

A CRIMINOLOGIST'S QUEST FOR PEACE

Hal Pepinsky

Chapter 5: TRANSCENDING LITERATYRANNY*

A NOTE ON METHOD

Mutually empathic, democratic processes for building community are not just ways for people to get along safely together. They are the processes by which participants learn most. They are the processes I have used to do my –research” and –teaching” as a criminologist.

I cite many people by name in this essay. Most of them have not published or have scarcely even written academically at all. I invite readers to consider whether they feel it is inappropriate to cite people without published references this way. To me, the practice of citing published authors by name in social science texts elevates what they say about their research "subjects" above what the "subjects" have to say about themselves.

I blush to admit that I myself often pick up texts and turn to the references to see whether I am cited. Citation by name in print offers special honor and recognition to our experience (our "data") and our interpretation of it. My naming of so many unpublished sources in this essay is a conscious attempt to transcend what I call "literatyranny," the tyranny of written interpretations of people's problems and what needs to be done for or to people. Perhaps, in the name of balancing our conversations about violence, we might adopt a practice of crediting oral sources alongside our citations to published sources.

In that spirit, I also want to preface this exploration of literatyranny and its remedies by dedicating this article to my spiritual guide and friend, Mable Linder, who has become honorary grandmother to the feminist justice seminar I describe, and who has taught me as much as any single human being about how those who have been horrifically violated from childhood into adulthood can with honesty and compassion, and a modicum of validation and support, heal and generously enrich others' lives.

LITERATYRANNY AS STRUCTURAL VIOLENCE

Literacy literally means "capable of using letters." I share Sullivan and Tift's (1998) and Iadicola and Shupe's (1998) conviction that structural inequality is every human being's social enemy. I see command of our use of letters as a structure in which writers' depictions of others' lives become privileged over what those others know, feel, and say.

My own field of criminology or criminal justice is dominated by the written view that the most dangerous offenders as a rule are young people, especially poor young men of color, or when it comes to child neglect and abuse, poor young welfare mothers and the men they bring home. Our law enforcement is aimed in that direction. Meanwhile, what I hear from two groups of people who are especially vulnerable to personal violence--prisoners and children--and from those who know them well leads me to a strikingly different picture of where the primary threat of personal violence lies.

I went through law school with the desire to be a Clarence Darrow (1957)--an advocate for the downtrodden. "Empirically," that is through many sad experiences, I have found myself helping others resist legal process more than using it for protection of anyone's human rights.^[i] My participatory research has carried me to become best acquainted--personally and in assessment of evidence--with two classes of persons whom I consider to be our ultimate victims: prisoners and children.

We "free" adults do not give either class much credit for being able to write or speak the truth about being violated, but much is written about them. In fact, prototypically, criminology and criminal justice are the study of what is wrong with children and criminals like those in prison, and of how to treat them differently from ourselves. As many of my students say and write, "Prisoners have no rights. They lost all their rights when they broke the law." And children don't know what's good for them (Miller 1990 [1983]). As Regoli and Hewitt (1994) put it, children at home and as prisoners are "differentially oppressed." But my oh my is there a vast, historically rich literature on how to tame personal violence by teaching children and prisoners to behave.

Patterns of personal violence can only be reinforced when prototypic victims are treated as prototypic offenders. The structure by which written texts on crime and criminality depict the danger of personal violence locks those at greatest risk into perpetual victimization. Inasmuch as all of us have a legacy of having belonged to one of these classes, having all been children, this structure has re-victimized us all. Literatyranny--the privilege of the written word about crime and violence--is a structure which increases the vulnerability of all of us to personal violence.

It is a challenge to translate awareness of structural inequality into personal initiative. You and I need to be able to do something with our literature and other empirical data (i.e., experience as we and others have lived it) for knowledge of structural inequality to signify more than our failure and vulnerability. As I see it, if one discovers the tyranny inherent in our literature on children and prisoners, our remedy lies in hearing and amplifying into public discourse the otherwise unwritten voices of the oppressed. This is much what Freire (1970) proposed to accomplish by teaching Brazilian peasants to write and read. There is much to be said for bringing voices of the oppressed into literature. Beyond that, I think subversion of the tyranny of literature--what I call "literatyranny" or "tyranny of the letter"--lies in listening and watching what members of oppressed groups do and say, and allowing ourselves to become as informed by it as we are by literature (Pepinsky 1995, 1997). This is essentially what Yazzie (1998) and others describe as the

objective of Navajo "peacemaker courts"--circles where conversation over human discord or imbalance is re-balanced. Discourse theorists like Wagner-Pacifici (1994) analyze conversations in conflict situations--in this case participants' responses to the police assault on MOVE headquarters in Philadelphia, identifying violence and oppression as emanating from imbalances in having one's point of view and interests represented in other people's conversations. Radical feminists like Brock-Utne (1989) describe monopoly of conversational and play space as structural violence itself. And so it seems to me that the obvious remedy for oppression of prisoners and children lies in inviting them into my own conversational space, including the classes I teach and the "scholarship" I "produce." I call that "transcending literatyranny" and invite other students of crime and criminality to join this way of learning.

PRISONERS

As I began teaching in the winter of 1971 in Minneapolis, Minnesota, I had no theoretical understanding of a need to balance conversations about victimization. As though by spontaneous spiritual reflex I sought to take advantage of a course offering I had found on the sociology department books: 5 credits for enrolling in a seminar and teaching what would now be called a "discussion section" of a big class. I put out word through the student grapevine that in the spring quarter, I wanted volunteers to give me paragraphs describing "projects" they hoped to lead class groups in conducting. A highly articulate young woman who turned out to be a doctoral student in English approached me at the end of a class. "My husband will be getting out of prison this week. He would like to volunteer to lead a group." I embraced the chance. As Nixon's drug war was underway, another project leader was a heroin addict on methadone maintenance, and on the lecture and radio circuit, also an ex-prisoner. These project leaders worked hard and offered students a wonderful education, including field trips.

The husband, Alfred C. Villaume, now offering para-legal services to prisoners, later wrote a paper on "Parkinson's Law and the Federal Bureau of Prisons" which was published in *Contemporary Crises*--an international criminological journal--and helped earn him a master's degree from Antioch by mail. Fred is the only person from my Minnesota days with whom I maintain steady contact.

Fred led me onto a path of learning most about our prisons from our prisoners. Among prisoners, odds favored my corresponding with those who were more at ease writing. I have several steady pen pals in prison to this day. I have also tended to hear from and respond to prisoners who were outspoken on behalf of others as well as of themselves. One was a prisoner in Ohio due for release just before the Fifth International Conference on Penal Abolition (MacLean and Pepinsky 1993) which I was organizing to be held in my hometown in May 1991. Native North American spokespersons from the third conference in Montreal in 1987 had recommended that Little Rock Reed organize sessions. He did so beautifully but was still in prison when the conference was held--his parole continued, the written reason for keeping him in prison for at least an extra year being that Rock A...talks about his constitutional rights..." Rock, you see, had tried to

revise his parole agreement to make it constitutional.

I had just become inactive in the one state bar I had, nominally, belonged to--Ohio. There was not a lot I felt I could do to help Rock. I thought the law was pretty clear that he could not have parole rescinded on grounds that he talked about his rights. I spent disappointing time on the phone with Ohio lawyers, including a representative of the Ohio Civil Liberties Union. Rock's, I was told, was a lost cause. To make matters worse, he had helped a small black man who had been forced into a cell with a big white supremacist who vowed to kill him file suit on behalf of this forced "integration" of the Ohio prison in Lucasville. I ended up writing a one-page letter to the court in which Rock had filed for habeas corpus *pro se*--on his eloquent own. I headed the letter "Amicus Curiae Brief," noting my inactive legal status, and signed as a criminal justice professor. The state did not respond to Rock's petition, and an appellate court ruled that Rock would have standing to raise this issue when he had served his full sentence--that is in 15 more years. Rock signed the defective petition and was released shortly thereafter. He tells me that my letter was what persuaded the Ohio parole board to let him go. If that is the case, then something any outsider with a status like "professor" could have accomplished (you don't have to be a lawyer to head a letter "amicus curiae" and send it to a judge) with a one-page statement means more than the rule of law. Experience repeatedly reinforces to me that a simple, succinct amplification of voices of people being victimized can significantly free them. To believe that change like this is significant structurally as I do, you have to accept the premise that what happens to one victim matters to all who might become victims.

Rock had been working to produce a book of writings by Native American prisoners, centering on their non-violent struggles to exercise religions of First Peoples. I continue to use portions of that book (Reed 1993) in a class I teach on "alternative social control systems." By the time the book appeared, Rock was a fugitive from the Ohio Parole Authority, having refused to appear as ordered at his parole officer's office in March 1993, six weeks before his parole was due to end. The F.B.I. was relentless in trying to track him down. He was arrested by the sheriff in Taos, New Mexico, in the fall of 1994, after the book had been published. The New Mexico governor delayed some but then signed off on an extradition order from the Ohio governor as a matter of course. Rock filed a petition to be released in New Mexico, a petition for *habeas corpus*, before Taos County District Court Judge Peggy Nelson, who allowed Rock to offer six days of testimony, much of that while he himself was on the witness stand, while the prosecutor stood mute on grounds that anything Rock had to say was immaterial. I was the concluding witness, by telephone. Examination on my affidavit about what I knew of Rock's case--particularly of my conversation with his parole officer the day before he was due to appear--lasted just fifteen minutes, with no cross-examination.

In January 1995 that judge issued an 18-page, closely reasoned order that Rock be released because he was being sought to shut up his defense of prisoners' rights, and had committed no other offense for which he could be deemed a true "fugitive." The New Mexico Supreme Court conducted oral arguments on an appeal by the New Mexico Attorney General in February 1996. While he waited for a ruling, Rock was rearrested in

Albuquerque on grounds that a *habeas corpus* order from Taos did not apply outside that county. Rock found a lawyer, for whom he now does paralegal work, who got him released once more.

On September 9, 1997, the New Mexico Supreme Court issued 35-page decision (*Reed v. State*, 1997 West Law 671786). Three justices, with one dissenting and one concurring, upheld the *habeas corpus* order. The majority found (at p. 19):

Reed has shown beyond a reasonable doubt, with persuasive and uncontroverted evidence, that he left Ohio because he risked death or great bodily injury at the hands of prison officials if he had reported to be arrested by his parole officer. Reed was not threatened with the deprivation of any ordinary civil right—not merely liberty or freedom of speech—but with the deprivation of life itself. There is no right more fundamental than the right to one's own life.

The majority found that while extradition requests for "fugitives from justice" should be honored as a matter of course, Rock had demonstrated that he was a "fugitive from injustice."

This is the only case I know of in which a governor has signed off to send a prisoner back to another state and a court has stopped the extradition thereafter. The dissenting justice is afraid that this ruling will lead hordes of other "fugitives" to seek legal refuge in New Mexico.

Among other evidence of the danger Rock faced, the court notes my testimony that another Native American jailhouse lawyer, Dennis Weaver, died without explanation in the riot in the Lucasville prison where Rock would have been a month later, in April 1993, where Rock would have been once more had he shown up at the office. The court quotes the account in my affidavit of how the parole officer confirmed to me by telephone, the day before he was supposed to surrender, that upon surrender Rock would be denied his constitutional rights to a hearing on whether his parole should be revoked (at p. 5). All I had thought I was doing when I called the parole officer was trying to communicate orally over saving a friend's life or limb. The "affidavit" was simply a memo of the conversation I wrote and had notarized. Essentially, what I in retrospect contributed to a piece of literature that against all odds recognized a prisoner's right to sanctuary from an entire state's violence was to bear public witness to what I had learned orally, guided by someone I counted among ultimate victims of personal violence.

The New Mexico Attorney General appealed to the U.S. Supreme Court. On June 8, 1998, in *New Mexico ex. rel Ortiz v. Reed*, 524 U.S. 151, 118 S.Ct. 1860, 141 L.Ed.2d 131, the U.S. Supreme Court as a body (—per curiam”) overruled the New Mexico Supreme Court and ordered Little Rock extradited to Ohio. The Court acknowledged that imminent danger to Little Rock’s life from Ohio authorities had been demonstrated beyond a reasonable doubt, but said that the New Mexico courts had exceeded their jurisdiction inquiring into the issue. Little Rock surrendered to Ohio authorities that fall,

and was ordered to serve out the remaining six weeks of his parole. He completed that parole and was released from Ohio custody in February 1999. He returned to New Mexico. Tragically, he died there in a car crash in January 2000. I consider him my brother. I miss him.

It would be absurd to try to repeat history--to aim to become a manifest part of legal human rights history again. But I will say that letting oneself bear witness to the voices of prisoners and children invites a Walter Mitty series of bits of history one does not find in the literature. Victims are validated. They do as some who have been victimized say become "survivors," recognizing that they did not deserve the violence they suffered, finding people among whom they could live openly and safely. And on rare occasions, as here, what one hears when one listens to the plight of ultimate victims may gain the status of written "fact" for a moment at least. I am also given pause by the price whistle-blowers like Little Rock pay, and humbled by the realization that vindication of the oppressed may be ambiguous at best.

The non-violent voices of prisoners have grown more poignant to me in the years since I became involved with Rock's case. The last time I wrote for use in court on behalf of "new evidence" I saw was in the case of a young man, Jason Matthews, doing a murder sentence in South Carolina for what to me appears to have been self-defense against a sheriff. Against all odds, Mr. Matthews prepared a powerful enough appeal on his own behalf that the entire U.S. Court of Appeals considered it *en banc*...before he lost the appeal. That case has been vividly described and well analyzed in a psychology doctoral dissertation (Derrick 1995). I am now discouraged enough by the prospects to refrain from researching and writing on such issues for prisoners. Nor do I encourage correspondents seeking to have their sentences modified, let alone their convictions overturned. My stock response to prisoners who write me is to say that I will be happy to be a pen pal, but that there is little else I will offer. Some get mad, some respond warmly. One prisoner whom I have long since befriended and supported for parole is Lorenzo Stone-Bey, who used to be in the cellhouse at the Indiana State Prison in Michigan City reserved for "administrative segregation" of prisoners thought to put guards or other prisoners in danger. Lorenzo has shared with me petitions for relief from the segregation of African-American prisoners there, including those like Lorenzo who are outspoken on behalf of religious rights (Lorenzo's being Moorish Islam). Lorenzo understands when I say that no, I will not get into this or that legal battle. I have however consistently told Lorenzo that I would share his news from prison in my home state, particularly with my students.

Just as I was thinking how to write this article, the following arrived from D-cellhouse at the Indiana State Prison (Lorenzo has been transferred). I have read this petition in class and circulated it verbatim, with signatures listed, on internet with the permission of its authors. I have read and shared the petition at a national criminology meeting. At my request, a local newspaper, *The Bloomington Voice*, printed the entire text (in its December 11-18, 1997, edition). I reprint it here with permission of its authors. I have left the entirely unedited to make a point about literatyranny: Even petitions to courts by jailhouse lawyers who can spell get dismissed routinely. The prisoners who sent me this

"petition" do not have access to a dictionary. For them, writing is a struggle. The spelling, together with the handwritten signatures, with different writing instruments like for instance a red pencil for two or three cells running, bears testimony to the effort that went into this form of "expression." It would be a mistake to dismiss the value of what is said on grounds that it is "illiterate"; spelling problems aside, the description of the petitioners' plight is clear and cogent. But what touched me most of all was the modesty of the request with which they conclude their petition, which I received in November 1997:

Mr. Pepinsky,

We, the under signed, have come together, in this petition, in an attempt to raise awareness and gain the support of a reputable citizen; in our quest to make right, the many wrongs perpetuated against the D-cellhouse offenders.

D-cellhouse is a unit supposedly designed to house the violent and unruly, but in actuality I.S.P. [Indiana State Prison] only has a handful who will fit that description, and I.S.P. has no gang problem, to speak of.

This cellhouse, as a predator unit, is a failure, so the administration is forced to "create" situations and security concerns in order to keep a sufficient number of offenders classified as predators, gang bangers, etc. Then subsequently there are minor "individual" incidents which are over emphasized to create the illusion of a need for such a unit. When these "individual" incidents occur, the administration here [must] make the most of it, because there are no "organized" or "group" incidents that can be "held-up" as examples of why a predator unit is needed here at ISP. And as a result the D-cellhouse offenders suffer unjustifiably.

The DCH offenders are constantly placed on lock down status [to create that illusion of unruliness] and denied basic constitutionally protected rights. We have been on lock down [continuously] for about (2) two months, with only (1) one break. We were allowed to walk to the dining hall for a hot meal, and we have not received any other [hot meal] in violation of court mandates.

We have no "actual" access to the law library, or the research clerks, to assist us in knowing "what" to request the law library [workers] bring us.

We receive (1) one shower, once weekly, two (2) cold "sacks" daily, and not much more.

These lock-downs are "vengeful" and not motivated by any security concerns. The incidents are "individual" in nature, and once the actual participants are identified and segregated, what then becomes the purpose for the continued lock-down?

It is vengful rehetrobution, plain and simple, and "creates" real hostility between

prisoners, and staff. The "policies" practiced in this prison, in DCH is in violation and opposition to the policy (generally) advocated by The I.D.O.C. [Indiana Department of Correction] and actually fosters the very behavior it's designed to quash.

We believe that if the practice's and policy of DCH were placed under public scrutiny, some changes would be made.

With that hope we have decided to petition you, hopeful that you will mention our concerns amongst your peers, and hopefully they will come to the attention of some who care enough to do something about it.

--Sincerely--

TO: All Concerned, Eastside D-Cellhouse

Reason: Letter to Professor, Hal Pepinsky

Prisoners/Convict

Name D.O.C. #

104	Brown	855988	258	Huspon	882533
106	Hall	931011	260	Douglas Barger	873860
108	Sauer	890675	262	John J. Giforth	904895
110	Price	914600	264	Charles Smith	933202
112			266	Marc Tillman	940972
114	Bishop	900114	268	Rico L Barnes	943602
116			304		
118	Harry Sules	963920	306		
120			308	Jeff Treadway	942643
122	Eleazar DelaSerna	961267	310	Darris Crain	2165

124			312	Hayes	893905
126	T. Crawford	9865527	314	Pinkston	922016
128	B. Dolson		316	Stephen Brown	32313
130			318	Christopher Butler	872035
132			320	A R. Ali	922874
134	R. Cessell	884326	322	Robertson	887464
136	Hodge	870663	324	Omar Clifton	29183
138			326	Mark Wilson	926668
140	Clemmons	913185	328		
142	Westerhoff	922583	330	Foulks	893097
144	Atkins	977793	332	A. Thompson	956287
146			334		
148	White	852537	336	MA Malone	913752
150	William Tubbs	880132	338	N.H.J. Strong	910004
152			340	William Howard	7940
154	David R. Shile	955388	342	JB	902838
156	T. Walker Sr.	2348	344	Carter	923126
158	Patterson	952620	346	Piggie	884810
160	Ingram	873014	348	R. Redin	890268
162	Jones	17776	350		

164	Majors	863393	352	Yaro Aziz Bey	943546
166	Jones	942813	354	Bruce Chip Rettelle	973552
168			356	J.R. Tennell	925943
204	Martin	864153	358		
206	Kelly	863772	360		
208	David Mack	880905	362	Charles Recariom	930667
210	Michael Broyles	935706	364		
212	S. Barba	910432	366	Steven Bethel	863706
214	JC Smith	875219	368	Terry Joyer	915405
216			404	C. Stoudimise	902813
218	James Cuthbert	905624	406	R. McGawan	880885
220	Evan West	891917	408	L Cooley	
222			410		
224			412	Splunge B.C.	865336
226	Cain	405580	414		
228	Monerd	851251	416	Elijah Gayden	957136
230	Jermall Williams	963008	418	Stanley Kyles	922712
232			420		
234	Banks	856869	422	Steve Crow	930160
236	Johnson	955493	424	James Lipps	961112

238	Williams	955868	426		
240	Sparks	862124	428		
242	Ellis	870343	430	Meriweather	864570
244	Williams	962783	432	Koenig	
246	Mosky	953037	434	L. Davenport	
248	Roger A. Smith	6274	436	Dan McCarthy	853570
250	Eric Oliver	931295	438	Nathan Smith	925779
252			440	Taylor	946781
254			442	Dixon	885107
256	Woods	944866	444	T.V. Smith	854951
446	Hielema	902882	524		
448	W. Childers	900090	526		
450			528		
452	Huspon II	933279	530		
454			532		
456	Bill Corn	884316	534		
458	McDonald	871269	536		
460	Thomas Bey	851326	538	Matthews	854025
462	T. Smith	923970	540		
464	M. Barnes	892557	542		

466	David ?	962708	544	Mounts	912721
468	Lloyd Higgins	950223	546	Hofherr	904257
504	C. Baney	918815	548	Munoz	912827
506			550	Burton	890681
508			552		
510			554		
512			556	Michael Klein	951619
514			558	Theoplis Ward	905611
516			560	Larry Fuller	883194
518			562	Cliff Dailey	860800
520			564		
522			566	Jared McReynolds	24096
568	H. Swanbreig	883637			

E-406 Bennett #3612 I'm in 406!!!

I foresee no legal redress in this case either, but I do foresee that insofar as my colleagues in the criminology trade let prisoners speak to them and listen, they will become part of a cultural shift away from punitiveness. Time and again I am struck by the forbearance of my prisoner friends who know that no personal struggle to be heard may be officially won, but that being heard anywhere matters. I would propose that we criminologists follow one another's lead into getting to know some prisoners personally, to de-commodify (Iadicola 1997) what Christie (1994) calls "the crime control industry."

RESTORATIVE JUSTICE

I struggle to address our punitiveness as manifested in the conviction of many of my students like others that "prisoners have no rights." As Christie (1994) and others argue, politicians and crime control merchants (with media help, Mathiessen 2000) sell the idea

that prisoners and their kind (prototypically poor young people of color) stand between us and living safely and securely in harmony and community. The question arises how to appeal for compassion in place of punitiveness.

"Restorative justice" is being heralded worldwide these days as a revolutionary alternative to prosecution and punishment of criminal offenders (see a comprehensive survey of restorative justice initiatives and views in Galaway and Hudson 1996). A variety of mechanisms is used to lend victims control over repairing the damage that crimes have done, and to draw offenders into respected, responsible places in social life, rather than stigmatizing offenders and separating them from communities as happens with criminal justice sanctions like incarceration. The mechanisms include victim-offender mediation; group conferences in which victims and offenders bring their family and supporters to a discussion of what harm has been done and how victim and offender can both be healed and "restored" to valued places in the community; and peacemaking circles or courts modeled on aboriginal methods of responding to conflict. It is indeed heartening to see people broadening dialogue over crime and violence, and building alternatives to punitive "justice." However, the process glosses over what to me is the root problem with our response to violence: that we restrict ourselves to conventional designations of who offenders are.

The point was driven home to me as I was reading a recent and in many ways wonderful guide to developing "community peacemaking circles" in Canada, written by a Yukon judge who has encouraged people in aboriginal communities in particular to fall back on non-adjudicatory traditions of conflict resolution. There I found a proviso standard in restorative justice initiatives. It was just a brief "comment" in the middle of an extended text:

Crown and Defence should agree in advance to the factual foundation for the [defendant's guilty] plea . Any differences can be determined in court and the results read into the Circle. A failure to resolve these matters in advance can be extremely disruptive to the momentum and focus of the circle (Stuart 1997: 73).

Restorative justice will not work unless parties have agreed on the facts of the dispute in advance, including whom to identify as "offender" and "victim." It has long been acknowledged in my part of the world that ninety percent or more of criminal convictions rest on guilty pleas. Judges go through an extended ritual of asking defendants whether, without fear or favor, they freely acknowledge that they have done each element of crimes charged. Defendants routinely say, "Yes, your honor," and express remorse as they "accept responsibility" for their offenses. Whether by prearranged bargain or as a matter of judicial custom, the "deal" is that sentences will be moderated in recognition of defendants' contrition. Essentially, then, restorative justice proceedings become a substitute for (or supplement to) sentencing hearings in conventional criminal prosecutions. The common wisdom, too, is that restorative justice works best with youthful offenders-the group who conventionally are seen as posing the greatest threat of social disruption and personal violence in our communities. Beyond what it does for

victims, restorative justice becomes a new way to turn young offenders' lives around. All in all, restorative justice supports and reinforces stereotypes as to who typical criminals are, as a price of offering criminals new avenues to redemption.

I look for ways to draw these stereotypes into question. I dwell in cases in which victimization is socially unrecognized because recognition would defy stereotypes. Little Rock Reed's case is extraordinary because—as the dissenting New Mexico Supreme Court justice observes—states are careful to refrain from deciding that prison keepers pose greater danger of unlawful violence to their wards than prisoners and parolees pose themselves—that "offenders" are "victims" and states are "offenders." The stereotype amounts to a license to powerholders—prison keepers—to do more violence to prisoners than prisoners could possibly manage in return.

CHILDREN

It is reported often that restorative justice sanctions turn out to be more onerous than criminal sanctions would have been instead. The corresponding hope and often reality is that anger softens into compassion and support for victims and offenders alike. But by operating on stereotypic operating definitions of who offenders are, restorative justice remains locked in channeling our anger and fear over being violated into "p.c."—politically *convenient*—"offenders."

In effect, restorative justice opens another channel in which to vent unresolved fear and anger in socially accepted directions. It is a marvel that "crime" is, like the weather, so popular a topic of cocktail party discussion. For all the passion that can be invested in conversations about crime, especially violent crime, the marvel is that the passionate people seldom know the offenders and victims they are discussing. How alienating. I have a working hypothesis, borne out by what I have gotten to know of myself and of others: Much of the punitiveness we feel for "offenders" is anger and lingering fear over having been violated when we were small, by those in whose care we were entrusted, in what Freyd (1996) calls "betrayal trauma." Betrayal trauma can occur by action or inaction that is perfectly legal, physical or emotional. To Freyd, the trauma entails pretending nothing bad has happened when someone you love, whom your very life seems to depend upon, has hurt and frightened you. I think that punitiveness arises simply, as Miller (1990 [1983]) puts it, by "poisonous pedagogy." Learning to feel and live the reality that you feel, see and hear what others tell you that you must. The poisonous teaching is that living someone else's reality is "for your own good." Herein lies the kernel of learning to live a lie, of distrust, of anger and fear over having oneself denied or "really" worthless, of feeling as though one is an impostor at earning others' respect and care. Much as I distrust crime counting, I would only add that I see plenty of hidden rape, and at the extreme, organized serial murder and torture—mostly invisible in public discourse. The more those who have been victimized open up to me, the more I strongly I suppose that when we are punitive we are truly scared and angry based on real personal experience, but can only acknowledge that those who hurt and scare us are "wonderful" and "have been good to me," and are allowed only to vent our anger at p.c.

offenders.

Conversely, my experience is that the younger and sooner those who are victimized by personal violence are heard, validated, and even moderately protected, the more readily they vent anger and fear as they occur, and less they care about doing anything TO their offenders. They of course remain concerned that they not be re-violated, but determination to get help to protect and defend oneself does not necessarily imply anger and a desire for retribution. And so I look to listening to victimization, of children particularly, and offering what safe and validating company we can in its place as the more direct channel to handling our punitiveness. This extends to availing ourselves of opportunity safely to share our own betrayal trauma.

We hear constant concern about threats posed by youth. We grant certain adults extraordinary license to exercise power over children, notably parents. While on the surface it might appear obvious that children-the smaller and more vulnerable group-need more care and protection than adults, in our public discourse we recognize as sacred truths that children owe duties to care for (as in "honor") parents and other elders without reciprocity. So for example the Fifth Commandment in the Old Testament of the Bible about children's duties to parents has no corollary commandment to parents to honor children. By extension, just as prisoners' complaints about violence by their keepers receive scant validation, so children's complaints of violence by their lawful "custodians" are routinely ignored and dismissed, especially when the custodians are otherwise established, respected members of their communities (see, e.g., Rosen and Etlin 1996). Ironically, children's complaints of victimization are more likely to be dismissed as unreal the more serious the violence alleged. This I have discovered in and around a class about violence against children I have been teaching for five years.

I invited three people who had been struggling to have children's trauma from sexual assaults by parents and teachers recognized-Sandy Bell, Mary Cunningham, and Debbie Dugan-to help me modify a seminar on "feminist justice" I teach. The seminar would now focus on "children's rights and safety." The seminar has met every semester except when I have been on sabbatical since the fall of 1993. The reader for that seminar consists of material provided by those who have been so victimized and by those who have tried to help them gain legal protection and redress, including evidence like doctors' and therapists' reports which have never been accepted as evidence in court, let alone published in criminal justice literature. Guest presenters are a regular feature of the seminar-occasionally a scholar, more often activists and professionals such as lawyers and therapists who work with cases of alleged violence against children, but most often people talking about their own childhood victimization or the victimization of their own children.

Not long after the seminar began, someone asked whether organized ritual sadism against children-including gang rape, torture, and even human "sacrifice" and cannibalism-happens in our own part of the world. I repeated what I had read in the literature (as by Richardson et al.1991), that maybe there were isolated cases of this kind, but that the

stories of such rituals were largely fiction. Mary Cunningham told me that there was a book I ought to read (DeCamp 1996) by a lawyer, still in practice, documenting a case in Nebraska. But what affected me and in turn other seminar members most profoundly was to begin to meet people who told us about personal experience with ritual violence.

My first personal introduction was secondhand--by Rick Doninger, who with his wife Pam had helped a number of children and adults who as children had been victimized in group rituals, in this case satanic rituals, often in families of high standing, or in the first instance out of a number of schools. He brings some thirty water color, ink and pencil drawings to class, taped to several large poster boards. He and Pam, like other seminar guests, had gone to Huntsville, Alabama, for training in non-leading interviewing techniques at the National Child Advocacy Center. Typically, he tells me, the pictures were drawn while he chatted with children at his kitchen table. He would simply invite children to use the materials and draw anything they wanted about what had happened to them while he talked with them. He tells me that it was almost as though the children were doodling as they talked about other stuff. Then they described what they had drawn to him. Copies of the pictures and summaries of the children's descriptions of them appear in Carrico et al. (1994: 64-108). In similarity of detail many corroborate one another from across the country. A pair of siblings independently draw consistent pictures of a ritual, remarkably parallel in detail albeit different in artistic technique.

I have heard descriptions like Rick and Pam's of what children say, and seen video excerpts of children describing rituals they had been raped and tortured in, but my the firsthand experience seminar members and I share is of adult survivors. The second semester I taught the seminar Rick brought a survivor who by first name only was appearing in public for the first time. Shortly thereafter, Debbie and Mary put me in touch with Jeanette Westbrook (WestbrookJ@aol.com), a social worker in Louisville, who has visited the seminar every semester since, and who like Rick also now visits a large class I teach on "alternative social control systems." Jeanette had enough police and legal support that the Kentucky Attorney General charged her father with raping her several times. As they sought to have him extradited from his new home in Ohio, he returned from a trip where he met Eastern European heads of state and members of parliament on nuclear safety planning, and in his early sixties died suddenly in bed at home and was buried without an autopsy.

A friend observed awhile back that I so brazenly believe that Jeanette's memories of ritual violence are true, and representative of widespread violence including serial murder and cannibalism, because I have met survivors like Jeanette (many by now) and heard them speak for themselves. Their voices are just beginning to be aired in media in ways that may become literature. I would like to contribute to that publication of survivors' voices by quoting from a radio interview of Jeanette, broadcast November 30, 1997, in a series on radio station CKLN in Toronto, which the interviewer--Wayne Morris (scw@web.net)--transcribes and sends over the internet. Wayne has played a lecture Jeanette gave at the Believe the Children conference in Chicago in April 1997, on how to prosecute your perpetrator. He introduces her interview with a song, "Holocaust," she has written, and sings while her husband Andy plays guitar on a tape Andy has mixed

and produced. The song describes what she and countless others have lived:

A lifetime of living is like a lifetime of dying

When the moon is full, there is darkness all around

Hands go up, with their lies they will be bound

And the souls of men, they are nowhere to be found

In a Holocaust, it happens on your street,

Holocaust, the victims you will meet

Of the Holocaust ... can't you count the cost?

There's a price to be paid, you will pay it one day.

A lifetime of trying, to not hear the crying

Of the children, who only want to live

The blood of life, is all they have to give

And their sacrifice, will not give them what they need

It will not squelch, their hunger and their greed

For a Holocaust,

It happens on your street,

Holocaust,

The victims you will meet,

Of a Holocaust.

Can't you count the cost?

There's a price to pay, you will pay it one day.

[spoken line] -- Every year there are 50,000 children who disappear.

A lifetime of giving, hope to the living,

That history, will be your destiny

And all the world, will hear the words you say

Tomorrow, forever a day.

Holocaust,

You will pay it one day, Holocaust ...

There are repeated allegations that self-proclaimed survivors are hypnotized and led into their memories by suggestive therapy. Knowing this, Wayne Morris begins his interview by asking Jeanette how childhood memories of ritual violence resurfaced:

Wayne Morris: I will start off by asking you how was the process initially when you started remembering your abuse, and how much time had passed since the abuse ended?

Jeanette Westbrook: Well, my last hands-on abuse by my main perpetrator, my father, occurred when I was 24 years old ... so, ongoing from early childhood all the way till I was 24. The process of remembering is the old off-again, on-again process of remembering, but only remembering certain incidents, or only having flashes like viewing a far-away video that sometimes became clear, and sometimes was fog-covered.

I really started getting a lot of my memories and flashbacks at age 28 when I met and married my husband.

Wayne Morris: Were there certain things that triggered flashbacks for you or ... how did they come?

Jeanette Westbrook: I have an idea about how that happens. I think, for me, that when I married my husband I was then in a routine day-to-day relationship with someone, with an ongoing sexual relationship. What prompted me to enter therapy was shortly after I got married, I was sitting on the bed in our bedroom, and he simply placed his hand on my leg, on my knee and I had a flashback, and I started breaking things. I was full of rage. It was almost like I blacked out when I did this,

or what I know now to be a "switch". After this, I thought, "oh my god ... what is going on? I have to do something." Little did I know that there were parts of me that throughout the years had gone to other therapists trying to get help without my knowledge.

Wayne Morris: You had gone to therapy for other things that were happening in your life before the age of 28?

Jeanette Westbrook: Yes, but I did not know that "they" were going to a therapist and talking about incest. They actually approached therapists and most of the time, from what I now understand, most therapists at the time in the early 1980's and even in the 70's weren't dealing with issues of incest, period.

Wayne Morris: When did you suspect that you had Dissociative Identity Disorder?

Jeanette Westbrook: After I started having flashbacks, I started getting the memory as a child of being ostracized and isolated in school because I had failed the first grade, repeated the first grade. At the end of my second grade, they tested my IQ, and it was only 80 points at the time, which was a reflection, I believe, of the overwhelming trauma that I was experiencing. In the seventh grade I was walking down the school hall, and I was sad, lonely, feeling that I had no friends, and one of my parts, Jenny, said to me, "I will show you how to make friends ... I will do it for you." So this part, Jenny, an alter, or however you want to frame that, was so outgoing and talented and could sing, could do so many things I felt at the time I could not do ... she was winning friends all over the school, so we had a social life. This part of me lived many years of my life for me, or had most of the time, lived a lot of my life for me so I wouldn't be lonely, or ostracized. So I would have a social life so I could gain some social skills ...

Wayne Morris: Can you talk about what age you think your abuse by your father started, and what kind of things happened?

Jeanette Westbrook: There were various types of abuse ... as a young child, I didn't have enough food to eat. That was a result of plain old neglect. It was not because there wasn't enough money to provide food, it was because of neglect. One vivid memory that I had, which I have drawn pictures of, and reported to my police detective in the course of prosecuting my father ... I was hung upside down with ropes from rafters in the garage beside our house. I still have the scars on my ankles from this. I was threatened with a welding rod. I was penetrated with an object, hanging upside down. Other types of abuse would be simply just being in bed, taken from my home, raped ... it could be any time, any time of the night. It could be with people I knew or did not know.

I have seen the scars on her ankles. I believe that she knows and does not know pretty

much what she says that she knows and does not know (unrecalled years of childhood even). Those who have survived this torture by "splitting" into "(alter) personalities" or "parts" have remarkably retentive memory for detail and sensation--including smell and pain--where traumatic memories are "triggered." Often these memories are corroborated, as in Jeanette's case by medical and school records, and by accurate description of places one otherwise would not have visited.

I am skeptical of all crime counting, but it makes theoretical sense to me (in that power corrupts) that persons of wealth and high power or socio-political standing--including those wearing robes and badges--are as likely to rape and at extremes serially murder their children as are poor folks in our hills and hollers and ghettos. I believe adults rape, murder and otherwise violate children more than children violate anyone. But "empirical evidence" is what counts in my social science and legal communities, and you cannot experience what you will not hear. We are limited by the written data sets and analyses we apply. Jeanette and other survivors are more likely to be hospitalized, re-shocked, medicated and terrified into silence than listened to. Certainly we will read more about them than we learn from them in their own terms and words. I recently had a respected and rather radical colleague tell me that she guessed that we just disagreed on whether this satanic ritual stuff happens any more than among social outcasts on extreme occasion. She has met someone who reports having been falsely accused, but has not, I do not think, listened to a self-proclaimed victim's own testimony. She has on the other hand spent ample time listening to prisoners, and would readily accept that prisoners are more violated than violent. Validating testimony from children and of critical memories of childhood is the ultimate challenge to our democratic values, to our empathy for others' grievances.

In Greek "empirical" means "born of experience." In criminology I think we should recognize that our most significant data are the voices of our most powerless cohabitants. Listening to prisoners tends to make you less likely to feel that they are more reprehensible than their captors. Listening to children including adult memories of childhood destroys the legitimacy of all claims to power over others, for ultimately, we appear more honest and open to learning and changing when we enter childhood than when we leave. As a group we become wiser and more safer with one another the more attention we pay to restoring balance in our conversations, by inviting the weakest and quietest among us to speak first, and by listening, looking, and otherwise feeling with whoever is being left out as conversations proceed. That is the Navajo way, and I believe it is the way toward peace for us wherever we find ourselves, whatever conversation we enter.

TEACHER WITH STUDENTS

Another phase of balancing our conversations is to help convert spoken words from the more urgently victimized among us into writing, and to attend first and foremost to the power imbalances most glaringly at hand. In every class I teach, the most glaring power imbalance is between instructor and students. A vital part to me of teaching the virtues of

balance is to welcome and value writing by the students, and to participate in the writing myself. The undergraduate section of the seminar on children's rights and safety is offered for what my arts and sciences college calls "intensive writing" credit. As the students learn to appreciate that other victims of underclass status--notably children--have valid "empirical data" to offer, so I want students to appreciate that are as worthy writers as I am, not for repeating what I believe and feel, but for expressing their own selves. To begin with, I suggest that they break down the intensive writing requirement of a minimum 5000 words into something like ten two-page chunks. After all, unlike monologue, conversation goes back and forth an idea or two at a time.

I count words for the requirement and the grade (5000 satisfactory words gets you an A), rather than grading the words themselves. Instead, I react to substance. You went to the trouble of trying to tell me something in writing. I'll go to the trouble of trying to listen and react. As Freire (1970) found, when what you say moves others, you get motivated to write well and fast. I try to respond as respectfully and appreciatively as I can, spontaneously on e-mail in most cases. But first, I read through all the papers and write and post one of my own.

I call their papers and mine "letters." We end up acting for all the world as though we are corresponding with one another. Sometimes people begin writing awkwardly, but soon, write freely and beautifully.

I am writing this article as a semester closes. My writing plan for this article includes looking for quotable statements of the experience of learning from guests like Jeanette. Sure enough, I found some. A couple of seminar members (as I call them in my letters), graduating seniors, gave me permission to quote them by name.

John Obermeier had written occasionally about how talking about the seminar had led someone close to him in his family to talk about her own victimization. He writes:

Dear Hal,

I would like to begin this letter by saying thanks to you for offering such a class here at Indiana University. I have learned so much through this seminar, more than words alone can say. Things I have learned this semester will be with me my entire life. This class has also given me the ability to understand just what abused people face, and most of all I have been able to share the things I learned in class...This has given [the family member] hope in her long battle in dealing with being sexually molested as a child. I believe that [she] has found comfort in knowing that she is not the only person in this world that has dealt with such an evil act. She has also found comfort knowing that such classes are being taught at the college level...[Y]our class has given me hope that someday we will once again live in a place of good and very little evil...

Another student—a woman who prefers to remain unnamed—wrote:

I have really enjoyed this class for many reasons. One of the best things about this class was how it relates to real life more than many other classes I have taken. I liked learning about other people's life experiences. I tried to learn from mistakes they had made and hopefully I will be able to avoid making bad decisions in the future.

It was much more helpful than memorizing many theories about crime as I have done in other classes. I have already forgotten most, if not all, the theories I have learned from past semesters. However, I believe the personal narratives that I have heard throughout the past few months will stick in my mind for a very long time. It puts a face on the injustices that are going on in society today.

The speakers have also taught me much about the value of persistence and never giving up....

There is another big reason that I enjoyed this class [and she recaps her own experience, adding]....: I'm sure that at least one speaker has touched everyone's life who has attended your seminar....I don't know what this class meant to anyone else, but it meant a lot to me. It came at the perfect time in my life to help me put my problems and my hopes for the future into perspective. Thanks very much, Hal.

I hope and trust that seminar members will also carry with them the will and confidence to continue conversing in writing, and that as their voices are transcribed here, so our literature will become more balanced as their voices, their experience, gets published. In turn, we create a more balanced history to leave our descendants.

I do not aspire to make literacy just. As I see it justice happens no matter what. What goes around comes around, so that humanity suffers insofar as violence meets violence, and becomes safer and more harmonious as we balance the conversations we have in response to violence. For the sake of peace I propose that we balance the literature on crime and violence which we read with listening to and conversing with one another's victimization and one another's offenders. In gaining safety from personal violence as in everyday life, control and security come more from how we learn than from what we learn.

* This title originally appeared in *Contemporary Justice Review*, 1, 2, pp. 198-212 (1998).

[i]. With scattered exceptions. I did initiate a request for a state attorney general's opinion which essentially opened up my university's financial records to public inspection, and was central to efforts which led to opening promotion and tenure candidates' files to candidates' inspection. I consider free flow of honest information to be sacred, "synergetic" (Pepinsky 1991: 85-98).

* This title appeared originally in *Contemporary Justice Review*, 3, 2, pp. 175-186 (2000).