

Contemporary Origins of Restorative Justice Programming: The Minnesota Restitution Center

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THE CONVENTIONAL WISDOM expressed by many writers on the history of restorative justice traces its contemporary origins to victim-offender meetings held in Kitchener, Ontario, Canada in 1974. For just a few examples of the numerous authors repeating this idea, see Coates (1990); Immarigeon (1996); Zehr (2002); Peachey (2003); Umbreit and Armour (2010); and Beck, Kropf, and Leonard (2011). In contrast, this article presents evidence for a very different view of the contemporary origins of restorative justice programming, one that traces its roots back to 1972 and the Minnesota Restitution Center (MRC). [1](#)

While the term “restorative justice” was not in common use when the MRC was established, its program clearly met what later came to be seen as the core principles of restorative justice: repairing harm, stakeholder involvement, transformation in community, and government roles and relationships (Van Ness and Heetderks Strong, 2006; Bazemore and Schiff, 2004). The MRC amounted to a formal program implemented in accordance with an explicit and detailed plan (Fogel, Galaway, & Hudson, 1972). When implemented in 1972, no descriptions were available of comparable corrections programs detailing how victims and their offenders would be brought together to discuss the criminal incident, reach agreement on the damages sustained, and plan for repairing the damages and restoring the crime victim and community. In this respect, the MRC was unique and, as far as the originators were aware, the first of its kind in contemporary times.

This article describes the early history of the MRC, its restorative justice features, problems with implementation and research protocol, effects, and eventual transformation.

Background

In 1970, two University of Minnesota graduate students, [2](#) each with experience working in the criminal justice system, engaged in a series of informal discussions about what they saw as needed changes in the way court and corrections systems operated. Penal reform was an important issue at the time in Minnesota, as it was in the rest of the country, and a major theme of the discussions was how alternatives to prison could be designed and how it might be feasible to structure more meaningful roles for crime victims. Discussing the theme of crime victim involvement in the justice process inevitably led to the notion of offenders making good the damages done to their victims. The key questions were: What are some ways community corrections programming might ensure that victims are given structured opportunities to meet with their offenders in a reparations scheme, and how could these programs serve as alternatives to incarceration? Based on these discussions, the two submitted for publication an article about using restitution in the justice system (Galaway & Hudson, 1972). They also prepared a brief concept paper outlining how victims and offenders could be involved in a reparations scheme operating as an alternative to prison.

The concept paper was submitted in early 1971 to the then newly appointed and very controversial Commissioner of the Minnesota Department of Corrections, Dr. David Fogel. Upon taking up his position in Minnesota state government, Dr. Fogel had expressed strong dissatisfaction with the operations of his department and sought new ideas that fit within his developing approach to what he later came to call the justice model for corrections (Fogel, 1979; Fogel and Hudson, 1981). At the time, one of the graduate students was completing a research project in the Department of Corrections; learning of Dr. Fogel's interest in new ways of dealing with old corrections problems, he drafted and sent along the concept paper. The Commissioner expressed agreement with the ideas in the paper but requested a more extensive discussion covering such operational issues as staffing, key activities, timing, and budget of the proposed community corrections reparations program. Accordingly, the students prepared a detailed plan in the summer of 1971; in late fall, Commissioner Fogel had a modified version of it submitted to the state criminal justice funding body, the Minnesota Crime Control Board. At the same time, the graduate students and Dr. Fogel prepared a paper for publication that amounted to a summary version of the funding proposal along with an implementation plan (Fogel, Galaway, & Hudson, 1972). This published paper amounted to a detailed blueprint of how the proposed MRC program would operate, the way offenders would be selected from the state prisons, and the manner in which victims and offenders would be involved. This 1972 publication was, as far as can be established, the first contemporary description of what later came to be called a restorative justice program within a corrections setting (McCold, 2006).

In spring of 1972 the MRC was funded on a matching basis with federal money and state funds provided by the Minnesota Department of Corrections. The first director was appointed at that time. By August, staff had been hired and negotiations completed with the state paroling authority about the release of male prison inmates to the Center. Within one month the MRC opened its doors as a community-based, residential corrections program operated by the Minnesota Department of Corrections. In September, 1972 the first prison inmates had been selected, met with their crime victims, and negotiated a reparations agreement and were paroled from the Minnesota State Prison to the Center. The planned emphasis of the program was to bring victims and offenders together to negotiate a reparations agreement covering the form of restitution to be made, the amount of damages to be repaid, the expected schedule of repayments, and the ongoing contact to be maintained between victims and their offenders.

The intention was to house the program in a residential area of the Twin Cities of Minneapolis-St. Paul, but because of the restrictive nature of zoning bylaws, this proved to be impossible and the MRC ended up on the seventh floor of the downtown Minneapolis YMCA. But even this proved to be a challenge and overtures to locate the program there were initially turned down by the administrator of the YMCA. Largely due to an editorial in the Minneapolis newspaper encouraging the YMCA to allow the program to locate there, the YMCA Board of Directors changed the administrator's policy, allowing MRC residents to move in after transferring on parole from the Minnesota State Prison. While the original plan was to select program residents from both the Minnesota state women's prison and the men's prison, the idea of housing both in a single community residence was seen as too controversial and, in fact, became impossible because of the single sex housing requirement of the YMCA. Given that many times more men than women were serving state prison time, thus offering a larger pool of eligible inmates, the program was restricted to male prison inmates. MRC residents were supervised by an eight-person staff who helped them obtain and hold steady jobs from which they could pay back their crime victims and the community for the damages done, and also contribute to the financial support of their families, most of whom were on social assistance.

The Idea of Restitution in Justice Systems

The idea that offenders should be held responsible for restoring the damages done to their crime victims is quite straightforward, deriving from the view that crime is an offense by one person against the rights of another, rather than being primarily an offense against the state. Since victims of property crimes suffer losses, it makes sense that these offenders be held responsible for restoring the losses caused. While the use of restitution predates our criminal justice system, up to the early 1970s offenders were only infrequently ordered to make good the damages done to their victims. If ordered by judges, usually as an occasional condition of probation, restitution payments were not carefully monitored or enforced by probation staff (Schafer, 1970). However, for years articles had been published calling for offenders to make good the damages done to their victims. Among these were restitution proposals made by scholars and practitioners such as Irving Cohen, Albert Eglash, and Stephen Schafer (Galaway & Hudson, 1975).

In the 1940s, Cohen argued that restitution should be a central focus of probation work (Cohen, 1944). In the 1950s, Albert Eglash, a psychologist, wrote articles arguing for the therapeutic benefits of what he called creative or guided restitution (Eglash, 1958). Several years later, Eglash elaborated his views and made early use of the phrase, “restorative justice” (Eglash, 1977), defining it as equivalent to creative restitution. Eglash identified these key characteristics of creative restitution or restorative justice: 1) being directly related to the criminal offense; 2) involving an active, effortful role on the part of the offender; 3) being constructive and helpful for the victim; and 4) helping repair the damages done in the criminal incident (Eglash, 1977).

In the 1960s, Steven Schafer made a series of proposals for a reparations system (Schafer, 1960, 1965, 1968, 1970). He criticized the lack of attention given to crime victims and the failure to recognize that victims (rather than the state) are the direct parties damaged by criminal offenses. He saw that having offenders pay back their victims for the damages they had done was a way to empower victims and move them back to the central place they had originally held in administering justice in pre-modern societies.

Program Operations

The MRC used the ideas of Cohen, Eglash, and Schafer, incorporating the idea of reparations by offenders to their victims as a central focus of a residential, community-based corrections program. Besides its emphasis on victim-offender involvement in a restitution scheme, important features of the MRC program were: 1) its operation as a diversion from the Minnesota State Prison; 2) its incorporation of a rigorous evaluation research design; and 3) its staffing by men and women, many of them ex-offenders.

Diversion from the state prison

Eligible inmates selected for the program were male property offenders from the Minneapolis-St. Paul area who had been sentenced to the maximum-security Minnesota State Prison. While the original aim was to divert property offenders from the prison immediately before their admission, administrative requirements set by the Minnesota State Parole Board meant that inmates were not scheduled for their initial parole hearing until four months had elapsed after prison admission. With the exception of this initial prison time served by inmates selected for the MRC, the program operated as an alternative or diversion from the prison. A key assumption underlying the design of the MRC was that confining property offenders in the prison was largely a waste of taxpayer money, doing nothing for the direct victims of the crime.

Evaluation research design

The evaluation design for the MRC was based on a belief in the importance of using research to demonstrate the manner in which and extent to which program operations achieved intended results, reducing the frequency of returning to prison. To do this, an experimental design was implemented concurrent with beginning program operations. The way this worked was that property offenders recently admitted to the state prison were chosen for the program using a table of random numbers. These randomly selected inmates became the experimental (MRC) group and were offered an opportunity to participate in the program, while those not selected made up the control group remaining in prison to complete their sentences. While random selection was the gold standard of internal validity used to test the effects of new drugs in the 1970s, this was not so much the case with social action programs such as the MRC.

Operationally, the evaluation research involved MRC staff approaching members of the experimental group in prison and offering them an opportunity to meet with their crime victims, enter into a reparations agreement with them, appear before the parole board, and then be released on parole to live at the MRC and complete their parole agreements as these incorporated the restitution requirement. The Minnesota Parole Board had agreed in advance to release the randomly selected members of the experimental group four months after prison admission. However, the commitment of the parole board was not unqualified and it was clearly stipulated that the Board would reserve the right to override the random selection procedures in exceptional cases, not releasing selected members of the experimental group. For research purposes, these would make up another comparison group. Similarly, members of the control group remained in prison to serve out their sentences, averaging five years. The random selection approach was seen to be ethical since the program did not have the capacity to handle all state prison inmates meeting program criteria and random selection meant that every eligible inmate had an equal chance of being assigned to the MRC program.

Staff

Eight full-time staff made up the initial complement at the MRC, all employees of the state of Minnesota Department of Corrections. Half of these staff had served prison time and were either on parole or had been discharged from it. This was probably the first group of state corrections staff with full-time restorative justice duties. A feature of the program was to offer relatively short-term employment during which staff would be trained in working with victims and offenders and then be expected to move on to other corrections settings, using their knowledge and skills to develop other types of victim-offender programming. Another feature of the staffing arrangements was the practice of hiring as full-time staff members selected offenders completing the program. Within the first year of operations, two offenders had completed a major portion of the program and were hired as staff. The main responsibilities of staff included contacting victims and offenders, inviting them to participate in the program, mediating the victim-offender meetings, and, following parole to the MRC, monitoring the offender's completion of his parole/restitution agreement. Additionally, and with the aim of helping change beliefs and attitudes about the operations of the justice system, staff persons were expected to speak at public gatherings, especially about the effects of imprisonment, presumed benefits of the MRC program, and role of crime victims in the justice system.

Restorative Justice Features of the MRC Program

Repairing harm and stakeholder participation

A key feature of restorative justice (Van Ness & Heetderks Strong, 2006; Bazemore & Schiff, 2004) is that offenders and victims are together involved in resolving how to repair the harm caused by the criminal incident. Repair and healing are the primary goals, and victims, offenders, and communities are to have the opportunity to be actively involved in the justice process as early and as fully as possible. Key components of the MRC program closely mirrored those later described in detail by Van Ness and Heetderks Strong (2006), as these involved meetings between victims and offenders, communication between the parties at the meetings, and agreement. The program focused on providing structured opportunities for victims and offenders to participate together and arrive at an agreement to make things right. In this way, offenders were held accountable for the harm they caused and the reparations agreement documented the requirement that they repair and heal harms not only to the victim but also to the community.

Inmates randomly selected for the program had been convicted of property crimes, including forgery, breaking and entering, and theft. Having defined the target population for the program, the MRC program designers established a set of procedures covering intake and preparation, the actual victim and offender meetings at the prison, and the follow-up series of meetings when the paroled offenders met with their victims making their restitution payments. The main staff activities involving offenders during the intake phase of the program were screening all new admissions to the state prison, identifying those meeting eligibility criteria for the MRC, deciding on the number to be offered an opportunity to participate in the program, meeting with the randomly selected inmates to explain the program, and securing their willingness to participate.

Victim-related activities involved MRC staff using court and prison records to identify and locate victims, then contacting them and explaining the program and their anticipated role in it. Victims were asked to participate by traveling to the state prison, meeting with their offender, and negotiating a restitution contract. Upon securing the victim's agreement to participate, MRC staff scheduled a date and time for the victim-offender meeting at the prison. When first contacted, most victims had many questions about what was expected and often expressed concern about meeting with the person who had victimized them. Staff often had to schedule several meetings with victims to address their anxieties over the prospect of meeting their offender. At the same time, victims often expressed some degree of curiosity about the person who had harmed them, as well as the idea of coming to the state prison to meet their offender. The state prison was clearly a safe environment for holding the meetings and in this way satisfied what were undoubtedly safety concerns of the victims.

MRC staff mediated the victim-offender meetings at the prison. These meetings began with introductions, followed by staff explaining the purpose of the meeting and the process to be followed. Each party was encouraged to ask questions, and victims were encouraged to explain why they were attending and what they wanted from the meeting. The aim was to help introduce and focus the meetings by having the parties talk directly with each other, helping them see each other as people, not as stereotypical victims and offenders. Victims were asked to explain the effects the criminal offense had on them and their feelings about it, and they often asked the offender why he chose them as the target. Offenders typically explained

their motivation for the offense and expressed regret for it. Discussions then commonly turned to what the offender was prepared to do to repair the harm by making amends. Victims responded to the offender's offer of reparations, usually very generously. Victims and offenders often reached agreement quickly on how the losses would be restored. MRC staff wrote up the restitution agreement and all parties signed it. This agreement covered the amount of damages to be repaid, the form of payment in terms of either money or services, and the schedule of payments to be made once the inmate had been released on parole to the MRC. The agreement was then included as a condition of the offender's parole. Upon parole release to the MRC, offenders were expected to live at the downtown Minneapolis YMCA, abide by program rules, obtain work, pay toward the support of their families who were commonly receiving welfare payments, and make restitution to their victims. MRC staff monitored restitution compliance according to the agreement signed by the parties, supervised the release arrangements, and dealt with any problems in getting the restitution completed.

Ongoing contact between the paroled offenders and their victims was required, particularly when making restitution payments. Victims were encouraged to visit with their offenders at the MRC as well as in their homes and close relationships between the two parties often developed. A dramatic example occurred at the time of the first Thanksgiving holiday after opening the MRC. Food was donated, a meeting hall obtained, and MRC residents, staff, victims, and all of their families came together and held a traditional turkey dinner celebration.

In 1971, when the MRC was designed, the graduate students who drafted the original program were not aware of any other systematic attempts in modern times to structure victim-offender meetings within a corrections context to negotiate a restitution contract. Consequently, many opinions were offered about how foolish it was to attempt bringing victims and offenders together to negotiate the amount and type of damages and the redress to be made. Involving offenders with their victims was seen by many as impractical and foolish, if not outright dangerous. Restitution amounts, many argued, could not be fairly determined. Victims either would be unwilling to meet with their offenders or, if they did come to meet at the prison, would act vindictively and maliciously, making it very difficult to come up with a restitution contract. Offenders, many argued, would refuse to participate or would minimize and rationalize the damages done.

As it turned out, the "experts" were generally wrong on all counts. During the first year of operations, 31 of 44 (70 percent) victims met with their offenders at the Minnesota State Prison and negotiated a restitution contract, even though they knew in advance that engaging in such an activity might well mean the offender would serve a very short prison sentence (Galaway & Hudson, 1975). No victim who met with his or her offender acted maliciously or vindictively. In fact, the opposite was commonly the case, with almost all victims trying to accommodate offenders, making it easy on them when deciding on the total amount of damages and restitution to be repaid and the schedule for the repayment. MRC staff were directed to push the mediation sessions toward reaching agreement on full, not partial restitution, covering the damages incurred by all conviction offenses as well as the out-of-pocket costs incurred by traveling to the state prison to meet with offenders.

Inclusion has been identified (Van Ness & Heetderks Strong, 2006) as the most important restorative value, and the MRC program ensured that all victims, offenders, and affected community members had structured opportunities to participate as fully as they wished. This value of inclusion meant that because some of the victims identified for the program had insurance coverage for at least part of the value of the goods stolen, staff contacts were made with the central office of the association of state insurance brokers. The procedure established with this association was for them to be contacted when a case arose in which insurance was involved and the insurance companies would provide representation at the victim-offender meetings or community service hours would be required as a parole condition, rather than financial restitution to the insurance companies. Most insurers declined the opportunity to participate directly and supported the notion of community service hours. A representative of the state insurance association did, however, participate as a member of the MRC advisory board. This group met regularly offering advice to the program director on significant issues affecting the MRC and was composed of local government officials, representatives of large Twin City corporations, and social welfare organizations.

While the major emphasis of the MRC was on offenders making financial restitution, there were cases, including those commonly covered by insurance, where no victim could be identified or a victim was not willing to meet with the offender. Symbolic restitution in the form of community service was set in these

cases. A substitute victim was identified, usually a representative from a community non-profit agency who came to the prison and met with the offender. By transforming the amount of damages sustained in the criminal incident into the state minimum wage, the parties easily reached agreement on the amount and schedule of community service work hours to be performed at the agency upon the offender's prison release to parole in the MRC.

Transformation in Community and Government Roles and Relationships

This key feature of what has come to be called a restorative justice program (Van Ness & Heetderks Strong, 2006; Bazemore & Schiff, 2004) turned out to be a major emphasis of the MRC program. From its inception, an explicit goal of the MRC was to disseminate information to community groups about the concept of restitution and its applications in the justice system and in victim-offender involvement (Minnesota Restitution Center, Minnesota Department of Corrections, 1972). Preparing and disseminating this information was aimed at improving the justice system, particularly at giving victims and the larger community more meaningful roles in what came to be called restorative programming efforts. A clear aim of the MRC was to distribute information that would lead others to develop victim-offender programming. Towards that end, in 1972-73, MRC distributed over 500 copies of a program booklet explaining the concept of restitution, the role of crime victims, operational procedures, and program goals. This document served as a model for many of the restitution and victim-offender mediation and reconciliation programs that developed throughout the United States and Canada in the coming years. Also, in 1972, many corrections officials from other states and Canada visited the MRC, editorials about MRC were published in the Minneapolis and St. Paul newspapers, several articles were submitted and eventually published in professional journals (Hudson & Galaway, 1974; Galaway & Hudson, 1974), and presentations were made at community forums as well as at annual meetings of the Midwest Sociological Association and American Society of Criminology.

Community outreach activities carried out by MRC staff, often accompanied by victims and their offenders, included public speaking engagements with a variety of community groups. These presentations dealt with an alternative view of how the justice system might operate, the importance of victims playing significant roles, and the place of reparations. During one of these meetings held with court officials in a suburban Minneapolis county, history repeated itself in a way reminiscent of the situation a thousand years ago when the sovereign took over restitution or "composition" payments to victims, replacing them with fines payable to himself. So in a similar way, contemporary county officials expressed a lack of interest in making greater use of restitution on the grounds that it would reduce the amount of fine income for the county. For these government officials, victims receiving reparations was a lesser concern.

Another early MRC staff outreach activity was planning an international symposium on restitution that was held in November, 1975. The purpose of the symposium was to change the nature of relationships between the administration of justice and the role of victims and the community (Hudson & Galaway, 1977). It was in his paper at this symposium that Albert Eglash first used the term "restorative justice," equating it with creative or guided restitution. A second symposium, held in 1977, explored theoretical and philosophical rationales for the use of victim-offender involvement in restitution schemes (Galaway & Hudson, 1978). In 1979, a third symposium provided a forum for describing and exploring the results of research conducted on victim involvement, financial restitution, and community service sanctions for both adult and juvenile offenders (Galaway & Hudson, 1980). The intention of these symposia was to promote the role of crime victims and the use of reparations in the administration of justice and ultimately to stimulate the introduction of different types of victim and offender programming efforts.

Perhaps the most widespread impact of the MRC was serving as a pilot program for the large number of victim-offender programs that followed, including what came to be called victim-offender reconciliation programs, victim-offender mediation programs, and especially offender restitution programs in both the United States and Canada. For example, three major U.S. federal funding initiatives for restitution programs took place in the years after opening the MRC. In 1976, the National Institute of Law Enforcement and Criminal Justice funded seven financial restitution projects for adult offenders, and in 1978, four additional projects were funded. In 1979, this agency also funded seven community service projects for adult offenders and in 1978, the federal Office of Juvenile Justice and Delinquency Prevention funded 56 juvenile projects involving both financial restitution and community service sanctions for juvenile offenders. Additional restorative justice projects were started with federal funds through state planning agencies matched with local government resources. Major evaluation research projects were also carried out on federal program

initiatives by private consulting firms and universities. In 1979, just over a half dozen years after the inception of the MRC, a survey of state agencies identified 67 formal restitution projects for adult offenders, along with a variety of other types of victim-offender programs (Hudson, Galaway, & Novack, 1980).

The MRC was a pioneering program, probably the first restorative justice program implemented in a corrections setting in North America in contemporary times. In this respect the MRC was a demonstration program, holding closely to what later came to be seen as the core principles of a restorative approach: Repairing harm, stakeholder involvement, transformation in community, and government roles and relationships. The MRC program was a radical innovation in corrections practice, perhaps too radical for its long-term survival, since it dealt with randomly selected offenders housed in the maximum security Minnesota State Prison, diverted them after four months although they had average sentences of five years, involved their crime victims in structured victim-offender meetings aimed at negotiating reparations, and used a staff composed of ex-offenders.

Implementation Issues/Lessons Learned

As with most innovations, the MRC program had implementation problems, some fatal for its continued existence. Carrying out the research design, in particular, led to a series of difficulties that put the future of the MRC in question. The most dramatic problem occurred as a result of the random selection procedures. In early 1973 during the second year of MRC's operation, after much effort by police and considerable publicity in local media, a notorious Minnesota thief was convicted and incarcerated in the Minnesota State Prison. As sheer chance had it, his name was randomly selected to the MRC experimental group. Staff then began the usual process of contacting the inmate to discover if he wanted to pursue developing a reparations agreement with his victims. Not surprisingly, he was quite willing. Beginning contact was then made with some of the many victims. The commissioner of the state corrections department, the successor to David Fogel (who had left for a position in Illinois), became aware of the situation and immediately directed the MRC director to stop any further work developing a restitution contract with the convicted thief. Instead of complying with a direct order from his superiors in the Department of Corrections, the director took a strong position against the commissioner, arguing that it was his obligation to take the randomly selected offender before the Parole Board for release consideration. The Parole Board could then make a decision about releasing the offender. The commissioner would not tolerate this and, after numerous warnings, fired the director on the grounds that local police and community members would be enraged at the prospect of bringing a notorious offender before the Parole Board for release four months after having been sentenced to prison. He argued that regardless of whether the Parole Board would release the offender, which was highly unlikely, the very fact of requesting release to the MRC would be viewed badly by the public, let alone by officials in the office of the state governor and Minneapolis-St. Paul police. After being fired, the former director filed a lawsuit in federal district court against senior managers in the Department of Corrections, arguing that his civil rights had been violated by his termination. Eventually, when the case was heard, the district court rejected each of the former director's arguments. Having lost in the district court, the former director then appealed to the Eighth Circuit of the Federal Appeals Court and, again, lost his case.

The effect of this situation was to put the MRC and its staff in a very negative light with state corrections administrators, Parole Board members, and, especially, officials in the governor's office. MRC staff members were increasingly seen as out of control and the program too radical for a state bureaucracy. The random selection procedures were increasingly ignored by the paroling authority. Inmates began to be required to serve longer portions of their sentences in prison before being considered for release to the Center.

A related implementation problem concerned the extent to which restitution would be used as a sole or partial sanction. As originally designed, MRC was to use offender restitution to crime victims as the primary if not sole intervention and, upon its completion, the offender was to be discharged from parole. The evaluation was designed to test the effects of this strategy as it encompassed three major phases: direct victim-offender meetings for the purpose of negotiating restitution agreements; the ongoing repayment process involving person-to-person offender/victim contacts; and the completion of restitution in accordance with the written plan. The confounding factor in this plan was that property offenders sentenced to the state prison typically had extensive conviction histories with multiple prior incarcerations in jails and prisons. Similarly, the inmates randomly selected for the MRC program had extensive conviction histories, most often for crimes involving relatively small amounts of damages, only a few hundred dollars on average.

Their average prison sentences, however, averaged five years. The issue for the Parole Board was how to balance the lengthy sentences with the small amount of restitution to be paid. The few hundred dollars in restitution could easily be repaid in a relatively short period of time, but the Parole Board was unwilling to discharge the offender from parole just because the required restitution had been completed. Instead, the Board required offenders to remain on parole with supervision provided by MRC staff. It was agreed that having completed his restitution requirements and demonstrated good behavior, the offender could leave residency at the MRC and return home with regular supervisory meetings back at the Center. This resulted in restitution no longer being the sole sanction or independent variable in the program. Consequently, a diffuse set of activities were carried out as parole supervision took on more prominence in the program and trying to tease out their research effects relative to the restitution sanction became increasingly problematic.

Compounding this problem were the common chemical dependency issues of property offenders in general and MRC residents in particular. Faced with the alcohol and drug problems of residents and the inevitable legal problems these could potentially cause, staff made referrals to treatment services in the community and required attendance at structured group and individual counseling sessions as part of the MRC program. Twice-weekly group counseling sessions were initiated, along with individual counseling sessions with residents and, in many cases, their family members. The effect of this mixed set of interventions—restitution, parole supervision, counseling activities of various sorts—was to further complicate any attempt at attributing research effects (Hudson, 1977).

The rigid application of the experimental design used to evaluate the MRC program was inappropriate. Excluding the notorious thief would not have seriously compromised the internal validity of the research, although his exclusion would have limited the external validity of results. But that would have been a very small price to pay in comparison to the antagonism generated by confronting administrative and political authorities. Although the MRC procedures for first offenders and repeat offenders were the same, appropriate outcome data analyses could have partitioned the population of offenders into more homogeneous comparison groups to discover outcome differences among such pre-existing groups of offenders.

The research design simply failed to fit with the developmental stage of the demonstration program and would have been more fitting for a mature, stable program. Flexibility was needed in the research design so that it could be altered and tailored to changing programming circumstances. But the experimental design concurrently implemented with program operations was inflexible, not amenable to change, nor geared toward providing the quick feedback of information so badly needed in an innovative program. The research called for the program standing still, not changing on the basis of feeding back preliminary research results for fear of contaminating the internal validity of the research. But program managers could not wait several years until information from the experimental design was available to support making changes to program interventions.

The MRC was designed to operate as a diversion from the state prison for selected property offenders, but consistent with many restorative justice programs since established, the MRC program ended up having contrary effects to those intended (Bazemore & Schiff, 2004). Preliminary evaluation results showed that while MRC residents spent significantly shorter periods of time in prison, they also spent significantly longer periods of time on parole than did the controls. Overall, members of the experimental group served significantly longer periods of time under supervision (prison and parole) than did the controls. While the MRC was designed as a diversion from prison, and managed to operate that way, it also had the effect of enhancing sanctions by adding to the total length of time spent by offenders under supervision (Minnesota Department of Corrections, 1975).

As Bazemore and Schiff have demonstrated with their research (2004), this result of extending and spreading the net of social control turned out to be a common feature of many restorative justice programs, indeed of many so-called diversion programs. Many programs funded as alternatives to more severe sanctions ended up serving offenders who, in the absence of the diversion program, would not likely have received more severe sanctions. For example, in many programs restitution was most commonly added as a requirement to existing sanctions, especially a probation order. In the absence of the restitution program the offenders would most likely have simply received a sentence of probation. With the restitution program now in place, they received probation with a restitution requirement. Consequently, when offenders failed to complete the restitution requirement they were at risk of being imprisoned. In effect, restitution programs

setting out to reduce the use of incarceration may well have ended up increasing it, while at the same time making claims they operated as diversion programs.

The Aftermath of the Center

In its second and third year of operations, in 1973 and 1974, the MRC began to undergo a series of dramatic changes. As noted, the parole board became more restrictive in releasing inmates to the MRC while also increasing the length of prison time to parole release consideration. This had the effect of reducing the number of inmates released to the MRC, and because most of the costs were fixed in relation to staffing, per unit resident costs escalated. As a result, corrections administrators made the decision to have the program cease operating as a residential facility. The number of restitution staff was reduced and staff responsibilities changed to solely developing restitution agreements with state prison and reformatory offenders. Also, victim involvement was dropped and inmates developing restitution agreements with program staff were released at their conventional parole release dates to be supervised by regular state parole officers.

With the abolition of the state Parole Board and advent of state sentencing guidelines in 1981, the restitution program took on another form. A much-reduced staff of three persons housed in the central office of the Department of Corrections became responsible for developing and maintaining a clearinghouse on restitution literature, providing technical assistance to Minnesota counties, and undertaking research on restitution and community service. Largely at the initiative of the director of the Restitution Program, a pilot community service project was initiated in a county jail and soon spread to many Minnesota county jails. Operated as a partnership between the Minnesota Department of Corrections and the Minnesota Department of Natural Resources, the Minnesota Sentencing to Service Program was intended to provide a labor force for environmental benefit. Hours worked by jail inmates were in lieu of their sentences and in this way the program was an alternative to serving time in jail. The original residential restitution program operated by the state Department of Corrections had, in less than a decade, evolved into a community service program for county jail inmates.

Political considerations, changes in state legislation, design and implementation failures, all combined with the radical nature of the MRC program, played an important part in its transformation and eventual demise. This is not, however, to diminish the importance of the program having been established in the first place, the manner in which it served as a model for the numerous restorative justice programs that followed, and the critical role played by David Fogel while serving as commissioner of the Minnesota Department of Corrections. Without his leadership and vision, the original idea for the MRC would have quickly sunk under the cynicism of what then passed for corrections thinking. As the evidence presented here has attempted to show, the MRC was truly a restorative justice program, probably the first of its kind to operate in contemporary times within a corrections context.

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¹ United States v. Salerno, 481 U.S. 739 at 755 (1987).

² Judicial Business of the United States Courts Annual Report of the Director – H Tables (2000 - 2009). <http://www.uscourts.gov/Statistics/JudicialBusiness.aspx>.

³ It is important to note that FY 2009 data was not used because too many cases referred during this time remained open and the outcomes have yet to be determined.

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The Evolution of Community Supervision Practice: The Transformation from Case Manager to Change Agent

¹ This article was originally published in the Irish Probation Journal, Volume 8, October 2011, and is reprinted with permission.

² Guy Bourgon, Leticia Gutierrez and Jennifer Ashton are with Public Safety Canada. We would like to thank Jim Bonta and Tanya Ruge, who are integral to the Strategic Training Initiative in Community Supervision team. Our special gratitude is extended to the probation officers and their managers who have allowed us to look at what goes on behind closed doors and have begun their own transformation into change agents. The views expressed are those of the authors and do not necessarily represent the views of Public Safety Canada. Correspondence should be addressed to Guy Bourgon, Corrections Research, Public Safety Canada, 340 Laurier Ave. West, Ottawa, Ontario, Canada, K1A 0P8. Email: Guy.Bourgon@ps.gc.ca

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Responding to Probationers with Mental Illness

¹ The authors thank Dr. Faye Taxman for her very helpful and insightful comments on an earlier draft of this article.

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Contemporary Origins of Restorative Justice Programming: The Minnesota Restitution Center

¹ Many of the early documents from the MRC are archived at the University of Minnesota Social Welfare History Archives, Archives and Special Collections, Minneapolis, MN: University of Minnesota Libraries.

² One of whom is the author of this article.

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Taxman, F. S., & Thanner, M. (2003/2004). Probation from a therapeutic perspective: Results from the field. *Contemporary Issues in Law*, 7, 39-63.

Teplin, L. A. (2000). Keeping the peace: Police discretion and mentally ill persons. *National Institute of Justice Journal*, 244, 8-15.

Veysey, B. M. (1996). Effective strategies to provide mental health services to probationers with mental illnesses, in Lurigio, A. J. (Ed.), *Responding to the mental and substance abuse health care needs for persons on probation* (pp. 146-159). Seattle, WA: National Coalition for Mental and Substance Abuse Health Care in the Justice System.

Watts, J., & Priebe, S. (2002). A phenomenological account of users' experiences of assertive community treatment. *Bioethics*, 16, 439-454.

Wolff, N., Epperson, M., & Fay, S. (2010). *Mental health probation officers: Stopping justice-involvement before incarceration*. New Brunswick, NJ: Center for Behavioral Health Services and Criminal Justice Research.

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Contemporary Origins of Restorative Justice Programming: The Minnesota Restitution Center

Bazemore, G., & Schiff, M. (2004). *Juvenile justice reform and restorative justice: Building theory and policy from practice*. Portland, OR: Willan Publishing.

Beck, S.E., Kropf, N.P., & Leonard, P.B. (Eds.). (2011). *Social work and restorative justice*. New York, NY: Oxford University Press.

Coates, R. (1990). Victim-offender reconciliation programs in North America: An assessment. In Burt Galaway and Joe Hudson, (Eds.), *Criminal justice, restitution and reconciliation* (pp. 125-134). Monsey, NY: Criminal Justice Press.

Cohen, I. (1944). The integration of restitution in the probation services. *Journal of Criminal Law, Criminology and Police Science*, 34, 315-321.

Eglash, A. (1958). Creative restitution—A broader meaning for an old term. *Journal of Criminal Law, Criminology and Police Science*, 48, 612-622.

Eglash, A. (1977). Beyond restitution: Creative restitution. In J. Hudson and B. Galaway (Eds.), *Restitution in criminal justice* (pp. 91-99). Lexington, MA: Lexington Books.

Fogel, D. (1979). *We are the living proof: The justice model for corrections*. Cincinnati, OH: Anderson Publishing Company.

Fogel, D., Galaway, B., Hudson, J. (1972). Restitution in criminal justice—A Minnesota experiment. *Criminal Law Bulletin*, 8:8, 681-691.

Fogel, D., Hudson, J. (Eds.). (1981). *Justice as fairness: Perspectives on the justice model*. Cincinnati, OH: Anderson Publishing Company.

Galaway, B., & Hudson, J. (1972). Restitution and rehabilitation: Some

central issues. *Crime and Delinquency*, 18(4), 403-410.

Galaway, B., & Hudson, J. (1974). Using restitution in the rehabilitation of offenders. *International Social Work*, 17(4), 29-38.

Galaway, B., & Hudson, J. (1975). Issues in the correctional implementation of restitution to victims of crime. In B. Galaway and J. Hudson (Eds.), *Considering the victim: Readings in restitution and victim compensation* (pp. 351-361). Springfield, IL: Charles C. Thomas.

Galaway, B. & Hudson, J. (Eds.).(1978). *Offender restitution in theory and action*. Lexington, MA: Lexington Books.

Galaway, B., & Hudson, J. (Eds.).(1980). *Victims, offenders and alternative sanctions*. Lexington, MA: Lexington Books.

Hudson, J. & Galaway, B. (1974). Undoing the wrong: The Minnesota Restitution Center. *Social Work*, 19(3), 313-318.

Hudson, J. & Galaway, B. (Eds.) (1977). *Restitution in criminal justice-A critical assessment of sanctions*. Lexington, MA: D.C. Heath.

Hudson, J., Galaway, B., & Novack, S. (1980). *National assessment of adult restitution programs final report*. Duluth, MN: University of Minnesota School of Social Development.

Hudson, J. (1977). Problems of measurement in criminal justice. In L. Rutman (Ed.), *Evaluation research methods* (pp. 73-100). Beverly Hills, CA: Sage Publications.

Immarigeon, R. (1996). Prison-based victim offender reconciliation programs. In Burt Galaway and Joe Hudson (Eds.), *Restorative justice: International perspectives* (pp. 463-476). Monsey, NY: Criminal Justice Press.

McCold, P. (2006). The recent history of restorative justice: Mediation, circles, and conferencing: A global perspective. In D. Sullivan and L. Tifft (Eds.), *Handbook of restorative justice: A global perspective* (pp. 23-51). New York, NY; Routledge.

Minnesota Department of Corrections (1972). *Minnesota Restitution Center*. Minneapolis, Minnesota: Minnesota Department of Corrections.

Minnesota Department of Corrections (1975). *Minnesota Restitution Center—Interim evaluation results*. St. Paul, Minnesota: Minnesota Department of Corrections.

Peachey, D. (2003). The Kitchener experiment. In G. Johnstone (Ed.), *A restorative justice reader* (pp.14-26). Cullumpton, Devon, UK: Willan Publishing.

Schafer, S. (1960). *Restitution to victims of crime*. London: Stevens and Sons.

Schafer, S. (1965). Restitution to victims of crime—An old correctional aim modernized. *Minnesota Law Review*, 50, pp. 243-254.

Schafer, S. (1968). *The victim and his criminal*. New York: Random House.

Schafer, S. (1970). *Compensation and restitution to victims of crime*. Second Edition. Montclair, NJ: Patterson Smith Publishing Corp.

Umbreit, M., & Armour, M. P. (2010). *Restorative justice dialogue*, New York, NY: Springer Publishing Company.

Van Ness, D., & Heetderks Strong, K. (2006). *Restoring justice*. Third Edition. Cincinnati, OH: Andersen Publishing Company.

Zehr, Howard. (2002). *The little book of restorative justice*. Intercourse, PA: Good Books.

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The articles and reviews that appear in *Federal Probation* express the points of view of the persons who wrote them and not necessarily the points of view of the agencies and organizations with which these persons are affiliated. Moreover, *Federal Probation's* publication of the articles and review is not to be taken as an endorsement of the material by the editors, the Administrative Office of the U.S. Courts, or the Federal Probation and Pretrial Services System.

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