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Exploring recent developments in restorative policing in England and Wales*

Dr Craig Paterson and Dr Kerry Clamp

The evolution of the policing role over the last decade has led to 33 police forces in England and Wales integrating restorative justice practices in one form or another into their responses to minor crime committed by both youths and adults for the first time. Most recently, this reform dynamic has been used in response to more serious offences committed by persistent offenders and expanded to include all stages of the criminal justice process. Despite the significant positive rhetoric that surrounds the adoption and use of restorative justice, there are a number of procedural and cultural challenges that pose a threat to the extent to which restorative justice may become embedded within the policing response. This paper explores these developments and highlights where potential problems for implementation may arise as well as some strategies to overcome them.

Keywords: restorative policing; community policing; police reform; policy implementation

Introduction

The continued progress of police reform in England and Wales towards a local, community-oriented and engaged service is exemplified by the police embrace of

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restorative justice. The twin drivers behind restorative policing¹ initiatives are a desire to increase community confidence in the police coupled with an acknowledgement of the limited capacity of formal state agencies to manage problems of crime and deviance. Distinct commonalities exist within contemporary political discourse in the fields of restorative justice and community policing surrounding active citizen participation, social inclusion, community cohesion and improved informal social controls that aim to foster more civilised, self-regulating conduct amongst citizens. From this perspective, restorative justice presents an opportunity to improve the delivery of policing services through enhanced police discretionary decision-making, community engagement and the reduction of the bureaucratic burden placed upon police officers. A more critical perspective raises concerns about the dilution of restorative principles within policing through a complex policy process.

For the past two decades the relationship between policing and restorative justice has been explored in a number of international jurisdictions, most notably Australia and the United States. In England and Wales initial experimentation can be traced back to Thames Valley Police in the early 1990s, although this faltered when the then Chief Constable, Charles Pollard, left the force. The more recent resurgence of restorative policing under the UK Coalition Government is evident in the Sentencing and Rehabilitation Green Paper (2010) and the prevalence of restorative practice in 33

¹ Or police-led restorative justice as it is referred to by others.

(out of 43) police forces across England and Wales (Shewan, 2010). But, while a number of statutory initiatives have been evaluated, there is ‘no current overview, let alone monitoring, of all the restorative justice initiatives which are ongoing’ (Shapland, 2009: 122). This makes it difficult to discuss with any certainty the quality or ‘restorativeness’ of the initiatives adopted by police forces around the country.

This paper explores the recent restorative policy initiatives that are being introduced by the police to respond to both low-level and more serious offending. At this juncture it is important that a caveat be drawn. The authors are not arguing for or against an increase in the adoption of restorative practices by the police in their response to crime. Instead, we review the current experimentation and accompanying rhetoric of restorative justice adoption and integration within policing and give due attention to the potential problems that such a strategy may elicit. There is a wide body of literature that is critical of an increase in restorative practice within the criminal justice sector and more specifically in terms of police facilitated restorative processes (see for example: Umbreit and Zehr, 1996a, 1996b; McCold 1998; Ashworth, 2001; Young, 2001) and such cautions will not be repeated in any length here.

The authors argue that while it appears that restorative justice is increasingly being embraced by the police service, there are particular factors that need to be given attention in order for implementation to be successful. We begin this paper by reviewing the international literature on restorative policing before providing an outline

of the various policy options currently available in England and Wales. The second half of the paper highlights the potential challenges that lie within the policy implementation process as well as the enduring tension of policing by consent within a socio-political climate dominated by a punitive public discourse about problems of security and social disorder. The paper concludes with an evaluation of the objectives of restorative policing and their potential impact on police provision.

Restorative Policing

Restorative policing incorporates a multitude of different policing programmes that range from conferencing and mediation sessions facilitated by police officers, to referrals of suitable cases to specialist policing teams that are trained in restorative practice, or some other specialist agencies outside of the police service or statutory criminal justice system altogether. The adoption of restorative justice within policing seems to represent a natural progression from attempts to implement a more community-focused and problem-oriented style of policing (Bazemore and Griffiths, 2003). Other influences, according to McCold and Wachtel (1998), have included the development of reintegrative shaming theory by Braithwaite (1989), and the popularity and prevalence of restorative disposals within youth justice.

Political support for restorative justice in England and Wales has primarily been in the youth justice sector, where it is defined by the three R's of 'restoration,

reintegration and responsibility' (Home Office, 1997: 31-32). The UK Crime and Disorder Act (1998) created Youth Offending Teams staffed by personnel seconded from agencies, including police officers, who are involved in the supervision of young people on reparation orders, referral orders and action plan orders, amongst others. However, in more recent years, restorative justice has enjoyed increased attention within the realm of policing with political support evident in a number of policy and other documents².

While restorative justice is subject to a number of contested meanings, the definition most frequently adopted by practitioners has been put forward by Marshall (1999: 5) which states: 'A process whereby all the parties with a stake in a particular offence come together to resolve collectively how to deal with the aftermath of the offence and its implications for the future'. This definition places emphasis on the process and the notion of stakeholders (the victim, offender and the community) but is particularly vague about what outcomes would be considered 'restorative'. Nevertheless, Bazemore and Walgrave (1999: 48) argue that restorative justice is 'every action that is primarily oriented towards doing justice by restoring the harm that has been caused by a crime'. It is this broad, procedural understanding of restorative justice that has been most attractive for individuals working within the criminal justice sector.

² See Green Paper (2010); Nick Herbert's speech at the RJC/ACPO conference in March 2011; and the Home Office's (2011) 'New Approach to Fighting Crime' document.

The direct relevance of restorative justice to policing lies within its acknowledgement that the outcomes of traditional police and criminal justice procedures are frequently unsatisfactory for victims, offenders and the wider community (Bradford et al., 2009), and that diversionary alternatives can produce more positive outcomes. While the public make clear links between a police presence and the absence of crime (Skogan, 2006), public perceptions of police performance in England and Wales declined during the 1990s at the same time as substantial and sustained reductions in crime rates. This juxtaposition of poor perceptions alongside strong performance indicators stimulated research on police engagement with the public, which found that dissatisfaction with the police rose whenever there was contact with an individual (Bradford et al., 2009). In contrast, earlier research conducted by Yeo and Budd (2000) found that victims of reported crimes who had face-to-face contact with the police were more likely to be satisfied with the quality of their contact with the police, although Hoyle (2008) provides the important caveat that this contact has to be meaningful for the victim. It can be argued that both the decline in public satisfaction with police contact and the contemporary policy emphasis placed upon improving public confidence are responses to the over-emphasis placed upon quantitative performance indicators ahead of a broader conception of service quality throughout the late 1990s and the majority of the 2000s (see Fitzgerald, 2010 for further discussion).

These findings on police-community engagement can be linked to research on the value of procedural legitimacy (Tyler, 1997; Hough et al., 2010) where public confidence in the police relates to levels of trust and engagement in criminal justice processes. There are further links here with Brodeur's (1983) concepts of 'high' and 'low' policing which examine how the tensions generated by 'high' policing strategies (such as the policing of political conflict and terrorism³) result in the necessity of a simultaneous focus on 'low' policing strategies that emphasise conflict resolution. Viewed in this way, restorative policing retains similarities to problem-oriented policing (POP) (Goldstein, 1990) in offering police officers additional discretion to develop flexible, long-term alternative responses to incident-focused, reactive 'fire brigade' policing styles. Restorative policing develops the POP model further, in many instances removing police responsibility over key decisions where this is deemed to enhance the prospects of conflict resolution (Bazemore and Griffiths, 2003).

The development of restorative initiatives within policing can, as such, be understood as attempts to: repair the harm caused by offending behaviour; reinvigorate the use of police discretion; encourage the informal resolution of community problems; enhance public confidence in policing; and to reduce costs, all policy issues that are

³ In England and Wales police have been embroiled in two major scandals in 2005 and 2009 which have resulted in the deaths of innocent members of the public, long public inquiries into police conduct and considerable damage to public confidence in the police. Further, in August 2011 the death of a third member of the public after a police shooting triggered five days of public disorder across the country and remains the subject of a public inquiry.

salient across a number of international jurisdictions. These five objectives will be used to analyse the potential of restorative policing in the final part of this paper. The following section charts the evolution of restorative policing in England and Wales and provides an introduction to the three most prominent policy developments.

The Evolution of Restorative Policing in England and Wales

The first links between restorative justice and policing were made by Sergeant Terry O'Connell⁴ in New South Wales, Australia in 1992 (see Moore and Forsythe, 1995). O'Connell brought together offenders, victims and their supporters in a conference process that adapted the New Zealand model of family group conferencing for a community policing context. The scripted conference process that became part of O'Connell's model was subsequently exported to the United States and Canada where the first mention of 'restorative policing' emerged out of the Bethlehem family group conferencing project in Pennsylvania (McCold and Wachtel, 1998). This model was subsequently adopted and embraced by Thames Valley Police's restorative cautioning

⁴ According to Kathleen Daly (personal communication), while there was an 'export' of police-led conferencing by O'Connell and others, in Australian jurisdictions the Wagga model has largely been rejected in favour of the New Zealand model of non-police run conferences with the 'scripted' model being atypical (also see Daly 2001 and Daly and Hayes 2002 for a detailed discussion of these models).

pioneer, Sir Charles Pollard, and restorative policing was championed as an effective new crime reduction tool.⁵

Restorative cautioning is viewed as a less formal alternative to traditional cautions whereby offenders (generally young and first-time) are encouraged to take responsibility for their actions by exploring the consequences of their offending behaviour, why they engaged in such behaviour and how they may physically or symbolically repair the damage or harm that they have caused. Where the victim participates in the process, s/he is able to make sense of the harm they have experienced, thus generating a more positive outcome than a traditional criminal justice sanction.⁶ The force-wide roll-out of restorative cautioning in Thames Valley in 1998 was followed by similar restorative justice inspired experiments elsewhere in England and Wales but did not lead to a sustained proliferation of programmes. By 2007, only Thames Valley and West Mercia Police were providing restorative cautions (Hoyle, 2008) although new experiments in community justice panels (soon to be re-named neighbourhood justice panels and more recently, community resolution panels) had been taking place in Chard and Ilminster, Somerset since 2005 (see Clamp and Paterson, 2011).

⁵ Although the evidence used to support Pollard's assertions was subsequently questioned by others (see Wilcox and Young, 2007; Shapland et al., 2008).

⁶ It should be noted that research conducted on restorative cautions by Hoyle et al., (2002) highlighted that few victims were invited to participate in restorative cautions and, when they were, many declined to participate. O'Mahony et al., (2002) also reported similar findings of their evaluation of restorative cautioning in Northern Ireland.

This landscape has changed and restorative policing has returned to the fore with the arrival of a new UK Coalition Government in 2010. Restorative policing is now supported by the Association of Chief Police Officers (ACPO) and this has led to sustained interest in its development as a ‘low-bureaucratic disposal for low-level offending and as a critical tool within Neighbourhood Policing to assist in problem-solving and meeting community expectations’ (Shewan, 2010: 2). More importantly, police officers ‘have described its flexible and impact capabilities as a return to “common-sense policing” (and) a return to professional decision-making after a decade of rigid performance management during which officers were encouraged to concentrate on the “low hanging fruit of detections” in an effort to raise the detected crime rate’ (Shewan, 2010: 3-4). Thus, the Police Service are looking to embed restorative justice as a means to both reduce spending in relation to low and medium level offending, to return discretion to rank-and-file officers and to increase the effectiveness of disposals given to young people and adults engaged in this type of behaviour. The three main policy developments are:

Restorative Conferencing

Restorative conferences re-invoke the importance of police discretionary decision-making by encouraging officers to use low-level problem resolution strategies and make judgements about which victims, offenders and offences are suitable for restorative

interventions. There are two types of restorative conference: ‘street’ or ‘instant’ restorative justice and community conferences both of which aim to divert the offender (adult and juvenile) away from the criminal justice process.

- *‘Street’/‘Instant’ restorative justice* offers specially trained police officers and police community support officers a quick and proportionate response to low-level offending committed by both adults and young people. The process involves both the victim and the offender resolving the incident collectively on the street where the incident occurred or within a reasonable time following this. ‘Street’ restorative justice incorporates youth restorative disposals as well as community disposals for adults, often where there has been longstanding conflict.
- *Community conferences* encourage problem-solving approaches for more serious offences, persistent anti-social behaviour and neighbourhood disputes that are having an impact on the broader community. As such, this type of conflict resolution mechanism consists of a broader group of individuals who have been affected by the incident or who are supporting the harmed and wrongdoer⁷.

⁷ Community conferences may be used in both civil disputes and criminal offences, and in this context it is therefore more accurate to speak of ‘harmed’ individuals and ‘wrongdoers’ than victims and offenders.

Restorative conferencing normally involves a face-to-face meeting between victim and offender which is facilitated by a third party. The conference identifies what happened between the victim and offender, why it happened, and the impact of the conflict. The research findings of Shapland et al., (2004, 2007, 2008)⁸ demonstrated that, 85% of victims who participated in the process across England and Wales were satisfied with the process, that there was a 27% reduction in reconviction rates over a two year period, and a potential cost saving for the criminal justice system from the reduction in reconvictions of £6,000 per offender. Therefore, whilst it is important to be cognisant of the travails of rolling-out such programmes in the world beyond test conditions, restorative conferences are viewed as having the potential to: repair harm; reinvigorate police discretion; stimulate informal responses to community problems; increase public confidence in the police; and to improve cost-effectiveness.

Neighbourhood Justice Panels

Neighbourhood Justice Panels (NJPs) are facilitated by a trained community volunteer; attendance is usually voluntary; and they are only used where the offending party or parties admit culpability. Once a case has been referred by the relevant agency

⁸ Shapland and her colleagues were commissioned to conduct an evaluation of three restorative justice schemes funded by the Home Office under its Crime Reduction Programme from mid-2001: CONNECT, the Justice Research Consortium (JRC) and REMEDI.

(generally the police), a volunteer facilitator interviews both the victim and the offender. The purpose of the interview is not to establish guilt but rather to explain the process and to make firm arrangements (dates, times and ground rules) for a meeting where both parties can bring supporters. The process provides an opportunity for the offender to reflect upon their actions and to offer some form of reparation to the victim or the broader community. Victims are encouraged to attend, where they want to, to communicate the impact of the incident and to understand why they were targeted.

The meeting ensures that the offender is directly confronted with the consequences of his/her actions and enables the victim to separate the offender from the offence. Both parties are also directly involved in determining the extent and nature of the content of behaviour contracts to which the offender needs to adhere for an agreed and specified period. Should the offender breach the contract the panel is notified and the panel may be reconvened or the case referred back to the referring agency for resolution through the normal adversarial process.

Community justice panels first emerged in England in the small borough of Chard and Ilminster in 2005. An evaluation of the scheme apparently found that police administration time had been reduced by 75% and the recidivism rate for those who participated was 5%. Such positive 'outcomes' or claims (this report cannot be located and therefore its findings or methodology verified) have unsurprisingly attracted a significant amount of attention and pilot projects have sprung up in a number of

counties around the country, including a commitment to a national rollout of the model by the Coalition Government (see Green Paper, 2010). However, an evaluation of a pilot project of the model in Sheffield yielded much more mixed results (see Meadows et al., 2010) and questions remain about the extent to which such results actually exist, and if they do, if they can be replicated in locations that are much more diverse in terms of population and the crime problem (see Clamp and Paterson, 2011).

Partnership problem-solving strategies

In line with the continued pluralisation of policing provision, opportunities will arise for the use of restorative approaches by a multitude of agencies without recourse to the police or other formal criminal justice agencies. Potential partners include schools, local authorities, housing associations and community groups. Further opportunities exist with the establishment of restorative conferences for prolific priority offenders (PPOs) prior to release from prison. Police involvement in this process as part of an integrated offender management team certainly represents new territory for the police and the proactive inter-agency management of PPOs. Here, restorative justice strategies act alongside formal criminal justice sanctions although the aim of the process continues to revolve around the key objectives of enhancing victim satisfaction with the criminal justice process, encouraging empathic understanding of their actions from offenders and reducing re-offending rates post-release.

While the use of restorative programmes has previously been piloted in Thames Valley as a means of improving public confidence in the police complaints system, Young et al., (2005) highlight the fact that the 'restorativeness' of the meetings observed was variable and that they may be used to achieve other aims (see McLaughlin and Johansen 2002). This highlights the fact that although there may be a strong institutional desire to increase satisfaction with the police through restorative processes, such strategies may in fact increase dissatisfaction where support for and understanding of the principles underpinning restorative justice are lacking by those who are facilitating the process. Beyond this small pilot, there has been no attempt to implement restorative justice in the police complaints system at a national level.

Nevertheless, these policy developments indicate a much more widespread use of restorative justice at a number of levels throughout the criminal justice process. This is in contrast to the historical use of restorative justice as a disposal exclusively used for first-time low-level offenders. Despite this ascendancy of restorative justice, there remain a number of potential threats to the successful implementation of such policies. Restorative justice alters the roles and responsibilities of individuals within the process, which makes it inherently more difficult to implement (Johnstone, 2002). The following section explores the challenges associated with the implementation of restorative justice within policing.

The Challenge of Policy Implementation

The core principles of restorative justice recall Sir Robert Peel's ninth principle of policing; 'the test of police efficiency is the absence of crime and disorder, not the visible evidence of police action in dealing with it' (Reith, 1948: n.p.). Peel's original preventative vision of the police officer role remains woven into community policing philosophies but, equally, has been challenged by the divergent cultural emphasis placed upon crime recording, performance management and enhanced centralised control over policing. The UK Coalition Government has emphasised a policy shift away from the latter realm yet it remains unclear whether the police are prepared to move away from performance management at the local level.

Restorative conferencing, NJPs and other partnership problem-solving strategies help us envisage the continued evolution of community policing whereby responsibility for informal social control is increasingly devolved to individual citizens, local communities and voluntary organisations in a multitude of different ways (see Crawford and Clear 2003). The challenge for the Police Service remains how to translate restorative principles into meaningful policies and programmes. For example, the further extension of the public voice in restorative policing will sometimes require the Police Service to act as facilitators and silent stakeholders rather than as decision-makers, a process which requires police officers to interpret and undertake their role in innovative ways.

The role of the Police Service in facilitating restorative justice can be understood within the context of other community policing initiatives that have emerged over the last decade and which aim to reassure an increasingly anxious public and enhance public confidence in the police role. The Liberal-Conservative Coalition has ring-fenced funding for police community support officers for the next two years, proposed further expansion of the volunteer special constabulary and enhanced community consultation, all policies which extend the multiple functions of the (post)modern community-oriented police, and their partner agencies. Further, restorative policing fits within the core governmental strategy for the Police Service to focus on the reduction of crime. This can be achieved through diversion from the formal criminal justice process, yet, the policing minister, Nick Herbert, and other senior Conservatives have distanced themselves from this ‘soft’ aspect of restorative programmes (see Herbert, 2011).

As a consequence of this, the Police Service are faced with unclear and contested definitions of restorative justice plus a broader financial environment of diminishing resources. Within this context it is possible to foresee policy developments in restorative policing being driven by a desire to reduce costs to the detriment of the other four objectives we have outlined. Restorative policing demands a continued cultural shift at all levels of the police hierarchy to ensure that the implementation of restorative justice is meaningful for police officers and the public alike and is not subverted by other agendas. For example, criticism of community policing has often

focused on the ambiguous nature of the concept and the difficulties inherent in translating a policing philosophy into tangible programmes and tactical action (Bazemore and Griffiths, 2003; Stenson and Edwards, 2004). Consequently, new policing roles such as police community support officers and the expansion of volunteers have sometimes been interpreted by the public and police officers as poor quality, cheap alternatives (Caless, 2007).

In order to avoid such criticisms in relation to restorative policing, we argue that three primary elements are of central importance, namely: leadership, training and performance. The following section discusses each of these three key components in turn, highlighting their relationship to the key objectives for restorative justice as outlined above and provides some recommendations for good practice.

Leadership

Restorative justice needs to be embedded into neighbourhood policing in a systematic way that highlights the benefits of restorative policing at the street-level, namely: the reparation of harm caused by offending behaviour; the enhanced use of police discretion; the benefit of informal resolutions for increased public confidence in the police; and cost-effectiveness. It is clear that these aspects of restorative justice chime with longstanding values in police culture, not least the emphasis on common-sense decision-making and the removal of unnecessary bureaucracy advocated by a focus on

informal resolution. Yet, Bazemore and Griffiths note that the successful policy implementation of restorative policing programmes is reliant on a 'systemic vision and focus' (2003: 9). Restorative policing cannot work where its ideas are placed solely in individual programmes. Instead, a clear vision for the local police needs to be articulated by ACPO with subsequent programmes being built around this over-arching philosophy of 'restorative policing'. A systemic vision aims to embed change at the departmental level and let this emanate outwards to rank-and-file police officers and the community itself. This will ensure that reforms are not interpreted solely as short-term strategies to reduce budget costs.

Continued ministerial support is required to embed this systemic vision alongside clear ACPO standards and guidance and nationally recognised measurable outcomes. Shapland (2009) points to the possible fragmentation of restorative policing as a consequence of constabulary independence and the highly localised nature of policy implementation within 43 separate forces. A common understanding of restorative policing is needed throughout the police hierarchy and across forces so that restorative policing does not get either transformed into a low bureaucratic response to resource issues and budget cuts, or incorporated into a law enforcement mentality that leads to net-widening (O'Mahony and Doak, 2004). The creation of a national decision-making model that incorporates organisational values and ethics in an attempt to enhance police discretion and professional judgement represents a potential vehicle for

the generation of a common understanding of the more subtle aspects of restorative policing (ACPO, 2011). The historical failure to garner support for restorative policing has been evidenced by low rates of victim participation in restorative projects in England and Wales (Hoyle and Young, 2003) and resistance towards restorative initiatives from the police and the wider public, as evidence indicated in the NJP evaluation in Sheffield (Meadows et al, 2010). As such, an embedded approach is needed here by ‘champions’ of restorative justice so that this legacy does not continue within current policy initiatives.

Training

Concerns have been raised by restorative justice proponents about the suitability of police officers to lead restorative practices which ultimately allows them to be both judge and jury of their own cases (see Ashworth 2001). Further concerns relate to police officers lecturing offenders about their misdeeds, dominating restorative proceedings and the cultural shift⁹ required from an enforcement-focused role to one that emphasises facilitation (Hoyle and Young, 2003). Similar concerns have been raised in other plural

⁹ Young (2001) explains this point by arguing that at the core of police or ‘cop’ culture is authority and power over individuals. This runs the risk that offenders will not feel empowered, but rather frustrated and resentful of a process where accounts of the incident are evaluated on the basis of knowledge derived from police statements, previous criminal records are used in an assessment of the offender’s character and that the police officer/facilitator will exert too much control over the outcomes of the process.

policing partnerships but are by no means insurmountable and can often be addressed over time (Newburn and Jones, 2002).

The concerns of restorative proponents have been contested by the findings of a large study conducted by the Home Office which concluded that the institutional background of the facilitator did not influence levels of confidence in the restorative process and that police officers were not perceived to dominate proceedings. Instead, police officers were often perceived to provide added security for victims (Shapland et al., 2007). Shapland et al's (2007) research demonstrates that the two key factors of success are the selection of police officers with the relevant skill sets, not least the ability to empathise with a multitude of viewpoints, and the provision of relevant and operationally useful training that links restorative justice to other proactive, problem-oriented policing strategies. Holland's (2007) analysis of diversity training raised similar points, in particular the central role played by trainers and leaders, in enacting policy and systemic reform.

In the original Thames Valley model, restorative justice initiatives were deemed to be a success because the force was (on the whole) united in supporting the developments throughout the hierarchy (Hoyle and Young, 2003) yet this has not been the case with other, less successful, initiatives which quickly become viewed as a re-packaging of older yet similar ideas. Restorative policing requires a shift in police thinking that moves beyond the traditional offender-victim dichotomy that lies at the

heart of the adversarial process and police perceptions of their role. This raises questions about the current approach to training which introduces all police officers to restorative policing via a one day training course (a smaller number attend an advanced three day course) when the analysis above highlights the importance of selecting officers with relevant skills sets and an appreciation of harm reduction strategies to lead restorative policing initiatives.

The initial identification of restorative justice leads should be followed by a more systematic integration of restorative justice into community policing training that emphasises the focus on enhanced police discretion and informal resolution. Both the literature on restorative policing and the educational literature on the development of community policing¹⁰, point toward the importance of an open-minded value system that assists flexible decision-making in different social contexts. A clear opportunity for the integration of restorative justice into initial police training in England and Wales is presented by the current Neyroud Review (2011) on police leadership and development. The review has already identified the poor fit between community policing philosophies and current teaching methods. A deeper appreciation of the links between public confidence in policing and police efficiency, as well as the nuances of different restorative programmes would help embed restorative justice into future police thinking.

¹⁰ See Roberg and Bonn (2004) for an overview.

Performance

The final, and currently most uncertain, component of policy implementation relates to restorative justice and the police performance framework. The focus on sanction detections and quantitative performance measurement that has dominated policing in England and Wales for the last decade has led to a disproportionate focus on the management of volume crime and increasing the number of detections ahead of proactive problem-oriented policing strategies, such as restorative referrals. In his 2008 review of policing, Flanagan (2008) acknowledged that this had contributed to decreased public confidence in the police whose day-to-day experience of crime was more closely linked to low-level problems and anti-social behaviour. The political emphasis on ‘deliverology’ by the Labour administration has now shifted and a renewed emphasis on the restoration of police discretion has begun. While the problem of measuring efficiency and quality in community policing has by no means been surmounted (Fitzgerald, 2010), the removal of the final performance measure related to public confidence in the police was symbolic of a sea-change in political discourse about how to define and measure success in policing.

Yet, despite this political bluster, quantitative performance measurement remains embedded in police governance at the local level and is likely to be a key tool for newly elected Police and Crime Commissioners to evaluate the performance of the police when the first elections take place in November 2012. While the democratic

requirements of police accountability ensure that some kind of system that records police practice should exist, the introduction of a new politicised arena of governance may mean that more subtle restorative strategies are sidelined in favour of a punitive law and order agenda. Despite this, the research evidence on performance has demonstrated that an approach that focuses on ‘community engagement, problem-solving, and good interpersonal treatment of members of the public’ (Myhill et al., 2011: 123) is most cost-effective. Therefore, restorative policing should be incorporated into whatever replaces the National Crime Recording Standards (NCRS) so that restorative (non)interventions can be incorporated into each force’s annual data return process as well as the day-to-day thinking of individual police officers.

Understood in this way, restorative policing represents a potential cure for the cold of risk-averse, process-led policing and instead emphasises ‘entrepreneurial, proactive work aimed at fulfilling core functions’ (Heaton, 2011: 75); or outcome-led policing. But, as this section has acknowledged, ‘restorative’ schemes are inherently more difficult to implement due to the fact that there remains a lack of consensus about the roles (both traditional and those that are newly created) of individuals within the process. *Real* community policing necessitates significant cultural change, and the police need to understand *why* community engagement and consultation are vital for policing and the benefits it brings for them as well as the communities they serve. Community policing and restorative justice may seem like natural bedfellows when

viewed through the prism of liberal political rationalities and attempts to resolve the conflicts generated by other liberal modes of government, such as ‘high policing’ (Brodeur, 1983), yet this vision needs to be clearly articulated to staff members weary of an enduring reform agenda. The answers to these questions should become clearer once new local governance structures, as outlined in the 2011 Policing and Social Responsibility Act, have been put in place and strategic priorities have been identified. In the final substantive section of this paper, the authors return to the five key objectives that were introduced at the beginning of this paper to evaluate the potential of restorative policing in achieving them in the current political and policy climate.

Discussion

It is possible to evaluate the ‘restorativeness’ of different policies and programmes by returning to the five key objectives that were highlighted earlier. These objectives aim to: repair the harm caused by offending behaviour; reinvigorate the use of police discretion; encourage the informal resolution of community problems; enhance public confidence in policing; and to reduce costs. Each of these objectives will now be reviewed and summarised.

Repair the harm caused by offending behaviour

All three programmes outlined previously – restorative conferencing, NJPs and partnership problem-solving strategies – aim to repair the harm caused by offending. It is clear from the international evidence that successful restorative policing programmes require the support of police officers who embrace restorative principles (O’Mahony and Doak, 2004) and who have received relevant training. Therefore, it is essential that there is a clear understanding of restorative justice at a senior level in the Police Service that is communicated to personnel through unambiguous and consistent messages. Unfortunately, there have been unclear statements by ACPO and government ministers about how restorative policing can repair the harm caused by offending behaviour. For example, the policing minister, Nick Herbert (2011), has stated that:

...we used to regard restorative justice as a process that was a private one, and of course in certain circumstances it has to be. But, for justice to be done it must be seen to be done. If we are to command confidence in a completely new way of delivering community justice, then there must be transparency in restorative justice and visibility about how it is being driven...It is very important that we have a criminal justice system that is able to say “this is how it was dealt with” so that the public are confident in the way in which crime is being tackled in our society

Herbert's argument represents a public relations exercise which aims to make restorative justice palatable for a public whose confidence in policing is built around traditional visible policing strategies. Interpreted in this way, there is a potential conflict with restorative policing between repairing the harm caused by offending and enhancing

public confidence in policing. This argument runs contrary to the aims of restorative justice which returns conflicts to those involved in an incident (Christie 1977) away from the public realm. Furthermore, this misinterprets the role of restorative programmes in dealing with the harm caused by offending and incorporates additional aims that were not constituent parts of its underlying philosophy.

This helps to explain why understandings of restorative justice on the front-line have sometimes been confused. The approach to officer training in England and Wales has involved one day courses which raises the danger of restorative programmes lacking meaning for officers. A 2009 ACPO survey noted inconsistencies in training standards and quality assurance processes (Shewan, 2010) and this perspective has been supported by anecdotal evidence from the field where restorative justice has sometimes been promoted as a time and resource saving exercise for the police (Clamp and Paterson, 2011). This raises the possibility of the misuse of restorative initiatives and the dilution of restorative principles through the policy process to its delivery on the streets (Lipsky, 1980).

Reinvigorate police discretion

Debate about the use and misuse of restorative policing initiatives recall longstanding international debates about democratic policing and the fair and equitable use of police discretion (Skolnick, 1975; Jefferson and Grimshaw, 1987; Habermas and Cerrah,

2008). Restorative policing has been promoted by government ministers and ACPO as a means of reinvigorating police officer discretion in order to return to ‘common-sense’ policing after a prolonged focus on performance targets. As Herbert has commented (2011):

We want to do much more than simply abolish target culture. This is about restoring professional discretion, and creating space for local innovation...We want people to be much more interested in the outcome and less concerned about the process.

This is an argument that is supported by ACPO and many front-line police officers (RJC, 2004; Shewan, 2010) but it represents a challenge to the training and development of a generation of police officers whose professional knowledge has been immersed in a target culture. A shift away from the micro management of police performance may be a desirable component of national domestic policy yet local performance indicators are still the tools through which the performance of local forces is evaluated. In addition to this, Herbert's point about a shift from a process-led perspective to one focused on outcomes is commendable yet it runs contrary to police training in England and Wales which focuses more narrowly on police procedure (Peace, 2006). The cultural shift required here should not be under-estimated.

Furthermore, it is important to briefly re-state the potential pitfalls of too much police discretion. The history of police-community relations in England and Wales is

littered with social, political, ethnic, racial and gendered conflict (Loader and Mulcahy, 2003; Brain, 2010). This turbulent history indicates that too much discretion may lead to restorative policing having an uneven impact across different communities and in different socio-political contexts. Anecdotal evidence already exists of restorative policing programmes being used as a tool to coerce offenders into admitting guilt in the same way as previous evidence on cautions and other forms of summary justice has demonstrated (Morgan, 2008).

Stimulate informal responses to community problems

Both restorative conferences and, in particular, neighbourhood justice panels have the potential to enhance informal resolutions of community problems with police officers acting as co-ordinators or facilitators of this process. Further, evidence has demonstrated that the public are supportive of the police role in this process. Yet, questions remain about the extent to which the police will be willing to delegate key duties to other agencies. There is a substantial body of academic literature which documents the extent to which criminal justice institutions protect their own fiefdoms (Shapland 2003). Questions also remain about the extent to which community justice can be delivered through a top-down process of policy implementation (Clamp and Paterson, 2011). Finally, the ‘responsibilisation’ of communities contains a presumption that communities are willing and able to respond to this call and that the police are the

most suitable agency to act as ‘community champions’. Once again there is a body of academic evidence that outlines the challenge of engaging communities (Dignan, 2005), particularly where there is a history of social marginalisation and conflict with the police (Stenson and Edwards, 2004).

Increase public confidence in the Police Service

The strategic development of neighbourhood policing since 2006 has, to varying degrees, addressed public concern about police visibility, responsiveness, and accountability. There is strong evidence that community involvement in the process of justice aids public confidence in the police (Rix et al., 2009) and that restorative policing strategies will free up police officer time to provide a more visible presence on the streets. In many ways, this objective lies at the heart of the UK government policy as 20% cuts between 2010 and 2014 will dramatically reduce the visible front-line capability of the Police Service (HMIC, 2010). The only way to counteract this impact on the visible front-line is to free up police officers from other duties through strategies that decrease the amount of time spent in custody, completing paperwork, and other time consuming duties. Protecting the front-line remains an ambitious objective within a climate of diminished resources. Restorative policing can save substantial resources that will allow the Police Service to enhance visibility whilst improving public confidence through a greater emphasis on procedural justice and positive community engagement.

Reduce costs

There is clear evidence of a strong business case for the use of restorative justice by the Police Service. Shapland's Home Office study (2004) identified £6,000 savings per offender in reduced reconvictions and a potential cost saving of eight pounds for every one pound that was invested in delivering restorative justice. Having acknowledged this, it is also important to note that the potential resource saving from restorative justice for the police is often simplified. Restorative policing requires a substantial investment of resources, particularly where this relates to higher risk offenders. Added to this is a further danger; if the aim of reducing costs supersedes the other four objectives outlined in this paper there is clear potential for the dilution of restorative principles and the production of a mis-shaped restorative policing programme. Each of the previous four sections has outlined clear benefits for the Police Service in utilising restorative justice but alongside these benefits lie pitfalls and the potential for restorative policing to be subsumed into the broader, and often undisclosed, agendas of ministers, police management and front-line officers.

Conclusions

Restorative policing is often promoted on the basis that it may reduce re-offending, have significant cost benefits, and improve public confidence and victim satisfaction through direct engagement with the affected parties in the justice process. However, the importance of leadership, training and performance measurement should not be overlooked if policy implementation is to be effective. Achieving this requires ‘systemic vision’, clearly articulated objectives and a consistent approach to practice. Most clearly, for both the public and police officers, restorative policing has the potential to: repair the harm caused by offending behaviour, reinvigorate the use of police discretion (and ‘common-sense’ policing), encourage informal, low bureaucratic resolutions to community problems and improve confidence in policing. This requires consistent support from police leaders, an investment in police officers who invoke restorative principles and the identification of a meaningful measurement of the success of restorative programmes. It is these three key components that can ensure that restorative policing does not fragment and dissipate amongst broader and more symbolic debates about the impact of police budget cuts and the future shape and size of policing in England and Wales.

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