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Police understandings of restorative justice – the impact of rank and role

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Abstract:
The issue of a disparity between restorative justice theory and restorative practices has been widely examined. Daly (2002:55-79) argues gaps are to be expected because there is a lack of understanding around what restorative justice is. This research uses qualitative data from four focus groups and ten interviews (n=41) to examine police officer's understandings of what restorative justice is, and equally as important, what it is not. Overall findings suggest a continuum of understanding exists across a police force with higher ranking officers expressing more nuanced understanding of the theoretical concepts, key values, and fundamental beliefs of restorative justice than frontline practitioners who were more concerned with the practical aspects of how to 'do it'. This paper will argue that the role of police culture cannot be ignored and that gaps between theory and practice will continue unless the practical considerations in relation to restorative justice are addressed.

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Researcher: 'what do you think is the biggest obstacle in implementing restorative justice?'
Interviewee: 'People. In the sense that they need to understand'

Academics have been long been contemplating and debating what constitutes restorative justice (Braithwaite, 1989, Zehr and Mika, 1998, McCold, 2000, Hoyle, 2010) and the difficulties in incorporating these values when adopting it into the criminal justice system in England and Wales (Shapland, Atkinson et al., 2006, Hoyle, 2008). With the debate still largely unresolved, issues around how theoretical concepts are operationalised still remain. Given the contested definition of restorative justice, problems surrounding its practical implementation are perhaps hardly surprising: the restorative justice movement itself is proposed to be in a confused state due to its 'different visions' of what restorative justice is (Gavrielides, 2008). Daly argues that these numerous identities and definitions create confusion not only at a theoretical level but in terms of creating policies (2006). It is therefore understandable that empirical research has shown a significant gap between the ideals of restorative justice theory and the objectives pursued in practice (Zernova, 2007).

Daly argues that one reason why gaps exist between restorative justice theory and practice is due to a lack of understanding (Daly, 2003). Daly explains that unlike other forms of interaction with the criminal justice system participants have no 'mental map' as to what this form of justice looks like. This research seeks to examine the components of that 'mental map' held by police officers who are 'doing' restorative justice and those who are implementing policy. It will seek to gauge how 'restorative justice' is described and understood across a police force, and will explore what the term means: both to the police officers and Police Community Support Officers (PCSOs) who are 'doing it', and to higher-ranking officers who are tasked with implementing restorative justice policy.

1. What is Restorative Justice?

There is no universal definition of restorative justice and it is important to note that advocates of restorative justice (both practitioners and academics) do not always have the same thing in

mind when using this term (McCold, 1998). For some restorative justice is a movement (Zehr, 2002) others describe it as a set of ideals (Daly, 2006), or values (Johnstone, 2002, Braithwaite, 2003). There is disagreement as to whether restorative justice should be seen as a process or an outcome (Crawford and Newburn, 2003). The most quoted definition is that given by Tony Marshall (1996: 37) who describes it as: "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 is generally accepted by police forces across England and Wales, and was, at least initially, used in policy and guidance documents by many forces, including this case study.

Although this definition has been generally accepted it is still problematic. Criticisms of Marshall's definition include whether restorative justice should be broadly applied or only to situations where there is some form of encounter or dialogue between the victim and the offender. McCold and Watchel (2002) see it as a collaborative problem solving approach to reintegrate individuals and repair communities affected by the offence. They define restorative justice as: "a process where those primarily affected by an incident of wrong-doing come together to share their feelings, describe how they were affected and develop a plan to repair the harm done or prevent reoccurrence" (McCold and Watchel, 2002). The definitions by Marshall (1999) and McCold and Wachtel (2002) refer to a 'purist' model of restorative justice by only referring to face-to-face meetings. They have been criticised for being too narrow (Walgrave, 2000) In contrast a 'maximalist' model, defines restorative justice as 'every action that is primarily oriented towards doing justice by repairing the harm that has been caused by crime' (Bazemore and Walgrave, 1999). The maximalist approach in turn has been criticised for being too inclusive in that it becomes hard to distinguish which elements in the policy and practice are uniquely restorative (Sharpe, 2004). Doolin argues that realistically restorative justice cannot only be limited to 'ideal' situations; even if a stakeholder is absent from the process, the application of restorative values make still be worthwhile (2007:431).

Further definitional problems surrounding restorative justice consider the use of the term '*process*' in order to encapsulate the different forms that restorative justice can take. Dignan (2005) argues that by failing to take into account *outcomes* it is difficult to ensure proportionality and fairness thus creating a potential for inconsistency between cases that are dealt with by restorative justice and those that are dealt with by more 'conventional' means. It

is suggested that a focus on 'restorativeness', broadly understood to mean 'repairing harm', may resolve this tension (Doolin, 2007:431). Whilst there needs to be an emphasis on the principles of the process (the involvement of stakeholders, dialogue, a collective resolution, consensual decision-making and a forward-looking approach), the outcome of 'restorativeness' should be the determining value (Doolin, 2007:431). However, this in itself does not completely solve definitional problems; whilst there is some agreement that the objective of restorative justice is restorativeness there is still debate in terms of how it is defined (Doolin, 2007). Some questions raised include to whom it should apply, what kinds of harm should be restored, how it should be achieved and what kinds of outcomes can be considered restorative: retributive sentences including custodial sentences may be considered to have restorative outcomes (Dignan, 2002, Morris, 2002). Whilst the concrete details are still unresolved, for Doolin restorativeness is not merely an option, but a required outcome (2007:431). The primary aim of an encounter should be restorativeness: any other outcomes that ensue, for example reducing reoffending, should be regarded as additional benefits, but not the intended goals (McCold, 2004).

By exploring some of the criticisms put forward it is understandable why an uncontested definition has not been reached. One of the problems with finding an adequate description of restorative justice is that it is used to describe numerous different processes used at different stages of the criminal justice process including: as a diversion from the criminal justice/court system, as a sentence or part of a sentence where it can be administered at any time from pre-sentence to prison release (Daly, 2002). Ultimately it is not just the definition that is problematic: arguments exist as to whether a definition itself is even necessary. Some argue that a definition is needed in order to have comprehensive understanding (Miers, Goldie et al., 2001). Whereas others do not believe "that any single definition will ever be likely or be particularly useful" (Zehr and Mika, 1998). Although it is argued that the numerous identities of restorative justice can create confusion (theoretically, empirically and in terms of restorative justice policies) these different identities are reflective of the range of interests and ideologies that arise when the idea of justice is discussed (Daly, 2006).

Although there are various different definitions a set of values exist at the heart of restorative justice. Doolin (2007) provides a helpful breakdown of restorative justice principles into core values, process values and dominant values. The core values of restorative justice are: that victims are central and should be empowered and play an active role; that offenders should be

held accountable for their actions, to accept responsibility and make reparation; that offenders should have their sense of belonging restored and be reintegrated into the community; and that a community representative should be present. Process values of restorative justice are: consensual participation, dialogue, mutual respect, and consensus decision-making. Restorativeness is dominant; repairing the harm is the key tenant of restorative justice.

3. Restorative Justice and Policing

Providing an operational context to encompass the variety of police-led restorative programme Parker (2013:131) adopts the outcome model put forward by Dignan (2005) suggesting that the process should be voluntary for both the victim and the offender (Van Ness, 1996, Dignan, 2005), the focus should be on the needs of the victim, the offender and the wider community, and the goal is restorativeness; repairing the harm caused by the offence. This framework, Parker argues, allows more flexibility and reflects police officer's powers of discretion enabling restorative processes to be used for a wider range of programmes (2013:132). It also reflects the definition used by the recent joint inspection report 'Facing up to offending: use of restorative justice in the Criminal Justice System' which defines restorative justice as:

> *"….processes which bring those harmed by crime or conflict, and those responsible for the harm, into communication, enabling everyone affected by a particular incident to play a part in repairing the harm and finding a positive way forward."*

The fundamental goals of restorative policing are to develop restorative resolutions towards crime and harm to the 'greatest extent' across all police functions and to promote greater ownership of crime and conflict by the community (Bazemore and Griffiths, 2003:345). Success is measured on a 'community by community' basis (Bazemore and Griffiths, 203:342), successful implementation calls for restorative justice to be so ingrained it is 'hardwired' into every person and every aspect of policing at both a conscious and unconscious level (McLeod, 2003: 371).

Restorative policing provides a new framework, with an emphasis on restorative values and the creation of new roles and expectations that are different from traditional practices and thinking about crime and disorder (Alarid and Montemayor, 2012: 458). Fundamentally,

restorative policing prioritises conflict resolution and aims to promote community ownership over crime (Bazemore and Griffiths, 2003). Restorative policing is not just about adopting a restorative programme, but about systemic reform. In relation to policing it is about changing the way officers think about crime and conflict and their response to it: it provides officers with new tools for resolving conflict, encourages new ways of thinking in relation to sanctions, it places emphasis on officer's use of discretion when dealing with an incident and promotes greater community involvement (Bazemore and Griffiths, 2003). However, restorative policing does not end there, for systemic reform to occur it should not only change the way officers think about all functions, thereby bringing about a transformative change within policing, but should expand to include all sectors of the criminal justice system (Bazemore and Griffiths, 2003).

Implementing restorative approaches within any organisation can be a slow process due to the time needed to bring about a cultural change (Lambert *et al,* 2011:51). It is unlikely that reform, such as that suggested by restorative policing, can occur unless consideration is given to occupational culture (Barton, 2003). Police occupational, and organisational, (sub) culture plays an important part in police reform, including the adoption or resistance of policies and programmes (Barton, 2003, Paoline, 2003, Skogan, 2008). Barton argues that understanding police occupational culture is an important precursor for developing initiatives for change (2003). Previous research has examined whether police were capable of facilitating restorative justice conferences and/or whether stakeholders would accept police operating in a facilitator role (Moore and O'Connell, 1994, McCold and Wachtel, 1998, Hoyle, Young et al., 2002). Police culture has been considered and researched with regards to examining the potential impact that facilitating or witnessing conferences may have on police culture, with the Bethlehem (McCold and Wachtel, 1998) and Wagga Wagga (Moore and O'Connell, 1994) projects both achieving different results. Research has also highlighted how police procedures and culture can threaten the embedding of restorative justice within the policing response (Paterson and Clamp, 2012).

2. Restorative Justice in Practice

In England and Wales there are at least 171 separate organisations delivering restorative justice within the criminal justice sector (Meadows, Kinsella et al., 2014). Police use of restorative justice is believed to be 'widespread' (HMIC, 2012) with research by the

Association for Chief Police Officers (ACPO, 2011) in 2010 finding some form(s) of restorative practise in 33 of the 43 police forces in England and Wales. Police forces may use restorative justice in many different ways both for crimes and non-crimes. It is used mostly for low-level offences, shoplifting, criminal damage, and anti-social behaviour and it can also be used neighbour disputes, police complaints (Hoyle, 2009). The police may also have involvement in restorative conferencing post-sentence for serious offences, including sexual offences (McGlynn, Westmarland et al., 2012). Restorative conferencing for serious offences is usually undertaken post-sentence, often when the offender is still in prison, and is classified as a Level 3 conference. It would typically be facilitated by trained police officers working in specialist roles such as the integrated offender management units (IOMs). Many forces have developed capability to deliver restorative justice at this level (HMIC, 2012).

The majority of police forces use restorative justice as a form of informal resolution where an incident is resolved without the need for arrest (HMIC, 2012). Confusingly a wide-variety of names are used by police forces to refer to informal resolutions including: “restorative disposals, restorative justice, informal resolutions, restorative resolutions, community resolution disposal, local resolutions, instant restorative justice, police resolutions, neighbourhood resolutions, extending professional judgement, and street resolutions” (HMIC, 2012:16). Police-led restorative justice is delivered either as a Level 1 “instant or on-street disposal where police officers or PCSOs use restorative skills to resolve conflict in the course of their duties” (ACPO, 2011). Or a Level 2 restorative conference which can be either as an addition to formal criminal justice processes or as an alternative to formal criminal justice processes.

An evaluation of South Yorkshire Police force’s use of youth and adult restorative disposals highlights that the Level 2 conferencing is rarely used, and there is a blurring between Level 1 and Level 2 processes (Meadows, Albertson et al., 2012). It was found that the model of restorative justice had differed from its intended use resulting in a “hybrid approach which falls somewhere between the two” meaning that the resulting process is often more involved than an instant restorative disposal but does not equate to a full Level 2 conference. (Meadows et al, 2012:23). Findings from the evaluation indicate that there was potentially a lack of consistency in the way restorative disposals were being used across different areas of the force, that magistrates were concerned by the volumes and potential escalation of its use, the officers were confused in their understandings of what restorative justice entailed and

how to appropriately use the disposal, and the additional bureaucracy of using restorative justice for non-crimes was raised by some front line police staff (Meadows et al, 2012).

Police forces across England and Wales are using restorative justice, both as an alternative to the criminal justice process and in addition to formal criminal justice processes. There is an attempt to provide structure to police-led restorative justice processes with the introduction of Level 1, Level 2 and Level 3 whereby the method of conducting the restorative resolution may differ but the principles of restorative justice ought to remain the same (ACPO, 2010). However, forces have adopted a wide-range of names for restorative informal disposals and adapted approaches that do not fall into the discrete process categories (Meadows *et al*, 2012). Skogan argues one of the main difficulties in implementing new ways of working is that of "translating the 'fundamental principles' of initiatives … into actual practice" (2008:26). Failure to turn 'abstract concepts' such as community policing, problem solving or indeed restorative policing into "practical, day-to-day activities" that are enforceable and for which officers are held to account is one way in which police reform can fail (Skogan, 2008:26). This research concentrates on the translation of the concept of restorative justice to understand how it is turned into a day-to-day activity by frontline officers. It argues that it is through this translation, this continuum of understanding, that barriers to its successful implementation can be revealed.

4. Research methodology

This research project explored formal and informal understandings, asking how 'restorative justice' is defined by a police force and understood by its staff. It adopts a qualitative-dominant multi-method approach using one police force in England and Wales as an in-depth case-study. This police force was chosen for two reasons: firstly, it had initially launched restorative justice in 2010 which, although it had been successful in parts, it had not been embraced throughout the organisation. It was perhaps, experiencing an 'implementation dip' (Lambert, Johnstone et al., 2011) and as a consequence it was to be re-launched as a new 'restorative approach' with an extensive training schedule, a clearer strategy and the involvement of a 'steering group' to implement the new policies. This research followed the re-launch from inception to implementation. It is important to note that the findings presented here are prior to the re-launch taking place and therefore capture the experiences and understandings of police officers and PCSOs over the previous three year period in order to

provide insight into the frustrations and challenges they had faced. Part of the re-launch was a change in terminology; it was rebranded as a 'restorative approach' and those involved were to be referred to as the 'harmed' and the 'harmer'. Because this research followed the steering group as they planned the re-implementation there is a cross-over of terms with some officers involved in the implementation of the new restorative approach already adopting the new terminology. Frontline officers at the time this research was conducted were unaware of this planned change and so still refer to restorative justice (or RJ) and victims and offenders.

Secondly, this force was chosen due to my unique position as an insider/outsider researcher. As a civilian employee of the police force, I had an 'insider' status which brought some benefits, for example: access, shared language and an understanding of some issues. However, having a separate role within the organisation, and in particular not being a serving police officer, meant I was also an 'outsider'. This dichotomy encouraged a great deal of reflection both when gathering and analysing data. Particular care was taken to ensure that presumptions made from the 'partialness' of my knowledge and any 'taken-for-granted assumptions' (Hockey, 1993) did not cloud the meanings participants of this study attributed to their experiences and understandings of restorative justice and the implementation of restorative justice processes.

A mixed-methods approach was used which incorporated focus groups to capture shared opinions amongst police constables and PCSOs, semi-structured interviews with higher ranking officers and participant observation. Conducting research with police officers raises issues of voluntariness and informed consent due to the hierarchical nature of a police force[1]. The methods were chosen as they enable the gathering of rich data to highlight the real-life experiences of a range of officers, particularly the frontline workers who 'do' restorative

[1] The voluntariness of taking part in this study was perhaps most problematic for the focus group sessions. This is due to the difficulties in taking a group of officers from the same locality away from their duties at the same time in order to participate in a group setting. Chief Inspectors were approached by the Superintendent and asked to nominate officers to attend; the topic for both sessions was not disclosed in order to prevent those with the most knowledge/training/experience of being nominated. If those nominated were on a rest day on the date of the focus group, the Superintendent arranged for them to be given time and a half for attending, which meant there was some incentive for attending (at least two participants did come in on their rest days). The Chief Constable and Superintendent were my gatekeepers to the research; there was therefore perhaps an implicit expectation on officers to take part in the research. An important part of this research was therefore to stress the voluntary nature of this study to all participants. This was explained at the start of each focus group and interview. All participants were asked to sign consent forms and were told they could withdraw from the research at any time. One focus group participant chose not to take part in the focus group; another agreed to take part in the research but chose to leave the focus group part-way through.

justice. The methods chosen allowed participants to bring the issues that they deemed to be important and significant into the discussion. Consequently some elements of restorative justice, in particular the role of the community, were relatively absent from discussion.

Focus groups were held, one in each of the four localities across the police force area. Each focus group comprised of a range of police constables and PCSOs[2] and had a deliberate mix of officers from across the different commands (crime and justice, response and neighbourhood). All had varying degrees of training and experience using restorative justice. In total thirty one officers took part in the focus groups discussions. Ten semi-structured interviews were conducted with the Police and Crime Commissioner[3], the Chief Constable and a range of different ranking officers (from Sergeant to Superintendent) who formed part of a 'restorative justice steering group'. The steering group was comprised of people either nominated by their manager or selected by the Superintendent and Chief Inspector who were in charge of the implementation process; selection to be part of this group was not based on specific criteria. Members had been chosen either for their restorative justice experience or, in most cases, because of their personal characteristics; they were known to 'get things done', or it was believed they would add legitimacy to the project. Only two of the eight 'steering group members interviews had received Level 2 training and had experience of facilitating restorative conferences. Over 400 minutes of recorded conversation around restorative justice was transcribed and analysed using NVivo software.

Although this is a single case-study design the in-depth multi-method approach used ensured that whilst findings are not externally representative, i.e. they are not necessarily generalisable to other police forces or criminal justice agencies who are implementing restorative justice policy, they are internally consistent (Westmarland, 2013:84) in that the findings produced describe the aspect of policy implementation across this particular force in depth. Information presented here is based on findings from this analysis. This article will firstly highlight the need to consider the different nuances in understanding between police sub-cultures. It will present a continuum of understanding of restorative justice across different ranking police officers. Before moving on to focus specifically on understandings around some key values of restorative justice, with a particular focus on the role of the

[2]Apart from one participant who had recently been promoted to Sergeant.
[3] Police and Crime Commissioners replaced police authorities in 2012. They are publically elected representatives and work to ensure that police forces in England and Wales are running effectively and effectively.

victim, the idea of non-coercive decision-making processes and the need for dialogue between the victim and the person who has offended. It will conclude by drawing on the lessons learnt by this case study and offering some practical recommendations for police forces attempting to implement restorative justice.

5. Research Findings

As previously discussed it is important to recognise that a police force is not a monolithic institution and to be attuned to police operational culture when referring to 'police understandings' of restorative justice. When analysing the empirical data it was clear from the outset that police officers in different ranks were focused on different aspects of the restorative justice process. Farkas and Manning's (1997) categorisation of police subcultures was used to enable a more nuanced analysis of the differences in understanding held by different ranking officers.

In line with Farkas and Manning's model lower participants [or frontline workers as this research refers to them] were orientated towards concrete knowledge – the practice of carrying out restorative justice and what is expected of them. Whilst many officers found it difficult to fully embrace restorative justice for frontline staff this was less about the philosophy and more about the practical realities of doing it. Many saw the conducting of restorative conferences and the recording of restorative justice outcomes on force systems as a 'completely impractical process' [Participant 3vi]. It is important to note that there was a general acceptance amongst frontline workers in relation to the potential benefits restorative justice can bring, particularly its use for children or low level offences: 'it's used a lot on young people to stop them getting criminal convictions like the first sort of step' (Participant4vii). There was clear support across all officers for restorative justice as an alternative to criminalisation:

> I think restorative justice can be far more beneficial than criminalising certain people, especially for you know, silly little shoplifting that kids do 'cause that's quite a big impact on somebody's life isn't it, criminalising someone for something petty? (Participant2iii).

Many frontline officers, after their training sessions, were therefore engaged with the concept of restorative justice and were able to see the benefits of using it; however, the practical barriers were described as too difficult a hurdle to overcome:

> The first ten minutes of the lecture you thought "this is the way forward" then after they explained the mechanics of it you thought I never want to touch one of them in my career if I can help it, because it's actually harder. [Participant 1ii].

The discussion across all focus groups with police officers who were 'doing restorative justice' was therefore firmly-based around the practical realities of conducting a restorative conference i.e. the decision-making process, for whom to offer restorative justice, how to organise a conference, how much time it takes, how to ensure the process was fair; both to victims and the person who has offended. Perhaps most importantly for the officers, were questions concerning how they were expected to record the outcome, and in turn if their actions would result in approval or disapproval by their supervision. A lot of the discussion around restorative justice was confused and the focus group frequently became an information-sharing discussion amongst peers; with officers seeking clarification as to when and how restorative justice could, and should, be carried out – i.e. the practical knowledge that they craved.

Middle managers provide the link between top command and frontline workers; it is argued that understanding by this group is perhaps key as it is they who interpret policies and directives (Farkas and Manning, 1997). This particular sub-culture is most orientated towards the implementation process; how to translate their understandings of the philosophy of restorative justice into something they believe frontline officers will understand, what to implement, and what practices to prioritise when faced with competing and often conflicting demands. Middle managers were aware of this need for frontline officers to understand and to be given the practical knowledge regarding how to do it: 'for a cop to do it on the street it's got to be non-bureaucratic, it's got to be not too time consuming, but it's got to add quality to their day, and it's got to be simple' (Participant9).

The middle-managers interviewed in this research formed part of the restorative justice steering group and were therefore supportive of its implementation, although this support is not perhaps reflected across the force. Frontline officers spoke about how their supervisors were not supportive of them using restorative justice, or that the crime management would not understand the restorative justice process so the felt constantly challenged or 'nit-picked'. Manager roles within the police force have the potential to stop change if they do not agree or understand it (Moore and O'Connell, 1994, Skogan, 2008). The issue of 'blockages' created

by supervision's lack of understanding were discussed, often as a source of frustration, by frontline officers:

> I don't know if our senior management team, well like our DI's [Detective Inspectors] and such have had all this training as well, to make them aware of it? Because they see us dealing with it that way [using restorative justice], but they say 'no, he should have been given a fixed penalty ticket, or locked up, or given a caution' or whatever, and when you do go down that route you are criticised. (Participant 3ii)

Top command officers were most likely to understand the philosophy of, and theoretical debates surrounding, restorative justice. As you would probably expect this segment had the deepest and most nuanced understanding, dialogue focused on broader theoretical concepts and was centred on putting right the harm. There was also a greater awareness not only as to what restorative justice is but to what it is not: 'restorative justice isn't where punishments are imposed on offenders and harmers, rather than harmers saying 'no, this is what I need to do to put it right'' (Participant1).

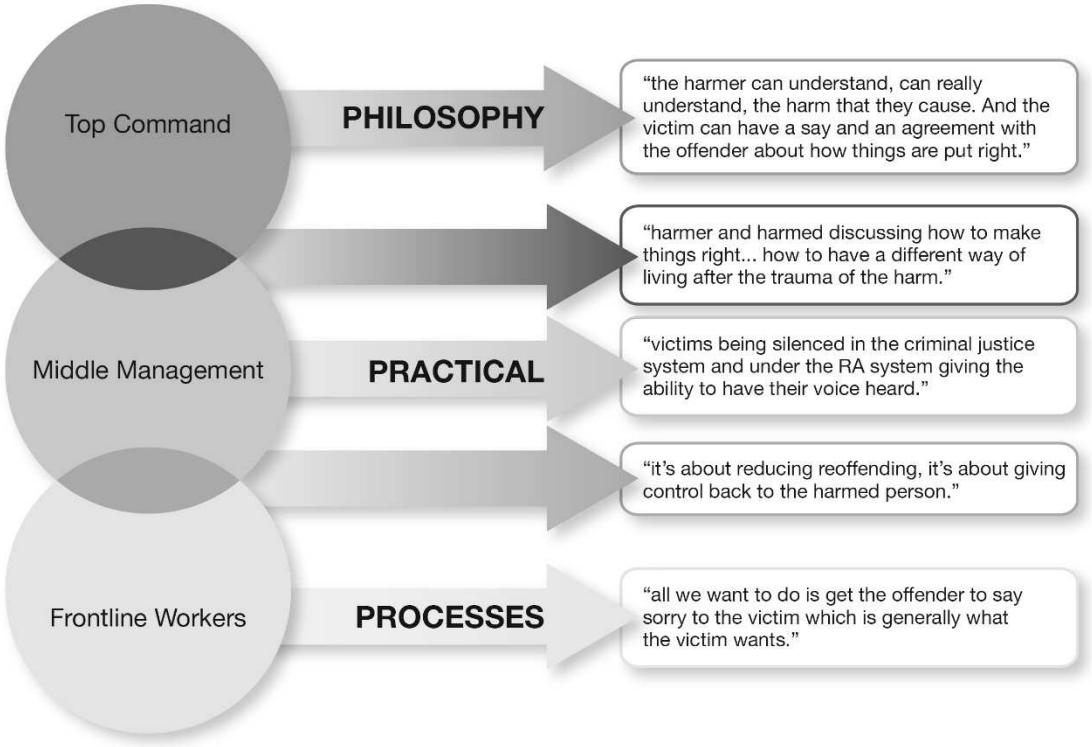
One of the key elements to a police force's successful policy implementation is for there to be a 'common understanding' throughout the ranks (Paterson and Clamp 2012:601). However, this 'common understanding' can be difficult when different ranking officers are orientated towards different issues. Having discussed how different segments of a police force are focused on different aspects of policy depending on their rank it is therefore important to compare different ranking officer's interpretations of restorative philosophies in order to explore if differentiations in understanding exist between those implementing and carrying out this new form of justice.

6 Police culture: how rank and role affects understandings of restorative justice

A continuum exists in relation to police officer's understanding of restorative justice, with top command expressing more nuanced understandings of the concept and philosophy of restorative justice and frontline officer's discussion and concerns resting with the practical understandings. Amongst frontline officers there was some understanding that restorative justice was about 'putting something right' (Participant3i) and for the person who has offended to be held accountable for their actions. Middle managers showed more understanding and were very much orientated towards the victim being 'given a voice',

people who offend being held accountable for their actions, and repairing the harm: '[restorative justice is] useful for closure for victims of crime I think, as well as having the opportunity for the harmer to think about their offending'(Participant4). There was a more nuanced understanding from top command: 'the harmer can understand, can really understand the harm that they cause and the victim can have a say and an agreement with the offender about how things are put right' (Participant 1). It is important to note that these three typologies are not necessarily distinct, it is acknowledged that boundaries may blur for example as middle management relate more to frontline workers, or aspire upwards towards top command (Farkas and Manning, 1997). Diagram 1 shows that by including the understandings between the three main typologies it is possible to see the small differences in understanding between each adjacent and the extremes in understanding between top command and frontline officers.

Diagram 1: A continuum of understanding across police officer rank
(using Farkas & Manning's (1997) model of police culture)



It is important to note that for frontline officers - the ones 'doing' restorative justice - the overarching philosophy or key values of restorative justice were not questioned. Given the theoretical debates surrounding what constitutes restorative justice and restorative practices

(McCold, 2000, Morris, 2002, Hoyle, 2010, O'Mahony, 2012) it is perhaps surprising to observe that for those 'doing' restorative justice there was little differentiation between mediation, instant restorative disposals and restorative conferencing. Any differences made were not in terms of the level of restorativeness shown but of practical considerations such whether they were trained to that level: 'I just know it [Level 1, instant restorative disposal] as a basic course, I knew that obviously then to go onto conferencing and things like that that you'd have to have additional training for that' (Participant4i). Of the thirty one frontline workers who participated in this study only two recognised the difference between restorative disposals and restorative conferencing[4]. However, for both the differentiating factor was not procedural but whether it was a low-level offence or a young person involved: 'restorative disposal would maybe come in for a kid who hasn't had any previous erm police attention, but restorative justice you could use for someone who's the most prolific offender' (Participant1vi). There was no mention about the difference in process e.g. that conferencing enabled the victim and the person who has offended to meet, the importance of shared dialogue, mutually agreed outcomes, repairing harm or any of the other values that are attributed to restorative justice processes.

There was recognition from middle management and top command that this misunderstanding amongst frontline officers and their supervisors had been one of the key issues in its failure to deliver a truly restorative approach: 'the biggest stumbling block was this misunderstanding of RD, restorative disposal, and restorative intervention' (Participant1). The misinterpretation around the use of restorative justice was one of the reasons why the force had decided to re-launch a 'restorative approach' to dealing with incidents and crimes. The aim was to implement a "twin track approach, deep end shallow end" (Participant 1) using it alongside the criminal justice system for serious offences. However the lack of practical details, of day-to-day working practices, in relation to numerous aspects of its use led to confusion amongst frontline officers in terms of how there were expected to 'do' restorative justice.

Three elements of restorative justice: the role of victims; mutually agreed resolutions and repairing harm will now be discussed in order to explore the different nuances of

[4] These participants were in two separate focus groups, both were the most passionate advocates of restorative justice, they had received perhaps the most training out of all participants. Both participants appeared to be the most knowledgeable and both often prompted group discussion onto broader more theoretical discussions.

understanding and orientation across top command, middle management and frontline workers in further detail.

6.1 Role of victims

Whilst some aspects showed these varying degrees of understanding there was sharp contrast between frontline officers and top command when considering the role of the victim. Top command describes the victim as central to the decision-making process:

> Victims are told what they think and they are kept out of the decision making, so you can't possibly have the victim's opinion about what might happen in this case - we've got to have a completely homogenised state view of what it feels like to be a victim. Well, how do you know what it feels like to be a rape victim? It's *entirely* appropriate that somebody should be able to describe that. So I think … the victim's absolutely central to it all and drives this. (Participant1)

Whereas for frontline officers, particularly those working in crime and justice commands, there was more debate as to whether it was appropriate to use restorative justice if they perceive the victim as vulnerable. This was often presented as a way of protecting the victim: 'we also have a duty to protect that victim as well, I mean sometimes we have to decide: no, it's not suitable. No matter what you [the victim] think it's just not suitable' (Participant1ii).

Again, the focus of discussion was on the practicalities: do they offer restorative justice to everyone? Do they use their discretion if they feel it is an 'unsuitable' offender or a vulnerable victim? Many officers working in crime and justice command on criminal investigations believed they could not use restorative justice in their role due to the type of work that they were involved in: "purely for the nature of the work that we deal with, you can't use a restorative justice for like a serious assault or like a dwelling burglary can you?" (Participant4viii).Which crimes and situations were (or were not) suitable for restorative justice? Some (often adopting a devils-advocate tone) argued that you should follow guidance from the top command and offer it to everyone. Others argued if you: 'feel like the victim is not going to get anything out of it, or like the offender is not going to learn then you just won't use it' (Participant 1viii).

There was a great deal of understanding around why the victim gets lost in an investigation, again this focused on the practical realities of the investigation and not on the theoretical concepts:

> We probably, as cops, get focused on the incident, and getting the detection and getting the cough. And the victim just gets lost a little bit. But to me it [the restorative justice training] really brought the victim back into it (Participant 1vi).

It is the process that leads to the officers' focus being more on the offender; they described how it was the offender, and not the victim that they spend time with:

> Because it's the individual that you deal with, it's very intimate when you actually interview them, fingerprint them and all that sort of stuff. You get to know them, and because you're not being nasty to them or anything because you've got to get information out of them you tend to build up a sort of rapport if you're not careful. (Participant1iv)

Middle management at the time of the research had a different focus in that they have other pressures on them, particularly around performance. They do not see the victim, and whilst middle managers in the steering group were generally aware that restorative justice is about empowering the victim this message is somewhat lost amongst the other messages that they are also receiving: 'This is actually about reducing demand, preventing offending and empowering victims' (Participant 7). It was a source of frustration to many frontline officers that whilst they could see the benefits, both for the victim and the offender, and were trying to do restorative justice their direct supervision would still be pushing them to use other disposals i.e. to give a fixed penalty ticket, regardless as to whether this was something the victim wanted:

> Participant 4v: 'it's probably mixed messages, they want to push RJ but they still want the sanctioned detections to increase.'
> Participant4iv: 'the want RJ for the victim, but they want the detection for the force.'

Here we see the competing demands when implementing restorative justice policy across a police force; middle management try to manage these competing demands but in doing so mixed messages are often sent out to frontline officers. Whilst frontline officers, especially after having received restorative justice training see the need to be more victim-focused on a

practical level it can be difficult for them as the majority of the time during an investigation is spent focused on the offender.

6.2 Mutually agreed resolution

Top command completely understood the concept of mutually agreed resolution, very clearly vocalising that:

> Restorative justice isn't where punishments are imposed on offenders and harmers, rather the harmers saying 'no, this is what I need to do to put it right' … what isn't restorative justice is where victims are told what to think and they are kept out of the decision-making. (Participant 1)

For middle management we see the interpretation of theory: the tagline used in the re-launch branding of restorative justice was frequently given; restorative justice is about 'giving victims a voice'. There was also understanding that the offender should be involved in the agreement 'it's not a chain gang, erm it's not a method with which to er enforce punishments on people' (Participant 3).

Across the focus groups officers understood the benefits that restorative justice gave to victims by enabling them to have some sort of closure, and some say in what happened but it was the practical aspects of carrying out any agreement that officers were orientated to:

> It's quite hard if you have to do it yourself, it's quite difficult. I had to make sure that two lads who'd broke somebody's window paid … I had to make sure that they did that you know … I was like the debt collector! Running around and writing in my book collecting money, which is always a bad thing as you don't want to have anything to do with property; do you, when you're a cop? If anything is going to get you out of the job it'll be that. (Participant1iv)

Again the issue is around the practical elements; particularly in relation to ensuring reparation is carried out. This carries extra concerns for police officers if the reparation involves handling money: police officers do not want to be seen taking money from members of the public. There was concern regarding the recording process in such a situation: without firm guidance on how to handle reparations officers worried that their actions might be subject to scrutiny. The risk of incorrectly recording money transfer and potential discipline procedures which might result from an error was often deemed to be too big a risk to take.

Despite expressing understandings of mutually agreed resolution some of the phrases used by frontline officers suggested that the offenders were not given much say in the conference in relation to the reparation: ‘they did a restorative meeting and they agreed the kids would do so many hours cleaning up the play park, picking up litter and stuff like that’ (Participant 1iv)

Ideas of an inclusive non-coercive decision-making process were not particularly expressed by the frontline officers. Language tended to use phrases like ‘dragged’, ‘told’ one participant described it as: ‘Basically you give two people a telling off ‘you pack it in’, ‘you pack it in’’ (Participant3vi). For most there was a focus on an apology ‘all we want to do is get the offender to say sorry to the victim which is generally what the victim wants’ (Participant 3iiii).

However, this was informal discussions amongst peers; many of their recollections of using restorative justice had dramatic effect and were told with humour so the previous example of the victim receiving the money for the broken window concluded with a joke that after all the hard work the officer went through to get the victim his money it probably was not even his car: ‘So er eventually, I gave it to the guy and his face lit up. [Pause] It probably wasn’t even his car! [Laughter] somebody else, poor sod! Do you know what I mean, thanks very much mate! [Laughter]’ (Participant1iv). The research did not observe any restorative justice conferences so it is unable to comment as to whether reparation was mutually agreed by victims and offenders, this findings presented here merely explore officer’s understandings of the concept.

6.3 Repairing the harm

Top command understood restorative justice processes to be about the wider issues of repairing harm: ‘restorative justice isn't where … punishments are imposed on offenders and harmers, rather than harmers saying ‘no, this is what I need to do to put it right’’ (Participant1). Middle managers showed more understanding and were very much orientated towards people who offend being held accountable for their actions, and repairing the harm: ‘[restorative justice is] useful for closure for victims of crime I think, as well as having the opportunity for the harmer to think about their offending’. For frontline workers the importance of reparation and the offender repairing the harm that they have caused did not come through in the dialogue. There is knowledge around the offender being held to account for their actions but the aim seems to be more in terms of aiding the offender; it is expressed

as a means of reducing reoffending, not repairing the harm caused to the victim: 'Arranging for two people to come here, or wherever, and sit down. To then start talking about and mediating between about how you're going to prevent further offending' (Participant 2ii). Or it is seen as a diversionary measure, an alternative to a criminal justice sanction: 'trying to resolve issues between two parties erm without escalating to somebody getting arrested' (Participant 3ii).

The aim of the resolving issues is not particularly victim-centred. This same idea was expressed in other focus groups: 'When I think of restorative justice I think of not having to crime an incident erm and dealing with it in a different way, dealing with it so that the criminal is made accountable to the victim' (Participant 1v). Amongst frontline officers there was some understanding that restorative justice was about 'putting something right' (Participant3i) and for the person who has offended to be held accountable for their actions. However there was confusion as to the prime purpose of restorative justice -who it was 'for', is it was primarily about the victim or about the offender? After much discussion around how victims often end up feeling sorry for the offenders at the conference one person spoke up asking: 'But isn't that the wrong way round though because shouldn't the aim of restorative justice be for the offender to think 'I feel really sorry for the victim' you know (Participant1iv).

Again such sentiments seem to arise from the mixed messages, the research found that frontline officers tended to engage in clarification-seeking dialogue with each other, debating whether it is about the offender apologising or the victim seeking closure … they seemed to lack a consistent message around the overall aim of restorative justice being the repair of harm caused by the incident; and that this reparation can take numerous forms depending upon what the victim and the offender mutually agree.

7. Conclusion

Despite the nuanced understandings of top command in relation to restorative justice theory there was an inconsistency of message across the force. This is partly due to the competing demands across a police force: restorative justice does not fit within the traditional criminal justice system and it may be met with resistance from middle managers. At the time of the research it was still classified as a non-sanctioned detection and so did not fit in with the

performance framework. Since 2013 restorative justice has 'counted' in crime recording statistics as a 'positive outcome'[5]. It is an area for further research to explore the difference this has made, although it is unlikely to be a straightforward impact as this barrier is not only a policy barrier but a cultural barrier too. Police forces typically have an 'inability to measure what matters' (Skogan, 2008:29) if a police force has a strong performance culture then even with an endorsement to use restorative justice from top command, the messages given to frontline workers from middle managers will potentially continue to be towards detections. It is therefore the value placed on detection rates or positive outcomes within a force that will have the most impact. Police forces need to make an organisational shift towards restorative policing. This includes changing discussions around performance at all levels of the force from a 'morning meeting' between frontline officers and their Sergeants, to more formal weekly, monthly and strategic performance meetings between senior ranking officers and the executive. Currently there is often little incentive for frontline officers to do restorative justice (especially at Level 2 conferencing which is more time-consuming) as positive outcomes are missing from performance and incentives. Traditional police acknowledgements for 'good' police work, for example Chief Constable's 'commendations', are often orientated towards typical 'crime-fighting' results i.e. detections and convictions. Initiatives that recognise the value of 'positive outcomes' need to be developed across police forces and incorporated into working practices.

Whilst frontline workers understand most of the key concepts of restorative justice many practical issues remain. Theory does not provide the answers to the practical questions they have: if a victim and offender mutually agree that the offender paying for a damaged window will repair the harm caused by the crime practical questions still remain: how does the money get paid? If the offender does not complete the reparation what recourse does the victim have and what process does the officer need to follow to allow the victim to achieve this? Frontline officers need more guidance in terms of how this scenario, once taken out of traditional criminal proceedings, can be reverted back without compromising the criminal case. At the time of the research there was confusion as to how restorative justice would run, practically, alongside a criminal investigation. This created pockets where restorative justice was being carried out across certain commands only, for example, by response officers using restorative disposal for shoplifting offences and neighbourhood officers were using it for low level

[5] A change in Home Office classification came into effect from April 2013 which saw the replacement of the term 'sanction detection' with 'crime outcomes' to include the use of restorative disposals.

crimes and incidents. There were some examples of it being used for crimes; mostly post-sentence by the offender management units. Work was underway as part of the re-launch to address the practicalities of running it alongside a crime and to train all officers, including middle management, across all commands to Level 1. However, it is important that officers are included in any implementation process: the role of frontline officers and middle management as potential 'change agents' in bringing about reform (Toch, 2008) should not be overlooked. Their inclusion in training planning and policy guidance may help to ensure that the practical day-to-day knowledge necessary to 'do' restorative justice is addressed.

When considering these findings it is important to note that frontline officers are not incapable of understanding the philosophy or restorative justice, rather their focus is predominantly on the practical elements of how to do it. Orientation by top command on the concept of restorative justice can lead to the practical issues being overlooked, especially due to the numerous forms that police-led restorative justice can take and the different scenarios presented by each offence. Initial training typically attempts to 'win hearts and minds' of police officers. Writing about Thames Valley initiative, Hoyle and Young argue that restorative justice has to be embraced throughout a police service if culture change is to be achieved (Hoyle and Young 2003). However, whilst the concept of restorative justice is often accepted officers may struggle to use it if they are not given enough practical information on how to incorporate it into their day-to-day working lives. This research highlights the gap that exists between theory and practice. It shows how some of the key values of restorative justice as effectively 'lost in translation'. Those implementing restorative policies and particularly those trying to embed them into a policing framework need to make greater attempts to close this gap by providing practitioners with sufficient concrete knowledge and clear guidance on how to 'do' restorative justice.

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