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Face to face with violence and its effects: Restorative justice practice at work

Tim Newell, retired Prison Governor

Abstract Restorative justice is developing organically within the criminal justice system and although initially considered most applicable to young offenders and with less serious offences, there is increasing evidence that it is with more serious offending that there is considerable impact and particularly with offences of violence. Restorative processes are considered in the context of increasing concern about violence in society and in prisons. The author's experience of governing prisons gives him a perspective about violence from within the setting in which the most violent and dangerous people in our society are held. David's story, which is part of the article, gives an illustration of how therapeutic work with people who have been violent can be done in a custodial setting where there is time to focus on the needs of all involved and affected by a violent crime.

Keywords community transformation, government role in justice, repairing harm, restorative justice, stakeholder participation, violence

Defining violence

At a time when recorded crime suggests that violent crime may be starting to rise again (Walker et al., 2006), it is timely to consider ways in which we can understand and support the many factors that can inhibit us from going too far along the continuum of arousal to violence. Unlike other crimes, or offensive behaviours, certain aspects or levels of violence are tolerated, excused, justified or accepted, in the home, community and in the workplace. Everybody has their own threshold of acceptability of verbal, emotional and physical violence and different expectations of others in conflict situations. Within an organization a commonly agreed threshold of tolerance gives confidence to staff to challenge unacceptable behaviour, convey a consistent message and take timely action to reduce violence. The definition of violence that will help get to this agreed threshold is that accepted by the prison service:

. . . any incident in which a person is physically, emotionally or psychologically abused, threatened, or assaulted. This includes an explicit or implicit challenge to their safety, well-being or health. (The Prison Service, 2004)

Bullying is a particular aspect of violence which can take on many guises. If allowed to, this can dominate the whole culture of an organization so it is important to have a common description to which all work. Thus bullying is seen in the prison service as:

. . . conduct motivated by a desire to hurt, threaten or frighten someone. It can be physical, verbal, psychological, emotional or economical and involves an imbalance of power; it is usually repeated behaviour, unprovoked and intended to cause fear or harm to the victim. (The Prison Service, 2004)

Defining restorative justice

Despite the increased attention given to restorative justice, the concept still remains somewhat problematic to define as numerous responses to criminal behaviour may fall under the 'restorative umbrella' (Latimer et al., 2001). Although a universally accepted and concise term has yet to be established there are key elements that include seeing it as a process whereby:

- i) All parties with a stake in a particular conflict or offence come together to resolve collectively how to deal with the aftermath of the conflict or offence and its implications for the future; and
- ii) Offenders have the opportunity to acknowledge the impact of what they have done and to make reparation, and victims have the opportunity to have their harm acknowledged and amends made (Restorative Justice Consortium, 2006).

The Correctional Service of Canada (CSC) has been working longer with the ideas, and sees it in a wider perspective:

In the face of crime or conflict, restorative justice is a philosophy and approach that views these matters as principally harm done to people and relationships. It strives to provide support and safe opportunities for voluntary participation between those affected (victims, offenders, community) to encourage accountability, reparation, safety and movement towards understanding, feelings of satisfaction, healing and closure. (CSC, 2004)

According to Howard Zehr (1990), the restorative justice paradigm begins with the premise that crime is a violation of people and relationships rather than merely a violation of law. The most appropriate response to criminal behaviour, therefore, is to repair the harm caused by the wrongful act. As such the criminal justice system should provide those most closely affected by the crime (the victim, the offender and the community) with an opportunity to come together to discuss the event and attempt to arrive at some understanding about what can be done to provide appropriate reparation (Latimer et al., 2001: 2).

Bazemore and Schiff (2004) provide perhaps the most helpful synthesis of descriptions that will help the focus on the relationship between restorative processes and violence. They identify three principles through which restorative justice works:

- 1 *The principle of repair* – justice requires that we work to heal victims, offenders and communities that have been injured by crime;
- 2 *The principle of stakeholder participation* – victims, offenders and communities should have the opportunity for active involvement in the justice process and to be as fully involved as possible;
- 3 *The principle of transformation in community and government roles and relationships* – the relative roles and responsibilities can be rethought, and this might be the most challenging aspect of restorative justice. In promoting justice, government is responsible for preserving a just order, and community for establishing a just peace.

Restorative justice in custodial settings

Translating some of these ideas into a setting where they can be practically applied has always been difficult for practitioners. This is particularly so in custodial settings where the dynamics of control and the needs of the institution can dominate ideas of meeting personal needs with consideration and compassion. The author's experience as a prison governor may provide some insights into the potential of restorative principles in action. In Grendon Prison the therapeutic experience for the most serious violent and sexual offenders depends upon opportunities they take to educate themselves, increasing their feelings of self worth through learning to be accountable and thereby enabling their enormous energy to express itself in positive, artistic and pro-social ways. They apply to join the community because they have reached a point at which they want to alter the pattern of their behaviour and themselves. Through brutally honest group sessions and community meetings the men acknowledge and own the reality of the terrible things they have done, while at the same time and without turning it into an excuse, they have to recognize that they themselves have been moulded by circumstances that were not in their control. What makes the difference, what gives them back their future, is the decision to try to take control over their destiny, probably for the first time in their lives. Part of the process involves a radical kind of self-forgiveness that means accepting the way the universe has formed them. This is dynamic forgiveness in action, but contained in the drama of the offender's own life. Creative forgiveness can have a life-changing impact on all the actors in the tragedies of humanity.

David's story written in 2005

David's story shows how, through an awareness of his behaviour and its impact on others, he was able to take responsibility for the effect it had had on his children.

Through that, he enabled them to gain an understanding of a shocking event and begin to move on, knowing they were loved by their father despite the fact that he killed their mother, his wife. David's motivation to meet his children was to repair the massive harm done to them through his crime. He knew they had to be given the opportunity to move on in their lives. They were involved in giving consent to the meeting and to meeting with their father. Community support through social workers was present. Prison staff enabled the meeting to take place, having risk assessed the process. They supported the people involved throughout a lengthy day. The need for long term support and working through the events of the day was recognized so that the learning could be fully used to support the healing process.

Introduction

My name is David; I am an ex-prisoner, currently on life licence and released almost two years ago. I am ashamed to be writing about my crime, but hope it will provide an insight into real life experiences of victim/offender mediation and family conferencing.

What happened that led to my imprisonment?

In the mid-1980s I was convicted of a double domestic murder and quite rightly received two life sentences. I own and accept full responsibility for my actions and am deeply sorry and ashamed of the impact my crime has had on so many people. I had no previous experience of prison and in trying to come to terms with the consequences of my crime I was left with questions that needed answers:

- How could I get my life into such a state where I murdered two people and created so many victims?
- How could I ensure that it never happened again?
- What resources did the prison and probation service have to facilitate change?

During the early months I kept hearing references about this therapeutic prison called Grendon where people could go to do work on themselves and their offending behaviour. I asked staff about getting there and was told that lifers are only accepted there towards the end of their sentence, not the start. I felt the need to sort my life out *now* not later, so started knocking on doors at Wormwood Scrubs in an effort to see what could be achieved. As luck would have it, one of Grendon's therapists visited the Scrubs' lifer group to talk about the Grendon experience. I realized immediately it was the place I needed to go to and talked to him afterwards about being referred. He arranged it for me and I transferred there in 1990. It was to be the most important four years of my time in prison and the greatest life-changing experience I have had so far.

Group therapy was far from easy, in fact at times it was sheer hell, but I found answers to the questions I was seeking. With help, I was able to bring about change and felt better able to cope not just with the consequences of my crime,

but to get my head around the sentence itself. My experiences have been that I have only been able to go on and achieve successfully as a person as a result of doing the work and getting myself sorted out at Grendon. I have much to thank Grendon for!

Who was affected?

Many people were directly affected as a result of my crime: family, friends, and neighbours and of course the professionals who had to clear up the after effects. My children are the living victims of my actions and it continues to be an ongoing journey for them and me on the road to recovery. The children were quite young when I committed the crime and as it was a domestic related offence they were not only enormously traumatized but effectively orphaned. Mercifully, the local Social Services and I were able to resolve the children's immediate care needs by placing them with people from the same area and this ongoing arrangement has provided the children with a safe environment and sense of family stability from which they have been able to grow. But even today, I fully acknowledge that I do not know the full impact and effect my crime has had on people. There will undoubtedly be many affected that I am unaware of: the extended family, friends, people in the area, ex-employees, those involved in the criminal justice system and people who may have been affected as a result of media coverage. The list of victims becomes endless and I may never know the full extent of the impact because I have not lived that person's life.

How was harm reduced?

It is the offence-related, restorative justice type work which I was enabled to do at Grendon prison that was so fundamentally important in helping me gain valuable insights and understanding into the consequences of my actions as well as victim awareness.

As a result of intense group therapy and psychodrama sessions I was able to gain insight, understanding and take responsibility not just for my actions, but for my new life. I misguidedly felt I was gaining a theoretical understanding of what effects the children and others had suffered. However there were some defining moments of immense value that helped focus the mind.

The first was when professionals working with my daughter were allowed to visit me on the wing at Grendon. This was facilitated by prison and probation staff and took place in the presence of prison staff, wing therapist, prison and field probation officers. My daughter's representative gave me a direct insight into just how my actions had affected her daily life in very real terms. She pulled no punches and detailed her fears, her terror, her behavioural difficulties and the work being done to bring about healing. It was a devastating experience at the time for me to hear the extent of the damage I had caused and compounded the guilt I was feeling. Though now I realize just how necessary and valuable it was for me to hear that.

The second and most significant meeting took place about two years later – again at Grendon – when prison and probation staff facilitated a family visit in a secluded part of the prison. The children’s guardians brought the children, then in their early teens, to spend the day with me in the presence of prison and probation staff. I don’t underestimate the immense courage it took for the children to make that journey and remain grateful to everyone who helped make the day run smoothly. We were able to share time and lunch together and gain further insight into each others’ lives, thereby laying the foundations for further dialogue, understanding and healing to take place. However difficult the day was for us all, we are agreed that we all gained from the experience.

The third powerful experience was when I had the opportunity to meet two victims of violent crime (unconnected to me or my offence). Their daughter had been murdered and her killer had never been found. After hearing details of my crime, perhaps understandably, they confronted me as someone who represented the type of person who killed their daughter. Their pain was clear for all to see and was compounded by the fact that there had been no sense of justice for them, as the perpetrator was still walking free.

However, the most precious moments were to come at the end of our meeting when instinctively the three of us stood up, embraced and shared our tears. We agreed to keep in touch and they were as good as their word for not only did we share regular correspondence, but they visited me about four times a year over the remaining years of my sentence. This precious friendship gave me ongoing and valuable insight into what the families of victims go through on a daily basis, particularly at significant anniversaries such as birthdays, Christmas and the anniversary of the crime. They shared with me their hopes when detectives contacted them with any further news of developments and also their anger at how they felt when no further progress was made.

What needs to be done to repair the harm?

Based on my experiences, I would advocate, where possible, meetings between victims and offenders, providing all sides agree and where it can be carried out in a sensitive and sympathetic way. This could be facilitated much more easily of course if there were more dedicated prisons like Grendon based on therapeutic community principles.

More than anything else the offender needs help to focus clearly on the impact their actions have had on victims and to become aware that it’s the victim’s needs that are fundamentally important. Any dialogue must progress at their pace and in a way that is sympathetic to them.

Who is responsible for doing that?

Probation and psychology departments would need to be very much involved and where possible, I would advocate this as a matter of course, particularly for all

serious offences, perhaps incorporated within the remit of sentence planning, or offender management. If the Government is serious about supporting the concept of restorative justice, extra funding should be provided for dedicated staff to work within the already over-stretched prison and probation departments to facilitate this work.

Continuing consequences

Release on life licence means there are inevitable consequences for me if I do not adhere to the terms of my licence – recall to prison being one. There are undoubtedly many other consequences for people to deal with who have been affected by my crime and I accept that I may not know all of these. In personal terms I have yet to find a sympathetic employer willing to offer full-time employment. But I'm realistic about the difficulties facing both long-term offenders and employers when it comes to job opportunities. Unfortunately, many companies pay only lip service to providing equal job opportunities for offenders and non-offenders. It has been difficult gaining access to local social housing where the Government-funded 'Supporting People' programme does not seem to fully meet the housing needs of ex-offenders despite ex-prisoners being officially recognized as 'vulnerable'. After lodging at a designated hostel for 18 months it took the intervention of our local MP to enable me to 'move on' into independent living.

And finally. . .

When I was in the final stages of imprisonment, my daughter wrote and asked to visit me whilst I was serving at an open prison. She was in her early 20s at the time and it was only the second time we had seen each other in almost 17 years. We were both nervous and I'm so proud of the courage she showed in making that journey, particularly alone. I didn't really have much idea of what she looked like, having last seen her as a rather gangly teenager, but imagine my joy and delight when a beautiful, confident young woman strode through the visiting room door to embrace me. I now have contact with both children by email and try to be sensitive to their needs. Whatever contact we may have in the future must be at their pace and of course is monitored by Victim Liaison Officers within the probation service as well as my own supervising Probation Officer.

For David the truth was that he could only do what he did in the meeting because he had been in therapy for several years. He was ready and felt ready to take responsibility and face his children. He knew the meeting was for them and it was only through his own acceptance of accountability that he could face them at all. He had also been able through therapy to be of considerable help to other members of his therapeutic community so he felt respected as a person, within himself and through others.

Research

Research continues, with a number of important Home Office funded studies yet to report. The *Justice Research Consortium*, an international partnership between UK police forces and criminal justice agencies, the University of Pennsylvania and the Australian National University, are testing restorative justice in a variety of settings for adults and juveniles pleading guilty to violence and property crimes with personal victims. Cases are randomly assigned either to take part in a restorative conference or to a control group, and the project aims to gauge the extent of victim satisfaction with the 'restorative justice' process as well as examining effects on reoffending. This project included randomized controlled trials on the medical model, testing the effects of restorative justice in cases where offenders have been remanded in custody awaiting sentence for serious burglary and robbery offences, and for offenders actually serving custodial sentences for violent crime. This has involved setting up restorative conferences in most prisons in London and the Thames Valley. Although we await the findings of these studies in relation to reoffending rates (which will determine the future of restorative practice within government strategy) there are several achievements we can already acknowledge:

- Protocols worked out between professional restorative practitioners working to the highest standards can be and have been worked out with the prisons concerned. Thus the values of restorative work can be applied within a custodial setting with the co-operation of prison staff.
- Multidisciplinary teams of staff (probation officers, prison staff, police, mediation and victim support practitioners) can work effectively in implementing restorative conferencing and can learn from each others' disciplines in the process.
- Victims of serious violent and property crime are interested in being involved in the process, commit themselves to visiting prison to meet with the offender and have done so with great success.
- Offenders who have committed serious violent offences are interested in the process and commit themselves to meeting the victim with no advantage to themselves apart from what the process brings about. There was no promise of reduction in sentence length or any consideration for parole or other decisions.
- Communities of care of victims and offenders have shown interest in the process and committed themselves to take part in the conference within prisons and to take responsibility for following through the outcomes of the meeting in due course.
- Preliminary feedback shows that there were high level (80%+) expressions of satisfaction amongst victims, offenders and their communities of care.
- Professionals within the justice process at all levels have expressed great interest and commitment to following through the development of restorative practice.

One very recent publication describes a study that assesses the evidence on restorative justice in the UK and internationally (Sherman and Strang, 2007) and describes what constitutes good practice. It reaches conclusions on its effectiveness with particular reference to reoffending. The main conclusion was that restorative justice works differently on different kinds of people, but that it works well as a general policy. It reduces crime more effectively with more, rather than less, serious crime. It works better with crimes involving personal victims than for crimes without them. It also works with violent crimes more consistently than with property crimes. Victims of crime benefit from face-to-face meetings through reduced post-traumatic stress symptoms, and more offences were brought to justice when restorative processes were offered to those arrested. The report calls for a Restorative Justice Board to focus on the development and establishment of the processes. The optimism of the report could be helpful at a time of considerable change in the justice system. We await the results of other research in 2007 with interest and some frustration as the intellectual and experiential capital that went into the delivery of the work has now largely been dissipated because of the need to await the outcomes before consideration of future policy forming and funding.

In Canberra, Australia, the *Reintegrative Shaming Experiments*, or 'RISE' project, randomly assigned offenders to be dealt with either by way of restorative justice or via the existing court system, and compared the results. For violent offences, reoffending amongst those offered restorative justice dropped by 38 per cent compared to the control group dealt with conventionally (Sherman et al., 2000).

Nearly 90 per cent of crime victims offered the chance to attend a restorative conference during the project did so, whereas less than 9 per cent attended court to see their cases dealt with in the normal way, and even then sometimes only because they were required to as witnesses. Over four-fifths of victims felt they had received 'restitution' as a result of a restorative conference, compared to less than a tenth in court, and, perhaps as a result, the proportion fearing re-victimization fell from 25 per cent to less than 4 per cent (Strang et al., 1999).

In addition, significantly higher proportions of offenders reported that they had had an opportunity to express their views, and that they were allowed to repay society for what they had done.

Restorative processes in action in prisons

As well as applying restorative processes formally through the developed protocols there are several ways in which the principles can be applied to current procedures with great effect (Edgar and Newell, 2006).

a) Complaints against staff, or disputes between staff

The current response to an allegation that an officer has acted improperly in dealing with a prisoner begins with an investigation of the claims. If there is strong evidence in support of the complaint, there is a possibility of disciplinary action against the officer. There are profound drawbacks to such a legalistic approach.

One flaw is that an officer may not have known that the prisoner would perceive the treatment as improper; or, at least, the impropriety may have been wholly unintentional. For example, a prisoner might believe that an officer's decision was biased against him, even if the officer felt that she acted fairly. A deeper flaw is that the disciplinary method of responding to complaints fosters enmity between staff and prisoners by driving them into opposing roles. Prisoners who have reason to lodge a complaint are placed in the role of accuser. Hence, officers are led to distrust prisoners, each of whom might be seen as a potential accuser. A new model for responding to allegations of improper treatment needs to be able to bring to light different perspectives on the same event. It must be open and clearly neutral, to earn the trust of staff and prisoners. The approach should be non-punitive, to reassure officers who might – understandably – react defensively to an allegation by a prisoner. The process should focus on explanations and mutual understanding rather than guilt and punishment.

Mediation provides the kind of approach that is needed. The Thames Valley Police have been using restorative justice with much success in dealing with public complaints and their experience provides a suitable precedent for the prison service. In mediation, the neutral outsider plays a facilitating role – rather than that of judge. The outcomes of mediation are largely up to the participants to decide, but the objectives should be to increase mutual understanding and to reach agreement on practical ways forward. In mediation, officers and prisoners would be encouraged to take personal responsibility because the process would require them to explain their behaviour to their counterpart.

Similar processes have been used to resolve conflict between prison staff through the training that welfare officers and others have received and the development of restorative mediation in disputes and complaints made by staff about colleagues.

A number of prisons are currently exploring ways of incorporating restorative practices. More could be achieved through exploring the best ways of using mediation principles, and practical steps that could be taken to develop and expand their role in dealing with complaints in prison. Due regard should be paid to the need for these processes to be transparent: there should be no pressure for parties to use them, rather informed choice should apply and procedures for recording agreements should be established so that there is an account of the process. This work should be evaluated regularly so that the real needs of those involved are being met. This work involves good training and sensitive management.

b) Reducing prison violence

A number of recommendations can be made for reducing prison violence using a conflict-centred approach:

- Governors should make the prevention of violence a priority within the current range of priorities as it can affect almost everything else in the prison. Understanding the cultural implications of addressing this dynamic should be recognized in any such approach;
- Restorative justice processes – such as conferencing and mediation – should be considered as means of responding to conflicts between prisoners;

- Staff should be trained to recognize conflicts, to learn when to intervene, and to understand the role of catalysts in the escalation of conflict;
- Programmes designed to develop skills in handling conflict should be made widely available to prisoners. In the same way that suicide prevention and educational work is sometime addressed through peer support, counselling and mentoring, there are good reasons for peer mediators to operate in approved ways.

Conclusion

At a time when sentences are increasingly being seen through a resettlement lens, it is timely to consider the application of restorative concepts within the development of the National Offender Management Service. The philosophy, values, principles and protocols developed through restorative practitioners over the past two decades provide a positive, problem-solving, optimistic approach towards working with those who have been most damaging to our safety. The reality is that restorative approaches can work effectively with violent offenders in reducing their risk, in helping the victims of violent crime make sense of the events so they can move on, and in enabling families and friends to take some responsibility for the future safety of all. David's story highlights how restorative approaches can contribute to the motivation of all involved to make good use of the opportunities of the sentence – whilst in custody and in the community. To know that you have responsibility for yourself and for others may well help serious violent offenders to see the world differently. Much of the evidence points in that direction.

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