Policing Domestic and Sexual Violence Using Restorative Approaches

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Background and context

• Concerns with formal criminal justice system
• Particular problems regarding rape and domestic violence
• Police/Rape Crisis - Lucy
• Lucy’s story

Background and context continued …

• Rape/SV – what justice means to survivors and supporters
• DV – decision making process police
• Multi-agency meetings – ‘we do not use RJ in DV cases’
• Unpicking what this meant
• Debate has been dominated by conceptual theorising more than empirical analysis.
Use of RJ to police DV

• Study one – worked with one force in action research design to see how RJ was being used and consequently improve their systems.

• Study two – UK wide FOI study with 100% response rate to understand nature and prevalence of its use.
STUDY ONE

Westmarland, N, McGlynn, C. & Humphreys, C. (forthcoming)

Using restorative justice approaches to police domestic violence and abuse - an exploratory study

Under review
• Exploratory investigation into the characteristics of domestic abuse cases with a restorative justice outcome
• All officers trained and actively encouraged to use RJ
• Qualitative and quantitative police data
• Cases of domestic abuse with a restorative approach listed as part of the disposal were identified from 1st April 2014 to the 31st January 2015. This resulted in 62 cases
• 3 qualitative interviews with those involved in conferencing (3/11)
• Action research approach
Graph 1. Domestic abuse offences restorative approaches were used for

- Theft
- Harassment
- Criminal Damage
- Assault

**PARTNER RELATIONSHIPS**
- Theft: 1
- Harassment: 3
- Criminal Damage: 18
- Assault: 14

**FAMILIAL RELATIONSHIPS**
- Theft: 2
- Harassment: 0
- Criminal Damage: 7
- Assault: 17

**ALL RELATIONSHIPS**
- Theft: 3
- Harassment: 3
- Criminal Damage: 25
- Assault: 31
Graph 2. Restorative Approaches Used (n = 62)

Unknown 19%
Other 19%
Level 2 18%
Level 1 44%
Level 1 Restorative Approaches (‘street-level’ responses)

• Nearly half of all the cases (44%, n=27) involved a Level 1 restorative approach which consisted of either an apology, a financial agreement, or a combination of the two.
Financial agreements

Example 1 ‘Tom and Sophie’: After an argument with his partner Sophie, Tom (who was a previous known domestic abuse offender) smashed the glass panel in the front door leaving glass and blood on the floor. Tom was known to police for previous non-domestic assault as well as the previous domestic abuse. Sophie was pregnant and told the police that she feared Tom. Police arrested Tom for criminal damage. The case outcome was an adult simple caution and adult restorative approach. No senior level authorization for the restorative approach to take place was logged. Tom admitted guilt and agreed to pay Sophie for the damage. The restorative approach was recorded in the police officer’s pocketbook. Tom was warned to stay away from Sophie’s house.
• Apologies

• Example 2 ‘Rachel and Martin’: During a verbal argument, Rachel slapped her brother Martin in the face. Rachel then punched Martin and then Martin grabbed Rachel by the throat and punched her in the face. Both were arrested on suspicion of assault and both wrote each other letters of apology. No other criminal action was taken.
• Example 3 ‘David and Anne’: David, who was a known previous domestic abuse offender, is said to lose his temper, grab his partner Anne at the front of her throat. He then pushes her away, causing pain and discomfort and reddening of skin. Anne then screams at David to leave the address and he does. David wanted to apologise to the victim so the officer spoke to Anne with a mental health worker present. David apologized to Anne, with the case outcome logged as a restorative approach disposal only.
Level 2/3 Restorative Approaches (including restorative justice conferences)

• A Level 2 (no or pre-sentence) or 3 (post-sentence) Restorative Approach Conference was used in 18 per cent of cases (n=11).
• RJ conference

• Example 4 ‘Mandy and Cassie’: Mandy used her clenched fist to punch her daughter Cassie’s arms approximately ten times and then Mandy used her slipper to strike Cassie on her forearm several times causing no visible injury. The crime was recorded as assault without injury. The case outcome was restorative approach only, and the permission from a senior officer was recorded. The restorative approach included Mandy, Cassie, Social Services, and two Level 2 trained police officers. The conference resulted in a full apology and a package of support provided by Social Services.
• Level 3 conference
• Example 5 ‘Ben, Toby and Susan’: Ben was already known to police as a previous domestic abuse offender when he punished his 11-year-old son Toby by hitting him 15 times to the right-hand side of his face and hitting him with a belt all over his body. These injuries caused severe bruising to Toby’s face, arms, legs and body. Ben also threatened Toby’s mother Susan with a knife (hence the domestic abuse flag). The crime was recorded as assault with injury and the disposal was a criminal charge and restorative approach in the form of a conference. The conference was recorded as being authorised by a senior officer, and was also approved by a social worker. During the conference Toby’s mother Susan and Susan’s brother brought Toby’s questions to the conference for Ben to answer. Ben also went to prison.
• RJ conference

• Example 6 ‘Cath and Billy’ : Cath slapped her partner Billy on the back of his head five times. She then punched him. Billy was a known domestic abuse offender, who had participated in a restorative approach in a previous case. Cath and Billy agreed to a restorative conference, which was logged as authorized by a senior officer. The conference included an apology from Cath to Billy, and Cath was referred to mental health charity Mind.
‘Other’ approaches

- Example 7 ‘Pete and Becky’: Pete punched his wife Becky in the back during an argument. Becky composed a letter to Pete that she wanted him to read and as a result Pete agreed to go to counselling. This approach was recorded as an authorized restorative approach by a senior officer.

- Example 8 ‘Jill and Mark’: Jill punched Mark in his shoulders and struck him to the left side of his face. Additional background information showed that Mark was due to attend the Crown Court for a serious assault he had perpetrated on Jill. Jill denied abusing Mark and they told the police they were living together as a couple again. Police officer explained that they would file the outcome as a restorative approach because they were living together again.
As many questions as answers …
STUDY TWO


Under the radar: the widespread use of 'Out of Court resolutions' in policing domestic violence and abuse in the UK

British Journal of Criminology
Research methods

• Aim: to investigate nature and extent of police use of out of court resolutions in responding to domestic abuse in the UK (not a question of effectiveness)

• ‘Restorative justice’ and ‘community resolutions’ terminology (incorrectly) used interchangeably in many cases

• Two phase FOI
Findings

• ‘Out of court’ resolutions used by all police forces in England, Wales & NI to respond to domestic abuse
• proportion of domestic abuse cases dealt with using out of court resolutions varied significantly across the forces
• Out of court resolutions were not only used in familial domestic abuse cases but also for intimate partner domestic abuse
• ‘Restorative justice’ was used almost exclusively as a diversion from, rather than parallel to, a criminal prosecution
• over-representation of same-sex cases and of cases involving male victims and female offenders in terms of how frequently out of court resolutions were used
Out of court resolutions used in wide range of serious offences

GRAPH 1. FREQUENCIES OF OFFENCE CATEGORIES RECORDED FOR INTIMATE PARTNER ABUSE

- Violence Against the Person (608) 56%
- Arson and Criminal Damage (397) 36%
- Theft (58) 5%
- Other (35) 3%
Conclusions from study 2

- Street-level (Level 1) restorative justice and community resolutions are not safe or appropriate in the context of intimate partner domestic abuse.
- Under the radar – lack of debate
- The discretion inherent in Level 1 responses has enabled police officers to stretch the concept of ‘restorative justice’ to such an extent that it does not adhere particularly closely to common understandings of restorative justice.
The violent husbands let off with a handshake: Thousands of thugs avoid prosecution for domestic abuse by simply saying sorry

- Thugs who hit their partners are getting off simply by saying sorry
- Police are using ‘restorative justice’ where offenders meet victims face-to-face
- Restorative justice used 5,625 times in 2014, according to research

By IAN DRURY FOR THE DAILY MAIL
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Thousands of violent thugs who beat up their partners are avoiding prosecution simply by saying sorry or shaking hands.

The police are using restorative justice to deal with domestic abuse cases – where victims meet offenders face-to-face.

But MPs and campaign groups have expressed concern at the practice because it could allow abusers to escape prosecution while exerting more control over their victim.

Supporters of the initiative, also known as community resolution, claim it is a fairer way to deal with offenders while still giving ‘closure’ to those they have wronged.
Key message - terminology matters

• Theresa May (when Home Secretary):
• ‘I simply do not believe it follows either the evidence or common sense to sit vulnerable victims across from perpetrators who for months and years may have destroyed their confidence, manipulated their mind, and beaten their bodies’.
Lessons: RJ communities

• Understand concerns of those working with sexual & domestic violence survivors
• Increase dialogue between RJ and VAW practitioners
• RJ in cases of domestic & sexual violence require more time, resources, training
• Debates over terminology, eg police terminology
Lessons: Violence Against Women Communities

• Recognise RJ being used in these contexts
• encourage open discussion within VAW communities about possibilities of RJ
• Acknowledge systemic problem of sexual violence, but recognise individuality of survivors with specific interests and needs
• Some survivors seek and value RJ
Conclusions

Starting point: securing justice for victim-survivors

Challenge: systemic problem of sexual violence, but individual survivors with specific interests and needs

Future:
- reform of criminal justice system continues to be essential
- but also need to move beyond one-dimensional focus on conventional criminal justice system
- Restorative justice one possibility: debate to what extent & in what contexts can RJ meet justice interests of some survivors.
- NOT can we fit survivors into current RJ frameworks