



**FRONT-LINE FACILITATORS:
A STUDY INTO THE CONCEPTUALISATION
AND IMPLEMENTATION OF RESTORATIVE
JUSTICE BY GROUND-LEVEL POLICE
OFFICERS**
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Abstract

Despite a great deal of academic debate surrounding the term 'restorative justice', it would appear fair to suggest that the majority of the research in this area focuses upon the three main stakeholders involved within the process, namely the victim, the offender and the community, victim-offender mediation, and the benefits of such an approach. Nonetheless, not only can this be seen to neglect a number of restorative justice processes, but also to underestimate the role of the facilitator. Considering how restorative justice has been increasingly embraced by criminal justice agencies in the past 30 years, this study sets out to examine how the ground-level conceptualisation and delivery of restorative justice by the Police Service relates to academic perspectives, policing policies and wider penological shifts. In turn, it will be argued, evidenced by analysis of research data derived from eight semi-structured interviews with operational front-line policing staff², that although the conceptualisation and delivery of restorative justice is influenced by all of these factors, primarily they channel into policing policies and individual discretion, which have the most direct effect on practice.

Keywords: Restorative Justice, Police, ground-level practice, policing policy, penal climate, penological factors.

Introduction

Although it has been said that restorative justice has a long and fruitful history internationally, with historical links to traditional methods of civil dispute resolution in many countries and

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² Although the researcher recognises the current structure of the Police in England and Wales, including the use of non-sworn staff who are responsible for a range of roles, from administration to training. For the purposes of this research the terms 'front-line policing staff', 'officers' or any other term interpreted as such, should be regarded as solely incorporating those agents of the state who have a responsibility for the implementation of restorative justice within the Police, namely Police Constables (PCs), Police Community Support Officers (PCSOs) and Special Constables.

traditions (Braithwaite, 1999; Street, 2008; Muncie, 2009), it could be suggested that RJ (restorative justice) is rooted in the traditional practices of the justice system in England and Wales. However, as Gavrielides (2008) argued, restorative justice, in its current incarnation, only returned to the criminological agenda of the 'Global North' in the 1970s: most evident in the work of Eglash (1977), who categorised criminal justice into three areas, including a new restorative paradigm in which the active involvement of affected parties was encouraged in order to restore the harmful effects of any criminal activity.

Alongside the development of what is now considered to be 'the new penology' or the 'culture of control' (Feeley and Simon, 1992; Garland, 2001), from this point, restorative justice has been slowly incorporated into the criminal justice sphere, supported by public statements from such key figures as the Lord Chief Justice (Phillips, 2005) and Justice Secretary, Chris Grayling (2013). In this sense, a number of agencies, from Youth Offending Teams to the Police, have been responsabilised with facilitating restorative justice in a variety of formats, from victim-offender mediation to referral panels; however, it would appear that in such criminal justice institutions there remains a great deal of conceptual confusion about what restorative justice actually means (Clothier, 2008). Moreover, in this new environment where increased funding has been handed to some Police Forces for the facilitation of restorative justice (North Devon Journal, 2013; Oxburgh, 2013) and the number of on the street RJ disposals have rocketed nationwide (CJJI, 2012), it is interesting to note how, despite the supposed importance of the facilitator in the process (Ashworth, 2002; Hoyle, 2007), to this researcher's knowledge, there have been no empirical studies which *solely* consider front-line policing staff's perceptions of restorative justice.

This research project sets out to examine this niche by exploring how restorative justice is understood and delivered by front-line staff within Devon and Cornwall Police, all the while considering how academic perspectives of RJ, policing policies and the wider penal climate, as well as individual bias at a ground-level, has the potential to influence practice.

1 Literature Review

Academic Perceptions of Restorative Justice

Since restorative justice emerged on the modern criminological agenda, it would appear that the biggest pitfall of this paradigm is its lack of defined boundaries. This absence of a clear definition is highlighted by Harris (1998) and Sullivan et al (1998), who, quite ironically, suggested that the only academic consensus within the RJ literature, concerns itself with the lack of agreement surrounding the exact meaning of the term. Despite the proposal that the generalisation of restorative justice is virtually impossible (Smith, 2002; Rex, 2005), without a

universal definition it could be argued that there remains a great deal of conceptual confusion around what appears to be a somewhat ambiguous mechanism (McCold, 1998, 2000; Daly, 2002, 2006, 2013; Dignan, 2007; Johnstone and Van Ness, 2007; Gavrielides, 2008; Hoyle, 2010). Subsequently, this poses many theoretical questions about restorative justice, including: who should be involved; whether it should be considered as outcome or process based; the extent to which it can complement the current criminal justice system; if it is a punishment or alternative to punishment; and the practical scope of this paradigm.

Indeed, perhaps the most potent issue within the literature is formulated around concerns about 'how big the circle should be' (Gavrielides, 2008: 173): essentially, who should be involved in restorative justice and their roles and responsibilities. Whilst some academics, such as Cantor (1976) have suggested that restorative justice processes should only be open to those parties that have been specifically involved in the offence, thereby maximising the importance of Mendelsohn's (1963: 241) 'penal couple', other researchers have favoured a much broader approach. This is exemplified by Gavrielides (2008) who suggested that a wider range of parties could be involved in restorative justice, including those who are concerned for the victim and offender's wellbeing, such as family and friends; those who are concerned about the execution of justice, such as the Police and the Crown Prosecution Service; and those who may be able to contribute to a solution to the initial problem, such as counsellors and youth workers.

Similarly, another conceptual hurdle to be encountered considers whether RJ is outcome or process based. According to Dignan (2002) approaches to defining restorative justice fall into two broad categories: those which see restorative justice as a particular decision-making process and those which criticise this type of classification, for not recognising the importance of restorative outcomes. One example of a common process based definition is that of Marshall (1996: 37) who stated that restorative justice is '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'; however, this explanation could be labelled as insufficient because it only appears to focus upon the purist form of restorative justice in face-to-face, victim-offender mediation and fails to recognise practices which could be classified as either mostly or partly restorative (McCold, 2000; Walgrave, 2000; Daly, 2002; Gavrielides 2008; Hoyle, 2010). In this sense, it could be suggested that the primary aim of repairing the harm caused by an offence is ignored and the scope of RJ is constrained to a limited number of processes (Walgrave, 2000; Gavrielides, 2008).

By contrast, despite an outcome based approach seemingly becoming more appropriate, this could also have potentially negative consequences. When considering how it has been stated that the ethos of restorative justice revolves around the responsabilisation of offenders, the restoration of victim-offender relations and the reintegration of the offender into the community, drawing upon the so called '3-R's' (Home Office, 1997; Gray, 2005), or how Bazemore and Walgrave (1999: 48) suggested that restorative justice should include 'every action that is primarily orientated towards doing justice by repairing the harm that has been caused by a crime', it could be argued that without a specific focus upon procedural elements, such definitions may lead the perimeters of restorative justice to be stretched beyond recognition. In turn, this could lead programmes which have restorative outcomes, but do not respect the key procedural rules of RJ, being encompassed into this paradigm, thereby diluting restorative justice to little more than an abbreviation encompassing a vast array of practices (Dignan, 2000; Gavrielides, 2008).

Indeed, it could be suggested that this move towards practical ubiquity has already begun, as anything that is not considered to be a traditional part of the criminal justice system is being increasingly categorised as restorative justice (Dignan, 2000; Hoyle, 2010). Although it has been proposed that RJ could be considered as a 'complete, consistent and independent justice paradigm which has the power to stand alone' (Gavrielides, 2008: 170) and in the infancy of criminological theorising about this subject, it was held in direct contrast to the criminal justice system (Cantor, 1976; Barnett, 1977; Christie, 1978), there is a conflicting argument which suggests that restorative justice can only exist if supported by other paradigms. This debate is exemplified when considering how, since the 1990s, advocates of such an approach have started to combine restorative justice with the more traditional aspects of the criminal justice system, whilst others have questioned whether restorative justice and criminal justice should be united or kept as distinctly separate entities (Braithwaite, 1999; Gavrielides, 2008; Street, 2008; Daly, 2013).

Benefits of Restorative Justice

Nonetheless, before this literature review discusses a specific justice agency's theoretical approach to restorative justice, it is important to note how academic perceptions usually form somewhat of a broad consensus when it comes to a consideration of the potential benefits of such an approach for such key stakeholders as the victim, the offender and the community (Braithwaite, 1996; Marshall, 1998).

In terms of the victim, this party's involvement in what could be considered a 'dialogic process' (Hoyle, 2010: 7) can be seen to lead to a sense of empowerment, catharsis and

closure (Zehr and Mika, 1997; Daly, 2002; Gray, 2005; Clothier, 2008; Street, 2008; ACPO, 2012b). By actively encouraging victims to get involved, helping them to deal with emotional or physical loss and facilitating some sort of direct financial, material or moral reparation, RJ can be seen to combat the possibility of re-victimisation and the exclusionary nature of court-based justice proceedings (Rock, 1993; Street, 2008; Shapland and Hall, 2010; Hoyle, 2010).

Mindful of such theorising, it is unsurprising that research data has illustrated a high level of victim satisfaction with this paradigm. Indeed, Shapland et al's (2007) research into three RJ schemes used for dealing with offences committed by adults, 85% of victims left feeling satisfied with the process and 78% said they would recommend the process to others. Similarly, in an evaluation of research into the use of restorative justice interventions for young offenders, Gray (2005) found that 76.2% of victims responded positively when asked about their experience of RJ, often associating this with a sense of catharsis and resolution. Indeed, such findings have led Clothier (2008: 18) to argue that by using restorative justice 'satisfaction rates are – at a minimum 75 per cent – higher than for any other criminal justice intervention'.

From another perspective, restorative justice also appears to be a largely positive experience for both offenders and the wider community, due to its ability to combat offending behaviour, reduce recidivism and reintegrate offenders back into society. Despite the fact that restorative justice requires an offender to accept their guilt, thereby responsabilising these individuals (Bazemore and Walgrave, 1999; Daly, 2000; Clothier, 2008; Street, 2008; Hoyle, 2010), not only is it suggested that restorative justice is not punitive in approach (Wright, 1996; Daly, 2013), but it also allows the offender to be forgiven and accepted back into society. Through the process of re-integrative shaming, restorative justice can be seen to prompt a moment of realisation from the offender and initiate feelings of embarrassment and guilt which prevent future recidivism (Braithwaite, 1989). Moreover, contrary to traditional criminal justice proceedings, offenders are often given more of an input throughout the RJ process, in order to explain their actions and bridge the empathetic divide between themselves and the victim (Hoyle, 2010). This allows young offender's attitudes towards offending to change as a result of the restorative justice process (Gray, 2005) and can be seen to contribute to the fact that offenders who participate in restorative justice schemes are less likely to be reconvicted in the subsequent two years, than offenders who were dealt with via other means (Sherman and Strang, 2007; Shapland et al, 2008).

The Police and Restorative Justice Policy

Acknowledging these potential benefits, it is unsurprising that restorative justice has been increasingly integrated into the criminal justice system; however, it has been suggested that with the vast number of restorative justice programmes on offer and with no clear academic definition, there could be a potential gap between theory and practice, leading to inflated, unfulfilled expectations of the process (Dignan, 2000; Miers, 2001; Daly, 2006; Clothier, 2008). In this sense, this literature review will now specifically focus on one criminal justice institution responsible for the implementation of restorative justice programmes: the Police.

When considering the extended history of the Police in England and Wales, it could be suggested that restorative justice is a relatively new phenomenon, as an experimental restorative cautioning scheme was only first implemented by Thames Valley Police in 1998 (Young and Goold, 1999; Hoyle, 2007, 2011; Shewan, 2010). Soon after this, however, the New Labour government mainstreamed these practices through the Crime and Disorder Act 1998 and the Youth Justice and Criminal Evidence Act 1999, which essentially led police cautions for young offenders to be replaced with warnings and introduced a new mandatory sentence of referral to a Youth Offender Panel for the majority of first time young offenders, respectively (Crawford and Newburn, 2003). In addition, under the Criminal Justice Act 2003, elements of RJ were also incorporated into certain adult conditional cautions (Hoyle, 2011; Crown Prosecution Service, 2014); nonetheless, despite this wide number of approaches used by the Police today, it is the quick and easy approach of level one restorative conferencing, including the youth restorative disposal, which provides the Police with the most practical benefits and is most commonly used by front-line Police Officers (Shewan, 2010; ACPO, 2012b; CJI, 2012).

Bearing all of these potential disposals in mind, on the ground-level, it would appear necessary for the Police Service to have some form of guidance in terms of RJ. Alongside a number of national policies relating to general policing practice, including the ACPO (2014a) *Statement of Mission and Values*, perhaps this is most prominent in ACPO's (2012b) *Restorative Justice Guidelines and Minimum Standards*. Introduced in order 'to assist Police Forces in their introduction and management of RJ processes' (ACPO, 2012b: 2), this document sets out the national priorities for restorative justice practice by including a broad definition of the term, an understanding of the strategic benefits of RJ, the minimum criteria needed for a restorative justice intervention and a decision-making matrix for front-line Police Officers. Similarly, there are also inspectorate reports, most notably *Facing up to Offending: Use of restorative justice in the Criminal Justice System* (CJI, 2012), which rather than being a practical guide written by the Police, instead provides independent oversight across

all restorative justice processes and policies created by criminal justice agencies, providing recommendations for the improvement of services where necessary.

Furthermore, it must also be remembered that there are 43 territorial Police Forces within England and Wales, each of which have a degree of independence (ACPO, 2012a) and, as a result, there are also policies available on a force-by-force basis. When taking, for example, Devon and Cornwall Police, specific guidelines surrounding RJ are available for officers under force policy *D199* (Devon and Cornwall Police, 2012a) and the associated *Restorative Justice Working Practices* document (Devon and Cornwall Police, 2012b). In such policies, national priorities are interpreted on a localised scale as the ability of restorative justice to benefit the parties specifically effected by the offence, by 'reducing crime, the fear of crime and re-offending', and satisfy wider policing priorities, thereby 'enhancing community cohesion, customer satisfaction and ultimately public confidence', is emphasised (Devon and Cornwall Police, 2012a: 1.1).

Ground-Level Individuals

Nonetheless, despite the apparent ability of these policing policies to define restorative justice and mark out the key benefits of such an approach, the extent to which they impact upon the practical conceptualisation and implementation of policing programmes may be questionable as deep-rooted policing culture alongside the ground-level discretion and professional judgement given to these facilitators could allow Police Officers to act as 'street level bureaucrats' or 'front-line definers of crime' (Westmarland and Clarke, 2009; Davies et al, 2010; Bryant and Bryant, 2013). When considering the extent of this individual discretion, the creation of a National Decision-Making Model which actively encourages the use of reasonably justifiable, case-by-case decisions by operational policing staff (ACPO, 2014b), alongside the increased utilisation of on-street level one disposals (CJJI, 2012), this could pose an explicit opportunity for these gatekeepers to exude personal or systemic bias (Galligan, 1996; Hoyle, 2007).

Essentially, this means that either a Police Officer's individual preferences and interests or their inclinations and predispositions, derived from their social class, background or employment within a certain organisational context could be seen to influence their ground-level practice (Galligan, 1996; Hoyle, 2007). This is particularly relevant when considering how the service culture restorative justice represents does not seem to be embraced in the same way as the more adrenaline-fuelled, crime-fighting approach was previously (Graef, 1989; Reiner, 1978, 2010). As a result, it could be theorised that Police Officers may have negative perceptions of the restorative justice process and may, therefore, 'act in ways

which modify, disrupt or negate the intended process and outcomes of public policy' (Barnes and Prior, 2009: 3).

The Wider Penal Climate

In this sense, these individual, ground-level factors which have the potential to guide the practical implementation of restorative justice practice by the Police could be viewed as part of the potential influence of the wider penal climate. Historically, the past forty years has seen a great deal of ideological and practical change within the criminal justice sphere, as the rehabilitative ideal has been replaced by new forms of politicised, expressive justice and the managerial practices, commercialization and performance indicators of New Public Management have been increasingly emphasised (Ranson and Stewart, 1994; Garland, 2001; Golding and Savage, 2011). Driven by the assertion of Hoyle and Young (2003: 669) that 'any Police Service is bound to be influenced to at least some extent by the prevailing social-political agenda', this literature review will now focus upon the key wider penological factors, namely the expanding remit of criminal justice agencies, the emergence of performance indicators and a focus upon the principle of risk, in order to suggest how these factors could be seen to relate to this agency's delivery of restorative justice.

Most prominently, it has been argued that this explicit focus upon new management styles has reflected itself in the changing working practices of many criminal justice organisations. Indeed, in the Police, as already discussed, the use of RJ could be seen to represent a shift away from a more dangerous, action-centred, hedonistic role, characterised by the use of force and seemingly embraced in policing culture, towards a more bureaucratic, socially co-operative, community-based, customer orientated service (Holdaway, 1977, 1983; Punch, 1979; Garland, 2001; Westmarland, 2001; Reiner, 2010). Nonetheless, when considering the pressure within the contemporary environment to cut the public sector alongside the constant threat of privatisation (Garland, 2001; Ministry of Justice, 2013; BBC News, 2014; Donnelly, 2014), it would appear fair to suggest that this dichotomous view is too simplistic and, instead, this shift represents a broader movement to responsabilise criminal justice agencies to complete a much wider range of functions, which for the Police now includes such objectives as providing reassurance to victims and making communities safer, as well as investigating crime and apprehending offenders (ACPO, 2014a). In turn, this has led some academics to suggest that the Police have become somewhat of a secret social service and Police Officers have become de facto social workers (Punch, 1979; Reiner, 2010).

Additionally, there has also been a movement towards performance management, reflected in the process of 'policing by objectives' which frames Police action within a cycle of 'objective-setting, action-planning, implementation and result assessment' (Golding and Savage, 2011: 737). With such a cycle in mind, Golding and Savage (2011) have argued that within public agencies, now more than ever, there is a constant measurement of inputs and outputs, or resources and results. From this emanates a degree of pressure upon public agencies to minimise expenditure in terms of such factors as money or time, whilst maximising positive action in order to fulfil objectives surrounding the '3 E's of efficiency, effectiveness and economy' (Horton, 1993: 134-5). This point is explicitly highlighted when considering how within the CJI (2012) report mentioned previously, an inherent link is emphasised between restorative justice and its potential to save money, as North Wales Police saved 3,363 man hours - the cash equivalent of £95,000 - by using 1,411 informal resolutions over twelve months and Greater Manchester Police saved 7 hours and 45 minutes of custody time per case by using level one restorative disposals. In turn, in a time of budget management and potential commercialization (Davies et al, 2010; Shewan, 2010), it could be argued that the delivery of RJ by the Police is merely an attempt to minimise costs.

Elsewhere, in this new penal climate there is also a focus upon protecting the public (Garland, 2001). Although in the past, this has been used as a justification for more punitive measures such as indeterminate sentences for public protection, this requirement is now more generally embodied by an emphasis on risk across the criminal justice sphere (Feeley and Simon, 1992; Hannah-Moffat, 2013). In terms of general policing practice, this is, once again, reflected in the National Decision-Making Model, which explicitly includes a stage for 'assessing threat and risk and developing a working strategy' (ACPO, 2014b), but can also be seen to impact upon ACPO's (2012b) *Restorative Justice Guidelines and Minimum Standards*, which classifies the decision to implement restorative justice into three categories – green for safe, amber for not always straightforward and red for risky – by considering such factors as the public interest, the risk of re-offending and the vulnerability of the other parties involved. With this in mind, it would be fair to suggest that the delivery of restorative justice within the Police focuses heavily upon principles of risk.

2 Methodology

Despite the fact that in the past the majority of Police research has seemingly been based upon quantitative research methods (Reiner and Newburn, 2008), after this comprehensive review of the relevant literature, it was decided that this study should adopt a qualitative, case-centric approach in order to harness a richer, holistic and authentic assessment of

opinions and real life experiences (Ragin, 1994; Holstein and Gubrium, 1997; Lösel, 2008; Bachman and Schutt, 2011). Making use of his links as a Special Constable within the Devon and Cornwall Police, the researcher addressed perhaps the biggest pitfall of studying individuals within policing organisations – that of access (Reiner and Newburn, 2008) – by selecting three participants for their ability to “contribute meaningfully to the research” (Curtis and Curtis, 2011: 36) and represent a wide range of points of view (Rubin and Rubin, 1995), before further developing this participant base through snowball sampling.

Practically, this led to one-to-one interviews with eight members of operational Police staff with the researcher’s aide-memoire providing somewhat of a logical progressive structure, which first asked officers about their initial conceptualisation of the term restorative justice, fed into a scenario based examination of RJ delivery and concluded with an evaluation of the process. In this sense, although both a number of open questions and prompts could be seen to start conversation, maintain a focus on certain topics and elicit further information respectively, it would be fair to suggest that the participants largely directed the direction of the interview, leading to both personalised and valid responses.

In terms of ethics, described by Denscombe (2007: 148) as “not an option... [but] a fundamental feature of all good research”, this study strictly adhered to both legislation and specific institutional guidelines, namely that set out by Plymouth University Research Ethics Committee (2013) and the British Society of Criminology (2006). This led issues surrounding informed consent and confidentiality to be taken extremely seriously as they were embodied in both an informed consent form and a verbal debrief.

Data Analysis, Question One: How is restorative justice conceptualised by ground-level officers within Devon and Cornwall Police, in relation to academic literature and policing policies?

When considering the varying academic perspectives of restorative justice, its portrayal in policing policies and the potential for a gap between policy and practice, it would appear necessary to consider how restorative justice is conceptualised and delivered at a ground-level. With this in mind after a surface analysis of the responses of eight front-line policing staff, it appeared that the involvement of the key stakeholders in the process was held to be particularly important and, therefore, an appropriate framework was created in order to investigate factors surrounding the victim, the offender, the community and the facilitator.

The Victim

Considering how the word 'victim' was used 125 times during the course of these semi-structured interviews with PCs and PCSOs, this would seem to be an appropriate area with which to start this data analysis. When asked what their priority was during the implementation of restorative justice, some officers identified the need to be impartial and adjust their focus on an individual case-by-case basis; however, the majority of the front-line policing staff stated how it was important to prioritise the victim above other stakeholders in the process and take their wishes into account:

*'the victim, ultimately they're the ones that are listened to more' (P1 – PCSO).
[my priority] 99 per cent of the time, it has to be the victim' (P8 – PC).*

In this sense, front-line policing staff could be seen to be conforming to academic perspectives, implementing policing policy and even being influenced by wider penological shifts, all of which can be seen to highlight the importance of the victim. Indeed, within the academic literature the importance of victim involvement in the process is explicitly promoted (Zehr and Mika, 1997; Daly, 2002; Clothier, 2008), whilst in terms of policy, both ACPO (2012b) and Devon and Cornwall Police (2012a) guidelines have suggested that restorative justice processes should be 'victim-led' or 'victim centred': two phrases which continuously re-emerged throughout the interviews in this study. In addition, as victim's wishes were seemingly taken into account, their need to get "a tangible outcome" (ACPO, 2012b: 1.2) appeared to be satisfied, whilst, more broadly, these findings could also be seen to reflect attempts within the criminal justice sphere to rebalance the scales of justice and return the victim to centre-stage in the justice process (Garland, 2001; Patel, 2013).

It could also be argued that there was evidence to show how front-line policing staff acknowledged the potential benefits of restorative justice for the victim. Throughout the interviews, all eight of the officers agreed that, on the whole, there appeared to be a high level of victim satisfaction with the process. This was largely attributed to the ability of RJ to assist in victim empowerment, allow for some form of restoration and elevate the unnecessary stress of traditional procedures – whether this be emotional re-victimisation whilst giving evidence in court; financial loss by taking time off of work, or travelling to court; or even the time consuming nature of more 'traditional' criminal justice responses. As one officer put it:

'before [RJ], there were times when people were given cautions or they went to court and had a small fine, but no compensation was offered to the victims, so they turn around and think "well that's not really justice"' (P8 – PC).

Whilst, at first, these findings appeared to compliment the academic research and policy in this area, as the supposed ability of RJ to involve victims in the process, facilitate closure, deal with emotional or physical loss, and thereby contribute to high levels of satisfaction was strongly emphasised (Gray, 2005; Shapland et al, 2007; Clothier, 2008; Hoyle, 2010), in the eyes of front-line policing staff, the majority of potential benefits of restorative justice for victims seemingly derived from this paradigms ability to rectify areas in which the traditional criminal justice system could be seen to fail, as highlighted by Daly (2013). In this sense, it could be argued that officers saw restorative justice as a distinct paradigm separated from the traditional criminal justice system: an approach only reaffirmed by an emphasis of a diversionary approach for offenders analysed later.

Nonetheless, it was also made clear that victims were not always happy with the prospect of RJ and, in a minority of cases, refused to be involved as they were in favour of a more punitive punishment. As the consent and involvement of the victim is seen to be a key element of restorative justice in academic research (Zehr and Mika, 1997; Daly, 2002; Clothier, 2008) and “a minimum standard” for the use of delivery of restorative justice in policing policy (ACPO, 2012b: 2.1), interviewees were asked what they would do in such a scenario and whether they would persist with restorative justice procedures. In response, there was some discrepancy between the majority of officers who claimed that ‘true’ victim consent was essential for restorative justice and a significant minority who suggested that this refusal to participate in such processes had to be balanced against other factors, such as the ability of RJ to prevent the criminalisation of young people and the institutional requirements of the Police to be fair, prevent crime and stop re-offending, seemingly derived from the ACPO (2014a) *Statement of Mission and Values*. In this sense, whilst some officers legitimately attempted to persuade victims to take part, but understood if they refused:

‘I would encourage them. I think at the end of the day, we all realise if someone’s struggling then it’d be nice to do something for that individual’ (P2 – PC)

‘I’d encourage them and explain the process, but at the end of the day, if they’re not in agreement then it won’t be used’ (P4 – PC)

other officers, appeared to take control of the situation, with minimal respect for the victims wishes:

‘We would discuss it. It wouldn’t be as simple as ‘well you don’t want it we’re going to do it’...but at the end of the day, we can take that out of the victims hands and go ahead anyway’ (P1- PCSO).

These responses pose a number of questions surrounding the implementation of Police led restorative disposals, particularly with regard to the extent to which such processes should be regarded as fully restorative. Despite the fact that these officers could be seen to follow policy, which has stated that restorative justice processes should be explained to victims as they often lack knowledge of the process but need to make an informed opinion about

whether to participate (CJJI, 2012), and it would appear that the majority of officers will accept the right of the victim to refuse to take part following an explanation of the mutual benefits of the process, an element of coercion is introduced if it is officers input which convinces victims to partake in RJ. Subsequently, this could be seen to undermine the process, as without the genuine involvement of the victim a number of restorative outcomes, such as the responsabilisation and reintegration of the offender into society (Gray, 2005; Hoyle, 2010), become somewhat difficult to achieve. Furthermore, in light of such findings, it could also be argued that the victim-led persuasion of RJ is almost conditional as, ultimately, conflicts remain as the property of the state (Christie, 1978).

The Offender / Suspect

Having been mentioned on 63 occasions, the offender, or suspect, seemingly became the second most important stakeholder identified by this study. This fact, coupled with a persuasion to get the victim involved in the criminal justice process, could alone identify how Von Hentig's (1948: 397) "duet theory of crime" is seen to be important in the interviewees' perceptions of restorative justice; however, a thorough analysis of the data goes way beyond this quite simplistic link.

Indeed, the frequent usage of the word 'suspect' during these interviews could suggest a subconscious awareness of labelling theory (Tannenbaum, 1938; Goffman, 1963). As such, although it was not explicitly expressed by front-line staff, an apparent refusal to utilise the word offender when conceptualising RJ allowed the wrongdoer a chance to break away from such a role, preventing stigmatisation and, thus, illustrating what interviewees identified as a particular benefit of restorative justice: its ability to divert people away from the criminal justice system and prevent them from incurring a criminal record.

*'I like to deal with it in a sensible way – rather than creating a criminal record which could have a very detrimental impact upon [an offender's] life and career' (P3 – PC).
'one of the key benefits comes when you think about how RJ can save a juvenile from getting a criminal record' (P7 – PCSO).*

In this sense, with the alignment of these supposed benefits for the offender with policing policy (Shewan, 2010; ACPO, 2012b; CJJI, 2012), from a ground-level officer's viewpoint, it could be argued that RJ is seen as more of an educational mechanism than a criminal justice based punishment, allowing offenders with an opportunity to change and prevent future repercussions.

With this in mind, through Police led RJ many offenders were seemingly diverted from traditional criminal justice procedures, in a way which is explicitly recommended by ACPO (2012b); however, an explicit focus on the obligations of the offender, as highlighted by

every participant, could also be seen to fulfil the necessary criteria for this form of restorative justice to be classified as a punishment (Daly, 2000, 2013). Although many officers were seen to weigh up the cost and benefits of the process for all the parties involved, it was strongly emphasised from the beginning of each interview, that in order to implement some form of restorative justice, the offender needed to admit their guilt and take responsibility for their actions:

'with restorative justice, there's got to be an admission of guilt. If there's no admission of guilt then the only way we can deal with it is to look at taking statements, possibly voluntary attending them... or possibly arresting them' (P1 – PCSO).

'[the offender] needs to admit they're at fault and agree to take on some reparation around that' (P7 – PCSO).

When considering the outcomes of restorative justice as presented in academic literature alongside these findings, although reparation to the victim was clearly seen to be of great importance, due to the explicit emphasis on obtaining an admission of guilt, it would be fair to suggest that the ground-level officers in this study were keen to maximise responsabilisation of the offender at the expense of other restoration and reintegration - a procedural phenomenon perhaps first described by Gray (2005). Nonetheless, the focus on this outcome could be seen to be representative of that found in policing policies (ACPO, 2012b; CJI, 2012; Devon and Cornwall Police, 2012b) and an emergent infatuation with risk within the current penal environment (Feeley and Simon, 1992; Garland, 2001; Hannah-Moffat, 2013). Indeed, with the decline of rehabilitation in its traditional sense, this evidence of responsabilisation seemingly provides evidence to suggest that offenders are encouraged to engage in self-management and help to reduce their own risk of re-offending (Garland, 2001; Kemshall, 2002; Gray, 2005).

Moreover, although it has been argued that in no way should restorative justice be punitive (Wright, 1996), it would appear, in some circumstances, that front-line Police Officers' perceptions of RJ also encapsulated the principle of deterrence:

'I try to make it clear... if it happens again, it might be something worse than RJ' (P7 – PCSO).

'I wouldn't say he was frightened, but he was obviously scared of the process and was deterred from doing it again' (P4 – PC).

'I have had kids in tears before and that's almost what you want' (P6 – PCSO).

Although, with these examples in mind, the ultimate aim of the interviewees appeared to be the prevention of recidivism, a seemingly legitimate goal and a key benefit of restorative justice (Sherman and Strang, 2007; Shapland et al, 2008; Shewan, 2010; ACPO, 2012b; CJI, 2012), the inclusion of the principle of deterrence into RJ practices, in an attempt to prevent crime through the fear of apprehension and punishment (Cavadino and Dignan, 2007; Canton and Yates, 2008), could be seen to reflect how some Police Officers saw RJ as an alternative punishment, rather than an educational, diversionary alternative to

punishment (Duff, 1992). In turn, despite an approach based on deterrence having “almost no support in the criminological literature” (Maruna, 2007: 660), it could be argued that the practice of restorative justice in this instance embodied a more punitive approach than should be expected, especially given the reports of the offenders’ reactions.

The Third Stakeholder: the Community or the Facilitator?

Although it could be suggested that the involvement of the community would be analysed as the next key stakeholder, due to the emphasis placed upon this party’s involvement throughout academic literature and policy outputs (Morris and Young, 2000; Gavrielides, 2008; ACPO, 2012b; Devon and Cornwall Police, 2012a), when considering the perceptions of ground-level Police Officers, it would seem that wider communities were not actively encouraged to take part within restorative justice processes:

‘Yeah... the community... If someone wants to step up and get involved then fine, but otherwise... Nah it’s just part of the process’ (P4 – PC).

‘You know in my role [in neighbourhood policing] I know about the community I police, but yeah... in restorative justice [engaging the community] would probably just come as part of the process’ (P2 – PC).

In this sense, despite participants being quick to identify how community members appeared to be satisfied with RJ processes and showing how restorative outcomes could lead to community wide benefits, on the whole, it would appear that community involvement with the process was either somewhat of an afterthought or exploited for the benefit of other actors involved in the process. Indeed, it was the public nature of the reparation which was often the most potent aspect from the officer’s point of view:

‘It was very public and they had a mop and bucket, with a brush in their hand and a Police Officer stood next to them. I think they were a bit embarrassed’ (P3 – PC).

‘He’s come over and done it up so it’s all spick and span like nothing’s happened. Now the impact on the community there is great, because it was going to be a stinking mess there but he’s been caught doing it and he’s been seen to be dealt with via restorative justice. And I think he was a bit ashamed really. I don’t think he’d do it again’ (P8 – PC).

In these particular scenarios, it would seem that RJ was being used in a public environment in an attempt to maximise public confidence in the Police and initiate the process of integrative shaming; however, as these experiences could be considered as potentially humiliating and the community’s involvement was limited to a mere observation of the offender fulfilling his obligations, it could instead be argued that such an approach embodied disintegrative shaming (Braithwaite, 1989). In turn, as highlighted by Braithwaite (1989), it is likely that the offender will continue to defy the institutional norms in the future, thereby minimising the opportunity to prevent recidivism and limiting reintegration.

Nonetheless, with this apparent disregard for the active engagement of communities in the process, other than in the purposes described above, it would appear fair to suggest that the

facilitator took more of a key role in Police led RJ. Through the use of their professional discretion, it was clear to see how, ultimately, it was Police Officers who decided whether restorative justice practices were going to be initiated and added a form of “gravitas” to proceedings (Hoyle, 2007: 298); however, perhaps the biggest negative aspect identified by front-line policing staff revolved around the fact that there was little these officers could do to ensure that agreed measures went ahead as planned. Apparently, in accordance with Devon and Cornwall Police’s policy *D199* (2012a), once a form of restorative justice had been agreed upon, their role effectively stopped even if the offender did not fulfil their obligations:

‘in one of the cases, the money wasn’t handed over in the end and there was very little we could do’ (P3 – PC)

“sometimes you get occasions where restorative justice is initially accepted ... and if that person does not do it, then we have no power to make them do it. That’s the only downside” (P8 – PC)

“there’s only a couple of occasions where the compensation hasn’t been paid but as the agreement’s been all signed up and the crime has been finalised, I think that’s when the Police’s role just stops. As far as I’m aware there’s nothing else we can do” (P6 – PCSO)

In this sense, participants were quick to emphasise the disenchantment experienced by both victims and themselves when agreements were not upheld; however, despite this frustration, a significant number of officers recognised that the Police could not have ‘two bites of the cherry’ or engage in ‘double jeopardy’. One Officer, even acknowledged how coercion or enforcement may undermine the outcomes of RJ, which to that individual revolved around principles of honesty, remorse and a genuine wish to repair the harm caused by an offence, and went so far as to pose the question:

“if we empower officers with the ability to enforce [restorative justice], where do we stop?” (P3 – PC)

Data Analysis, Question Two: How do wider penological factors affect the implementation of restorative justice by front-line policing staff?

As identified within the literature review of this study, the wider penological environment could be seen to influence the Police as a public institution, particularly when considering how elements of New Public Management have seemingly been integrated into a number of policing policies; however, given the ability of public agency staff to ‘interpret and reinterpret policy; negotiate their own values and identities... [and] determine what they consider is the right thing to do in particular circumstances’ (Barnes and Prior, 2009: 3), it would appear prudent to specifically examine how wider penological factors influence those operating on the front-line. In this sense, by focusing upon four key issues within the new penological environment - cost effectiveness, responsabilisation, multi-agency working and risk - this subsection will examine the delivery of restorative justice by ground-level officers and assess the extent to which wider penological shifts affect the implementation of such disposals.

Cost Effectiveness

As identified within the literature review of this study, criminal justice agencies have been faced with an increasing degree of pressure to be cost effective and, as a result, the expense of law enforcement has become a major concern (Wright, 2002; Davies et al, 2010; Crawford, 2011). As measures of bureaucratic efficiency have been established, it has been argued that the principles of speed and efficiency have been highlighted (King, 1981; Davies et al, 2010). Aligning itself with such an approach, one of the key benefits of RJ, in view of the majority of front-line policing staff interviewed, was its ability to save time: a factor of practical benefit to the victim and offender, as well as themselves.

'It was all done and dusted. It was lovely, all done within one week. Because at the end of the day, you don't want a job hanging on and getting smellier and smellier. That's just a lot of hassle' (P7 – PCSO).

'It saves a lot of time on my part not having to put a file together, to get it gate-kept, to get it sent off, whereas if somebody has RJ, it only takes a few minutes to fill out the form and deal with both parties... it saves an awful lot of time on our part with paperwork, files, interviews and a manner of other things' (P8 – PC).

From these responses, however, it would appear that this time saving approach was interpreted as a benefit on an individual level, rather than an institutional one, meaning that participants often saw the swift nature of restorative justice disposals as a chance to minimise *their own* paperwork and make *their own* job easier, as opposed to part of a wider 'value for money' focus highlighted by policing policies (ACPO, 2012b). Indeed, this was made explicitly clear by one officer who stated:

'it does get used by other people as a way to get rid of cases... it's the easy route for them in terms of time but that doesn't necessarily mean that makes it easier for whoever has to go and clear up their mess' (P4 – PC).

Responsibilisation

Elsewhere, as previously discussed, the penological environment has also been seen to further responsabilise the Police with a much broader range of social, more service based functions (Garland, 2001; Reiner, 2010). Given this ideological shift, it was theorised that, given the nature of their role, PCSO's would be satisfied with this broader approach whilst Police Constables (PC's) might have been more sceptical of the service orientated culture embodied by restorative disposals, especially when considering the widespread devaluing of community policing in Reiner's (1978) research. Nonetheless, rather than leading officers to feel disillusioned, on the whole this study found that both PC's or PCSO's, generally embraced this new orientation:

'we are on a customer focus basis and we serve the public' (P1 – PCSO).
'that's what we do... we carry out a public service' (P7 – PCSO).

'we are, and we do provide, a service. We provide a service to all of these communities and to the public. [RJ] is just another tool for the service to use' (P5 – PC).

'I mean, the way I look at it, no matter what we do, we always provide a service for our customers' (P8 – PC).

Given this contradiction to Reiner's (1978) study, critics of this research may suggest that due to the age of some of these officers, the older, more crime-fighting orientated style of policing was never truly experienced, resulting in a service focused bias; however, whilst some of the officers interviewed were relatively new to policing and rightfully brought their own interpretations of this culture with them, others had decades of experience from policing careers spanning over 30 years. Instead, this apparent enthusiasm for service based programmes, such as restorative justice, could be seen to derive from the fact that the majority of officers explicitly linked restorative justice disposals with a return to the fundamental principles of practical, common sense policing:

'I think if we go back, sort of ten or twelve years ago and we would perhaps deal with things by the way of common sense. It's a return to that really' (P5 – PC).

Multi-Agency Working

From the data collected in this study and given the responsabilisation of Police Forces to provide a service, it would also seem that these new forms of penalty have led the Police to increasingly ally with other agencies to provide a more holistic approach. In this movement towards new forms of governance, in which a number of agencies are tasked with managing crime and reducing re-offending, the exponential growth of multi-agency partnerships is, according to Maguire (2011: 455) "one obvious manifestation" of new responses to crime. Indeed, throughout the study, participants exemplified how they worked with a spectrum of statutory, voluntary and private agencies throughout their delivery of restorative justice, signposting people to other services, where necessary:

'It's about understanding there must be other issues here... I mean I've worked with Together for Families, mental health teams, Youth Offending Services and I'd say about 70% of my time a week is signposting individuals to other agencies. And to me that's all part of policing... (P2 – PC).

'I've worked with social services, the Youth Offending Service... it's better to have a joint approach to these things' (P6 – PCSO).

With these examples in mind, although this way of working has been theoretically emphasised within the current penal environment and incorporated into statute and policy, in practice it would appear that the extent to which officers actually operate in this capacity is based on individual predispositions and wider policing priorities, rather than as a direct result of wider penological shifts. Whilst all of the officers interviewed in this study saw multi-agency working as a positive, invaluable tool, this was not due to its ability to save time or

prevent the duplication of effort, but primarily because of its apparent ability to reduce re-offending, prevent crime and make communities safer: the key goals of policing (ACPO, 2014a). Throughout the study, ground-level officers were keen to demonstrate how they had used multi-agency approaches within restorative justice disposals in the past, giving wide ranging examples of data sharing and joint working, whilst only one officer recognised the push towards this movement as representative of the financial constraints of the criminal justice system and even, in that instance, pursued such an approach mainly due to the fact that they, personally, wanted to help:

'There are specialists out there to help but due to cutbacks through public services we're the last port of call... I mean we are the only agency in this sort of field that works 24/7 so we're likely to be the first contact – but then it's up to us to do the right thing and refer people... so that they can get help' (P2 – PC).

Risk

Nonetheless, perhaps the most identifiable and discussed trait of the new penological environment is its emphasis on risk (Davies et al, 2010; Crawford, 2011; Maguire, 2011; Hannah-Moffat, 2013): a prolific factor throughout the operationalization of restorative disposals in this study. Interviewees claimed that before they even suggested the possibility of going down the 'RJ route', they first had to consider case-by-case risk factors with reference to the National Decision-Making Model including the offender's offending history obtained through the PNC, used as an indicator of the potential for re-offending and frequently described as the level of risk to the force; the likelihood that an offender would willingly fulfil the obligations placed upon them by a RJ disposal; and the risk of further harm to the victim. However, when considering how failed restorative justice disposals were not recorded by this force's intelligence system, practically, these risk assessments were largely based upon prior personal knowledge of the offender, or more generalised assumptions made at the time, allowing room for personal bias to take affect (Galligan, 1996).

Subsequently, this infatuation with risk could also be seen to lead to perhaps the biggest impact on restorative justice disposals used by the Police: under-implementation. Despite policy which suggested that the Police can use RJ for a wide range of offences, with more serious offences going through a checks and balances system of approval by supervisors first (Devon and Cornwall Police, 2012a), the majority of ground-level officers stressed how they would only use these disposals for low level offences. This was highlighted by the fact that when asked to describe a scenario in which they had implemented RJ, out of the eight officers interviewed, four described minor shoplifting offences and four described low level criminal damage. Although in this sense, there were a number of reasons for only engaging in RJ for low level offences, including the apparent proportionality of the measure and

individual officer's dispositions towards certain disposals, it would appear that a major factor in this reluctance appeared to be an awareness of the risk involved in higher level offences:

"RJ is used a lot more freely nowadays, to the point where a prolific priority offender, rightly or wrongly, could get it for something they do. I think that's wrongly. It's not proportionate because they need to be dealt with in the proper way and, you know, it's a risky business getting involved with all that" (P4 – PC).

"You can't use it for a robbery... because that's violence and for that sort of thing definitely not, it's too much of a risk" (P5 – PC).

Conclusion

In conclusion, it is fair to suggest that academic perspectives, policing policy, wider penological factors and individual discretion all influence the delivery of restorative justice by ground-level policing staff to some extent; but, first it would be prudent to consider how restorative justice is conceptualised by Police Officers.

As can be seen in the first data analysis question, it is important to note how Police Officers on the ground saw the involvement of the key stakeholders in restorative justice as essential for its implementation; however, rather than incorporating a broad range of parties, this generally included a focus upon the victim, the offender and themselves as facilitators, thereby neglecting the community. More broadly, RJ was interpreted as a blend of procedure and outcomes, illustrated as principles of restoration, responsabilisation and reintegration were all encapsulated within working practices; despite the fact that the responsabilisation of the offender was seemingly prioritised above these other objectives. In addition, although all the forms of restorative justice examined by this study were facilitated by the Police - a criminal justice agency - and elements of deterrence and punishment representative of a more punitive criminal justice based approach were also identified, the majority of officers highlighted how that RJ should be considered as a separate, diversionary and educational mechanism.

As has been shown throughout this study, it could be suggested that both policing policies and academic perceptions relate to this conceptualisation by ground-level policing staff; however, in terms of influence, it would appear that the relationship between policing policy and practice was more potent. In this sense, despite the strong relationship explicitly identified between policing policy and the practical implementation of RJ by Police Officers, interviewees did not justify their practice in terms of academic conceptualisations of the process. That is not to say that these ground-level officers did not utilise some of the techniques that have been theorised upon by researchers and academics and, in some cases, there was a basic understanding of the criminological principles behind RJ; however,

even in this regard, it would appear that this knowledge was merely that which had been disseminated to ground-level officers through policing policies.

Similarly, in terms of the extent to which the current penal climate could be seen to relate to the operationalization of restorative justice, although it would appear that there was evidence of the issues highlighted by the contemporary penal environment across Police Officers conceptualisations and practices, rather than specifically influencing the decision-making processes of front-line policing staff, penological factors seemingly had more of an effect upon the wider institution in which these facilitators work. In this sense, whilst front-line officers were aware of the issues within the wider penal environment, such as cost effectiveness and multi-agency working, and often conformed to these principles, ultimately restorative justice outcomes were still prioritised, sometimes at the expense of these more managerial aims and objectives. Perhaps the only anomaly in these circumstances regards the principle of risk; however, once again, it would appear that this factor was only highlighted due to the emphasis placed upon it in policing policies, rather than as a result of the participants' explicit awareness of the wider penal climate.

Finally, although it was not specifically focused upon in either of the questions of this study, it would appear necessary to reflect on the ability of individual discretion to influence upon RJ practices during the conclusion of this project. Despite the fact that, in this research, officers were generally positive about RJ and their approaches to this form of disposal were largely consistent with one another, differing interpretations and personal predispositions led to minor variations of approach, say in regard to what offences officers were willing to deal with via restorative disposals and how punitive offender's obligations would be. In this sense, although one officer specifically claimed that front-line officer's discretion was being pulled away from the ground-level individual and being replaced within centralised policies, it would appear that such policing staff still have a significant degree of independence, when it comes to implementing grass level disposals.

To summarise, whilst this research suggests that officers have both an awareness of issues surrounding the implementation of RJ and wider penological factors, the penal climate and academic perceptions of restorative justice are more likely to influence the institutional structure of the Police and policing policy, which in turn influences policing practice, rather than having a direct effect on ground level officers. With this in mind, and particularly when considering the scale of this project, it is recommended that further research should be conducted to develop this understanding using both participant observation and a wider

sample of participants from different Police Forces in order to validate these findings and provide a more explicit focus on factors surrounding individual discretion.

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