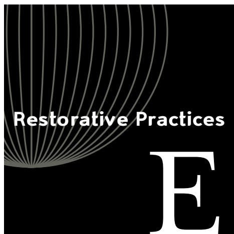
October 31 2008 www.iirp.org



Restorative Practices EFORUM

Restorative Justice Pioneer Honored: His Graduation Address at Australian Catholic University, October 2008

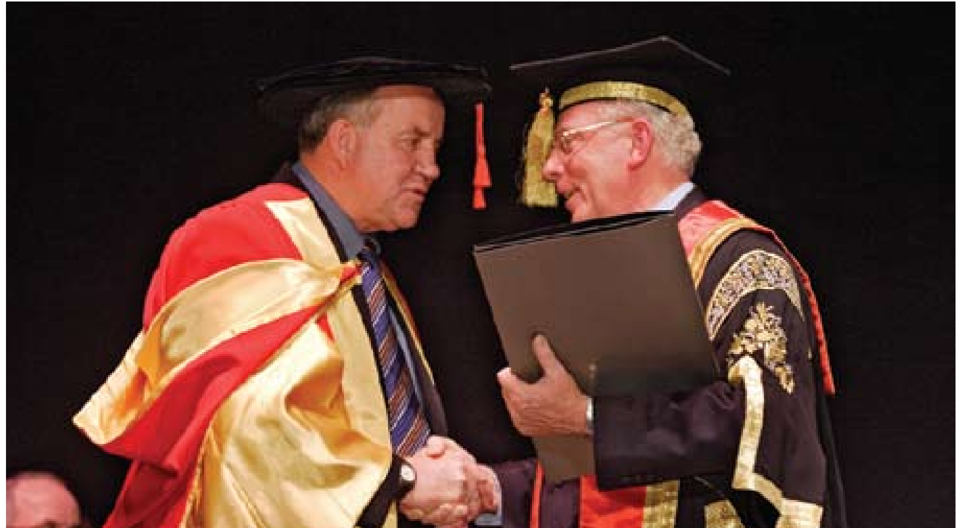
BY TERRY O'CONNELL

Terry O'Connell, director of Real Justice Australia, a division of the International Institute for Restorative Practices (IIRP), was awarded an honorary doctorate by Australian Catholic University at its October 2008 graduation ceremony. O'Connell, a retired 30-year veteran with the New South Wales Police Service, is well known as the "cop from Wagga Wagga" who developed what is now the IIRP's Real Justice restorative conference model.

IIRP president Ted Wachtel first heard O'Connell speak in 1994 in Pennsylvania, and was so taken with O'Connell's work adapting the New Zealand model of family group conferencing that he founded Real Justice, now the IIRP's restorative justice program. The IIRP has promoted the use of O'Connell's restorative conference process based on his "restorative questions," which foster empathy and shared understanding among offenders, victims, and their respective friends and family members.

Since retiring from the police service, O'Connell has headed up the IIRP's office in Australia. While he has been a major influence in spreading restorative justice throughout the world, in recent years he has been especially effective in bringing restorative practices to schools.

After a preamble acknowledging the university and his family, O'Connell gave the following speech on the occasion of receiving his honorary doctorate for his work as a restorative justice pioneer.



Terry O'Connell receives the honorary doctorate degree from Australian Catholic University Chancellor, Brother Julian MacDonald.

When reflecting on what I think my best contribution may have been from the first time I began exploring restorative justice nearly two decades ago, I would say "helping others to make sense and meaning of their lives." I have learned that life is a journey, and given that most of my work has involved people experiencing some crisis, I realized that it is impossible to know where to go, if you are not sure where you are going or how you will get there.

My role as a facilitator (as opposed to being a problem solver), has allowed me to engage others in dialogue that encourages stories about how people have arrived at a particular point and then to engage with them in a way that assists all involved to come to a shared understanding and, importantly, to then work out what will help them go forward. Talking about the world we share with others is the foundation stone upon which civil societies are built.

I would like to briefly share a couple of thoughts that in some way may challenge you to think about what you might contribute in the lives of others. The first has to do with what I learned as a police officer working in the criminal justice system. The second has to do with the importance of rituals in our lives. Finally, I want to talk about the importance of being explicit in your own personal and professional practice.

Life as a cop was a wonderful experience. It was mostly working with people in crisis. Ask others what they think police do most of the time and you are likely to get a response having to do with "law enforcement." In reality policing is largely about "peace keeping," although increasingly in today's world there is a greater emphasis on "law and order," something that today tends to dominate the lead stories of our daily media. Politicians of every persuasion fall over themselves to get "tougher on crime."

Does this approach work? Well it depends upon what we mean by "work"! If reoffending rates were a guide, the criminal justice system would qualify as an abject failure. Yet the overwhelming societal reaction to the mention of crime and punishment is to increase prison sentences and impose heavier fines. I think it was Einstein who said, "The first sign of insanity is to continue doing what

© 2008 INTERNATIONAL INSTITUTE FOR RESTORATIVE PRACTICES

you have always done and expect a different outcome." If something doesn't work, doing more of it is not the answer.

As a police officer I was seeing the same offenders time and time again. I realized that something had to change because our almost exclusive reliance on courts to bring about behavioral change was not working.

As a society we view blame and punishment as a legitimate and important deterrent. My experience has shown that those who are subjected to all this "correctional" effort in criminal justice systems experience blame and punishment as a humiliating and isolating experience. It seems as though our criminal justice systems set up for failure those who struggle most with life.

I will never forget my experience in June 1995 in Graterford Prison in Pennsylvania (USA), one of those quaint American prisons with about 5000 inmates, all black. I was running a restorative justice workshop with around 70 prisoners (most of whom were serving life sentences for murder).

Rather than explain the process, I asked if there were someone in the group who might like to talk about the last offense he had committed. One brave soul talked about shooting and badly wounding a storeowner in a bungled robbery. I asked the inmate to tell me what he knew about the storeowner's family and a little about his own family. He listed around 18 names, so I quickly made up some name tags and put them on chairs that I had placed in a circle.

I then invited the group to participate in the role play. The offender was keen to play himself. Initially there was lots of laughter, as inmates were playing various roles such as mothers and family members, but the atmosphere soon changed as I began asking the offender questions about who had been affected by what he had done.

Out of the corner of my eye, I noticed a young inmate who was sitting alone beginning to get agitated. He yelled out "Stop!" and in that particular setting I was very happy to comply. He walked around the circle and stopped immediately in front of me. With tears in his eyes, he asked, "Do you mean that what I did affected my mom and dad?" I thought, "Where have you been?" I then realized that he had no insight into how his behavior had affected others. It was at that point I gained a better appreciation of how criminal justice systems remove individuals from the reality of what they have done and how they have impacted others.

I returned to Graterford Prison three days after my initial visit only to be greeted by the same young man. He said as he approached me, "Thanks, I have found my family." What was particular about this young guy was that it took the experience of the role play for him to begin to understand the hurt and harm he had caused not only to the victims but also to his own family. He told me he had contacted his parents and talked with them about how they had been affected by his behavior. His comment was, "I never realized."

Why then are blame and punishment so counterproductive, particularly given that it is not an unreasonable expectation that offenders need to be made accountable and to experience consequences?

As a society, when someone does the wrong thing, what is our most usual response? Blame and punish. When someone does the wrong thing, what is the first question we are likely to ask? "Why?" What answers do you expect to get when you ask why? "I dunno," "I didn't do it," or "She made me do it." What is the problem with the "why" question?

Over the past decade, I have spoken with tens of thousands of students in schools all around the world on this very issue. They have an incredible understanding of the thoughts and feelings elicited by the "Why" question:

"I don't know why I did it."

"You expect an answer so I will make up a story."

"It feels like I am to blame."

"You haven't asked me what actually happened; you have assumed that I am responsible."

Students have worked out that the best question to ask when you want to find out what happened is, "What happened?"

There is a very powerful way of illustrating how blame impacts on relationships and learning. In my restorative practices work in schools, I show young children photographs of an Australian echidna [a spiky mammal, also known as a spiny anteater, similar to a porcupine].

The first is a photograph of the echidna walking normally. The second photograph shows the echidna in the defensive position. I ask, "What is the echidna doing now?" The most usual response is, "Rolling into a ball to protect itself."

I then show them this plastic toy and ask them if it reminds them of the echidna in the closed position. I then ask, "What things cause you to want to protect yourself? What do others do to you?" The most predictable response is, "When people threaten me or don't treat me respectfully."

I then ask, "If you did the wrong thing and felt like this, what would you have to do to open up?" Most respond, "Talk about it."

I then ask, "Who are you thinking about when you are in the closed position?" Most say, "Myself." And whom do you think about when you are open? Usual answer, "Others."

Dominic Green, a year-one student at Alford's Point Public School said recently in a student workshop, "Mr. O'Connell, when I am closed there is only room for me, but when I open up everyone else can get in." This statement by Dominic is

© 2008 INTERNATIONAL INSTITUTE FOR RESTORATIVE PRACTICES

Terry O'Connell poses with members of his family.

a clear example of the fact that "learning is enhanced by challenge and impeded by threat."

Rituals are so important in our lives. Criminal justice rituals are ultimately intended to make offenders responsible and accountable, yet mostly they do the opposite.

I asked a group of lawyers recently, "What does taking responsibility and accountability look like in the criminal justice system?" Most struggled to respond, beyond saying, "complying with the sentencing provisions."

A prisoner who had been sentenced to 10 years imprisonment for culpable driving causing death said recently to a probation colleague of mine, "I don't know what taking responsibility looks like in the criminal justice system."

The reason for that is pretty simple. There are no rituals that allow this to happen, only expectations that it will. Go into any correctional facility and most inmates look like the echidna in the protective position. How often do we hear a judge or magistrate say, "The offender showed no remorse"? What do we expect in a hostile and sanitized setting where the offender's focus is on survival? There is a strong (and, I believe, mistaken) belief that most offenders lack the capacity to develop empathy. When we use rituals that don't require offenders to think of others, we shouldn't expect any insight, learning or change to take place.

Ian McEwan wrote in the *Guardian* (U.K.) newspaper, on September 15, 2001, about the events of September 11: "If the hijackers had been able to imagine themselves into the thoughts and feelings of the passengers, they would have been unable to proceed. It is hard to be cruel once you permit yourself to enter the mind of your victim. Imagining what it is like to be someone other than yourself is at the core of our humanity. It is the essence of compassion, and it is the beginning of morality."

Last year I worked in a secure detention facility for troubled young people in Belfast, Northern Ireland. I trained staff on how to develop restorative conversations, with a particular emphasis on the importance of hearing the young people's stories, rather than just focusing on their behaviors. I was sent a poem written by Alanna (14 years old), who was struggling with the restorative processes that had been introduced.

Alanna wrote:

> In Court you just get dealt with.
> At a conference you have to face up to
> And talk about what you have done.
> I've done things to people,
> And they don't deserve it.
> A Restorative Conference is probably
> The best solution
> But it scares ME!

The restorative approach is about harm and relationships, rather than blame and punishment. It provides rituals that allow us as individuals to express contrition, to atone and to make things right. Blame and punishment offer no way forward as they simply focus on the past. As social beings we all derive meaning and purpose from the primacy of our relationships, and yes, we all do things that harm those relationships. Although at times we may not know how to make things right, it is nonetheless an overwhelming innate need and desire we all hold. How often do we hear stories about people reconciling with others as they are dying?

Father Kevin Bates, S.M., in a hymn called "All People's Domain" writes:

> Strong is our needing to put all things right,
> Deep are the wounds that keep bleeding,
> Aching the heart till new justice comes,
> Lonely the cry of our needing.

There are lots of people in the world hurting, desperately needing to be heard and understood. We can only share the world we live in when we are able to talk about it.

I recently worked in a school that for nearly 10 years had experienced conflicts amongst the staff. I facilitated a process that allowed each individual to talk about how he or she had been affected by what had been happening. Through story, a shared understanding was possible, one that provided hope for a group that had been preoccupied with blame, a preoccupation that allowed each of them to

© 2008 INTERNATIONAL INSTITUTE FOR RESTORATIVE PRACTICES

absolve themselves of any individual responsibility.

My final thought has to do with the importance of explicit practice. As a cop, I always struggled to really understand why society was so wedded to criminal justice processes that failed badly to meet the needs of offenders and victims, and society in general. Then in conversation with my colleagues, I realized that there was very little rigor in our policing practice. We didn't talk about it. We did what we did because that is what we always did.

I subsequently learned that the universal problem with "practice," regardless of profession or discipline, is its lack of explicitness. Having someone explain his or her practice rationale (this includes the values, assumptions and theoretical underpinnings) is no simple task. Engaging in practice that works, without really understanding why, is at best problematic. Sound pedagogy involves explicit practice. Ask yourself, "How would I explain the rationale for my own relational or professional practice?"

I spoke at the beginning of my talk about being a facilitator and not a problem solver. My practice is built on the assumption that asking questions of those who are in crisis is a useful way of helping them make sense and meaning of their own life experience. This is called the Socratic style, of course developed by Socrates, who "simply asked questions in order to make individuals think about things they took for granted."

My probation colleague developed an activity called "The Game," which involves tasking offenders to go out to the highways and byways and getting them to ask their significant others a series of simple questions:

- What did you think when you heard about what I did?
- How has this impacted on you and others? In what way?
- What has been the hardest thing about what has happened?
- What needs to happen to make things right?

This turns out to be a fairly daunting experience for offenders who were used to others either doing things to them or for them. What this simple activity revealed was the importance of providing rituals that allow offenders to develop empathy and to learn how to take responsibility.

Imagine a world where we focused on harm, relationships and making things right: one that does not exclude the use of consequences, but provides practical ways for us all to learn how to be accountable to one another for our actions.

The key to my colleague's success was the importance of having explicit practice. This not only provided the certainty in terms of his own practice but also allowed him to share this practice with offenders and their families. In other words, his interactions help others develop their own capacity to work things out for themselves.

Perhaps what excites me most about our work in schools is that by providing an explicit restorative framework we offer a common language and practice that is easily understood and embraced by teachers, students and parents. Our research is showing that this helps students become better at resolving relational issues and at self-directed learning. This results in better learning outcomes.

If you want a simple guide to what helps build and sustain healthy relationships, I suggest you ask a young person how he or she would like to be treated. The most indicative answer goes something like this:

I would like to be treated:

- Respectfully – meaning we need to separate behavior from the person: "I like you a lot but not your behavior."
- Fairly – The notion of fair process is fundamental to how we interact with others. Its central theme is that "individually we can live with any outcomes, whether we win or lose, if the process is fair."

The principles underpinning fair process are:

- Engagement – the opportunity to have your say.
- Explanation – understanding the reasons for the decision.
- Expectation clarification – being clear about mutual expectations.
- Without blame and judgment – the importance of understanding.

These answers provide the foundation upon which healthy relationships are built and are consistent with restorative processes.

Finally, my challenge for the new graduates is to frequently reflect on the following questions:

- How do I explain my practice rationale?
- How does what I do make a difference?
- How do I know?

I wish each of you every success in your life's journey, one that will work best when you are clear about who you are and what you value as most important. Good luck and thank you all for listening.