

FRIDAY

TUESDAY

WEDNESDAY

THURSDAY

**TODAY****Previous****Next**

Bookmark Reprints

This is the property of the Daily Journal Corporation and fully protected by copyright. It is made available only to Daily Journal subscribers for personal or collaborative purposes and may not be distributed, reproduced, modified, stored or transferred without written permission. Please click "Reprint" to order presentation-ready copies to distribute to clients or use in commercial marketing materials or for permission to post on a website.

## Restorative justice: a movement that looks beyond our current legal system

Jan Frankel Schau is a neutral with ADR Services Inc. She can be reached at [jfschau@schaummediation.com](mailto:jfschau@schaummediation.com).



"our questions." After reading this little 64-page book, I find myself with more questions than answers, but am nonetheless inspired to keep asking.

The book starts by defining restorative justice by what it is not. It is not, for example, an alternative to prison, nor a "criminal" mediation. What it is, is an attempt to expand the circle of stakeholders in criminal events beyond just the government and the offender to include the victims, members of the community and even the offender. It offers victims the opportunity to gain information, to tell their truth, to demand and receive restitution - even if just symbolically. It holds the potential for restoring the community that has been impacted by the crime. For offenders, it offers a means of accepting accountability, expressing both empathy and responsibility and encouraging a very personal transformation that ultimately leads them back to the community, if possible.

Restorative justice rests on principles that guide many cultures globally. It stems from the philosophy that we are all interconnected and that a break in connection affects all of us profoundly, and perhaps permanently, absent concrete efforts to restore the chain. Like civil mediation, restorative justice promotes "engagement" through dialogue in order to fully address the victims' harms and to hold offenders fully accountable for their conduct.

As I read the book, I was struck by the parallels as much as the distinctions between restorative justice and commercial civil litigation. Certainly both are designed to redress harm and sometimes restore relationships, but it goes beyond that. In an age when 97 percent of the cases filed never actually get to trial, we civil mediators in many ways function as "the community" each time we conduct a negotiation that includes holding offenders accountable to their victims. As the global economy changes, courts and governments may find they must increasingly rely on "the community" to pave the way towards justice as they can no longer function as the sole arbiter of who is right and what is owed.

What's more, what we civil mediators do in every mediation session mirrors the principles of restorative justice by bringing parties together to engage with each other. As Zehr observes, "A meeting allows a victim and an offender to put a face to each other, to ask questions of each other directly, to negotiate together how to put things right."

Feedb

**NEWS****RULINGS****VERD**

### SPECIAL REPORT

#### **20 Under 40**

Plus: Five Associates to Watch in 2012



Friday, January 20, 2012

### Government

#### **Counties see more prisoner trar expected**

County probation departments across receiving a flood of former prison inmates supervise as part of realignment - with counties receiving nearly three times t projections.

### Health Care & Hospital Law

#### **Drugmakers look to FDA for gui off-label marketing**

The FDA has only recently made an a clarify its stance on what constitutes o marketing, the illegal promotion of dr medical devices for non-approved use

### California Courts of Appeal

#### **Same-sex custody ruling reverse appeal**

A 3rd District Court of Appeal decision gives family law judges a road map for parental relationships within nontrad families.

### Judges and Judiciary

#### **'Occupy' movement turns its foc courts**

Activists have planned "occupy the co demonstrations at 130 federal courth nationwide today to mark the second of a landmark U.S. Supreme Court de allowing more money into elections.

### Solo and Small Firms

#### **Small firm gets big break**

For 31 years now, Shute, Mihaly & We thrived on representing public agencie community groups, including longtim the Sierra Club, East Bay Regional Pa Save The Bay and University of Califor

## **It is, indeed, a myopic system if our lenses are never focused on the impact that the offense had on its victims and the larger community.**

Restorative justice relies on psychological principles as well. For example, in the context of domestic violence, many believe that "unresolved trauma tends to be reenacted" and that victims of domestic violence are far more likely than others to be abusers in adulthood. Spending the necessary time and resources to shift the balance between victims and offenders holds the potential of changing future behaviors in positive ways, perhaps for generations.

Zehr concludes by observing that restorative justice is like a river. It started as a tiny trickle in the 1980s and has gradually widened and deepened as far-reaching tributaries have tested the waters and contributed to the field. Indeed, members of the International Academy of Mediators have started an "IAM Initiative" highlighting the types of programs their members have created worldwide leading to a new way of responding to conflict; while the Women's Lawyers of Los Angeles has held its own program recently called: "Hear Our Voices: Women Lawyers Taking Alternative Paths Towards Justice." These efforts will no doubt contribute to the conversation and add to the flow through innovation, inspiration and momentum over time.

The argument for restorative justice can be summed up this way: "[J]ustice will not be served if we maintain our exclusive focus on our current justice systems: What laws have been broken? Who did it? What do they deserve?" It is, indeed, a myopic system if our lenses are never focused on the impact that the offense had on its victims and the larger community.

In making these inquiries, lawyers and mediators are gesturing towards accepting Zehr's invitation to contribute to the broad field of restorative justice: by asking questions, by facilitating dialogue, by examining how justice is carried out. That's a powerful impact for a little book.

*For purchasing information, please visit: [www.amazon.com/Little-Restorative-Justice-Books-Peacebuilding/dp/1561483761/ref=sr\\_1\\_1?ie=UTF8&qid=1326314414&sr=8-1](http://www.amazon.com/Little-Restorative-Justice-Books-Peacebuilding/dp/1561483761/ref=sr_1_1?ie=UTF8&qid=1326314414&sr=8-1)*

**Previous**      **Next**

**Law Practice**  
**First Amendment endowed chair at UCI School of Law**  
 The UCI School of Law soon will have faculty member specializing in First Amendment law, thanks to a \$1.5 million gift.

**Litigation**  
**Judge blocks cuts to in-home services**  
 A federal judge in Oakland granted a injunction on Thursday to halt a 20 percent cut in Medi-Cal funding for in-home support services.

**Health Care & Hospital Law**  
**Universal health care bill passes Senate committee**  
 The California Universal Health Care Act bill has passed the state's Senate Appropriations Committee on Thursday.

**Government**  
**Senate Minority Leader cautions online piracy bill**  
 Mitch McConnell, R-Ky., weighed in on the side of technology companies fighting legislation that would make it easier for holders to squelch sites that host infringing material.

**Intellectual Property**  
**Alcatel-Lucent, Microsoft reach settlement in patent infringement lawsuit**  
 Alcatel-Lucent S.A. has quietly settled a contested and legally significant patent infringement lawsuit against Microsoft over a patented feature included in its Outlook program.

**Government**  
**Alternatives to redevelopment a consideration as local agencies dissolve**  
 With local redevelopment agencies scheduled to dissolve next month, some have begun to contemplate what economic development will look like once they're gone.

**Law Practice**  
**Firm serves those who've served down Carmel Valley office**  
 Lawyers at Jacobson & Han say they have their appreciation for the sacrifice made by servicemen and women in the armed forces.

**Three Luce Forward partners down Carmel Valley office**  
 After losing key partners within its whilte collar criminal defense and intellectual property practices shortly before announcing its deal with McKenna Long & Aldridge LLP,