

Parents of Young Offenders: Remodelling Restorative Justice

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New practices have taken root internationally in the last two decades that identify with a developing theory called 'restorative justice'. Typical restorative forums involve a facilitator, the offender, the victim, their mutual supporters and communities in open discussion of the crime. Restorative justice seeks to empower these key stakeholders to repair the harm – emotional and material – of crime.¹ The most widespread restorative forums in New Zealand, Australia and the United Kingdom are those that are oriented towards young offenders.² They differ in perspective, format and name.³ One generic term for these forums is youth conferencing or simply conferencing. In many conferences the participants agree upon undertakings for young people to repair the damage caused by their offences.

This article expands earlier arguments made by the author⁴ concerning the work of John Braithwaite⁵ and his theory of reintegrative shaming.

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¹ John Braithwaite, 'Restorative Justice: assessing Optimistic and Pessimistic Accounts' in Michael Tonry (ed), *Crime and Justice* (1999) 1.

² Gabrielle Maxwell and Hennessey Hayes, 'Restorative Justice Developments in the Pacific Region: A Comprehensive Survey' (2006) 9 *Contemporary Justice Review* 127; Carolyn Hoyle, Richard Young and Roderick Hill, *Proceed with Caution: An Evaluation of the Thames Valley Police Initiative in Restorative Cautioning* (2002).

³ Kenneth Polk et al, *Early Intervention: Diversion and Youth Conferencing – A National Profile and Review of Current Approaches to Diverting Juveniles From the Criminal Justice System* (2003); Kathy Daly and Hennessey Hayes, 'Restorative Justice and Conferencing in Australia' (2001) 186 *Trends and Issues in Crime and Criminal Justice* 1.

⁴ Jeremy Prichard, 'Parent-Child Dynamics – Some Questions for Reintegrative Shaming, Practice and Restorative Justice' (2002) 35 *Australian and New Zealand Journal of Criminology* 87.

⁵ John Braithwaite, *Crime, Shame and Reintegration* (1989); cf Lode Walgrave and Ivo Aersten, 'Reintegrative Shaming and Restorative Justice' (1996) 4(4) *European Journal on Criminal Policy and Research* 67.

His theory has been highly influential in restorative practice, particularly in Australia. The earlier paper⁶ argued that Braithwaite⁷ was incorrect to portray parents as inherently similar to any other supporter who might participate in a forum for a young offender, such as a conference. Rather, both psychology literature and qualitative observations of parents' behaviour in conferences suggest that parents and children have a unique type of human relationship that can have an immense impact upon a conference.⁸ Braithwaite⁹ also recommended shaming parents. Evidence was presented to assert that shaming parents is dangerous.¹⁰ Amongst other possibilities, parents may be stigmatized and this may ultimately aggravate tensions in the offender's home environment.

This article moves away from reintegrative shaming theory and psychology literature. It makes three new contributions. First, it analyses the place of parents in the wider restorative justice literature and recommends new directions in theory. Secondly, it introduces the concept of the 'contributor-victim paradox' – a term used to describe the fact that parents may simultaneously be cast as, or feel that they are, contributors to and victims of the offence committed by their child. Thirdly, the paper makes a number of suggestions for practitioners regarding managing parents in a way that maximizes restorative justice. This paper draws on observations of 67 conferences between 2000 and 2003, including the 34 observed conferences used for the original paper.¹¹ No real consideration is made of the complexities of relationships between youths and stepparents or adoptive parents. In the main this is because of a lack of qualitative data pertaining to that situation.

1. Parents in restorative justice literature

1.1 Practice-oriented literature

The practice-oriented restorative literature unquestionably considers parents important in the equation of youth crime. One reason for the importance of parents in conferencing is that they are an 'irreplaceable resource' for young offenders who 'need their input and support', not

⁶ Prichard, above n 4.

⁷ Braithwaite, above n 5.

⁸ Priscilla Coleman and Katherine Karraker, 'Self-Efficacy and Parenting Quality: Findings and Future Applications' (1997) 18 *Developmental Review* 47.

⁹ Braithwaite, above n 5.

¹⁰ Prichard, above n 4.

¹¹ *Ibid.*

only during the conference but in fulfilling the undertakings agreed to.¹² Other than emotional and practical support parents are both the 'primary socializers and primary mechanism' of social control for their children.¹³ For these reasons it is useful not to alienate parents from the conferencing process and it makes sense to give them responsibility – hand in hand with the state – for their offspring's criminal behaviour. This is not to suggest that the literature views parents and families naïvely. Practice highlights that often families face emotional and financial challenges that make it very difficult for them to help their child complete undertakings.¹⁴ Commentators have also warned against forgetting the prevalence of family violence and abuse in the lives of young offenders.¹⁵ However, families facing difficulties have not been abandoned by restorative justice advocates. Maxwell and Morris¹⁶ argue that conferences can be beneficial to challenged families. Crawford and Newburn¹⁷ reviewed restorative 'community panels' in the United Kingdom. They recorded several comments from parents that revealed the parents' experience of the panels, including feeling sympathy for the victim and embarrassment. Crawford and Newburn¹⁸ also highlighted the importance of properly briefing parents before the panels in the same way as other participants.

Undeniably the practice literature conceives the lives of young offenders as intertwined with the lives of their families. And there is clear recognition of some of the positive and negative influences that parents potentially can exert upon a conference. Nevertheless there is a projection of the parent as someone emotionally external to the youth: an irreplaceable resource maybe, but at best loving onlooker and supporter.

¹² Marlene Levine, Aron Eagle and Simi Tuiavi'i, 'Creative Youth Justice Practice' (1998) 11 *Social Policy Journal of New Zealand* 153, 164.

¹³ Allison Morris and Gabrielle Maxwell, 'The Practice of Family Group Conferences in New Zealand: Assessing the Place, Potential and Pitfalls of Restorative Justice' in Adam Crawford and Jo Goodey (eds), *Integrating a Victim Perspective within Criminal Justice* (2000) 207, 213.

¹⁴ Jenny Bargaen, 'The Young Offenders Act 1997 (NSW) - A Blueprint for Restorative Organisational Reform in Juvenile Justice in NSW?' (Paper presented at the Government Lawyers Conference, Sydney, 4 August 1999).

¹⁵ Danny Sandor, 'The Thickening Blue Wedge in Juvenile Justice' in Christine Alder and Joy Wundersitz (eds), *Family Conferencing and Juvenile Justice* (1994) 153.

¹⁶ Gabrielle Maxwell and Allison Morris, 'Research on Family Group Conferences With Young Offenders in New Zealand' in Allison Morris, Gabrielle Maxwell and Burt Galaway (eds), *Family Group Conferences: Perspectives on Policy and Practice* (1996) 108; see also Braithwaite, above n 1.

¹⁷ Adam Crawford and Tim Newburn, *Youth Offending and Restorative Justice: Implementing Reform in Youth Justice* (2003).

¹⁸ *Ibid.*

The practice literature does not investigate the various ways that a conference may affect parents nor what consequences this may have for the youths.

1.2 Theory-based literature

What about the theory-based literature? Essentially there appears to be no theoretical space cleared for the role of parents in restorative justice. Central concepts underlie many of the divergent themes and perspectives in restorative literature. One core concept of restorative justice is that crime is defined as an injury suffered by victims and communities.¹⁹ Along with offenders, victims and communities are central to resolving crime.²⁰ These three entities – offenders, victims and communities – seem to have become a central framework of restorative justice.²¹ It is useful to present in figure 1, below, Bazemore's diagram which represents the common ground between offenders, victims, and communities.²²

Figure 1 The interaction of victims, offenders and communities in restorative justice.



¹⁹ Howard Zehr, *Changing Lenses: A New Focus for Crime and Justice* (1990); Kay Pranis, *Guide for Implementing the Balanced and Restorative Justice Model* (1998).

²⁰ Eliza Ahmed et al, *Shame Management Through Reintegration* (2001); cf Anthony Bottoms, 'Some Sociological Reflections on Restorative Justice' in Andrew von Hirsch et al (eds), *Restorative Justice and Criminal Justice: Competing or Reconcilable Paradigms?* (2003) 79; Anthony Duff, 'Restoration and Retribution' in Andrew von Hirsch et al (eds), *Restorative Justice and Criminal Justice: Competing or Reconcilable Paradigms?* (2003) 43.

²¹ Crawford and Newburn, above n 17.

²² Gordon Bazemore, 'What's "New" About the Balanced Approach?' (1997) 48 *Juvenile and Family Court Journal* 1.

Restorativists value natural dialogue.²³ Stakeholders in an offence are not labelled with strictly defined roles. Further, it is understood that the boundaries between the constructs 'victim', 'offender', and 'community' blur.²⁴ At the theoretical level a number of goals are set for offenders, victims, and communities. Restorative justice promises offenders five main opportunities, though these do not represent an exhaustive list.²⁵ The first and perhaps the simplest is the chance to apologise to the victim after learning of the full impact of the offence. Many authors have emphasised that restorative justice allows the offender to be active instead of passive.²⁶ Thus, the second opportunity offered to offenders by restorative justice is to be actively involved in deciding what needs to be done to effect material and emotional reparation for the victim.²⁷ The third opportunity of which the offender may choose to take advantage is to actively see those plans to fruition.²⁸ Fourth, offenders may experience forgiveness.²⁹ Although this is heavily dependent upon the victim, the community via other participants may also offer forgiveness.³⁰ Through apology, forgiveness, participation in decision making, and accountability in fulfilling undertakings the offender can restore their own honour.³¹ Finally, throughout this whole process the offender is

²³ Lode Walgrave, 'Restorative Justice for Juveniles: Just a Technique or a Fully Fledged Alternative?' (1995) 34 *The Howard Journal* 228; David Moore and Lubica Forsythe, *A New Approach to Juvenile Justice: An Evaluation of Family Conferencing in Wagga Wagga* (1995).

²⁴ Chris Cunneen and Rob White, *Juvenile Justice: Youth and Crime in Australia* (2002); Allison Morris and Richard Young, 'Reforming Criminal Justice: the Potential of Restorative Justice' in Heather Strang and John Braithwaite (eds), *Restorative Justice: Philosophy to Practice* (2000) 11.

²⁵ John Braithwaite, 'Principles of Restorative Justice' in Andrew von Hirsch et al (eds), *Restorative Justice and Criminal Justice: Competing or Reconcilable Paradigms?* (2003) 1.

²⁶ Gordon Bazemore and Mark Umbreit, 'Rethinking the Sanctioning Function in Juvenile Court: Retributive or Restorative Responses to Youth Crime' (1995) 41 *Crime and Delinquency* 296.

²⁷ Lode Walgrave, 'Imposing Restoration Instead of Inflicting Pain' in Andrew von Hirsch et al (eds), *Restorative Justice and Criminal Justice: Competing or Reconcilable Paradigms?* (2003) 61.

²⁸ Bazemore, above n 22.

²⁹ John McDonald and David Moore, 'Community Conferencing as a Special Case of Conflict Transformation' in Heather Strang and John Braithwaite (eds), *Restorative Justice and Civil Society* (2001).

³⁰ Daniel Van Ness, 'New Wine and Old Wineskins: Four Challenges of Restorative Justice, and A Reply To Andrew Ashworth' (1993) 4(2) *Criminal Law Forum* 251; Daniel Van Ness, 'Proposed Basic Principles on the Use of Restorative Justice: Recognising the Aims and Limits of Restorative Justice' in Andrew von Hirsch et al (eds), *Restorative Justice and Criminal Justice: Competing or Reconcilable Paradigms?* (2003) 157.

³¹ Rob White, 'Communities, Conferences and Restorative Social Justice' (2003) 3(2) *Criminal Justice Matters* 139.

supported, ideally by family and friends. Hopefully, not only does the offender benefit from realising how important they are to their significant others but these relationships can be strengthened by the ordeal.³²

Amongst other things, victims benefit from expressing forgiveness and from both symbolic and tangible evidence that the offender and the community recognise their injury.³³ Another frequently mentioned benefit for victims is the opportunity to understand why the offence occurred and whether they are likely to be the target of crime again.³⁴ It could be assumed that to these ends victims tend to focus on the offender: the motives behind their offence, their attitude, their remorsefulness et cetera. However, Maxwell and Morris found that it is the offender and the offender's family that victims observe to gauge why the offence took place and the chances of reoccurrence.³⁵ The benefit offered to communities through restorative justice is more oblique.³⁶ At the most basic level communities may hope to experience less crime and therefore more safety through systemic acceptance of restorative justice.³⁷

The most positive comment that can be made about the theory-based literature in terms of its coverage of parents is that at least there are no recommendations for deliberate confrontation with or shaming of the parents of young offenders. Yet, as with the practice-oriented literature, the rich tapestry of parental emotions and the complex dynamics between parents and their children is not considered. The next section explores these dynamics.

2. The contributor-victim paradox: parents' relationship with their child's crime

This section discusses parental behaviour observed in 67 conferences in Tasmania between 2000 and 2003. It argues that – insofar as restorative justice is concerned – just as the distinctions between victim and offender blur at times, arguably so to do the boundaries between (a) youths and

³² Braithwaite, above n 1.

³³ Zehr, above n 19.

³⁴ Kathy Daly, 'Mind the Gap: Restorative Justice in Theory and Practice' in Andrew von Hirsch et al (eds), *Restorative Justice and Criminal Justice: Competing or Reconcilable Paradigms?* (2003) 219.

³⁵ Gabrielle Maxwell and Allison Morris, *Understanding Reoffending* (1999).

³⁶ Walgrave, above n 27.

³⁷ Rob White, 'Communities, Conferences and Restorative Social Justice' (2003) 3(2) *Criminal Justice Matters* 139; Lode Walgrave, 'From Community to Dominion: In Search for Social Values for Restorative Justice' in Elmar Weitekamp and Hans Kerner (eds), *Restorative Justice: Theoretical Foundations* (2002) 71.

parents and (b) victims and parents. The observations suggested that parents sometimes felt personally responsible for the actions of their child, best evidenced in parents' apologies to victims and others. There were also indications that at times children formed an extension of parents' self perception; 'we're not bad people' one father stated in reference to his son's offence. Additionally, youths frequently apologised to their parents in conferences for breaches of trust, inconvenience, embarrassment, material damage and the like. In this and other ways the distinction between 'victim' and 'parent' bled into each other.

In a sense parents of young offenders in conferences have the most peculiar role of all the participants. Quite frequently parents will have to manage being cast as 'contributor' to the crime when discussion – or the subtext of discussion – turns to their parenting skills or lack thereof. And yet in the same conference they may be very well required to 'change hats' and play the role of 'victim'. This might be termed the **contributor-victim paradox**. This section analyses parents as victims first and then considers parents as contributors.

2.1 Parents as victims

How can parents be 'victims' to a crime committed by their child? Parents are sometimes the victim of their child's actions in the strict legal sense; mothers are bashed by their sons; the family car is used for a joy-ride and crashed; money is stolen from the home and so on. In the remainder of cases, no matter how much the parent has contributed to an offence in their own view, the youth still has chosen to commit a criminal act and that decision often has material and emotional ramifications for the parents. In fact, parents are sometimes the most affected parties, particularly in 'victimless' crimes.

Arguably, apart from those rare cases where the parents actually incite the criminal behaviour, all parents to some degree fall into the fluid restorative category of victim. Parents often are affected materially by the undertakings arising from the conference. Consider the inconvenience for a parent of providing transport for their son or daughter over a period of weeks to attend, for instance, an anger management course.

Emotional impacts on parents are varied. Many parents appeared simply embarrassed at having to attend a conference and having to weather the assessment of their parenting skills by the other adults involved. Others spoke about the worry that the crime had caused them at the time they were informed – sometimes by way of a midnight telephone call from a police officer. Very clearly there were instances where the parents were

worried about their child's future, especially where the juvenile was a repeat offender. In this sense the parents can suffer because of their deep love for their daughter or son.

Well over half of the parents who attended conferences mentioned a sense of a breach of trust. Most often this seemed to refer to the freedoms that parents had given to the youth on the understanding – spoken or unspoken – that they behaved well. Sometimes very deliberate deception was involved, for instance where the youth had lied about where they were going on a particular night, who they mixed with or how they were spending their time after school.

Less frequently, the parents identified so closely with the victim that the offence seemed to incense and confront the parents in a personal way. Nowhere was this more evident than in four separate shop-lifting cases where the parents themselves were shopkeepers. The parents found it difficult to understand how their child could commit such an offence when they were well aware of the effect of shoplifting upon their own family. In almost every conference attended by parents the group at some time spoke about the impact upon the parents of the offender's behaviour. In 19 conferences observed by the author, the offender apologised to their parent at the end of the conference, though this was sometimes prompted by the facilitator.

2.2 Parents as contributors

In a conference, neglectful parenting may be the subtext of revelations about the youth such as irregular sleeping patterns, alcohol abuse, or poor academic performance. At a deeper level, insofar as a child represents the 'product of his or her parents' genes, parenting skills, lifestyle and values',³⁸ that 'product' seems to be faltering. No doubt these observations have just scraped the surface of a complex topic to which many bodies of literature, including those in areas of child development and psychology, could contribute.³⁹

Five main parent behaviours were observed in the 67 conferences that suggested some parents perceived themselves as having in some way contributed to the actions of their child. The behaviours included: offering apologies to victims; wanting to be personally involved in undertakings; 'defending' themselves by minimizing their proximity to

³⁸ Prichard, above n 4, 333.

³⁹ Les Whitbeck, 'Modelling Efficacy: the Effect of Perceived Parental Efficacy on the Self-Efficacy of Early Adolescents' (1987) 7(2) *Journal of Early Adolescence* 165.

the incident and emphasizing their child's culpability; and disclosing previous criminal behaviour by family members.

2.2.1 Offering apologies

In seven of the 67 conferences observed parents apologised, which is arguably clear evidence of a sense of personal responsibility amongst parents.⁴⁰ Moreover, no other supporter of a young offender offered any sort of apology in the 67 conferences observed – indicating the uniqueness of parent-child relationships. Four of the apologies were directed to the victims. Some were as simple as 'I'm sorry for what happened'. Others were more expressive: 'My heart goes out to you'. The remaining three apologies were more ambiguous and seemed to be directed towards the whole conference group. The facts of one conference suggested that the offender had devoted parents who were trying their best to deal with a wilful son. At the end of the conference the mother cast her eyes around the circle and said 'I'm sorry about all this'. It was difficult to understand the essence of the apology, whether it was an apology for not 'doing more' or simply an acknowledgment that she was responsible for her 12-year-old son's behaviour.

2.2.2 Seeking involvement in undertakings

The father who tentatively mentioned 'We're not bad people' committed himself to making a pushbike out of spare parts with his son. The bike was handed over to the victim a week later. The facilitator attended the exchange in an unofficial capacity. She stated that where considerable hostility had existed between the two families before the conference, when the bike was handed over the conversation went so well the whole group went to a swimming pool together. These incidents have been termed 'magnanimous undertakings'.⁴¹ Like apologies, these behaviours are also indicative of parents perceiving that they had some responsibility for the offence concerned. The magnanimous undertakings varied in form. Some took the form of insisting that the youth provide compensation to the victim when it was quite clear that the offender would have to rely on pocket money. In an arson case the father of one offender asked if he could provide and install a security system in the victims' new shop. A different father suggested that he and his son could sand and paint 45 pickets of a wooden fence that the youth had vandalised. In another conference the parent made a proposal to reimburse insurance companies for the damage caused.

⁴⁰ Prichard, above n 4; see also Marlene Levine, Aaron Eagle and Simi Tuiavi'i, above n 12; Gabrielle Maxwell and Allison Morris, *Family, Victims and Culture: Youth Justice in New Zealand* (1993).

⁴¹ Prichard, above n 4.

2.2.3 Defences: minimising personal blame or maximizing the child's blame

Defences occurred in 17 conferences. The most serious defences were open criticisms of children by parents. These were particularly worrying in terms of stigmatising the young offender as well as causing the conference to be unfair. In one conference the mother admitted to aiding and abetting her son's shoplifting, spoke about her difficulty with budgeting and indicated that she had a problem with alcohol. The mother and son appeared in a second conference. This time she denied having any knowledge of the offence despite the fact that the shop-owner victim stated that he saw her standing outside the store and that she appeared to be drinking alcohol. Knowing that only the police officer and the author knew of the previous conference, she maintained a high moral ground and expressed deep disappointment with her son's actions. The conference appeared to be a farce and dangerously stigmatising for the youth. In this case it seemed that because the mother was the youth's only supporter she could project herself as she wished.

Similarly a broader community of concern may have altered the context of a conference during which an intoxicated father stared and frowned accusingly at his son for the entire time that the two victims described the impact of his son's vandalism. The comments made by the father focused on his 11-year-old son's 'choices' and appeared to minimise the father's proximity to this aspect of his son's life. In contrast, the father was happy to point out that his son's athleticism mirrored his own as a youth.⁴² Other facts indicated that the boy's home life and daily routine were unstable, such as the irregular times at which he arrived at school. At the end of the conference the father gave his son five dollars to take a taxi home and mentioned that he would be home later in the evening.

Other criticisms that parents made of their children were more subtle. In seven other conferences parents mentioned that they did not 'get along with' their child. Some parents highlighted the difficulties they had faced in controlling the youth, for example 'I never know where he is – he stays with his friends half the time'. On eight separate occasions parents mentioned that their son or daughter had been diagnosed with one or more psychological disorders. Admittedly such diagnoses may be highly relevant to a conference and three of the parents broached the issue with sensitivity. However, other parents mentioned diagnoses, particularly attention deficit/hyperactivity disorder, with surprising frankness.

⁴² Reflecting on these observations, Richard Young (pers. comm., 14/09/2002) drew attention to an old saying; 'Success has many parents, but failure is an orphan'.

Possibly these parents are simply accustomed to discussing this information. Yet, it is suggested that in some instances diagnoses are presented by parents as, amongst other things, reasons why the offence committed by their child does not reflect upon themselves – a clinical explanation of their blamelessness. The danger of such ploys is that they may stigmatise the young person and rob them of the vital supportive bonds needed during the conference.

Conversely, when parents vehemently try to diminish their child's culpability they may be partly motivated by a desire to defend themselves.⁴³ Behaviours of this type were observed in 21 conferences. It was quite common for parents to assert that their daughter or son had fallen into a bad crowd and had been 'led on' and that the friends were more to blame. Interestingly, no parent pointed out that their child was the leader of a gang that had led others astray.

2.2.4 Disclosing previous criminal behaviour by family members

The final aspect of parental behaviour to consider in regards to 'parents as contributors'. On four separate occasions parents raised, of their own accord, the topic of their own criminal histories or the misdeeds of other members of their family. One grandmother mentioned that the only member of the family with a 'criminal record' was her husband who had committed a traffic offence in the 1960s. The purpose of this information seemed partly motivated by a desire to establish the law-abiding credentials of the family. Yet, other examples are not as easily explained. One father told the author before a conference that he had 'done a stint' in prison. Similarly, another father informed the conference group about work orders that he had once completed. And, in a conference held for the theft of two bottles of shampoo by a 13 year-old girl, the mother chatted about the \$1000 worth of confectionary that her intellectually disabled son had once stolen and mentioned how awful it had been visiting her husband in prison. 'He only went there for traffic offences, you know', she added. These intriguing responses could attract complex psychological theories. Why do these adults volunteer such personal information that seems removed and unrelated to often petty offences committed by their children? Perhaps, like some offenders, they are struggling with their ethical self-identity?⁴⁴ Whatever the motivation, the examples offer further evidence that parents feel intimately connected with the acts of their child and indeed the acts of their family, be they as victims or contributors.

⁴³ Prichard, above n 4.

⁴⁴ Ahmed et al, n 20.

3. Managing different parental behaviours: suggestions for practitioners

3.1 Assisting parents-as-victims

If restorative justice values fluidity in the categorisation of the participants, it should be accepted that (a) parents can be 'victims' of crime that are in need of healing, and (b) this need for healing should not be ignored even if parents simultaneously cast themselves as contributors to the offence. Some of the goals that restorative justice holds for victims were discussed above. The opportunity to understand why the offence occurred may be relevant to some parents, especially when the conference involves several offenders and parents are keen to hear a more rounded version of events than that offered by their child.

The other two restorative goals mentioned above are arguably very important for parents-as-victims. That is, the opportunity to *express* forgiveness, and, symbolic and tangible evidence that the offender and the community recognise their injury. Forgiveness by parents may have been underestimated in its importance in youth crime. Braithwaite and his colleagues draw attention to the work of Zhang and Zhang, a Chinese study that found parental forgiveness was a predictor of non-reconviction.⁴⁵ Other academics see the relevance of the finding in terms of avoiding the stigmatisation of the offender.⁴⁶ However, it might also be questioned whether the act of forgiveness benefited both the child and parents by repairing the damage done to their relationship. Or, for those parents who feel they are 'on trial', perhaps parental forgiveness during a conference is welcome evidence of the efficacy of their parenting abilities.

The scripts used by conference facilitators in Tasmania undoubtedly assisted recognition of parental injury. The scripts remind facilitators to ask the offender who they think were affected by their actions. If the youth did not mention their parents initially in the vast majority of cases the facilitators would ask 'What about mum [and/or] dad?'. Additionally, parents were routinely asked to describe the impact of the crime upon their life. Consequently there were a variety of ways in which the offender and the community gave recognition to parents' injury. As mentioned above, 19 conferences included an apology by the child to the parent. Mentioned also were two occasions when victims verbally 'vindicated' the parents. One of the most dramatic instances concerned

⁴⁵ Ibid.

⁴⁶ Ibid.

the mother referred to above who challenged the conference group 'You have no idea what we have been through'. The demeanour of one of the victims instantly changed from aggression directed at the youth to empathy for the crying mother, whom she escorted from the conference room. On several occasions victims drew the youth's attention to the impact that the offence had upon parents – 'look what your mum has been through'. Three times victims stated that they did not want compensation from the youth because it was obvious the real source of the money would be the parents. Yet, the wider restorative literature has not considered the importance of recognising parental injury for the sake of healing the parents.

3.2 Assisting parents-as-contributors

Described above were some of the central aims that restorative justice has for offenders: (a) the opportunity to apologise after learning the impact of the crime, (b) empowerment in helping to determine how the damage caused may be repaired, (c) responsibility in seeing these plans to fruition, and (d) the opportunity to receive support from friends and family. When parents feel partly accountable or cast as contributors to a crime, how can restorative justice offer them similar opportunities as are offered to offenders?

Perhaps the most necessary caveat upon the analysis that follows is that so much depended upon the perception of the parents themselves as to whether they 'contributed' to their child's crime. Links between the behaviour of some parents and their child's offence were sometimes irrefutable. For instance, discussed below is a case where a mother drove her son to a department store to steal. Long term neglect could also be viewed objectively as a 'contribution' to a young person's crime. Most often, however, it is impossible to attribute blame to a parent objectively – that is, from the view of an outsider. Whether the parents' contribution was clear or not, some parents may have felt a great deal of responsibility for their child's actions. Others may have been quite indifferent about the criminal actions of their daughter or son. The latter might be an unhelpful response to serious offences, but arguably an understandable standpoint for minor offences (especially if it is the first offence committed by their child).

In either case, it is suggested that parents should not be forced into any role during a conference – that is, obliged to apologise or to help out with undertakings for instance. This is so because it is not the parents that the criminal justice system is dealing with. More important, attempts to manipulate parents may easily be interpreted negatively. Lee's British

study of police cautioning noted parental dissatisfaction.⁴⁷ One father stated that the police treated him 'as if [I] was the one that committed the crime'.⁴⁸ Crossing boundaries into excessive direction or manipulation of parents may also be stigmatising in the sense of damaging their parental self-efficacy.⁴⁹

Importantly, the facilitators who run the conferences must be extremely careful about their interpretations of the emotions of all participants, including parents. Apparent disinterest on the part of parents may actually be driven by any number of factors, such as other worrying life matters that dwarf the significance of the youth's offence. Restorative justice practitioners need to be sensitive to parents' positions case-by-case and react to them appropriately in both conference preparation and during the conference itself.

Australian commentators have generally been wary of the autonomy of the young offenders being overtaken by competing interests when it comes to the determination of restorative undertakings. Parents have at times been grouped with other participants who cause a conference to take the appearance of a powerless youth in a room full of adults.⁵⁰ Whilst not discounting the issue of offender disempowerment, practitioners should be aware that at times both the youth and the parents may be quite comfortable with much of the conversation and 'negotiation' being conducted by the parent. This may represent the support, care and example that the youth wants, needs, or expects and in this sense strengthen the parent-child bonds.⁵¹ Being able to behave in this way may serve two purposes for parents: to 'make up for' their perceived contribution to the crime and replenish their parental self-efficacy in supporting their child in the way they think that they should.

In addition, parents should at least be given the opportunity to apologise to whosoever they wish in a conference. Notwithstanding the ambiguity of the apologies, truly restorative conferences must recognise the need that some parents may have to apologise as a part of their own healing process. Parental apologies are probably well accepted by victims too and may aid their restoration – an area for future research. Opportunities

⁴⁷ Maria Lee, 'Pre-Court Diversion and Youth Justice' in Lesley Noaks, Mike Maguire and Michael Levi (eds) *Contemporary Issues in Criminology* (1995).

⁴⁸ *Ibid* 319.

⁴⁹ Coleman and Karraker, above n 8; Prichard, above n 4.

⁵⁰ Kathy Daly et al, *South Australia Juvenile Justice (SAJJ) Research on Conferencing, Technical Report No. 1: Project Overview and Research Instruments* (1998).

⁵¹ See also Braithwaite, above n 1.

to apologise may subtly be provided at the end of conferences simply by giving all participants the chance for a final comment. In the same vein it may be completely restorative for all concerned if the parent is allowed to actually be involved in completing the undertakings with their daughter or son. Again, facilitators' astuteness and skill will determine where this is appropriate. Theoretically, restorative justice needs to accept the possibility that significant parental involvement in undertakings can be entirely restorative. Just as restorativists accept risks of re-victimisation and stigmatisation, so too should the risk of disempowerment of young people be weighed against the potential gains of parental involvement in undertakings.

Usually if an apology is offered, forgiveness is desired. It is logical to conclude that if some parents apologise to victims or whole conference groups that forgiveness – though not expected or demanded – would be valued by the parents. Forgiveness may be important to avoid damaging the confidence of those parents with a low parental self-efficacy. On two occasions when parents offered apologies, victims replied with comments that indicated that they did not consider the parent at fault at all. This is more a vindication than forgiveness, but probably was appreciated by the parents nevertheless. Certainly victims cannot be asked to forgive parents. Yet, just as forgiveness may occur symbolically between the victim and the offender, so too may symbolic forgiveness be possible for the parent. Being allowed by the victim to contribute in some way to the youth's undertakings may represent forgiveness for parents. Talking to the victim after the conference, sharing a hot drink, a handshake may all be valid means through which parents experience forgiveness.

3.3 Parents and 'significant others'

If restorative justice seeks to enlist the support of 'significant others' or a community of concern for an offender should the same interest be extended to parents? Certainly it has been argued that parents with low parental self-efficacy may very well need supporters for themselves as well as supporters for their children.⁵² Damaging parents' confidence or labelling parents as 'ineffective', 'inept' or 'neglectful' were some of the concerns raised. Further ramifications may include aggravating some of the factors initially related to the offender's crime.⁵³ Supporters, especially for parents with a wavering confidence in their own abilities, may be able to prevent or offset these occurrences. The best example of this concerned a single mother who openly stated that she did not have

⁵² Prichard, above n 4.

⁵³ See Maxwell and Morris, above n 35.

good relations with her 14 year-old son. Fortunately, the mother's sister had been invited to the conference as well. This woman ('older sister' and 'aunt') had strong bonds with both the mother and the son – in fact the youth often spent a lot of time at her house. Her strong and positive personality salvaged the conference and provided a much needed bridge between the parent and child. At different stages she made positive comments about both individuals and intimated that the friction between the mother and son would soon pass.

However, it cannot be assumed that the supporters of the youth make equally good supporters for parents. In fact, the supporters may not even know the parents – consider a netball coach or teacher. Thus, where practitioners detect in the preparatory stages to a conference that a parent is particularly nervous or apprehensive it may be beneficial to identify and invite someone who can offer the parent emotional support. In terms of theory, clearly the concept of the community concern needs to be expanded when the realities of parent-child dynamics are considered.

4. Remodelling restorative justice for parents

Restorative justice cannot treat parents as co-offenders and the case against shaming parents in conferences or forcing them to apologise has been clearly argued elsewhere.⁵⁴ However, sometimes parental behaviour is unfair to the extent that it impinges upon the restorativeness of a conference and exaggerates the culpability of the youth unfairly. How are parental behaviours that are unfair to the youth to be managed? There are no simple answers to this question. In some instances a large community of concern might mitigate against unfair treatment by parents. Wider family members might naturally speak of the home life and even reproach the parents indirectly. They may also defend the child – as did a participant witnessing a vicious parental attack in a conference observed by other researchers.⁵⁵ These types of strategies, rather than open confrontation, are ways in which parents can be faced with their responsibilities.

A further complexity for restorative theorists and practitioners is that many parental defences are legitimate and helpful in the conference. Some are helpful because they identify genuine problems that the youth and his or her family are facing. Alternatively they may serve as signals

⁵⁴ Prichard, above n 4.

⁵⁵ John Braithwaite and Steven Mugford 'Conditions of Successful Reintegration Ceremonies: Dealing with Juvenile Offenders' (1994) 34 *British Journal of Criminology* 139.

to the conference participants that the offensive behaviour by the child was an aberration, such as descriptions of the progress of other children in the family or positive statements about the offender's school performance. Other than the fact that such information may be important to victims,⁵⁶ the comments may help the parents to maintain their parental self-efficacy during the conference.

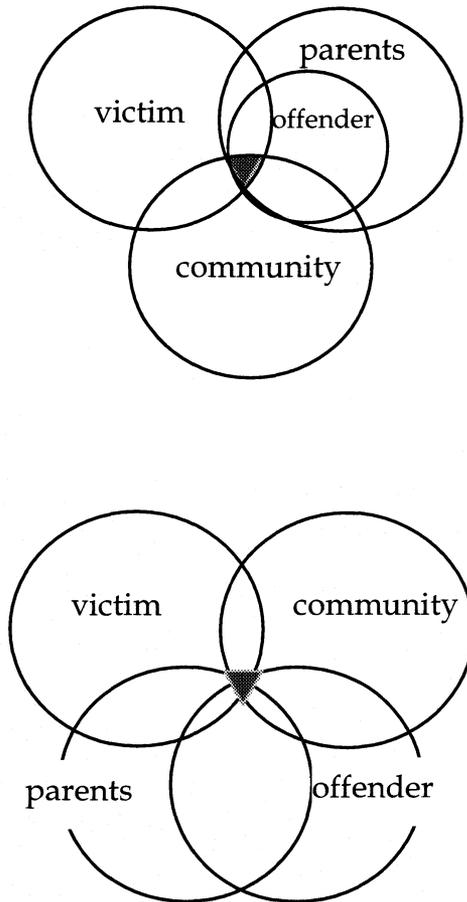
This paper has argued that the special nature of parent-child dynamics means that some of the same goals which restorative justice holds for victims and offenders should apply also to parents. This so because parents often relate so closely to the offender – with whom their lives are intertwined emotionally and practically – that they may identify themselves with the actions of their child and classify themselves as a 'contributor'. In other instances parents may identify themselves as a 'victim' of their child's offence. Frequently parents will fall into both categories in the same restorative conference, a phenomena which has been termed the contributor-victim paradox.

How is restorative theory to adapt to this? By recognising parents – in juvenile crime at least – as a unique party to the resolution of crime that have a unique relationship with the offender. If theory must move beyond conceptualising the major parties of restorative justice as the victim, offender, and the community it is worth reviewing the Bazemore's model⁵⁷ that was presented above in Figure 1. Two slightly different models are presented below for discussion in Figure 2.

⁵⁶ Maxwell and Morris, above n 35.

⁵⁷ Bazemore, above n 22.

Figure 2 Alternative models for the interaction of victims, offenders, parents, and communities in restorative justice.



The model on the top is probably more applicable to very young offenders – those who might be considered to be children rather than adolescents. Notwithstanding individual differences in maturation mean, that age is not determinative of when this model may apply. The key aspect of the top model is the heavy reliance of the offender upon the parents and their mutual wish to deal with the aftermath of the crime almost as one unit. The parents nonetheless share more in common with the victim than does the offender. There is also ground between the victim and the parents that the offender does not share at all, symbolising the parents' victimhood.

Yet some would be uncomfortable with the lack of personal identity that is represented for the offender in the top model. Thus the bottom model emphasises the offender's autonomy and individuality as well as their ability to interact with victims and the community in their own right. The bottom model is more applicable to older or more mature youths. In this sense the models are also drawing the decreasing responsibility of parents with the increasing age of children. Another interpretation of the models is differences not in the age of the offender but differences in the strength of the bond between parent and child. The top model perhaps captures something of strong, loving relationships where the offender identifies very closely with the parent. In comparison, the bottom model indicates that – whether loving or not – (a) the youth does not identify closely with the parents, or (b) the parents do not feel partly responsible for the actions of their child. In any event neither model is intended to be exact, but rather to encapsulate a concept.

5. Conclusion

This article has endeavoured to add a new dimension to our understanding of the 'collective emotional dynamics' that 'research literature on restorative justice has not risen to the challenge of capturing'.⁵⁸ The focus has been the symbiotic relationships that exist between young offenders and their parents. These relationships have been more closely analysed in other fields, including psychology.⁵⁹ Various behaviours observed in youth conferences indicate that, in a unique sense, parents may feel they have contributed to the criminal actions of their child whilst simultaneously being viewed as victims of those actions. Acknowledging the contributor-victim paradox alters what restorative theory and practice conceive as appropriate behaviour for parents in conferences. Being aware of parents' emotional vulnerabilities may also help to avoid the stigmatisation of parents. However, perhaps most importantly, responding to the emotional needs of parents will ensure that restorative justice is more fully dealing with the aftermath of crime.

⁵⁸ Ahmed et al, n 20, 59.

⁵⁹ Coleman and Karraker, above n 8.