

Court reverses decision after VORP helps truth come out

by Doug Noll
with Ron Claassen

Our story this month is from Douglas E. Noll who is highly respected attorney, a partner in the Law Firm of Lang, Richert, and Patch. Doug is also a student in the Conflict Management and Peacemaking Master's Degree program at Fresno Pacific University. Darren Brassington, who co-mediated with Doug, is a full-time student in this same degree program. Names of victims and offenders and some details have been changed to protect identities.

Terry was riding his bicycle in the neighborhood when he saw two boys approaching. One, Kyle, he knew from school. The other boy was a stranger. Terry stopped and the stranger told Terry to get off the bike. When Terry refused to

do so, the stranger grabbed Terry, put him in a chokehold, and pointed something at his head. Terry thought it was a gun. The stranger threw Terry to the ground and rode off with the bike. Terry, terrified, ran home. He identified Kyle, who was subsequently arrested by the police.

Kyle pled guilty to one count of grand theft in juvenile court. The matter was referred to VORP for a Community Justice Conference. The case was assigned to me. At the preliminary meeting with Kyle and his mother, it was clear that his mother was very angry that Kyle had been falsely accused and blamed Terry and his mother for all the problems.

Terry was so traumatized by the event that he had left the state for a month. He feared Kyle and his friends would jump him if he went outside. Terry's fear

of reprisal was so great he went on home study.

Finally, I was able to make contact and arrange a meeting. At the meeting, Terry was reluctant to agree to a conference, although his mother supported the idea. Despite her best efforts, and mine, Terry was too frightened to meet with Kyle in a conference.

Later that week, I received a call from Terry's mother indicating that Terry had changed his mind. Terry had seen a segment on 20/20 about victim offender reconciliation and decided the process would be for him.

The meeting was on a Monday night at Northwest Church. Each family came along with several support people. Darren

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Discipline That Restores invites willing participants to use cooperative resolution process

by Ron Claassen

Discipline that Restores is an emerging discipline system for schools that parallels the emerging Restorative Justice System. Roxanne, my wife, is an eighth grade teacher. Her classroom and her school are implementing Discipline that Restores. The results of her experience were written in our January Newsletter and because of the response to that article, I am in the midst of elaborating on a series of nine principles written first in 1993 to guide Discipline that Restores.

Principle #1 reminds us that the rule violation points to the real concern, the person who was violated. Principle #2 reminds us of the need to identify the person most impacted (victim) and not leave them out of the response (March Newsletter). Principle #3 identifies the goal of "making things as right as possible." Principle #4 reminds us that there is danger and opportunity in the response to each violation and each misbehavior can be transformed into a teaching/learning situation (April Newsletter). Principle #5 focuses on using cooperation as much as possible and coercion as little as possible. Principle #6 says the conflict is best resolved directly between the ones in the conflict (May Newsletter). Past newsletters are available at www.vorp.org or 559-291-1120.

Principle #7. DTR recognizes that not all persons misbehaving will choose to be cooperative. Therefore there is a need

for outside authority to make decisions for the misbehaving person who is not willing to be cooperative. The consequences imposed should be tested by whether they are reasonable, related, restorative, and respectful.

An interesting part of using a cooperative approach to solve a problem is that by definition, you cannot force it. To use a cooperative approach you must invite the other party and wait for them to decide. If they choose to cooperate, the chances are very high that you can work out a mutually satisfactory resolution. A difficult thing for a teacher is to wait for the student to make up their mind. A vice principal recently told me that the first time he tried using this approach, it seemed like he waited for ever. He said, "I was ready with at least three lectures. I'm comfortable with lectures but I found it very difficult to wait. Finally he said 'yes.' Actually, it probably wasn't even a minute."

The delay may be because they need time to consider this new approach. It may be that they need some information to make the decision. It may be that they need some encouragement and accountability. Perhaps, it is more likely that they will say yes to cooperation if they have assurance of a fair process or of enough support to make sure it is fair.

Unless there is an immediate safety situation that needs some authority to take appropriate action to restore safety, it is worth taking the time needed to ex-

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This is a good month to make a resolution to continue or to start supporting VORP financially. As you can see from Terry's and Kyle's story, VORP is a community building activity for all involved.

If each person receiving this newsletter gave \$20 per month, VORP could double its case load.

Please consider making a modest yet significant contribution to building a safer and more peaceful community.

plore options that might help the person change their mind and decide to try a cooperative approach. So a good question to ask is, why not? Students sometimes tell Roxanne when she asks why not, "if you punish me, I don't have to keep making and keeping these agreements." With a bit more discussion, they usually decide they want to participate in the decision.

If there is a decision not to cooperate, that means it leaves outside authority (#2) and coercion (#1) as the only options. Coercion actually means that the adult makes a decision or the student is allowed to make the decision (permissiveness is coercion with the student in charge). Whatever is decided, I believe it should meet some criteria to guide how the authority or coercion is used. Jane Nelson in *POSITIVE DISCIPLINE* suggests that an imposed decision should be respectful, reasonable, and related. I would add it must also be restorative and

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Charges dismissed after VORP meeting

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Brassington assisted me in the mediation. As usual, the meeting began with a high level of fear, anxiety, and hostility. Everyone agreed to the purpose of the process and to the groundrules. After the young men spoke and summarized each other, we learned that Terry never intended Kyle to be charged with the crime. He just knew he was there. We also learned that the fear of reprisal that these boys had for each other was based on trouble started by acquaintances. The parents shared their concerns for both boys. Slowly, the hostility dissipated and peace was restored. It is an amazing process!

The agreements developed processes for communication and mutual respect between the boys. In addition, the conference recommended that the court entertain a change of plea and dismissal of all charges against Kyle. Finally, because Kyle recognized he was there and should have stood up for Terry, he agreed to pay Terry one-half the value of the bicycle. Kyle's employer was present and agreed to help Kyle earn the money. The meeting closed in peace with everyone shaking hands and smiling.

I learned of the court date for the disposition hearing from the VORP office and appeared on behalf of the conference. I wanted to make sure that if the court had any questions about the conference's recommendation, they would be answered. After identifying myself as the community peacemaker assigned to the case, I was admitted to the confidential proceedings. I stated my appearance for the record, explained the process and the result. The probation officer and the district attorney agreed to change the plea and recommend dismissal of all charges against Kyle. The judge was well pleased that justice had been served and dismissed all charges against Kyle.

Blessed are the Peacemakers.

Thanks Doug and Darren!

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DTR prefers cooperation to coercion

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intended to also reintegrate. If our punishments or logical consequences or whatever we choose to call them meet these five criteria, they will elicit a different response than if they don't. I believe that the difference will be observable in both the one administering and the one receiving. I think that authority and coercion used in ways that don't meet these criteria are on the abuse side of the continuum.

So DTR is not suggesting that there is no authority or coercion, just that you prefer to not have to use it. And, when you do use it, it should be administered with a commitment to be constructive, even if the other is not yet constructive, and in ways that are reasonable, respectful, related, restorative, and (re)integrative.

Principle #8. DTR prefers that persons who misbehave and are not yet cooperative be continually invited (not coerced) and encouraged to become responsible and cooperative, and they should be given that opportunity at the earliest possible time they so choose.

If what we do to a student, because of their misbehavior, stigmatizes and ostracizes them we have created a greater problem for them and for us. Remember that each misbehavior is a teaching/learning opportunity. If we miss that opportunity and instead of helping them learn to successfully participate and find appropriate ways to meet their needs, they will meet them in some other way. Everyone needs a reasonable sense of power over their lives, to be cared for, and to feel like they belong. Our discipline process should help them learn

how to do that in ways that are socially acceptable. If they think someone is picking on them, how do they appropriately address that problem? If the rule seems unfair, how do they appropriately work to change the rule?

We cannot afford to give up. If we simply put a student out of the class or out of the school, we have not helped them learn. An unintended consequence of a discipline system that stigmatizes and ostracizes students is that we are preparing them to be good members of fringe groups and gangs.

Instead, we must let them know that we care and continually invite them to join in the process of figuring out how to solve this particular problem and in the long run to join in making the world a better place for everyone.

Volunteer mediators needed!

VORP mediators learn and practice peacemaking skills they can use in the home, workplace, and congregation.

The next training is scheduled on June 25 & 26. For participants who agree to take three cases, the cost of the training is only \$20; for others, the cost is \$100.

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