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*‘The Challenge of Restorative Practice in Correctional
Settings’*

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Grahame Chaseling - 20 Years New South Wales Corrections Restorative Practitioner Extraordinaire!



What If Restorative Practice Became The Way To Go?

Grahame Chaseling, convinced about the merits of using Restorative processes in his probation work, raises two key questions:

‘If a Department responsible for corrections accepted the notion that Restorative Justice is ideal for the effective supervision of offenders, where along the justice time-line continuum might the opportunities be to implement this?’

‘Who is best placed to apply Restorative Justice from the point of first contact with corrections, then through a range of progressive and meaningful engagement experiences, offenders are helped to build capacity in order to achieve successful reintegration in their community?’

Probation, Parole/Community Corrections Officers and Restorative Practice

Grahame argues that Probation Officers are best placed to use Restorative Justice [practice] in their day-to-day practice because they:

- Get to manage offenders in the context of where they [offenders] live and where this offending occurred.
- Have direct access to offenders and their communities of support.
- Have considerable flexibility to identify resources suited to meet offenders needs and importantly, the discretion/authority to ensure that offenders are able to satisfy their obligations and responsibilities.

How Has Restorative Practice Helped?

Grahame said:

“Prior to having a sound practice framework, the success stories I occasionally had were sporadic and unpredictable. Once I was introduced to Restorative Practice I had an explicit practice framework that was highly predictable and capable of consistently delivering positive outcomes. For the first time I was able to articulate my practice rationale and this provided me with a thorough understanding of the principles and assumptions needed to base my practice upon. Being explicit in my practice has allowed me to share this [practice] with everyone I am involved with.”

What does Grahame mean by this statement?

Foundation for Grahame's Practice

In a letter to the court magistrates Grahame explained the rationale behind how he constructed his court reports:

“The following are three assumptions or principles that I find helpful in informing my practice in the preparation of Court duty Pre Sentence Reports;

- 1. Wrongdoing damages relationships;*
- 2. Wrongdoing creates obligations; and,*
- 3. Offending is unsustainable within a context of respectful relationships.”*

Key Questions

- Why assumptions?
- How do these assumptions help shape and mould Grahame's practice?
- What does 'explicit' practice mean?
- Why the need to share practice with others?
- What would the aim and focus of Grahame's practice be?
- What would good outcomes look like?
- What is Restorative Practice and how has Grahame integrated it into his practice?

What are you thinking as you read these questions?

Context for Grahame's Practice

Western criminal justice systems consistently deliver high recidivism rates - 50% to 80%.

Explain the following :

- The reason for such high recidivism rates?*
- Your expectations of criminal justice systems for offenders and victims.*
- How would you describe [criminal justice] practice? What is the underlying philosophy and assumptions?*
- Explain the reasons for why criminal justice practice fails to meet the expectations we hold for offenders and victims?*

Retributive

V

Restorative

Punitive/Adversarial

What the offender is doing.

Behavioural

Rational decisions

Able to make choice

Crime or Rule violation

Reactive - looks past

Punishment deters

Restorative

What is happening.

Relational

Emotional triggers

Lacks insight

Behaviour harms relationships

Proactive - looks to future

Strong relationships deters

Blame & Punishment

Why are the limitations of blame and punishment?

What is the first question we ask when someone does the wrong thing?

If we ask 'why', what answers do you expect to get?

What is the problem with the 'why' question?

How does blame impact on learning?

What is this animal?



An Australian Echidna

What is it doing?



Rolling into a ball to protect itself.

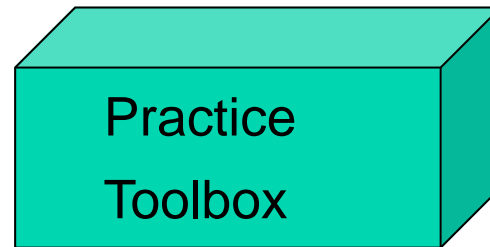
What things happen to you that sometimes cause you to take the Echidna position [to protect yourself?]



If you did something wrong and felt like this, what would help you to feel okay?

Grahame's Day-To-Day Application of Restorative Processes

Grahame's Restorative Practice Toolbox



- 1. Practice Rationale - values, assumptions & theories*
- 2. Role- facilitator/coordinator/mentor.[Socratic style]*
- 3. [Fair] Process - to engage and challenge.*
- 4. Outcomes - enhanced capacity to learn and grow.*

Assumptions, Values and Theories

Assumptions

- 1. Wrongdoing damages relationships;*
- 2. Wrongdoing creates obligations; and,*
- 3. Offending is unsustainable within a context of respectful relationships.*

Values:

Respect & Fair Process

Theories:

Braithwaite's notion of Shame & Reintegration - separating behavior from person.

Silvan Tomkin's Psychology of Affects - nine affects including the role of shame in relationships/remorse.

Braithwaite's Notion of Shame & Reintegration

Rituals & Relationships

Braithwaite suggests:

‘Where individual wrong doers are confronted within a continuum of respect and support, then a process of reintegration can begin’.

What does this mean?

What are rituals?

Why are rituals necessary?

What rituals help build relationships?

Braithwaite's Hypothesis

ALLOWS:

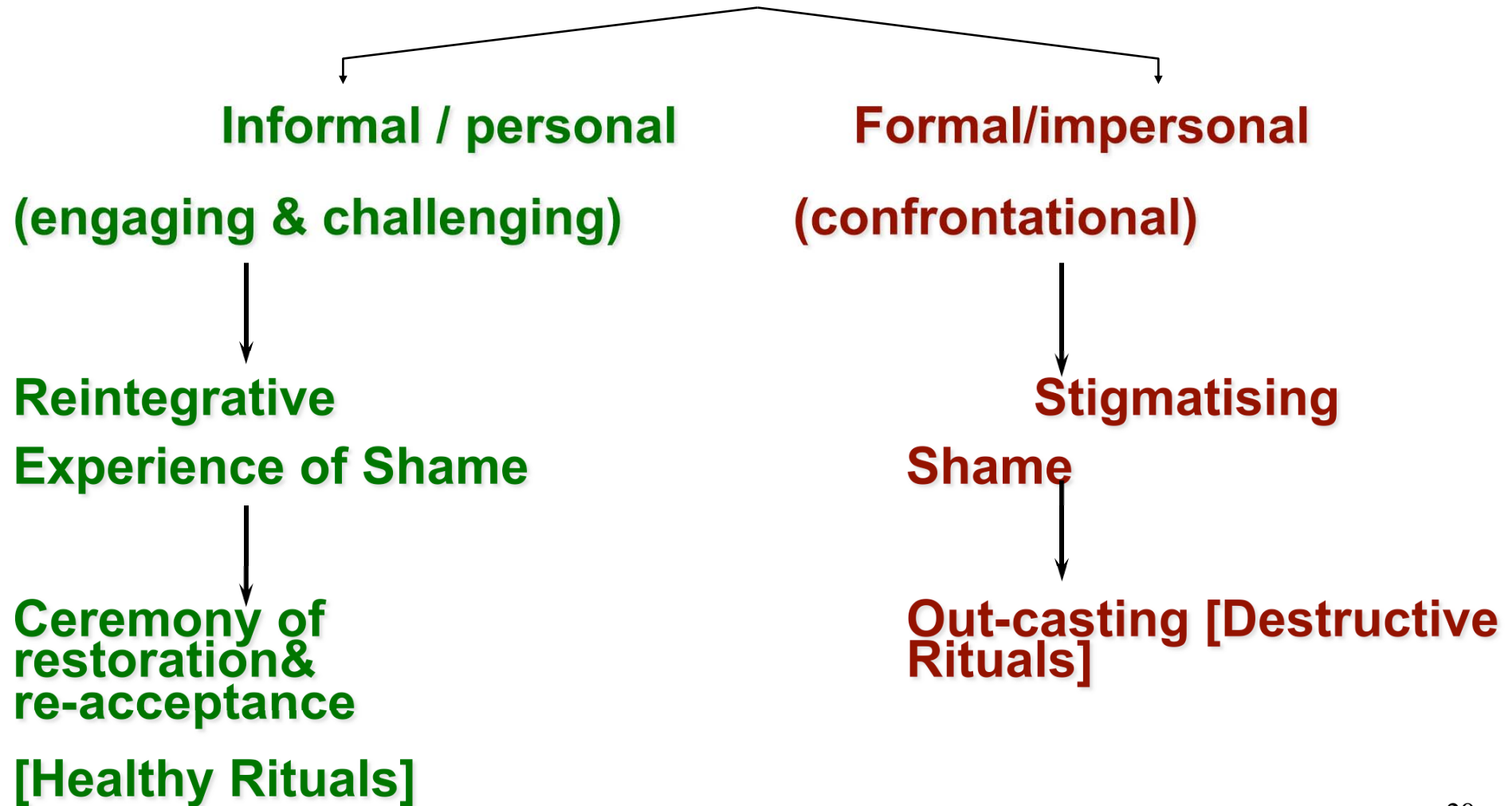
The act (unacceptable behaviours) to be rejected because they failed to reach expectations or standards

WHILE:

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

“I accept and value you but not your behaviour”

Shame And Reintegration Vs Stigmatising Shame Inappropriate Behaviour



Silvan Tomkin's Psychology of Affects

Nathanson's Blueprint

Relationships are best built 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*).

Shame & Relationships

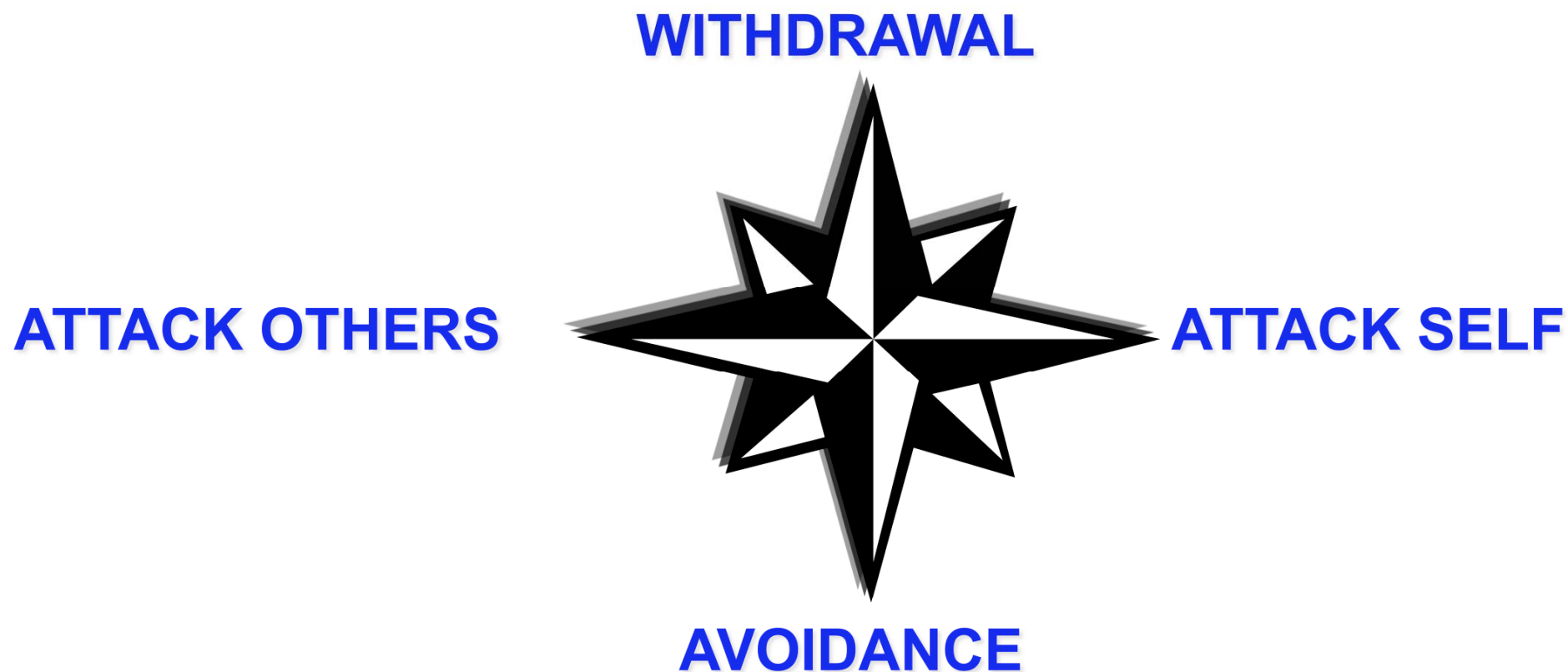
According to Nathanson, shame is one of nine affects that has the following function:

- Sets the social parameters that govern how we interact with others.
- Interrupts our feeling good.
- Provides a sudden awareness of something we don't really want to know about ourselves.

What would a positive response to shame be?

What would a negative response be?

Nathanson's Compass Of Shame



POLAR RESPONSES TO SHAME

WITHDRAWAL : isolating oneself; running and hiding.

AVOIDANCE : denial; drugs and alcohol; work alcoholism.

ATTACK OTHERS: lashing out verbally or physically; blaming others.

ATTACK SELF: self put-down; masochism.

A Word About Remorse

In a Pre-sentence Report, the probation officer wrote:
'the offender was remorseful'.

What is remorse? How would you know if someone was remorseful?
What objective test would help you make such a determination?

Grahame suggests that the Restorative Questions are a useful way to begin accessing an offender's sense of remorse. He says:

*To be remorseful, two things must be present;
An understanding that harm has occurred, and a reaction to that
knowledge in the form of the negative affect, shame.*

The offender's responses to the questions "Who has been affected by what you did?" and "How specifically have they been affected" will give you a pretty good idea of the first requirement, i.e. their understanding of the harm that has resulted. If they can't answer this one, they can't feel remorse.

Role - Facilitator/Coordinator/ Mentor

Socratic Engagement Style

Dialogue involves engagement.

Effective engagement according to Socrates relies upon questions.

What do we know about Socrates?

“Socrates was a Greek thinker and teacher.

*He held no classes and gave no lectures and wrote no books. **He simply asked questions.***

*When he got his answer he asked more questions. Socrates asked questions **in order to make people think about ideas they took for granted.***

Role

Facilitator/coordinator/mentor.

Socratic engagement style: Asking key questions.

Grahame:

“If I was going to get through to Daryl next time he reported, I needed something that would engage him at an emotional level. The rationale stuff simply wasn’t working.

What I had to find was a way to involve those who were significant to Daryl, so as to enable them to apply the power of their relationships in challenging Daryl’s behavior. This would mean that I would need to move from being the ‘problem solver’ to facilitating an intervention process between Daryl and his network of support. The Restorative Questions allowed me to do this very effectively.”

Restorative Questions 1

- 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?

Initial Interview - Grahame's Narrative

A restorative approach to the initial interview might start off with the following question, and go like this:

“What happened?”

You have the police facts in the file, and you'll probably see lots of gaps and inconsistencies in their response. Don't worry about it. The gaps and inconsistencies tell you about the bits they're not prepared to take responsibility for. Yet. Ask questions that help them to fill out their story.

“How did you come to be involved?”

This is something they won't have thought about, but you're about to find out all sorts of risk factors. E.g. “We were drinking and we ran out of beer”. “My mates talked me into it”. Et al.

Initial Interview - Grahame's Narrative

“What were you thinking about at the time?”

This, measured against their response to the next question, gets them to think about consequences, particularly in terms of the mess they're in.

“What have you thought about since then?”

The response to this one often paints them as the victim. That's OK, we'll get on to the real victims in a minute. Either way, by asking them what they were thinking at the time and what they've thought about since, you're asking them to consider the consequences of actions that they had control over, through their thinking, rather than what their mates were doing. They can't avoid taking some responsibility when you ask these questions.

Initial Interview - Grahame's Narrative

“Who has been affected by what you did?”

They'll say “me”. Ask, “Who else has been affected?” They'll invariably start with the people most significant to them, such as mum, and work their way out. They might, with a bit of prompting, get to the victim. Write a list of the people they name so you can refer to it in the next question. What you're doing is getting them to consider the harm that's resulted from their behavior, rather than having done something that's simply against the law.

“How, specifically, have they been affected?”

Work through the list of people you got from the last question one at a time. Now you're getting very close to the bone. You're asking them to identify the specific harms they've perpetrated on those who are most significant to them. You can bet the farm that this exercise will be a revelation to them.

“Do you think there is something to be done to make things right there?”

You owe them this. Up till now, you've opened their eyes to some pretty serious damage resulting from their behavior. The restorative view is that having done this, it would be unfair to leave them with this knowledge without providing an opportunity to identify ways to repair the harm. Bear in mind, though, that they might not know what they can do yet, and they might even think they're powerless to do anything. So one thing at a time. Ask them if they think something needs to be done.

“What do you reckon you could do?”

Getting specific again by going to your list, see if you can assist them to work out ways to repair the harm.

Grahame's Final Comment

“So that’s it. A restorative approach to the initial interview has provided you with all sorts of useful information, and fully engaged the client. Trust and rapport are better than just intact, because you’ve confronted them with the consequences of their behavior in terms of harm to themselves and those most significant to them. They’ve thought very carefully and in a structured way about repairing the harm to those relationships.

But this is the best part: You’ve engaged them in a respectful and meaningful dialogue without once criticizing them personally, or given them cause to become defensive.”

Restorative Questions 11

When Someone Has Been Harmed [offenders
significant others]

- 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?

Initial Interview - Grahame's Narrative

Case Study: Grahame Engaging Those Who Have Been Harmed.

Towards the end of the interview, I decided to enquire ***“I’m wondering why you declined to have your mother in here?”*** She responded with “Mum’s got enough problems, and I don’t want to worry her. Besides, this is none of her business.”

I ventured ***“How do you think your mother has been affected by this matter?”*** “Not at all, really; Probably a bit of an inconvenience, but she doesn’t mind”. I couldn’t resist. “Actually we’re just about finished here. Oh, before you go, I’d just like to ask your mother one quick question. OK? She agreed.

I showed the offenders mother in and sat her down right beside her daughter. When they were comfortable, I said I just wanted to check a detail with her if that was OK. She was OK with that.

Restorative Questions 11

Case Study: Continued.

“What has been the hardest thing for you about all this?” I inquired casually. For a moment or two she just sat there, frozen. She started to go very red, and then the tears came, accompanied by sobbing from all the way down in her boots. She was unable to talk for quite a few minutes, which gave me time to look over to her daughter [the offender] and raise my eyebrows, apparently mystified.

It wasn't long before her daughter was comforting her and crying too. When they calmed down, I fully explored the mother's experience throughout the ordeal. The offender needed to hear this, and it was the first time in all the months the case had been running that she had.

“What did you think when you found out what had happened?” I asked. Heartless, aren't I?

There are no more powerful ways of engaging offenders and those significant to them than by using the Restorative questions.

Process

Fair Process

Three Principles:

Engagement - Opportunity to have a say.

Explanation- Understand the reasons for the decision.

Expectation Clarity - Shared understanding on what is expected in terms of behaviour and rules.

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

According to Grahame, fair process is fundamental to how you engage offenders:

“Restorative justice principles and processes work on the idea of treating everyone with respect and fairness. Nobody’s interested in deciding if the offender is a good or a bad person. We’re about developing a common understanding between all those affected by an event of wrongdoing about what happened, who’s been affected, how they’ve been affected, and what needs to happen to repair the harm.

To do this, offenders need to experience fair process, meaning they have to be involved right from the start and importantly are provided with an opportunity to be heard, and then by having access to all the information regarding the harm they’ve caused, and the needs of those affected, they’ll be able to see sense in the expectations of them in terms of repairing the harm.”

Outcomes

Outcomes

Grahame suggests that optimal outcomes are likely to be best achieved by:

‘Creating the best opportunity for facilitated dialogue that assists offenders to make sense and meaning of their lives, to identify what is most important in all that is happening, what needs to change and what their part will be in this change process, and importantly, what is needed that will help build and sustain healthy relationships.’

The Game

The Game

Grahame created a fictitious character called Mr. Makesure who is the umpire in a program called The Game. To successfully complete The Game, “players” are exposed to a series of experiences that are designed to develop insights, and challenge the way they think of themselves and their behavior.

The Game

Participation in The Game exposes players to five levels of confrontation about the harm to others and relationships resulting from their behavior, including an exploration of what needs to happen to repair the harm:

1. *Officer/ Offender - initial interview [may include significant others].*
2. *Significant others/ Offender - offender required to interview four significant others using the Restorative Questions.*
3. *Third party offender/ third party significant other - group/peer process - AA & Domestic Violence - focus at all times on harm/relationships.*
4. *Media offender/ Media relationships - viewing videos [family violence, drugs, self harm] with a requirement to report on harm and relationships.*
5. *Facilitated Offender/Offender group sessions - group information and debriefing processes.*

Grahame's Final Word

'The application of Restorative Justice Principles has profoundly influenced my practice as a Probation and Parole officer, because they provide me with the tools to engage offenders and their families in ways that prevail way beyond the interview room.

When we engage offenders in terms of how their offending behavior affects those most significant to them, we cease to become their adversary. We become facilitators in a process that requires them to abandon their offending behavior, and provides them with opportunities to repair the harm and become reconciled with those who are most able to support their reintegration in the community.'

Thanks Grahame for your great work and inspiration.