

Pikes Peak Restorative Justice Council Restorative Justice Symposium Sept 25, 2015  
Colorado Springs, CO - Pete Lee Remarks

After meeting with the man who killed her 3 year old baby in a drive-by shooting, Sharletta Evans said;

“I got all of my questions answered. I am completely satisfied. Now I can think about Caisson's life; before, all I could think about was Caisson's death.”

From an offender in DOC, after meeting with his murder victim's mother; “I had never put myself in the victim's place, and hearing what she was forced to deal with made me feel, and instantly face, the issues my selfish behavior caused. It was uneasy but the lasting impression of it made me want to live life as a better person.”

From a mom whose son was killed in a drunk driving accident after a conference with the driver; “I came away finally with some feeling of completion, understanding, relief and peace; like a huge boulder had been lifted from my heart.”

When I read these statements from offenders and victims of the most horrible crimes, I ask “Why has Restorative Justice not moved from the margins to the mainstream?”

When I read that we incarcerate more people in the United States than any other country in the world and that half to 2/3 of them, after release, go back to prison I ask, “Why has Restorative Justice not been adopted?”

When I learn that our prisons are now the default option for the mentally ill and that disproportionate minority incarceration is devastating our communities of color, I ask “Why don't we adopt Restorative Justice in our communities?”

When I read the meta-analysis of studies from the US and around the world that show juveniles who participate in restorative justice conferences reoffend at 1/3 the rate of other youthful offenders; and

When I read about the Denver Public Schools Pilot Project run by Tim Turley using Restorative Justice in 5 schools and reducing suspension, expulsions and dropouts by up to 75% and thereby shutting down the school to prison pipeline; I ask “Why is it not adopted in all schools?”

In conferences, when I see offenders accept full responsibility for their actions, witness the emergence of empathy, often for the first time, repair broken relationships with their families, victims and communities, I ask “why don't we do this more often?”

When I observe the transformative impact, deep insights, and existential changes that occur in Restorative Justice Conferences, not just for the victims and offenders but for the community members and even the facilitators, I ask, “What is the reluctance to adopt this as a standard practice?”

I know from decades of personal experience that the criminal justice system is operated by some of the brightest, most hard working, conscientious and diligent people in our communities. They sincerely care. They give of themselves, their time and resources, beyond measure and they are fervently committed to making the system operate with humanity and justice. Throughout all these years, I have been perplexed that these eminently insightful and committed professionals do not embrace restorative justice. Why the resistance? I used to think it was because they didn’t know about it. But now that has changed. We have it in the Colorado Statutes. We no longer get blank stares and furrowed brows. It was even featured in an episode of Blue Bloods, albeit inaccurately. I also attribute the resistance to the fact that all people resist change; they are more comfortable doing things the way they have always done them.

Then I had an epiphany. Not one of those sudden miraculous breakthroughs of startling insight, but rather a slow evolving one, followed by, a climactic “Aha!”

My epiphany was this: The reticence to embrace Restorative Justice was based on a belief that it was being proposed as a complete alternative, a substitute for the Criminal justice system. There was a belief that the choice was either conventional justice or restorative justice. Not both.

And there was a corollary misperception that Restorative Justice was being proposed as an alternative to prison- that it was altogether anti-penal.

One day, as I was leaving a Judiciary Committee hearing at the Capital with one of my colleagues, he asked me, “There’s something I don’t understand about restorative justice, what you do with all of the heinous criminals who have committed horrible acts? Shouldn’t they be in prison and be punished for their crimes?” It struck me that he, like many others, understood Restorative Justice to altogether preclude punishment, that prison could not be part of the formula. He believed Restorative Justice to be wholly **anti-penal. And if he believed it, then it must be a widely held misperception.**

For restorative justice to move from the margins to the mainstream, the exclusive alternative and anti-penal misperception must change. We must change it.

Today, we have the privilege of hearing an insider's view of how we can overcome the institutional misperceptions about restorative justice; how we can use Restorative Justice routinely for serious crimes and, integrate it into plea bargaining which is how 97% of criminal cases are disposed of .

I met Ross London at the National Restorative Justice Conference in Ft Lauderdale last May. He has been a prosecutor, defense lawyer, judge and criminal justice professor. He wrote " Crime, Punishment and Restorative Justice- A Framework for Restoring Trust" . Professor Long describes a restoration of trust model for restorative justice that can include incarceration and involve the victim and the offender in delineating the sentence. He is not on the schedule but when he told me he would be in Colorado, I asked him if he would be willing to take a few minutes to share his model with you. It is my great privilege and pleasure to introduce Dr. Ross D. London.

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Let's show our appreciation to Ross London, one of the visionary thinkers and pathfinders for restorative justice.

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Not many people think of Albert Einstein and Nicolo Machiavelli in the same context; but in the campaign to promote and expand restorative justice, they are both apropos;

Einstein said, "No problem can be solved from the same consciousness that created it. We need to see the world anew."

The problem is crime and public safety. Our solution in response has been incarceration. When imprisonment doesn't solve the problem, our response, from the same consciousness, is to get tougher on crime. So we double down. We build more and bigger prisons, implement mass incarceration, eliminate judicial sentencing discretion , require mandatory minimum sentences, enact three strikes rules, and impose even longer prison sentences, followed by parole. It is not news to this audience that the United States is the Incarceration Nation; what you may not know is that Colorado is not much better. The US incarcerates 704 people per 100,000. The average for the world is 160. Colorado has a rate of 445, almost 3X the world average. We, in Colorado, incarcerate 3x as many people as England, 4x as many as Canada, 10 x as many as Italy. (Wikipedia 11/14, 9/15).

Virginia Senator Jim Webb, when looking at these incarceration rates said, “We are either the most evil people in the world or there is something fundamentally wrong with our criminal justice system. I choose to believe the latter.”

The futility of mass incarceration is self-evident; 97 % of inmates are released back to the communities from which they came. We offer too little treatment for the drug and alcohol addictions and severe mental illness that are endemic in prisons. We offer too few programs focused on re-entry. As a result, we release inmates who are unrepentant, un-rehabilitated and unprepared to return to our communities. Because we do so, we have unacceptably high recidivism rates. Half of releasees return to prison within 3 years in Colorado. Nationally the rate is closer to 60%

When people get out of prison, many don't give them ID's, money, medication, housing or jobs. Is there any doubt about the outcome?

As if these numbers were not sufficiently appalling and concerning, the issue has racial implications; mass incarceration disproportionately impacts minorities. Read Michelle Alexander's book, “The New Jim Crow.” One out of every 7 African-American is under some court sanction--jail, probation or parole. Although minorities represent 20% of the US population, they represent almost half of our inmates.

In Colorado, African Americans are 4% of the population and 18% of inmates.

Hispanics are 21% of the population and 33% of the inmates

Meantime, we keep feeding the system. High school dropouts are more prone to crime. That spells trouble for Colorado. Almost one third of our high school students, 10,500 in 2014 quit before graduation. Less 50% of minority students graduate. Since the Columbine shootings, we have referred 100,000 students to law enforcement for in-school offenses. We're resorting to suspension and expulsion far too often, resulting in even more drop-outs. We rely too heavily on punishment rather than rehabilitation or restoration. The school to prison pipeline is operating at high speed.

Our costs for incarceration are escalating and unsustainable. We now spend \$33,000 to keep one person in prison for one year. By comparison, we spend about \$7,000 a year to educate each student in Kindergarten through high school. We spend five times as much on prisons as on k-12 schools. As a state we spend more on the DOC than Higher education. What kind of a commentary is that on our values as a society?

I've seen this first hand as I worked in the criminal justice system and in schools. And I have become convinced we've got to try something different. We need to break the cycle and the recycling of people. We need to move from punishment and retribution to collaboration and restoration. We need to view the problem of crime from a different consciousness

As the stories I related at the beginning illustrate, Restorative Justice looks at crime and offenses from a different consciousness. We look at harms and relationships and repairing them, rather than strictly at punishing crime. By changing the lens through which we look at offenses, we can change our consciousness. By enabling victims, offenders and community members to meet, ask and answer questions in face to face dialogue, we empower them to reach understanding, repair their relationships and change their stories. Victims can move from fear, anger, revenge and hatred to understanding and the beginning of healing. Offenders can accept responsibility, be accountable for their offenses and take tangible action to repair the harm they have done to the victim and community.

Why does it work? Restorative Justice works in part, I believe, because it addresses, at a very basic level, what I perceive to be shortcomings in the criminal justice system. First, Restorative Justice treats offenders with respect. It recognizes that they are not bad people but people who have committed bad acts. It separates them from their bad acts. The retributive penal system disrespects offenders, dresses them in orange suits and gives them a number instead of their name and then sends them to a remote location away from family and friends. A wise man once said that the way you send a person away from your community is the way they will return.

Second, Restorative Justice puts victims in the center of the process. This is far different from our conventional system, which makes victims peripheral. Third, Restorative Justice does not rely on punishment to change behavior. Punishment and fear can alter behavior, but it is not life-long nor is it transformative. Finally, Restorative Justice is consistent with the basic principles of human nature. It's what the sociologist Abraham Maslow, in his "hierarchy of needs," called "belongingness"--the innate social need to belong to a community. Restorative Justice recognizes that we live in an interdependent world--a community--and that most of us want to be part of that community, to belong. Be it a family, a club, a church, a sports team, or even a gang, we generally do not hurt those with whom we are in community. As community justice, restorative justice can re-establish the trust that was breached by the offense.

As many in this room know, Restorative justice works in profoundly significant ways to promote individual responsibility, reduce re-offending and recidivism, and repair broken relationships among families and friends. It has restored communities from Longmont to Manitou Springs, from Alamosa to Greeley and from Pretoria SA and Rwanda. In South Africa, The Truth and Reconciliation Commission used restorative justice to restore and rebuild a nation torn apart by apartheid, institutional racism. Restorative Justice is effective and efficient for low level offenses such as shoplifting. But as Ross London has pointed out, and we know from our own experiences, particularly with High Risk Victim Offender Dialogues, it also has life changing and life affirming impact for victims and offenders in major crimes. The more heinous the offense, the greater the opportunity for healing and restoration.

The potential for restorative justice is virtually unlimited. As Ross Long explained, the possibilities are just beginning to be recognized; as we work to expand the use of Restorative Justice for the most serious crimes and to integrate it into sentencing, as we move restorative justice from the margins to the mainstream, our vision needs to expand to the use of restorative justice in response to acts of genocide, gross violations of human rights, the repairing and redressing of contemporary injustices, such as Ferguson, Cleveland, Staten Island and many more, and to historical injustices such as slavery. Why can't restorative justice and reparative circles be used for environmental disasters such as the Animas River? Of course it can.

As Coloradans we are undaunted by major challenges. Our forefathers were men of indomitable spirit who drilled tunnels through mountains and built roads over snowy peaks. We can do what we set our minds to. We already have a lot to be proud of, for what we have done in Colorado in 6 years;

With 5 statewide restorative justice bills, we have the most robust legislative framework in the nation; it is the envy of our peers across the country-

We have Restorative justice J for children and adults, in schools, charter schools, DOC and NYC; We have had 7 extraordinarily successful VOD in maximum security prisons for victims who have lost their loved ones

Restorative justice is available for serious felonies, misdemeanors, municipal and petty offenses;

We have a New Zealand model juvenile pilot program including pre-filing diversion and data collection

We have funding specifically designated for Restorative Justice from a \$10 fee on every criminal case generating \$800K . Mark Umbreit tells me that we are the only state in the country with a dedicated funding source for restorative justice.

We have standards of practice for facilitators and the conduct of High Risk Victim Offender Dialogues;

We have a State wide Restorative Justice Coordinating Council representing all stakeholders in the criminal justice and education systems;

We have Deb Witzel, the untiring and inspired Statewide Coordinator for Restorative Justice; her energy is indefatigable

We have scores of schools across that are implementing Restorative Practices and reducing suspensions, expulsions and drop outs and creating safer learning communities.

Ladies and Gentlemen; we have made great progress in Colorado and we are on a good path with Restorative Justice;

But whenever I get sanguine and complacent, the words of Machiavelli haunt me;

**“To change the fundamental order of things is difficult, dangerous and uncertain of success.”** Restorative Justice is a change to the fundamental order of things.

It could be a game changer.

It could transform our criminal justice system from one of incarceration and retribution to one of responsibility and reparation.

It could end the school to prison pipeline for our children that is decimating our communities of color.

It could break the cycle of crime and end the revolving door to prison.

It could lower prison budgets, so we can spend more on classrooms than on cages, and more on text books than prison blocks.

It could do these things but it won't guarantee it unless you, the people, insist that we use Restorative Justice-- in the courts and in the schools and in your communities;

The schools and the criminal justice system belong to us, the people.

When they are not working we must insist upon change.

And right now they are not working; one third of our kids don't graduate from high school and 50% of inmates return to prison.

We must change the fundamental order of things.

Restorative Justice is the change we need.

Where it is used, when victims and offenders meet face to face, offenders learn about the impact of their crime from the victims, they begin to feel empathy, often for the first time, and empathy is the beginning of transformation.

If we can transform offenders, one by one, it will lower recidivism, reduce re-arrests, promote individual responsibility, and save money.

Restorative justice can empower victims to begin healing from crime. We owe them that.

For too long, victims have been peripheral to the process. They need to be at the center.

With Restorative Justice, victims drive the process.

So tell your friends and neighbors, who are victims of crime, to request restorative justice.

Tell the victims to tell the DA's they want to meet with their offenders, to participate in setting the consequences. It is now their right to do so.

Tell your friends, relatives or neighbors who become involved in the criminal justice system to ask for restorative justice, request a meeting with the victim to help establish consequences.

Tell the prosecutors, the defense lawyers, the judges and magistrates, that you want them to use Restorative Justice because Restorative Justice works.

Tell the teachers, the principals, the administrators and school board members to end the cycle of suspension, expulsion and dropping out.

Instead, tell them to use Restorative Justice in the Schools. Use it because it works. Use it because Restorative Justice keeps kids in schools, facilitates learning, and gets parents involved.

Our future depends on it.

Restorative Justice needs to be the first option to deal with offenses in schools and communities.

In Colorado, we have Restorative Justice in the juvenile justice system. We have it in the adult system, and we have it in schools and in prisons.

The Legislature has officially sanctioned restorative justice with the passage of five (5) bills. It is embedded in the Colorado law as a foundation for our criminal and juvenile justice.

But you, the practitioners, the advocates, the believers need to be the champions.

We know that where we have champions, restorative justice thrives; when champions



leave, without a legacy, restorative justice diminishes.

Remember the words of Margaret Mead “**Never doubt that a small group** of thoughtful, committed citizens can change the world; indeed, it's the only thing that ever has.”

Now is the time: We, the people, need to insist that Restorative Justice be implemented, fully, robustly and completely. It is up to us.

If you think this is unrealistic, --that transforming the criminal justice system will only happen when Hell freezes over, remember, it snowed in Las Vegas in December.

Thank you for your attention