

Chapter 12

Restorative policing for the 21st century: Historical lessons for future practice

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Restorative policing has experienced somewhat of a tumultuous journey within the international criminal justice landscape. The practice first emerged in Wagga Wagga, Australia in the early 1990s where its architects drew inspiration from both the New Zealand conferencing system and John Braithwaite's theory of reintegrative shaming. This chapter argues that the inspiring results of that pilot project have not been replicated elsewhere and proceeds to interrogate the reasons for this. The chapter contributes to the Handbook's objectives by making two key arguments. The first is that the operationalisation of restorative justice within contemporary policing environments, with the pressures of austerity and public accountability, naturally lends itself to quantity over quality resolutions. The second is that both the champions and evaluators of contemporary restorative policing schemes have prioritised learning from failure over success. If we return to the origins of the restorative policing model, we learn that good practice takes time, investment and community-police partnerships. Only once these internal resources are secured can true restorative policing that benefits the community take place. Limits to that realisation come from surprising quarters and raise some uncomfortable questions about the state of the field, if restorative policing was 'allowed' to work.

Introduction

At the end of the 1980s, the introduction of family group conferencing in New Zealand and the publication of the seminal text 'Crime, Shame and Reintegration' (Braithwaite 1989) dramatically altered the global restorative justice landscape in two principal ways (Umbreit and Zehr 1996). First, those who were involved in delivering restorative processes were no longer exclusively trained volunteers, but increasingly became trained practitioners. Second, the number of participants in the process expanded beyond the victim, offender and facilitator to include friends, family members and other interested parties. As scholarship on restorative justice became increasingly popular, it also became possible to distinguish restorative scholars based on their intellectual and philosophical orientations (Dignan 2005).

First, *abolitionists*, campaigned for the replacement of the criminal justice system with an alternative restorative system of justice (e.g. Zehr 1990). Second, *separatists*, believed that criminal justice and restorative justice were incompatible and that any interaction between the two would result in the usurpation of restorative justice for criminal justice aims. Thus, they campaigned for restorative justice to exist as a completely distinct twin-track system (e.g. Wright 1991). Third, *reformists*, believed that restorative justice principles, values and

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processes had the potential to transform criminal justice from the 'inside-out' and thus campaigned for its integration within the criminal justice process (Dignan and Lowey 2000).

Of course, the criminal justice system has remained robust and there is widespread agreement that it will remain the dominant formal response to crime and deviance for the foreseeable future. While the ambitions of reformists have had a number of promising starts,¹ the fears of separatists have also been apparent as Umbreit explains:

As any reform moves from its early stage of development and attempts to become accepted and institutionalized, the probability of 'losing its soul' is increased. As the primary focus of the process shifts from offering an experience of healing and closure for those most affected by crime to serving justice system goals, the initial passion and creativity of the movement can be quickly lost.

(1999: 214)

The insemination of restorative justice into the criminal justice system in neoliberal states has reflected this pattern. In particular, the obsession with legislating behaviour criminal, holding offenders to account and managing the performance of criminal justice agencies through targets and audits has resulted in a rather limited presence of *qualitatively* 'restorative' solutions to the crime problem. Instead, these initiatives have often been characterised by low victim participation rates and a neo-correctionalist² agenda whereby the "don't make matters worse" philosophy of the minimum intervention approach' has been rejected 'in favour of a policy of *zero tolerance*' (Cavadino and Dignan 2007: 320, emphasis original). Thus, managerialist concerns over 'effectiveness' have constrained the expansion of restorative justice within the criminal justice system (Miers 2004).

The outcome of this for restorative policing in its contemporary guise, particularly within England and Wales, is that it is primarily used as an early interventionist response to minor offending committed by juveniles (Shewan 2011). This is in stark contrast to the aims and practice of the original restorative policing model which sought to find a way of effectively dealing with crime *outside* of the criminal justice process and in *partnership* with the community. This paper interrogates the reasons for this and makes two key arguments. The first is that the operationalisation of restorative justice within contemporary policing environments, with the pressures of austerity and public accountability, naturally lends itself

¹ This has included the integration of restorative outcomes (such as reparation, compensation and community service) into sentencing. 'Mainstreaming' has also been evident whereby restorative principles and processes have shaped new policy and legislation (i.e. in diversion programmes or within the reform of the system itself in relation to young offenders as in New Zealand, Northern Ireland and South Africa. See further Clamp 2008).

² See Cavadino and Dignan (2007) for a full discussion of the characteristics of this.

to quantity over quality resolutions that can be interrogated and repackaged in the form of statistics.

The second is that both the champions and evaluators of contemporary restorative policing schemes have prioritised learning from perceived risks rather than the key successes secured during pilots. If we return to the origins of the restorative policing model, we learn that good practice takes time, investment and community-police partnerships. Only once these resources are secured, can a form of restorative policing take place that benefits all stakeholders. Limits to that realisation come from surprising quarters and raise some uncomfortable questions about the state of the field if restorative policing was 'allowed' to work.

This chapter thus forms an important part of a collection that focuses on contentious applications of restorative justice framed by a forward-looking orientation. Restorative policing [only matched by the application of restorative justice to domestic and sexual violence] has received significant resistance from commentators who believe that the risks involved in allowing such practice far outweigh the benefits (see Clamp and Paterson 2017 for a broad overview of this debate). In seeking to meet the volumes aims, this chapter begins by explaining what restorative policing is for those who are unfamiliar with this area of practice by looking at its emergence in Australia at the beginning of the 1990s. Next, a potted history of the international experimentation of restorative policing is presented before drilling down into why the Wagga Model worked and why this has not been replicated elsewhere. The paper ends by arguing that a strategy of 'learning fast' and 'doing fast' can only end in 'fast failure' (Braithwaite 2016).

The 'Wagga Model' of Restorative Policing: A Brief Overview

It should be noted that all police work in common law countries takes place prior to the prosecution of offences and therefore the use of restorative justice processes within this context takes place as a diversionary option, or in other words, an informal resolution of the case without prosecution. Given the range of due process concerns that arise from such interaction, most restorative justice schemes used within these settings first require the offender to admit responsibility for the offence and then for both the victim and the offender to consent to their participation in the process. Reportedly, such an inclusionary approach results in (more often than not) participants experiencing a sense of 'procedural justice' – that they are satisfied that they have been dealt with in a fair and equitable manner (see Tyler 2006).

In contrast, in civil law jurisdictions, such as Europe, police officers do not hold the same level of discretion as their neoliberal counterparts (Daly 2001). Decision-making about the offences that are channelled into and away from the criminal justice process is often determined by prosecutors rather than police officers (Clairmont and Kim 2013). As such, the opportunity for restorative practice to be used by police officers is restricted because they are unable to decide on how a case should be dealt with on their own or in consultation with the affected parties (Vynckier 2009). For this reason, this paper deals exclusively with common law jurisdictions given the focus is on the Wagga Model.

Restorative policing in common law jurisdictions, in particular, has been underpinned by three innovative developments in criminal justice (McCold and Wachtel 1998). The first was the emergence of community and problem-oriented policing which sought to alter the dominant and ineffective reactive policing style by increasing partnerships between the police and the community they served. The second was the emergence of the theory of reintegrative shaming (Braithwaite 1989) that argued informal social networks were more effective in bringing about remorse and actions to repair harm caused than remote legal authorities (see further Moore *et al.* 1995). Finally, the restorative justice movement offered a *process* through which the objectives of community/problem-oriented policing and reintegrative shaming could be realized. Thus, the emergence of the restorative policing model has offered the police a framework through which to engage victims, offenders and communities in dealing with crime, an aspect that has largely been missing from community-oriented and problem-oriented policing (Clamp and Paterson 2017).

Restorative policing practice³ emerged during the early 1990s in New South Wales, Australia. Terry O'Connell (a Senior Sergeant with NSW Police) and John McDonald (Advisor to the Police Commissioner on Youth and Juvenile Justice), played an instrumental role in the development of what became known as the 'Wagga Model' of police cautioning (see Moore and O'Connell 1994). Traditional responses were seen to perpetuate a criminal cycle due to the stigmatising and often humiliating nature of the process, and therefore alternative approaches were explored to contest the 'revolving door' of youth crime that was blighting the

³ Restorative policing can be discussed in one of two ways. First, as the 'Wagga Model', which refers to the practice of police officers facilitating conferences between victims, offenders and their supporters i.e. the processes themselves are police-led. Second, as the 'New Zealand Model' which not only rejects the active role of police officers as facilitators but also which expands the notion of restorative policing beyond the conferencing process to include the integration of restorative principles into routine policing practice and referrals to conferencing schemes that exist outside of the police agency altogether. For the purposes of this chapter, only police-led schemes or the Wagga Model is discussed.

community (Moore 1995). The only offences that were automatically disqualified from the conferencing scheme were serious indictable offences (i.e. those offences that were punishable by imprisonment for a minimum term of 5 years or more). Instead, the amount of individual and social harm caused (rather than the type of offence committed) was the primary criterion used in selecting cases. For a detailed explanation of the history and practice of the Model, please see Chapter 28, in this volume written by Terry O'Connell.

Moore and Forsythe (1995) evaluated the scheme by analysing the Model, gathering the views of conference participants (including police officers and other government officials) and grounding their findings within a theoretical model. The research revealed a number of extraordinary findings. First, the numbers of cases being processed by the courts reduced by 50 per cent *without any net-widening* (i.e. the amount of cases reported to the police began to decrease – they were not dragging less serious offences into the conferencing process). Second, this occurred *without increasing the recidivism rate* (in fact, there was a 40 percent reduction in repeat offending overall). In addition, 93 percent of offenders fulfilled the agreements that they had participated in creating during the conference and high levels of satisfaction amongst all participants [i.e. the police, victims and offenders] was reported (see Moore 1994).

The restorative policing 'movement'⁴: Trials and tribulations

Unsurprisingly these results soon garnered the attention of practitioners further afield and other states across Australia adopted the Wagga Model including: the Australian Capital Territory (see Sherman *et al.* 1997); the Northern Territory (see Fry 1997), Queensland and Tasmania (see O'Connell 1998). However, towards the middle of the 1990s, intense academic debate⁵ and political distaste arose about the legitimacy of police-led conferencing (see Moore and Forsythe 1995; Daly 2001). This has resulted in the visible absence of police-led conferencing in Australia. Ultimately, in 1998, the running of conferences fell under the jurisdiction of juvenile justice agencies with police officers referring suitable cases on to restorative justice schemes run outside of police forces (Richards 2010). However, around the same time as the demise of restorative policing in Australia, it began to gain ground internationally.

⁴ It is important to note that while only two examples of the Wagga Model has been presented here, it was implemented in a range of different forces within the US, in Canada and a number of counties within the UK. This representation has been necessarily selective due to space constraints. For a more detailed overview, please see Clamp and Paterson (2017).

⁵ There is a wide body of literature that is critical of an increase in restorative practice within the criminal justice sector generally and, more specifically, police facilitated restorative processes (see, for example, Ashworth 2001; McCold 1998; Umbreit and Zehr 1996a, 1996b; Young 2001).

The first country outside of Australia to experiment with the Wagga Model was the United States (O'Connell 1998). The most well-known scheme is the 'Bethlehem Family Group Conferencing Project' in Pennsylvania because of its experimental evaluation (McCold and Wachtel 1998). The primary purpose of the experiment was to assess the model by randomly diverting suitable cases to conferencing or through the normal adversarial [i.e. court] process (Hines and Bazemore 2003). Eligible cases included a high percentage of first-time felony cases and repeat offenders charged with misdemeanor violations in which the offender was willing to admit responsibility and the victim and family agreed to participate.

Early findings indicated that some of the 18 police officers who had received training to facilitate conferences did not carry them out according to the benchmarks of the Wagga Model and further training and support had to be delivered. McCold and Wachtel (1998) report that officers were able to facilitate conferences in a manner consistent with due process and restorative justice principles (most of the time) where further ongoing support and training was offered. All outcomes were agreed to by the victim and were perceived to be reasonable in relation to the nature of the offence committed. This research showed that victims (96 percent) and offenders (97 percent) were satisfied with the process, just as much as other victim-offender mediation programmes facilitated by non-police officers and nearly all respondents confirmed that they would opt to participate in a similar process again and recommend it to others (McCold 2003). Much like in Wagga Wagga, the vast majority of offenders (94 percent) fulfilled the contents of the agreements reached during the conference (McCold and Stahr 1996).

However, unlike in Wagga Wagga, McCold and Wachtel (1998) reported that they did not perceive a cultural shift across the force, only a moderate change amongst those actually delivering conferencing towards a more community-oriented problem-solving approach (McCold 2003). This lack of cultural transformation was thought to be a result of the marginalisation of the pilot, which was kept separate from the broader policing activities taking place on a day-to-day level. Both officers and supervisors saw conferencing as an additional task to be undertaken which interfered with patrol and responding to calls for service, thus attracting limited organisational and managerial support (McCold 2003). As a result, despite the positive findings that the evaluation yielded, practice was soon marginalised in favour of referring cases out to community-based restorative justice organisations.

A few years later, another notable case study emerged in England and Wales. Sir Charles Pollard, who was the Assistant Chief Constable at Thames Valley Police at the time, sought to reduce crime through a force-wide rollout of the Wagga Model (1998-2001). His approach departed from previous restorative policing experiments in that a headquarters-based 'Restorative Justice Consultancy' was established to oversee the training of police officers across the force to ensure consistent practice by police officers in a more transparent and accountable manner against specific aims and standards. This acknowledged some of the objections raised by critics of police officer involvement in facilitating restorative processes (see further Clamp and Paterson 2017). Furthermore, two distinct practices emerged – restorative *cautions* (which only involved the offender and his/her supporters) and restorative *conferences* (which also involved the victim and his/her supporters).⁶

The scheme was evaluated using an action research methodology whereby the police could benefit from interim findings and alter their practice as the evaluation went on (Young and Hoyle 2003). This proved to be useful given that evaluators found a number of implementation issues that included officers dominating discussions; prioritising their own agendas rather than those of the participants; reinvestigating the offence; engaging in intelligence gathering, and behaving as if the offender had to account to them personally, with the other participants reduced to little more than passive observers (Hoyle *et al.* 2002). Furthermore, a significant procedural problem was identified in that over a third of participants received no pre-conference preparation.⁷ In response to this, researchers were able to arrange top-up training for officers and the introduction of a revised script insisted officers not pursue a policing agenda during the conferencing process which resulted in a dramatic reduction of the issues outlined (Hoyle *et al.* 2002).

Nevertheless, in 2001 Charles Pollard left the force and shortly after the government began putting significant pressure on Thames Valley to improve their performance figures for detections (whereby an offender is prosecuted for an offence). Without strong leadership and support for restorative justice from within, restorative cautioning and conferencing began to decline and soon traditional cautions were once again being utilised (Hoyle 2007). The legacy of restorative policing in England and Wales is that conferencing has been mainly

⁶ Pollard's tenacity in lobbying for a more pronounced role of restorative justice in response to crime committed by youths received backing by the government through the eventual introduction of the Crime and Disorder Act 1998 and the Youth Justice and Criminal Evidence Act 1999 (Hoyle 2007, 2009).

⁷ These findings are not unusual for English restorative justice schemes (see, for example, Crawford and Newburn 2003 in relation to juvenile referral orders or Meadows *et al.* 2010 on community justice panels).

used for cases that would not have been prosecuted (Hoyle 2002) thus resulting in net-widening – a feature that had been absent in most of the case studies up until this point.

These two key examples of international experimentation (US and UK) with the Wagga Model demonstrate both stark and complementary findings in comparison to the original pilot. While police leaders [post Wagga Wagga] were keen to associate their forces with the restorative policing experiment and drive forward some changes in restorative practice at the frontline, ultimately their legacy withered and normal policing resumed. In many respects, this is unsurprising. The role of senior police officers is to provide vision and a sense of mission for the force and these individuals were certainly successful in introducing restorative concepts and setting force priorities in favour of a restorative, as opposed to a crime control, response. However, 'vision among the lower ranks is more operationally focused' with officers reluctant to change their approach and practices unless such change also suits their perceived purpose and functions (Pearson-Goff and Herrington 2013: 19). In many respects then, the initial 'boom' of restorative practice within these forces can be attributed to subordinate officers following orders, while the subsequent collapse provides evidence of a veneer of change rather than any meaningful change within the cultural meaning of police work at the local level.

Some have suggested that the key to longer-term change lies in a move from a transactional leadership style to a transformational leadership approach. The former, said to be a traditional or conventional approach to managing forces, involves the leader specifying not only the expectations of subordinates but also the conditions under which such expectations should be met and the rewards and penalties on offer (Engel and Worden 2003). In recent years, this approach has fallen into disrepute and transformational leadership styles have become increasingly popular which emphasise 'participation, consultation and inclusion' in a bid to get subordinates to buy into the 'vision' that is being proposed (Silvestri 2007: 39), much like that witnessed in Wagga Wagga.

While approaches to motivate cultural change within police forces are clearly important, it is questionable whether this would result in sustainable change in the long term. Rather, Clamp and Paterson (2013) suggest that in order for meaningful and sustainable change to take place a twin-track approach is needed whereby leadership from above is informed by restorative principles that not only allows, but also actively encourages transformational leadership by frontline officers. Contemporary attempts to drive this change occur within a top-down approach that unfortunately has not resulted in a significant transformation of policing itself or police relations with the communities that they serve more generally. So

while restorative policing presents a radical shift in the expectations of how police officers should approach their job, and indeed the resistance felt in response to restorative policing confirms how radical a shift it is, it has not been implemented through a larger process of reform.

Instead, a short-term view of restorative justice has been adopted – one that offers a cost and time effective response to low-level offending – which has doomed it to the margins of police business. In addition, the resistance to viewing restorative policing as an important transformative shift has hampered the potential of restorative approaches not only for policing, but for offending behaviour as well. This has been reinforced by the perception that restorative justice is a ‘soft option’ and one that should be viewed by offenders as a last chance (as outlined by the welfare approach) before punitive action is taken (as outline by the zero tolerance approach). This repackaging of restorative justice has enabled neoliberal governments to ‘sell’ a perceived ‘soft option’ for dealing with offending behaviour in a manner that more comfortably sits with the punitive attitudes of the public.

The ‘politicization’ of crime and a ‘bifurcated’ approach (see Cavadino and Dignan 2007) to dealing with offending reflects the growing intolerance and fear of crime among the public, sensationalist media reporting, and the exploitation of the subject by politicians (Garland 2001). In both the United States and the United Kingdom, there is a much greater demand for accurate crime data to demonstrate that something is ‘being done’ and a greater emphasis placed on accountability. As such, statistics have become an important part of public policy to highlight and describe the nature of social problems and also to monitor and inform the policies and practices designed to remedy them (Simmons *et al.* 2003). The significant challenge with this reality is a need to transcend both the cultural and political belief that punishment is necessary. The Wagga Model, to a large degree, provided the evidence-base to show that there are effective alternatives to the *status quo*. What is needed is a long-term view of crime reduction and an overhaul of the relationship between the police and the public as the following section will now demonstrate.

Learning from the past: The Wagga Model

The problem with subsequent iterations of restorative policing is threefold. First, previous and contemporary programmes continued to operate without altering the role of policing in reducing crime. Offending behaviour or ‘crime’ is viewed as an offence against the state that needs to be punished in line with both reductivist and retributive principles. This has led to a number of critics to question the utility of current justifications for punishment, particularly in light of evidence that challenges the main rationales that underpin contemporary criminal

justice approaches (see further Braithwaite 1997; Cavadino and Dignan 2007; Lacy 2003). Cavadino and Dignan (2007: 61) in particular suggest that there is 'No morally legitimate aim of punishment that cannot be achieved just as well and more humanely by the use of non-custodial punishment'. This leads them to ask: 'Why – unless we are all closet reductivists or retributivists should not offenders be formally denounced with words and ceremony and then set free?' (2007: 48)

In Wagga Wagga, police officers were convinced that the criminal justice process was *the problem* and that they needed to alter their approach in order to disrupt offending behaviour that was blighting the community. They did this not only by creating an alternative approach for cautioning, but also (and perhaps most importantly) by forging a strong partnership with local community members.⁸ This has been missing from subsequent iterations of the Model, which have largely been implemented through a 'top-down', rather than a 'bottom-up' approach. The distinction between the two approaches is that the former is superimposed *onto* the community whereas the latter is conducted in conjunction *with* the community.

More often than not, community-based schemes are devised as a means to further engage the public in the administration of criminal justice in an attempt to increase confidence in the criminal justice system (see Clamp and Paterson 2017), rather than to reduce reliance on it as in Wagga Wagga. Moore (1993a) regards this is a mistake. For him consultation with the geographic community is essential and only once full consent and cooperation is achieved should any scheme be established. Indeed, subsequent schemes have located ultimate failure as the result of a lack of community ownership (see, for example, Hines and Bazemore 2003; Roberts and Masters 1999). As Johnstone (2002) warns, 'restorative' schemes are inherently more difficult to implement because there is a lack of consensus about the roles (both traditional and those newly created) of individuals within the process.

Second, crime in Wagga Wagga was redefined as a breakdown of relationships [rather than an offence against the state] and conferencing or restorative dialogue, with its focus on harm and relationships, became an opportunity for changing the experiences and lives of *all* stakeholders. As such, the principle of 'parsimony' guided policing in Wagga Wagga along with a shift in practice whereby breaches of obligation to the law were 'addressed as if they were breaches of obligation to the family and community' (Grimshaw 2004: 7). However, this shift has not been achieved in later cases. In fact, the imposition of restorative policing on

⁸ It is important to note that this Model, unlike others, was not informed by local 'indigenous' justice practices, nor were local indigenous communities involved in its development. The community referred to here refers to a geographic one.

police officers has created important unintended consequences, as Braithwaite predicted many years ago when he said:

If the police do not support conferencing and are not involved, and listened to in the development of conferencing policies, then conferencing is not a good idea. This is not just because police resistance will effectively kill the reform. If police do not believe in conferencing and are required to refer young people to someone else to run a conference, they will not refer many cases. Worse, the cases they do refer will be cases they do not regard as serious enough to justify laying a charge themselves. (1994: 208)

A wide range of empirical studies investigating police decision-making in referrals to independent restorative justice schemes have demonstrated that they have widened the net rather than reducing it as in Wagga Wagga. The most common factors cited that influence whether or not police divert cases has included the seriousness of the offence, offending history and attitude – particularly evidence of remorse and responsibility (see Carrington 1998; Crocker 2013; Doob and Cesaroni 2004; Doob and Chan 1982; Marinos and Innocente 2008; Meadows *et al.* 2012). This ultimately results in bias given that oppressed minorities often benefit less because of cultural differences in interaction (police not being able to interpret remorse) and over-policing (and thus having prior criminal records). This approach further reinforces that restorative justice schemes are perceived as yet another fad in police reform by officers rather than a completely new way of perceiving and reacting to crime.

Third, restorative policing was not perceived to be a programme or a scheme, but rather a new way of being. Not unlike other forces who experimented with restorative justice, a canvass of local officers prior to the implementation of conferencing revealed that the approach was perceived as a 'soft option'. In an attempt to get sceptics to support a trial of the proposed scheme, a sergeant's review committee met once a week to review all juvenile matters, to decide which cases would be eligible for caution and to invite officers to observe the process (Moore and Forsythe 1995; O'Connell 1998). This slow and considered approach to developing the new cautioning process is acknowledged for helping the police to accept the merits of the Model and subsequently actively support its implementation (see O'Connell 1998). The review committee had a further unintended consequence in that it challenged bias in case selection, as O'Connell explains:

Previously young people were too often inappropriately arrested for an offence, which might be called 'contempt of cop'. Quality control was being exercised for the first time, with supervisors reviewing all juvenile arrests in a collegial way, establishing 'benchmarks' for the seriousness of offences. This, and not necessarily

the conferencing process itself, accounted for much of the considerable reduction in the number of cases placed before the court between 1991 and 1993.

(1998: n.p.)

Review committee meetings were also transparent in that they were open to interested parties (police and community) who wanted to attend. Developing oversight mechanisms and encouraging external community participation served to provide an additional set of checks and balances that were not always available in later iterations of the Model. The current 'on the spot/street RJ' that takes place by police officers in England and Wales and Northern Ireland does not serve to drive down the amount of cases dealt with by the criminal justice process, but often further increases the net of cases. As demonstrated by O'Mahony and Doak:

[...] some 80% of cases...examined were for offences concerning property of less than £15. It was not uncommon to come across cases where a considerable amount of police time had been invested in arranging for a full conference for the theft of chocolate bar or a can of soft drink.

(2004: 495)

So what can we take from the Wagga Model to inform current practice? I have grouped these under three headings, namely: time, investment and community-police partnerships:

Time

As research has shown (see, for example, Hoyle *et al.* 2002; McCold and Wachtel 1998), some officers find the transition to restorative policing a relatively easy one, whereas others are unable to easily grasp the implications of restorative practice for their roles. When O'Connell first developed the Wagga Model, this took time to learn what worked and what did not. While this groundwork has been laid, there is still a need for this learning to take place in each implementation site. A common theme running across all US and UK restorative policing pilot sites is that training has been done either 'intensively' through a three-day course or through a one-day session (also see Justice Committee 2016). This does not work. In the words of John Braithwaite (2016): learning fast and doing fast can only lead to fast failure.

As such, success in this area requires constant reinforcement through training, monitoring and mentoring. Getting police officers to embrace this role and to understand it presents the biggest obstacle. The Wagga Model has demonstrated that by involving officers in case selection and/or observing conferences facilitated by their colleagues appeared to have a significant impact on attitudes towards the Model subsequently (see Clamp and Paterson 2017). As highlighted by developmental theorists, notably William James, John Dewey,

Lewin and Piaget, people learn best through 'doing', which can be fostered by having a supportive structure in place to facilitate understanding (see Landry 2011 for an overview of police officer learning styles). As such, in many respects, it is inevitable that mistakes will be made and that 'old habits will die hard' until officers gain insight into what is required during the process and hold an appreciation of what it means to act in a restorative way – a radical shift from traditional institutional practice.

Shapland (2009) speculates that the manner in which practice is implemented can have a significant impact on whether police-led schemes are successes or failures. Drawing on her own experience, she suggests that the best models are characterised by specialised units undertaking restorative justice facilitation on a full-time basis. The importance of this approach is that officers are able to 'up skill' on a continuous basis; they are relatively autonomous (and therefore somewhat shielded from the operational pressures experienced throughout the force more widely); they can 'develop and maintain a proper restorative culture'; they have sufficient time for follow-up; and no conflicts arise in terms of the facilitating officer also being the arresting officer (2009: 128). These assumptions appear to be consistent with the experience of schemes in both Australia and the United States and explain the varied experience in the United Kingdom.

However, this also has the unfortunate consequence of marginalising restorative practice, which then has no impact on the wider organisation. Furthermore, as other initiatives have shown, these small units are subject to the changing whims of force priorities. Real sustainable restorative policing needs to be a force-wide initiative that starts with a few and slowly expands outwards, integrating other force members through a ripple effect. The key to the success of the short-lived Wagga Wagga pilot, was that both the community and police officers were exposed to restorative justice through a slow and considered approach and a safety net was implemented through the review committee who were committed to community policing (Moore and Forsythe 1995; O'Connell 1998). Once this had been done and a conference arranged, officers were offered the opportunity to observe the process. This has been a key feature of convincing sceptical officers (not only in Australia but worldwide) that restorative justice is not a soft option and that there is high value in dealing with offences in a restorative manner.

Investment

Many of the studies on the Wagga Model have identified officers as being committed to restorative justice values, demonstrating genuine concern for the future welfare of offenders, treating participants with respect and encouraging active participation (see, for example,

Sherman and Strang 1997; Young and Gould 2003). Criticism of police involvement in restorative practice that use police culture as the frame of analysis struggle to pick up the nuances that emerge from the mixed economy of policing (Crawford 2005). Contemporary policing is resourced via a mixture of traditional reactive police officers who work alongside more community-oriented officers who may be funded by local authorities, private agencies, or even acting as volunteers. Each organisation will have its own distinct working culture and close collaborative working has the potential to produce new hybrid cultures.

As such, Young (2003) argues that traditional police culture can certainly pose a challenge to the implementation of restorative policing, but that the evidence suggests that the threat that police will act as 'judge and jury' when facilitating cases might be overstated. A more pressing issue is that senior officers become complacent when implementing restorative practices within their forces, believing that police facilitation poses no problems and can be carried out without the investment of resources. As Sherman and Strang note:

When RJ (or any programme) is rolled out quickly on a wide scale, there is a risk that many conferences will just 'go through the motions' to 'tick off a box', rather than treating each case as a kind of surgical procedure requiring careful advance planning, preparation and follow-up.

(2007: 21)

As such, in a climate of austerity it is harmful to promote restorative justice on the basis of its cost savings. It is not an easy solution to a crime problem. If done properly, it is actually very resource intensive. The cost savings come after the conference in the form of a reduction in recidivism. There appears to have been a misinterpretation of how savings were made in Wagga Wagga. Ultimately, it was police oversight and management of cases that were being brought into the system as many of them, as outlined previously, were for 'offences' that should not have been considered 'offences' at all.

Community-Police Partnerships

Kathy Daly (2016) has argued that we should perceive restorative justice as a mechanism because if we think of it as anything beyond this, it is doomed to failure. The problem with this assessment is that restorative policing/conferencing becomes yet another tool in the police officer's toolbox. The outcome is that restorative processes are subject to operationalisation in a way that fits with overriding norms and values of the system. Restorative justice is not about responsabilising offenders, reducing recidivism or a quick fix. Only once officers understand that it is not a tool and rather a completely new way of viewing the crime problem, engaging with people that they come into contact with (both inside and

outside of the police organisation) and viewing success will long-lasting change come about. Change, as the Wagga Model has shown, could be revolutionary not only for the criminal justice system but for communities as a whole.

Restorative policing offers a completely different way to responding to crime. Not only are individuals and groups within communities important stakeholders, they are also essential in determining what behaviour falls outside of tolerable limits. This creates a dramatic shift in the *status quo*. In order for policing priorities to be set, the community has to be engaged in a conversation about what the priorities should be. Furthermore, the community has to be actively engaged so that they play a key role in responding to behaviours that are unacceptable. Policing thus becomes a community-police issue that requires strong partnerships to be forged.

Conclusion

This chapter has argued that we have learnt little from previous iterations of restorative policing. It does seem strange that we appear to have been successful in creating a revolutionary policing model but that despite the reported successes, it has failed to be taken seriously by senior criminal justice practitioners. The Wagga Model was so successful because it viewed 'success' in a different light. Many years ago, Peel (1829, *emphasis original*) argued that: 'The test of police efficiency is the *absence* of crime and disorder, not the *visible evidence* of police action in dealing with it'. Many of the key restorative policing proponents have understood this and made a case for the reform of the way in which policing is viewed and how that shift would alter police-community responsibilities.

Unfortunately, in practice, the visible evidence of police action has usurped restorative processes whereby cases are brought into contact with the criminal justice process that ultimately should not be there. Some six years ago, Bazemore and McLoed (2011) provided an alternative framework through which restorative processes could, and should, be evaluated. They suggested that we should ask:

[...] whether the intervention process, and subsequent follow-up steps, created or strengthened relationships; increased participants' sense of capacity and efficacy in community skills in problem-solving and constructive resolution; promoted individual awareness of and commitment to the common good; and expanded informal support systems or 'safety nets' for victims and offenders.

(2011: 162)

The Social Discipline Window (Wachtel 1997, 2000; Wachtel and McCold 2000) provides a visual to demonstrate how restorative justice is distinct from other approaches. If any

initiative or programme is going to be successful, we have to involve all stakeholders in the process so that we do things *with* them rather than *to* or *for* them. Perhaps stated more explicitly, the police should involve all stakeholders (in our case community members, victims and offenders as well as their supporters) through a process of co-construction of practice in the negotiated space of justice realisation that seeks to confront and reduce power imbalances.⁹ Through empowerment, knowledge co-construction and the validation of 'lived experiences' all involved would be able to propose new crime responses, rather than applying standardised solutions to injustices by outside 'experts' (i.e. the government or policing hierarchies).

As such, restorative policing should become an iterative process (as demonstrated by the Wagga Model) whereby it is used as a reflective process of progressive problem solving to improve the way the police and community address issues and solve problems collectively. Instead of viewing restorative justice as a *tool* for achieving the functions of policing (i.e. upholding and enforcing the law, promoting and preserving public order, protecting the public and preventing crimes), restorative policing should be perceived as an entirely different *framework* through which officers can develop an effective partnership *with* the community. Through such an approach, restorative policing can ultimately result in a way to transform the way we view crime, our responses to it and to reduce social distance (Braithwaite 2003; Christie 2004; Johnstone and Van Ness 2007).

Ultimately where officers are trained fast and do fast, they can only fail fast too. Restorative policing is so much more than a mechanism that should be evaluated according to the criminal justice systems key performance indicators (such as reducing recidivism, satisfaction and cost-benefit analyses). Ultimately the Model has demonstrated strong outcomes in this regard, but that did not frame why O'Connell and his colleagues designed and implemented it. They knew that the current approach to dealing with offending was faulty and that change had to be initiated within the force along with their community' help first. Imagine, for a moment, what society would be like if restorative policing was allowed to work as intended.

References

Ashworth, A. (2001) 'Is Restorative Justice the Way Forward for Criminal Justice?', *Current Legal Problems*, 54, 347–376.

Bazemore and McLoed (2011) [xxx](#)

⁹ Often used in public health, see for example, Shannon *et al.* (2008).

- Braithwaite, J. (1989) *Crime, Shame and Reintegration*, Cambridge: Cambridge University Press.
- Braithwaite, J. (1994) 'Thinking harder about democratising social control', in C. Alder and J. Wundersitz (eds) *Family Conferencing and Juvenile Justice: The Way Forward or Misplaced Optimism?* Canberra: Australian Institute of Criminology.
- Braithwaite, J. (1997) *Restorative justice: Assessing an immodest theory and a pessimistic theory*. [Online]. Available from: www.aic.gov.au/rjustice/braithwaite.html
- Braithwaite, J. (2000) 'Republican Theory and Crime Control', in S. Karstedt and K. Bussmann (eds) *Social Dynamics of Crime and Control. New Theories for a World in Transition*. Oxford: Hart.
- Braithwaite, J. (2003) 'Principles of restorative justice', in A. von Hirsch, J. Roberts, A. Bottoms, K. Roach and M. Schiff (eds) *Restorative Justice and Criminal Justice: Competing or Reconcilable Paradigms?* Oxford: Hart. Braithwaite 2016
- Braithwaite, J. (2016) 'Learning to Scale Up Restorative Justice', in K. Clamp (Ed.) *Restorative Justice in Transitional Settings*. London: Routledge.
- Carrington, P. (1998) *Factors Affecting Police Diversion of Young Offenders: A Statistical Analysis*. Ottawa: Solicitor General of Canada
- Cavadino, M. and Dignan, J. (2007) *The Penal System: An Introduction*, London: Sage Publications.
- Christie, N. (2004) *A Suitable Amount of Crime*. London: Routledge.
- Clairmont, D. and Kim, E. (2013) 'Getting past gatekeepers: The reception of restorative justice in the Nova Scotia criminal justice system', *The Dalhousie Law Journal*, 36(2): 359–391.
- Clamp, K. (2008) 'Assessing Alternative Forms of Localised Justice in Post-Conflict Societies – Youth Justice in Northern Ireland and South Africa', in D. Frenkel, and C. Gerner-Beuerle (Ed.) *Selected Essays on Current Legal Issues*, Athens: ATINER.
- Clamp, K. and Paterson, C. (2013) 'An Exploration of the Role of Leadership in Restorative Policing in England and Wales', in A. Normore and N. Erbe (Ed.) *Collective Efficacy: Interdisciplinary Perspectives on International Leadership*. Bingley: Emerald.
- Clamp, K., and Paterson, C. (2017) *Restorative Policing: Concepts, Theory and Practice*. London: Routledge.
- Crawford, A. (2005) *Plural Policing: The Mixed Economy of Visible Patrols in England and Wales*. Bristol: Policy Press.
- Crawford, A. and Newburn, T. (2003) *Youth Offending and Restorative Justice: Implementing Reform in Youth Justice*. Cullompton: Willan Publishing.
- Crocker, D. (2013) 'The effects of regulated discretion on police referrals to restorative justice', *The Dalhousie Law Journal*, 36(2): 393–418.

- Daly (2001) 'Conferencing in Australia and New Zealand: Variations, Research Findings and Prospects', in A. Morris and G. Maxwell (eds) *Restoring Justice for Juveniles: Conferencing, Mediation and Circles*, Oxford: Hart Publishing.
- Daly (2016) 'What is Restorative Justice? Fresh Answers to a Vexed Question', *Victims & Offenders*, 11:1, 9-29.
- Dignan, J. (2005) *Understanding Victim and Restorative Justice*, Maidenhead: Open University Press.
- Dignan, J., and Lowey, K. (2000) *Restorative Justice Options for Northern Ireland: A Comparative Review*. Research Report 10. March. Belfast, Northern Ireland: Criminal Justice Review Group.
- Doob, A. and Cesaroni, C. (2004) *Responding to Youth Crime in Canada*. Toronto: University of Toronto Press.
- Doob, A. and Chan, J. (1982) 'Factors affecting police decisions to take juveniles to court', *Canadian Journal of Criminology*, 24(1): 25–37.
- Engel, R.S. and Worden, R. E. (2003) Police officer attitudes, behaviour and supervisory influences: an analysis of problem-solving. *Criminology*. 41(1): 131-166.
- Fry, D. (1997) *A Report on Community Justice Program: 'Diversionary Conferencing'*. Northern Territory Police: Alice Springs.
- Garland, D. (2001) *The Culture of Control: Crime and Social Order in Contemporary Society*. Oxford: Oxford University Press.
- Grimshaw, R. (2004) 'Whose Justice? Principal drivers of criminal justice policy, their implications for stakeholders, and some foundations for critical policy departures', vol 7 (British Society of Criminology conference, London, July 2004)
- Hines, G. and Bazemore, D. (2003) 'Restorative Policing, Conferencing and Community', *Police Practice and Research: An International Journal*, 4(4): 411-427.
- Hoyle, C. (2002) 'Securing restorative justice for the "non-participating" victim', in C. Hoyle and R. Young (eds) *New Visions of Crime Victims*. Oxford, UK: Hart Publishing.
- Hoyle, C. (2007) 'Policing and restorative justice', in G. Johnstone and D. Van Ness (eds) *Handbook of Restorative Justice*. Cullompton: Willan Publishing.
- Hoyle, C. (2009) 'Restorative Justice Policing in Thames Valley', in T. Peters, P. Ponsaers, J. Shapland and B. Van Stokkom, (eds) *Restorative Policing*. Netherlands: Maklu-Publishers.
- Hoyle, C., Young, R., and Hill, R. (2002) *Proceed with caution: An evaluation of the Thames Valley Police initiative in restorative cautioning*, York: Joseph Rowntree Foundation.
- Johnstone, G. (2002) *Restorative Justice: Ideas, Values, Debates*. Collumpton: Willan Publishing.
- Johnstone, G. and Van Ness, D. (2007) 'The meaning of restorative justice', in G. Johnstone

- and D. Van Ness (eds) *Handbook of Restorative Justice*. Collumpton, UK: Willan Publishing.
- Justice Committee. (2016) *Restorative Justice Inquiry: Report*. House of Commons: UK Parliament.
- Lacey, N. (2003) 'Penal Theory and Penal Practice: A Communitarian Approach', in S. McConville (eds) *The Use of Punishment*. Cullompton: Willan Publishing.
- Landry, J. (2011) *Learning Styles of Law Enforcement Officers: Does Police Work Affect how Officers Learn?* Unpublished PhD thesis, Capella University, Minneapolis.
- McCold, P. (1996) 'Restorative Justice and the Role of Community', in B. Galaway and J. Hudson (eds) *Restorative Justice: International Perspectives*, Monsey, NY: Criminal Justice Press.
- McCold, P. (1998) *Police-facilitated restorative conferencing: What the data show*. Paper presented to the Second Annual International Conference on Restorative Justice for Juveniles, Florida Atlantic University, and the International Network for Research on Restorative Justice for Juveniles, Fort Lauderdale, FL, 7–9 November. Available at: fp.enter.net/restorativepractices/policeconferencing.pdf.
- McCold, P. (2003) 'An experiment in police-based restorative justice: The Bethlehem (PA) Project', *Police Practice and Research: An International Journal*, 4(4): 379–390.
- McCold, P., and Stahr, J. (1996) *Bethlehem Police Family Group Conferencing Project*, Paper presented to the American Society of Criminology Annual Meeting, Chicago, November 20-23.
- McCold, P. and Wachtel, B. (1998) *Restorative Policing Experiment: The Bethlehem Pennsylvania Police Family Group Conferencing Project*, Pipersville, PA: Community Service Foundation.
- Marinos, V. and Innocente, N. (2008) 'Factors influencing police attitudes towards extrajudicial measures under the youth criminal justice act', *The Canadian Journal of Criminology and Criminal Justice*, 50(4): 469–489.
- Meadows, L., Albertson, K. Ellingworth, D. and Senior, P. (2012) *Evaluation of the South Yorkshire Restorative Justice Programme*. Sheffield: Hallam Centre for Community Justice.
- Meadows, L., Clamp, K., Culshaw, A., Cadet, N., Wilkinson, K. and Davidson, J. (2010) *Evaluation of Sheffield City Council's Community Justice Panels Project*. Hallam Centre for Community Justice. Sheffield: Hallam Centre for Community Justice.
- Miers, D. (2004) 'Situating and researching restorative justice in Great Britain', *Punishment and Society*, 6(1): 23-46.
- Moore, D. (1993) 'Facing the Consequences', in L. Atkinson and S. Gerull (eds) *National*

- Conference on Juvenile Justice Conference Proceedings*, Canberra: Australian Institute of Criminology.
- Moore, D. (1994) 'Evaluating Family Group Conferences', in D. Biles and S. McKillop (Ed.) *Criminal Justice Planning and Coordination*, Canberra: Australian Institute of Criminology.
- Moore, D. (1995) *A new approach to juvenile justice: An evaluation of family conferencing in Wagga Wagga, A Report to the Criminology Research Council*, Wagga Wagga, Australia: Center for Rural Social Research, Charles Sturt University–Riverina.
- Moore, D. and Forsythe, L. (1995) *A New Approach to Juvenile Justice: An Evaluation of Family Conferencing in Wagga Wagga: A Report to the Criminology Research Council*. Wagga Wagga, AUS: Centre for Rural Social Research, Charles Stuart University-Riverina.
- Moore, D. and O'Connell, T. (1994) 'Family conferencing in Wagga Wagga: A communitarian model of justice', in C. Alder and J. Wundersitz (eds) *Family Conferencing and Juvenile Justice: The Way Forward or Misplaced Optimism?*, Canberra: Australian Institute of Criminology.
- Moore, d., Forsythe, L., and O'Connell, T. (1995) *A New Approach to Juvenile Justice: An Evaluation of Family Conferencing in Wagga Wagga*. Wagga Wagga, Australia: Charles Strut University.
- O'Connell, T. (1998) 'From Wagga Wagga to Minnesota'. Paper presented at the First International Conference on Conferencing, Minneapolis, MN, USA. Available from: http://www.iirp.edu/article_detail.php?article_id=NDg5
- O'Mahony, D. and Doak, J. (2004) 'Restorative justice – is more better? The experience of police-led restorative cautioning pilots in Northern Ireland', *Howard Journal of Criminal Justice*, 43(3): 484–505.
- Pearson-Goff, M., and Herrington, V. (2013) 'Police Leadership: A Systematic Review of the Literature', *Policing: A Journal of Policy and Practice*, 8(1): 14–26.
- Peel, R. (1829) *Sir Robert Peel's Principals of Law Enforcement*. Online. Available from: https://www.durham.police.uk/About-Us/Documents/Peels_Principles_Of_Law_Enforcement.pdf
- Richards, K. (2010) *Police-referred restorative justice for juveniles in Australia*. Trends & issues in crime and criminal justice no. 398, Canberra: Australian Institute of Criminology.
- Roberts, A. and Masters, G. (1999) *Group Conferencing: Restorative Justice in Practice*, Minneapolis, MN: University of Minnesota, Centre for RJ and Mediation, School of Social Work.
- Shapland, J. (2009) Restorative justice conferencing in the context of community policing', in

- L. Moor, T. Peters, P. Ponsaers, J. Shapland and B. van Stokkom (Ed.) *Restorative Policing*, Netherlands: Maklu-Publishers.
- Sherman, L. and Strang, H. (1997) *The Right Kind of Shame for Crime Prevention*, RISE Working Paper No. 1. Canberra: Australian National University, Research School of Social Sciences. Online. Available from:
www.aic.gov.au/rjustice/rise/index.html
- Sherman, L. and Strang, H. (2007) *Restorative Justice: The Evidence*, London: The Smith Institute.
- ~~Sherman, L. and Strang, H. (2007) *Restorative Justice: The Evidence*. London: The Smith Institute.~~
- Sherman, L., Strang, H., and Barnes, G. (1997) *Reintegrative shaming experiment for restorative community policing*. Canberra: Australia National University.
- Shewan, G. (2010) *A Business Case for Restorative Justice*, Available from:
www.restorativejustice.org.uk/resource/the_business_case_for_restorative_justice_and_policing/.
- Silvestri, M. (2007) 'Doing police leadership: Enter the new smart macho', *Policing and Society*, 17(1): 38-58.
- Simmons, J., Legg, C. and Hosking, R. (2003) *National Crime Recording Standard (NCRS): An Analysis of the Impact on Recorded Crime*. Companion Volume to Crime in England and Wales 2002/2003. Home Office Occasional Paper 31/03. London: Home Office.
- Tyler, T. (2006) 'Restorative justice and procedural justice: Dealing with rule-breaking', *Journal of Social Issues*, 62(2): 307-326.
- Umbreit, M. (1999) 'Avoiding the marginalization and "McDonaldization" of victim-offender mediation', in G. Bazemore and L. Walgrave (eds) *Restorative Juvenile Justice: Repairing the Harm of Youth Crime*. New York: Criminal Justice Press.
- Umbreit, M. and Zehr, H. (1996a) 'Family group conferences: A challenge to victim-offender mediation?', *VOMA Quarterly*, 7(1): 4-8.
- Umbreit, M. and Zehr, H. (1996b) 'Restorative family group conferences: Differing models and guidelines for practice', *Federal Probation*, 60(3):24-29.
- Vynckier (2009) 'A comparative view on the role of police in different restorative practices in Flanders', in L. Moor, T. Peters, P. Ponsaers, J. Shapland and B. van Stokkom (Ed.) *Restorative Policing*, Netherlands: Maklu-Publishers.
- Wachtel, T. (1997) *Real Justice: How to Revolutionize our Response to Wrongdoing*. Pipersville, PA: Piper's Press.
- Wachtel, T. (2000) 'Restorative practices with high-risk youth', in G. Burford and J. Hudson

- (eds) *Family Group Conferencing: New Directions in Community Centered Child & Family Practice*. Hawthorne, NY: Aldine de Gruyter.
- Wachtel, T., and McCold, P. (2000) 'Restorative justice in everyday life', in J. Braithwaite and H. Strang (eds) *Restorative Justice in Civil Society*. New York: Cambridge University Press.
- Wright, M. (1991) *Justice for Victims and Offenders: A Restorative Response to Crime*, Milton Keynes: Open University Press.
- Young, R. (2001) 'Just Cops Doing "Shameful" Business? Police-led Restorative Justice and the Lessons of Research', in A. Morris and G. Maxwell (eds) *Restorative Justice for Juveniles Conferencing, Mediation and Circles*, Oxford: Hart Publishing.
- ~~Young, R. (2003) 'Just cops doing "shameful" business? Police-led restorative justice and the lessons of research', in A. Morris and G. Maxwell (eds) *Restorative Justice for Juveniles Conferencing, Mediation and Circles*. Oxford: Hart Publishing.~~
- Young, R. and Gould, B. (2003) Restorative police cautioning in Aylesbury – from degrading to reintegrative shaming ceremonies', in E. McLaughlin, R. Fergusson, G. Hughes and L. Westmarland (eds) *Restorative Justice: Critical Issues*, Thousand Oaks, CA: Sage Publications.
- Young, R. and Hoyle, C. (2003) 'New Improved Police-Led Restorative Justice?', in A. von Hirsch, J. Roberts, A. Bottoms, and M. Schiff (Ed) *Restorative Justice and Criminal Justice Competing or Reconcilable Paradigms*, Oxford: Hart Publishing.
- Zehr, H. (1990) *Changing Lenses*, Scottsdale, PA: Herald Press.

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