

RESTORATIVE JUSTICE: WHAT'S THAT THEN?

by **Debra Clothier**

‘Restorative Justice? What’s that then?’ This is still the response you get when talking to people outside the criminal justice system and, sadly, on occasions, from those inside it as well.

Restorative justice, (providing facilitated direct and indirect communication between victims and offenders to repair harm) has been around in several areas of England and Wales since the 1980s, carried out by some resilient and innovative practitioners. It became part of the statutory system with the introduction of the Crime and Disorder Act 1998. This Act introduced it into the youth justice system with the Reparation Order, the Final Warning, and as part of some of the other orders. Then, in 1999, with the introduction of the Referral Order, it was proudly announced that restorative justice (RJ) was an integral part of the youth justice system.

In July 2001 the government launched their Restorative Justice National Strategy consultation document, which included a number of proposals for the further development of RJ in both the youth justice and adult systems. It also talked of making connections and developments into other contexts. It all sounds really positive, doesn’t it? There appeared to be lots of enthusiasm from government and a will to make it a reality. However, only recently I read an article in the Telegraph about victims of crime that said, ‘An attempt to introduce restorative justice, in which offenders apologise in person to their victims, has failed to take off’! Of course, given my history in this area, I don’t agree, but clearly some people think this. So what happened?

There is no simple response; there rarely is to this sort of question. The causes appear to be a lack of accurate information provided through the media to the general public, combined with the national punitive and adversarial culture within the criminal justice system, political will and therefore resources, and inadequate support from criminal justice professionals.

But we are not giving up that easily. There is plenty of evidence that, when carried out properly, RJ is beneficial to all the people involved. Failure to integrate RJ into our criminal justice system cannot be justified on the grounds

that it does not work. Satisfaction rates for victims are — at a minimum of 75 per cent — higher than for any other criminal justice intervention. Add to this the reduction in the fear of crime, increased confidence in the system, repair of harm, reduction in health care costs (e.g. treating post-traumatic stress disorder), high rates of compliance, in that the voluntary agreements are more likely to be completed (at least 20 per cent) than court enforced agreements, and reduction in re-offending rates (although there are a few people who still disagree with this particular statement) and it is clear that everyone gains. Offenders nearly always say that taking part was the ‘right thing to do’, that they feel motivated to change their behaviour, that it was the hardest thing they have ever done, and that they felt ‘listened to’ and ‘respected’. The RJ process holds offenders to account for the harm they have caused without compromising their human rights or causing further harm. It is also important to say at this point that RJ has been researched across the world more than any other intervention with offenders and yet I still hear that we need more research and more ‘pilots’ before taking the work any further! Government are saying that the research on re-offending with adult offenders and RJ is not convincing and therefore they will not invest currently. I disagree but even if that were the case, what about victims? There is no argument with the potential benefits for victims when offered a high quality service but apparently that’s not enough. When I look at all the other interventions with offenders, I struggle to find any intervention that does receive resources that has the success rates with re-offending that RJ does.

Let’s look at the youth justice system and what has happened there with restorative justice. RJ is a completely different way of responding to crime. It is not about punishment, it does not have ‘reducing re-offending’ as its sole aim, and it is not about community reparation/payback/service. There have been implementation failures because of a lack of resources and direction from the YJB (Youth Justice Board) alongside rolling out something so different to the status quo. There is a consultation process currently being carried out by the YJB on how to improve the Referral Order and they have reiterated their commitment to making it a restorative process, so we wait to see whether this will bring positive changes.

Besides the money going towards the completion of research projects, there is no central government money going specifically to fund RJ at this present time, except possibly one or two isolated projects. Where is the commitment to victims?

But perhaps one of the main barriers to quality developments is where RJ has been placed internally in the Ministry of Justice. At present it is in NOMS, whose aim is to 'reduce re-offending'. The government line is at present that until the Home Office research reports back on their studies on reconviction data (this was due in 2007), they are reluctant to move further forward.

Why is RJ not in the Victims or Confidence Units as there is undisputed evidence in the benefits to victims and increasing public confidence? Should not all victims have the opportunity to take part in some way and receive those benefits? Less than one per cent of victims offended against by adults have access to RJ (RJC March 2007)

At the end of the day though, perhaps it was never going to be easy. Our criminal justice system is built around the ethos of crime being against the state, not against the person; and about punishment, not problem-solving. It is adversarial; it does not bring people together. For RJ to work effectively, criminal justice professionals need to give up some of their power and allow stakeholders to participate fully so that the system is not imposed on them. Looking around the world at where RJ is developing quickly, it seems to do particularly well in areas where there has been conflict or massive political change, for example in Northern Ireland and Eastern Europe. Perhaps things have to get very bad before significant changes are embraced and promoted? Let's not allow the UK to fall behind with what many other countries now know can improve the life of victims and communities and have a positive effect on crime.

Debra Clothier is Chief Executive of the Restorative Justice Consortium. It is the only independent, membership/umbrella organisation for all those with an interest in restorative justice in the UK. It promotes the use of restorative practices where conflict arises.

References

- CJS (2004) Best Practice Guidance for Restorative Practitioners and their Case Supervisors and Line Managers and Conclusions and Recommendations of the Training and Accreditation Police Group. Home Office: London.
- Leapman, B. (21 May 2006) 'Reid: Give Victims a Say on Parole.' www.telegraph.co.uk, The Daily Telegraph: London.
- Restorative Justice Consortium (2006) The Positive Effects of Restorative Justice on Reoffending. <http://www.restorativejustice.org.uk>.

This article first appeared in CJM Autumn 2006.

JUSTICE REFLECTIONS: 2008

ISSUE 17