

# **Police-Facilitated Restorative Conferencing**

## **What the data show**

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The recent development of police officers conducting community conferences for juvenile offenders has created concern among restorative justice advocates. This paper considers the potential dangers and benefits of police-facilitated conferences in light of recent empirical evaluations of restorative policing and earlier evaluations of criminal mediation programs in the U.S. and Canada. Results demonstrate that police are capable of conducting such programs in a highly restorative manner. Police conferences were rated higher than mediation programs on participant satisfaction and sense of fairness. The advantages of police operated restorative program include direct access to cases and a much lower operational cost. Police can become important stakeholders in the restorative justice movement. There is a need for future program evaluations to use consistent measurements to confirm these findings, but initial evidence suggest the concerns raised pose a greater threat to some criminal mediation programs than to police-facilitated conferencing programs.

For more than 20 years, victim offender mediation (VOM) and reconciliation programs (VORP) were synonymous with the practice of restorative justice. The entire restorative justice movement owes its existence to the theoretical understandings gained from the original reconciliation encounter in 1975 and its later incarnations. Criminal case mediation as a restorative practice has spawned many quasi-governmental and community-based programs throughout the U.S., Canada, England, Germany, and other European countries (Umbreit, 1994).

The direct involvement of police in restorative justice is a relatively recent phenomenon. The first practice of restorative justice by police began in 1992, when Sergeant Terry O'Connell and police in Wagga Wagga, New South Wales, Australia, significantly modified the New Zealand family group conferencing model into a community policing practice. The "Wagga model" brought offenders together with their family and friends to decide how to respond to the offense, as in the New Zealand model, but more purposefully included victims and their supporters as well in the conferencing process.<sup>1</sup> Later, O'Connell became aware of the broader restorative justice movement and recognized the development of the scripted version of conferencing had implications well beyond police-based restorative practices (Moore & O'Connell, 1994; O'Connell, 1998).

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The first practice of restorative justice conferences by police outside Australia began after Terry O'Connell visited Canada, the U.S., the U.K. and South Africa in 1994 during a 13-week study tour on a Churchill Fellowship. He and other Australian innovators conducted a series of trainings in Minnesota and Pennsylvania in 1995. Since then, the scripted process developed in Wagga Wagga has been used by police officers and agencies against recurrent crime and disorderly conditions in a number of innovative police departments in the United States (U.S. Department of Justice, 1997). REAL JUSTICE, a private not-for-profit training organization, has trained more than 2,000 conference facilitators in more than 30 U.S. states, including 368 police officers representing 141 different police departments, as well as others in Canada, New Zealand and Australia.<sup>2</sup>

Some police departments have become so enthusiastic about conferencing that they have begun training programs for their own officers and other departments as well. Police departments in Canberra and Sydney in Australia and Thames Valley in England., the Royal Canadian Mounted Police in Canada, and police departments in Indianapolis (IN), Anoka (MN), South Burlington (VT), and Woodbury (MN) in the U.S. all have active training programs as of the end of 1998.

Generally speaking, the Wagga model of conferencing differs from other models of restorative justice, including criminal mediation and New Zealand family group conferencing, in two main ways. First, the conference itself is carefully scripted, to ensure both the restorative quality and the consistency of process (McDonald, et al., 1995). The facilitator literally reads a script which includes a statement of the restorative purpose of the conference, followed by a series of open-ended questions, asked first of the offender, then the victim, then the victim's supporters, and then the offender's supporters. The victim is then asked what they want to get from the conference, and consensus is reached and agreed to in a signed contract between the parties. Since participants do not have a script and the questions are open-ended, the process is perceived as quite natural and it provides a safe structure for their participation. Informal interaction time for participants is always provided following the formal part of the conference.

Secondly, the model encourages officials representing the "authority" to actively facilitate the process, including police, probation officers, school officials, camp counselors and others in the particular setting where the process is being used. This is a clear break from the values of meditation practices, which emphasize the need for an absolutely neutral facilitator who has developed a trusting relationship with the parties in conflict. Police-based conferences in particular raise concerns about the danger of restorative justice being co-opted by "the system." Thus, not surprisingly, there have been specific concerns about the practice of conferencing raised by a few vocal critics in the U.S. and elsewhere (Blagg, 1996; Geddis, 1993; Minor & Morrison, 1996; Polk, 1994; Sandor, 1994; Umbreit, 1996a; Umbreit & Zehr, 1996a, 1996b. Also see Braithwaite, 1994). Some of the concerns raised are about the conferencing process itself; but many of the criticisms relate directly to the issue of using police as conference facilitators.

The main concerns about police-facilitated conferencing (as articulated by Umbreit & Zehr, 1996a) are as follows:

- 1) Inadequate preparation could significantly limit the impact of FGC in humanizing the process in such a manner that parties feel safe and prepared to attend and participate freely in a genuine dialogue.
- 2) Conferencing and conference facilitators may be insensitive to victims' needs and coercive in encouraging their participation in the process.
- 3) Young offenders may be intimidated by adults and uniformed police officers; they may not feel safe or comfortable enough to share thoughts and feelings and to genuinely "own up" to the criminal behavior.
- 4) Police may be incapable of being neutral facilitators, falling into authoritarian behavior patterns and undermining the process of reintegrative shaming.
- 5) The scripted conferencing process may be too rigid and insensitive to cultural needs and preferences within a community.
- 6) Police-based conferencing may lead to net widening.

Whether police conferencing is any more or less constructive than traditional justice processes—or more or less restorative than other restorative practices—is an empirical question (Braithwaite, 1994). The remainder of this paper considers the above concerns in light of some of the available research, especially the recent results from the Bethlehem Police Family Group Conferencing Project (McCold & Wachtel, 1998b). Results are considered in relation to other well-established criminal mediation programs with comparable survey questions. Finally, we will discuss the advantages of police as conference facilitators and consider the role that police might play as change agents for the restorative justice movement.

### **The Data**

There have been two completed evaluations of police conferencing—in Bethlehem, Pennsylvania (McCold, 1997) and Wagga Wagga, New South Wales, Australia (Moore, 1995)—and other evaluations are currently underway or planned.<sup>3</sup> The Canberra Experiment (RISE) have released preliminary results, and these are included where possible (Sherman, et al., 1998). There is a substantial body of descriptive research from evaluations of criminal mediation programs, but none have used experimental designs (e.g., Coates, 1985, 1990; Coates & Gehm 1989; Umbreit & Roberts, 1996; also see McCold, 1997-program evaluations).

The Bethlehem Experiment randomly assigned first-time moderately serious juvenile offenders to either formal adjudication or to a diversionary police-facilitated conference. Victim and offender participation was voluntary, and offenders completing the agreement had the criminal charges withdrawn (McCold & Wachtel, 1998b). The purpose of the experiment was to evaluate the implementation of conferencing as a restorative policing practice in the United States, examine the effects of the practice on police and the community, and compare those results to equivalent data on formal adjudication and other restorative justice approaches. The effect of the program was measured through surveys of victims, offenders, offenders' parents and police officers and by examining and comparing outcomes of conferences and formal adjudications.

Information on criminal mediation programs in this analysis was obtained from published results of two multi-studies: Umbreit (1994) and Umbreit and Coates (1993) compared criminal mediation programs in Albuquerque New Mexico, Minneapolis Minnesota, Oakland California, and Austin Texas; and Umbreit (1995, 1996b) compared criminal mediation programs in four Canadian cities, Langely British Columbia, Winnipeg Manitoba, Calgary Alberta, and Ottawa Ontario.

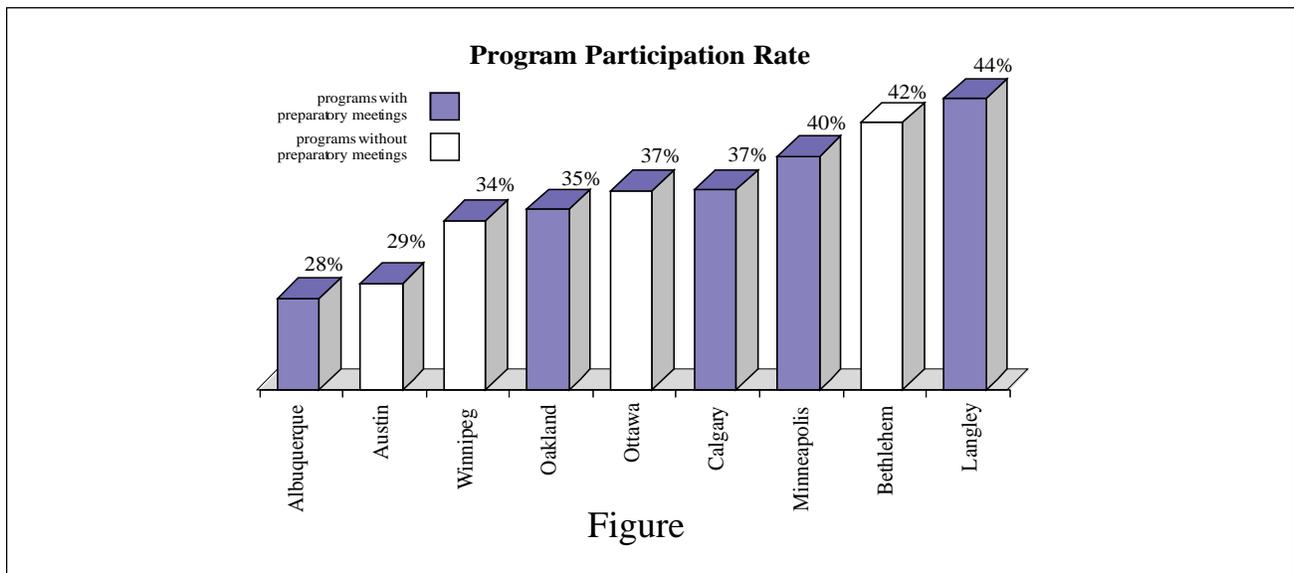
There are important differences between police-based conferencing programs (Moore, 1994) and the various criminal mediation programs, including the administrative auspices of the program, the types of criminal offenses and offenders eligible for the program, the point of intervention, and the types of facilitators and their training. Comparative differences between programs could be attributable to any or all of these differences. Since both conferencing and criminal mediation are restorative justice programs, it is appropriate to evaluate each using the same criteria of "restorativeness". A set of consistent measurement applied to the evaluation of different programs can lead to an empirical foundation about what works within restorative practices. Because of the small number of programs reporting these data, appropriate caution should be exercised in attributing the differences in program outcomes to any single factor.

The Bethlehem program used on-duty police officers to set up and conduct conferences as part of a larger community policing effort. Criminal mediation programs differ in the sponsorship and management of their programs. The Albuquerque, Minneapolis and Oakland VOM programs are operated by private not-for-profit agencies using volunteer mediators. The Austin criminal mediation program is operated by the juvenile probation office and a not-for-profit agency using professional mediators. All of the U.S. mediation programs are for moderately serious juvenile offenders. Of the 80 offenders conferenced in Bethlehem, 30 percent were for crimes against persons, 70 percent were property offenses, and all were pre-adjudicatory diversions. Altogether, 87 percent of the U.S. criminal mediation cases were property offenses, and 69 percent were pre-adjudicatory diversion (Umbreit, 1994, pp.43-59).

The four Canadian programs in Langley, Calgary, Winnipeg and Ottawa are run by not-for-profit organizations. Types of offenses addressed were primarily assaults, followed by property offenses. The sessions were mostly used as pre-trial diversion. The Winnipeg and Ottawa sites addressed mostly adult crimes, while the Langley and Calgary sites addressed mostly juvenile crimes. Volunteer mediators, as well as trained professionals, conducted the criminal mediation sessions (Umbreit and Roberts, 1996).

Clearly, the types of offenders and cases involved in these various programs are not entirely comparable. Some of these programs addressed offenses similar to those in the Bethlehem experiment. Others addressed more serious offenses as well. The Bethlehem experiment was a police diversionary program, using trained police officers to conduct the meetings, while the other programs were diversionary and conditions of sentencing, using trained professionals and volunteers to conduct the meetings. Despite these differences, we can nevertheless make some general conclusions about the above six concerns and about the relative restorativeness of police-facilitated programs.

This paper next considers the concerns raised about police-facilitated conferences in relationship to comparable measures on these well-established criminal mediation programs and what little additional data is available from other police evaluations (see appendix).



## Concerns about police conferencing

### 1) Inadequate preparation could significantly limit the impact of FGC in humanizing the process in such a manner that parties feel safe and prepared to attend and participate freely in a genuine dialogue.

There are multiple concerns raised here: 1) is participant preparation sufficient, 2) is the process “humanizing”, 3) is there “genuine” dialogue, 4) do participants feel safe, and 5) are they prepared to attend. The participation rate for a program will be low if participants perceive the setting or structure as unsafe, or if they feel unprepared to attend. The percent of cases referred which are actually conferenced/mediated is an indicator of whether these concerns are an issue in a program. As shown in Figure 1, the Bethlehem program had a higher participation rate (42%) than all but one of the mediation programs reporting this information.

If police were coercive in pressuring offenders to participate, the Bethlehem project might have an artificially high participation rate for this reason. However, asked if their participation was voluntary, 92 percent of offenders said it was their own choice to participate and they would recommend it to others. Follow-up interviews with those few offenders feeling pressure to participate indicated that families were the source of that pressure, not the police.

The program model which is used by most victim offender mediation programs, sometimes referred to as the “classical Victim Offender Reconciliation Program (VORP) model,” is a “social work case development” approach. This model involves all parties in substantial preparatory work before victim and offender come face-to-face for the actual mediation session (Price, 1998).

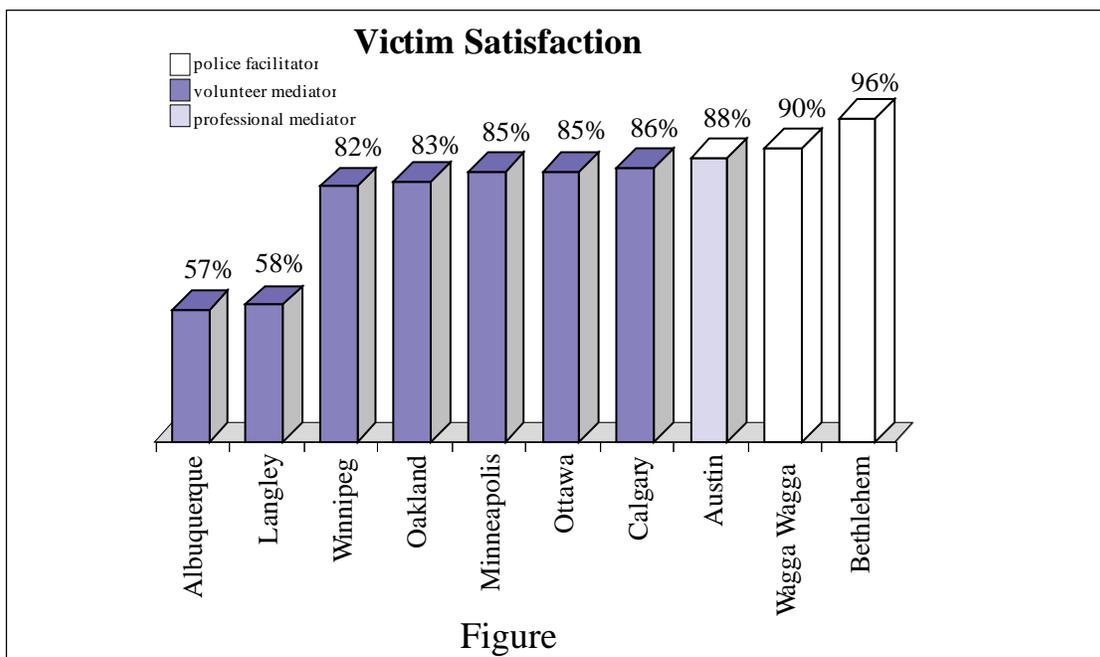
The preparation for mediation phase involves a considerable amount of work. The parties involved in the conflict will be contacted separately and interviewed. In most victim offender mediation programs, the mediator will call and then later meet separately with the victim and the offender. This process of caucusing with individuals prior to the joint mediation session is believed to be essential in the mediator building trust and rapport with both parties, as well as for collecting information that can contribute to later conflict resolution. (Umbreit, 1995:iii)

So-called “pure mediation models” use an approach which was adapted from small claims court mediation programs, where a large volume of cases must be handled expeditiously. Here, letters are sent to the victim(s) and the offender(s) with a brief explanation of the victim offender mediation process and its purpose, and the time assigned for mediation. Staff follow up the letters by telephone whenever possible and limited case screening may take place in this manner. There is no “case development” in the sense of the classical VORP model. Mediators have no contact with victims and offenders until they appear for the mediation and there are no preliminary meetings.

Notable are two other problems with the “pure mediation” approach to victim offender mediation. The first is that a letter from the program office, or even a phone call, is not nearly as effective in getting people to come to mediation as is a visit from a volunteer mediator. .... Perhaps more important ... is the fact that only very limited screening or case assessment (if any) is possible without the opportunity to meet with the prospective participants, prior to the mediation meeting. Without adequate screening and case assessment, there is substantial risk that a volunteer mediator will conduct a victim offender confrontation that should not take place at all, or one that the mediator will not be prepared to handle. (Price, 1996)

Results from the eight mediation sites suggest that extensive preparation of participants may not be as necessary as some mediators suggest. Programs which include in-person visits to the victim and offender by the mediator prior to the face-to-face meeting do not necessarily have higher participation rates. Most participants in Bethlehem were contacted only by phone prior to the meeting and had only a brief explanation of the process. In the Austin VOM program, professional mediators meet participants just prior to entering the mediation session yet produced higher victim satisfaction rates than the other mediation sites. None of the program characteristics were statistically related to participation rate.

An interpretation more consistent with the data would be that it is possible to “over-prepare” participants, so that too much of the emotion has been processed before the meeting—minimizing the healthy expression of emotion and thereby limiting the transformative capacity of the actual conference. Confer-



ences in Bethlehem where the victim was an employee representing a store had much less emotional content and seemed to produce less impressive results than conferences involving crimes against the person. For the kinds of crimes included in the Bethlehem Experiment, the more emotion expressed at the conference, the more transformative the process. Thus, the data suggest that extensive preparation of participants in minor to moderately serious juvenile offenses may be unnecessary and counter-productive.

**2) Conferencing and conference facilitators may be insensitive to victims’ needs and coercive in encouraging their participation in the process.**

The data provide strong evidence to refute this concern. Most police have extensive training at supporting and encouraging crime victims and have far greater experience working with crime victims than any other entity in society. Victims who participated in police conferences in Bethlehem were more satisfied with how their case was handled, had higher perceptions of fairness, and were more likely to feel the offender was held accountable than victims whose cases went through formal adjudication. Asked if their participation was voluntary, 96 percent of victims agreed; 94 percent felt that their opinions had been adequately considered; 94 percent would choose to participate again; 92 percent would recommend it to others; and 92 percent said conferences make the justice process more responsive to their needs as a human being. Follow-up interviews with those few victims feeling pressure to participate determined that, again, families were the source of that pressure, not the police.

Overall victim satisfaction is a good indicator of whether victims’ needs are being addressed. As shown in Figure 2, a higher percent of victims expressed satisfaction in the Bethlehem program (96%) and the original Wagga study (90%) than any of the criminal mediation programs (57% - 88%). There does appear to be a relationship between victim satisfaction and type of facilitator, with the seven mediation programs who use volunteers scoring lowest on victim satisfaction. Victims appear to be more satisfied with programs run by professionals than those using volunteer mediators.

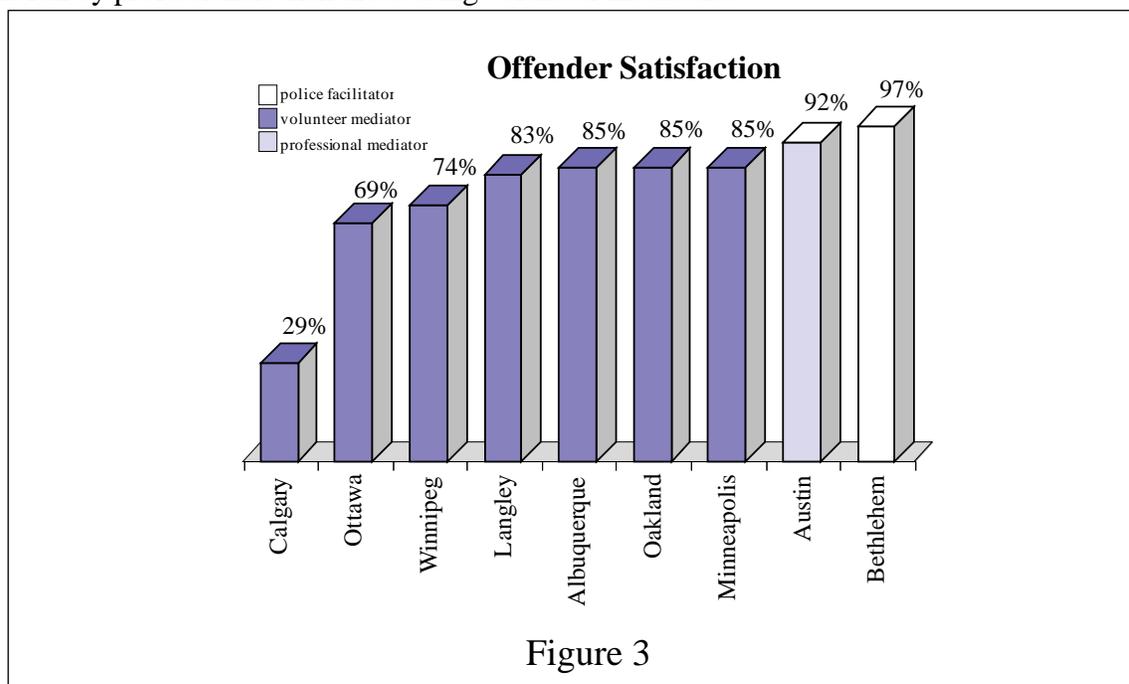


Figure 3

**3) Young offenders may be intimidated by adults and uniformed police officers; they may not feel safe or comfortable enough to share thoughts and feelings and to genuinely “own up” to the criminal behavior.**

The data found no evidence to support this concern. Asked to say whether they agreed or disagreed with statements made by offenders who had participated in family group conferences, only 23 percent of offenders in the Bethlehem study agreed that “Too much pressure was put on me to do all the talking in the conference”; 92 percent agreed that “Conferences are more responsive to my needs as a human being.”; 94 percent would choose conferencing over court again; and 92 percent would recommend it to others. Both victims (92 percent) and parents of offenders (94 percent) felt that offenders had been held adequately accountable. Conferences where the offender was the only young person present were rated as fair and satisfying by participants as those with multiple young people present.

Offenders participating in police conferences were satisfied in a greater proportion of cases than in any of the criminal mediation programs compared (see Figure 3). Again, the two programs using professionals as facilitators scored higher on offender satisfaction than the programs using volunteer mediators.

**4) Police may be incapable of being neutral facilitators, falling into authoritarian behavior patterns and undermining the process of reintegrative shaming.**

There was some evidence to support this concern, for a few officers in the Bethlehem study. Not all officers are equally capable of empowering the participants. Some officers had trouble being neutral facilitators in the beginning, and two opted out of the program after their first conference. Among those officers conducting two or more conferences, compliance with restorative protocols was above 90 percent. The majority of police officers who conducted conferences were very appropriate, but supportive management oversight and performance feedback was necessary.

If the restorative nature of the process was undermined by a police facilitator, participant perception

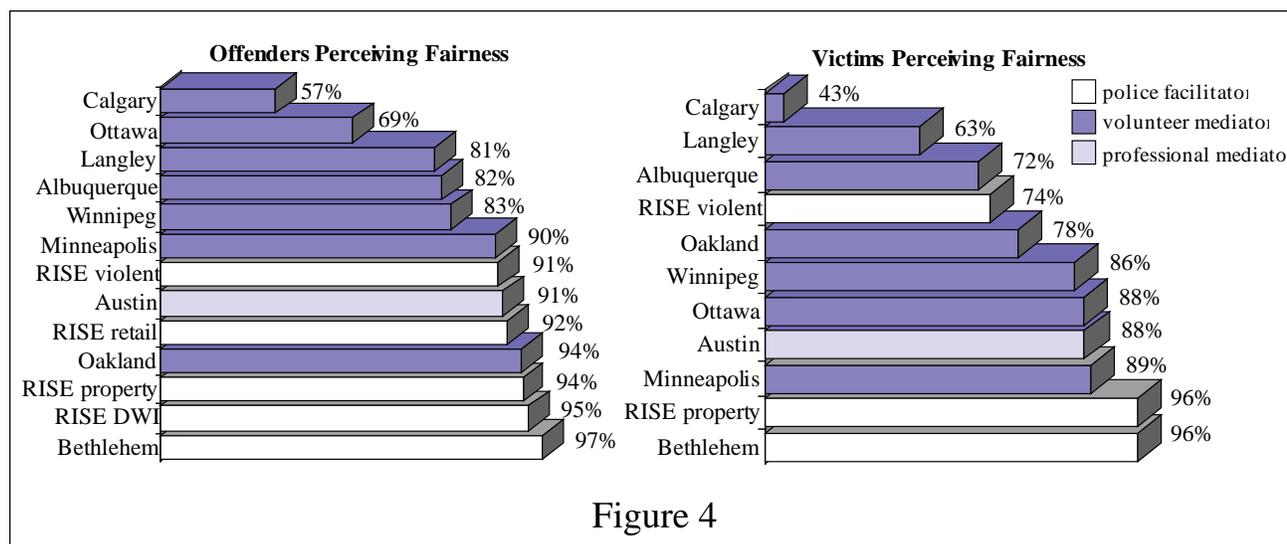


Figure 4

of these conferences would be expected to be lower than when organized by “neutral” facilitators. This was clearly not the case, as shown in Figure 4. Four of the five of the highest rated programs on offender perception of fairness were the police programs. The six programs rated as least fair by offenders were all programs using volunteer mediators. The only exception to greater perceived fairness for police programs was for victims participating in a RISE violent case.

The data suggest that the process requires not so much a neutral facilitator as a facilitator who is perceived as fair. Victims and offenders both rated their experience as fair in a higher percentage of cases in Bethlehem than the mediation programs and the RISE preliminary results make it one of the higher rated programs.

The availability of comparable data from a number of restorative justice programs provides the opportunity to move beyond advocacy for professional “discipline-limited” practices. Empirical comparisons between practices of restorative programs on relevant restorative measurements is possible. Issues of fairness and neutrality can be evaluated by comparing bivariate relationships between victim and offender perceptions of the various programs.

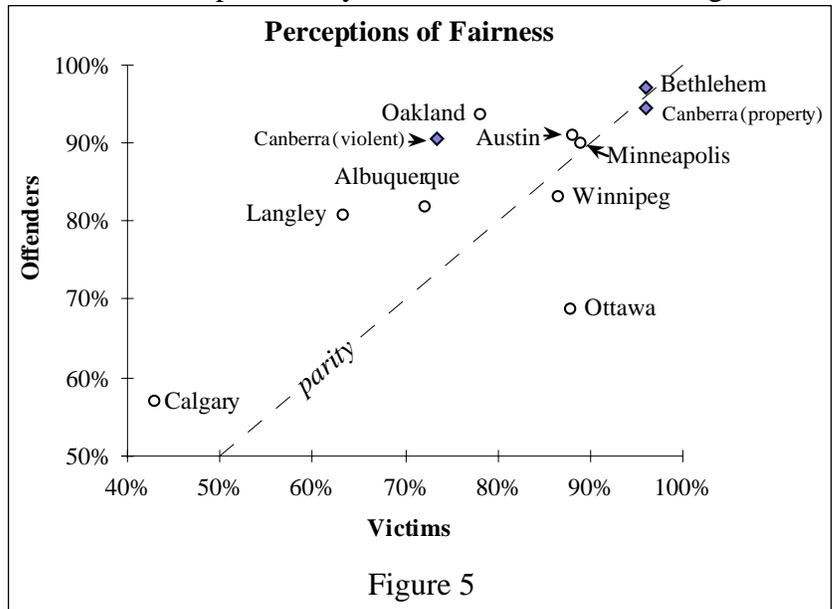


Figure 5

Programs rated equally fair by both victim and offender (fairness parity) could be said to be more neutral than programs in which offenders felt the process more fair than victims. As shown in Figure 5, programs differed dramatically in the way victims and offenders rated the program fairness. The highest fairness rating by both victims and offenders were two of the police-facilitated programs. Oakland, Albuquerque, Langlely, Calgary, and Canberra violent programs have higher ratings of fairness by offenders than by victims. Only Ottawa was rated higher by victims. Minneapolis, Austin, Winnipeg, Bethlehem, and Canberra personal property programs were very balanced in participant perceptions of fairness. Thus, police facilitated conferences compared very favorably in fairness parity to the mediation programs.

Similarly, if the process is well balanced in the way both offenders and victims are treated, both will rate their satisfaction equally (satisfaction parity). As shown in Figure 6, programs also differed dramatically in satisfaction parity. Albuquerque and Langlely were more

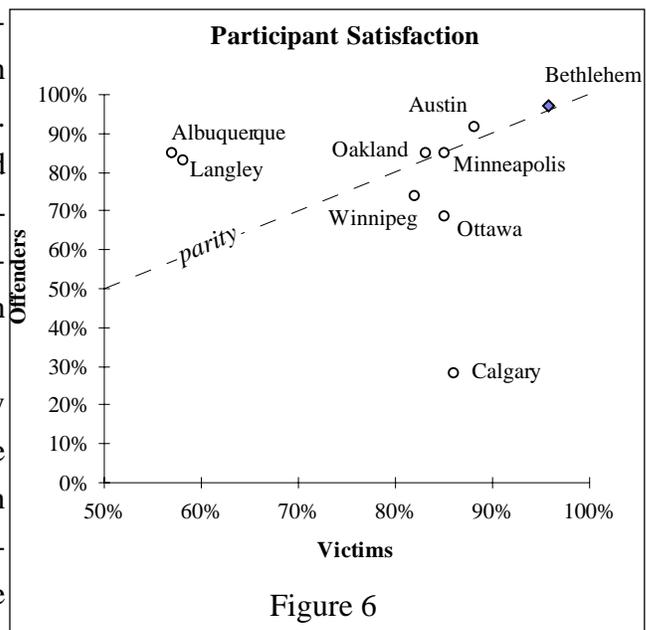


Figure 6

offender satisfying than victim satisfying. Calgary and, to a lesser extent, Ottawa had higher victim satisfaction than offender satisfaction. Bethlehem, Austin, Oakland, and Winnipeg had very similar ratings of satisfaction between victims and offenders, which can be viewed as evidence of being a more balanced (neutral) program as judged by the participants themselves.

Offender sense of satisfaction with the process and their sense of fairness were positively related ( $r=.92$ ,  $df=8$ ,  $p<.001$ ). This was only true for victims when the Calgary program is omitted ( $r=.93$ ,  $df=7$ ,  $p<.001$ ), but was not evident in individual level analysis in the Bethlehem program. Victim satisfaction with the process appears to be related across programs by the degree to which offenders judged the process as voluntary, as shown in Figure 7. Generally, the greater the voluntary participation of the of-

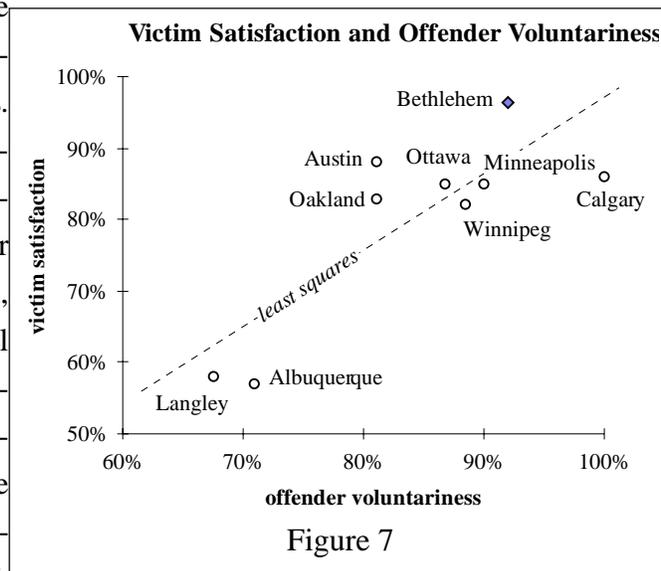


Figure 7

fender, the greater the sense of satisfaction of the victim. Offender rating of voluntariness was unrelated to program size, offender sense of fairness, offender satisfaction, participation rates or type of facilitator.

##### 5) The scripted conferencing process may be too rigid and insensitive to cultural needs and preferences within a community.

The data provide evidence to refute this concern. The conference script is a generic process, designed to be culturally universal (Retzinger & Scheff, 1996), with open-ended questions asked in a specific order to help participants work through strong emotions and produce an agreement. It is easily adaptable to differing settings (e.g., school, workplace, etc.), and has been successfully used in a variety of cultures (e.g., Australian Aboriginal, American Indian, Asian American, South African). Police conferencing has been especially useful in building bridges between groups from different cultures. In Bethlehem, a number of the conferences required a translator for Spanish-speaking families who participated. These conferences worked very well, and there was no difference in participation rate or satisfaction between Anglo and Latino participants. Conferences also went well whether the offender was 11 or 17. The wording of the questions can be simplified for very young children, and informal use of the scripted questions have been reported helpful with children as young as three years old (Wachtel, 1997).

Without race/ethnic specific data on participation rates and participant perceptions, cross-program comparisons of cultural sensitivity is not possible. Evidence regarding cultural issues is therefore more qualitative. Such evidence as exists suggest that the scripted process, whether facilitated by police officers or anyone else, is culturally flexible if not culturally universal (Moore, 1996a, 1996b; Nathanson, 1992).

It has been suggested that the programme won't work for Aboriginal people. Aboriginal people, as it happens, have shown more interest in the programme than many other groups in the community. (Moore & McDonald, 1995:169)

## **6) Police-based conferencing may lead to net-widening.**

There is no evidence to support this concern. Both the Bethlehem study and the original Wagga study (Moore, 1995) found that the number of cases referred to court dramatically dropped following the introduction of police-facilitated conferences. Since none of the police programs have been implemented with additional funding, conferencing requires a shift in the use of existing police resources rather than an enlargement of their capacity to process cases.

Criminal mediation programs can also contribute to net-widening; the problem is certainly not limited to police diversionary programs. The additional resources brought to criminal cases by the independent mediation organization does create greater system capacity to process cases than would otherwise exist without the program.

A greater threat for voluntary programs than net-widening is becoming irrelevant—due to a lack of access to cases. The more remotely connected to the criminal justice decision-maker the auspices of the program, the more likely only the most trivial cases will be referred. Program marginalization has always been a problem for criminal mediation programs, especially when they are operated by private and religious not-for-profits (Umbreit, 1994:162). Cases which are referred to outside agency programs are more likely to be the kinds of cases that would have been dropped absent the existence of a new program.

## **Advantages of a police-based model**

Now that we have put the concerns raised about police conferences in the context of empirical reality, let us consider some of the potential advantages.

As the gatekeepers of the criminal justice system, police are best placed to identify appropriate cases for conferencing and deal with them speedily.

Victims prefer police as facilitators because they perceive them to be ‘on their side’ and they feel safe. (This is acceptable because conferencing is not mediation, that is, it is not designed to be neutral about whether what was done to the victim was wrong).

Conferencing led by police is perceived to be ‘serious’ and part of mainstream criminal justice process, not as welfare intervention focused on the offender [or a restitution collection mechanism on behalf of the victim].

Police are likely to be more successful in exacting compliance with outcomes, compared with ‘welfare’ authorities [or voluntary programs].

Skills required for facilitation are mostly those developed by police as part of their duties in community policing.

Part of the argument for restorative justice is to change police culture so that it is more restorative on the street. (Strang & Braithwaite, 1998)

Each year in the United States, police make over 12 million total arrests and nearly a million juveniles are handled by the juvenile courts. Total annual expenditures on police exceed \$28 billion, with approximately 20,000 individual police departments already in existence in nearly every township and city, usually financed at the municipal level (Senna & Siegal, 1993). The infrastructure for police to provide restorative practices is already in place. The establishment of a comparable capacity with individual commu-

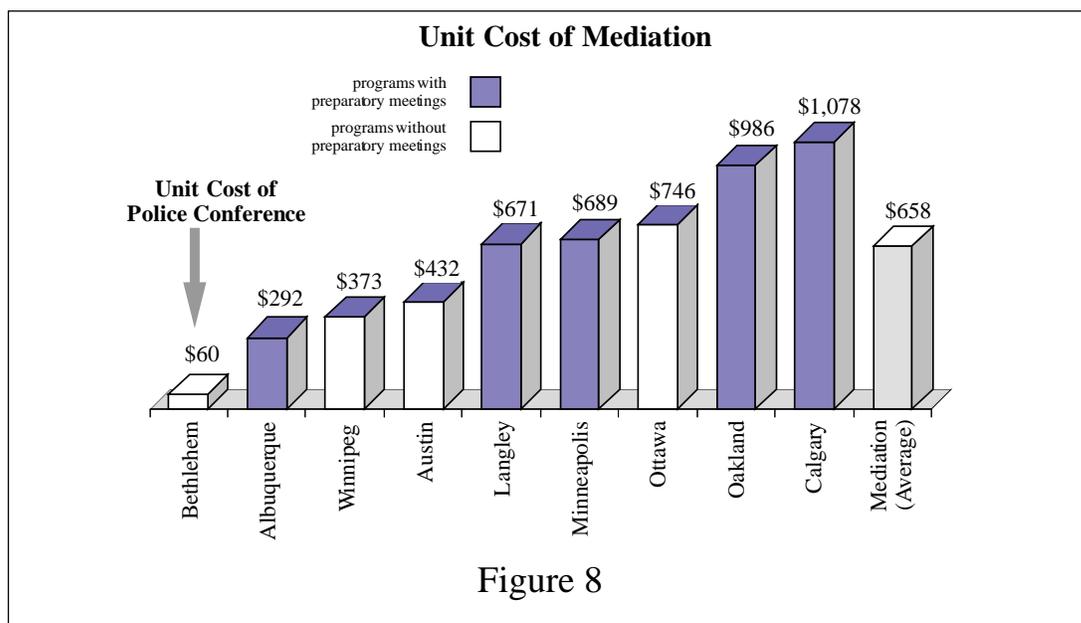
nity-based restorative justice organizations would cost additional millions and take years before the such services could be available to more than a small percentage of juvenile cases processed in this country.

Restorative Justice prefers responding to the crime at the earliest point possible and with the maximum amount of voluntary cooperation and minimum coercion, since healing in relationships and new learning are voluntary and cooperative processes. (Claassen, 1996)

Police are the gatekeepers to the criminal justice system. In most criminal cases a police officer who determines if the situation is definable as a criminal offense and makes the arrest and referral to formal processing. It is the police who initially respond to the crime victims Police can offer the earliest diversion, allowing fewer opportunities for stigmatization. After an offender admits responsibility, attends a conference, agrees to terms, and fulfills those terms, the charges are withdrawn. The case is diverted away from the courts, probation officers, youth counselors, lawyers and others.

Police officers conducting restorative conferences, in uniform and at the police station, bring a sense of seriousness and gravity to the process. When crime victims are treated thoughtfully, they find the environment a very safe one, as does everyone else in attendance (O'Connell, 1996a, 1996b). Compare this to a victim, offender and their mediator meeting together in a community center. The victim would have to have developed a great deal of trust in the mediator to participate in such a meeting. There is a certain amount of trust and respect that comes with the police uniform (at least in most places). There is also a sense of safety attending such meetings in the company of family and significant supporters.

Perhaps the biggest differences between police-based conferencing and stand-alone criminal mediation programs is the cost of operation. Police can conduct conferences, on duty, as part of their community policing routines. Except for the initial training costs, all the program operational expenses are part of the normal department budget. The estimated operational program cost of the police conferences in Bethlehem was less than \$60 per case.



The average conference lasted 33 minutes with 5 minutes of social time afterward. The facilitating officers spent less than an hour to arrange and prepare for the average conference. The project liaison officer used about 30 minutes per case screening out ineligible cases and making initial contact with participants. Arresting officers in addition to the facilitating officers participated in 25 percent of the conferences. Thus, the average number of department man-hours was 2.3 hours per conference. At the current senior patrolman salary of \$26.33 per hour, the average salary cost to the department per conference was \$59.70. (McCold & Wachtel, 1998b:100).

Stand-alone restorative justice programs have a variety of overhead expenses in addition to personnel requirements. Even programs operating with volunteer mediators have significant annual budgets, ranging from \$31,530 in Albuquerque to \$127,176 in Oakland. Many stand-alone private restorative programs not only suffer from lack of access to cases, most must spend a large amount of time and effort fund-raising to keep the program operational (Umbreit, 1994: 142). For these programs, the cost per case is the program's annual budget divided by the number of cases mediated in a year. The differences are dramatic. Bethlehem's police-based restorative program was much less expensive to operate (per case) than the criminal mediation programs, as shown in Figure 8. The average cost per case of the mediation programs (\$658) was more than ten times more expensive than the police conferences.

### **Police need tools for community policing**

In spite of some sincere efforts to implement the tenets of community policing, actual structural changes in policing and involvement by the community have been disappointing in most departments. In a recent scathing criticism of community policing, Professors Taylor, Fritsch and Caeti (1998) declared, when it comes to facing the core challenges of community policing "the emperor still has no clothes."

The implementation of community policing is more academic than actual. Most police work in most departments engages the community no more now than it did 20 years ago. The gap between theory and practice in community policing is huge. As a police chief of a major eastern U.S. city was heard saying, "The only thing wrong with community policing is, where's the 'community'?"<sup>4</sup> The willingness of individuals to spend their spare time engaging in law enforcement activities is limited, especially when this takes the form of "eyes and ears for the police."

Community and problem-oriented policing involves a fundamental paradigm shift for policing, one for which not all are yet ready. Community policing and restorative justice share much in common (McCold & Wachtel, 1998a). The need for new police tools to actively engage the community in problem solving is acute. Police are frustrated about how to implement the implications of the new paradigms.

As we see it, the model that emerged in Wagga encourages police to think differently about their response to juvenile crime, about their response to the needs of victims, and about the most just, most effective means of preventing crime. The scheme offers police a new way of responding to victims, to offenders, and to the community of people supporting either or both. At the same time it offers something new to police, the scheme encourages people affected by offensive, illegal behavior to consider how they might minimize the harm. It offers constructive ways to deal with the anger and resentment of victims, families, and friends. The scheme also offers to reduce the likelihood that more harm will be caused by the same offenders. It does this by

encouraging local communities to find better ways of providing care, support, and guidance to young offenders. At the same time, however, it sends a very clear, very strong message that the behavior was unacceptable. A civilized community will seek to learn from the mistakes of its members but it will not abide the subjugation, or victimization, of one person by another. (Moore & McDonald, 1995:146-7)

Police-based conferencing gives police the means to constructively engage communities and involve them in a restorative practice (McCold, 1996). Restorative practices, like police-based conferencing, are consistent with the widespread changes in police thinking about community involvement. There is great potential for including restorative principles in the wider scope of police practices as police find innovative new ways to perform a very old function— that of community peacekeeper.

### **Police as Agents of Change**

If restorative justice advocates want to change the retributive system, they must engage that system in restorative practices. Police-based diversionary conferences are an ideal way to do this (Braithwaite, 1997).

There is something of a personal values transformation that occurs as people individually shift paradigms, an “aha!” experience (Harris, 1985; Kuhn, 1970; Wachtel, 1997; Zehr, 1995). A number of individual police officers who are involved in police conferencing have become vocal advocates for a restorative justice approach, both within and outside their departments. The effect of police conferencing on communities requires greater documentation, but anecdotal evidence suggests that police have been the catalyst for creating substantially healthier communities. Some police departments are even experimenting with restorative responses to internal discipline procedures (Collins, 1998; O’Connell, 1996c, 1996d, 1996e). There are a growing number of police departments who have become very excited about the possibilities.

No other restorative justice approach has so quickly brought such numbers of law enforcement officials “to the table” as active stakeholders in the restorative justice movement. (Umbreit and Zehr, 1996b:24).

Imagine if a large segment of policing actually shifted paradigms from punishment justice to restorative justice. Imagine the potential of police officers enthusiastically championing the restorative justice vision. Transformation of the entire justice system begins to become a real possibility, and transformation of society could become something more than a utopian pipe dream. As Howard Zehr (1990) says, the point is not to change the system; the point is to change the way people think, and the system will change as a result.

### **Conclusions**

The available data support a number of conclusions. Crime victims and young offenders trust police enough to participate in conferencing at a rate as high as other criminal mediation programs, whether these programs were run by court services, as independent not-for-profits, or using professional or volunteer mediators. Police are as capable of being non-authoritarian in their approach to offenders, sensitive to the concerns of victims, and respectful of families as volunteer or professional mediators. Victims, offenders and offenders’ families trust police more than is generally assumed; thus, criticisms that the police will not be trusted are unsupported by the available research evidence. Without empirical data to the contrary, these results should establish that police-facilitated conferences are as consistent with restorative justice principles as the best run mediation programs.

Both criminal mediation and conferencing are useful practices of restorative justice, and both should be encouraged. Both approaches can pay for themselves in savings to the courts from cases diverted before adjudication. Yet, criminal cases are not all the same. As a diversion and community resolution process, police conferencing is probably appropriately limited to lower-level criminal offenses. Restorative processes for victims and offenders involved in very serious crimes, where extensive services are needed and formal accountability structures are required, would be inappropriate for police to divert. Restorative programs for these crimes would best be operated under the supervision of court authorities and are more likely to require the intensive services and time commitment of more “humanistic” mediation or non-police-facilitated conferencing programs. However, for most juvenile crimes, a process that is less expensive and time-consuming than criminal mediation—a process that can be learned by the local policeman—may be more appropriate.

#### NOTES

1. The New Zealand model of family group conferencing is primarily a family welfare model that did not originate from a restorative justice framework. The application of the social work model to youth justice was initially problematic, with many crime victims feeling worse after the conference. There has since been a concerted effort to apply restorative justice principles to New Zealand’s youth justice conferencing (McElrea, 1994, 1996; Brown, 1994; Maxwell & Morris, 1996). However, these principles were added to the practice after the initial evaluation (Maxwell & Morris, 1994) and play no part in child welfare FGC practice or theory (e.g., see Marsh & Crow, 1998; Hardin, 1996).
2. Data from Real Justice database, October 1, 1998.
3. The Bethlehem experiment essentially replicated the findings of Moore’s (1995) original Wagga study. Similar levels of positive participant perceptions are being reported in Woodbury, Minn. (Umbreit & Fercello, 1998) and in the RISE study in Canberra, Australia (Sherman, 1996). Restorative policing programs with planned evaluations include Indianapolis, Baltimore, and Charlotte in the U.S., and Thames Valley in England.
4. National Institute of Justice, Conference on Research, Washington, D.C., October, 1996.

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