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# policy & grace

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### **Policy & Race Journal**

Policy & Race is an interdisciplinary journal for policy makers, scholars, practitioners and activists with an interest in race equality, equality and policy making. The journal is published by Race on the Agenda and aims to spark a debate on issues affecting Black, Asian and minority ethnic communities nationally and internationally.

Each issue focuses on a specific area that is current for policy making and practice and aims to inform, influence and challenge those working within the field of equality. The editors prefer articles written in engaging and accessible prose which avoid academic jargon and offer insights in how to foster justice in daily life.



**Race on the Agenda** (ROTA) is one of Britain's leading social policy think-tanks focusing on issues that affect Black, Asian and minority ethnic (BAME) communities. Originally set up in 1984, ROTA aims to increase the capacity of BAME organisations and strengthen the voice of BAME communities through increased civic engagement and participation in society.

**ROTA's** definition of 'race' encompasses all the protected characteristics under equality legislation including:

- colour
- nationality
- ethnic or national origin.

Consequently, ROTA uses the term BAME to refer to all groups who are discriminated against on the aforementioned grounds. This definition includes but is not exclusive to people of African, Asian, Caribbean, European and Eastern European, Irish, Greek, Turkish, Jewish, Roma and South East Asian decent as well as refugees and asylum seekers.

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## Editor's note

Dr. Theo Gavrielides, *Chief Executive at ROTA*

It is neither a coincidence nor the result of some whim or fancy of the journal's Editor-in-Chief that transformative justice was selected as the topic of the first issue of our journal *Policy & Race*. In the search of practices and policies that can bring balance to community tensions, and address questions of integration, inequality and justice, a new, transformative justice is needed.

As a progressive social policy think-tank, we are not afraid to challenge current ways of thinking and ask questions that may help improve outcomes, attitudes, practices and public opinion on Black, Asian and minority ethnic (BAME) communities. The way society chooses to address what we nowadays call 'crime' reflects its citizens' ethics including fairness, equality, respect and dignity. These are also the values underpinning the notion of restorative justice. The extant literature bears evidence to the over-representation of BAME groups in the current criminal justice system. It also talks about the neglect of victims particularly those who are marginalised and disempowered by our economic and social system.

Having dedicated some considerable resources on exploring the potential and indeed performance of restorative justice with both serious and less serious crime within the adult and juvenile justice system, the next step for ROTA was to share some of the debate that we have so much enjoyed over the years. **We wanted to keep the discussion focused and therefore this publication explores the use of restorative justice post-sentencing particularly in relation to serious violence.**

This is a grey area of policy making and research, and hence we hope that the articles will make a unique contribution to the field.

***Ultimately, we hope to increase awareness, influence policy and represent issues and views that some may find uncomfortable or too risky to bring up.***

To this end, ROTA published this first issue, which complements a multi-year programme on transformative justice encompassing the following elements:

- the creation of an evidence base through a three-year research programme (2006-2009) and the publication of the 'Restoring Relationships' report;
- the establishment of a strategic, multi-agency, cross-sector Transformative Justice Forum bringing together key players in the field of criminal justice; and
- the dedication of resources for a four-year research and policy programme (2008-2012) titled the Transformative Justice Project.

The **Transformative Justice Project** was launched at an event in March 2009 where keynote speakers such as the Chair of the new Equality and Human Rights Commission, the Chief Crown Prosecutor and the mother of Stephen Lawrence noted its timeliness and unique approach. The project is based on the philosophy that we can achieve more by working together. This is also ROTA's philosophy as a broker of relationships between BAME organisations and decision-makers.

This publication bears evidence to our commitment to creating a single platform where different views, from different sectors are welcomed and considered. It is also a proof that our **Transformative Justice Forum** can have a unified voice, which does not lose its distinct messages. Eight out of the 12 articles in this Issue were written by members of the Forum.

In particular, **Neena Samota** (Policy and Research Manager at Nacro) starts by introducing us to the concept of transformative justice and by giving some concrete examples where restorative justice was used successfully with young offenders. I then provide a brief historical account of the development of restorative justice in the English juvenile justice system, while our Policy Officer, **Ewan Kennedy** makes the links between restorative justice, public policy and reoffending.

The publication is honoured with the contribution of one of the leading figures in the restorative justice movement, **Dr. Martin Wright**. His paper provides a critical account of the most recent policy and legislative developments impacting on restorative justice.

Subsequently, the next five contributions work as a unit by presenting a holistic picture from various angles of the criminal justice system. **Elena Noel** (Hate Crimes Project Manager at Southwark Mediation Centre) gives her views as a community-based, passionate mediator, while **Martin Greenslade** (Programme Director at the Association of Chief Police Officers) complements this picture by giving us a London-wide perspective. **Yvette Williams** (Equality and

Diversity Manager at Crown Prosecution Service London) looks at restorative justice from the prosecutor's perspective while **Kimmitt Edgar** (Policy Manager at Prison Reform Trust) takes a step further into the criminal justice system to talk about prisons and the value of restorative justice in these settings. **Liz Dixon** (Senior Probation Officer) reminds us that this publication is timely for yet another reason. It is launched ten years after the publication of the Stephen Lawrence Inquiry, which gave evidence of institutional racism and shook the foundations of race equality policy and legislation. She also gives some good examples of where restorative justice was used at the probation stage.

The debate would have been incomplete if we did not look at evidence from the international arena. **Dr. Barabás Tünde** (Criminologist at the National Institute of Criminology in Hungary) provides us with an insight into the application of restorative justice in Hungary and challenges us with questions raised by their international, EU-funded Mediation in prison Settings Project. **Lisa Rea**, an international expert on restorative justice shares her unique experience of directing the Sycamore Tree Project at Prison Fellowship International.

Finally, **Lewis Parle** (Head of Youth Programmes at IARS) concludes by providing a critical account from the perspective of the youth-led sector. We thought that since this publication focuses on young people, it would be appropriate - for once - that the youth perspective has "the final say".

## Transforming Justice: Alternatives to custody for young people

Neena Samota, *Policy and Research Manager at Nacro and Member of the Transformative Justice Forum*

In the past decade, campaigners for prison reform have highlighted the negative impact of incarceration and repeatedly called for the reduction of custodial sentences for children and young people.<sup>1</sup> Although children and young people aged 15-24 make up 12% of the general population in England and Wales, they constitute 29% of the population in prison.<sup>2</sup> Despite significant reforms in youth justice policy and practice, it is clear that the punitive approach to youth offending has not lessened the cycle of reoffending. For some young offenders this continues unabated with harmful consequences for their victims, families, neighbourhoods and for themselves. Locking up the problem has not worked. Opportunities are being missed to engage with young people to divert them away from the justice system. There is a pressing need to go further in exploring suitable alternatives. One such is the process of restorative justice, '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'.<sup>3</sup> This paper argues that restorative justice better meets the needs of all parties, including young people involved in crime.

### Youth justice policy and practice: What it tells us

The youth justice system has been the subject of significant reform since 1998: new court powers in sentencing; the creation of multi-agency teams to respond to the needs of young offenders; the expansion of educational provision; the establishment of substance-misuse facilities for young people in custody; and the involvement of victims and communities in youth justice practices. This reform has been well-intentioned but the failure to reduce the use of custody has repeatedly brought the system under scrutiny. This has been fuelled by increasing public concern about young people involved in gun, knife and other violent street crime. But there is also concern over the criminalisation of young people who exhibit anti-social behaviour and the over-representation of young Black people in the justice system. Inside prisons, there has been unease over the use of physical restraint, solitary confinement and forcible strip-searching of children and young people.<sup>4</sup> Government targets such as the dreadfully named 'Increasing year-on-year offences brought to justice' have proved counter-productive and have drawn more young people into the system. Arrests and custodial disposals have not reversed the trend or reduced reoffending rates.

1. **Nacro (2006)** *Reducing custody: a systematic approach*; **Nacro (2005)** *A better alternative: reducing child imprisonment*; **T2A Alliance (2009)** *A New Start: Young Adults in the Criminal Justice System*; **Prison Reform Trust (2008)** *Criminal Damage: Why we should lock up fewer children*; **Prison Reform Trust (2009)** *Children: Innocent until proven guilty?*; **The Prince's Trust (2007)** *Breaking the Cycle of Offending: Making the views of young people count*; **The New Economics Foundation (2008)** *Unlocking Value: How we all benefit from investing in alternatives to prison for women offenders*; **Howard League (2008)** *Punishing Children: A survey of criminal responsibility as approached across Europe*; **Children's Society (2006)** *Just Justice: A study into black young people's experience of the youth justice system*; **Barrow Cadbury Trust (2005)** *Lost in Transition*.
2. **Ministry of Justice (2009)** *Offender Management Caseload Statistics 2008, Table 7.8, p.92, [www.justice.gov.uk/publications/docs/offender-management-caseload-statistics-2008.pdf](http://www.justice.gov.uk/publications/docs/offender-management-caseload-statistics-2008.pdf)*.
3. **Marshall, T. (1999)** *Restorative Justice: An Overview*, London, Home Office, [www.homeoffice.gov.uk/rds/pdfs/occ-resjus.pdf](http://www.homeoffice.gov.uk/rds/pdfs/occ-resjus.pdf).
4. **The Howard League for Penal Reform (2006)** *The Carlisle Inquiry*.

Incarceration is expensive and does little to reduce reconviction, but the Youth Justice Board (YJB) spends ten times more on custody than on crime-prevention programmes. Statistics on youth-offending provide enough evidence to consider the efficacy of non-criminal routes to diverting young people away from crime. Reconviction rates are very high for children of 15-17 years; in 2005 it was 76%.<sup>5</sup> Almost 80% of young people (18-24 years) who leave prison reoffend within the first two years. Recent data also show that there has been an increase in the number of prisoners serving short-term sentences of less than 12 months. Between 2007 and 2008 the number of children and young people serving short-term sentences rose by almost 6%, and 44% of all offenders serving sentences of six months or less had 15 or more previous convictions or cautions. Young people were sentenced for robbery, violence against the person, drug offences, breach of criminal orders and domestic burglary.<sup>6</sup>

Further punishment is experienced during incarceration. The most common forms of punishment in prison include forfeiture of privileges, stoppage or reduction of earnings and confinement to cell or room for disobedience and drug dealing.<sup>7</sup> In short, children and young people are incarcerated for less serious crimes, serve shorter sentences, have higher rates of reconviction, and have more previous convictions.

It is clearer than ever before that government, the opposition and the third sector all wish to work towards the same goal: developing effective solutions to keep young people away from offending. Bringing youth justice under the joint responsibility of the Department of Children Schools and Families and the Ministry of Justice is exactly what campaigners for youth reform have argued for. It is well-known to most practitioners that the best means of addressing the underlying causes of youth-crime lie outside the criminal justice system.

The Children's Plan, published in December 2007, set out a positive approach to prevent crime and reoffending among children and young adults. Targeting young people most at risk, testing restorative approaches to young offenders, dealing effectively with young people leaving custody and improving education received in custody were all long-awaited changes introduced by the Children's Plan. In 2008, the Youth Crime Action Plan subsequently introduced the 'youth restorative disposal' (for under-18s) to be tested by eight police forces. This was intended to curb early offending, avoid criminalising young people for low-level crime and indicate underlying problems leading to serious offending in the future. PSA (Public Service Agreement) 16, introduced under the 2007 Comprehensive Spending Review, aimed to reduce social exclusion among vulnerable young adults leaving prison or long-term care.

5. [Bateman, T \(2007\) \*Still Shameful? Nacro Safer Society, No.35.\*](#)

6. [Ministry of Justice \(2009\) \*Offender Management Caseload Statistics 2008, pp. 81-82 and YJB \(2009\) Youth Justice Annual Workload Data 2007/08, London, pp.5-6.\*](#)

7. [Ministry of Justice \(2009\) \*Offender Management Caseload Statistics 2008, Table 8.4, p. 138.\*](#)

## Alternatives to custody: The evidence

This paper proposes that restorative justice is a suitable alternative to custodial practices. There is evidence that it provides the opportunity to transform and shape just and proportionate outcomes for individual offenders and their victims. Government's commitment to protecting the public and delivering fairness for communities allows fresh opportunities to deliver the best outcome for young people in custody and in the community. How we treat them when they break the law affects their chances of being healthy, safe, happy, making a positive contribution and achieving economic well-being.

Since 1966, Nacro has worked to give ex-offenders, disadvantaged people and deprived communities the help they need to build a better future. Nacro's vision is a safer society where everyone belongs, human rights are respected and where preventing crime means tackling social exclusion and re-integrating those who offend. Offenders begin the process of social re-integration by realising the harm caused and by making positive amends to their victims. Nacro believes that this process is equally useful both in the community setting and in prison.

For more than a year, the National Centre for Restorative Justice, which is part of Nacro, has organised peer panels in Preston to repair the damage done by the anti-social or criminal behaviour of adults and young people aged 8-18.

The project has had 300 referrals, of which 131 were converted into panels. So far 80 panels

have been successfully concluded and 51 remain open for six-week reparation agreements to take place. The project is replete with examples of having diverted young people away from the criminal justice system for offences such as criminal damage, shoplifting, anti-social behaviour, racism, assault and intimidating behaviour. Here are a handful of cases:

*Three boys aged 8-10 were caught shoplifting at the local supermarket. Police officers escorted the boys home and recommended to their parents that a restorative justice (RJ) intervention would have the most positive outcome. The supermarket issued lifetime bans which affected the boys' parents as it was the only supermarket they could easily get to. The panel was attended by all concerned parties and the parents were supportive of the process. The boys wrote letters of apology and as a result have had the bans lifted to allow them to accompany their parents when shopping.*

*Three boys aged 10-11 were referred to the project. They were trespassing in the yard of a chemical company. They damaged and entered a truck's trailer and started a fire which then engulfed the trailer, causing a major fire. The boys ran away and there was an explosion, as the yard was full of containers filled with chemicals. Ten fire engines attended the scene, which left the whole Lancashire area vulnerable. All three boys attended the panel within two weeks, apologised to the yard manager and attended three intense impact workshops held by the Lancashire Fire Rescue Service.*



*A young male aged 17 kicked and damaged the wing mirror of a BMW after a drunken argument with his partner. The victim was a lady with a disability and suffering from MS. This incident affected her beyond just the damage to her car. The lack of safe use of her car meant that her daily mobility was massively restricted. When she did get it fixed, she was too scared to park in the usual place for fear of a repeat offence. A peer panel was held and the 17 year old demonstrated remarkable understanding and empathy for the effect of the damage he had caused and was deeply sorry for causing such hardship. In addition to a sincere apology he agreed to pay for the damage as reparation and realised the consequences of his actions. The victim was satisfied and expressed interest in becoming a panel volunteer.*

*A young female was racially abusive to a police officer during an arrest. Following the police issuing their own disposal, it was decided a peer panel would be useful for the officer to express how he had been affected. At the panel both the officer and his supporting sergeant had a chance to tell the offender how they had felt about the incident and how similar incidents affect police on both a personal and professional level.*

The project is popular in Preston and is respected by victims and offenders. Panels have changed lives and given the victims a chance to be heard and the offenders a chance to apologise. This success is because of the consistently high

performance of the project mediators. According to the programme manager, Luke French, "This success can be specifically attributed to the quality of the intervention, including preparation of service users and partner involvement. We have also just started offering a mentoring service for our young offenders which adds value to our work and will further help us prevent reoffending".

### ***The use and benefits of restorative justice approaches in criminal justice have been debated for more than a decade.***

In his overview of restorative justice, Marshall found its success to be a result of its focus on: victim's needs; preventing reoffending by re-integrating offenders; enabling offenders to assume responsibility for their actions; creating support within communities for offender rehabilitation; and providing an alternative to criminal justice measures.<sup>8</sup> A recent evaluation of three schemes using restorative justice found that the reduction in reoffending in the subsequent two years was statistically significant.<sup>9</sup> The evidence is there that restorative justice reduces reoffending and has the potential to encourage desistance from crime.

Restorative approaches are also used in prison. Three types of intervention in prisons are significantly associated with a reduced likelihood of reoffending, one of which is victim awareness courses.<sup>10</sup> The Prison Fellowship Sycamore Tree Programme at Highpoint prison is a good

8. Marshall, T. (1999) *Restorative Justice: An Overview*, London, Home Office.

9. Shapland, J. et al. (2008) *Does restorative justice affect reconviction? Ministry of Justice Research Series 10/08*, London, [www.justice.gov.uk/publications/restorative-justice.htm](http://www.justice.gov.uk/publications/restorative-justice.htm) and for work involving young offenders Sherman, L. & Strang, H. (2007) *Restorative Justice: The Evidence*, Esmee Fairbairn Foundation, London, [www.esmeefairbairn.org.uk/docs/RJ\\_full\\_report.pdf](http://www.esmeefairbairn.org.uk/docs/RJ_full_report.pdf).

10. Ministry of Justice (2008) *Factors linked to reoffending*, Research Summary 5, [www.justice.gov.uk/publications/factors-linked-to-reoffending.htm](http://www.justice.gov.uk/publications/factors-linked-to-reoffending.htm).

example. It is based on restorative principles and is an accredited programme which recognises prisoner achievement in taking responsibility for their actions. As noted previously, punishments for breaching prison rules are frequent. Whilst serious misdemeanours should not go unchallenged, there is scope for being less punitive and using restorative approaches to resolve disputes inside prison.

Restorative principles and ethos can be put to use in other areas of prison life. The use of officer discretion, invisibility of decision-making, lack of transparency in the complaints process, violence in prison and prisoner-staff relationships are areas that would benefit from using restorative practices. Restorative practices have been tried in prisons specially in working with young offenders. According to Tony Corcoran, Governor of Dartmoor prison, restorative practices are effective in adjudicating disputes in prison during the short-term. In his study of young people (15-17) at Brinsford prison he found that those participating in the restorative process to resolve internal disputes not only pleaded guilty but also made more amends than other prisoners. However, this was an isolated experiment with no medium to long-term follow-up. Some prisons have trained officers with responsibility for restorative justice and some have piloted formal mediation as a method of resolving racist incidents.<sup>11</sup> Operational realities of prison life, the nature of the prison regime and resource issues have been some of the barriers in mainstreaming restorative practices in prisons.

## Transforming our approach to restorative justice

This paper argues for more widespread use of restorative justice processes. Accepting and mainstreaming restorative justice requires a different way of understanding it. It has been shown to be invaluable in effecting the rehabilitation of young offenders and in meeting the needs of crime victims. Whether used in a community setting or in prison, it can shape and transform individual lives.

Restorative practices are grounded in a philosophical framework based on mutual understanding. More pragmatically, they provide a real approach to cultivating good relationships. Nacro believes that involving victims and communities in restorative processes increases community engagement and participation which in turn offers new opportunities for resettlement and community reintegration. Those who question restorative practices or question its success in reducing reoffending need to consider the transforming qualities of the restorative model. Restorative values and principles elicit tolerance, encourage the exercise of human rights and help create a fair and inclusive society. The model goes beyond responding to crime and harm by influencing and shaping how individuals relate to one another and this is what makes it so appealing.

11. **Prison Service (2008) Race Review. Implementing race equality in prisons - Five years on**, p.65, <http://www.hmprisonservice.gov.uk/abouttheservice/racediversity/raceequality/>.

## Restorative justice in the English juvenile justice system: A brief account

Dr. Theo Gavrielides, *Chief Executive at ROTA, Chief Executive of Independent Academic Research Studies and Member of the Transformative Justice Forum*

### Introduction

Arguably, the term 'restorative justice' (RJ) was first introduced in the contemporary criminal justice literature and practice in the 1970s. However, strong evidence suggests that the roots of its concept are ancient, reaching back into the customs and religions of most traditional societies. In fact, some have claimed that the RJ values are grounded in traditions of justice as old as the ancient Greek and Roman civilisations.<sup>1</sup> For instance, Daniel Van Ness believes that the term was probably coined by Albert Eglash in a 1977 article, but the ideas underlying it, as well as many of its practices date back to the early types of human aggregations.<sup>2, 3</sup>

This paper will provide a brief account of the development of RJ in England and Wales for juvenile crime. This goes back to 1972 where the first victim offender mediation (VOM) programme was introduced. As the evidence on RJ becomes more robust, its relevance to race equality and achieving fairness for Black, Asian and minority ethnic (BAME) groups also becomes clearer. In a criminal justice system where BAME communities are over-represented and issues such as culture, language barriers, ethics and disadvantage are often ignored, a more personalised (criminal) justice paradigm becomes appealing. I have argued elsewhere how timely RJ is for community cohesion policies.<sup>4</sup>

Its contribution to youth justice is easily identified as practice has received robust evaluation and research.

### Legislation and policy

As with other jurisdictions, RJ's first development in England and Wales came from the community without any legislative or other support from the government. In 1972 the 'Bristol Association for the Care and Resettlement of Offenders' (BACRO) was looking into the possibility of making offenders become more aware of the harm they were doing by introducing them to their victims. This project helped BACRO to realise that they knew little about victims, and in 1974, it set up a pilot scheme to give victims the opportunity to express how they have been affected by crime. This was then followed by a series of similar programmes, which eventually resulted in the formation of the 'National Association of Victim Support Schemes' (NAVSS) in 1979-now called Victim Support. Enquirers from agencies interested in starting mediation or reparation projects tended to confuse VOM with victim support and contacted NAVSS. After a series of such enquiries, NAVSS set up a working party, which produced several publications, while from 1981 it held regular six-monthly meetings for all those interested. These led to the establishment of the Forum for Initiatives in Reparation and Mediation (FIRM) in 1984, then known as Mediation UK.<sup>5</sup>

1. Braithwaite, J. (2002) *Restorative Justice & Responsive Regulation*, Oxford: Oxford University Press, pages 64-68.
2. Eglash, A. (1977) *Beyond Restitution: Creative Restitution*, in J. Hudson and B. Galaway (eds) *Restitution in Criminal Justice*, Lexington, MA: DC Heath and Company.
3. Van Ness, D. and Heetderks, K. S. (1997) *Restoring Justice*, Cincinnati, OH: Anderson Publishing Company, 24.
4. Gavrielides, T. (submitted) *Pushing the Barriers: The use of restorative justice with hate crimes*, *Justice Quarterly*.
5. Liebmann, M. and Masters, G. (2001) *Victim Offender Mediation in the UK*, in *The European Forum for Victim Offender Mediation and Restorative Justice* (ed) Victim-Offender Mediation in Europe, Leuven: Leuven University Press.

Since then, the new practice had to find its way in the 'shadow of the law', as no specific legislation was enacted to regulate it. However, this was soon to change. After a 1996 Audit Commission report, which severely criticised the youth justice system as "ineffective and expensive", a White Paper titled 'No More Excuses' was introduced in the British parliament.<sup>6, 7</sup> The paper argued in favour of a philosophical shift in the approach to youth crime, which "should promote greater inclusion of the views of victims in the youth justice system, while juveniles be encouraged to make amends for their offences".<sup>8</sup>

The result was the introduction of the 'Crime and Disorder Act 1998' (CDA), which according to many writers, is the first enabling legislation for VOM in England and Wales.<sup>9</sup> With its principal aim as "the prevention of offending by young people", the Act introduced three central innovative features into the youth justice system, which are said to have changed it fundamentally.

The first feature was a new governmental body: the Youth Justice Board for England and Wales (YJB). Since March 1st 1999, the Youth Justice Board has been monitoring the youth justice system and identifying, innovating and promoting good restorative practice.

The second innovative element was the creation of 'Youth Offending Teams' (YOTs). These are multi-agency panels formed by local authorities to

provide reports for courts, supervise young offenders sentenced by the court, and to undertake preventative work. Their staff includes police officers, social workers, probation officers, education and health workers and youth service officers.

Third, the Act introduced a range of new orders and amended existing ones. In particular, it established a specific 'Reparation Order', which enables courts to order young people to undertake practical reparation activities directly to either victims or the community. This needs to be the outcome of a mutual agreement between the parties. The government wanting to make sure that the process would be kept as restorative as possible issued a 1998 guidance note on the Act.<sup>10</sup> In particular, Section 2.4 made it clear that "...it should not be a mechanistic process based upon an eye-for-eye approach; instead any reparation should be tailored to meet both the needs of the victim, if they wish to be involved, and addressing the offending behaviour of the young offender".<sup>11</sup> Section 6.1 set down the restorative nature of the outcomes to which such a process should lead. Finally, the guidance notes suggested that VOM could be considered as a part of 'Reparation Order', and that YOTs may wish to consider establishing this restorative process.<sup>12</sup> Tim Newburn and Adam Crawford claimed that RJ is also visible in other elements of the Act such as 'Action Plan Orders', final warnings and reprimands.<sup>13</sup>

6. **Audit Commission (1996)** *Misspent Youth*, London: HMSO.

7. **Home Office (1998)** *The Crime and Disorder Act Draft Guidance Document: Reparation Orders*, London: HMSO.

8. **Ibid.**

9. **Liebmann, M. and Masters, G. (2001)** *Victim Offender Mediation in the UK*, in *The European Forum for Victim Offender Mediation and Restorative Justice* (ed) *Victim-Offender Mediation in Europe*, Leuven: Leuven University Press.

10. **Home Office (1998)** *The Crime and Disorder Act Draft Guidance Document: Reparation Orders*, London: HMSO.

11. **Ibid**, S2.4.

12. **Home Office (1998)** *The Crime and Disorder Act Draft Guidance Document: Reparation Orders*, London: HMSO, S6.1.

13. **Newburn, T. and Crawford, A. (2002)** *Recent Developments in Restorative Justice for Young People in England and Wales: Community Participation and Restoration*, *British Journal of Criminology* 45(2), 476-495.

A year later, the government introduced the 'Youth Justice and Criminal Evidence Act 1999' (YJCEA), which introduced the 'Referral Order'. This is a mandatory sentence for young offenders (aged 10-17) appearing in court for the first time who have not committed an offence likely to result in custody. The court determines the length of the Order based on the seriousness of the offence, and can last between three and 12 months. Once the sentence length has been decided, the juvenile is referred to a 'Youth Offender Panel' to work out the content of the Order. These panels are arranged by local YOTs and can include: the offender and their family and friends; the victim and their family; a representative of the local YOT; and three members of the community. In theory, the process is a restorative one, including honest and sincere understanding of what happened and the pain inflicted and what needs to occur to put it right. The government has described the Order as the first introduction of RJ into the youth justice system, while the Act itself makes specific reference to VOM as a possible agreed outcome of a panel.

Many have argued that none of the above legislative developments would have taken place if it had not been for the change in culture that Thames Valley Police (TVP) brought with its innovative RJ initiatives. TVP is currently the largest non-metropolitan police force in the country, covering 2,200 square miles of Berkshire, Buckinghamshire and Oxfordshire. In the mid-1990s, TVP felt they had to respond to the strong criticisms that were launched against

the system of 'cautioning', according to which the police in the UK has the power to divert young offenders away from a court appearance by giving them a formal police caution as a way of finalising the offence committed, providing certain conditions are met. According to the then Chief Constable, Sir Charles Pollard: "When we looked at our traditional cautioning system, we found that no training was given to police officers on how to deliver them. Police officers just did them, with little thought about how effective they were, and never a thought about whether the victim would wish to be involved in some way" (Pollard 2000).

Research that was carried in this area also showed that cautioning sessions were sometimes used to humiliate and stigmatise offenders. For example, TVP's police officers who were interviewed by a team researching this particular criminal justice feature confirmed that in traditional cautions the usual aim was to give offenders a 'bollocking' and to make them cry.<sup>14</sup> The result of TVP's positive reaction to these criticisms was the introduction of a new restorative feature, the 'restorative caution'. Based very much on the work of Terry O'Connell in Australia at Wagga-Wagga, TVP were the first to launch this initiative, whereby police officers administering cautions were meant to invite all those affected by the offence, including victims, to a meeting. In particular, the police officer uses a script to facilitate a structured discussion about the harm caused by the offence, and how this could be repaired. The first experiment took place in 1994 in Milton Keynes with the carrying out of

14. *Ibid*, S2.4.

the 'Retail Theft Initiative', whereby young people, who had been caught shoplifting, were brought face-to-face with store managers to hear how shop theft affects others. Over the first three years of the initiative, 1,915 restorative conferences took place at which victims were present. In a further 12,065 restorative cautions, the views of any absent victims were relayed by the cautioning officer. To date, restorative cautioning is considered the largest-scale restorative justice programme in the UK.

TVP's restorative cautioning initiative has been the focus of a three-year study (1998-2001) by the Oxford University Centre for Criminological Research. This was led by Richard Young and Carolyn Hoyle, and resulted in the report *Proceed with Caution*, as well as in several articles and chapters in books.<sup>15</sup>

Their report concluded: "TVP largely succeeded in transforming its cautioning practices from traditional cautioning to restorative cautioning. In particular, it eradicated much of its earlier poor practice in a relatively short period of time between the interim study and the final evaluation. While there was considerable room for further improvement, the findings suggest that even restorative sessions that were less well facilitated were a substantial improvement on traditional cautions".<sup>16</sup>

For example:

- Offenders, victims and their supporters were generally satisfied with the fairness of proceedings and the results.
- Apologies were usually offered to the victims and were mostly viewed as the result of genuine remorse.
- One in three offenders entered willingly into a formal agreement to make some kind of reparation.
- However, additional training and better understanding was still thought to be needed. High-quality facilitation produced the most effective results, but implementation also proved problematic on several occasions.

15. Hill, R. (2002) *Restorative Justice and the Absent Victim: New Data from the Thames Valley*, *International Review of Victimology* 9(3), 273-288. Hill, R. et al. (2003) *Meeting Expectations: The Application of Restorative Justice to the Police Complaints Process*. Occasional paper no 21. Centre for Criminological Research. Hoyle, C. et al. (2002) *The Implementation and Effectiveness of the Initiative in Restorative Cautioning by Thames Valley Police: Research Findings*, York: Joseph Rowntree Foundation.

16. Hoyle, C. et al. (2002) *The Implementation and Effectiveness of the Initiative in Restorative Cautioning by Thames Valley Police: Research Findings*, York: Joseph Rowntree Foundation.



## Case law

The aforementioned statutory and policy developments have been reflected in the Court of Appeal's judgement in Regina v David Guy Collins. The appellant, aged 26, had been sentenced to a three and a half-year sentence of imprisonment for unlawful wounding and a consecutive term of three and a half-years for robbery. For the latter, he undertook to participate in a VOM programme, which resulted in the writing of a letter of apology and a report by the mediation authority. The offender agreed to deal with the drugs problems, which to some extent had led to these serious offences, and promised to attend 'Narcotics Anonymous'. He also applied for a change of prison where a drug treatment programme was available, and was required to write to a liaison officer every three months to report upon his progress.

All these were taken into consideration by the Court of Appeal, which said: "We think that was a powerful feature of the sentence, and one to which it is important we draw attention. The judge referred to the fact that the appellant had written to the victim, but we think that it was to the credit of the appellant that he took part in that programme and that it is a factor properly to be taken into account...RJ is a comparatively recent programme designed to ensure effective sentencing for the better protection of the

public...It is by no means a soft option, as the facts of this case reveal...In all the circumstances, having regard to that feature and to the appellant's plea of guilty, we think that the total sentence of seven years was too long. We think that for the period of seven years a total of five years' imprisonment should be substituted...".

## Critical reflections

Restorative justice was reborn not out of formal structures and legislation, but of voluntary action by enthusiastic and dedicated practitioners. As the restorative tradition is now expanding to deal with crimes, ages and situations that it has never addressed before - at least in its contemporary version - and as it starts to make sense in national, and also regional and international forums, then the responsibilities of both restorative practitioners and academics redouble.

In their 2007 evaluation study for the Home Office, Sherman and Strang noted: "The evidence on restorative justice is far more extensive, and positive, than it has been for many other policies that have been rolled out. Restorative justice is ready to be put to far broader use . . .".<sup>17</sup> However, RJ is still far from being mainstreamed or even accepted as an official response to crime; least serious crime.

17. **Sherman, L. and Strang, H. (2007)** *Restorative justice: the evidence*. London: The Smith Institute; **Gavrielides T.(2008)** *Restorative justice: the perplexing concept. Conceptual fault lines and power battles within the restorative justice movement*, 8:2 *Criminology and Criminal Justice Journal*, 165-183; **Gavrielides T. (2005)** *Some Meta-theoretical Questions for Restorative Justice*, 18:1 *Ratio Juris*, pp. 84-106; **Home Office (1998)** *No More Excuses - A New Approach to Tackling Youth Crime in England and Wales*, London: HMSO; **Young, R. and Hoyle, C., Oxford University (2002)** *Proceed with Caution: An Evaluation of the Thames Valley Police Initiative in Restorative Cautioning*, York: Joseph Rowntree Foundation.

*Bridges must be built in order to synthesise. Over the last three years, ROTA has committed some considerable resources in creating an evidence base that is now used to inform and challenge policy. Through the Transformative Justice Project and the Restoring Relationship Project we will continue to increase awareness via publications such as this one and inform strategic decision makers, funders and government by providing them with accurate and timely information.*

*ROTA has evidence to suggest that restorative justice, as a community-led, aboriginal-based justice concept can cater for the needs of BAME communities and provide a more personalised alternative. Although restorative justice should not be seen as a panacea it should be explored and tested further.*



## Restorative justice as a public policy to reduce reoffending

Ewan Kennedy, *Policy Officer at ROTA*

Crime has fallen over the past few years as recorded crime and on the basis of the experiences of population.<sup>1</sup> While this is positive, the same advances have done little to affect the levels of reoffending once sentences have run their course. This is a significant priority for government and the wider community given that reoffending offences are understood to become more serious.

Restorative justice (RJ) schemes give the opportunity to address this significant government priority. RJ is seen as a method to reduce reoffending and reconviction through giving an alternative option for addressing the needs of the state, victim, and offender, which 'restores the harm' done. Often this would be done as an alternative to sentencing and as a result should be seen as an alternative form of disposal. Research examining RJ methods as a public policy to reduce reoffending is mainly focused on it as an alternative to sentencing.<sup>2</sup> But there is a further use in terms of a strategy within sentence structures and institutions. It is this additional use within probation and prison services where an RJ approach could address the most intractable users of offender management institutions and help address the over-representation of Black, Asian and minority ethnic (BAME) groups in the criminal justice system.

### An overview of government policy

Recorded crime figures for 2008/09 show there were 4.7million crimes recorded across the UK for that year. The British Crime Survey, an annual survey of 48,000 people on their experiences of crime, estimated there were 11 million crimes experienced by people in the UK for the same year.<sup>3</sup> There is significant cost in prosecuting crimes and carrying out the sentences of offenders. At present there are over 80,000 prisoners serving a court determined sentence or on remand awaiting trial in the UK.<sup>4</sup> Around 27% of the prisoner population come from BAME communities compared to around 9% of the general population. This represented about 25% of the male prisoner population and 28% of the female prisoner population. By looking deeper into these figures a high proportion of BAME offenders were serving sentences of four years or more, with less Black offenders serving a prison sentence of less than one year.<sup>5</sup> A different emphasis is needed within government; priorities can be drawn out of government policy to tackle this situation.

1. **Home Office (2009)** *Home Office Statistical Bulletin: Crime in England and Wales 2008/09: volume 1.*
2. **Ministry of Justice (2008)** *Does restorative justice affect reconviction? Fourth report from the evaluation of three schemes: MOJ research series 10/08.*
3. **Home Office (2009)** *Home Office Statistical Bulletin: Crime in England and Wales 2008/09: volume 1.*
4. **HMP (2009)** *Prison Population & Accommodation Briefing for 14th August 2009,* [http://www.hmprisonservice.gov.uk/assets/documents/1000483514082009\\_web\\_report.doc](http://www.hmprisonservice.gov.uk/assets/documents/1000483514082009_web_report.doc).
5. **Ministry of Justice (2009)** *Race and the Criminal Justice System 2007/08,* <http://www.justice.gov.uk/publications/docs/stats-race-criminal-justice-system-07-08-revised.pdf>.

Despite falling crime levels the proportion of those offenders reoffending has remained relatively stable at 39% between 2005 and 2007, and has only dropped from 43% since 2000.<sup>6</sup> Considering the government assertion that the majority of crimes are committed by a small amount of persistent offenders, it is necessary for community and custodial sentences to have significantly lower reoffending rates. This is a significant government priority in the criminal justice system.

Government priorities are identified in the Public Service Agreements (PSA) that are made between HM Treasury and the different central government departments for three-year periods. The agreements identify the issue to be addressed, what the target is and indicators on which the agreement will be considered to be met. At present there are 30 PSA's to be achieved over the period from 2008-2011 following the 2007 Comprehensive Spending Review. The issue of reoffending, as a particular priority to address, is represented by priority 4 of Public Service Agreement 23, Make Communities Safer to reduce reoffending through improved management of offenders. This is measured by two indicators of reductions in the level of proven reoffending by young and adult offenders, and the level of serious reoffending.<sup>7</sup>

Considering the higher proportion of BAME communities in jail serving longer sentences, there is an acute need to address offending and the potential to reoffend among these communities. RJ could be a method for this and subsequently a way to mitigate the acute problem of the over-representation of BAME communities in the criminal justice system.

RJ acts as an alternative to sentencing away from traditional imprisonment or unpaid work. Defined as an 'ethos with practical goals, among which is to restore the harm done by including all affected parties in a process of understanding through voluntary and honest dialogue, and by adopting a fresh approach to conflicts and their control, retaining at the same time certain rehabilitative goals' the approach is considered to be effective by addressing the needs of victims in relation to the effect the offence has had.<sup>8</sup>

But more importantly as a means to reduce reoffending, RJ provides a methodology to get to understand offending behaviour, generates tactics to resolve conflict and develops understanding of the victim's views among offenders, which all act to tackle the attitudes, thinking and behaviour leading to criminality. It is through providing for this route that a specific pathway to reoffending is addressed.

6. Ministry of Justice (2007) *Reoffending of adults: results from the 2007 cohort.*, *Statistics Bulletin*.

7. HM Government (2009) *PSA Delivery Agreement 23: Make communities safer* [http://www.hm-treasury.gov.uk/d/pbr\\_csr07\\_psa23.pdf](http://www.hm-treasury.gov.uk/d/pbr_csr07_psa23.pdf).

8. Gavrielides, T. (2003) *Restorative Justice: Are we there yet?* *Criminal Law Forum* Vol. 14:4, 385-419.

## Restorative justice on the routes to reoffending

The National Offender Management Service identifies seven routes or pathways to offending. These are essentially the areas which either provide the environment or the motivations for offending behaviour. Not one is a single reason, as in most cases perpetrators have multiple needs across these pathways, but they do give an idea of the range of intervention that can be implemented during a sentence to address the drivers to offend. The pathways are:

- Accommodation
- Education, training and employment
- Health
- Drugs and alcohol
- Finance, benefits and debt
- Children and families
- Attitudes, thinking and behaviour<sup>9</sup>

It is important to consider the range of these interventions as addressing crime conducted by an individual. Failing to meet one of these needs can lead to the offending. And a vulnerable person with a job and housing could easily lose that stability if the previous drug misuse redevelops, or behavioural problems resurface. To meet these needs the criminal justice system needs to use a holistic approach in addressing these causes. This can only be done through multi-agency approaches to the causes and results of criminal behaviour.

Interventions in these areas are the rehabilitative element of the sentences delivered. Prison and probation services with statutory and third sector partners will provide a range of services that develop skills and gain employment; address the health, drug and alcohol misuse issues of offenders; maintain the link between families and offenders; and try and manage the behavioural issues that face offenders. RJ addresses this last pathway but as a holistic approach to tackling the causes of crime it offers the opportunity of more directly benefiting the criminal justice system.

RJ is delivered in different ways including through face-to-face meetings, contact through a mediator and communication with 'surrogate' victims and offenders. Different models such as restorative justice conferencing, direct mediation and family group conferencing place different amounts of importance on different principles of RJ and employ differing techniques in practice.<sup>10</sup> This results in an appreciation of the experiences which led the offender to this point, and then understanding the effect they have had on the victim. By understanding the offenders needs the other pathways to reoffending can be addressed. But to do this RJ approaches, as holistic methods, must be invested in by all the criminal justice agencies. The Transformative Justice Forum, led by ROTA, is precisely attempting to engender this type of multi-agency working across criminal justice agencies.

9. **NOMS.** *The National Reducing Re-Offending Delivery Plan*, [http://www.noms.homeoffice.gov.uk/managing-offenders/reducing\\_re-offending/reducing\\_re-offending\\_pathways/](http://www.noms.homeoffice.gov.uk/managing-offenders/reducing_re-offending/reducing_re-offending_pathways/).

10. **The Restorative Justice Consortium**, [http://www.restorativejustice.org.uk/index.php?What\\_is\\_Restorative\\_Justice%3F](http://www.restorativejustice.org.uk/index.php?What_is_Restorative_Justice%3F).

***It is the developing of this understanding by the offender that is key to the role of restorative justice in post sentence rehabilitative strategies to reduce reoffending. This is most directly related to the attitudes, thinking and behaviour pathway, using a strategy that voluntarily encourages the use of victim awareness among the offenders. It also allows prisoners to take full responsibility for their behaviour and provides opportunities for improving self-esteem.***

In the UK the recently concluded final evaluation by the Ministry of Justice of RJ practices effecting reconviction rates found significant effects, with those experiencing RJ committing 27% less offences than those who didn't experience them.<sup>11</sup> This study was both for those given RJ as an alternative to court sentencing, and included the programmes for those on community and custodial sentences, and preparing for resettlement. These showed lower numbers of reconvicted offences for those engaged in RJ during their custodial or community sentence than those in the control group. This was not statistically significant as none of the project's control groups were large enough to reasonably be significant.<sup>12</sup>

At present criminal justice structures have over-representation of BAME communities. Whereas reoffending rates among BAME communities have decreased more than among White communities, they are still a significant contributing factor to this over-representation.<sup>13</sup> BAME communities are a distinctly large cohort in the prison population, serving longer sentences, but attempts to focus activity on reducing offending have not sought to acknowledge this community, treating the offender population as a single group. There is clearly the need for a sea change in approaches to addressing the reoffending and needs of BAME offenders to tackle this over-representation.

11. Ministry of Justice (2008) *Does restorative justice affect reconviction? Fourth report from the evaluation of three schemes, MOJ research series 10/08.*

12. *Ibid*, pp29-34.

13. Ministry of Justice (2009) *Re-offending of Adults: results from the 2007 cohort, statistical bulletin.*

Equally important for a public policy strategy when considering the crime costs of reoffending, including the costs to future victims, the restorative justice showed savings over traditional sentencing. Given the increased pressure on the public purse in recent times the importance of restorative justice processes are becoming more valuable. But the shape of this public policy must be seen fully as a potential activity across the entire sentencing structure, as well as an alternative.

There are significant levels of restorative justice schemes within prisons, but the understanding of their value is limited for these post sentence institutions. Furthermore, the sharing of good practice is inconsistent. It is also seen as disconnected from the pre court experiences and processes of crime, and those post sentences. ROTA and partners will continue to support the widest implementation when appropriate and explore the possibilities of restorative justice as a public policy strategy across all those organisations that are mandated to reduce reoffending.

## Restoring justice to the community

Dr. Martin Wright, *Senior Research Fellow at the Faculty of Health and Life Sciences, De Montfort University, Leicester*

Two young men went on a drunken rampage, breaking windows and other property, in a small town in Canada, in 1974. Their probation officer suggested that rather than simply punish them, which would do little good for them or their victims, it might be a good idea for them to meet their victims and discuss suitable reparation. To his surprise, the judge agreed. Nearly all the 22 victims were contacted and agreed to meet. The victims told them the effects of what they had done; the young men agreed to pay compensation for damage not covered by insurance, and took summer jobs to pay for it. They were also fined and placed on probation. This inspired the creation of a programme for victim-offender reconciliation, which is now usually referred to as restorative justice. The judge has since retired, and became a volunteer mediator with the programme - and, by a quirk of fate, one of the perpetrators, having turned over a new leaf, has done the same.

Another form of restorative justice, developed in New Zealand, is called 'conferencing'; it brings together the families and others affected as well as the victim and offender. The informal, restorative atmosphere of mediation and conferencing sessions encourages everyone to speak openly about local problems leading to crime; co-ordinators can put this information together and contribute to crime prevention strategies.

This has become more than another way of dealing with offenders. For a start, it involves the victim: not just as an afterthought, making 'victim impact statements' to the court in a basically unchanged system, but having dialogue with the offender, asking questions and getting answers,

and taking part in the decision about suitable reparation. This is why the numerous research studies of restorative justice have consistently reported very high rates of victim satisfaction. Often what they want most is to prevent further offending, for the sake of other victims and of the offenders themselves, so the reparation consists of co-operating with a rehabilitation programme. This is more likely to work if the offender agrees to it than if it is imposed by a court. Research by the University of Sheffield points to encouraging reductions in reoffending, especially from conferencing - but this also depends on the quality of the restorative process and on the resources available to enable the offender to fulfil the reparation agreement.

The differences between conventional and restorative ideas of justice were pointed out by Howard Zehr, director of an early victim-offender programme in Indiana, in an influential book *Changing lenses: a new focus for crime and justice*. Seen through a retributive lens:

- Crime is defined by broken rules
- The state is the victim
- The offence is defined in legal terms
- Wrongs create guilt, repaid by taking punishment
- The offender is seen as a wrongdoer who should be punished

Justice is seen as requiring:

- Blame-fixing
- Focus on the past
- Harm by offender balanced by pain to offender

Using a restorative lens, by contrast:

- Crime is defined by harm to people and relationships
- People and relationships are victims
- The offence is understood in its moral, social, economic and political context
- Wrongs create liabilities and obligations, repaid by making amends
- The offender is seen as a person who has done wrong but can make it right (at least partly), and should then be reintegrated into the community

Justice is seen as requiring:

- Problem-solving
- Focus on the future
- Harm balanced by making amends

In the last two decades restorative justice has been built into the system in Norway and Finland. The Norwegian criminologist Nils Christie wrote in 1977 about 'conflicts as property': conflicts, he said, have been 'stolen' by professionals, lawyers, probation officers and so on, and should be given back to their 'owners', the individuals and communities directly affected. Disputants, victims and offenders should be enabled to find their own resolutions, with the help of mediators, who should themselves be members of the local community (in Norway this is required by law).

## Restorative justice in the UK

How much have these ideas caught on in this country? In England and Wales, there are about 180 community mediation services, mainly using

trained volunteers as mediators. Several of them also undertake victim-offender mediation, and more could do so with official encouragement (and of course funding). There is obvious scope here for 'Engaging communities in criminal justice', the subject of a recent government Green Paper.

The legislation mainly concerns young offenders. When a young person appears in court for the first time, and admits an offence which is not too minor or too serious, the court must make a 'Referral Order', referring him or her to a Young Offender Panel. This consists of two trained volunteers (community involvement) and an officer, the victim can be present, and the aim is not punishment but a 'problem-solving' action plan for reparation to the victim or the community, and a programme (using community resources) to reduce the risk of reoffending. However, not enough attention has been given to victims, though efforts are being made to address this; and the management of the process is firmly in the hands of the statutory agencies.

Northern Ireland has gone further: cases can be diverted before reaching court, and those that do come before a court must be referred to a 'youth conference', except for the most serious crimes.

One weakness of the English system is that it has few restorative measures for adult offenders, so that victims get no benefit if their offender happens to be over 18. This could be remedied by degrees, but there is a more serious obstacle in the form of the Criminal Justice and Immigration Act 2009. This requires the creation of sentencing guidelines based on the offender's culpability and the harm caused (or intended), plus or minus aggravating or mitigating factors. In other words, the focus will be on 'keeping the score', measuring the gravity of the act merely by time in prison, rather than by reparation, the needs of victims (let alone their wishes), or the time required for rehabilitation. This legislation is squarely in the retributive tradition described by Zehr, and is hard to reconcile with a restorative philosophy.

Even some measures which use the 'restorative' label have little to do with the restorative ideal. For example, in the 'community payback' scheme, offenders are supposed to 'pay something back' to the community; but it is essentially punitive, aggravated by the stigma of wearing conspicuous clothing. Restorative justice is not based on fear, apart from the deterrent effect of being caught, but on encouraging and enabling people to accept responsibility, repair harm, and do better.

### **A broader restorative ideal**

The idea of a problem-solving approach, in which people are accountable for their actions, with help from mediators and the community, has spread beyond criminal justice. It begins with schools, where 'restorative discipline' encourages children to take responsibility for their own behaviour, and

peer mediation teaches respect and non-violence by showing them how to resolve conflicts by guided dialogue. Some areas, such as Hull and Norfolk, are aiming to train everyone who works with children in restorative practice. Community mediation services help people to resolve disputes without resort to the authorities; some of these conflicts can lead to serious crimes, so this is another preventive contribution.

The Youth Justice Board is currently promoting a 'scaled approach' to offending, and a restorative system would apply this to adults as well. Minor offences could be dealt with by a caution. Where the offender admitted involvement, or the offence arose from a dispute, it could be diverted to mediation rather than processed through the criminal justice system. More serious cases would go to court, but with the option of a pre-sentence victim-offender conference. The sentence itself could be a restorative one, including a meeting if the victim and offender were willing. Custody would be a last resort, for the protection of the public; even there the regime would be restorative, rather than punitive, and there would be the option of victim-offender mediation before the offender's release. The cost would be more than met by reducing the cost of building and running prisons, and society would be healthier with victim-focused justice, backed up by community-based decision-making and conflict resolution.

Martin Wright is the author of *Restoring respect for justice* (Waterside Press, 2nd ed, 2008).



## React first, think later: How restorative justice and mediation post-sentencing assist young people to self-evaluate and make positive long-term changes to their lives

Elena Noel, *Hate Crimes Project Manager at the Southwark Mediation Centre and Member of the Transformative Justice Forum*

**T**he use of restorative justice (RJ) post-sentencing with young people raises a number of issues for practice and applicability. Young people need opportunities to learn from their mistakes and to embrace positive change for the future. RJ affords this.

***Too many young people get into difficulties because they 'react first, think later' by which time harm has been inflicted and they are dealing with the consequences of their responses. For some, it will be too late and the situation viewed as too dangerous where there is no other choice than granting a custodial sentence for reasons of public safety.***

As a mediation practitioner with over 13 years experience I deal with large and smaller-scale protracted situations of conflict in neighbourhoods and estates in urban areas in London. The Hate Crimes Project in Southwark works with complex and entrenched incidents and harassment due to race, faith, sexuality and culture using a 'restorative approach'. Through our work we have proved that mediation can play a pivotal role in stopping situations of conflict from escalating further with young people.

The referrals I receive broadly fall into two categories: one-off incidents or repeated targeting. In the latter those causing the harm are often not aware of the devastating corrosive impact of their actions upon others and are often shocked to learn this. The RJ process through mediation can enable meaningful dialogue and ownership of behaviour without apportioning judgement. It needs to be more widely used when dealing with young people in conflict alongside more traditional approaches.

In many situations the conflict I encounter has been in existence for three to five years (some considerably longer) with multiple-agency involvement before referral. An RJ approach can enable more constructive communication to occur between the parties - pre and post-sentence. Many of these 'hate incidents' are referred to me because the referrers hope the restorative process will enable the young people concerned to steer away from the path of criminality by understanding the impact and consequences of their actions on others.

Where a custodial sentence has been passed, work can be done to assist the young person, their family and others affected to live peacefully in the community. For those targeted, it can be a catalyst for healing and moving on as they get their questions answered and guarantees that incidents will stop; court action does not allow for this without implying guilt.

In many instances RJ/mediation - through positive engagement with young people - can save lives by stopping the senseless acts of violence occurring in estates and neighbourhoods. This happens through constructive, future-focussed dialogue in a process that is voluntary, confidential and non-judgemental. Challenging young people to think for themselves is critical. Young people need to have a process whereby they are heard and understood in an environment free from coercion. It is for this reason I strongly believe involvement in RJ/mediation has to remain voluntary and confidential.

The use of mediation as a restorative approach and the learning that can come from it has many rehabilitative elements for young people. This includes awareness-raising, empathy, with young people actively taking responsibility for their own behaviour and positively assisting others to do the same. Court action is not always able to achieve this.

This is how RJ/mediation can support and complement other work being done to divert young people away from crime by working with them to develop strategies that enable them to say no to peer pressure. Some of the young people I have worked with are known to the Youth Offending Teams (YOTs), London Probation, the police, Anti-Social Behaviour Teams and voluntary sector organisations.

In some instances the young people involved (and their parents) have either received a custodial sentence or a community one or some other type of enforcement action and are still feeling extremely aggrieved and/or fearful as to what may happen in the future: reprisals or further escalation in the conflict. This too, may be the experience of those who have been targeted. For those who have received custodial sentences and are imprisoned, they are aware of what is happening via friends and associates on the outside, and what could potentially happen on release.

Working with those experiencing high levels of repeat victimisation on estates and in communities has left me in no doubt that RJ can play a pivotal role in instances involving community tension and requiring community engagement with those affected and/or at risk.

The following case study illustrates this point.

### **Case study**

*Mrs Said was referred to the Hate Crimes Project due to racial harassment. Her home on an estate was repeatedly targeted with eggs with Mrs Said and her family receiving continuous verbal abuse and being spat on in the street by other residents.*

*On visiting her, myself and my co-mediator, David, discovered the situation was far more urgent and more complex. Mrs Said disclosed that her eldest son Martin, aged 17 years, and another young person were responsible for an accident which had led to the death of another local child. Her son had received a custodial sentence from which he was soon due for release. Mrs. Said and her family had become prisoners in their own home and Mrs Said was feeling very depressed, isolated and fearful. She was angry with Martin for the situation he had caused and worried about his welfare and his release.*

*The community were very angry and revengeful. Tensions were running very high and we assessed the situation as high risk and realised we had to work quickly. Martin's life and that of his family were at risk if he returned to the property.*

*We made swift contact with the police, housing, community wardens, YOT and Martin himself. Martin wanted the community to know he was deeply sorry about the death of the child, which was an accident. He had learnt his lesson. The incident would stay with him for the rest of his life. He wanted his mother to know he was truly sorry for the trouble and pain he had caused the family.*

*He was aware of who was harassing his mother; his friends had rang him to tell him and he was in the process of 'dealing with this'. He was very angry.*

*Over a number of weeks intensive work was successfully done with Martin with the support of his YOT worker, the police and his parents who engaged in the mediation process and persuaded him to let me and my co-mediator manage the conflict.*

*Intensive indirect shuttle mediation work was done between the young person harassing Martin, his family and friends. A number of resolution points were drawn up in a mediation agreement and exchanged between the various parties and the incidents stopped as a result. Tensions in the community significantly reduced. This was relayed to Martin in preparation for his release.*

*Work was done with housing to get Martin rehoused in another area on his release. He did not return to the area but maintained successful contact with his family.*

***Had this work not been done by the mediators it is highly probable that Martin would have been killed in revenge, and his family driven out of their home.***

## The role and use of restorative justice in the criminal justice system

The fundamental question remains about the role and use of RJ in the criminal justice system when working with young people (and adults) post-sentencing. Should RJ be used to put right the harm caused by the perpetrator or is it a victim-led process to help the victim ascertain why they were targeted and to get their questions answered so that they can move on? It can be both of these. The other part to this is who activates the use of RJ and how, at what stage, and for what purpose? Currently there is no consistency between RJ practitioners in the UK.

Timing is critical especially when working with young people. In my experience, RJ has to be voluntary, not mandatory. Central to this is the RJ practitioner/mediator making a holistic assessment of the needs of the parties at the start and throughout the process. This is also critical to its success in enabling long-term resolution and/or ensuring the needs of the victim and perpetrator are met, especially when working with large-scale entrenched community conflicts.

There is still much confusion and scepticism about RJ and how it is practiced by those in the voluntary, community and statutory sectors. Many still view it as a 'soft option' used as a means to mitigate the reduction in sentencing. The legal system is seen as 'better', with RJ and 'win-win' solutions seen as lesser. This needs to change. More opportunities for and research into RJ/mediation are needed so that it is seen as a viable (and cost effective) approach to dealing with young people with its ripple effect on reducing community tensions. It is also important to note that much of this work is being done in the voluntary and community sector where lack of long-term funding remains an issue.

***The government in its commitment to young people needs to find ways of sustainably funding restorative justice and mediation projects by voluntary and community organisations, which can actively demonstrate effective practice and provide opportunities for best practice to be shared.***

## Delivering a safer London for all London's communities: The work of the London Criminal Justice Board

Martin Greenslade, *Programme Director at the Association of Chief Police Officers and Member of the Transformative Justice Forum*

The public quite rightly expects an excellent service from London's criminal justice agencies - a service that is streamlined, effective, value for money and one that has the confidence of all the communities it serves.

By joining up cutting edge, multi-agency initiatives with the outcomes that really matter to the public - safer communities, less crime and better services for victims and witnesses - the London Criminal Justice Board (CJB) chaired by Deputy Commissioner Tim Godwin, is becoming synonymous with an approach that achieves just this.

Since it was formed in 2003, the London CJB, which covers the largest of 42 local criminal justice areas in England and Wales, has been coordinating London's criminal justice agencies (the police, courts, prosecution and probation services to name a few) in delivering sustainable improvements to the criminal justice service (CJS). These include:

- More police officers back on the streets of London as bureaucracy is reduced.
- Less reoffending by improving resettlement outcomes for offenders.
- Better services for victims and witnesses.
- Many thousands of young people and adults more engaged in the criminal justice process.
- Virtual courts reducing the time between arrest and sentence.

### Raising confidence in the criminal justice service

Almost every Londoner will come into contact with the criminal justice service at some point in their lifetime. With this contact, which often has a life changing impact, the work delivered through the London CJB is rooted in raising public confidence in the CJS.

Evidence shows London is on track. Of those that responded to the British Crime Survey, 45% expressed confidence that the London CJS is, as a whole, effective. This is the highest rating of any local criminal justice area. On fairness, 63% of respondents expressed confidence the London CJS is as a whole, fair. This is the third highest rating of any local criminal justice area and the best of any metropolitan area.

### A more efficient and effective criminal justice service

The Board is continually looking for opportunities to improve the system and this is particularly evident in their work to make the justice process faster and more efficient. The emphasis of this work is to make communities safer by reducing crime and putting more police officers back on to the streets - not just to make efficiency savings.

Their flagship initiative - a pilot of virtual courts technology - is now operating in London and the results are already promising. Originally developed by the London CJB, the virtual court links police custody suites to magistrates' courts for first hearings using video conferencing technology, enabling cases to be dealt with in a matter of hours rather than days or weeks.

The first case to go through the court in May of this year saw a man arrested for drink-driving sentenced within just four hours. Additionally they estimate that a national roll-out could save the taxpayer millions of pounds.

The efficiency drive does not end there. The London CJB has streamlined the production of case papers by police officers for prosecutors. Called 'Streamlined Process', this reduces wasteful activity and improves timeliness, quality and readiness of a case for court. As well as ensuring a more productive use of court time and enhancing the service to the public, initial findings show the process could save around 28,000 days of police time per year - the equivalent of 138 more full time police officers on the streets of London. Improved liaison between the police Witness Care Unit and the Crown Prosecution Service is also resulting in better services for victims and witnesses. Additionally, through the Integrated Prosecution Teams project, the Domestic Violence strategy and through improvements in magistrates' and youth courts (resulting from the Criminal Justice: Simple Speedy Summary {CJSSS} and CJSSS: Youth initiatives), the Board is ensuring that victims and witnesses are at the very heart of our work.

### Reducing reoffending

As a partnership body, the London CJB has a pivotal role to play in reducing reoffending. As part of the two-year Diamond Initiative pilot they have brought together probation, police and local authority officers to help resettle offenders who have served sentences of less than 12 months back into their communities.

Diamond is based on evidence that around 75% of these offenders (2007 figures) will reoffend within a year as, not being subject to statutory supervision, there is a strong temptation for them to revert to old habits. Six London boroughs now have teams operating and Diamond has the capacity to change the face of offender management, while making our communities much safer.

Alongside this, they are also focusing our efforts on young offenders. The London Youth Reducing Reoffending Programme is coordinated by the London CJB and involves the prison service, the six Diamond boroughs and the Mayor of London's office. Their hope is that by instilling a strong work ethos into these young offenders while still institutionalised and giving them better support on their release, they will be better equipped to resettle back into their communities and realise a positive future.

### Involving London's communities in criminal justice

The London CJB is driven to improve public confidence in the CJS. However, the Board is acutely aware that it is not going to achieve this unless the community knows what we are doing to tackle their concerns.

The Board has developed a community engagement strategy that encourages more people to play an active role in creating safer communities by reporting crime, coming forward as witnesses, becoming magistrates or taking up other voluntary opportunities in the CJS.

## Working with young people

The London CJB's Youth Strategy has a particular focus on young victims and witnesses. The Board wants to ensure that every contact a young person has with the youth justice system has a positive outcome, whether turning first time offenders away from crime, preventing them from reoffending or supporting young witnesses and victims. This combination of activity will significantly improve the responses to youth crime and victimisation in London.

A range of activities are being delivered to achieve this, including:

- New ways to better identify young people at risk of offending or victimisation and intervening.
- Prioritising those accused of serious or violent offences through to court, thereby speeding up the justice process.
- Diverting those accused of low-level offences, and who are unlikely to reoffend out of the CJS, with them making amends for their actions.
- Making the criminal justice process more understandable to young defendants and victims.
- Bringing Youth Offending Team (YOT) expertise into the police custody suite to assist with decision-making at the point of arrest.

Their achievements so far are:

- Repeat young offenders in London are being brought to justice almost 25% quicker than in 2006. The average time it took to deal with persistent young offenders in London from arrest to sentencing was six days in the quarter ending December 2008, compared to 85 days in 2006.

- The average time from charge to completion for all youth justice cases in London is 22% quicker - down from 58 days in 2006-07 to 45 days in the quarter ending December 2008.

## What's next?

The London CJB is not only delivering initiatives that make a real improvement to the way the criminal justice system works but is aiming to improve the confidence in the system across all communities in London. Communities need to feel confident that they will be treated fairly whether they are a victim or an accused. That level of confidence will be affected by stories in the media and the London CJB aims to ensure that reporting is balanced and reflects the reality of successfully processing hundreds of cases across London every day. It is also important that local communities can see the work of the criminal justice system in terms of how it relates to their problems. Courts are making greater efforts to engage with the communities they serve but Safer Neighbourhood Teams (dedicated teams of police and community support officers on every ward across London) can play a role in enhancing the perception of the criminal justice system.

The challenge to increase confidence in criminal justice in communities is great but one that all those with an interest in a fair system need to engage.



## The Crown Prosecution Service and restorative justice

*Yvette Williams, Equality and Diversity Manager at Crown Prosecution Service London and Chair of the Transformative Justice Forum (2008-9)*

Section 8 of the Code for Crown Prosecutors provides guidance to prosecutors on alternatives to prosecution. It requires prosecutors to consider diversion from prosecution and highlights the growing importance of this area and the prosecutor's increasing role within it. The Code also emphasises that the availability of restorative justice processes could provide sufficient reason to divert certain cases that would otherwise be deemed in the public interest to prosecute.

Restorative justice (RJ) has been defined as a process through which 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. RJ can take the form of victim-offender mediation either through direct contact between the offender and victim or indirect communication involving third parties. It can also involve restitution or reparation where this is agreed between offenders and their victims. The aims of RJ are commonly stated to be:

- **Victim satisfaction:** To reduce the fear of the victim and ensure they feel 'paid back' for the harm that has been done to them.
- **Engagement with the perpetrator:** To ensure that they are aware of the consequences of their actions, have the opportunity to make reparation, and agree a plan for their restoration in the community.
- **Creation of community capital:** To increase public confidence in the criminal justice system and other agencies with a responsibility for delivering a response to anti-social behaviour.

Properly administered, RJ processes produce individually tailored solutions involving interaction between offenders, victims and the community. RJ can give victims answers to questions about why they have been victimised that information or support on their own cannot. Victims are more likely to receive an apology through an RJ process than at court. Similarly for offenders, RJ processes offer a unique opportunity to face up to what they have done, take responsibility and make up for the harm their offending has caused.

In relation to adult offenders, prosecutors are most likely (although not exclusively) to come into contact with RJ when considering the use of restorative conditions as part of a conditional caution.

RJ processes must always be voluntary for both the victim and the offender. Where RJ is to be considered as part of a diversionary process (for example with a conditional caution) offenders need to have admitted responsibility for the harm they have caused.

Involvement in an RJ process can either be made a part of a conditional caution where both victim and offender agree to take part; or the RJ process can itself be the way in which the conditions of the cautions are arrived at.



Either type of link between RJ approaches and conditional cautioning will require the prosecutor to have an understanding of RJ, the type of case in which it might be appropriate and the offender's background. RJ works best where the offender is committed to participating in a meaningful way, rather than simply trying to avoid being prosecuted. Therefore, prosecutors should look for some evidence in the referring officer's report that the particular offender is considered suitable for an RJ-based disposal and an indication of the anticipated outcome of that participation.

The prosecutor will also need an understanding of how onerous RJ processes are for all taking part. This should be taken into consideration when deciding what other conditions might be appropriate to ensure that, overall, the conditions are proportionate to the gravity of the offence.

### **The use of restorative justice processes**

Delivery of effective RJ processes requires a clear strategy and close inter-agency liaison to ensure adequate levels of referral and robust monitoring of performance and outcomes. CPS Area Community Involvement Panels can help areas to identify locally available opportunities to use RJ processes in casework. Examples of RJ approaches include:

- Getting offenders to remove graffiti and repair property they've damaged where victims have agreed to this.
- Bringing shoplifters face to face with store managers to hear how shop theft affects others.
- Getting offenders to write letters of apology.

RJ processes can also be used as the decision-making process whereby conditions, such as compensation, rehabilitative activities, or other kinds of reparation, are agreed. It should be noted that in this case, any agreement on conditions arising from the RJ process are subject to approval by the prosecutor. It is the responsibility of the prosecutor, not the victim or offender, to ensure that the conditions which form part of the cautioning process are appropriate and proportionate to the offence.

RJ processes bring victims and offenders into contact so that victims can describe the impact of crime on them, have their questions answered, receive an apology, and so that offenders can understand and make good the harm caused by their crime.

RJ processes are more widely used with youth offenders. The Youth Justice Board has been promoting RJ since 2001 and includes within its national standards a standard regulating RJ and work with victims of crime. RJ can be used in youth cases as part of an order on conviction, such as a Referral Order or Supervision Order and as part of a final warning or intervention programme delivered by the youth offending service following a final warning. Restorative processes can also be effective and proportionate responses to low level offending where the public interest does not require a formal criminal justice disposal, and can form part of an Acceptable Behaviour Contract and to resolve offending behaviour in schools and children's homes. The Youth Restorative Disposal is currently being piloted for selected offences as an alternative to issuing Penalty Notices.

Power to issue a youth conditional caution is contained within the Criminal Justice and Immigration Act 2008 and when in force this will provide another potential vehicle for the RJ approach.

### Benefits - victim effects

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Research published by the Ministry of Justice shows that 85% of victims and 80% of offenders were satisfied with their experience of an RJ conference - a meeting between the victim and offender with supporters of each present.<sup>1</sup> The report also showed that 90% of victims who took part in an RJ conference received an apology from the offender in their case as compared with only 19% of victims in the control group. Victims who had been through an RJ conference were more likely to think the sentence the offender had received was fair than victims in the control group who did not participate in RJ.

### Benefits - effects on reoffending

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The government's overall assessment of the evidence is that whatever its outcome may be in relation to reducing offending, RJ has a hugely beneficial effect on victims and on their level of satisfaction with the criminal justice system. Prosecutors should therefore feel confident in using RJ where it is available and appropriate to the circumstances of the case.

1. [Shapland, J. et al. \(2008\) \*Does restorative justice affect reconviction?\* Ministry of Justice Research Series 10/08, London.](#)

## Case studies: Restorative justice approaches to tackling anti-social behaviour

### (a) Restorative community conferencing

A group of shopkeepers were outraged by the behaviour, over a long period of time, of a group of youths who congregated in their shopping centre. The police were called on numerous occasions; some youths were arrested and taken to court, others were cautioned, but the nuisance only worsened. Local police officers negotiated with the shopkeepers, some of the young people involved and the youth service, and organised a restorative community conference to address the effects of the youths' behaviour and find solutions. The conference, attended by some 30 people, took the best part of a day, and ended in agreement on a code of behaviour that the young people undertook to enforce themselves. It also involved the youth service organising extra activities for local young people. The behaviour of the young people in the shopping centre was much improved and the number of police call-outs much reduced. The shopkeepers were satisfied that their complaints had been taken seriously; the young people felt they had been treated fairly and their needs considered.

### (b) Restorative community justice panel

In the South West there is a recently set up restorative community justice panel to improve confidence in criminal justice in the area, reduce offending and anti-social behaviour, and strengthen the ability of the local community to act against offenders. The key stakeholders include local councils, housing associations, police, residents associations and chambers of commerce. The Panel, similar to a Youth Offending Panel for delivering Referral Orders is made up of volunteers from the local community. It tackles low-level anti-social behaviour by using local agencies and victims to draw up agreed changes to the offender's behaviour. The agreement can take the form of an Acceptable Behaviour Contract.

In many cases, conventional criminal justice procedures can be used should the agreements not be adhered to. A recent case centred on an offence, initially reported to the police and found suitable for a caution, which involved several members of a very small community and threatened to split it. The panel met, an apology was offered and accepted, and the situation resolved to the satisfaction of all concerned in a process that was highly visible to the local community.

## Conflict-centred violence reduction in young offender institutions

Kimmet Edgar, *Research Manager at Prison Reform Trust*

*They were painting the cells on B wing and the officers had worked out a logical system. They kept one cell free, and the occupants of other cells moved in turns into this temporary accommodation and then returned to their freshly painted cell. The plan worked smoothly until they got to the eighth cell on the landing. The young man rudely told the officer that he was not moving. The officer explained that refusing to obey an order was an offence against discipline and repeated his request. The prisoner again refused. Eventually, the Senior Officer called for a team skilled in control and restraint and brought them to the door of the cell. The wing governor was present to ensure that everything was done correctly. The Senior Officer told the prisoner that he could either walk down to the vacant cell, or he would be moved there under restraint. He chose the latter.*

Perhaps the intended message to prisoners was something like “This prison has certain duties it must perform. We will not allow a disruptive prisoner to prevent us from achieving our targets.” But there was another far less subtle message, which was that the most effective way of settling a dispute is by applying force.

Young men sometimes use force in a way that rarely occurs among adult prisoners, and almost never with women in prison: young men who fight believe that fighting is a good way to resolve a conflict. They think it clears the air. This belief might be one reason that, in young offender institutions, there is so little time between the onset of a dispute and the escalation into physical violence.

Prisons generate conflict. In all kinds of prisons, with different types of populations, prisoners often find it difficult to settle differences without force or aggressive behaviour. Common techniques of responding to a clash of interests include accusations, threats, verbal abuse, hostile gestures, or challenges (“What are you looking at?”). Therefore, developing skills which can resolve conflicts enables prisoners to interact more cooperatively.

But, as the cell-painting incident shows, teaching young offenders to resolve conflicts non-violently will require a deeper shift in values in the way prisons are run. In an informal debriefing a few weeks later, the wing governor was asked whether there could have been any other way to handle the situation, which would not have required control and restraint. He thought for a moment and said that he could have given the young man a paint pot and brush and told him to paint the cell himself. That would not work for some prisoners, but the governor's idea demonstrates that mutually respectful conflict resolution should have been pursued a bit more before force was authorised.

A key to preventing violence in prisons is recognising that conflicts can be resolved. Many conflicts do not result in violence, because they are resolved to everyone's satisfaction. A conflict-centred approach to prison violence holds that the best way to prevent fights and assaults is by looking carefully at what leads up to them. Understanding how the social structure, culture, and practices of young offender institutions create conflicts reveals the importance of mediation and other restorative methods of resolving disputes.

Four aspects of prison life promote conflicts:

- The deprivation of material goods.
- A high risk of victimisation.
- A loss of personal autonomy.
- A lack of formal non-violent mechanisms to resolve conflicts.

Prisons control the resources available to each prisoner. A simple image of a prison conflict is the limited time that prisoners are given to use the phones. Most want to maintain contact with family members. The queues that form, the varied lengths of time spent on the phone, the informal deals to gain more time, and the personal circumstances that increase or reduce the urgency of getting to the phone combine to show how telephones become a source of conflict. Thus, by controlling access to communication with the outside world, the prison creates competition among prisoners. More broadly, when the costs of goods increase and the wages of prisoners are reduced, the economic pressure not only increases frustrations, it introduces the temptation to maintain a standard of living by exploiting others.

*A young woman prisoner suspected that another woman had stolen her tobacco from her cell. Conspiring with others, she lured the other woman to her cell and confronted her with the accusation. When the other woman denied taking it, she punched her repeatedly in the face. Afterwards, she explained: "It sounds silly fighting over tobacco. But you can't let it go without losing your respect. You wouldn't fight about it on the outside, but we are not on the outside. We're in jail."* Prisons are high crime areas. Official assault rates show a high risk of assault. Maria Eagle,

Minister of State at the Ministry of Justice, stated in Parliament on 1st July 2009 that there were over 6500 assaults recorded in 2008 in young offender institutions (YOI). Almost half of the YOIs had more than one assault per day (over 365 per year). The figures are based on officially reported incidents, which vastly understate the actual number of fights and assaults. In addition to assaults, prisoners have their possessions stolen; they are subjected to threats of violence, verbal abuse, and sometimes racist abuse. The risk of being victimised while in custody leads some prisoners to conclude that they must be prepared to use force in self-defence. A key motivation for using force is to demonstrate toughness to other prisoners.

Living with a high risk of being assaulted affects how prisoners respond to conflict. When a dispute is becoming tense, prisoners must be aware of the distinct possibility that the other party will use aggressive physical force. Both parties are likely to infer hostility from their foe, leading each to feel justified in preparing a violent response.

*A White prisoner argued with a Black prisoner in the queue for the evening meal. The Black prisoner told him to calm down. The next day, the White prisoner approached the Black man and hit him with a weapon. The White prisoner explained that he was certain the Black prisoner was going to assault him. "I sat in my cell and thought I might as well do him before he can get to me, so I put a glass jar in a sock and I saw him queue up for dinner and I attacked him." Despite the fact that the Black prisoner had no wish to fight, the social atmosphere convinced the White prisoner of the need to use force.*

Coercive institutions restrict personal autonomy. Prisoners become sensitive to anyone trying to infringe upon their ability to make decisions for themselves. They are alert to the balance of power between them and each prisoner they meet. Power contests arise when each perceives that the other one is attempting to dominate them. Power contests are a specific type of conflict which involves two people, in opposition, who define their dispute as a win-or-lose challenge. Both parties to a power contest test their opponent's strength of will. They see being open to compromise as a weakness. They focus on making their opponent respect them, giving less attention to the views of their audience. While many conflicts are about who will determine some outcome, power contests are defined by the parties as a test of which one will hold power over the other.

*Michael and Shawn worked in the kitchens, where Michael was the foreman. He thought Shawn was taking too much food, thereby showing him disrespect. When Shawn took an extra pot of yoghurt, Michael confronted him. Shawn waved his arm as if to say, "It's only a pot of yoghurt". Michael said, "Don't raise your hand at me like that". Shawn asked, "What you going to do about it?" Michael replied, "If you want to, we'll go." They grappled with each other and fought, hitting each other with bowls and food, until officers arrived.*

Both Michael and Shawn believed that the other was trying to establish power over them. Unlike bullying, no power advantage has been established, and both parties harm the other. Power contests are the most common type of conflict, which result in fights and assaults in prison. They account for far more violent incidents than drug deals, or cell theft, or the nature of someone's offence, or bullying.

Given time, conflicts such as those presented above can be resolved without the use of force. However, most prisoners do not have access to structures or resources that are designed to resolve conflict. For example, prisoner councils or wing representative forums provide a platform by which a prisoner can raise concerns, and which can apply a problem-solving response. Very few prisons provide for the possibility of mediation or other, formal structures for negotiating disputes and seeking win-win outcomes.

The vast majority of fights in young offender institutions emerge from conflicts in which there has already been mutual harm (in the form of threats, insults, or exploitation). Fights among young offenders often result from power contests, not bullying. Fights occur in a social environment in which suspicion and an expectation of aggressive force shape the ways each party interprets the actions of the other.

What is needed is a method that can identify the needs and interests of both young prisoners, hear their perspectives on how each person was harmed, and apply problem-solving, non-blaming negotiations to reach win-win solutions. Mediation can bring to light a person's interpretations of situations that led him or her to think about using force; it can focus the violence prevention efforts on the conflict and its resolution; and it can provide a neutral environment that allows all parties to feel safe while challenging hurtful behaviour. Most important, it models a way of resolving conflict through reasoned negotiation and attention to everyone's needs.

To what extent could RJ contribute to safety in prisons? What principles would a whole-prison commitment to RJ bring to a violence prevention strategy?

Safer prisons develop and encourage inclusive structures. Picking up on the sources of conflict in deprivations, representative groups of prisoners should regularly be consulted to gain an understanding of the most pressing deprivations and to decide, collectively, how some of these could be addressed.

Safer prisons focus on repairing harm rather than punishing misbehaviour. The whole prison should be focused on preventing victimisation, and respond to harmful behaviour in a way that rejects the harmful acts while seeking the reintegration of the perpetrator.

In the aftermath of violence, a safer prison promotes a non-punitive, problem-solving response. The routine, formal response should be mediation or an RJ conference, facilitated by external, trained mediators, and including each party's supporters. The conference tries to establish the sources and course of the conflict that led to the violence as a means of understanding how the problem escalated.

The prison service's Violence Reduction Strategy, strongly influenced by restorative justice, is based on this principle:

**“By constructively and consistently taking action to prevent violence and promote fairness and decency, prisons can offer a structured environment in which to influence future behaviour, encourage positive communication and develop social skills that assist offenders with rehabilitation.”**



## Restorative justice post Stephen Lawrence: A critical account by London Probation

Liz Dixon, *Hate Crime Coordinator and Senior Probation Officer at London Probation Service and Member of the Transformative Justice Forum*

The publication of the Stephen Lawrence Inquiry triggered transformational change in the probation services' attitude to identifying, assessing and addressing racially motivated crime. The organisation which had hitherto committed to tackling racism and exposing institutional racism had not systematically focused on the issue of racially aggravated or motivated offending. The Lawrence Inquiry highlighted that racist offending went unchecked in public institutional systems. It showed how racism in offending evolved to underpin antisocial and offending behaviours.

The Stephen Lawrence Inquiry drew on expertise and knowledge from specific NGOs and campaigning bodies like GARCA, which are committed to exposing racial harassment. It also drew on the work of leading academics like Professor Ben Bowling to demonstrate ways that offending could be tackled. The report is an excellent resource in that it provided the underpinning knowledge to understand the process of offending, and the recommendations have shaped and directed a positive change. Jack Straw, the Home Secretary at the time, said the report should serve as a 'watershed'; I believe that it has. The Metropolitan Police Service 'led the way' and the recommendations have been robustly pursued and met. The expertise developed within the Metropolitan Police force has been used throughout the country and other agencies, which include the probation service. The measurable outputs include improved recruitment, better training, improved community safety units and developed intelligence sharing protocols which have transformed multiagency practice.

One outcome from the Inquiry was the launch of new legislation which proved critical in addressing racist offending.<sup>1</sup> It has been subsequently amended to acknowledge other hate related offending, demonstrating growth and confidence in progress. Burney and Rose published their research called - 'Racist Offences: How is the Law Working?', which suggested that despite some problems with identifying racist hate in high tariff cases, the law had indeed helped outlaw racist offending and was having a deterrent effect.<sup>2</sup>

In the period since 'Lawrence' there have been successful prosecutions for high profile 'hate' murders including that of Anthony Williams, the Black teenager from Liverpool, and Jody Dobrowski, a young man targeted for his sexuality demonstrating improved capacity and expertise which has raised confidence about the efficacy of the new structures. However the murder of Zahid Mubarek by his racist and mentally-ill cell mate in Feltham and Brent prison show how the agencies need to be ever vigilant. These high profile murders and a growing awareness of preventative policies and procedures alongside the identification of solutions have increased agency capacity to identify and work with what is now termed hate crime. The Inquiry galvanised agencies into action and heralded three specific race enquiries in the probation service.

1. **Crime and Disorder Act 1998 and Race Relations Act.**

2. **Burney, E. and Rose, G. (2002) Racist Offences - How is the Law Working? The Implementation of the Legislation on Racially Aggravated Offences in the Crime and Disorder Act 1998, Home Office Research Study 244. London: Home Office.**



It found that all community agencies need to respond to racist attitudes at an earlier stage to prevent hate and racist crimes happening. The subsequent training programmes drew on Gordon Allport's work, which expose the nature of prejudice as escalatory and identifies the need for a holistic strategy to address offensive language, attitudes and behaviour. There is now far greater awareness about hate crime - the fact that we have moving targets, which reflect changing demographics demonstrates this. There is greater confidence in the capacity of criminal justice agencies to promote change at all stages.

The most recent innovation is the growing awareness of mediation and restorative justice (RJ) as a valuable intervention in hate crime.<sup>3</sup> For instance, the probation service and the youth offending teams have a particular role to play in addressing racism as they are charged with tackling the attitudes and reducing the risk of reoffending. Practitioners working with offending behaviour testify to the fact that the role of the prejudicial attitude varies in intent, impact and motivation. The drive to create sustained change has not been smooth and on reflection this has been about a lack of leadership. The centre has been slow to move as the numbers involved seemed minimal - mainstream monitoring processes were unable to capture the nature and prevalence of the offending.

Ben Bowling was able to show how limited previous police investigation tools were in capturing the essence of the crime. By considering an offence on its own rather than as part of a continuum, these tools were failing to reflect the enormity of the crime or the pattern of offending behaviour to say nothing of victims' experience. Similarities were drawn from domestic violence and the need for multiagency assessments. As is the case with RJ, the role of enthusiastic practitioners has been critical to overall developments. What has emerged from inspections into race was that staff lacked confidence and competence in challenging the sensitive area of race and identity.

The task of developing interventions for hate offenders drew on expertise developed through work on targeted offending, sex offending and domestic violence. The critical role of multi-agency work assisted in highlighting the subtleties involved and the importance of shared community intelligence. When looking at how to deal with prejudice in presenting behaviour, social housing groups became key agencies and developed a range of staged sanctions to mark anti-social behaviour and support victims. They had to deal with both perpetrators and victims of racial harassment and faced very similar issues around identification assessment and risk management.

3. Gavrielides, T. et al. (2008) *Addressing hate crime through restorative justice and cross sector partnerships: a London study*, London: ROTA.

They developed toolkits designed to reduce the antagonism of tenants being interviewed in response to allegations of racial prejudice. The challenges involved are similar to those probation practitioners often face where accusations are denied despite clear evidence of attacks and/or harassment.<sup>4</sup>

More recently housing groups have been active again in innovative initiatives using mediation and RJ as viable interventions with hate crime.<sup>5</sup> Youth offending teams have been more successful in growing RJ interventions than the probation services as the structural nature of the service is well placed to implement them. There is a greater receptivity to innovative approaches with young offenders overall.

In our experience of working with the perpetrators of hate crime in London we have found that there are nearly always previous incidents in offenders histories. In drawing upon victims testimonies to understand the process of offending policy makers and interventionists have also learned more about the role that language plays in escalating behaviours and developing the intent. In addition Ray, Smith and Wastell highlighted the shame and envy which perpetrators experienced when faced with different BAME communities whom they perceived to have more social and economic capital.<sup>6</sup> This shame fuelled the anti-social racist behaviour. Aaron Beck hints at this in his book 'Prisoners of hate' where he describes

how hurt becomes hate. Iganski comments that it is committed on the whole by "ordinary people rather than bigots" and sets the context in which the type of attitudes that lead to hate crime develop.<sup>7</sup> Iganski highlights how anti-semitism is more rife in areas where there is a significant Jewish presence. Homophobic crimes likewise often occur where there is a more visible presence of gay men. From this greater awareness comes confidence about the scope for RJ interventions. Gavrielides' latest research into hate crime among young people in London has added to the literature base.<sup>8</sup>

The actual interventions now focus on the issue of developing pro-social cultural identities among offenders, which are not focused on negative reactions. Once offenders have a more positive sense of their own identities they can start to understand the damage they have done to their victims. Without considering their own perceptions and identities then they just do not recognise or care about the victims. One of the recognised interventions which is gaining popularity is the Diversity Awareness and Prejudice Pack (DAPP) - a toolkit which includes exercises that can be adapted to meet offenders' needs.

4. Lemos and Crane (2000) *Racial harassment on the ground*.

5. Gavrielides, T. et al. (2008) *Addressing hate crime through restorative justice and cross sector partnerships: a London study*, London: ROTA.

6. Ray, L. Smith, D. and Wastell, E. (2002) *Racist Violence and Probation Practice*, *Probation Journal* 49 (1).

7. Iganski, P. (2008) *Hate crime and the City*, Bristol: Policy Press.

8. Gavrielides, T et al. (2008) *Addressing hate crime through restorative justice and cross sector partnerships: a London study*, London: ROTA.

With the offender, using interactive exercises, visual aids, videos and homework tasks this pack explores the:

- Socialisation process from childhood.
- Personal identity, offending attitudes, beliefs and values.
- Thinking skills to avoid offending.
- How prejudicial attitudes can result in offending.
- Enhancing victim empathy.
- Targeted violence.
- Strategies that help avoid reoffending and manage prejudices.

The seven modules the pack includes allow offenders to work on their own identities and then recognise how distorted thinking and poor problem-solving capacities contribute to their offending.

In enhancing victim empathy the model draws on a range of materials which include RJ approaches such as writing a letter to the victim. Recently, London Probation started to work with mediation services like CALM and Southwark Mediation to pursue the potential for developing RJ approaches with all hate crime offenders and have had some success. Gavrielides' recent research into hate crime in London has demonstrated the relevance of RJ as a holistic approach.<sup>9</sup> It also highlighted the significance of multi-agency, cross-sector partnerships at regional and local levels. It has led to the development of training on the use of RJ approaches to address hate crime, which itself is an example of a good partnership model between voluntary and statutory organisations as it is led by ROTA and delivered by London Probation and Southwark Mediation Centre.

9. *Ibid.*

Growing awareness of victims' experiences is proving to be a very powerful trigger to the development of interventions. Racial Attacks Reports, a government initiative, has tried to raise concern about the prevalence of racist hate crime. Yet it took the Lawrence campaign to really raise awareness among the majority White culture of the victims' actual experience and the difficulties of reporting. Ben Bowling identified the critical role of victim groups in the development of initiatives.<sup>10</sup> RJ approaches offer a real way forward in raising awareness among offenders about the impact of their offending. We know that offenders often retreat into techniques of neutralisation alongside minimisation and denial. Mediation and conferencing offer constructive ways to break this down by highlighting harm and helping victims. We have established agencies which can ensure safety and carry out effective preparation. Probation services such as the Thames Valley Service have pioneered RJ and this can be extended to hate crime.

10. **Bowling, B. (1998)** *Violent Racism: Victimisation, Policing and Social Context*. Oxford: Clarendon Press; **Burney, E. and Rose, G. (2002)** *Racist Offences - How is the Law Working? The Implementation of the Legislation on Racially Aggravated Offences in the Crime and Disorder Act 1998*, Home Office Research Study 244. London: Home Office; **Gavrielides, T. (2007)** *Restorative Justice Theory and Practice: Addressing the Discrepancy*. Helsinki: HEUNI; **HM Inspectorate of Probation (2004)** "I'm not racist but...", An inspection of National Probation Service Work with Racially Motivated Offenders; **HMSO (2005)** *Improving Opportunity, Strengthening Society. The Government's Strategy to Increase Race Equality and Community*; **Ray, L. Smith, D. and Wastrel, L. (2004)** Shame, rage and racist violence, *British Journal of Criminology* 44:350-368; **Ray, L., Smith, D. and Wastrel, E. (2002)** *Racist Violence and Probation Practice*, *Probation Journal* 49 (1), pp.3-9; **Ray, L., Smith, D. and Wastrel, L. (2004)** *Shame, rage and racist violence*, *British Journal of Criminology* 44:350-368.

## Mediation and restorative justice post-sentence: The Hungarian experience

Dr. Barabás Tünde, *Criminologist at the National Institute of Criminology in Hungary*

Since the middle of the 20th century, the unstoppable spread of crime has urged criminology experts of theory and practice to reconsider the efficacy and purpose of punishment. As a result, two polarised views in criminal justice policies have established themselves: one being the pragmatic need for retribution and strictness, whereas the other focuses on the resocialisation of the offender and the needs of the victim. The restorative approach, which is based on the latter and appeared as a new solution to criminality in Europe, quickly achieved significant results. Making the offender face the consequences of their crime, holding them accountable for their actions and enforcing the victim's needs appeared in the Anglo-Saxon countries as an alternative to the traditional criminal justice system, whereas in continental Europe the restorative approach is more typically embedded in the criminal proceedings. As a result of these achievements, experiments to enforce restorative justice (RJ) in prison settings, where the punishment is executed, with special attention to offenders and victims of serious crime commenced. This practice, however, has not become widespread, even though in several European countries including Belgium, the United Kingdom, Switzerland and Germany these methods have been greatly successful.

In Hungary, using mediation as part of the penal process began in 2006 when the Criminal Procedure Act was modified. There are, however, legal limits to the use of mediation: it can only be used in crimes against persons, traffic offences or property crimes punishable by imprisonment of

up to five years. In other words it cannot be used in the case of serious crimes. There is a list of conditions under which mediation is inapplicable, among which the most emphasised are cases connected to organised crime or committed by repeat offenders. The last stage at which victim-offender conflict-resolution can be carried out is at the court of first instance. Later, including during the execution of sentence, it cannot be applied.

### Victim's reconciliation - perpetrator's accountability<sup>1</sup>

In Hungarian criminal law it is not the aim of the penal system to foster reconciliation between parties nor is it suitable for it to do so. This means that, unless parties have already reconciled, they will not have the opportunity to do so later. Because of this, however, a victim who would like to take part in such a process is unfairly excluded from the opportunity of restoration and negotiation, and those imprisoned will not have the chance to face the harm or offence their crime has caused or to express their remorse in a way that is recognised by law.<sup>2</sup> Meeting the victim may have a significant role in the process of the perpetrator facing up to the consequences of their actions and seeing the harm they have caused. Many psychological studies have shown that offenders tend to detach from their actions and 'stay outside', which means that, after they have served their term, they are likely to feel that they have completed their part of the job and can continue from where they left off.<sup>3</sup> For this reason, meeting the victim can be of vital importance,

1 Research by the author is supported by the János Bolyai scholarship of the Hungarian Academy of Sciences.

2 Besozzi, C. (1998/99) *Die (Un)fähigkeit zur Vaerenderung. Eine qualitative Untersuchung über Rückfall und Bewährung von ertsnemals aus dem Starfvollzug Entlassenen*, <http://ofj.admin.ch>.

3. Strasse, F-Randolph, P. (2005) *Mediáció a konfliktus megoldás lélektani aspektusai. Nyitott Könyvm\_hely Kiadó.*

sometimes even if it does not lead to official consequences (such as the mitigation of punishment).<sup>4</sup> This aim can be particularly important amongst juvenile delinquents, for whom committing crimes has not yet become a lifestyle and where issues caused by lack of education and emotional problems appear to be more easily dealt with.

***The current public atmosphere in Hungary does not appear to be favourable towards embedding mediation possibility between victims and offenders within criminal proceedings as an alternative to imprisonment. Mediation applied in prison settings, which would intend to mitigate the sentence, is expected to face similar public reception.***

The public voice appears to demand more severe and longer punishments - life imprisonment and the reintroduction of capital punishment - as is reported in the media on a daily basis. Several politicians and public figures believe that more serious and stringent punishments, and a lowering in the age of criminal liability would be successful in decreasing crime rates and these people regularly voice their views in public. At the same time, it is obvious that for a researcher it is not the public atmosphere that matters but the long-term objectives that they are hoping to fulfil.

#### **Research on the restorative approach in prison settings amongst offenders of serious crimes - the MEREPS Project<sup>5</sup>**

In 2008, having recognised the significance of the restorative approach with offenders who have committed a serious crimes and been imprisoned, Hungarian criminologists and their international partners have applied for support from the EU's Criminal Justice Programme for a pilot research and training program.

4. Liebmann, M. and Braithwaite, S. (1999) *Restorative Justice in custodial settings, Northern Ireland: Report for the Restorative Justice Working Group in Northern Ireland*, <http://www.restorativejustice.org.uk>.

5. **With the financial support of the European Commission's Criminal Justice Programme (JLS/2008/JPEN015-30-CE-0245615/00-52).**

Using empirical research and by carrying out pilot programmes in Hungary and abroad, the aim of the project is to:

- study the usability of RJ during the execution of sentences;
- become familiar with ongoing mediation projects in prison settings and study participants' achievements;
- map out the attitudes of prison staff and inmates towards mediation as well as survey the opinion of the population in Hungary;
- provide a training program for criminal justice and prison staff about available prison-mediation services;
- develop well-functioning techniques (mediation, facilitation, circles and other restorative techniques), good practice and processes that can be standardised; and
- foster the exchange of best practice and information between parties and future cooperation.

### Members of the consortium

The MEREPS project's consortium leader, Foresee Research Group (Hungary), is responsible for the technical and administrative implementation of the project. Foresee (in partnership with the judiciary, the prison and the probation services and some NGOs) is coordinating the Hungarian pilot project, including the organisation of training of prison staff as well as carrying out mediation and RJ activities in prison settings. Throughout the project, Foresee's priority is to stimulate effective partnerships and exchange between the various national and international parties as well as to coordinate the dissemination of the results.

The National Institute of Criminology (OKRI) in Hungary is a major criminological research institute. OKRI is responsible for carrying out quantitative and qualitative empirical research concerning the attitudes of inmates and prison staff towards restorative justice.

Independent Academic Research Studies (IARS) will carry out a UK-based research project on the post-sentence use of RJ with young offenders. IARS will carry out interviews with policy makers, correctional staff, and young people to identify emerging themes and examples of best practice.

The German partners (the University of Applied Sciences and the Victim Offender Mediation Service in Bremen) will carry out and evaluate victim-offender mediations in prison settings as well as deliver research about the judiciary's attitude towards RJ.

Information about the results of the research and pilot programmes will be provided for the broader audience via the MEREPS web portal and by other dissemination activities, primarily by the European Forum for Restorative Justice.

All these activities aim at contributing to European-level policy making, including future methodological, institutional and legislative developments concerning RJ in prison settings.



## The antecedents of the research in Hungary and abroad

Surveys of people's attitudes towards punishment have for a long time contributed to the development of criminal justice policies outside Hungary and public support also has an important role in this process. In contrast, so far in Hungary little research has been done on public support for mediation, support for those directly affected and the impact of mediation on criminal law.

A great number of international research projects have been carried out on how the population views justice, what factors have an influence on public views and how public trust towards justice and its various institutions could be strengthened. For example *Roberts* and *Hough* emphasise the hegemony of imprisonment when they highlight in their research report that the public associates committing a crime with punishment and punishment with prison.<sup>6</sup> According to Sessar's research, 47.5% of respondents supported private restoration by the perpetrator or negotiation in connection with property crimes, and fewer people, 20.5% of respondents supported the same idea in connection with violent crimes.

Researchers of the Cullen Fisher Pealer Applegate Santana team looked into community support for correction rehabilitation in the USA.<sup>7</sup> Their report points out that public support for rehabilitation is significantly influenced by politics, as there are two points of view against correctional actions: "it does not work" and "the public does not support it". In reality, however, it is becoming overly clear that rehabilitation programs are more efficient and successful in reducing the reoffending rate, which means that both research and the correct communication of ideas have an impact on this matter.

Specialist studies relating to this topic have been carried out in Hungary for over ten years.<sup>8</sup> Barabás research in 1993 looked into the possible use of mediation in connection with crimes and the attitudes of inmates and their victims. At the time, only 2% of those found guilty rejected the idea of compensation for the victim in exchange for the mitigation or avoidance of the punishment. This result was confirmed by a repeat study by Barabás in 2003.

6. **Roberts J.V. and Hough M. (2002)** *Public attitudes to punishment: The context in Roberts, V., University of Ottawa and Hough, M. (South Bank University (ed) (2002) Changing Attitudes to Punishment, Public opinion, Willan Publishing.*

7. **Cullen, T,et al. (2002)** *Public support for correctional rehabilitation in America:change or consistency?, Roberts, V., University of Ottawa and Hough, M., South Bank University (ed) (2002) Changing Attitudes to Punishment, Public opinion, Willan Publishing.*

8. **Barabás, T. (1996)** *A mediáció esélyei Magyarországon egy empirikus vizsgálat tükrében Kriminológiai és Kriminálisztikai Tanulmányok.*

A victim survey carried out by OKRI based on a sample of 10,000 people titled 'Victims and Opinions', clearly showed that the idea of reconciliation, accepting restoration and using mediation is not far from the Hungarian people's traditions and mindset.<sup>9</sup> The In-Sec research also discovered that Hungarians do not tend to be more punitive than people in other European countries.<sup>10</sup> Moreover, a large proportion of respondents believed that prevention is not necessarily achieved by a more severe punishment in the field of violent crimes.<sup>11</sup> The 'Victims and Opinions' survey made it clear that, in accordance with international findings, those who have previously been victimised showed more understanding towards the idea of victim-offender agreement. This result was confirmed by an AGIS survey in 2004, which also highlighted the fact that a lack of information leads to an increase in insecurity.<sup>12</sup> Attitudes towards the acceptance of mediation amongst experts were studied by Kerezsi, and Fellegi amongst judges and prosecutors.<sup>13</sup>

## Expected results in Hungary

A prominent consideration regarding mediation in prison settings involves enforcing the victims' interests as much as possible and a desired impact on the perpetrator. Communication in the criminal proceedings and confrontation with the crime or the harm it caused can both be of significant importance in relation to the life of the perpetrator after serving their term. It may help their integration or re-socialisation into their community and give support to victims by resolving the emotional harm and conflict that the crime caused. Besides the fact that all opportunities that might have a role in the prevention of crime have to be taken, it is equally important for victims to receive emotional support - an issue that practically no organisation in Hungary is concerned with (except some very specialist ones such as those that deal with the victims of sexual harassment).

9. OKRI, Budapest.

10. **With the financial support of the National Research and Development Programmes** (NKFP-5/0100/2002., OM-00120/2002)..

11. **Barabás T. et al. (2005)** *The Hungarian Country Report, Insecurities in European Cities. Vol. 2. Crime-Related Fear Within the Context of New Anxieties an Community-Based Crime Prevention, Budapest.*

12. **Ibid.**

13. **EU AGIS programme: Crime Prevention Carousel. Sharing Good Practice in Crime Prevention, based on the Evaluation of Physical Rehabilitative and Social Schemes in Problematic Urban Areas in Member and Accession States Opportunities for restorative justice in responding to crime, funded by the Hungarian Scientific Research Fund, 2006 (No. T 037854)**

In this research we are studying the application of law in the European-Prussian (continental) and the Anglo-Saxon criminal justice systems from the point of view of whether mediation works or not and if yes, under what legal and topic-specific conditions is it used in the criminal proceedings. In Hungary it is particularly important to study: the options for developing a special model of mediation that can be used in prison settings; the legal conditions and criteria for restorative justice which would be necessary for its implementation; the way it would be received by prisoners and prison staff supervising them; whether it is necessary and possible to use mediation for resolving conflicts within the prison (between prisoners and prison staff or for relieving tension between prisoners); to what extent the victims and the mediators employed by the Office of Justice would accept this; and which other NGOs could be involved in the process in order to achieve more efficacy and possibly greater acceptance. Bearing in mind international solutions and the empirical findings of this study, we and our English and Hungarian trainers are going to develop a model project, on the findings of which a proposal can be made to expand the use of mediation in prison settings.

***Above all, the aim of these actions is to make peaceful conflict-resolution techniques available to perpetrators and victims of serious crime; as they know best what it is like to live a life with an unresolved conflict.***

Additional References:

**Besozzi, C.(1998/99)** *Die (Un)fähigkeit zur Vaerenderung. Eine qualitative Untersuchung über Rückfall und Bewährung von ertsnimals aus dem Starfvollzug Entlassenen*, <http://ofj.admin.ch>; **Fellegi B. (2009)** *Út a megbékéléshez. A helyreállító igazságszolgáltatás intézményesülése Magyarországon*, Napvilág Kiadó, Budapest; **Kuhn, A. (2002)** *Public and judicial attitudes to punishment in Switzerland* in Roberts, V., University of Ottawa and Hough, M., South Bank University (eds) (2002) *Changing Attitudes to Punishment, Public opinion, Crime and Justice*. Willan Publishing; **Roberts, J.V. (2002)** *Public opinion and the nature of community penalties: international findings* in Roberts, V., University of Ottawa and Hough, M., South Bank University (eds) (2002) *Changing Attitudes to Punishment, Public opinion, Crime and Justice*; **Sessar, K.(1998)** *Public attitudes towards offender restitution in Germany. Paper presented at the annual meeting of the American Society of Criminology, Cincinnati, OH. Cit. by Feltes, Th.: The police and the victims of everyday conflicts. In: Crime and its victims. Ed by Viano, E. 1989; Wright, M (1999) Restoring Respect for Justice, Winchester, Waterside Press.*

## Sycamore Tree Project and the use of in-prison restorative justice programmes: The US perspective

Lisa Rea, *Restorative Justice Consultant, previously Programme Director of Sycamore Tree at Prison Fellowship International in the US*

The Sycamore Tree Programme, a programme of restorative justice (RJ) to make prisoners aware of the victims' experiences, reported statistically significant improvements in the victim awareness and empathy among a sample of 2,188 prisoners between 2002 and 2004<sup>1</sup>. The Sycamore Tree Project has been tested in 15 countries including England and Wales with the first pilot project occurring in 1998 in the state of Texas in the United States.

I have a unique background in that I have worked with both offenders and victims of crime. In recent years I founded and directed a US non-profit organisation called The Justice & Reconciliation Project which organised victims of violent crime around RJ, providing them a forum to tell their stories. I was looking at the Sycamore Tree Project (STP) pilot as a possible model that could be used worldwide to open doors for more expansive use of in-prison victim-offender RJ programmes. I was not disappointed. It was an astounding success.

I began working in the field of RJ in 1992 in California. But not until I was asked to direct this pilot project through Prison Fellowship International by its creator Dan Van Ness, did I see the true power of RJ come alive. Sycamore Tree-US ran for 12 weeks which was a longer test than most such programmes. The project model was based on weekly small group sessions guided by trained volunteer facilitators. The subjects discussed during the sessions included topics such as responsibility, domestic violence, confession, repentance, restitution, forgiveness, and reconciliation.

Although we used surrogate victims and offenders (unrelated cases) most of the participants in our project were victims of violent crime and the inmates were violent offenders. I thought at the onset that the pilot might not go far enough in that the victims and offenders were not related by their actual cases. However, I was wrong. The project still had great value. In fact, in the cases of many of the participants this pilot was a perfect start to introduce RJ principles.

Primarily, the offenders learned the effect their crimes had on real victims. The project also gave the offenders hope that maybe some day they might meet with their own victims to attempt to make things right. Before the project most of the inmates did not think of their victims or what steps they might take to take responsibility for their actions. The project planted a seed of desire in many of the inmates to repair the harm they caused to their victims.

1. Feasey, S., Sheffield Hallam University, Williams, P. and Clarke, R., REClaim North West (2005) *An evaluation of the Prison Fellowship Sycamore Tree Programme: based on a statistical analysis of Crime Pics II data*, Research Centre for Community Justice.

From a public policy standpoint, the Sycamore Tree Project gave me great confidence that such programmes should be expanded widely and used with a cross-section of inmates, violent and non-violent as well as with adult and juvenile offenders. While rehabilitation programmes for offenders in prison are a good thing, and needed, it should not be all of the programming received by or available to inmates. Bringing RJ projects like Sycamore Tree into the prisons was good for offenders in that it drove down recidivism rates due to the increased understanding in the offender that their crime had injured real human beings. The one-on-one contact with victims of crime had a definite impact on the lives of the offenders since most, if not all of the offenders, had never met a victim of crime after being convicted and sentenced to prison (and most of the inmates had been in and out of prison more than once).<sup>2</sup>

It is clear that the use of in-prison victim offender programmes is correctional programming on the cutting edge. In the US there has been increasing use of victim-offender panels in prison to increase victim awareness in the offender. However, with the use of programmes like Sycamore Tree, and the Texas-based programme, 'Bridges to Life', many experts are seeing the importance of more intensive programming using victims.<sup>3</sup>

This has allowed more exploration of the impact crime has on victims which increases empathy in the offender. As more victims have chosen to tell their stories they have been offered opportunities to speak in prisons often through RJ organisations.<sup>4</sup> Victims have found that there is value in telling their stories. They have found value in working to lower crime rates and letting offenders know the direct impact crime has had on their families.

The more intensive models like Sycamore Tree and programmes like the WC Holman Faith-Based Restorative Justice Honor Dorm based in Alabama are setting the standard for the future.<sup>5</sup> With the increasing acceptance of victim-driven RJ in the criminal justice system correctional officials are more open to RJ programmes in prison.

2. **For more information on the evaluation on Sycamore Tree Project-U.S.** contact Lisa Rea at Rea Consulting, U.S. at [Irea@mindsync.com](mailto:Irea@mindsync.com) or Dan Van Ness, creator of STP, Director of the Centre for Justice and Reconciliation at Prison Fellowship International at [dvanness@pfi.org](mailto:dvanness@pfi.org)
3. **Bridges to Life is an in-prison victim offender programme created by victim of crime John Sage.** Mr. Sage was a victim participant in the original Sycamore Tree Project in 1998. The Bridges programme is similar to the Sycamore Tree project. It is in operation throughout the Texas prison system. <http://www.bridgestolife.org/>
4. <http://www.restorativejustice.org/RJOB/lisa-rea-speaking-about-victims-driven-restorative-justice-at-a-california-prison-during-victim-awareness-week>
5. **Swanson, J (2009) Restorative Justice in a Prison Community**, Lexington Books.

Barriers for expansion of such in-prison restorative justice has included concerns that most programmes tested thus far have used faith based curriculums. However, as with the Texas pilot project, no inmate or victim was turned away based on a lack of religious orientation or affiliation. The curriculum used included biblical references which guided small group discussions on topics related to crime that included issues such as confession, restitution, and reconciliation. The purpose of Sycamore was not to proselytize or convert. In the Texas pilot there was a cross section of participants who identified with a diverse number of religious affiliations including two participants who identified themselves as atheist and Muslim. No one was turned away if there was sufficient space in the programme structure. All were told they could leave the programme if they so chose once the project started.

In subsequent years some secular type programmes have been used in prison with similar use of victims, particularly using victim impact panels. This model is however less intensive than the Sycamore Tree model (ex. Insight Prison Project at San Quentin prison in San Rafael, California). It is my understanding that Sycamore Tree programmes have subsequently lessened the use of biblical references in the materials used during the programme (STP-England/Wales).

Some programmes have stressed the use of the victim impact panel model as a way of increasing victim awareness in the offender alone without stressing the potential healing value of the programme to the victims who participate. Although the Sycamore Tree Project's initial purpose of the programme was to increase victim awareness in the inmates the ultimate impact of the project was much greater than anticipated. Both victims and offenders benefited from the intensive programme, an outcome that was unexpected. The value therefore should be tracked for the full benefit in the victim and offender alike whenever programmes such as the STP are operating.

The voluntary participation of all participants in the Texas pilot was strongly recommended at the onset of the Sycamore Tree Project. Voluntary participation in restorative justice processes is universally accepted as critical to the potential for a positive outcome, whether in direct victim-offender dialogue programmes or any programming using victim and offender surrogates. In the Texas pilot participants were given the opportunity to leave the programme if they felt it necessary. For the victim participants this was an important option since at the start of the programme many were nervous and anxious about their participation. For offenders, voluntary participation is critical as well since coercive programming generally produces results that are temporary in the offender.

***One last challenge to the use of projects like the Sycamore Tree Project is the cost. While the Sycamore Tree Project was funded almost exclusively by Prison Fellowship/Prison Fellowship International, the use of programmes inside prison will have a cost.***

The nominal cost of the Texas pilot to the state system was largely the use of prison guards who were on duty regardless. However, expansion of programmes like Sycamore Tree will have a cost and should be seen as an excellent value to the correctional system. The potential change in offenders and victims makes the investment wise and cost effective. The use of programmes like Sycamore Tree should be explored for use with not only adult offenders (the target group in Texas) but juvenile offenders. All offender pools should be eligible, violent or nonviolent. All offenders would benefit from the programme.

While the Sycamore Tree Project's purpose was fairly basic (i.e. empathy for the victim, seeing the impact of crime on victims), the programme produced something far greater after the first pilot. Victim and offender participants not only learned about each other but many of the participants voiced an interest in taking part in a victim offender dialogue in their own cases. The potential opportunity is clear; RJ programmes in prison could produce this outcome and sponsors of the programmes should be prepared for this possible eventuality. The ultimate benefit of direct victim-offender dialogue has a higher potential for change in the offender (i.e. lower recidivism rates) and increased victim satisfaction.

As mentioned in my evaluation of Sycamore Tree, both victims and offenders could use guidance and support in exploring direct victim-offender meetings in their own cases. This is a complicated issue on many levels but presents a need that should be considered by RJ experts and professionals as well as correctional and criminal justice practitioners and lawmakers. The ultimate desire of those committed to RJ is greater healing in victims and accountability in offenders, leading to changes in lives as well as safer communities and the return of peace after violent crime.



## Restorative justice and youth sentencing: The rules of the playground forgotten

Lewis Parle, *Head of Youth Programmes at Independent Academic Research Studies and Member of the Transformative Justice Forum*

### Introduction

It could be said that a many of life's important lessons are learnt on the playground. It is the place where we learn to interact with other people and develop many of the social skills that we take for granted. Our first encounters of commercial transactions are trading toys or games with friends; we begin to understand rules and regulations through playing sports; we learn how to develop relationships with our peers; and we learn about the uglier sides of human nature through experiencing and witnessing bullying, fighting and cheating. It is through the latter of these experiences that we also first encounter and experience the concepts of natural justice, and restorative justice (RJ).

When experiencing these events we have a gut reaction to the wrongs committed to and by our peers because we have an innate sense that there are right or good, and wrong or bad, ways to act and treat each other. The school playground as a microcosm of society feels the ripple effects of these events. We learn that there has to be a resolution and that we may have to say "sorry" and make it up to our friends or peers, or if they wish, to agree to leave them alone. At the most basic level these interactions and offers to make amends are RJ in practice between young people. They help the cuts and bruises of our sometimes brutal interactions with others, heal.

For a long time the mainstay of criminal justice policy was the deterrence of bad behaviour through punishment. This article looks briefly at how the youth justice system (YJS) has attempted to move forward and incorporate the rules of the playground into its sentencing philosophy and practice, and focuses on where it falls short.

### 'No more excuses': A new youth sentencing philosophy and practice?

The modern YJS arguably dates back 100 years to the Children and Young Persons Act 1909, which established separate courts to try children and young people. This was an early recognition that children and young people deserve special attention within the criminal justice system (CJS). Not a great deal had changed until the Labour government of 1997 promised to bring about a major reform of the YJS with the White Paper, 'No More Excuses'.<sup>1</sup> At the heart of this reform was a supposed change in the YJS philosophy of sentencing. This would focus less on deterrence and more on the use of RJ to promote responsibility, reparation and rehabilitation. The paradigm shift was subtly enshrined by section 37 of the Crime and Disorder Act 1998 (CDA 1998), which states that "the principal aim of the youth justice system [is] to prevent offending by children and young persons". This is a slight difference from the aim of the adult CJS, where the focus is on the 'reduction' of crime.<sup>2</sup>

1. **Home Office (1998)** *No More Excuses - A New Approach to Tackling Youth Crime in England and Wales*, London: HMSO, <http://www.homeoffice.gov.uk/documents/jou-no-more-excuses?view=Html>
2. **Sentencing Guidelines Council (2009)** *Overarching Principles - Sentencing Youths. Consultation Guideline*, [http://www.sentencing-guidelines.gov.uk/docs/consultation\\_guidelines\\_overarching\\_principless\\_sentencing\\_youths.pdf](http://www.sentencing-guidelines.gov.uk/docs/consultation_guidelines_overarching_principless_sentencing_youths.pdf).

The most substantial influence of RJ in the new regime occurred with the introduction of:

- Reparation Orders, under section 67 CDA 1998, which would require the offender to make the reparation to specified persons, that is a victim, or to the community at large.
- Referral Orders under section 1 of the Youth Justice and Criminal Evidence Act 1999 (YJCEA 1999), which entails the referral of young offenders to multi-agency Youth Offending Panels (YOPs) and subsequently Youth Offending Teams (YOTs). The young person and YOP come to an agreement about a series of activities that the young person will carry out, which, under section 8(2) YJCEA 1999, may include mediation sessions with any...victim or other person or unpaid work or service in or for the community. The Youth Justice Board specifically state the aim of these agreements are “to repair the harm caused by the offence and address the causes of the offending behaviour.”<sup>3</sup>

From these provisions, it would appear that there has been a step change in sentencing philosophies from a heavy emphasis on retribution to restoration and reparation. However, the Reparation and Referral Orders are only available in limited circumstances (by virtue of the YJCEA 1999 and the Powers of Criminal Courts Sentencing Act 2000) and will generally not be considered for repeat offenders, more serious crimes that might otherwise attract a custodial sentence, or offences that must be tried and/or sentenced at the Crown Court.

Furthermore, the activities that make up a Referral Order are selected from a menu containing other punitive and rehabilitative activities, reducing the likelihood that a restorative option will be chosen and possibly diluting the restorative nature of the outcome. With that in mind the thrust of RJ philosophy in the YJS clearly has its limits, which leads to a questioning of whether YJS has really changed or whether it is more of the same with a couple of restorative options thrown in for good measure.

Furthermore, fundamental to the philosophy of RJ is its victim-led approach. The restorative process seeks to empower the victim to take a lead to ensure a satisfactory outcome is reached, which helps heal the emotional and psychological wounds often caused by crime. The process also brings the young offender face-to-face with the harm caused, encouraging an understanding of the effects of his or her actions and the impetus to take some responsibility. However, in the YJS model the victim is not always required to be a part of the process, with the YOP sometimes taking the victim's role. In such circumstances it is difficult to imagine how a young person would be able to fully understand their actions from talking to a panel of unknown adults. It must surely be the case that if the victim does not want to be part of the process then RJ cannot take place. If the process continues with the offender agreeing some sort of restorative activity to the community, then it might take on a distinctly punitive feel. Worse still is the fear that when the victim is not present restorative activities become tick box exercises, with the focus being on completing the Referral Order, rather than achieving meaningful reparation, healing and rehabilitation.

3. Youth Justice Board website <http://www.yjb.gov.uk/en-/yjs/SentencesOrdersandAgreements/ReferralOrder/>

If there are gaps in the new YJS philosophy it would be unsurprising if there were not gaps in practice too. Let's start by looking at spending. A study by the Centre for Crime and Justice Studies published in 2008 found that 64% of the Youth Justice Board's spending was on custodial places, which was ten times more than was spent on preventative measures. Effective RJ is an expensive enterprise requiring professional expertise and possibly months of time per case (see other articles from practitioners in this journal). If RJ is to be expected to change the YJS then it would seem logical to shift investment away from custody and into RJ practice.

This leads us to the next dilemma; inconsistent RJ practice on the ground. There are no fixed standards of RJ practice, no single prescribed RJ training programme and no accreditation of RJ practice or training within the YJS. The likelihood is that there is a mix of exceptional practice, with skilled and knowledgeable practitioners, and the exact opposite. Surely, without investment in training and accreditation to ensure consistent high standards there will be some young people who will be getting a raw deal.

It is a harsh criticism, but when seen from a bird's eye view, the changes brought by the revamped YJS philosophy seem less acute, and the use of RJ less genuine than might be imagined from reading the rhetoric. The RJ flavoured sentencing options appear more like roses planted in a bed of weeds, destined to be overgrown and suffocated.

## RJ sentencing from the youth perspective

The above is somewhat abstract, so what might all these changes look like to a young person on the ground when faced with his 'restorative' sentencing options? Might he even know or believe it to be restorative in the first place? Our young offender is most likely to be from a poor background, suffer from familial abuse, be excluded from school and perhaps from a Black, Asian or minority ethnic background. He might have encountered the police on a few occasions before by being stopped and searched. He might have even been moved on from a public place if loitering with friends or even been subject to Dispersals Orders or Anti-Social Behaviour Orders. He most likely has few aspirations and hopes and may even feel failed by society. He has been convicted for the first time for theft from a small local shop and been referred to a YOP. The members of the YOP and YOT may have received little or no training on restorative practices and as part of the Order he agrees with the panel to remove graffiti from the walls of his local area.

Our young offender's experience of RJ is likely to be coloured by his life experience and encounters with CJS on previous occasions, and from the experience of Independent Academic Research Studies (IARS) experience young people view the CJS and its agents as oppressive and authoritative. It is therefore likely that his RJ 'sentence' will just be seen as another punitive measure and lose its essence and power to change young people's minds and hearts.

## Time to learn some lessons

The UK is not alone in its endeavour to introduce RJ into the CJS to deal with youth offending and there are many opportunities to learn. IARS is currently involved in a comparative research and campaigning project between the UK, Germany and Hungary to understand and share RJ best practice. The project will take place over three years and is being funded by the European Commission.<sup>4</sup> The project presents a unique opportunity to learn from other countries that have arguably been more successful in incorporating RJ into their CJS than the UK. It also presents an opportunity to gather youth-led evidence on what young people think about the effectiveness of the UK's restorative disposals. Taking note of this work will enable practitioners and policy makers working in the CJS to evaluate the efficacy of their work and reflect on the road that still needs to be travelled to make RJ a mainstream practice UK.

## Conclusion

To enliven the spirit of RJ within the YJS, surely the philosophy and practices need to be more deeply embedded than they currently are, by making a number of changes including:

- Expanding the use of RJ with young people to a broader range of offences: IARS and ROTA recently carried out a study on the use of RJ with hate crime called the Restoring Relations Project and found that the processes are just as well suited (and possibly better suited) to more serious crimes.<sup>5</sup>
- Expanding knowledge of RJ philosophy and practice within the YJS and CJS agencies: a young person might encounter a myriad of agencies after committing an offence, from the police, to probation and the spirit of RJ will surely have better effect if all agencies participate.
- Training and accreditation: This is vital if young people are to be given a good service and more importantly the chance to really make amends for their crimes and enable victims and offenders to move on with their lives in a positive way.

The YJS should take a look at itself and think about what needs to be done to ensure the rules of the playground are clearly recognisable and visible in the YJS.

4. You can find out more information about this project and follow its progress at [www.iars.org.uk](http://www.iars.org.uk)

5. <http://www.rota.org.uk/pages/RRP.aspx>

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## The Transformative Justice Project

Transformative justice is a general strategy for responding to conflicts. It takes the principles and practices of restorative justice beyond the criminal justice system. The transformative justice project is funded by London Councils and builds on ROTA's experience working with criminal and restorative justice policies and practices which identified gaps within practices and policies that target highly victimisation level groups particularly from the BAME sector.

The main elements of the project are to:

- Coordinate links and communications channels between statutory, public and private sector agencies working with HVL (highly victimisation level groups);
- Build a database of voluntary and community sector organisations (VCS) and statutory agencies working with highly victimisation levels (HVL) groups; and
- Raise awareness and communicate to second tier agencies, service providers and people affected by abuse and hate crimes information on policy, best practice, publications, resources, events and sign posting service

## The Transformative Justice Forum

The Forum operates to improve the scope for multi-agency partnership work through building more consistent links and increasing the opportunities for statutory agencies and third sector organisations to engage. The TJP Forum will continuously share information on areas of best practice, market and increase awareness of best practice throughout other networks and raise the profile of successful alternative dispute mechanisms.

## Members of the Transformative Justice Forum in 2008-9

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### Manuscript Submission and Notes for Contributors

*Policy & Race* is published twice a year. All submissions will be subject to the normal process of peer review. The Editor-in-Chief will consider only original manuscripts not published previously or currently under consideration. All submissions should be made to [theo@rota.org.uk](mailto:theo@rota.org.uk) at any given time during the year.

The review process normally takes less than 8 weeks. Your manuscript should be double-spaced, between 4,000 and 6,000 words (including tables, references, and appendices), and conform to APA format.

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