

The 17th IIRP World Conference

October 27-29, 2014

Bethlehem, Pennsylvania, USA

‘Redefining Restorative Justice/Practices.’

*Terry O’Connell
Australia Director, Real Justice*

Definition

- *What is a definition?*
- *What purpose does it serve?*
- *What has a definition got to do with practice?*

“definitions enable us to have a common understanding of a word or subject; they allow us to all be on the same page when discussing or reading about an issue.” [<http://piadvice.wordpress.com/2012/06/13/the-importance-of-proper-definition/>]

Workshop Overview

Workshop A : “A Case For Change”

- *Survey & Results*
- *End Game – What Research Shows*
- *Practice Needed To Achieve These Outcomes.*
- *Good Practice*
- *Working Assumptions.*
- *Why The Real Justice Conference Script Works.*
- *Reflection: Connecting Restorative philosophy, theory and practice.*

Workshop Overview

Workshop B - “Towards A New Definition”

- *Integrating Restorative practice - Case Studies*
- *Your experience – Case Studies*
- *What is your view about the need for change?*
- *What would a new definition look like?*
- *What words, sentiments, meanings or other considerations would you include in your definition?*

Survey

Rationale:

- *Personal view is that we are yet to discover RJ/RP's true potential.*
- *Need to shift from a behavioural to a relational definition.*
- *Survey was a useful way to gauge other views.*

General Discussion

- *Why have you come to this workshop?*
- *What are your thoughts on how RJ/RP is traditionally defined?*
- *What influences your definition?*

Respondents [last two questions]:

- *Most mentioned building relationship, with self and others.*

Selected Comments

“Restorative practice is an innate human orientation with biological, psychological and spiritual components which combine to form the necessary backdrop from which we can more effectively relate, communicate and ultimately survive as a species.”

“In its purest form and on a wider scale it becomes a way of thinking, relating and learning together or a way of ‘being’- individual and shared responsibility & decision making can thus impact an organization and build social capital or community by creating a collaborative and inclusive culture.”

Selected Comments

“RP is a way of thinking and being, focused on creating safe spaces for real conversations that deepen relationship and create stronger, more connected communities.”

“These are both working definitions for me that provide a guide for how to understand or create meaning around RP. I find them useful in teaching and learning along with other definitions that authors have attempted to provide.”

“Restorative Justice is a process which seeks to restore and strengthen relationships, repair harm, and contribute to the collective wisdom in ways which build community.”

What Success Looks Like

Respondents:

- Most said it was about meeting needs and empowerment.*
- Some said it would depend on a number of variables.*
- One said not so much the destination but the journey.*

“The end game is about achieving an authentic connection occurring between people who understand that despite their vulnerabilities they are worthy of loving and belonging.”

‘The client is better able to ‘make sense’ of what is happening through telling their story and this can lead to them feeling more empowered.’

What Research Says Makes A Difference

Respondents:

- Everyone mentioned the importance of relationships.*
- Most mentioned respect, fairness and empathy as key element of a good professional relationships.*
- Two mentioned [as a way of explaining a theory] the importance of creating the conditions that Silvan Tomkins suggests is fundamental for psychological and emotional wellbeing.*

“Relationships lie at the heart of meeting basic human needs and allowing us to be at our most healthy and thus to flourish. The spectrum of restorative processes and approaches help to address those needs when they are not being met and to provide a safe environment in which to express emotion and repair any damage done to relationships including our own feelings of self-worth.”

Maybe It Is Only About Relationships?

An interesting comment from one respondent:

“It is such a fascinating fact that the relationship between client and professional is far and away more important in so many cases than the actual professional practice. This fact would just about make you say, I don’t need to learn this, I just need to learn how to build relationships! Well, isn’t it nice that on some very fundamental level, that is what restorative practices is all about?”

Question: What are your thoughts about this statement?

Does your view have any implications for practice?

List the key elements you think constitutes good practice.

Good Practice

The practice would need be:

- *explicit - clear rationale about its philosophy, assumptions and theoretical influences.*
- *able to describe its [potential] outcomes.*
- *capable of delivering on these outcomes.*
- *easily explained and shared with those who are being assisted.*
- *clarity about the role of the practitioner [in articulating this practice].*

Practice Assumptions

What assumptions do we hold about Restorative Practice?

If you mentioned relationships, why are these important – what does the evidence show?

Research:

- *Healthy relationships are a vital component of health and wellbeing.*
- *Live longer - A review of 148 studies found that people with strong social relationships are 50% less likely to die prematurely.*
- *Deal with stress – secure in relationships.*
- *Be healthier – less likely to get sick or better able to recover compared with those with tenuous relationships.*
- *More satisfied with life.*

Working Assumptions

My 'working' assumptions are that:

- 1. Relationships are what help us as social beings to derive our identity and meaning.*
- 2. Regardless of the model, practice or theory used there is a strong 'consensus' that an ideal outcome would be for an individual or a group to know how to experience 'right' relationships.*
- 3. Practice focus needs to be on creating those conditions that help establish and build relationships.*
- 4. The practice that reflects the conditions prescribed by Silvan Tomkins for emotional and psychology wellness [strong relationships] is likely to do best at achieving this outcome.*

Why The Real Justice Conference Script Works.

What did you think when you were first told 'trust the script'?

- First informal 'meeting' June 1973 – assaulted as a police officer.*
- Dealt similar incidents in what I now know as the 'restorative way'.*
- 1989 – appointed as Senior Sergeant Wagga Wagga Beat Police.*
- 14 staff – spent the first two days together in circles discussing policing – need to develop some practice rigor.*
- Facilitated a two-day police and community seminar – 300 participants each day.*
- Each staff member required to facilitate a session and share some research.*
- Obtained a community mandate to focus on five areas – youth crime was the highest priority.*

Youth Focus

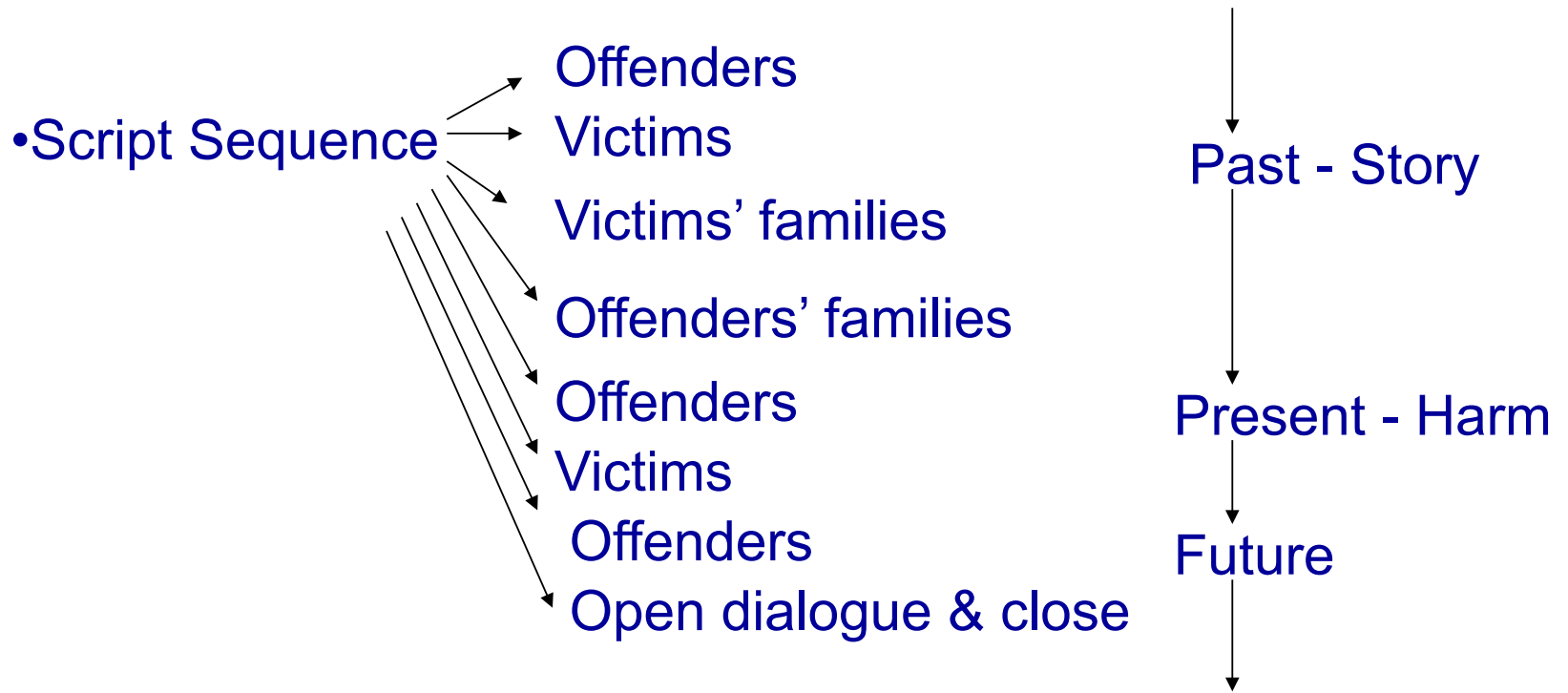
- *Identified that existing policing practice for dealing with young offenders was 'all over the place'.*
- *Research on what was working or what looked promising in Australia and internationally.*
- *John McDonald came in June 1991 to talk about his research in NZ.*
- *I realised that this basic FGC approach could be used as a police caution.*
- *July 1991 I ran the first caution for theft of a vintage motor cycle.*
- *Process went surprising well despite relying almost entirely on intuition.*
- *Within six months had facilitated many conferences and had developed the conference protocols and questions [which largely are unchanged today]. Results – 2 years.*

Search For Theory

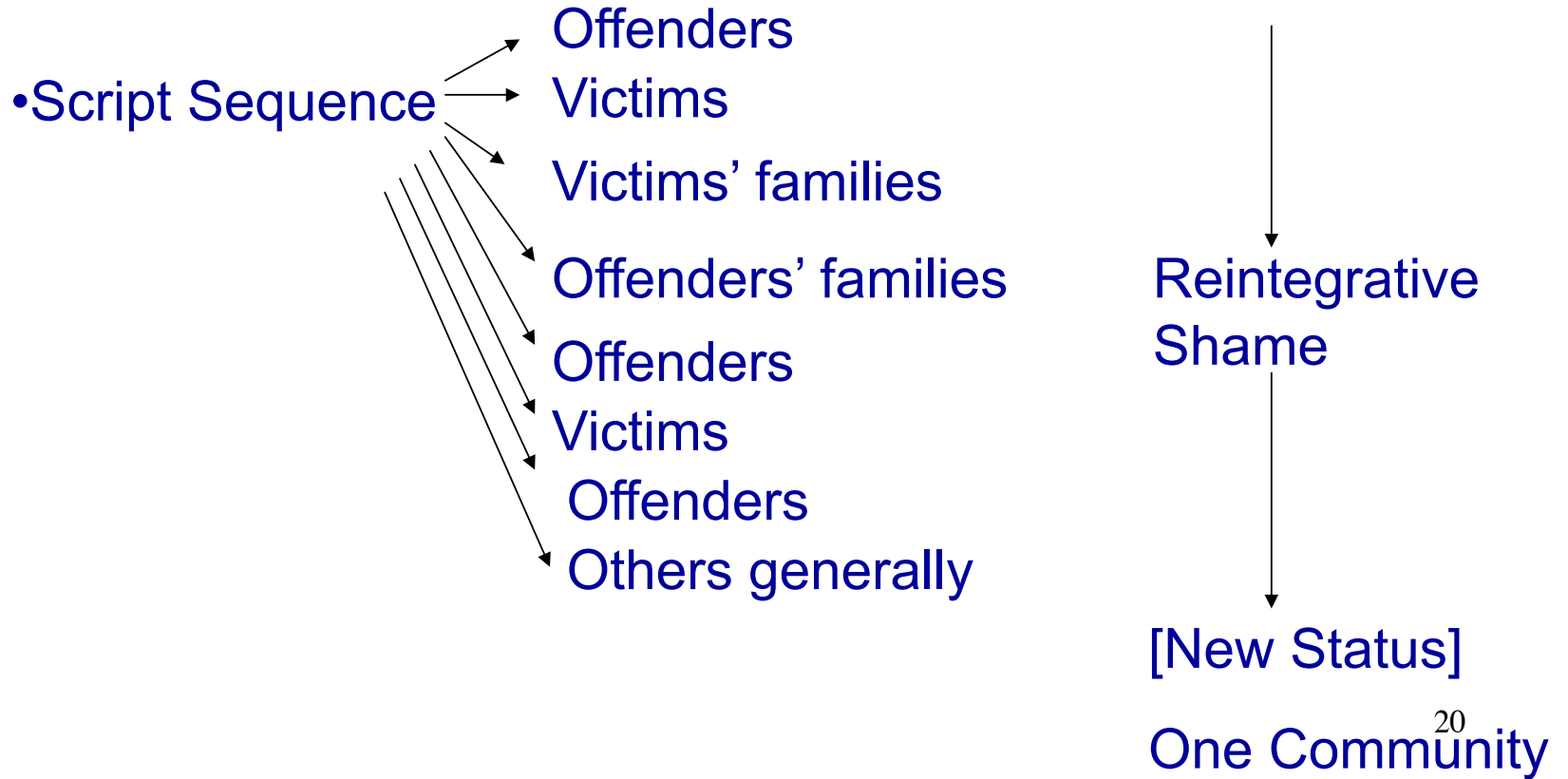
- *June 1991 – Moore alerted McDonald to Braithwaite’s book.*
- *Braithwaite contacted and visited Wagga Wagga to observe conferences.*
- *Many visits from Braithwaite - Sherman, Strange, Scheff & Retzinger.*
- *Steady supply of case studies - Conditions Of Successful Reintegration Ceremonies: Braithwaite & Mugford 1994*
- *Braithwaite’s theory not able to explain the conference dynamics.*
- *Moore found Silvan Tomkins work in 1993 – contacted Nathanson.*
- *I visited Nathanson in June 1994 in Philadelphia and helped promote his book Shame & Pride – **I had arrived!***
- *With Nathanson presented at Juvenile Youth Court, Doylestown [PA] Ted Wachtel was in the audience. Within 12 months - **my life changed!***

How Practice and Theory Connect

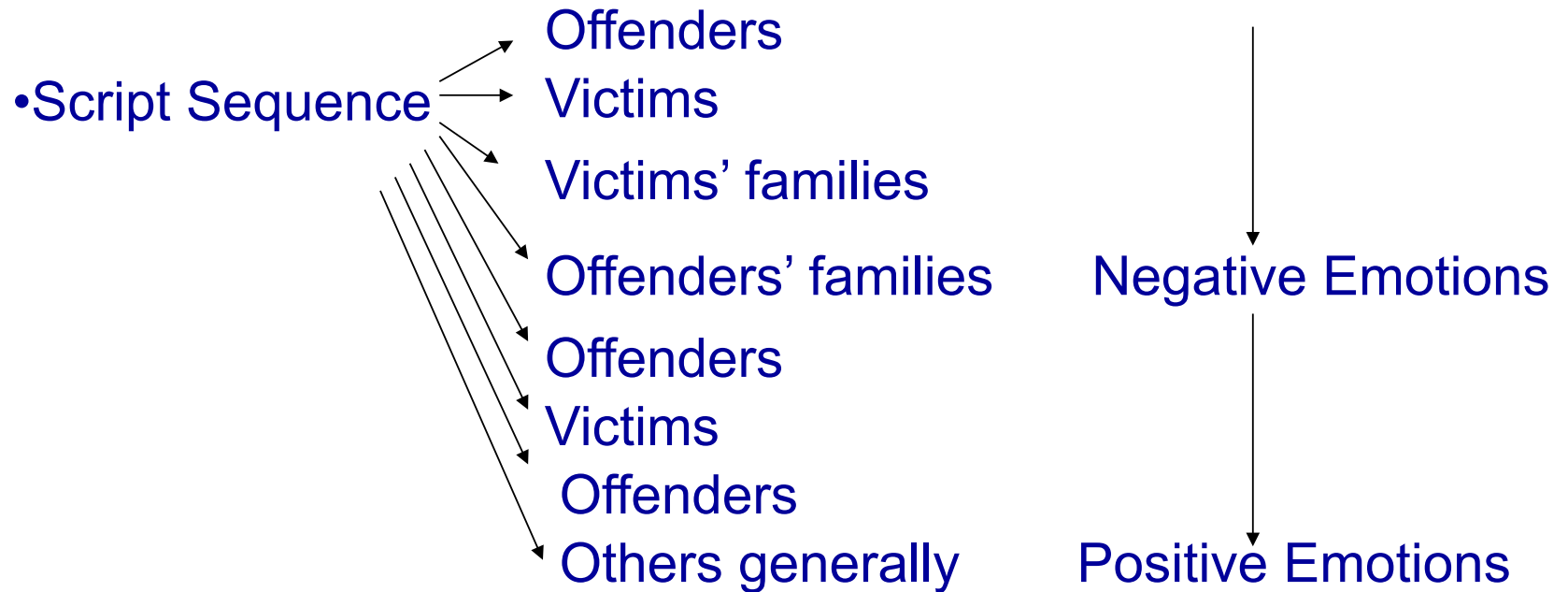
Restorative Protocols



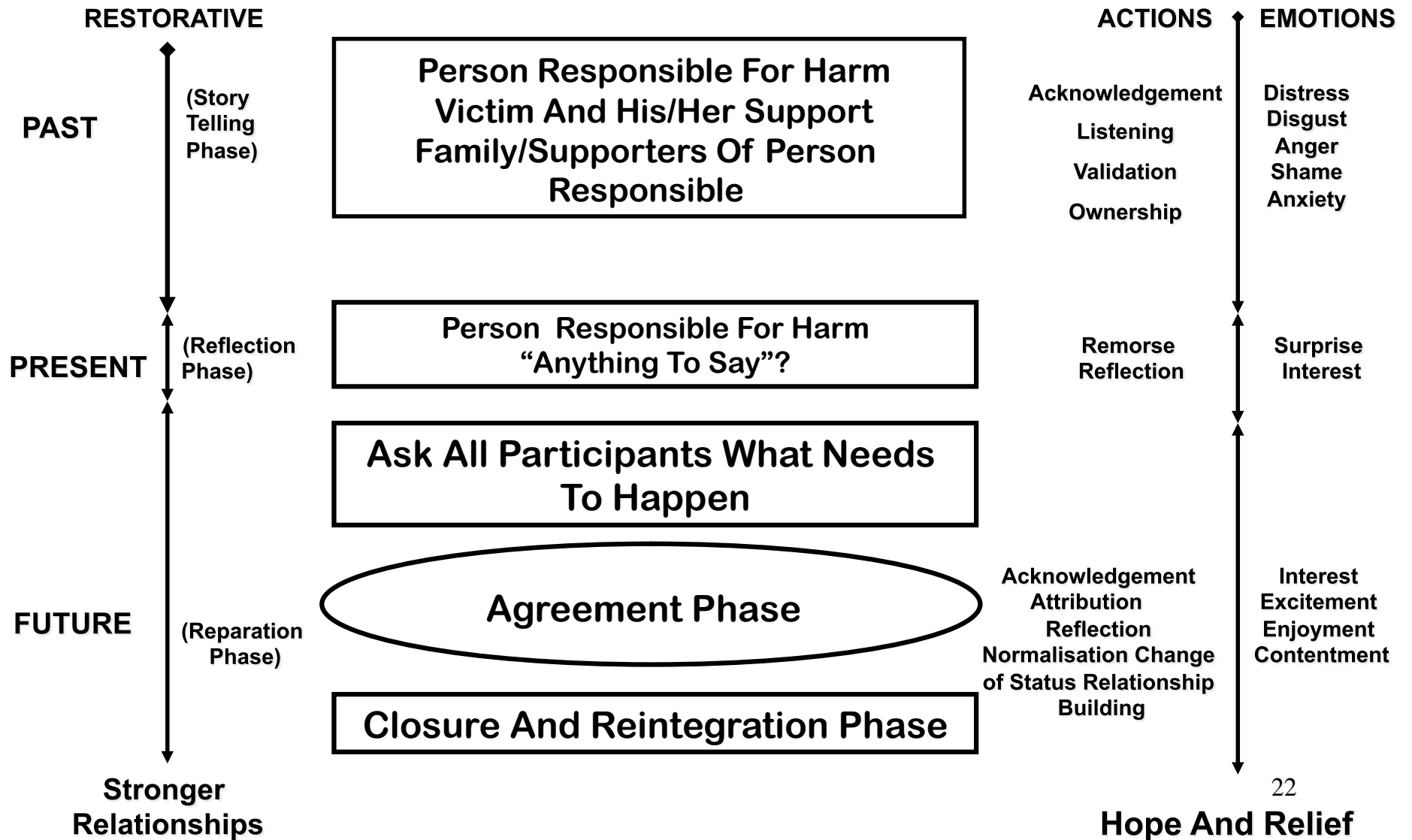
Braithwaite's Theory and Script Protocols



Psychology of Affects and Script Protocols

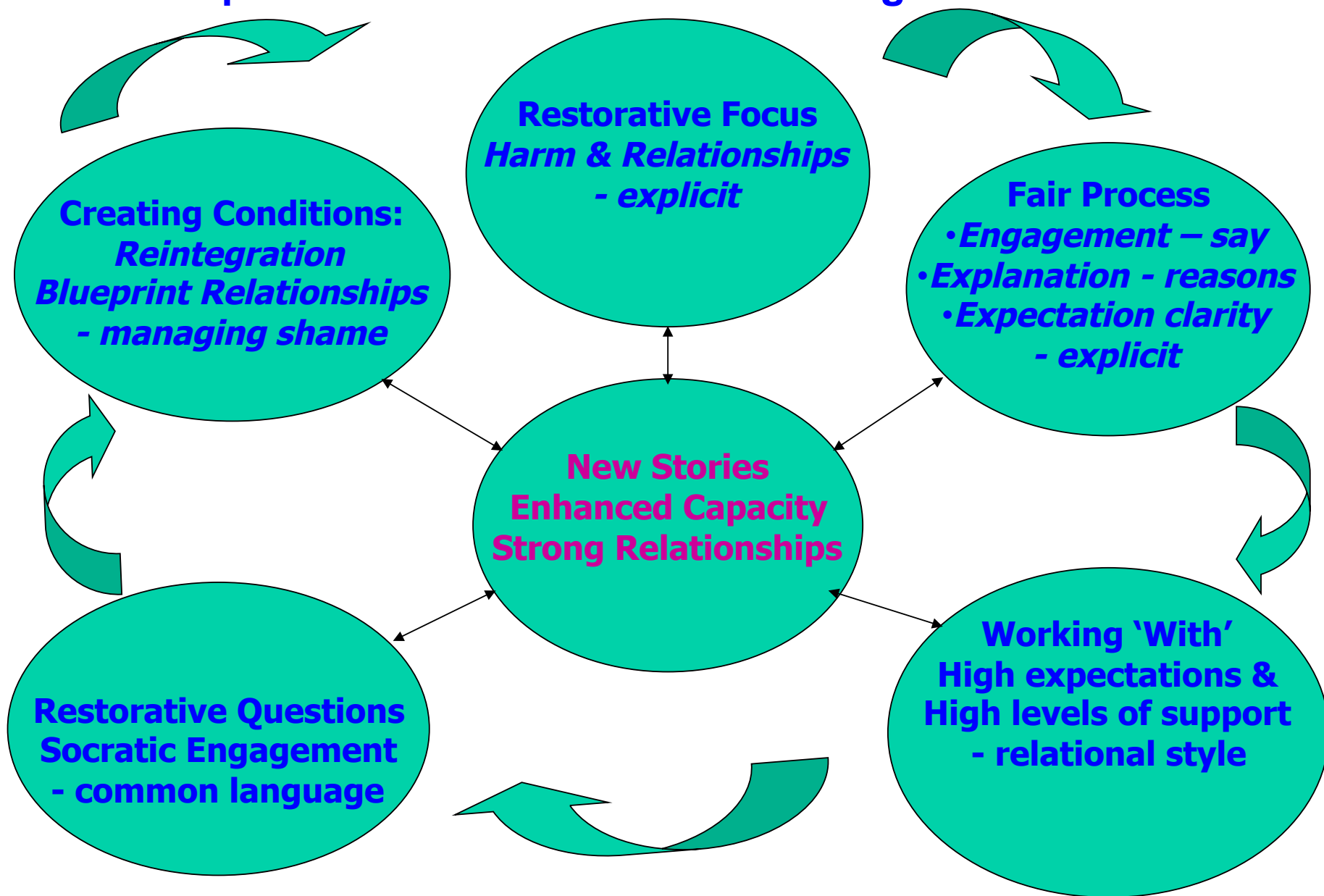


Conference Protocols



Today [23 years later] – New Possibilities

Explicit Restorative Framework - Right Conversation



Capacity Building

How to 'empower' others.

Empower: To give somebody power or authority; to give somebody a sense of confidence or self-esteem.

**[*Encarta® World English Dictionary © 1999 Microsoft Corporation.]*

Practice needed to Capacity Build:

'Likely to involve facilitated dialogue that assists others 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.' [Terry O'Connell 1999]

Role: Socratic engagement style - Facilitator.

Restorative Questions I

When Things Go Wrong

- *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?*

Restorative Questions II

When Someone Has Been Hurt

- *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?*

Nathanson's Community 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 expression of emotions as a way of experiencing 1 & 2.*
- 4. Doing more of 1, 2 and 3 (essential for building and maintaining good relationships).*

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- *Other Case Studies*
- *Framing A New Definition*

Case Studies

- *Restorative Probationer.*
- *Restorative Psychologist*
- *Restorative Family Worker*
- *Restorative Grief & Trauma Counsellor*
- *Restorative School Community.*
- *Restorative Organisation.*

Restorative Probationer.

- *Grahame Chaseling – Corrections Officer then Probation Officer*
- *‘The Game’ – integrated restorative elements in every program.*
- *‘The Challenge’ – more explicit and structured.*
- *Integrated restorative practice in every aspect of his day-to-day practice – restorative interviewing; includes family and significant others; restorative pre & post sentencing reports.*
- *Explicit practice: explains and shares his practice – small restorative cards given to each offender and families.*

The Restorative Challenge

The Restorative Challenge is a practice for dealing with things that go wrong or are not working. It is a structured process and involves a series of facilitated stages. It has a Restorative focus, one that looks at what has happened, who has been affected, and then what is needed to make things right.

It brings together those involved in the wrong doing or conflict as well as their communities of care. Through a series of respectful engagements, it aims to positively influence their social context by focusing on building and strengthening relationships.

The Challenge

The Challenge has seven key stages:

- Initial Engagement and Introduction*
- Establishing Expectations*
- The Cheer Squad*
- Preparing for the Gathering*
- The Gathering*
- Doing The Work*
- Reflection and Formal Acknowledgment*

What Explicit Practice Sounds and Looks Like.

Hello my name is Grahame Chaseling and I work as a probation officer at this court. My work involves preparing pre-sentence reports for the magistrates. I have been asked to supply one on your behalf.

Let me briefly explain how I prepare these reports so that you are clear about where I am coming from. I write reports around three main themes or questions:

What has happened? Who has been affected? What is needed to make things right?

This is called a restorative approach as it looks at the how relationships have been affected and what obligations offenders have to change their behaviour and repair the harm that has resulted.

To help you understand this, I will begin by asking you “What happened? How did you get involved?”

The Dilemma

Dear Terry,

It's funny we'd had that conversation. I was out on the road when we spoke, and among other things I had to visit an offender whose partner had phoned me this morning and said he'd been drinking again (he did rehab, and alcohol abstinence is an ongoing condition of his order), lots of arguments then for the last 4 days they hadn't spoken.

She'd asked him to leave several times, the relationship's finished, she said, but he wouldn't move out. We know this to be part of their cycle, so there was no doubt this would be a continuing saga. Anyway, at the moment she has the kids with her and was scared to go home.

Restorative Engagement

Anyhow I called in to see him. He was hiding inside the house, I eventually got him to respond and come out. He opened with “I know I’ve broken my conditions and you have to breach me.”. I said “I don’t know what you’re talking about. I’ve got no interest in talking about conditions or breaching you. I’m just wondering how things are going with Opal (his partner), the police seem to think there’s been drama. He discussed that pretty forthrightly.

We went from there to how it all might be affecting his relationship with his kids, and how he wanted his relationship with her and the kids to be, and ultimately got on to what he thought he might be able to do that might help. His first suggestion was to move back with his mother so his partner and the kids could come home. So that wasn’t a bad starting point. We can work on the other stuff.

How I Used To Do Probation Reports

Attitude to the Offence

The offender agreed with the Police Facts. When asked how she thought the victim had been affected, Ms Apena expressed the view that “she had it coming”.

Summary

The offence currently before the Court appeared to be characteristic of Ms Apena’s social relationships and inability to manage her anger. Enquiries of the offender’s mother indicated that Ms Apena was unresponsive to her family’s efforts to resolve her behaviour.

The offender’s attitude to the offence was of concern to this Service. She declined to accept responsibility for her behaviour in any meaningful way. Other areas of Ms Apena’s life, including employment and accommodation appeared to be in order.

How I Do Restorative Probation Reports – Part 1

Factors Related To Offending [Relationships / Social Factors]

When asked how she came to be involved in the current offence, Ms Apena said that soon after she and her friends entered the clothing store, they were accused of shoplifting. The offender said that she and her friends were angered and humiliated.

After being ejected from the store by security staff, Ms Apena said, she and her friends discussed what had happened, and formed the intention to confront the victim. When the victim failed to apologise, Ms Apena said, they assaulted her.

When asked what she thought when she found out what had happened, the offender's mother said that she had been concerned about her daughter's binge drinking and social relationships, issues which her daughter had previously refused to discuss with her.

When asked what he thought when he found out what had happened, the offender's boyfriend said that he had also been in trouble as a younger person, and had tried to talk to her about her irresponsible lifestyle, without success. He described Ms Apena's behaviour as stupid and dangerous.

How I Do Restorative Probation Reports – Part 2

Attitude to the Offence: *When asked who she thought had been affected by her behaviour, Ms Apena initially nominated herself and her family, and commented that she was surprised that her employer was so affected. When asked how she thought they had been affected, Ms Apena said that she had caused her family to become stressed, which caused a lot of conflict in the home.*

After prompting by her mother and boyfriend, the offender acknowledged harm to the victim, the victim's family, security staff and other shoppers. When asked how she thought the victim had been affected, Ms Apena expressed the view that "she had it coming".

The offender's mother and boyfriend immediately and emotionally confronted Ms Apena about her attitude towards the victim, and asked her how she would have felt if six young women, much larger than herself, had assaulted her in her workplace. The offender subsequently conceded that it would have been very distressing for the victim.

Outcomes- Normal Probation Report Part 3

Suitability for Supervision

Taking into account all of the above information, the offender is suitable for interventions by this Service. The individualised case plan would include strategies to address the following identified areas of criminogenic need:

Attitude to the offence; Anger/ Violence Issues; Social Relationships.

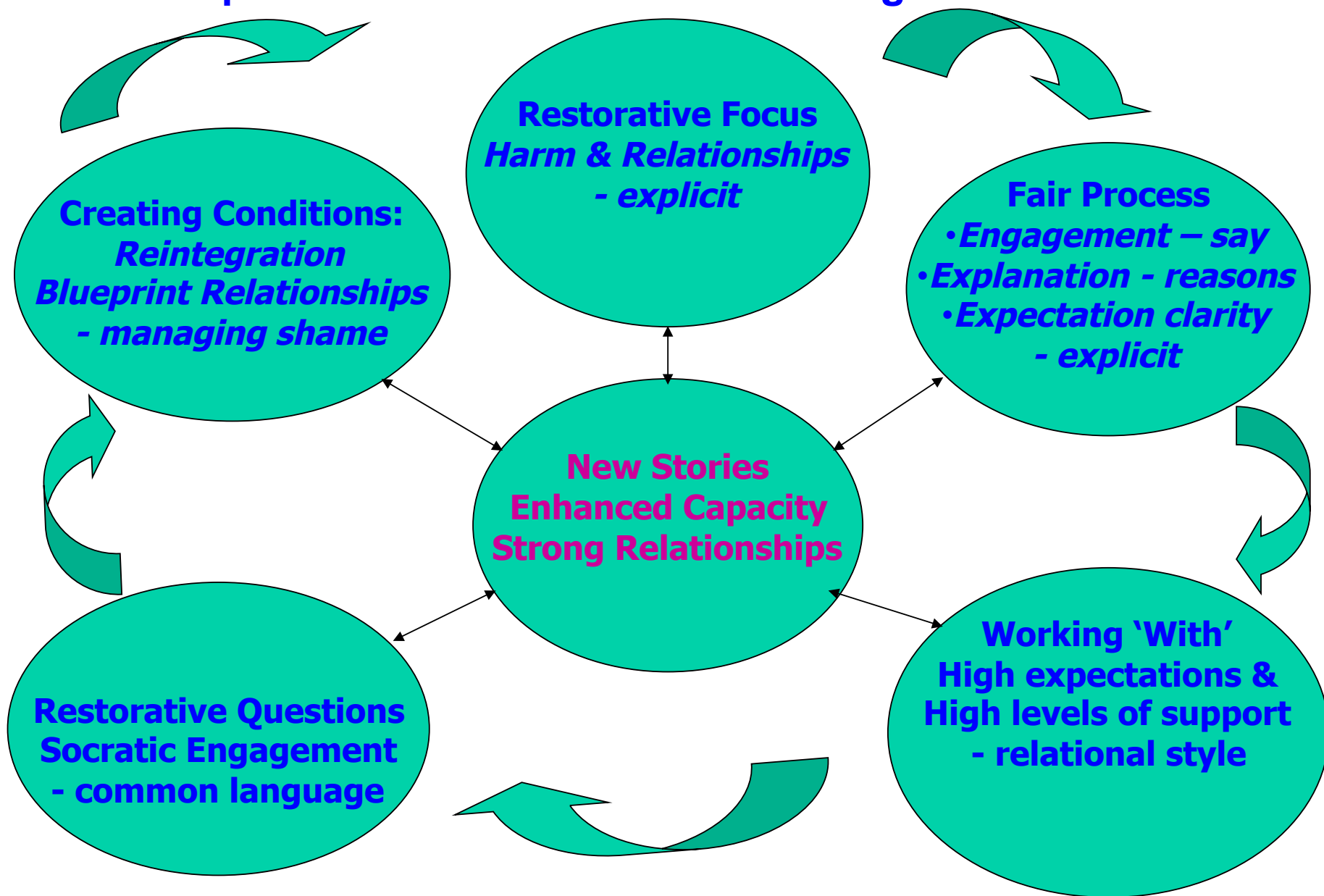
As the offender remained recalcitrant in her attitude during the preparation of the Pre Sentence Report, close monitoring by this Service may be required to ensure community safety.

Outcomes- Restorative Probation Report Part 4

As a result of the above conversation, the offender was asked how this Service might assist her to put her life in order if placed under supervision. With the encouragement of her mother and boyfriend, Ms Apena identified that she had obligations in the following areas;

Sobriety; desisting from binge drinking. The offender accepted that although her parents were sober in their habits, her own drinking was problematic and required attention. Social relationships/ Personal Responsibility; Whereas Ms Apena initially said that she “fell in with the wrong crowd”, she ultimately acknowledged that who she associated with was her deliberate choice and responsibility, and therefore needed to think through her own choices about social relationships.

Explicit Restorative Framework - Right Conversation



How To Best Share Your Practice.

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He's asked me to spend an hour with her next Friday to try to change her mind about the way she engages offenders, and to offer some strategies. I was thinking I'd like to take her through your Challenge PowerPoint, particularly around the social discipline window and what makes an offender's experience of us as being fair and respectful.

I'd appreciate any thoughts you might have about it.

What Are Your Thoughts?

- *What suggestions do you have on how Grahame should deal with his new colleague?*
- *What does Grahame need to be mindful about i.e. 'elephant in the room'?*
- *Where should he start?*
- *How should he engage his colleague so that she understands the need for change?*
- *What keeps you and I out of relationships?*
- *With this in mind, where should we begin any intervention or interaction?*

Other Case Studies

- *Restorative Psychologist*
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What words, sentiments, meanings or other considerations would you include in your definition?

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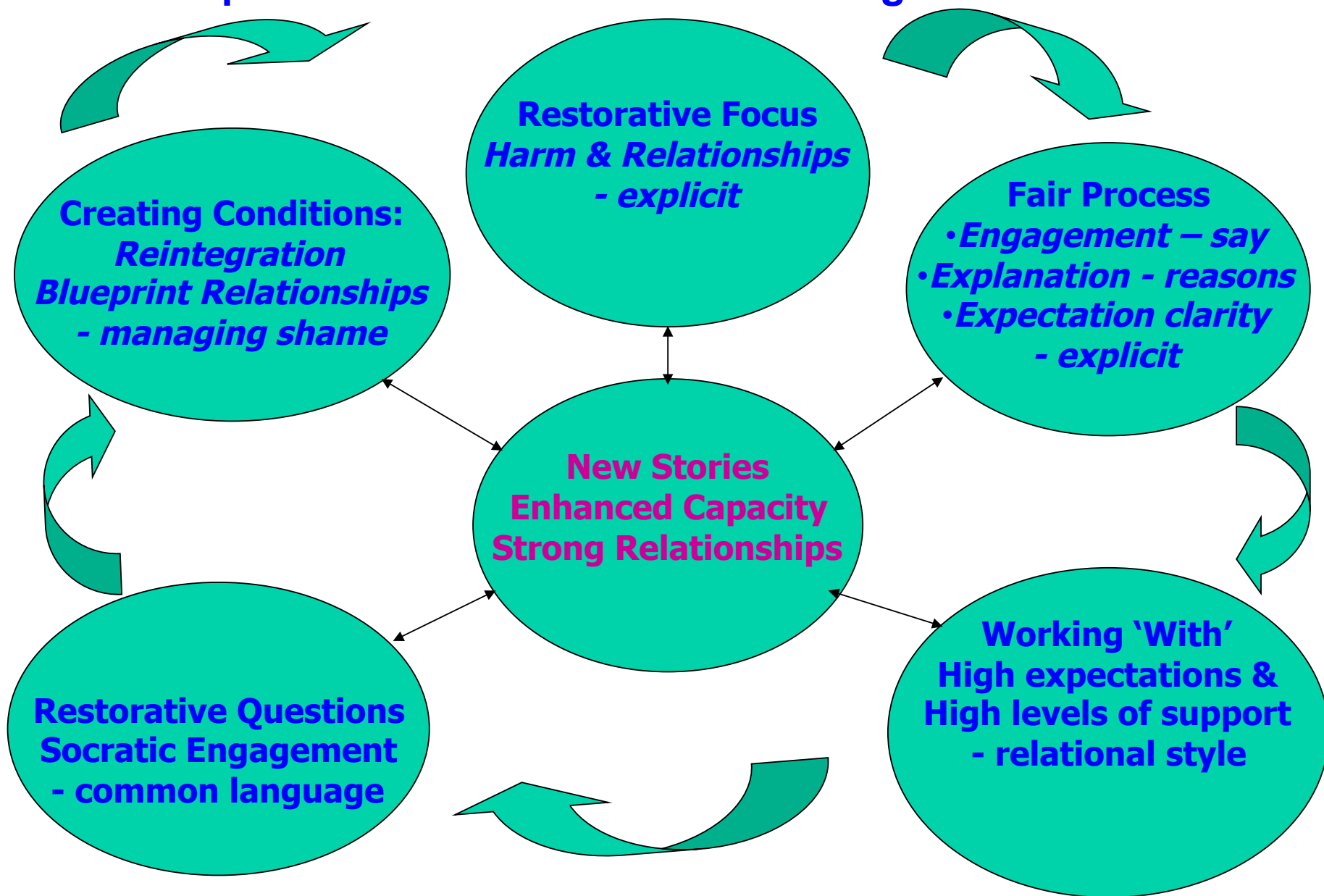
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