

Research Paper

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Restorative Justice: **Female Offenders in Restorative Justice Conferences**

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Executive Summary

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Background

The political momentum behind restorative justice has increased significantly over the last few years and its provision within the criminal justice system looks set to grow rapidly (Ministry of Justice, 2012a). There is general academic consensus that restorative justice performs highly in terms of victim satisfaction and Randomised Control Trials (RCTs) have demonstrated that it can significantly reduce the likelihood of reoffending for those offenders who take part (Shapland et al., 2008).

This move to expand the use of restorative justice across the criminal justice system will undoubtedly mean that far more offenders will be taking part in conferences over the coming years. Whilst the academic literature is broadly supportive of restorative justice and the positive impact it can have, there is a paucity of knowledge and understanding regarding the participation of female offenders in these conferences.

Much of the evidence for restorative justice is based on research with male offenders. Women and girls have largely been overlooked, or assimilated within samples containing mainly males, obscuring any differences that may exist. There is some limited international evidence and some from the youth justice system, but this is far from conclusive and often generates more questions than answers. The evidence from the Ministry of Justice evaluations suggest that gender makes no difference to reoffending rates after conferences, but this was also based on a comparatively small number of females and cannot be seen as sufficient to rule out the impact gender may have on these conferences.

Research

This report examines the experiences of female offenders in restorative justice conferences, first through a literature review of the available evidence and then through a dozen interviews with restorative justice practitioners who have worked with both male and female offenders. Due to significant problems with participant recruitment, it was not possible to interview female offenders themselves, and speaking to practitioners was a practical alternative. This approach was not without its drawbacks, however.

Practitioners were often speaking on behalf of the females they had worked with and there was a presumption that they had a full and honest understanding of the female participants' views and experiences. Each practitioner might have interpreted the actions of the female offenders differently or used different approaches to deliver conferences, which may have affected the results they saw. It is extremely difficult to isolate gender as a variable, as many other studies have found, and practitioners understandably had difficulty in pinpointing whether particular factors associated with female cases were 'gender related' or the result of other influences. Moreover, due to the very limited number of practitioners who had worked with adult female offenders in conferences, the scope of this report was broadened to include practitioners from the youth justice system — and

inherent in this are a whole range of factors which may vary in respect of the experiences of women and girls in conferences, and which cannot be accounted for.

Nonetheless, the literature review highlights a number of factors, including: greater levels of prior victimisation; a higher prevalence of mental health problems; greater levels of stigmatisation and shame; different desistance trigger points; and complex patterns leading up to offending, often involving interpersonal relationships, all of which could impact significantly on female experiences of restorative justice. Based on this, four research questions were identified:

- 1) Do restorative justice practitioners treat males and females offenders differently?
- 2) What types of cases involving female offenders go to conference?
- 3) Do practitioners notice any differences between male and female offenders in terms of how they react to the restorative justice process?
- 4) Are there risks with female offenders that practitioners think should be given particular consideration?

Findings

The practitioner interviews generated a number of interesting findings:

- The number of restorative justice cases involving female offenders seemed particularly low in comparison to their numbers within the criminal justice system. Whilst a lack of national data means it is currently impossible to say to what extent this is true, it was the overall impression many of the practitioners had developed.
- There was no clear agreement among practitioners about the approach they should take with female offenders: some thought they should be treated exactly the same as males; some thought they required a different approach; and others thought it should be decided on a case-by-case basis. This highlighted the lack of guidance that is currently available to practitioners in this area.
- 'Emotions' were often mentioned by practitioners, with some suggesting that females were more likely to display visible emotion, for example by crying, which may influence how the victim feels and the outcome of the conference.
- Some practitioners noted the difficulties they had initially getting female offenders to engage with a restorative justice process, suggesting that having a prior connection to a victim might make participating in a conference more challenging for females offenders.
- Linked to this were further suggestions about the impact it might have on conferences if the victim and offender knew each other previously, and the perceived frequency with which this is the case with female offenders.
- There was some disagreement from practitioners also about the 'honesty' and 'openness' of female offenders – with some believing that women were more likely to be frank and straight-talking, whilst others felt there was a tendency for females to try to manipulate the situation.
- In general, practitioners only really felt that cases were likely to be inappropriate for a

conference if there was significant animosity between the victim and offender or if it was felt that a significant power imbalance was likely to occur. A few practitioners highlighted that they felt females were sometimes 'over-protected' and prevented from taking part in conferences, when in fact the experience might be beneficial for them.

- This research could identify no examples of restorative justice being delivered in the context of women's prisons.
- A significant proportion of the cases practitioners described involved female assaults against police officers. It was suggested that these cases might be more likely to go to conference because in all likelihood the female will not have known the police officer previously and police officers may be more willing to take part in conferences than other members of the public.

Recommendations

In light of these findings, this report makes four key recommendations. The first three are directed at the Ministry of Justice and the last at the wider research community.

Recommendation 1: Community based Women's Centres should work closely with restorative justice practitioners to facilitate restorative justice conferences with women offenders. The staff at the Women's Centres will have significant experience in addressing the particular needs of women and would be well placed to help develop our understanding of the suitability of restorative justice for this cohort.

Recommendation 2: Greater investment is required to establish restorative justice projects within the women's custodial estate, including provision to evaluate these projects to reveal more about best practice both in terms of delivery and achieving positive outcomes, and any practical implementation barriers that might be faced.

Recommendation 3: Future publications from the Ministry of Justice on 'working with women offenders' should include some guidance in relation to restorative justice, as it is completely omitted from the current document.

Recommendation 4: Many of the points discussed in this report raise questions for further research and much more should be done in the near future to understand the impact of restorative justice on female offenders. In particular, areas for further research should focus on:

- Whether female offenders are under-represented in restorative justice;
- The approach restorative justice practitioners should take with female offenders;
- Whether females are more likely to physically display emotion and whether this affects conferences;
- Whether female offenders are more reluctant to engage in restorative justice and the implications this might have;
- Whether the risk assessment process is right for female offenders; and
- Whether restorative justice should be prioritised for women offenders.

ENDS