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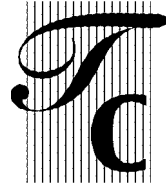
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# Doing difference and accountability in restorative justice conferences

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## Abstract

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This article analyses social dynamics in restorative justice conferences employing two distinct meanings of accountability: one embodied in performing gendered (and other) social relations, and the second, in performing remorse. Engaging feminist theory of 'doing gender' and structured action, offenders' accounts of their behaviour, gendered participation of parents and community representatives are analysed. Specifically examined are three ideals of restorative justice: empowerment, remorse and reintegration, and bridging barriers between participants. The data analysed are from extensive field notes collected during six months of research into restorative justice in Australia and as a practitioner in Maine. Analyses reveal that achieving these ideals is more elusive than anticipated. Rather, accountability dynamics around gender, race and social class reinforce social privileges and disadvantage.

## Key Words

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accountability • doing difference • doing gender • restorative justice • white privilege

## Introduction

'Justice' and 'gender' are socially situated accomplishments mediated through accountability dynamics. This article illuminates some gendered

and racialized dynamics at play when both are performed together. 'Accountability', however, has different meanings to each enterprise. A socio-legal version of justice typically refers to accountability as the person who has committed an offence facing legal intervention (through prosecution, punishment, probation, etc.). Culturally, 'accountability' is used as a popular code word for the promotion of punitive sanctions (Cook, 1998; Cook and Powell, 2003a). Specifically within restorative justice (RJ) practices, accountability may be achieved when 'offenders' take 'active responsibility' (Braithwaite and Roche, 2001) by admitting their involvement in the offence, perhaps expressing remorse and accepting collectively articulated resolutions. Pranis writes that 'restorative justice emphasizes the importance of both individual accountability and collective accountability' (2001: 288).

According to Connell's (2002) theory of gender, people adopt 'gender projects' as a mechanism for self-actualization. All people 'do gender' all of the time, although it is accomplished in culturally specific situations and structural relationships. Within conventional frameworks, boys and men 'do' masculinities and girls and women 'do' femininities, within which there is substantial variation. Typically, men and boys accomplish their gender projects by aspiring towards hegemonic masculine practice, whereas girls and women typically aspire towards emphasized feminine practice. The theory accommodates cultural, ethnic and transgender variations within the situated accomplishment of gender. Messerschmidt defines gender projects as 'the primary gendered mode by which individuals choose to relate to the world and to express oneself in it' (2004: 37).

Within gender projects (Connell, 1995: 122) accountability refers to one's capacity to achieve specific normative or deviant aims within one's publicly perceived sex-category (West and Zimmerman, 1987). As such, people are deemed suitably 'masculine' or 'feminine', depending on the culturally specific social constructs for being male or female. According to Messerschmidt, 'doing gender renders social action accountable in terms of available gender practices appropriate to one's sex category in the specific social situation in which one acts' (2004: 38). People are (publicly) scrutinized *as* women, girls, men and boys, and as members of particular ethnic groups (West and Fenstermaker, 1995). It has been argued elsewhere that crime is a heavily gendered phenomenon (see, for example, Messerschmidt, 1993, 1997, 2000, 2004), yet criminology has been largely gender-blind (Daly and Chesney-Lind, 1988; Daly, 1997). Much of the writing and activism within RJ are similarly blind to dynamics of socially constructed difference. Restorative justice conferences, nevertheless, provide a microcosm of the broader cultural rituals of 'gender projects' (Messerschmidt, 2004: 37) and accountabilities thus enacted.<sup>1</sup>

What these different definitions of accountability have in common, though, is the *process* of questioning someone's behaviour and the *power* to command an answer from that person. For the purposes of my analysis, accountability is defined as the structural and cultural process of scrutiny

juxtaposed to the obligation of the persons being scrutinized to explain their behaviours. Within RJ conferences, offenders are obliged to provide accounts of their behaviour in the presence of those who are assumed to be affected by it. In this article, I briefly summarize the theoretical background, methods employed and then examine the dynamics of gendered and racialized rituals and accountability within RJ conferences.<sup>2</sup>

## Theoretical background

### *'Doing' gender and difference*

Since West and Zimmerman's pioneering analysis of gender as a situated accomplishment, their theoretical approach has been used to examine diverse social interactions from electronic mail communication (Cook and Stambaugh, 1997) to juvenile crime (Messerschmidt, 2000, 2004) and beyond (see entire volume, Fenstermaker and West, 2002a). When reflecting on the theory and research in this area, Fenstermaker and West (2002b: 212) write that accountability is 'the most neglected aspect' of the theory. They call for more empirical research to examine the dynamics of accountability as part of the situated accomplishment of difference. They also lament the unresolved theoretical debate around process and power, citing Patricia Hill Collins, who critiques the theory as being 'devoid of power relations' (2002b: 209). Examining micro-level interactions, I contend that accountability is a 'missing link' between the process of gender/difference accomplishment and power exercised to maintain (or subvert) social structural inequalities. Examining accountability requires the analyst to recognize that some individuals can and will scrutinize others, who are then obliged to respond to that scrutiny, thus exercising power over the definition of the situation and the people involved.

Articulating his 'structured action theory', Messerschmidt argues that 'gender grows out of social practices in specific social structural settings and serves to inform such practices in reciprocal relation' (2000: 6). As such, gender emerges every day in every social setting. For adolescent crime, Messerschmidt finds that criminal activity is a resource some adolescents use to achieve their gender projects. His research reveals that those who are teased and taunted by their peers may resort to criminal activity as a means to demonstrate their power over others. For his subjects, teasing and taunting represent 'masculinity challenges' and 'result in masculine degradation' and 'may *motivate* social action toward masculine resources (e.g. bullying and/or fighting) that correct the subordinating social situation, and various forms of crime can be the result' (Messerschmidt, 2000: 13, emphasis in original).<sup>3</sup>

Similarly, women face gender scrutiny in everyday situations. An entire social service industry is established around the process of scrutinizing women in terms of their fitness to be mothers and their 'eligibility' for social support (Secombe, 1999). Motherhood becomes a resource to

accomplish one particular type of gender project, namely reproduction. When women become mothers, there are popular cultural rituals to mark the occasions, from baby showers, to naming ceremonies. When children begin experiencing the world outside of the family, mothers are subjected to public scrutiny for the quality of their children's demeanour. If children misbehave, mothers may feel responsible and may internalize feelings of guilt or shame for their failings as mothers. Therefore, when mothers face scrutiny of their children, they may also feel scrutiny of themselves in the process (Fox, 2001).

### *Restorative justice*

Restorative justice,<sup>4</sup> as examined in this article, involves conferences where juvenile offenders meet face-to-face with the persons whom they have injured in some fashion, and who agree to participate in order to be diverted from court (see Braithwaite and Mugford, 1994; Braithwaite, 2002; Daly, 2002, 2003). People participate in RJ from within their own social structural locations (working class, men, women, professional class, people of colour, etc.). Social hierarchies are not static, but dynamic processes (Korvajärvi, 1998) which become 'culture in the making' (Hydler, 2001). Korvajärvi argues that 'structural facts and symbolic and cultural orders are embedded and blended with each other in interaction, at the same time defining and changing each other' (1998: 19). So too with restorative justice. Despite early claims that conferencing could and should reduce social hierarchies (Braithwaite and Mugford, 1994), increasingly advocates and scholars are recognizing the limitations to these claims (Daly, 2000; Braithwaite, 2002; Cook and Powell, 2003b; Roche, 2003).

There are (at least) three recurring claims that RJ achieves specific ideals. First, empowering participants to express themselves authentically is one piece of elegant genius behind RJ. Moral accountability emerges within RJ when speakers address participants requesting explanations for motives surrounding the criminal act. The offender is then obliged to explain his/her behaviour and by doing so is empowered to speak his/her own truth. Second, restorative justice ideally encourages remorse and shame from the offender and social reintegration (Braithwaite and Mugford, 1994). Gestures of remorse (such as apologies, and tears) are, it is hoped, embraced with gestures of reconnection and reconciliation. Third, ideally, restorative justice breaks down barriers between victims, offenders and the community by encouraging all to participate equally in developing resolutions to the harms done. Restorative justice appeals to idealists with communitarian values. Braithwaite (2002) outlines the potential benefits of employing RJ so long as the practice does not involve domination of participants. He urges that 'any attempt by a participant at a conference to silence or dominate another participant must be countered' (2002: 565). Still, Braithwaite writes, 'I am not sure we have learnt enough yet about what happens in restorative processes' (2002: 565).

Daly documents the ‘gap’ between theory and practice of RJ, by analysing data from the South Australian Juvenile Justice project (Daly, 2003). Specifically, she argues that,

the nirvana story of restorative justice helps us to imagine what is possible, but it should not be used as a benchmark for what is practical and achievable . . . it holds out the promise that these things *should happen most of the time* when research suggests that these things can occur *some of the time*.

(2003: 234, emphases in original)

If we take Daly’s advice and ‘mind the gap’ (2003), we are left to ponder what happens within the gap?

The conference itself takes place in three phases: first, the facilitator opens by asking the ‘offender’<sup>5</sup> to describe his/her actions and motives to the group; then the facilitator moves on to ask victims and supporters to describe their reactions to the event and the impact it has on their lives; and finally, the group collectively articulate an ‘agreement’ for the offender to complete within a specified timeframe in order to make restitution (materially and/or symbolically) to the victim(s) and to the community. This agreement is a legally binding contract between the state and the offender. Failure to fulfil the elements of the agreement can result in the matter being referred to court where the offender could face further legal actions. In order to be eligible for the RJ option as a diversion from court, the offender must admit his/her involvement in the offence and must be willing to participate in the conference. These are all structural parameters for RJ programmes: the state defines the ‘rules of the game’ and the participants comply, but cannot alter those rules.

## Methodology

In 2001, I spent 6 months in Australia where I observed 12 diversionary conferences and interviewed 16 conference coordinators. Participants consented to my presence. In most, I was able to record the events by taking notes during the proceedings. I informed participants that my notes were open for their viewing. In those conferences where I was not able to take notes, I recorded my observations immediately after the conference. This yielded 147 pages of observational field notes, forming the bulk of findings reported here. The data were coded using a grounded theory approach, where themes emerge from within that data (Glaser and Strauss, 1999 [1967]). I paid particular attention to analysing the ‘discursive practices’ among those participants (Meán, 2001): they are defined as ‘commonly occurring routine homogenous interactions which are ultimately collaborative in nature’ (2001: 792).

As with any type of field research, my recorded observations are filtered through the lens of my own experiences. As a feminist scholar,<sup>6</sup> I am deeply curious as to how social interaction reinforces and reproduces gender and

ethnicity, recognizing that both are nuanced forms of power and control. I am also influenced by my personal biography of being a formerly battered woman and single mother on welfare. My own son's adolescence was an extremely difficult time in our lives, and as such I am sensitive to mothers (and fathers) who have turbulent adolescents. Thus, while I observed these conferences, my description of the conferences is filtered through that lens, whereas another observer with different experiences might record different descriptions of the same events. I have also participated as a community representative in RJ conferences in Maine, and some of my observations emerge from that experience.

I observed conferences in the ACT, South Australia, Tasmania and the Northern Territory, all but one of which used the 'scripted model' of police-run conferences (O'Connell et al., 1999) at the time. In these conferences, offenders, victims, their supporters, community members, facilitators and police collectively discuss the offence and its aftermath.<sup>7</sup> Due to chance, the conferences I observed involved all boy offenders. It would have been preferable to observe conferences with girl offenders, too, but none happened to be going on at the time I was conducting this research. Methodologically, I am examining the practices employed/deployed during these meetings. As with most qualitative empirical research, this study is limited in its generalizability; still, the findings illuminate the power and process of accountability as it contributes to or challenges social inequalities. In the interest of space and coherence, I have chosen to incorporate those excerpts from my field notes that best exemplify the dynamics being examined.

## Findings and analysis

The findings revolve around these four themes: offenders' claims about self and motives; mothers as 'responsible' and as 'vulnerable'; fathers as 'silent partners'; and community representatives and facilitators challenging or reinforcing hierarchies. All the names have been altered to preserve anonymity.<sup>8</sup>

### *Offenders' claims about self and motives*

Analysing their behaviour through the lens of structured action theory (Messerschmidt, 2000), the teenaged boys struggled with their masculinity projects. Some engaged in 'bravado', others declared their actions were in response to unrelenting verbal abuse and some were resistant to the moral claims made about them during the conference. In one case, the facilitator was confrontational to the point where the offender became aggressive and hostile. Consider Seb's conference:

He said that Larissa and her friends were harassing him too much. He went home that afternoon, after she slapped him, got some spray paint and a bottle of water, and walked over to her house to 'get revenge'. He painted a

swastika on the driveway and ‘some lines’ on the car that was parked there. George (facilitator) asked Seb why he took a bottle of water with him, and Seb says ‘because I knew it would be ages to get there’, nearly two hours! He was very determined to get revenge. He says he feels ‘pretty bad and ashamed’ of himself. He now realizes the impact this had, and he definitely won’t do anything like that again. He’ll ask for help from his teachers and parents, but people tease him for many reasons. They call him a ‘nerd’ because he’s good with maths, and he never teases others.

According to Seb, Larissa challenged his masculinity by harassing him, calling him names and ultimately slapping him (which she denies, and is not required to admit to under the rules of the RJ programme). He responded to this masculinity challenge by ‘getting revenge’ and thus demonstrating his masculinity. This action was his ‘moment of engagement’ (Connell, 1995: 122) where his gender project could be realized. An unfortunate turn of events, however, resulted in Seb’s ongoing frustration and humiliation: his claim that Larissa slapped him could not be confirmed by her or anyone else. Because she is present as a victim, she is not required to respond to such claims. Only the offence being discussed in the particular conference (in this case, the property damage) was open to discussion. While Seb was ‘empowered’ to explain himself, Larissa was ‘protected’ from having to confirm slapping him. This was problematic to Seb, whose frustration grew throughout the conference, and it concluded with him storming out of the room after the contract was signed, having torn up his copy and throwing it away.

A second example of an assault that emerged from taunting and harassment is the case of Gregory, who was teased by other boys including the older brothers of his two victims (Michael, aged 9, and Henry, aged 4).

During the fight, Gregory ran into the garage, grabbed a chain and swung it around to stop their threatening him. In the process, the chain struck Henry, who ended up with a gash to his head and was rushed to the hospital. A neighbour called the police to report that ‘a group of boys was fighting with weapons’. Before the police and ambulance arrived, Gregory got a pocket-knife and attempted to stab Michael in the back. The pocket-knife was not opened to any of the knife blades, but rather the bottle opener. The assault on Michael resulted in no wounds, but a deep bruise and weeks of pain. Gregory also dropped a television set on Michael’s foot. At the hospital, Henry was treated and released. Gregory agrees that the police version of the events was accurate, and says ‘yeah, I hit him, but they were all threatening me’.

Boys teasing other boys is a gendered social practice of exclusion—‘you’re a sissy’—which is an accountability ritual for the target to ‘prove’ his masculinity or remain a ‘sissy’. In other words, the target of the teasing is being told ‘you don’t belong in this social category called “male”’, and to prove his masculinity he must take decisive action.

In the third example, another situation that led to a fight, the following gender project was enacted:

One night in December, after Guy (victim 1) got out of work, David (offender) and Rex (not present at conference) chased Guy down when he was riding his bike home from work. David and Rex were in David's car, and Rex was driving. They side-swiped Guy on his bike, and the side mirror of the car clipped the handle bar; this caused Guy to be very afraid. They continued to follow Guy and threatened him and his family. David yelled at Guy, 'I'm going to kill you and I'm going to burn your house down and I'm going to fuck your mother!!' Guy was very concerned about this so he refused to go to his house so that they wouldn't know where he lived.

By threatening sexual violence against Guy's mother, David threatened physical domination of both Guy and his mother as the ultimate act of violence he could inflict and thus demonstrate his masculinity. David was a heavy-set boy, and he said that 'people tease me for being fat and I just wanted to make them stop!' Physical and/or violent retaliation to those masculinity challenges is a response that proves otherwise and says in response, 'I am as masculine as you are and more, and I'll prove it: "I'll fuck your mother"'. The accountability in this moment is a stark and violent hegemonic masculinity.

In a fourth case, Keith (offender) was engaged in a gender project that involved 'protecting girls' (family friends) who were attending a formal dance at their school. His 'job' on the night that he was arrested for vandalism to school property was to get the girls home safely, and because he did so he claimed success in his gender project, despite the 'social detour' of his excessive drinking and vandalism. As the evening unfolded, Keith and many others smashed windows and did other damage to the school. In this conference, the facilitator, Dave, was especially confrontational towards Keith:

Tammy (Keith's mother) indicates that the only reason why Keith attended the party was to look after these girls. Dave says to Keith, 'well, it looks like you bombed out on that'. Keith refuses this interpretation and says that 'my job was to get them home safely and I did'. The facilitator says, 'clearly Keith you're not getting it'. He continues, 'it's critical that Keith understand this before the evening is over!' The facilitator further challenges Keith by saying 'what if it were someone being assaulted by a group of your friends, would you join in then?' Keith says he's aware of the difference between right and wrong and that what he did was wrong, he's made a mistake. Keith was disappointed in himself because 'I shouldn't have been there in the first place. I was there because someone else asked me to watch over my friends. Now, it's something I have to deal with and the consequence is that I have to be here doing this'.

In this case, the dynamics of resistance and acceptance of interpretations revolves around gendered scripts of power, aggression, teasing and bully-

ing. Keith was facing scrutiny for failing in his assigned task, for failing in 'protective masculinity'. His resistance to this accountability resulted in frustration, hostility and (later in the conference) rage between Keith and members of his family. It seemed that he wanted to be given some credit for securing the safety of his friends, at a minimum.

### *Mothers as 'responsible' and as 'vulnerable'*

At every conference I observed, both in Australia and the USA, mothers have attended either with the offender, or with the victim, or as the victim. Mothers enter RJ conferences with their cultural scripts intact: they are presumed responsible for their children's behaviour (Fox, 2001). It is not uncommon for mothers of offenders to enter a conference feeling responsible for their children's actions (Prichard, 2002). In fact, many offenders' mothers have said to me after a conference, 'I felt like everyone thought I was a bad mother' or 'I want to prove I'm a good mother'. This implicit, and sometimes explicit, accountability is examined here.

Some mothers appear defensive by their body language (arms crossed, legs crossed and chins tucked into necks with a great deal of tension and scowls on faces). A feeling of exasperation with their sons was common among the mothers I observed. For example, Tammy (mother to Keith) voiced her frustration with her son's Attention Deficit Disorder: she insists that it has everything to do with his choices and with his lifetime problems. 'We've been dealing with this for 18 years!' During the conference, it was revealed that Keith had been 'kicked out' of his home after the offence was discovered. In another conference, Pippa (mother of Nick) was asked by the facilitator how her son's actions affected her. She replied that she was upset that her son did this and that she felt sorry for 'the lady' whose shed was broken into. Her demeanour during this exchange was very subservient to those present with her repeated reference to the victim as 'the lady'.

In some conferences, however, mothers were not blamed for their sons' behaviour, as in the case of Wendy. Her son had been in a fight at school, yet in the conference he exhibits a demeanour of cooperation.

The facilitator (Jesse) compliments Wendy, and says 'this (her son's cooperative attitude) is a credit to your parenting skills, and we're all pleased that Charles is able to see that this is the right thing to do'. She smiles and blushes and Jesse is very good at helping Wendy to feel valued and supported.

One wonders what would be said about her 'parenting skills' had her son not done the 'right thing'. Accountabilities can be supportive as well as critical, as this example illustrates; yet parenting remains a powerful target of public scrutiny where people are expected to explain themselves.

Mothers at conferences are also portrayed as vulnerable and in need of protection. Several women were explicitly identified as 'single mothers'. In

the following example, Jane (victim) lived in a new neighbourhood, her shed was burgled and her son's bike was stolen.

Jane was asked how the offence had impacted her life and her son's life. She said that she's spent a lot of money that she can't really afford to put more locks on her doors, and to get a security system, and that as a single mother without an income she's struggling to pay for it. Jane was in tears at this point. Then, she went on to say that her son was living in fear, that he was wetting the bed, and yelling out Nick's name during nightmares. Jane went on to talk about the material costs of this event in her life: \$140 for the bike, \$75 to have the lock replaced on the shed door, and then other costs such as feeling safe and secure in her home. She crumbled into tears again.

Another single mother feeling vulnerable after an offence was Leah, the woman whose car and driveway were spray-painted with a swastika by Seb:

Leah said that she was shocked and scared when she came home that night from a pleasant evening out to dinner with her daughters to see the new car her brother bought for her so damaged. She's a single mother raising these three girls on her own and had waited years and years for a new car.

Perhaps the greatest degree of vulnerability among the mothers was Yasmine, whose son (Guy) was the target of threats of violence from David, and she was named as a potential target of sexual aggression. In the conference it was revealed that Yasmine was a rape survivor and that she heard him shout his threats through the open window in her bedroom. Her sense of vulnerability was further compounded by the fact that she was being treated for cancer at the time this unfolded. Her vulnerability moved the offender to tears:

Yasmine said, 'I have cancer, and he's very worried about me anyway.' At this point, David started to sob, and it appeared that he was unfamiliar with these aspects of their life. Gloria (facilitator) then asks David how he felt about the way his behaviour affected them. He said he felt bad about that, and now realizes he made a stupid mistake when he threatened them. During the time that Yasmine was speaking, David held his head in his hands and wept quietly.

These excerpts reveal that when offenders are moved by the stories of the victims, they may express their remorse by crying. When I observed these moments, they appeared to be genuine moments of remorse and shame, not as a means to manipulate others. These young men were learning how their behaviour had hurt others and responded appropriately with embarrassment and shame. At these moments, the offenders were confronted with moral and gender accountability. They expressed shame and took moral responsibility for their actions. Their offences were re-interpreted as unacceptable masculinity, despite their explanations that their offences were in response to teasing and taunting.

A gendered response to the mothers' vulnerability came from some men who attended the conferences. This is best exemplified by James, the neighbour and friend of Leah, who says that he knows how she feels as a single mother raising three daughters on her own: 'Four women in the same house experiencing this, it must have felt pretty defenceless.' Then, he makes it very clear to all present, especially Seb, that he intends to protect these women. James achieves hegemonic masculinity (Connell, 1995) in response to Leah's vulnerable femininity by expressing his intention to 'protect' Leah and her daughters. In so doing, his masculinity project was affirmed. This dynamic maintains the conventional dualistic notion of male power/female vulnerability and the social hierarchies built around it.

Mothers are sometimes requested to serve as 'correctional officers at home' (what Stanley Cohen referred to as a 'remarkable correctional resource' (1985: 79)). An example was when Mick was discussing his assault on another boy at school and how his mother reacted. When she found out, he said that he felt badly.

The facilitator, Jesse, asked Mick what happened when his mother found out about the assault. He said that she 'was upset and gave me "that look"'. People laugh at the idea of 'that look' . . . every mother uses 'that look' to convey disappointment, frustration, and anger to their children. Jesse asks Mick if he realizes he's hurt his mother in this situation as well. He said yes, he understands. Jesse says, 'if your mother's like others, when she gets the call from the school that you've been involved in a fight, her first reaction is to say "oh, no" and then she gets "that look"'. Everyone laughs again. It's true, Mick admits. It's recognized by other participants as being true, and Aileen (Mick's mother) admits yes, and rolls her eyes and grins. Later, Jesse invokes Aileen's assistance more formally by asking her, 'are you willing to supervise that Mick does the anger management program?' She agrees so long as she knows what's involved.

In contrast to these 'vulnerable' single mothers, Pippa (also raising her son alone) was not constructed as vulnerable, nor did she proclaim her own vulnerability. Mothers of offenders in conferences have a finer line to walk than mothers who attend conferences to support victims. The moral authority that victim-status brings with it nearly immunizes participants from accountability, and, in the case of Larissa, legal immunity is granted. The mothers of offenders are subject to scrutiny along with their children, as these examples illustrate. Therefore, their capacity to claim moral authority is diminished, and their voices are less 'empowered' when they are seen as partly responsible for their children's behaviour. Instead, these mothers are more likely to assume responsibility.

### *Fathers as more or less 'silent' partners*

When fathers attended with mothers, they remained mostly silent. In stark contrast to mothers, I did not witness a father who expressed anxiety about being labelled 'a bad parent' because his son had made such a mistake. In

the rare cases when fathers shared their views, however, they were more inclined to shrug off their sons' behaviours as 'boys will be boys'. The following is an example. The boys had been friendly for quite some time, until the assault on Michael and Henry occurred.

Dale (offender's father) says several times, 'these are isolated incidents, these boys have played together every day for years and this almost never happens. Every family has boys who don't get along with each other and a little thing can blow up into a big thing. Boys just tend to do this sort of thing.'

In response to Dale's gendered explanation for why his son Gregory had assaulted Michael and Henry, the two fathers forged an agreement:

Samuel (the two victims' father) is happy to leave the outcome at the apology. Dale indicates that because they've been such good friends for so long, he's happy to accept that because he knows that Samuel is a good person who will do what he can to help Gregory. 'Everyone's learned a lesson here', Dale says. Gregory's mother agrees. The police officer says that, 'under normal circumstances because this is a serious assault case with weapons and injuries, an apology would not be enough, but in this case, it's fine, though I think we need to record a formal cautioning for Gregory's record'. All agree that it's reasonable and fair. The apology and caution are recorded.

The relative silence of fathers in the conferences I observed must be understood within the context of their generally low attendance. Fathers participated in only half of the conferences I observed. Because several of the mothers indicated that they were 'single mothers', it might be that the absent fathers were absent from their sons' lives altogether. One father reported during the conference that he was 'not too involved' with his son and went on: 'I'm not the kind of father who likes to think that his kids can't do anything wrong, so I believe he's done these things and I believe he needs to be accountable for that.' An interesting absence of paternal accountability appears here. None of the fathers were complimented or challenged with regard to their parenting skills.

### *Doing difference as community representatives and facilitators*

Community representatives join in the work of conferences with altruistic motives, for the most part. However, Roche suggests that 'not all citizens have restorative attitudes' (2003: 101). In many cases, the community representative expresses goodwill towards the offender, and concern towards the victim(s). Of the community representatives who attended the conferences I observed, one, Geoff, offered this advice to Keith (who was especially tense and hostile):

Geoff says, 'you know, I'm here to help. I don't get paid for coming here,

and I'm not here because it's fun, I'm here because I genuinely want to help you; so let's look at the problems that went into this: alcohol, impulsiveness, peer pressure. In developing good decision-making skills such as driving, voting, going in the military, etc.—all these new experiences require adult decisions.' Keith is very upset and crying.

At another conference, the offender had been caught riding in a stolen vehicle, though he claims not to have known it was stolen. Before people arrived, the facilitator and community representative (George and Geoff) pondered if there was a need for a conference at all since Chris (the offender) did not know the car was stolen. George opted to conduct the conference because the driver of the stolen car had been an Aboriginal boy and thus, he said, this young person 'must have known it was stolen, or at least should have suspected it was'. During the conference the offender's coach described him as 'naïve' and Geoff encouraged him with the following:

Geoff wants to make sure that Chris gets his homework done. He says, 'personally, from the community, I'd like to see you do your schooling so you can get a good job someday'. He then asks Chris what he's interested in doing for work after school, 'military perhaps?' Chris says yes, and Geoff replies, 'you'll need good school results to get into the military, like I did when I went into the Air Force. You're going to be voting, paying taxes, and being a member of the community in other ways. You've got to show that you have the discipline to do the school work. You'll have to be fully responsible for yourself in a few short years. I'd like to see some regimen where you do your homework, one hour per night, so you can be of use to the Navy, or whoever hires you in the future.'

This family was clearly not well-off, and Chris's grandmother appears to be the nexus around which the family functions. There were class dynamics at play here. Geoff is a lawyer and came to this conference from a professional meeting dressed in a business suit, crisp white shirt, tie, pressed trousers and jacket, with his hair neatly cut and combed, and he was clean-shaven. Chris's mother, grandmother and coach were dressed in worn-out clothing and were very casual in their appearance. The offender and his brother were dressed in standard white teenaged sports attire: sneakers, shorts and tee-shirts. In this setting, folks were 'doing difference' based on class and 'whiteness', especially in juxtaposition to the identification of the driver as an Aboriginal boy. Chris and his supporters were 'good' (if naïve) while the driver was clearly 'not to be trusted', and Chris should have been more suspicious of him based on that. Geoff's advice about getting a job and 'being useful in the future' might have been the same thing he would have said to a young person of colour, but in this context it seemed very much about passing on legacies of white privilege (MacIntosh, 1989). White privilege was 'wielded' in the sense that there was Geoff in his super-white-man business suit, pleading with this boy to follow the rules. White privilege is an 'invisible knapsack of resources'

(MacIntosh, 1989), and it is a power to be exercised. This was clear in this conference in which a white man icon conferred upon a young white boy the possible rewards for him should he follow 'the rules' of conformity. This wielding of white male privilege is 'invisible' to those who exercise it. It is very much an unconscious competence in everyday life, one that women and people of colour do not automatically assume for themselves. In this case, the privilege was compounded by the gender dynamics of 'man to man' type of talk. Geoff displays a contrasting militarized masculinity against which Chris can hold himself accountable. This conference illustrates that gender, race and class work in tandem, as Chris is urged to aspire towards Geoff's version of successful masculinity.

In the final example, 'doing difference' is accomplished by the facilitator when he tries to talk to an Aboriginal teenaged boy (Mick), who is charged with simple assault against a white boy classmate at school. In this example, the imposition of eye contact is a power being exercised.

While Jesse (facilitator) is talking, Mick is looking down at the floor a lot, and others are staring directly at him. He shrugs and says 'I don't know', about why he kept hitting Teddy. Mick is an Aboriginal boy so eye contact is a cultural issue that must be taken seriously. According to Trudgen (2000), making direct eye contact is an affront among Australia's Aboriginal people; it's considered intrusive and rude. Mick doesn't respond to questions quickly; he seems to be taking 'too much' time to reply.

Accountability is achieved on at least three dimensions. First, Mick is 'held accountable' for harming Teddy. Second, Mick is challenged in his gendered use of violence. Third, Mick is scrutinized for not interacting appropriately when the facilitator gently puts his hand under Mick's chin to turn Mick's face towards him to establish eye contact. Within a neo-colonial context, then, white dominance is secured by the facilitator insisting on eye contact with Mick.

## Conclusion

Accountability is a power and a process. Fenstermaker and West cite Schwalbe, who argues that 'accountability depends on Othering' (2002b: 213) because socially constructed categories are our mnemonic devices for making sense of our world. The power to scrutinize, and the corresponding obligation to respond, is a social interaction that reinforces social inequalities, defines parameters of social categories, and articulates normative behaviour within those categories. For theories of gender, difference and restorative justice, understanding and examining the dynamics of accountability illuminates how social structure is 'accomplished'. Class, gender and ethnicity are prisms of scrutiny within RJ conferences; thus RJ is a venue for 'doing difference' where, for the most part, the socially constructed categories of difference are not eliminated, but instead are used as subtle devices of domination.

Let us consider the three ideals of RJ outlined previously. First, RJ aims to promote empowerment for participants to speak freely and openly in the conference setting. This ideal is usually contrasted against the relative silencing that participants experience within formal court proceedings. Within RJ, however, expressions of one person's 'truth' must be appropriate to the rituals of restorative justice. Accountability emerges whereby participants have coaxed explanations. When the proffered explanations are contested, rebuffed or dismissed, the 'empowered' speaker is returned to disempowerment. Thus, while the claim that RJ offers greater empowerment to participants might be true compared to courts, it is not absolute. It results from a ritual of obligation (and, of course, obligation is an exercise in 'power') and is deeply ideological (who has the power to oblige others to explain themselves and why?). The 'empowerment' is offered within specific parameters that must be accepted by all parties. This leaves the analyst to question the extent to which expressions resulting from such obligations imposed by this scrutiny are truly 'empowerment'.

Second, RJ ideally encourages remorse and shame from offenders and then reintegration into the community. Having raised this question before (Cook and Powell, 2003b), I ask again, 'reintegration into what?' This analysis illuminates that offenders are being encouraged to adopt fairly conventional gendered practices: going into the military, following the 'rules' and being 'white'. So, is the lesson then to reintegrate into the community and/or perform a cultural ritual into hegemonic masculinity? Finally, RJ ideally breaks down barriers between participants. In so far as there are barriers between participants in the more formal court proceedings, RJ is intended to bridge those barriers so that people can talk to each other face-to-face, without the encroaching rules of procedure. Restorative justice conferences, however, set up a smokescreen where the 'invisible privileges' around gender, race and class are reproduced, embraced and recommended as strategies for future goals of the participants.

For restorative justice to reach the ideals outlined, specific attention needs to be paid to these sociological phenomena as they affect the ways in which people account for their actions and what those accounts mean. I endorse Braithwaite's (2002) recommendations for setting standards, especially around the principle of non-domination. As we struggle forward with RJ practice, I hope advocates and analysts will heed these lessons.

## Notes

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1. I should note at the outset, however, that while some of the analyses presented here are critiques of the interactions that took place in the conferences, I am a companion in the promotion of restorative justice. In Maine, I served as a member of the Mid-Coast Restorative Justice Council and the Bath Juvenile Resolution Team, which employs conferencing for some juvenile offenders. I have attended conferences there as a community representative.
2. Readers should bear in mind that this article is not concerned with outcomes of conferences, effectiveness, re-offending rates or even the particular statutory differences in various jurisdictions. Those questions have been examined by others. I am offering an examination of the culturally embedded gendered and racialized scripts that influence (infect?) participants' demeanour.
3. Adolescent girls also engage in teasing and taunting, of course, and an analyst could examine the gendered meanings attached to such behaviour.
4. Due to space constraints, I refer the reader to previously published works that describe and analyse the theory and practice of RJ (Braithwaite and Mugford, 1994; O'Connell et al., 1999; Braithwaite and Roche, 2001; Pranis, 2001; Daly, 2002, 2003; Cook and Powell, 2003a; Roche, 2003).
5. 'Offender' and 'victim' are the most salient aspects of these participants' identities in conferences and, indeed, are the roles these participants are called to play. Thus, the terms will be used as an analytical shorthand, not as stigmatizing labels.
6. I lean towards a definition of multiracial feminism as outlined by Thompson (2002).
7. For the purpose of the present analysis, the distinction between police- and facilitator-run conferences is unimportant.
8. In some jurisdictions, the facilitators are also police officers; in others, they are not. To maintain anonymity, I have opted to refer to 'facilitators' only, even when they are also police officers.

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