

AN EXAMINATION OF THE ‘BREAKING THE CYCLE’ GREEN PAPER TO DETERMINE WHETHER THE PROPOSED INCREASE IN THE USE OF RESTORATIVE JUSTICE IS MORE LIKELY TO REDUCE THE RECIDIVISM RATES OF YOUNG OFFENDERS THAN THE CURRENT CRIMINAL JUSTICE SYSTEM.

By **Laura Hush**¹

Abstract

This research paper considers the proposals put forward by the Government in the ‘Breaking the Cycle: Effective Punishment, Rehabilitation and Sentencing of Offenders’ (Ministry of Justice, 2010) Green Paper against theories of desistance from crime. This is to determine whether the proposed increase in the use of restorative justice could decrease recidivism rates of young offenders, or whether the current criminal justice system has a greater ability to achieve this. The major difference between the current criminal justice system and restorative justice is that, whilst the current criminal justice system focuses predominantly on punishing the offender, restorative justice concentrates on addressing the underlying reasons for the behaviour and the perspective of the victim. This difference is focussed on throughout the analysis.

This research found that young offenders’ desistance from crime can be a result of them maturing, though it is also assisted by strong links with the local community and wider society, for example through work or relationships. As such requirements are met more closely by restorative justice practices; it seems that this would be better placed than the current criminal justice system to decrease young offenders’ recidivism. The detailed reasons for this finding are discussed in this research.

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Chapter One:

Introduction

1.1 – The Focus of this Research

In 2010 the Coalition Government introduced a Green Paper entitled ‘Breaking the Cycle: Effective Punishment, Rehabilitation and Sentencing of Offenders’ (Ministry of Justice, 2010) (hereafter, the ‘Green Paper’). It proposes significant changes to the criminal justice system, aiming ‘to make the public safer by breaking the cycle of crime’ (Ministry of Justice, 2010: 7) therefore, aiming to reduce recidivism. The Green Paper refers to both the youth and adult criminal justice systems, however the differences between youth and adult court processes and sentencing make it too lengthy to consider both systems under the restraints of this research. Therefore, this research will focus on the youth criminal justice system, as it is in this area that restorative justice techniques have been predominately practised thus far.

There is an emphasis throughout the Green Paper to increase the use of restorative justice (Ministry of Justice 2010: for example, 9, 21, 81) and to gain insight from the Northern Ireland model of youth conferencing to achieve this. Additionally, and specifically regarding the youth criminal justice system, the Government proposes to use parenting orders, simplify out-of-court disposals and provide a joined up approach (Ministry of Justice, 2010). Therefore, this research will assess the current criminal justice system and the restorative justice proposals against theories of desistance from crime to determine whether such a radical change to the criminal justice system is necessary to decrease recidivism, or whether the current criminal justice system is more effective.

1.2 - Definition and Explanation of Key Terms

For the purposes of this research, certain terms have been defined to ensure the reader’s understanding throughout. The terms ‘restorative justice’ and ‘desistance theory’ are defined and ‘Youth Offending Teams’ and their aims are explained, as these are referred to throughout the research.

For the purposes of this research, restorative justice is defined as processes which

‘bring those harmed by crime or conflict, and those responsible for the harm, into communication, enabling everyone affected by a particular incident to play a part in repairing the harm and finding a positive way forward’ (Restorative Justice Council, 2011).

This definition has been chosen as the Restorative Justice Council is the ‘national voice for restorative practice’ (Restorative Justice Council, 2011a) so has good authority to define the term. The definition also incorporates common factors observed in definitions from other sources (Zehr, 2002, Robinson & Shapland, 2008).

For the purposes of this research, desistance theory is defined as

‘the long-term abstinence from crime among individuals who had previously engaged in persistent patterns of criminal offending’ (Maruna, 2010: 26).

This definition avoids an attempt to pinpoint a specific end to an offender’s criminal career and focuses instead on the maintenance of refraining from criminal behaviour, this is important as desistance is a process best evaluated over time. However, this makes desistance difficult to measure in any way other than retrospectively, as there is undoubtedly time between the commission of each offence when an individual is law abiding. The definition also encapsulates other commonly used definitions without being misleading as to the length of time desistance can take (Farrell and Calverley, 2006, Fitzpatrick, 2011).

Youth Offending Teams are referred to throughout this research. Youth Offending Teams were introduced following the Crime and Disorder Act 1998 and are multiple agencies working together overseen by the Youth Justice Board. They are largely involved in supporting young offenders undertaking community sentences and those in custody, but also provide support to young people who may become involved with crime (HM Government 2012).

1.3 – The Structure of this Research

The structure of this research paper will be as follows:

Chapter One – This chapter introduces the research and defines key terms.

Chapter Two – This chapter will explain and justify the research method chosen, highlight ethical considerations and explain how the research was conducted.

Chapter Three – This chapter will explain the youth criminal justice system as it currently exists in England and Wales. This overview focuses on how the system addresses young offenders and the effects it can have on them. Throughout the analysis, problems with the current criminal justice system will be highlighted.

Chapter Four – This chapter will consider some of the Green Paper proposals and evaluate some of the responses to the proposals.

Chapter Five - This chapter will explain what restorative justice is, including how it addresses young offenders and how it could be used to advance the Government's objectives in the Green Paper. It will also consider the Northern Ireland model of youth conferencing, as this is highlighted as an area from which insight could be gained to assist with the proposed increase in restorative justice. This chapter will also address potential inhibitions to the increased use of restorative justice.

Chapter Six – This chapter will explain and consider desistance theory as an overarching theory to explain why offenders stop offending. The principles of the theory will be applied to both the current criminal justice system and restorative justice practices to determine which system would be best to assist the Government's aim to reduce recidivism.

Chapter Seven - This chapter will collate the findings of the research and conclude whether the proposed increase in the use of restorative justice would be more likely to reduce the recidivism rates of young offenders than the current criminal justice system.

Chapter Two:

Methodology

2.1 - Deliberation over Primary Research

During the early stages of this research, careful deliberation was undertaken to determine whether the inclusion of primary research would provide a more detailed and useful study than conducting secondary research alone. This was largely due to the available literature being more limited as the Green Paper was only published in December 2010, therefore the area might benefit from the conduct of primary research.

Primary research would be useful to assess the effectiveness of the current criminal justice system against the potential of restorative justice by interviewing young offenders who had experienced aspects of both traditional and restorative justice and determining their responses to both systems. This involves gaining ethical approval, seeking participants, conducting the primary research and analysing the responses. However, as the process is time consuming and primary research is most reliable in larger samples (Pearson, Lipton, Cleland & Yee, 2002), it would be difficult to create a representative sample under the time constraints of this research. Therefore, secondary research was selected to avoid conducting primary research from which little can be gained due to its limited sample size.

2.2 - Advantages of Secondary Research

A significant advantage of secondary research is that the approach is 'established' (David & Sutton, 2004: 185) within the social sciences, so it is recognised as a valid method of research. A further advantage is the ability to 'access to good quality data' (Bryman, 2004: 202) using significantly less resources than would be possible with primary research. This enables a consideration of a wider variety of data, which is essential as the main aim of www.internetjournalofcriminology.com

secondary research is a gathering of knowledge (Jupp, 2000 in Jupp, Davies & Francis 2003). However despite clear advantages, there are also disadvantages to the sole use of secondary research.

2.3 - Disadvantages of Secondary Research

The foremost disadvantage of secondary research is being limited to 'the availability ... of existing data' (David & Sutton, 2004: 185). This is particularly applicable due to the relatively short period of time between the release of the Green Paper and the beginning of this research. However, the more manageable quantity of literature avoids extensive data collection without analysis. This is important as secondary research is 'more than a mere description of the current state of knowledge of an area' (Adolphus 2012), therefore analysis is crucial to prevent a mere repetition of data available elsewhere.

A further disadvantage of secondary research is that key variables may differ between those of the primary research and those of the current research (Bryman, 2004). However, existing research into restorative justice is predominately about its potential, which makes it relevant to this research. Theories about desistance from crime are also relevant as it is the principles arising from these theories that will be applied to the current research. Therefore, differing variables should not be a significant concern. Despite this, consideration will be given to the reasons the primary researcher undertook their research to ensure its applicability to this research. As shown, there are also disadvantages to the sole use of secondary research. Nevertheless, for this research the advantages outweigh the disadvantages, so it is the most appropriate choice of research method.

2.4 – Ethical Considerations

As research is always an ethical activity (Jupp, Davies & Francis 2003), researchers 'owe a duty to themselves [and their] audiences to exercise responsibility' (Francis, 2000: 31 in Jupp, Davies & Francis 2003). Due to the absence of primary research, the extent of ethical considerations for this research is quite limited. However, care has been taken to ensure that comments from those responding to the Green Paper are taken directly from published response papers and not embellished and research has been credited to its researcher.

2.5 – Resources Used and How the Research was Conducted

The research for this paper was collected using a systematic approach. Each section was considered individually and comprehensive research of journals, academic texts and online resources was undertaken. This allowed the consideration of an extensive amount of data.

Academic texts are a very strong and reliable source of research. They are often supported by primary research, or many years of working in the specific field of research. The academic theories used in this research are also longstanding, so have undergone years of scrutiny both from other academics and those applying theories in practice. Newer journals are also valuable as they incorporate developments from modern society to established research. This makes academic texts a useful and trustworthy source of information.

Online research provides access to an extensive amount of information from the whole world, though care was taken to ensure that the material selected was from reputable and reliable sources. The internet was used to access the websites of those responding to the Green Paper to gain copies of their responses. It was also used to access online journals.

Choosing secondary research allowed a comprehensive analysis of established theories against the Green Paper proposals and some responses to it to determine whether the increased use of restorative justice could decrease the use of recidivism in young offenders.

Chapter Three:

The Current Criminal Justice System

'An expensive way of giving the public a break from offenders'

(Ministry of Justice: 2010:1)

3.1 - The Current Youth Criminal Justice System and its Effect on Young Offenders

Under the current criminal justice system, young offenders can be given a reprimand and/or a final warning by the police as a caution before undergoing the court process (Nottinghamshire County Council, 2012). This provides some out-of-court disposal options, but the methods have been found to be 'arbitrary, unfair and disproportionate' (Puech and Evans, 2001: 804) as interventions by the police can actually cause young offenders to continue offending (Smith 2006). This is likely to be because many offences by young people occur because of peer pressure, family problems or behavioural issues, none of which are solved by police cautions. Therefore, young offenders are pushed into the criminal justice system (Fox et al, 2006, in Koffman and Dingwall, 2007) at an early age, as the reasons for their offending are not addressed so leading a life away from crime is more difficult.

Once a young person has been charged with a criminal offence he is summonsed to court. The court process is 'less formal than an adult magistrates' court or a Crown Court' (HM Government, 2012a) and only parents or guardians, lawyers, court staff and a member of the Youth Offending Team are allowed to attend. At court, unless the case is being committed to the Crown Court, the evidence is heard and a decision is reached. There is a wide selection of both custodial and community sentencing options available, though this variety may actually be a 'prescription for inconsistency, and perhaps even prejudice' (Fox et al, 2006, in Koffman and Dingwall, 2007). This is due to the court's significant degree of discretion and the extent of information considered before a decision on sentence is reached. Information about the offence is gained from the court hearing and details about the young offender are gained from a Pre-Sentence Report compiled by the Youth Offending Team. This includes information such as the offender's background and level of remorse. Therefore, the Youth Offending Team's perception of the young offender is significant and the potential for offenders who understand the system to manipulate it, for example by showing false remorse, is high.

3.2 – Custodial Sentences

Custodial sentences are only passed if the offence is so serious there is no other option, if the offender has committed previous offences or if the court believes the young offender to be a risk to the public (HM Government, 2012b). Custodial sentences, unless passed by the Crown Court for a very serious offence, are called Detention and Training Orders. These are given to young offenders aged between twelve and seventeen years for between four months and two years. Secure children's homes are available for young offenders aged between ten and twelve years (HM Government, 2012c). The first half of a Detention and Training Order is served in custody and the second half in the community. Whilst in custody, young offenders are taught skills to assist with education, training and behaviour before their release (HM Government, 2012c).

3.3 – Community Sentences

The content of the community element of a Detention and Training Order, or a community sentence, varies greatly, although it usually includes elements of supervision, education or training and repaying the community (HM Government, 2012d). Supervision can be as minor as a curfew or as serious as an Intense Supervision and Surveillance Programme, where a young offender is closely supervised and supported. Supervision is both a punishment, as it restricts a young offender's movements, and a preventative measure, as restricting movement can help prevent reoffending. The education or training element helps young offenders gain new skills to assist with education, employment or addressing behaviour management issues. This helps young offenders to develop the skills required to integrate more successfully with society. The reparation element involves repairing 'harm or damage caused' (HM Government 2012d) by the offence, such as cleaning graffiti. Whilst this appears to employ restorative justice techniques, it has been questioned whether it is truly restorative, or simply 'used to augment an otherwise punitive system' (Koffman and Dingwall, 2007). Appendix A provides a diagram showing which activities are genuinely restorative.

Due to the wide variety of possible attachments to community sentences and the different severities with which they can be imposed, community sentences require great discretion. Their content is influenced significantly by the information included in the Pre-Sentence Report and the recommendations it provides. It is rare for magistrates to deviate from the recommendations. Therefore, it appears that the same magistrates able to impose a custodial sentence on young offenders are not able to impose a community sentence, despite this being used for less serious offences, without significant guidance from the Youth Offending Team (Ball, 2000). This brings into question the level of training given to magistrates as they rely so closely on the Youth Offending Team recommendations when sentencing young offenders. The influence of the Youth Offending Team in sentencing can weaken its relationship with young offenders, as if a young offender is unhappy with his sentence, his trust in the agency designed to assist him can be undermined.

3.4 – Chapter Summary

The current criminal justice system can 'draw young people into [it], when an informal intervention could be more effective' (Ministry of Justice, 2010: 68). At court, the Pre-Sentence Report and the discretion of the magistrates is significant, in a system where the sentencing options are very clear (custody or community) but the options which can be attached to the sentence are vast (for example, the specification of classes in custody or the requirements of the community sentence). This discretion, whilst important to ensure that offenders are sentenced appropriately, leads to inconsistency. The extensive variety of sentencing options also makes it challenging to explain sentences to the public.

Chapter Four:

Proposals from Breaking the Cycle: Effective Punishment, Rehabilitation and Sentencing of Offenders

'A fundamental break with the failed and expensive policies of the past' (Ministry of Justice, 2010: 2)

4.1 - Proposals of the Green Paper and Some Responses

4.1.1 – The Green Paper Proposals

The Green Paper states that the 'criminal justice system cannot remain an expensive way of giving the public a break from offenders, before they return to commit more crimes' (Ministry of Justice, 2010: 1). Therefore, its principle aim is to reduce reoffending. Currently, 75% of young offenders released from custody and 68% of young offenders who have served a community sentence reoffend within one year (Ministry of Justice, 2010). Considering such high reoffending rates and that a high proportion of adult offenders first commit crimes at an early age, preventing young people starting criminal careers is an extremely cost effective benefit to communities (Hales, Nevill, Pudney, & Tipping, 2009).

To reduce recidivism, the Government proposes to increase the use of restorative justice. This is mentioned frequently in the Green Paper (Ministry of Justice, 2010: for example 64, 67, 69). To implement this, the Green Paper proposes to use experiences from the Northern Ireland model of youth conferencing, increase the use of parenting orders, simplify out-of-court disposals and provide a joined up approach.

4.1.2 – Using the Term 'Restorative Justice'

The term 'restorative justice' is not defined in the Green Paper. This causes problems as, whilst most definitions emphasise repairing harm and involving victims, there are many different interpretations of what this actually includes (Marshall, 1999, Poulson, 2003 Wright, 2008 Daly & Immarigeon, 1998). Nacro, the 'largest' (Nacro, 2012) and 'longest established criminal justice charity' (Nacro, 2012a) in England and Wales, offers a helpful response to this. It shows that there is a need to define exactly what is meant by restorative justice to ensure activities are genuinely restorative, to prevent reparative activities such as unpaid work being used as a default for community sentences (Nacro, 2011). See Appendix A for a diagram to show the extent to which different activities are restorative.

Nacro is influential and aims 'to influence government policy by promoting the impact of its work' (Hall, 2011). Its response to the Green Paper's proposals is highly likely to be considered by the Government as it works with over 83,000 people a year, preventing people becoming involved in crime, whilst offenders are serving a sentence and after their release (Nacro, 2011a). Its achievements are exceptional, with 70% of the 10,100 young people attending a learning programme run by Nacro gaining a qualification, further education or employment in 2009/2010 (Nacro, 2011a). This experience and success provides Nacro with a great insight into reducing recidivism.

Nacro suggests that the definition of restorative justice decided upon should include an emphasis on restorative conferencing (Nacro, 2011). Whilst the Green Paper does not include a definition, the proposal to increase restorative justice does include an element similar to this, as it states that experiences should be gained from the Northern Ireland model of youth conferencing, which is a model of restorative conferencing. Under this model, young offenders meet their victim (or a representative of their victim) and other professionals to discuss the offence and its consequences and agree an action plan for the offender (see chapter five at 5.3)

Therefore, Nacro agrees with the proposed increase in the use of restorative justice in principle, though emphasises the need to ensure practices remain wholly restorative. There is value in this response as, without a definition, it is difficult to determine whether the practices are genuinely restorative. This can also help to train practitioners and explain the techniques to the public.

However, a potential concern to the increase in the use of restorative justice is the risk of offenders being forced to participate. The National Society for the Prevention of Cruelty to Children (NSPCC) provides a helpful response to this proposal, explaining the concern about involuntary restorative justice.

The NSPCC was established in London in the 1880s and, since then, it has helped over 10,000,000 children and young people, including those who have suffered sexual or physical abuse or neglect. Its response is highly influential as it is the 'only UK children's charity with statutory powers' (NSPCC, 2012). The NSPCC's response does support the proposed increase in restorative justice but emphasises that young offenders should not be forced into it as this can affect the effectiveness (NSPCC, 2011). This creates a problem as, if the use of restorative justice is increased, adequate alternatives for situations where a young offender is not willing to undertake such an approach need to be considered. Without this, the effectiveness of the restorative justice process could be undermined as there is a risk that a young offender will then comply as there is no alternative, therefore significantly limiting its effect. There is weight behind this comment as many academics and practitioners who recommend restorative justice highlight its voluntariness as being an important factor (Marshall, 1999, Latimer, Dowden & Muise, 2005).

Therefore, the NSPCC raises a valid concern that an alternative to restorative justice may be necessary to allow it to remain voluntary. However, this raises a further problem in itself as, if it remained voluntary, it would be difficult to enforce as a court order under the current system. This is an area in which experiences from the Northern Ireland model of youth conferencing could be used to help England and Wales increase the use of restorative justice effectively.

4.1.3 – Experiences from The Northern Ireland Model of Youth Conferencing

The Green Paper proposes to draw 'on the experiences of youth conferencing in Northern Ireland' (Ministry of Justice, 2010: 69) to increase the use of restorative justice. This service has significantly reduced reoffending rates in Northern Ireland (Jacobson & Gibbs, 2009). It is explained in more detail in chapter five at 5.3.

The NSPCC considers the proposal to use experiences from the Northern Ireland model of youth conferencing to be 'wise' (NSPCC, 2011). However, it expresses concern that differences, such as the different levels of social integration in England and Wales compared to Northern Ireland, should be considered as these will have a significant impact on the effectiveness of such an approach. This is because, as explained throughout chapter five, restorative justice has a strong focus on community; therefore the effects of such practices are likely to be greater where communities have closer ties. Consequently, in areas where community ties are weaker, restorative justice techniques could potentially be less effective. This initially appears to be a strong argument. However if it was true, Iceland, a country with high social integration, should consequently have a low level of recidivism. Yet when examined, the recidivism rates were 'closely approximate to that of other nations, many of which were far less communitarian' (Baumer, 2002:40). This could be because restorative justice can help to build community ties which were not previously present. For example, when a young offender meets an elderly victim, they each have the opportunity to start a relationship with a member of society they may have been unlikely to interact with otherwise. This can encourage others to follow, thereby creating community ties. Consequently, the difference in community cohesion may be of less concern than suggested by the NSPCC.

Therefore, the NSPCC is generally supportive of the proposal to learn from the experiences of the Northern Ireland youth conferencing model. Whilst it does express concern about the levels of social integration between the jurisdictions, the study in Iceland appears to show that this concern, whilst clearly a point for consideration by the Government, may be less substantial than it first appears.

4.1.4 – Parenting Orders

The Government proposes to encourage Youth Offending Teams to work more closely with parents when they are not accepting their responsibilities, as 'supporting parents to improve their parenting skills plays a significant part in improving life chances and reducing reoffending' (Ministry of Justice, 2010: 68). This has been met with a negative response from the Children's Legal Centre, which specialises 'in law and policy affecting children and young people' (The Children's Legal Centre, 2012) as it believes that parenting orders 'should only be used as a last resort, where a parent refuses to respond to other support or training' (The Children's Legal Centre, 2011).

The Children's Legal Centre aims to 'monitor and develop law, policy and practice [and] ... influence policy makers' (The Children's Legal Centre, 2012a). Its response to the Green Paper is likely to be important to the Government as it is developed by legal professionals who have direct experience of legislation in practice. Its response also offers a different perspective to those from the many different charitable organisations.

The Children's Legal Centre follows guidance from the United Nations Committee on the Rights of the Child that, whilst parents are responsible for the upbringing of their children, the state must give necessary assistance to support them (The Children's Legal Centre, 2011). Therefore, the focus should be on home and family based intervention programmes to enhance parent/child interaction, not just prevent negative situations (UN Committee on the Rights of the Child, 2010).

This is a particularly negative response though it does provide scope for the Government to amend its proposals in light of the concerns. It could be helpful for the Government to develop possible restorative interventions to be available before the need for a parenting order. If these were effective, the need for parenting orders would be a last

resort, as supported by The Children's Centre, but the Youth Offending Team could also be involved and provide support at an early stage, as proposed by the Green Paper.

4.1.5 – Simplifying Out-of-Court Disposals

The Government proposes to simplify out-of-court disposals to 'divert [young people] from entering into a life of crime' (Ministry of Justice, 2010: 12) and reduce the need for custody. Under the current system, out-of-court disposals account for 40% of responses to youth offending, but after two out-of-court disposals young offenders are automatically required to attend court (Ministry of Justice, 2010). The Green Paper proposes to simplify out-of-court disposals and give greater discretion to the police to address youth offending before it reaches court, thereby ending automatic escalation to court and instead trusting 'the professionals working with the young people on the ground' (Ministry of Justice, 2010: 69).

Nacro provides a positive response to this proposal, suggesting that if public protection is not an issue, a more flexible approach should be adopted which removes the automatic escalation and includes restorative activities (Nacro, 2011). This restorative disposal at the police station is also supported by JUSTICE (2011), an organisation specialising in human rights and law reform which promotes improvements to the legal system (JUSTICE, 2012). This demonstrates strong support for this proposal. However, it is likely that implementing such a proposal would require police officers to undertake additional training to fully understand all the restorative measures available and apply the most appropriate ones in each situation.

A further response supports the simplification of sentencing frameworks generally, but believes it would be 'valuable to consider the codification of sentencing law' (The Sentencing Council, 2012). However, whilst this could help police officers understand which measure is most appropriate in each circumstance, it could remove the flexibility suggested by Nacro. This emphasises the Government's need to consider all of the responses to ensure the best implementation of the proposal.

4.1.6 – A Joined Up Approach

A further proposal in the Green Paper is to provide a 'local, joined up approach to address the multiple disadvantages that many young offenders have' (Ministry of Justice, 2010: 68). This means that different agencies would work together to assist young offenders. Addressing young offenders' concerns about education, employment and housing gives them a new background to help them lead a life away from crime. The NSPCC believes that a local, joined up approach is essential to address the 'traumatic experiences, chaotic lives and complex personal and family problems' (NSPCC, 2011: 10). A 'welfare-based and child-rights orientated approach [also] has the merit of bringing about ... early and positive change' (Parliamentary Joint Committee on Human Rights, 2010: 15). This shows support for a joined up approach and emphasises that the support needs to be integral throughout the criminal justice system, not offered at a late stage by agencies which can be seen as distinct from the criminal justice system. This would allow for more consistent assistance with reintegration and demonstrate the level of support available to young offenders.

Therefore, it seems that a joined up approach which provides young offenders with access to a wide range of services to help them address their problems and desist from offending is supported. This proposal should be

implemented 'carefully' (The Centre for Social Justice, 2012) by reducing the regulatory burdens at local levels and creating a framework to ensure all agencies are working to the same targets (The Probation Association, 2011).

4.1.7 Further Considerations

The Government's own response to the Green Paper states that there will not be a 'push for community sentences to be used instead of prison' (Ministry of Justice, 2011: 4) as community sentences will be transformed into 'more credible punishment' (Ministry of Justice, 2011: 4). However, to ensure community sentences are 'tough and demanding' (Ministry of Justice, 2011: 4) punishments, contradicts the values of the restorative justice techniques which the Green Paper is proposing to adopt. This contradiction typifies the longstanding view that punishment is the core of the criminal justice system and all other services (such as victim support or assistance with reintegration) are secondary. Until this focus changes it is unlikely that restorative justice will be successful, as its values are too far apart from the current system. To change this would involve the modification of long held beliefs about what justice should be. This is an underlying problem with increasing the use of restorative justice and shows that it would take more than policy changes to make a restorative justice based criminal justice system work, as the values of the system also need to be believed in to give it the best chance of success.

Some orders, such as the youth rehabilitation orders introduced in November 2009, will not be changed. Whilst this allows for the impact of the order to be assessed, it inhibits the potential success of restorative justice as the criminal justice system will remain disjointed. This exemplifies the reluctance of the Government to fully commit to restorative justice practices. This creates its own problems as, if public confidence in the system is to be strengthened, it is essential 'proactive steps are taken by others' (Judiciary of England and Wales, 2012).

4.2 – Chapter Summary

The Green Paper's proposals have generally received support from a variety of different agencies (see above, or for further examples: UNLOCK, 2011, Victim Support, 2011, G4S, 2011, Church of England, 2011). It appears to be the details of how to implement the proposed changes that have been addressed with most caution. Therefore, whilst an increase in the use of restorative justice is generally accepted as being a positive and beneficial proposal, the Government needs to take care if implementing the proposed changes to ensure that new policies are truly restorative and the agencies involved are working for the benefit of young offenders. However, until punishment is removed from being the core of the criminal justice system, any changes towards restorative justice could be difficult to implement successfully as the emphasis on punishment would be likely to limit the restorative value of sentences.

Chapter Five:

Restorative Justice

'Already a key part of youth justice we want to encourage [restorative justice] across the youth justice sentencing framework as a whole'

(Ministry of Justice, 2010: 69)

5.1 - What is Restorative Justice?

Society tends to believe that justice occurs when an offender has been suitably punished for his offence; this certainly appears to be the belief of the current criminal justice system. However, restorative justice focuses on repairing harm, both the harm caused to the victim by the commission of the offence and the harm experienced by the offender which led him to commit the offence.

Zehr (2002) suggests that restorative justice has three pillars; harms and needs, obligations and engagement. Harms and needs are those of both the victim and the offender. This recognises that, whilst an offender needs to be accountable for his actions, he may also have suffered harms which need to be addressed to help him stop offending. The obligation refers to whose responsibility each person's needs are, with engagement then being the communication between the victim, offender and wider society to address the needs, thereby fixing the harms. For example, an offender may be obligated to fix a victim's harms, such as repairing a broken fence. However, the offender may have only broken the fence after his anger management issues became uncontrollable due to an unstable home life, so society is obligated to address the offender's harms to help prevent him from reoffending.

Restorative justice has a significant focus on victim satisfaction. However the Green Paper, specifically in relation to youth justice, is more predominately focused on reducing recidivism, with victims generally only mentioned to demonstrate the benefits they could gain from an increase in the use of restorative justice (Ministry of Justice, 2010: for example 12, 69). Therefore, victims will only be addressed where necessary to provide a holistic overview of the theory.

5.2 – The Effectiveness of Restorative Justice

Steve Jones, Director of Remedi, a Sheffield based charity specialising in restorative justice and mediation initiatives, believes that the impact of restorative practices, particularly where the victim and offender meet, generally has a very positive impact on both parties. He states that for young offenders 'to actually hear the reality of what [they've] caused is important. To ... be able to understand the reality and the devastation of what [their] actions have caused is massively important' (Jones, 2011, in Panorama, 2011). Therefore, the effect restorative justice has on offenders is immense, as it enables a genuine realisation of the consequences of their actions, which is a very effective way of gaining real understanding.

Restorative justice is very subjective, as much of its effect arises from the emotions felt by participants during the process. Hence, the best way to explain the effect restorative justice has on participants is through examples. One example comes from a young offender realising how his actions continue to affect his victim. He says that he will 'never do anything like [it] again, not just for the pain to me, to others, my family, your family, to you, to everyone' (Anonymous, 2011, in Panorama 2011). The offender can see the real impact of his actions on the victim, which is more effective than simply hearing about it in a courtroom, as the offender can see it for himself. It also has a significant impact on victims, for example at the first meeting of a young offender and his elderly victim there is 'a kiss and a hug' (Rowe, 2011, in Panorama, 2011) initiated by the victim. This is because victims have the opportunity to have their questions answered and gain a sense of closure on the matter.

5.3 - The Northern Ireland Model of Youth Conferencing

The Government proposes to use experiences from the Northern Ireland model of youth conferencing to help increase restorative justice practices in the criminal justice system of England and Wales. The conferences aim to find reparative justice, so the harm to the victim is repaired, and rehabilitative justice, to help the offender stop offending (Youth Justice Agency, 2008). The Youth Conference Service was introduced in Northern Ireland in 2003. By 2006 the youth reoffending rate, for both those who have undergone conferences as a diversionary measure and those who have been referred post-conviction, was 37.7%. This compares to a previous reoffending rate of 52.1% for those who had served a community sentence and 70.7% for those who had served a custodial sentence (Jacobson & Gibbs, 2009). It also improved victims' experiences, as they were present in two-thirds of conferences in 2008-9 and 90% said they would recommend it to a friend (Jacobson & Gibbs, 2009).

In Northern Ireland young offenders are referred for a conference either after admitting an offence or as part of a court order post-conviction. Conferences are facilitated by a specially trained co-ordinator. At the conference the offender, the victim (or a representative for the victim) and professionals come together to discuss the offence and its consequences and agree an action plan for the offender. The offender provides an account of the offence and the victim or their representative is encouraged to ask any questions they have. The agreed action plan is then approved by the criminal justice agencies and carried out under the supervision of the conference co-ordinator. If the action plan is rejected, the court can impose a different sentence. As the courts refer the case to conference and agree the action plan, restorative conferencing is a fully integrated part of the youth criminal justice system.

The Northern Ireland model of youth conferencing is similar to victim/offender mediation in England and Wales. For this, a Victim Liaison Officer initially identifies a suitable case by meeting with offenders who accept their guilt and where both the victim and offender are willing to participate. He then discusses the process separately with both parties before facilitating a meeting, where the victim can explain how he feels and what he would like to happen and the offender can respond and offer his thoughts on the victim's suggestions to create an action plan (Remedi, 2011). If the Victim Liaison Officer does not feel that a case is appropriate for a direct meeting there are indirect options available, such as letters.

Despite appearing similar, there are significant differences between the two models. With victim/offender mediation the case must be referred by the victim, the offender or by probation. At the meeting, usually only the victim, the offender and the Victim Liaison Officer are present and the action plan is not shown to criminal justice agencies to determine the sentence. With youth conferencing under the Northern Ireland model all cases undertake the conference, additional parties such as a police officer and the young person's solicitor are present (Jacobson & Gibbs, 2009) and the action plan is shown to the court to be considered as a sentence. The presence of additional parties at the conference allows young offenders to see that agencies with whom they have had negative

experiences, such as the police, are actually able to provide support. As the youth conference is directed by the court and the court is presented with the action plan as a potential sentencing option, it is also integrated with the criminal justice system. From the public perspective, this could also give the conference more credibility.

5.4 - The Positives of Restorative Justice

The most significant positive of restorative justice is its focus on repairing harms as opposed to punishing actions. This is central to restorative practices and it is this that allows the harms to both the victim and the offender to be put right, therefore correcting the wrongs of the current situation and the wrongs of the past to help the victim recover from the crime and to help the offender begin a life away from crime.

A further positive is its provision for the victim to have their voice genuinely heard by the offender. This seems to be preferable to the current victim person statement scheme as, whilst the current scheme does give victims the opportunity to describe how the crime has affected them, highlight their concerns and state whether they need any support (CPS, 2012), it has received criticism (see Edwards, 2009 for a discussion).

Another positive is the ability for the results to be achieved both directly, with actual victim/offender dialogue, and indirectly, for example through representatives or indirect exchanges via a mediator (Zehr, 2002). This choice is beneficial as it enables restorative justice opportunities to be available to more people.

5.5 - The Negatives of Restorative Justice

One of the main limitations of restorative justice is that, despite substantial discussion of what restorative justice should be, 'there is no agreed-upon definition' (Daly, 2008 in Sullivan & Tift, 2008). This creates problems in identifying what is wholly restorative and what is only partially restorative (see chapter four at 4.1.2 and Appendix A).

A significant challenge to England and Wales adopting a similar approach to the Northern Ireland model of youth conferencing is that England and Wales is a considerably larger jurisdiction, with an estimated population of 55,240,000 compared to only 1,799,000 in Northern Ireland for the same period (Office for National Statistics, 2011). The greater population results in a considerably larger youth justice system with a 'greater complexity of agencies and partnerships' (Jacobson & Gibbs, 2009: 20) and different budgets, making it harder to adopt the same approach.

Additionally, voluntariness is essential for restorative practices to be most effective (see chapter four at 4.1.2). Therefore, if one party is unwilling to participate the restorative options are reduced, and if neither party is willing to participate, the only remaining option is formal justice (Marshall, 1999). However, 'the majority of [victims] offered a chance to participate would like to do so, and the rate of agreements is also high' (Marshall, 1999: 8). Even if formal justice is the only option, it could still maintain some partially restorative practices, such as reparation (see Appendix A for a diagram to show the extent to which different activities are restorative).

A further limitation is that 'communities are not as integrated as they once were' (Marshall, 1999: 8) which causes problems for restorative justice practices as engagement with the community is a key principle, and one of the earlier identified pillars (see chapter five at 5.1). However, as has been seen with the case of Iceland, this may not cause significant concern (see chapter four at 4.1.3)

Therefore, whilst restorative justice practices can offer significant advantages, in practicality there are significant potential drawbacks. However, these may be limited, as some could be rectified, for example by defining restorative justice, and others may not be as significant as first appears, such as the levels of community cohesion.

5.6 - How Restorative Justice could Assist the Government's Proposals in the Green Paper

5.6.1 – Parenting Orders

Restorative justice practices could assist the proposal for Youth Offending Teams to undertake more work with parents undergoing parenting orders. A restorative parenting order could teach parents the skills needed to support their children and instil discipline whilst recognising and highlighting sources of support for any problems the parents may have. This could help to provide a more stable home environment for young offenders. They would also see that society is providing support to help rectify harms which contribute to their offending behaviour, thereby reducing reoffending by the removal of a contributory factor. This also helps young offenders to create community ties via interactions with the agencies supporting their parents.

5.6.2 – Simplifying Out-of-Court Disposals

The aim of the simplification of out-of-court disposals is to deter young offenders from the criminal justice system, as opposed to drawing them further into it. Restorative justice practices may be able to assist this. Early restorative intervention provides an opportunity for the root causes of young offenders' criminal behaviour to be addressed, thereby helping to prevent future offending. By allowing some offences to be dealt with out-of-court, the young offender is able to remain outside the main criminal justice system but access the support required to address the root causes of his offending.

5.6.3 – Joined up Approach

Restorative justice could also assist with the joined up approach proposed in the Green Paper as it involves different agencies representing different parties working together to repair the harms caused. This enables the young offender to understand that he has not been separated from society but that society is supporting him. This societal support means that the young offender is not labelled and consequently treated differently. This is an important aspect of desistance theory, which explains why offenders stop offending (see chapter six).

It is suggested that the joined up approach proposed could decrease the need for custody (Ministry of Justice, 2010). Currently, 75% of young people released from custody reoffend within one year (Ministry of Justice, 2010). If the use of custody decreases, the use of community sentences will increase. As 68% of young offenders on community

sentences currently reoffend within one year (Ministry of Justice, 2010), the effectiveness of community sentences also needs to be addressed. Increasing the use of restorative justice could assist this because its focus enables young offenders to understand the consequences of their actions towards victims and the wider society and provides the support needed in all areas of life to enable the beginning of a life away from crime. Therefore, the community sentence becomes more effective which reduces the need for custody in itself.

5.7 - Potential Inhibitions to the Increased use of Restorative Justice

Perhaps the most commonly believed inhibition to the increased use of restorative justice is how the public will react to the change (Thomson, 1999, Pali & Pelikan, 2010). For many years, restorative justice has been viewed as a soft option for offenders (Curtis-Fawley & Daly, 2005, Levrant, Cullen, Fulton & Wozniak, 1999, Delgado, 2000 in Morris, 2002). However, it may be possible to persuade the public that restorative justice is useful to address low level first time offending in youths because young people are more impressionable so the impact of having to 'face up' (Youth Justice Board, 2006) to their crimes could be effective. Despite this, it is likely to be more difficult to persuade people that it is a realistic alternative to the current, traditional, criminal justice system for more serious offences if it continues to be viewed as a soft option. A major factor influencing public opinion is the media, as 'news variables ... account for nearly half the variance in opinion change' (Page, Shapiro & Dempsey, 1987: 38). Media articles addressing restorative justice are becoming increasingly positive (The Observer, 2004, BBC News, 2009, The Mirror, 2010), even for serious offences (Sky News, 2011, The Sun, 2012). Therefore, with the assistance of positive media and the clearly encouraging statistics, it may be easier than previously thought to gain the support of the public. This view is supported by a survey which found the public to generally believe that non-custodial sentences are more effective than custodial sentences for youth cases of non-violent offending (Prison Reform Trust, 2008 in Jacobson & Gibbs, 2009).

A further inhibition is the fact that currently, restorative justice sentences are almost entirely distinct from the criminal justice system, as the court only imposes the sentence and becomes involved later if it is breached. It is the Youth Offending Team who suggests the detail of the sentence and manages the order, with some aspects often delegated even further to additional agencies. This can inhibit the effectiveness of restorative justice practices, as it can lead to groups merely working in co-operation with each other, rather than in partnership. A more unified approach would improve the system for those being processed through it, as well as having the potential to improve the public perception of restorative justice as a more simple, unified approach is easier to understand and more credible, particularly if it is a genuine part of the criminal justice system as opposed to appearing separate to it as is currently the case.

5.8 – Chapter Summary

Therefore, restorative justice appears to offer the potential for significant improvements to the criminal justice system, especially as the possible inhibitions to its increased use may not be as substantial as first appears. However, any changes to the youth justice system will require 'strong political will and leadership' (Jacobson & Gibbs, 2009:21). This is because such a radical change could require the implementation of changes and a wait for the public to see reduced reoffending statistics and experience positive changes in their local area before extensive public support is gained. However, as desistance can only be seen over time, it could take some years before any difference made is felt by communities.

Chapter Six:

Desistance Theory

'Creating the opportunities for a life away from crime'

(Ministry of Justice, 2010: 68)

6.1 - The Development of Desistance Theory

Many academics and researchers have explored what factors lead offenders to a permanent cessation of offending. Ideas generally suggest two requirements; for an offender to experience a change within himself and for an offender to receive support from society (Farrell & Calverley, 2006, Maruna, 2010, Farrell, 2009). These ideas fall under the broader heading of desistance theory, which has been described as a modern mystery due to it being so prevalent in research yet comparatively neglected in the depth of its research (Farrall & Calverley, 2006).

Research into reasons why people stop offending began around the 1930s and 1940s, during which Glueck and Glueck conducted extensive research on criminal careers, considering 'not the crime, but the criminal' (The Harvard Crimson, 2011) Their research was later used to test hypotheses, with Laub & Sampson (2001) concluding that strong social bonds could explain why a young offender may simply grow out of crime as he matures. However, it was not until the 1970s and the release of the findings from longitudinal research beginning in the 1960s that research into desistance theory significantly developed. By the middle of the 1980s, it had developed from an additional aspect to research into criminal careers to an investigation topic in its own right (Farrell & Calverley, 2006).

6.2 - What is Desistance Theory?

Whilst desistance can simply be seen as a termination of criminal behaviour, it is more accurately described as the process of maintaining non-criminal behaviour. This is because, whilst there is a time of desistance between offences, an offender has not completely 'quit the life of crime' (Maruna, 2010: 23) forever, but is merely taking a break. The element of long-term abstinence from crime removes the potential for criminal behaviour to be 'sporadically drifted in and out of', as shown by Matza's theory of delinquent drift (Piquero, 2004 in Maruna and Immarigeon, 2004: 109). Desistance requires a combination of the resolution of the offender to want to change and societal support.

Regarding the change to the offender, Maruna (2010) shows that he needs to develop a new identity, by creating a story to explain that he understands the reasons for his previous offending and that these influence who he is now, as a new person distinct from crime. It is important to see this as one journey which has developed him into a law-abiding person, as 'how can an apparently discontinuous life trajectory be made a related, meaningful train of events?' (Loftland, 1969 in Maruna, 2010: 8).

The remaining element is that of the individual being supported by society. Desistance is assisted when an offender develops personal relationships and relationships with society (Farrall, 2002, in Robinson & Shapland, 2008) as, when a person has personal and social ties, desistance is more forthcoming (Maruna, 1999). Hence, 'finding employment ... getting married ... and becoming a parent' (Maruna, 1999: 4) all correlate positively with desistance from crime. This development of a sociogenic paradigm is useful as it evidences the social factors associated with maturing which support desistance (Wootton, 1959 in Maruna, 1999), as opposed to previous research stating offenders can grow out of crime with little explanation as to why.

6.3 - How Desistance Theory relates to the Current Criminal Justice System

The current criminal justice system is rigid and its processes prevent an environment where desistance is forthcoming because offenders are forced through a system which focuses on punishment. Once a person has offended, he is often only identified by the offence he has committed. This is explained by labelling theory. The labelling creates problems for an offender trying to desist from crime because it makes him appear to be an outsider from mainstream society, unable to live by the rules of the majority (Becker, 1963). Once a person attracts a negative label, he is often also treated as having other undesirable traits (Becker, 2008 in Clarke, 2008), which further separates him from society. This labelling can also influence the individual and create a self-fulfilling prophecy. This means that an offender fulfils the label he is given, thus becoming the 'thing he is described as being' (Tannenbaum, 1938, in Braithwaite, 1989: 17).

As the current criminal justice system focuses on punishment offenders can be easily labelled; simply as an offender, by the specific offence committed, or by the punishment received. This labelling inhibits an offender's ability to undergo the inner change desistance theory requires as he is more likely to live up to the person he is described as being, instead of creating a positive new identity. Also, as it is society who labels an offender, it is not providing the support required by the societal element of desistance theory.

6.4 - How Desistance Theory Relates to Restorative Justice

Restorative justice practices almost echo desistance theory. As restorative justice focuses on repairing harm as opposed to punishment, it provides an environment where desistance is possible. This focus, whether on the historical harms to a young offender leading to the commission of an offence, or the harms to a victim as a result of an offence, shows an offender a greater reality of what he has caused.

The focus on victims provides them with a genuine opportunity to be involved with the offender and the consequences of the offender's actions. This involvement, whether direct or indirect, is generally very healing for victims. The focus on an offender enables the root causes of his offending behaviour to be addressed, thereby providing him with the support he needs to stop offending. This is an effective way for an offender to begin to experience the inner change and start the new life story required by desistance theory. This is because the imagery of seeing the actual consequences of his actions is a powerful tool.

The societal support element of desistance theory is also very similar to the community involvement element of restorative justice, as both highlight the need for strong community connections. Desistance theory emphasises the need for an offender to receive support from society to aid his desistance from crime. This is almost identical to the element of restorative justice practices which help young offenders to develop links with wider society.

Therefore, the essential elements of an individual change and societal support emphasised by desistance theory, are very closely supported by the restorative justice principles that offenders need to understand they are responsible for the harm they caused but that it is also recognised they too may need support from society to help them desist from offending.

6.5 - How Desistance Theory relates to the Government's Proposals

6.5.1 – Incorporating Ideas from the Northern Ireland Model of Youth Conferencing

One idea from the Northern Ireland model of youth conferencing which could be beneficial to adopt is the inclusion of additional agencies at youth conferences. This shows young offenders a wider range of available support, which may encourage them to speak to someone, as societal support is easier to achieve if it is clear where the support is needed. This visible extra support also shows young offenders that they are being helped, not stigmatized. However, care needs to be taken that the support is of the right intensity, to prevent young offenders feeling labelled as needing extra support thereby removing their freedom.

Adopting experiences from the Northern Ireland model of youth conferencing could encourage more victims to become involved in the criminal justice system. Currently, many victims do not want to be involved (Victim Support, 2012) though it would be beneficial if they were as there would be more opportunities for young offenders to see the consequences of their actions to others. Even indirectly, communication between victims and offenders can be valuable, but direct communication is usually more effective (Youth Justice Board, 2008).

6.5.2 – Parenting Orders

The proposal for Youth Offending Teams to work more closely with parents to help them accept their parental responsibilities and support their children has been criticised by The Children's Legal Centre (see chapter four at 4.2.4). However, the proposal does reflect the aims of both desistance theory and restorative justice. This is because it allows young offenders to see that society acknowledges potential causes of their offending behaviour and that society can provide support to help parents address their problems. This can lead to a more stable home life, which has been shown in chapter five at 5.6.1 as a way to help young offenders to develop a life away from crime.

6.5.3 – Simplifying Out-of-Court Disposals

Simplifying out-of-court disposals is a further proposal suggested by the Green Paper. This proposal relates well to the ideas of both restorative justice and desistance theory. Making the out-of-court disposal system more flexible (see chapter four at 4.2.5) would allow greater discretion and help to prevent young offenders from entering the criminal justice system at all. Instead, it would provide them with support from society to help them address their behaviour and encourage a change in themselves. However, to implement this would be likely to require regulations

to ensure discretion is fairly exercised and the most appropriate support is provided, to avoid it becoming something which is a good theory but is ineffective in practice due to its delivery.

6.5.4 – A Joined Up Approach

A joined up approach would enable the societal support elements of both restorative justice and desistance theory to work, providing that the different agencies involved work together in harmony, not just alongside each other. This would enable young offenders to understand that society includes them and supports them in their steps away from a criminal career. This positive involvement with society also helps to develop young offenders' links with the community.

The current experiences of different agencies working together is not as positive as it could be because agencies often have conflicting agendas to ensure that they meet internal or government targets. Legislation to ensure that the different agencies all have common aims would enable the focus to remain on the young offender. This would provide a stronger community feel which, alongside a truly reintegrative, restorative approach, should ensure the best possible outcomes, as 'repute in the eyes of a close acquaintance matters more to people than the opinions ... of criminal justice officials.' (Braithwaite, 1989: 69).

6.6 – Chapter Summary

Desistance theory is an overarching theory which explores the factors contributing to the reasons offenders cease to offend permanently. The principles highlighted in desistance theory are very similar to those in restorative justice, as both emphasise the need for a recognition by the offender, either of the harm caused (restorative justice) or to create a new life (desistance theory), and the need for society to support and not stigmatise him. These ideas are very different to those in the current criminal justice system, where the emphasis is predominately on punishment, which can lead to an offender being excluded from society, subsequently inhibiting his ability to remove himself from his criminal career. Therefore considering this, restorative justice appears to be better suited to advancing the Government's aim to reduce recidivism.

Chapter Seven:

Conclusion

'These reforms are radical and necessary' (Ministry of Justice, 2010: 5)

7.1 - Summary of Research

This research has examined whether the proposals put forward in the Coalition Government's Green Paper, 'Breaking the Cycle: Effective Punishment, Rehabilitation and Sentencing of Offenders' (Ministry of Justice, 2010) to increase the use of restorative justice would reduce the recidivism rates of young offenders as proposed or whether the current criminal justice system is the most effective means of achieving the Government's aims.

Research into desistance theory shows that young offenders may simply grow out of offending, although this is likely to be due to the social links gained through maturing, which also inspires a change in the offender himself. For example, gaining employment builds ties with society and having children encourages a change in the offender, as he has someone to provide and be responsible for. Considering this, as the current criminal justice system seeks predominately to sufficiently punish offenders (Bentham, 1907), restorative justice is clearly more desirable. This is because it provides opportunities for offenders to realise the consequences of their offending behaviour and receive help to address its root causes. This enables the offender to experience a change within him and assists the creation of social ties through the support provided, thereby helping him to remove himself from crime, which clearly reduces recidivism. However, there are still potential inhibitions to such an approach being adopted, though these could be less substantial than has previously been thought (see chapter five at 5.7).

7.2 – Recommendations on the use of Restorative Justice

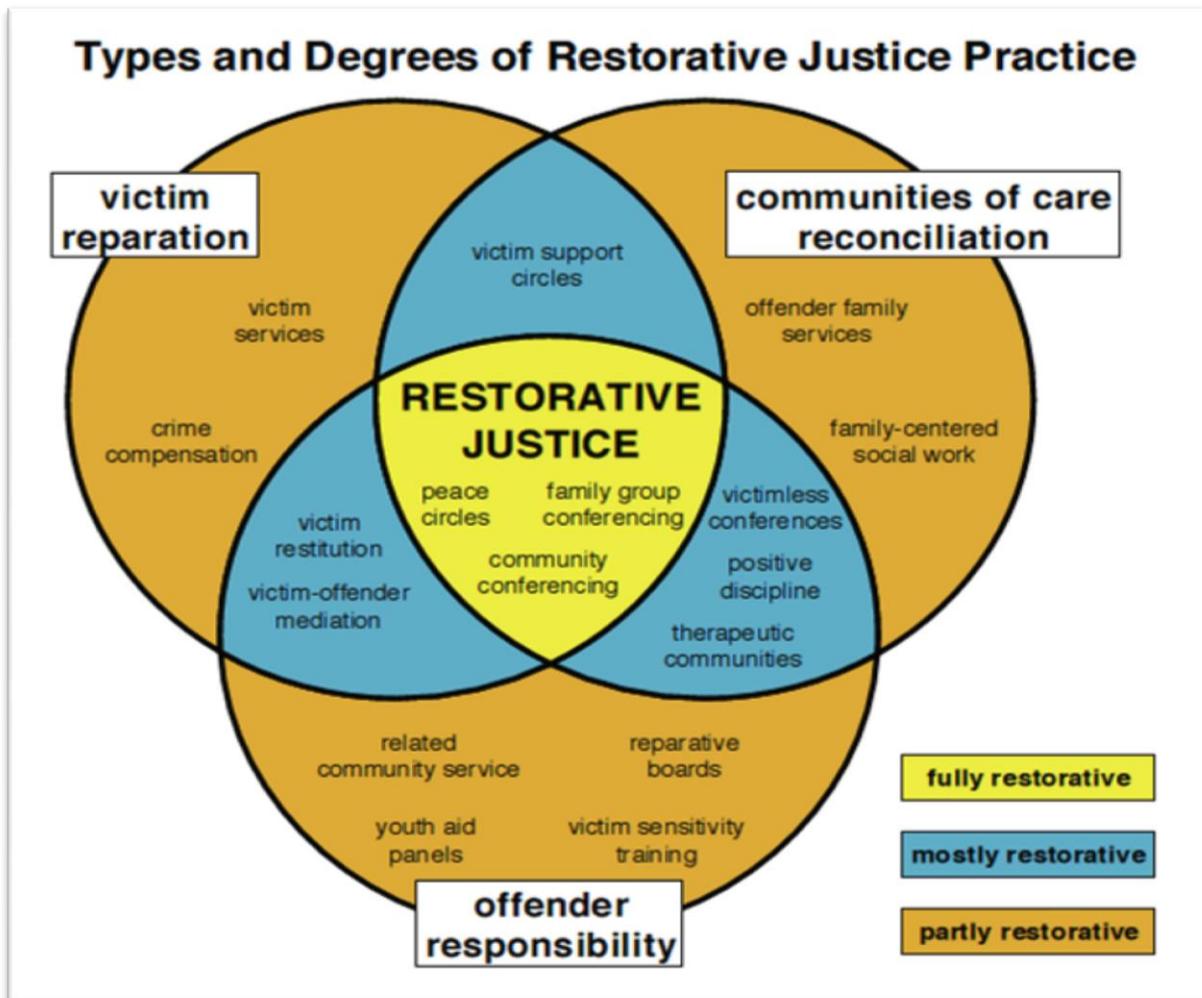
The belief that ‘there is no patentable formula for dealing with criminal policy ... in general’ (Hirsch & Ashworth, 1992: 98) seems to be an accurate statement, as neither the current criminal justice system nor restorative justice can promise to prevent recidivism. This is because crime, as with any other social phenomenon, is different for each individual. Nevertheless, crime continues to be a social and economic concern, and one which many different governments have developed many different policies to address. Whilst the current Government expresses its policies to be a ‘break ... from the policies of the past’ (Ministry of Justice, 2010: 2) the Green Paper’s emphasis on restorative justice is not new. In 1997, New Labour attempted to transform youth justice with an underlying focus on restorative justice (Home Office, 1997) and in 2003 the Government published a consultation document stating restorative justice ‘can transform how we approach crime and justice’ (Home Office, 2003 in Crawford & Burden, 2005: 2).

However, as a time has now been reached when the building and maintenance of each new prison place is £170,000 and the estimated total cost of crime committed by offenders’ reoffending is £11 billion a year, something clearly needs to change (Iles, 2010). For young offenders alone, restorative justice has been estimated to produce a lifetime saving of £7050 per offender, with the costs of implementing restorative processes being paid back within the first year (The Matrix Report 2009, in Restorative Justice Council 2011b).

Therefore, considering theories which suggest how offenders desist from crime alongside the finding that restorative justice practices are best placed to enable desistance, it seems that restorative justice could be the solution. This is particularly evident when these factors are added to the significant projected financial benefits of restorative justice. However, changes as radical as this can take time, and desistance itself is a slow and on-going process, so perseverance will be crucial. Previous governments’ policies have led to legislation, such as the Crime and Disorder Act 1998, which have restorative justice as an underlying principle (Crawford & Burden, 2005), but do not create a fully integrated restorative justice system. Therefore, to provide restorative justice with a genuine chance of being as effective as projected and made the future of criminal justice, the most important factor when implementing the proposals is to ensure that the entire criminal justice system adopts a wholly integrated restorative approach. Without this, the proposals are likely to be no different from those of the past and the system will remain disjointed, with neither traditional nor restorative justice being given a real opportunity to be an effective way to reduce recidivism.

Appendix A

A diagram to show which practices are wholly restorative, which are mostly restorative and which are only partly restorative.



(McCold & Wachtel, 2003)

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