

Restorative Justice: What's that then?

Debra Clothier describes the pitfalls encountered over the long-term in promoting restorative justice.

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.

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 reoffending 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

The restorative justice process holds offenders to account for the harm they have caused without compromising their human rights or causing further harm.

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 work, 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 lack of clear information provided through the media to the general public, combined with the national punitive and adversarial culture systems, political will, and inadequate support from criminal justice professionals.

But we are not giving up that easily.

Firstly, there is plenty of evidence that, when carried out properly, RJ is beneficial to all the people involved. Failure to integrate RJ into our

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 reoffending 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 reoffending 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



Redhill Agricultural Reform School, circa 1941, the outgrowth of activities by 18th century philanthropists seeking an alternative to prison and life on the street for children who ended up in London's courts. A sort of early model probation service was also established in the 19th century as London Police Court Mission. This year the organisation celebrates its bicentenary as 'Rainer', the national charity for under-supported young people.

in ethos at the same time as many other changes to the youth justice system.

Even now, when I speak to people working in YOTs it is clear that they do not understand what RJ means in practice. RJ needs both victims and offenders to be involved equally in the repair of harm and staff should work with both. This was a concept that many people who work within the criminal justice system did not and still cannot accept. Some YOTs have tried to ignore victims, while others have only made a token effort to engage victims, for example by ringing a victim up and telling them there is a meeting if they want to meet the offender next Monday! Not surprisingly, victims tend to refuse this sort of offer and this sometimes leads YOTs to state that 'victims are not interested'. Using victims as a tool to rehabilitate or punish an offender is not restorative and will not get restorative outcomes.

When Referral Orders were introduced, it was a great opportunity for a restorative intervention so why did the Youth Justice Board and YOTs not then train the community panel members to be RJ facilitators? On the whole, it seems that they have been trained to be 'magistrates out of court' with the understanding that they – rather than the participants – will make all the decisions. There are pockets of good quality restorative practice taking place in YOTs but they seem to be the exception now and not the rule. I have even heard of those YOTs not wanting to share their good practice for fear of getting into trouble with the YJB for doing things differently!

Neither the YJB nor YOTs have 'meeting the needs of victims' as one of their statutory duties, therefore will the victim always be an add-on, in terms of both practices and

resources? When the government, together with many RJ experts, published the *Best Practice Guidance* in 2004, which set the minimum standard for restorative practice, why did the YJB opt out of implementing its recommendations? They cannot have it both ways; either they are doing RJ or they are not. The latest series of audits being published on YOTs are nearly all, so far, highlighting the poor quality of work with victims.

I know it is an old excuse to blame the lack of resources when something is not happening but in this situation it has been almost scandalous.

- YOTs are not being given any extra resources to work with victims.
- The Home Office have cut their internal staff with responsibility for RJ from about six full-time staff members to one part-time post.
- The pilots for the Conditional Cautions for adults (two of which were including RJ) were not given any resources to do this work so it is all expected to come out of existing budgets.
- The Deferred Sentence legislation was going to be used to pilot RJ for adults in three probation areas, so victims could be involved prior to sentence, but again they have not been offered any extra resources and few voluntary organisations or mediation services are doing this work now because no one will fund them to do so.

Continued on page 34

developments. There are shadowlands of rhetoric and reality. We have the espousal, in pursuit of evidence-based policy, of the allegedly methodological gold standard of randomised control trials (RCTs) while other policy initiatives flourish in what appear to be evidence and research free zones. And lurking on the sidelines are both morally restorative (see Debra Clothier) and scientifically reductivist visions, some of the latter springing from genetics and suggesting earlier and earlier pre-crime interventions. One can imagine someone suggesting the formation of a Centre for the Scientific Study of Potential Criminals, but the Centre for Crime and Justice Studies better reflects the inclusive aim of fostering policy analysis to encourage and facilitate an understanding of the complex nature of issues concerning crime.

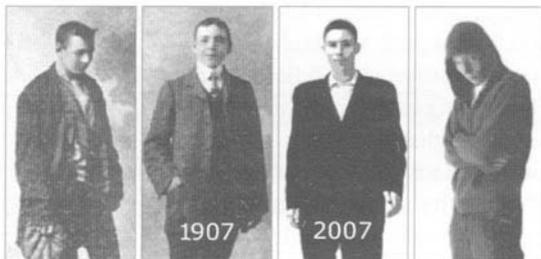
Rod Morgan is Chair of the Youth Justice Board and a member of the CCJS Council.

References

Downes D. and Morgan R. (forthcoming 2007) 'No Turning Back: the Politics of Law and Order into the Millennium', in Maguire M., Morgan R. and Reiner R. (eds) *The Oxford Handbook of Criminology*, 4th ed., Oxford: Oxford University Press.
Hedderman C. and Hough M. (2004) 'Getting Tough or being Effective – What Matters?', in Mair G. (ed) *What Matters in Probation*, Cullompton: Willan
Labour Party (2005) *Britain – Forward not Back: the Labour Party Manifesto 2005*, London: Labour Party.



**Towards the Centenary 1907–2007,
Celebrating 100 years of Probation**



We at Probation Boards' Association and Napo warmly invite you to celebrate with us by attending the **International Probation Centenary Conference 1st-2nd May 2007** at The Brewery Conference Centre, London

Log on to the Probation Centenary portal at **www.probationcentenary.org** and find out how you can join us

- Besides the money going towards the completion of research projects, there is no central government money going towards RJ at this present time. Where is the commitment?

But perhaps one of the main barriers to quality developments is where RJ has been placed internally in the Home Office. 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 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?

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 communities and have a positive effect on crime.

Debra Clothier is Chief Executive of the Restorative Justice Consortium.

The Consortium 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 Policy Group*. Home Office: London.
Leapman, B. (21st 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 Re-offending*. *www.restorativejustice.org.uk*