

# RESTORATIVE JUSTICE AND TRANSFORMATIVE MEDIATION: Some Thoughts

Presented by  
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# Who Am I?

- ◆ Professor of Legal Studies and Academic Designer/Advisor to UW-Superior CEE Mediation/Conflict Resolution Certificate program
- ◆ Attorney
- ◆ Restorative Justice practitioner
- ◆ Mediator (Transformative Mediation)
- ◆ Organizational Change Consultant
- ◆ Practice in northern MN/northern WI

# Background in Restorative Justice

- ◆ Trainings from Kay Pranis (circle work), Mark Umbreit (victim-offender mediation), domestic violence and restorative justice work (Gale Burford and Joan Pennell), transformative mediation
- ◆ Co-coordinated a Restorative Justice initiative at UW-Superior for five years
- ◆ Worked with Douglas County DA's office, in the schools and in the community with restorative work
- ◆ Trained and taught restorative justice principles in community, university and corrections settings
- ◆ Have presented on this topic
- ◆ Also a Certified Transformative Mediator with Institute for Study of Conflict Transformation (ISCT)

# Restorative Justice Work in Corrections

- ◆ Restorative work is applicable in workplace disputes and in offender-centered work
- ◆ Key designer, trainer and facilitator of MN Department of Corrections Conflict Resolution Initiative (CRI) and state-wide ICMS project
- ◆ Purpose of CRI: to create transformative and restorative workplace dispute resolution among corrections staff; provide model for work with offenders, victims and community
- ◆ Origin of CRI project: restorative justice training with Dr. Gary Keveles, Criminal Justice, UW-Superior

# Key Approach

- ◆ Restorative work is designed to acknowledge, understand, heal and repair the harms of crime with involvement by victims, offenders and community
- ◆ Transformative work is designed to empower and recognized party capacity to understand and resolve conflict situations and to change their communication dynamic from negative to positive

# What Was the Context of the CRI Project?

- ◆ Medium security correctional facility; 1200 offenders; 175 member boot camp in Minnesota
- ◆ Approximately 350 staff including administration, security and administrative support staff
- ◆ History of change and evolution in the facility (e.g. 4 wardens in 12 years)
- ◆ History of low morale and need for more positive response to workplace conflict (e.g. rapid expansions, leadership turnover, unresolved "stories" and conflicts)
- ◆ Project success eventually led to adoption of project throughout all facilities in MN Department of Corrections

# What is the Context of Corrections Work?

- ◆ Bureaucracy
- ◆ Powerful external constituencies to respond to (legislatures, citizens, victims, media, other institutions)
- ◆ Must maintain and are accountable for internal security/safety of staff and clients/residents/offenders and external safety of public

# What is Correction Context (II)

- ◆ Historically organized hierarchically, command/control, clear categories of authority and responsibility, division of labor; para-military in orientation
- ◆ Clear mission: protect society and prepare offenders for re-entry, where possible
- ◆ Definitive organizational culture that is long-term and well entrenched
- ◆ NOT transformative or restorative in culture, history or practice

# KEY RECOGNITION FROM RESTORATIVE JUSTICE TRAINING

- ◆ Staff must have their “own house in order” regarding conflict resolution before they open the process to offenders, victims and community (wanted to paradigm of restorative work but begin with their own relationships for integrity)
- ◆ Admitted that there was inadequate process and handling of staff disputes
- ◆ Wanted a different paradigm and model than a directive, hierarchical, bureaucratic model; wanted something based in restorative ideas but also transformative
- ◆ Bottom-up design process
- ◆ Participatory design process

# CRI Is Born

- ◆ Staff based transformative and restorative concepts and processes for resolution of staff disputes
- ◆ 3 processes: circling, peer mediation and group conferencing
- ◆ ALL STAFF trained for 8 hours over two years in basic conflict resolution skills and transformative approach
- ◆ Hundreds of staff trained as facilitators of the three processes (3-4 days trainings for each process and ongoing continuing education each year)
- ◆ Began as a pilot project in one facility and grew to a state-wide Department of Corrections initiative
- ◆ Hundreds of processes and experiences have occurred in the past ten years

# Key Concept Links Between Restorative Justice and Transformative Mediation

- ◆ Both believe in **party capacity**: participants can and do transform, understand and restore their own conflicts
- ◆ Both believe in **empowerment**: bringing open space and safe process to people and allowing them to experience and decide for themselves
- ◆ Both believe in **recognition**: the inherent value of each human being, the worth and dignity that ALL people deserve, the value of mutually respecting, hearing and understanding multiple points of view
- ◆ Both believe in **relationship**: people are connected and interdependent with each other

# Key Concept Links (II)

- ◆ Both believe in **transformative potential**: that conflict can and do change for the better when the parties are involved; that people can evolve and change as they grow and learn
- ◆ Both believe that **process, talk and opportunity for engagement** matters; all three should be thought out in advance
- ◆ Both believe in the importance of **facilitators** who know the underlying paradigm, assumptions and practices of good restorative work; getting out of the way and not telling people what to do; safe space principles; open invitation approaches

# WHAT WAS THE POWER OF THE CRI PROJECT AND TRANSFORMATION?

- ◆ When new processes based on clear values/ideas (i.e. transformative practices and principles and restorative justice ideas) are introduced into an organization, the ideas **inherently** challenge the status quo of culture. Processes are **not neutral** regarding their implications. Processes (like transformative mediation and restorative justice) **challenge the existing set of ideas** and generate a new conflict of their own. In planning, it is important to recognize this reality.

# Impacts of CRI Project

- ◆ Documented evidence of culture and attitude changes over time of staff toward conflict and its resolution; more aware, more competent, more positive
- ◆ Growth of organizational capacity to resolve conflicts through training and experience
- ◆ State-wide Integrated Conflict Management System (ICMS)

# Examples of Spin-Offs

- ◆ Expansion of workplace dispute concepts and thinking to offender based projects
  - Offender Conflict Resolution Mentors used in DOC Chemical Dependency and sex offender program
  - Offender/Family Transition Circles for offenders within six months of release into community
  - Restorative circles with offenders and staff
  - Restorative discipline used through Disciplinary Unit with offenders

# Upshot

- ◆ Restorative principles and practices can transform workplaces and people
- ◆ Additional powerpoint available of the Twelve Steps Toward Building a CRI Project in Your Facilities and forthcoming chapter in the Handbook of Transformative Mediation, ABA Publishing; let me know if you have questions