Building a Global Alliance for Restorative Practices and Family Empowerment
5th IIRP Conference

6th August 2004

'Why the Real Justice Script?'

Terry O'Connell

Overview of Presentation

- The Script

- Brief History

- The 'Socratic' nature of the script

- Rationale for the script questions and protocols

- Restorative explanation

- Social Discipline Window & Fair Process Linkages

- Sociological explanation - Braithwaite's Reintegrative Shaming

- Psychological explanation - Silvan Tomkin's Theory

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The Script

RESTORATIVE PRACTICE FACILITATOR GUIDE

Step 1

Welcome and Introduction:
"Hello, as you know my name is .... and I have been asked to facilitate this meeting. *(Introduce participants if this is necessary)*. I have spoken to all of you about the incident *(briefly describe what happened)*.
.... (perpetrator's name) has admitted his/her part. I will now invite you all to talk about how you and other people may have been hurt *(or affected)* by what happened. This will help us to understand what is needed to make things right.

Step 2

Start with perpetrator/s:
"I would like to start with ....
Could you tell us what happened and what was your part?
What happened then?
At the time, what were you thinking about?
What have you thought about since?
In what way has .... (victim's name) and others been hurt or affected by what you did?

Step 3

In turn, invite (i) victim/s (ii) their family or support people (iii) the perpetrator's family or support people to speak:
.... (victim's name) what did you think when you realised what ....
(perpetrator's name) had done?
How has this incident affected you?
What has been the hardest thing for you?

Step 4

Go back to perpetrator/s:
"You have just heard how .... (victim's name) and others have been affected by what you did. Is there anything you want to say at this moment?"

Step 5

Return to victim/s:
"............. (victim's name), what do you think needs to happen to make things right?"

Step 6

Return to perpetrator/s:
"............. (perpetrator's name), what do you think of what .... (victim's name) suggested? What do you think you need to do?"

Step 7

Return to the victim/s:
"Is there anything else you think will help make things right?"

Step 8

Return to perpetrator/s:
"What have you learned from our meeting?"

Step 9

Final invitation to speak:
"Before I close the meeting, does anyone have anything further they need to say or to share."

Step 10

Closing The Meeting:
"Thank you for participating in this meeting. I hope our time together has helped make things right again."

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History - Script Origin

History

- Wagga Wagga 1991
- Question of best contribution as a facilitator
- Purpose of process was to:

  Understand what had happened?

  How people had been affected?

  What was needed to make things right?

- Facilitator role analogous to a boundary umpire in Australian Rules - only involved when ball goes out.

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The Socratic Nature of the Script

Socratic Style

- What do you notice about the script's structure?

- What do you is meant by a 'Socratic' style?

- What are the benefits of simply asking questions?

The Script Questions
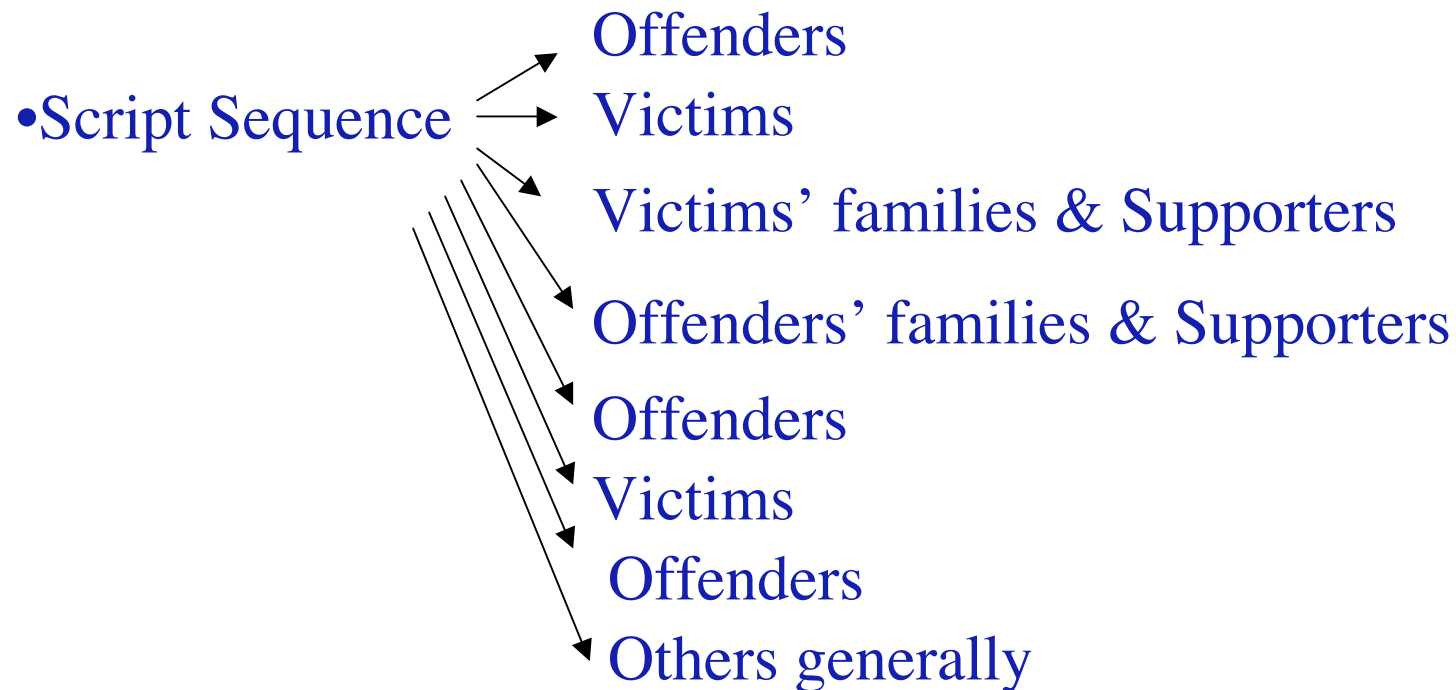
Rationale For Offender Questions

- What happened?

- What were you thinking at the time?

- What have you thought about since?

- Who has been affected by what you did?

- In what way?

- What do you think you need to do to make things right?

Rationale For Victim Questions

- What did you think when you realised what had happened?

- What impact has this incident had on you and others?

- What has been the hardest thing for you?

- What do you think needs to happen to make things right?

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Script Protocols

Rationale For Script Protocols

•Script Sequence

- Offenders
- Victims
- Victims' families & Supporters
- Offenders' families & Supporters
- Offenders
- Victims
- Offenders
- Others generally

Restorative Explanation

BASIC TENETS OF RESTORATIVE JUSTICE (PRACTICE)

"Harm and Relationships"

Adversarial (Blame) approach:

"what happened, who is to blame,what punishment or sanction is needed?"

Restorative approach:
"what happened, what harm has resulted and what needs to happen to make things right?"

Adversarial   Restorative

Adversarial	Restorative
Focus is in the past	Focus in past, present & future
Preoccupied with blame	Emphasis on resulting harm
Deterrence linked to punishment	Deterrence linked to relationships and personal accountability

Restorative Questions

Past

- **What happened?**
- **What were you thinking at the time?**
- **What have you thought about since?**

Present

- **Who has been affected by what you did?**
- **In what way?**

Future

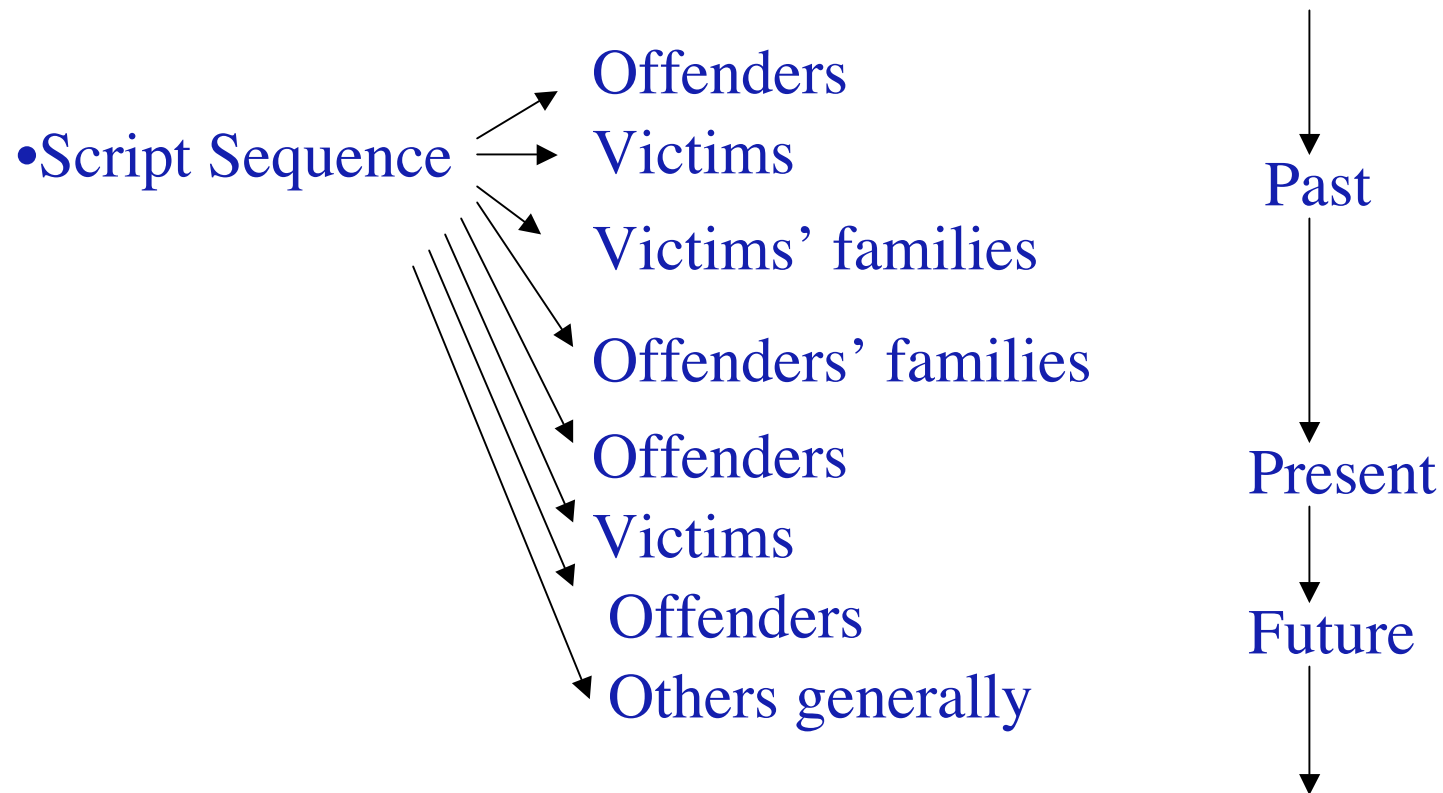- **What do you think you need to do to make things right?**

Theme: Identifying the harm and to whom

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Supplementary Restorative Questions

Past
- What did you think when you realised what had happened?

- What impact has this incident had on you and others?

Present
- What has been the hardest thing for you?

Future
- What do you think needs to happen to make things right?

Theme: Identifying the harm and to whom

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Restorative Protocols

•Script Sequence

Offenders
Victims
Victims' families

Offenders' families

Offenders
Victims
Offenders
Others generally

Past

Present

Future

Social Discipline & Fair Process Linkages

Fair Process
The Central Idea...

'….individuals are most likely to trust and co-operate freely with systems - whether they themselves win or lose by those systems - when fair process is observed.'

Kim & Mauborgne, Harvard Business Review, July – August 1997

Fair Process

Principle 1

Engagement:

Involving offenders/victims and their families in decisions that affect them, by asking for their input so they can tell their story.

Kim & Mauborgne, Harvard Business Review, July – August 1997

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Fair Process

Principle 2

Explanation :

Everyone involved and affected should understand why final decisions are made as they are. Creates a powerful feedback loop that enhances learning.

Kim & Mauborgne, Harvard Business Review, July – August 1997

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Fair Process

Principle 3

Expectation Clarity:

Once decisions are made, new rules are clearly stated, so that offenders/victims and their families understand the new standards and penalties/sanctions for failure to honour undertakings.

OPERATING DOMAINS

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	Story Understanding Shared Expectations
TO	**Fair Process**
NOT	**FOR**

Firm
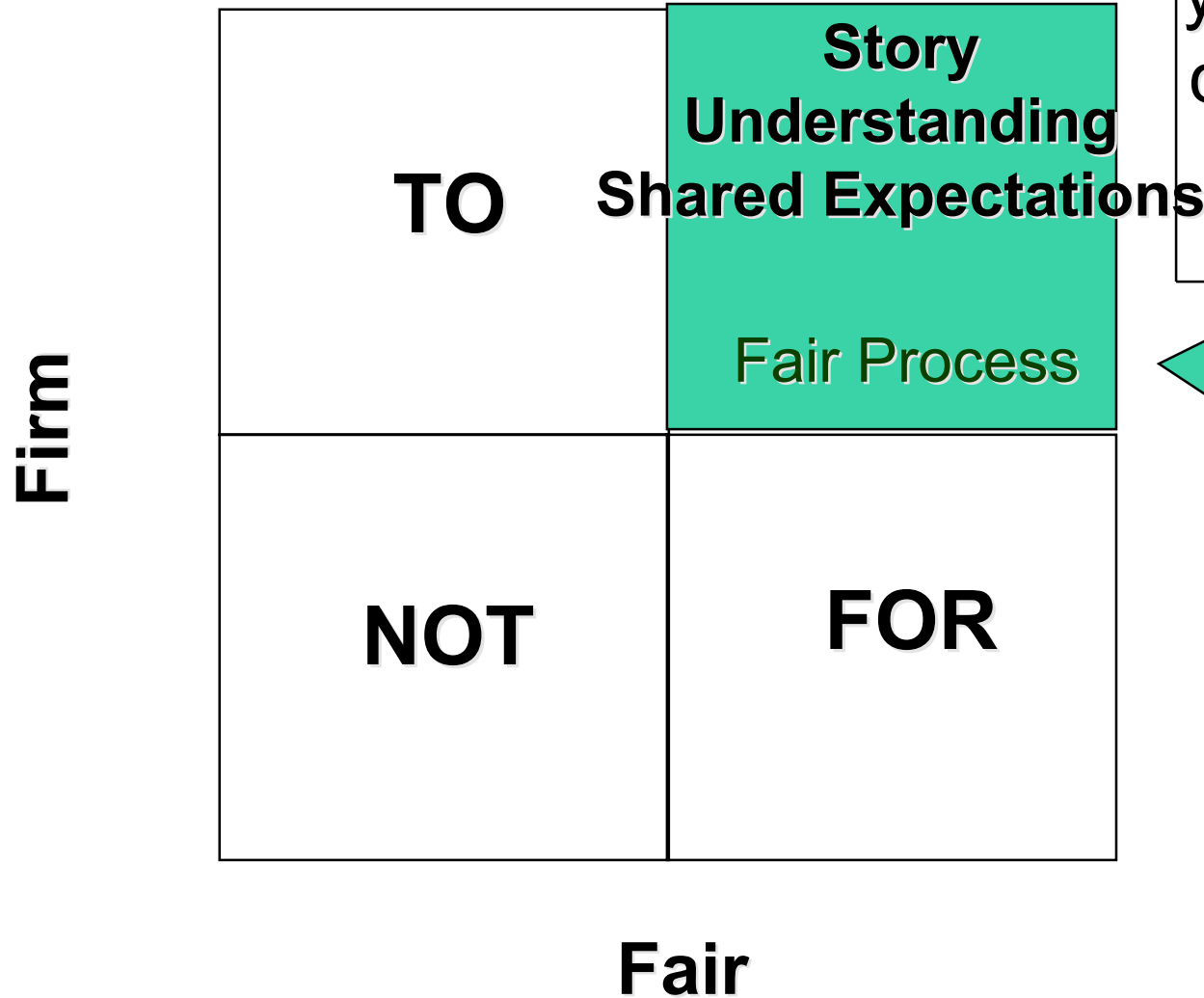
Fair

How can you practice consistently in this domain?
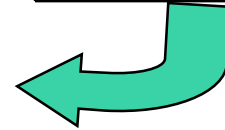
Restorative Questions

When challenging behaviour, why would the following questions consistently achieve 'fair process'?:

- **What happened?**
- **What were you thinking at the time?**
- **What have you thought about since?**
- **Who has been affected by what you did?**
- **In what way?**
- **What do you think you need to do to make things right?**

Supplementary Restorative Questions

Why would these questions assist, those _harmed_ by other's actions, experience 'fair process?':

- **What did you think when you realised what had happened?**
- **What impact has this incident had on you and others?**
- **What has been the hardest thing for you?**
- **What do you think needs to happen to make things right?**

Sociological Explanation
John Braithwaite's Reintegrative Shaming Theory

Reintegrative Shaming

John Braithwaite suggest shame is innate, and is experienced in two ways:

Internal
- Socialisation
- Ability to decide between right & wrong
- Conscience

External
- Through sanctions or condemnation from family or significant others.

Braithwaite's Hypothesis

'Where individual wrong doers are confronted (SHAMED) within a continuum of respect and support, then a process of REINTEGRATION can begin'.
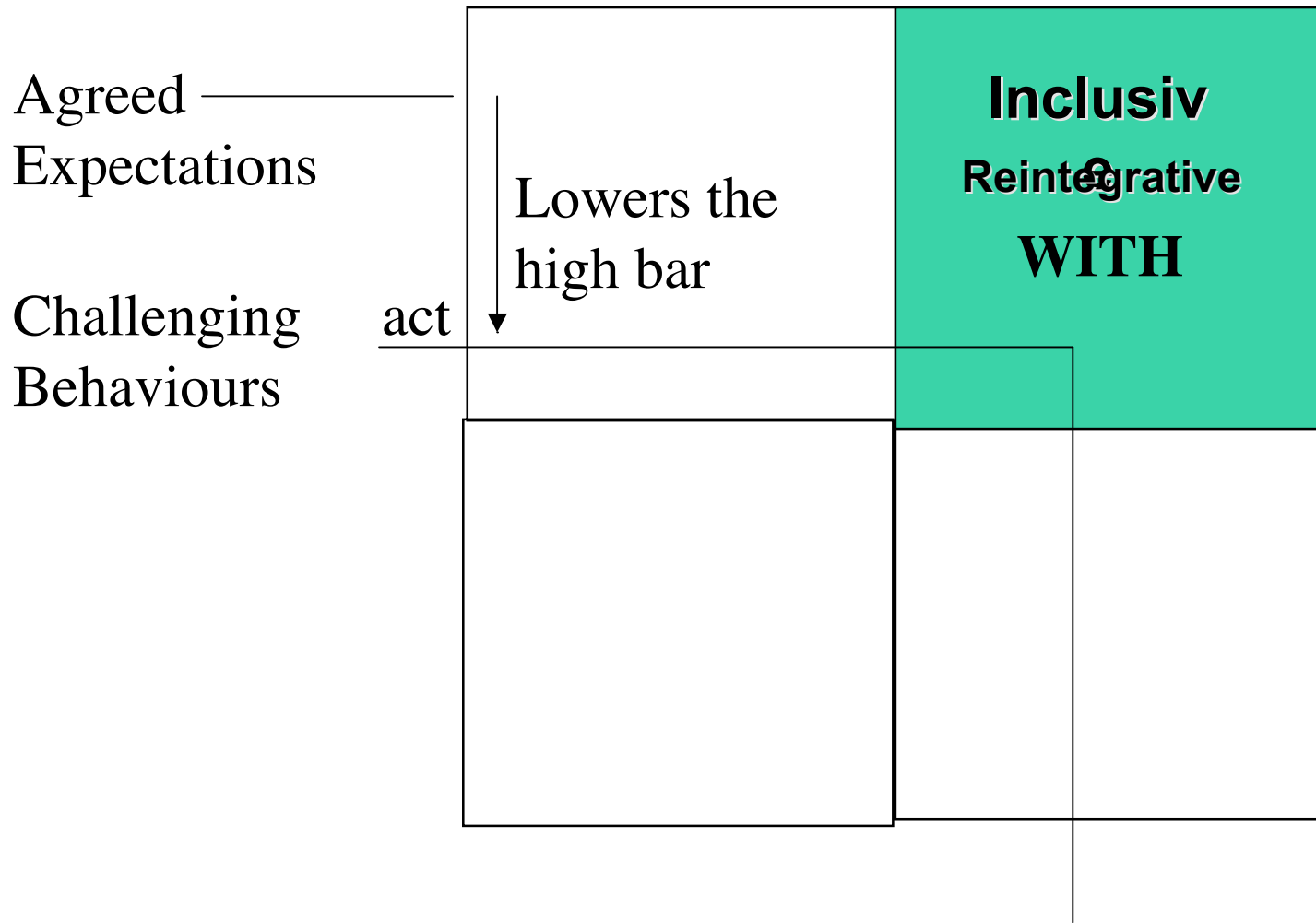
Braithwaite's Hypothesis

ALLOWS:
The act (unacceptable behaviours) to
be rejected because they failed to
reach expectations or standards

WHILST:
Acknowledging the intrinsic worth of the
person and their potential contribution to
society.

"Hate the sin, love the sinner"

REAL JUSTICE

A REINTEGRATIVE APPROACH

Agreed
Expectations

Challenging
Behaviours

act

Lowers the
high bar

Inclusive

Reintegrative

WITH

Treating The Person With Respect

Braithwaite's Theory and Script Protocols

Two Communities

• Script Sequence → Offenders

Victims

Victims' families

Offenders' families   Maximise Shame

Offenders

Victims

Offenders

Others generally   Reintegration

(One Community)

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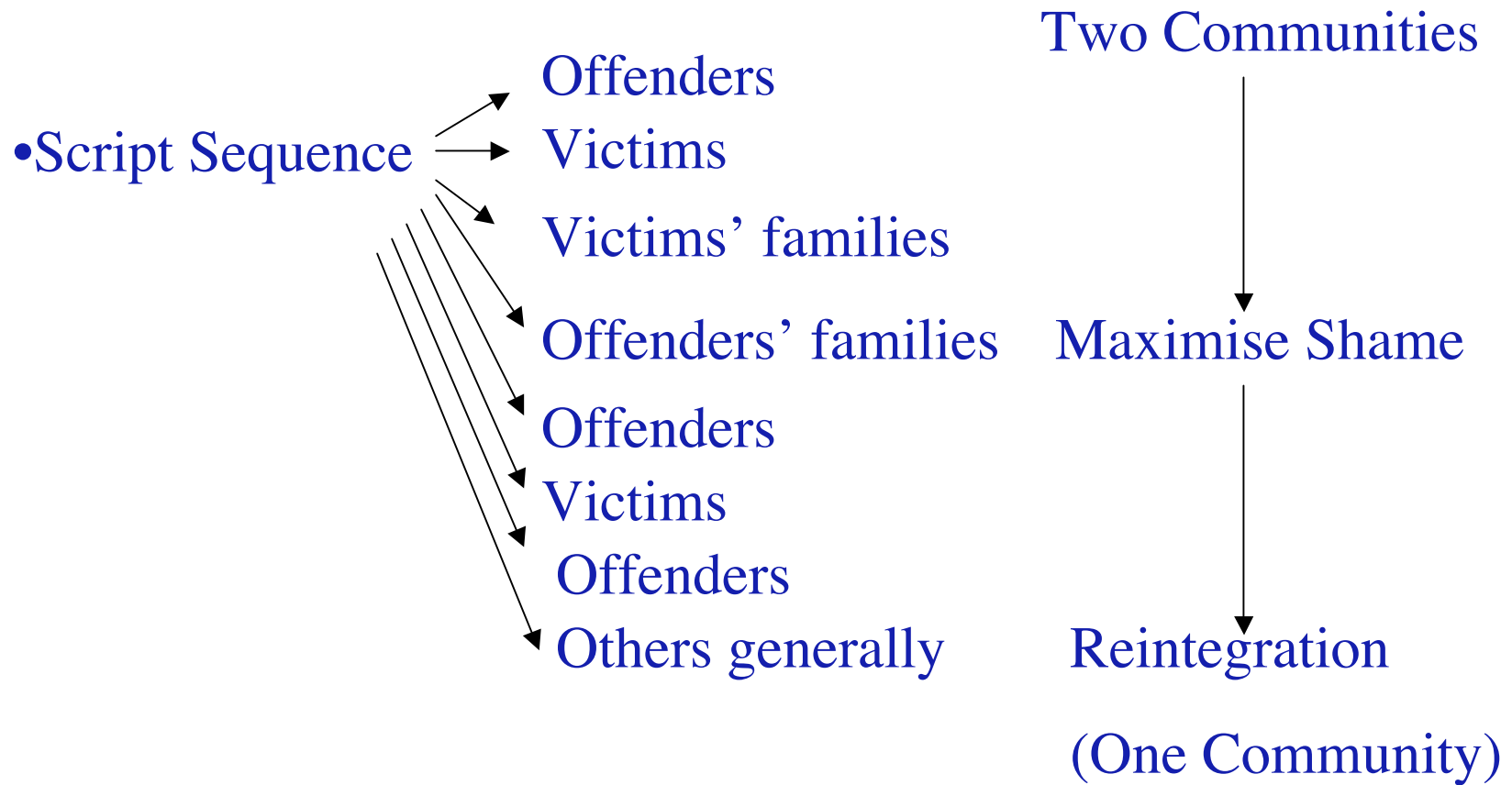
Psychological Explanation
Silvan Tomkins Psychology of Affects

Psychology of Affects

Tomkins' Blueprint :

- We are 'wired' to want to increase positive affect, and;

- Decrease negative affect;

- We live best when we can accomplish these two goals;

- Anything that increases our power to do this favours life.

NATHANSON 1992

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Psychology of Affects

POSITIVE AFFECTS

- Interest - Excitement

- Enjoyment - Joy

  - Make us feel good about ourselves

  - Operate the great feeling associated with: entire range of interesting events.

  - Pleasant (but different) situations where we feel:

    - CONTENT

    - HAPPY

    - JOYOUS

NATHANSON 1992

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Psychology of Affects

NEUTRAL AFFECTS

Surprise - Startle

- Acts as reset mechanism

- Detaches us from whatever we had been thinking

- Gets us ready to focus on whatever comes next
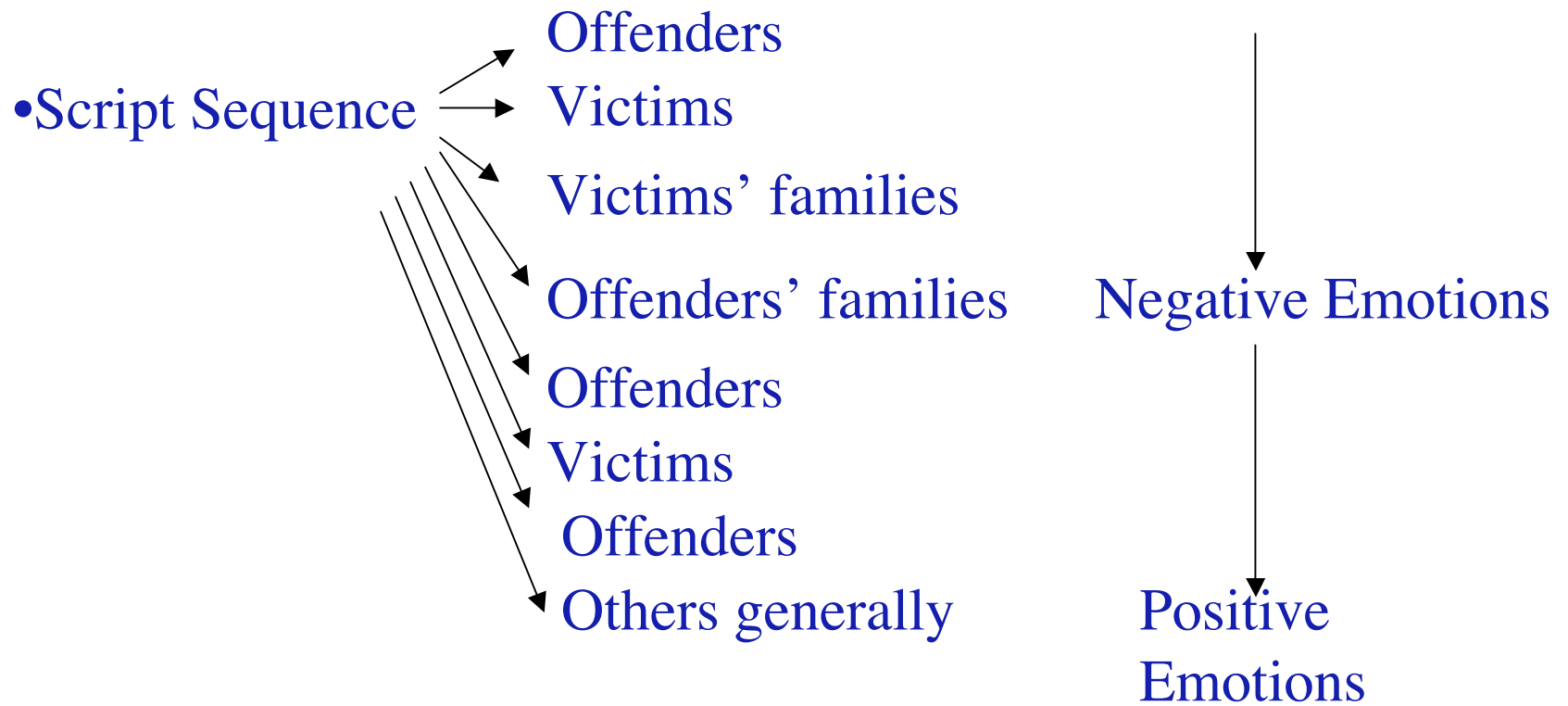
NATHANSON 1992

Psychology of Affects

NEGATIVE AFFECTS

- Distress - Anguish

- Disgust
- Dissmell
- Anger - Rage
- Fear - Terror
- Shame - Humiliation

NATHANSON 1992

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GOOD RELATIONSHIPS
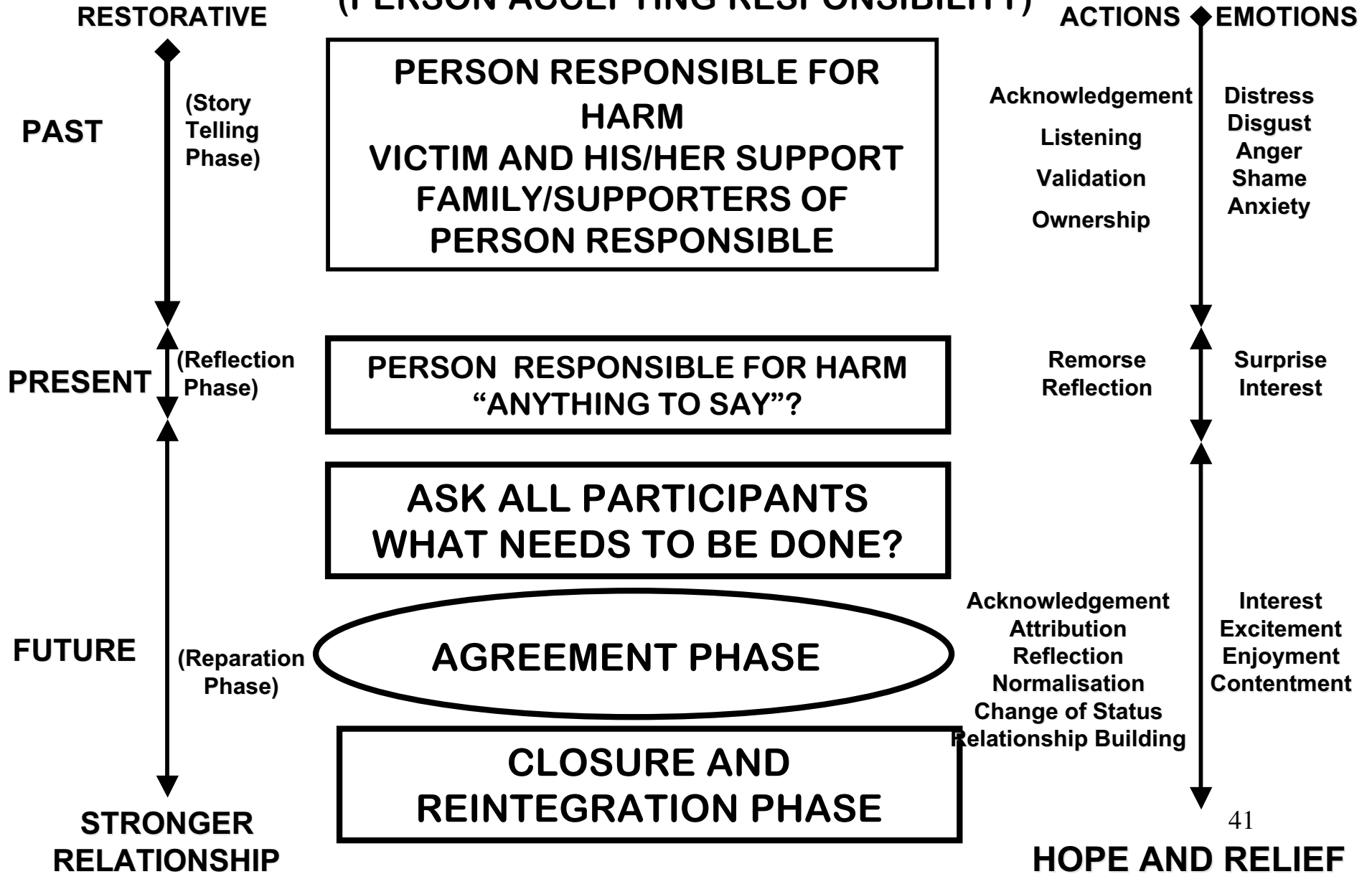
ARE EXPERIENCED WHEN WE:

1. Share and reduce negative emotions (*best achieved by listening and acknowledging*)

2. Share and promote positive emotions (*achieved by affirming*)

3. Encouraging the venting of emotions as a way of experiencing 1 & 2.

4. Doing more of 1, 2 and 3 (*essential for building and maintaining good relationships*).
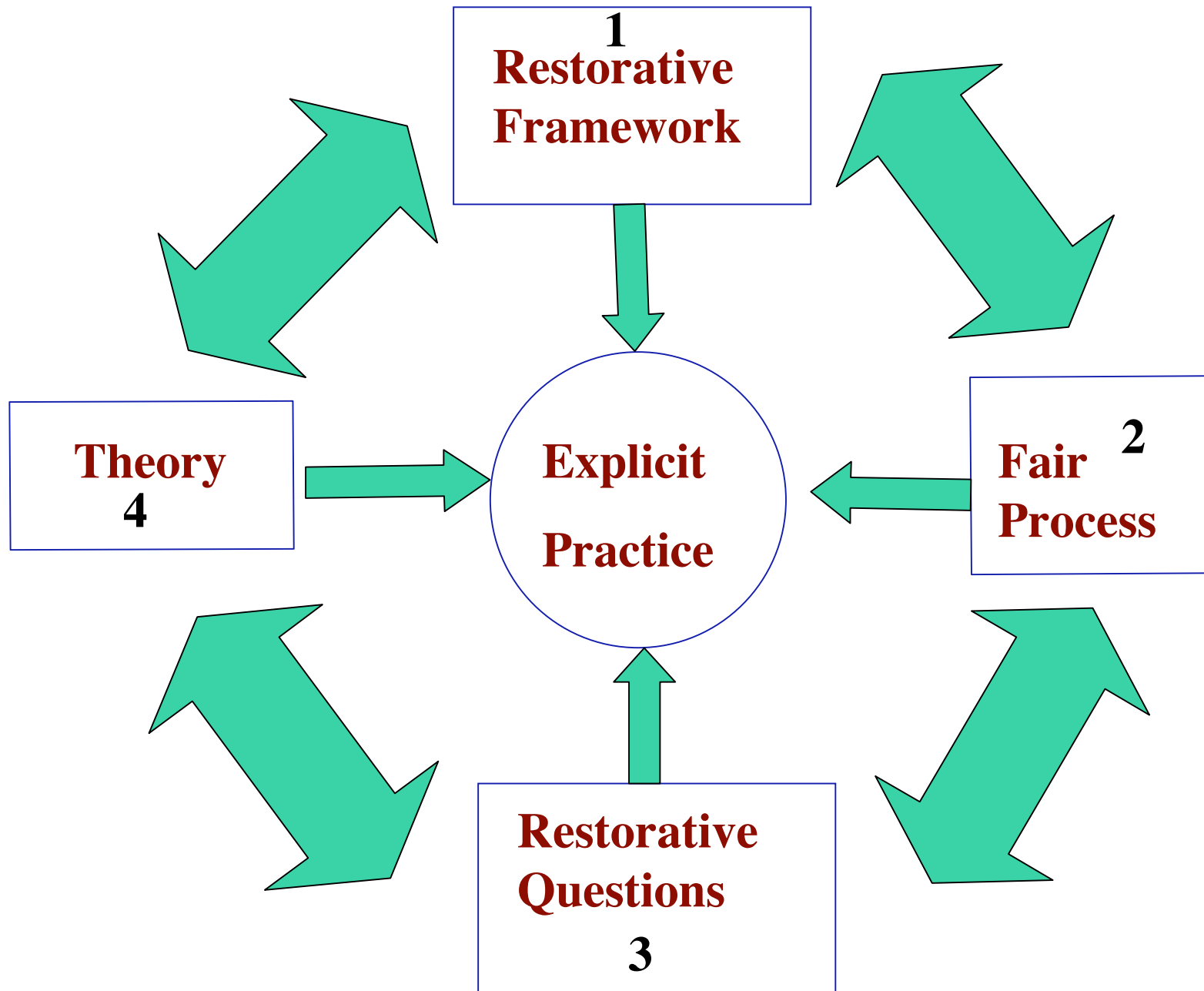
Nathanson 1992

Psychology of Affects and Script Protocols

•Script Sequence

Offenders

Victims

Victims' families

Offenders' families   Negative Emotions

Offenders

Victims

Offenders

Others generally   Positive
Emotions

CONFERENCE   FRAMEWORK
(PERSON ACCEPTING RESPONSIBILITY)

RESTORATIVE

ACTIONS ◆EMOTIONS

PAST

(Story Telling Phase)

PERSON RESPONSIBLE FOR HARM
VICTIM AND HIS/HER SUPPORT
FAMILY/SUPPORTERS OF
PERSON RESPONSIBLE

Acknowledgement

Listening

Validation

Ownership

Distress
Disgust
Anger
Shame
Anxiety

PRESENT

(Reflection Phase)

PERSON RESPONSIBLE FOR HARM
"ANYTHING TO SAY"?

Remorse
Reflection

Surprise
Interest

ASK ALL PARTICIPANTS
WHAT NEEDS TO BE DONE?

FUTURE

(Reparation Phase)

AGREEMENT PHASE

Acknowledgement
Attribution
Reflection
Normalisation
Change of Status
Relationship Building

Interest
Excitement
Enjoyment
Contentment

CLOSURE AND
REINTEGRATION PHASE

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STRONGER
RELATIONSHIP

HOPE AND RELIEF

Linking Practice, Theory & Values

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Restorative Framework

Theory
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Explicit Practice

Fair Process 2

Restorative Questions 3

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P.A.C.C.O.A.
ALICE SPRINGS CONVENTION CENTRE

21st July 2004

'Challenge, engagement and understanding: A Restorative Practice approach to building community connections with Indigenous offenders.'

Terry O'Connell

Australian Director, Real Justice

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Key Restorative Practice Elements

1. Understanding the client group.

2. Client engagement.

3. Client capacity building.

4. Reflective collegiate practice.

Assist Clients to Build Capacity

This is achieved through:

•Narrative - client story telling.

•Reflection - using the restorative questions.

•Feedback - involves explaining your practice rationale to help clients to better understand their own behaviour e.g. compass of shame.

•Future action - assisting clients identify 'the way forward' including ways of widening their 'community net'.

•Clarifying expectations including reporting responsibilities.

Reflective Practice

This is critical to developing strong collegiate dialogue and consistent practice.

Developing a Restorative Practice Style

As practitioners, what are some of the ways you might begin to:

- Grow your own restorative experiences?

- Integrate restorative practice into your programs?

- Involve (and teach) your clients about restorative practice?

Developing a Broad Restorative Practice Multi-Agency Culture

As an agency, what are some of the ways you might begin to:

•Share the experience with your clients' families?

•Encourage counsellors and other service providers to embrace restorative practice?

Developing a Restorative Practice Organisational Culture

What would a restorative culture look like in your organisation?

How do you begin to develop a restorative culture?

What are those existing features (attributes) in your organisation which would support this happening?

What impediments will need to be overcome?