Cellblocks To Mountaintops Podcast
Episode 5:
RESTORATIVE JUSTICE
Transcript

Cheryl: When I was a little girl, I would drag my parents to open houses. They would get me *Architectural Digest* magazines.

Host: Cheryl McKinley told her boyfriend, Sterling, that she'd always dreamed of working in real estate.

Cheryl: He was very supportive of me. He's all about people setting goals and reaching your goals. So, I started taking real estate classes, and then he asked me to send the work. So, I would be sitting in the library making all these photocopies of the book. Like, he memorized everything just so he could quiz me and help me study.

Host: Cheryl did pass her exam and she got her broker's license.
Sterling never got a license, but alongside Cheryl, he definitely learned the ropes.

Before going to prison at age 16, Sterling had only made it through sixth grade. He managed to get his GED in his late teens, but it wasn't until years later that he developed his appetite for learning and began to devour books. And he wanted more.

College classes at Oregon State Penitentiary are typically reserved for people who have release dates. Sterling didn't have a clear path to ever getting out, so he wasn't allowed to enroll.

Sterling Cunio: They wanted the limited resources to be invested in people that had a chance to get out, and would be getting out in time, to where that college degree could help their transition and improve their mobility. I got that.

Host: He had to jump through some hoops to join the class, and he also had to pay his own tuition that first year. But he did, and the experience was life changing.

Sterling Cunio: You know, love is what helped me connect and heal. And education is what expanded my realm of thinking.

Host: He took classes on social inequities, restorative justice, and conflict resolution. He shared what he was learning with those around him, and in the process, he slowly began to transform the culture of the prison.

Sterling Cunio: Ironically, those early years of always being in some shit, being in the hole, not backing down from fights, it was that, that gave me some credibility when I started talking about peace. A decade and a half later, the fact that people knew I wasn't afraid of violence, the fact that people knew I could carry it out. When I started talking about doing things differently, when I started talking about the necessity of healing and the power that we could have in solidarity versus always fighting with each other, they was listening.

Host: I'm Phil Stockton, and in this episode of Cellblocks To Mountaintops, restorative justice in a maximum security prison. Stay with us.

Host: A common perception of restorative justice is that it's just some newfangled, hippie dippy approach to dealing with low-level crime. But that couldn't be further from the truth. It can take a lot of work and deep engagement. And while it's becoming more common, particularly in high schools across the country, it's rooted in ancient practices that exist in several Indigenous cultures. It's really just an alternative way to deal with crime, one that prioritizes healing and building community.

Danielle Sered: Restorative justice is a process in which the people most directly impacted by a given harm come together to address that harm and agree to ways the person responsible can make things as right as possible.

Host: Danielle Sered is a leading expert on restorative justice and the author of *Until We Reckon: Violence, Mass Incarceration, and A Road to Repair*. We met her briefly in Episode One. She says restorative justice can look very different depending on the context and the context for her organization, Common Justice, is the adult criminal court system in New York City.

Danielle Sered: These are serious cases. They are stabbings, they are shootings, they're gunpoint robberies, cases where people sustain serious injuries.

Host: They provide survivors with an alternative if they choose to remove their case from the courts and opt instead for a restorative process, Common justice will facilitate it. They'll work with a survivor while they engage with the person who wronged them. They'll have the chance to make sure that person understands the harm they caused, and together, they will agree on a set of things that need to happen to help repair that harm without prison time.

Danielle Sered: The agreements that come out of our restorative justice circles are very concrete. They're not, feel love in your heart. They're not feel sorry. They're go do community service, pay restitution, get a job, go to therapy, write this letter, provide this for your child, Right? They're concrete things.

Host: In that way, she says, restorative justice doesn't mean doing the time, but rather doing the work. It redefines accountability.

Danielle Sered: Accountability involves acknowledging what you've done. Acknowledging its impact. Expressing genuine remorse. Making things as right as possible, ideally in a way defined by those harmed and becoming someone who will never do that again.

Host: Sered says that while prisons isolate a person charged with a crime, restorative justice seeks to do exactly the opposite. It grounds people in connection. It creates a pathway for people who have caused harm to not only help repair it, but also transform the relationship with their community and themselves.

Embedded in restorative justice is an acknowledgment that the way we've been responding to violence, the revolving prison door, it just isn't working. 70% of people released from prison return within three years.

Danielle Sered: Most survivors who live in neighborhoods where incarceration is common know that it will not keep them safe. They have already paid the price for its failure with their enduring pain. And so, when they are looking at a choice of where they want someone to go, whether that's a program or a prison, very often they give up their desire for revenge in the interest of their well-being. And so, I think it's really important when we talk about moving away from draconian sentencing, that we don't talk about that as an act of kindness, as a culture. We talk about it as an act of self-interest. It's an act of pragmatism. In the same way individual survivors make those choices. Not because they love the person who hurt them, but because they love themselves, they love their families and their neighbors, and they want something that will make the violence stop.

Host: Common Justice is the first program of its kind and currently does not work with murder cases. Still, the cases they take on are violent felonies and they've had overwhelming success. Sered says that fewer than 7% of participants have been cut from the program for committing a new crime.

Danielle Sered: You know, as survivors, we have two bottom lines. We don't want to be hurt again, and we don't want others to go through what we went through. And so recidivism is actually deeply important to us as survivors. Solutions that generate more violence are harmful to us. As survivors, we have been hurt because of the failure of our current approaches to keep people safe.

Host: Studies have consistently shown that survivors involved in restorative justice processes tend to be much more satisfied with the outcome.

Danielle Sered: And among these survivors, the ones in the system, the one who's sustained the worst pain. When we say, do you want the person who hurt you incarcerated, or do you want them in Common Justice? 90% choose Common Justice. 90%. One of the main lessons of that is you cannot predict, in the absence of options, what people will do in the presence of options. When options are present, you start to be able to see what people really want.

Host: In that way, it empowers survivors, makes them more a part of the process, and oftentimes it can help them heal from the harm done.

Sterling Cunio: The thing that really pulled me in is the question wasn't what's the appropriate punishment? The question was, how do we restore the harm?

Host: One of Sterling's first college-level courses was a deep dive into restorative justice. And it immediately clicked. As part of the class, students had to develop a proposal for applying restorative justice principles to a new setting. Sterling wanted to change the environment he'd likely spend the rest of his life in, one riddled with violence and conflict. So, with another student inmate, he mapped out what that might look like.

Sterling Cunio: The proposal was to have weekly meetings with prisoners, staff, counselors, community volunteers, to focus on how we could shift prison culture and reduce harm. It was like a circle process for shifting prison culture with stakeholders who could do it.

Host: But at the end of the semester…

Sterling Cunio: We found out like this is just a school assignment, we was like, nah, let's, let's try to push this, so we started a restorative justice group.

Host: It began as a kind of study group. Sterling started handing out books. He bought some, photocopied some, and got a handful donated. They read *Changing Lenses* by Howard Zehr, a classic text of the restorative justice movement. They handed out dozens of articles and chapters from other books. They invited anyone they thought might be interested, even people still actively engaged in the gang culture.

Sterling Cunio: So, we would just start having these conversations. Looking at accountability and responsibility. Not as a euphemism for punishment and suffering, but as the possibility for empowerment. Right?

Host: At first it was all happening very informally, but the bigger and more regular it became, the more they needed a place to gather and help accessing materials. But the problem with programs at OSP is that, like most prisons, participants need to have a clean disciplinary record for at least 18 months before they can get involved. However, everyone is allowed to attend events in the chapel, regardless of status.

Karuna Thompson: The chapel became a doorway because we were one of the few legitimate places that could bring in from outside.

Host: Karuna Thompson had been a chaplain at OSP for several years but was working towards her doctorate when Sterling and his friend started their group. When she returned and saw what they were doing, she immediately offered to start hosting their conversations.

Karuna Thompson: And so we pushed the boundaries of, well, it may not be religious, but it is community development and it is human development.

Host: That support from Karuna gave the restorative justice group legitimacy in the eyes of the administration, as well as a place where everyone, even people still actively participating in the violence could get involved. And that was the crucial piece if they wanted to make real change.

Sterling Cunio: All of them younger gang members that I was fighting when I was kids, 10, 15 years later, we're now really good friends and they were now in leadership positions. So, we would just sit down in the yard and be like, hey, let's have a book study.

Host: Sterling says the readings and the group conversations about them were strategic because what they were really about was creating a shared language and relationships.

Sterling Cunio: We were able to start planting seeds and change the practices.

Host: Here's a recording of one of their discussion groups in early 2020.

Omar Herrera: I'm always trying to somehow be a peacemaker. And if bad acts cause ripple effects, then good acts have to cause the same ripple effects. So, I just. That's what I strive for, and it's a daily thing really.

Cameron Hayes: It’s a big struggle with me. Like we've literally had conversations in here where we're talking about like how a man's willingness to commit violence does not make him a man or that shouldn't make him a man, right?

And then I'll go hit the yard like you hear so-and-so got called a bitch and he didn't do anything? Ah what a f-, ah f-, like wait didn't we just have this conversation? Hold up, hold up.

Sterling Cunio: We just instantly, critique and start to dehumanize. Somebody else in the same situation as us. And yet we in the same… we are in the same yard. I mean, and that's how we end up victimizing people, and this is how the divisions create. Well, it's still a challenge. You know what I mean is, it's still a challenge.

Ben Pervish: I'm 51, bro and, you dig? And it took me 49 years to get it. I've been a follower all my life. The things Cameron just said I'm like, okay, I was that dude who felt I had to do what everyone else did just to fit in, that was me, even though I knew it was wrong. I did it because I wanted to be in the in-crowd.

Sterling Cunio: So we would start having these groups to where we get them to talk, and you get them to hearing about each other's stories. You get on the, you know, working on community projects. It forms a different type of connection. And then whenever there would be some drama on the yard, I could go to pretty much any of the leaders because they were all represented in our effort. So, it was really solidarity work and peace-building work that we had to do under a restorative justice banner.

Host: And it wasn't long before these conversations, and sometimes actual peace circles, were being used to address fights on the basketball court or to cool conflicts between rival gangs.

Sterling Cunio: I can remember there was a racial conflict, gambling, and drugs, and then somebody had jumped on somebody. And then and it just it just escalated from there.

Host: Fights broke out, several of them, and the whole prison was put on lockdown. And when the lockdown lifted…

Sterling Cunio: Everybody's just watching like it's palpable and we're just waiting for it to go again.

Host: Sterling got word from one of the guys involved in the original fight that he wanted to broker peace. So first he talked to leaders of each group individually.

Sterling Cunio: We walk the track, talk, get their perspective, get a couple of guys from the other side. We walk, talk, get their perspective. Then I go walk back with the other guys. One of the things that we know from violence interruption is it don't matter what they're saying, they could be saying mother fucker, I’m going to beat your ass. Well, if you are talking, there's room for communication, right? And so, a lot of that is just giving people time to talk and to express and to feel heard.

Host: Sterling realized no one wanted to be in conflict, but the problem was that no one was going to be the first to propose a truce. So, Sterling got everyone to agree to pause the violence for just one day. Representatives from each side went to the chapel.

Sterling Cunio: Let's just go to a safe space, everybody come with two. And let's figure out how we can talk about a resolution.

Host: Sterling says eventually, 16 leaders from each side agreed to stand down and the tensions cooled.

Sterling Cunio: We did that a lot. We would just start to have a circle process. It just became a part of our culture.

Host: In the summer of 2020. Outrage over the murder of George Floyd sparked widespread protests in the streets. Inside American prisons that anger boiled over and several facilities experienced violent riots. But Karuna says that didn't happen at OSP.

Karuna Thompson: We were actually able to make it through all of the racial tensions in that time and COVID without a single major disturbance. It's not that there wasn't an opportunity for it, but we had representatives of every group, so at each tension point, they were able to intercede and help de-escalate and find a nonviolent response to an insult, a power play by a staff. It's pretty extraordinary.

Host: One day, a professor from nearby Willamette University visited OSP and sat in on the restorative justice group.

Professor Melissa Buis: I really knew next to nothing about restorative justice, so this was all new to me.

Host: Doctor Melissa Buis came to the prison because she was developing a college course on the causes and consequences of mass incarceration.

Professor Melissa Buis: And I thought that what the men there were trying to do was really one of the most extraordinary things. I could imagine they were trying to craft lives of meaning and connection and find ways to make amends, under really extraordinary circumstances of a dehumanizing environment with a lot of violence.

Host: After meeting Sterling and the other men, she decided to invite them to join the class. She brought her students inside the prison. Together, they learned about and discussed the systemic problems that fuel and perpetuate violence.

Professor Melissa Buis: We talk about poverty and economic deprivation and the kinds of circumstances that that breeds for deciding to get involved in crime, maybe at a low level at first. We talk about how childhood trauma can create PTSD that makes you react to certain stimuli or threats in a more exaggerated way. We talk about societal concepts of masculinity and hypermasculinity, and how those concepts are taught in schools and families, and how that can feed into a sense of the way you get respect is to make sure others fear you, to show violence. And we talk about how damaging that is, not just to the communities where that happens, but also to the men.

Host: Melissa says that one of the key takeaways was that most of the men in prison are themselves struggling with the effects of unaddressed childhood trauma and street violence.

Professor Melissa Buis: They would never have thought of themselves that way as survivors of violence, but African American men are more likely to be victimized than any

other group. But we don't necessarily acknowledge that kind of victimization because the victims that we focus on are ones that call the police.

Host: The students talk about what it would take to stop the cycle, and inevitably, the conversations always lead to the same place.

Professor Melissa Buis: We have to change the systems that inadequately address the traumas and needs of children and young adults who end up committing many of those harms for that violence.

Host: It's true that the rate of PTSD in prisons is exceptionally high, even higher than it is among combat veterans.

Professor Melissa Buis: When I sit in a room at OSP with 25 men, you know, nearly every hand goes up for some kind of childhood trauma or abuse, neglect, parents with addiction issues. Nearly every hand goes up for involvement in the foster care system.

Sterling Cunio: And all of these big ass smart books. They talk about the life that I experienced. Now I'm kind of starting to get a little framework. We were actually looking at the data of how structure shapes outcomes. Some get therapy. Others get probation.

Host: That doesn't mean that Sterling or anyone else in the class felt they were let off the hook. Their trauma doesn't excuse their bad behavior, but it does help explain it. It helped these men understand some of the often deeply rooted reasons why they thought, felt, and behaved the way they did. And in many cases, that self-awareness opened the door to healing and transformation. Here's a moment we recorded in Melissa's class.

Professor Melissa Buis: How do you be accountable without falling in the shame pit?

Key Davis: I think that shame maybe was the driver, for the violence in the first place. And when you're accountable for that and you just tell the truth with no excuses, I think that that is that vehicle that brings you up out of the shame. The scariest thing for me was going to my second trial and dropping my whole defense and just telling the truth. I did feel free in the sense that I didn't have to hide behind anything or lie about my case or be ashamed about that. And I was able to speak to my sons and tell them to be men of integrity, and tell them what that meant to me, and that meant something. So that kind of counterbalanced everything.

Host: For years now, Sterling had been open about what he did. He never shied away from the questions about his horrible crime. But he never had the chance to express remorse to the people he most wanted to hear it.

That's after the break.

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Sterling Cunio: As my own sense of guilt and my own sense of appreciation for life increased. So did my regret, and at that time, I felt like my greatest obligation in life was to apologize to the victims.

Host: He had gotten that letter from his victim's nephew while in the hole asking why he'd killed his uncle, but he wasn't legally able to respond. Contact with his victims is against Oregon law, but his studies made him long for healing, for finding a way to make some sort of amends with his victims. For about a decade in the absence of any real dialogue, he practiced a kind of ritual. Every year on the anniversary of his crime, Sterling would reread the transcripts from his original sentencing hearing. He'd read about his victims' lives and about their family's pain.

Sterling Cunio: It was hard, but even to this day, I don't really know why I did it. It was like a deliberate attempt to remind myself of the pain that I caused, and I felt like I had to look at that every year.

Host: By 2012, Sterling had served 18 years of his life sentence, and he was going to have a hearing in front of the parole board. He wouldn't have an opportunity to speak with his victims' families. He could only address the board itself, but he knew they'd be there.

Sterling Cunio: It was the first opportunity that I'd had to address the survivors of the crime since I had last seen them in court. I didn't start thinking about what I did till I was like in my mid-twenties. And now I'd already went through, you know, my depression, my acceptance.

Host He wanted to hear everything they wanted to say to him, answer whatever questions they might have. But he felt for that to have a chance of succeeding. It needed to happen outside of any formal hearing.

Sterling Cunio: You go into the parole board hearings, you know, the victims' families on one side, your friends and supporters are on the other side, and there's no dialogue.

Host: At that stage, his attorneys had several active legal challenges making their way through state and federal courts. So, Sterling made an offer.

Sterling Cunio: I offered to end all of my appeals and offered to accept whatever the victims felt like was an appropriate punishment, and I knew that was going to say life without the possibility of parole. But I was already doing life. But I offered to give up all my appeals and accept whatever outcome in exchange for a circle process, not a circle process to reach some type of diversion, but a process in which I could just talk to them and if that meant and stay in there for the rest of my life, to be able to tell these people that I was sorry and really acknowledge the harm that I did. I was willing to do that. My attorneys thought I was nuts. My friends and family thought I was nuts. Cheryl, she thought it was just absolutely ridiculous, but I felt like that was the most important thing to do.

Host: His attorney, Ryan O'Connor, made that offer through the victim's representative, Rosemary Brewer, but they declined.

Sterling Cunio: So, we end up having that parole hearing. I ignored the parole board's instructions not to talk to them, and I showed them the letter that I had and kept.

Host: The local paper covered the hearing. They wrote that Sterling told the families the nephew's letter had changed his life, transformed him. He said he wanted to acknowledge the permanent pain and profound grief he caused them, and that the pain would always linger. The board cut him off multiple times, told him to address the board, not the families, and when he was later given another chance to speak, he said simply, I'm just really sorry.

The victims' families told the reporter Sterling sounded coached. They didn't believe he was being sincere. The board decided Sterling's next parole hearing wouldn't take place until 2042 when Sterling would be 65 years old.

Sterling Cunio: But after that hearing, the attorney came to my attorney and said they were open to a letter, and so I wrote a letter. I was very careful not to offer any type of mitigation or justification.

Host: In his letter, he referenced several details from their statements at his initial hearing. He'd read them every year and knew them by heart. For example, there was something the grandmother of his victim said.

Sterling Cunio: Like, Grandma talked about being afraid to go outside at night. Yeah, I didn't get that. I didn't understand how, you know, another person's behaviors could imprint a fear in your life and make you feel unsafe, even though you wasn't the direct victim. I don't get that at 16 years old. But later on, when I would read that, I'd be like, oh shit, I've just kept understanding the ripples and the ripples and the ripples. So, the letter was primarily just an acknowledgment of the harm that I had caused. And then I ended it, detailing the commitments that I will live by for the rest of my life in response. And the bottom line for me was that, you know, I come to realize that I had extinguished light from the world and more personally to them, to the family member, and brought all this harm on to their family.

Host: He didn't expect a response and he still hasn't gotten one. But he eventually came to terms with the fact that the family will likely never want to speak with him.

Sterling Cunio: It was heartfelt and knowing that they requested it, even being able to send it was healing. I'm not religious, but I did study a lot of different religious practices. Islam really inspired my discipline. Buddhism was that the only way through something was to face it.

Host: And he was inspired by the Jewish Day of Atonement or Yom Kippur, when, among other things, Jews apologize for any offense or harm they've caused over the past year and ask the offended party for forgiveness. They're only required to ask three times.

Sterling Cunio: I'm not saying like anybody's forgiveness should be on a timeline and forgiveness is a choice. But what spoke to me was there comes a point in time to where no matter how heartfelt your efforts are, no matter how many requests you make, the decision really is with the other person. But there comes a point in time when you have to be okay with the efforts that you made.

Host: Instead, he's working on making his amends in different ways.

Sterling Cunio: Amends don't mean forgiveness. It just means that you realize that you have a choice in the things you do and how you live your life, so you make a commitment to living your life in a way that adds to the life of others. And so that's what I do.

Sometimes people say, how do you carry that guilt? And people look for how grievous you are as an indication of how sorry you are. But what I can promise you is it's not how you grieve; it's how you live. You know, and how I live is with a constant awareness of how precious life is, how valuable it is, and how even little choices can have tremendous

impacts all the way down the line. And so, to live your amends, you do good in the present. And everybody knows how to do good.

Host: Karuna says that in all of her years working for the Oregon Department of Corrections. She's never seen anyone so dedicated to the work.

Karuna Thompson: I would describe his journey as that of kind of spiritual warrior who has been really willing to unflinchingly meet himself, both the good and bad that he's done in the world.

Host: On the next episode of Cellblocks to Mountaintops.

Ruth Bader Ginsberg: You say the sanctity of human life that you're making a 14-year-old a throwaway person.

Host: The national conversation about minors who commit horrible crimes evolves, and it creates new legal possibilities and hope for Sterling's future.

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