Restorative justice at the level of the police in England: implementing change

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Restorative justice (RJ) means:

- ‘a deliberative process governed by principles of procedural fairness in which the parties with a direct stake in a particular offence (or incident) come together (preferably face-to-face) in a encounter collectively to resolve how to respond to the offence (or incident) such that the harm caused is acknowledged and the implications for the future of the parties are considered with an emphasis on reparation and reintegration’

So this is about the use of restorative justice at ‘the level of the police’:

- Restorative justice done directly by police officers (‘street RJ’ or conferencing)
- Referral to a restorative justice provider by the police
- Particularly, restorative justice done as diversion (the offender is not prosecuted)

in relation to adult or young offenders
The project:

• An action research project with three police forces and Offices of the Police and Crime Commissioners (Sept 2015-Sept 2017):
  – Humberside Police
  – South Yorkshire Police
  – West Yorkshire Police

fundied by the Police Knowledge Fund (HEFCE/Home Office/College of Policing)

• Stage 1 (Sept 2015-Sept 2016) – discovering what was being done:
  – Interviewing police, restorative justice providers, Offices of the Police and Crime Commissioners, other agencies involved
  – Focus groups with front line police officers as to their use of and experience with restorative justice
  – Collecting all available data
The project cont.:  

- Then, Stage 2 - comparative work in Belgium and Northern Ireland to learn lessons from their longer experience there  

Having discovered what was happening, moving to:  

- Stage 3 (autumn 2016) – suggesting initiatives to develop good practice, particularly those sensitive to the needs of victims  

- (Jan-Sept 2017, fieldwork Jan-Mar 2017) – implementing and evaluating new initiatives  

Stage 3 comprised an incredibly short time frame for implementation and evaluation:  

- Impossible to measure outcomes  
- Can only look at the initial stages of creating change  
- The ambition of the forces was to improve service delivery, particularly to victims, seeking to roll out from pilot projects and seeing what might work – and of course this could not all be accomplished in our time frame
Stage 1: In 2015-2016, provision of restorative justice was a very complex picture

For adult offenders:

• Some ‘street RJ’ done by officers themselves on minor offences, leading to a ‘community resolution’ or caution - but patchy training and confidence
• Some referral to ‘community panels’ for minor offences (often council-funded, with a coordinator and volunteer mediators) – but they do not exist everywhere
• Some referral to specialist providers (funded by OPCC), but referral pathways are difficult and officers may not be aware

For young offenders, in addition:
• Referral to the Youth Offender Team for diversionary input and restorative justice

The difficulties are therefore:
• Getting frontline officers to be aware of possibilities for restorative justice
• Differing views on its applicability (what is a suitable case)
• Getting referrals to happen
• Almost complete lack of data on the police side (because computer systems do not allow management analysis of delivery), though referrers have data on their cases
• Lack of awareness that restorative justice can be delivered further on in the criminal justice system – so the ‘offer’ is not made
It’s not just these forces – HM Inspectorate of Constabulary has shown patchy provision in other forces as well

Yet, the government’s Code of Practice for Victims 2015 states:

- ‘If the offender is an adult, you are entitled to receive information on Restorative Justice from the police or other organisation that delivers Restorative Justice services for victims in your area, including how you could take part’
- ‘If the offender is under the age of 18, you are entitled to be offered the opportunity by the Youth Offending Team in your area to participate in Restorative Justice where appropriate and available’

It needs to be explained to victims by the police or the restorative justice provider, so there is informed consent

We concluded that delivering restorative justice well and uniformly is really hard, as research in countries which have a longer history (e.g. Belgium and Northern Ireland) has also shown.
Stage 3: The initiatives included -

Policing partners and the researchers decided that there should be short-term initiatives (3m – our funded evaluation time) but also much longer-term elements to tackle more systemic matters:

**Short term (Jan-Mar 2017):**
1. Designation of pilot areas or teams to promote delivery, including training, in-station restorative justice ‘champions’, encouragement of referrals to voluntary sector providers.
2. This included geographical areas and in W Yorkshire safer schools officers

**Longer term (from Jan 2017 – not evaluated post Mar 2017)**
1. Creating force-wide oversight and coordination, including encouragement by Senior Command Teams
2. Creating in-station restorative justice ‘champions’ in other sites
3. Starting to develop electronic means for officers to refer cases
4. Piloting the collection of victim satisfaction data
5. Encouraging Scrutiny Panels (which look at community disposals) to review restorative justice cases
Stage 3: our (process) evaluation involved:

**Between January and March 2017:**

1. Attending training sessions, briefing sessions and meetings, as well as some shadowing of restorative justice providers (15 sessions)

2. Interviews with officers of all ranks involved in the initiatives in all three forces, together with those from the OPCCs, restorative justice providers, YOT staff, community justice panel coordinators, and school staff (a total of 50 people)

3. Focus groups with frontline police staff and officers, including discussion of whether restorative justice would be useful in a number of scenarios appropriate to that initiative (7 focus groups with 46 people attending)

4. Acquiring relevant data (where this existed) on numbers of community disposals and other outcomes, and on referrals to restorative justice providers.
So what happened in these first three months? We found:

1. **Fostering restorative justice at the front-line is not ‘business as usual’ for response officers, so it requires cultural and organisational change**

   a) ‘Business as usual’ and ‘the path of least resistance’, in relation to criminal incidents are investigation and prosecution (or a ‘police disposal’). So doing restorative justice, even when officers support it and understand it, may be helpful in the long-term (problem-solving), but known pathways favour the usual.

   b) Restorative justice is seen differently at different levels in the police (see Stockdale 2015):
      i. at senior level, it is often a *philosophy* to influence responses to crime
      ii. At middle management, it is a *practice* to give victims a greater voice and hold officers to account
      iii. At the front-line, it is a *process* to repair the harm caused.

   c) So there are different understandings and potentially inconsistent messages, remembering there is no one ‘front-line culture’ (and some, like safer schools officers, find restorative justice normal in their schools)
Fostering restorative justice means: 1. Getting officers to do new things/change their pattern of work

a) New ways of working need to be working with the grain of officers’ existing skills, competencies, motivation etc. – so it’s clear how restorative justice conforms with officers’ world-view of their role. So it’s likely to be easier where that role already involves people working with restorative justice (e.g. in schools) or involves continuing contact with people in neighbourhoods (e.g. in rural areas).

b) So changing responses re restorative justice is not about constraining discretion (given other paths still exist), or reducing it (which may lead to resistance), or producing unthinking compliance (since each case needs assessment for its suitability), but about shaping discretion.

c) And for that, the values involved need to permeate the police organisation, and the means to do it not be too time-consuming.
1. **Getting officers to do new things/change their pattern of work cont.**

d) Restorative justice involves having a culture of learning and problem-solving – both thinking through what should happen, and having the time horizon to look past the instant ‘job’ to the outcome of the case.

e) But resource pressures (and feeling one is working in times of austerity) promote the ‘usual’, not the ‘new’.

f) More or longer forms, or complicated referral processes will be shied away from. Electronic would be better – but electronic means testing out the best referral paths and ways of gathering information first in pilot areas – the benefit of our study.

g) Like everywhere else, more paperwork leads to few or no referrals.
1. Getting officers to do new things/change their pattern of work cont.

h) In every force, training was seen as the key to starting change – and training on RJ was appreciated, but it needs to be focused on those officers’ actual jobs and getting people together. Role play is good

i) Training needs to emphasise the role of restorative justice at all stages of criminal justice, because officers tend to think restorative justice is confined to ‘street RJ’ or young people or minor offences

j) Training has to be repeated at intervals – because of the churn and because not everyone will use restorative justice a lot, so refreshers are important. But does training always need to be attendance (the police model)? How about, after initial training including roleplay, using online, testing, problems, discussion sessions at briefings?

k) Restorative justice training is not currently part of initial recruit training, nor CID training. The requirement in the Victims’ Code is not obvious in College of Policing material. So will it be perceived as essential policing (or today’s fad, or this chief superintendent’s preference)?
1. **Getting officers to do new things/change their pattern of work cont.**

I) The **research process** gave restorative justice in those forces a boost too:
   - Involving front-line officers and attuning initiatives to what was happening
   - The process (and the stages) involved senior officers, and the profile of restorative justice rose
   - Forces were able to learn from each other in the meetings and other contacts

m) Though the culture of frontline officers was still relatively offender-focused, not victim-focused - the possibility of using restorative justice in a case was often dependent on the offender’s age, previous convictions etc., rather than the victim’s wishes
2. *Promoting the offer of restorative justice by giving officers greater confidence*

- Fostering confidence is crucial to embedding the ability of officers to mention and to deliver restorative justice (note this is not just within the police, but when working with partners too, like schools)

- We found that having a close-by ‘champion’ (in the station, known) – a ‘go to’ person or SPOC - was important to encourage officers to use and mention restorative justice

- But this needs to be backed up, and not discouraged, by any scrutiny/governance mechanism
  - So training supervisors is good
  - Panels or paperwork scrutiny units need also to work within a restorative justice ethos for community disposals/diversion – not just applying retributive reasoning or requiring more paperwork for restorative justice. Sending back paperwork after the officer thinks the job is finished stops initiatives dead
2. Promoting the offer of restorative justice by giving officers greater confidence cont.

- Referring to outside agencies who deliver restorative justice (or anything else) seems always to be problematic for the police:
  - even if this is a reliable and trusted partner (e.g. YOT, council community panels, third sector organisations)

- Basically, multi-agency partnership working is difficult. It’s smoother if:
  - There is joint decision-making on cases
  - Cases do not have to be kept on the police officers’ ‘books’ until the delivering agency has finished (this diminishes referrals if workloads are monitored)
  - Partners are co-located
  - Data systems allow effective data sharing
  - Co-ordinators from the delivering agency regularly visit and discuss cases
3. Communication gaps

- There can be gaps in the police chain of communication (which is quite long, between senior command teams and frontline officers)
  - Gaps can cause implementation failure, because those lower down are not sure where this initiative fits within the many priorities police have

- We found communication needed to be not just about the initial message and the importance of the initiative – but also in later supervision and quality control mechanisms

- Changing towards a restorative policing culture requires not only reiterating values, but attention to the small, practical obstacles – and short-term successes are important
  - Even in 3 months, it is possible to increase the quality of restorative justice delivery and its prevalence, though easier in smaller teams and specialised work
4. **So how might restorative justice be delivered at the level of the police?**

- There is a choice between police officers facilitating restorative justice themselves:
  - ‘street RJ’ or conferences
  - or referring to other providers

Some senior officers favoured the one, some the other

- But both need the police to discuss the possibility with the victim (as the Victims’ Code says). The role of the frontline officer needs to become more victim-focused. Victim care, risk assessment and provision of support were supported by all officers – but work patterns had not yet changed to focus on the wishes of victims

- **We think both can work**, and different types of police work and policing suit different approaches (e.g. schools work and problem-solving approaches in known communities favour police doing restorative justice themselves, as well as referring more difficult cases)

- But it is crucial that officers take on board that restorative justice may be needed at various criminal justice stages, and so have a longer term view than the immediate ‘job’
Some references:


**Stage 3 report** coming shortly on the CCR website at https://www.sheffield.ac.uk/law/research/clusters/ccr/occasionalpapers

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