



mediating the human impact of crime

# TO SCRIPT OR NOT TO SCRIPT?

**THAT IS THE QUESTION –  
OR IS IT?**



**SCRIPT : NOUN**

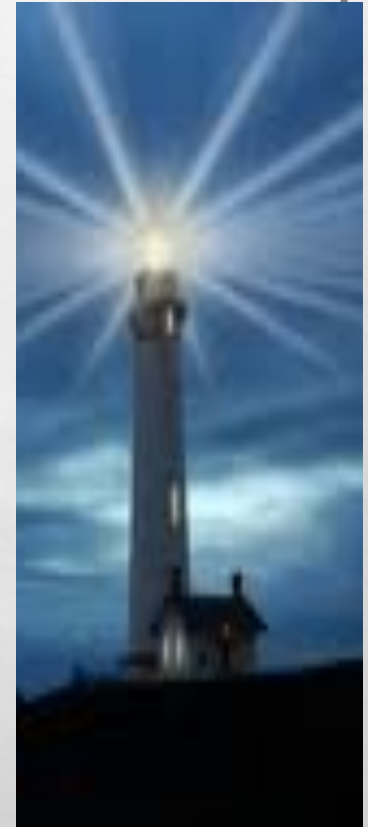
**AN AUTOMATED SERIES OF  
INSTRUCTIONS CARRIED OUT  
IN A SPECIFIC ORDER.**

**[OXFORD DICTIONARY OF ENGLISH, OUP,  
2010]**



# THIS PRESENTATION WILL DISCUSS

- **WHAT ARE THE CONTEXTS IN WHICH USING MEDIATION SKILLS AND PROCESSES ARE BENEFICIAL TO RESTORATIVE PROCESSES**
- **WHAT SPECIFICALLY ARE THESE SKILLS? HOW ARE THEY SIMILAR OR DIFFERENT TO THOSE WE USE IN A RESTORATIVE PROCESS**
- **WHAT IS REFRAMING? WHEN SHOULD WE USE IT AND WHEN SHOULD WE NOT?**



**HOW WOULD YOU  
DEFINE RESTORATIVE  
PRACTICE?**



# RESTORATIVE JUSTICE

**“RESTORATIVE JUSTICE IS NOT SIMPLY A WAY OF REFORMING THE CRIMINAL JUSTICE SYSTEM, IT IS A WAY OF TRANSFORMING THE ENTIRE LEGAL SYSTEM, FAMILY LIVES, OUR CONDUCT IN THE WORK PLACE, OUR PRACTICE OF POLITICS. ITS VISION IS OF A HOLISTIC WAY OF DOING JUSTICE IN THE WORLD”**



**BRAITHWAITE (2002)**

# RESTORATIVE PRACTICES

- **“RESTORATIVE PRACTICES ARE A FRAMEWORK FOR BUILDING COMMUNITY AND FOR RESPONDING TO CHALLENGING BEHAVIOR THROUGH AUTHENTIC DIALOGUE, COMING TO UNDERSTANDING, AND MAKING THINGS RIGHT.”**
- **IIRP RESTORATIVE PRACTICES FOR TEACHERS**

# WHAT'S MEDIATION?

**“MEDIATION IS A VOLUNTARY, CONFIDENTIAL PROCESS THAT ALLOWS TWO OR MORE DISPUTING PARTIES TO RESOLVE THEIR CONFLICT IN A MUTUALLY AGREEABLE WAY WITH THE HELP OF A NEUTRAL THIRD PARTY, A MEDIATOR.”**



**Stein, M. & Ernst, D. 1997**

# MEDIATION



**Mediation is a search for the invisible bridge that connects every living being with every other. .... It is an opening through which we are able to glimpse the other, naked and divine... It is a fierce, life-and-death struggle of each person with himself or herself. It is a design for creating a different future. It is a gentle, responsive exploration of the space between us. It is a breach in the myth of what we know to be true, leading to transformation and transcendence.”**

**(BOWLING AND HOFFMAN, 2003: 50-51)**



# WHAT IS THE **VALUE** OF USING A SCRIPTED PROCESS?



# WHAT ARE THE **LIMITATIONS** OF USING A SCRIPTED PROCESS?

# RESTORATIVE JUSTICE AND MEDIATION VALUES AND PRINCIPLES

- **RESPECT**
- **HONESTY**
- **FAIRNESS**
- **HUMILITY**
- COMPASSION**
- **EMPATHY**
- **CONNECTION**
- **BUILDING  
RELATIONSHIPS**
- **WILLINGNESS TO  
CHALLENGE**

**THE MEDIATION PROCESS**  
**INTRODUCTIONS, ENGAGING**  
**GROUND RULES**  
**UNINTERRUPTED TIME**  
**STORYTELLING**  
**UNEARTHING THE ISSUES**  
**OPTION DEVELOPMENT**  
**AGREEMENT**  
**CLOSURE**

# ESSENTIAL MEDIATION SKILLS

- **LISTENING**
- **ACKNOWLEDGING, AFFIRMING, BUILDING RAPPORT**
- **SUMMARISING AND PARAPHRASING**
- **REFRAMING**
- **GETTING FROM POSITIONS TO INTERESTS AND NEEDS**
- **USING POWERFUL QUESTIONS**
- **BEING OPEN AND CURIOUS**

**WHAT DO YOU THINK ABOUT USING THESE IN RESTORATIVE PRACTICE?**

# REFRAMING

**CHANGING PERSPECTIVE - WIDER OR NARROWER**

**FROM CHALLENGES TO POSSIBILITIES**

**FROM TOXIC TO CLEAN**

**FROM BLAMING TO UNDERSTANDING**

**FROM PROBLEM FOCUS TO SOLUTION FOCUS**



# EMPATHY

**EMPATHY IS LETTING SOMEONE ELSE KNOW THAT YOU UNDERSTAND WHAT THEY ARE EXPRESSING AND HOW THEY FEEL ABOUT WHAT THEY ARE SAYING.**



# EMPATHIC LISTENING

**REFLECT CONTENT BY A SHORT, RE-STATEMENT OR PARAPHRASING OF THE ESSENCE OF WHAT THE PARTY HAS ACTUALLY SAID, INCLUDING THE EMOTIONAL CONTENT.**

***“NEARLY TWO MORE YEARS BEFORE YOU’VE PAID FOR THE DAMAGE?  
HONESTLY I COULDN’T WAIT TO GET PAYMENT FROM YOU UNTIL THEN. I  
NEED THE MONEY NOW. I WON’T ACCEPT ANYTHING ELSE”***

***“I’M NOT GOING TO TELL YOU ANYTHING, I DIDN’T WANT TO COME HERE, I’M  
ONLY HERE TO SEE WHAT HAPPENS”***

# POWERFUL QUESTIONS

- **OPEN-ENDED, TIMELY AND STRATEGICALLY CONSIDERED.**
- **INCREASE INSIGHTS**
- **MOTIVATE AND INSPIRE**
- **PLANT SEEDS**
- **TRANSFORM PERCEPTIONS**
- **UNCOVER OTHER PERSPECTIVES**
- **GET TO UNDERLYING MOTIVATION**
- **BE CHALLENGING TO ANSWER**
- **MOVE PEOPLE FORWARD AND IN DIFFERENT DIRECTIONS**
- **PROMOTE DEEPER THINKING AND AWARENESS**
-



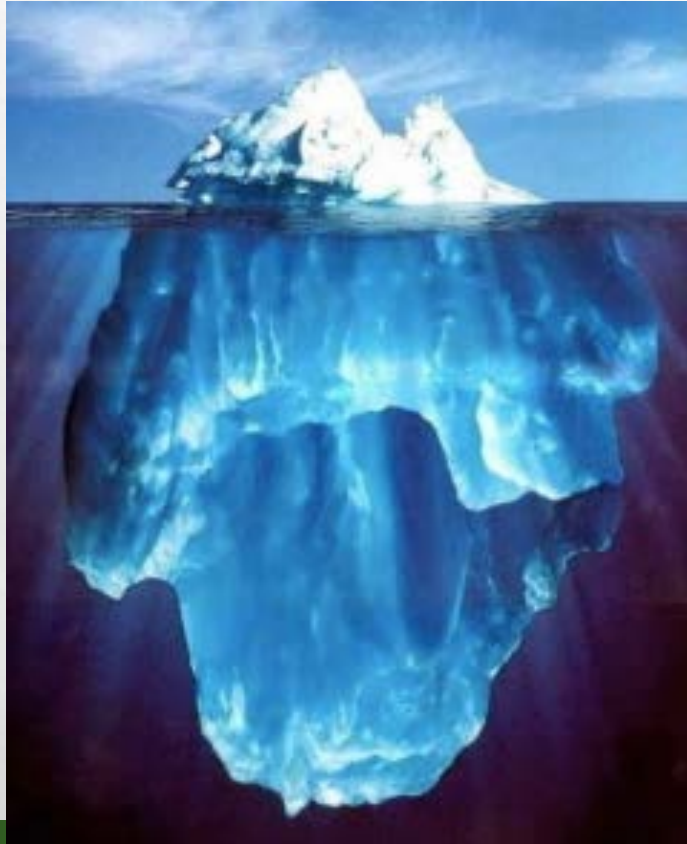
# ABOVE THE WATER LINE



**WHAT PEOPLE SAY INITIALLY**

**VIEWS FIRMLY HELD AND POSITIONS HELD**

# BELOW THE WATERLINE



**POSITIONS**

**INTERESTS**

**BELIEFS / ASSUMPTIONS**

**NEEDS**

**VALUES**

# REFRAMING

**Changing the conversation from positions to a person's needs is a very valuable reframe**



**WHAT WOULD THE  
DIFFERENCE BE IF THE  
QUESTIONS WERE A  
GUIDE RATHER THAN A  
'SCRIPT'?**



# SOME OF THE MOST FAMOUS LINES IN FILM HISTORY WERE UNSCRIPTED

**“IN ITALY FOR THIRTY YEARS UNDER THE BORGHIAS THEY HAD WARFARE, MURDER AND BLOODSHED BUT THEY PRODUCED MICHAELANGELO, LEONARDO DA VINCI AND THE RENAISSANCE. IN SWITZERLAND THEY HAD BROTHERLY LOVE, FIVE HUNDRED YEARS OF DEMOCRACY AND PEACE AND WHAT DID THAT PRODUCE? THE CUCKOO CLOCK.”**

**ORSON WELLES, *THE THIRD MAN*, 1949**



searchID: csam26

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