

## Restorative justice conferencing in the context of community policing

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In the context of policing in England and Wales, which emphasises community policing, this paper concentrates upon:

- How suitable are police officers as mediators or restorative justice facilitators?
- How useful is restorative justice conferencing for neighbourhood disputes/ disputes where people know each other well?

Drawing from an evaluation of restorative justice schemes (funded by the Home Office/Ministry of Justice), which involved:

- adult offenders and often serious offences
- restorative justice within criminal justice - people experienced both - at a variety of different stages of the criminal justice process.



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Justice Research Consortium (JRC) used *conferencing*:

- a meeting between victim and offender, with a facilitator, and also supporters of the victim and offender there as well.
- In this model, typically, the offender says how offence came about, may apologise, victim says effects of offence, then parties turn to think about the future and may produce an outcome agreement,
- Both victim and offender were involved throughout - the victim was not sent away, as in many youth justice family conferences in England and Wales.



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### The definition of 'restorative justice' used

The funders (Home Office/Ministry of Justice), the scheme and we, the evaluators, all used:

'Restorative justice is a process whereby all parties with a stake in a particular offence come together to resolve collectively how to deal with the aftermath of the offence and its implications for the future' (Marshall 1999)

so implies:

- both offender and victim involved in communication, with a mediator/facilitator and their supporters
- need to distinguish this restorative *justice* from restorative *practices* (e.g. community service as 'community reparation', 'payback') - this distinction is not always clear in the UK
- not a means of 'trying' offences; normally requires that offender has already pleaded guilty or admitted offence



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### Justice Research Consortium

(funded 2001-4; evaluation 2001-2008)

- conferencing with random assignment; all offences with personal victims
- pre-sentence in London Crown Courts for adults, led by police facilitators, for burglary and robbery
- pre-sentence for adults at magistrates' courts (violence and property), final warnings for youths, and adult caution cases (violence) in Northumbria, led by police facilitators
- community sentences and prison pre-release in Thames Valley (all adults, all offences of violence), led by probation officer, prison officer or community mediation facilitators



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### 1. Using police officers as facilitators in restorative justice

A controversial area:

- Miller and Blackler (2005) say there is always the danger in restorative justice that offenders may be coerced into participating; into apologising - essentially rj becoming a means of social control
- 'Browbeating' offenders may occur more when police officers facilitate: because they are used to directing what happens.
- In Australia (RISE: especially Aborigine youth), US (Bethlehem restorative policing), Thames Valley restorative cautioning, found that young offenders were sometimes browbeated/lectured by police facilitators - though possibly less than at court!
- However, in South Australia, Daly found that youths didn't always feel sufficiently in control to speak, but facilitators and police officers did stand back



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### Our findings at JRC

- Offenders' and victims' ratings showed no difference between facilitators at different sites - whether they were police officers, probation officers, prison officers, community mediators - they were all positive
- Over all sites, 93% of victims and 88% of offenders said facilitators let everyone have their say.
- In Northumbria (diversion: similar to previous studies): 85% of adult caution offenders and 87% of youth final warning offenders said everyone could have their say
- 80% of young offenders said the facilitator was in control, but not too much, not too little.
- Observations showed facilitators could be directive (sometimes), but were not domineering
- Observers, offenders, victims, rated police facilitators as impartial: no attempt to put the 'police point of view' or being defensive about police actions



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### So why were these results positive, compared to previous studies?

- These were not officers operationally in charge of the offence - that can cause conflicts of interest
  - A separate unit, which could resist pressure to 'interrogate', 'find out more intelligence' - and being taken away to other tasks
  - Training in non-directive restorative justice, with other facilitators
  - Ability to discuss cases as a group and admit difficulty
- BUT
- though victims could find having police officers reassuring
  - offenders found conferences in police stations not neutral (victims felt the same about prisons)
  - police stations don't often have sufficient space



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### 2. Using restorative justice as diversion where people know each other

- Can be seen as part of the police 'keeping the peace' mandate
- But one restorative justice session can't hope to solve long-running disputes - and talking about multiple incidents is challenging for facilitators - people are not natural logical story tellers!
- Procedural justice (everyone has their say, respectfully) is important
- Keeping the balance between the instant incident and other incidents - not everyone from the other incidents will be present
- The temptation for police is to divert these cases to rj - because they are so complex (and prosecution is difficult) - but facilitators need to build up expertise on 'ordinary' crimes first



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**The adult caution cases from Northumbria JRC:  
procedural issues**

- if area police officer there, should be as participant, not facilitator
- Caution given after conference (like Thames Valley restorative cautioning) - but a tension here: is this then voluntary? Does everyone know?
- Better to have prosecutorial/court diversion as well (like Northern Ireland youth justice)?



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**The adult caution cases from Northumbria JRC:  
what happened**

- 45 conferences in main period of fieldwork (57 overall), for violent offences (common assault, ABH), with 61 offenders
- observed 14 conferences: most people knew each other: neighbours, extended families, workplace, societies,
- mostly same numbers of participants as other conferences, sometimes very large (20 plus)
- format of first offender (what happened), then how was each person affected, then turn to problem solve for the future was helpful in allowing everyone to talk- but then to concentrate back on the instant offence
- there could be role swapping
- supporters were helpful in producing ideas



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**The adult caution cases from Northumbria JRC:  
outcome agreements**

- The 57 conferences overall produced outcome agreements in 39 cases (68%) - lower than other trials (over 90% average)
- In outcome agreements:
  - apologies (77%)
  - avoiding each other in the future (26%)
  - preventing rumours going round the community (15%)
  - specific preventive action (45%): keeping children off the grass; how to arrange family contact
  - addressing offenders' problems, compensation rare
- supposed to be followed up by police facilitator 72% (28 conferences), was done in 23 - checking both sides, those not checked were ongoing actions (need to be precise)
- the following up matches the keeping the peace mandate



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**The adult caution cases from Northumbria JRC:  
a useful intervention?**

- Often really complex personal relationships between participants involved
- Probably useful in helping to stop contacts spiralling towards violence - and in engaging the participants to find (temporary) solutions to prevent violence in the future
- Cannot be expected to 'solve' the whole problem
- Beware of power imbalances towards one 'offender'
- Having all there, including community professionals, helpful - but the professionals can get impatient at the time people take to talk it out!
- Important for facilitators to be impartial, neutral, experienced: being police (but not local police) helpful: people understand the rationale that this is about not just calling the police each time something happens



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**So what seems to be important in police-led rj?**

- Well-trained officers, sympathetic to restorative values, and in contact with other professionals delivering restorative justice
- A multi-professional unit?
- A system which routinely monitors and records its activities and so is accountable
- Facilitators forming a unit separate from normal operational duties
- Sufficient space to run restorative justice events
- Independence of the unit from operational management and investigative priorities
- The time to follow up agreements and check back with the parties, informing victims and others what has happened



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The government has published our reports on all this ...

Our **fourth report** on reoffending and value for money is at:

<http://www.justice.gov.uk/publications/restorative-justice.htm>

The **third report** (victim and offender views) is at:

[http://www.justice.gov.uk/papers/pdfs/Restorative\\_Justice\\_Report.pdf](http://www.justice.gov.uk/papers/pdfs/Restorative_Justice_Report.pdf)

The **second report** (observations of conferences and what the schemes did) is at:

<http://www.homeoffice.gov.uk/rds/pdfs06/r274.pdf> (summary)

<http://www.shef.ac.uk/content/1/c6/0778/55/Restorative%20Justice%20Report%20-%20final%20version.pdf> (full report)

The **first report** (how the schemes were set up) is at:

<http://www.homeoffice.gov.uk/rds/pdfs04/rdsolr3204.pdf>

... and the government is still thinking what to do.



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