

University of Miami Law School University of Miami School of Law Institutional Repository

University of Miami Race & Social Justice Law Review

7-1-2015

Plenary 3—Harms of Criminalization and Promising Alternatives (Transcript)

Mimi Kim

Donna Coker

University of Miami School of Law, dcoker@law.miami.edu

sujatha baliga

Alisa Bierria

Follow this and additional works at: <http://repository.law.miami.edu/umrsjlr>

 Part of the [Civil Rights and Discrimination Commons](#)

Recommended Citation

Mimi Kim et al., *Plenary 3—Harms of Criminalization and Promising Alternatives (Transcript)*, 5 U. Miami Race & Soc. Just. L. Rev. 369 (2015)

Available at: <http://repository.law.miami.edu/umrsjlr/vol5/iss2/14>

This Part II: Reimagining Responses to Gender Violence is brought to you for free and open access by University of Miami School of Law Institutional Repository. It has been accepted for inclusion in University of Miami Race & Social Justice Law Review by an authorized editor of University of Miami School of Law Institutional Repository. For more information, please contact library@law.miami.edu.

TRANSCRIPT[°]

CONVERGE! REIMAGINING THE MOVEMENT TO END GENDER
VIOLENCE

Plenary 3—Harms of Criminalization and Promising Alternatives

UNIVERSITY OF MIAMI SCHOOL OF LAW

Donna Coker (moderator)^{†}*
sujatha baliga
Alisa Bierria[†]
Mimi Kim

BALIGA: So folks, my name is sujatha baliga and I am thrilled to be here. This space is incredibly close to my heart and I am excited that folks are thinking about alternatives to mass criminalization for ending sexualized violence. The alternative that has kept me busy for the past decade is restorative justice. I do not think it is a panacea. It is one of many tools in the toolbox we should be thinking about in terms of reducing our reliance on the state to heal the harms we do to one another. What most inspires me about restorative justice is that it offers a genuine

[°] This transcript has been edited from its original transcription for clarity.

^{*} Donna Coker is a Professor of Law at the University of Miami School of Law. Professor Coker is a nationally recognized expert in domestic violence law and policy. Professor Coker was one of the co-chairs of the CONVERGE! conference. sujatha baliga is the director of the Restorative Justice Project at the National Council on Crime and Delinquency, where she helps communities implement restorative justice alternatives to juvenile detention and zero-tolerance school discipline policies. Alisa Bierria is the Associate Director for Race and Gender at University of California, Berkeley and a Ph.D. candidate in the Department of Philosophy at Stanford University. Bierria is currently organizing with the Free Marissa Now Mobilization Campaign. Mimi Kim is an Assistant Professor in the School of Social Work at California State University, Long Beach. Her research areas include domestic violence and sexual assault in communities of color. She is a founder of Creative Interventions.

[†] Original remarks from the CONVERGE! conference omitted.

Recommended Citation: Mimi Kim et al., *Plenary 3—Harms of Criminalization and Promising Alternatives*, 5 U. MIAMI RACE & SOC. JUST. L. REV. 369 (2015).

paradigm shift in the way we think about healing harm. To paraphrase Albert Einstein, someone who knows a bit about paradigm shifts: “If we want to solve a problem we can’t solve it if we continue to think the same way we *were* when we created it.”¹

“What is the Problem?” I am sure that Beth Richie and others talked at length about the problems of our criminal legal system, including racial and ethnic disparities, high recidivism rates, astronomical costs, and the fact that the system fails to centralize the needs of crime victims. There are many ways we can think about our system’s shortcomings, but this snapshot of the problem is particularly close to my heart as a survivor of child sexual abuse: one in four girls and at least one in six boys are sexually abused before their eighteenth birthday.² Astounding. But in 100 cases of sexual abuse, only ten—maybe depending on the jurisdiction up to eighteen—end up on the radar of the systems generally.³ Of those, six are referred for prosecution,⁴ and of those only three are actually convicted⁵ of something. The *something* is important. We know that the vast majority of criminal cases in the United States are resolved through plea deals. Just about every survivor I know who ended up engaging the criminal legal system (or had it engaged for them in their childhood) tells the same story: their abuser was sentenced for a crime far less severe than the abuse actually suffered. There are reasons for this; there has been a lot of press since the Sandusky case about why child testimony often is not effective in front of juries. This makes sense; I cannot think of a setting or system more poorly designed to get children to talk about the sexual harm they experienced than the trial process. So the numbers in this slide show us that the criminal legal system is not producing real solutions that could end child sexual abuse. This graph is something that I have adapted from a report called *A Reasoned Approach: Reshaping Sex Offender Policy to Prevent Child Sexual Abuse*.⁶ I would check it out on line; there is a lot to learn from this report more broadly.

Another thing that has been really interesting to me is not just our desire to incarcerate the problem away, but also to surveil the problem

¹ These remarks were delivered with the assistance of a PowerPoint, and the speaker makes references throughout to that slide deck.

² THE NATIONAL CHILD TRAUMATIC STRESS NETWORK, Child Sexual Abuse Fact Sheet, available at http://nctsn.org/nctsn_assets/pdfs/caring/ChildSexualAbuseFactSheet.pdf (last visited May 21, 2015).

³ JOAN TABACHNICK & ALISA KLEIN, ASSOCIATION FOR THE TREATMENT OF SEXUAL ABUSERS, A REASONED APPROACH: RESHAPING SEX OFFENDER POLICY TO PREVENT CHILD SEXUAL ABUSE (2011), <http://www.atsa.com/pdfs/ppReasonedApproach.pdf>.

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

away through sex offender registries. My misgivings about registries and the surveillance of those who have caused sexual harm reached new levels when I learned about the number of people in the United State on sex offender registries. I would strongly suggest we all read *Raised on the Registry*.⁷ It was published by the Human Rights Watch and written by Nicole Pittman. It is brilliant and really shows the degree to which sex offender registries are extremely damaging, particularly for the ten- and twelve-year-olds who are put on it for sexual offending behavior that they had engaged in within their families.⁸ Families are decimated by the registry requirements, siblings are separated, etc. So this is a really important thing to look at.

So the failings of the incarcerate/surveillance method of addressing sexual offending are clear. This leads us back to Einstein’s admonition to examine how we *were* thinking when we created this problem. How are we thinking when we look at crime and harm and wrongdoing? Howard Zehr, my mentor and friend who is known as the “grandfather of restorative justice,” describes the paradigm shift from punitive to restorative justice with what we call “The Three Questions.” When I train prosecutors, I ask, “When you get a file what are some questions that come to mind?” They tend to rattle these off pretty quickly: What law was broken? Who broke the law? How should they be punished? These three questions are how we *were* thinking when we created the problem and provide the general framework for our criminal legal system. The paradigm shift offered by restorative justice calls us to ask a very different set of questions: Who has been harmed? What do they need? Whose obligation is it to meet those needs? When you look at these questions side-by-side it really asks us, who and what do we attend to? To whom do we attend to in these processes *first*?

| Our Current Legal System | Restorative Justice |
|---------------------------------|---|
| What law/rule was broken? | Who has been harmed? |
| Who broke it? | What are their needs? |
| What punishment is deserved? | Whose obligation is it to meet those needs? |

I am coming to CONVERGE! from a meeting Howard Zehr organized to imagine the future of the restorative justice movement. A recurring theme in that gathering is what many of us feel is a serious

⁷ RAISED ON THE REGISTRY: THE IRREPARABLE HARM OF PLACING CHILDREN ON SEX OFFENDER REGISTRIES IN THE U.S., HUMAN RIGHTS WATCH (2013), *available at* http://www.hrw.org/sites/default/files/reports/us0513_ForUpload_1.pdf.

⁸ *Id.*

crisis in the movement—that restorative justice has been coopted by the state and other systems, and is being treated as simply an add-on to the punitive/surveillance menu the state already offers. Many of us that were in that meeting are committed to bringing restorative justice back to a community-based paradigm instead of being so aligned with the state. It is not that the state should never have a role. But if restorative justice is simply reduced to a feel good add-on, we will not see the same victim-centered benefits a truly restorative model can offer. To this end, I am personally dedicated to seeing restorative justice be used in the pre-charge, and ideally even pre-arrest, procedural posture.

This is Howard Zehr’s⁹ definition of restorative justice: “An approach to justice that involves, to the extent possible, those who have a stake in a specific offense, to collectively identify and address harms, needs, and obligations in order to heal and put things as right as possible.”¹⁰ These three words: harms, needs, and obligations—my hope is that if you walk away from this talk with one thing in your head it is that restorative justice is about harms, needs and obligations.

The big picture is that crime is a violation of people and interpersonal relationships, not primarily the state. Those violations create obligations and the central obligation is, as much as possible, to do right by the folks you have harmed. It speaks to the notion of a decolonized golden rule, which is “do unto others as they would have you do unto them.” This is another critical shift. So much of what we do for folks is really deeply patronizing because we assume that we know what they need. But through restorative justice, I get to sit down with folks and say, “How do *you* define the harm? What do you think you need moving forward? What are your safety concerns? What are your material needs? How are you harmed—all the different ways you could be harmed—financially, emotionally, physically, spiritually?” In restorative justice, we spend a lot of time up front with the person who was harmed. In helping them identify how they have been harmed, it often looks completely different than what I might imagine it to look like. That has been a really amazing learning curve for me, to see the wonderful, creative requests for healing that crime victims come up with.

To operationalize the three questions, I simply ask folks: How were you harmed? What do you need? Whose obligation is it to meet those needs? We can think about these questions broadly; community members are also harmed by crime. And people who caused harm are also harmed by their own actions and have needs that need to be addressed. The two

⁹ The next series of slides involve statements by Howard Zehr. The quotes come from his book, *The Little Book of Restorative Justice*.

¹⁰ See HOWARD ZEHR, *THE LITTLE BOOK OF RESTORATIVE JUSTICE* (2002).

restorative models I primarily work with are peacemaking circles and family group conferencing. Family group conferencing has been so effective in New Zealand that they have closed their juvenile detention facilities nationwide.¹¹

People always ask me, when you facilitate these dialogues, what do crime victims ask for? I will start by sharing a case that is not in the realm of sexualized violence, but is illustrative of how creative things can be. When we let crime victims drive outcomes, we can get some really amazing positive healing results. Let us talk about a case of a stolen and stripped car I recently facilitated. The victim was a woman who worked for a police department and was initially very disappointed that the case got diverted to restorative justice. The district attorney diverts felonies, and a few high level misdemeanors, to the program before the youth is even charged with the crime. So the victim felt that her case was not being taken seriously. In our prep meetings she made it clear she needed \$4,000 in order to make this thing right. The young person who committed the crime definitely did not have \$4,000, nor would his family ever have \$4,000 to repay the damage to the car. At some point, during the conversation someone who came as her supporter had a very powerful moment with the young man who had stolen and stripped her car. He talked to him at length about how he had also been in trouble with the law in the past and how he turned his life around. It was as if the room disappeared, two of them engaged in a conversation about how to keep your old friends in your heart and not keep them in your life. How do you know to show up for some of their kids' baptisms but not go to the after party? It was a very profound conversation. He also asked this young man, "What are you good at? What makes you happy? You're just bored, hanging out with these guys stealing cars, but what if you spent time doing something you love? What are you really good at?" So the kid says, "I'm an artist, I'm a really good artist," and his mother starts laughing. She said, "We owe her \$4,000, how are you going to pay that back with your art?" The victim pipes in and says, "Actually he can." She proceeds to explain that she really loves Tinker Bell. This woman is really tough and she loves Tinker Bell? She proceeds to say, "If you paint me a 5 foot tall Tinker Bell on canvas, I will forgive the debt you owe me." So this is what this young man produces. When people ask what victims want, it could be this Tinker

¹¹ See CHILD, YOUTH & FAMILY, *The Family Group Conference* (or FGC), <http://www.cyf.govt.nz/keeping-kids-safe/ways-we-work-with-families/family-group-conference-or-fgc.html> (last visited May 26, 2015).

Bell. And when they ask, “What does redemption look like?” I say, “It looks like that.”¹²

So we do this process with car theft, burglaries, arson, and robberies. When we move into the realm of domestic violence and sexual assault it gets much, much more challenging. But what I hear most from people in those cases is that they want to hear these words from the abuser: “This was my fault, not yours.” And they want some deep and genuine commitment to shifting the underlying patterns that gave rise to that problem.

So here is a case that I can tell you about briefly that happened here in Florida. I had the incredible honor of being involved in this case; this is a picture of the Grosmaires and the McBrides. Some of you who are local may have heard about this. It was a teen dating violence case, a homicide case. This is a picture of Connor and Ann; this was them on prom night just a few months before Connor took Ann’s life. This is Andy at Ann’s memorial service. I love this picture so much because there could be no better way of showing the degree to which these parents loved their child. I actually heard from people, and there were comments in the New York Times article about this case,¹³ that the Grosmaires must not have really loved Ann if they could sit down with the young man who killed her. I can tell you I know for sure that they did love Ann, and you can see that love on Andy’s face in this photo. This is a man who could not have loved his daughter more.

One of the outcomes of this case was that the Grosmaires asked for a fifteen-year sentence instead of the mandatory life sentence that Connor was looking at. Another thing that they wanted was for Connor to be released in shackles from time-to-time to speak in high schools across the State of Florida with them about taking their daughter’s life. And Kate, Ann’s mother, wanted the terms of Connor’s parole to include volunteering at the places Ann was committed to. She said, “You have the good works of two people to do now, Connor, because Ann would have done great things with her life.” As a homicide case, this was a case that necessarily involved the state, so the prosecutor, the defense attorney, and others were in the room for the five-hour restorative circle process inside Connor’s jail which helped produce a plea deal in the case. What I have been thinking about since then is why are we not doing this more and more in crimes of severe violence; the Grosmaires are far

¹² A photo of the young man painting Tinker Bell was shown at this point in the presentation.

¹³ Paul Tullis, *Can Forgiveness Play a Role in Criminal Justice?*, N.Y. TIMES, (Jan. 4, 2013), available at http://www.nytimes.com/2013/01/06/magazine/can-forgiveness-play-a-role-in-criminal-justice.html?pagewanted=all&_r=0.

happier with the way this case was addressed and with the outcome than they would have been if the case had gone to trial.

Restorative justice is about accountability and shifting your offending behavior. Some of you may have heard about a case in California, a young trans girl in high school, who has been bullied for years, was charged with assault when she got in a fight.¹⁴ I had the honor of facilitating a restorative justice resolution in that case. There was some criticism that restorative justice was not appropriate for that case because the case should have been dismissed. Without sharing too much information about the case (restorative processes are strictly confidential), there was some physical violence going in both directions which, from my understanding, makes it a very different scenario than the Marissa Alexander case. But it is important that we be really careful because this is an accountability-based model, it is not something we want to use in lieu of dismissal, when dismissal is the appropriate approach.

One of the things that I would love to see us do is to take this approach to addressing sexualized violence in India. In India, 53% of children are sexually abused.¹⁵ Over half of those abused are boys, and some of the most severe forms of abuse are against boys in India.¹⁶ This has been going on for some time, and to my mind, is the root of a cycle of sexualized violence. The response since the Delhi rape case has been to adopt more punitive responses, to say, “Let’s create the death penalty for youth who rape.” It is as if India is starting where we were thirty years ago. I hate to see India follow in our failed footsteps.

I have become interested in understanding the landscape of sexual abuse in South Asian diaspora communities. We are curious about the degree to which child sexual abuse may be linked to the suicide rate amongst teenagers in South Asian American populations. The tyranny of the “model minority” story is linked to the inability to report. But there are other reasons we keep silent about the abuse; structural, not cultural reasons. If you have seen me talk before, you have probably heard me say that it was the crimmigration Child Protection System cluster muck of South Central Pennsylvania in early 1970s that was the reason my father got to continue sexually abusing me. What I mean by this is that I had no interest in my father being incarcerated or my mother being

¹⁴ James Michael Nichols, *Jewlyes Gutierrez, Transgender Teen, Enters Agreement That Could See Criminal Charges Dropped*, HUFFINGTON POST, (Feb. 7, 2014), available at www.huffingtonpost.com/2014/02/07/jewlyes-gutierrez-petition_n_4746084.html.

¹⁵ STUDY ON CHILD ABUSE: INDIA 2007, MINISTRY OF WOMEN AND CHILD DEVELOPMENT GOVERNMENT OF INDIA (2007), available at <http://wcd.nic.in/childabuse.pdf>.

¹⁶ *Id.*

deported or in being taken away from my family. Even as a child I knew that if I told anyone what was happening in my home, any of these things could have happened, especially because, for much of my childhood, we were the sole immigrant family in our rural patch of America. This is really important for us to understand, that the systems designed to protect us are actually doing us harm because they disincentivize truth telling and help seeking. But we can do things differently. We can incentivize telling the truth and seeking help without feeling like we are putting our communities and families at risk. I would ask folks to take a look a film called “Hollow Water.”¹⁷ It is about an Ojibwe community in Manitoba. They were decimated by the boarding school crisis. So many of them were forcibly taken away by the Canadian government when they were children and sent to boarding schools where they suffered unthinkable harms. The fallout was a transgenerational pandemic of child sexual abuse. Rather than relying on the Canadian government to prosecute the abusers and remove the children from their homes, the Hollow Water community dove deeply into the roots of the problem and engaged in a restorative justice process which did a very good job of effectively eradicating child sexual abuse.

One of the most powerful things I get to see is when a young man makes amends in a sexual harm case. He admits what he has done, and looks his victim in the eye and takes responsibility. When he does this, he is not harmed, he is not punished; rather, through the community, through family support, and through understanding the impact of his behavior on his victim he is made into someone who will never do this again. That is actually to his great benefit, and to all of our benefit. Finally, in the words of Dr. Martin Luther King, Jr., “Whatever affects one directly, affects all indirectly.”¹⁸ I can never be what I ought to be until you are what you ought to be. This is the interrelated structure of reality. I have yet to see something more effective than restorative justice in achieving this. That is it for me. Thanks folks.

KIM: Thanks everybody. I am just thrilled to be here. It is nice to get together in Miami to talk about our shared work. In this panel we are talking about harms of criminalization; we are talking about alternatives; and also I was asked to talk more specifically about the relationship between state and non-state responses. So I am going to try to address those three things in my time.

¹⁷ HOLLOW WATER (National Film Board of Canada 2004). For more information, visit https://www.nfb.ca/film/hollow_water.

¹⁸ MARTIN LUTHER KING, JR., *Letter from Birmingham Jail*, in *WHY WE CAN'T WAIT* 85, 86 (1963).

I took seriously this question of state versus non-state approaches. I was thinking about state responses and to get a little bit more grounded in the specific thinking about arrest, incarceration, mandatory arrest, and minimum sentencing. So what do we mean by things that are non-state responses? Without getting into a lot of details about definitions, people probably have heard terms like community accountability. I know many people here are very familiar with this whole arena. I am sorry about being basic for those who are very familiar with concepts such as Transformative Justice and community accountability. Social network responses, shelters, and crisis lines, at least at their start, have been autonomous spaces that were very distinct for the state, and many are struggling to remain so. Advocacy Centers, similarly. For some of the restorative justice responses that sujatha named, we are still engaged in conversation about the fact that many of them are very much coming from the state. This is true if we look at “Hollow Water,” for example.¹⁹ This is not to undermine the importance of these specific examples and these practices but to remind ourselves that many of these are very much engaged in criminal justice responses, the system in which many of us feel like we cannot engage with. So what does that mean about what our conversation about alternatives to the state? Batterer intervention programs in some ways are in that in-between space, diversion, similarly. Many of these on each side are in the in-between spaces between state and non-state responses.

So we all know that we have a crisis in the anti-violence movement. We might think that crisis is the over-reliance on criminalization or in the criminal justice system or we may think that the crisis is the reliance on criminalization at all.

I just wanted to remind everyone about how recent this problem is and how serious this problem is about the increase in what some people call the carceral state. If we look at this a timeline showing the United States’ rates of incarceration from 1945 to 2012, and if we brought this timeline all the way back to 1920 we still have a pretty flat line.²⁰ So what happened in 1973 makes the rates of incarceration increase by 500% between 1973 and 2012?²¹ This increase, as we all know, disproportionately affects communities of color. As I, I came on to the practice world, I knew that I viscerally felt this to be a problem,

¹⁹ *Id.*

²⁰ *Sourcebook of Criminal Justice Statistics*, UNIVERSITY AT ALBANY, HINDELANG CRIMINAL JUSTICE RESEARCH CENTER, (Kathleen Maguire, ed.), Table 6.28; PRISONERS IN 2011, BUREAU OF JUSTICE STATISTICS, U.S. DOJ, Table 6 (2012), <http://www.bjs.gov/content/pub/pdf/p11.pdf>; PRISONERS IN 2012 – ADVANCE COUNTS, BUREAU OF JUSTICE STATISTICS, U.S. DOJ, (2013), <http://www.bjs.gov/content/pub/pdf/p12ac.pdf>.

²¹ PRISONERS IN 2012 – ADVANCE COUNTS, *supra* note 20.

especially when I saw the Violence Against Women Act passed in 1994 as part of the Crime Bill.²² That for me signaled my own personal crisis. What have we done that I am asked to applaud when VAWA was passed as part of the Crime Bill? But also looking back historically, I was really surprised that people marked the beginning of the battered women's movement and anti-domestic violence movement in the exact year 1973. This is not to say that there is a causal relationship between the two, but this gives us an opportunity to think about what it is; what were the links and the tensions between the rise in the carceral state and this development of our movement, but also the movement as it moved toward criminalization. How are those linked together? As I was saying, 1994 marked the crisis for me and, as many of you know, the passage of VAWA brought a lot of money to the movement—about \$1.6 billion over six years.²³ I was looking at the statistics and about over 60% of that money went directly to law enforcement. It moved the Office of Violence Against Women, which used to be in the Department of Health, Education and Welfare, directly into the Department of Justice. This really marked a big shift in our movement, one that had already been started before this time.

In thinking about this in my own practice, I thought this linked to what I would call an underdeveloped community response. As we turned more and more to criminalization, it seems that we turned less and less to creativity about how we engage communities. Program crisis lines saying, "If you are in danger, call 911." Even if that organization works primarily with undocumented people, who probably should be very careful before calling 911, that is what we automatically say on our crisis lines. We really need to reexamine that common practice. So I was thinking a little bit about some of the institutions that we have developed over time, the Victim Witness Program, the Community Coordinated Response. Many of you have been aware of the critiques, and many of us have worked in these spaces and continue to work in these spaces. I do not mean this to be a complete condemnation or demonization of the kind of practices we have taken on but really an opportunity, as we have all have done today, to reflect on what the implications are and what the consequences have been. I have looked at Victim Witness programs as a way in which we were embedded within the very walls of the state itself. The Community Coordinated Response was a way that we actually linked these systems together in an institutionalized form. On the one

²² See LISA N. SACCO, CONGRESSIONAL RESEARCH SERVICE, THE VIOLENCE AGAINST WOMEN ACT: OVERVIEW, LEGISLATION, AND FEDERAL FUNDING (March 6, 2014), available at <https://fas.org/sgp/crs/misc/R42499.pdf>.

²³ *Id.*

hand, you can say that this legitimized the practice of saying that domestic violence advocacy had to be joined together with the state or that it was wise to do so. But I think what we can also say is that these boundaries between the two became more and more blurred over time. In fact, we might say that not only are they blurred, not only have we created these new institutional forms that are vulnerable to becoming increasingly taken over by the state, but, in fact, we have ourselves become the state. If we think now about the Family Justice Centers,²⁴ we no longer ask to come to the same table. We are now actually being asked to come to a building now controlled entirely by law enforcement under the rubric of a domestic violence resource “shopping mall.” That is what they say in Oakland. I do not know if that is true everywhere else. We might think that our programs are shrinking. I am not sure what the budgets are for the Family Justice Centers, but my guess is that they are not shrinking. In fact, there might be a linkage between why we are getting less money and somebody else is getting more.

So if you want to see this kind of crude step-by-step thinking of the reason why some of us started engaging the state, we can say that in the first place there was of contestation. You, law enforcement, are doing nothing. You had better do something. We made demands. This very quickly turned into some form of collaboration, and feminist control over this relationship diminished over time and often very quickly. We might look then to the increasing institutions that were hybridized forms of social movement institutions linked with criminal justice. These institutions are increasing and occupy what we might call our whole social movement field, and eventually perhaps this is what led to our current subordination to the criminal justice system. We initially thought that we had won the battle, but increasingly found that perhaps they were the ones that won the battle with us. So if we were to call these as steps to a dance, we might call this the carceral creep.

Going back to this crisis of the underdeveloped community response, We are getting better at the critique, but what are the alternatives going to be? sujatha baliga has done some incredible work starting to look at this on the ground, and there are many ways to think about alternatives. How do we reform our ideas of justice? How do we increase our community response?

I started thinking of this again in terms of non-state, state, or civil society and the state as a kind of continuum, looking again at the same categories that I put up earlier but also thinking of so many different kinds of tensions we can look at between do we criminalize or do we not

²⁴ FAMILY JUSTICE CENTER ALLIANCE, <http://familyjusticecenter.com/home.html> (last visited May 21, 2015).

criminalize? Do we have state responses or non-state responses? Do we take state funding or do we take non-state funding? These are the kinds of questions that we are grappling with every day. Are we going to use an individualized service model or are we going to use a more collective organizing engagement kind of model? Then thinking more institutionally as somebody who founded an organization and who has worked in the nonprofit industrial complex and who hopes to be working more on this soon, we could also look at whether we are grassroots organizations or are we institutionalized fund-driven organizations. Are we volunteer organizations or are we part of this nonprofit system? A lot of those things that we live with every day can be very critical. My guess is that for most of us, we are in some kind of paradoxical space, hybridized space, so these are very real questions for us. I just want to remind everybody that we are not in this alone as any individual or as any organization, and we are not going to get very far if we are. We really have to do this as a collective effort, and I want to give a nod to so many organizations that have been working collectively.

One example is an organization, Creative Interventions,²⁵ that I helped to found in 2004 out of frustration about the status of alternatives in the field. Everybody said we have to do alternatives, but when we actually sat down and started looking around, there seemed to be so few. So I decided that I wanted to start an organization that put values and principles into practice, that would create and promote community-based responses, create and make available models and tools and that people can actually use. We have to acknowledge that, these are not new, these are old, and we have to build on legacies of resistance and resilience from our own communities. But we need to make them public knowledge. It is an organizing approach as opposed to a direct service approach. It is one where the interventions are not happening in the office space of Creative Interventions, but the interventions are happening in the space of the community, the home, the streets, in the faith institutions, wherever it needs to happen. It is not run by professionals, although professionals can play a role, and not by law enforcement. It is a place where we would share knowledge and skills, where we would share models, where we would share stories, but we would not put them up for sale. I was thinking of Beth Richie's talk, I think she called it "everyday knowledge and authority."²⁶ We really need to think about that more. We became reliant upon the authority of the

²⁵ CREATIVE INTERVENTIONS, <http://www.creative-interventions.org/> (last visited May 21, 2015).

²⁶ Beth E. Richie, *Keynote—Reimagining the Movement to End Gender Violence: Anti-racism, Prison Abolition, Women of Color Feminisms, and Other Radical Visions of Justice*, 5 U. MIAMI RACE & SOC. JUST. L. REV. 257, 266 (2015).

state, but how it is that we actually build our own authority in order to build the kind of self-determined communities that we want and not be shy of “authority,” something which I think many of us have been in the movement.

On a very practical level, we did not engage with law enforcement, and we did not engage with child welfare either. We did not use the language of law enforcement, meaning we did not use the language of perps, perpetrators, offenders, and so on. We said “people doing harm.” But usually when people came in, we simply said their name. We did not take government money, but we did take foundation money. You could definitely ask, “What is the difference?” We tried to resist marketing, and what I mean by that is that even though the logo is kind of cute, this was not all about “Wow, look at Creative Interventions.” We certainly went out and tried to raise funds and make ourselves look good, but this was not about tooting our horn and saying this is the Creative Interventions motto. This was about adding something to our communities, our shared communities, and to put it out there as something that might be useful that people can take and adapt and use as they will. Because of that, we did create a 501(c)3 non-profit, and I could talk about the contradictions and the difficulties that come with that. We created an organization that was short term. We knew we were taking some risks that might get us within the gaze of law enforcement. But we also did not want to be in a position of trying to keep this organization going and shifting from the mission we had from the beginning. We have our websites available even though the organization is no longer in institutionalized form. And we continue to get me to come to things like this which is also a way to continue the work. You can find the tools and stories on these web spaces.²⁷

I just wanted to add a couple of questions about where we go from here if we think of all of these different tensions that we all deal with all the time as people who want to make a difference, but do not want to create more harm. How do we keep building liberatory spaces? How can we who are still engaging with the state, with foundations, with academia do this in a strategic way that leverages resources we have, without simply buying into them and not succumbing to them? How is it that we need to be engaged in this collectively? How do we do that? What are the dangers? And to be literal about these questions and collective about these questions, we need to keep asking ourselves, “Where do we go from here?”

²⁷ See CREATIVE INTERVENTIONS, *supra* note 25.