HAMLINE UNIVERSITY SCHOOL OF LAW

RESTORATIVE JUSTICE:
Practices & Principles of Dispute Resolution for Social Healing

Three Credits
Spring 2011

S Y L L A B U S

Fridays	Professor Vogel
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Scope and Purpose: This course offers students an opportunity to study the four leading Restorative justice practices: (1) Talking Circles; (2) Victim-Offender Dialogue (formerly called Victim-Offender *Mediation*); (3) Group Conferencing (sometimes called Family Group Conferencing); and (4) Truth Commissions. The course will examine the principles underlying these Restorative Justice practices and explore the possibilities Restorative Justice offers to move beyond the limits of a retributive sense of justice toward embracing the importance of forgiveness, reconciliation, and social healing in the community. In addition to the application of Restorative Justice principles and practices in cases involving criminal wrongdoing, attention will also be given to the possibilities for use of these principles and practices as a response to disputes rooted in ethnic and cultural conflict in the United States. The class will be intensively experiential in nature with the practice of the talking circle serving as a core modality for class discussion.

There is no prerequisite for the course.

Classroom Activity: Classroom activity will involve a variety of activities including: (1) class discussion featuring experiential use of talking circles for class discussion; (2) small group discussion exercises; (3) role play exercises; (4) occasional introductory comments on "themes" of the course by the instructor; and (5) video presentations.

The first two sessions of the course will provide you with an immersion experience in the practices of restorative justice along with a basic overview of the history of the forms and principles of the restorative justice movement in use today. These two sessions will provide the foundation for all of our work together during the semester. The experiential work of these sessions will involve training in "Peacemaking Circles" for conflict resolution. Peacemaking Circles are an adaptation of the North American Indigenous practice of "talking circles" that has found widespread acceptance in the restorative justice movement and beyond. In a talking circle participants speak only when holding

the talking piece. The practice encourages participants to listen deeply and respectfully to each other and reminds them that each has a valued contribution to offer.
After the first two sessions, Circle practice will continue to be a core modality for our work throughout the semester.

Course Requirements: The requirements for this course include (1) reading, (2) regular visits to the course website, (3) class discussion preparation & attendance, (4) observance of the technology policy for the course, and (5) a term paper. Details for each of these five requirements are set forth below.

1. Required Reading Materials: Students are expected to ***prepare the required reading materials for discussion in advance of the class session for which they are scheduled.*** Required readings for the course are drawn from six sources listed below. These sources are available for purchase in the law school bookstore.

Specific page assignments for each week are set forth in the *Course Outline and Schedule with Required Reading Assignments* found below at pages 5-9 in this Syllabus. The required reading materials for the course will serve as the common texts for our discussion in the weekly meetings of the course. They should not, however, be viewed as limiting the range of our discussion. Instead they will provide us with a common set of resources and a starting point for our exploration of the central themes of the course. Collateral reading from other sources chosen by members of the class is encouraged.

IMPORTANT NOTE!! To help you prepare for the first two sessions and the immersion experience in Circle practice training these will involve, the reading assignments for these first two sessions have been front loaded with a larger than typical number of pages assigned in order to provide you with a solid foundation of knowledge of both circle practice and restorative justice principles to support the experiential work we will undertake in our meetings. ***It is essential that you read the assignment for the first session prior to the commencement of the course.*** *It is highly recommended tat you read the assignment for the second session prior to the commencement of the course.*

Required reading will be drawn from the following sources:

1. Howard Zehr, *The Little Book of Restorative Justice* (Good Books 2002) (pbk).

2. Kay Pranis, Barry Stuart & Mark Wedge, *Peacemaking Circles: From Crime to Community* (Living Justice Press 2003) (pbk).

3. *Handbook of Restorative Justice* (Gerry Johnstone & Daniel W. Van Ness eds., Willan Publ'g. 2007) (pbk).

4. *Restorative Justice: Practices & Principles of Dispute Resolution for Social Healing – Supplementary Reading Material with Syllabus* (Howard J. Vogel, ed., Unpublished, Spring 2011 Edition) An anthology of twenty readings for the course compiled and edited by the instructor. [Hereinafter referred to as "Supplement"].

5. Allan MacRae & Howard Zehr, *The Little Book of Family Group Conferences-New Zealand Style* (Good Books 2004) (pbk).

6. Donald W. Shriver, Jr., *Honest Patriots: Loving a Country Enough to Remember Its Misdeeds* (Oxford U. Press 2005) (pbk 2008).

***2. Web Pages/On-Line Virtual Classroom*:** A special website on the internet, using the TWEN technology of the West Group, has been established for this course. The website is open 24 hours a day, seven days a week. This site has been set up for the following purposes: (1) on-line distribution of supplemental course materials from time to time; (2) discussion with the instructor and other members of the course on topics and themes of the course, and (3) announcements regarding any changes to the calendar or assignments required for the course

STUDENTS IN THIS COURSE ARE REQUIRED TO LOG ON AND REGISTER AT THE WEB ADDRESS FOR THE COURSE. Students should register for the website by going to http://lawschool.westlaw.com with their Westlaw password. If you have not already received your Westlaw password, or have forgotten it, please contact the Computer Services/Reference Librarian at the Hamline Law Library. There is also a password for the course site that will be sent to each student by the instructor via e-mail.

Students should ***check the website frequently and no less than weekly***, to receive additional course materials that will be distributed from time to time, updates needed to the schedule and reading assignments for the course, as well as to monitor the on-line discussion at the website which provides a forum for conversation about themes that emerge in the classroom throughout the semester.

3. Classroom Attendance & Dialogue: Attendance is required for satisfactory completion of the course. Students are expected to attend the full session of each class session scheduled for the course and to actively participate in class dialogue. Students should review the full text of the Attendance Policy as set forth in Rule AR-108 of the *Hamline University School of Law Academic Rules* posted on the Registrar's page of the Hamline University School of Law website.

4. Classroom Technology Policy: You may use laptop computers or other electronic devices in class to take notes and access course related materials. You should not use your laptop or electronic devices for other purposes.

In addition to the usual courtesies and respect due to your classmates, please refrain from text-messaging and email, using cell phones, pagers, or any other communication device. Refrain also from displaying wallpaper, screen savers, or other material on your computer screen that can reasonably be expected to distract your classmates.

5. Term Paper: For purposes of evaluation, students will prepare a term paper of 20-30 pages in length. The paper shall be devoted one of the following: (1) the critical study of an actual or hypothetical incident of conflict, (2) a critical study of the practice of restorative justice in the community outside the law school; OR (3) the critical study of a subject or scholarly work. In writing this paper, students should weave in their reflections on the themes of the course.

Students are encouraged to consult with the instructor on the choice of topic and preparation of the term paper either prior to commencement of the course or during the course by contacting him through e-mail at hvogel@hamline.edu

Papers shall be typed and double-spaced. Papers should be properly footnoted using either the current edition of the current edition of the *Uniform System of Citation*, commonly known as the "Blue Book." Upon completion of the paper, students are required to submit it electronically via the "*Assignment Drop Box*" link at the TWEN website for the course. **Submission of the term paper is due not later than 3:30 p.m. on Monday, May 9, 2010.**

Failure to turn in the term paper by the deadline will result in a penalty of one-half grade on the final grade for the course.

Evaluation: The grade for the course will be based entirely on the term paper. Evaluation of the Term Paper will include the following factors: (1) description of the subject and issues to be discussed, (2) analysis and argument in support of the position taken on the issues, (3) organization, and (4) clarity of expression.

Grade Reports: Grade reports are released to students by the Registrar only.

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COURSE OUTLINE AND SCHEDULE
WITH REQUIRED READING ASSIGNMENTS

PART ONE – RESTORATIVE DIALOGUE:
An Introduction to a Distinctive Approach to Dispute Resolution

IMPORTANT NOTE! To help you prepare for the first two sessions and the immersion experience in Circle practice training these will involve, the reading assignments for these first two sessions have been front loaded with a larger than typical number of pages assigned in order to provide you with a solid foundation of knowledge of both circle practice and restorative justice principles to support the experiential work we will undertake in our meetings. *It is highly recommended that you read the assignments for these first two sessions prior to the commencement of the course.*

Session 1. January 21st – Introducing Ourselves to Each Other - Introducing "Restorative Dialogue": The Practice of the Circle Process

TASK: Bring to class an object that in some way represents something you value about yourself as a human being.

READ (181 pp): Kay Pranis, Barry Stuart & Mark Wedge, *Peacemaking Circles: From Crime to Community* 3-125 (Living Justice Press 2003); *Handbook of Restorative Justice* 5-20; 59-73 (Gerry Johnstone & Daniel W. Van Ness eds., Willan Publ'g. 2007); Howard J.Vogel, *Peacemaking Circles: A Practical Process for Dialogue that Builds Community* 1-27, excerpted from Howard J. Vogel, *The Restorative Justice Wager: The Promise and Hope of a Value-Based, Dialogue-Driven Approach to Conflict Resolution for Social Healing,* 8 Cardozo J. Conflict Resol. 565-609 (2007) (see supplement tab #1).

EXERCISE: First Steps on the Road to Well-Formed Circle Practice - Laying the Foundation of the Inner and Outer Frames of Circle Practice.

Session 2. January 28th – An Overview of the "Restorative Justice Movement" its History and Principles; Further Practice of the Circle Process

READ (183 pp): Howard Zehr, *The Little Book of Restorative Justice,* pp. 3-69 (Good Books 2002); Mark S. Umbreit, Betty Vos, Robert B. Coates & Elizabeth Lightfoot, *Restorative Justice: An Empirically Grounded Movement Facing Many Opportunities and Pitfalls,* 8 Cardozo J. Conflict Resol. 511-564 (2007) (see supplement tab #2); *Handbook of Restorative Justice* 24-38; 41-55; 75-89; 113-129 (Gerry Johnstone & Daniel W. Van Ness eds., Willan Publ'g. 2007).

EXERCISE: Circle Practice.

Session 3. February 4th – Further Explorations of the "Idea of Restorative Justice" as a Form of Dispute Resolution; Further Practice of the Circle Process

READ (75 pp): *Handbook of Restorative Justice* 171-186; 192-204; 211-226; 228-242; 247-261 (Gerry Johnstone & Daniel W. Van Ness eds., Willan Publ'g. 2007).

EXERCISE: Circle Practice.

Session 4. February 11th – The Practice of the Circle Process in the Criminal Justice System

READ (82 pp): Kay Pranis, Barry Stuart & Mark Wedge, *Peacemaking Circles: From Crime to Community*, pp. 127-208 [Optional pp. 209-244].

VIDEO IN CLASS: *Circle Practice at the Harriet Tubman Center, Minneapolis, Minnesota.*

EXERCISE: Sentencing Circle Role Play.

Session 5. February 18th – Addressing Crime Under a Different Paradigm; The Practice of Victim-Offender Dialogue - The First Form of Restorative Justice (formerly called Victim-Offender *Mediation*)

READ (64 pp): Howard Zehr, *Changing Lenses* pp. 178-189; 211-214 (see supplement tab #3); Conrad Brunk, *Restorative Justice and Philosophical Theories of Criminal Punishment* in *The Spiritual Roots of Restorative Justice* 31-56 (see supplement tab #4); Mark Umbreit & Jean Greenwood, *Criteria for Victim-Sensitive Mediation & Dialogue with Offenders* 1-11 (1997) (see supplement tab #5); *Victim Offender Mediation Continuum: From Most to Least Restorative* 1 page (1998) (see supplement tab #6); Mark Umbreit, *Humanistic Mediation: A Transformative Journey of Peacemaking* 10 pages (1997) (see supplement tab #7).

VIDEO IN CLASS: *A Victim-Offender Mediation Conferencing Simulation*.

EXERCISE: Exploring Experience in the Face of Conflict & Wrongdoing.

Session 6. February 25th – Victim-Offender Dialogue in Crimes of Severe Violence

READ (57 pp): Mark Umbreit, Robert Coates & Betty Vos, *Victim Offender Mediation & Dialogue in Crimes of Severe Violence* 2 pages (2001) (see

supplement tab #8); *Handbook of Restorative Justice* 91-104; 292-308; 312-322; 559-576 (Gerry Johnstone & Daniel W. Van Ness eds., Willan Publ'g. 2007).

VIDEO IN CLASS: *Glimmer of Hope*.

EXERCISE: Glimmer of Hope Video Class Discussion.

Session 7. March54th – Family Group Conferencing (Sometimes known as Community Conferencing)

READ (76 pp): Allan MacRae & Howard Zehr, *The Little Book of Family Group Conferencing – New Zealand Style* 3-64; 67-73 (Good Books 2004); Mark Umbreit, *Family Group Conferencing: Implications for Crime Victims* 1-7 (1998) (see supplement tab #9).

VIDEOS IN CLASS: *New Zealand Family Group Conference; Family Group Conferencing (Hennepin County, Minnesota Variation)*.

EXERCISE: Family Group Conferencing Role Play.

NO CLASS—MARCH 11th—SPRING BREAK

Session 8. March 18th – Community Conferencing & Juvenile Justice

READ (91 pp): Lauren Abramson & David Moore, *The Psychology of Community Conferencing* in *Restorative Justice: Repairing Communities Through Restorative Justice* 123-139 (J. Perry, ed., American Correctional Association 2002) (see supplement tab #10); Dave Hines & Gordon Bazemore, *Restorative Policing, Conferencing and Community,* 4 Police Prac. & Res. 411-427 (2003) (see supplement tab #11); Mark Umbreit, Robert Coates & Betty Vos, *The Impact of Restorative Justice Conferencing: A Multi-National Perspective* 0-28 (2002) (see supplement tab #12); *Handbook of Restorative Justice* 269-286; [Optional: 325-347] (Gerry Johnstone & Daniel W. Van Ness eds., Willan Publ'g. 2007)].

EXERCISE: Community Conferencing Role Play.

Session 9. March 25th – Truth Commissions - The South African Experience, Critiques, Comparisons & the Prospects for Forgiveness in Public Life

READ (75 pp): *Handbook of Restorative Justice* 351-367; 372-389 (Gerry Johnstone & Daniel W. Van Ness eds., Willan Publ'g. 2007); Priscilla Hayner, *Healing From the Past* in *Unspeakable Truths: Facing the Challenge of Truth Commissions* 133-153 (Taylor & Francis Inc. 2001, 2002) (see supplement tab

#13); Martha Minow, *Truth Commissions* in *Between Vengeance and Forgiveness: Facing History After Genocide and Mass Violence* 52-90 (Beacon Press 1998) (see supplement tab #14).

VIDEO IN CLASS *Long Night's Journey into Day*.

EXERCISE: Long Night's Journey into Day Video Class Discussion.

Session 10. April 1st – Taking Stock: Considering Challenges

READ (68 pp): *Handbook of Restorative Justice* 397-419; 426-441; 598-612; 615-628; [Optional: 426-441] (Gerry Johnstone & Daniel W. Van Ness eds., Willan Publ'g. 2007).

EXERCISE: Taking Stock of the Challenges to Restorative Justice Practices Class Discussion.

PART TWO – COMPASSION, FORGIVENESS & RECONCILIATION IN RESTORATIVE JUSTICE DIALOGUE:
A Critical Exploration of the Transformative Possibilities of Dialogue from the Heart

Session 11. April 8th – Compassion as Practice & the Paradox of Forgiveness in Restorative Dialogue

READ (62 pp): Jill Bolte Taylor, *My Stroke of Insight* 130-148 (see supplement tab #15); Mark Umbreit, *The Paradox of Forgiveness in Restorative Justice,* a Chapter prepared for *The Handbook of Forgiveness* 1-14 (see supplement tab #16); Karen Armstrong, *The Case for God* pp. ix-xviii (see supplement tab #17); *The Charter for Compassion* (see supplement tab #18); *Handbook of Restorative Justice* 559-576 (Gerry Johnstone & Daniel W. Van Ness eds., Willan Publ'g. 2007).

VIDEOS IN CLASS: Jill Bolte Taylor on *My Stroke of Insight*

EXERCISE: The Possibilities of Forgiveness on the Road to Reconciliation in in Restorative Practice Class Discussion - Part 1.

Session 12. April 15th – The Possibilities of Forgiveness in a Public Setting Reconsidered Beyond the South African Experience & The Problem of Facilitating Dialogue in the Presence of Different Ways of Seeing

READ (57 pp): June O'Connor, *Fostering Forgiveness in the Public Square: How Realistic a Goal?,* 22 J. Soc'y Christian Ethics 165-180 (2002) (see

supplement tab #19); Olga Botcharova*, Justice or Forgiveness? In Search of a Solution,* 8 Cardozo J. Conflict Resol. 623-649 (2007) (see supplement tab #20); [Optional: *Handbook of Restorative Justice* 580-593 (Gerry Johnstone & Daniel W. Van Ness eds., Willan Publ'g. 2007)].

EXERCISE: The Possibilities of Forgiveness on the Road to Reconciliation in in Restorative Practice Class Discussion - Part 2.

NO CLASS—APRIL 22nd—EASTER BREAK

PART THREE – HONEST "PATRIOTISM" IN PUBLIC LIFE:
Case Studies in Truth, Justice & the Possibilities of Restorative Dialogue for Social Healing in the Face of Cultural Conflict

Session 13. April 29th -- South Africans as Honest Patriots in Response to the Trauma of the Past

READ (74 pp): Donald W. Shriver, Jr., *Honest Patriots: Loving a Country Enough to Remember Its Misdeeds* 3-13; 63-125; [Optional 15-61] (Oxford U. Press 2005).

EXERCISE: The South African Experience Class Discussion.

Session 14. TUESDAY, May 3rd – Truth, Justice & Forgiveness In American Public Life: – Native American Sacred Sites Case Study (Wyoming, Arizona & California)

READ (79 pp): Donald W. Shriver, Jr., *Honest Patriots: Loving a Country Enough to Remember Its Misdeeds* 207-285 (Oxford U. Press 2005)

VIDEO IN CLASS: *In the Light of Reverence*.

EXERCISE: Addressing Historical Cultural Conflict in a Restorative Way Class Discussion.

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