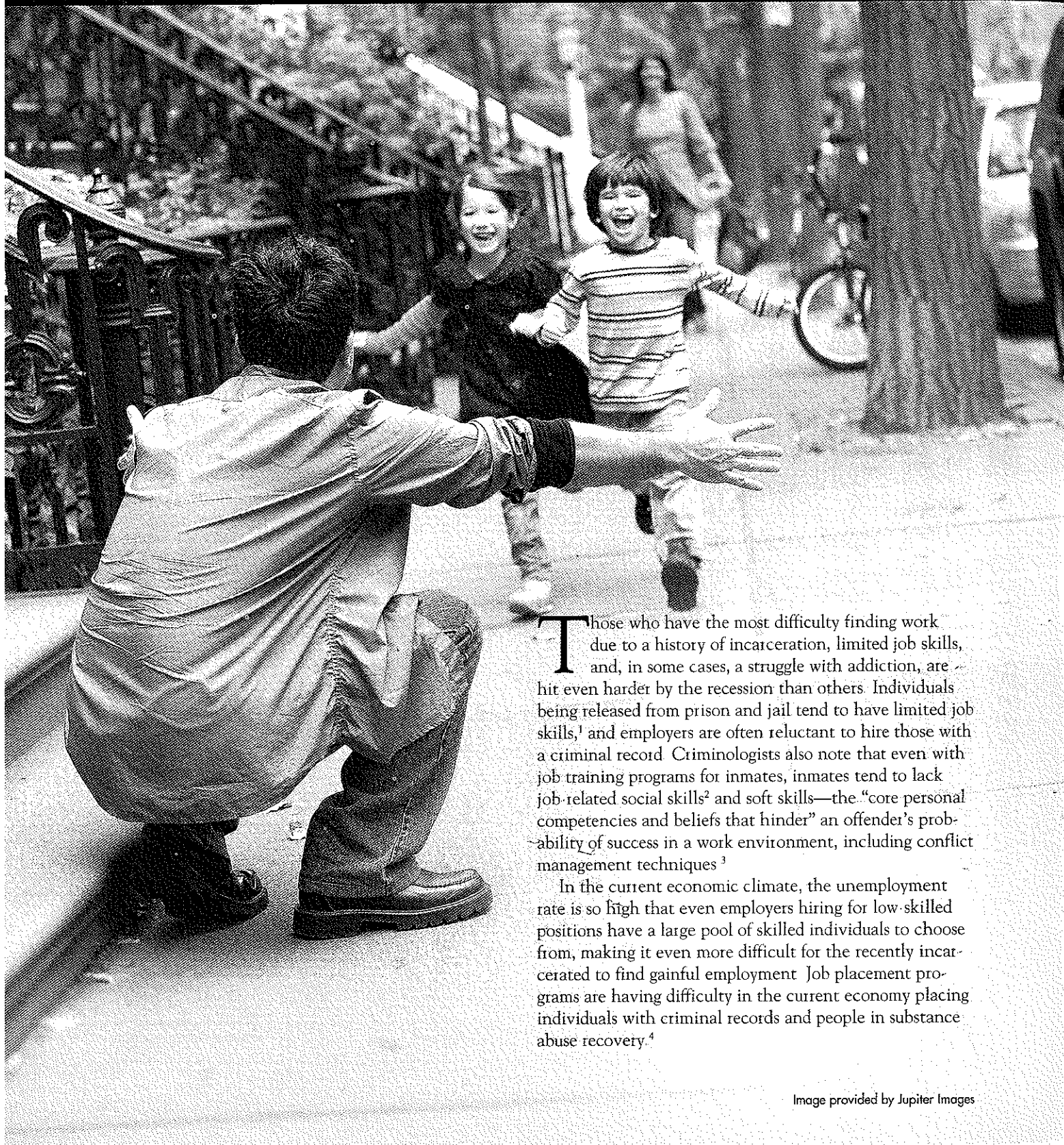


PRISONER RE-ENTRY MEDIATION

UNLOCKING THE POTENTIAL OF RELATIONSHIPS IN TOUGH ECONOMIC TIMES

BY LORIG CHARKOUDIAN AND SHAWN M. FLOWER



Those who have the most difficulty finding work due to a history of incarceration, limited job skills, and, in some cases, a struggle with addiction, are hit even harder by the recession than others. Individuals being released from prison and jail tend to have limited job skills,¹ and employers are often reluctant to hire those with a criminal record. Criminologists also note that even with job training programs for inmates, inmates tend to lack job-related social skills² and soft skills—the “core personal competencies and beliefs that hinder” an offender’s probability of success in a work environment, including conflict management techniques.³

In the current economic climate, the unemployment rate is so high that even employers hiring for low-skilled positions have a large pool of skilled individuals to choose from, making it even more difficult for the recently incarcerated to find gainful employment. Job placement programs are having difficulty in the current economy placing individuals with criminal records and people in substance abuse recovery.⁴

Although criminologists disagree on the overall relationship between the economy and crime rates, noted researcher Alfred Blumstein describes lessons to be learned from the past: "For thousands of young men of limited job skills in the inner cities, the steady decline in wages in the legitimate economy in the 1980s, juxtaposed with the easy money possible in the emerging crack trade, forced a clear economic choice."⁵ In a recent interview with CNNMoney, Michael B. Jackson, an ex-convict and author of *How to Do Good After Prison: A Handbook for Successful Reentry*, said, "Formerly incarcerated people and drug addicts, we don't need a lot of excuse to go back to what we were doing before. In these hard times, when ex-offenders can't get jobs... they're going to be robbing people."⁶

The challenges facing those being released from prison are significant and complex. In Maryland, community mediation centers have been offering a unique response to some of these challenges through prisoner re-entry mediation in several state correctional facilities. When inmates are within six months of release, community mediation center staff meet with them to discuss which relationships will be important in their return to society. Inmates then have a chance to request mediation with these individuals before their release, in order to heal past wounds, and jointly plan for the future. This service responds to needs identified through the criminal justice literature, which finds that prosocial relationships are critical to decreasing recidivism.⁷ Over the past few years, as the financial crisis has hit everyone across the board, re-entry mediators have tried to help inmates and their family members work through increasingly challenging situations as they prepare for release.

Mediation cannot change the economic landscape into which inmates are released, nor can it offer services directly related to jobs and housing. However, re-entry mediation, as it is practiced in Maryland, offers two things that can be particularly supportive in this economic climate. First, the creative problem solving that participants engage in through the brainstorming process allows inmates and their family members to tap into their indigenous resources and develop creative solutions to meet their social and economic needs. This is exemplified by the fact that employment is often a topic of discussion. For example, from April through September 2009, 36 percent of the re-entry mediations conducted in the Maryland community mediation programs included employment as a primary topic. Further examination of these cases reveals that those who discuss employment are also significantly more likely to discuss housing. Second, mediation supports and strengthens relationships, creating a bulwark with which the returning inmate may be less likely to succumb to the pressures created by the economic crisis and less likely to return to drugs and/or criminal activity. In fact, the most often discussed topic focused on by participants in the Maryland community

mediation re-entry programs, 72 percent of the cases in the April–September 2009 period, was the relationship between the inmate and outside participant, including detailed plans for positive communication strategies to manage future conflicts.

The following case studies demonstrate the way economic challenges and relationships are dealt with in re-entry mediation. *Names have been changed to protect the confidentiality of the participants*

Aaron and Jackie

Aaron was 28 and had been in and out of jail for years. Many in his family had given up on him. His grandmother, Jackie, had custody of his 12-year-old son. She was the only one who had maintained contact with him, but even she had not visited him during the three years he had been incarcerated most recently. As he prepared to leave, he requested mediation with Jackie. In the first session, he spent most of the time describing the personal and spiritual changes he had gone through and what he had learned. Jackie expressed gratitude, saying she had always known that this spirit was somewhere in Aaron and that's why she "never gave up on him." They discussed Aaron's son and what it would take for Aaron to eventually be able to be the primary caregiver to him.

The second session took place much closer to the release date. Aaron was starting to feel desperate. He did not have a home to move into. Jackie wanted to help but did not think she could move Aaron into her home because of his history with her husband, Aaron's grandfather. They brainstormed all of the possibilities for housing, employment, and other social services, considering every family member and friend they knew and all of the people who might know about programs that could be of assistance. They divided up the tasks, each committing to investigate each option further. By the time Aaron was released, they had been communicating on a regular basis, and Jackie had decided that it would work to move Aaron into her home while they explored other long-term options. They had one more mediation session in the community, three days after Aaron was released. They both agreed that things were going well, that Aaron was getting along with his grandfather as he never had before and that because of their planning, he



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came out of prison knowing exactly what his first steps were going to be to rebuild his life. Both expressed gratitude, and Jackie said, "Every other time he was released, we all felt so anxious. We did not know what to expect or where his head was. This time we knew exactly what to expect, and he even had appointments scheduled before he got out!"

Michelle and Vivian

Michelle had been in and out of prison a few times. Her mother, Vivian, had custody of her son, Jamal, who was 12 years old. Her mother was also trying to stay connected to Michelle's older son, Brian, but he was 19 and harder to stay connected to. Jamal and Brian's father, Randall, was on the run from the law, and both Michelle and Vivian were concerned that Brian was getting mixed up with Randall. Michelle and Vivian had conflict about the people Michelle had dated in the past, including the person she was involved with when she was last apprehended. Michelle and Vivian indicated that they wanted to work on their communication with each other, as they had seen that their pattern of conflict had been unproductive for both of them. They were also trying to work collaboratively so that both could support Jamal and Brian to stay on a positive path.

Vivian worked at the grocery store. In addition to caring for Jamal, she was caring for her elderly mother. Vivian and Michelle mediated three separate sessions. In between sessions, Vivian's hours were cut at the grocery store, and she expressed concern about how she would get by. She was also concerned about Jamal's health care. In order for her to collect public assistance and get Jamal health care, she had to file for child support against Michelle. (The state will then try to collect this to be reimbursed for some of the cost. This is standard for any time a custodial parent seeks public assistance.) Vivian did not want to do this, because she knew Michelle would come out of prison with several financial challenges and did not want to add back child support payments to the burden. During mediation, Michelle begged her to file for child support against her, so that Vivian and Jamal could get the help they needed in that moment. The mediators facilitated a brainstorm about the topic of finances. In this brainstorm, Vivian and Michelle considered a number of options, came up with a list of questions to ask the Department of Social Services, and finally developed a detailed agreement. Vivian would gather information about what the impact would be on Michelle, how soon

after release Michelle would be required to start paying back, and whether there would be a court date involved. They agreed that Vivian would file for child support so as to receive public assistance and health insurance for Jamal, and continue to communicate the information she gathered in the process with Michelle.

Pam, Ericka, and Delores

Pam was serving time on a drug-related incident. This was Pam's second incarceration. Upon her release the first time, Pam returned to her boyfriend's house where the cycle repeated itself. Pam's parents and her sister had

been raising her son since her first incarceration. Pam's mother, Delores, and her sister, Ericka, saw mediation as a chance to meet with Pam and be proactive in planning before her release. The conversation during mediation focused on giving and accepting forgiveness, putting the past behind them, and developing a long-range plan that would rebuild trust, provide a place for Pam to live, and keep her son safe.

Pam's sister, Ericka, owned a beauty parlor and was feeling the weight of providing for

everyone. During the mediation, they alluded to the current financial crisis, mentioning "the way things are right now," or "Mom and Dad are on a fixed income," or "my shop is not as busy as it was last year." Ericka and Delores told Pam, "We cannot afford to carry your load forever, but we are willing to help." Both realized that if they did not assist with housing in the short term, Pam would end up back in prison.

They agreed that Pam would live with her parents, Ericka, and her son in the family home for one year, during which time she would remain sober and in treatment. (They saw this as the only housing option as the halfway houses were too far from the family and no one had the time, energy, or finances to travel to her.) Within the first three months, Pam would try to find employment. The family would help her get her first apartment. Once she was able to maintain her finances and an apartment on her own, her son would move in with her.

The mediators reported that, although reconnecting with the inmate was the family's first priority, the financial issues could not be avoided. Every family member seemed to get embarrassed when it came up, but financial issues were central and painful for everyone.

When interviewed at least three months later, 59 percent of mediation participants report that communication and their ability to work with the other

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THIRTY-SIX PERCENT OF THE RE-ENTRY MEDIATIONS CONDUCTED IN THE MARYLAND COMMUNITY MEDIATION PROGRAMS INCLUDED EMPLOYMENT AS A PRIMARY TOPIC.

pressures of one faction of the family over the other. For example, if long-time legal counsel is a trustee and answers to management of the company every day while also fulfilling his duty as trustee on a familywide basis, the potential for conflict is obvious. For these very same reasons, that advisor may be reluctant to bring on a familywide advisor, whether it be the family dynamics consultant or the lawyer-mediator, and yet doing so is a very healthy thing. A fresh approach, free of family history and past family dynamics, presents the best chance of a lasting resolution.

Re-Entry Mediation

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participant is better than before mediation. In addition, about half of the participants report that they are using the skills learned in mediation, often stating they are more engaged in active listening and are more likely to try to think through conflict situations.

In addition to improved communications, mediation participants agreed or strongly agreed in the follow-up surveys that as a result of engaging in mediation services, the inmate was more prepared to come home, and the outside person was likewise more prepared for the inmate to come home. Seventy-three percent of participants also reported that as a result of mediation they had more hope for the future. Finally, mediation has the potential to model and teach conflict management skills, which can be valuable in the home and in a job setting. Two of the inmates interviewed at the three-month follow-up stage noted that they reacted to conflict differently since using mediation. One said he "doesn't raise his voice, stays calm, and considers the other party," and the other said he is "less hot-headed, thinks things through, and tried to avoid conflict."

Re-entry mediation is a relatively new service responding to the complex and persistent challenges of individuals returning to the community after a period of incarceration, which is further complicated by the current economic climate. Initial results of quantitative and qualitative research imply that this innovative use of mediation is a promising intervention allowing inmates and their family members to collaboratively respond to critical challenges they face during the transition period. Evaluation efforts currently under way will reveal the extent of the impact of re-entry mediation for ex-offenders and their communities. ♦

Endnotes

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What Does the Situation Call For?

A lawyer can draft the best complaint in the world, take the best deposition, conduct the best closing argument, but all is for naught if those tools are simply not what the situation calls for. There is a time for a legal approach, and the best time is after a nonlegal professional has determined how best to manage family emotion and history. Then and only then can the lawyer proceed with confidence that his or her hard-earned skills are giving the client maximum benefit. ♦

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ADR Calendar

Mediators Beyond Borders

Third Annual Congress

March 5-7, 2010

Washington, D.C.

Contact: www.mediatorsbeyondborders.org

ABA Section of Dispute Resolution Spring Conference

April 7-10, 2010

Hyatt Regency Embarcadero

San Francisco, California

Contact: www.abanet.org/dispute

Association of Family and Conciliation Courts 47th Annual Conference

June 2-5, 2010

Sheraton Denver

Denver, Colorado

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