

The Feasibility of Undertaking
Restorative Approaches with
Serious and Organised Crime
Offending

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SUMMARY OF KEY FINDINGS

- There is little evidence of RA being used in the context of organised crime offending to date.
- All stakeholder groups consulted in this research expressed some degree of enthusiasm and willingness for the prospect of pursuing RA in relation to organised crime offending.
- Organised crime offenders were overwhelmingly enthusiastic and provided a wide range of reasons for their willingness to participate in RA.
- However, some offenders showed a lack of understanding of the harm and victimisation caused by their offences, raising questions as to their immediate suitability for RA processes.
- Victims of organised crime offending were broadly sceptical and resistant to the prospect of undertaking RA with organised crime offenders for a number of reasons.
- However, despite this scepticism, some victims were nevertheless open to the prospect of entering into RA processes with organised crime offenders.
- RA practitioners and experts showed high levels of enthusiasm for the proposal of extending the use of RA to new and innovative contexts including organised crime activity.
- Before such extensions can be undertaken however, practitioners and experts emphasised the importance of tailored training, guidance and safeguarding to ensure that the complex nature of organised crime offending and victimisation is recognised.

METHODOLOGY

The central aim of the study was to engage key stakeholder groups in a discussion of whether restorative approaches² (RA) can be applied in a new and innovative way. With these aims in mind, a mixed methods approach was undertaken which consisted of: 16 semi-structured, audio-taped interviews with imprisoned offenders³; 13 semi-structured, audio-taped interviews with victims of organised crime; 15 semi-structured e-surveys/telephone interviews with RA experts

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² The Restorative Justice Council defines restorative justice as bringing "those harmed by crime or conflict and those responsible for the harm into communication, enabling everyone affected by a particular incident to play a part in repairing the harm and finding a positive way forward."

³ These participants included eight principals; six significant; and two peripherals (as defined by the police using their classification of Organised Crime Group offenders). Their offences included drug trafficking and distribution; human trafficking; sexual exploitation; organised acquisitive crime; fraud; high value commercial and dwelling thefts; and environmental crime (see Finckenaer 2005; Van Dijk 2007 for a discussion of the contested definitions of organised crime).

and practitioners⁴; a documentary analysis of local force policies which relate to RA work; an analysis of Organised Crime Groups (OCGs) maps and other intelligence held on police records which related to the OCGs in the local area⁵.

BACKGROUND

A collaborative project between Durham Constabulary and the University of Sheffield has undertaken an exploratory study concerning extending the use of Restorative Approaches (RA) in new and innovative ways. The project represented a pilot of the N8 PRP's Staff Exchange scheme and explored the views of key stakeholders concerning the feasibility of applying RA in the context of organised crime offending.

The application of RA has been extended to new contexts in the last few years both within the criminal justice system and beyond. Collins (2015: 129) describes how governmental drives have promoted the use of restorative justice to make its desired expansion "a reality". Despite these emerging uses of restorative practices, there is little evidence in research literature that such approaches have been applied to organised crime offending. Organised crime is said to have a significant impact on multiple victims, including entire communities (NCA 2016; Paoli and Vander Beken 2014). Organised criminals themselves are often considered to be long-term, career offenders, frequently at risk of re-offending (Home Office 2013). It may even be argued that many of the issues faced by victims (and offenders) of crime are exacerbated and amplified in the context of organised crime (Clark 2005; Police Foundation 2016). The study's imperatives are magnified in the context of research evidence suggesting the use of RA has an impact on recidivism (Shapland et al 2008), victim satisfaction (Umbreit et al 1997) and some evidence of cost-effectiveness when compared to costs of reconviction (Shapland et al 2008). With this in mind, this study sought to address what appears to be a significant gap in practice and research insofar as there is little evidence of RA being used in the context of organised crime offending. As a first step to address this gap, this study engaged with the key stakeholders in the RA process - namely offenders, victims and practitioners - in an exploratory conversation, scoping the potential for such measures to be further explored and possibly pushing the door ajar for future research and practice in this area.

FINDINGS

Below is an overview of the key research findings together with examples of primary data gathered during fieldwork. The discussion is split across the three stakeholder groups before summarising these findings in the context of future research as well as policy and practice recommendations.

Offenders - "Maybe I could have changed my life earlier... I could have changed other people's lives at an earlier point"

The research found an overwhelmingly positive and enthusiastic response amongst OCG offenders to the prospect of taking part in RA. Indeed, 15 out of 16 offenders expressed a desire to take part in RA, were such measures offered to them.

⁴ These participants were drawn from the National Offender Management Service, the Home Office, the Youth Offending Service, Victim Support, OPCVC [Office of the Police, Crime Victims' Commissioner] staff, and local authority staff.

⁵ Nikki D'Souza undertook all fieldwork and associated interviews and Xavier L'Hoiry assisted in the analysis of the transcripts.

“Yeah, 100 per cent [I would be willing to take part in RA] ... If I was offered something along them lines I would have obviously took it because I was remorseful ... So had I been offered it yeah, I’d have jumped at the chance.” (OGC offender)

Offenders indicated a wide range of motivations to take part in RA including: a wish to apologise to victims of their offending due to a deep regret for their actions; to think more deeply about their offending with a view to shaping future behaviour; to reassure victims; and to use RA as an opportunity to reintegrate oneself into society upon release.

However, while these offenders acknowledged and agreed with the principles underpinning RA, they struggled to visualise how such approaches would be relevant to their offending, often demonstrating techniques of neutralization (Sykes and Matza 1957) and minimisation of their own offending. For instance, four participants convicted of drug offences refuted the notion that their offending had victimised anyone since their offences were often part of a supply chain with little or no contact to ‘street-level’ dealing. One participant explained that *“I don’t understand who my indirect victims are [since] I wasn’t street dealing”* and another struggled to visualise exactly who could be brought to an RA event since *“the offences I’m in prison for, they’re indirect victims. I haven’t got one actual victim”*. This raises questions as the potential challenges of operational delivery of RA if offenders fail to recognise or identify victims of their offending and justice-based organisations are not able to either.

Indeed, 5 out of 16 offenders refuted the notion of direct victimisation in relation to drug crime by employing the rationale that all participants within their offending were willing consumers. Further, two participants denied their offending altogether, clearly marking them as unsuitable for RA.⁶

“If you’re selling drugs just to your friends, they’re going to go and get it off someone anyway. And then obviously there’s no need for the restorative justice on that.”

Discussing whether prostitutes should be classed as victims in a prostitution ring:

“I haven’t a clue because these are people who have been in this life a long time. So [RA] probably wouldn’t [apply] to that ... they’ve been prostitutes for a while and ...you know what I mean?”

It is important to note that some organised crime (such as fraud) clearly does have identifiable direct victims, whereas the effects of some crimes (e.g. some drugs offences) may cause more indirect harm to communities.

Victims – “I wouldn’t know if they were genuinely sorry. They’d have to prove it.”

Interviews with victims of organised crime offending showed considerably more scepticism and reluctance to countenance the possibility of taking part in RA processes with offenders. Firstly, 11 out of 13 victim interviewees expressed doubt as to the willingness of offenders to take part in restorative approaches. Organised crime offenders were characterised as cold and calculated individuals with little regard for their victims and *“nothing to gain”* from taking part in RA processes.

“I just feel as though you might hit lucky with an odd one or two doing it that way, but I think a lot of these criminals, that’s how they make their living and they just don’t know anything else.”

⁶ Requirements for offenders taking part in RA include they should do so voluntarily and that they should admit responsibility for that offence.

RA was perceived as more suitable to juvenile offenders who have committed relatively “minor” offences rather than organised crime offenders who are (in their eyes) long-term, career criminals. Participants also indicated a reluctance to partake in RA for reasons such as the potential for reprisals and the ongoing nature of offending by other members of an OCG which would mean that undertaking RA with a single offender would have little effect on the criminal activity as a whole.

“Our problem is there was probably more than the two convicted involved but weren’t brought to court... So that’s quite difficult for us.”

“There’s more than one involved, I think that makes it harder, because some of the family are inside but some aren’t. So it’s only some of them that would be involved in that side of it. I don’t know really if I could see a benefit from [taking part in RA] or not.”

Despite this broad scepticism however, 5 out of 13 victim interviewees did indicate a willingness to take part in restorative approaches if an offender could be brought to the table. While these participants still expressed reservations, they reflected that RA would be “worth a try” so long as risk assessment and safeguarding procedures were in place to account for their individual needs. As one participant concluded, “I think we would benefit from hearing their side of the story, why they did it, what was going through their minds.” Here, timing emerges as an important factor. Victim interviewees explained that while they may not be prepared and willing to take part in RA at the time of the police interview, were this offered to them in the future, it may be considered. Further, all victim participants actually indicated that although they held reservations about taking part in RA with OCG offenders, they conceded that other victims of similar offences may find such processes useful. Thus this possibility was not dismissed altogether.

Practitioners/Experts – “Time to move this off the ‘too difficult’ pile”

RA practitioners and experts were almost unanimously enthusiastic about the possibility of extending the use of restorative approaches to organised criminal offending. Indeed, 14 out of 15 participants believed that with the right preparatory work in place and with the victim’s needs accounted for, RA as an “eclectic problem solving tool ... is only limited by the imagination of people who use the approach”. Respondents were also enthusiastic about the prospect of extending RA to organised crime offending on the basis of innovation – since deploying RA in this way does not appear to have been systematically attempted to date, it is impossible to judge whether it will be successful or not. Indeed, participants argued that concerns about the applicability of RA to this type of offending were likely to have been expressed in the past when it was proposed that RA be applied to other types of serious offending such as murder or serious violence. Respondents thus argued that history has shown that RA can successfully be applied to a vast array of offending and that “the possibilities are endless”. One participant even argued that RA may be particularly well-suited to organised crime offending due to the possibility of helping offenders to confront the consequences of their often deeply ingrained offending:

“Many offenders involved in organised crime may have become ‘closed off’ to the fact that what they are doing affects people at all levels and having to face up to this may be the one thing that sparks a change in their behaviour when other interventions have failed.”

Moreover, respondents argued that some forms of RA may even be particularly suitable to an organised crime context since this type of criminality frequently impacts on entire communities as

well as individual victims. With this in mind, two respondents proposed that restorative circles may appear appropriate in such contexts in order to account for the potentially wide range of individuals, groups and communities affected by the nature of the offences.

However, alongside this enthusiasm came some reservations. The first reservation concerned the heightened safeguarding necessary for victims of organised crime offending. Here, it was felt that extensive preparatory work, risk assessment, shared multi-agency intelligence and individually tailored safeguarding measures should be carefully designed and implemented in order to account for the complex nature of victimology in the context of organised crime offending. Such safeguarding measures would need to be undertaken on a case-by-case basis and would need to account for potential challenges such as the fear of reprisals and the fact that many OCG offenders may in fact be victims themselves (Zhang 2009; Siegel and de Blank 2010).

The second reservation was a marked confidence gap amongst practitioners insofar as they agreed with the idea of extending the use of restorative approaches in this way *in principle* but expressed concern as to whether they possessed the right knowledge and skill-set to facilitate such practices. With this professional discomfort or nervousness in mind, it was suggested that specific training, guidance, patience and “*preparation, preparation, preparation*” would need to be developed were RA extended to this context, as well as the importance of taking a case-by-case approach.

“The key is having experienced skilled practitioners who understand the concept [of RA] fully, and who have the time and resources to invest in the necessary preparation.”

CONCLUSIONS

The research thus found willingness and support across all stakeholder groups for the use of restorative approaches involving organised crime offenders and victims, albeit with varying degrees of enthusiasm and in the case of offenders, varying degrees of acknowledgment of the impact of their offending.

Academic Implications

This study builds on existing academic research concerning the current and potential application of RA to new and innovative contexts, including serious, violent, sensitive and complex crime (see Cunneen and Hoyle 2010 for the issues involved when applied to domestic violence and hate crime for instance). However, there is little academic research specifically concerning the application of RA to organised crime offending. This research gap has begun to be addressed in this study but there are significant opportunities to explore this prospect further via robust and rigorous academic research. Broadly speaking, the door to explore this theme in greater depth has been pushed ajar but academic research must ensure that this door does not close and indeed is pushed wide open. This can be achieved by working in collaboration with practitioners to build knowledge and gather an evidence base as to the suitability of applying RA in this way.

Practitioner Recommendations

This study has clear operational implications for a wide range of agencies concerned with the delivery of RA including the police, the prison service, the probation service and many others. It is evident that a case-by-case approach must be employed when considering the applicability and suitability of offenders and victims to take part in RA processes. Before this however, specific and tailored training and safeguarding procedures must be formulated in order to account for the numerous challenges presented by the possibility of extending RA to organised crime offending.

These challenges include the complex and often ambiguous nature of victimology in organised crime; the reluctance and reticence of victims to engage with this process; the failure of some offenders to acknowledge the harm resulting from their offending; and the lack of confidence displayed by practitioners due to an absence of training and guidance despite their enthusiasm for the prospect of employing RA for organised crime offending in principle.

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