

COMMUNITY JUSTICE FORUMS  
&  
OFFENDERS WITH INTELLECTUAL DISABILITIES

BY

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A Practicum  
Submitted to the Faculty of Graduate Studies  
In Partial Fulfillment of the Requirements for the Degree of

MASTER OF SOCIAL WORK

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**Community Justice Forums and Offenders with Intellectual Disabilities**

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## ABSTRACT

The purpose of this practicum was to examine the possibility of utilizing community justice forums as a response to offences committed by individuals with intellectual disabilities. The practicum began by adapting the current forum model to address the unique needs of the population. Through interviewing service providers and experienced facilitators, attending community justice forum facilitator training, observing and then co-facilitating a forum, a suitable model was developed. This model was then implemented on four occasions with clients of Opportunities for Independence who had committed offences. Various evaluation methods, including participant feedback forms, co-facilitator debriefing, follow-up interviews, and offender compliance with restitution were employed to determine the efficacy of the model and the student's development of community justice forum facilitation skills. Overall, the results of the practicum indicate the value of utilizing community justice forums with the intellectually disabled population.

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process. It was truly an honor to work with and learn from all of you. It is my sincere hope that this practicum will serve to further the restorative justice movement for all populations.

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## CHAPTER ONE

### INTRODUCTION

The following practicum report explores the use of community justice forums with offenders who have intellectual disabilities.

Inspired by the Maori culture of New Zealand, community justice forums originated as a response to juvenile crime emphasizing partnerships between the justice system and community organizations. Utilizing a victim-sensitive, restorative approach, justice forums involve an offender, victim(s), and various support people in dealing with the impacts of a crime, and in determining how to best repair the harm. Victims and their supporters are invited to confront the offender, express feelings, and ask questions about the incident. Offenders, in turn, hear of the harm they have caused and have the opportunity to express apology and agree to restitution. Through this process, offenders avoid criminal charge, and are reintegrated into the community, while victims' needs for answers, acknowledgement, safety, and emotional reparation are addressed.

In Canada, community justice forums are currently being utilized with both young offenders and adults for a wide range of offences. At this time, the literature indicates that justice forums are not being formally utilized with offenders who have been diagnosed with intellectual disabilities. Yet, there is a need to explore alternatives to traditional criminal justice for the intellectually disabled population in order to adequately address their unique issues. In many cases, police involvement may not be warranted, but there remains a need for a formalized process in which an offender is held accountable and a victim is provided an opportunity to confront the offender for their

process of closure and healing. Excluding offenders with intellectual disabilities from the restorative approach of community justice forums also denies their victims this right to participation.

The purpose of the practicum was to develop and utilize an adapted community justice forum model with offenders with intellectual disabilities. Following the introduction, chapter two consists of a literature review examining the restorative approach of community justice forums, as well as the unique needs of intellectually disabled offenders. Chapter three describes the three intervention components. The first of these included justice forum facilitation training, forum observation and co-facilitation, and interviews with service providers. This preliminary work was necessary for the second component, which entailed adapting the current community justice forum model in order to make it suitable for use with offenders with intellectual disabilities. The third component involved implementing the model with intellectually disabled offenders and obtaining feedback from participants regarding their satisfaction with the process. Chapter four provides details of the four cases facilitated by the student. This includes a description of the incident, preparation work, forum proceedings, participant feedback forms, follow-up interviews, and student reflection. Chapter five evaluates the results of the intervention as they relate to the student's learning goals. Chapter six concludes the report by examining the possibility of the model's future use with intellectually disabled offenders and summarizes the contributions of the practicum to the field of social work.

Though the student had experience working with the population in a case management role, further development of skills, in particular those related to the criminal justice field, were sought through the practicum. Primary learning goals of the practicum

were twofold. The student's first goal was to develop a suitable community justice forum model for use with offenders with intellectual disabilities. Secondly, the student aimed to acquire community justice forum facilitation skills. The report will examine the steps involved in the acquisition of these goals.

## CHAPTER TWO

### LITERATURE REVIEW

The following chapter will examine the literature surrounding the restorative approach of community justice forums (also known as family group conferences) and the unique needs of individuals with intellectual disabilities in conflict with the law.

The literature review has been divided into three major sections. The first will examine transformation within the criminal justice system. This will begin with a comparison of the retributive and restorative justice paradigms. From here, the history of family group conferences/community justice forums will be examined. The section will close by exploring the role of offender shame in different justice approaches.

Section two will examine current literature surrounding family group conferences/community justice forums. Assumptions of this approach, as well as community justice forum participant needs will be examined. The section will then outline the steps to the forum process, including preparations, the forum itself, facilitation skills, and follow-up procedures. Section two will close with an exploration of the current use of the model throughout the world, particular challenges that the process faces, and an examination of the literature indicating community justice forum efficacy.

Section three will examine current literature surrounding offenders with intellectual disabilities. This will begin by defining the broader concept of developmental disabilities and then going on to explore the diagnostic criteria, causes, and characteristics of intellectual disabilities. The literature review will examine the various difficulties intellectually disabled individuals experience that may lead to their



being in conflict with the law, and the challenges they then face in the criminal justice system. The section will identify needs for this population as a result of these challenges and close with an exploration of alternative processes for intellectually disabled offenders.

By examining the process of community justice forums and the characteristics of the intellectually disabled offending population, the possibility of more closely linking the two in the future may be contemplated.

### **Criminal Justice System Transformation**

#### **Retributive versus Restorative Justice**

Restorative Justice has emerged in recent years as a valid alternative to the enormous costs and overcrowding concerns of incarceration. Prison populations are soaring, yet people are feeling less safe and secure. A recent government of Canada discussion paper indicated that, "The current strategy of heavy and undifferentiated reliance on incarceration as the primary means of responding to crime is not the most effective response in many cases, and is financially unsustainable" (Church Council on Justice and Corrections, 1996, p.1). The Law Commission of Canada (2003) indicates that the punitive justice system has not resulted in lower crime rates. In addition, victims and their families continue to be disillusioned and further harmed as they are excluded from meaningful participation in the justice process.

Retributive and restorative justice represent fundamentally different responses to crime (Kennett, 2003). McDonald (2001) describes the traditional system of retributive

justice as asking the questions, "Who did it?" and "What do we do to them?" Within this philosophy, the source of the problem is seen to lie within an individual, while the solution lies with authorities. Furthermore, an act is assumed to cause harm simply because it violates criminal code (Law Commission of Canada, 2003). According to Hudson, Morris, Maxwell, and Galaway (1996), retributive approaches generally deny meaningful victim participation and require only passive involvement from offenders.

Restorative justice is built on the premise that crime is a violation of people and relationships (Zehr, 1990). The Law Commission of Canada (2003) has described restorative justice as an approach to conflict that puts those affected by an incident at the centre of the process. Hudson et al. (1996), suggest that restorative justice promotes offender responsibility to victims and communities through a process of repair, reconciliation, and reassurance. Marshall (1985) defines restorative justice as "...a process whereby all the parties with a stake in a particular offence come together to resolve collectively how to deal with the aftermath of the offence and its implications for the future" (p.1). Restorative justice models have drawn from Aboriginal methods of resolving disputes through healing, forgiveness, and community involvement. Aboriginal traditions emphasize collective well being and look at all the factors leading to an incident in order to understand the offender and the causes of their behaviour (Department of Justice Canada, 2000).

McDonald (2001) describes restorative justice as asking the questions, "What happened?" "How have we been affected?" and "What can be done to make things better?" This creates opportunities to learn, make sense of what has happened, and strengthen relationships. According to Pranis (2001), restorative justice affirms the worth

of every individual through respectful dialogue while emphasizing the capacity of ordinary citizens and communities to identify and solve their own problems.

McDonald, Moore, O'Connell, and Thorsborne (1995) have pointed to Silvan Tomkins' affect theory in their quest for justice system reform. Affect theory describes the human ability to think and feel as a feedback mechanism. This mechanism functions most effectively in an environment in which affect and emotions are freely expressed, negative affect is minimized, and positive affect is maximized. McDonald et al. suggest that the traditional criminal justice system works against all of these expressions. Restorative justice, however, encourages affective expression and contributes to the process of healing.

Zehr and Mika (1997) have identified ten indicators of the restorative justice process: Restorative justice programs...

- 1) focus on the harm that has been done rather than the rules that have been broken;
- 2) show equal concern and commitment to victims and offenders, involving both in the justice process;
- 3) work toward the restoration of victims, through empowerment and responding to their needs;
- 4) support offenders while encouraging them to accept and carry out their obligations;
- 5) recognize that while obligations should be difficult for offenders, they should not be intended as harms and must be achievable;
- 6) provide opportunities for dialogue between victims and offenders;
- 7) involve and empower the affected community to recognize and respond to crime;
- 8) encourage collaboration and reintegration;

9) give attention to the unintended consequences of actions; and

10) show respect to all participants.

Restorative justice, in its many forms, is emerging as an increasingly important and valid element in mainstream criminological practice. Latimer, Dowden, and Muise (2001), indicate that many countries, including Canada, England, Australia, Scotland, New Zealand, Norway, the United States, Japan, and several European countries, have adopted restorative practices. A 1998 Department of Justice Canada (2000) survey found almost 200 restorative justice initiatives in place across Canada. Models of restorative justice can generally be grouped into three categories: sentencing circles, family group conferences (also known as community justice forums), and victim-offender mediation. According to Latimer et al., there are currently five entry points into the criminal justice system where offenders may be referred to these approaches: police (pre-charge), crown (post-charge), courts (pre-sentence), corrections (post-sentence), and parole (pre-revocation). Of the various restorative options currently utilised, community justice forums will be examined here.

### **History of Family Group Conferences/Community Justice Forums**

Inspired by the Maori culture of New Zealand, family group conferencing originated as a response to juvenile crime emphasizing partnerships between the justice system, families, and community organizations (Umbreit, 2000). In 1989, New Zealand passed the "Children, Young Persons and their Families Act". The Act placed primary responsibility with the extended family, rather than the courts, for making decisions about young people (Hassall, 1996). According to the Church Council on Justice and

Corrections (1996), several factors led to a need for new legislation. Primarily, the court system was being taxed by an over-abundance of youth, often seen for minor offences. Inadequate resources were being provided to the courts to deal with these cases. It had become clear that the then current justice model was ineffective in preventing delinquency. In addition, not only were victims excluded from meaningful participation in the court process, little attention was paid to reparation and restitution. Finally, court proceedings were not culturally appropriate for the Maori people who were over-represented in the criminal justice system.

According to the Church Council on Justice and Corrections (1996), objectives of the new legislation included:

- diversion and the prevention of stigmatization;
- accountability;
- enhancing well-being and strengthening families;
- timeliness of consequences after an offence;
- protection of rights;
- family participation to reintegrate youth;
- victim involvement;
- consensus decision-making; and
- cultural appropriateness

Currently, almost all juvenile cases in New Zealand are diverted to family group conferences (Umbreit, 2000).

From New Zealand the idea traveled to Australia. In 1990, John McDonald, an Australian educator, witnessed a family group conference and brought the concept to his

home country. According to the Royal Canadian Mounted Police (RCMP, 1998), the process was established in Wagga Wagga, Australia for the New South Wales Police Service in 1991. In 1992, guidance counselor Margaret Thorsborne from Queensland, Australia, conducted the first school conference.

According to the RCMP (1998), the first family group conference occurred in Canada in 1995. In 1997, the RCMP invited the Australians to Canada to conduct training sessions. At this time the name family group conference was modified for Canadian use to community justice forum (RCMP). Restorative justice practices such as this were formally encouraged in 1996 when the sentencing principles in the criminal code were amended. Paragraph 718.2(e) states that, "...all available sanctions other than imprisonment that are reasonable in the circumstances should be considered for all offenders, with particular attention to the circumstances of Aboriginal offenders" (Department of Justice Canada, 2000). The 1998 report of the Standing Committee on Justice and Human Rights further recommended that restorative justice initiatives be examined and utilized in order to ensure respect for victims' interests (Department of Justice Canada). The Canada Youth Criminal Justice Act (released in April, 2003) clearly states that extrajudicial measures (in the form of community justice forums, youth justice committees, community accountability panels, sentencing circles, and inter-agency case conferences) should be used in all cases where they would be adequate to hold a young person accountable (Department of Justice Canada, 2003). Community justice forum programs are currently being implemented throughout Canada.

As the terminology differs depending on location, the terms "family group conference" (FGC) and "community justice forum" (CJF) will be used interchangeably

throughout this document to reflect the origin of the particular literature cited.

### **Stigmatizing versus Reintegrative Shaming**

Nathanson (1992) defines shame as "...uncomfortable feelings, ranging from the mildest twinge of embarrassment to the searing pain of mortification...Shame often follows a moment of exposure; what has been exposed is something that we would have preferred kept hidden" (p.19). Though the experience of shame may result from our actions, it speaks about the quality of our person - the inner self. Nathanson has determined four different phases of the shame experience. The first of these is a triggering event. This is followed by a physiological response, for example, the avoidance of eye contact, blushing, slumping of shoulders, and a momentary lapse in the ability to think. During the cognitive phase, feeling begins to blend into emotion. One's prior history with shame will determine the intensity of embarrassment at this time. The final stage of the shame experience is the individual response, which is usually one of defense, and on occasion, acceptance. Unfortunately, we generally attempt to avoid the lessons to be learned from the experience of shame and are reactive. Nathanson writes, "The reactive phase of shame involves all the habits, defenses, tricks, strategies, tactics, excuses, protections, buffers, apologies, justifications, arguments, and rejoinders that we have devised, witnessed, or stored over...our lifetime" (p.309).

Nathanson (1992) has organized our defensive responses to shame into four major patterns, which he has entitled "the compass of shame." The response of withdrawal entails total escape accompanied by the emotions of distress and fear. The response of avoidance leads individuals to engage in a number of strategies, such as humor, to

minimize or limit the shame affect. When individuals respond to shame by attacking the self, they are attempting to take over the experience of shame by placing it under their own control. This response is accompanied by feelings of self-disgust. The final response option in the face of shame is to attack others in order to raise one's own status. This response is often accompanied by the emotion of anger.

According to Braithwaite (1989), shame is the reason most individuals in society do not commit crimes. People can be shamed internally by way of their conscience, or externally by way of their family and friends. Very few people will not experience shame in one of these forms. When it comes to criminal behavior, Braithwaite suggests that while offenders should feel remorse for the harm they have caused, this shame leads to stigmatization and results in a class of people who self-identify as criminals. These reactions are furthered by Western society's use of punishment to both disapprove and exclude. Stigmatizing shame may lead to destructive responses and offers little hope of reconciling the offender with the community. Reintegrative shaming, on the other hand, utilizes the experience of shame in a positive way to change behavior.

Reintegration requires us to view offenders as a complex mixture of strengths and weaknesses. According to Braithwaite (1989), the offending behavior, rather than the offender, must be condemned within this process. In order to prevent stigmatization, disapproval must be indicated by the people most important to the offender rather than impersonal outsiders. This disapproval must be quickly followed by gestures of re-acceptance. The gestures communicate: "You are a person who can contribute to our community even though what you did was bad" (Van Ness, 1997, p.2).

According to the RCMP (1998), CJFs follow the principles of reintegrative



shaming, thereby moving people beyond shame and the negative reactions to shame. By inducing shame within a controlled environment of care and respect, forums provide the opportunity for an offender to take responsibility for his or her actions and repair the harm rather than leaving permanent scars. Shaming is the first step towards reintegration within this model. This concept is well illustrated by the following exchange, which took place at a conference in New Zealand. The uncle of a boy who stole several cars confronted him:

Stealing cars. You've got no brains, boy....But I've got respect for you. I've got a soft spot for you. I've been to see you play football. I went because I care about you. You're a brilliant footballer, boy. That shows you have the ability to knuckle down and apply yourself to something more sensible than stealing cars...We're not giving up on you (Church Council on Justice and Corrections, 1996, p.67).

## **Community Justice Forums/Family Group Conferences**

### **Assumptions of Family Group Conferences/Community Justice Forums**

Utilizing a victim-sensitive, restorative approach, conferences involve an offender, victim(s), and support people for both in a discussion regarding the impacts of a crime. McDonald et al. (1995) indicate that the goals of family group conferencing entail repairing the damage and minimizing further harm caused by offending behavior, while maximizing social justice for victims, offenders, and affected members of the community. FGCs provide a forum to deal with peoples' unanswered questions, emotions, the issue of accountability, and the question of restitution (Church Council on Justice and Corrections, 1996). According to Kennett (2003), justice forums embody ideal sanctions through encouraging repair of harm, providing a meaningful process for the offender, and respecting gender, ethnic, cultural, and linguistic differences. In addition, Kennett suggests justice forums promote behavior change, inform and include victims, and administer fair, proportionate, and timely consequences.

McDonald et al (1995) have identified three questions that must be answered affirmatively before deciding to run a conference: Has the offender admitted to the offence? Has the incident adversely affected or harmed anyone? Is there a need to repair that harm? The RCMP (1998) have added two additional questions for consideration to this list: Could a CJF cause further harm? Does the victim want this process?

According to the Church Council on Justice and Corrections (1996), conferencing is grounded in the following assumptions:

- the definition of community is confined to people with specific relationships to

- offenders and victims;
- the offending behavior and not the offender is rejected;
  - emotion is part of the process;
  - FGCs allow reintegration into the family and broader community;
  - the conflict is given back to those directly affected;
  - rules are based on social justice rather than legal justice;
  - conferencing is an effective way to identify causes of failure in a family or community and begin the process of restoring social bonds;
  - traditional justice system methods are not designed to repair symbolic and emotional damage;
  - coordinators act as umpires, not players;
  - FGCs encourage offenders to face the consequences of their behavior;
  - conferences respect the rights of victims and offer them the opportunity to deal with their anger; and
  - FGCs protect the rights of offenders

Family group conferencing is set apart from other restorative justice methods because of the participation of the victim's and the offender's family and friends (McDonald et al., 1995). The Law Commission of Canada (2003) indicates that this allows for an evaluation of the impact of the offence on a wider group. Furthermore, FGCs are seen as an effective means of ensuring follow-through on agreements because of the large number of individuals involved in creating the plan.

### **Participant Needs**

The practice of restorative justice involves an offender, victim(s), and support people for both in dealing with the consequences of a crime and determining how to best repair the harm (International Institute for Restorative Practices, 2003). The Law Commission of Canada (2003) indicates that restorative justice techniques such as forums are most suitable for conflict in which all parties participate voluntarily in a process of dialogue and negotiation. All three groups have different needs and roles within the process of community justice forums.

### ***Victims***

When an individual is offended against, his or her sense of safety and security is shaken. Victims desire a return to peace, security, and harmony in their lives. According to Yantzi (1998), the feeling of isolation that victims may experience results in the desire for an active role in seeing the justice process through to completion. Healing occurs when this process leads to a satisfactory conclusion for a victim.

First and foremost, suggests Yantzi (1998), victims need others to acknowledge the harm that has been done to them. They need to be believed rather than judged, and listened to with compassion and understanding. Victims need to hear that what happened is not their fault. Victims' requests regarding the justice process must be respected, and they cannot be pushed to forgive. Yantzi adds that to address wrongdoings holistically, secondary victims, such as the friends and family of primary victims, must be included in the justice process. Even in a "victim-less crime," such as drug possession, the individual's family and friends have been adversely affected and may benefit from an

opportunity to confront the offender (McDonald et al., 1995). The RCMP (1998) add that it may be useful to think in terms of those of who have been adversely affected rather than the traditional image of a victim.

Derksen (2003) indicates that for a victim to experience closure and resolution, the justice process must include the following:

- the true facts - even a re-enactment of the crime;
- the opportunity to express their own emotions of pain and loss, thereby forcing the offender to realize what they have done;
- the expression of genuine remorse from the offender;
- responsible blaming and accountability; and
- the creation of new boundaries to prevent the incident from ever happening again

Russell (2000) has outlined six core rights of victims for practitioners to consider when creating and implementing restorative justice processes. Firstly, restorative justice must consider the safety of victims its highest priority. McDonald et al. (1995) indicate that victims may feel apprehensive about participating in a restorative justice process for fear of further victimization. There must be measures in place to ensure safety before, during, and after the process, which is best determined by simply asking the victims if they feel safe. Secondly, victims need a comprehensive explanation of the events to occur. Related to this is a third right of choice regarding whether or not they wish to participate and involvement in determining the support people who will be present. McDonald et al. remind us that victims had no choice in becoming victims. At least with conferencing, victims are given meaningful choice about participation and their role in the process. Fourthly, there must be an appropriate environment in which victims are

able to tell their stories and ask questions of the offender. A fifth right of victims involves the need for validation that what was done to them was wrong, and that they are justified in feeling afraid, angry, and unforgiving. In addition, victims need to hear perpetrators get the clear message that what they did was solely their responsibility. Finally, victims require restitution. They need to be asked how offenders can compensate for what they have done.

According to McDonald et al. (1995), victims are an integral part of a family group conference as only they can convey to an offender the full impact of the incident. Conferences allow victims to deal with their emotions within a community of people who are experiencing similar feelings. They have an opportunity to ask the offender “why me?” and participate in determining how the harm might be repaired. Pranis (2003) indicates that expressions of remorse by the offender’s family and supporters work to reconnect a victim to their community. Participating in a process that encourages atonement by the offender may also help to relieve the victim’s feelings of resentment. The Law Commission of Canada (2003) adds that family group conferences provide victims the opportunity to restore a sense of control over their lives through expressing emotions and getting answers to questions they may have.

### ***Offenders***

Yantzi (1998) indicates that restorative justice aims to separate a person from his or her wrongful acts. Pranis (2003) adds that this approach prevents personal attack and further isolation, allows an offender to be a part of the “we” examining the problem and looking for solutions, and leads to more focus on the victim. By intertwining

accountability and support, conferencing helps an individual understand the harm he or she has caused, and the need to take full responsibility. Offenders will be more likely to move to this point of accepting responsibility if they are treated with respect. Pranis writes,

If we want people to be respectful, they need to experience being respected. If we want people to care about others, they need to feel cared about...If we want people to be committed to successful completion of their obligations, then they must have a voice in the choice of those commitments (p.1).

According to McDonald et al. (1995), a conference provides the opportunity for an offender to understand the impact of his or her behavior not only on the victim, but also on his or her own family and friends. An offender is invited to repair this harm by expressing remorse and offering reparation, while being affirmed of his or her worth to the community. Conferencing enables offenders and their families to work through the shame they feel rather than withdrawing from taking responsibility, or blaming the victim (Pranis, 2003). Through the justice forum process, offenders avoid criminal charge, discard the "offender" label, and begin the journey of restoring trust while receiving support from family and friends. The Department of Justice Canada (2000) adds that offenders are expected to make positive changes in their lives following a forum.

### ***Communities***

Community justice forums offer communities the opportunity to denounce wrongful behavior and reaffirm community standards (Law Commission of Canada,

2003). Pranis (2003) suggests there are very few processes today in which people are able to express their expectations. Conferencing embodies a new form of democracy in which all who are affected by an event are empowered to have a voice in the decisions made. Pranis states that outcomes are based on consensus as they must address the interests of all parties. The participation of community members who were not directly involved in the event serve to further strengthen behavioral requirements. FGCs have the potential of increasing a community's capacity to solve problems and manage behavior while reducing reliance on outside forces. Yantzi (1998) adds that a community has a responsibility to take ownership of the conflicts that divide it.

Burford and Pennell (1996) indicate that a critical component to decreasing offending behavior is the building of social support networks to hold an offender accountable. Generally, the more participants in a conference, the better, as this ensures a greater variety of personalities to address the impacts of an incident (McDonald et al., 1995). The support group of the offender must disapprove of the behavior yet care deeply about the offender. As families have a stake in what happens to their members, they are more likely to be invested in plans to which they have contributed. Hudson et al. (1996) suggest that a key assumption underlying community justice forums is that when families are recruited, involved, and provided with sufficient information, they will develop appropriate plans to assist a struggling member. When this support group is involved in setting limits, they weave the offender back into the community and reduce the distance which made offending easier in the first place (Pranis, 2003). Through this process, offenders are reintegrated to enhance public safety and reduce recidivism.

The Department of Justice Canada (2000) has outlined the roles of communities



and governments in the process of restorative justice. The community has the role of creating and administering CJF programs, providing opportunities for offenders to make restitution, and ensuring safe environments where rights are respected. Governments have the role of developing legislation surrounding CJF processes, and providing communities with financial and technical support to implement them. The formation of partnerships between communities and government agencies will assist in the development of restorative justice.

### **The Family Group Conference/Community Justice Forum Process**

#### ***Conference Preparations***

The FGC/CJF preparation process differs somewhat between regions of the world. The general steps, however, are the same. According to Stewart (1996), in New Zealand, the FGC process begins with a referral, which may come from a variety of justice system sources. The coordinator (or facilitator) ensures that the police are prepared to prosecute should the accused not agree to the FGC or fail to meet the determined obligations of the conference. It is necessary that the facilitator have a detailed overview of the circumstances of the case at this point (RCMP, 1998). Stewart indicates that the coordinator then visits the family, explains the process of a conference, determines if the offender will admit or deny the charge, and verifies whether or not the offender will participate in a conference. Should the offender agree to the process, the victim is contacted and asked to consider participating as well. When all have agreed, the work of reading reports, recruiting conference participants, and preparing those who will be attending begins (Hudson et al., 1996).

Burford and Pennell (1996) indicate that a key to a successful FGC is careful preparation of all involved. The concept of families being involved in the justice decision-making process is a new idea to many people (Stewart, 1996). According to McDonald et al. (1995), preparation of participants includes ensuring they understand the conference process and have a choice regarding participation, are aware of how they can contribute, and know the details regarding where and when the FGC will take place. Contact with conference participants can be made by telephone or through a personal visit. Retzinger and Scheff (1996) suggest that all FGC preparations be completed by the individual who will facilitate the conference. This practice provides the opportunity to build rapport with conference participants while establishing credibility as the coordinator (McDonald et al.).

For a conference to succeed, the appropriate people must be present. According to the RCMP (1998), offenders and their families as well as victims should be asked who has been affected and who should attend as support. McDonald et al. (1995) suggest that only those individuals who have some direct involvement in the incident or who are significant people in the lives of the offender or victim should be invited. It is often helpful to include a participant who is not a family member of the victim or the offender, such as a coach, neighbor, or member of the individual's peer group. While there is no need to keep the numbers of offender and victim supporters equal, ideally neither party should attend alone (RCMP).

In New Zealand, those entitled to attend the FGC of a young person include the offender's parents or care-givers, members of his or her family, a representative of the cultural authority under whose care the youth has been placed, a youth justice

coordinator, a representative from the police, the victim and his or her support person, a youth advocate, the social worker, and any other person the family requests (Stewart, 1996). Stewart indicates that in cases where individuals have offended together and are facing charges from the same incident, joint FGCs may be undertaken. In cases where an offence has involved multiple victims (e.g., residents of a home in the case of a burglary) all are invited to participate in the FGC. Those recruited to attend the FGC or CJF differ depending on where the model is implemented. It is universally important, however, that support people are identified by offenders and victims as affected by the crime and important in their lives.

The next step for the coordinator is finding a conference site that all can be comfortable with (Burford & Pennell, 1996). Ideally, a neutral venue such as a local community hall, church, or school is chosen for the FGC (Stewart, 1996). Hudson et al. (1996) urge coordinators to be sensitive to the schedules of attendees when picking a time for a conference. A weekday may be appropriate for those attending in a professional role but not for others who may need to take time off from work or travel long distances.

Finally, a seating plan should be drafted for each forum. According to the RCMP (1998), this will assist the facilitator in remembering names and relationships as well as scheduling participant involvement in the forum discussion. Chairs for the participants are placed in a circle and all physical barriers, such as tables, should be removed. Such an arrangement serves to eliminate hierarchy and enable eye contact between participants. The offender and victim groups should be placed on opposite sides of the circle, separated by the facilitator on one end, and the investigator (if present) on the other (see Appendix A for a sample seating arrangement).

McDonald et al. (1995) have developed a conference preparation checklist for facilitators as follows:

- “Do you have a clear understanding of the incident?
- Are you clear about who the offenders and victims are?
- Have you talked to the investigating officer or relevant staff member?
- Have you talked to other personnel who may be able to shed light on the incident?
- Have you invited everyone who could or should be present?
- Do you know who is attending and what each individual is likely to contribute to the conference?
- Do all participants understand the purpose and process of the conference?
- Does everyone know the conference time, site and how to get there?
- Is the site suitable? Will you be disturbed? Is it large enough?
- Have you organized refreshments?
- Have you begun to prepare your seating plan?
- What will the conference look like? Have you thought about how it is likely to unfold?
- Have you a sense of who is likely to be supportive, hostile or otherwise?
- Do you need any assistance with arranging, setting up or running the conference?
- Are you satisfied that you are now well prepared for the conference?” (pp.50-51)

The RCMP (1998) add two additional points to this pre-conference check list:

- “Do you have the script, the agreement forms, pens and paper, the seating plan and facial tissues?
- Have you accommodated any special needs such as accessibility, interpreters and

special diet?" (p.20)

Burford and Pennell (1996) indicate that FGC preparations generally take three to four weeks. According to Hudson et al. (1996), preparing for a conference takes approximately four times as long as actually holding it. Despite the significant preparation work required, it is crucial that cases be dealt with in a timely manner or the FGC may lose some of its emotional impact with participants (Retzinger & Scheff, 1996). Maxwell and Morris (1996) report that in New Zealand, 85 percent of youth justice referrals are resolved within six weeks and 95 percent within nine weeks.

### ***Holding the Conference***

FGC procedures vary somewhat throughout the world. The first step in beginning a conference is greeting participants as they arrive. Ideally, the offender and victim groups should be kept separate upon arrival to avoid any awkwardness prior to the conference (RCMP, 1998). McDonald et al. (1995) suggest the facilitator meet with each group just prior to the conference beginning to deal with any questions, and confirm participant names and the seating arrangement. Normally, the offender group is seated first, followed by the victim group. The conference start time should not be delayed by more than five minutes for latecomers. Should the offender not arrive, or arrive without any support people, the conference should not be attempted at that time.

Conference facilitators follow a script (see Appendix B) to ensure that all components are covered in the process of reintegrative shaming. The RCMP (1998) have outlined the components of this script. The conference proceedings begin with an introduction by the facilitator. This serves to establish the role of the facilitator and

clarifies the purpose and focus of the forum. The facilitator introduces the conference participants and their relationship to the incident. McDonald et al. (1995) suggest it be made clear by the facilitator that though the offender is participating voluntarily, if he or she chooses to leave, the incident will be dealt with through the courts or some other pre-determined process. In this beginning stage a coordinator must also reflect the conference philosophy of rejecting the behavior but not the perpetrator.

Burford and Pennell (1996) indicate that a key to success is opening the conference in a culturally appropriate manner. This may be in the form of a prayer or words by an elder. This practice affirms that the conference belongs to the participants. Opinion varies in this regard, however, as McDonald et al. (1995) suggest that a facilitator should avoid beginning a conference with a prayer. Stewart (1996) recommends a coordinator begin with an opening statement thanking people for their attendance, acknowledging the wide range of emotions felt, and describing how the conference will occur. The charges are then read and the offender admits or denies his or her involvement.

Following the introduction, the coordinator invites participants to speak to the incident. The RCMP (1998) and McDonald et al. (1995) indicate that the offender should be given the opportunity to speak first. Advantages include helping offenders take responsibility for their behavior early in the conference, ensuring they confront their own support group with their actions, and helping victims gain perspective on the offender and the incident. The offender is asked to explain the offence, what he or she was thinking at the time of the incident, and how specific individuals have been affected by the offender's actions. McDonald et al. emphasize the need for an offender to take

responsibility for his or her behavior at this stage. A facilitator may have to engage the offender's support group in meeting this goal. Failure of the offender to accept responsibility will increase the moral indignation and anger of the victim and supporters for the remainder of the conference.

The victim is then provided opportunity to speak to how he or she has been emotionally, physically, and financially affected by the offender's actions. McDonald et al. (1995) indicate that victims do not require the same level of questioning as offenders as they are already in a heightened emotional state that lends itself to the expression of thoughts. If needed, however, questions may include: "What was your reaction at the time of the incident?" "What has happened for you since the incident?" and "How did your family and friends react when they heard about the incident?" (McDonald et al., p.69). These questions are also asked of the victim's support group to further affirm that the incident was not the victim's fault and re-establish this individual's worth to the community. The victim group may ask challenging questions of the offender until they are satisfied with the level of remorse expressed.

When the victim group's anger has subsided, expressions of empathy may occur. This is a facilitator's cue to begin questioning the offender's support group. According to the RCMP (1998), at this time individuals who are in attendance on behalf of the offender are invited to relate how they too have been affected by the incident. McDonald et al. (1995) recommend beginning with the group member who is most attached to the offender and therefore likely to exhibit the greatest emotional response. This is generally the offender's mother. Other family members and friends are then invited to speak until everyone has had the opportunity. The coordinator may inquire as to what steps the

family has taken to deal with the offender since the offence. This will be taken into account when planning the outcome. McDonald et al. indicate that during this stage, there will likely be a high degree of emotion, with tears and long periods of silence. As the conference continues, people will begin to interact spontaneously, sharing personal stories and advice, and requiring very little facilitator involvement. Before moving on to the agreement phase of the conference, the offender, having just heard from all participants, is offered the opportunity to respond.

The conference process culminates in an agreement between the victim and offender. McDonald et al. (1995) suggest this process begin by simply asking the victim what he or she would like to gain from the conference. Depending on the level of remorse the victim has witnessed from the offender, requests for reparation may range from a simple apology to monetary compensation to community service hours. As other participants join in the discussion, many creative suggestions will be presented until a consensus is reached on an appropriate resolution. Burford and Pennell (1996) suggest that often, support people's solutions are more effective than those imposed by the court. Maxwell and Morris (1996) have identified the factors that influence the severity of outcomes recommended at FGCs. Factors include the seriousness of offences committed, the number of offences committed, and prior offence history. These same factors are influential in more traditional systems of criminal justice.

According to Stewart (1996), in New Zealand, the family group meets privately to discuss what they have heard and determine a response. Respecting the privacy of families as they deliberate fosters their ownership of the plan (Burford & Pennell, 1996). Other participants wait in a separate room and rejoin the family when the family indicates



they are ready. At this time, a member of the family presents their proposal. According to Stewart, this entails three components. The first is putting things right between the victim and the offender. This may occur through a verbal apology followed by a letter. The second component is reparation. The offender may repay the victim through weekly payments or appropriate services. Finally, the proposal addresses the penalty the offender will pay. This often takes the form of community service, providing opportunities for the offender to gain valuable skills and knowledge. An offender may also be given a curfew.

McDonald et al. (1995) emphasize the need for agreements to benefit and consider the perspectives of both the victim and the offender. This is necessary for the reintegration and closure of all involved. According to Retzinger and Scheff (1996), consequences should clearly relate to the offender's own actions, not society at large, for maximum emotional effect. Plans that address the interests of participants are likely to succeed because all have something to gain by their completion (Pranis, 2001). Those who participate in the decision-making become responsible for assisting in the fulfillment of the agreement (Pranis, 2003).

As the discussion draws to a close, the facilitator clarifies the agreement. Burford and Pennell (1996) suggest that plans be clearly documented, monitors assigned, and a deadline set. Key participants are then invited to sign the agreement document (McDonald et al., 1995).

Before the FGC closes, participants are invited to make their final comments. Stewart (1996) suggests this is often a valuable procedure as victims may wish the offender well and family members may affirm their support. The meeting closes with a

statement by the coordinator thanking people for their participation. The offender is reminded that if the plan is carried out by the closing date, the charges will be dropped. Finally, participants are invited to share in refreshments while the facilitator makes copies of the agreement. According to McDonald et al. (1995), providing the opportunity for participants to visit creates a setting in which symbolic reparation (e.g., handshakes, words of encouragement) can occur. Experience has shown that the apology and reintegration often occur after the conference has ended.

### ***Facilitation Skills***

The process of effectively facilitating a group toward particular goals requires a number of specific skills. According to Hunter, Bailey, and Taylor (1995), facilitation is the art of guiding a group process toward agreed upon objectives. A facilitator does not become involved in content but intervenes to protect the group process and to keep the group on track to fulfill its task. Mogensen (2003) suggests that an effective facilitator fosters a high level of participation by all attendees, creates an open atmosphere where participants may freely express their emotions, and assists a group in working through their conflict by exploring numerous possibilities and opportunities.

The RCMP (1998) outline specific skills required for the facilitation of forums. Though individuals in attendance may all agree that a justice forum is an appropriate response to the particular crime committed, victims and offenders clearly have different agendas and motivation for participation. Such juxtaposition requires unique facilitator skill. As forums provide a safe opportunity for emotions to be expressed, facilitators must learn to recognize and understand reactions such as anger, shame, and moral

indignation. Often, shame may be displayed in the form of anger towards others. Facilitators should allow for the expression of anger without permitting it to derail the process. Moral indignation may cause resentment from other participants if allowed to continue for too long. The RCMP indicate that silence can play a powerful role by enabling participants to absorb what has just been said. A facilitator need not worry that the silence will extend for too long a period as participants will feel compelled to fill the silence with their thoughts. An additional tool for effective forum facilitation is the use of humor, which breaks tension and builds rapport. McDonald et al. (1995) add that a coordinator should ask simple, open-ended questions.

The RCMP (1998) provide a list of “Facilitator Do’s and Don’ts.” Suggestions include the following:

- “Do maintain confidentiality of all participants;
- Do contact and inform all participants, making sure they understand all of the issues involved;
- Do ensure that the agreement reached is not stigmatizing;
- Do remember that your role is to facilitate the process in a neutral manner, not as an affected party;
- Don’t allow forums to proceed if the facts are in question;
- Don’t facilitate a forum if you have a conflict of interest;
- Don’t lose sight of the ultimate aim of the process – a satisfactory outcome for the victim, offender, and community;
- Don’t impose a prayer on the group;
- Don’t invite people who have no right to be there;

- Don't be condescending or patronizing with participants; and
- Don't rush the process" (p. 24).

According to Napier and Gershenfeld (1973), a facilitator's effectiveness depends on adequate preparation and a thorough understanding of the facilitator role. The facilitator must analytically consider who he or she is with regard to the group. Style may change, for example, if the facilitator is known to the participants. Napier and Gershenfeld indicate that a facilitator should clearly outline process objectives to the group. McDonald et al. (1995) suggest that the facilitator make it very clear that acknowledging and repairing the harm is the conference focus. This serves as a framework and a guide for achieving goals. Finally, a facilitator must plan for the group but is not responsible for determining the outcome. Mogensen (2003) adds that the most effective decisions are those that are greeted with maximum acceptance and enthusiasm by those expected to implement them. The achievement of an agreement, then, is dependent upon enlisting the involvement of group members (Kowitz & Knutson, 1980).

The RCMP (1998) suggest that in some cases, especially with large groups, it may be beneficial to have two facilitators. One facilitator might take the lead role throughout the conference while the other monitors the process through note-taking. Co-facilitators may also alternate the lead role and pause on occasion to discuss progress. Facilitators should be seated next to one another, share a good rapport, and have a clear understanding of the process.

### *After the Conference*

The role of the coordinator upon completion of the FGC is monitoring follow

through in regards to the agreement reached (Hudson et al., 1996). If the plan breaks down, FGC participants may request that the coordinator reconvene the meeting. According to Stewart (1996), at the agreement expiry date, the coordinator notifies the offender, his or her family, and the victim that the matter has been completed and the file closed. Should offenders fail to meet the agreements of their forum they are returned to the formal justice system (Manitoba Community Justice Branch, 2003).

McDonald et al. (1995) recommend that facilitators debrief their conferences soon after completion with their co-facilitator or an observer. Self-evaluation is clearly useful for improvement.

### **Current Use of Family Group Conferences/Community Justice Forums**

According to the International Institute for Restorative Practices (2003), FGCs are currently being utilized throughout the world by schools and workplaces, by police for diversion from court, by courts as an alternative sentencing process, by probation officers as a response to probation violations, and by correctional and treatment facilities. Conferences are used with both young offenders and adults in civil matters, such as child custody cases and neighborhood disputes; criminal matters, including cases of theft, assault, mischief, prostitution, break and enter, hit and run, impaired driving, drug possession, and bomb threats; and serious crimes, including sexual assault and domestic violence issues. Though FGCs are generally used as a diversion from the court system, they have been used in cases after an individual has been incarcerated.

In New Zealand and Australia, young people in conflict with the law are dealt with almost exclusively through family group conferences, without a record of conviction

(Maxwell & Morris, 1996). Throughout Canada, numerous agencies utilize community justice forums.

In Regina, Saskatchewan, Kweskohte offers Aboriginal youth the pre-charge option of a conference for minor types of serious offences, such as prostitution, break and enter, and assault (Church Council on Justice and Corrections, 1996). In an attempt to be culturally relevant, coordinators are assisted by Aboriginal elders. A young person must be willing to take responsibility for his or her offence and agree to participate in recommended programs. Options for reparation include a verbal or written apology, personal service to the victim, community service, compensation, replacement, or a charitable donation.

The Ma Mawi Wi Chi Itata Centre in Winnipeg, Manitoba has been utilizing FGCs since 1998 with Aboriginal families involved in the child welfare system (Anderson, 2003). The model promotes the decision-making process of the family, including extended kin and friends, while recognizing the mandate of child welfare authorities. Goals of the program include extending family links and exploring alternate care options within the family group. The program is guided by the assertions that families have strengths, are invested into the well being of their own, and need information and resources to implement plans.

Calgary Community Conferencing is a collaborative, community-based program involving Calgary Family Services, the Calgary Board of Education, Calgary Police Services, the John Howard Society, and the Mennonite Central Committee (Law Commission of Canada, 2003). The program facilitates conferences involving young offenders through referrals from the Calgary Youth Court or from schools in which a

student is in danger of suspension or expulsion. Calgary Community Conferencing is committed to involving communities in the justice process, preparing all involved in the justice process, and facilitating youth-initiated agreements.

Throughout Canada, Youth Justice Committees are comprised of volunteers who assist in the administration of justice at a community level (Manitoba Justice, 2003). Partnering with youth, parents, justice officials, and community members, committees receive referrals from a variety of sources and work with youth who have taken responsibility for committing a crime. Among a variety of restorative options utilized, community justice forums are common.

Though community justice forum initiatives in Canada have generally focused on young offenders, some projects have utilized the model with adults (Department of Justice Canada, 2000). Burford and Pennell's (1996) family group decision-making project in Newfoundland and Labrador started with the premise that to stop family violence, families need to regain a voice over their own affairs. Families referred by child welfare were those in which abuse against a child by an adult in the family had been confirmed through investigation. Maintaining victim safety at all times, the FGC project mobilized the family to stop the violence by bringing the abuse into the open and developing plans with community services and government agencies.

The Manitoba Developmental Centre in Portage la Prairie, Manitoba, is a multi-unit, residential facility for individuals with severe intellectual disabilities and/or mental illnesses. In partnership with the Portage la Prairie Community Restorative Justice program, the RCMP, Crown Attorney, and Public Trustee, the centre has operated an in-house restorative justice program since 2000 to deal with conflicts that may result in a

criminal charge (B. St.Goddard, personal communication, March 7, 2003). An offender who voluntarily participates in this forum process avoids obtaining a criminal record, while a victim benefits from the opportunity to be involved in the justice process.

### **Challenges of Family Group Conferences/Community Justice Forums**

The utilization of family group conferences/community justice forums requires an awareness of challenges that may arise. Umbreit (2000) has identified five potential dangers within the model. The first is inadequate preparation of conference participants. Umbreit indicates that in-person meetings are crucial to the process of rapport building, preparing for group dialogue, assessing needs and expectations, and understanding the context of a crime. A second danger is insensitivity towards and coercion of victims. A victim must not feel pressured into participating in a conference. The FGC process must be sensitive to the emotional, informational, and participatory needs of victims. By providing victims a choice of when and where to meet, informing them of potential benefits and risks, and allowing them to tell their stories first during a conference, the process remains victim-centered. Umbreit suggests a third danger is that young offenders may feel intimidated by adults. It is crucial that the FGC environment feel safe for genuine expression of thoughts and feelings rather than coercion by adults. A fourth potential danger is lack of facilitator objectivity. The principles of reintegrative shaming will only be met when FGC facilitators avoid blaming by maintaining objectivity. Finally, Umbreit identifies a potential difficulty in the fact that FGCs are script-driven and therefore somewhat inflexible. He questions the model's ability to be appropriate for diverse cultures.



The Law Commission of Canada (2003) has raised a number of additional critiques. The fear is that unregulated, private processes may privilege more powerful parties in ways that formal processes (in theory) do not. Related to this is concern regarding the protection of vulnerable parties. The Law Commission points out that empowering communities to deal with justice issues assumes that the people in the communities are healthy and that their decision-making will be fair and balanced. Finally, there is concern that restorative justice practices such as conferences could become standardized, thereby losing their personal element of meaning.

#### **Efficacy of Family Group Conferences/Community Justice Forums**

Latimer et al. (2001), in their meta-analysis on the effectiveness of restorative justice practices, indicate that restorative practices, including justice forums, are more effective than traditional criminal justice responses at improving victim/offender satisfaction, increasing offender compliance with restitution, and decreasing recidivism of offenders. In the United States, a recent two-year study of justice forums indicated that 94 percent of offenders complied with their forum agreements (International Institute for Restorative Practices, 2003). Additionally, victims were more likely to say that offenders were held accountable within the forum process compared to victims whose cases went to court.

According to the Church Council on Justice and Corrections (1996), since FGCs have been implemented in Wagga Wagga, Australia, there has been a nearly 50 percent reduction in the number of young offenders brought before the court. Not only are 90 percent of all conference agreements completed, the rate of recidivism for those

experiencing a conference is less than five percent.

From August 1990 to May 1991, Maxwell and Morris (1996) followed what happened to nearly 700 young offenders in New Zealand. They attended the FGCs that were arranged for over 200 of these individuals, interviewed all in attendance, and followed up three to six months later. They report that 95 percent of the over 200 conferences studied reached consensus decisions. Satisfaction with FGC outcomes was 80 percent for offenders and slightly lower for victims. In 81 percent of the cases studied, the youth court followed the unmodified recommendations of the FGC. In total, 60 percent of victims found their FGC helpful, positive, and rewarding, felt they were able to let go of negative feelings surrounding the offence and offender, were benefited by their involvement in determining appropriate outcomes, and appreciated meeting the offender to better understand why the offence had occurred. Approximately 25 percent of victims stated they felt worse as a result of attending the FGC. Reasons included not feeling that the offender and his or her family were truly sorry or that victim concerns had been listened to, the inability of the offender to make reparation, and difficulty communicating cross-culturally. Four years after the FGC observations, Maxwell and Morris re-interviewed the 193 youth who were still in New Zealand. Of these, 42 percent had no later convictions. FGC variables that were predictive of recidivism included lower victim satisfaction, offenders not completing the tasks agreed to, and failing to apologize to the victim (three times as likely to re-offend compared with those who did apologize). Older offenders at the time of the FGC were also more likely to re-offend than younger offenders.

Chatterjee (1999) has evaluated RCMP restorative justice initiatives in Canada.

All offenders who participated in his study indicated that the CJF process helped them understand the consequences of their actions and take responsibility for their behavior. In regards to the agreements that resulted from the forums, 75 percent of the offenders felt they were fair, 85 percent had fulfilled their obligations at the time of the evaluation, and the remaining cases were in the process of being completed.

Kennett (2003) indicates that within Manitoba, 85 percent of youth who participate in community justice forums complete their agreements. Rates of recidivism among CJF participants in Manitoba are not yet available. Kennett states that in Sparwood, British Columbia, youth recidivism rates dropped from 40 percent to 4 percent between 1994 and 1996 through the implementation of justice forums as an alternative to the court system.

## **Offenders with Intellectual Disabilities**

### **Developmental Disabilities**

The term developmental disability refers to impairments in functioning, such as difficulty speaking, walking, thinking, or socializing (Graziano, 2002). This umbrella term includes the major categories of autism, cerebral palsy, epilepsy and other neuromotor disorders, vision and hearing impairments, brain injuries, learning disabilities, and mental retardation (Graziano). According to Health Canada (2000), the prevalence of developmental delay is approximately three percent of the general population. One out of ten American families are directly affected (The Arc, 2003).

According to Graziano (2002), developmental disabilities are defined by a number of factors. The disability is attributed to mental or physical impairment or their combination and must occur prior to age 18. This early period in life is the most active time of growth. A severe disability that occurs during this period will interfere with the person's subsequent development and may prevent the acquisition of important skills and knowledge. To be diagnosed with a developmental disability, the impairment must be severe enough to cause significant limitations in at least three of the following areas: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and economic self-sufficiency. The disability is permanent and will therefore affect an individual's development, treatment, education, training, and occupations throughout life. Finally, the disability requires ongoing professional services that are individually coordinated and drawn from a variety of disciplines.

### **Intellectual Disability - Diagnosis and Characteristics**

Mental retardation, also known as intellectual disability, is the developmental disability that will be focused on here. According to Health Canada (2000), an intellectual disability is manifested prior to age 18 as below average intellectual functioning expressed concurrently with related disabilities in two or more of the following adaptive skill areas: communication, self-care, home living, social skills, community use, self-direction, health and safety, functional academics, and leisure and work. The level of intellectual disability is classified by intelligence quotient (IQ) scores under 70 and ranges from mild to profound (Disability Awareness Kit, 2003). According to The Arc (2003), 87 percent of those with an intellectual disability are only mildly affected and able to lead independent adult lives in the community. The remaining 13 percent have IQ's under 50 and therefore experience serious limitations in functioning.

According to The Arc (2003), intellectual disability is caused by any condition which impairs development of the brain before birth, during birth, or in the childhood years. There are several hundred causes of intellectual disability, yet in a third of cases the cause remains unknown. Known causes include genetic conditions, such as phenylketonuria (PKU), Down syndrome, and fragile X; problems during pregnancy, such as fetal alcohol syndrome disorder (FASD), malnutrition, and illness of the mother; problems at birth, such as prematurity and low birth weight; problems in early childhood, such as diseases that may damage the brain (measles, whooping cough), a blow to the head, near drowning, and environmental toxins; and poverty and cultural deprivation, such as malnutrition, disease-producing conditions, inadequate medical care, and under-stimulation.

The estimate for overall prevalence of intellectual disabilities is one percent (Westling, 1986; Patton, Beirne-Smith & Payne, 1990). Approximately 30 percent more males than females are diagnosed with an intellectual disability (Westling). Explanations for this difference include a higher probability that males will manifest biological defects associated with the x-chromosome, and higher societal demands for self-sufficiency in males (Patton et al.). Patton et al. indicate that prevalence figures vary somewhat between countries. Underdeveloped countries may lack immunization programs, proper nutrition, hygiene, sanitation, and prenatal care for pregnant women, thereby increasing the incidence of intellectual disabilities.

Parsons, May, and Menolascino (1984) indicate that 20 to 35 percent of non-institutionalized individuals with intellectual disabilities also have a significant psychiatric disorder. The rate of mental illness is significantly higher in the intellectually disabled population than in the general population. According to Graziano (2002), a psychiatric diagnosis is generally not determined until long after an intellectual disability has been identified.

Graziano (2002) has outlined the typical characteristics of individuals with intellectual disabilities. Individuals in this population generally have a short attention span. They may engage in stimulus over-selectivity by focusing on a small, often irrelevant portion of a total stimulus. A further challenge is simultaneous attention to various aspects of a complex situation. They may have difficulty with generalization of information. Learning therefore tends to be situation specific. Individuals with intellectual disabilities tend to think in concrete, rather than abstract terms. This focus on the immediate and the obvious creates difficulty with long-range planning and goal

setting. There may be limitations in meta-cognition and resulting difficulty in learning new tasks. They tend to have lower developmental levels of cognition in comparison to non-disabled peers. Individuals with intellectual disabilities may also have social communication difficulties. Ericson, Perlman, and Isaacs (1994) add that this population tends to have a reduced short-term memory capacity and a limited vocabulary.

The Law Reform Commission (1996) suggests that individuals with intellectual disabilities are vulnerable to abuse, discrimination, and social marginalization as a result of their disability. Many are disadvantaged by a limited education, are unemployed, and live on employment and income assistance. They may be inadequately prepared for life in mainstream society and insufficiently supported in the community. Substance abuse is a common problem, and many experience a lack of social, recreational, and sexual opportunities.

Graziano (2002) speaks to the social discrimination experienced by individuals with developmental disabilities. Physical or psychological impairments may prevent persons from meeting social expectations, thereby affecting the response they receive from others. Non-disabled people tend to avoid social contact with developmentally disabled individuals, and when in contact with them act uneasy and distorted. Knoblock (1987) adds that negative peer group attitudes toward disabled adolescents are pervasive. These stigmatizing reactions and the resulting social deprivation and loss of social learning opportunities powerfully affect intellectually disabled person's lives.

Graziano (2002) indicates that society's low expectations of the population work to actively socialize intellectually disabled individuals into self-limiting roles. Knoblock (1987) points to the use of intelligence tests, which in many instances are not good

indicators of a child's potential to learn. These children progress through school with underestimated abilities and overestimated disabilities, which in turn affect the manner in which the students are treated and how the students come to perceive themselves. This socialization results in general low functioning, submissiveness, low motivation, poor self esteem, and a lack of knowledge. Graziano states, "The child with developmental disabilities is thus subjected to a double imposition: first from the direct effects of the impairment and second from all the physical, social, and psychological complications set in motion by the impairment" (p.83).

Though individuals with intellectual disabilities face essentially the same life issues as those in the general population, Graziano (2002) points out that they are more vulnerable to the various obstacles. Society must be sensitive to these vulnerabilities and reduce the obstacles in order to safeguard the rights of developmentally disabled individuals.

### **Individuals with Intellectual Disabilities in Conflict with the Law**

There are various estimates of the number of intellectually disabled individuals in conflict with the criminal justice system. Patton et al. (1990) indicate that prison estimates fall between five and ten percent in North America. The Arc (2003) estimates that of the 6.2 to 7.5 million people in the United States that have mental retardation, approximately 25,000 of them are incarcerated. This constitutes between two and ten percent of the US prison population. A New South Wales study suggests that this figure may be closer to 12 or 13 percent in Australian prisons (Law Reform Commission, 1996). A study by Steissguth, Barr, Kogan, and Bookstein (1997) followed 415 individuals with



fetal alcohol spectrum disorder to determine the number of subjects who had experienced trouble with the law. Of those subjects aged 12 and over, 60 percent had been in trouble with authorities, charged with a crime, or convicted of a crime.

It would appear from the estimates that there are a disproportionate number of intellectually disabled individuals involved in the criminal justice system. Rather than conclude that intellectual disability leads to criminality, the characteristics of this population in conjunction with the current criminal justice system must be examined. An article in the Washington Post nearly 25 years ago illustrates the situation.

There are at least 25,000 retarded people in the nation's prisons, and some studies suggest that the number may be double that, or triple. This means that possibly one out of every 20 of the 500,000 prisoners in the United States is mentally retarded. Their crimes include murder and armed robbery, but many are more innocuous offenses, such as "cheating" cab drivers because they didn't understand about paying (DeSilva, 1980, p.A6).

The struggles to process information, express their needs, understand the needs of others, and effectively communicate with other people are perhaps the most notable difficulties individuals with intellectual disabilities face (Disability Awareness Kit, 2003). Many in this population may be unable to understand the impact of their behavior relative to social values and in turn, the criminal justice system. Patton et al. (1990) suggest that in some cases, intellectually disabled individuals may not comprehend that they are breaking the law or have an awareness of the unpleasant consequences which will result. Barron, Hassiotis, and Banes (2002) add that offending behavior may be due

to a level of naivety, for example, the knowledge that goods must be paid for. According to the Law Reform Commission (1996), reasons for offending may be related to, “a desire for recognition and status; a desire to please others; a yearning for acceptance and belonging; an unmet need for meaningful relationships; low self esteem; poor social skills; inability to deal to with problems; a restricted social network; and lack of family support” (ch.2).

The Law Reform Commission (1996) suggests that people with an intellectual disability are most likely to commit offences involving impulsive or unpremeditated behavior. The New South Wales Legislation and Policy Division (2001) indicates that people with an intellectual disability are likely to commit offences against property (arson, break and enter, car theft), offences against persons (murder, assault), or sexual offences. Crimes involving planning, such as drug trafficking and robbery, are rare. The Legislation and Policy Division adds that offenders tend to commit either relatively minor, repeated offences, or a major, violent crime.

The Law Reform Commission (1996) cites the following statistics:

- 50 percent of intellectually disabled offenders are incarcerated for sex offences as compared with 15.4 percent of the non-intellectually disabled prison population in Western Australia
- 35.4 percent of an intellectually disabled sample group was convicted of property offences as compared to 1.8 percent of the general prison population in Western Australia
- 5.9 percent of the same sample group was convicted for theft as compared with 24.6 percent of the general prison population

- 63.1% of intellectually disabled offenders in Kentucky prisons have committed crimes against the person and 36.9% against property
- 15 percent of adolescent and 10 percent of adult arsonists are intellectually disabled

Conry and Fast (2000) indicate that individuals with intellectual disabilities may be easily misled. Poor social judgment and the inability to determine human motives may result in manipulation or abuse by anti-social peers. Linhorst, Bennett, and McCutchen (2002) indicate that individuals with intellectual disabilities are often manipulated into criminal behavior by people believed to be their friends.

The Autism Society of America (2003) indicates that the most likely areas in which a developmentally delayed person may encounter problems with the law are through bizarre behavior, such as severe tantruming and hand-flapping; inappropriate social boundaries, such as approaching or touching strangers; violating social norms, such as trespassing, stealing, and stalking; and property damage, such as arson.

Many service providers suggest that serious destructive behavior is a major, though uncommon, problem among individuals with intellectual disabilities. The National Institutes of Health Consensus Development Program (1989) defines destructive behavior as conduct that presents an imminent danger to the person who exhibits the behavior, to other people, or to property.

The incidence of sexual offending in the intellectually disabled population may be four to six times higher than in the general population (Robertson, 1981; Hawk, Rosenfeld & Warren, 1993; Day, 1994). Barron et al. (2002) suggest this may be due to the fact that the sexual needs of individuals with intellectual disabilities may be

completely neglected throughout their lives. In some cases, myths such as “disabled people are asexual” have resulted in a lack of appropriate sexual instruction, active suppression, avoidance, or marginal assistance (Knoblock, 1987). According to Barron et al., there is often an inappropriately punitive response to those who express their sexuality.

Intellectually disabled sex offenders can be distinguished from non-disabled sex offenders. Boer, Dorward, Gauthier, and Watson (1995) indicate that intellectually disabled sex offenders tend to be more opportunistic and impulsive in their offences. They tend to have fewer victims and be indiscriminate about age, gender, or appearance. The Law Reform Commission (1996) indicates that 50 percent of victims of sex offences by an intellectually disabled offender are women, compared to 89 percent of victims of non-intellectually disabled sex offenders. Health Canada (2000) indicates that intellectually disabled sex offenders are sexually naive, lack interpersonal skills, and have difficulty interacting with the opposite sex.

Barron et al. (2002) point to the high rate of mental illness in intellectually disabled individuals as a significant contributing factor to offending behavior. Often, individuals may not be properly taking their prescribed medications. Of the 415 individuals with fetal alcohol syndrome disorder studied by Steissguth et al. (1997), 94 percent exhibited mental health problems.

### **Challenges Facing Intellectually Disabled Offenders in the Justice System**

The criminal justice system has historically been poorly equipped to address the needs of individuals with intellectual disabilities. They may go through the entire

criminal justice system unrecognized as having unique difficulties (Health Canada, 2000). The Arc (2003) indicates that only 10 percent of individuals with mental retardation are identified at trial. According to Barron et al. (2002), the problems stem from the absence of a systematic tool for identification, poor assessment skills by court workers, and the overshadowing of intellectual disabilities by mental illness.

According to Linhorst et al. (2002), individuals in this population may not understand their rights within the legal process and are more likely to provide incriminating evidence. When first encountering the police, they may not try to hide their crimes and are more likely to confess to crimes they did not commit. Perske (1994) has studied why false confessions occur within the intellectually disabled population. Reasons include a desire to please people in authority and the inability to understand court proceedings, assist in their own defence, or understand punishment. The Law Reform Commission (1996) provides the following example:

Jerry has an intellectual disability and lives in a hostel. After a fire destroyed part of the hostel, another resident of the hostel tells a staff member that he saw Jerry light the fire. The staff member rings the police who question Jerry alone at the police station. Jerry, who is afraid to appear "stupid" to the police, answers yes to every question the police ask and agrees that he lit the fire. He is given a copy of his statement to read and signs it. He is charged and refused bail because he was unable to understand the requirements for entering bail and the hostel refuses to take him back. In court experts testify that Jerry could not have understood the questions asked, nor could he read (ch.1).

The Law Reform Commission (1996) has identified difficulties police may experience with intellectually disabled individuals. Police may confuse the person's disability with substance abuse, or the person's disability may be masked by actual substance abuse. Police may also have difficulty distinguishing between intellectual disability and mental illness. There may be a hesitancy to bring individuals from this population into police custody because of the special protection they may need from other prisoners. Further, police may find it difficult or inappropriate to take action against people with intellectual disabilities.

Going to court may be counter-productive for individuals with intellectual disabilities. Conry and Fast (2000) indicate that the substantial time period between an offence and sentencing ensures that an individual will unlikely connect the two events. Ericson et al. (1994) have indicated that many of the challenges experienced by this population in court are a result of professionals who do not take their cognitive difficulties into account when questioning them. Individuals with intellectual disabilities may appear to be confused or inconsistent in their responses to questions. They will rarely indicate when they do not understand and may simply respond in the affirmative or the negative given the demands of a question. Intellectually disabled individuals have difficulty with long, run-on sentences, and when asked multiple questions simultaneously will likely answer only one. Individuals in this population may make leaps in their storytelling and assume that the listener is able to fill in the blanks. They may have difficulty answering questions related to time or for which little context is provided. According to Perske (1994), additional difficulties within the court system for this population include a short attention span and uncontrolled impulses, presenting as too

pleasant and thereby appearing unremorseful, or shutting down and appearing defiant.

Incarceration also presents significant disadvantages for intellectually disabled offenders. The Law Reform Commission (1996) indicates that this population may receive a higher proportion of custodial sentences than the general population of offenders because of a lack of alternative placements in the community. Additionally, they may require maximum security facilities due to segregation and protection needs. As a result of the prison environment, individuals may lose skills due to a lack of practice and become more disabled than they were when first imprisoned (New South Wales Legislation and Policy Division, 2001). According to Barron et al. (2002), intellectually disabled offenders cope poorly with prison life. They are extremely susceptible and vulnerable to further victimization while in prison and may endure years of abuse from other prisoners (Patton et al., 1990, Jasper, 2001). Thomas Sovacool, Program Director in a special prison unit for the intellectually disabled, states, "Inmates will immediately pick them out and say, 'There's my cigarettes for the week, there's my coffee, there's my bed maker.' And those are the little issues. There are other ways they get taken advantage of. Use your imagination" (Jasper, p.3). Petersilia (1997) indicates that, "Offenders with mental retardation do more time, do harder time, get less out of their time, and are more likely to be returned to prison after release than persons who are not mentally handicapped" (p.362).

### **Needs as a Result of the Challenges**

The challenges outlined in the previous section point to a variety of needs for intellectually disabled individuals in conflict with the law. These needs are in addition to

the shortfalls experienced by the general population within the current retributive justice system as outlined in section one of the literature review.

There is a need for earlier identification by the criminal justice system of individuals with intellectual disabilities if there is to be an appropriate response. To reduce confusion, there is a need for interviewers to be aware of the communication needs of this population. Ericson et al. (1994) provide the following guidelines. When interviewing an intellectually disabled client, a family member or support person should be invited to provide emotional support as well as information regarding the needs of the client. Due to the short attention span of this population, more frequent meetings of shorter duration should be arranged. The use of leading questions should be avoided whenever possible to prevent the problem of compliance with authority. An interviewer should avoid the use of abstract terms, run-on sentences, multiple questions, and asking the client to pinpoint specific dates and times. An interviewer should provide regular context cues and be cautious about the use of pronouns. Finally, a client should be advised that it is acceptable to say "I don't know" and encouraged to take time to think about a response prior to stating an answer.

There is a need for alternative processes to court for the intellectually disabled population. Given the difficulties with memory, lack of understanding of the legal process, and short attention span, a more timely, individualized process needs to be available for this population.

Clearly, incarceration presents serious risks to individuals with developmental delay. According to the New South Wales Legislation and Policy Division (2001), rehabilitation of this population occurs more effectively in community settings. Graziano



(2002) speaks of the need for community social learning opportunities to assist intellectually disabled individuals in developing appropriate behavior. Hayes (2003) indicates the need for a reintegrative, rather than stigmatizing, approach with this population. While stigmatizing shame divides a community by creating a class of outcasts, reintegrative shaming indicates disapproval of the offending behavior while showing respect for the offender as a person. There is a need, then, for recognition of the vulnerability of this population within the punitive justice system, and community-based options for holding intellectually disabled offenders accountable for their behavior.

#### **Alternative Justice Processes for Offenders with Intellectual Disabilities**

Alternative justice processes for intellectually disabled offenders will be considered here. This exploration begins with the topic of prevention to reduce the numbers of individuals coming into contact with the criminal justice system in the first place. According to Health Canada (2000), minimizing the offending risk of intellectually disabled individuals is attained through proper assessment, management, and adequate support networks in which to learn appropriate behavior. Steissguth et al. (1997) add that early diagnosis, early and intensive intervention, and stable, safe living environments are critical factors in reducing rates of criminal behavior.

Health Canada (2000) indicates that individuals with intellectual disabilities tend to be viewed as either impulsive or childlike. They suggest both views are problematic. If an individual is seen as highly impulsive, the behavior is viewed as uncontrollable and the solution becomes incarceration or one-on-one supervision. This is excessive and denies the individual an opportunity to change his or her behavior. Furthermore, the

resulting separation from family members and peers deprives an individual of the opportunities to develop normal social relationships (National Institutes of Health Consensus Development Program, 1989). Health Canada (2000) points to the connection between social isolation and the resulting lack of opportunity to learn appropriate behavior. On the other hand, if an individual is viewed as childlike, the offending behavior is likely to be denied or minimized by not implementing an intervention at all. This strategy ignores the safety needs of the community.

Health Canada (2000) suggests that intellectually disabled offenders be held accountable for their offending behavior. As most in the population are able to distinguish right from wrong, they would likely benefit from a rehabilitative solution that holds them accountable while implementing interventions to address the offending behavior. Van Ness (1997) adds that an intellectually disabled offender must bear responsibility for the harm caused to the victim, to those around the victim and the offender, to the larger community, and to society in general.

The Crown Policy Manual (1995) states that diversion programs are an appropriate response for intellectually disabled individuals in conflict with the criminal justice system. The Reed report of 1992 states that intellectually disabled offenders should be placed, "as far as possible in the community, rather than in institutional settings...and under conditions of no greater security than is justified by the degree of danger they present to others or to themselves" (Barron et al., 2002, p.456). The Law Reform Commission (1996) recommends that the individual needs of a person with an intellectual disability should always be considered when determining a response to an offence. Automatic diversion assumes that all people with an intellectual disability are

the same and does not allow for individual levels of responsibility.

The Law Commission of Canada (2003) indicates that a principle of restorative justice is accessibility to all. The Commission believes that, with sufficient safeguards in place, restorative processes may be appropriate for all people across a broad spectrum of conflict. Conry and Fast (2000) suggest that restorative processes are helpful as they entail a shorter time period between the offence and the consequence while being more informal and understandable than court. They indicate that benefits of restorative justice include avoiding the offender label, preventing contact with other offenders, and providing a positive opportunity to learn from an incident. The New South Wales Legislation and Policy Division (2001) suggest that conferencing has the ability to address the specific rights, needs, capacities, and abilities of intellectually disabled offenders. Health Canada (2000) furthers the argument with the assertion that intellectually disabled offenders should be dealt with by way of a systemic approach involving the family support system. Within this process, time frames should be extended to meet the unique needs of intellectually disabled individuals. The emotional and practical support provided through restorative justice approaches assists individuals in managing their behavior, while remaining engaged in healthy community life.

## **Conclusion**

Examining the current literature on community justice forums and offenders with intellectual disabilities presents the possibility that the two could be more closely linked in the future. Though the literature indicates that justice forums are not being formally used with offenders who have been diagnosed with intellectual disabilities, the practicum

examined the utility of the approach with this population.

## **CHAPTER THREE**

### **PROCESS AND PROCEDURES**

#### **Practicum Setting**

The practicum took place at the student's place of employment, Opportunities for Independence, Inc. of Winnipeg, Manitoba. The student held the position of Case Manager for the agency's Community Support Program. As the student worked as a two-thirds time case manager for the duration of the practicum, on-site practicum-related activities occurred on alternate days and fell outside the scope of the student's employment responsibilities.

Opportunities for Independence targets intellectually disabled adults who are in conflict with the law or at risk of becoming in conflict with the law due to inappropriate behavior. Opportunities for Independence was founded in 1976 by a group of individuals who recognized a need to address the unique issues confronting intellectually disabled individuals involved in the criminal justice system. In 1983 a residence was established in an apartment in central Winnipeg. This unit served as the initial program base until 1985, when Opportunities for Independence purchased the current residential units. A professional, volunteer board of directors governs the agency, with specialized program guidance provided through a clinical steering committee. The clinically supervised programs are aimed towards enabling clients to exercise their rights to equal and appropriate membership in society while maintaining personal and community safety.

The Residential Treatment Units of Opportunities for Independence provide

clients with 24 hour monitoring and assistance in the development of various functioning skills and abilities. A variety of programs evaluate and manage client risk. These include sexual offender group treatment, adaptive skills development, life skills training, Alcoholics' Anonymous, problem-solving groups, recreational and community access, community control planning, vocational and educational training, and individual counseling. Opportunities for Independence expects that as clients receive appropriate therapeutic and educational supports, their level of risk to re-offend will decrease. Within the Community Support Program, transitional training and support continues until appropriate independent functioning is secured and a stable support network is established.

Opportunities for Independence is dedicated to the development and delivery of community-based programs for intellectually disabled adults who are in conflict with the criminal justice system. This setting clearly affects the practicum intervention. As clients of the agency may struggle in a number of adaptive skill areas, have a history of offending behavior, and are learning to live semi-independently in the community, there is significant potential for continued conflict with the criminal justice system. Despite a high level of supervision, offending behavior may occur between clients or towards staff in the residential units, the day program, or the community. This may include incidents such as theft, violence, assault, and uttering threats. In many cases, police involvement is not warranted, yet there is a need for a formalized process in which the offender is held accountable. It is also important that the victim is provided an opportunity to express how they have been harmed and participate in determining the outcome of the offence.

An important element to consider when examining the setting of Opportunities for

Independence in regards to the intervention is the relationship between the student and potential participants. As clients tend to have received services from the agency for a number of years, the student was somewhat familiar with the participants and their histories. Additionally, most clients of Opportunities for Independence have been involved with the formal justice system. This may have impacted client attitudes and reactions to the community justice forum process.

To ensure that a sufficient number of cases were available to meet the requirements of the practicum, New Directions of Winnipeg, Manitoba was enlisted to refer cases to the student. New Directions was founded in 1885 to work with children, youth, adults, and families. Several programs within the agency are mandated to work with individuals with intellectual disabilities. Unfortunately, no cases were referred to the student from New Directions during the allotted time period.

### **Description of Clients**

The practicum focused on individuals with intellectual disabilities. Health Canada (2000) defines intellectual disability as an intelligence quotient score below 70, significant limitations in two or more adaptive skill areas, and onset prior to age 18.

As discussed in the literature review, the criminal justice system has historically been ill-equipped to address the needs of individuals with intellectual disabilities. The literature indicates that the population may not understand their rights and are prone to provide incriminating evidence (Linhorst et al., 2002). Going to court may be counter-productive as the time period between an offence and court sentencing may prevent the

offender from connecting the two events (Conry & Fast, 2000). In addition, incarceration presents a number of potential difficulties for offenders with intellectual disabilities who may be vulnerable to the other inmates (Petersilia, 1997).

Exploration of alternative options to the criminal justice system is required. In many cases, individuals with intellectual disabilities reside in residential, staffed units, or attend day programming in order to develop and improve adaptive skills. It is within these settings that they may commit an offence. Staff are then confronted with the often difficult issue of holding the offender accountable. Police may choose not to respond to the situation, or charges may be pressed resulting in the individual's incarceration. Neither option is generally desired; yet, there remains a need to hold the offender responsible for their actions and allow the victim to have a voice.

Participants in the intervention met a number of criteria. All offenders and victims were 18 years of age or older. Offenders, as well as victims (if intellectually disabled), were currently receiving services from Opportunities for Independence and therefore involved with Manitoba Family Services or Community Mental Health. All incidents identified for a forum warranted in-agency incident reports. Cases were considered for a community justice forum if the offender admitted to the offence, the incident adversely affected someone, there was a need to repair that harm, and both the offender and victim were willing to participate in the process. In cases where an incident required police intervention, a consultation process with the Winnipeg City Police deemed the incident appropriate for a justice forum.

Cases were excluded from the intervention if the victim or the offender were on the employment caseload of the student at Opportunities for Independence or if the



victim or offender were deemed incompetent to give informed consent. Cases were excluded if the incident involved a serious sexual or violent assault as defined by the level of police involvement. Exclusion criteria enabled the formal justice system to indicate whether or not a case was suitable for a community justice forum.

### **Description of Intervention**

The practicum occurred in three components between September 20<sup>th</sup>, 2003 and March 5<sup>th</sup>, 2004. The first of these was preliminary work, including community justice forum facilitation training, forum observation and co-facilitation, and interviews with service providers. This preliminary work assisted in the development of a community justice forum model for use with offenders with intellectual disabilities. The second component involved data analysis and appropriate alterations to the current forum model. The third component entailed implementing the model with intellectually disabled individuals who had offended and obtaining feedback from participants regarding their satisfaction with the process.

### **Record Keeping**

The student kept detailed records of all aspects of the practicum. In regards to component one, observations of justice forums were followed by written comments noting critical elements of the process, factors that could raise challenges for intellectually disabled offenders, and potential adaptations. Interviews with service

providers were documented by the student on prepared interview guides as they occurred. The component of justice forum adaptation was logged as it evolved. In regards to component three, justice forums adhered to a script adapted by the student and were followed by detailed documentation examining various identified elements of the process. Follow-up interviews with victims, offenders, and various support persons were documented by the student on prepared interview guides as they occurred. Finally, a daily log was kept of practicum related activities throughout the duration of the project.

### **Component One**

*September 20 – November 18, 2003*  
Community Justice Forum Facilitator Training  
Community Justice Forum Observation and Co-facilitation  
Service Provider Interviews

#### **Community Justice Forum Facilitator Training**

Component one of the practicum included attending a CJF facilitator training session. This intensive, two and a half day training is provided periodically throughout the year to interested parties by the Community Justice Branch of Manitoba Justice. The training qualifies individuals to prepare and facilitate community justice forums for cases that are referred to them. Topics covered include the philosophy of restorative justice, the history and benefits of the CJF process, appropriate referrals for a CJF, as well as preparation and facilitation skills. Throughout the training, participants have numerous opportunities to role play forums and discuss trouble-shooting. Trainees are also provided with a CJF manual and numerous other resources. The student attended a CJF training from September 26<sup>th</sup> to 28<sup>th</sup> in Winnipeg, Manitoba (see Appendix C for

certification).

### **Community Justice Forum Observation and Co-facilitation**

To gain further knowledge of the current use and process of forums, the student hoped to attend several forums as an observer. Administration at the Community Justice Branch planned to invite the student to attend forums deemed appropriate.

Unfortunately, no forums took place through the Community Justice Branch that the student was invited to observe during the scheduled time period for component one. The student was, however, invited to co-facilitate a forum. This section will outline knowledge gained through that experience as well as a forum observation that took place several months prior to the practicum start date.

A forum was observed by the student on February 8<sup>th</sup>, 2003 involving an adolescent male who had sprayed graffiti on a man's vehicle. The incident had been caught on a security camera and the youth had freely admitted his guilt. Both parties were open to a community justice forum.

The facilitator had arranged for the victim and offender groups to arrive at slightly different times prior to the forum start so that final information could be provided and questions answered. Until this meeting, all contact had been made by telephone. The offender group arrived first, and after meeting with the facilitator was invited to wait in the forum room. Upon the arrival of the victim group, they too met with the facilitator in a separate area. The CJF began when this group entered the forum room.

Throughout the forum, it was noted that the facilitator worked to maintain neutrality through avoiding eye contact, comments of encouragement, and gestures such

as nodding with participants as they spoke. The facilitator indicated to the group that she would be following a script, and proceeded to look at it between her questions so that participants would be compelled to look at each other while making comments.

The apology of the young person towards the victim was pivotal in the process of the forum. At this point, the victim's attitude changed from one of irritation to one of encouragement. Taking a "big brother" role, the victim expressed his forgiveness and encouraged the young person to avoid gang activity and utilize his artistic ability for good. Later in the forum, the young person also apologized to his family member who was present. This required some prompting by the facilitator: "do you think anyone else here may have been affected by your actions?"

While the facilitators wrote up the agreement, forum participants had refreshments. This informal time of visiting was entered into with surprising ease. Additional reparation was observed as the victim asked the offender further questions about his hobbies and continued to offer encouragement. The family member of the young person was symbolically affirmed through this conversation that she had not failed as a parent. An agreement was then signed and participants were free to leave.

Immediately following the forum, the facilitator and co-facilitator entered into a time of debriefing in which successes and difficulties were identified for the sake of ongoing improvement.

On November 14<sup>th</sup>, 2003, the student co-facilitated a forum involving a youth who had sprayed graffiti on the rear walls of three neighboring businesses. The youth willingly agreed to participate in a forum, although it was noted during preparation work that he appeared apathetic about the incident. Two of the three business owners also

agreed to participate in a forum.

During the planning phase of the forum, the facilitator obtained three possible forum dates from all participants before confirming the time. This likely prevented numerous additional phone calls simply to coordinate participant's calendars in order to schedule the event.

The offender group was invited to arrive slightly prior to the forum start time and provided the opportunity to ask any final questions. After they were seated in the forum room, the victim group was invited to enter. The facilitator and the student took turns leading the group through the script. At one point, a victim supporter questioned the youth as to whether there had been any offending incidents since the one being discussed. The facilitator reminded the supporter that the discussion needed to stay focused on the specific incident that had brought the group together.

After the victim group spoke to the impact of the youth's actions, the offender stated that he was sorry and that it would not happen again. At this point, one of the victims softened and began to share of his own son's experience with petty crime and the restorative process that resulted. He encouraged the young person to find positive social groups, stay in school, and avoid crime. When it came to determining an agreement, both victims invited the young person to work with them at their businesses for a day.

Immediately following the forum, the facilitator and the student debriefed. It was agreed that the victim group and offender supporters appeared to gain more from the CJF than the young person. Though the offender clearly came well-prepared and answered every question without hesitation, he demonstrated virtually no emotion. When asked afterwards if he had felt nervous about the forum, he stated that he had not.

It was noted by the student that victims need to feel that the telling of their story has contributed to the level of remorse experienced by the offender. In this case, the shame and resulting emotional response were absent in the offender.

The experience of observing and co-facilitating a forum significantly furthered the student's knowledge of this restorative process. By observing a forum, the student witnessed the skills of an experienced facilitator and saw theory being put into practice. The opportunity to co-facilitate a forum was invaluable as the student experienced firsthand the process of a CJF from preparation to follow-up. Receiving guidance from a veteran facilitator throughout these stages was ideal training for component three of the practicum.

### **Service Provider Interviews**

A significant component of the practicum was interviews with service providers. Expertise in the areas of community justice forums and the intellectually disabled population was sought from a variety of individuals working in the field. It was felt that interviews would contribute to the practicum by broadening the student's knowledge base and subsequent rationalization for adaptations to the CJF model. Though the student had personal experience with the population and had been trained in CJF facilitation, outside opinion on the subject matter served to validate or refute the student's personal ideas for adaptation. As the student anticipates that an adapted CJF model might one day be regularly utilized for the intellectually disabled population, interviews also served the purpose of revealing current interest from the professional community and promoting the idea of restorative justice with the target population.

All potential interviewees received a project briefing (Appendix D) and signed research consent forms (Appendix E) prior to participating in this process. Interviews ran for approximately one hour at a location convenient to the interviewee or at the offices of Opportunities for Independence.

Within the spectrum of intellectual disability, service providers of various non-profit and government institutions were interviewed. The interview was designed to collect information surrounding specific challenges faced by individuals with intellectual disabilities, particularly those in conflict with the law, and to explore the possibility of community justice forum adaptation and use. (See Appendix F for an interview guide).

Within the spectrum of community justice forums, facilitators within the provincial government and non-profit organizations as well as community volunteers were interviewed. The interview was designed to collect information surrounding important elements within the community justice forum process and potential difficulties intellectually disabled participants would face. (See Appendix G for an interview guide).

### ***Interviews with Service Providers to the Intellectually Disabled Population***

Interviews occurred with six service providers to the intellectually disabled population between October 6<sup>th</sup> and November 18<sup>th</sup>, 2003. Interviewees were selected as a result of their extensive and varied experience working with the population. In some cases, the student had previously encountered the interviewee through employment responsibilities. In other cases, individuals were recommended to the student by knowledgeable people in the field. It was important to the student that a range of individuals from a variety of professional backgrounds related to the population be

interviewed. The executive directors of two non-profit organizations providing services to the intellectually disabled population were interviewed. One of these individuals has been involved in the agency since its inception approximately 20 years ago. The student interviewed a college instructor of a program that prepares students to work with individuals with intellectual disabilities. Prior to teaching, this individual gained many years of practical experience with the population. One individual interviewed founded a residential facility for individuals with intellectual disabilities in conflict with the law. Now retired, this individual continues to volunteer with the population. Other interviewees included the director of a program within a government-run residential program for the intellectually disabled population, and a staff member of a project focusing on fetal alcohol syndrome disorder. It is important to note that two of the individuals interviewed informed the student that they each parent a child with an intellectual disability. Their responses were therefore shaped by this most personal experience as well as by their professional work.

All individuals approached by the student agreed to be interviewed. Interviewee responses were remarkably similar for all questions asked. The following section will outline the themes resulting from the five questions asked during these interviews.

***1. How are intellectually disabled individuals treated in the criminal justice system?***

***How is this the same or different from non-intellectually disabled individuals?***

All persons interviewed indicated that the current criminal justice system is not appropriate for individuals with intellectual disabilities. There was some disagreement, however, as to why this is. Some indicated that the justice system works the same for all



and does not consider the unique needs of this population. Others pointed out that the vast majority of offences committed by intellectually disabled individuals are not addressed by the justice system. This view can be illustrated by one individual's assertion that, "the justice system ignores offences committed by this population until they require serious intervention."

Interviewees spoke of the functioning difficulties of the population, including an inability to hide their crimes and tendency to be used as scapegoats, which may lead to conflict with the law. It was also indicated that individuals in this population who find themselves in trouble may not have the ability to self-advocate or access appropriate resources. One interviewee stated, "For every crime that a non-intellectually disabled person is convicted for, there is likely a long string of crimes that they didn't get caught for. This string of consequence-free crimes is generally far shorter for intellectually disabled individuals."

Several persons indicated that a major problem within the system is the lack of identification of individuals as intellectually disabled in the first place. This may be partially due to limited communication between service providers. One interviewee suggested that unless legal council becomes aware of the disability through speaking with a client, identification is based on an individual being visibly impaired. This individual went on to state that many in this population present well and do not have distinct physical features setting them apart from the general population. It was felt that proper identification would readily assist in determining an appropriate outcome for a case. As stated by one interviewee, "Identification can assist with determining the reason for a crime in the first place."

Several interviewees pointed out that in some cases, the identification of an individual as intellectually disabled leads to an incident being largely ignored by the justice system. As put by one individual, "Minor crimes are often forgiven at the police level, perhaps because police don't want to get involved, perhaps because of compassion or a desire to save time and avoid work." This interviewee went on to state, "Police may redirect (an incident) to the service provider - this removes the social learning component for the individual." The feeling was that while intellectually disabled individuals require special treatment within the criminal justice system, they also need to be held accountable for their actions.

Interviewees indicated that the court process is problematic for intellectually disabled individuals as a result of difficulties with memory retention. Given the lack of timeliness of court proceedings, individuals may have difficulty linking their actions with consequences. One individual pointed out that by the time a matter is seen in court, an individual "may hardly remember the event or realize that it was an offence." It was suggested that intellectually disabled persons may not understand trial proceedings and are likely to answer questions inappropriately or admit to their offences. As put by one interviewee, "The court system is set against individuals with intellectual disabilities because the system assumes that people are going to lie." One interviewee indicated that when an individual has been identified as disabled, lawyers may try to win by telling the judge that their client is incompetent. The interviewee added, "Hearing that you are stupid with an overlay of pity is a degrading experience."

Interviewees indicated that the court is limited in its response to this population. Individuals tend to either be held for long periods of time or released to their own

resources, neither of which is appropriate. As put by one interviewee, "There is a wide spectrum of reactions from the court, but they are generally extreme in either direction." Once incarcerated, an individual may be held for a long period of time until a placement has been determined.

***2. Could the community justice forum process work with offenders with intellectual disabilities? How?***

All interviewees indicated that community justice forums should be used with individuals with intellectual disabilities. One individual stated, "Community justice forums would be ideal for most people in this population." Those interviewed suggested that intellectually disabled offenders need to be held accountable and take responsibility for their actions. It was suggested that restorative justice would "empower people with disabilities rather than marginalizing them." Victims of crime also need the opportunity to be empowered in this way. One interviewee stated, "It's not fair for people not to be held accountable."

Several interviewees felt that the CJF process would be of benefit as it is more immediate than the court system, more responsive to individual needs, and provides meaningful consequences that are less punitive than the courts. One individual commented on recidivism, stating that, "The court process fails regularly. Even if the CJF process fails once, it can be tried again." It was also stated that the CJF process builds support, through which social learning can take place. One person pointed out that an individual's ability to understand should not be underestimated, as "people only get more sophisticated by being in more sophisticated environments." It was suggested that

the utilization of this process would be “the gateway to a more effective service model.”

***3. Would any challenges be raised by this process? What would they be?***

Service providers interviewed indicated several challenges that might be raised within the CJF process with this population. Several interviewees cautioned that the CJF process could take on a punitive function due to the population’s tendency to agree with authority figures. The concern was that an intellectually disabled person might wrongfully admit guilt and agree to participate in a CJF due to the perception of an authority figure wanting them to. Several individuals agreed that a facilitator would need experience with the intellectually disabled population in order to meet the challenges of appropriate interviewing (e.g., no leading questions) and obtaining informed consent.

Several interviewees indicated that a challenge to the CJF process might be raised by the language and literacy level of the intellectually disabled individual. A further challenge would be an individual’s understanding of consequences as a result of his or her actions. One interviewee indicated that this process should not be pursued with an individual who is unable to empathize with others. Regarding this, another interviewee stated, “A community justice forum can be done if it’s a process the person understands. The potential outcomes or consequences need to be relevant.”

***4. How would community justice forums need to be adapted to work with this population?***

Service providers proposed many suggestions for adapting community justice forums to work with this population. Several interviewees suggested that the typical

forum timeline might require adaptation to meet client needs. One example was that the process of CJF preparation work would likely need to be lengthened due to the additional time needed to explain the procedure and determine responses. A further suggestion was that the process of obtaining informed consent would need to be simplified and slowed down considerably.

All persons interviewed pointed to the major role of support people in this process. Some suggested that increased involvement from support persons would be required throughout the preparatory process to ensure that the needs of the intellectually disabled individual were being met. One individual stated that non-intellectually disabled participants would need information regarding the needs and characteristics of intellectually disabled participants prior to a forum. It was stated by an interviewee that, "Preparation of supporters is as important as preparation of the offender or victim. Support people need to know what is expected of them."

Several interviewees pointed out that depending on the needs of the client, a substitute decision maker may have to be present at a forum. One individual interviewed indicated that it would be of use to have a clinical psychologist present for the purpose of de-escalating any difficult situations. It was suggested by one person that the tendency might be to fill a forum with professionals, "rather than the true community that has been affected." This individual felt that victims and offenders would need to be encouraged to invite supporters beyond those who play a professional role.

Almost all persons interviewed pointed out that as many in the intellectually disabled population are illiterate, the forum should be non-literacy based. One suggestion was the utilization of pictures to both explain the CJF process and brainstorm ideas

during the agreement phase of the forum. One individual indicated that as persons in this population may have difficulty speaking in front of a large group, alternate options, such as a video or written statement should be considered.

Regarding the agreement phase of a forum, one interviewee indicated that, "Consequences must be realistic or an individual is being set up to fail." Furthermore, several individuals indicated that the offender agreement would need to be very closely monitored by established supports. A suggestion made by an interviewee was that, "the process needs to be debriefed and evaluated."

***5. Do you think this is an important area to explore? Why?***

All individuals interviewed stated that the use of forums with the intellectually disabled population is indeed an important area to explore. One individual suggested, "The justice system isn't working for the intellectually disabled. CJFs would give this population an option and a voice." Others pointed out that this process ensures greater victim focus. It was stated by one individual that the CJF process far exceeds the current options for this population, as it "has the capacity to help people change." Another felt that, "This process is about community membership. Everyone has the right and the choice to participate." Several interviewees indicated that research regarding the viability of CJFs with this population is important as it could lead to an additional option for professionals to consider.

***Interviews with Facilitators of Community Justice Forums***

Interviews occurred with six community justice forum facilitators between

September 23<sup>rd</sup> and November 18<sup>th</sup>, 2003. Some interviewees were known to the student as a result of work in the field, while others were recommended. It was important to the student that knowledgeable facilitators representing a variety of experiences be interviewed. Two persons interviewed work as facilitator trainers for the province of Manitoba. One of these individuals also sits on a Manitoba Justice team that coordinates CJF cases and assigns them to volunteer facilitators. The other works as a member of the RCMP, continuing to develop the model for police use. The student interviewed two individuals who volunteer on Winnipeg youth justice committees. Both trained in CJF facilitation, these volunteers utilize forums with community cases that are referred to their committees. One individual interviewed works with an initiative designed to assist Winnipeg's youth justice committees, in addition to volunteering as a facilitator. Persons interviewed also included the manager of a Manitoba Justice program who currently chairs a Winnipeg youth justice committee.

All individuals approached by the student agreed to be interviewed. Once again, unless indicated, interviewee responses were remarkably similar for all questions asked. The following section will outline the themes resulting from the five questions asked during these interviews.

### ***1. What are the most important elements of a CJF? Why?***

All individuals interviewed spoke to the importance of victim, offender, and community involvement. One individual suggested that, "All (parties) need to feel that the process is open to them and that they can speak to the harm." Several interviewees indicated that a forum addresses the need for a victim to have a voice in holding an

offender accountable. It was stated by one person that a forum allows a victim to seek answers to the questions, "why me?...will I now be safe?...do you regret what you've done?" Several interviewees indicated that allowing victims this involvement is empowering, healing, and helps the victim move on in his or her life.

Interviewees all indicated that forums provide the opportunity for an offender to take responsibility for their actions and be accountable to the people they have hurt. One individual stated, "Offenders have an experience of personal growth through the heart rather than the head." Several interviewees also indicated that the forum process assists in an offender's reintegration into the community. Not only does an individual avoid obtaining a criminal record, the offender label is completely lifted.

Interviewees identified a number of benefits to the affected community participating in a CJF. Several persons pointed to the community's opportunity to respond with meaningful consequences. One individual suggested, "The community sees that justice has been served, but comes to understand that punishment is not necessary for holding people accountable."

Interviewees identified a number of additional important elements. These included voluntary participation and confidentiality for all as well as clarity regarding the presenting issue. One individual spoke of the importance of preparation work with participants, as "the process is unfamiliar and people need to know what they're walking into." Several interviewees stated that "the resolution must address the harm." One individual indicated there must be a very clear end to the forum process so that people are able to move on with their lives. Related to this, others pointed to the importance of follow-up with participants in the form of debriefing. It was suggested by



two interviewees that an important element of the CJF process is flexibility to individualize the process based on participant need.

## ***2. What factors lead to the successful completion of a CJF?***

All interviewees pointed to thorough preparedness of participants as a critical factor in the successful completion of a forum. It was suggested that a facilitator inform participants of what they might expect and questions they will be asked during the forum. Several persons encouraged face to face meetings with CJF participants for the purpose of improved communication and the building of rapport. One interviewee, however, indicated that telephone contact is preferable as it reduces the possibility of participants attempting to ally with a facilitator. This individual indicated, "It's easier to stay neutral over the phone." All agreed that a facilitator should see the process from start to finish and be consistent with the various parties at all times. One individual stated that, "Participants need to feel safe and confident in the fact that a competent person is running the process." It was suggested by an interviewee that success is also based on a facilitator's ability to be flexible within the CJF process.

It was suggested by those interviewed that success occurs when all participants have an opportunity to voice their feelings and feel heard. One interviewee suggested that "an offender must hear that their behavior is unacceptable, but that they will not be defined by it." One individual felt that a successful forum requires an offender to "say they are sorry near the beginning of the CJF. If this happens you're halfway there." Others suggested that an apology is not necessary but some demonstration of remorse is. It was suggested by one person that "if remorse isn't shown the victim may become

punitive.” Once remorse is shown and responsibility is taken for an offence, several interviewees indicated that the anger and hurt of a victim take on a different tone. One person stated that, “At this point there may be advice giving from the victim to the offender.” Interviewees indicated that the resolution must address the harm and be created by the people affected. Several people suggested that participants need to know that the agreement will be monitored.

Finally, several interviewees indicated that a successful forum includes follow-up with participants to determine their satisfaction with the process. It is also important that a facilitator debrief the forum with their co-facilitator in order to identify successes and learn from mistakes.

### ***3. What components create difficulty when facilitating a CJF?***

Facilitators interviewed pointed to several components that may cause difficulty when facilitating a forum. One interviewee suggested that the longer the period of time between an incident and a CJF, the less impact a forum will have on an offender. It was indicated by an interviewee that “problems may arise when participants or a facilitator are ill-prepared for a forum.” Examples of this include participants not knowing what to expect or expressing concerns that are not directly related to the issue. It was suggested that a facilitator be aware of who will be attending the forum and have a seating plan prepared. One individual indicated that problems arise “when a facilitator wants control, rather than acting as a referee.”

Several interviewees identified unwillingness on the part of an impacted community to attend a forum as a potential difficulty. Two individuals stated that the

arrival of unexpected participants moments before or during a CJF can be problematic. The example was provided of a forum in which a parent who had initially refused participation showed up as the CJF began and proceeded to disrupt the process. One individual, however, felt that unexpected participants are not necessarily a problem.

Several interviewees identified a challenge to the CJF process as a lack of remorse shown by an offender. As put by one individual, "Difficulty is raised when an offender does not accept responsibility or minimizes their behavior." Interviewees indicated that a consequence needs to be meaningful rather than punitive. Difficulties may arise, then, when a victim has a retributive attitude or desires unrealistic consequences.

***4. Have you ever considered the possibility of a CJF with intellectually disabled offenders? Do you suspect that forums could be used with this population in the same way that they are used with non-intellectually disabled individuals? What might the adaptations be?***

Four of the individuals interviewed had considered the possibility of forums with the intellectually disabled population, two had not. To varying degrees, all felt that forums would need to be adapted to some extent if used with this population. Many adaptations were recommended. Several interviewees suggested that flexibility and facilitator familiarity with intellectually disabled individuals would be necessary. One interviewee indicated that, "A facilitator might need to help an offender understand why what they did was wrong." Another individual stated, "If the offender was incapable of demonstrating any form of regret it would be frustrating." The suggestion by this person

was that the preparation stage include helping an individual understand the link between action and consequence through a pictorial sequence, and then do forum role plays to further prepare them for the process.

An interviewee indicated that “the process might be frustrating for non-intellectually disabled participants.” It was suggested that forum participants unfamiliar with the population would require education regarding their unique needs and characteristics. One individual cautioned that a non-intellectually disabled victim might feel relegated to the background due to the extra attention provided to the offender with a disability.

Several interviewees indicated that the language in the forum script would need to be simplified and some suggested utilizing visual tools. It was felt by two individuals that determining consequences would require a great deal of creativity. One person interviewed stated, “If an intellectually disabled offender was able to accept full responsibility for an incident, learning from the process might assist in their behavior change.”

***5. Do you think this is an important area to explore? Why?***

All individuals interviewed stated that the use of CJFs with the intellectually disabled population is an important area to explore. One interviewee suggested that “the court process can be very damaging and has not been effective at integrating or validating people, especially people with intellectual disabilities.” According to one individual, “The CJF process offers people dignity, accountability, learning, and problem solving.” An interviewee stated that if people are not challenged on their behavior they will not

change. In addition, it was pointed out that many people with an intellectual disability have a sense of empathy and would gain much from this process. All people should have the option of participating in a CJF.

### **Component Two**

*November 15 – 30, 2003*  
Analysis of Data & Adaptations to CJF Model

#### **Analysis of Data & Adaptations to CJF Model**

Component two of the practicum involved analysis of data and the development of adaptations to the current community justice forum model. Upon attaining information and experience through facilitator training, forum observation and co-facilitation, and interviews with service providers, the student considered the adaptations necessary for effective use of community justice forums with the intellectually disabled population. A model was prepared for implementation with the population, as explained below. Figure 1 compares the general CJF procedure to the adapted CJF procedure for offenders with intellectual disabilities.

Several adaptations are required in the area of CJF preparation work. As outlined in the literature review, the general preparation process for a CJF involves contacting an offender and victim to explain the forum process, obtaining their consent for involvement, determining support persons they wish to have present, preparing those individuals for the forum, and finally, scheduling a date and venue. In many cases, participants are met with only once, and support persons contacted by phone.

Participants are informed of the questions they will be asked as a part of the script and asked to give their answers some thought prior to the forum.

As individuals with intellectual disabilities struggle with communication and cognitive tasks, the forum preparation process must be broadened. The informed consent procedure requires a great deal of caution to ensure that participants with intellectual disabilities understand the process and make a personal decision to participate rather than attempting to please those in authority. The use of appropriate interviewing skills, the presence of client-identified support persons during meetings, and pictorial rather than literary descriptions of the process may assist in this pursuit. It may be helpful to refer to a community justice forum as simply a meeting, as this is a term that the population will be more familiar with. If the participant has a substitute decision maker, his or her permission and participation may be sought throughout the process. Thorough preparation will require perhaps several in-person meetings with participants with intellectual disabilities as they determine their responses to scripted questions. Participants may further benefit from a CJF role play prior to the actual event.

Typically, victims and offenders are asked to identify persons that are important to them whom they wish to have present at the forum. A further adaptation with this population will be increased sensitivity to the participant group invited to a forum. There may be a tendency for individuals with intellectual disabilities to invite professionals, because of their life experiences in the social services, rather than the truly affected community. Individuals attending in a supportive role may require education regarding the intellectually disabled population. Others will simply need to know their role in the CJF. Though the literature indicates that the presence of many support persons may

contribute to a more successful forum, an adaptation with this population will be sensitivity to what group size the intellectually disabled participant is able to effectively cope with.

Numerous adaptations are necessary for the implementation of a forum. It is critical that a facilitator have experience with the intellectually disabled population to better address their communicative issues. Due to the unique needs of the population, unexpected participants who arrive moments prior to a forum will likely not be welcomed to join the group, as they might be with the general population. As individuals in this population tend to have a short attention span, it may be helpful to schedule a break during the forum, enabling participants to return with renewed energy and focus. Normally, a break is not provided, as a forum is generally completed within one to two hours.

Clearly, the CJF script requires simplification. This includes reducing the language level to concrete terms, posing questions one at a time, and regularly determining if participants with intellectual disabilities understand what has been asked or discussed. Typically, a community justice forum focuses on repairing the harm of a specific incident. It is anticipated that the experience of a forum will positively influence an offender's future behavior. Due to the fact that individuals with intellectual disabilities struggle in adaptive skill areas and may have difficulty with generalization of learning, addressing a specific incident and invoking shame in an offender through the current CJF model may not be enough to prevent future episodes of a similar nature. Though it is helpful to examine the impacts of a specific incident, the broader issue of future success in the community must be considered. Upon determining an agreement to

address the incident that resulted in a forum, a script adaptation will be to acknowledge the offender's cognitive struggles and brainstorm ideas to assist that person in making positive future choices. Sensitivity to victim needs will be necessary during this period of focus on the offender.

Generally, the agreement phase of a forum entails a fairly informal dialogue. An agreement form is completed and monitors assigned. Though some facilitators practice follow-up with participants to determine satisfaction, this is not a normal practice. With the intellectually disabled population, adaptations to the forum process include drawing on a flip chart to assist participants in following the reparation brain-storming process, and the use of a simplified agreement form (see Appendix H/I for a revised CJF script/agreement form).

Post CJF adaptations include an increased level of agreement monitoring and a thorough debriefing process with intellectually disabled participants. The use of community justice forums with individuals with intellectual disabilities will require a great deal of flexibility as needs and abilities of the population are wide-ranging.

Figure 1: Community Justice Forum Procedures Chart

<b>CJF Procedure for General Population</b>	<b>Adapted CJF Procedure for Offenders with Intellectual Disabilities</b>
A facilitator contacts an offender and a victim (usually by phone) to explain the process of a CJF and determine interest in participation.	An informed consent decision making tree is utilized to determine the ability of an intellectually disabled offender and victim to provide informed consent regarding participation in a CJF. This involves consultation with a substitute decision maker (if applicable) and various professionals familiar with the individual, as well as consideration of prior court proceedings involving the participant.



	<p>The facilitator meets with the offender in the presence of his or her identified key support person for the purpose of explaining the process of a CJF and obtaining informed consent for participation. A visual guide is used to assist in explanation.</p> <p>The facilitator holds a similar meeting with the victim (in the presence of a support person if intellectually disabled).</p>
<p>The victim and offender are asked to identify who has been affected by the incident and who should attend as support.</p> <p>There is no limit to the number of participants who may attend. A greater number of participants increases the likelihood that an offender will gain an understanding of the impact of the incident.</p>	<p>The victim and offender are asked to identify who has been affected by the incident and who should attend as support. Intellectually disabled participants are encouraged to include informal supports rather than only professional contacts.</p> <p>Sensitivity is given to what group size the intellectually disabled participant(s) is able to effectively cope with.</p>
<p>The facilitator contacts all potential participants (usually by phone) to explain the process of a CJF, why they should attend, and what they can expect.</p>	<p>The facilitator meets with all potential participants to explain the process of a CJF, why they should attend, and what they can expect. If needed, education is provided regarding the intellectually disabled population.</p>
<p>The facilitator contacts all participants to inform them of the CJF date, time, and venue. A seating plan is prepared.</p>	<p>The facilitator contacts all participants to inform them of the CJF date, time, and venue. A seating plan is prepared.</p> <p>Several days prior to the forum the offender and the victim (if intellectually disabled) are each met with by the facilitator in the presence of their key support persons for further preparation. The facilitator provides an opportunity to practice responses through a CJF role play.</p> <p>The offender and the victim (if intellectually disabled) are assisted by support persons in further rehearsing responses prior to the forum.</p>

Unexpected participants or latecomers to the CJF may be welcomed to join the forum depending on the situation.	Unexpected participants are generally not welcomed to join the forum due to the unique needs of the intellectually disabled population.
The facilitator follows a forum script that provides an opportunity for all participants to speak to the impacts of an incident.	The facilitator follows a simplified forum script that provides an opportunity for all participants to speak to the impacts of an incident. The script includes a break at the half-way point and the addition of a section inviting participants to assist the offender in brainstorming ideas for future success.
An agreement is formed through a group brain-storming process. Details are written on an agreement form.	An agreement is formed through a group brainstorming process. The co-facilitator draws or writes ideas on a flip chart as they are presented to assist participants in following the process. Details are written on a simple agreement form.
The agreement is monitored by CJF participants who contact the facilitator upon its completion. Participants are informed of the agreement result by the facilitator.	The agreement is monitored by CJF participants who maintain regular contact with the facilitator. All intellectually disabled participants undergo a process of CJF debriefing with the facilitator within a week of the forum. Participants are informed of the agreement result by the facilitator.

### **Component Three**

*December 1, 2003 – March 5, 2004*

Case Recruitment and Preparation Work  
 Implementation of Community Justice Forum Model  
 Follow-up Participant Interviews

#### **Case Recruitment and Preparation Work**

The first step to implementing an adapted community justice forum model was gaining access to appropriate cases. As the practicum began, coordinators of the various programs at Opportunities for Independence and New Directions were sent a project

briefing (Appendix J) and requested to consider with their clients the process of a forum should an appropriate situation arise. As suitable cases were referred to the student, a specific procedure was followed.

The first step taken by the student upon notification of a case was to speak with the relevant program coordinator regarding details of the incident to ensure that the situation met practicum inclusion criteria. The student then began a process of informed consent pertaining to the intellectually disabled offender. An informed consent decision making tree (Appendix K) assisted the student in determining the ability of an intellectually disabled individual to give informed consent. The information needed for this process was provided by the referring program coordinator.

The decision making tree began by asking if the individual has a substitute decision maker. According to The Vulnerable Persons Living with a Mental Disability Act (Manitoba Family Services and Housing), a substitute decision maker is an individual legally appointed by the Vulnerable Person's Commissioner to make decisions for a vulnerable person who is unable to make certain decisions for him or herself. Family members, friends, or others willing to act in this capacity may be appointed. If no one is available, the Public Trustee will be appointed as substitute decision maker.

If the client had a substitute decision maker, the student determined what powers had been granted to that individual. According to the Act (Manitoba Family Services and Housing), powers that may be granted have been divided into the areas of personal care and property. Personal care powers include decisions regarding the vulnerable person's living arrangements, health care, work, daily living, participation in educational or life skills training, and participation in social or recreational activities. Property powers

include the ability to purchase or sell the individual's personal belongings, deposit or invest money, pay bills, and apply for any benefits for which the vulnerable person may be eligible.

If an individual had a substitute decision maker that had been granted power in the area of property alone, the student proceeded to question two. If an individual had a substitute decision maker that had been granted power in the area of personal care, that substitute decision maker was consulted with in the process of informed consent. The student consulted with the substitute decision maker to determine the appropriateness of the community justice forum procedure and the individual's ability to provide informed consent. If the individual was considered competent to provide informed consent and permission was granted by the substitute decision maker, the student proceeded to question two. If the individual was considered incompetent to give informed consent and permission was not granted by the substitute decision maker, the case was no longer considered for intervention.

If the individual did not have a substitute decision maker, the student proceeded to question two. Question two on the decision making tree asked if the individual had been tried in a court of law for a previous offence. If the answer was no, the student proceeded to question three. If the answer was yes, the student determined what the court outcome was. If the defendant had been found guilty or not guilty, it was clear that the individual had been considered competent to instruct council and the student proceeded to question three. If the individual was found not criminally responsible, the case was no longer considered for intervention as it could be reasonably assumed that the individual was not competent to provide informed consent. It is important to note that this question did not

require information regarding the nature of the offence or the period of time in which it occurred, thereby respecting confidentiality. While questions one and three on the decision making tree involved the potentially subjective opinions of a substitute decision maker or Family Services Worker/Mental Health Worker, question two was beneficial to the informed consent process as it involved objective, historical fact.

Question three on the decision making tree asked if the individual's Manitoba Family Services worker or Community Mental Health worker believed that he or she had the ability to give informed consent. The student consulted with the relevant worker to determine the answer to this question. If the response was positive, the researcher proceeded to question four. If the response was negative, the case was no longer considered for intervention.

The final question on the decision making tree asked if the individual understood and signed the informed consent agreement (Appendix L). This entailed the student meeting with the intellectually disabled individual (in the presence of the relevant program coordinator or a support worker) and thoroughly explaining the process of a community justice forum (see Appendix M for an explanation script). If needed, a visual tool was also used at this time (Appendix N). The student verbally went over the research consent form with the individual and answered any questions he or she had. In cases of substitute decision maker involvement, their signature was also required on this form. If the individual signed the agreement, the student proceeded with the intervention. If the individual chose not to sign, the case was no longer considered for intervention. Once the offender agreed to participate in a community justice forum, they were asked to identify support persons they would like present at the forum. At this time, the offender

was encouraged to invite a wide variety of supporters, including family, staff, peers, and culturally relevant individuals. Possible forum dates were then discussed.

The next step in the process focused on the victim of the incident. Should the victim be intellectually disabled, the informed consent decision making tree was utilized once again, and the forum process was explained in a similar way. If the victim was non-intellectually disabled, the student met with him or her to explain the process of a forum, determine their interest, and provide a research consent form to read and sign. If the victim was willing to participate, he or she was asked to identify support persons that could be invited to the forum. Possible forum dates were then discussed.

Upon verifying the forum attendance of both the offender and victim of an incident, the student contacted one of three potential co-facilitators to determine their availability for assisting with the CJF. Once a co-facilitator was determined, the case was discussed with him or her and several possible forum dates were identified.

The next step for the student was to invite all victim/offender identified support people to the forum. In most cases, the student met personally with these individuals to explain the process of a CJF and to outline the expectations of their involvement. In some cases, this contact was made over the telephone. Informed consent was obtained from participants and possible forum dates were discussed. If necessary, participants were informed of specific needs and characteristics of the intellectually disabled individual(s) who would be a part of the forum.

At this point, the student ensured that a space would be available in which to hold the forum and a date was determined based on all participants' schedules. Participants were then contacted by the student and informed of the CJF date, time, and location. The

student made arrangements at this time for the intellectually disabled participants to be provided with transportation to the forum by key supporters. A seating plan was then arranged based on the expected forum participants (Appendix A).

Several days prior to the forum, the student met with the offender and one identified support person to further explain the process of a CJF. The student informed the offender of specific questions he would be asked as part of the script and allowed for practice responses through a role play. The offender was provided with a seating plan and given the opportunity to ask questions about the process. A similar meeting was held with the victim of the incident, ensuring the presence of a support person if the victim had an intellectual disability. The support person was asked to assist the intellectually disabled participant in rehearsing their responses prior to the forum date.

### **Implementation of Community Justice Forum Model**

Community justice forums took place at one of three locations: Opportunities for Independence, Mediation Services, and Headingley Correctional Centre. Immediately prior to each forum, the victim and offender groups were met with separately by the student to determine if there were any final questions. The forum was then held using the adapted script as outlined in component two (Appendix H). Adaptations included the use of simpler language, and regularly ensuring that individuals understood what was being asked. A five minute break was also held at approximately the half-way point of the forum, prior to the agreement stage.

The co-facilitator held the role of note-taker throughout the forum. During the reparation brain-storming phase, the co-facilitator wrote or drew pictures on a flip chart

to represent participants' ideas. This assisted participants, particularly those with intellectual disabilities, in understanding the process. The agreement phase included assigning monitors to the various tasks the offender agreed to complete. Upon determining an agreement, the group was then guided into a discussion regarding how to assist the offender in obtaining future success. The facilitator then completed a written agreement form (Appendix I) for key participants to sign while the group had refreshments.

Following the forum, participants were asked to complete participant feedback forms (Appendix O). This scaled form was designed to obtain immediate feedback from participants regarding various aspects of the forum process, including preparation, design, the agreement reached, and facilitator skill. Key support persons were asked to assist participants with intellectual disabilities in completing these forms.

Following the forum, the student debriefed with the co-facilitator. This time of discussion served to identify areas of success and difficulty. All suggestions made regarding the process or the student's performance were noted.

### **Follow-up Participant Interviews**

A goal of the practicum was to examine the efficacy of community justice forums with intellectually disabled offenders as indicated by victim/offender satisfaction and offender compliance with restitution. It was therefore necessary to conduct follow-up interviews with the victim, the offender, and support persons from each forum facilitated during the practicum. The student contacted these participants within a week of the forum to determine their level of satisfaction with various aspects of the process (see



Appendix P for an interview guide). In most cases, all participants were interviewed. To determine the offender's level of compliance with restitution, the student maintained contact with the various agreement monitors. Upon the offender's completion of the agreement, all participants were informed by the student.

## CHAPTER FOUR

### COMMUNITY JUSTICE FORUM CASES

The following section will outline the details of the four community justice forums facilitated by the student for the practicum. For each case, a description of the incident, preparation work, the forum itself, participant feedback forms, follow-up interviews, and student reflection will be included. All names are fictional to protect the identities of those involved.

#### Case One *Mark*

##### **Description of Incident**

On Monday, December 1<sup>st</sup>, 2003, at the offices of Opportunities for Independence, case management placed envelopes into two staff mailboxes. One of the envelopes contained two cheques for two clients, totaling \$2010, as well as information regarding these clients. The other envelope contained only information regarding one of these clients and how his cheque was to be utilized. The staff were called and agreed to pick up the envelopes the next day. On Wednesday, one of the staff contacted case management and stated that the envelopes had not been in the mailboxes as arranged when he had come to pick them up on Tuesday. Case management and the staff went to the mailbox area to look for the envelopes. The envelope containing only client information was found behind a stack of papers in another mailbox. The envelope had been opened, but the contents had not been taken. The second envelope was found

behind the photocopier in the same room. All contents, including the cheques, were missing. Case management and the staff member examined all mailboxes to ensure that the envelope contents had not been placed there. At this point, program management was made aware of the situation. It was made known to agency clients, many of whom were currently attending the day program located in the building, that two cheques had been stolen and that police would be brought in for fingerprinting. Within several minutes, a client by the name of Mark suggested he might be able to assist in the search. He immediately found the missing cheques. The next morning, as he was being thanked for recovering the cheques, the client admitted to opening both envelopes, and hiding the contents of one. The offender in this case was diagnosed with an intellectual disability due to a low IQ score and difficulties in adaptive functioning.

### **Preparation Work**

On the day of the client's confession, the student spoke with the executive director of Opportunities for Independence regarding the incident and was encouraged to pursue the possibility of a community justice forum. The Vulnerable Person's Coordinator from the Winnipeg City Police was consulted as the incident involved the theft of cheques for a large sum of money. The student was encouraged by the constable to deal with the incident through a community justice forum. The student also contacted a co-facilitator at this time to discuss the appropriateness of a forum for the situation. The client's program coordinator was then consulted to further discuss the incident and begin the process of informed consent.

These initial discussions included an exploration of identifying who was

victimized as a result of the incident. Though envelopes addressed to staff persons had been taken and opened by the client, the contents of the mail included client information and cheques for client use, rather than items personal to the staff members. As the cheques were recovered quickly, the two clients had not been made aware of the theft and had not experienced any difficulty as a result of it. For these clients to play the role of victims, then, they would need to be informed of the incident after the fact and speak superficially to their feelings about the theft during a forum. It was felt that this would create undue anxiety for the clients and would not be particularly helpful for the offender. It was determined that the two staff members would be able to speak to the violation of having their mail stolen as well as the potential hardships for their clients had the cheques not been recovered. The staff were therefore identified as the victims in this incident.

Question one on the informed consent decision making tree (Appendix K) involved determining if and how a substitute decision maker was involved in a client's life. As the client was involved with a public trustee who had been granted powers in the areas of personal care and property, the first step was to consult with this individual. The public trustee indicated that a CJF was an appropriate response and that Mark would be capable of providing informed consent. The public trustee requested that the Manitoba Family Services worker be in attendance at the forum. A research consent form was signed by the public trustee (Appendix L).

Regarding question two on the informed consent decision making tree, the program coordinator informed the student that the client had previously been tried in a court of law and was found guilty, rather than not criminally responsible. This allowed the student to move on to question three, which involved consulting with the client's

Manitoba Family Services worker. The worker felt that the process was appropriate for Mark and that he had the ability to provide informed consent. The family services worker was informed at this time of the public trustee's request that he attend the forum. The worker agreed that he would be in attendance.

Finally, the student and relevant program coordinator met with the client to determine his interest in participating in a CJF. Using the explanation script (Appendix M) and visual guide (Appendix N), the process of a forum was explained to Mark. Throughout this explanation, the forum was generally referred to as a meeting, a term the client was familiar with. The visual guide appeared to enhance his understanding of the process. The student explained to the offender that should he chose not to participate in a CJF, the incident would then be dealt with by other means (e.g., police involvement). Initially, Mark expressed some hesitation regarding participating in a CJF. When it was explained to the client that a forum would allow him to participate in determining the consequences for his actions, he quickly chose the CJF option. The student then verbally outlined the research consent form with Mark, asking regularly if he understood. The risks of participating in a CJF, such as the stress involved in facing the staff whose mail he had stolen, were emphasized to the client. It was made clear to the client that a forum was not considered an "easy out" and that it would be a difficult meeting. He signed the research consent form.

The client was informed that several people would need to be in attendance at the forum, including his family services worker, the two staff members, victim support people, the co-facilitator, and the student. Mark was asked to indicate who he wished to have present at the forum as his support. At this time, he was encouraged by the student

to consider a variety of individuals, including family, peers, and staff. The client indicated that the incident was "private" and that he wished to keep the forum numbers small. Mark was not interested in involving his family or peers, choosing instead to invite two agency staff members who he worked with on a daily basis. Possible forum dates were then discussed with the client.

The student then contacted the two staff members whose mail had been taken by the client. The student met with both staff at one time to explain the process of a forum and determine their interest in participating. During this explanation, the student outlined the benefits to victims and offenders of participating in a CJF. Both staff indicated to the student at this time that they did not feel particularly harmed by the incident. One of the staff stated that he had already spoken to the client about the incident and the client had apologized to him. Both staff indicated, however, that though they did not need the process of a forum for their own healing and closure, they were willing to participate if the process would be of benefit to the client's learning. The staff signed research consent forms and were informed of scripted questions they would be asked during the forum. Staff were given the opportunity to rehearse their answers and asked to identify any support people they wished to have present at the forum. One of the staff suggested that a previous support worker for the client be invited to the forum as he could be of assistance in holding the offender accountable. Both staff indicated that they did not require victim supporters. As the two individuals work for Opportunities for Independence, education regarding the intellectually disabled population was not deemed necessary. Possible forum dates were then discussed.

As the offender and victims had now indicated their willingness to attend a forum,

the student contacted the co-facilitator to identify the forum date, time, and venue based on the schedules of the key participants. It was determined that the forum would occur on December 19<sup>th</sup> at 8:45 a.m. in the Opportunities for Independence board room.

The student met with each of the identified support persons. The student provided an explanation of the forum process and provided research consent forms to read and sign. It was important during this preparation stage to inform the support persons of questions they would be asked during the forum and provide an opportunity for them to rehearse. It was emphasized that their role would be to provide support while holding the offender accountable. Support persons were asked to be sensitive to the fact that Mark could incorrectly view the CJF as a punishment rather than a healing process. As all support persons were trained employees of the agency, education regarding the intellectually disabled population was once again deemed unnecessary. All participants were informed of the forum date, time, and venue at these meetings. It was discovered during this process that the Manitoba Family Services worker would not be able to attend due to scheduling conflicts. The worker contacted the public trustee to request that the forum go ahead without him, and permission was granted. A total of eight persons, including the two facilitators, would be attending the forum.

Arrangements were made by the student to meet with the offender and his key support person for a second meeting. At this point, the offender was shown a completed forum seating plan (see Appendix A for an outline), and provided the opportunity to do a forum role play. The student outlined the forum process, including the scripted questions the client and others would be asked. Throughout this meeting, the client was resistant to rehearse these answers. He required some prompting from the support person in the

retelling of the incident and had difficulty speaking to possible reparation. He was able, however, to express remorse, as well as identify and convey empathy for those who had been affected by his actions. The client felt that a formal apology was necessary as many individuals were likely angry and had lost trust in him. The client also stated that the incident had been meant as a joke. As this meeting was held one week prior to the scheduled forum date, the support person was asked to use the days leading up to the forum to assist the client in rehearsing his answers and brainstorming reparation ideas. The support person was also informed that he would be asked to assist the client during the forum if similar difficulty with communication occurred. It was felt by the student that this level of prompting during a forum would not be appropriate coming from the facilitator. Not only might it jeopardize the neutrality of the facilitator role, but the focus on the offender by the facilitator could also serve to alienate a victim.

Two days before the forum the student met with the co-facilitator to finalize details regarding the process. The student provided the co-facilitator with a seating plan and a copy of the adapted script that would be used. At this time it was determined that as the client was illiterate, the co-facilitator would draw simple sketches on a flip chart during the agreement phase to represent people's ideas. The co-facilitator and the student agreed to debrief immediately after the forum.

### **The Forum**

On Friday, December 19<sup>th</sup>, 2003, the student and the co-facilitator arrived at the forum site approximately half an hour prior to start time to arrange the meeting room. Chairs and a flip chart were positioned according to the seating plan, a "do not disturb"



sign was placed on the door, refreshments were prepared, facial tissues and pens were made available, and sufficient copies of the agreement and participant feedback forms were organized. At 8:30 a.m., the client arrived alone and was seated in the forum room. He was given the opportunity to ask any final questions and reminded of where other participants would be seated in the room. At this time, Mark appeared confident and relaxed and identified no concerns regarding the process. Shortly thereafter, one of the victims and a support person arrived. They stated at this time that the other victim and the client's key support person were sick and would not be able to attend the forum. It was decided by the student and co-facilitator that the forum would need to be rescheduled, as the omission of two participants from this already small group was significant. The student felt that the client's key support person had a major role to play in assisting him with communication during the forum, and the victim's presence was necessary to speak to the harm of the incident. Success would be significantly jeopardized without the presence of these individuals.

It was determined with the participants present that the forum would be rescheduled for Monday, December 29<sup>th</sup>, 2003 at 3:00 p.m. in the Opportunities for Independence board room. This time was later confirmed with participants who were not present. Once again, scheduling conflicts existed for the family services worker who indicated that the forum could occur without him. When the student contacted the client's key support person, he was asked to continue assisting the offender for the next week in rehearsing his responses to the forum questions.

On Monday, December 29<sup>th</sup>, 2003, the student and co-facilitator prepared the forum room approximately half an hour before the start time. The client and his key

support person arrived at 2:30 p.m. and waited in a nearby room. When the student asked Mark if he had any questions about the process he became agitated and stated, "I want to get this thing over with." Support persons arrived and were seated in the forum room. Both victims arrived late for the forum. Upon the arrival of the first victim at 3:10 p.m., the forum began.

The student began the forum with a brief introduction during which the focus of the CJF was stated, participants were reminded of confidentiality, and the group was asked to indicate to the student if a break was needed at any point. A break was not built into this forum as the group was small and it was estimated that the forum would not take longer than one hour. The offender was asked to begin by telling the group about the incident. He had very little to say at this time. The student prompted Mark several times and then asked his key supporter to help the client describe the incident. This served to take the focus from the student back to the group. It is important to note that the support person made every effort to assist the offender in the telling of the story by asking him questions, rather than speaking on his behalf. When the offender was asked by the student what he had thought about at the time of the incident, he indicated that he thought "people would be mad", rather than stating that it had been intended as a joke as he had at the preparation meeting. When the student asked the offender who had been affected by his actions, he was quick to point out the two staff members, but failed to mention the clients whose cheques were taken, as he had in preparation meetings. During preparation meetings Mark had referred to the impact of broken trust. Throughout the meeting, however, he spoke only of the anger staff must feel towards him. The client was able to state that he felt very badly about what had happened.

Following the forum script, the student went on to question the victim who was present. When asked to explain how the incident had affected him, the staff member spoke of the inconvenience involved in driving to the office to pick up mail that was no longer there, the violation of having his mail opened, and the difficulty caused in being unable to utilize the cheque when it was needed. The victim also stated that he felt personally disappointed in Mark.

The three support people present were then asked to speak to the incident. All expressed disappointment in the client and felt that the incident represented a breach of trust. A consequence of the incident for the offender had been the need for increased supervision, and decreased freedom while at the Opportunities offices.

As individuals shared, it was clear that the offender was becoming increasingly agitated. Throughout this process, the client's body language was quite revealing. He sat slumped in his chair with his arms crossed and a scowl on his face. Throughout the meeting, Mark leaned his head against the wall behind him and closed his eyes. When the offender was asked for his response having heard from the group, he stated, "I don't feel anything." From this point forward, Mark remained uncooperative.

The group then entered into the agreement phase of the forum. During this stage, the co-facilitator drew sketches on a flip chart to represent the ideas mentioned. Suggestions for reparation included extra chores around the client's residence or the office, missing work, and minimizing cigarette breaks and coffee outings. A support person reminded the group that the consequence placed on the offender should not create a hardship for the staff who work with him. When the offender was asked by the student what he felt he could do to repair the harm, he stated, "nothing." At this point the student

asked Mark if he understood what was being discussed. He stated that he did. When offered, Mark indicated that he did not need a break. The student then reminded the offender that if he chose not to cooperate with the group's agreement the matter would need to be dealt with by another means. The client was reminded that the CJF option allowed for his participation in determining his reparation while alternate options would not.

At this point in the forum, the other victim entered the room. The victim was informed by the student that the group was currently discussing possible reparation. The victim was invited, however, to speak to impacts of the incident. The staff member spoke of the violation of having her mail opened and the potential impacts on the clients had the cheques not been recovered.

After being encouraged by several support persons, the offender accepted the following agreement. He would arrive at the Opportunities for Independence day program every morning and complete approximately half an hour of janitorial duties as assigned by one of the staff present at the forum. Mark's key support worker would supervise the process. The client would not leave for his regular job until these duties were completed. This would occur from Monday to Friday for a two week period beginning January 5<sup>th</sup>, 2004. It was determined that the staff member assigning the chores would keep an attendance record and inform the student of any problems. It was felt by the group that this agreement would address the need to rebuild trust in the client within the office environment while not removing positive aspects of the client's life, such as his work. After the agreement form (Appendix I) had been completed by the student and co-facilitator, the client was asked to sign the document. Mark refused,

stating, "Doing the chores is enough. I'm not going to sign something too." The student explained to the client that signing the document indicated that it was a promise. The student informed the offender that he could take several days to think about whether or not he wanted to sign the agreement form.

Immediately following the forum, group members were asked to complete participant feedback forms (Appendix O). The client refused to take part in this process. Participants were informed that they would be contacted by the student within several days to obtain further feedback regarding the process. Refreshments were then served to the group.

The day following the forum, the student contacted the co-facilitator to debrief the CJF. The co-facilitator agreed that the length of time between the incident and the forum had contributed to difficulties with the client. It was suggested that the offender likely felt "ganged up on" as all the participants were staff of the agency. The co-facilitator indicated that the student had effectively utilized Mark's key worker in the re-telling of the offence. It was also felt that the use of a flip chart and drawing was valuable to the reparation stage.

On Monday, January 5<sup>th</sup>, 2004, the offender began his agreement. He chose to sign the agreement form at this time. Throughout the two week period, the staff in charge reported to the student that the client's attitude was positive and that he worked hard. He successfully completed the agreement on Friday, January 16<sup>th</sup>, 2004. A letter was sent to the client's family services worker and public trustee to inform them of this outcome. The client's program coordinator was also informed of the forum process and outcome.

### **Participant Feedback Forms**

As the offender chose not to complete a participant feedback form, five forms were returned to the student. All participants strongly agreed or agreed with the following statements: "I am pleased that I participated in this meeting," "I felt prepared for the meeting," "I listened carefully when others were speaking," "Kimberly helped the meeting go smoothly," "I feel that my opinion was valued as we discussed an appropriate consequence," "I am pleased with the agreement reached," "The length of the meeting felt appropriate," "I feel that this process is fair," and "I would participate in this type of meeting again if I had the chance."

All participants disagreed or strongly disagreed with the statements, "I was not given enough opportunity to speak during the meeting," "I was confused about the different parts of the meeting," and "Kimberly took sides during the meeting." While three participants strongly agreed or agreed with the statement, "When I spoke, I felt listened to and respected," two participants indicated a neutral response. One individual wrote a comment that the forum might have had more impact had it occurred sooner after the incident.

The participant feedback forms indicated to the student that the preparation process had been effective. Participants agreed that they were prepared for the meeting, were able to say what they needed to, and were not confused by the process. The forms also indicated that participants felt the student was a competent facilitator who had maintained neutrality throughout the process. It can be speculated that the neutral responses in regards to feeling respected can be attributed to the client's lack of cooperation. Finally, participant feedback forms indicated satisfaction with the

agreement process and interest in further participation in forums should the opportunity arise.

### **Follow-up Interviews**

The student interviewed four CJF participants. These included the offender, one of the victims, the key support person for the offender, and a second support person. The second victim was not interviewed as her participation in the forum had been minimal due to her late arrival. Individual interviews occurred on January 8<sup>th</sup> and 9<sup>th</sup> at the offices of Opportunities for Independence, a restaurant, and over the phone (see Appendix P for victim, offender, and support person satisfaction interview guide).

Interviews began with support persons on January 8<sup>th</sup> at Opportunities for Independence. The two support persons were asked about their expectations for the forum. One individual had expected the CJF to be a positive alternative to the typical staff response to Mark's inappropriate behavior. The other support person had expected the client to be difficult and aloof. Both stated their expectations had been met. The support persons indicated that they felt listened to and supported during the forum. One individual clarified, "I felt very respected by the staff who were there, but not by (Mark)." Both individuals felt they were provided adequate opportunity to express their feelings to the offender. A staff member added, "(Mark) could have expressed more." In regards to the forum process, the staff indicated that the components were clear and easy to follow.

The support persons were asked to comment on the appropriateness of the agreement reached. One individual noted that all participants had been involved in

discussing the potential consequence, which was, "much better than (Mark) and his main worker being told what the punishment will be and having to deal with it." The second staff member commented that determining an appropriate consequence for his client has historically been extremely challenging, as consequences seem to have little impact. He stated, "Chores around the office are a good reminder of the incident, and not too difficult because he likes doing that kind of thing." When asked about the effectiveness of the facilitator, one of the interviewees stated that the student had been understandable to the client and to the support people. In terms of overall feelings regarding the forum, a staff member made the statement, "If an individual isn't able to show remorse, this kind of thing shouldn't be done." Other than disappointment regarding the offender's lack of participation, neither one of the participants felt any aspect should have gone differently.

The student interviewed the victim over the phone on January 9<sup>th</sup>. In terms of expectations, the victim thought that reasonable consequences would be determined without the involvement of police. His expectations were met in this regard. The victim indicated that the time period between the incident and the forum, "probably dragged on too long for (Mark)." When asked if he felt listened to and supported during the forum, the staff indicated that his experience as a victim had been the focal point of the meeting. He went on to state that he had received adequate opportunity to convey the impact of the incident to the offender. The victim stated that the forum process was understandable and that he "liked the conversation part of the agreement phase." In regards to the agreement reached, the staff member felt that the people who work closely with the offender should have the most influence in determining the consequence. He felt that this had in fact occurred. When asked to comment on facilitator effectiveness, it was stated



that the student had been neutral and fair. The victim suggested that increased cooperation from the offender would have improved the forum.

The student interviewed the offender in the presence of his key support person on January 8<sup>th</sup>, at the halfway point of completing his agreement. Upon the student's arrival, the client was extremely agitated regarding an earlier situation with a staff member. The student suggested that the meeting be rescheduled, but within several minutes, Mark had calmed down and indicated the interview could begin. When asked how he felt about the meeting, the offender stated that it had not gone well as it had not been a good day for him. Mark went on to state that he was angry that the meeting had not occurred on the originally scheduled day. He felt that he "had to talk but didn't want to." When asked if he had said everything that he wanted to at the forum, Mark replied that he regretted not apologizing and felt he should have said that he would never do something like this again. He then requested that the student assist in writing a note of apology to the two victims as well as the executive director and program coordinator, which he dictated and signed. The offender indicated that the agreement reached was fair and that he had been faithfully completing his chores.

### **Student Reflection**

It is important to note that as the offence occurred within the agency, interactions took place between the offender and the victims prior to the forum. In fact, the offender had already apologized to one of the victims. Though the victim was satisfied with this response, it was felt by management in the agency (secondary victims) that the offender would benefit from a process of further accountability. As there was a long history of

petty offences followed by apologies by this client, all individuals consulted with (program coordinator, family services worker, public trustee, staff, victims) felt that behavior change would require an intentional process, such as a CJF.

The process of preparation work with the client was greatly benefited by the visual tools utilized. The CJF visual guide and seating plan diagram assisted in the offender's understanding of the process. The student noticed that the client's demeanor and attitude improved when shown these tools. He became more alert and engaged in the discussion, appeared less confused, and stated that he understood what he was being shown.

Clearly the forum would have been more successful had it occurred when initially planned, two and a half weeks after the incident. Due to the need for rescheduling, nearly one month passed between the date of the offence and the CJF. According to staff persons interviewed, the client had initially expressed excitement regarding the forum, but by the time it occurred he felt a sense of frustration. As the student had no control over this aspect of the forum process, the situation simply reinforces the need for timeliness when working with the intellectually disabled population.

A suggestion was made that the offender would likely have benefited from a forum location other than Opportunities for Independence. The student was made aware that the client harbors negative feelings towards the office space. It is important to explore the question of location with participants to ensure that the forum is held in a venue that all are comfortable with.

As discussed by the student and co-facilitator, the offender likely felt that the process was punishment as all participants were agency staff. Despite the fact that

participants exhibited a fine balance between accountability and support of the offender, he displayed an attitude of defensiveness and hostility. The offender's lack of cooperation throughout the forum was clearly a response to his feelings of vulnerability, loss of control, and isolation. It would seem that the offender did not feel supported. The agreement stage of a forum is a time for discussing how the harm will be repaired, thereby moving beyond the incident. As one of the victims entered during the reparation stage of the forum and spoke to the impacts of the incident, this journey towards healing and re-acceptance was interrupted, perhaps further alienating the offender.

There are several lessons in this situation for the student. Though the offender had been encouraged to invite supporters other than staff, he was not open to this suggestion. It is unknown how this may have affected his attitude and response to the forum. Mark may have felt less "ganged up on" had a non-agency representative, such as his Manitoba Family Services worker, been in attendance. Perhaps the client would have benefited from a slightly smaller group process. It was stated by several staff persons that this client simply has "off" days regardless of the circumstances. Perhaps the forum process with this population requires re-scheduling flexibility when it appears that the client does not intend to cooperate on a particular day. However, the process must also be sensitive to the needs of victims. As the victims in this case had stated that they did not require the process of a forum but would participate for the client's benefit, it may have been appropriate to reschedule the CJF once again.

The student was reminded from this forum process that an individual with an intellectual disability may not pick up on the subtle cues that a facilitator offers. Specifically, when speaking, an offender may attempt to maintain eye contact with the

facilitator rather than group members despite a facilitator's attempts to avoid that connection by looking down at the script or at other participants. It may be helpful to coach the offender during the preparation stage to look at the group participants rather than the facilitator when speaking. This is significant as a facilitator should not be seen as a member of the forum circle, but a neutral guide for it.

As discussed in the forum section, the offender in this case refused to sign the agreement until several days later. The client indicated that if he had to do chores, he wasn't also going to sign a form. Clearly, the rules of the forum made little sense to the offender at that time. It was important to allow for flexibility in this regard, as insisting on compliance would have created yet another power struggle, perhaps jeopardizing the verbal agreement that had already been formed.

**Case Two**  
***Henry***

**Description of Incident**

On Saturday, December 6<sup>th</sup>, 2003, a client of Opportunities for Independence was arrested and taken into custody due to breaches of his probation order. Despite his 11:00 p.m. curfew, the client, Henry, had left his apartment building during the night when a friend had invited him to his residence to drink alcohol. After several hours of alcohol consumption (a further violation of his order), Henry had refused to leave this residence and his friend called the police. When the police arrived, they arrested the client and he was taken to the Remand Center. From there, he was transferred to Headingley Correctional Centre.

The offender in this case was diagnosed with an intellectual disability due to a head injury. He was also diagnosed with fetal alcohol spectrum disorder.

**Preparation Work**

Several weeks after the arrest, discussions with Opportunities for Independence staff revealed the need for an accountability process with the client. Though he was still incarcerated with no set release date, it was felt that Henry did not truly understand the consequences of his choices. As the offender had been in and out of custody for many years, it was believed that a CJF would assist with this learning process and positively impact his future behavior. These initial discussions with the client's program coordinator and case manager once again included an exploration of identifying victims of the incident. As the breaches were a result of drinking alcohol and breaking curfew,

no one person had been victimized by his behavior. That said, individuals from the agency and community who had worked with this client had been impacted by his behavior and resulting incarceration. For example, staff from the agency who had spent months building a trusting, supportive relationship with Henry felt that much progress had now been lost. His mentors and peers at Alcoholics' Anonymous were disappointed that Henry had broken his sobriety. There was also the impact of the enormous costs of incarceration to consider.

As outlined in the literature review, McDonald et al (1995) identify three questions that must be answered affirmatively before deciding to run a conference. These include, "Has the offender admitted to the offence?", "Has the incident adversely affected or harmed anyone?", and "Is there a need to repair that harm?" In this case, all questions could be answered affirmatively. As outlined in the literature review, it may be useful to think in terms of those who have been adversely affected rather than victimized by an incident (RCMP, 1998). It was determined that a forum could be held with Henry, and the many individuals able to speak to the impacts of his behavior. As the student's adaptations to the forum process included a discussion of future success, the CJF could be helpful in developing a plan to assist the client upon his release. Rather than presenting the forum as an alternative to the criminal justice process, this CJF would have no impact on the client's time in custody but would hopefully aid in his learning process.

Question one on the informed consent decision making tree (Appendix K) involved determining if and how a substitute decision maker was involved in a client's life. It was determined that Henry did not have a substitute decision maker, allowing the student to proceed to question two. As the client was incarcerated, the criminal justice

system had found him guilty rather than not criminally responsible. Question three involved consulting with the client's Manitoba Family Services worker. The worker indicated that the process would be appropriate and felt that his client had the ability to provide informed consent.

The student met with the client at Headingley Correctional Centre on January 6<sup>th</sup>, 2004 to determine his interest in participating in a CJF. Though the student's guidelines had indicated this conversation would occur in the presence of the referring program coordinator, it was felt that the client's functioning level was high enough to permit a meeting without the coordinator's presence. Utilizing the explanation script (Appendix M), the process of a forum was outlined to Henry. As the client quickly demonstrated a satisfactory understanding of the process, it was determined by the student that the use of the visual guide (Appendix N) was not necessary. The student spoke of the forum as a meeting that would allow those affected by Henry's breach to speak to the impacts of his actions. It was also indicated that the forum would be an opportunity for the client to identify his goals and garner support. The student made it clear to the client that the forum would in no way impact his time of incarceration but would serve to make the transition back to the community less difficult when he was released.

The client expressed no hesitation regarding his participation in a CJF, stating, "That sounds like a real good idea." The client was able to respond appropriately to all CJF script questions asked by the student. When asked who he thought had been affected by his breach, Henry proceeded to identify approximately 15 people, including agency staff, probation workers, family members, and elders. Typically, the student would then have asked Henry to identify specific support persons to attend the forum. As all

individuals named as impacted by the breach were also identified by Henry as supports in his life, the student deemed this step unnecessary. Specific offender support persons were also not necessary due to the lack of an obvious victim.

The student then verbally outlined the research consent form (Appendix L), asking regularly if the client understood. The risks of participation were clearly outlined to the client and it was emphasized that the meeting would likely be emotionally difficult. The client was made aware that the student and a co-facilitator would need to be present to lead the meeting. Henry signed the research consent form. The client was informed that the student would require permission from prison authorities before a forum could occur, and this could take several days or weeks.

Two days later, the student contacted the client's unit manager at the correctional centre. The student outlined the process of a CJF and provided a project briefing (Appendix D). A meeting was arranged for the student and management to further discuss the process and options.

On January 13<sup>th</sup>, 2004, the student met with management at Headingley Correctional Centre. The process of a forum was thoroughly explained and potential learning opportunities for the offender outlined. The student also provided the list of prospective attendees. Management expressed support for the idea and indicated that the forum would need to be held on site. A meeting room at the correctional centre was offered as the venue. After some discussion, a prospective date of January 27<sup>th</sup> at 9:00 a.m. was selected and the room booked. Under normal circumstances, possible dates would be explored with all participants before selecting one. However, because of the need to accommodate the correctional centre, the date was selected at that time. As the



offender had requested the attendance of numerous individuals, the student felt confident that a sufficient number would be able to attend the forum on the chosen date.

The next step for the student was to contact a potential co-facilitator. The date was confirmed with the co-facilitator and the details of the case discussed. As the case did not fit typical forum guidelines, script modification pertaining to victim involvement was discussed. For example, forum participants would be referred to as impacted persons rather than victims and would be asked questions in a slightly different form. Instead of asking the question, "How has life been for you since this happened?" participants would be asked, "What do you think the impacts of this incident are?" The co-facilitator was requested to take the role of note-taker during the reparation brain-storming phase.

The student then began the task of contacting potential CJF participants. Approximately 23 people were contacted by the student through telephone or in person. A short time after the initial interview with Henry, he called the student and requested additional names be added to the list. Individuals contacted included staff from Opportunities for Independence, correctional and Probation Services staff, Aboriginal elders, Alcoholics' Anonymous sponsors, members of the Winnipeg City Police, family members, and the staff of various Aboriginal agencies. Phone calls with potential participants involved explaining the process of a forum and determining their interest in participating. Participants were informed of the potential benefits of a CJF, including a significant process of accountability for Henry. It was emphasized that the forum would also include a discussion regarding how to assist Henry in attaining future success in the community.

Responses to the idea of a CJF were varied. Many individuals felt a CJF would be effective in contributing to Henry's learning process. Several persons indicated a desire to broaden Henry's understanding of the impacts of his behavior. Others felt a sincere need to let the client know how they had been personally affected by his breach and incarceration. Members of the Winnipeg City Police, though initially interested, later declined participation stating there was little evidence to show that the CJF process would be successful with the population served by Opportunities for Independence. Others felt that Henry had been failed by the social services system and was himself a victim. It was suggested by one individual that Henry had received inadequate services because he was Aboriginal. It was emphasized to participants that the focus of the forum would be to hold Henry accountable for his actions, rather than laying blame on other people for inadequate support.

Of the individuals contacted, 15 indicated that they would attend the forum. It should be noted that some were unable to attend due to scheduling conflicts, but had expressed a desire to be there. One individual sent a letter to be read in her absence.

All participants read and signed research consent forms and were informed of scripted questions they would be asked during the forum. As all participants knew Henry, it was determined that education regarding the intellectually disabled population was unnecessary. The student created a seating plan for the forum upon confirmation of participation (Appendix A).

In the two weeks prior to the forum, the student spoke with Henry on three occasions to further prepare him for the process. Though the client had demonstrated an exceptional level of understanding at the initial meeting, he continued to have many

questions and maintained a fairly high level of anxiety regarding the process. As Henry was incarcerated during this period, he likely did not experience the same level of one on one support as he would have had in the community. Though correctional staff did speak regularly with Henry regarding the process, he might have had more opportunity to work through his anxiety had he been in a community setting receiving personal support on a daily basis.

During the conversations between the client and the student, Henry was informed of the seating plan and reminded of the questions he and others would be asked. The student detailed the forum process, providing Henry with the opportunity to rehearse his answers. Henry demonstrated the ability to provide consistent, thoughtful responses during these role plays, with minimal prompting required from the student. It was reiterated to the client in each conversation that the process was separate from the criminal justice system and would not affect his time in custody. After each of these conversations Henry demonstrated a reduced level of anxiety, stating that he clearly understood the process now and was looking forward to the forum.

As the forum was to occur at Headingley Correctional Centre, the process of visitor clearance needed to be arranged by the student. The student supplied the institution with a list of participants as well as the agencies they were representing. This list was utilized by the front office on the day of the forum to expedite the process of clearance.

Several days before the forum, the student was informed that Henry had requested the presence of another staff member from Headingley Correctional Centre. Permission was granted by the student. The student attempted to contact this individual to provide

information regarding the CJF, but was unsuccessful. One day prior to the forum, a participant requested that his colleague be invited. As the colleague did not know Henry and had therefore not been identified as a potential participant, permission was not granted for his attendance.

The last preparation step for the student was to ensure that all participants had transportation to the venue. Finally, the student and co-facilitator met to discuss the final details of the forum and what could be expected during the process.

### **The Forum**

On Tuesday, January 27<sup>th</sup>, 2004, the student and co-facilitator arrived at Headingley Correctional Centre approximately 15 minutes prior to the forum start time. The process of visitor clearance was efficient, as both the road office and front desk had a copy of the participant list. As the student was entering the facility, the participant arrived who had asked the day before that his colleague be invited. At this time, he requested permission once again that his colleague be included in the forum. It was reiterated to the participant that as the colleague did not know Henry, he had not been identified as being impacted by the incident, was not expected, and therefore was not welcome to join. As outlined by the student in component two, due to the unique needs of the intellectually disabled population, unexpected participants will generally not be welcomed to join the forum.

The student and co-facilitator were then escorted to the forum room. Henry had already been seated in the room at this time. Chairs were placed according to the seating plan, refreshments were prepared, and facial tissues, pens, and paperwork were

organized. The student spoke with Henry to ensure that he felt comfortable and had no remaining questions regarding the CJF. At this point, the client stated he felt slightly nervous but had no questions. Over the next 30 minutes, participants arrived and were seated in the forum room. In total, 15 individuals attended the CJF in addition to the client, student, and co-facilitator. One participant was unable to attend due to illness. One unexpected participant arrived with a group after the forum had started. It was indicated to the student that Henry had requested from his probation officer that an individual familiar with the Cree language attend the forum. To avoid further disruption of the forum, and to honor Henry's request, this participant was permitted to stay. As there was no clear victim group, it was deemed unnecessary by the student for participants and the offender to be separated until the forum began. By 9:20 a.m., several participants had not yet arrived, but it was decided by the student and co-facilitator that the forum should begin.

The student began the forum with a brief introduction during which the focus of the CJF was stated, participants were reminded of confidentiality, and the group was informed that a break would occur at the halfway point. The student introduced all participants and indicated their relationship to Henry. The client was then asked to begin by telling the group about the incident. Henry spoke in detail of what had happened and expressed his sadness in disappointing so many people. Throughout the offender's time of sharing, participants continued to enter the room. This disruption did not seem to bother Henry.

The student then proceeded to invite participants to speak to the impacts of the incident. Due to the large size of the group, participants were asked to keep their

comments relatively brief and focused on the student's questions. The three questions asked at this time were, "How did you find out about the breach?", "What did you think when you heard about it?", and "What do you think the impacts of this incident are?" Correctional centre staff were asked to comment only on the third question as their role would not have enabled them to hear of the breach prior to Henry's incarceration.

Participant responses to these questions were varied. Some individuals expressed disappointment in Henry and questioned why he had breached after doing well throughout the preceding five months. Several persons, despite the student's emphasis on the focus of the forum, concentrated on the system's failings rather than on holding Henry accountable. One individual stated that Henry's frustration as a result of not obtaining requested services drove him to drink alcohol. Another suggested that insensitivity by agencies to the client's cultural needs was to blame. One participant was able to bring focus back to the group when he stated that the view that "we have failed Henry" was not helpful. He went on to say that regardless of circumstances, Henry is responsible for the choices that he makes. Throughout this process of speaking to the impacts of Henry's actions, the student needed to regularly remind the group that there would be opportunity to discuss criteria for future success later in the forum. The student remained sensitive to the need for balance between natural group process and facilitator imposed order.

During this time of sharing, a participant interrupted to inform the student that the CJF process had been seriously jeopardized by not beginning with a prayer. The student was then accused of being insensitive to Aboriginal spirituality. This individual offered to say a prayer. At this time, the student asked Henry and all other group members if

they were comfortable with this offer. All agreed and the participant prayed. This participant was the individual invited by the client whom the student had been unsuccessful in contacting for the purpose of preparation work. Had this preparation work occurred, the request for a prayer might have been indicated prior to the forum, eliminating an awkward interruption.

Throughout the process of participant sharing many questions were asked of Henry, resulting in numerous small dialogues. One individual spoke in Cree to the client, translating their conversation back to English for the group to understand. Overall, there was group balance between accountability and support for Henry. To close the process of participant sharing, the student read a letter to the group that had been sent by an individual unable to attend the forum. At this point, one and a half hours had passed since the forum began and a break was provided. Refreshments and washrooms were made available.

Immediately after the break, Henry was given the opportunity to respond to the sharing of the participants. He expressed difficulty in addressing the many comments, but indicated his desire to stay out of jail and accept the support people were offering.

The group then entered the agreement phase of the forum. It was emphasized by the student that this part of the discussion would focus on the incident of Henry's breach. The group was asked to discuss what Henry could do upon his release to repair the harm of his behavior. The discussion would also focus on assisting Henry with future success in the community. Though the student had initially planned to move around the circle, individually inviting participants to provide ideas, it was decided that in the interest of time the discussion would simply be opened to the group. As ideas were put forward, the

co-facilitator wrote them on a white board for the group to see. As the discussion came to a close, Henry agreed to provide a presentation for the clients at Opportunities for Independence regarding what he had learned through the experience of his breach, incarceration, and forum. It was felt that this peer modeling would assist Henry in the process of re-entering his community. He would also benefit from the intentional process of evaluating what he has learned and how that will prevent him from making similar choices in the future. It was determined that Henry would complete this presentation within two weeks of his release from incarceration.

The group had many suggestions for assisting Henry with future success. These included attending Alcoholics' Anonymous meetings, seeing an Aboriginal elder, and attending healing circles, as well as contacting AA sponsors, probation workers, and agency staff when in need of support. Henry further identified that reading the Bible and using "good thinking" was of benefit when experiencing difficulty. The agreement form (Appendix I) indicated that upon his release, Henry would be provided with a list of the ideas developed during the forum to help him succeed in the community. The agreement form was signed by the offender. All information was provided by the student to the client's case manager at Opportunities for Independence.

Immediately after the forum, the group was asked to complete participant feedback forms (Appendix O). As many participants were in a hurry to return to work or attend other meetings, the student indicated that forms could be faxed at a later date. As participants left the forum, further reparation occurred as many shook hands with Henry and wished him well in the future.

The day following the forum, the student contacted the co-facilitator to debrief



the process. The co-facilitator indicated that the student's response to the prayer request had been appropriate and agreed that a prior discussion might have alleviated the tension this created. The co-facilitator agreed with the student that the reparation phase of the forum had been rushed. It was suggested that clearer time frames might have been outlined for the group by the student during the introduction. It was indicated by the co-facilitator that a benefit of the forum was the gathering of the wide variety of supports for Henry. Perhaps greater understanding of the various perspectives had been attained by participants. It was felt by the co-facilitator that the process had been more of a case conference than a true CJF due to the lack of a clear victim party and the resulting script adaptations.

At the time of this writing, two months after the forum, Henry remains incarcerated with no set release date. Upon his release and completion of the presentation, all participants will be contacted by the student.

### **Participant Feedback Forms**

Of the 16 participant feedback forms that might have been completed, only seven were returned to the student. This was not surprising as participants were requested to take personal initiative to complete and fax the forms to the student. There was significant variety in the responses to many questions. All respondents strongly agreed or agreed with the statements, "I am pleased that I participated in this meeting," "When I spoke I felt listened to and respected," "I listened carefully when others were speaking," and "I would participate in this type of meeting again if I had the chance." In response to the statement, "I feel that my opinion was valued as we discussed an appropriate

consequence,” six individuals strongly agreed or agreed and one individual indicated a neutral response. These responses indicate to the student that participants valued the CJF process and would welcome future opportunities to be involved. It would also appear that respondents had an experience of mutual respect within the forum.

Most respondents strongly agreed or agreed that they felt prepared for the meeting. One person indicated a neutral response. In response to the statement, “I was confused about the different parts of the meeting,” six individuals strongly disagreed or disagreed and one individual indicated a neutral response. As some participants were invited only a short time prior to the forum, these neutral responses may have come from individuals who felt they had been invited with short notice and the preparation process had been insufficient.

The statement, “The length of the meeting felt appropriate,” generated responses from the entire scale. One individual wrote, “There wasn’t enough time for the second half.” Others indicated that the time spent was suitable. There were also a variety of responses to the statement, “I was not given enough time to speak during the meeting.” Dissatisfaction in this regard may have been due to the facilitator’s regular refocusing of the group on the questions being asked. The large number of participants likely also contributed to this feeling. The student’s decision to forego individual questioning during the agreement phase, choosing instead to open the process to group dialogue, may have resulted in some participants no longer feeling they had a voice in the forum.

When evaluating the role of the student, six participants strongly agreed or agreed that, “Kimberly helped the meeting go smoothly.” One individual indicated a neutral response. Regarding the statement, “Kimberly took sides during the meeting,” five

participants strongly disagreed or disagreed while two individuals indicated a neutral response. A statement was written that the student, "acted as neutrally as possible considering her affiliation with Opportunities for Independence."

Most participants strongly agreed or agreed with the statements, "I am pleased with the agreement reached" and "I feel that this process was fair." Two individuals indicated neutral responses. It can be gleaned from these responses that the majority of participants were satisfied with the outcome of the CJF for the offender.

Several respondents wrote comments in the space provided on the participant feedback forms. One individual stated, "I was personally uncomfortable with the focus of the meeting as it kept the broader issues from being addressed, such as (Henry's) brain injury and the responsibilities of his community of helpers." One participant suggested that the community justice forum "was a learning experience for all. It speaks to the importance of having culturally knowledgeable people involved and culturally appropriate services and programs." Another individual felt that the request for a prayer should have been made before the meeting started rather than during the process. One participant stated, "This kind of meeting is a huge improvement over a court process."

### **Follow-up Interviews**

The student interviewed the offender and six other CJF participants in the week following the forum (see Appendix P for victim, offender, and support person satisfaction interview guide). The student ensured that interviewees were representative of the various groups and individuals present at the forum. Those selected for interviews included Opportunities for Independence staff, Manitoba Justice staff, a member of

probation services, and a culturally relevant individual. The student was careful to include formal as well as informal supports in this sample. Individual interviews occurred on February 2<sup>nd</sup>, 3<sup>rd</sup>, and 4<sup>th</sup> at the offices of Opportunities for Independence, Headingley Correctional Centre, and over the phone.

Henry was interviewed by the student at Headingley Correctional Centre under the supervision of a correctional staff person. When asked about his expectations for the forum, Henry indicated that he had expected the forum to determine his release date and living situation in the community. He had also expected that everything would run smoothly and that his expectations had been met in terms of saying what he needed to say.

Henry stated that he felt listened to during the forum. He felt "bad" when participants held him accountable and realized that he had not been honest while in the community. Henry indicated that the forum process had been understandable, and stated that he was "looking forward to doing the presentation at Opportunities." When asked if there was anything that should have been done differently, Henry suggested that forums should always begin with a prayer and include the burning of sweet grass. He felt that the forum had been too large as he had experienced difficulty keeping track of what individuals were saying. Henry also expressed his disappointment that participants had left so quickly after the forum. He suggested that, "People should have stayed to socialize and shake hands with one another."

Overall, Henry expressed satisfaction with the forum. He indicated that he had experienced a balance between support and accountability and expressed his surprise to hear that participants had been worried about his well-being. Henry stated that the forum

provided many useful ideas for dealing with his issues and that he feels proud of himself for how he presented during the meeting.

The following section will examine the responses of the remaining six interviewees, as all held the role of those impacted by Henry's actions. Interviewees spoke of differing expectations for the CJF. One individual who had no previous experience with forums stated that he had no idea what to expect. A former support worker for the client suspected "that Henry would see himself as the victim. My expectations were met." One interviewee expected that Henry would take responsibility for his behavior. His expectations were not met in this regard, as he felt that Henry had been distracted from focusing on his breach to focusing on larger issues. Two individuals expected that there would be constructive feedback for Henry but were disappointed in the negative responses from some forum participants. One of these participants stated, "It was not balanced feedback. Henry's brain injury was not considered." One of Henry's staff expressed his surprise that forum participants had focused more on the past five months than on the breach. This individual stated, "The focus of responsibility was not on (Henry)." He went on to state that forum participants seemed to be blaming each other for the client's actions.

All interviewees stated that they felt listened to and supported throughout the forum and that the process had been understandable. There were a variety of remarks in response to the question, "Do you feel that you had adequate opportunity to express your feelings to Henry?" Several individuals indicated that the group had lost track of holding Henry accountable. One participant suggested, "The responsibility was removed from (Henry) when people began to say that we have failed him." It was stated by an informal

support person that the people present seemed to be advocating for the agencies they represented rather than focusing on the client. This individual felt that certain participants had dominated the conversation leaving her inadequate opportunity to speak. One individual sensed that her comments of support to Henry had not been accepted by the group.

Interviewees were asked to comment on whether or not they felt the agreement reached was fair. Most participants indicated that it was. A member of probation services stated, "The agreement is valuable – presenting to his peer group will have more meaning than presenting to authority figures." It was stated by one participant, "The presentation was a wonderful suggestion, a good teaching tool." Others were more cautious, suggesting that Henry will need to be coached as he prepares for the presentation and not "left to his own devices."

Participants were asked to comment on the effectiveness of the facilitator. Several individuals indicated that the student had effectively refocused the group on several occasions. One interviewee suggested that the student's time management skills could be improved, perhaps by providing participants with a visual outline of the forum process. It was stated by one individual that the student should "be mindful of Aboriginal teachings," especially when the offender has interest in these teachings.

Interviewees were asked by the student if they felt that any aspect of the forum should have occurred differently. Two of Henry's staff indicated that there had been too many participants at the forum. One person stated, "It would have been better to include participants who actually know this man's history. That puts the situation (of his breach) into a different light." The other staff member stated, "Because the forum was so large

there were time constraints. The process of emotional expression was cut short.” A member of probation services suggested that the group had been too large to deal with the question of assisting Henry with success, but an appropriate size to speak to the issue of the breach. One individual stated, “The process did not feel balanced. Very little time was spent on solutions.” It was suggested by a participant that a later start time would have been beneficial for those traveling from Winnipeg.

Participants indicated a variety of feelings as a result of the forum. It was stated by one of Henry’s workers that forum participants had represented two sets of beliefs: Henry as the victim and Henry as responsible for his actions. The worker stated, “(Henry) will have to weigh these two options.” This interviewee also commented that the forum had been useful for the client as well as the supports. One interviewee felt that the forum had been a good experience as it had impacted the client in a way the court system could not.

### **Student Reflection**

The preparation process with the offender was significantly impacted by the fact that he was incarcerated. As mentioned in an earlier section, Henry did not have the benefit of daily coaching and clarification from a support worker as he would have had in the community. This would account for Henry’s false expectation, as stated in the follow-up interview, that the forum would result in a prison release date. It is important to note that the student clarified this point for the offender on four occasions prior to the forum and again during the forum introduction. It may have benefited the client had the student requested that a correctional staff member act as Henry’s “key support person”

throughout the forum process. This individual would then have participated in the initial CJF introduction meeting with Henry, thereby gaining a thorough understanding of the process. As key support person, this individual would have provided regular clarification and coaching, thereby reducing Henry's anxiety and false assumptions. An identified support person might also have assisted the client during the forum itself, specifically when he was struggling to respond to the many comments made by the group. Despite the fact that all forum participants were supports for Henry, a key support person should have been appointed.

Though the process of clearance for forum participants at Headingley Correctional Centre was without incident, entering this facility simply takes time. Many forum participants had perhaps not taken this into account when planning travel time. As a result, the forum began late and individuals continued to enter the room for approximately 20 minutes. The problem of these interruptions might have been alleviated by indicating to participants both an arrival time to allow for entry and a forum start time.

Several forum participants had not been sufficiently prepared for the process. A clear example is the individual who interrupted the forum to request a prayer. The way in which this request was made not only belittled the leadership ability of the student, but transferred the focus of the meeting from the forum participants to the facilitator. Despite the student's attempts to contact this individual prior to the forum, faxed information was not delivered and phone calls were not returned. The result speaks to the need for thorough preparation of participants prior to their involvement in a forum. Evidently, the participant who brought his uninvited colleague to the forum site despite being asked not



to also lacked understanding regarding the CJF process. Further lack of preparedness was evident through certain participants' blaming of agencies and the attitude of "Henry as victim." Clearly, this was detrimental to the forum focus of the offender accepting responsibility for his actions.

It is evident to the student that the forum had too many participants. Many individuals, including the offender, indicated this in participant feedback forms and follow-up interviews. As outlined in the literature review, the inclusion of many participants generally assists in the process of holding an individual accountable. Though the student indicated that a forum adaptation for the intellectually disabled population would be to hold smaller forums, this was not adhered to in this case due to the offender's eagerness to invite many individuals and the high level of his functioning ability. In this case, however, the large number of people resulted in the pursuit of agendas differing from that of holding the offender accountable. The number of participants also contributed to the likelihood of some individuals not being sufficiently prepared. In addition, considerable time was needed for all to speak to the impacts of the incident. This left insufficient time for discussing an agreement or future success and meant that some participants did not feel heard in the process. It would have been beneficial for the student to invite one representative from each of the areas indicated by Henry, thereby creating a more manageable and likely more effective group of people. It may have also been helpful for the student to indicate time frames for the various sections of the forum during the introduction.

As outlined in the literature review, Canadian resources speak to the importance of not imposing a prayer on a forum group. As the offender in this case was involved in

Aboriginal spirituality and there was no victim, beginning the forum with a prayer would have been appropriate. It is important to ask key participants how they would like the forum to begin and ensure that all participants are aware and comfortable with the request before it is granted.

In reflecting on this case, consideration was given to whether or not the process was truly a restorative one. In many ways, the forum did not follow standard CJF protocol. There was not a clear victim, which led to considerable script adaptations and altered the focus of the forum. Certain participants advocated throughout the forum that Henry was the victim rather than holding him responsible for his actions. Some blamed Opportunities for Independence for inadequate services.

As outlined in the literature review, restorative justice is an approach to conflict that puts those affected by an incident at the centre of the process (Law Commission of Canada, 2003). Impacted persons come together to discuss an incident and determine how it will be dealt with. In Henry's case, the affected community did come together and reparation was developed. Though the forum was not without incident, Henry reported a significant learning experience within an environment of support and accountability. The student believes that though the case was missing several typical CJF components, the process was restorative none the less.

**Case Three**  
***Paul***

**Description of Incident**

On Monday, January 5<sup>th</sup>, 2004, a client of Opportunities for Independence pawned a stolen VCR to obtain money to purchase drugs. The client, Paul, stole the VCR from his sister's home, where he had been residing. The sister contacted the agency to report the incident and indicated that she would not be pressing charges.

The client in this case was diagnosed with an intellectual disability as a result of birth complications. He also had a diagnosis of schizophrenia.

**Preparation Work**

On Wednesday, January 7<sup>th</sup>, two days after the theft, the incident was discussed at an Opportunities for Independence staff meeting. As the sister of the client had indicated that she did not wish to press charges, it was suggested that a CJF be pursued with the case. The student then discussed the details of the incident and the possibility of a forum with the client's program coordinator and case manager.

Question one on the informed consent decision making tree (Appendix K) involved determining if and how a substitute decision maker was involved in a client's life. Paul had a public trustee who had been granted property powers. As these powers excluded personal care, the student was able to move on to question two. It was determined that the client had been tried in a court of law on numerous occasions and had been found guilty, and therefore criminally responsible. Question three involved consulting with the client's Manitoba Family Services worker. Unfortunately, at the time

of the phone call, the worker was away until January 19<sup>th</sup>. It was decided that as the covering worker was not familiar with the client, progress with the forum would be put on hold until the return of the regular worker.

On Wednesday, January 21<sup>st</sup>, 2004, the student spoke to the client's Manitoba Family Services worker regarding the possibility of a forum. The worker felt that the process was appropriate for the client and that he had the ability to provide informed consent. The worker invited the student to present the idea at a meeting she was holding that afternoon with Paul, his sister Gail, and the program coordinator.

The student attended the meeting, and using the explanation script (Appendix M), explained the process of a forum to the offender and victim. Typically, this initial explanation process would not occur in the presence of both the offender and victim. The student chose to forego this guideline for a number of reasons. In the interest of timeliness (16 days had passed since the incident), it was determined that utilizing this opportunity to meet with all relevant participants would expedite the preparation process. The student was aware that the victim in this case was one of Paul's most significant supporters and advocates. The student had also been made aware that the VCR incident followed numerous other incidents of theft from the family home. It was felt that Gail's presence would be of benefit in convincing the client that he needed to take responsibility for his actions and work towards repairing the harm.

During the explanation process, Paul admitted that he had taken the VCR but minimized the effect it might have had on his family members. The presence of the client's sister was indeed helpful at this time for the purpose of clarifying his misconceptions. Initially, Paul indicated that his participation in the forum sounded like

an “easy” way to deal with the incident. The student emphasized that the forum would result in an agreement to repair the harm of the incident. A decision by the group and Paul would determine what form this agreement would take.

The student outlined the various benefits of a forum for victims and offenders, including the opportunity for Gail to express her feelings to her brother about the incident and request reparation. The student explained the steps of the meeting, including scripted questions that participants would be asked. Though Paul initially indicated some hesitation regarding the forum, Gail expressed her need to pursue the process. Gail suggested to Paul that he did not appreciate how the incident had impacted her. She stated that a formal process such a CJF would allow her the opportunity to voice her feelings to Paul and determine appropriate reparation. Paul agreed to participate upon hearing this. The student then verbally outlined the research consent form (Appendix L) with Paul and Gail, ensuring that they understood. The risks of participating in a CJF, such as the potential stress involved, were emphasized to the participants. Both parties signed a research consent form.

Paul and Gail were informed that the student and a co-facilitator would need to be in attendance at the forum. The offender and victim were asked at this time to indicate who they wished to have present at the CJF as supporters. Both parties were encouraged by the student to consider a variety of individuals, including family, peers, and staff. Gail indicated that a secondary victim of the incident had been her young daughter. She requested that her daughter be included in the forum. A concern was expressed by the program coordinator that as the daughter was under-age, it would not be appropriate for her to attend a forum at the offices of Opportunities for Independence given the nature of

the clientele. The student indicated that arrangements could be made to hold the forum at an alternate venue to enable the daughter's participation. The client asked that his key support worker be present at the forum. The request was also made by Gail and Paul that the family services worker and the program coordinator be involved. As these two individuals had been present throughout the meeting, the student provided them with research consent forms, further expediting the preparation process. Possible forum dates were then discussed with all participants.

As the offender and victim had now indicated their willingness to attend a forum, the student contacted a co-facilitator to discuss the case. The co-facilitator agreed to reserve a meeting room at Mediation Services in Winnipeg. It was also determined that the co-facilitator would write and draw ideas presented during the reparation brainstorming phase. A forum date of Friday, January 30<sup>th</sup> at 1:00 pm was chosen.

The next step for the student was to contact support persons identified by Paul and Gail to explain the process of a forum and obtain informed consent. As the family services worker and program coordinator had been present at the initial explanation, it was not deemed necessary to hold individual meetings with them. Gail had requested that she explain the process of the forum to her daughter. One meeting was therefore required with the key support person identified by Paul. During this preparation meeting, the worker was advised of questions he would be asked at the CJF and instructed of his role to provide support while holding the offender accountable. As all participants were familiar with the client, education regarding the needs of intellectually disabled individuals was not necessary. All participants were informed of the forum date, time, and venue.

On Friday, January 23<sup>rd</sup>, two days after the initial meeting with the victim and offender, the student contacted the victim to confirm the forum date. Gail expressed a number of concerns regarding the CJF at this time. She indicated that due to Paul's brain injury, invoking shame for his behavior would likely have minimal impact in preventing future episodes of theft. Gail suggested that Paul would succeed only if appropriate supports were put in place for him. The student suggested that the CJF could focus mainly on the issue of Paul's future success in the community. The forum would begin by focusing on the specific incident of the VCR theft and appropriate reparation, and then move on to a broader discussion of Paul's theft problem. The group would seek Paul's input in developing a plan to assist him with this issue. Gail expressed her satisfaction with this approach, but was concerned that forum participants might not create an effective plan. The student offered to invite a knowledgeable collateral from outside of the agency to assist in the development of this plan. Though this individual was not familiar with Paul, her vast experience with the intellectually disabled population would be of benefit to the discussion. Gail agreed to this plan. The student then contacted the collateral to determine her interest in participating. The process of the forum, as well as the role the collateral would play was outlined. A research consent form was provided and signed and the participant was informed of the forum date, time, and venue. A forum seating plan (Appendix A) was prepared by the student at this time.

During the week prior to the forum, the student made regular attempts to meet with the offender and his key support person for a second preparation meeting. Unfortunately, Paul was unstable, evaded all supports during this time, and was not available for a meeting. It was made known to the student that he had recently missed

several days of his psychiatric medication. A meeting time would have been utilized to remind the offender of the process and the questions he would be asked during the forum. The key support person was asked to coach the offender in these areas should contact be made.

Several days prior to the forum, the student met with the co-facilitator to discuss final details regarding the case. The co-facilitator was informed at this time of recent developments to the forum. At this point, the student was doubtful that the offender would be available for the forum and began to consider the possibility of rescheduling.

On Wednesday, January 28<sup>th</sup>, two days before the forum, Gail contacted the student to indicate that Paul was planning to leave town and would likely be unavailable for the forum. As the student was aware that Paul had not followed through with similar plans to leave in the past, the forum was not rescheduled at this time. Gail expressed concern that in the large group, Paul would feel embarrassed and would attempt to “save face” by behaving inappropriately. She suggested that the incident be discussed only with those individuals who had been directly affected rather than with the larger group. After some discussion, it was determined that the VCR incident and development of reparation would be addressed in a small group including Gail, her daughter, and Paul. The student would facilitate this pre-forum meeting at 12:30 pm. Though a “pre-forum meeting” is not standard CJF protocol, it was felt that this adaptation would contribute to the success of the forum by increasing Paul’s comfort level, thereby improving his behavior.

It was determined that at 1:00 pm, the other participants would join the group and the student would report on the agreement reached. The larger group meeting would



therefore concentrate entirely on moving past the incident and on creating an environment in which Paul could succeed. The hope was that the positive focus of this larger group meeting would increase Paul's feeling of safety, and thereby improve his behavior and cooperation with the process. Upon determining this change, the student informed the co-facilitator and all forum participants.

On the day prior to the forum, the student was informed that the offender planned to leave Winnipeg that evening to begin a job in another town. Staff involved with Paul felt the likelihood of his departure was low. The student arranged to contact Gail on Friday morning to determine the offender's whereabouts and willingness to participate.

On the morning of Friday, January 30<sup>th</sup>, the student contacted Gail and was informed that Paul had stayed in Winnipeg and was in a healthy cognitive state. Paul had expressed his excitement to Gail regarding the forum and was planning to attend. It was determined by the student, in consultation with Gail, that the CJF could take place as planned. The student then called all participants to confirm that the forum would occur.

### **The Forum**

On Friday, January 30<sup>th</sup>, 2004, the student and the co-facilitator met at the forum site at approximately 12:00 p.m. Two rooms were prepared for the forum activities. A small room was designated for the 12:30 p.m. meeting that would include Paul, Gail, her daughter, and the student. A larger room was prepared for the discussion involving more participants. Chairs were arranged according to the seating plan, refreshments were prepared, facial tissues and pens made available, and sufficient copies of the agreement and participant feedback forms were organized. It was planned that while the student

was meeting with the smaller group, the co-facilitator would seat participants in the larger room as they arrived.

At 12:40 p.m., Paul, Gail, and Gail's two daughters arrived at the forum site. The participation of the second daughter had not been expected. Gail explained to the student that though this adult daughter no longer lived at home, she too had been affected by the incident and was a significant support for Gail. The daughter had expressed a desire to participate that morning. Gail had explained the process of a forum to her and Paul had indicated that he was comfortable with her attendance. At this time, the participants indicated that they did not have any questions or concerns regarding the meeting.

The student began the forum with a brief introduction indicating the focus of the CJF and the various components that would be discussed. The participants were reminded that after discussing the incident, they would be moving into a larger room with several others to discuss Paul's future success. A break was not built into this small group forum as it was expected to take no more than 30 minutes. Furthermore, a natural break would occur between the small and large group meetings.

The offender was asked to begin by telling the group about the incident. Paul was not cooperative with this process and laughed on numerous occasions. Early in the forum he stated, "It doesn't matter. Give me 20 bucks and I'll get the VCR back." When asked, Paul indicated that he would make the same choice to steal from his sister if the opportunity arose again. After a period of questioning the offender, the student asked Gail and her daughters to speak to the impacts of Paul's actions. It was hoped that as the offender heard from his family, a sense of regret and sorrow would develop. Paul needed

to be reminded several times during this process to listen quietly while others were speaking.

All three participants expressed their hurt over what Paul had done. The youngest daughter stated that she was sorry to no longer have a VCR. Gail suggested that the family would now have to install locks to protect their property from Paul. This was unfortunate as it would serve to isolate him from the rest of the family. In response to Paul's request for money to buy back the VCR, the older daughter stated, "We care more about you feeling sorry than about ever getting the VCR back."

Upon hearing from his family, Paul provided a genuine apology for what he had done. The participants expressed their gratitude to Paul for apologizing. It was apparent that the offender's attitude had softened through the process of participant sharing. This was evident through his increased level of reflection and cooperation with the forum.

The student then guided the group into the agreement phase of the forum. Gail had several ideas regarding the form of reparation she desired from her brother. The final agreement entailed the following: Gail would provide Paul with renovation work in her bathroom for a total of four hours. These four hours could be completed in shorter work sessions over a two week period following the forum. During this time, Paul would be supervised by his scheduled staff person. Upon completion of the four hours, Paul and the staff person would be provided with \$20 to buy back the VCR from the pawn shop. Should \$20 not be sufficient to cover the costs, Gail would provide additional work until the VCR could be purchased. It was agreed that the VCR would be installed in the home by Paul to ensure that it operated properly. The family believed the agreement was appropriate as it would be of benefit to Gail and manageable for Paul. It was also felt

that the high level of supervision would prevent the offender from spending the money he earned on unintended items. Paul willingly signed the agreement form (Appendix I).

At this point, the student invited the group to enter the larger meeting room where the other participants were waiting. Three additional participants and the co-facilitator completed the group for a total of nine people. The Manitoba Family Services worker was unable to attend at the last moment. The student began the meeting by introducing all in attendance and summarizing the final outcome of the small group forum that had just occurred. The student also indicated that the focus of the meeting would be to discuss what assistance Paul would need to attain future success in the community. It was acknowledged during this introduction that at times, Paul does not have complete control over the choices he makes. Paul agreed with this statement and appeared appreciative of this understanding.

Paul was asked to begin by telling the group what kind of support he needed to succeed. He had little to say at that time. It can be presumed that the minimal preparation time with the client impacted his ability to respond to this question. As anticipated, Paul's inappropriate behavior increased in this larger group. He began to laugh and loudly brag about his poor choices, making little effort to cooperate with the process. Group members were quick to remind Paul of the importance of the discussion and asked him to focus. Throughout the meeting, Paul continued to be easily distracted, but also had significant moments of serious contemplation.

The student invited group members to provide ideas to assist Paul. Though the original plan had been to individually invite participants to speak to this issue, the group quickly entered into informal dialogue. During this process, the co-facilitator recorded

the group's ideas on a flip chart. Periodically, the student would verbally summarize several comments and then ask a question to re-focus the group. The student ensured that less vocal participants were provided the opportunity to speak.

Many options were presented to assist the client in finding success in the community. Group members identified Paul's drug addiction as the root of many of his problems. Unfortunately, the client denied this fact and was unwilling to discuss the possibility of drug treatment. Gail indicated that Paul makes poor choices when left alone and identified the need for increased supervision from Opportunities for Independence. One group member suggested the utilization of a therapist for Paul. Another suggested that a supervised work setting be made available for the client. At this point, Paul expressed keen interest in volunteering at a local building project. The possibility of a 24 hour supervised setting was also discussed. Upon Paul's indication of interest in this suggestion, arrangements were made to visit a nearby facility. One of the group members ensured that Paul understood that no one could force him to accept help. For Paul to succeed in the community, he would need to make a choice to accept the assistance being offered.

As the discussion came to a close, the student summarized the group's suggestions and indicated that all information would be passed on to relevant management at Opportunities for Independence. Group members expressed further encouragement for Paul, indicating their satisfaction that he had been present at the meeting. At this point, all participants, including the client, appeared to be in positive spirits and pleased with the outcome of the meeting. Immediately following the meeting, group members were asked to complete participant feedback forms (Appendix O). Paul

received assistance from his key support person with this task. Participants were informed that they would be contacted by the student within several days to obtain further feedback regarding the process. Refreshments were then served to the group.

Following the forum, the student met with the co-facilitator to debrief the process. The co-facilitator indicated that the separation of the forum into two parts had been effective considering the client's behavior. She felt that the process of note taking on the flip chart had been a helpful adaptation. The co-facilitator agreed with the student's sense that the participants had been satisfied with the process. The student then contacted the client's family services worker and relevant management at Opportunities for Independence to relay the forum outcome and discuss the various suggestions presented by the group.

On Saturday, January 31<sup>st</sup>, the day following the forum, Paul relapsed to his pre-forum state. Once again, he was unstable and extremely evasive of supports. In the days that followed, Paul's whereabouts were often unknown. As a result, the agreement to complete bathroom renovations in his sister's home was not completed within the specified time frame. As the victim of the incident had clearly indicated that she did not intend to press charges, no further action was taken by the student. Shortly after the forum, the client was arrested and taken into custody on an unrelated charge.

### **Participant Feedback Forms**

All seven participants completed and returned participant feedback forms to the student. All participants strongly agreed or agreed with the statements, "I am pleased that I participated in this meeting," "I felt prepared for the meeting," "When I spoke I felt

listened to and respected,” “I listened carefully when others were speaking,” and “I feel that this process was fair.” All participants strongly disagreed or disagreed with the statement, “I was confused about the different parts of the meeting.” These responses would suggest that the forum preparation process was sufficient, that participants experienced a safe environment of mutual respect, and that participants left feeling the process had been helpful. One respondent included the comment, “An excellent alternative to court and incarceration.”

In the area of facilitator evaluation, all respondents strongly agreed or agreed that the student helped the meeting go smoothly. While most participants strongly disagreed with the statement, “Kimberly took sides during the meeting,” two individuals expressed their agreement with this thought. These two responses are of particular concern to the student, as facilitator neutrality is essential to an effective CJF. Though it is difficult for the student to determine what might have caused these responses, increased attention to facilitator neutrality is perhaps required.

Regarding the statement, “I was not given enough opportunity to speak during the meeting,” five participants strongly disagreed or disagreed while one individual indicated a neutral response and another agreed with the statement. Agreement with this assertion may be due to the fact that the larger group meeting proceeded rather informally. As the group quickly entered into a useful dialogue, the student chose not to invite individual participants to speak in as formal a manner as originally planned.

There was significant variety in response to statements regarding the agreement process. Only those individuals present at the small group forum were asked to respond to the statement, “I feel that my opinion was valued as we discussed an appropriate

consequence.” Two individuals strongly agreed or agreed with this statement while two individuals disagreed. Reflecting on the forum, the student is aware that two participants contributed to the formation of the plan more than the others. This may have impacted the responses. In response to the statement, “I am pleased with the agreement reached,” most participants strongly agree or agreed while one individual disagreed. This respondent clarified with the comment, “I wish there were more resources for people like (Paul).” One individual made the comment, “I am glad we had a chance to try and arrange a schedule for (Paul).”

Regarding the statement, “The length of the meeting felt appropriate,” five individuals agreed while two participants indicated a neutral response. All participants but one indicated that they would participate in this type of meeting again if they had the opportunity. It is important to note that the student is aware that this negative response came from the client.

### **Follow-up Interviews**

The student interviewed four CJF participants (see Appendix P for victim, offender, and support person satisfaction interview guide). These included the victim, two staff from the agency, and the collateral invited to speak to the needs of intellectually disabled individuals. The offender was not interviewed as he evaded all supports for several weeks following the forum. It was determined that if an interview with the offender could not occur within two weeks of the forum, it would no longer be attempted. Interviews occurred on February 2<sup>nd</sup>, 3<sup>rd</sup> and 11<sup>th</sup>, at the offices of Opportunities for Independence or over the telephone.



The following section will outline the responses of the three support people interviewed. The support people were asked to comment on their expectations for the forum. One individual had expected better cooperation from Paul. As stated by one support person, "I wish (Paul) could have been more honest." One interviewee with previous forum experience was not sure what to expect, but was interested to see how the process would work with this population.

All participants indicated that they had been provided with adequate opportunity to speak. One individual stated, "It was good to get things out there." When asked if the forum process had been clear, a support person very familiar with the client stated that it was appropriate to begin with a small forum and then come together as a larger group. This individual also appreciated that the results of the small forum had been reported to the larger group. Another interviewee suggested that beginning in a small group was more effective than a traditional forum, because "Paul might not have understood having to apologize in front of all those people who weren't personally affected."

Interviewees were asked to comment on the agreement reached in the CJF. This included the agreement addressing the VCR incident and the suggestions developed by the group to assist Paul in the community. An agency staff member commented that the agreement for Paul to do work in Gail's bathroom was fair, as long as Paul (not his supervisor) was the one doing the work. One individual stated, "The agreement is realistic. Repaying in work will be appreciated and is something that he can be successful in." It was indicated by an interviewee that the various solutions the group developed were helpful.

There were several comments from participants regarding the effectiveness of the student's facilitation. One individual suggested the student might have been more assertive in keeping Paul focused on the forum. It was pointed out by a participant that the preparation process had been effective and the decision to hold two meetings was effective. This participant stated, "You let the forum flow, but were still in control of the process." When asked if there was anything in the process that should have gone differently, one individual suggested the discussion group should have included fewer people.

Interviewees were asked to comment on their general feelings regarding the forum. One individual indicated that the CJF had been a useful time of gaining new information. An agency staff member stated, "Nothing new really came out of the forum. (Paul's) motivation is really low." As suggested by one participant, "The CJF was of great value to the offender's family, though (Paul's) behavior may not change." This interviewee affirmed, "This is the way we need to go. We have to keep this population out of the traditional criminal justice system."

The student interviewed the victim of the incident over the phone on February 3<sup>rd</sup>. With regards to forum expectations, Gail had hoped that her brother would apologize for his actions and that the process would result in a resolution. Though her expectations were met in this regard, Paul had "acted up" more than she thought he would. Gail indicated that she had felt listened to and supported during the forum and stated, "I expressed myself more than I expected to." Gail indicated that the forum process had been understandable and that separating the meeting into two components had been helpful. She stated that she was very happy with the agreement reached. When asked if

there was anything that could have been done differently, Gail pointed out that Paul's behavior is significantly affected by his medication cycle. Paul's level of cooperation would likely have been improved had the CJF been scheduled in the middle rather than at the beginning of this cycle.

### **Student Reflection**

Flexibility within the forum process was a necessity in this case. From the very beginning, all CJF development was put on hold due to the absence of the family services worker. This meant that a degree of timeliness was lost. Flexibility was required in terms of locating the forum where attendance of a child could be accommodated. The layout of the forum continued to change as a result of conversations between the student and the victim. It was crucial, however, to consider these suggestions in order to meet the needs of both the offender and the victim. The CJF model that was initially presented for use with this case would likely have proved to be less effective.

Flexibility was also required in regards to unexpected participants. The victim's eldest daughter had not been identified in earlier conversations as a potential support person. As outlined in the CJF adaptation section, it was determined that unexpected, unprepared individuals would normally not be invited to participate in a forum. The student chose to ignore this guideline for the following reasons: the daughter had been prepared for the CJF by her mother, the client and daughter were familiar with one another, and the small group meeting was a genuine family affair. It would have been detrimental in this case to exclude this daughter from participation. Fortunately, the

daughter was an extremely valuable addition to the process of supporting Paul while holding him accountable.

The student was unable to follow the recommended guidelines for preparation work with the offender. Normally, the student would have met with the offender and his support person a second time to discuss the details of the forum and to provide an opportunity to rehearse responses. In addition, the key support person would have provided regular coaching to the client regarding the forum process. As the offender was evasive of all supports until the day of the forum, neither coaching nor a second meeting occurred. Despite inadequate preparation, the offender expressed a strong desire on the morning of the forum to participate. This eagerness, combined with the victim's desire to proceed as scheduled, allowed the student to justify progressing with the forum. The lack of preparation did, however, negatively impact on the client's ability to respond to the questions asked. Prompting by supports was necessary and follow-up interviews indicated a level of frustration with the offender's attitude. Despite these issues, the victim and her family expressed appreciation for the forum. Participants were generally pleased with the agreement reached, and the offender appeared to experience moments of group support, self contemplation, and learning.

Dividing the forum into two components was effective. Given Paul's behavior issues within large groups, it was useful to include only the family in the initial discussion regarding the VCR theft. This design likely resulted in improved behavior from the offender and a more satisfactory discussion and agreement for the victim and her family. On the other hand, the pre-forum meeting denied Paul the presence of a support person. Given the literature's recommendation that a support person be present

for both an offender and a victim during a CJF, this adaptation would not be recommended in the future. It was necessary to include agency staff and other professionals in the second component in order to develop a realistic plan for success and provide a forum for the family and client to voice their concerns. It was felt by the student that beginning this second meeting on a congratulatory note was extremely positive for the offender. It can be assumed that Paul's need to "save face" was somewhat reduced by this encouraging atmosphere.

The student was reminded by the offender's sister that the medication cycle of a client must receive consideration in the timing of a forum. Paul was unstable and evasive of supports for several days before and after the forum as a result of missed medication. Surprisingly, Paul stepped out of this pattern of behavior for a few brief hours on the day of the forum. In this case, the client received a needle every three weeks. Scheduling the CJF to occur during the middle of this cycle would have ensured that the injection appointment was attended and the medication fully in the client's system. The medication cycle may also have impacted Paul's ability to complete the forum agreement. Though Paul was incarcerated shortly after the forum, a longer time period in which to complete reparation should be considered in the future with offenders with mental health issues.

Unfortunately, the CJF agreement was not fulfilled by the offender in this case. Though disappointing to the student and participants, this speaks to the continued need to improve and individualize the forum process for the intellectually disabled population. The traditional criminal justice approach of court and incarceration has been unsuccessfully utilized with this client for the majority of his life. Certainly, attempting

an approach that is more satisfying to victims, healing for offenders, inclusive of the community, and economically viable should be considered on more than one occasion with an individual like Paul.

**Case Four**  
***Derek & Alex***

**Description of Incident**

On Wednesday, February 17<sup>th</sup>, 2004, a client of Opportunities for Independence disclosed to agency staff that he had been sexually assaulted the previous evening by another client from the agency. Investigation by staff revealed the following details. On Tuesday, February 16<sup>th</sup>, at approximately 8:30 p.m., the victim, Derek, was watching television in his bedroom at his residence. The offender, Alex, entered the room unannounced and sat down on the bed beside Derek. Alex put his arm around Derek and began to touch Derek's groin area. Derek immediately told him to stop and demanded that he leave the room. Later that evening, Alex apologized to Derek for the incident. Derek did not accept his apology at that time. The following afternoon, Derek disclosed the incident to staff.

The offender in this case was diagnosed with fetal alcohol syndrome disorder and prescribed anti-anxiety medication. The victim was also intellectually disabled with a diagnosis of schizophrenia.

**Preparation Work**

During the process of the victim's disclosure, agency staff offered to accompany Derek in filing a police report regarding the incident. Derek clearly stated that he was not interested in police involvement but did want some action to be taken against Alex. In Derek's words, "I'm not going to let (Alex) get away with this." The student was available to speak with Derek at this time and suggested the option of a CJF. After a

brief explanation, the client indicated that he was interested in dealing with the incident in this way. Staff assisted the victim in developing a safety plan for that evening, and ensured that he was not intending to respond violently against the offender.

A CJF can only occur when an offender has admitted responsibility for an incident. Therefore, before the forum option could be explored, it was necessary to determine if the offender admitted responsibility for the occurrence. It was also important that the offender's account of the incident be congruent with the victim's disclosure. A congruent story would assist in the determination of appropriate action and assure the agency that the offender had not been falsely accused. Though Alex initially admitted to inappropriately touching Derek, he soon recanted this statement. Over the next two days, the offender's account of the incident changed several times. At one point he stated to agency staff that Derek had initiated the touching and he had simply reciprocated. Later, Alex indicated that Derek had requested the touching. Alex also related his theory that Derek was confused about his sexuality and had regular fantasies about men. Despite these various accounts suggesting innocence, Alex continued to tearfully apologize to Derek on his own initiative many times a day. Derek indicated to staff that Alex had expressed his fear of incarceration as a result of the incident.

Several days after the initial disclosure, the client's program coordinator met with Alex to further discuss the incident. During this meeting, the client admitted to the incident with an account congruent to that of Derek's. It is important to note that he stated to the coordinator, "It feels good to finally get the truth out." Upon receiving an explanation regarding the forum process, Alex indicated to the coordinator that he would be willing to participate in a CJF.



As the offender had now admitted responsibility for the incident, the student began to explore the possibility of a forum. In this early stage, the student conferred with the Vulnerable Person's Coordinator of the Winnipeg City Police as the offence was sexual in nature. The constable indicated his approval of utilizing a CJF to deal with the incident. The student also discussed with the constable what options the victim would have should the offender refuse to participate. These options included pressing charges by making a formal statement, or arranging for the constable to speak with the offender on Derek's behalf regarding the impacts of the incident.

The informed consent decision making tree (Appendix K) was followed with both the offender and the victim, as both were intellectually disabled. Neither client was involved with a substitute decision maker, which allowed the student to move on to question two. The student was informed that both the offender and victim had been tried in a court of law and were each found guilty, rather than not criminally responsible. The student then consulted with the Manitoba Family Services workers for both Derek and Alex. Both workers indicated that the process was appropriate and felt their clients had the ability to provide informed consent to participate. The final step of the informed consent decision making tree was to meet with the clients to determine their interest in participating in a CJF. Though both clients had already indicated their willingness to participate, it was important to thoroughly explain the CJF process and obtain informed consent.

The student arranged a meeting with the victim and his regular support worker. During this meeting, the student informed Derek of the four options he had for dealing with the incident. One option for Derek would be to take no action against Alex as a

result of the incident. However, the client was decisive in that he desired some form of action to be taken. The other options outlined included pressing charges, asking the Vulnerable Person's Coordinator to speak with the offender on behalf of Derek, and participating in a community justice forum. After thoroughly explaining these options, the student encouraged Derek to consider the positives and negatives of each course of action. Creating a visual chart for each option, the student listed the ideas produced by the client.

Regarding the alternative of pressing charges against Alex, Derek indicated that testifying in court would be a negative experience for him should it be required. He recalled that past experiences in court had not been positive for him. The client's support worker reminded him that pressing charges would result in a process that could take many months or even years to complete. He agreed that this was negative. Derek also indicated that relating the incident to an unfamiliar police officer when making his statement would be emotionally difficult. According to Derek, a positive aspect of this option was the fact that Alex could go to jail, thereby getting what he deserved.

The client then explored the option of involving the Vulnerable Person's Coordinator of the Winnipeg City Police. This option would not entail pressing charges, but would allow Derek to voice his concerns to a police constable. The constable would then relay Derek's concerns to the offender and clearly state that the offender's behavior had been inappropriate. Negatives identified by the victim included the fact that the offender would not experience any real consequence for his actions. Derek was also concerned that he would not have the opportunity to process his feelings regarding the

incident by personally telling Alex how he had been impacted. Positives were that there would be police involvement and Derek could avoid the difficult prospect of facing Alex.

The final option discussed was that of a CJF. The student explained to Derek that a forum would allow him the opportunity to express to Alex how the incident had impacted him. Derek would also have the opportunity to ask Alex to repair the harm in some way. Derek identified these two aspects of a CJF as positive. He was also pleased that a forum could be arranged very quickly, thereby enabling him to move on in his life. A negative aspect identified by Derek included the fact that a CJF would be stressful as he would have to face the offender and express how the incident had impacted him.

Derek was asked to choose between these options having examined the positives and negatives. He indicated that his first choice would be to participate in a forum. The client was asked at this time to indicate whom he would want to have present at the CJF as his support. Derek quickly stated that he would invite only one staff person as the incident was very embarrassing to him. Though the offender had indicated to the program coordinator that he was willing to participate in a forum, the student needed to maintain caution regarding this statement until informed consent was obtained from Alex. Derek was therefore asked to indicate a second course of action should the offender refuse to participate in a CJF. Derek stated that his second choice would be for the police constable to speak with Alex about the impacts of the incident. As it was yet to be determined if the offender would agree to a forum, the victim was not asked to sign a research consent form at this time.

Shortly after the meeting with Derek, the student had an informal conversation with the offender regarding a forum. Alex reiterated at this time that he was willing to

participate in a CJF and wished to have his support worker present. The student then arranged a meeting with the client and this support worker to obtain informed consent. Utilizing the explanation script (Appendix M), the student reviewed the process of a forum, including the various questions that the offender and support person would be asked. The client was provided the opportunity to rehearse his responses to these questions. It was made clear that should the client change his mind regarding participation in the forum, the incident would then be dealt with through alternate means. The client was also informed that the forum would result in an agreement to repair some of the harm of his actions, and that he would then be responsible for completing this agreement. It was indicated to the client that several people would need to be in attendance at the forum, including the student, the co-facilitator, and the student's university advisor as an observer. When offered, Alex indicated that he wished to meet the co-facilitator prior to the forum to further reduce his anxiety regarding the process. At this time, Alex was asked to indicate if he wished to have any other supports present at the forum. He suggested that his program coordinator be invited.

The student then verbally outlined the research consent form (Appendix L) with the client and staff person, ensuring that both understood the document. Risks to participation, including the potential stress involved in taking responsibility for his actions in front of a group, were emphasized to the client. Both the client and the staff person signed research consent forms. The staff person was asked to assist the client in rehearsing his responses and brainstorming reparation ideas in the days remaining before the forum. The support worker was also informed that he could be asked to assist the

offender during the forum if there was difficulty with communication. Possible forum dates and times were then discussed.

As the offender and victim had now indicated their willingness to attend a forum, the student contacted a co-facilitator to discuss the case. It was determined that the co-facilitator would record ideas presented during the reparation brainstorming phase on a flipchart for the group to view. As both clients were literate, it would not be necessary to illustrate these ideas. The co-facilitator was informed that the offender wished to meet him prior to the forum to ease anxiety. Possible forum dates and times were then discussed.

The student met with the victim and his identified support person to obtain informed consent and further explain the process of a forum. Derek and the staff person were reminded of the questions they would be asked and the client was provided with the opportunity to rehearse his responses. The meeting also included a discussion regarding reparation that would be helpful for Derek. He indicated several ideas at this time. The student provided the client with a seating plan (Appendix A), indicating that a co-facilitator and the student's university advisor would be present at the forum. The student then verbally outlined the research consent form for Derek and his support person and provided copies for them to sign. The staff person was asked to assist Derek in rehearsing his responses in the days remaining before the forum. Possible forum dates and times were then discussed.

The next step for the student was to meet with the program coordinator who had been identified as a support person by the offender. The coordinator was very familiar with the forum process and therefore required minimal explanation. It was decided that

as the coordinator played an equal role in the agency for Derek and Alex, it would not be appropriate for him to support one client over the other. It was determined that he would provide balanced victim/offender support within the forum, and speak to the various ways Opportunities for Independence could support Derek and Alex in obtaining success in the community. Possible forum dates and times were then discussed with the coordinator. Throughout the process of preparation work with support persons, education regarding the needs of intellectually disabled individuals was not deemed necessary. All participants were staff of the agency and very familiar with the clients they were supporting.

Upon determining the schedules of all participants, the student contacted the co-facilitator to decide on the forum date and time. It was determined that the forum would be held on Wednesday, March 3<sup>rd</sup>, 2004, at 2:00 p.m. in the board room at Opportunities for Independence. The co-facilitator would arrive at 1:30 p.m. to individually meet the offender and the victim to ease their anxiety. All participants were contacted with this information.

Two days before the forum, the student contacted the co-facilitator to discuss final details regarding the case. The co-facilitator was provided with a forum seating plan and script, and informed of case developments. It was determined that the student and co-facilitator would meet before the forum to set up the room and would debrief immediately following the meeting.

## **The Forum**

On Wednesday, March 3<sup>rd</sup>, at 1:20 p.m., the student and co-facilitator met at Opportunities for Independences to prepare the forum room. Chairs and a flip chart were arranged according to the seating plan, refreshments were prepared, a "do not disturb" sign was placed on the door, facial tissues and pens made available, and sufficient copies of the agreement and participant feedback forms were organized. At 1:30 p.m., the offender and his support person arrived and waited in an adjacent room. As arranged, the client had an opportunity to meet the co-facilitator and ask some final questions regarding the forum. Alex was visibly anxious at this time. His face was drawn and his hands were shaking. He indicated to the student that he had attempted to cut his wrists that morning due to his apprehension regarding the forum. Later that day, the program coordinator discovered a voicemail from Alex stating that he was feeling suicidal and would not be able to attend the meeting.

The support worker described to the student and co-facilitator that when he had arrived at the client's residence that morning, Alex had expressed extreme anxiety regarding the forum. He was concerned that the atmosphere at the CJF would be one of judgment and blaming rather than support. The staff person spoke with him at length about the purpose of the CJF and was able to calm many of his fears. Alex eventually agreed that he would participate as planned and went to the forum site with his worker. The client had several superficial cuts on his upper arms that did not require medical attention.

The student and co-facilitator reiterated to the client that the purpose of the forum was not to judge him but to discuss the impacts of the incident. It was hoped that

participating in the meeting would in fact alleviate significant stress for both the offender and the victim. Alex agreed with this statement and indicated again that he was willing to participate. He stated that he had no questions at that time. The support worker and program coordinator waited with the client in the adjacent room and continued to support him by addressing his misconceptions and fears in the time remaining before the forum began.

The student and co-facilitator then met with the victim and his support worker in the forum room. The student ensured that Derek was comfortable and had no remaining questions regarding the forum process. Derek indicated that he had several additional ideas for reparation and related these to the student. The offender group was then invited into the forum room.

The forum began on time at 2:00 p.m. The student began with a brief introduction during which the focus of the CJF was stated, introductions were made, and the group was reminded of confidentiality. The group was also informed that a short break would occur at approximately the halfway point of the forum. The offender was asked to begin by telling the group about the incident. Alex said very little at this time, stating that he could not remember the details of the incident. The student prompted him several times and then asked the support person to assist Alex in the telling of the story. This served to take the focus from the student back to the group participants. Despite the staff person's assistance, the offender was unwilling to discuss his role in the incident. Alex was clearly uncomfortable with this process as illustrated by his one word answers, barely audible voice, and averted eyes. After several minutes of little progress, the student asked Alex, "Do you take responsibility for touching (Derek) in his private area



without his permission?" To this question, Alex responded "yes." Further questioning regarding the impacts of the incident caused the offender to cry. At one point, he raised his voice and emotionally expressed to the group that he had attempted suicide that morning, was experiencing extreme stress, and had not slept properly for some time. He did, however, express an apology to the victim for his actions.

Following the forum script, the student went on to question the victim regarding the impacts of the incident. It should be noted that Alex continued to cry for several minutes after his time of sharing. Derek was clearly taken aback by the offender's emotional display, appearing somewhat stunned. Despite his ability in preparation meetings to articulate his feelings regarding the incident, he was now vague in his responses and had very little to say. He too required some prompting from the student. Derek was able to state that the incident had caused feelings of anger and embarrassment.

The three support people present were then asked to speak to the incident. Derek's staff person began by outlining the details of the incident, stating that this had not yet been accomplished. She went on to indicate the ways in which she had observed the incident affect her client. In this way, she was able to express some of Derek's rehearsed comments that he had now been unable to state. These impacts included a loss of trust in Alex, significant anxiety and embarrassment, and fear for his safety.

The program coordinator spoke equally of the impacts of the situation on both Derek and Alex. He suggested that the incident had caused significant regret and shame for the offender and feelings of anger and loss of trust for the victim.

The offender's support person focused on the impacts of the incident for his client. He indicated that the offender's stress level and regret were substantial and that

not a day had gone by without serious discussion regarding the incident. Having heard from all participants, Alex was now asked by the student to respond to the group. He apologized again to Derek and expressed his desire to "be friends again." At this point, the student announced a short break.

As participants left the room, the student spoke briefly with a support person who had been taking notes as group members spoke. As it might appear to participants that confidentiality was being compromised, the support person was asked to refrain from writing notes.

Immediately after the break, the group entered into the agreement phase of the forum. It was emphasized by the student that this discussion should focus on reparation to address the incident as well as ideas that could assist Alex in making positive choices in the future. During this process, the co-facilitator noted ideas presented on a flip chart for the group to view. As this process began, the victim's support person stated that she had a concern regarding the process. During the break, Derek had disclosed to her that he was not feeling heard as the focus of the forum seemed to be more on the offender's pain than on his. Derek indicated that he had not said all that he wanted to. Though the agreement phase had already begun, the student immediately offered the victim a second opportunity to speak to the impacts of the incident. This time, Derek spoke with more conviction and emotion regarding the incident. He looked directly at Alex as he expressed his anger and loss of trust. The offender's response to Derek was to state that he too was hurting and that the process of recovery would be long for them both.

Upon hearing this response, the victim's support worker emphatically stated that Derek needed to hear from Alex that he took personal responsibility for the incident. At

this point, the offender raised his voice and angrily stated to the staff person, "You're coming down too hard on me! I'm sorry, okay (Derek)? How many times do you want me to say that I'm sorry?" He stated once again that the incident was difficult for him as well. At this point the student reminded Alex that the meeting was indeed difficult for everyone, but that the forum was a direct result of his actions towards Derek. He was encouraged to accept responsibility for this. The offender calmed down at this time. The student then asked the victim how he was feeling about the process. Derek stated that he felt better than he had before the break.

The student then resumed the agreement phase of the forum, asking the victim to indicate what the offender could do to repair some of the harm of the incident. Derek was well prepared for this question and stated that he wanted an apology letter from Alex. He also requested that the offender respect his personal space and receive counseling through Opportunities for Independence. The student then asked the support people to indicate their ideas. The offender's support person suggested that if Derek and Alex wanted to restore their friendship, perhaps supervised visits could be arranged. Derek was hesitant regarding this idea, stating that he was not ready to resume a friendship at this time. The program coordinator indicated that both clients could receive counseling from the agency if they were interested. The final agreement was as follows. Alex would write a letter of apology to Derek, indicating that he would respect Derek's personal space. It was determined that the letter would be submitted to the program coordinator for delivery to Derek by March 10<sup>th</sup>, 2004. The client's support worker would assist him in this task. Furthermore, Alex would attend counseling through Opportunities for Independence as arranged by the program coordinator. Finally, the

group agreed to attend a follow-up meeting to allow the clients to discuss their progress. It was determined that the student would schedule and lead this meeting during the month of April. The agreement also indicated that should the offender not comply with these items, the victim would then pursue police involvement.

Upon determining the agreement, the student and co-facilitator completed the agreement form (Appendix I) while the group had refreshments. The agreement was signed by key participants and copies were made. Group members were then asked to complete participant feedback forms (Appendix O). Derek and Alex were assisted by their support workers in completing this task. As they were dismissed, participants were informed that they would be contacted by the student within several days to obtain further feedback regarding the process.

Immediately after the forum, the student met with the co-facilitator to debrief the process. The co-facilitator agreed with the student that the offender had taken a victim stance throughout the forum. This attitude, coupled with concern from participants regarding the offender's emotional state, likely contributed to the victim's feelings of not being heard. The co-facilitator had several suggestions for how the student might have countered this outcome. It may have been helpful to begin the forum by specifically stating that the meeting would focus on how the offender's actions had caused Derek pain. The offender could then have been periodically reminded of this focus throughout the forum.

It was pointed out that the student had neglected to ask the offender, "In what way has (Derek) been affected by your actions?" It might have been helpful for the victim to hear Alex speak to this point. The co-facilitator suggested that the student could have

asked the victim how he was feeling about the forum when he first encountered difficulty expressing his thoughts about the incident. Had the opportunity been provided, Derek might have revealed at that early stage that the forum seemed to be focusing on the offender's pain. Despite these difficulties, the co-facilitator indicated that the student had skillfully facilitated the forum. Specifically, the student had exhibited a great deal of calm and patience by allowing participants a significant period of time to answer questions.

Later that afternoon, the student was asked by the offender's support person to speak with Alex. Alex expressed to the student that he was feeling anger towards Derek's support person for what she had said during the forum. As the student felt that the support person's comments had been warranted, Alex was simply encouraged to focus on moving past the incident by completing the forum agreement. He was congratulated on finding the courage to attend the meeting. The offender appeared satisfied with this response.

On March 10<sup>th</sup>, Alex provided an apology letter as specified in the agreement form. This letter was reviewed by the student and then delivered to Derek, who expressed his satisfaction with the letter's contents. On March 22<sup>nd</sup>, Alex began weekly, individual and group therapy sessions as arranged by the program coordinator. A CJF follow-up meeting was scheduled by the student for April 14<sup>th</sup>. Unfortunately, Alex was hospitalized several days before this meeting was to occur. He remains in the hospital at the time of this writing (April, 2004). Derek was made aware by the student that Alex had started counseling sessions in addition to writing the letter and had thereby fulfilled the agreement. Upon Alex's discharge from the hospital, a follow-up meeting will again

be pursued. Letters were sent to the clients' Manitoba Family Services workers informing them of the forum process and outcome.

### **Participant Feedback Forms**

All five participants completed and returned participant feedback forms to the student. All participants strongly agreed or agreed with the statements, "I am pleased that I participated in this meeting," "I listened carefully when others were speaking," "Kimberly helped the meeting go smoothly," "I am pleased with the agreement reached," "The length of the meeting felt appropriate," and "I would participate in this type of meeting again if I had the chance." These responses indicate to the student that participants were pleased with the CJF process and outcome and would take part in a similar meeting in the future. Participants were also comfortable with the role the student played and indicated that they had been respectful listeners to their fellow group members.

Regarding the statements, "I felt prepared for the meeting," "I feel that my opinion was valued as we discussed an appropriate consequence," and "I feel that this process was fair," four out of five participants strongly agreed or agreed. The fifth response in all three cases was neutral. These responses further indicate general satisfaction with preparation procedures, the forum, and the group process.

Of concern to the student were responses to the statement, "I was not given enough opportunity to speak during the meeting." Only one individual strongly disagreed with this assertion. Two people agreed with the statement while two others indicated a neutral response. Clearly, a number of participants left the forum feeling that

their thoughts had not been voiced to the group. It is interesting to note that in spite of not feeling heard, participants indicated on the feedback forms that the length of the meeting was appropriate and that their opinions had felt valued. This response is also surprising to the student given that the adapted script includes several invitations for group members to share further thoughts.

Of the participants, two individuals did not feel listened to and respected when they spoke. This is not surprising given the outburst that occurred during the agreement phase of the forum. Both the support worker and the offender later expressed frustration regarding this exchange.

Regarding the statements, "I was confused about the different parts of the meeting" and "Kimberly took sides during the meeting," four participants strongly disagreed or disagreed while the fifth respondent agreed with each statement. It is possible that the student's refocusing of the offender could have been interpreted as "taking sides." Generally, however, these responses suggest that preparation was thorough and that the student maintained neutrality.

One individual included the comment, "You balanced process with the needs of each participant. In short, you were flexible enough to backtrack and allow participants to say their piece."

### **Follow-up Interviews**

The student interviewed all forum participants on Friday, March 5<sup>th</sup>, 2004, at the offices of Opportunities for Independence (see Appendix P for victim, offender, and support person satisfaction interview guide). The student began by interviewing the

victim of the incident. When asked about his expectations for the forum, Derek indicated that he had assumed Alex would deny the incident. He stated that the process had gone much better than he expected.

The victim was asked if he had felt listened to and supported throughout the forum. Derek stated that during the first half of the forum, "everyone was talking more to (Alex) than to me." Though this made him angry, he did feel supported by his staff person. When asked if there had been adequate opportunity to express his feelings to Alex regarding the offence, Derek was quick to state that he was glad to have received a second chance to speak to the issue. Derek identified a number of factors that had made it difficult to express his feelings to the offender. He stated that he felt uncomfortable and "grossed out" being in the same room as the offender. Derek pointed to the fact that Alex didn't describe the incident, but spoke instead of his own anxiety and suicidal ideation. Derek stated, "He was trying to deny what happened." Derek also felt that the apology had not been genuine and that Alex did not gain a true understanding of how the incident impacted Derek.

Derek indicated that the forum process had been understandable. He felt well-prepared, stating that the preparation meetings with the student had helped him know what to expect. When asked about the agreement, the client stated, "Everything I wanted got on the agreement." Derek felt heard during the agreement phase and indicated that the agreement was fair. At this point, the student asked the victim if he ever regretted not pressing charges against Alex. He stated that at times he did.

The client was asked to comment on his overall feelings as a result of the forum. Derek indicated that the CJF process was helpful, stating, "I felt supported and got to tell



(Alex) how the incident affected me.” Though he expressed satisfaction in following through with the forum, Derek stated that he still carries some anger towards the offender. Knowing that Alex had a difficult time with the forum eases these feelings to some extent. The student normalized these feelings for Derek, stating that lingering feelings of anger and resentment are to be expected when victimized.

The student then interviewed the offender in the presence of his support person. Alex was asked to comment on his expectations for the forum. He indicated that he had expected participants to be angry and frustrated with him throughout the meeting. He stated, “I thought it would feel like I was in the middle of the circle being judged.” When asked if his expectations had been met, Alex responded that he did feel that people were “pointing a finger” at him, but admitted that he had felt better as the forum progressed.

Alex was asked if he felt listened to and supported during the forum. He indicated that he did not have adequate opportunity to speak and therefore did not feel heard. He also stated that the victim’s support person was extremely hard on him. At this point in the interview the student decided to clarify with the client what the support worker had stated during the forum. As Alex was once again taking a victim stance regarding the incident, the student discussed with the client the difference between accepting responsibility and apologizing. Accepting responsibility would require Alex to acknowledge the pain he had caused Derek rather than continually pointing to his own suffering. The support worker stated that he would continue to coach Alex on this concept.

The student then continued with the interview. Alex indicated that the forum process had been clear to him and that the agreement reached was fair. When asked to

comment on the effectiveness of the student's facilitation, Alex stated, "You did a good job." The client commented that attending the forum was significantly more difficult for him than police involvement would have been. He also reported reduced feelings of anxiety now that the forum was over.

It is important to note that the student reviewed the apology letter prior to its delivery to the victim. The offender had clearly made many gains in his understanding since the forum and interview, as the letter genuinely conveyed personal acceptance of responsibility and acknowledgement of the victim's pain.

The following section will outline the responses of the three support people interviewed. The participants were asked to comment on their expectations for the CJF. One individual expected that this approach would be better than the formal criminal justice route as both clients would leave the forum feeling better about the incident. His expectations were met. An interviewee commented that his expectations were met in terms of the process, the offender's anger, and the focus on the future. The third interviewee was disappointed in the fact that the victim had minimal opportunity to speak and that the offender was dishonest. This individual's expectations had not been met.

All support persons indicated that they had generally felt listened to and supported throughout the forum. One individual clarified that the offender had not been an effective listener. Another stated, "The facilitator should be the only one taking notes. The other participants...should appear totally attentive." Participants stated that the forum process had been clear to them.

Interviewees were asked to comment on the forum agreement. All responses were positive and included the following statements: "The agreement is fair. It addresses

a lot of areas,” “The agreement allows for an ongoing sense of accountability,” and “The time frame of the agreement is nice and short – immediate consequences.”

Participants made several comments regarding the student’s facilitation skills. One individual stated that the student had been completely fair and neutral throughout the process. This participant suggested that the student could have asked the victim’s support worker to guide him when he experienced difficulty expressing his feelings. Another commented on the student’s calm demeanor. One interviewee was pleased that the student had allowed for the victim to speak a second time, stating, “You allowed for that interruption, reframed it for the group, and moved on.” This participant went on to state that the student had been “in tune with the group process.”

When asked about overall feelings as a result of the forum, one individual commented on the power imbalance between staff and clients. He pointed out that when the staff person had spoken harshly to the offender, Alex had experienced a crisis. This participant suggested, “All contact aside from that between the victim and offender should be made through the facilitator. If this doesn’t happen the integrity of the circle is compromised.” A participant suggested that the offender’s anger throughout the forum revealed significant denial in taking responsibility, indicating that counseling is indeed needed. He went on to state that the disruption during the agreement phase had allowed the victim to receive the validation he needed. The third participant suggested that the experience was beneficial in the process of Derek developing empathy for the individuals he himself has victimized. This participant also indicated that the offender’s support person did little during the forum to encourage Alex to accept responsibility.

### **Student Reflection**

Of the four CJFs facilitated by the student for the purpose of the practicum, no other case involved a victim with an intellectual disability. Preparation work and the process of informed consent were therefore more comprehensive for his case. The victim needed to be made aware of the various options he had for responding to the incident. It was imperative at that point that he make an informed decision regarding how to proceed. Preparation work was also impacted by the offender's various accounts of the incident. Planning for the forum could not be considered until these issues were resolved.

As outlined in the forum proceedings, the offender was in crisis on the morning of the CJF. This speaks to the potential for this population, many of whom suffer from mental illnesses, to experience severe anxiety regarding unfamiliar procedures such as forums. Despite thorough preparation meetings with the student, the offender had many false perceptions regarding the process. Fortunately, the client's support worker assisted Alex in working through these negative feelings and misconceptions. Extended preparation time and coaching from support people is indeed necessary with this population.

The offender had not fully accepted responsibility for the incident at the time of the forum. Though he admitted to offending against Derek, he did not fully appreciate the pain his actions had caused. At the forum, Alex apologized to Derek several times yet continually emphasized his own suffering. This was clearly harmful to the victim. The lack of responsibility taken by the offender was perhaps more evident in this case than any other due to the fact that the victim, Derek, was also intellectually disabled. Derek lacked the skills to voice his feelings of indignation as Alex took a victim stance.

When a staff member came to Derek's assistance, the power imbalance between the staff and client caused the offender to attack and then withdraw. Asking the victim, "How are you feeling right now?" may have assisted in his ability to express his indignation to the offender. When a victim is able to articulate the pain he or she has experienced, it may assist an offender in accepting responsibility for his or her actions.

This issue signifies the need in preparation work to thoroughly discuss with an offender what it means to accept responsibility for one's behavior. Given the population's difficulty with abstract concepts, this may be a challenging idea to clarify. The offender's support worker indicated to the student that Alex seemed to finally understand this concept when he was reminded of a personal experience of victimization several days after the forum. The staff person asked Alex how he would have felt had the individual who assaulted him minimized the victim impact and failed to remember the details of the incident. The development in Alex of genuine empathy for Derek and acceptance of responsibility began with this conversation. Evidently, some offenders form victim empathy more easily than others. Preparation work with offenders, however, must always include exploration and coaching in this area.

Forum participants included the program coordinator and a staff person for each client. Though the staff members were strong supporters of their clients, at times the victim and offender groups appeared adversarial towards one another. The program coordinator's presence was helpful in moderating this effect to some extent. Participants must be made aware of the need for balance between support and accountability of their clients.

The forum, as usual, included a short break. The student's original reasoning for a break was to enable participants to return to the forum with renewed energy and focus. The student has learned from this CJF that the break is useful for a second reason. It allows for participants to speak with one another regarding their feelings about the process. In this case, the victim informed his support person that he was not feeling heard. This allowed the supporter to more effectively advocate on Derek's behalf when the forum resumed. Had Derek not had this opportunity to speak to his staff member, his concerns would not have been heard or validated by the group.

## CHAPTER FIVE

### EVALUATION

An important component of the practicum was evaluation of the intervention as it related to the student's learning goals. Goals of the practicum were twofold. The first was the development of a suitable community justice forum model for use with individuals with intellectual disabilities. The second was the development of the student's CJF facilitation skills. Evaluation of these goals occurred throughout the practicum by a variety of methods.

As outlined in chapter three of the report, upon the completion of each forum, participants were requested to complete a brief participant feedback form (Appendix O). The feedback form was designed to obtain information regarding a participant's opinion of preparation work, the forum procedure, and the student's ability to guide the process. Individuals unable to independently complete the form were assisted by support persons.

The student's facilitation of each forum was followed by a debriefing process with the co-facilitator. As all three co-facilitators were experienced in the facilitator role, this debriefing provided the student with constructive feedback regarding the process. Co-facilitators pointed out areas of success and made suggestions for improvement, thereby providing an evaluation of the CJF model and the student's skills.

Within a week of facilitating every form, the student interviewed key participants to determine their level of satisfaction with the process (see Appendix P for interview guide). Interviews addressed the areas of forum expectations, participant involvement, clarity of process, forum outcome, and facilitator skill. This feedback further addressed

and evaluated the learning goals of the practicum.

In each case, the student maintained contact with the agreement monitor to determine the offender's level of compliance with the agreement. This served to evaluate the suitability and success of the CJF model with the intellectually disabled population.

Finally, the student evaluated each forum through a process of self reflection. By critically examining the CJF proceedings, the student was able to both validate modifications made and identify areas of the model requiring further adaptation. Through this self reflection, the student evaluated personal facilitation skills and the suitability of the CJF process with the intellectually disabled population. The following section will summarize the results of these evaluation tools utilized in all four cases.

### **Participant Feedback Forms**

Participant feedback forms were completed by 24 of the 34 forum participants. Figure 2 provides a summary of individuals' responses to the 13 statements in this evaluation. The numbers on the table indicate how many participants selected each response (e.g., strongly agree, agree, neutral, disagree, strongly disagree). For each statement, the most commonly selected response is printed in bold.

The feedback forms clearly indicate that participants were pleased that they had been involved in the forums and would participate in a CJF in the future if the opportunity arose. Most participants felt prepared for the forums and understood the process as it occurred. This addresses the facilitation skill of preparation work and indicates that the model used for this process was effective.

The participant feedback form includes four statements specifically addressing



facilitator skill during the forum. These statements are, "I was not given enough opportunity to speak at the meeting," "Kimberly helped the meeting go smoothly," "Kimberly took sides during the meeting," and "The length of the meeting felt appropriate." Participants indicated that the student had run the forum smoothly (17 strongly agree). Responses were slightly more varied, however, regarding the other statements. Most participants indicated that the length of the meeting had been appropriate. Disagreement with this statement came from individuals who had attended the large Headingley Correctional Centre forum involving Henry. Several participants felt that they had not been given enough time to speak at the forum. These responses may have stemmed from the student's redirection of comments or individuals' lack of participation in group brainstorming. Of particular concern are the five responses suggesting that the student may have taken sides during the forums. The student's affiliation with Opportunities for Independence and familiarity with clients and staff from the agency may have impacted this point of evaluation. Given the population's difficulty with accepting responsibility for their actions, the student may have been perceived as biased simply as a result of her role as an authority figure in the forum. This perhaps speaks to the preference for a facilitator to be unknown to all forum participants.

Participant feedback forms indicate that respondents experienced mutual respect within the forum group by both listening to others and feeling heard. For the most part, participants felt that their opinions had been valued in the formation of reparation and were pleased with the agreements reached. Participants indicated that the process had been fair. These positive responses address the practicum goal of developing a model suitable for use with the intellectually disabled population.

Figure 2: Community Justice Forum Participant Feedback Form Responses

	1 strongly agree	2 agree	3 neutral	4 disagree	5 strongly disagree
I am pleased that I participated in this meeting	12	12			
I felt prepared for the meeting	8	13	3		
I was not given enough opportunity to speak during the meeting		5	4	7	8
When I spoke I felt listened to and respected	11	9	3	1	
I listened carefully when others were speaking	14	9	1		
Kimberly helped the meeting go smoothly	17	6	1		
I was confused about the different parts of the meeting		1	2	10	11
Kimberly took sides during the meeting *	1	2	2	6	12
I feel that my opinion was valued as we discussed an appropriate consequence **	9	8	2	2	
I am pleased with the agreement reached	8	12	3	1	
The length of the meeting felt appropriate	9	10	2	2	1
I feel that this process was fair *	11	10	2		
I would participate in this type of meeting again if I had the chance	11	12		1	

\* 23 (rather than 24) participants responded to this statement

\*\* 21 (rather than 24) participants responded to this statement

### **Co-facilitator Debriefing**

The co-facilitator debriefing that followed every forum was an effective evaluation tool for the student. The co-facilitators often made observations regarding the process that the student had been unaware of. Comments from co-facilitators also served to validate many of the student's adaptations and thoughts regarding each forum.

Generally, co-facilitators were pleased with the student's script adaptations. It was indicated that simplified wording of questions and less emphasis on stating details (such as the exact date and time of the incident) were effective adaptations for the population. All three co-facilitators commented on the value of note-taking/drawing on a flip chart during the reparation brainstorming phase. One individual stated that he planned to include this tool in all of his future forums. Co-facilitators also supported the addition of the broader question on how to assist the offender in obtaining future success in the community.

Co-facilitators complimented the student on her facilitation skills. Co-facilitators indicated that the student had a calming presence and maintained neutrality throughout the process. This contrasts with the participant feedback form responses that suggested the student was not neutral. This discrepancy may be a result of the student's role as an authority figure in the agency. It was stated that the student was very organized in terms of preparing for the forums (contacting participants, creating a seating plan, determining a date and venue), ensuring that all supplies were available (sign for door, refreshments, paperwork, pens, flip chart etc.), and leading the CJFs.

Upon the completion of every forum, co-facilitators had specific comments and suggestions for the student regarding both the suitability of the model and facilitator skill.

After completing the forum involving Mark, the co-facilitator indicated that the student had effectively utilized the key support person in assisting the client to describe the incident. This had enabled the student to maintain neutrality while returning the process to the group. The same co-facilitator assisted the student with the forum involving Henry. The co-facilitator indicated that the student had made good attempts to keep the group on task but suggested that clearly outlining time frames for the group might have alleviated several time related problems.

The co-facilitator involved in the forum for Paul commented on the effectiveness of separating the CJF into two meetings. It was stated that the student had successfully managed the second meeting by allowing for informal discussion but regularly summarizing ideas and refocusing the group.

The co-facilitator involved in the forum concerning Alex and Derek commented that the student had shown a great deal of patience in waiting for participants to answer script questions. Rather than immediately prompting the clients when they appeared hesitant, the student simply allowed them time to think or asked the question in an alternate form. The co-facilitator shared the student's concern regarding the victim not feeling heard and made several suggestions that might have mitigated this outcome. By wording the forum introduction and questions in a slightly different way, Derek might have left the CJF feeling more satisfied with the process.

### **Follow-up Interviews**

Follow-up interviews occurred with 20 of the 34 forum participants. Persons interviewed by the student included victims, offenders, and support people. One question

in particular addressed the student's facilitation skills: "Do you have any comments about the effectiveness of the facilitator?" Various general comments resulted from this question. Many participants indicated that the student had been fair and neutral throughout the CJF process. Several individuals stated that the student had effectively refocused the forum groups when they had strayed from the relevant issues. The student was complimented on her calm demeanor and ability to stay "in tune" with the group process. As described by one individual, the student "let the forum flow while remaining in control of the process."

Interviewees were asked several questions regarding the forum process. Specifically, "Do you feel that you had adequate opportunity to express your feelings to the offender/victim?" and "Did the forum process make sense to you?" Almost all interviewees agreed that they had had adequate opportunity to share their feelings. All participants indicated that the forum components had been clear and easy to follow. Several interviewees stated that the preparation process had significantly contributed to their understanding of the forum.

Interviews resulted in specific comments pertaining to each forum that evaluated the student's facilitation skills and the CJF model. A support person from the forum involving Mark stated that the student had been easy to understand throughout the process. Participants in this CJF indicated that the agreement formed by the group had been suitable and fair. Several support persons expressed their disappointment in Mark's poor attitude towards the forum and suggested that the process might have been more effective had it occurred sooner after the incident.

Several individuals who participated in Henry's forum told the student that the

group had been too large to be genuinely effective in holding the offender accountable. The size of the group resulted in time management and organizational difficulties, as well as preparation problems for some participants. Several interviewees suggested that the forum should have been designed in a way that was more sensitive to Aboriginal culture. Many participants indicated that the student had responded appropriately to the request for a prayer during the forum. Interviewees were appreciative of the agreement reached, indicating that the presentation idea was an appropriate teaching tool for Henry.

Individuals who participated in the forum involving Paul expressed their approval of the idea to hold two meetings. It was suggested that this modification had been helpful in light of Paul's limited ability to concentrate. One interviewee indicated that the student should have been more assertive in refocusing Paul on the relevant discussion during the larger group meeting. Participants were pleased with the agreement reached, stating that bathroom repairs were a realistic task for Paul and of benefit to Gail. It was suggested by the victim that the student be more mindful of individuals' medication cycles when scheduling forums.

Several individuals in the forum involving Alex and Derek expressed their appreciation to the student for allowing the victim a second opportunity to share. It was indicated that this flexibility within the forum process had enabled Derek to receive validation as a victim. One individual suggested that the student might have asked the support worker to assist Derek when he was experiencing difficulty in communication. The victim indicated to the student that he was pleased with the agreement reached as all of his suggestions had been included in the contract. One participant suggested that the power imbalance between staff and clients was problematic in this forum.

### **Offender Compliance with Restitution**

Following each forum, the student maintained contact with the agreement monitor to determine the offender's level of compliance with the agreement. As reported in case one, Mark followed through on all aspects of his agreement. He satisfactorily completed janitorial duties at Opportunities for Independence every morning for the two week period. Mark also exceeded the requirements of his agreement by taking the initiative to write apology notes to the victims, program coordinator, and executive director of the agency. It is important to note that Mark's usual pattern of inappropriate behavior within the agency has lessened considerably since completing the forum agreement. According to his program coordinator, at the time of this writing (four months after the forum), there have been no major incidents involving Mark. It is the belief of the program coordinator that the forum positively impacted the client, and has contributed to the improvements in his behavior.

As reported in case two, the forum involving Henry occurred during his incarceration at Headingley Correctional Centre. The agreement formed at this CJF indicated that Henry would provide a presentation to his peers at Opportunities for Independence within two weeks of his release date. At the time of this writing (April, 2004), Henry remains incarcerated with no set release date. It is hoped that the agreement will be fulfilled by Henry as planned upon his release.

The agreement resulting from case three indicated that Paul would complete renovation work on his sister's bathroom. He would be paid for this work in order to buy back the stolen VCR for his sister. Unfortunately, this agreement was never fulfilled as Paul was incarcerated shortly after the forum on an unrelated charge. He remains

incarcerated at the time of this writing (April, 2004) with no set release date.

As reported in case four, Alex followed through on all aspects of the forum agreement. He wrote and delivered a letter of apology for Derek within the two week time frame, has been faithfully attending weekly group and individual therapy sessions, and plans to attend a follow-up meeting with all forum participants to discuss progress upon his discharge from the hospital. At the time of this writing (six weeks after the forum), there have been no further offending incidents reported involving Alex. It is speculated that the impact of the forum and the additional support mechanisms put in place have contributed to the client's stability in this regard. The victim in this case indicated satisfaction with the apology letter and reduced feelings of anxiety regarding the incident. Agency staff observed positive interactions between Derek and Alex in the weeks following the forum. Clearly, the forum contributed to the restoration process between these two clients.

### **Student Reflection**

The student evaluated the practicum goals through a process of self-reflection following each forum. Numerous themes came out of these reflections, many of which validated the student's modification ideas and the development of facilitator skills.

As expected, the preparation process directly impacted the success of each forum. It was important for all participants to be prepared. This enabled victims, offenders, and support people to know what to expect, prepare their responses to script questions, and eliminate false assumptions. Evidently, there was enormous potential for misconceptions and anxiety regarding the CJF process. Several forum issues were the direct result of



insufficient preparation. Examples include Henry's misconception that the forum would result in a prison release date, the demand for a prayer during the forum involving Henry, Paul's inability to respond to many of the forum questions, and Alex's lack of understanding in regards to accepting responsibility for his actions. When participants were sufficiently prepared for their forums, the student witnessed valuable balance between support and accountability of offenders, confident and well thought out responses to script questions, and the formation of meaningful agreements.

Coaching of intellectually disabled participants by key support people was crucial in the process of preparation. Henry and Paul did not have the benefit of this coaching. Furthermore, it became clear to the student throughout the forum proceedings with Alex that offenders need to be coached on the meaning of accepting responsibility for their behavior. The teaching of this abstract concept may require additional preparation time.

It was important that the CJF model was flexible in order to meet both offender and victim needs. This was made evident throughout the forum proceedings involving Paul. Many adaptations were made in an attempt to tailor the process to meet Paul's needs. The forum was divided into two meetings and an appropriate venue was provided to enable the participation of a child. The student discovered from this forum that the medication cycle of a client must also be considered when scheduling a CJF.

The student's experience also confirmed the importance of timeliness with the model. Due to the population's difficulties with memory retention and a tendency to experience anxiety, the sooner a forum occurred after an incident, the more successful it tended to be. It was important, as anticipated when adapting the model, that the number of forum participants be limited to what the offender could cope with. The forum

involving Henry was clearly too large to effectively discuss all components.

The decision to include a break during the forums proved to be positive. This enabled participants to return to the group refreshed and, as seen from Derek, allowed for communication between clients and support persons regarding the process. Note-taking/drawing on a flip chart during the reparation brain-storming phase was also helpful in assisting participants to follow the process.

### **Goal Achievement**

Participant feedback forms, co-facilitator debriefing, follow-up interviews, forum outcomes, and student reflection served to evaluate the student's achievement of the practicum goals. The question remains, did the student attain the identified practicum goals of developing a suitable CJF model and acquiring forum facilitation skills?

The student adapted the current community justice forum model in an attempt to make it suitable for use with intellectually disabled offenders. The unique skills of this population were researched and considered throughout the adaptation process. Each forum revealed areas requiring further adaptation to meet the needs of the specific individuals involved. Certainly, the four practicum cases could not all be considered entirely successful. Unexpected challenges arose throughout the forums, and at the time of this writing, only two offenders have completed their agreements. That said, the CJF process is clearly not always successful with the general population either. As outlined in the literature review, within Manitoba, 15 percent of youth who participate in a CJF do not complete their agreements (Kennett, 2003). Furthermore, the traditional criminal justice system does not guarantee success through the court system and incarceration. It

is the student's belief that a suitable CJF model has indeed been developed for the intellectually disabled population, but that it will require individualized adaptation for every offender it is utilized with.

The student aspired to develop CJF facilitation skills through the practicum. The knowledge that was gained through forum observation and co-facilitation, facilitator training, and interviews with experienced facilitators laid the foundation for this skill acquisition. It was the practical experience of preparing and facilitating forums, however, which enabled the student to truly develop facilitation ability and expertise. Suggestions and comments from co-facilitators and forum participants further assisted the student's learning in this regard. The student feels that the practicum goal of facilitator skill development was undoubtedly fulfilled.

## **CHAPTER SIX**

### **CONCLUSION**

The student's practicum experience involved the development and utilization of a suitable community justice forum model for intellectually disabled offenders. The various components of the practicum enabled the student to meet the learning goals of appropriate forum adaptation and facilitator skill development. The following section outlines challenges and successes of the intervention as well as contributions of the practicum to the social work profession.

#### **Challenges of the Intervention**

A variety of challenges arose throughout the practicum that may impact the future utilization of the model. Though public awareness is increasing, the restorative approach of community justice forums continues to be unfamiliar to many in the social services field. Many of those who have heard of the approach do not have personal experience with its implementation. A challenge for the student was dealing with the skepticism and lack of interest that this unfamiliarity occasionally produced.

As stated in the intervention description chapter, the student did not receive any referrals from New Directions. It is certainly possible that no incidents meeting the practicum inclusion criteria occurred during the referral period. It may also be that the lack of onsite advocacy for the model by the student impacted the response. Many service providers for the intellectually disabled population have simply not considered the approach of community justice forums in the past. It will take time for the model to

be commonly regarded as a viable option by professionals, victims, and offenders of this population.

Within Opportunities for Independence, the student regularly heard of incidents involving clients and subsequently reminded program coordinators of the justice forum approach. Though generally met with support, there were instances of resistance to the CJF approach. At times, forum participants also raised reservations regarding the model. It is the student's belief that this hesitancy stemmed from skepticism regarding the model's effectiveness as well as unfamiliarity with its use. Continued education and data regarding the use of community justice forums with this population may mitigate some of this resistance.

A challenge was raised by the fact that the forum script and preparation process needed to be customized for each case. As stated in the evaluation chapter, it is believed that the model will require individualized adaptations to meet the needs of each unique offender it is utilized with. The time involved in this process is significant, as a facilitator must become adequately familiar with all intellectually disabled participants before appropriate adaptations can be made. The preparation time and adaptation skills required could negatively impact the future use of the model by service providers.

A challenge for the student was determining when CJF group process took precedence over the forum script. As outlined in the literature review, an effective facilitator does not become involved in content but intervenes to keep the group focused on fulfilling its task (Hunter, Bailey, & Taylor, 1995). As a facilitator, the student constantly made decisions regarding the flow of the forums. It was crucial to be sensitive to the group's needs while maintaining an awareness of the planned protocol. An

example was the forum involving Paul. During the larger group meeting, the student chose not to invite individual participants to speak in as formal a manner as originally planned as the group quickly entered into a helpful dialogue. A further example occurred in the forum involving Derek and Alex. When the victim's support person stated that Derek was not feeling heard, the student abandoned the script for a moment to allow for further opportunity to express feelings. During the case involving Henry, the student might have imposed additional control in order to allow sufficient time for the discussion regarding reparation and future success. Occasionally, the student discovered that forum participants were unhappy with the decisions made by the facilitator. In the case of Paul, certain participants did not feel heard as a result of the informal discussion. With Henry, many participants complained of the time constraints during the second half of the forum. Certainly, ongoing facilitator experience would be of assistance in the process of decision-making in this regard.

The practicum demonstrates the importance of a support person for all victims and offenders during the process of a forum. As outlined in the literature review, victims and offenders should not attend forums without support (RCMP, 1998). The absence of an identifiable support person in the case of Henry was clearly problematic in his preparation for the CJF. During the forum involving Derek, the support person advocated to ensure that his needs were being met. A challenge is raised by the fact that throughout the practicum, all support people chosen by participants with intellectual disabilities were staff of the agency. This is not surprising given the population's long-term experiences in the social services and their tendency to have limited social networks. The concern is that staff (who are paid to work with clients) may not offer the same level

of genuine or invested involvement as natural supports might. However, in some cases the natural supports that are available may not be healthy. The fact that CJF support persons for the intellectually disabled population may all be service providers is significant, as this is not the pattern with forums facilitated in the general population. It will be important for service providers to be sensitive to this fact when planning forums with individuals with intellectual disabilities. As stated in chapter three, participants will likely need encouragement to invite support persons other than service providers.

In the cases involving Mark and Henry, it was difficult to identify the victim(s) of the incident. In Mark's case, the staff members whose mail had been stolen were identified as the victims. The stolen mail, however, was not personally significant to these staff, but to their clients. The agency as a whole might be seen as the "victim" of the incident as the theft compromised the sense of security within the office space. The staff victims involved in the forum represented both the larger agency and the two clients who would have been impacted had the mail contents not been returned. As "representative victims", the staff were not as emotionally involved or affected by the incident as direct victims might have been.

The offence committed by Henry did not result in a specific victim but rather impacted many people. The focus of the forum was therefore adapted. Rather than concentrate on repairing the harm caused to a victim, the forum focused on the broader impacts of Henry's behavior. Forum participants also assisted Henry in developing a plan for success in the community.

The literature suggests that victim involvement is a critical component of community justice forums. As outlined in chapter one, the International Institute for

Restorative Practices (2003) states that the practice of restorative justice involves an offender, victim(s), and support people in dealing with consequences of a crime and determining how to best repair the harm. Evidently, Mark and Henry's forums could not identify and involve victims as clearly as the CJF literature and script suggests. A challenge for service providers is determining if a CJF can be attempted when victim identification is unclear. The process that unfolded with both Mark and Henry was helpful and restorative. The process did not, however, strictly adhere to all CJF guidelines in terms of victim involvement.

A further challenge is that the model may not always produce successful results. In some cases, factors beyond the control of the student (offender attitude, missed medication, unexpected participants, etc.) impacted the success of a forum and reparation. As outlined in the evaluation section, however, there is no criminal justice approach that guarantees success.

### **Successes of the Intervention**

The four CJFs facilitated throughout the practicum achieved varying levels of success. A number of factors appeared to contribute to this success. CJFs were most effective when the victim of an incident was clearly identifiable and not an employee of Opportunities for Independence. Such was the case in the forum involving Paul and Gail, as well as the CJF with Alex and Derek. When the agency was identified as the victim, power imbalances resulted which hindered the effectiveness of the forum.

Forums worked best when all participants were available for and cooperated with the preparation process. Success was also increased with smaller groups of participants.



Large forums, such as the one involving Henry, proved to be somewhat overwhelming and less effective for the offender.

Successful forums required the offender to accept responsibility for their offence and indicate remorse. On two occasions, this remorse and responsibility-taking was genuinely expressed through apology notes to victims during the reparation stage rather than at the forum itself. It is speculated that this delayed expression of remorse was perhaps more significant for the victim than an apology during the CJF. Not only was the apology entirely self-initiated, it indicated considerable growth in the offender.

Successful forums required offenders to complete their agreements. This involved a period of stability within the community and a commitment by offenders to fulfill their reparation.

Upon considering the practicum and its various challenges and successes, the student feels strongly that community justice forums should continue to be utilized with the intellectually disabled offending population. As discussed in the literature review, the traditional criminal justice system of court and incarceration is clearly riddled with difficulties for this population. Furthermore, recidivism rates do not appear to have been impacted. The community justice forum model developed by the student considers the unique needs of the population and each individual it is utilized with. Future success will only be determined through ongoing use.

## **Contributions to Social Work**

The use of restorative justice with intellectually disabled offenders has received very little formal exploration by the social work community. The student feels that ongoing study of this topic by social workers is imperative.

The Canadian Association of Social Workers Code of Ethics (1994) discusses a social worker's ethical responsibilities for social change. The code states,

A social worker shall advocate change in the best interest of the client, and for the overall benefit of society, the environment and the global community...A social worker shall advocate for the equal access of all persons to resources, services and opportunities...A social worker shall promote social justice (Chapter 10).

The social work profession clearly has an obligation to advocate for the accessibility of suitable resources for all people. Community justice forums represent an alternative justice approach that, when appropriate, all offenders and victims should have access to. By attempting to develop a model suitable for use with individuals with intellectual disabilities, the student has enabled the participation of this population, thereby fulfilling an ethical obligation.

Social work is dually focused on people and their environments as it strives for social justice. According to Mattaini, Lowery, and Meyer (1998), "...fulfilling social work's historic purpose requires a commitment to social justice and human rights that emerges from an authentic recognition of the connections among all people and their world (p.xx)." Utilizing CJFs with intellectually disabled individuals requires an understanding of the offence as well as an awareness throughout the forum process of the

specific circumstances, abilities, and emotions of all participants. This holistic and inclusive approach to conflict for a population not adequately served by the traditional criminal justice system demonstrates a commitment to true social justice.

The student has contributed to the profession of social work by sharing knowledge and expertise. Many people have been made aware of community justice forums as a result of this practicum. In total, 34 individuals participated in forums. The 46 service providers and participants who contributed to the practicum received summary reports of the project (Appendix Q). This served to further inform both professionals and the general public of the CJF approach and its potential with intellectually disabled offenders.

Finally, the student has contributed to the social work profession by gaining personal knowledge and skills. By meeting the practicum goals of forum modification and CJF facilitation skill development, the student has become a more competent and experienced social worker.

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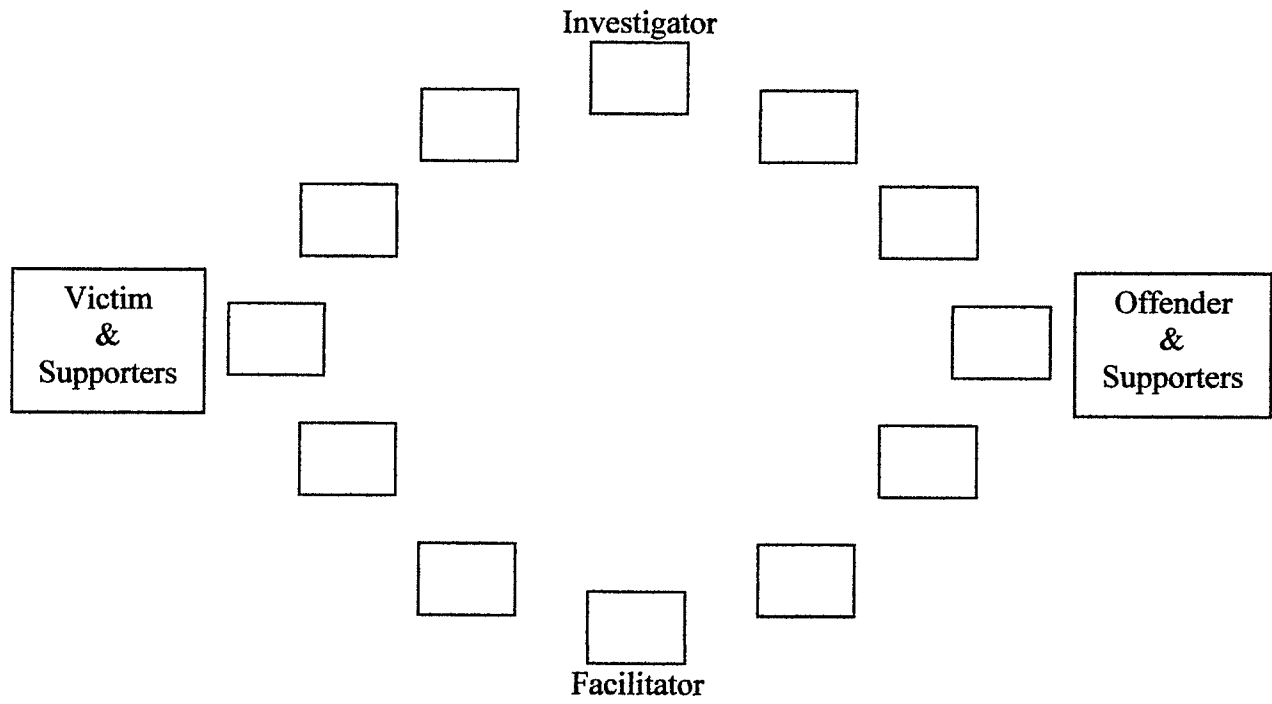
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**Appendix A**

**Community Justice Forum Seating Plan**



## Appendix B

### Community Justice Forum Facilitator's Script

#### Introduction

Welcome. As you know, my name is..... Before the conference begins, I would like to work my way around the group, introduce everybody, and indicate their reason for being here. *(introduce each participant and indicate their relationship to the victim and offender).*

At this stage, I would like to thank you all for making the effort to attend. This is difficult for all of us, and your presence here will help us deal with the matter that has brought us together.

Today, this conference will focus on an incident which happened *(date, place, and nature of offence - no elaboration)*. It is important to understand that we will focus on what *(name)* did and how his/her unacceptable behavior has affected others. We are not here to decide whether *(name)* is a good or bad person. We want to explore in what way people have been affected and hopefully work towards repairing the harm that has resulted.

*(Name)* has admitted his/her part in the incident. If at any stage in the conference *(name)* you no longer wish to participate, you are free to leave, but you need to know that the matter will be dealt with very differently if you do. This matter will be finalized subject to your satisfactory participation in the conference and compliance with the forum agreement. Do you understand? *(ask the offender's parents/caregivers also).*

This is an opportunity for all of you here to be involved in repairing the harm that has been done.

#### Discussion of Incident

##### **Offender:**

*The perpetrator is asked to tell the story of what happened. If there is more than one perpetrator, they are asked to speak in turn, taking up the story at different intervals.*

To help us understand who has been affected by this incident, we'll start by asking *(name)* to tell us what happened.

*Key questions can include the following if they are not covered by the perpetrator:*

How did you come to be involved?

Tell us what happened

What were you thinking about at the time?

What have you thought about since the incident?

Who do you think has been affected by your actions?

In what way have they been affected?

**Victim:**

*The victim is then asked the following questions:*

What did you think at the time? Immediately afterwards?

How has this incident affected you?

How did your family and friends react when they heard about the incident?

**Victim Supporters:**

*The victim supporters, in turn, are then asked:*

How did you find out about the incident?

What did you think when you heard about it?

What has happened since?

**Offender Supporters:**

*The offender supporters are then asked for their reactions. Start with the parents, caregivers and then the other supporters, in turn.*

It must be very difficult for you to hear this....

What did you think when you heard what had happened?

What has happened since?

**Offender:**

*(Perpetrator) before we move on, is there anything you want to say to (victim) or anyone else here?*

**Agreement**

*Restitution and reparation are now negotiated.*

*Start with the victim: You've heard all that has been said here. What do you want to see happen as a result of this forum?*

*Ask the same question of the victim's supporters. Allow plenty of time for discussion at this point. Plans to repair the harm may begin to be developed. Once the plans are looking okay, be sure to ask the perpetrator: Do you think this is fair?*

*To the perpetrator's supporters, ask: Is this a fair arrangement?*

*Generally to all: Is everyone happy with this?*

*The agreement should also include arrangements for monitoring and follow-up.*

**Closing the Forum**

*The facilitator summarizes the outcomes of the conference regarding restitution and reparation:*

Allow me now to read back what you've agreed upon.....Completion of this agreement will go a long way to putting right the wrong and allowing us all to learn from this unhappy experience. Is there anything else anyone wishes to say?.....Thanks again all of you for coming. It has been difficult and we hope it's been worthwhile.

*The facilitator writes up the agreement, which the participants sign, then makes photocopies for those with something to do and/or the key people.*

*Where appropriate, serve refreshments while the agreement is being written up, signed, and photocopied. Do not hurry participants out of the conference room as much informal reintegration is likely to happen after the conclusion of the conference.*

**Appendix C**

**Community Justice Forum Facilitator Training Certification**



COMMUNITY  
JUSTICE FORUM

PROCESSUS DE JUSTICE  
COMMUNAUTAIRE

*This is to certify that*

***Kimberly Wiens***

*attended and satisfactorily completed the  
requirements of*

***Community Justice Forums  
Facilitators Training***

*September 26<sup>th</sup>, 2003 to September 28<sup>th</sup>, 2003  
at*

*Winnipeg, Manitoba*

*Art Shofley  
Instructor  
Elder*

*Heather Souva  
Instructor  
Manitoba Justice*

*Sam Anderson  
Instructor  
R.C.M.P.*

## Appendix D

### Community Justice Forums and Intellectually Disabled Offenders

#### *Project briefing for potential participants*

**Researcher:** *Kimberly W. Enns, B.Th. B.A.*

The following is a brief description of a study being undertaken by Kimberly Enns, a graduate student of the University of Manitoba Social Work Department. The purpose of this study is to adapt and implement a process called community justice forums with intellectually disabled adult offenders. Inspired by the Maori culture of New Zealand, justice forums originated as a response to juvenile crime emphasizing partnerships between the justice system and community organizations. Utilising a victim-sensitive, restorative approach, justice forums involve an offender, their victim, and various support people in dealing with the consequences of a crime and determining how to best repair the harm. Victims and their supporters are invited to confront the offender, express feelings and ask questions about the incident. Offenders, in turn, hear of the harm they have caused and have the opportunity to express remorse and agree to restitution. Through this process, offenders avoid criminal charge and are reintegrated to enhance public safety and reduce recidivism, while victims' needs for answers, healing, acknowledgement, safety and emotional reparation are addressed. This study will examine the possibility of using community justice forums with adult offenders with intellectual disabilities.

The practicum is conceptualized as three components. The first of these involves justice forum facilitation training, forum observation and co-facilitation, and interviews with service providers. This preliminary work will be necessary for the second component, which will entail altering the current community justice forum model accordingly in order to develop a version appropriate for use with offenders with intellectual disabilities. The third component will entail implementing the model with the intellectually disabled offending population and obtaining feedback from participants regarding their satisfaction with the process.

The justice forum implementation component of the practicum will involve clients from the agencies of Opportunities for Independence, Inc. and New Directions. As intellectually disabled clients of these agencies struggle in a number of adaptive skill areas, may have a history of offending behavior, and are learning to live semi-independently in the community, there is significant potential for inappropriate incidents. In many cases, incidents may not warrant police involvement, yet there is a need for a formalized process in which the offender is held accountable and the victim is provided opportunity to express how they have been harmed and participate in determining the outcome of the offence. A community justice forum offers just that.

The project outcome will be the development of an effective community justice forum model for use with offenders with intellectual disabilities. It is anticipated that the model may subsequently be regularly considered by the formal justice system.



## Appendix E

### Research Consent Form (interview participants)

**Research Project Title:** *Community Justice Forums and Intellectually Disabled Offenders*

**Researcher:** *Kimberly Wiens, B.Th., B.A.*

This consent form, a copy of which will be left with you for your records and reference, is only part of the process of informed consent. It should give you the basic idea of what the research is about and what your participation will involve. If you would like more detail about something mentioned here, or information not included here, you should feel free to ask. Please take the time to read this carefully and to understand any accompanying information.

The purpose of this study is to adapt and implement a process called community justice forums with intellectually disabled adult offenders. The project also serves as a graduate studies practicum for the principle researcher. A community justice forum is a meeting that involves a person who has committed a crime, the victim of that crime, and various community people who know the victim or the offender. Instead of sending the offender to court to stand before a judge, the people who have been most affected by a crime are invited to discuss what happened, ask questions, and express how they feel, while the offender is given an opportunity to repair the harm that has been done. At this time, community justice forums are being used in many parts of the world, mostly with young offenders. This study will examine the possibility of using justice forums with intellectually disabled adult offenders.

Participants in the project will be interviewed by the researcher as part of the preliminary work of the study. Interviews will take place with facilitators of forums and service providers who work with individuals with intellectual disabilities. Interviews will take place at a location convenient to the interviewee and will run approximately one hour.

The researcher will take notes during each interview. All notes collected throughout the study will be kept in a locked file in the researcher's office and will be destroyed after the information has been examined. When writing about the interviews, the researcher will use false names and will not present any information that could allow a reader to identify the participants. All interviewees will be offered a summary of the practicum report upon its completion if they are interested.

Your signature on this form indicates that you have understood to your satisfaction the information regarding participation in the research project and agree to participate as a subject. In no way does this waive your legal right nor release the researchers, sponsors, or involved institutions from their legal and professional responsibilities. You are free to withdraw from the study at any time, and/or refrain from answering any questions you prefer to omit, without prejudice or consequence. Your continued participation should be as informed as your initial consent, so you should feel free to ask for clarification or new information throughout your participation

Principle Researcher: Kimberly Enns  
tel:

Supervisor: Denis Bracken  
tel: 474-9264

This research has been approved by the Joint-Faculty Research Ethics Board. If you have any concerns or complaints about this project you may contact any of the above-named persons or the Human Ethics Secretariat at 474-7122. A copy of this consent form has been given to you to keep for your records and reference.

---

Participant's Signature

Date

---

Substitute Decision Maker/Public Trustee Signature  
(If Applicable)

Date

Indicate legal relationship by which power to consent has been delegated:

---

---

Researcher's Signature

Date

**Appendix F****Interview Guide – Service Providers to Individuals with Intellectual Disabilities**

1. How are intellectually disabled individuals treated in the criminal justice system? How is this the same or different from non-intellectually disabled individuals?
2. Could the community justice forum process work with offenders with intellectual disabilities? How?
3. Would any challenges be raised by this process? What would they be?
4. How would community justice forums need to be adapted to work with this population?
5. Do you think this is an important area to explore? Why?

**Appendix G****Interview Guide – Community Justice Forum Facilitators**

1. What are the most important elements of a CJF? Why?
2. What factors lead to the successful completion of a CJF?
3. What components create difficulty when facilitating a CJF?
4. Have you ever considered the possibility of a CJF with intellectually disabled offenders? Do you suspect that forums could be used with this population in the same way that they are used with non-intellectually disabled individuals? What might the adaptations be?
5. Do you think this is an important area to explore? Why?

## Appendix H

### Community Justice Forum Facilitator's Script (Revised for use with individuals with intellectual disabilities)

#### Introduction

Welcome. As you know, my name is \_\_\_\_\_ and this is my co-facilitator \_\_\_\_\_ . Before we begin today I would like to introduce everybody.

*(introduce each participant and indicate their relationship to the victim or the offender)*

Thank you all for coming here today.

At this meeting, we will be talking about an incident that happened on \_\_\_\_\_ (date) at \_\_\_\_\_ (location) where \_\_\_\_\_ (nature of offence - no elaboration). We will be talking about what \_\_\_\_\_ (offender's name) did and how this has affected the other people here.

We are not here to decide whether \_\_\_\_\_ (offender's name) is a good or bad person. We want to talk about how people have been affected and hopefully decide what can be done about it so that those people feel better.

\_\_\_\_\_ (offender's name) has admitted his/her part in the incident. If at any time in the meeting, \_\_\_\_\_ (offender's name), you no longer want to be a part of this, you are free to leave. But you need to know that the incident may then need to be dealt with in another way. Do you understand?

If you \_\_\_\_\_ (offender's name) take part in this meeting and follow the agreement that the group comes up with, this matter will be over and you will no longer have to worry about it. Do you understand?

Does anyone have any questions?

This is an opportunity for all of you to be involved in discussing what happened and moving beyond it to help \_\_\_\_\_ (offender's name) succeed. I ask that we would all respect one another's privacy and not talk about the details of this forum with people who aren't here today or who aren't directly involved in providing services to \_\_\_\_\_ (victim's name) or \_\_\_\_\_ (offender's name).

About halfway through the forum we will be taking a short break so that people can stretch and use the washroom.

### **Discussion of Incident**

#### **Offender Questions:**

To help us understand this incident, we'll start by asking \_\_\_\_\_ (*offender's name*) to tell us what happened.

Can you tell us what happened on \_\_\_\_\_ (*date*) at \_\_\_\_\_ (*location*)?

*Key questions can include the following if not covered by the perpetrator:*

What were you thinking about when this happened?

Why did you do it?

What have you thought about since this happened?

Who do you think has been affected by your actions?

In what way have they been affected?

#### **Victim Questions:**

Now let's find out from \_\_\_\_\_ (*victim's name*) in what way he/she has been affected.

What did you think when this happened?

How do you feel about what has happened?

How has life been for you since this happened?

What did your family and friends say when they heard about the incident?

#### **Victim/Offender Supporter Questions:**

*supporters, in turn, are asked:*

How did you find out about the incident?

What did you think when you heard about it?

What has happened for you since the incident?

#### **Offender Response:**

\_\_\_\_\_  
\_\_\_\_\_ (*offender's name*), before we move on, is there anything you want to say to \_\_\_\_\_ (*victim's name*) or anyone else here?

How do you feel after hearing what everyone has said?

We will now take a short break so that people can use the washroom or stretch their legs. Please meet back here in five minutes.

**\*\*\* BREAK \*\*\***

**Agreement**

Now we will move on to the agreement stage of our meeting. This is the time where the group will come up with ideas for what \_\_\_\_\_ (*offender's name*) could do to repair some of the harm. During this time, \_\_\_\_\_ (*co-facilitator's name*) will be writing down/drawing everyone's ideas on a flip chart so that we can follow along more easily.

**Victim Question:**

\_\_\_\_\_ (*victim's name*), you've heard what everyone has said - what could \_\_\_\_\_ (*offender's name*) do that would make you feel better about what has happened?

**Victim/Offender Supporter Question:**

*supporters, in turn, are asked:*

What would you like to see as a result of this forum?

*allow plenty of time for discussion*

**Offender Questions:**

Do you have any ideas for what you could do that might help \_\_\_\_\_ (*victim's name*) feel better about what has happened?

*when agreement has been formed:*

Does this sound fair?

Is this something that you can do?

**To All:**

Does this sound fair?

Does anyone have anything to add?

How will this agreement be monitored?

When should it be completed by?

Does anyone have any questions at this point?

Allow me now to read back what the group has agreed on .....

Completing this agreement will be very helpful in making people feel better and will help us all to learn from this experience. I will be writing down what we have decided on an agreement form later.

**Discussion of Future Success**

Now we want to discuss how we can move past this incident and help \_\_\_\_\_ (*offender's name*) succeed in the community so that these kinds of things don't have to happen again. The group understands, \_\_\_\_\_ (*offender's name*), that sometimes, making good decisions is really hard for you. We want to talk about how we can help you make good decisions. These ideas will also be written down/drawn on the flip chart.

Does anyone have any questions?

**Offender Question:**

\_\_\_\_\_ (*offender's name*), can you tell the group what would help you make good choices in your life? These ideas will help the group know how to support you.

**Supporters:**

I would now like to give everyone in the circle a chance to respond to what \_\_\_\_\_ (*offender's name*) has said and perhaps share some of your own ideas. This is a time of group brainstorming.

**Offender Questions:**

How do these ideas sound to you?

Which ideas make the most sense to you?

**To All:**

Does anyone have any other comments for \_\_\_\_\_ (*offender's name*)?

**Closing the Forum**

This brings us to the close of our forum.

Is there anything else that anyone would like to say? (*work way around group*)

I would like to thank you all for being a part of this meeting and discussing what happened. I want to write down what we have decided on an agreement form now. I hope that the group can continue to support \_\_\_\_\_ (*offender's name*) and \_\_\_\_\_ (*victim's name*) so that an incident like this doesn't have to happen again. Please help yourself to some refreshments while I make the agreement and then bring it back for you to sign.

*After agreement form has been signed, facilitator makes copies for key participants*

It's important for me to know how all of you feel about what we did here today. In a few days I will be calling some of you to talk about what you thought about this meeting.

At this time could everyone here please take a few minutes to fill out these participant feedback forms. You do not need to put your names on these forms. Could the support people please assist those who need help? When you have completed your form you are free to go. Thank you again.



Appendix ICommunity Justice Forum Agreement

I, \_\_\_\_\_,

participated in a Community Justice Forum on \_\_\_\_\_

I admit that I am responsible for the following incident:

\_\_\_\_\_  
\_\_\_\_\_

that took place on: \_\_\_\_\_

It was my choice to participate in this meeting. I have agreed to the following:

To be completed by: \_\_\_\_\_

Dated this \_\_\_\_ day of \_\_\_\_\_, 200\_\_.

\_\_\_\_\_  
*Offender*\_\_\_\_\_  
*Offender Supporter*\_\_\_\_\_  
*Victim*\_\_\_\_\_  
*Victim Supporter*\_\_\_\_\_  
*Community Justice Forum Facilitator*\_\_\_\_\_  
*Co-Facilitator*

Please contact the facilitator at 786-0108 if there are any concerns or questions

## Appendix J

### Community Justice Forums and Intellectually Disabled Offenders

*Project briefing for program coordinators of  
Opportunities for Independence and New Directions*

**Researcher:** *Kimberly W. Enns, B.Th. B.A.*

The following is a brief description of a study being undertaken by Kimberly Enns, a graduate student of the University of Manitoba Social Work Department. The purpose of this study is to adapt and implement the process of community justice forums (also known as family group conferences) with intellectually disabled adult offenders. Inspired by the Maori culture of New Zealand, justice forums originated as a response to juvenile crime emphasizing partnerships between the justice system and community organizations. Utilising a victim-sensitive, restorative approach, justice forums involve an offender, their victim, and various support people in dealing with the consequences of a crime and determining how to best repair the harm. Victims and their supporters are invited to confront the offender, express feelings, and ask questions about the incident. Offenders, in turn, hear of the harm they have caused and have the opportunity to express remorse and agree to restitution. Through this process, offenders avoid criminal charge and are reintegrated to enhance public safety and reduce recidivism, while victims' needs for answers, healing, acknowledgement, safety, and emotional reparation are addressed. This study will examine the possibility of using community justice forums with intellectually disabled adults who have offended.

The practicum is conceptualized as three components. The first of these involves justice forum facilitation training, forum observation and co-facilitation, and interviews with service providers. This preliminary work will be necessary for the second component, which will entail altering the current community justice forum model accordingly in order to develop a version appropriate for use with offenders with intellectual disabilities. The third component will entail implementing the model with the intellectually disabled population and obtaining feedback from participants regarding their satisfaction with the process.

It is hoped that the justice forum implementation component of the practicum will involve clients from the agencies of Opportunities for Independence and New Directions. As intellectually disabled clients of these agencies struggle in a number of adaptive skill areas, may have a history of offending behavior, and are learning to live semi-independently in the community, there is significant potential for inappropriate incidents. Examples include theft, assault, and threats. In many cases, incidents may not warrant police involvement, yet there is a need for a formalized process in which the offender is held accountable and the victim is provided opportunity to express how they have been harmed and participate in determining the outcome of the offence. A community justice forum offers just that.

Cases considered for intervention will meet all of the following criteria:

- a) the offender and the victim are age 18 or older
- b) the offender is currently receiving services from Opportunities for Independence/New Directions and therefore involved with Manitoba Family Services/Community Mental Health
- c) the victim, if intellectually disabled, is currently receiving services from Opportunities for Independence/New Directions and/or involved with Manitoba Family Services/Community Mental Health
- c) the incident warrants an in-agency incident report
- d) the offender admits to the offence
- e) the incident has adversely affected or harmed someone and there is a need to repair that harm
- f) both the offender and victim are willing to participate in a community justice forum
- g) should the incident require police intervention, a consultation process has deemed the incident appropriate for referral back to the student for a justice forum

Cases will be excluded from the intervention if they meet any one of the following criteria:

- a) the victim or the offender are on the caseload of the student at Opportunities for Independence for employment purposes
- b) the offender or the victim are deemed incompetent to give informed consent
- c) the incident is a serious sexual or violent assault as defined by the level of police involvement
- d) the formal justice system becomes involved and indicates that the case is not suitable for a community justice forum

As project coordinators of Opportunities for Independence or New Directions, you are requested to consider with your clients the process of a forum should an appropriate situation, namely one in which an incident report is required, arise. Upon access to an appropriate case, the student will examine the circumstances of the incident, obtain informed consent from the offender and victim, determine with the victim and offender who should attend and provide them the opportunity to include culturally relevant support people, obtain informed consent from all participants and prepare them for the process, schedule a date and venue, and finally, hold the forum. The student will facilitate each forum with an experienced co-facilitator from outside of either agency. Every forum will be immediately followed by an evaluation process through a participant feedback form. Seven to ten days after the completion of a forum, the victim, the offender, and one support person for each will be individually interviewed to determine their level of satisfaction with various aspects of the justice forum.

As project participants have been diagnosed with intellectual disabilities or are receiving funding as a result of meeting similar criteria, the population is considered vulnerable. Precautions taken by the student to minimize risks include a thorough informed consent process; significant emphasis on the role of support persons as guiding individuals with intellectual disabilities through the process; the opportunity to complete a feedback form immediately following the forum as a means of debriefing; and individual interviews

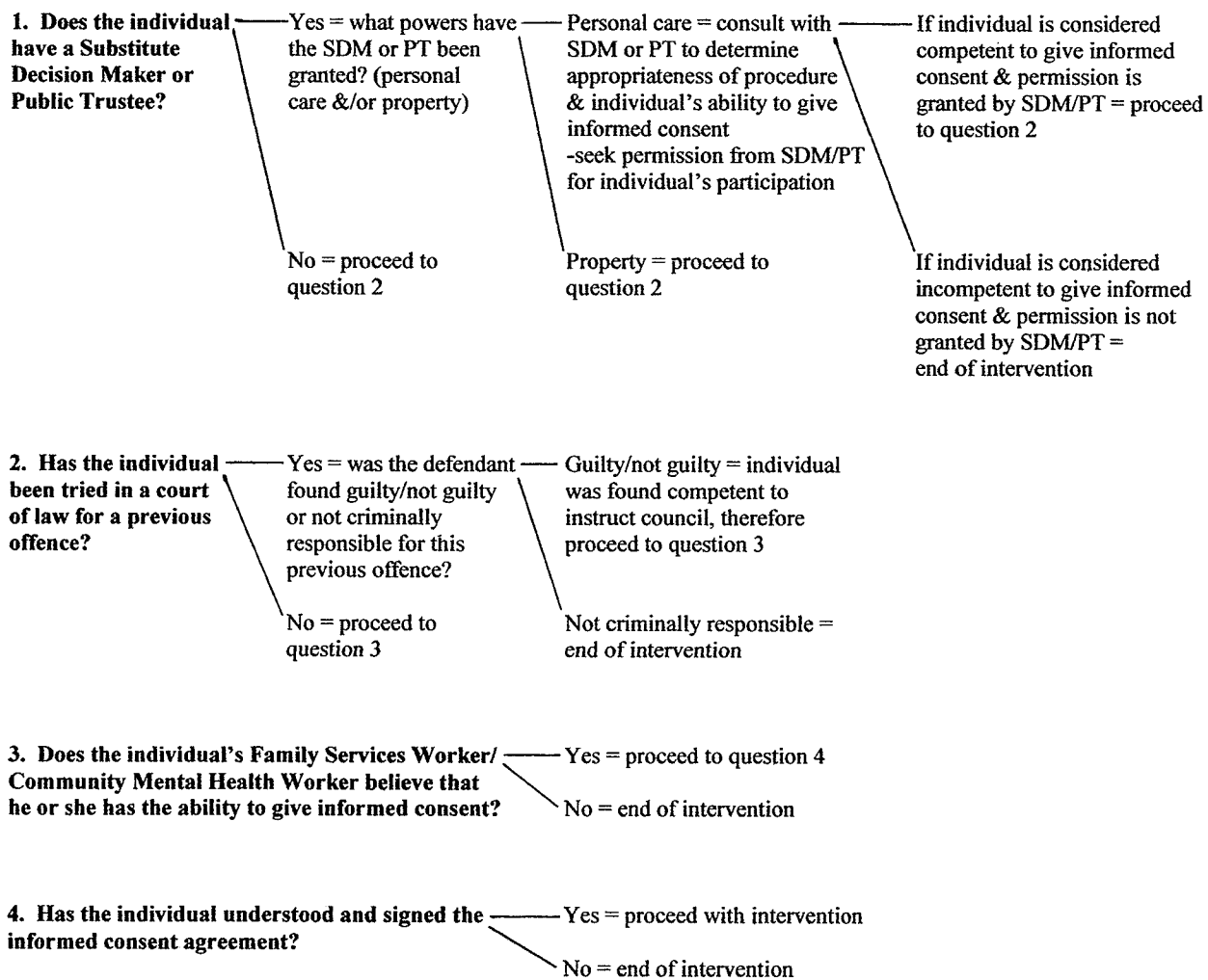
with victims, offenders, and their key supporters following the forum as a further means of debriefing. Anonymity for all participants is assured and agency admission and discharge policies will not be affected by a client's participation in the practicum.

Forums will take place at the student's place of employment, Opportunities for Independence. The practicum goal is to facilitate six forums, three from each agency. The project outcome will be the development of an effective community justice forum model for use with the intellectually disabled population. It is anticipated that the model may subsequently be regularly considered by the formal justice system. The practicum was approved on September 15, 2003 by the University of Manitoba Joint-Faculty Research Ethics Board, by Dr. Jennifer Frain, Director of Programs and Evaluation of New Directions, and by Rick Rennpferd, Executive Director of Opportunities for Independence. The practicum is being supervised by a practicum committee, chaired by Dr. Denis Bracken of the University of Manitoba (telephone: 474-9264).

The student can be contacted at \_\_\_\_\_ should program coordinators have any questions regarding the practicum or referrals for consideration.

## Appendix K

### Informed Consent Decision Making Tree *for participants with intellectual disabilities*



## Appendix L

### Research Consent Form (community justice forum participants)

**Research Project Title:** *Community Justice Forums and Intellectually Disabled Offenders*

**Researcher:** *Kimberly W. Enns, B.Th. B.A.*

This consent form, a copy of which will be left with you for your records and reference, is only part of the process of informed consent. It should give you the basic idea of what the research is about and what your participation will involve. If you would like more detail about something mentioned here, or information not included here, you should feel free to ask. Please take the time to read this carefully and to understand any accompanying information.

The purpose of this study is to adapt and implement a process called community justice forums with intellectually disabled adult offenders. The project also serves as a graduate studies practicum for the principle researcher. A community justice forum is a meeting that involves a person who has committed a crime, the victim of that crime, and various community people who know the victim or the offender. Instead of sending the offender to court to stand before a judge, the people who have been most affected by a crime are invited to discuss what happened, ask questions, and express how they feel, while the offender is given an opportunity to repair the harm that has been done. At this time, community justice forums are being used in many parts of the world, mostly with young offenders. This study will examine the possibility of using justice forums with intellectually disabled adult offenders.

Participants in the project will be involved by way of participation in a community justice forum. Opportunities for Independence and New Directions are two agencies that work with individuals with intellectual disabilities. When there are incidents that occur within these agencies in which an offence is committed by an individual with an intellectual disability towards another person, the researcher may be contacted. The researcher will meet with the offender and then with the victim to explain the process of a forum and ensure their willingness to participate. The researcher will also ask the victim and the offender to identify several people who are important to them that could attend the forum as their supporters. The researcher will meet individually with all of these people to ensure that they wish to be involved and to prepare them for the community justice forum.

During the community justice forum, which will be facilitated by the researcher and a co-facilitator, the offender, the victim, and the support people will each be invited to speak about the incident and how it has affected them. The group will negotiate an agreement, for example, community service, that the offender will follow. A support person will be assigned to help the offender meet the agreement within a set time frame, usually from one to two months. The forum will occur at the offices of Opportunities for Independence and take from one to two hours to complete.

Immediately following the forum, participants will be invited to respond anonymously through a participant feedback form that will take approximately ten

minutes to complete. A week to ten days after the forum, the researcher will interview the victim, the offender, and one support person for each to evaluate their satisfaction with the process. This interview will occur at a location convenient to the interviewee and take from 30 minutes to one hour to complete.

At some level, the study involves risk for participants. A community justice forum asks victims to face their offenders, offenders to face their victims, and the community to face both. This may be difficult and emotionally stressful for participants. A community justice forum is likely less stressful and more helpful for participants, however, than when an offence is dealt with by the police, the courts, and prisons.

The researcher will keep notes of important details of all aspects of the study. All feedback forms and notes taken throughout the study will be kept in a locked file in the researcher's office and will be destroyed after the information has been examined. Justice forums will begin with a request by the researcher that participants respect the privacy of all by not sharing details of the forum with those who are not present. When writing about the justice forums, the researcher will use false names and will not present any information that could allow a reader to identify the forum participants. Furthermore, agency admission and discharge policies will not be affected by a client's participation in the practicum. Upon their completion of participation in the study, victims and all support persons will be contacted by the researcher and informed of whether or not the offender met their agreement. All forum participants will be offered a summary of the practicum report upon its completion if they are interested.

Your signature on this form indicates that you have understood to your satisfaction the information regarding participation in the research project and agree to participate as a subject. In no way does this waive your legal right nor release the researchers, sponsors, or involved institutions from their legal and professional responsibilities. You are free to withdraw from the study at any time, and/or refrain from answering any questions you prefer to omit, without prejudice or consequence. Your continued participation should be as informed as your initial consent, so you should feel free to ask for clarification or new information throughout your participation

Principle Researcher: Kimberly W. Enns  
tel:

Supervisor: Denis Bracken  
tel: 474-9264

This research has been approved by the Joint-Faculty Research Ethics Board. If you have any concerns or complaints about this project you may contact any of the above-named persons or the Human Ethics Secretariat at 474-7122. A copy of this consent form has been given to you to keep for your records and reference.

---

Participant's Signature Date

---

Substitute Decision Maker/Public Trustee Signature Date

(If Applicable)

Indicate legal relationship by which power to consent has been delegated:

---

---

Researcher's Signature Date



## Appendix M

### Explanation Script

*For participants with intellectual disabilities*

- We're meeting here today because of the incident that happened on \_\_\_\_\_ where you \_\_\_\_\_
- I am here to tell you about a way that we can deal with this incident. Would you like to hear about it?
- First of all, can you tell me what happened there?
- Do you take responsibility for what happened? Do you admit that you did it?
- I know of a way that we can deal with this. A community justice forum is a meeting where you and the people who have been hurt by your actions meet to talk about what has happened
- You will be asked to explain what happened. You will also be asked to explain how other people have been affected by what you did
- Who do you think was hurt by what you did?
- How were they hurt?
- The people who have been affected by what you did will be at the meeting. They will get a chance to talk about how what you did hurt them
- I will also be there to make sure that everyone gets a chance to talk.
- When everyone has said how they feel, we will talk about what you can do to help people feel better. This could be a lot of different things, like helping them with their chores. It's very important that you do what the group has asked
- Would you like to more about how this meeting happens? (Use visual guide to explain entire process)
  - we meet in the board room at Opportunities for Independence
  - Everyone sits in chairs in a big circle
  - I will ask everyone some questions. You will be the first person that I speak to
  - Then I will ask the other people until everyone has had a chance to speak
  - then I will ask you if you have anything else to say
  - and then we will talk about what you can do to make people feel better
- Tell me, how do you feel about what you did? Are you sorry for it?

- It's really important that you say that to the other people at the meeting so that they know that you are sorry. That will help them to feel better.
- What do you think you could do that would make those people feel better?
- These people are going to be at the meeting: \_\_\_\_\_ Who else do you think should be there?
- In a few days I am going to meet with you and \_\_\_\_\_ (key support person) to help you get ready for this meeting
- These papers are very important because they explain more about these types of meetings, called community justice forums. Everyone who comes to the meeting will need to sign this. I'm going to go through this with you now.
- I hope that the meeting will happen on \_\_\_\_\_. Does that sound okay to you?

**Appendix N**

**Community Justice Forum Visual Guide**



Royal Canadian Mounted Police / Gendarmerie royale du Canada

# COMMUNITY JUSTICE FORUM



Canada

RCMP Learning Tools were produced by Corinne de Courcy and Margaret Irving, Director of the Royal Canadian Mounted Police's Learning Services, Ottawa, Ontario, Canada. © 2005

**Appendix O****Community Justice Forum Participant Feedback Form**

Date of forum: \_\_\_\_\_

Please respond to these questions according to the following scale. For each question, circle the number that you agree with.

<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	
Strongly agree	Agree	Neutral	Disagree	Strongly disagree	
I am pleased that I participated in this meeting	1	2	3	4	5
I felt prepared for the meeting	1	2	3	4	5
I was not given enough opportunity to speak during the meeting	1	2	3	4	5
When I spoke I felt listened to and respected	1	2	3	4	5
I listened carefully when others were speaking	1	2	3	4	5
Kimberly helped the meeting go smoothly	1	2	3	4	5
I was confused about the different parts of the meeting	1	2	3	4	5
Kimberly took sides during the meeting	1	2	3	4	5
I feel that my opinion was valued as we discussed an appropriate consequence	1	2	3	4	5
I am pleased with the agreement reached	1	2	3	4	5
The length of the meeting felt appropriate	1	2	3	4	5
I feel that this process was fair	1	2	3	4	5
I would participate in this type of meeting again if I had the chance	1	2	3	4	5

Comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**Appendix P**

**Victim, Offender and Support Person Satisfaction**  
**Interview Guide**

1. What were your expectations for the forum? Were your expectations met?
2. Did you feel listened to and supported in the forum? How?
3. Do you feel that you had adequate opportunity to express your feelings to the person who offended against you/who you offended against?
4. Did the forum process make sense to you? Why or why not?
5. Do you feel that the agreement reached is fair? Why or why not?
6. Do you have any comments about the effectiveness of the facilitator?
7. Is there anything that you feel should have gone differently?
8. How do you feel overall as a result of the forum?

## Appendix Q

### Community Justice Forums and Offenders with Intellectual Disabilities Practicum Summary Report

*Researcher: Kimberly W. Enns, B.Th. B.A.*

The following is a summary report of a practicum undertaken by Kimberly Enns, a graduate student of the University of Manitoba Social Work Department. All recipients of this report participated in the practicum between September 2003 and March 2004 through either an interview or a community justice forum.

The purpose of this study was to adapt and implement a process called community justice forums (CJF) with intellectually disabled, adult offenders. Inspired by the Maori culture of New Zealand, community justice forums originated as a response to juvenile crime emphasizing partnerships between the justice system and community organizations. Utilising a victim-sensitive, restorative approach, forums involve an offender, their victim, and various support people in dealing with the consequences of a crime and determining how to best repair the harm. Through this process, offenders avoid a criminal charge, and are reintegrated into the community, while victims' needs for answers, acknowledgement, safety, and emotional reparation are addressed. This practicum examined the possibility of utilizing forums as a response when offences were committed by individuals with intellectual disabilities.

Primary learning goals of the practicum were twofold. The student's first goal was to develop a suitable CJF model for use with offenders with intellectual disabilities. Secondly, the student aimed to acquire community justice forum facilitation skills.

The practicum began by adapting the current forum model to address the unique needs of the intellectually disabled population. Through interviewing service providers and experienced facilitators, attending CJF facilitator training, observing and then co-facilitating a forum, a suitable model was developed. This model was then implemented on four occasions with clients of Opportunities for Independence who had committed an offence. Various evaluation methods, including participant feedback forms, co-facilitator debriefing, follow-up interviews, and offender compliance with restitution were employed to determine the efficacy of the model and the student's development of CJF facilitation skills.

Information and experience attained through interviews and facilitator training assisted in the formation of an adapted community justice forum model for use with the intellectually disabled population. The main adaptations were as follows:

- A broadened preparation process including an extensive informed consent procedure, several preparation meetings with participants, an assigned offender/victim support person to provide coaching prior to the forum, CJF role plays, and a visual guide to assist in CJF explanation

- Increased sensitivity to the participant group invited to the forum by intellectually disabled participants (encouraging the inclusion of informal supports, rather than only professional contacts)
- A simplified forum script (reduced language level, concrete terms, posing questions one at a time) and the scheduling of a break during the middle of a CJF
- The addition of a section in the forum script inviting participants to assist the intellectually disabled offender in brainstorming ideas for future success
- Drawing or writing on a flip chart during the forum to assist participants in following the reparation brainstorming process
- An increased level of agreement monitoring and thorough debriefing process with intellectually disabled participants

As the practicum began, program coordinators at Opportunities for Independence were sent a project briefing and requested to consider with their clients the process of a forum should a situation meeting inclusion criteria arise. As suitable cases were referred to the student, a specific procedure was followed:

1. The student spoke with the referring coordinator regarding details of the incident to ensure that a forum was a suitable response.
2. If needed, the Vulnerable Person's Coordinator of the Winnipeg City Police was consulted to determine the appropriateness of a CJF response.
3. The student utilized an informed consent decision making tree to determine the ability of the intellectually disabled offender to provide informed consent regarding participation in the process.
4. The student met with the offender and a support person/program coordinator to explain the CJF process and obtain informed consent.
5. The offender was asked to identify support persons (family, staff, peers, culturally relevant individuals, etc.) he or she would like present at the forum.
6. If the victim was intellectually disabled, the informed consent decision making tree was utilized once again to determine the ability of the victim to provide informed consent regarding participation in the process.
7. The student met with the victim (in the presence of a support person if intellectually disabled) to explain the process and obtain informed consent.
8. The victim was asked to identify support persons he or she would like present at the forum.
9. The student recruited a co-facilitator to assist with the forum.
10. The student contacted all victim/offender identified support people to explain the forum process, obtain informed consent, and outline expectations for involvement.
11. A forum date, time, and venue were selected and a seating plan prepared.
12. The student met with the offender and his identified support person several days prior to the CJF to further explain the process and provide an opportunity to practice responses through a role play.
13. The support person was asked to assist the participant in further rehearsing his responses prior to the forum.
14. A similar meeting was held with the victim if he/she was intellectually disabled.



15. The forum was held using the adapted script.
16. Following the forum, participants were asked to complete feedback forms.
17. Follow-up interviews were held with the victim, offender, and support persons from each forum within one week of the CJF to determine satisfaction.
18. The student maintained contact with the agreement monitors to determine offender level of compliance with the agreements.

The four incidents that were dealt with in the practicum included two cases of theft, a breach of probation, and a minor sexual assault. Victims included Opportunities for Independence staff, a family member, and a client from the agency. The forums occurred between December 2003 and March 2004.

An important component of the practicum was evaluation of the intervention as it related to the student's learning goals. Participant feedback forms were designed to obtain information regarding a participant's opinion of preparation work, the forum procedure, and the student's ability to guide the process. The feedback forms clearly indicate that participants were pleased that they had been involved in the forums and would participate in a CJF in the future if the opportunity arose. The majority of participants felt prepared for the forums and understood the process as it occurred. Most respondents indicated that the length of the meetings had been appropriate. Several individuals felt that they had not been provided enough time to speak at the forums. Five respondents suggested the student may have taken sides during the forums. The student's affiliation with Opportunities for Independence may have impacted this point of evaluation. Participants were generally pleased with the agreements reached and indicated that the process had been fair.

Follow-up interviews occurred with 20 of the 34 forum participants. Interview responses revolved around several common themes. Participants emphasized the need for timeliness when planning forums for this population, limiting group size, and maintaining flexibility as a facilitator. Participants were generally pleased with the agreements reached and the forum modifications utilized to address the needs of the offenders and victims.

Compliance with restitution further served to evaluate the suitability and success of the CJF model with the intellectually disabled population. Two of the four individuals completed their agreements within the specified time frame. There have been no reports of additional incidents since the time of their forums. The forum involving one individual occurred during his incarceration. At the time of this writing (May, 2004) he remains incarcerated with the intention of fulfilling his agreement upon his release. The agreement involving the fourth individual was not fulfilled as the offender was incarcerated shortly after the forum on an unrelated charge. He remains incarcerated at the time of this writing.

The student evaluated the practicum goals through a process of self-reflection following each forum. As expected, the preparation process directly impacted the success of each forum. There was significant potential for misconceptions and anxiety regarding the

forum process. It was important that the CJF model was flexible and occurred in a timely manner in order to meet both offender and victim needs. The number of forum participants also needed to be limited to what the offender could cope with. The decision to include a break during the forums and draw on a flip chart during the reparation brainstorming phase proved to be helpful.

A variety of challenges arose throughout the practicum that may impact the future utilization of the model. Though public awareness is increasing, community justice forums continue to be unfamiliar to many in the social services field. A challenge for the student was dealing with the skepticism and lack of interest that this unfamiliarity occasionally produced. A challenge was also raised by the fact that the forum script and preparation process needed to be customized for each case.

The practicum demonstrated the importance of a support person for all victims and offenders during the process of a forum. A challenge is raised by the fact that throughout the practicum, all support persons chosen by participants with intellectual disabilities were staff of the agency. This is not surprising given the population's long-term experiences in the social services and their tendency to have limited social networks. It will be important for service providers to be sensitive to this fact when planning forums.

In two of the forum cases, it was difficult to identify the victim(s) of the incident. A challenge for service providers is determining if a CJF can be attempted when victim identification is unclear. A final challenge is that the model may not always produce successful results. There is no criminal justice approach, however, that guarantees success.

Overall, the results of the practicum indicate achievement of the student's learning goals, and the value of utilizing community justice forums with the intellectually disabled population. Future success will only be determined through ongoing use.

A complete practicum report will be available by September, 2004 at the University of Manitoba Elizabeth Dafoe Library. Please feel free to contact the student at the following email address for additional information regarding the practicum:

\_\_\_\_\_

Thank you for your participation in the practicum.

Kimberly Enns