

# PRISONER FACILITATED MEDIATION: BRINGING PEACE TO PRISONS AND COMMUNITIES

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*“This is an environment filled with conflict and violence. There is a dire need and want for change. Mediation interests all of us because we are lifers and long-termers hoping to make a difference in teaching our peers that there is a better way.”*

*—Susan Russo*

## I. INTRODUCTION

Prisons are too often places of conflict, violence, and fear. After spending years in such an environment Susan Russo and a group of like-minded inmates decided that they needed to take action.<sup>1</sup> In 2007, Ms. Russo began sending over fifty handwritten letters to mediators throughout California, asking for assistance in setting up a conflict resolution program at the prison where she resided.<sup>2</sup> Eventually, in 2009, one of her letters reached Laurel Kaufer, who, with her colleague Doug Noll, responded to Ms. Russo’s request. Through their collaboration Prison of Peace (“POP”) was born.<sup>3</sup> POP employs an innovative method of prison conflict resolution known as prisoner facilitated mediation (“PFM”), in which inmates are trained as peacemakers and mediators, in order to help resolve conflicts within the prison.<sup>4</sup>

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<sup>1</sup> PRISON OF PEACE, <http://www.prisonofpeace.org/> (last visited May 31, 2014).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

Prisoner facilitated mediation helps to reduce prison violence and teach foundational life skills to inmates.

Mass incarceration is failing to provide inmates with the skills necessary to succeed in the community.<sup>5</sup> While the U.S. spends over seventy billion dollars annually on corrections, only a small percentage is expended on rehabilitation. The limited programs that are available leave many inmates' needs unmet.<sup>6</sup> Traditional education programs and vocational training are necessary but not sufficient to prepare inmates for life outside the prison walls. Strong communication and conflict resolution skills are also critical. By providing these skills, PFM empowers inmates to resolve conflicts peacefully before they escalate. This program has the potential to reduce prison violence and lower recidivism in a cost-effective manner, making both our prisons and our communities safer.

Of course, PFM is not a panacea. No program alone can turn the tide against the U.S. system of mass incarceration and all of its attendant problems. Even inmates who leave prison as prepared as possible for success will still run up against a lack of job opportunities for former offenders, ineligibility for most government assistance, lack of affordable housing, limited access to health care services, and, for the disproportionate number of inmates of color, institutional racism.<sup>7</sup> Nevertheless, we believe that the widespread implementation of PFM programs would be a significant step forward in a broader effort to achieve comprehensive prison reform.

Part II of this Article briefly describes the United States prison system and how it fails to rehabilitate prisoners, resulting in disastrous consequences for both inmates and society as a whole. Part III describes PFM and its benefits for inmates and communities. Part IV provides an in depth discussion of Prison of Peace, a successful prisoner facilitated mediation program. Part V offers suggestions on how PFM programs could be implemented more widely. Finally, Part VI provides a brief conclusion.

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<sup>5</sup> See Joan Petersilia, *Beyond the Prison Bubble*, *NIJ JOURNAL* 26–31 (2011).

<sup>6</sup> See Elizabeth Gudrais, *The Prison Problem*, *HARVARD MAGAZINE*, Mar.–Apr., 2013, at 42, available at <http://harvardmag.com/pdf/2013/03-pdfs/0313-38.pdf>.

<sup>7</sup> See Devah Pager, *Evidence-Based Policy for Successful Prisoner Reentry*, 5 *CRIMINOLOGY & PUBLIC POLICY* 505, 505–12 (2006); MICHELLE ALEXANDER, *THE NEW JIM CROW: MASS INCARCERATION IN THE AGE OF COLORBLINDNESS* (2010).

## II. PRISON AND ITS FAILURES

The United States imprisons more people per capita than any other country in the world. Our nation's incarceration rate of 756 per 100,000 people drastically dwarfs Canada's 166, Germany's 89, and Finland's 64.<sup>8</sup> Currently, close to 2.2 million people are being held in our prisons and jails.<sup>9</sup> But while we lock up millions of people, we do little to tackle the root causes of anti-social behavior or to help people to overcome them.<sup>10</sup> Things were not always this way—in fact, the U.S. incarceration rate has undergone a 500% increase over just the past three decades.<sup>11</sup> Starting in the 1970s, the U.S. began to move away from rehabilitation and to focus instead on retributive punishment. This change was the result of a confluence of factors, including rising crime rates, the media's obsession with crime, politicians' use of fear to attract voters, and a growing public consensus that rehabilitation programs are ineffective. The resulting system of mass incarceration has left the U.S. with violent prisons, high levels of recidivism, and out of control costs.

A. *Prison Violence*

Isolated in overcrowded and understaffed facilities, prison inmates often become embroiled in violent disputes. Unfortunately, it is difficult to obtain accurate information about the prevalence of violence behind prison walls.<sup>12</sup> While the true number of violent incidents is unknown, assaults and other acts of prison violence are thought to be heavily underreported.<sup>13</sup> Many inmates fear being labeled as a “snitch” for reporting violent incidents or simply do not wish to involve prison authorities in their private disputes.<sup>14</sup> The information we do have, however, is cause for alarm. One ma-

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<sup>8</sup> Joycelyn M. Pollock et. al., *A Utopian Prison: Contradiction in Terms?*, 28 J. CONTEMP. CRIM. JUST. 60, 62 (2012).

<sup>9</sup> THE SENTENCING PROJECT, *Incarceration*, <http://www.sentencingproject.org/template/page.cfm?id=107> (last visited November 13, 2013).

<sup>10</sup> See Petersilia, *supra* note 5, at 26–31.

<sup>11</sup> BUREAU OF JUSTICE STATISTICS, *Key Facts at a Glance*, <http://www.bjs.gov/content/glance/corr2.cfm> (last accessed January 19, 2013).

<sup>12</sup> See Nancy Wolff et al., *Physical Violence Inside Prisons: Rates of Victimization*, 34 CRIM. JUST. AND BEHAV. 588, 588–90 (2007).

<sup>13</sup> *Id.* at 589.

<sup>14</sup> *Id.*

major study found that 34,000 inmate-on-inmate assaults were reported across state and federal correctional facilities in 2000, but that the unofficial total was estimated to be closer to 300,000.<sup>15</sup> While estimates of the percentage of affected inmates varies, a 2007 study using self-reported data from 7221 male inmates across thirteen prisons found that nearly a quarter of inmates (21%) reported experiencing an incident of physical victimization by another inmate over the course of a six month period.<sup>16</sup>

Living in a violent environment takes its toll, even for those inmates lucky enough to avoid assault. Research shows that persistent fear of victimization results in increased aggressive behavior from inmates, likely because they feel obligated to look tough as a means of self-preservation.<sup>17</sup> There is a pervasive belief among prisoners that if one cannot convincingly portray himself or herself as willing to resort to violence he or she is at serious risk of domination and exploitation by more powerful inmates.<sup>18</sup> As penologist Mathew Silberman stated, “within the prison world, being willing to fight and, if necessary to kill is essential to survival.”<sup>19</sup> Such behavior may well be a reasonable response to the inmates’ environment, but it also puts him or her at risk—both due to the risks inherent in violent interactions and to the risk of being punished for violating prison rules.

Sadly, the impact of prison violence can last long after the physical wounds have healed. In fact, the psychological damage can be even more devastating than the physical. Studies have long demonstrated that being a victim of violence, or even a witness to violence against others, has a long lasting negative impact on behavior and mental health.<sup>20</sup> One recent study from 2009 confirmed that these negative effects take place when violence is experienced during incarceration.<sup>21</sup> This study found that inmate experiences of violence during their sentence correlated closely with poor post-

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<sup>15</sup> Allison M. Shenck and William J. Fremouw, *Individual Characteristics Related to Prison Violence: A Critical Review of the Literature*, 17 *AGGRESSION AND VIOLENT BEHAV.*, 430, 431 (2012).

<sup>16</sup> Wolff et. al., *supra* note 12, at 593.

<sup>17</sup> Richard McCorkle, *Personal Precautions to Violence in Prison*, 19 *CRIM. JUST. AND BEHAV.* 160, 161 (1992).

<sup>18</sup> *Id.*

<sup>19</sup> MATHEW SILBERMAN, *A WORLD OF VIOLENCE: CORRECTIONS IN AMERICA* 28 (1995).

<sup>20</sup> Paul Boxer, Keesha Middlemass & Tahlia Delorenzo, *Exposure to Violent Crime During Incarceration: Effects on Psychological Adjustment Following Release*, 36 *CRIM. JUST. AND BEHAV.* 793, 796 (2009).

<sup>21</sup> *Id.*

release adjustment, including elevated levels of antisocial behavior and emotional distress.<sup>22</sup>

Unfortunately, many of the methods used to tackle prison violence do not address the actual causes of inmates' aggressive behavior—some, in fact, are actively counterproductive.<sup>23</sup> Common strategies include segregating those inmates who are likely to come into conflict with one another, such as members of rival gangs (often a de facto means of racial segregation), and coercive control measures such as loss of privileges or solitary confinement (a controversial form of punishment that has been linked to increased risk of suicide and mental illness).<sup>24</sup>

While some of these strategies help to control inmates, their rehabilitative value is limited. Physically separating inmates prevents some altercations but it does not teach inmates how to interact peacefully with those that are different from them. Similarly, punishing misconduct may reinforce for inmates what they should not do, but fails to offer viable alternatives. There are times when separating inmates or punishing misbehavior may be appropriate, but prisons should not rely too heavily on these interventions. Inmates typically do not act out for no reason: even if the trigger for a violent act seems minor from the outside, the inmate may be responding to a perceived threat to their social standing, the loss of which would threaten their safety and security.<sup>25</sup> When inmates are not provided with superior problem solving strategies, it is almost inevitable that they will resort to violence when faced with a serious conflict.

### B. *High Recidivism Rates*

The United States justice system consistently fails to prepare inmates to rejoin society as productive, law abiding, citizens.<sup>26</sup> The Federal Bureau of Prisons states that its mission is “to protect soci-

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<sup>22</sup> *Id.*

<sup>23</sup> See USING SOCIAL SCIENCE TO REDUCE VIOLENT OFFENDING (Joel A. Devoskin et al. eds. 2012); Anthony E. Bottoms, *Interpersonal Violence and Social Order in Prisons*, 26 CRIME AND JUSTICE 205, 232–41 (1999).

<sup>24</sup> See Jeffrey L. Metzner and Jamie Fellner, *Solitary Confinement and Mental Illness in U.S. Prisons: A Challenge for Medical Ethics*, 38 J. AM. ACAD. OF PSYCHIATRY AND THE LAW 104, 104–06 (2010); see also Dale Noll, *Building a New Identity: Race, Gangs, and Violence in California Prisons*, 66 U. MIAMI L. REV. 847, 849 (2012).

<sup>25</sup> Bottoms, *supra* note 23, at 268–75.

<sup>26</sup> See Petersilia, *supra* note 5, at 26–31.

ety by confining offenders in the controlled environments of prisons and community-based facilities that are safe, humane, cost-efficient, and appropriately secure, and that provide work and other self-improvement opportunities to assist offenders in becoming law abiding citizens.”<sup>27</sup> While the prison system may effectively confine offenders, it is far less successful at the remainder of its goals. Rather than “protecting society” or providing “self-improvement opportunities,” correctional facilities are often little more than warehouses for the people society considers undesirable. This kind of incarceration leaves former inmates no more equipped to thrive in the community upon exit than upon arrival.<sup>28</sup>

For many individuals, prison becomes a lifelong home with a revolving door.<sup>29</sup> The majority of criminologists who have studied the issue find that spending time in prison has little to no deterrent effect on future criminal acts.<sup>30</sup> In fact, some studies indicate that prison is actively criminogenic—this means that current forms of incarceration may actually make offenders *more* likely to commit further crimes.<sup>31</sup> The vast majority of prisoners are eventually released—nearly 93%—and, unfortunately, many of them continue to reoffend.<sup>32</sup> The most recent data available shows that around 43% of released prisoners end up back behind bars within three years.<sup>33</sup> Considering the fact that much crime goes unreported, it is likely that the percentage of individuals returning to criminal activity is even higher than these statistics indicate.<sup>34</sup> What this means is that individuals whom the prison system has failed to rehabilitate victimize thousands of people every year.<sup>35</sup> Given that nearly half of offenders quickly return to prison, one can hardly claim that prisons, as they operate today, are an effective deterrent for criminal activity.

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<sup>27</sup> FEDERAL BUREAU OF PRISONS, <http://www.bop.gov/> (last visited Jan. 9, 2013).

<sup>28</sup> See Petersilia, *supra* note 5, at 26–31.

<sup>29</sup> *Id.*

<sup>30</sup> Pollock et al., *supra* note 8, at 62.

<sup>31</sup> *Id.*

<sup>32</sup> See Petersilia, *supra* note 5, at 27.

<sup>33</sup> THE PEW CENTER ON THE STATES, STATE OF RECIDIVISM: THE REVOLVING DOOR OF AMERICAN’S PRISONS (Apr. 2011), available at [http://www.pewtrusts.org/uploaded/Files/www.pewtrusts.org/Reports/sentencing\\_and\\_corrections/State\\_Recidivism\\_Revolution\\_Door\\_America\\_Prison%20.pdf](http://www.pewtrusts.org/uploaded/Files/www.pewtrusts.org/Reports/sentencing_and_corrections/State_Recidivism_Revolution_Door_America_Prison%20.pdf).

<sup>34</sup> See LYNN LANGTON ET AL., VICTIMIZATIONS NOT REPORTED TO THE POLICE: 2006–2010, U.S. DEPARTMENT OF JUSTICE (2012), available at <http://www.bjs.gov/content/pub/pdf/vnrp0610.pdf>.

<sup>35</sup> See Petersilia, *supra* note 5, at 26–31.

### C. Overwhelming Costs

It is becoming increasingly clear that our current level of incarceration is morally questionable and fiscally unsustainable. The United States now spends close to \$70 billion on corrections annually, with an average cost of over \$28,000 per year to incarcerate each person.<sup>36</sup> Not only is this a staggering amount of money, it is money that no longer available for other services. The growth of spending on prisons has outpaced budget increases for nearly all other essential government services over the past twenty years, including higher education and public assistance.<sup>37</sup> In addition, the majority of states spend far more money per person imprisoning people than educating elementary and secondary school students.<sup>38</sup> Our nation cannot afford to continue along this path.

Most of those who study the matter agree that imprisonment has reached counterproductive levels.<sup>39</sup> As Attorney General Eric Holder stated in a speech before the American Bar Association:

Ultimately, this is about much more than fairness for those who are released from prison. It's a matter of public safety and public good. It makes plain economic sense. It's about who we are as a people. And it has the potential to positively impact the lives of every man, woman, and child—in every neighborhood and city—in the United States. After all, whenever a recidivist crime is committed, innocent people are victimized. Communities are less safe. Burdens on law enforcement are increased. And already-strained resources are depleted even further.<sup>40</sup>

In order to address these problems we must change the way we think about incarceration, shifting the focus from retribution to rehabilitation. We must stop considering prisons as simply a place to separate offenders from society, and start implementing programs that treat the underlying causes of anti-social behavior, de-

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<sup>36</sup> NAACP, MISPLACED PRIORITIES: OVER INCARCERATE, UNDER EDUCATE (Apr. 2011), at 9 [hereinafter MISPLACED PRIORITIES], available at [http://naacp.3cdn.net/01d6f368edbe135234\\_bq0m68x5h.pdf](http://naacp.3cdn.net/01d6f368edbe135234_bq0m68x5h.pdf); ANNUAL DETERMINATION OF AVERAGE COST OF INCARCERATION, 76 FED. REG. 57081 (September 15, 2011), available at <http://www.gpo.gov/fdsys/pkg/FR-2011-09-15/pdf/2011-23689.pdf>.

<sup>37</sup> MISPLACED PRIORITIES, *supra* note 36, at 27.

<sup>38</sup> *Education v. Prison Costs*, CNN MONEY, <http://www.money.cnn.com/infographic/economy/education-vs-prison-costs/> (last visited May 9, 2014).

<sup>39</sup> See Petersilia, *supra* note 5, at 26–31.

<sup>40</sup> *Attorney General Eric Holder Delivers Remarks at the Annual Meeting of the American Bar Association's House of Delegates*, UNITED STATES DEPARTMENT OF JUSTICE, <http://www.justice.gov/iso/opa/ag/speeches/2013/ag-speech-130812.html> (last visited May 31, 2014).

velop important skills, and encourage personal growth. Implementing prisoner facilitated mediation programs, discussed in the following section, is one way to help achieve these goals.

### III. PRISONER FACILITATED MEDIATION

Like other forms of mediation, PFM is a dispute resolution process in which a neutral mediator assists the parties to a dispute in resolving the conflict between them. Mediators help the parties to communicate with, listen to, and understand one another, and if possible, to come to a mutually satisfactory agreement. They do not take sides or make decisions about what solution ought to be implemented—instead, they help the disputants to come up with an agreement on their own. Everything said in mediation is kept confidential, helping to make each mediation a safe space for people to discuss their conflict honestly and openly, without worrying that their words might later be used against them.

While in many ways identical to conventional mediation, what makes PFM unique is its use of prison inmates as mediators. In PFM programs a selected group of inmates are given training in communication skills, mediation and other conflict resolution processes. They then use their training to help other inmates resolve conflicts before they escalate into violence, helping to make prison more peaceful. In many ways, PFM is similar to the peer mediation programs often found in schools, where a group of students are trained to mediate disputes between other children. As with student peer mediation, the theory behind PFM is that people in conflict benefit from working with a mediator to whom they can relate. Just as students relate better to other students than to adults, prison inmates can relate to one another better than to prison employees (or even outsiders such as professional mediators).

There are a number of reasons why inmates often find it easier to talk to each other than to prison staff or an outsider. First, there is the issue of trust. Inmates are typically distrustful of authority, often for good reason.<sup>41</sup> For many, the system has failed them repeatedly. Inmates often fear getting in trouble (either with other

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<sup>41</sup> See VESLA M. WEAVER, *HOW MASS IMPRISONMENT BURDENS THE UNITED STATES WITH A DISTRUSTFUL CIVIC UNDERCLASS*, SCHOLARS STRATEGY NETWORK (2012), available at [http://www.scholarsstrategynetwork.org/sites/default/files/ssn\\_key\\_findings\\_weaver\\_on\\_the\\_american\\_criminal\\_justice\\_system.pdf](http://www.scholarsstrategynetwork.org/sites/default/files/ssn_key_findings_weaver_on_the_american_criminal_justice_system.pdf).

inmates or with prison staff) if they bring a conflict to the attention of the authorities.<sup>42</sup> It can feel safer to reveal personal information to a peer than to an authority figure, someone who has power over them. Second, inmates understand prison culture and values, which can aid in coming up with a workable solution to the conflict. Inmates are far more likely to understand the complex social structures that exist within prisons and the types of conflicts that can arise as a result. This makes it easier for inmate-mediators to understand which potential solutions are actually viable for the parties.

Prisoner facilitated mediation is a powerful method of conflict resolution and one which has the potential to help mitigate each of the problems discussed in the proceeding section: violence, recidivism, and high costs. The remainder of this section will explain the how it is that PFM is able to provide these benefits.

### A. *Providing Conflict Resolution Skills*

No one is born knowing how to resolve conflicts. These are skills that one typically picks up from observing family and friends. Unfortunately, prison inmates often come from violent, abusive, or neglectful backgrounds.<sup>43</sup> As such, many have not been exposed to examples of healthy communication and conflict resolution. This lack of experience does not, however, indicate a lack of ability. PFM training gives people the opportunity to develop these skills by teaching them a variety of techniques designed to help keep conversations constructive, minimize misunderstandings, and shift the discussion from the parties' positions to their underlying needs. These techniques include reflecting back what has been said to ensure accurate understanding and reframing issues by helping the parties look at them in a different way.

While formal studies have yet to be completed with regard to the correlation between PFM and a reduction in violence, prison officials have already begun to notice a difference in the way trained inmates respond to conflict. For example, Lt. Greg Berger-

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<sup>42</sup> Wolff et al., *supra* note 12, at 589.

<sup>43</sup> CAROLINE W. HARLOW, PRIOR ABUSE REPORTED BY INMATES AND PROBATIONERS, U.S. DEPARTMENT OF JUSTICE (1999), available at <http://www.wcl.american.edu/faculty/smith/0303/conf/article2.pdf>; JEREMY TRAVIS, EARLY CHILDHOOD VICTIMIZATION AMONG INCARCERATED ADULT MALE FELONS, NATIONAL INSTITUTE OF JUSTICE (1998), available at <https://www.ncjrs.gov/pdffiles/fs000204.pdf>.

son, the Prison Information Officer at Valley State Prison stated in an interview that:

Many inmates find themselves incarcerated because of snap decisions made while being angry. The inmates who engage in sound mediation practices tend to view situations differently. The inmate mediators look at issues objectively and without anger. Mediation training serves the mediator well in this area. When inmate mediators approach conflict situations, their training provides them with the ability to act calmly, thus deescalating volatile situations. A calm inmate tends to think more rationally.<sup>44</sup>

In addition, the success of peer mediation in schools provides cause for optimism, as multiple studies of peer mediation programs have found significant reductions in the rate of violent incidents.<sup>45</sup> These studies establish the fact that mediation need not be performed by professionals to be highly effective.

Even a few people implementing these skills can have a transformative effect on the prison community. Teaching conflict resolution techniques to a group of inmates provides every prisoner, not just those who have received the training, with a new option for handling their disputes. As more and more disputes are mediated successfully, inmates begin to see the value in non-violent conflict resolution and even begin to pick up new non-violent conflict resolution strategies through observation. While additional research is necessary to demonstrate how frequently this occurs, anecdotal evidence suggests that such learning does take place. For example, one inmate who completed a course in PFM stated: "I've learned to pay attention to others, and in doing that I feel like others pay attention to me. My skills have rubbed off on people around me. They reflect, they clarify and verify, they ask questions, they listen. So those are the changes—it's already starting."<sup>46</sup> Her observations indicate the knowledge imparted through PFM training can spread beyond those originally receive it.

In addition, studies have shown that the actions of third parties to a conflict have a powerful effect on whether or not it escalates into violence. A study of inmate conflict by sociologists Scott Phillips and Mark Cooney found that when third parties intervened

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<sup>44</sup> Email from Lt. Greg Bergerson, on file with author.

<sup>45</sup> David W. Johnson and Roger T. Johnson, *Conflict Resolution and Peer Mediation Programs in Elementary and Secondary Schools: A Review of the Research*, 66 *REV. EDUC. RES.* 459, 459-506 (1996).

<sup>46</sup> *Press and Media*, PRISON OF PEACE, (last visited May 31, 2104) <http://www.prisonofpeace.org/press-media.html> (Quotation from Barbara Chavez, Life without Parole, CCW).

neutrally in a fight between inmates it only became violent 20% of the time. In contrast, when third parties intervened in a partisan manner, backing one side against the other, this resulted in violence in 77% of cases.<sup>47</sup> It is unlikely that any of the inmates who intervened neutrally had formal conflict resolution training and it is reasonable to expect that inmates who have received such training would be even more effective at deescalating conflict. The results of this study suggest that having a group of inmates who are willing and able to step in and attempt to settle disputes through neutral intervention could have a significant impact on levels of violence. PFM training provides inmates with the knowledge and skills to intervene in this manner.

Giving inmates the skills necessary to solve resolve their own conflicts without staff intervention is empowering and potentially transformative. In prison, the bulk of inmates' decisions are made for them. They are told when to eat, when to sleep, when to work, and their every move is closely monitored. This sort of environment provides few opportunities to practice making positive independent choices and can erode inmates' confidence in their ability to do so. Successfully completing and implementing PFM training can help inmates to develop greater self-confidence and a belief in their ability to succeed in life without using violence or other negative strategies.

### B. *Developing Empathy*

A meta-analysis of studies on the link between empathy and aggression found that low levels of empathy are correlated with higher aggression and that higher levels of empathy are correlated with an increase in pro-social behavior.<sup>48</sup> Unfortunately, this skill is underdeveloped in many prison inmates. While there are probably multiple factors behind this, one is likely the difficult childhoods that many inmates experienced. A study from the Department of Justice found that approximately half of female inmates and a tenth of male inmates report being victims of child

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<sup>47</sup> Scott Phillips and Mark Cooney, *Aiding Peace, Abetting Violence: Third Parties and the Management of Conflict*, 70 AM. SOC. REV. 333, 340 (2005).

<sup>48</sup> See Nancy Eisenberg and Paul A. Miller, *The Relation of Empathy to Prosocial and Related Behaviors*, 101 PSYCHOL. BULL. 91 (1987).

abuse, but other estimates are considerably higher.<sup>49</sup> For example, when a group of male felons was asked about specific types of experiences, 68% reported some form of childhood victimization.<sup>50</sup> This discrepancy may be due to the fact that some inmates do not recognize what happened to them as abuse. Several studies have found a link between being abused as a child and lower than average levels of empathy, which helps to explain why many prison inmates struggle to empathize with others.<sup>51</sup>

The good news is that, for most people, empathy is something that can be strengthened and developed. Several studies have found that programs encouraging children to see things from another's perspective was correlated with an increase in pro-social behavior relative to the control group.<sup>52</sup> While the possibility of strengthening empathy in adults has not been extensively researched, the available evidence is promising. Several studies have found that simply being asked to focus on another person's feelings reduces aggressive behavior towards that person, at least under some circumstances.<sup>53</sup> Taken together, these studies strongly suggest that empathic ability is not something fixed and static but rather something that people can develop through practice.

PFM training provides this practice by encouraging inmates to look at conflicts from multiple perspectives and to pay close attention to each party's thoughts and feelings. Doing this can be challenge for those who are used to ignoring the emotions of others, but the results can be powerful. As PFM participant Jan Ritchey stated:

I am the person that usually does not feel, and I have little or no emotion, that is part of what got me incarcerated . . . to go through these new experiences, to actually sit in your emotion

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<sup>49</sup> CAROLINE W. HARLOW, PRIOR ABUSE REPORTED BY INMATES AND PROBATIONERS, U.S. DEPARTMENT OF JUSTICE (1999), available at <http://www.wcl.american.edu/faculty/smith/0303/conf/article2.pdf>.

<sup>50</sup> JEREMY TRAVIS, EARLY CHILDHOOD VICTIMIZATION AMONG INCARCERATED ADULT MALE FELONS, NATIONAL INSTITUTE OF JUSTICE (1998), available at <https://www.ncjrs.gov/pdf/files/fs000204.pdf>.

<sup>51</sup> See Dominique Simmons, et. al., *Childhood Victimization and Lack of Empathy as Predictors of Sexual Offending against Women and Children*, 17 J. INTERPERSONAL VIOLENCE 1291 (2002).

<sup>52</sup> EMPATHY AND ITS DEVELOPMENT 147 (Nancy Eisenberg & Janet Strayer, eds. 1987).

<sup>53</sup> See Deborah R. Richardson, et al., *Empathy as a Cognitive Inhibitor of Interpersonal Aggression*, 20 AGGRESSIVE BEHAV. 275 (1994).

and also feel another person's emotion is a new experience for me. And it is very uncomfortable—but I'm learning.<sup>54</sup>

Ms. Ritchey's experience suggests that learning to be conscious and mindful of others feelings (an important part of being an effective mediator) can help develop an individual's ability to empathize with others.

### C. *Fostering Healthy Relationships*

PFM also aids in rehabilitation by helping inmates to develop healthier relationships. People in prison, like people everywhere, need relationships in order to thrive. When surveyed after entering prison inmates most often list separation from friends and family as the aspect of incarceration they found more difficult.<sup>55</sup> Not only is such separation extremely painful for inmates, it can impede their ability succeed in the community after release.<sup>56</sup> Having a supportive family and community has consistently been found to correlate with positive outcomes upon reentry; conversely, the lack of such support is associated with negative outcomes.<sup>57</sup> Unfortunately, prison places severe stress on relationships to individuals in the outside world, such as relatives, partners, and children, while providing few opportunities to form positive relationships on the inside.<sup>58</sup>

Unfortunately for inmates, the relationships available to them are often not altogether healthy. Many inmates have experienced abuse and/or traumatic family dysfunction, which may make it more difficult for them to form healthy relationships.<sup>59</sup> As noted previously, a high percentage of prison inmates have suffered some form of abuse or neglect.<sup>60</sup> Women in prison have experienced especially high rates of abuse. One study found that 70% of female inmates reported severe physical abuse as children and fifty-nine

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<sup>54</sup> *Press and Media*, *supra* note 46 (quotation from Jan Ritchey, 15 years to life, paroled on December 5, 2012).

<sup>55</sup> Kenneth Adams, *Adjusting to Prison Life*, 16 CRIME AND JUST. 275, 284 (1992).

<sup>56</sup> See Mark T. Berg and Beth M. Huebner, *Reentry and the Ties that Bind: An Examination of Social Ties, Employment and Recidivism*, 28 JUST. Q. 382, 382–410 (2010).

<sup>57</sup> *Id.*

<sup>58</sup> See Adams, *supra* note 55.

<sup>59</sup> See HARLOW, *supra* note 49; TRAVIS, *supra* note 50; see also Thomas Styron and Ronnie Janoff-Bulman, *Childhood attachment and abuse: Long-term effects on adult attachment, depression, and conflict resolution*, 21 CHILD ABUSE & NEGLECT 1015, 1015–23 (1997).

<sup>60</sup> HARLOW, *supra* note 49; TRAVIS, *supra* note 50.

reported child sexual abuse.<sup>61</sup> Three quarters of these inmates also reported having experienced intimate partner violence, with over half reporting that they had been kicked, punched, beaten, bitten, or kicked.<sup>62</sup> Considering these disturbing statistics, it is unsurprising that many inmates struggle to develop healthy interpersonal relationships.

PFM can help inmates to develop and strengthen positive relationships by giving them the skills to communicate better with other inmates and with their friends and family on the outside. For example, one POP participant reported using the skills she acquired during her training to better communicate with her son. She stated:

I've been trying to communicate with my son for the last two years that I've been in prison, and the last letter I wrote him was using the skills I've learned in the mediation process and I applied those to the letter that I wrote him. Instead of blaming him for things, or trying to boss him around, I tried to put myself in his shoes, which is what we are taught to do, and I sent my letter to him that way - and I'm happy to say that he wrote back. And that's the first communication I've had since I've been here.<sup>63</sup>

This type of renewed communication is not only a personal victory for the inmates who experience it, it is a victory for society. By reaching out and strengthening her bonds with her family, this inmate has made it more likely that she will have a support network available when she is released and less likely that she will ever return to prison.

#### D. *Enhancing other Rehabilitation Programs*

Another way in which PFM assists inmates is by helping them to get more out of other rehabilitative programs. This is accomplished in two ways: (1) reducing violence and therefore creating an improved learning environment and (2) giving inmates skills that are transferrable to situations besides mediation and conflict resolution. Chronic stress due to exposure to violence—typical of the prison experience—both impedes learning and increases prob-

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<sup>61</sup> Kimberly Collica, *Surviving Incarceration: Two Prison-Based Peer Programs Build Communities of Support for Female Offenders*, 31 *DEVIANT BEHAV.* 314 (2010).

<sup>62</sup> *Id.*

<sup>63</sup> *Press and Media*, *supra* note 46 (Quotation from Sarah Jackson Reynolds, released in 2012).

lematic behaviors.<sup>64</sup> As Dawn Godman, an inmate trained in PFM, explained: “Conflict rides on high emotions and when people are entrenched in emotions they can’t think clearly and cannot rehabilitate because they can’t apply anything they’ve learned in any effective way.”<sup>65</sup> Because of this, a violent environment reduces the effectiveness of education and vocational training. Researchers have found that while low levels of stress can facilitate learning, chronic, severe, stress significantly impairs learning and memory.<sup>66</sup> By helping inmates solve conflicts peacefully, the use of PFM helps create an environment where inmates can focus on learning rather than fighting. When violence is reduced, the anxiety and stress associated with fear of violence are also lessened. This reduction in stress can help inmates to get more out of whatever rehabilitative programming is offered.

In addition to improving the learning environment in the prison, PFM also provides inmates with useful skills that can be implemented in other programs that they attend. The communication skills taught and strengthened through PFM are applicable in a wide variety of contexts and can help inmates to succeed at more than just conflict resolution. For example, reflecting back what one has heard to ensure it was understood is a useful in a class or workshop as it is a mediation session. As former inmate Sarah Reynolds noted: “No matter what skill you learn in Prison of Peace you will use it in every other class you facilitate, and every other class you attend, in every other kind of work that you do, in every interaction you have, with some of the very intense interactions that we have here with other inmates, and with staff.”<sup>67</sup>

The theory that PFM has the potential to increase performance in other programs is supported by the demonstrated link between mediation training and increased academic achievement. Several studies of peer mediation have found that including mediation and conflict resolution skills as part of the curriculum has a positive effect on students’ test scores.<sup>68</sup> For example, one study found that integrating conflict resolution training into the social

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<sup>64</sup> Boxer, Middlemas & Delorenzo, *supra* note 20, at 801–04.

<sup>65</sup> *Press and Media*, *supra* note 46 (Quotation from Dawn Godman, 37 years to life, CCWF).

<sup>66</sup> Debra A. Bangasser and Tracey J. Shors, *Critical Brain Circuits at the Intersection Between Stress and Learning*, 34 *NEUROSCIENCE AND BIOBEHAVIORAL REVIEWS* 1223, 1224 (2010).

<sup>67</sup> *Press and Media*, *supra* note 44 (Quotation from Christine Lloyd, 66 years, eligible for parole in 2032, CCW).

<sup>68</sup> Johnson and Johnson, *supra* note 45; Laurie Stevahn and David W. Johnson, *Effects of Conflict Resolution Training Integrated into a High School Social Studies Curriculum*, 142 *J. OF SOC. PSYCH.* 305, 305–31 (2002).

studies curriculum led to substantially higher test scores (compared with a control group who otherwise studied the same material for the same amount of time) immediately after training and on a follow-up test given seven months later.<sup>69</sup> Another, similar, study found that when conflict resolution training was integrated into a two week English class unit, the students who received the training received higher test scores than the control group.<sup>70</sup> In this study, students in the experimental group studied a novel and conflict resolution techniques, and then role-played the major conflicts in the novel using these techniques. The control group simply studied the novel. Even though the control group spent all of their time studying the novel, the experimental group retained more information about it. These studies demonstrate two important facts—not only does conflict resolution training not disrupt or distract from other types of learning, it actually reinforces other skills.<sup>71</sup>

#### E. *Using Resources Efficiently*

In addition to its other benefits, PFM also has the advantage of being highly cost-effective. This is very important because most prisons in the U.S. have very little money available for rehabilitative programming. While ultimately our nation ought to devote more resources to rehabilitation, it is important to make efficient use of the resources currently available.

Although PFM cannot solve the fiscal crisis in our criminal justice system, it can be part of the solution in two ways. First, the program itself is very cost effective. While there is an up-front cost to create the program, once the initial intensive training is complete, the program can be largely self-sustaining, costing very little as time progresses. By training inmates, particularly those with long sentences who are a consistent presence within the prison, the inmates themselves can eventually run the program largely on their own. Professionals continue to serve in a supervisory role as needed, but once the program has gained internal sustainability inmates are able to take over the day-to-day operations and all teaching of the program. Second, if, as we expect, use of PFM has the power to reduce recidivism, this will help reduce costs by reducing the number of people returning prison. Researchers found

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<sup>69</sup> Stevahn and Johnson, *supra* note 68, at 305–31.

<sup>70</sup> Johnson and Johnson, *supra* note 45, at 486.

<sup>71</sup> *Id.*; Stevahn and Johnson, *supra* note 68.

in a study from the Bureau of Justice Statistics, which tracked 272,111 prisoners in fifteen states after their release from prison in 1994, that these individuals had accumulated 4.1 million charges before their most recent imprisonment and racked up another 744,000 charges within three years of being released.<sup>72</sup> At an average cost of over \$30,000 per year to house a prison inmate, even a modest reduction in recidivism could save millions.<sup>73</sup>

### F. *Limitations*

As with mediation generally, while PFM can be beneficial in many situations, it is not the appropriate choice for every inmate or for every type of conflict, and there are certain circumstances which present greater difficulty.

One situation, which creates a substantial impediment to conflict resolution through mediation, is where one party to the dispute is intellectually disabled or severely mentally ill. The staggeringly high levels of mental illness in prison present a substantial challenge to implementing effective mediation programs in prisons.<sup>74</sup> A recent department of justice report found that 56% of state prisoners and 45% of federal prisoners showed symptoms of serious mental illness, and studies show that these inmates face an elevated risk of abuse by other prisoners.<sup>75</sup> For female inmates, the Bureau of Justice Statistics reports that close to 75% have some type of mental health condition.<sup>76</sup> Although many people with a mental illness or intellectual disability are perfectly capable of meaningful participation in mediation, the mental health and cognitive capacity of the parties are important factors to consider when determining whether a given conflict is appropriate for mediation.

While mental impairment can be a barrier to full participation in mediation, that does not mean that PFM offers no benefits to

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<sup>72</sup> P.A. LANGAN AND D.J. LEVIN, RECIDIVISM OF PRISONERS RELEASED IN 1994, DEPARTMENT OF JUSTICE (2002), available at <http://www.bjs.gov/content/pub/pdf/rpr94.pdf>.

<sup>73</sup> CHRISTIAN HENRICHSON AND RUTH DELANEY, THE PRICE OF PRISONS: WHAT INCARCERATION COSTS TAXPAYERS, VERA INSTITUTE OF JUSTICE (2012), available at [http://www.vera.org/sites/default/files/resources/downloads/Price\\_of\\_Prisons\\_updated\\_version\\_072512.pdf](http://www.vera.org/sites/default/files/resources/downloads/Price_of_Prisons_updated_version_072512.pdf).

<sup>74</sup> See DORIS J. JAMES AND LAUREN E. GLAZE, MENTAL HEALTH PROBLEMS OF PRISON AND JAIL INMATES, DEPARTMENT OF JUSTICE (2006), available at <http://www.bjs.gov/content/pub/pdf/mhppji.pdf>.

<sup>75</sup> *Id.*

<sup>76</sup> *Id.*

mentally ill inmates. In fact, the skills acquired through PFM can help inmates to interact respectfully and compassionately with this population. Inmate mediator, Dawn Godman, described her experience with a mentally ill inmate, stating:

I ended up spending three hours ‘convening’ with her one night, and it was an experience for her, where it was the first time in her entire life where she had ever had anybody take the time to hear her, and listen to her, and show compassion, and be able to show her that I wanted to hear her story and what she had to say. And that was a life altering experience for her—and for me.<sup>77</sup>

Of course, PFM is in no way a replacement for proper psychiatric care for mentally ill inmates. Nonetheless, the communication and listening skills developed through PFM training, as well as the increased ability to empathize that PFM helps to develop, can all help participants to better understand what mentally ill inmates are going through and help mentally ill inmates to feel like their voices matter.

Another situation that is not always amenable to mediation is that of conflict between inmates and prison staff, which involves a problematic power disparity. This type of dispute regularly arises in prison, and is just as important as conflict between inmates. Where an administration is supportive of PFM and prison staff members are amenable to mediation, the inherent power differential between inmates and the prison employees who control most aspects of their life present less of a problem than one would think. In fact inmates report that there have been great benefits in staff and inmates coming together for a respectful discussion about how to resolve the tensions between them.

As with all other forms of mediation, PFM requires both the voluntary participation of all parties and the consent of all parties to for any resolution to be viable. This provides a unique opportunity to inmates to have control over the resolution of their conflicts. Absent mediation, inmate conflict often results in resolutions outside of their control, imposed by an authority figure that knows nothing about the underlying issues of the conflict and generally provides no real resolution at all, but merely a forced end to the outward manifestation of the conflict.

Prisons have a legal obligation to their inmates to protect their safety and security, and doing so requires appropriate procedures

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<sup>77</sup> *Press and Media*, *supra* note 46 (Quotation from Dawn Godman, 37 years to life, CCWF).

for handling inmate conflict. Although Mediation clearly is not the answer in all situations, it should be another option readily available to inmates.

#### IV. PRISON OF PEACE PROGRAM

Prison of Peace is a unique program, which trains inmates to be Peacemakers and Mediators in their prison communities. In addition, for sustainability, inmates serving life and long-term sentences are taught to become trainers and administrators of the program.

##### A. *The Birth of Prison of Peace*

Prison of Peace began with a letter received by Laurel Kaufer on August 23, 2009 from Susan Russo an inmate serving a life sentence without the possibility of parole at the former Valley State Prison for Women (“VSPW”) in Chowchilla, California. Ms. Russo wrote fifty letters to mediators across California asking for someone to teach her Networking Group basic mediation skills. Of the two who responded, Kaufer was the one who accepted the challenge. The Networking Group was comprised of over fifty women serving life and long-term sentences. At the time, Valley State Prison for Women, a facility with a design-build capacity of 1980 inmates, had an inmate population of over 3600. The prison was rife with violence, both physical and emotional. Because inmates are reticent to report conflict, most violence in prison perpetrated by inmates against inmates occurs without the knowledge of guards or prison administration. This group of women realized that if they wanted peace, they had to create it themselves and they believed that learning how to mediate conflict and teaching that to others would help them to accomplish this.<sup>78</sup> In response, Kaufer, along with colleague Doug Noll, created Prison of Peace, beginning with the first fifteen students on April 8, 2010 at VSPW.

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<sup>78</sup> *Press and Media*, *supra* note 46.

### B. *The Training*

Prison of Peace addresses these problems by demonstrating that life and long-term inmates can: (1) be trained as powerful peacemakers and mediators; (2) that these inmates can train other inmates in practical peacemaking techniques; and (3) that a prison culture of violence can be radically shifted by a small group of dedicated inmate peacemakers to a culture of peace, which enables enhanced opportunities for rehabilitation. To achieve these goals, Kaufer and Noll designed and implemented a new and rigorous Mediation training curriculum. They recognized that there could be no introduction of actual mediation skills until the inmates were adept at listening to others and de-escalating emotion, the cornerstones of effective conflict resolution.

The principles, processes, and techniques created for Prison of Peace are based on a collaborative program developed in 2007 between Laurel Kaufer and Ridge Training,<sup>79</sup> known as Essential Problem Solving Skills, as well as the work of neuroscientists such as Matthew Lieberman and Marco Iacoboni.<sup>80</sup> Based on Lieberman's fMRI studies showing how the emotional centers of the brain are by-passed by a technique known as affect labeling, Kaufer and Noll enhanced the EPSS curriculum to include skill-building that taught inmates to listen to people's emotions, in addition to their words. Iacoboni's discovery of mirror neurons led the way to developing techniques of true empathy using mirror neurons to stimulate positive affect.<sup>81</sup> Thus, the foundation of Prison of Peace is formulated not merely in listening to understand others or on myth, tradition and unfounded assumptions about human nature, but in how the human brain actually processes information

Teaching the inmates how to listen by paying close attention to emotions is very powerful. The skill opened up inmates who were, themselves, emotionally shut down. In addition, it allows them to create deep, empathic connections with other inmates and with their families. For many inmates, in the intentional use of these skills, they were able to truly listen to another human being for the first time in their lives. As inmate Anna Humiston explained:

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<sup>79</sup> Ridge Training provides courses in performance management, interpersonal communication, coaching, and team development, among others. More information is available at <http://www.ridge.com>.

<sup>80</sup> See Matthew D. Lieberman et al, *Putting Feelings Into Words Affect Labeling Disrupts Amygdala Activity in Response to Affective Stimuli*, 18 *PSYCHOL. SCI.* 421, 421-27 (2007).

<sup>81</sup> *Id.*

“Prison of Peace has enhanced my life in the most profound way by offering me the gift of communication. In turn, I can give others a most precious gift, just simply listening.”<sup>82</sup> It was also, for many, the first time they had ever been listened to. The stories and experiences they began to share as they mastered these skills were as profound.

To reinforce the listening skills and allow time for them to embed, the next phase of POP training introduced the participating inmates to the principles of Restorative Justice and Peace Circles. Restorative Justice introduces inmates to a different approach to justice which, instead of retribution, is focused on restoring safety by involving all harmed by a crime, including victims, communities and even offenders. In the introduction of the principles of Restorative Justice, offenders are introduced for the first time to the concepts of the needs of victims in dealing with crime and often, for the first time, understand the true value of their own accountability. As POP participant Anna Humiston stated in an interview:

POP has transformed my thoughts as to how my actions can hurt others. The Restorative Justice portion of POP has been the most enlightening course I’ve ever encountered. I now have a much better understanding of those I’ve hurt with my poor decisions. I’ve learned to feel empathy and to step into others’ shoes to truly understand the effects of my actions.<sup>83</sup>

As Ms. Humiston’s experience indicates, coming to understand their impact of their actions, and what they can do to make things better going forward, can be powerful and life-changing for many inmates.

Peace Circles are an ancient community process where listening is paramount, where respect is sacred, and where patience is valued. As the inmates introduce peace circles into a prison population, there are reports of profound changes in relationships. Community is enhanced, understanding is increased and conflict is reduced. Inmates who participate in the Peace Circle process no longer feel as alone and isolated. They are able, through the Peace Circles, to reconnect with their inner humanity and recognize the humanity of their fellow inmates.

Although it is only the first step in becoming a mediator, for many inmates, completing the first phase of training and becoming certified as a Peacemaker is sufficient. Those students who have

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<sup>82</sup> Anna Humiston, letter on file with author.

<sup>83</sup> *Id.*

demonstrated proficiency in the deep listening, problem solving and peace circle leadership learned in Phase I, and wish to be of greater service to others, move on to sophisticated mediation training.

The mediation curriculum reinforces the earlier skills and teaches methodologies for the use of those skills in intervention in conflicts that could erupt into violence. Prior to inmates being permitted to mediate actual situations, they engage in full classroom simulations based upon real prison conflict scenarios. The process of becoming a certified Mediator through Prison of Peace takes from four to six months of intensive training, observation and practice, after which, the names of inmate mediators are given to prison administration for conflict intervention referrals. More often, however, other inmates begin to learn who the mediators are and come to them privately to resolve interpersonal conflict which never comes to the attention of prison administration.

A many inmate mediators report that they have had the opportunity to put their skills to good use. For example, Mike Baldwin, an inmate serving a life sentence at Valley State Prison, reported that: “[These] techniques [have] allowed me to go into a room and mediate a conflict between some guys who were on the verge of killing each other. These tools created a process that allowed them to communicate and walk away while saving face.”<sup>84</sup>

### C. *Results*

Prison of Peace has grown far beyond any dream Susan Russo could have imagined when she penned her letter to Laurel Kaufer in the fall of 2009 requesting mediation training. Her original goal of turning her prison community into a more peaceful environment through the use of mediation skills was realized within two years of the start of the program.

Even in its early stages, after only fifteen months, with seventy-five peacemakers and thirty-two mediators, Valley State Prison for Women had changed. These positive changes did not go unnoticed by prison officials. Walter Miller, Warden for VSPW, stated:

[P]rison populations are somewhat unpredictable and volatile. Since the start of the Prison of Peace program the institution

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<sup>84</sup> Mike Baldwin, letter on file with author.

appears quieter and with less violence. I have seen the inmates enrolled in the Prison of Peace program step up and offer their assistance in mediating a difficult situation. The inmates in the Prison of Peace program display leadership qualities that outweigh their past criminal behavior.<sup>85</sup>

While problems will always exist in prisons, VSPW shifted from an institution of violence to one of active programs and inmate driven rehabilitation.

By mid-2012, two years after the inception of POP, staff had begun actively referring inmates in conflict to POP mediators first, rather than issuing disciplinary citations or taking harsher action. Prison of Peace mediator Shelbi Harris (serving a sentence of life without parole) reported having witnessed the beginnings of a conflict that had the potential to escalate a full prison riot between ethnic groups. According to Harris and onlookers, two groups of women were facing off in a corner of the main yard hurling insults at each other. Inmate Harris walked up to the leaders and talked them into walking with her to a side fence. Using her skills, she deescalated the conflict, stopping the riot dead in its tracks, helping these groups find ways to co-exist in prison without violence.

In early 2013, with the mandated transfer of all female inmates out of VSPW into the two remaining California women's prisons, Central California Women's Facility and California Institution for Women,<sup>86</sup> Prison of Peace expanded to both of those institutions. In late 2013, at the behest of the warden, Kaufer and Noll returned to Valley State Prison to begin this program with its new male inmate population. Prison of Peace has ten active inmate trainers in the women's prisons, and has now begun the trainer training process with a second group of female inmates, as well as its first group of male inmates.

Today, five years after that initial letter from Susan Russo, Prison of Peace has expanded to four more California institutions, two women's prisons, a men's prison, a Los Angeles County Jail facility with female inmates, with requests from other facilities coming in regularly. To date, Kaufer and Noll have personally trained almost 200 inmates in these institutions, the balance have been trained by Prison of Peace inmate trainers.

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<sup>85</sup> Walter Miller, Warden, Valley State Prison for Women, letter dated Sept. 23, 2011, on file with author.

<sup>86</sup> Joshua Emerson Smith, *Valley State Prison Continues Conversion to Men's Facility*, MERCED STAR-SUN (Nov. 26, 2012), available at <http://www.mercedsunstar.com/2012/11/26/2670392/valley-state-prison-continues.html>.

Table 1, below sets forth the numbers of Peacemakers and Mediators trained at each institution.

PEACEMAKERS AND MEDIATORS BY INSTITUTION  
(AS OF 8/25/2014)

Institution	Dates	New Peacemakers	New Mediators
VSPW	4/10–5/12 (facility closed in 2012)	147	48
CCWF	2/13–6/14 <sup>87</sup>	36	0
CIW	6/13–8/14	39	19
VSP	10/13–8/14	36	16
CRDF	3/14–8/14	7	4
<b>TOTALS:</b>		<b>265</b>	<b>87</b>

Merely reporting the numbers of Peacemakers and Mediators certified in these facilities reveals only a small portion of the impact of Prison of Peace. In order for an inmate to receive a certificate as a Peacemaker through Prison of Peace, she/he must complete and report a minimum of five Peace Circles, which must each include a minimum of four inmates in addition to the student (called the Circle Keeper). In order for an inmate to receive a certificate as a Mediator, she/he must complete and report an additional five Peace Circles and a minimum of three unique mediations. By definition, each mediation includes a minimum of two parties and a mediator, though there are often more, sometimes many more, involved in the conflict, either directly or tangentially.

Table 2, below illustrates the minimum numbers of inmates, in addition to those involved in the Prison of Peace program, in each prison/jail population reported to have been engaged in these processes.

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<sup>87</sup> Prison of Peace has been on hiatus at CCWF since June 2014, due to administrative difficulties.

MINIMUM NUMBER OF NON-INVOLVED INMATES ENGAGED PER  
INSTITUTION (AS OF 6/1/2014)

Institution	New Peace Circles reported	Minimum contacts in reported Peace Circles <sup>88</sup>	New Mediations reported	Minimum inmates engaged in reported Mediations	Total minimum inmates engaged per institution
VSPW	975	3900	144	288	4188
CCWF	188	758	0	0	758
CIW	235	1175	57	114	1289
VSP	260	1300	42	84	1384
CRDF	52	379	4	8	387
<b>TOTAL:</b>	<b>1710</b>	<b>7512</b>	<b>247</b>	<b>494</b>	<b>8006</b>

The same patterns that developed at VSPW are now starting to emerge in most of these other institutions. Inmates exposed to the practices and principles of Mediation, whether actively involved in the Prison of Peace program or merely experiencing it as participants in deeper conversations, peace circles or mediations, begin to see possibilities for change and begin to ask how they can get involved. Prison of Peace now has wait-lists of hundreds of inmates.

In addition to the impact of Prison of Peace programs, processes and events in prison facilities, we believe hundreds, if not thousands, of inmate families have been positively affected by the skills of our inmate peacemakers due to the extended reach of this program to their incarcerated loved ones.

Prison of Peace has now been brought outside the barbed wire fences. Over half of the original Mediators have been released on parole. Mianta McKnight, one of POP's original fifteen students, who became one of the first POP trainers at VSPW, was released on parole in December 2013, after serving eighteen years on a sentence of fifteen to Life, and attributes her release to the transformation she was able to make through her work with Prison of Peace. She has recently begun teaching the Prison of Peace program on a volunteer basis at a resource center to a group of men and women transitioning from prison back to communities in San Francisco. Just as she was when learning these skills in prison, she

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<sup>88</sup> While we stress to Prison of Peace students the goal that each peace circle conducted during their certification process include only inmates who have not previously participated in a peace circle, we cannot guarantee that all circles reported included only unique participants

finds these students “eager to learn something new and soak up all that she lays before them, particularly because she knows that life and is able to make it relatable to the life experiences they have had in prison and are now facing in the community.”<sup>89</sup> More often than not now, Prison of Peace peacemakers and mediators are being found suitable for parole.

#### D. *Empirical Data*

At the outset of the project, Kaufer and Noll consulted with experts at Fresno State University and UC Irvine who are specialists in prison populations. They were told that empirical measurement of outcomes would be very expensive and nearly impossible to achieve. There was simply no way to control for the effects of the training. Thus, they were advised to engage in qualitative evaluation.

Following each Prison of Peace training session, Kaufer and Noll conducted follow up surveys of the participants to determine how effective the program was at teaching inmates and impacting the prison environment. The data they collected shows that most participants find Prison of Peace to be helpful and effective. A narrative of results from a sample of significant questions follow:<sup>90</sup>

#### ESSENTIAL PROBLEM SOLVING SKILLS WORKSHOP: FINAL EVALUATION RESULTS

- Respondents were asked to rank the level of their understanding, *prior to attending the workshop*, in five skill areas on a scale from 1 through 4, with 1 indicating a level of Low or no understanding and 4 indicating a level of High or thorough understanding.
- Of those responding, 60.08% indicated a moderately-Low to Low level of understanding of Communication Skills in General, and 39.92% indicated a moderately-High to High level of understanding of those skills.
- With regard to the specific Communication Skills (i.e. Active Listening, Results-Based Listening, Agreement and Managing Strong Emotions) 70.54% of respondents indi-

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<sup>89</sup> Email from Mianta Mcknight, on file with author.

<sup>90</sup> See Appendix A for data on which this narrative is based.

cated a moderately-Low to Low level of understanding, with 35.46% at the lowest level, as opposed to 29.46% who felt that before this workshop they had a moderately High to High level of understanding, with only 11.73% indicating a High level.

- In contrast to their reports of skill level prior to attending the workshop, 90.34% of respondents report their understanding as moderately High to High in all categories, upon completion of the workshop, with only 9.66% still reporting a moderately Low level of understanding, with less than 1% at Low understanding.
- Again on this same scale, respondents were asked to rate the usefulness of the EPSS Workshop training for them overall. Roughly 96.86% of respondents rated it moderately High to High, with 75.29% giving it a rating of 4 or High.
- 99.2% of respondents also reported that the Workshop introduced them to new skills for use in solving problems or conflicts in their lives and/or communities.

As one can see from the above data, the vast majority of respondents reported that participating in the program improved their communication skills and ability to manage strong emotions. Most inmates also reported noticing positive changes in the prison environment. With regard to the question of whether inmate trainers can be as effective as professional trainers, there is almost no statistical margin of difference between the two groups. Where there is a slight difference it is worth noting that it is the inmate trainers outperform the professional trainers in almost every category.

## V. EXPANDING THE USE OF PRISONER FACILITATED MEDIATION

The success of Prison of Peace demonstrates that PFM is a powerful component of the rehabilitative process. But in order for it have a substantial impact on the way the justice system operates it will need to be implemented on a much wider scale. This will not, however, be an easy task. There are a number of challenges to setting up a PFM program, even when there are inmates who want it, including the difficulty of securing funding and gaining support from prison staff and administration.

Because PFM, by its very definition, is inmate driven, it must be internally sustainable. The only way to make a program such as Prison of Peace sustainable within an institution is to fully embed the project in a prison with a cadre of certified inmate trainers. Doing this successfully requires an engaged inmate population, a prison administration that is willing to support the project, skilled professionals from the community who are able to commit to this task and sufficient funds (or volunteer efforts and support) to see it through.

### A. *An Engaged Inmate Population*

Prisoner facilitated mediation programs require an engaged inmate population. Typically, training cohorts consist of fifteen to twenty-five inmates. It usually takes three cohorts to develop a sufficient number of inmate trainers to make the program sustainable within the prison. If prisoner facilitated mediation is not desired and supported by the inmate population, it is unlikely to succeed. We have found that when there is apathy or disinterest, the project is extremely difficult to establish. On the other hand, we have also found that when inmates want mediation skills, greater control over their conflict and recognize the promise of such a program, it takes hold very quickly.

### B. *Supportive Prison Administrations*

Prisoner facilitated mediation training requires a supportive prison administration. The myriad details involved in scheduling, finding space, issuing ducats, and providing security, require deep cooperation between prison administrators and the trainers. When prison administrators are not supportive, prisoner facilitated mediation programs are almost impossible to establish. When prison administrators support such a program, the bureaucratic details, while burdensome at best, are far easier to manage.

Prison of Peace has now been in place in five California adult institutions. Four of the administrations support Prison of Peace, while one does not. As illustrated in Table 1, even with programs that are new, such as at CRDF, fast outcomes are possible with supportive administrations. On the other hand, when an administration is not supportive and is unable to provide adequate access,

space or time for training, outcomes are limited. In stark contrast to Prison of Peace experiences at VSPW, CIW, VSP and CRDF, at CCWF we have had minimal administrative support, insufficient opportunities to mentor existing inmate trainers, Mediators, and Peacemakers (most trained while at VSPW), and no foreseeable opportunity to train new Prison of Peace trainers. As a result, the existing inmate trainers are left to teach new students and conduct mediations on their own as best they can. Remarkably, though on a very limited basis, they have indeed done so.

### C. *Skilled Professional Trainers*

Preparing inmates to become peacemakers and mediators is demanding. Creating and expanding prisoner facilitated mediation programs requires skilled trainers who are willing to work in an often hostile prison environment. In addition to being prepared for the intensity of the environment, trainers must make a significant time commitment. To embed prisoner facilitated mediation within an institution requires a minimum to two years of dedicated work. These trainers must be mature, experienced mediators with strong teaching skills and deep knowledge about conflict and peacemaking. Even if prisoner facilitated mediation programs are fully funded, finding dedicated trainers willing to do this work will be difficult. If, as with Prison of Peace, the effort is entirely voluntary, recruiting qualified trainers presents an even greater challenge.

### D. *Financial Support*

The creation of any PFM program requires funding to cover expenses, administration of the program, and training fees of the professionals. It is estimated that the full cost of embedding a sustainable PFM program, such as Prison of Peace, in a single prison can range from \$300,000 to \$750,000 over a 24-month period.<sup>91</sup> Thus far, Prison of Peace has been a purely pro bono project, with all professional training and administrative efforts provided by Kaufer and Noll. Costs and Materials for Prison of Peace programs have been provided by small private grants and donations.

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<sup>91</sup> These numbers were calculated based on the actual budgets for implementing Prison of Peace in different prisons.

No funding has been forthcoming from the California Department of Corrections. While programs like Prison of Peace demonstrate that it is possible for rehabilitation programs to succeed in the absence of government funding, until such funding is made available increasing access to prisoner facilitated mediation will remain a daunting challenge.

## V. CONCLUSION

Prisoner facilitated mediation has the potential to create a shift in the American criminal justice system. Mediation training, as demonstrated by Prison of Peace, can be a low-cost, high impact part of the rehabilitation process. While comprehensive reform is needed in order to effectively tackle the myriad of problems plaguing America's prisons, prisoner facilitated mediation holds great promise as a rehabilitative tool. Providing mediation training can reduce violence, empower inmates, impart critical skills, and lead to personal transformation. Prisoner facilitated mediation provides hope and the prisoners themselves are the key.

*"The wound is where the light enters you."*

—Rumi, 13th century Persian Poet

APPENDIX A:  
 ESSENTIAL PROBLEM SOLVING SKILLS WORKSHOP  
 Final Evaluation Results for Selected Questions

<b>RESPONSES WHEN TAUGHT BY PROFESSIONAL TRAINERS (KAUFER &amp; NOLL)</b>	<b>% at 1</b>	<b>% at 2</b>	<b>LOW SIDE</b>	<b>HIGH SIDE</b>	<b>% at 3</b>	<b>% at 4</b>
<b>General Communication Skills Before Training</b>	19.51%	35.77%	<b>55.28%</b>	<b>44.72%</b>	29.27%	15.45%
<b>General Communication Skills After Training</b>	0.84%	5.88%	<b>6.72%</b>	<b>93.28%</b>	49.58%	43.70%
<b>Active Listening Before Training</b>	27.73%	32.77%	<b>60.50%</b>	<b>39.50%</b>	21.85%	17.65%
<b>Active Listening After Training</b>	0.83%	6.61%	<b>7.44%</b>	<b>92.56%</b>	47.11%	45.45%
<b>Results Based Listening Before Training</b>	44.17%	30.83%	<b>75.00%</b>	<b>25.00%</b>	15.00%	10.00%
<b>Results Based Listening After Training</b>	1.68%	12.61%	<b>14.29%</b>	<b>85.71%</b>	52.10%	33.61%
<b>Agreement Before Training</b>	33.33%	34.17%	<b>67.50%</b>	<b>32.50%</b>	18.33%	14.17%
<b>Agreement After Training</b>	0.85%	10.17%	<b>11.02%</b>	<b>88.98%</b>	56.78%	32.20%
<b>Managing Strong Emotions Before Training</b>	32.23%	35.54%	<b>67.77%</b>	<b>32.23%</b>	19.01%	13.22%
<b>Managing Strong Emotions After Training</b>	0.84%	15.13%	<b>15.97%</b>	<b>84.03%</b>	50.42%	33.61%
<b>How Useful Was This Training Overall?</b>	0.00%	3.36%	<b>3.36%</b>	<b>96.64%</b>	17.65%	78.99%
<b>Were There New Skills Learned</b>					YES	NO
					100.00%	0.00%
<b>RESPONSES WHEN TAUGHT BY INMATE TRAINERS</b>	<b>% at 1</b>	<b>% at 2</b>	<b>LOW SIDE</b>	<b>HIGH SIDE</b>	<b>% at 3</b>	<b>% at 4</b>
<b>General Communication Skills Before Training</b>	20.00%	44.29%	<b>64.29%</b>	<b>35.71%</b>	25.71%	10.00%
<b>General Communication Skills After Training</b>	0.00%	2.88%	<b>2.88%</b>	<b>97.12%</b>	43.88%	53.24%

<b>Active Listening Before Training</b>	25.18%	35.25%	<b>60.43%</b>	<b>39.57%</b>	27.34%	12.23%
<b>Active Listening After Training</b>	0.00%	2.88%	<b>2.88%</b>	<b>97.12%</b>	35.25%	61.87%
<b>Results Based Listening Before Training</b>	40.29%	41.01%	<b>81.29%</b>	<b>18.71%</b>	10.07%	8.63%
<b>Results Based Listening After Training</b>	0.00%	8.70%	<b>8.70%</b>	<b>91.30%</b>	42.03%	49.28%
<b>Agreement Before Training</b>	36.23%	36.23%	<b>72.46%</b>	<b>27.54%</b>	18.12%	9.42%
<b>Agreement After Training</b>	0.00%	13.24%	<b>13.24%</b>	<b>86.76%</b>	36.76%	50.00%
<b>Managing Strong Emotions Before Training</b>	44.12%	33.82%	<b>77.94%</b>	<b>22.06%</b>	12.50%	9.56%
<b>Managing Strong Emotions After Training</b>	1.45%	15.13%	<b>16.58%</b>	<b>85.51%</b>	36.23%	49.28%
<b>How Useful Was This Training Overall?</b>	0.00%	2.94%	<b>2.94%</b>	<b>97.06%</b>	25.00%	72.06%
<b>Were There New Skills Learned</b>					YES	NO
					98.51%	1.49%
<b>OVERALL TOTALS</b>	<b>% at 1</b>	<b>% at 2</b>	<b>LOW SIDE</b>	<b>HIGH SIDE</b>	<b>% at 3</b>	<b>% at 4</b>
<b>General Communication Skills Before Training</b>	19.77%	40.30%	<b>60.08%</b>	<b>39.92%</b>	27.38%	12.55%
<b>General Communication Skills After Training</b>	0.39%	4.26%	<b>4.65%</b>	<b>95.35%</b>	46.51%	48.84%
<b>Active Listening Before Training</b>	26.36%	34.11%	<b>60.47%</b>	<b>39.53%</b>	24.81%	14.73%
<b>Active Listening After Training</b>	0.38%	4.62%	<b>5.00%</b>	<b>95.00%</b>	40.77%	54.23%
<b>Results Based Listening Before Training</b>	42.08%	36.29%	<b>78.38%</b>	<b>21.62%</b>	12.36%	9.27%
<b>Results Based Listening After Training</b>	0.78%	10.51%	<b>11.28%</b>	<b>88.72%</b>	46.69%	42.02%
<b>Agreement Before Training</b>	34.88%	35.27%	<b>70.16%</b>	<b>29.84%</b>	18.22%	11.63%
<b>Agreement After Training</b>	0.39%	11.81%	<b>12.20%</b>	<b>87.80%</b>	46.06%	41.73%
<b>Managing Strong Emotions Before Training</b>	38.52%	34.63%	<b>73.15%</b>	<b>26.85%</b>	15.56%	11.28%

<b>Managing Strong Emotions After Training</b>	1.17%	14.01%	<b>15.18%</b>	<b>84.82%</b>	42.80%	42.02%
<b>How Useful Was This Training Overall?</b>	0.00%	3.14%	<b>3.14%</b>	<b>96.86%</b>	21.57%	75.29%
<b>Were There New Skills Learned</b>					YES	NO
					99.20%	0.80%

