

RESTORATIVE JUSTICE AND PRISONS

Joanna Shapland (University of Sheffield)
Presentation to the Commission on English Prisons Today, 7 November 2008

Restorative justice and restorative practice in the UK involving custodial establishments

Over the last 15 years or so, a number of initiatives involving restorative practices have taken place in prison settings, though there has not been any coherent national strategy. We need to distinguish between *restorative justice*, which for me embodies discussion between a victim and an offender involved with the same specific offence, and *restorative practices* which are far broader in scope. A useful definition for restorative justice is that of Marshall (1999): 'Restorative justice is a process whereby parties with a stake in a specific offence collectively resolve how to deal with the aftermath of the offence and its implications for the future'. Restorative practices have included victim impact (e.g. Sycamore Tree Project) and offender behaviour programmes, as well as restorative work by prisoners in local communities. In this paper, I shall only be considering restorative justice.

Restorative justice in prisons has involved victims and offenders pre-sentence (i.e. offenders on remand), during sentence and pre-release. The major trials of restorative justice in the UK which have included custodial establishments have been our evaluation of three restorative justice schemes in England and Wales, which involved primarily adult offenders and included serious offences (Shapland et al. 2004; 2006; 2007; 2008), and statutory youth conferencing in Northern Ireland, which has now been rolled out throughout Northern Ireland both as a diversionary measure for prosecutors and pre-sentence in the youth court (Campbell et al. 2006).

Our evaluation of three restorative justice schemes in England and Wales

Most restorative justice work in England and Wales has involved young offenders and primarily more minor offences (leading to final warnings, referral orders etc.). Statutory youth conferencing in Northern Ireland, however, has included all offences (except those leading to a fixed sentence). The three restorative justice schemes we have been evaluating since 2001 were deliberately designed, however, to be primarily for adult offenders, include serious offences and involve restorative justice at many different stages of criminal justice¹. All victims and offenders experienced the normal criminal justice response: the restorative justice was in parallel to criminal justice, not diversionary. Restorative justice took place after an admission of guilt or guilty plea by the offender and was entirely voluntary on victim and offender. The schemes were:

- Justice Research Consortium (JRC), directed by Larry Sherman and Heather Strang, which used:
 - conferencing (offenders, victims and their supporters meeting with a facilitator), with random assignment

¹ The schemes and the evaluation were funded by the Home Office (now the Ministry of Justice) under its Crime Reduction Programme.

- pre-sentence in London Crown Courts for adults, led by police facilitators
 - pre-sentence for adults, final warnings for youths, some adult caution cases in Northumbria, led by police facilitators
 - community sentences and prison pre-release in Thames Valley (all adults), led by probation officer, prison officer or community mediation facilitators
- CONNECT (attached to the Inner London Probation Service), which used:
 - victim-offender indirect and direct mediation and conferencing (matched control groups)
 - pre-sentence, or during sentence, for adults
 - mostly in two magistrates' court areas in London
 - REMEDI (an independent voluntary sector mediation service), which used:
 - victim-offender mediation throughout S Yorkshire (matched control groups)
 - community sentences and prison for adults
 - youth justice and diversion for young offenders

JRC ran many of its pre-sentence conferences in prisons in the London area, for offences of burglary and street crime - because offenders were on remand in custody. Its pre-release work in Thames Valley was in a number of custodial establishments (prisons and YOIs) and was for violent offences. CONNECT was asked by Probation Victim Liaison Officers to run victim-offender mediation in prison stemming from victim requests, some in relation to very serious offences, as well as doing pre-sentence mediation in prisons in London. REMEDI offered resettlement mediation in prisons in the South Yorkshire area. All three schemes, but particularly JRC, were substantial, so that there was a total of 840 restorative justice events and we have a total of 180 final interviews with offenders and 259 with victims experiencing restorative justice.

The aims of restorative justice

For our evaluation, there were two major and equal aims: to decrease re-offending, and to meet victims' needs. We found that, comparing restorative justice and control groups, there was a *significant decrease in the frequency of reconviction* over the following two years and over all schemes (as well as for JRC alone), looking over all the trials, schemes and groups². The likelihood of reoffending (whether or not someone is reconvicted) also decreased, but was not reduced to a statistically significant extent. There was no effect on the severity of reconvictions. There were *no criminogenic effects* for any of the trials, sites or groups involved in any scheme – restorative justice does not make offending worse, whichever stage of criminal justice it is used.

We can calculate the cost of these reconvictions for the restorative justice and control groups: both the costs to victims and the costs to criminal justice. We found that *for*

² See Shapland et al. (2008) for details of all findings on reconviction and value for money.

JRC – though not for the other two schemes – *the costs of reconvictions saved for the restorative justice group, compared to the control group, were so large that JRC was value for money.* The cost of running the scheme at each site was more than met by the amount of reoffending saved. This is in spite of the fact that we could only offset the cost of running the scheme against reoffending: there is currently no way to calculate financially the benefits to victims in terms of emotional closure, lessening of effects etc.

Victims were very positive about the restorative justice they received for all three schemes³ (as indeed they also were in Northern Ireland: Campbell et al. 2006; Doak and O'Mahony 2006). Over three quarters of JRC victims, for example, would definitely or probably recommend restorative justice to others who were victims of a similar offence. What they valued was:

- The opportunity for communication – to ask questions about the offence; to express the effects of the offence on themselves and on others close to them
- The opportunity to work with the offender, the offender's supporters (in conferences) and the facilitator to prevent offending in the future, through working out how to tackle problems related to the offenders' offending and, in JRC conferencing, to produce a detailed outcome agreement, signed by all present at the conference, which spelled out concrete steps that the offender and others could take. Over 98% of JRC conferences ended with such an outcome agreement.

Victims valued offenders' apologies, but were not so interested in financial compensation or direct reparation.

What place might restorative justice play in criminal justice and in custodial establishments?

The evaluation results from both our evaluation and from Northern Ireland are very positive. We would argue that they suggest a three-fold role for restorative justice:

1. Where victims of serious offences wish to meet with their offender, who is serving a custodial sentence, and both parties are agreeable, we think this service should be provided. It is perhaps one of the minimum requisites to 'put victims at the heart of criminal justice'. It would link to the remit of Probation Victim Liaison Officers (who currently have few means of meeting such requests). It would require trained facilitators in each part of the country and the willingness of custodial establishments to help.
2. We consider that there is now more than sufficient evidence to support the introduction of statutory restorative justice pre-sentence for adult offenders in England and Wales (voluntary for both victims and offenders). These possibilities are already in place for young offenders. We would recommend, from our results, that this be conferencing, on the JRC model, because that includes the forward-looking plans embodied in outcome agreements. We see these as prime means through which offenders who wish to start to reduce or stop their involvement in

³ For details of the results on victim and offender attitudes to restorative justice and comparisons with criminal justice see Shapland et al. (2007).

crime (desist) can start to work out the practical steps that are involved in leading a different, non-offending life. The involvement in conferencing of offender supporters (normally family members, close friends or link workers) provides support in these crucial steps. This is what victims say they want to happen as well. The roles of conferences in increasing victim awareness and in victims supporting offenders' steps to change their lives are also important.

Our results suggest that restorative justice conferences are most beneficial for victims of more serious offences. Clearly, there would be much work to do in organising the scheme and creating a well-trained corps of facilitators (though it has been achieved in Northern Ireland in a relatively short time). There is also a need to integrate the results into sentencing policy (though there are already relevant decisions from the Court of Appeal) and to sort out accountability mechanisms. For these reasons, we would suggest such a scheme starts in the Crown Court (the JRC burglary and street crime trials were both run in all Crown Court centres in the London area).

3. Finally, we also consider there is good evidence to support the extension of restorative justice at the resettlement/pre-release stage, again to facilitate desistance among those offenders wishing to desist. Current longitudinal research among persistent young adult offenders (Shapland et al. forthcoming) suggests that such decisions are surprisingly common – but there then needs to be a process of learning how to live a non-offending life outside prison in order actually to achieve desistance.

References

- Campbell, C., Devlin, R., O'Mahony, D., Doak, J., Jackson, J., Corrigan, T. and McEvoy, K. (2006) *Evaluation of the Northern Ireland Youth Conferencing Service*. NIO Research and Statistical Series Report No. 12. Belfast: NIO at http://www.nio.gov.uk/evaluation_of_the_northern_ireland_youth_conference_service.pdf
- Doak, J. and O'Mahony, D. (2006) 'The vengeful victim? Assessing the attitudes of victims participating in restorative youth conferencing', *International Review of Victimology*, vol. 13, pp. 157-178.
- Marshall, T. (1999) *Restorative justice: an overview*. Home Office Occasional Paper.
- Shapland, J., Atkinson, A., Colledge, E., Dignan, J., Howes, M., Johnstone, J., Pennant, R., Robinson, G. and Sorsby, A. (2004) *Implementing restorative justice schemes (Crime Reduction Programme): a report on the first year*. Home Office Online Report 32/04. London: Home Office (at <http://www.homeoffice.gov.uk/rds/pdfs04/rdsolr3204.pdf>).
- Shapland, J., Atkinson, A., Atkinson, H., Chapman, B., Colledge, E., Dignan, J., Howes, M., Johnstone, J., Robinson, G. and Sorsby, A. (2006) *Restorative justice in practice: the second report from the evaluation of three schemes*. The University of Sheffield Centre for Criminological Research Occasional Paper 2. Sheffield: Faculty of Law, at http://ccr.group.shef.ac.uk/papers/pdfs/Restorative_Justice_Report.pdf and from the Faculty of Law.

Shapland, J., Atkinson, A., Atkinson, H., Chapman, B., Dignan, J., Howes, M., Johnstone, J., Robinson, G. and Sorsby, A. (2007) *Restorative justice: the views of victims and offenders*. Ministry of Justice Research Series 3/07. London: Ministry of Justice, at <http://www.justice.gov.uk/docs/Restorative-Justice.pdf>.

Shapland, J., Atkinson, A., Atkinson, H., Dignan, J., Edwards, L., Hibbert, J., Howes, M., Johnstone, J., Robinson, G. and Sorsby, A. (2008) *Does restorative justice affect reconviction? The fourth report from the evaluation of three schemes*. Ministry of Justice Research Series 10/08. London: Ministry of Justice, at http://www.justice.gov.uk/docs/restorative-justice-report_06-08.pdf.

Shapland, J., Bottoms, A.E. and Muir, G., with Atkinson, H., Healy, D. and Holmes, D. (forthcoming) 'Perceptions of the criminal justice system among young adult would-be desisters', in F. Losel (ed.) *Lost in Transition*. Cullompton: Willan. Presentation to Cropwood Conference, 24 January 2007.