

4-15-2014

Circles of Trust: Using Restorative Justice to Repair Organizations Marred by Sex Abuse

Meredith C. Doyle

Follow this and additional works at: <https://digitalcommons.pepperdine.edu/drlj>



Part of the [Dispute Resolution and Arbitration Commons](#), [Organizations Law Commons](#), and the [Sexuality and the Law Commons](#)

Recommended Citation

Meredith C. Doyle, *Circles of Trust: Using Restorative Justice to Repair Organizations Marred by Sex Abuse*, 14 Pepp. Disp. Resol. L.J. Iss. 2 (2014)

Available at: <https://digitalcommons.pepperdine.edu/drlj/vol14/iss2/2>

This Comment is brought to you for free and open access by the Caruso School of Law at Pepperdine Digital Commons. It has been accepted for inclusion in Pepperdine Dispute Resolution Law Journal by an authorized editor of Pepperdine Digital Commons. For more information, please contact bailey.berry@pepperdine.edu.

Circles of Trust: Using Restorative Justice to Repair Organizations Marred by Sex Abuse

Meredith C. Doyle

I. INTRODUCTION

The events of Jeff Buckland's childhood pushed him to a life of drugs and crime resulting in prison time. While Buckland was in the Boy Scouts, his Scoutmaster, Curtis Knarich, molested him and took lewd pictures of him.¹ The Boy Scouts failed to contact Buckland's family about the abuse, though it quietly added Knarich to its secret list of ineligible volunteers.² The Boy Scouts covered up Buckland's victimization so attacks could happen in the future to more children. Sadly, stories like Jeff's are not uncommon and happen in other organizations as well.

Megan Peterson was an active alter server and was raised a devout Catholic who went on a number of youth retreats with her church.³ Megan's life, like Jeff's, was shattered when her parish priest, someone she should have been able to trust, betrayed her. He lured Megan to his office under the pretense that he would give her a book.⁴ There, the priest told her she would be sinning if she did not do as he asked, and he raped her.⁵ He used his authority as a church leader to rape her repeatedly before and after school.⁶ When Megan gained the courage to reach out to the Victims Advocate in her diocese, the Advocate did not believe Megan's claims.⁷ Proper steps to

1. Jason Sickles, *Boy Scouts Secret File Resurrects Past Abuse for Victim*, YAHOO NEWS (Oct. 18, 2012, 1:02 PM), <http://news.yahoo.com/blogs/lookout/boy-scout-secret-file-resurrects-past-abuse-victim-170247896.html>.

2. *Id.*

3. Megan Peterson, *Survivor Profile: Megan Peterson*, SURVIVORS NETWORK OF THOSE ABUSED BY PRIESTS, http://www.snapnetwork.org/megan_peterson_profile (last visited Jan. 2, 2013).

4. *Id.*

5. *Id.*

6. *Id.*

7. *Id.*

protect Megan were only taken when Megan told her school counselor of the abuse.⁸

Aaron Fisher was third victim of betrayal by a reputable organization. Before revealing himself to the world as one of the many children Jerry Sandusky molested, Aaron was known simply as “Victim 1.” Aaron, at the age of eleven, first came into contact with Sandusky when he was invited to a Second Mile summer camp. Soon, Sandusky started to take Aaron out of school for outings and invited him over to his basement for sleepovers on weekends. During these sleepovers, Sandusky sexually abused Aaron.⁹ Due to embarrassment and fear of not being believed, Aaron did not say anything during the period of abuse.¹⁰ After all, Sandusky was a powerful figure in the football program at Penn State University, which dominated Aaron’s hometown.¹¹ However, Aaron’s bravery in reporting the abuse inspired other victims to come forward which ultimately led to criminal charges for the once-respected football coach.

These young victims were members of organizations that had the potential to have a positive influence on their lives. Authorities within these organizations took advantage of the vulnerabilities of youths and stole their innocence. Each organization’s influence and their positive reputations among the masses allowed them to mask the evil done to children through intimidation and lack of transparency.

This Article does not focus on the specific offenders who have committed sexual acts against young children. There is no replacement for the criminal justice system in finding offenders guilty, imposing punishments on them, and taking them out of society to protect the public. This Article also does not focus on mechanisms that directly help to heal individual victims. Restorative justice is often a tool for victims because the criminal justice system may not adequately address their needs. This is because the system is defendant-punishment centered and also frames crimes as being against the “State” rather than against individuals. Although some of the primary purposes of restorative justice are to allow for healing of a victim both through a face-to-face meeting with an offender and through retribution from that offender, these approaches are not appropriate in situations of sex abuse.

8. *Id.*

9. *Victim 1 Thought About Suicide*, ESPN, http://espn.go.com/college-football/story/_/id/8521790/jerry-sandusky-accuser-speaks-publicly-1st-time (last updated Oct. 19, 2012, 8:48 AM).

10. *Id.*

11. *Good Morning America*, (ABC television broadcast Oct. 19, 2012) available at <http://abcnews.go.com/GMA/video/jerry-sandusky-victim-aaron-fisher-interview-2012-witness-17515854> (last visited Jan. 2, 2013).

Instead, this Article focuses primarily on using restorative justice to heal and rehabilitate the institution within which abuse has occurred. It is often too difficult or traumatic for victims of sexual abuse to face their abusers and seek answers from them. Victim would likely rather have nothing to do with offenders. However, victims are still key parts of restorative processes aimed at rejuvenating an institution marred by sexual abuse. Through their involvement in community and institutional discussions, victims may incidentally receive healing from being heard by community members and institution leaders and taking part in the ultimate goal of preventing future sexual victimization.

This Article will first discuss the significance of this topic in light of recent and past news events about the sexual abuse of minors within organizations of trust like the Boy Scouts of America, the Catholic Church, and Jerry Sandusky's Second Mile, which was affiliated with Pennsylvania State University (Penn State). These organizations, and organizations like them, have the potential to have a beneficial impact on their communities. However, because there have been offenders in leadership positions who have taken advantage of their authority over children and their close proximity to them, the organizations have suffered and can no longer perform their duties in the midst of public disapproval. This Article will discuss why restorative justice can help these organizations regain respect and ensure that this type of sex abuse will never occur again.

Second, this Article will discuss what the Boy Scouts, Catholic Church, and Second Mile along with Penn State have done to rebuild their reputations and prevent future sex abuse. The Article will examine this progress through a restorative justice lens to determine how effective the implementation of these programs has been and how restorative justice techniques can improve them.

Third, this Article will suggest that each organization use peacemaking circles as a tool to involve members of the community in their healing. In addition to the restorative justice techniques that all of the organizations should use, each organization will also need to use restorative solutions that are tailored to their own needs based on their unique cultures.

Finally, this Article will discuss the use of public apologies in restoring community faith in these once-revered organizations. Apologies must be framed in a way that is sincere and captures empathy. Each organization has made some attempt at an apology, but these attempts fall short in taking responsibility for misdeeds among their leadership.

II. WHY DOES THE CRIMINAL JUSTICE SYSTEM FALL SHORT IN REPAIRING THESE ORGANIZATIONS?

The Boy Scouts of America provides leadership opportunities for young boys by building their character, teaching them how to be responsible citizens, and showing them how to maintain good personal fitness.¹² The Catholic Church provides fellowship and opportunities for worship for those who observe the Catholic faith. The Second Mile, non-profit organization in Pennsylvania, aims to help underserved children “achieve their potential as individuals and as community members and provide education and support for their parents and youth service professionals.”¹³ Each organization has a beneficial mission to strengthen their communities, and authorities in these organizations also have the responsibility of mentoring children. Any misuse of this authority that harms children is a scar to the organization and can detract from the community’s faith and support in the organization.

A prevalent attitude exists within all of these organizations: their leadership could never commit such wrongs, but even if they did, the work of the organization is so righteous that a burial of misdeeds may be justified to serve the greater good.¹⁴ Incidents of child sex abuse within these organizations have been exposed to society, but how did these incidents go so long without detection? Why, even after detection, was so little done with regard to stopping the behavior and imposing sanctions? What steps can be taken in the future to prevent this behavior? Restorative justice practices tailored to each organization can help a community to become involved in the process of answering these questions.

The criminal justice system is inadequately equipped to mitigate the damage done to these organizations by a wayward member. The system can punish the person who committed the offense, but it cannot repair the severe harms these incidents inflict on a community’s faith in the organization. There are people within the Catholic Church who have had their faith completely destroyed by the indiscretions of priests. For example, in a video by Marquette University called *The Healing Circle*, victims, an offender priest, and other church authorities came together and spoke about past abuse with the Catholic Church.¹⁵ One female participant was a devout

12. *About the BSA*, BOY SCOUTS OF AMERICA, <http://www.scouting.org/About.aspx> (last visited Jan. 1, 2013).

13. THE SECOND MILE, <http://www.thesecondmile.org/welcome.php> (last visited Jan. 1, 2013).

14. Kelly Clark, *Institutional Child Sexual Abuse— Not Just a Catholic Thing*, 36 WM. MITCHELL L. REV. 220, 224 (2009).

15. *‘Healing Circle’ Video Examines Pain Caused by Clergy Sexual Abuse*, MARQ. U. (July 15, 2009), <http://news.marquette.edu/news-releases/healing-circle-video-examines-pain-caused-by-clergy-sexual-abuse/>.

Catholic before many of the Church sex abuse scandals came to light. Although she was not personally a victim of abuse, she lost faith in her religion because she could no longer trust authority figures within the Church.¹⁶ She once took great comfort in Catholicism, and it had been a large part of her life, but she now feels a void where her faith once was.

In working toward healing the damaged organizations, prevention is necessary. Prevention of future harm is a form of justice for victims.¹⁷ One way to achieve prevention is by ensuring that the abuse is reported by the organization and the public is aware of this abuse. There are indications that authorities at Penn State did not come forward with information about the abuse to protect the children affected by the abuse. The president of Penn State and Joe Paterno, the head coach of the Penn State football team, both knew of the investigation of Sandusky as early as 1998 and communicated with each other about what they knew during the investigation.¹⁸ Vice President of Penn State, Gary Schulz, indicated that the investigation might be like Pandora's box, potentially discovering more molested victims.¹⁹ Still, no one said a word to authorities. An inquiry into the years of abuse concluded that officials at the university had shown a "total and consistent disregard' for the welfare of children, had worked together to actively conceal Mr. Sandusky's assaults, and had done so for one central reason: fear of bad publicity."²⁰

Similarly, there is evidence that top executives within the Boy Scouts of America did not report the abuse that occurred within their ranks. The Boy Scouts dealt with allegations of abuse internally and never told the authorities or communities about the abuse, even when asking molesters to leave the organization.²¹ Jeff Buckland called the procedure of the Boy Scouts "secrecy that kills people."²²

16. DVD: *The Healing Circle: Victims of Sexual Abuse By Clergy Share Their Stories* (Marquette University Law School 2009) (on file with author).

17. David Finkelhor, *Sandusky Sentence Doesn't Bring Instant Justice*, CNN, (Oct. 10, 2012, 7:31 AM), <http://www.cnn.com/2012/10/09/opinion/finkelhor-sandusky-abuse/index.html>.

18. Ken Belson, *Abuse Inquiry Damns Paterno and Penn State*, N.Y. TIMES (July 13, 2012), http://www.nytimes.com/2012/07/13/sports/ncaaf/football/13pennstate.html?pagewanted=all&_r=0.

19. *Id.*

20. *Id.*

21. Jason Felch, *Top Executive Did Not Report Suspected Scout Abuse Cases, Reports Show*, L.A. TIMES (Dec. 30, 2012), <http://www.latimes.com/news/local/la-me-scouts-leaders-20121231,0,3991977.story>.

22. Sickles, *supra* note 1.

The Catholic Church has also had many leaders accused of cover-ups, including Monsignor William Lynn, a former secretary for clergy at the Archdiocese of Philadelphia. Lynn allegedly made a list of suspected molesters within the Church, but remained silent and destroyed this list when his superior, Cardinal Anthony Bevilacqua, found out about it.²³ A study by John Jay College estimated that between 1950 and 2004, more than 50,000 children were victims of abuse.²⁴ These numbers may indicate that these stories were persistently hidden, and thus, the Church failed to protect children.

The criminal justice system can specifically deter offenders by taking them out of society by putting them into prison, and making them register as sex offenders when they are released into society. Unfortunately, broader preventative measures are beyond the scope of the criminal justice system. Community outreach and internal educational measures within the organizations can better guard against future acts of sexual abuse by ensuring that the members of the organization will be on high alert and not look the other way.

Finally, the criminal justice system does not take into account victims harmed by the abuse because prosecutors are representatives of the State, not the victims.²⁵ For many victims, “sending the offender to jail is not the most important thing . . .” but instead “[t]heir top priority is to be believed, to receive an apology, or to restore their sense of trust.”²⁶ The criminal justice system has limited means to fulfill these needs.

In addition to the fact that the victim’s needs are not the main focus of the criminal justice system, there are other reasons why the system cannot effectively address their needs. First, going to court is like enduring a “second rape” for the victim that reopens wounds rather than heals them.²⁷ The victim receives little positive reinforcement or validation for any statements made on the witness stand and confronts the cold, silent face of his or her attacker and the serious demeanors of judges, lawyers, and fact

23. Mary Claire Dale, *Catholic Church Leader Sentenced to Prison for Cover Up of Child Sex-Abuse*, THE CHRISTIAN SCI. MONITOR (July 24, 2012), <http://www.csmonitor.com/USA/Latest-News-Wires/2012/0724/Catholic-church-leader-sentenced-to-prison-for-cover-up-of-child-sex-abuse>.

24. Jay Tokasz, *Psychologist Provides Analysis of Catholic Church’s Sex Abuse Scandal*, THE BUFFALO NEWS (Sept. 28, 2012, 12:41 AM), <http://www.buffalonews.com/apps/pbcs.dll/article?AID=/20120928/CITYANDREGION/120929086/1057>.

25. DANIEL W. VAN NESS & KAREN HEETDERKS STRONG, *RESTORING JUSTICE: AN INTRODUCTION TO RESTORATIVE JUSTICE* 15 (4th ed. 2010).

26. Finkelhor, *supra* note 17.

27. Diana L. Grimes, *Practice What You Preach: How Restorative Justice Could Solve the Judicial Problems in Clergy Sex Abuse Cases*, 63 WASH. & LEE L. REV. 1693, 1711 (2006).

finders interested in seeking hard facts that will either meet or fall short of meeting a standard of proof. Further, the privacy of sex abuse incidents makes these crimes very difficult to prove in a court of law, especially because it is common for victims of sexual assault to deny the crime even occurred or choose not to talk about the crime.²⁸

Finally, statutes of limitations prevent victims who have long ago been abused from seeking justice through the courts.²⁹ There are proposals in legislatures that would loosen the statutes of limitations to ensure justice for victims of crimes committed in the distant past, but the Catholic Church has successfully stopped these proposals in many jurisdictions.³⁰ If these statutes do not pass, abuse victims have no other recourse except to pursue remedies outside of the formal criminal justice system. These remedies are not well-defined or calculable in monetary awards.

III. ORGANIZATIONS' PROGRESS TOWARDS PREVENTION IS INSUFFICIENT

A. *Boy Scouts of America*

The Boy Scouts have taken a step toward transparency in communication by releasing more than 1,200 files, known as the “perversion files,” that include accusations of sex abuse within the organization that took place between 1965 and 1985.³¹ This disclosure will assist in the creation of preventative measures by bringing to the forefront details and context of specific incidents including information about what Boy Scouts' leadership did or did not do to protect children in their care. After reviewing these files, the Boy Scouts of America can start to determine what it can do to better protect children.

28. I learned from personal experience working in the District Attorney's Office Victim Impact Program, the unit dealing with domestic violence and sex crimes, that the victims of sex crimes often do not come forward. If they do come forward, they often later deny the allegations out of fear or embarrassment.

29. Laurie Goodstein & Erik Eckholm, *Church Battles Efforts to Ease Sex Abuse Suits*, N.Y. TIMES, June 14, 2012, at A1, available at http://www.nytimes.com/2012/06/14/us/sex-abuse-statutes-of-limitation-stir-battle.html?pagewanted=all&_r=2&.

30. Goodstein & Eckholm, *supra* note 29.

31. Miranda Leitsinger, *Boy Scouts Release Secret Child Abuse release secret child abuse files – 'the pain and anguish of thousands,'* NBC NEWS (Oct. 18, 2012), http://usnews.nbcnews.com/_news/2012/10/18/14539592-boy-scouts-release-secret-child-abuse-files-the-pain-and-the-anguish-of-thousands?lite.

In addition to releasing these documents, the Boy Scouts of America held a closed-door symposium with other youth organizations to work on preventing future sexual abuse.³² The group included Boys and Girls Clubs of America, the YMCA, and Big Brothers Big Sisters.³³ Experts on sexual abuse prevention presented information to these groups.³⁴ The Boy Scouts has been criticized for having a lack of transparency in dealing with sexual abuse by hiding the “perversion files.”³⁵ The fact that the symposium was closed-door did not help its reputation for transparency. The Boy Scouts indicated that it excluded the public from the symposium to encourage a free flow of information among the participating organizations.³⁶ In a symposium environment, the Boy Scouts may have been right to exclude the public, because having a public event may have sparked anger and made progress impossible. In addition, having too many people involved could prevent meaningful and focused conversation. However, it is necessary that the Boy Scouts include interested members of the public in other, smaller forums in the future so that public opinions and feelings can be addressed. The organization cannot survive without the support of the public, and the public will not support the organization if they feel as though the organization is hiding information that could put children at risk.

The Boy Scouts have also devoted a portion of its website called “Youth Protection” to protecting youths within its organization.³⁷ This indicates that the organization takes past allegations seriously, is willing to make changes, and takes action to protect its children. Some of the ways the organization plans to protect its youths include expanding background checks for potential leaders, requiring leadership to be trained every two years, and indicating that someone who either suspects or witnesses abuse is required to report it.³⁸ In addition, the organization has listed certain physical barriers to abuse, which include that scout leaders and scouts have separate sleeping accommodations that they are never to be in a one-on-one environment, that scouts’ privacy is respected, and that cameras should not be used

32. *Boy Scouts Host Anti-Abuse Forum*, THE COURIER (Oct. 31, 2012), http://www.couriernews.com/view/full_story/20677097/article-Boy-Scouts-host-anti-abuse-forum.

33. *Id.*

34. *Id.*

35. Associated Press, *Boy Scouts symposium on preventing sex abuse will share insights with other groups*, CLEVELAND.COM (Nov. 1, 2012, 1:01 AM), available at http://www.cleveland.com/nation/index.ssf/2012/11/boy_scouts_symposium_on_preven.html

36. *Id.*

37. *Youth Protection*, BOY SCOUTS OF AMERICA <http://www.scouting.org/Training/YouthProtection.aspx> (last visited Jan. 4, 2013).

38. *Id.*

inappropriately.³⁹ Finally, the website lists the three “R’s” of Youth Protection, which are a means by which youths can protect themselves with awareness: 1) **R**ecognize situations that place you at risk for molestation, and how molesters function; 2) **R**esist inappropriate attention to stop molestation, and finally 3) **R**eport to a responsible adult the incident and know that it is not your fault.⁴⁰

B. Catholic Church

In 2002, the U.S. Conference of Catholic Bishops was held to create a response to the sexual abuse crisis within the church.⁴¹ At that meeting, the participants came up with the Charter for the Protection of Children and Young People, a guide to handling allegations of sexual abuse.⁴² However, this meeting was exclusive to bishops. Leaders within the Catholic Church in Rome have also met in a four-day symposium to discuss how to prevent child sexual abuse.⁴³ The participants in this symposium included more than one hundred bishops, thirty religious superiors, Catholic university rectors, and victims.⁴⁴ The fact that victims are being heard is promising and a good way for the Church to learn about the abuse. The goal of the symposium was to restore faith in the organization by better listening to victims, creating consistent responses to abuse, and ultimately preventing future cases of abuse.⁴⁵ Unfortunately, like the Boy Scouts, the Catholic Church needs for its members in the public to become involved on a smaller scale in other forums for real solutions to be achieved.

Critics, like Barbara Blaine, resident of the Survivors Network of those Abused by Priests, believe that the Church is not doing enough. Blaine believes that although “[b]ishops pat themselves on the back by doing training programs and education,” a lack of education is not the cause of abuse.⁴⁶ Instead, a “lack of courage and decisions on the part of church

39. *Id.*

40. *Id.*

41. Tokasz, *supra* note 24.

42. *Id.*

43. Elisabetta Povoledo, *Catholic Leaders Convene to Discuss Abuse Prevention*, N.Y. TIMES (Feb. 6, 2012), http://www.nytimes.com/2012/02/07/world/europe/roman-catholic-church-convenes-assembly-on-abuse-prevention.html?_r=0.

44. *Id.*

45. *Id.*

46. *Id.*

officials” is the root of abuse.⁴⁷ Psychologist Gail Frawley-O’Dea agrees with Blaine’s belief that the problem of continuing sexual abuse lies in the flawed mindset of members of the clergy. Frawley-O’Dea says that there is a “clerical narcissism” that is accompanied by more of a concern with status and perks of being in a certain office than with the morality or empathy that goes along with being a Church leader.⁴⁸ Having a discussion with members of the public who are involved in the church community in addition to only other Church leaders may remind Church leaders of their duties and hold them accountable.

Eric Stolz, Deacon of the Archdiocese of Los Angeles, admits that there has been both reform and a refusal to change within the Catholic Church relating to sexual abuse.⁴⁹ He believes that the higher ups in the church are unaware of the nature of the abuse and therefore are disconnected from it; but he believes that reforms have been successful at grassroots levels.⁵⁰ Many churches have required that any priest or parishioner that has contact with children in a ministry must be fingerprinted and screened to ensure that they do not have a history of abuse, and they also must undergo training to teach them about how to recognize and report abuse.⁵¹ There are even penalties if clergy members do not attend these training sessions. There have been many steps taken to ensure that the physical conditions of meeting places are such that children are not at risk; for instance, it has been suggested that at least two adults be present with a child and there are now windows on many meeting room doors.⁵²

Though these changes are physical barriers to sexual abuse, they are not changes to the morals and thinking of clergyman. The mindset of clerical culture has not changed within the Vatican or in some sections of the Church in parts of the United States. These Church members blame the problem on the media, gays, or society as a whole.⁵³ Their mindset needs to be targeted in restorative justice programs on a local level because grassroots progress is more successful than progress by a central authority.

47. *Id.*

48. Tokasz, *supra* note 24.

49. *Has the Catholic Church Successfully Reformed Itself in the Wake of the Sexual Abuse Scandals?*, SLATE (Dec. 27, 2012, 1:19PM), http://www.slate.com/blogs/quora/2012/12/27/has_the_catholic_church_successfully_reformed_itself_in_the_wake_of_the.html.

50. *Id.*

51. *Id.*

52. *Id.*

53. *Id.*

C. The Second Mile/Penn State

After it became public that Sandusky had molested children through The Second Mile, the charity soon became defunct.⁵⁴ The organization disbanded because the Pennsylvania attorney general indicated that Sandusky used his organization to prey on young boys.⁵⁵ The Second Mile now hopes to transfer the assets and programs it had to another organization called Arrow Child & Family Ministries so that the organization can continue to do good while being mindful of the abuse of Sandusky in the past.⁵⁶ The step of taking away the name is a good start to gain community trust; however, if The Second Mile's programs continue, the organizations that pick up its programs will likely face public criticism and it may take time for them to gain the trust or support of the community.

Another entity struggling with the aftermath of the sexual abuse scandal is Penn State. Other employees of the University also participated in covering up Sandusky's actions. The public has been appalled by this behavior, and those with ties to the institution are also alarmed. The university is dealing with alumni who are severing ties with the school over the way the sexual abuse scandal was handled, or *not* handled.⁵⁷

The Middle States Commission on Higher Education threatened to take away Penn State's accreditation in August 2012.⁵⁸ This has put pressure on the university to comply and deal with oversight, governance, and financial issues relating to civil lawsuits in the wake of the scandal.⁵⁹ Penn State has tried to repair its reputation by firing President Spanier and Joe Paterno, officials who participated in covering up the scandal.⁶⁰ Internally, Penn

54. THE SECOND MILE, *supra* note 13.

55. Mark Viera, Jo Becker, & Pete Thamel, *Charity Founded by Accused Ex-Coach May Fold*, N.Y. TIMES (Nov. 18, 2011), http://www.nytimes.com/2011/11/19/sports/ncaafotball/charity-founded-by-sandusky-plans-to-fold.html?utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%3A+nyt%2Frss%2FSports+%28NYT+%3E+Sports%29&seid=auto&smid=tw-nytimesports.

56. THE SECOND MILE, *supra* note 13.

57. Genaro C. Armas, *Penn State Approves NCAA-Imposed Code Following Sandusky Scandal*, HUFFINGTON POST (Nov. 16, 2012, 9:32 PM), http://www.huffingtonpost.com/2012/11/16/penn-state-approves-ncaa-code_n_2147331.html.

58. Michael Pearson, *Penn State Accreditation in Jeopardy over Sex Abuse Scandal*, CNN (Aug. 15, 2012, 12:32 PM), <http://www.cnn.com/2012/08/14/us/penn-state-accreditation>.

59. *Id.*

60. *Penn State Scandal Timeline: Key Dates in the Jerry Sandusky Sex Abuse Case*, HUFFINGTON POST (Nov. 9, 2011, 11:32 PM), http://www.huffingtonpost.com/2011/11/09/penn-state-scandal-timeline-jerry-sandusky_n_1084204.html.

State students are united as evidenced by their excitement at convocation when the student body president thanked the freshman for not turning their backs on the university, and by the loud cheers that followed the new football coach talking about a new beginning for the football program.⁶¹ Despite internal student support, many alumni have turned their backs, and some prospective students will never attend because of Penn State's history.

Penn State took down Joe Paterno's statue outside of the football stadium, Paterno's name no longer appears on Nike's child-care center, and Paterno is no longer recognized as the winningest college football coach.⁶² However, the absence of evidence of Paterno's accomplishments is oddly unsettling, as officials seem to be trying to erase what happened at Penn State. It is important that the country does not forget what happened there. Penn State and similar institutions should use that publicity to spur change. Restorative justice can help convert the problems that occurred at Penn State into positive change.

IV. RESTORATIVE JUSTICE LEADS TO HEALING THE ORGANIZATION, AND ULTIMATELY, THE VICTIMS

Some of the steps that these organizations have taken in regaining the trust of the community are beneficial, but adding a restorative justice element can further facilitate healing. First, this Article includes similar restorative techniques that can be employed in all three organizations. Then, since each organization has a unique structure and culture, the Article will individually discuss restorative methods that fit only certain organizations.

Restorative justice is a unique way of resolving conflict because it provides transformative conflict resolution while taking relationships into account.⁶³ It is beneficial because it considers the needs of the harmed and allows the collaboration of those with a stake in the situation.⁶⁴ Because a large number of citizens take part in the organizations discussed in this Article, the interested stakeholders expand far beyond the direct victims of abuse and leadership in the organization. Restorative justice is aimed at repairing damaged relationships by addressing healing not only victims, but

61. Mallory Simon, *Forging a New Meaning for the Rally Cry 'We Are Penn State,'* CNN (Sept. 2, 2012, 11:27 AM), http://www.cnn.com/2012/08/31/us/penn-state-identity/index.html?iid=article_sidebar.

62. *Id.*

63. Howard J. Vogel, *The Restorative Justice Wager: The Promise and Hope of a Value-Based, Dialogue-Driven Approach to Conflict Resolution for Social Healing*, 8 CARDOZO J. CONFLICT RESOL. 565, 566 (2007).

64. *Id.* at 573.

also communities and offenders.⁶⁵ Retribution is not as important as healing victims and making those affected by the offense whole again.⁶⁶

There are a number of methods for employing restorative justice. One method is Victim Offender Dialogue (VOD), previously known as Victim Offender Mediation (VOM). In this process, the victim and offender meet face-to-face, and each party listens to the other in an attempt to reach a settlement.⁶⁷ This process will likely be ineffective in the context discussed in this Article for many reasons. First, the process only includes the victim and the offender while excluding many of those who have stakes in the community organizations. Second, the victims may not be able to, or be willing to, effectively speak with the offender. In other words, the power imbalance between the victim and offender, caused by the severity of the offense and emotional trauma, may be too great to allow them to meet face-to-face.⁶⁸ Finally, these meetings will be ineffective in situations in where the victim is a child and offender is an adult because there will be a gap in their communication abilities, and the traumatized child may not be able to communicate with a person who is not on their level developmentally. This is another power imbalance. One way to make these meetings work would be to use surrogate victims, more mature victims who have been victimized by someone else in the past, to meet with an offender to avoid an unworkable emotionally charged situation.⁶⁹

Another type of restorative technique is Family Group Conferencing (FGC). This process expands the meeting to include family members and supporters of the parties and government officials.⁷⁰ FGC is normally used in dealing with less severe juvenile crimes⁷¹ because this process takes the power of determining the outcome out of the hands of a judge and puts it into the hands of conference participants.⁷² In juvenile cases, the community tries to avoid using the criminal justice system in non-serious cases because it is more concerned with the welfare of the juvenile offender and his or her

65. *Id.* at 566–67.

66. HOWARD ZEHR, CHANGING LENSES: A NEW FOCUS FOR CRIME AND JUSTICE 186 (3d ed. 2005).

67. Vogel, *supra* note 63, at 568–69.

68. ZEHR, *supra* note 66, at 206

69. *Id.*

70. VAN NESS & HEETDERKS STRONG, *supra* note 25, at 29.

71. *See* Vogel, *supra* note 63, at 569 (community conferencing arose out of New Zealand in order to address juvenile cases with indigenous Maori children).

72. VAN NESS & HEETDERKS STRONG, *supra* note 25, at 28.

future.⁷³ This process is misplaced in the context of sex abuse because the seriousness of a sex crime requires the case to go through the criminal justice system as the offender must face significant prison time. In addition, sexual predators are a higher risk to the community than juveniles who have committed minor offenses. Further, FGC only includes people with close ties to the specific offense or parties involved, and do not include community members. In addition to involving specific offenders, members of the community will need to be involved in a restorative process if organizations want to heal their reputations.

The best restorative justice technique in repairing the reputation of the organizations at issue in this Article is the peacemaking circle. The goal of these circles, as indicated by Howard Vogel, is “to offer hope for healing not only the wrongdoing between individuals” but also to “lift the heavy burden of human history and open up a future in which all life may flourish.”⁷⁴ These circles also encourage lay participation and enhance the quality of information available to the group.⁷⁵ Further, circles have led to brainstorming creative solutions to problems.⁷⁶ Although reconciliation of a relationship is one of the goals of restorative justice,⁷⁷ it is unlikely to reconcile a relationship between a sex offender and a child; therefore, the relationship to reconcile with restorative justice is the relationship between those affected within the organization’s community and the leadership in that organization.

Peacemaking circles empower victims who have both been directly affected by the sexual abuse and “secondary victims” who have lost trust in their organization.⁷⁸ These circles can also include a broader array of “offenders,” who are loosely defined as organization leaders who have decision-making power over preventative measures. The empowerment of victims will allow them to control and create what form of justice they will receive, and the inclusion of organization decision-makers in addition to direct offenders will facilitate an acceptance of responsibility and a creative outlet for preventative measures.⁷⁹ This inclusive process,⁸⁰ which allows the input of others in addition to that of a direct victim and offender, is the best option because members of the organization not directly affected by the

73. *Id.*

74. Vogel, *supra* note 63, at 595, 591

75. VAN NESS & HEETDERKS STRONG, *supra* note 25, at 29.

76. *Id.*

77. ZEHR, *supra* note 66, at 188.

78. Janine Geske, *Restorative Justice and the Sexual Abuse Scandal in the Catholic Church*, 8 CARDOZO J. CONFLICT RESOL. 651, 653 (2007).

79. ZEHR, *supra* note 66, at 204.

80. VAN NESS & HEETDERKS STRONG, *supra* note 25, at 30.

sexual assaults are far enough removed so that there is potential to maintain their loyalty to the organization. Further, they are familiar enough with organization practices so they can tell their organization what leadership should have done in certain situations so that the organization can make an effort to change it.

Peacemaking circles emphasize building relationships first, followed by making a plan of action.⁸¹ They gather information about the causes of harm, the parties involved, and what role the greater community plays in disposing of that harm. There are five main features of the circle: (1) guidelines, (2) a talking piece, (3) keeping/facilitation, (4) consensus, and (5) ceremony.⁸²

Creating guidelines is one of the most important aspects of a circle. These guidelines arise from shared values that are based mostly on respect.⁸³ These guidelines make sure that the meeting goes smoothly without overt conflict that will inhibit resolution of the problem. In the situations at hand, using guidelines based on the culture of the organization can be beneficial in creating a baseline understanding on from which communication can freely flow. For example, the Boy Scouts can use its common themes relating to respect and leadership that all parties are familiar with to keep order during the process. If the members of the discussion can agree on certain values at the outset, they may be able to communicate and understand each other better.

The Catholic Church can use elements of its faith that participants of the meetings value in order to set guidelines. For example, the group may start with a prayer to indicate each participant's commitment to his or her faith as well as the common hope of achieving the goal of making the Church community a safe place for children. Jim Van Yperen, in analyzing internal church conflicts, indicates that Western Church culture has become increasingly individualistic rather than fostering a "transforming community of faith."⁸⁴ His book compares religion in the West to consumerism. Yperen believes that "God becomes a product made after our consumer tastes and desires,"⁸⁵ or in other words, God becomes what people want him

81. Vogel, *supra* note 63, at 587. See also KAY PRANIS, BARRY STUART & MARK WEDGE, PEACEMAKING CIRCLES: FROM CRIME TO COMMUNITY (2003).

82. *Id.* at 590.

83. *Id.* at 591.

84. JIM VAN YPEREN, MAKING PEACE: A GUIDE TO OVERCOMING CHURCH CONFLICT 31 (2002).

85. *Id.* at 35.

to be in order to fit within the framework they have created for their lives. This kind of mentality will be ineffective within a discussion within the Catholic Church because factions will result, and communication will become difficult. In a religious discussion involving the goals of a church, Yperen argues that addressing a church conflict is about lordship and submission or believing in one community goal to live as God would like us to live, rather than living in our own autonomous way.⁸⁶ If a prayer to a common God can lead us to this guideline in a restorative justice process, it is worth saying a prayer.

Finally, Penn State can set guidelines and set the tone of the meeting by having an introduction about the mission and values of the university. Beginning with a discussion of the mission statement of the university is appropriate in uniting people with a connection to Penn State. One phrase of the university's mission statement that is particularly important to highlight is that the institution "improves the well-being and health of individuals and communities through integrated programs of teaching, research, and service."⁸⁷ Improving the well-being of individuals is a goal that unifies all parties. Additionally, sharing an educational institution or alma mater is a powerful connection among people since their college years are important to personal development. Colleges have the ability to shape a people. This shared experience can produce guidelines of respect among the parties. The organizations that take over the Second Mile's Programs can indicate that their goals are to keep children safe. It is important for everyone present at the meeting to find something that they have in common with one another so that they can better communicate.

In order to ensure that the guidelines create an atmosphere of respect, it is beneficial for circles to have a talking piece, which allows that person who is holding the talking piece to add something to the dialogue.⁸⁸ This prevents interruption and promotes listening by ensuring that only one person speaks at once. In addition, it is useful to have what is called a keeper or facilitator to bring the participants back to the underlying goal of the meeting when they get off-track.⁸⁹ Finally, ceremony is important to a circle at the beginning and the end of the meeting to mark it off from the person's everyday lives, so that they may focus wholeheartedly on the task at hand.⁹⁰

86. *Id.* at 55.

87. *Mission and Character*, PENN STATE, <http://www.psu.edu/this-is-penn-state/leadership-and-mission/mission-and-character> (last visited Sept. 14, 2013).

88. Vogel, *supra* note 81, at 591–92.

89. *Id.* at 592.

90. *Id.* at 593.

In a circle, consensus is important, but consensus does not mean unanimity.⁹¹ It simply means that the group comes to a common understanding. Even if a person does not agree entirely with the plan, the unity of the circle will make him or her ready to allow the plan to be carried out in the interest of the organization concerned.⁹² Progress in consensus and unity is an important aspect of the stories of Jeff Buckland, Megan Peterson, and Aaron Fischer.

V. VALIDATION FOR VICTIMS HUMANIZES THE PROBLEM AND LEADS TO CONSENSUS

Jeff Buckland, who was molested by his Scout leader in the Boy Scouts, said: “I want the Boy Scouts to know my name for once .†.†. I don’t want to be an invisible case number anymore.”⁹³ In other words, he wanted to make a difference within the organization by being heard and understood. Megan Peterson, a member of the Catholic Church, doubted herself because she felt guilty and isolated after she was abused by her priest.⁹⁴ Later, Megan attended a Survivors Network of those Abused by Priests (SNAP) conference, where she was able to share her experiences with other survivors of priest sexual abuse. These survivors said in a unanimous voice: “that [Megan] was not alone, that they not only understood, but wholeheartedly supported and were behind [her],” which helped Megan gain strength.⁹⁵ Aaron Fisher, an eighteen-year-old molested by Sandusky when he was younger, came forward to tell his story and to seek justice against Sandusky. He later identified himself by name because he wanted others to recognize what he had been through.

The experiences of these victims indicate the need to get validation from other victims or supportive community members to heal, and this validation can also lead to unity. The participants who hear these stories and validate the victims can develop an interest in the health of the organization and begin to desire to resolve the problem because of the humanization of the faceless victims. In addition, victims’ actions are steps toward bringing awareness to the organization and the community surrounding the

91. *Id.*

92. *Id.*

93. Sickles, *supra* note 1.

94. Peterson, *supra* note 3.

95. *Id.*

organization so that they can understand the consequences of prior events and make changes as needed. These victims want to cause a stir: Jeff by making himself known to the leadership of the Boy Scouts as a human being with emotions, rather than just a number identifying one of many cases; Megan, by sharing her survivor story in a public forum on the SNAP website to connect with and help other victims; and Aaron by identifying himself to the public and writing a book about his situation to expose corruption and to give strength to other victims.

VI. PEACEMAKING CIRCLE IN ACTION

One great example of a peacemaking circle that would be beneficial to provide validation for victims and thus unity for each of these groups is Marquette University's Healing Circle. This circle process was videotaped and included victims, clergy, and other believers to help them move forward together as a Church and to discover painful truths.⁹⁶ Retributive justice focuses on the State as the victim, whereas restorative justice views people and relationships as the victims.⁹⁷ Victims' needs, rights, and an interpersonal dimension are central in restorative justice, whereas these dimensions are ignored in retributive justice in the courtroom.⁹⁸ This means that an important part of the process in healing the relationship between victims and the organization uncovering emotions. In addition, in a setting in which people can talk about their experiences, more context of the victimization is available so the parties can work toward prevention. Looking at problems through a restorative lens requires one to look at the offense in terms of moral, social, political, and economic factors rather than just in legal terms.⁹⁹ A more thorough and in depth problem-solving process can be accomplished with more information.

In the Healing Circle at Marquette University Law School, one woman shared that she lost her son to suicide after a priest at his high school molested him.¹⁰⁰ After years of having a mystery person leave flowers on her son's grave, she found out the man who had been leaving the flowers had been accused of molesting and providing alcohol and drugs to boys.¹⁰¹ The woman was participating in the circle because she wanted to speak on

96. *The Healing Circle: Victims of Sexual Abuse by Clergy Share their Stories*, *supra* note 16.

97. ZEHR, *supra* note 66, at 185.

98. *Id.*

99. *Id.*

100. *The Healing Circle: Victims of Sexual Abuse by Clergy Share their Stories*, *supra* note 16.

101. *Id.*

behalf of her son, as she never had the opportunity to do so, by partaking in the filming of the video, twenty years after her son's death.

Another woman, at the age of twelve, mistook attention from her priest as love and was excited by the love letters he wrote her.¹⁰² When she went to a nun to tell her about the relationship and her sexual feelings, the nun told her she was just a child and did not know any better. Then she went to the pastor who told her that she was "old enough to seduce a priest."¹⁰³ When she went home, her parents were reading her love letters, and her father blamed her and called her a whore, while her mother asked her how she could do this to them.¹⁰⁴ She continued to faithfully practice Catholicism until she went to a therapist in her forties who told her the abuse was not her fault.¹⁰⁵ This circle gave her another reason to believe that she was not at fault and needed to expose the problem.

An offender also spoke about his experience, and even expressed shock that he could continue in his work as a priest without any consequence despite committing lewd acts.¹⁰⁶ However, he was angry that the institution "pretends that he doesn't exist" after his former actions came to light.¹⁰⁷ In saying this, he is not taking responsibility but blaming the Church for his problems. While offenders need to take responsibility for their actions, the Church cannot hide offenders behind a cloak of secrecy by allowing them to continue to work in the Church.

A friar beautifully brought the session to a close. He said that the evil that is done is done in the darkness, and the Church needs to bring the evil into the light.¹⁰⁸ He said that just because a pastor has done good acts, does not mean that he has not done bad things.¹⁰⁹ Furthermore, parishioners should not turn their heads the other way because they do not want to believe someone they trust could molest a child.

The purpose of Judge Geske's Restorative Justice Circle at Marquette was to "create a restorative justice media piece that could be used to facilitate the dialogue in parishes, in seminaries, in victims groups, and in other community settings," so people could have an idea of the level of harm

102. *Id.*

103. *Id.*

104. *Id.*

105. *Id.*

106. *Id.*

107. *Id.*

108. *Id.*

109. *Id.*

done by the scandals.¹¹⁰ While this Article argues that each organization should use a peacemaking circle format that includes community members in restoring its reputation, each organization also has unique needs.

VII. INDIVIDUALIZED RESTORATIVE JUSTICE FOCAL POINTS FOR EACH ORGANIZATION

A. *Boy Scouts of America*

The Boy Scouts of America seems to be the group that has taken the most steps toward protecting children. This is likely because it has acknowledged the abuse within this organization by releasing the “perversion files” and partaking in the new abuse safety steps previously discussed. Its circle meetings will be less likely to focus on what steps to take to protect the children within the organization because several useful steps have been taken. Rather, it will likely focus on regaining community and parent trust in light of the leadership’s failure to address the many allegations in the “perversion files.” The mindset of the community and not the leadership is largely what needs to change in order to restore the reputation of the Boy Scouts.

Another issue that has recently been a part of the Boy Scouts is whether or not to allow gays to join the organization. After a great deal of discussion and surveys given to membership of the organization, the Boy Scouts decided to admit gay scouts because of the belief that “kids are better off in scouting,” and because the mission of the Boy Scouts is to “serve every kid.”¹¹¹ This new step has caused a backlash within the organization. As a result of the decision to admit gay youths, replacement-scouting groups have materialized to meet the Christian values of some former members of the Boy Scouts.¹¹² One of the founders of a new organization called Trail Life USA, John Stemberger, says that he was raised in the Boy Scouts that had “103 years of culture and language and program and symbols,” and the new organization is seeking a fresh start.¹¹³ The program aims to incorporate

110. Janine Geske, *Restorative Justice and the Sexual Abuse Scandal in the Catholic Church*, 8 CARDOZO J. CONFLICT RESOL. 651, 654 (2007).

111. Phil Gast, Greg Botelho & Devon M. Sayers, *Boy Scouts to Allow Gay Youths to Join*, CNN (May 24, 2013), <http://www.cnn.com/2013/05/23/us/boy-scouts-sexual-orientation/index.html>.

112. Miranda Leitsinger, *Christian-based Scouting Group Launches After Boy Scouts Allow Gay Youth*, U.S. NEWS, Sept. 7, 2013, available at http://usnews.nbcnews.com/_news/2013/09/07/20363903-christian-based-scouting-group-launches-after-boy-scouts-allow-gay-youth?lite (last visited Sept. 15, 2013).

113. *Id.*

strong Christian values in raising young men,¹¹⁴ which has the potential to further exclude others of religious faiths even though the organization does not expressly make these exclusions.

The decision to allow gay youths in the Boy Scouts has created factions that have parted ways with the organization, further causing the disintegration of unity. Similarly, the issue of child sex abuse in the Boy Scouts has led to disintegration of unity. However, instead of members starting fresh with new organizations, like Trail Life USA, it is important for the program and culture of the Boy Scouts to remain central in a restorative justice discussion. This will ensure that all parties have something in common, and will lead to a good starting point for understanding that will lead to unity. After all, new spinoff organizations will never be able to gain the same power and reputation as a historical institution like the Boy Scouts. Instead of branching off like some Christians within the Boy Scouts did, it would be more beneficial to those alarmed by child sex abuse to discuss ways coexist peacefully by listening to the different opinions while maintaining their values.

B. Catholic Church

The Catholic Church is behind the Boy Scouts in implementing abuse prevention steps. This is largely because much of the Catholic community still denies that there is a problem of abuse within the Church and blames the problem on society. Unlike the Boy Scouts who, for the most part, concede that abuse occurred in light of the release of the perversion files, many Church authorities still deny some allegations. Church leaders need to change their own mindsets from ones solely concerned with their statuses within the Church to ones that are concerned with the well-being of children.

Further, the Catholic Church has damaged the faith of many members. Religious faith to many people is not simply an enrichment like the Boy Scouts or Second Mile might be to some people. Many people build their lives and values around their faiths, and if their faith is destroyed, they may have a void in their lives that may leave them feeling lost. This is a unique problem that must be addressed in the circles.

The Catholic Church faces an additional challenge compared to both the Second Mile and The Boy Scouts because it is an international organization with a presence in almost every part of the world. Representatives from

114. *Id.*

Asian and African countries were invited to speak to delegates at the sex abuse prevention symposium because the Church recognized that the abuse was not only a Western problem.¹¹⁵ Cross-cultural differences will require restorative justice techniques around the world to be tailored to a particular region. Further, restorative justice techniques cannot only be applied in Rome where the Church is headquartered, but smaller community circles must be utilized throughout the world to reach all members of the Catholic community in a meaningful way.

C. Penn State and Non-Profits Taking Over Second Mile Programs

The Second Mile is now defunct, so the challenge is how a new organization should handle programs from an organization tarnished by scandal. The reputation of the organizations that were previously unaffiliated with The Second Mile will likely face backlash from the community for taking over programs started by Sandusky. However, the new organization will probably not face as many trust issues because it does not have the same record of abuse. So in these circles, the community focus will likely be on how the nonprofits that took over the Second Mile Programs can maintain an upstanding reputation while joining forces with Second Mile programs, rather than on how to regain the faith of the community from past harms.

Penn State will also face a unique challenge because its challenge is not to protect students, alumni, or others involved in the community, because these groups are not at risk. Still, the entire university community has been hurt by the sex abuse scandal perpetrated by one of its own. Penn State may lose some of its alumni network, anger current students, and lose prospective students. Its reputation as an institution of higher learning is at stake because of potential problems in attaining a certain caliber of students as well as alumni donations, even though the scandal had nothing to do with the institution's academics. In the circle, it will be important for the university to take responsibility for the actions of athletics personnel and the president of the university. University personnel, however, should also focus the community's attention on the merits of the school outside of those realms. It will be beneficial to have student circles on-campus to help students cope with the situation.

115. Povoledo, *supra* note 43.

VIII. IMPORTANCE OF PUBLIC APOLOGIES

Apologies are an important restorative justice technique that will begin to repair harm. Victim Jesse Buckland indicated that he did not want money but was concerned with integrity, which was something the Boy Scouts taught him to have when he was part of the organization.¹¹⁶ Apologies in collectivist societies and apologies in individualist societies are very different. The United States is an individualistic society in which litigation is prevalent, so citizens are often trying to protect themselves from liability.¹¹⁷ This makes it difficult for people to take responsibility for their actions and apologize.¹¹⁸ In contrast, in collectivist societies, conflict is disruptive of the community of harmony.¹¹⁹ In these communities, people are very willing to apologize immediately for their actions to restore harmony. The organizations addressed in this Article need to take on more collectivist apology approach to decrease the hostility within their communities so their issues can be resolved through communication in peacemaking circles.

If the Boy Scouts, the Catholic Church, and Penn State do not take full responsibility for their transgressions against those they serve, the harmony within their organizations will disintegrate further. Each of these organizations has released a public apology in some form, but these apologies are insufficient or and not meaningful in a way that will help the organization make amends with those harmed by their transgressions.

After the perversion files were released, the Boy Scouts said it would review all files “and ensure that all good-faith suspicion of abuse has been reported to law enforcement.”¹²⁰ In addition, it said that there “have been instances where people misused their positions in Scouting to abuse children, and in certain cases, our response to these incidents and our efforts to protect youth were plainly insufficient, inappropriate, or wrong.”¹²¹ In

116. Sickles, *supra* note 1.

117. Sam Edwards, Assoc. Professor, Green Mountain Coll. Panel Discussion on Apology at Pepperdine University School of Law Symposium: Rescuing Relationships: Apology, Forgiveness, and Reconciliation (Nov. 2, 2012).

118. *Id.*

119. *Id.*

120. Miranda Leitsinger, *Boy Scouts release secret child abuse files – ‘the pain and anguish of thousands.’* U.S. NEWS (Oct. 18, 2012, 3:03 PM), http://usnews.nbcnews.com/_news/2012/10/18/14539592-boy-scouts-release-secret-child-abuse-files-the-pain-and-the-anguish-of-thousands?lite.

121. *Id.*

addition to these admissions, the organization even made an attempt to apologize: “[w]here those involved in Scouting failed to protect, or worse, inflicted harm on children, we extend our deepest and sincere apologies to victims and their families.”¹²² Wayne Perry, the president of the Boy Scouts of America also once said, “We did not do the job that we should have. †. †. [a]nd for that, and for the people hurt. †. †. we are profoundly sorry.”¹²³ Perry also said: “Today, scouting is a leader among youth serving organizations in preventing child abuse. The [Boy Scouts of America] requires background checks, comprehensive training programs for volunteers, staff, youth and parents and mandates reporting of even suspected abuse.”¹²⁴

The statement, “this should not have happened; this should never happen again,” is different from saying “I was there and let it happen; I am guilty,” in that the first statement does not accept responsibility for the action while the second one does.¹²⁵ Similarly, the statement “and for the people hurt . †. †. we are profoundly sorry,” does not indicate that the Boy Scouts and its leaders harmed the abused boys, but shifts the blame by talking about the harm in the passive voice. In addition, an apology should include an acknowledgement of each harm rather than conflating all the harms and the values underlying each of those harms into one apology.¹²⁶ This statement does not specifically say which harms were done by the Boy Scouts, but just says, “we did not do the job we should have.” It does not address what its job was or what actions it was preventing. In addition, the apology does not indicate why the Boy Scouts are sorry. It would not be appropriate if it said “We are sorry because we got caught for our transgressions;” but it may be appropriate if they said, “We are sorry that our leaders harmed innocent children who were in our care.”¹²⁷

In terms of reform and redress, the apology is fairly effective because the Boy Scouts represent that it has made changes to prevent child abuse. However, it still remains to be seen whether there will be additional offenses in the future. We cannot judge the meaning of apologies without examining future behavior.¹²⁸ An actual change in the behavior for which the organization is apologizing may be the most important aspect of the apology because it shows sincerity.

122. *Id.*

123. Ron Claiborne, Rinda Adhikari & Enjoli Francis, *Released Files Detail Alleged Abuse in Boy Scouts*, ABC NEWS, (Oct. 18, 2012), <http://abcnews.go.com/US/released-files-detail-alleged-abuse-boy-scouts/story?id=17512745#UJd5kpguhzQ>.

124. *Id.*

125. NICK SMITH, *I WAS WRONG: THE MEANINGS OF APOLOGIES* 36 (2008).

126. *Id.* at 56–58.

127. *Id.*

128. *Id.* at 80–81.

Pope Benedict XVI apologized to victims of sex abuse in Ireland in 2010 by acknowledging that the victims “have suffered grievously, and [he was] truly sorry” that their “trust has been betrayed and [their] dignity has been violated.”¹²⁹ The Pope also said that Ireland’s bishops were responsible for “grave errors of judgment and failures of leadership.”¹³⁰ However, the Pope did not ensure penalties for abusers. In addition, the apology was solely focused on Irish abuse.

Colum O’Gorman, a victim and co-founder of a victim’s group, was offended that the abuse acknowledged was limited to Ireland because victims “know that this is a global and systemic problem in the global church,” and he is concerned that the Church is only concerned about “protecting the institution and, above all, its wealth.”¹³¹ There is concern that an apology is insufficient if there is no further action taken to prevent future abuse. If the Church were truly sorry, it would take steps to prevent the harm. The Pope offered to do a retreat where they prayed for “healing and renewal,” but Terrence McKiernan, president of BishopAccountability.org, argued that the Pope “approach[es] this as a problem of faith, when it is a problem of church management and a lack of accountability.”¹³² The Pope does not take responsibility but blames the Irish bishops that are separate and distant from him for the action; instead, the Church needs to realize that it is a collective body that needs to take responsibility all the way at the top of the hierarchy.

Sandusky’s apology to a mother who confronted him for inappropriate behavior in a shower before he was caught for other incidents of sexual abuse was insincere. He said, “I was wrong. I wish I could get forgiveness. I know I won’t get it from you. I wish I were dead.”¹³³ This apology clearly was insufficient because Sandusky’s future behavior of abuse showed that he was not truly sorry. He also did not acknowledge the specific offenses he committed and the values underlying them. It also seemed that he was attempting to shift pity to himself by saying that he wished he were dead.

129. Rachel Donadio & Alan Cowell, *Pope Offers Apology, Not Penalty, For Sex Abuse Scandal*, N.Y. TIMES (Mar. 20, 2010), http://www.nytimes.com/2010/03/21/world/europe/21popo.html?pagewanted=all&_r=0.

130. *Id.*

131. *Id.*

132. *Id.*

133. Mark Viera, *Former Coach at Penn State is Charged with Abuse*, N.Y. TIMES (Nov. 5, 2011), <http://www.nytimes.com/2011/11/06/sports/ncaafootball/former-coach-at-penn-state-is-charged-with-abuse.html?pagewanted=all>.

Finally, and most importantly, he shifts the burden of the apology onto the mother by saying he wished he “could get” forgiveness and saying that he knew he would not get it. He should have made it his responsibility rather than shifting the burden to the mother by giving her the choice of whether or not to bestow an affirmative act. Further, Sandusky not only has not apologized for the crimes against children for which he has been charged and convicted of, but he pled not guilty and maintained his innocence, thus indicating he has taken no responsibility.¹³⁴

After the Freeh Report found that University officials failed to expose Sandusky for molesting children, Penn State’s board made a public statement that resembled an apology. In the statement, the board cited the university’s failure to protect the vulnerable young boys victimized by Sandusky. The board of trustees at Penn State released a statement on November 8, 2011 that said in part:

As parents, alumni and members of the Penn State Community, our hearts go out to all of those impacted by these terrible events, especially the tragedies involving children and their families. We cannot begin to express the combination of sorrow and anger that we feel about the allegations surrounding Jerry Sandusky. We hear those of you who feel betrayed and we want to assure all of you that the Board will take swift, decisive action.¹³⁵

This statement attempted to indicate that it understood the way the victims and those affected by Sandusky’s sexual abuse felt by stating that it feels sorrow and anger. While it is trying to show empathy, some victims may be offended by the implication that the board understands what they have gone through because the members of the board have not themselves faced abuse. It is reassuring that the statement indicates that the board of trustees hears the victims and that it will take decisive action. However, never in the statement does the board take responsibility for its failure to protect the children when its own employees covered up the sexual transgressions. This was likely an apology attempt that did not sit well with victims and their families. On the other hand, the school’s actions are consistent with sincerity since it spent \$1.5 million for former Louis Freeh’s consulting firm to investigate how the university dealt with sexual abuse allegations against Sandusky.¹³⁶

134. *Jerry Sandusky Pleads Not Guilty*, ESPN (Dec. 13, 2011, 8:38 PM), http://espn.go.com/college-football/story/_id/7347708/penn-state-nittany-lions-scandal-jerry-sandusky-pleads-not-guilty-sex-abuse-charges.

135. *PSU Board Promises ‘Swift, Decisive Action,’* CBS PITTSBURGH (Nov. 8, 2011, 11:59 PM), <http://pittsburgh.cbslocal.com/2011/11/08/psu-board-promises-swift-decisive-action/>.

136. Colleen Curry, *Penn State Foots \$3.2 Million Bill for Sandusky Scandal*, ABC NEWS (Feb. 14, 2012, 12:48 PM) <http://abcnews.go.com/blogs/headlines/2012/02/penn-state-foots-3-2-million-bill-for-sandusky-scandal/>.

IX. CONCLUSION

Peacemaking Circles are the best restorative justice process to use to bring together the communities and organizations facing a decrease in loyalty in light of sex abuse scandals. The inclusive nature of these circles allow a wider spectrum of people to participate and will allow for a creative discourse in how to prevent sex abuse of children entrusted to these organizations. Each organization will have to use its different culture in a way that will best reach those who once believed in it. The Boys Scouts, the Catholic Church, and Penn State all have a great deal of value to offer the community in their missions for bettering society; however, the transgressions of a few within their ranks have harmed their reputations, and a transparent dialogue is one of the only ways they can begin to rebuild.