

PREVENTING RECIDIVISM BY USING THE THEORY OF REINTEGRATIVE SHAMING
WITH CONFERENCES

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ABSTRACT

Driving while intoxicated in the United States is a major problem with more than 31 percent of national driving fatalities caused by intoxicated drivers. The purpose of the present study is to identify the possibility between the use of reintegrative shaming with conferences and the likelihood that it will reduce the recidivism of driving while intoxicated. The study explores John Braithwaite's theory on reintegrative shaming and how that theory applies in conferences. The emerging theory of Storylines from Robert Agnew is also explored in its importance when conducting these conferences. Studies conducted in Australia, Pennsylvania, Kansas and Alaska have all suggested that the use of conferences, especially those which utilize reintegrative shaming and reintegrating offenders back into the community reduces the recidivism rates. The research found in this article helps point future studies to examine offenders in a longer term after they have completed reintegrative shaming programs and conferences.

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CHAPTER I

PROBLEM STATEMENT

Joey Romero was an 18-year-old high school senior who was involved in many sports and loved to make people laugh. Joey had his life ahead of him all planned out. He wanted to join the military and serve his country as a military police officer. After serving his country he wanted to sign on with a police department. Unfortunately, Joey died tragically in an incident involving an intoxicated driver. On October 29, 2010, Joey was walking home from work, when a driver jumped the curb and ran him over. The driver did not stop, but instead fled the scene to leave Joey to die from his injuries. When authorities captured the driver she was so incoherent from being on prescription medication. She thought that she had hit either a pole, bush, or tree. (MADD, 2013)

Joey never had a chance to fulfill his dreams because of someone else's poor decisions. Joey's story and many others that involve people who drive under the influence are far too common. Every day in America about 27 people are killed because of other people's decision to drive under the influence (National Highway traffic, 2012). In 2011, it was estimated on average that every 53 minutes an alcohol-impaired-driving fatality occurred. 31 percent of all motor vehicle traffic fatalities in the United States were due to alcohol-impaired-driving which equated to 9,878 people. In this same year Alaska had 56 fatal accidents, 17 were due to alcohol-impaired-driving. Alaska mirrors the national average in that 31 percent of fatal accidents are due to alcohol-impaired-driving (2011 Drunk Driving, 2013).

When it comes to punishing individuals who do drive under the influence, the punishment is usually incarceration and monetary fines. Alaska statute AS 28.35.030 (b)(1)

Operating a vehicle, aircraft or watercraft while under the influence of an alcoholic beverage, inhalant, or controlled substance states that:

- (1) The court shall impose a minimum sentence imprisonment of
 - (a) Not less than 72 consecutive hours and a fine of not less than \$1,500 if the person has not been convicted once;
 - (b) Not less than 20 days and a fine of not less than \$3,000 if the person has been previously convicted once;
 - (c) Not less than 60 days and a fine of not less than \$4,000 if the person has been previously convicted twice and is not subject to punishment under (n) of this section;
 - (d) Not less than 120 days and a fine of not less than \$5,000 if the person has been previously convicted three and is not subject to punishment under (n) of this section;
 - (e) s Not less than 240 days and a fine of not less than \$6,000 if the person has been previously convicted four and is not subject to punishment under (n) of this section;
 - (f) Not less than 360 days and a fine of not less than \$7,000 if the person has been previously convicted more than four times and is not subject to punishment under (n) of this section;

AS 28.35.030 (b)(1) outlines the minimum sentence which judges are required to administer for those who choose to drive under the influence. The law does not cover how an individual's insurance will be increased due to high risk coverage which can be as high as \$2,000 per year. Offenders are required to carry this high risk insurance in Alaska for three to five years. "Sentencing depends on your record and other variables, but you can count on at least three days in jail, loss of your license for 90 days, mandatory victims' and education programs, 60 days with an ignition interlock device and 10 points on your driving record" (Fairbanks Daily News-Miner, 2011).

Driving under the influence (DUI) has been a persistent problem in Alaska. According to Lt. Matt Soden, who runs the DUI and traffic division in Fairbanks, Alaska, he mentions that some folks still weigh the risk-benefits of driving under the influence. Sonden also states that "[f]or every generation you educate, you get the younger group that still feels they're invincible,

new to alcohol and bars.” Brandon Mattzela of Salcha, Alaska has been punished for driving under the influence; he suggested that when he was growing up, drunk driving was not considered socially taboo as long as you did not hurt anyone. Ibid.

More can be done than just incarceration and monetary punishment for those who choose to drive drunk. Even though public shaming causes offenders to be labeled as criminals and does nothing to resolve the problem, the use of reintegrative shaming in conferences is effective at preventing intoxicated driving because it causes the offender to feel shame and guilt but ultimately remorse for their criminal behavior. When an offender is remorseful about their criminal behavior they are less likely to reoffend.

CHAPTER II

LITERATURE REVIEW

Restorative Justice

Restorative Justice is slowly making its way to the forefront of the justice system, but what is restorative justice? Most people outside of the justice system see restorative justice as a get out of jail free card or as the easy way out. This is a typical misconception of restorative justice. Some argue that restorative justice is actually more challenging than incarceration because it makes the offenders take responsibility for their actions, whereas incarceration allows them to avoid any responsibility. The main goal of restorative justice is repairing the harm done to the victim and/or society; generally restorative justice operates as informal programs that are community-based (Bazemore & Schiff pg. 27).

Within restorative justice there are two ways in which to implement the restoration, the first is through passive responsibility and the second is by active responsibility. Passive responsibility is the least favorable because it takes account for the delinquent behavior after it has already been committed. Active responsibility takes on the role of action in the present to have the preventive effects of unwanted events or situations. According to Mark Bovens, author of *The Quest for Responsibility*, he suggests that active responsibility requires: “(1) an adequate perception of threatened violations of a norm, (2) consideration of consequences, (3) autonomy, and (4) taking obligations seriously” (Bazemore & Schiff pg. 64-65). However, “it must be said that restorative justice cannot do without some concept of passive responsibility. Ibid. Restorative justice does not abandon passive responsibility; rather it uses passive responsibility to create a forum in which active responsibility may be fostered. Thus the deviant behavior

becomes the focus with restorative justice instead of the person who engaged in the deviant behavior.

When it comes to restorative justice shaming has no place if it is used to humiliate an offender. Kay Prains author of *Conferencing: A New Response to Wrongdoing* said, “An intention to shame is not respectful. An intention to help a person understand the harm they caused and to support them in taking full responsibility for that harm is respectful” Ibid. However, Braithwaite and Mugford, authors of *Conditions of Successful Reintegration Ceremonies: Dealing with Juvenile Offenders*, have suggested that reintegrative shaming has been associated with a certain model of restorative justice, conferencing. They suggest that:

The testimony of the victims and the apologies (when they occur, as they often do) are sufficient to accomplish the necessary shaming of the evil of violence. But there can never be enough citizens active in the reintegration part of reintegrative shaming. (Bazemore & Schiff pg. 103)

Citizens make up the community in which the offender is apart, that is why there can never be enough involvement of citizens. After reintegrative shaming has occurred, the citizens of that community need to help the offender reintegrate back into their society. Social connections are what make reintegrative shaming work as a part of restorative justice.

Reintegrative Shaming Theory

John Braithwaite explores reintegration through shame in *Crime, Shame and Reintegration*. Braithwaite developed the reintegrative shaming theory by studying other dominant criminological theories. The theories that Braithwaite focused on were labeling theory, subcultural theory, control theory, opportunity theory, and learning theory. Braithwaite weighed these theories against the facts in which theories of crime ought to fit. The following facts are what Braithwaite used when developing his reintegrative shaming theory:

1. Crime is committed disproportionately by males
2. Crime is perpetrated disproportionately by 15-25 year olds.
3. Crime is committed disproportionately by unmarried people.
4. Crime is committed disproportionately by people living in large cities.
5. Crime is committed disproportionately by people who have experienced high residential mobility and who live in areas characterized by high residential mobility.
6. Young people who are strongly attached to their school are less likely to engage in crime.
7. Young people who have high educational and occupational aspirations are less likely to engage in crime.
8. Young people who do poorly at school are more likely to engage in crime.
9. Young people who are strongly attached to their parents are less likely to engage in crime.
10. Young people who have friendships with criminals are more likely to engage in crime themselves.
11. People who believe strongly in the importance of complying with the law are less likely to violate the law.
12. For both women and men, being at the bottom of the class structure, whether measured by socio-economic status, socio-economic status of the area in which the person lives, being unemployed, being a member of an oppressed racial minority, increases rates of offending for all types of crime apart from those for which opportunities are systematically less available to the poor.
13. Crime rates have been increasing since World War II in most countries, developed and developing. (Braithwaite, 1989)

Braithwaite found that the dominant criminological theories of his time did not do a good job at answering these points; therefore Braithwaite set out to develop his theory on reintegrative shaming to answer these points.

Braithwaite's theory on reintegrative shaming is a contribution to the general criminological theory. This theory on reintegrative shaming develops an approach that is relevant to both white collar and blue collar crimes. In Braithwaite's theory he proposes that when shaming is done in a cultural context with respect to the offender that the outcome of the shaming is efficient as a just form of social control. To understand how this theory operates there are key concepts that need to be identified and understood.

Interdependency is the first concept that needs to be explained in order to understand the reintegrative shaming theory. Interdependency is defined by Braithwaite as “the extent to which individuals participate in networks wherein they are dependent on others to achieve valued ends and others are dependent on them” Ibid. Interdependency is like social bonds that individuals form. These interdependency or social bonds become important when implementing shaming on individuals to help reintegrate them back into societal norms.

Communitarianism is another concept that is important in the reintegrative shaming theory. Braithwaite describes communitarianism as the condition of societies. “In communitarian societies individuals are densely enmeshed in interdependencies which have the special qualities of mutual help and trust.” Ibid. Societies such as these invoke attachment which allows individuals to become personally obligated to others in a community of concern.

Another key concept that concerns this theory is shaming. Braithwaite writes that, “[s]haming means all social processes of expressing disapproval which have the intention or effect of invoking remorse in the person being shamed and/or condemnation by others who become aware of the shaming” Ibid. Shaming is important because it causes the individual to have remorse. It is important that after shaming someone there needs to be something that follows, otherwise it can cause the shaming to be disintegrative.

Reintegrative shaming helps reintegrate the offender back into society. This reintegration is done by members of that society who are respectable or law-abiding and use words or gestures of forgiveness. More formal ways to reintegrate offenders are through ceremonies to decertify the offender as a deviant. Ibid. Ceremonies that use reintegrative shaming are restorative conferences.

Stigmatization is when shaming is disintegrative, and there is no effort to reintegrate the offender back into society. This concept is important to understand so that when reintegrative shaming is sought, offenders are not stigmatized. This stigmatization allows offenders to reject those that reject them, causing the offender not to be reintegrated into the society.

The last concept that is important to understand is that of criminal subcultures. Criminal subcultures allows for the rationalization and “conduct norms which cluster together to support criminal behavior” Ibid. Through clustering of these subcultural groups they are able to help provide systematic social support for crime in various ways. Such ways can include but are not limited to “supplying members with criminal opportunities, criminal values, attitudes which weaken conventional values of law-abidingness, or techniques of neutralizing conventional values” Ibid.

Individuals who have a variety of life circumstances will have better opportunities to be in situations that have greater interdependency. Having this interdependency allows individuals to be more susceptible to shaming because of their likelihood of being a part of communitarian societies. Larger, urban societies hinder communitarianism because individuals are not as connected. When individuals do commit crimes and shame is administered it should be used to shame the offense and not the offender, less one wants to cause stigmatization. Criminal subcultures also hinder reintegrative shaming in that it allows offenders to receive support for their criminal activity. These subcultures help to strengthen the offender’s criminal behavior. Reintegrative shaming should be administered so that the offense is shamed and offenders can experience remorse. After the shaming, individuals need to be accepted back into society by members who are of importance in the society, but most importantly to the offender.

Reintegrative shaming works because individuals are socially connected. Social acceptance and the fear of being rejected by others is a highly effective motivator to follow social norms. David R. Karp states that “the vast majority of us, only sociopaths excluded, are deeply concerned with how we are viewed by others” (Karp). This negative view from others is how reintegrative shaming works because individuals strive to be accepted; societal norms become the basis on how individuals should act.

A sense of belonging is a powerful motivator for individuals. Karp states that humans are “social creatures and highly value our sense of belonging.” Ibid. Positive social recognition solidifies a person’s sense of belonging, allowing them to have feelings of pride and deference. Consequently, when members of a society receive negative social recognition there can be an array of feelings, such as feeling like an outcast, embarrassment, guilt, etc.

Shaming happens when the offender has to confront their victims in order to develop a way to restore the harm that they have caused. This “social process[]of expressing disapproval [has] the intention or effect of invoking remorse in the person being shamed” (Braithwaite, 1989). There are two ways in which social disapproval can occur through shaming; the first is by communicating disapproval following transgressions which shows the offender that the individual has lost respect for them. This can be shown through subtle or overt shaming methods, such as a frown, laugh, shaking of the head, a direct verbal confrontation, admonition by a judge, or can be done indirectly through gossip. The second way in which shaming occurs is through societal practices that build consciences in children. By becoming socialized through one’s family or community networks, the shaming that occurs communicates disapproval which leads to a development of a conscience that internally deters criminal behavior. (Dansie, 2011) A person’s conscience governs what an individual views as right and wrong. Social norms have

the ability to mold a person's perception. These norms have the ability to become what individuals will perceive as right and wrong.

There is a subtle difference between guilt and shame. Guilt will occur when a person violates their conscience and goes against their individual belief system. Shame occurs when an individual violates social norms resulting in a loss of status within their social community. These two feelings are important in reintegrative shaming because it allows the offender to care deeply about how others perceive them so that they are able to conform. Offenders conform because they do not want to risk their acceptance in society. With acceptance back into society a person's pride and deference is restored.

Restorative Conferencing

Restorative conferencing is not just a single model of conferencing that seeks out restorative justice; instead it is any type of conferencing that seeks out restorative justice. The critical values of restorative conferencing are: (1) primacy of victims, offenders, and communities of care, (2) collective responsibility, (3) social justice, and (4) cultural flexibility. Victims, offenders, and communities of care are the key participants in restorative conferencing thus making them a critical value to restorative conferencing. Collective responsibility is the idea that everyone in some way has helped give tribute to the particular crime and therefore has some responsibility to prevent its reoccurrence and address its consequences. Social justice collects data on groups of individuals in order to address the inequities and to respond to the unmet needs. Cultural flexibility allows the flexibility across cultures in order for restorative conferencing to be effective (Bazemore & Schiff pg.176-178). There are two main types of conferencing models; victim-offender mediations and family group counseling.

Victim-offender mediation is the process in which an offender sits down face-to-face with the victim and a mediator and they discuss the effects of the crime. Victim-offender mediation does not have any other participants other than the victim, offender and mediator.

There are three basic goals of victim-offender mediation:

Support the healing process of victims, by providing a safe and controlled setting for them to meet and speak with the offender on a strictly voluntary basis. Allow the offender to learn about the impact of the crime on the victim and to take direct responsibility for their behavior. Provide an opportunity for the victim and offender to develop a mutually acceptable plan that addresses the harm caused by the crime. (Victim-offender mediation)

Family group counseling shares similar goals as victim-offender mediation. Like victim-offender mediation, family group counseling creates a safe controlled environment for the victim and offender to meet and speak. The offender is able to learn how the crime impacted the victim, and also allows a way for the offender to take responsibility for their actions. Additionally, family group counseling helps the offender and victim develop a plan that addresses the harm that was caused by the crime.

Family group counseling and victim-offender mediation may have similar goals however, the process in which these goals are achieved are different. Family group counseling “uses public officials (police officers, probation officers, school officials) rather than trained volunteers as facilitators” (Umbreit 2000). Family group counseling also allows for more participants than victim-offender mediation. Family group counseling allows more people to be involved in the mediation who were also affected by the offender’s crime. Family members, friends, and coworkers are among those that would be affected and thus are involved in the mediation. Even though family group counseling and victim-offender mediation have similar goals, the way in which the goals are achieved is different.

With any type of conferencing there will always be some form of reintegrative shaming. Shaming is considered to be the regulatory practice, whereas shame is considered the emotional experience that is felt by any party participating in the conference. Braithwaite has explained in *Restorative Community Justice: Repairing Harm and Transforming Communities* that this type of shame is conducive to being a part of the conferencing process because it accomplishes the necessary shaming of the evil of violence. Braithwaite also discerns that disapproval needs to be expressed within a context of care and concern. Braithwaite suggests that the conferencing model is similar to that of the family model of discipline.

Family Model

In order to understand the family model the labeling theory first must be understood, particularly when it comes to stigmatization. Labeling theory suggests that a “major risk in apprehending the traditional criminal is that the stigmatizing process will push him further and further into a criminal self-concept” (Braithwaite, 1989). This stigmatization will cause the individual to obtain a master status of their deviant characteristic. Failure to provide acceptance and reintegrate the offender back into society would likely result in stigmatization.

Stigmatization has the tendency to cause the offender to reject social norms.

The individual...is assigned a ‘master status trait’: homosexual, drug addict, prostitute, juvenile delinquent, or others... this label will dominate all other ‘characteristics’ of the individual; ‘good athlete’, ‘good conversationalist’, ‘good dancer’, and the like are subordinated to or negated by this trait which is immediately felt to be more central to the ‘actual’ identity of the individual. Ibid

The individual who is labeled then becomes an outcast within society. Being an outcast might seem to bode well with crime control rather than reintegrative shaming because it is a more terrible sanction than being shamed and forgiven. However, the severity of the sanction does not become a good deterrent to those that have become outcasts. They are no longer

socially embedded within their society and have a far easier time to reject societal norms and values. Essentially, these outcasts begin to reject their rejecters because they have no connection to their society allowing them to continue their criminal behavior. Shame can be so disintegrative that much effort needs to go into de-labeling the offender through forgiveness and reintegration, so that they do not retain the criminal master status.

The family model helps to reiterate the process of reintegrative shaming and de-labeling the offender's master status. Braithwaite suggest that loving families are the best place to see reintegrative shaming at work. When a parent punishes a child both the parent and the child know that after the punishment both will go on living together as like before. The child understands that their parents will forgive them even though they might face punishment for their offense. What is conveyed to the child is that the offense is what the parents are punishing, as to demonstrate to the child that that offense is not tolerated within the family. The child does not gain a master status as a deviant or dangerous child; instead the family unconditionally welcomes that child back without labeling them. Through this process the child learns that, that type of offense is wrong allowing the child to no longer participate in that offense.

Storylines

During conferences and applying reintegrative shaming it is important to apply Robert Agnew's emerging theory that involves storylines. A general assumption that individuals make are that people are perfectly rational, however one must take into account the different motivations, norms, values etc. in which individuals are socialized with. Additionally, a general understanding of what led an individual to commit their offense needs to be understood.

Criminologists usually focus on various factors such as poverty, low self-control, association with criminal peers, etc. as factors that are seen to cause the offender to commit their offense. Usually, these factors are assumed to have been stable for an extended period of time throughout the offender's life. The offender, if provoked or tempted, would have a general willingness or would be predisposed to engage in the criminal activity. Situational factors have also been considered recently as being able to better explain crime. These factors would include such things as the presence of suitable targets, lack of capable guardians, and even others that provoke the offender. It is usually agreed upon that the combination of these situational factors and the background of the offender are what causes crime.

Criminals do not typically place much emphasis on background factors when they are asked why they offend. Usually offenders will tell a story which explains how or why they engage in crime. Even though these stories refer to parts of their offense they often have a much richer background of events and conditions leading up to their offense. These events that led up to the offense can be described as the "storylines." An example of a story might involve the following hypothetical events: X had a rough week at work, X wants to relax and forget about his rough week so he attends a party, X has a few drinks and becomes buzzed. X feels that he can safely operate a vehicle after having a few drinks. X proceeds to drive himself home when officer O pulls X over for a traffic infraction where O discovers X is driving under the influence.

Storylines when pertaining to offenders and their crime are like books, there is a beginning of the story, a middle period, and an end. The beginning of the storyline starts with a particular event, which would be the event where something happens to the individual. This event is not the norm for the individual causing the individual to deviate from their ordinary daily routine. Using the same example as before, the event that caused X to have a rough week

could be because X lost his job. This event would be out of the ordinary for X. Temporarily, this singular event affects X's behavior, how X interacts with others, and even X's decision making process due to stress. The middle period of the storyline would be considered where X experiences stress (e.g. anger, low self-control, anxiety, etc.) which causes strain for X allowing for a reduction in his social control. During this period X would be more prone to engage in crime because of his lapse in judgment. The end of the story in storylines would be when some event restores the individual, to where they no longer have the stressors that allow for them to have a reduction in their social control. This event would restore the individual to a point where they no longer would have a lapse in their judgment that would make them prone to criminal activity.

Robert Agnew outlined in his journal of research, *Storylines as a Neglected Cause of Crime*, that there is a distinction between storylines and background factors. Agnew describes background factors as an "individual's mean or modal standing on a range of individual and environmental characteristics over a period of several weeks or longer" (Agnew, 2006). These factors as described by Agnew include individual traits, settings for interactions, and macrosocial influences.

There are two ways that distinguishes storylines from background factors; first are the events that initiate the storyline. These events create situations that are temporary but cause the individual to become desperate, dispute with others, etc. The second distinguishing factor is that these events temporarily alter variables that are commonly thought of as background factors. These alterations occur during the middle portion of the storyline.

By considering storylines as a better way to explain and control crime, they can also be used in conferences. Utilizing storylines with conferences allows for a better understanding of the offender. The use of storylines in conferences would allow the offender to explain how they ended up with their decision to offend. When applying storylines in conferences related to intoxicated driving it would allow for further reintegrative shaming because the offender would need to recall the situations and their decisions which led them to offending.

Reintegrative Shaming Experiment (RISE)

A study conducted at the Australian National University focused on reintegrative shaming experiments. The study collected data between the period of 1995-2000 which aimed to compare the effects of standard court process with the effects of a diversionary conference with the offense of drunk driving (over .08 Blood Alcohol Content) at any age.

The study looked at three cities in Australia; Belconnen, Woden and Tuggeranong. The study also included traffic operations, other cities and unknown locations within Australia. In total there were 450 cases that went to court, 450 cases went to conferences with a total of 900 cases all together. Out of these 900 cases the average age was 31 years old. The average blood alcohol content was .12. On average offenders admitted to 19 prior drunk-driving offences with all offenders admitting to at least one prior offense.

The study also examined drug and alcohol use by the drunk driving offenders. About all the offenders that were brought into this study had less than .2 blood alcohol content with the average ranging from .05 - .15. About a third of the offenders said that they drank alcohol on average 2-3 days a week. 10 percent of these offenders claimed that they drank every day. Offenders were also asked how many drinks they consumed in a session. Over half of the

offenders said four drinks or fewer, with about 13 percent saying nine drinks or more. When offenders were asked about their illicit drug use around half said they had used marijuana in the previous year. Half of those that said they used marijuana less than once a month; 15 percent said that they used it at least once a day.

For both court and conferences it took on average about 55 days to have their cases finalized. The durations of treatment on average for court took about seven minutes whereas conferences took almost an hour and a half. Offenders in court cases were often unaccompanied by supporters, whereas in the conference on average each offender had around five supporters.

On all measures of observed emotional intensity which covered; emotional power of act description, responsiveness of offender, engagement of offender, degree of offender discomfort, frequency of shouting at offender, percent with any violence or threats, and percent of offenders who cried at treatment, conferences were significantly more powerful than the court cases. The conferences contained more observable restorative elements than the court cases and were observed to be more procedurally just.

When offenders went through the court process the outcomes ended up being more punitive. Offenders from the court cases received “official reprimands, fines, community service, license suspension or cancellation and imprisonment; in a conference they included community service, donations to charity or other outcomes tailored to the circumstances of the offender” (Strang, Sherman, Woods & Barnes, 2011).

Out of all the measures of observed restorative justice, observed reintegrative shaming and observed procedural justice, the conference cases scored significantly higher than the court cases. The conferences were able to provide an opportunity for offenders to discuss problems

with drugs/alcohol or other problems that they might have. Additionally, the remorse from those that went through conferences was higher than those that went through the court cases.

The study examined the emotional intensity from both court cases and conferences. It was revealed that offenders who participated in conferences had more intense experiences. Both conference offenders and court offenders felt awkward and embarrassed but significantly more so for conference offenders. More often than not conference offenders were more worried about what others would think of them, they often felt ashamed and bad because others knew about their offence.

This study looked into reintegrative shaming, informal social control and deterrence. It was found from the study that offenders who participated in the conferences felt more ashamed of themselves and humiliated. Offenders from these conferences said that they lost honor among their friends. Additionally, offenders who went to the conferences said that the treatment they had received would help prevent any future reoffending and help them to obey the law.

The reintegrative shaming experiment asked offenders from both the conferences and court cases about procedural justice and reintegrative aspects of their experiences. There was a significant difference in offenders that participated in the conferences than those that participated in court cases; these offenders said that their experience was consistent and impartial, whereas the offenders that participated in the court cases did not. Additionally, offenders who participated in conferences often felt that they were able to repay society through their treatment and make up for their actions. This allowed those that participated in the conferences to feel forgiven, whereas the court case offenders did not report as often as having these same feelings.

The study set out to see if reintegrated shaming could be used to reduce recidivism with drunk drivers. The data suggests that offenders who participated in the conferences were subjected to more reintegrated shaming than those who participated in court cases. The conference offenders had more reintegrative aspects to their treatment than punitive. Offenders who participated in the conferences often faced their victims and worked with them to develop a way in which they could restore their wrongdoing. This often made the offenders feel ashamed and become remorseful for their actions. The conference offenders, more so than the court case offenders, said that their treatment would help them not to reoffend. More research from both the conference offenders and the court case offenders would need to be done to see how many reoffend.

Reintegrative Shaming and 12-Step Programs

Sandra Houts, author of *Explaining Alcoholism Treatment Efficacy with the Theory of Reintegrative Shaming*, explored the idea that non-treatment factors may have treatment implications. These non-treatment factors may include but are not limited to attachment to others, stable residence, employment, access to self-help groups and non-using subcultures. By following Brathwaite's theory on reintegrative shaming Dr. Houts conducted surveys to determine if Brathwaite's theory may be appropriately applied to 12-step programs such as Alcoholics' Anonymous.

Critics of 12-step programs admit that, "[t]he best predictor of success in treatment is job and family involvements and other positive life connections . . ." (Peele, 1990,643; Houts, 1995). This suggests that individuals are socially connected either through their job, family, or other life connections. Dr. Houts believed that individuals who participate in such 12-step programs

would exhibit the attitudes and behaviors that are consistent with the reintegrative shaming theory.

Dr. Houts conducted a study in Pennsylvania and Kansas where a total of 59 persons were interviewed and all of which were part of 12-step programs. Twenty-eight of the interviews occurred in Pennsylvania with the other thirty-one taking place in Kansas. The interviews focused around Braithwaite's claims that subcultures, interdependent relationships and communitarianism, would bring forth reintegrative shaming.

Reintegrative shaming was measured in Dr. Houts's study in two ways. The first was to measure reintegrative shaming in reverse. The study assumed that participants in 12-step programs were already labeled and stigmatized which resulted in them joining deviant subcultures and substance abuse. The second way to measure reintegrative shaming was by looking at the point of relapse of the participant. It is argued that relapse is part of recovery but the way in which the individual is treated by members of that community when there is a relapse is important because it will indicate whether or not reintegrative shaming is practiced. Questions to be asked to determine if reintegrative shaming is occurring or not are: Is the relapse being harshly judged, shunned, or even outcaste, or is the relapser welcomed back into the group, reassured, and supported?

The study found that Braithwaite's theory of reintegrative shaming helps to support the notion that reintegrative shaming does help to reverse the effects of stigmatization through identity transformation within 12-step programs. Dr. Houts found that interdependent relationships within the recovering community are supporting one another which build upon the association or existence of a communitarian body. The study found however that the less time

one remains in the program the less likely they will be able to form these interdependent relationships. Likewise, the longer one remains in 12-step programs' the more likely these individuals will be able to build interdependent relationships allowing them to become associated with a communitarian body.

Dr. Houts's study found that the application of the reintegrative shaming theory as described by Braithwaite is a source for the exploration of non-treatment factors; however there are a few noted shortcomings within her study. One of the shortcomings which Dr. Houts notes is that the sample from that which she chose to study was not randomly produced. Subjects that were interviewed were taken from the same social groups which allowed respondents the opportunity to discuss questions that were asked, even though they were asked to refrain from such discussions. Even though there are shortcomings within the study, Dr. Houts discovered that Braithwaite's theory on reintegrative shaming does of have an impact on substance abuse offenders, which suggest that utilizing reintegrative shaming will bring forth the ability to curtail future offenses.

Wellness Court

Alaska has a court that specifically targets felony DUI defendants to overcome serious problems with alcohol. Individuals that participate in the wellness court obtain intensive substance abuse treatment. The program is used to divert individuals from ending up incarcerated. The focus is to help these individuals obtain a lifetime of sobriety.

The benefits of wellness court allow defendants to obtain intensive substance abuse treatment. Those that graduate from the program receive reduced sentences through minimizing

incarceration time and through reduction in fines that they owe. Since the benefits are appealing to those that have received a DUI many are predisposed to apply.

Eligible applicants for the Fairbanks Wellness Court include persons who are currently charged with a DUI or refusal; persons who are currently charged with DUIs that are attached to a non-violent class C Felony; persons who are 18-years-old or older; and if the alleged crime was within the Fourth Judicial District of the State of Alaska. Applicants will be considered ineligible to apply to the Fairbanks Wellness Court if the person is “currently charged with an unclassified felony, a class A felony, an offense under AS 11.41.130, or an offense under AS 11.41.410-11.41.470, or he/she is currently charged with violating probation for one of those offenses” (Alaska, 2010). Additionally, those that have an outstanding felony warrant and detainer from other states are also excluded from being eligible for the wellness court.

The Fairbanks Wellness Court is an 18-month program which requires the participant to have commitment, strength, honesty and persistence. There are ten requirements that individuals must complete once they are admitted into the program. Members will enter into intensive outpatient substance abuse treatment with a treatment provider. Members will take medicine that will curtail their craving for alcohol, if medically appropriate. Once in the program, members will attend Alcoholics Anonymous or other recovery programs. Each week members will appear regularly before the Wellness Court judge for compliance hearings. Members will be required to either work or attend school for a minimum of 32 hours a week. Members will need to maintain sobriety throughout the program. Regular drug testing and alcohol testing will be administered to members. Moral Reconciliation Therapy will be required for members. Members will need to follow through with mental health services if it is recommended. Finally, members will need to

pay for their treatment to include their Moral Reconciliation Therapy, some drug testing, and other related programs. Ibid.

The Fairbanks Wellness Court tries to model the family model so that individuals are reintegrated back into society. Judge Raymond Funk states that “[t]he model is the loving parent. We’ll give you swift punishment and tell you we still love you” (Rettig, 2012). By following the family model the Fairbanks Wellness Court undoubtedly uses reintegrative shaming as part of its process to help reduce recidivism with offenders.

During sessions members are accountable for their actions to include but not limited to their participation in programs, their substance use, drug testing, etc. Individuals that fail to follow what is required of them are brought before the judge and their peers to answer for their shortcomings. Usually they have to participate in community service or are taken to jail for a short period of time. The group encourages one another by always being supportive even when members make mistakes. Judge Funk states that “[w]e want to change people’s images of themselves as people that are valuable and successful... [not] make them feel like criminals and lawbreakers, that doesn’t work.” Ibid.

In 2005 the Alaska Judicial Council conducted a study to show that in the two years after conviction those who participated in wellness courts spent fewer days incarcerated, had fewer remands of custody and fewer convictions than other DUI offenders. A similar study was conducted in 2007 which found that 13 percent of those who graduated from these wellness courts reoffended in a year as compared to the 32 percent from individuals who were not participating in wellness courts.

The wellness court is still in its infancy in Alaska. Though it has found to save money, almost \$3 for every \$1 spent, it still is relatively small court. Expansions for the program are planned to be set up in Kenai, Kodiak, and Palmer. One of the biggest limitations to the program is the lack of therapeutic and evaluation centers. Other limitations include safe and sober housing, and the lack of attorneys to hear cases. Ibid.

Through serious commitment, about five days a week, weekly urine and breath samples, and random testing, members experience reintegrative shame from both the judge and the members through the swift sanctions for breaking the rules but always being welcomed back and encouragement to meet their goal. The tone of the wellness court is kept positive as to help encourage offenders to once again become functioning members of society.

CHAPTER III

METHODOLOGY

The focus of this preliminary study was primarily on John Braithwaite's theory of reintegrative shaming and applying that theory with conferences. The study explores if Braithwaite's theory could reduce recidivism with intoxicated drivers. The study examines RISE, 12-step programs that incorporate reintegrative shaming and the wellness court within Fairbanks, Alaska.

RISE was a five year experiment that collected data from three Australian cities from 1995-2000. RISE obtained its data from having an observer present during court and conference events. RISE looked into 450 court cases and 450 conferences. Observers were present 92 percent of the court cases and 87 percent of the conferences. For both court and conferences it took an average of 55 days to finalize the cases.

The 12-step programs study, which incorporates reintegrative shaming, was conducted in Pennsylvania and Kansas. 59 individuals were interviewed, who were all part of 12-step programs. The interviews focused on Braithwaite's claims that subcultures, interdependent relationships and communitarianism, would bring forth reintegrative shaming. Dr. Houts examined reintegrative shaming in two ways: (1) by measuring reintegrative shaming in reverse and (2) observing the point of relapse of the participant.

Wellness Court in Fairbanks, Alaska targets felony DUI offenders. Wellness Court is an 18-month program which requires participants to have commitment, strength, honesty and persistence. Sessions require members to be accountable for their actions and to follow and complete the requirements of the program.

CHAPTER IV

SUMMATION

Restorative justice is slowly becoming a common practice in western societies.

Restorative justice seeks to restore the harm that has been caused to either the victim or society.

Senseless shaming does not have any place in restorative justice, however reintegrative shaming does.

John Braithwaite developed the theory about reintegrative shaming and how it is an effective tool in restorative justice. The major themes of this theory focused on interdependency, subcultures, communitarianism, stigmatization and reintegrative shaming. Braithwaite found that senseless shaming was unproductive and usually caused individuals to become labeled.

Braithwaite's theory suggested that reintegrative shaming focused on having the offender experience guilt and remorse and then being forgiven from their criminal status quo. This would reduce the likelihood that these offenders would reoffend.

Restorative conferencing exhibits features of reintegrative shaming. Offenders are confronted with their victims or individuals who represent the victims in order to develop a plan in which the offender can restore the harm that they have caused. Reintegrative shaming is a part of the process because offenders usually experience guilt and remorse and ask for forgiveness.

One of the many models which helps to best illustrate and puts into practice reintegrative shaming is the family model. The family model outlines how a child can be punished for an undesirable behavior, but will always know that they are loved by their parent. Both the parent and child know that after the punishment is administered both will continue to live in harmony with one another.

Storylines help identify factors or specific points which show why an offender participated in criminal activity. Offenders will often tell a story which will depict areas that caused them to lose their ability to adequately use self-judgment. Storylines will show specific points in which the offender was exposed to a situation that is out of the norm. These situations temporarily alter background factors which are thought to guide the individual. By analyzing storylines within restorative conferences, the conferences will have a better chance at adequately apply reintegrative shame and ultimately restore the harm that was caused.

Several studies such as the Reintegrative Shaming Experiment from Australia and Sandra Houts's experiment on Explaining Alcoholism Treatment Efficacy with the Theory of Reintegrative Shaming, both show that reintegrative shaming does impact the offender and eludes to the point that it does help to reduce recidivism. Both programs show that reintegrative shaming is best administered through conferences. These conferences are much different than court proceedings in that they seek to reduce recidivism rather than punish the offender.

Wellness courts in Alaska also help to show that a different approach at addressing drunk drivers is needed to achieve a lifetime of sobriety. The current model of punishing the offender needs to be reconsidered. These wellness courts in Alaska are pilot programs that are growing in popularity not only with offenders but also in their statistics when it comes to recidivism. Offenders who attend are often confronted with how their actions have impacted the community. Members are given strict guidelines to follow while in the program, any deviation is promptly addressed. By focusing on swift punishment and using reintegrative shaming, wellness courts begin to take on the spirit of the family model.

The use of reintegrative shaming in conferences as shown in these various studies are revealed to be effective at allowing the offender to feel shame, guilt and remorse for their criminal behavior. Allowing members to be reintegrated back into society completes the process of reintegrative shaming allowing for a reduction in recidivism.

Future conferences and programs that aim to reduce recidivism should heed these findings when implementing their programs. Applying reintegrative shaming in conferences increases the likelihood that offenders will become remorseful of their criminal behavior. This in turn will decrease the odds of recidivism from these offenders.

Shortcomings with the research are that the majority of all the data comes from the offender's firsthand experience while they are participating in these programs. Long term data from offenders after they have completed programs such as Fairbanks Wellness Center, Reintegrative Shaming Experiment, and Dr. Houts's study on Alcoholism treatment and other similar studies would be valuable to determine the efficacy of reintegrative shaming with conferences at reducing recidivism. As for now, in the short term, the data points to the notion that reintegrative shaming with conferences does reduce recidivism.

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