

Commission on English Prisons Today

Restorative Justice Working Group Discussion Paper

This discussion paper provides the background to the issues we considered at the first meeting of the Restorative Justice Working Group and a précis of the focus of our discussion.

A Working Definition of Restorative Justice

Restorative justice encompasses values, aims and processes which have as their common factor attempts to repair the harm caused by criminal behaviour. Its core values include: mutual respect; the empowerment of all parties involved in the process; accountability; consensual, non-coercive participation and decision-making; and the inclusion of all the relevant parties in dialogue, namely offenders, victims and those who make up the wider community in which the crime occurred. Restorative justice embraces multiple aims, including: a reduction in the risk of re-offending by holding offenders accountable, by requiring them to explain how they think their actions might have affected others; the lessening of the fear of crime; and a strengthening of a sense of community. Restoration should address a wide range of harms caused to victims, other members of the community and even to the offender him or herself, including material and emotional loss, safety, damaged relationships, dignity and self-respect.

Restorative Applications

Restorative justice is used as a sole intervention or part of a package of interventions to address different kinds of harms: from bullying in schools, anti-social behaviour or neighbourhood disputes; through violent crime, hate crime or fraud; to responding to crimes against humanity, for example, managing truth and reconciliation in post-apartheid South Africa or bringing about transitional justice by way of Gacaca courts in post-genocide Rwanda.

The focus of this paper is on how restorative justice can work alongside other interventions for offenders and victims of crime in England and Wales with the aims of: reducing the prison population (which recently exceeded 82,000); reducing recidivism rates (about three quarters of young offenders reoffend within two years of being released from prison); reducing the fear of crime and improving the public's confidence and trust in criminal justice¹; and assisting victims and the wider community in coping with the aftermath of criminal behaviour. Before exploring how these aims could be met, it is necessary to describe the current level and extent of restorative activity in England and Wales and consider why it is limited so that we might learn the lessons of the recent past.

¹ At the end of a decade of falling recorded crime rates, an Ipsos-MORI poll reported that the majority of the public do not believe that crime has fallen and are not convinced that the government can reduce crime and disorder: B Duffy, R Wake, T Burrows, and P Bremner (2007) *Closing the Gaps: Crime and Public Perceptions* (Ipsos-Mori).

Over the past decade the Labour government has introduced various youth justice measures, under the *Crime and Disorder Act 1998* and the *Youth Justice and Criminal Evidence Act 1999*, which have the police and other key agencies involved in restorative justice. *The Crime and Disorder Act 1998* replaced police cautions for young offenders with 'reprimands' and 'final warnings'. A final warning triggers a referral to the Youth Offending Teams (YOTs), overseen by a national supervisory body set up under the 1998 Act, the Youth Justice Board of England and Wales. The YOT should then undertake an assessment of the factors which may have contributed to the offending and consider if some form of intervention is necessary to reduce the likelihood of reoffending. Hence the YOT may put in place a 'change' programme (the statutory name for which is a 'rehabilitation programme'). The Crime and Disorder Act also provides scope for restorative justice and a consultative role for victims by the power given to the courts to impose Reparation Orders and Action Plan Orders on young offenders.

The following year the *Youth Justice and Criminal Evidence Act 1999* introduced a new mandatory sentence of referral to a Youth Offender Panel (YOP) for most young offenders appearing before a youth or magistrates' court for the first time and pleading guilty. The Referral Order requires the young person to attend a meeting of a three-person YOP. The YOP is convened by the local YOT, which also provides one member of the panel, the other two being lay members drawn from an approved list of volunteers. The YOP procedure was inspired, in part, by restorative justice thinking and so the victim of the offence may be invited to attend and have the chance to contribute to the establishment of a reparative and rehabilitative programme for the offender and the 'contract' for its completion, although in practice victims attend in only about 10 per cent of cases.

Restorative justice was introduced into the youth justice system with the explicit aim of helping young people to understand the consequences of their offending and take responsibility for their behaviour and for repairing the harms caused by their offence, either directly to the victim or indirectly to the wider community, or both. The youth justice measures are designed to accommodate direct victim-offender mediation or indirect (shuttle) communication facilitated by a member of the Youth Offending Team. However, they are also designed to bring about earlier intervention when young people first offend and not to give offenders too many chances. Under the 'No More Excuses'² philosophy, the net has been widened to pull in more young offenders, and young people deemed to be at risk of offending, and to drag them up the criminal justice system much more quickly than before 1998. Indeed there is now less discretion about diverting young people from court proceedings than there is with adult offenders.³

The Current State of Play: all talk and no action

² Home Office (1997) *No More Excuses* (White Paper)

³ R Morgan and T Newburn (2007) 'Youth Justice' in M Maguire, R Morgan and R Reiner (eds), *The Oxford Handbook of Criminology*, 4th edn. Oxford University Press, pp. 1024-1060

Despite all of the legislative activity and considerable academic scrutiny, there remains little restorative activity on the ground. Indeed, restorative justice in the UK is fast becoming the most over-evaluated and under-practiced area of criminal justice. At the start of the twenty first century three quarters of all cautions in the Thames Valley were carried out by way of a restorative caution or conference, with nine per cent of all cautions involving a face-to-face meeting with a victim.⁴ Today, there appears to be less restorative activity. The Oxfordshire YOT deals with about 1,000 orders a year but they deliver some form of restorative intervention (face to face or indirect) in less than 1 in 10 cases overall. During the first 6 months of 2007, at total of 77 cases involved some form of direct or indirect contact between the young offender and their victim. Of these, 27 cases involved the two parties meeting face to face in a restorative meeting, and 50 were cases where there was indirect communication between the offender and their victims without a face to face meeting (e.g. transmission of a written, video or verbal apology, indirect mediation through a third party, etc). Youth Justice Board statistics for 2005-06 similarly show that only around 13 per cent of victims of youth crime participate in a direct restorative justice process (with a great deal of variation between YOTs, with some reporting no direct victim involvement). The majority of victims are 'invited' to attend a referral order panel meeting by way of an 'opt-in' letter and most often are simply told when and where the meeting will take place, with no suggestion that it could be arranged to suit the victim. They will typically be sent literature from the YOT or police but this appears to do little to persuade those who may wish to meet with their offender to respond. Furthermore, there is evidence that some victims are told nothing of the possibility of a meeting.⁵ Clearly, despite a flurry of legislative activity at the close of the twentieth century, the youth justice system of today has not become more restorative and the Youth Justice Board target for 75 per cent of victims to be offered the opportunity to participate in restorative justice seems far from realisable.

The position of adults is even less encouraging. Following the advice of Halliday and Auld in 2001, the government introduced the conditional caution, in the *Criminal Justice Act 2003*⁶, which attaches restorative or reparative conditions to adult cautions (stipulated by the police and approved by the Crown Prosecution Service). In *Restorative Justice: the Government's Strategy* (2003) the Government reiterated that building restorative justice into conditional cautioning was the key way to develop it in the adult criminal justice system. Hence conditional cautions are now the primary vehicle for diversionary restorative justice for adult offenders. However, according to the Restorative Justice Consortium, only West Mercia and Thames Valley Police have been doing restorative conditional cautions and senior officers at Thames Valley Police and Peter Neyroud, head of the National Police Improvement Agency, have made clear that there are few conditional cautions

⁴ C. Hoyle, R. Young and R. Hill (2002) *Proceed with Caution: An evaluation of the Thames Valley Police initiative in restorative cautioning* (York Publishing Services).

⁵ Hoyle, C. (2002) Securing Restorative Justice for the Non-Participating Victims in C Hoyle and R Young (eds) *New Visions of Crime Victims*, (Hart).

⁶ Part 3, sections 22-27

taking place there, and even less with restorative conditions attached. A pilot study of conditional cautions in London carried out by the Restorative Justice Consortium in 2004 ended prematurely due to the low case flow.

There is little restorative justice for offenders in prison, despite the promising findings of the Home Office pilots conducted by Sherman and Strang and evaluated by Sheffield University.⁷ One of the probation officers at Bullingdon prison continues the work piloted for the Home Office project and carried out about fifty restorative interventions in 2007 (not all with victims) but few other pilots have continued. There is even less restorative work taking place in the juvenile secure estate, with the exception of work done in Ashfield YOI, a private prison near Bristol, which uses restorative justice to respond to conflicts between inmates, although by no means in all cases.

Restorative Activity in Other Jurisdictions: a credible alternative sanction

Other jurisdictions have managed to incorporate restorative justice more fully into their criminal justice systems. Whilst New Zealand has a relatively high prison population, and therefore cannot be seen as a perfect model to emulate, it has brought about an effective restorative justice system for youths and, perhaps most importantly, restorative justice is not used to widen the net of young offenders subject to state interventions.

Since the *Children, Young Persons and their Families Act 1989*, about a quarter of young offending cases – the most serious and repeat young offenders (with the exception of those accused of murder or manslaughter) - have been subject to family group conferencing.⁸ Young people cannot be prosecuted in the Youth Court unless they have been through a family group conference and in practice the majority of conferences reach an agreement which avoids prosecution. Furthermore in those cases that go to court the judge cannot dispose of a case without taking into account the recommendation of the family group conference. Outcomes of conferences will usually involve apologies, some measures that aim to repair the harm to the victim, work in the community (if possible related to the offending) and/or a referral to an appropriate rehabilitative or reintegrative programme for the young person. The other three quarters of cases – involving less serious offences - are dealt with by the police youth-aid officers through the use of warnings or diversionary plans. These often involve restorative measures, such as consulting with the victim or the school, but the resulting plans contain fewer elements, smaller financial contributions, and fewer hours of work in the community than those agreed up in the FGCs.

Most research on the New Zealand diversionary scheme produced high victim satisfaction rates and a reduction in recidivism. Whilst at the close of the

⁷ Shapland, J, et al (2007) *Restorative Justice: the views of victims and offenders - the third report from the evaluation of three schemes* (London: Ministry of Justice <http://www.justice.gov.uk/publications/research190607.htm>)

⁸ This section draws on G Maxwell and H Hayes, (2007) 'Pacific' in G Johnstone and D Van Ness (eds), *Handbook of Restorative Justice* (Willan).

twentieth century the New Zealand government appeared to be responding to the apparent concerns of an increasingly punitive public, by introducing tougher policies and taking a step back in its restorative justice initiatives, more recently it has expanded the availability of restorative interventions at various stages in the criminal process. Hence, since the *Sentencing Act 2002*, and the *Victims Rights Act 2002*, judges in the adult criminal courts have been allowed to refer matters to a restorative justice conference. Judges are required to take into account any outcomes of such a conference in all cases in which one has been held.

Northern Ireland has not gone as far down the restorative justice road as New Zealand, but its youth justice system apparently provides more restorative justice than England and Wales. Since the *Justice [NI] Act 2002*, youth conferences have been used for all types of offences, with 20 per cent of referrals from the Public Prosecution Service being for serious offences. Indeed it is available for any offence except that which would attract a life sentence if the offender was an adult. Referrals are not influenced by previous conviction, and offenders may receive a youth conference referral on more than one occasion, which is not possible with referral orders in England and Wales. As in New Zealand, action plans which are agreed upon at the conference are approved or amended by a statutory agency - the public prosecution service in the case of Northern Ireland – and following ratification the plan becomes a statutory order which is monitored for compliance and completion. However, even here the number of direct victims attending conferences, whilst much higher than in England and Wales, remains lower than expected: although there is some victim representation in just over two thirds of conferences in 2006, in only 38 per cent of these cases was the individual victim present.⁹ This is despite the fact that research suggests that even for serious offences committed by adults if victims are approached sensitively and have restorative justice explained to them in person as many as 70-80 per cent ask to meet face-to-face.¹⁰ But why should victims get involved, and why should the government commit resources to restorative justice? The answer can be found in academic research which suggests that for some offenders and for many victims it reaps rewards.

Findings from Academic Research¹¹

Restorative Justice and recidivism: one size does not fit all

Research across the world has produced sometimes conflicting evidence on the impact of restorative justice on offending. However, there are very few examples of it increasing recidivism and rather more of it reducing it. In general, research suggests that restorative justice may work better with more serious crimes rather than with less serious ones. Indeed, the success of

⁹ Criminal Justice Inspection Northern Ireland (February 2008) Youth Conference Service Inspection (<http://www.youthjusticeagency.ni.gov.uk/news/110/>)

¹⁰ Lawrence Sherman and Heather Strang: Sherman, L.W. and Strang, H. (2007) *Restorative Justice: the evidence* (The Smith Institute).

¹¹ This section draws on the recent assessment on the evidence on RJ in the UK and internationally, carried out by Lawrence Sherman and Heather Strang: Sherman, L.W. and Strang, H. (2007) *Restorative Justice: the evidence* (The Smith Institute).

restorative justice in reducing, or at least not increasing, repeat offending is most consistent in tests on violent crime. Nonetheless, some studies suggest that restorative justice does as well as, or better than, prison time for property offenders. Most surprisingly, considering the allocation of restorative justice resources within the UK, restorative justice generally does worse in reducing recidivism for 'non-victim' offences such as shoplifting, drink-driving, and public disorder, than for the more serious offences. In other words, the results of rigorous research show that restorative justice works better, in terms of reducing reoffending, with crimes involving personal victims than for crimes without them.

Benefits to victims: a case for cautious optimism

Evaluation results almost always indicate very high levels of satisfaction with the process amongst victims. The evidence consistently suggests that victims are most likely to benefit from restorative justice when they are involved in face-to-face meetings with their offenders. These victims experience at least short-term reductions in post-traumatic stress symptoms. Nonetheless, there is always a potential for further harm in bringing together victims and offenders and a small minority of victims find that meeting their offender does not improve their situation or makes it worse. To date, the research cannot help in identifying for which victims restorative justice is likely to be counterproductive.

Research shows that restorative justice works well in conjunction with criminal justice, as well as an alternative. Recent experiments in restorative justice with just over 100 prisoners and over 300 adult offenders prior to sentencing provided promising results in relation to reconviction and satisfaction of victims and offenders with the process.¹² Given the findings of such research we need to consider why restorative justice is not more widely used.

Unrealised restorative potential: the clash with limited resources and organisational goals

In all areas of criminal justice, as in many areas of professional life, what gets counted gets done. Current victim targets for Local Criminal Justice Boards require general measures of victim satisfaction but there are no specific targets for the provision of restorative justice. Whilst all criminal justice agencies – including probation and the parole board - are now expected to consider victims in their work with and decision about offenders, no statutory criminal justice body is required to prioritize victims and focus on the harms done to both victims and offenders by crime. Not surprisingly, in the main restorative justice comes low down on their organisational priorities.

The prisons literature is replete with examples of promising rehabilitative and educative programmes which fail due to inadequate resourcing which is to a great extent caused by the high numbers of prisoners. In an overcrowded

¹² Shapland, J, et al (2007) Restorative Justice: the views of victims and offenders - the third report from the evaluation of three schemes (London: Ministry of Justice <http://www.justice.gov.uk/publications/research190607.htm>)

prison control is prioritized and rehabilitation, skills, reintegration and other goals aimed at challenging recidivism are marginalized. Research conducted for the Youth Justice Board found that high prison numbers made it difficult to find places for young people sentenced to custody within reasonable distance of the home. This made direct mediation between victim and offender impractical. Furthermore, the high numbers of prisoners competing for programmes and other interventions made it harder to prioritise restorative meetings. Hence, despite a good deal of interest amongst prison staff, and a commitment by the Youth Justice Board to increase restorative justice interventions in the juvenile secure estate, few offenders have the opportunity to meet their victims or even 'surrogate victims'.¹³

Limited resources also impact on the work carried out by Youth Offending Teams. The increasing case load and the statutory requirements to carry out certain types of interventions with young offenders, usually within a specified period of time, act as a disincentive to YOT staff to try to arrange for victims to meet or communicate with their offenders. Whilst there are pockets of very good practice, which produce moving examples of restorative justice practice at its best, for most offences the YOT deals directly with the offender and he learns little about the victim and the victim, in turn, usually learns nothing about the offender and receives little in the way of direct reparation. Furthermore the government puts little pressure on YOTs to do more. For example, the key performance indicator for restorative justice is that twenty-five per cent of victims will be involved in restorative justice, but if the referral order panel persuades an offender to write a letter of apology to the victim, without any other communication between victim and offender, the YOT can tick this box.

The police failure to embrace restorative justice for adults through conditional cautioning can – at least in part – be explained by Home Office dictated key performance indicators. These drive police targets and have, until now, rewarded sanction detections and successful prosecutions. Conditional cautions require a great deal of administrative and bureaucratic effort and pay little in the way of organisational rewards for the police. Crown Prosecution Service rules have created what one source called a 'bureaucratic nightmare', making conditional cautions extremely difficult to arrange, leaving officers feeling that charging or giving a fixed penalty notice is a far more attractive option. Pressure to meet targets with limited resources removes any incentive to carry out the preparation needed to conduct restorative meetings with victims and offenders. Absent a mandatory requirement to deliver conditional cautions according to restorative principles, and give those victims who may wish to participate the opportunity to make informed choices about how to contribute, there will remain little restorative justice for victims and offenders of adult crime.

A Changing Emphasis: new organisational goals and priorities

¹³ D Curry, V Knight, D Owens-Rawle, S Patel, M Semenchuk and B Williams (2004) *Restorative Justice in the Juvenile Secure Estate* (Youth Justice Board)

New government targets which will come into effect on April 1 may offer hope for the use of restorative justice within the police service. A new performance assessment framework for the police, called APACS (Assessments of Policing and Community Safety) will replace the current police performance framework and will, amongst other things, broaden the scope of performance management to take account of community safety work, not included in previous performance frameworks, and put greater focus on the more serious crimes and criminals. The new framework includes measures of the public trust and confidence in the police, something which may be enhanced by restorative justice. The definitions of successful policing for the next few years are clearly set out in a new Home Office publication¹⁴ which focuses on reducing serious crime, improving the way the whole criminal justice system deals with crimes such as serious sexual assault, and enhancing the level of public confidence and trust. This framework for performance management was influenced by the research conducted on the Neighbourhood policing initiative which showed that the success of neighbourhood policing is clearly linked to public trust, confidence and engagement in the criminal justice system (the roll-out of Neighbourhood Policing across England and Wales should be completed by April 2008, when every neighbourhood should have a neighbourhood policing team).¹⁵ Whilst these Home Office publications are conspicuous in their failure to mention restorative justice (with just a brief mention of conditional cautions and the occasional reference to victims) they should persuade criminal justice agents to direct resources towards areas of community justice, to restorative justice. However, the police will inevitably remain crime control and prosecution focused, just as probation will remain offender-focused. All criminal justice agencies have their priorities and are limited in the extent to which they can think outside of the box. The Commission needs to consider whether or not we should recommend the establishment of a new statutory restorative justice agency and, if so, what its remit should be.

Envisaging a New Approach

In all settings the best intentions of those committed to restorative justice interventions struggle against limited resources and incompatible organisational goals. A reduction in the number of offenders taken to court and sentenced to custody would inevitably free up some resources to redirect towards restorative justice but this would not bring about dramatic changes if restorative justice is subsumed within the many diverse responsibilities of current practitioners and if it is directed across the wide range of offences. After a full and wide-ranging discussion we put forward two propositions for consideration by the Commission which might bring about positive change:

1. Prioritizing medium and serious offences and offenders

14 Home Office (2008) Our Vision for Cutting Crime 2008-11 and Key Government Public Service Agreements: A summary of what you need to know - <http://www.crimereduction.homeoffice.gov.uk/crimereduction020a.pdf>

15 P Quinton and R Tuffin (2007) 'Neighbourhood Change: the impact of the National Reassurance Policing Programme', *Policing*, 1(2): 149-160.

Currently what little restorative activity there is in England and Wales is on the periphery of criminal justice. Restorative justice is focused primarily on young offenders and on relatively minor offences, and, as such, unable effectively to tackle the current penal crisis. Furthermore, as explained above, restorative justice is most effective – especially in terms of reducing reoffending - with more serious offences and, in particular, with offences which have personal victims. Hence to organise a restorative conference for low-level juvenile shop-theft is not only a disproportionate response but it is also an inefficient use of limited resources.

There needs to be priorities within restorative justice. If restorative justice is done well, with sufficient preparation and aftercare, it is resource-intensive. As such, it cannot be justified for children who steal a chocolate bar. One of the main reasons why the extensive restorative activity taking place in the Thames Valley Police under Chief Constable Charles Pollard reduced dramatically when Chief Constable Peter Neyroud took over was because it was perceived as an inefficient use of limited resources for the mass of relatively minor offences being cautioned when the government was asking the service to prioritize street robberies and other more serious offences, and measuring their performance by sanction-detection rates and a reduction in such offences.

In keeping with the new government focus on reducing harms caused by serious violence and making better use of community justice to achieve this aim, and the broader aim of penal moderation,¹⁶ we should consider the potential of restorative justice for responding to medium to high seriousness offences so as to make the best use of resources and avoid ‘net-widening’.

All minor offences, including many repeat minor offences, could be dealt with by the police service by way of a reprimand or caution. Whilst such cautions (for adults) and reprimands (for youths) should be restorative in their approach, in that they should be respectful and not stigmatising, and should aim to identify if the offender has needs that can be met outside of the criminal process, they should be quick to administer and brief. Victims need not be involved in such processes, although they should continue to receive all the support they need from organisations such as Victim Support, especially if they are repeat victims. A second, and in some cases even a third, caution could be administered in the same way, albeit with increased access to statutory and non-statutory support with reducing reoffending.

Restorative conditional cautions, final warnings and referral orders could be given for more serious offences where public protection does not require a court to consider custody (the types of offences most likely to go to court under the present system). This could include some violent offences, especially first time violent offences (even when the offender has committed previous non-violent crimes), which currently would likely receive a short custodial sentence or a community sentence. These medium to serious offences could be carried out in a restorative manner and victims would be

¹⁶ See the two papers produced by Ian Loader for the Commission.

invited to participate. Invitations would be made during a visit to the victim who should have the process and all options for participation – direct and indirect – fully explained to them. Victims should never be coerced to participate, nor should they be dissuaded from doing so. Times and venues for any face-to-face meeting should be arranged in consultation with victims.

Restorative justice could be offered in conjunction with a prison sentence for violent offenders whom it is thought the public need protecting from, and in conjunction with another community penalty for those it is not necessary to incarcerate but for whom retribution requires more than a restorative encounter. Community penalties could be made much more restorative with greater consultation with victims and the wider community about appropriate reparation and community service work. Restorative justice could be used much more in the secure estate – for adults and juveniles - building on the positive findings of the research carried out for the Home Office in 2004. Furthermore, victims who wish to participate in restorative meetings should also have the opportunity to be ‘surrogate victims’ - to meet with offenders other than their own - if it is not possible or desirable to facilitate face-to-face meetings between specific victims and offenders.

In all areas of restorative activity, the goal should be to facilitate restorative justice appropriate to the needs, desires and concerns of specific victims and offenders, rather than having targets for face-to-face meetings. There are a good many effective restorative interventions along the lines of ‘shuttle mediation’ for victims and offenders who do not wish to, or cannot meet. These typically need the same level of resources to prepare for and to carry out and can bring about both restorative processes and outcomes if they are handled well. More imaginative use of video and written communication would bring to life such mediated processes. Hence any organisational targets for victim participation should not specify face-to-face meetings for fear that this could lead to pressure on victims to participate.

Finally, the Commission needs to consider if there are any offences for which restorative justice is always inappropriate. Some have argued that it should never be considered for domestic or sexual violence.¹⁷ We recognise that there are considerable challenges to bringing together victims and offenders in a face-to-face meeting for such offences although would welcome further discussion on this matter. Furthermore, we suggest that indirect mediation may well be more appropriate for these offences.

2. The establishment of an independent statutory restorative justice agency

Sometimes, restorative justice is presented as an alternative to criminal justice. However, the more likely scenario, at least in England and Wales, is that restorative justice will become more entrenched within criminal justice, rather than replacing it. Embedding restorative justice within the criminal justice system allows it to flourish without the risks of a purely informal

¹⁷ For a discussion of the arguments for and against the use of RJ in domestic violence see Carolyn Hoyle (2007) ‘Feminism, Victimology and Domestic Violence’, in S Walklate (ed), *The Handbook of Victims and Victimology*, Cullompton: Willan.

process but it brings with it risks of a different kind, in particular the risks associated with facilitation by criminal justice agents. Although constraints upon police facilitation and due process safeguards for defendants can do a great deal to reassure those sceptical of police involvement, principled criticisms of police facilitation are not easy to dismiss. In particular, the argument that there should be a separation of powers between the key stages of the criminal process is persuasive. It is clearly problematic to have one agency having so much power and control over a criminal process, from arrest to punishment, especially when that agency has a strained relationship with certain, often disadvantaged communities.

As is discussed above, all criminal justice agencies have their priorities and targets and it is hard to envisage how restorative justice can become a permanent and regular activity of any one of them. To prepare for, facilitate and manage the aftercare of restorative interventions, whilst maximising the potential of restorative justice and minimising the risks of communication between victims and offenders, requires considerable training. Thames Valley Police has spent tens of thousands of pounds on providing full training to police officers who never went on to facilitate a restorative intervention or who did some restorative justice work but then got moved to another police department with no prospects of further work. Furthermore, some highly trained and dedicated personnel in prisons or the probation service move on to other work and their restorative activities cease, with no other officers willing or able to follow their lead. Furthermore, these criminal justice agencies are considered by the public to be for offenders or for the state and not organisations with an equal commitment to victims, offenders and the community. There are similar principled objections to the involvement of other state agencies in the facilitation of restorative processes (social workers, for example, tend to be offender-focused rather than balanced in their approach) and entirely community-based schemes offer none of the protections of a state-based system.

If the government is committed to using restorative processes within both the youth and adult justice systems perhaps it should consider the establishment of a specialist team of professional restorative justice facilitators, rather than relying on police, social workers or volunteers. Quasi-judicial facilitators, would, like stipendiary magistrates, bring professional independence to the process and have none of the cultural baggage or professional agendas of other state agents. They could serve the YOTs, the police and, for more serious offences, the courts and the national offender management service.

Creating this putative new service or department might reasonably be expected to circumvent many of the drawbacks observed by researchers of restorative justice in action.¹⁸ It would rapidly evolve experience and 'best practice', training and guidelines, and simply by virtue of the fact that its

¹⁸ C Hoyle (2007) 'Policing and Restorative Justice' in G. Johnston and D. Van Ness (eds) *Handbook of Restorative Justice*, Cullompton: Willan.

practitioners would spend their entire professional lives on restorative justice, they could be expected not to exhibit the departures from the 'script' and inappropriate interventions frequently seen at police-led conferences. By definition independent, they might also be expected to command the authority and respect which some are wary of awarding to existing institutions, such as social workers and the police. This new service would also free up police resources now devoted to restorative justice in the UK which managerialist pressures presently leave vulnerable. It might prevent the demise of restorative justice where the police no longer have the motivation or the resources to take the lead. Such a specialist cadre, fully trained, accredited and accountable to, and financed by all criminal justice agencies, would signal the full maturation of restorative justice and its complete integration with other parts of the criminal process.

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