I. Preface

This paper began as a comparison of two states, divergent in so many ways, attempting to glean what the “leader” state and “bottom of the class” state (or so it was assumed) were doing to promote restorative justice practices. It seemed as though this would help define the range of efforts to integrate the restorative justice philosophy into the mainstream criminal justice system in hopes that the research would uncover programs (presumably in Minnesota) that could be adapted in states where the correctional system has yet to embrace the restorative justice model (presumably Texas). In the end, it came to light that both states ought to be considered leaders in the realm of restorative justice, and that both have established programs through innovative approaches that would serve as excellent models that can be widely implemented across the country. This paper seeks not to evaluate the programs, but rather to highlight their approaches to restorative justice in a way that makes clear the broad applicability of the programs’ underlying methodologies.

II. Introduction

Texas and Minnesota make an odd couple for more reasons than one. Texas voted Republican in nine out of the last ten presidential elections, and has had a Bush on the ticket for every election, save one, between 1980 and 2004.¹ Minnesota has cast its electoral votes for the Democratic candidate in 17 out of the last 20 presidential elections – last voting Republican in Richard Nixon’s landslide victory in 1972.² Texas employs capital punishment more than any

¹ http://www.270towin.com/states/Texas.
² http://www.270towin.com/states/Minnesota.
other state in the country, executing 167 people between 1976 and 1998. The death penalty was abolished as a means of punishment in Minnesota in 1906.

Given the divergent ideologies of these states – both in politics and in matters related to criminal justice – they present the ideal backdrop against which to explore the integration of restorative justice programs into the established system of criminal justice. At the outset, it seemed almost inane to coin this a “comparison”; Minnesota is perhaps the state most well-known for its restorative justice efforts, but what sort of restorative justice seedlings could possibly form roots after being scattered upon the punishment-ridden soil of Texas? As this paper will thoroughly detail, the restorative justice movement in Texas is gaining great force, and the Lone Star State is light years ahead of where its history and principles might suggest. In sum, the two states are more similar vis-à-vis their restorative justice landscapes than they are dissimilar. This paper seeks to describe on a surface level the broad array of restorative justice services and activities offered in each of the two states. Further, it will treat two programs in each state at a more in-depth level and briefly note the potential for these programs and their philosophies to be implemented in other states across the country.

III. A Bird’s-Eye View

A. Minnesota

Minnesota is somewhat of a capital of restorative justice in the United States. The University of Minnesota School of Social Work’s Center for Restorative Justice and Peacemaking serves as the state’s home base for many restorative justice initiatives and

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4 http://www.mnsu.edu/emuseum/history/mnstatehistory/timeline.html
5 http://cehd.umn.edu/ssw/rjp/default.asp.
maintains a wealth of resources with which to provide training and education to community members. The Center’s mission is to “[develop] . . . community-based responses to crime and violence that strengthen social harmony and individual healing through dialogue, repair of harm, and peace-building by providing technical assistance, training, and research in support of restorative dialogue practices.” The Center frequently performs in-depth studies and evaluations of various restorative justice programs both in Minnesota and outside the state, serving as somewhat of a symbol of Minnesota’s commitment to restorative justice practices.

Restorative justice programs made their first appearances in Minnesota in the 1980s, but it was not until a decade later that those programs began to be integrated in criminal justice systems throughout the state. As of August 2008, at least 37 programs provide restorative justice circle and conferencing services. Furthermore, probation offices in 63 of Minnesota’s 87 counties offer restorative justice options such as mediation, conferencing and circles. In Minnesota’s ten correctional facilities, Victim Offender Dialogues and VOCARÉ are routinely offered, among other restorative justice activities.

Minnesota’s great success in providing a comprehensive array of restorative justice services to its residents may be attributed in part to the funding the state allocates for restorative justice endeavors. Since 1997, Minnesota has provided grants for the establishment, implementation, and maintenance of restorative justice programs. The Minnesota legislature

6 Id.
8 Id.
9 Id.
10 VOCARÉ stands for Victims/Offenders Community – A Restorative Justice Experience. VOCARÉ provides an opportunity for victims/survivors, community members and offenders to participate in surrogate groups called VOCARE’ groups. VOCARE’ is Latin for “to call, to summons, invoke, invite or to gather.
http://www.corr.state.mn.us/rj/Options.htm
12 Id.
developed a statute to aid in identifying which programs qualify for funding, defining a
restorative justice program as:

A community-based organization, in collaboration with a local governmental unit, may
establish a restorative justice program. A restorative justice program is a program that
provides forums where certain individuals charged with or petitioned for having
committed an offense meet with the victim, if appropriate; the victim’s family members
or other supportive persons, if appropriate; the offender’s family members or other
supportive persons, if appropriate; a law enforcement official or prosecutor when
appropriate; other criminal justice system professionals when appropriate; and members
of the community in order to: (1) discuss the impact of the offense on the victim and the
community; (2) provide support to the victim and methods for reintegrating the victim
into community life; (3) assign an appropriate sanction to the offender; and (4) provide
methods for reintegrating the offender into community life.13

Over the last decade, there have been five different appropriations, and the number of grant
recipients has grown. The most recent appropriation was awarded to fourteen community-based
restorative justice programs with successful track records.14

The Minnesota Department of Corrections (DOC) also plays an important role in assuring
the integration of restorative justice principles into the correctional system. The Support
Services Division of the DOC provides victim assistance and restorative justice programs to state
residents.15 The staff in the Support Services Division coordinates a wide variety of restorative
justice activities including staff and community training, offender victim-impact education,
victim-offender dialogue, the apology letter bank, National Restorative Justice Week.16

In Minnesota, the restorative justice philosophy, at its strongest, generally takes three
forms: victim-offender mediation (VOM), family group conferencing (FGC), and circles. VOMs
involve face-to-face meetings between victims and offenders in which a mediator facilitates

See Appendix D for a complete listing of programs receiving state-funded grants.
15 http://www.corr.state.mn.us/org/supportserv/VictimAssistanceRestorativeJustice.htm
16 Id.
conversations that typically address descriptions of the harm done, reparations agreements and offender-issued apologies. FGCs are similar to VOMs in that they include face-to-face meetings, which are intended to result in restitution arrangements whereby the offender makes amends to the victim and the community. The primary difference between the two lies in the fact that in FGCs, community members and family members are invited to be part of the offender’s rehabilitation process by being present at the meeting. Circles are modeled after indigenous practices of coping with an offender’s harmful behavior and include a meeting at which the victim, the offender and their support networks are present. A circle keeper employs a talking piece to designate who may speak at any given time. Circles are intended to foster an atmosphere where everyone may make their voices and views heard by the entire group in an organized and respectful fashion.

Though there is much to choose from when it comes to restorative justice programming in Minnesota, two of the most easily adapted and commonly used methods – conferencing and circles – will be discussed in greater detail below.

B. Texas

In a fashion that is much more similar to Minnesota than may first meet the eye, Texas is making great strides to do more than just lock prisoners up and throw away the key. Among the restorative justice initiatives that are making headway in Texas are: restitution, victims’ rights and services, specialized courts, victim-offender interaction and prison ministries.

Texas has taken a firm stance in the area of restitution, implementing mechanisms to ensure that offenders, as part of their sentencing, make monetary reparations to the victim. In

18 Id.
19 Id.
20 Id.
2005, the Texas Legislature approved – and the governor signed into law – a bill that strengthens Texas’ statutes by requiring trial courts that decline to order restitution or order only partial restitution to “state on the record the reasons for not making the order or for making the limited order.”

Supporting this initiative is the Texas Crime Victims’ Compensation Fund, established in 1979, which provides financial assistance to victims of crimes perpetrated by insolvent offenders. The fund provides reimbursement of up to $50,000 to victims of violent crimes ($125,000 for cases involving catastrophic injury resulting from the crime) and paid out more than $73 million to victims in 2003. In 1983, the legislature passed a bill allowing the Texas Department of Criminal Justice (TDCJ) to allocate funding to local corrections departments to establish restitution centers. In these residential facilities, offenders perform work and other activities with an eye to assisting them in paying back individual victims of crime as well as society as a whole. Judges may, in their discretion, sentence an offender to confinement in a restitution center where he or she will work full time, perform community service and attend educational and rehabilitative programs. The state currently maintains a total of 14 restitution centers.

Though not principally aimed at the offender, Texas has altered its laws to provide significantly greater rights for victims. In 1989, Texas adopted a constitutional amendment establishing myriad rights for crime victims. The Texas Code of Criminal Procedure provides various mechanisms for victims to present impact statements at criminal trials; it allows victims

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22 See http://www.capitol.state.tx.us/cgi-bin/tlo/textframe.cmd?LEG=79&SESS=R&CHAMBER=H&BILLTYPE=B&BILLSUFFIX=01751&VERSION=5&type=B.
25 Id.
26 Id.
27 TEX. CONST. art. I, §30.
to submit a statement that the court shall consider after conviction but prior to sentencing and present the statement orally after the sentence is pronounced.

Texas also passed a bill requiring counties with populations exceeding 550,000 residents to establish drug courts by September 2002. The restorative nature of these diversionary courts lies in the fact that drug offenses are not victimless crimes. The offender is, in part, a victim who becomes delinquent on his responsibilities to family members and friends. Drug courts allow an offender’s family, friends, and community to be involved in developing a rehabilitation plan for the offender which typically includes drug treatment, community service, job and life skill training, and community re-integration.

In addition to the aforementioned initiatives to promote the restorative justice philosophy in Texas, the state has made its greatest strides in implementing restorative justice through victim-offender interaction. In 1993, the TDCJ established the Victim Offender Mediation/Dialogue (VOM/D) program, which, unlike most other Victim Offender Mediation programs, is equipped to serve victims of severely violent crimes. Upon passage of a bill in 2001, VOM/D became a permanent program in Texas. The creation of this program made Texas the first state in America to offer such a service on a statewide basis to victims of violent crimes.

Victim Offender Mediation/Dialogue is initiated by victims who wish to meet with their offender. If the offender declines to meet, he or she is given the option of corresponding with the

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28 TEX. CODE CRIM. PROC. ANN. art. 56.03 (2008).
29 TEX. CODE CRIM. PROC. ANN. art. 42.03 (2008).
31 Levin, supra note 21.
33 Levin, supra note 21.
34 Interview with Dr. Marilyn Armour, Professor, University of Texas School of Social Work, February 16, 2009.
victim through written letters or taped messages. Texas’ program differs from mediation programs in other states in that it has, from its inception, focused on violent offenders, for the requests for such meetings had historically come primarily from victims of violent crimes. The offender must admit his guilt prior to the meeting and is not externally incentivized from doing so, as the mediation is not included in the inmate’s parole file. The VOM/D program in Texas will be discussed in further detail below.

IV. Two Stepping: An In-Depth Look at a Pair of Successful Restorative Justice Programs in Texas

A. Victim Offender Mediation/Dialogue

The VOM/D program has put Texas at the top of the list so far as states with aggressive restorative justice efforts go. The program’s 1993 founding date makes it the oldest in the country, and as of the beginning of 2009, it has served more than a thousand people. The program’s purpose is “to provide victims of violent crime the opportunity to have a structured face-to-face meeting with their offender(s) in a secure, safe environment in order to facilitate a healing recovery process.” The VOM/D program in Texas retains three full-time staff members at the TDJC who administer mediations and train volunteers.

The process of equipping victims and offenders who choose to engage in VOM/D is extensive. The actual meeting between the victim and the offender is but one important point along a “continuum of care” that begins with the request for a meeting and continues through

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36 Levin, supra note 21.
37 http://www.tdjc.state.tx.us/victim/victim-vomd.htm
38 Interview with Dr. Marilyn Armour, supra note 34.
preparation, the meeting and post-mediation follow-up. The program places paramount importance on ensuring that the both the victims and the offenders are thoroughly prepared for the meeting that will take place between them. Participants in the VOM/D go through at least one hundred hours of training prior to the meeting, and as such, it may take up to six months from the time the victim requests a meeting before the actual meeting occurs. The training includes a series of batteries and protocols designed to help participants come to terms with their fears and grief and to help them progress through the process of healing and recovery. Throughout the preparation process, the mediators continually assess the victim’s readiness to meet with the offender and vice versa.

The face-to-face meeting typically lasts between three and a half and eight hours. While mediators keep a checklist detailing the intended course of the meeting, the emphasis is placed on maintaining a minimal presence and allowing the conversation to flow freely between the victim and the offender without unnecessary restriction. After the mediation, victims and offenders participate in ongoing post-mediation follow-up. Mediators may maintain contact with some participants for as long as several years after the conclusion of the mediation process.

The Texas VOM/D program was evaluated, along with a similar program in Ohio created in 1996, in the first multi-state study of the impact of victim offender dialogue upon victims and family. The University of Minnesota’s Center for Restorative Justice and Peacemaking conducted the study, the positive results of which have enabled Texas’s VOM/D program to

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42 Id.
43 Id.
44 Id.
serve as a stimulus and model for development. Alabama officials created a similar program in 2002, and another 12 to 15 states have been in the process of creating such programs.  

The results of the Center’s comprehensive study show that the VOM/D program has been an astounding success. A total of 79 interviews were conducted, representing 20 victims and family members each from Texas and Ohio, 19 offenders from Texas, and 20 offenders from Ohio. Of the 46 total crimes in which these individuals were engaged, 65% were homicides, 13% were felony assaults and attempted murder, 17% were sexual assault, and 4% were burglary or theft. All parties participating in the VOM/D program reported high rates of satisfaction with the program as a whole, and in particular with the quality and amount of training they received prior to the actual meeting.

Victims and family members most frequently indicated the following reasons for seeking a meeting with their offenders: (1) to seek information and answers to lingering questions about the crime; (2) to express the impact of the crime to the offender; (3) to experience a more human, face-to-face interaction with the offender; and (4) to advance the healing process. Offenders, on the other hand, most frequently cited these four reasons for agreeing to meet with their victims: (1) to apologize to the victim; (2) to help in the victim’s healing process; (3) to help in their own rehabilitation and healing; and (2) to provide more information about their lives in hopes of changing the victim’s view of them.

Results of the study of the VOM/D program indicate that the program overall has a significant impact on victims and offenders. Eight out of ten participants in the dialogue sessions

45 Id.
46 Id.
47 Id.
48 Id.
49 Id. It bears repeating that offenders may, at their choosing, decline a VOM/D meeting with his or her victim.
50 Id.
– both victims and offenders – reported major life changes, frequently stating that their outlook on life was more positive and that they were more at peace with the situation they faced.\textsuperscript{51} Participation in the VOM/D program also had an impact on strengthening participant’s spirituality, though that effect appeared more so in offenders (62\%) than victims (43\%).\textsuperscript{52}

Texas, through the VOM/D program, is well on its way to inspiring fellow states to adopt similar programs for victims of violent crimes. These victims are arguably most in need of a vehicle to address his or her offender in a setting that provides a safe place for the expression of emotion. With the help of volunteers who are willing to put in the hours to equip participants, offenders and victims alike are able to begin the path to healing and rehabilitation.

B. Bridges to Life

Bridges to Life is the other successful, well-developed restorative justice program in Texas. The program is designed to help both victim and offenders by fostering relationships not necessarily between the actual offender and victim of the same crime, but between volunteer victims – known as surrogates – and offenders on the whole.\textsuperscript{53} The program was formed in 1998 under the direction of John Sage, a Houston businessman who became depressed after the murder of his sister.\textsuperscript{54} He founded Bridges to Life as a way to fill a void in the criminal justice system by providing a way to rehabilitate offenders and show concern for victims and the lasting impact of crimes upon them.

\textsuperscript{51} \textit{Id.}
\textsuperscript{52} \textit{Id.}
\textsuperscript{53} This is one of the biggest points of contrast between Bridges to Life and the VOM/D program, where the emphasis is truly on fostering dialogue between an offender and his or her particular victim. Another significant difference between the two programs is that the offenders that participate in Bridges to Life are generally within their final 12 months of incarceration. http://www.bridgestolife.org/the-program/objectives
\textsuperscript{54} Levin, \textit{supra} note 21.
The program operates with the assistance of about 300 volunteers who put in more than 26,000 hours every year.\(^{55}\) It is a non-profit organization funded through private donations, but almost more important than funding is the partnership it has forged with TDCJ’s Victim Services Division and Chaplaincy. This cooperation allows Bridges to Life to bring its programming directly to inmates in Texas prisons.

Bridges to Life holds five yearly sessions of its 14-week program\(^{56}\) in each of 26 prisons across the state of Texas.\(^{57}\) Each session involves 40 inmates at a time. The Bridges to Life curriculum places an emphasis on spending times in small groups, including victim-impact panels, facilitated small-group discussions, and classroom-style lessons.\(^{58}\) A prototypical small group is comprised of ten inmates and two volunteer facilitators. The facilitators are present primarily to ask important questions and to promote active listening to answers given, \textit{not} to preach or lecture to the group. Bridges to Life calls its program a “listening project” that provides a safe place for group members to express personal thoughts, feelings and concerns.\(^{59}\)

Within the small-group sessions, participants engage in prayer, dialogue through the asking and answering of tough questions, and self-disclosure. During the course of the 14-week program, inmates must admit their crime, tell the story of how they committed the crime and accept responsibility for their actions.\(^{60}\) Inmates also write candid letters to their family

\(^{55}\text{http://www.bridgestolife.org}\)
\(^{56}\text{The schedule for the Bridges to Life program is as follows: Week One: Orientation; Week Two: Getting Started; Week Three: Crime and Conflict; Week Four: Faith; Week Five: Stories; Week Six: Responsibility; Week Seven: Accountability; Week Eight: Confession; Week Nine: Repentance; Week Ten: Forgiveness; Week Eleven: Reconciliation; Week Twelve: Restitution; Week Thirteen: The Journey; Week Fourteen: Graduation. http://www.bridgestolife.org/schedule.}\)
\(^{57}\text{Id.}\)
\(^{58}\text{http://www.bridgestolife.org}\)
\(^{59}\text{http://www.bridgestolife.org/the-program}\)
\(^{60}\text{Id.}\)
members and to their victims. Though the letters do not actually get delivered to the actual victims of the crimes committed by the inmates, the letter-writing process is an integral and powerful part of the curriculum.

The curriculum in the classroom focuses on responsibility, reconciliation and restitution. To prepare for their time in the classroom, inmates are assigned readings, including Bible verses relevant to the aforementioned concepts. It bears emphasizing that though the program is faith-based, it is strictly ecumenical. Volunteer facilitators and inmates engage in discussions about their faith, but inmates are in no way required to pray. Participating volunteers and inmates come from all religious groups, including non-believers.

Bridges to Life’s primary goal is to reduce recidivism rates for the inmates that participate in its program, and the most recently published statistics suggest that they are accomplishing their mission. Since 2000, 6,945 inmates have gone through Bridges to Life and 2,896 have been released and are included in the recidivism study. Of the released inmates, 518 have returned to prison, representing a 17.9 percent recidivism rate thus far. Though the study is not yet complete, the current recidivism rate for Bridges to Life participants is appreciably lower than Texas’ average recidivism rate of 30.7 percent. Dr. Armour notes that this drop in recidivism rate suggests that “in addition to victim sensitization and victim healing, in-prison programs may offer increased safety for citizens, produce financial savings related to reduced

61 Bridges to Life is of the mind that an inmate’s family members are also victimized through the inmate’s actions. Thus, the process of writing letters to family members allows inmates to make amends with another set of people affected by their crimes.
62 http://www.bridgestolife.org. Of the 2,896 released inmates, 314 returned to prison for new convictions (10.8%), 204 for technical violations (7%), and only 33 (1.1%) for violent crimes.
63 The national average recidivism rate is approximately 52 percent. Levin, supra note 21. Most experts attribute the difference between the Texas and national averages to Texas’ longer prison, probation and parole terms. These longer sentences of punishment result in fewer offenders being released while they remain in the age demographic that is statistically most likely to reoffend. The longer probation and parole terms result in more offenders being sent back to prison for violations, which does not technically count as recidivism. Id.
offender incarceration and demonstrate to the community that offenders can contribute to society rather than being a financial and emotional liability.”64 It bears emphasis, however, that the low recidivism rates may be attributed in part to the fact that participation in the Bridges to Life program is voluntary. Thus, Dr. Armour notes, there may be a self-selection bias among the offenders that choose to participate which can skew the statistics slightly.65

Despite the possible distortion of the statistics, the self-selection bias may not be entirely bad. By maintaining the program as a voluntary one, the focus is properly placed on offenders with a desire not to reoffend. This focus on the offenders who admit their wrongdoing – and are thus less likely to reoffend – is part of what makes the program so successful. The voluntary nature of the program separates the community of offenders less likely to reoffend as a community that seeks help with reintegration. Thus, offenders willing to go through the program will receive the program’s lessons in a way that they can carry forward into their post-release life, ultimately resulting in a smoother and more successful transition into life outside of prison.

Bridges to Life has the potential to serve as a model for prison-based restorative justice programming across the country. Its strictly ecumenical nature lends it broad applicability in geographical regions with diverse religious backgrounds. The fundamentals of the program, as well as its proven success in reducing recidivism rates, make it a logical starting point for states that wish to put restorative justice practices in place in the correctional system.

V. Restorative Justice in Minnesota: An Integrated Approach

Restorative justice work began in Minnesota in the early 1990s, with the first training session taking place at the Minnesota Corrections Association training conference in November

of 1991. All ten of Minnesota’s correctional facilities have restorative justice programming occurring on a regular basis. A 2004 survey revealed that probation offices in 63 counties offered restorative justice services such as mediation, conferencing and circles.

The Minnesota Restorative Services Coalition (MRSC) serves as a “statewide coalition to promote restorative philosophy and quality restorative services for individuals, communities and organizations.” The MRSC recently published its 2009 directory of restorative justice programs in Minnesota, and the quantity and variety is staggering. The most common types of restorative justice practices employed in Minnesota are conferencing, of which there are at least 30 programs, and circles, of which there are at least 27.

A. Community Conferencing

Restorative Justice Community Action (RJCA) was formed in 1997 in Minneapolis with the mission to “improve community livability through restorative justice practices.” The RJCA began as a partnership among four neighborhoods in central Minneapolis that wanted to take action in a way that would help fight the problem of chronic crime in the urban center. Residents of these four neighborhoods had grown increasingly concerned about what the RJCA terms “livability offenses” that were affecting their quality of life. These offenses include drinking in public, soliciting prostitution, littering, vandalism, loitering to buy or sell narcotics, disturbing the peace, and public urination. These offenses were “contributing to an atmosphere of fear and

68 http://www.mnmrsc.org/ “The Minnesota Restorative Services Coalition has emerged as the organization to most effectively and comprehensively promote restorative services across Minnesota. MRSC conducts a variety of restorative practices trainings and is the main coordinator of the biennial statewide ‘Growing the Connections’ conference.” Id.
69 See, supra, note 67.
70 http://www.rjca-inc.org/.
71 The four pioneering neighborhoods are Downtown Minneapolis, Loring Park, Elliot Park, and Stevens Square.
72 http://www.rjca-inc.org/.
mistrust, degrading the business environment, eroding residential stability, and negatively impacting the quality of life for those whose homes, jobs, businesses, schools, and churches are located in the heart of the city.”73 Adding to the frustration was the residents’ discovery that the local court system had few resources to deal with low-level offenses. Weak consequences for offenders gave police officers little incentive to punish these livability offenses, and even if offenders did receive punishment, they were unaware of the detrimental effect their conduct had on the community.

The RJCA was the first organization to provide what it now calls “Community Conferencing,” an adaptation of a model called Family Group Conferencing that originated in New Zealand.74 Community Conferencing recognizes the community as a victim of the offender’s wrongful conduct and encourages community members to be proactive in preventing livability offenses by engaging in guided face-to-face meetings with offenders. The first Community Conference took place in 1997 between a man who had solicited prostitution and four residents of the neighborhood in which the incident occurred.75 Two facilitators guided the meeting during which the group talked about the impact of the incident on the community and crafted a plan by which the offender could make amends to the community through restitution.76

In general, Community Conferencing meetings look very similar to the one just described. Trained facilitators lead a discussion between offenders of these so-called “livability offenses” and direct victims, area residents, workers, business owners, students, church members, and other stakeholders.77 The small-group meeting focuses on personal responsibility and neighborhood restoration through discussion of the impact of the offense. It is through this

73 http://www.rjca-inc.org/.
74 Id.
75 Id.
76 Id.
77 Id.
discussion of the offense with various community members that the Community Conferencing model serves to educate the offender about the effect his or her conduct has on the community as a whole. The group then decides on a community restitution agreement which may include volunteer service, apologies, donations, or other personal development activities such as classes or counseling.\textsuperscript{78} Through these restitution agreements, RJCA seeks to give offenders positive and effective ways to re-connect with the community as well as strengthen the neighborhoods in which they have offended.

Since its first meeting more than a decade ago, the RJCA Community Conferencing program has expanded its reach dramatically. The program has grown to serve 17 Minneapolis neighborhoods with the goal of eventually providing services to neighborhoods across the entire city.\textsuperscript{79} Through Community Conferencing, RJCA has addressed more than a thousand incidents, involving almost 500 community members in the justice process.\textsuperscript{80} The program has garnered the support of the Minneapolis Police Department, Minneapolis City Attorney’s Office, Hennepin County District Court, Hennepin County Attorney’s Office, Hennepin County Public Defender’s Office, and Hennepin County Community Corrections, which has allowed the program to establish an court referral system that gives the community access to these types of cases for the first time.\textsuperscript{81} RJCA also relies on the overwhelming support it has received from numerous local businesses, churches and community organizations to provide space for meetings as well as service opportunities for offenders.

According to the RJCA, the success of the program has been overwhelming. The satisfaction surveys administered by the RJCA indicate that 98% of community participants,

\begin{flushright}
\textsuperscript{78} Id.
\textsuperscript{79} Id.
\textsuperscript{80} Id.
\textsuperscript{81} Id.
\end{flushright}
99% of offenders, and 99% of offender supporters are satisfied with the outcomes of community conferences.\textsuperscript{82} A total of 95% report that they feel more connected to the community as a result of their participation in the conferencing.\textsuperscript{83}

The RJCA’s model for Community Conferencing has proven effective and could be successful in neighborhoods across the country. What makes Community Conferencing unique and broadly applicable is that it not only helps the offender understand his or her wrongful conduct in the context of harm done to the neighborhood, but it also strengthens community members’ ties to the neighborhood, producing positive outcomes for all parties involved. The importance of community is not regional; it is fundamental, thus making the Community Conferencing model a potentially viable program in countless neighborhoods across the country.

B. Peacemaking, Healing and Talking Circles

Peacemaking, healing and talking circles come in all different styles and structures, but the underlying purpose is the same: to provide a distinctive kind of restorative dialogue that focuses on interconnectedness and equality within the community. The modern circle process is derived from the “talking circle,” an indigenous tradition practiced in North America.\textsuperscript{84} The talking circle utilizes a device known as the talking piece; it is passed around the circle and signals that the person who holds it has the opportunity to speak.\textsuperscript{85} When participants receive the talking piece, they may do as they chose: speak without interruption, hold the piece in silence.

\textsuperscript{82} Id.
\textsuperscript{83} Id.
or simply pass it along to the next person. The talking piece serves to slow down the pace of dialogue, encourage all people – quiet or outspoken – to have an equal voice, and help participants harness strong emotions and express them in a respectful manner. The resulting discussion is marked by deeper, non-hierarchical conversation, attentive listening and thoughtful expression of concerns and ideas.

Participants typically engage in a ritual at both the beginning and conclusion of the circle. The symbolism is intended to set apart the circle process as a sacred time and place for participants to experience themselves and each other in a significant way. Further, these rituals serve to create a shared experience among the participants, fostering a sense of community that lays the groundwork for a productive and meaningful discussion.

The circle process is divided into several phases, each requiring focus on various tasks intended to guide the discussion down a path toward successful results. The first phase is the initiation phase, which begins when the circle process is deemed the most appropriate vehicle for restorative dialogue for a particular case. The purpose of this phase is to make contact with potential participants and schedule individual meetings with them to learn about their experience of the crime, describe the circle process and address how this process can be utilized to address their needs. Next comes the planning and preparation phase, which involves meeting with the circle participants individually and preparing them for the types of emotions they may experience while sitting in the circle gathering. This phase also requires that the circle facilitator plan extensively what he or she will say to create a safe environment for participants to share openly. The third phase is the actual circle gathering. The circle gathering itself is also

86 Id.
87 Id.
88 Id.
89 Id.
divided into several distinct parts: (1) welcome and introductions to create a safe, respectful space; (2) opening and orientation\textsuperscript{90} to lay the foundations for restorative dialogue; (3) narratives and storytelling through which participants make known their experiences, concerns and interests; (4) responding to the needs of the situation by reaching agreements that work toward resolution and healing; and (5) a closing which reminds participants to honor the agreements reached and the efforts put forth.\textsuperscript{91} The final phase is the follow-up, during which the circle facilitator oversees the completion of agreements and checks in with circle participants.

Circles are one of the most common restorative justice measures employed throughout the state of Minnesota. The South Saint Paul Restorative Justice Council (SSPRJC) initiated one of the first efforts in the United States to adopt circles as a restorative justice approach.\textsuperscript{92} In 2000, Minnesota’s Center for Restorative Justice and Peacemaking conducted a study of circles in South Saint Paul. The study ultimately concluded that the circle process was very effective for all participants, with a slightly higher percentage of positively impacted victims.\textsuperscript{93} Victims indicated that they felt supported by the community and appreciated the opportunity to meaningfully participate in the justice process.\textsuperscript{94} Offenders, however, were slightly more varied in their responses; some saw the circle process as a hassle, while others were encouraged by the

\textsuperscript{90} The particulars of this phase include discussing roles and responsibilities of each of the participants, explaining the use of the talking piece and initiating a discussion of guidelines for the gathering. Frequently, the basic ground rules involve: (1) listen with respect; (2) each person gets a chance to talk; (3) one person talks at a time, so don’t cut people off; (4) speak only for yourself, and not as a representative of the group; and (5) it’s alright to disagree, so no name-calling or attacking. Umbreit, supra note 84.

\textsuperscript{91} Greenwood, supra note 85.


\textsuperscript{93} Id.

\textsuperscript{94} Id.
acceptance offered by the circle members and were pleased to make an attempt at repairing the harm they have caused.\textsuperscript{95}

As powerful as the impact the circle process has upon victims and offenders may be, the study concluded that potential impact on the formal justice system will likely be limited. Because of the volume of individuals processed by means of the formal justice system, it is not likely that the circle process will have an appreciable impact on that flow.\textsuperscript{96} The study indicated that an important question to be answered is where, exactly, a formal justice system might want to use the limited resources circles provide: prevention, diversion, court processing, corrections programming or transition from the institution to the community?\textsuperscript{97} That said, circles have a substantial potential for impact in the community, and thus may be utilized effectively in schools or in response to livability offenses.

VI. Conclusion

As the details of the aforementioned programs bear out, both Texas and Minnesota are models of restorative justice in their own right. In Texas, VOM/D provides a forum for victims of severe violence to make their voices heard and their emotions known. Victims of these types of crimes have, prior to the advent of the Texas VOM/D program, perhaps been more hesitant to seek a face-to-face meeting with their offender due to the likely overwhelming nature of the emotions that may be evoked by that meeting. Through VOM/D, Texas has successfully reached out to a previously under-served sector of the victim population. Similarly, Bridges to Life provides a program that takes a deep interest in educating and rehabilitating offenders on their own turf. The tailored curriculum builds strong relationships between offenders and victims,

\textsuperscript{95} Id.
\textsuperscript{96} Id.
\textsuperscript{97} Id.
instilling in the offenders a sense of responsibility and accountability and equipping them for a
productive and successful life after their release.

In Minnesota, RJCA’s Community Conferencing model provides an excellent forum
through which community members can serve as teachers and educators to young offenders
committing livability offenses. While these offenses may not be serious in the way that the
offenses involved in Texas’ VOM/D program are, Community Conferencing allows offenders to
build relationships with community members and learn to take responsibility for their actions at
an early stage so as to potentially prevent the offender from going on to commit more serious
offenses. Circles, though perhaps the most limited in applicability of all four programs,
emphasize the important concept of equality. The structure of the circle process and the
employment of the talking piece truly gives all participants a sense of community, which is of
vital importance in creating a space where both victims and offenders alike feel comfortable
sharing their viewpoints.

In sum, Texas and Minnesota may not be an odd couple after all; perhaps they are more
accurately characterized as two peas in a pod. Each state has successfully implemented the
restorative justice philosophy in varied and unique ways. Together, they are models of
restorative justice that states across the country can, and should, seek to emulate.