responses:



The **dilemma** for the senior decision makers in these cases is that the more they accede to requests for an authoritarian &/or permissive response, the harder it will be for the parties affected to resume or create an **authoritative working relationship**. Furthermore, the most senior decision makers in these cases are faced with the **additional dilemma** that if they make a determination on *process*, they may also be understood to be making a decision on the *substance* of the matter. In other words, if the matter is addressed as a matter of roles, responsibilities and performance management, it may be inferred that management do not see it as a question of workplace bullying and management may then not be seen as an impartial honest broker. Nevertheless, decision-makers have to answer:

- Which issue has legal and ethical *priority* – determining whether behaviours constitute bullying or *repairing or appropriately changing* relationships?
- What *process* should be used to address the issues?
- Who should be involved in the resolution?

This dilemma has been addressed in recent times by:

- A 2010 Victorian State Services Authority report for **Victorian government agencies** on conflict resilient workplaces:
<http://www.ssa.vic.gov.au/products/view-products/developing-conflict-resilient-workplaces.html>
- A 2012 Federal Parliamentary Committee on complaints of bullying in **Australian workplaces**:
http://www.aph.gov.au/parliamentary_business/committees/house_of_representatives_committees?url=ee/bullying/report.htm
- The 2013-14 **Pearce report** into workplace issues affecting our **national science** organisation:
<http://www.hwlebsworth.com.au/csiro-investigation.html>

The *Pearce report* into CSIRO workplaces noted that our national science organisation had become culturally predisposed to relying excessively on *grievance procedures* for dealing

with workplace bullying. The *Pearce report* recommended that the first response to issues of concern in the workplace should be an attempt to make a quick and informal resolution. However, those involved – by definition highly educated, intelligent and competent individuals - frequently lack the *requisite skills and experience* to engage in effective discussions that resolve disputes and manage conflict:

- within people,
- between people, &
- between groups.

The report of the 2012 **national inquiry** into workplace bullying similarly noted that:

“the need to improve workplace culture in Australia was discussed throughout the inquiry. However, very few participants recommended how this might be achieved.” [151] And “there is no ongoing recognition of employers who maintain good working cultures and exercise good practice with regards to psychosocial health.” [p. 150]

And, with regards to intervention:

“If mediation is being used, there needs to be a system where it is not kept confidential and just between the two parties; there needs to be a risk management perspective of identifying what organisational issues contributed to the problem occurring.” [p. 142]

In short, current legal and managerial / administrative practice gives us very little guidance on how to deal well with these sorts of cases. However, there are a few common themes in the emerging literature. Where there is a dilemma or a vicious cycle, such that those involved are struggling to “*get past first base*” to address workplace concerns, some sort of circuit breaker is needed. In these situations, circuit breakers often involve paradoxical or counterintuitive responses. Thus:

- **Which issue has legal and ethical *priority*** - determining whether behaviours constitute bullying or *repairing or appropriately changing* relationships?

A: *Neither*. But there is a point of agreement that everyone wants a workplace that is as productive *and* psychosocially healthy (i.e. “safe”) as possible.

- **What *process* should be used to address the issues?**

A: Whatever process or combination of processes best answers the question:

“How can we best ensure a productive and psychosocially safe workplace from now on?”

- **Who should be involved in the resolution?**

A: Those most directly affected by what has happened, and those most involved in learning lessons from what has happened and in implementing any actions.

An earlier (2101) Victorian report on **developing conflict resilient workplaces** was commissioned in response to the finding that the single largest cause of complaints to the Public Sector Standards committee was the breakdown of relationships following discussions about *work performance*. The report provides some practical answers to these questions. We are learning how to create fairer, more conflict resilient workplaces. And much more work needs to be done in this area.

SEXUAL OFFENDING

In May 2104, the Centre for Innovative Justice at RMIT released a report on *Innovative Justice Responses to Sexual Offending*. The full report is available at:

<http://mams.rmit.edu.au/qt1g6twlv0g3.pdf>

The report makes a suite of recommendations for improving the justice options and outcomes available to sexual assault victims. It draws on national and international research and best-practice examples, and proposes a model for sexual offence restorative justice conferencing. The suggested framework contains an oversight body; victim and offender specialists; an expert assessment panel; important gatekeepers at different stages of the criminal justice system; entry and exist points; and proposes a two stage approach for determining appropriate cases for restorative justice conferencing.

Importantly, the report addresses outstanding policy questions, such as which types of offences and offenders are most suited for restorative justice conferencing. The report also discusses other innovative justice initiatives, such as sexual offence problem-solving courts, pre-release courts and circles of support and accountability. The CIJ recommends an overarching legislative instrument that would provide for the introduction of restorative conferencing in three phases:

1. Jurisdictions establish restorative justice units and implement restorative justice conferencing for non-sexual offences in the *adult* jurisdiction.
2. Jurisdictions then establish *specialist gender violence teams and an assessment panel*, and subsequently implement sexual offence restorative justice conferencing at the pre-prosecution and post-prosecution stages.
3. *Monitoring and evaluation is built in to the program design.*

A set of standards for RJ in sexual offending and family violence cases has already been developed by our colleagues in New Zealand / Aotearoa:

<http://www.justice.govt.nz/publications/global-publications/r/restorative-justice-standards-for-sexual-offending-cases/publication>

<http://www.justice.govt.nz/publications/global-publications/r/restorative-justice-standards-for-family-violence-cases/publication>.

However, reforms of this nature would require a state and/or commonwealth government committed to social reform guided by principles of social justice, and by an evidence-base. So while we are waiting or working for such circumstances, how can we improve practice in this area?

A recent forum or SECASA run by the South Eastern Centre against Sexual Assault (SECASA) addressed this issue. Many victims of sexual offending are searching *now* for a more just response to their experiences. They are seeking processes that offer them: participation, a voice, validation of their experiences, vindication or their claims and, where possible, accountability for perpetrators.

SECAS is now considering how restorative conferences might be offered as an extension of the services already being offered by the CASA Network. Watch this space: www.secasa.com.au

INSTITUTIONAL ABUSE

The Defence Abuse Response Taskforce [DART] was established in 2012 as part of the Commonwealth Government's response to the DLA Piper Review into allegations of sexual and other forms of abuse in Defence:

The DLA Piper Review is at:

<http://www.defence.gov.au/PathwayToChange/Docs/DLAPiper/Background.asp>

The Defence Abuse Response Taskforce website is:

<http://www.defenceabusetaskforce.gov.au>

DART was established to assess and respond to individual cases of abuse in Defence that occurred before April 2011. The fundamental work of the Taskforce is to determine, in close consultation with complainants, the most appropriate outcome in individual cases. DART offers complainants (i) *counselling*, (ii) *reparation* payments and / or (iii) the opportunity to participate in a *Restorative Engagement* Conference. These parallel exercises are administered separately.

Phase 1 of the **Restorative Engagement Conference Program** formally commenced in October 2013. A tender process in early 2014 led to around forty convenors nationally being selected and inducted. VARJ has had input into the practice guidelines for facilitators, and the facilitator group includes VARJ members. This important element of the Taskforce's work will now run through 2014 and into 2015.

<http://www.defenceabusetaskforce.gov.au/Outcomes/Pages/DefenceAbuseRestorativeEngagementProgram.aspx>

The Taskforce is attracting national and international attention. It provides a model for how the need for *therapeutic intervention* can align with the need for *organisational learning* and cultural change.

ENVIRONMENTAL PROTECTION

The Victorian Environmental Protection Agency (EPA) has been examining the possibility of using a form of Restorative Justice Conferencing in environmental contexts areas. They note that complex, multi-stakeholder problems, involving the environment itself as an additional agency, challenge some aspects of core RJ principles and facilitation methods. However, initial indications are that a small demonstration project has resulted in “demonstrable environmental improvements and local community benefits.”

<http://www.epa.vic.gov.au/~media/Publications/1489.pdf>

PROFESSIONAL GATHERING IN OUR REGION

Restorative Practices International have announced a conference on restorative practices to be held in Hobart on the 23rd – 25th March, 2015:

<https://www.rpiassn.org/latest-news/rpi-2015-hobart-conference-call-for-abstracts-now-open/>

VARJ will not host a similar event in 2015, but will instead support the RPI event, and focus on supporting and promoting the various important demonstration projects around our state.

VARJ Annual General Meeting:

A renewed committee, expanded membership base, and strategy for the year ahead

The Annual General meeting of the Victorian Association for Restorative Justice is scheduled for **August 13th 2014**.

TIME: 5:00 - 7:00pm

VENUE: Collingwood Neighbourhood Justice Centre, 241 Wellington Street, Collingwood

The VARJ committee currently has ten members. Anne-Marie McFadyen is leaving us in July due to a posting to the US.

The Association has a membership of around a hundred. We are aware that, in recent years, administrative issues have hampered our efforts to stay in touch with you, and your efforts to stay in touch with us.

The Committee recently engaged Natalie Lupton, an experienced administrator with restorative justice qualifications, to help support the VARJ committee as we resolve these issues, and strengthen our capacity to continue our important work.

We are now all the more keen to connect – or reconnect - with colleagues involved or interested in restorative practices around Victoria. Existing members have recently been sent a request for membership renewal: <http://www.varj.asn.au/membership>

Please feel free to:

- Forward this **newsletter** to colleagues who might be interested in joining us;
- Send us any **news** for sharing with members;
- Send us **suggestions** on how we might best make use of the skills of our membership base, and expand that base, including with better use of social media.
- Join us at the **AGM!**

And thanks to all of you who are working with restorative practices. You are making an important difference!

David Moore, VARJ president, with VARJ Committee members:

- Marg Armstrong
- Sandra Hamilton
- Michael Mitchell
- Nigel Polak
- Mary Polis
- Alikki Vernon
- Dave Vinegrad
- Carolyn Worth