Written evidence from Mr Mark Brain

Restorative Justice an unexpected journey.

From my reading, and ethnographic observations regarding Restorative Justice there seems considerable confusion about what exactly Restorative Justice is. For me I view Restorative Justice as elementarily complex, i.e. it is a simple process that deals with the complexity of human psychology. So what exactly is it, and why does it enhance what we already have?

Well if we start with the axiom that our traditional justice system does not fully give the victim a voice. Criminologist Nils Christie notes that traditional Justice is a top down, vertical justice, run by experts such as police officers, solicitors, judges, and probation officers etc. These experts take the ownership of conflict away from the victim, and retrospectively focus back on what happened, thus deciding on the relevant punitive judgement. Christie argues that Restorative Justice is a horizontal justice run by non-experts, and is an onward looking model, and that traditional justice is too socially distant.

My journey started with a hate crime investigation. I found myself in the dreadful position of having the responsibility of dealing with someone who had been racially harmed, but the incident not falling within the construct of a criminal definition. I decided to deal with the incident by way of Restorative Justice, and started to work alongside Stand Against Racism & Inequality (SARI) to deliver a restorative solution. We spent time consulting both parties, explaining what Restorative Justice was and how this was not a soft option, but was in fact the harder and more emotionally challenging option.

After much planning the conference came, and was a simple process to run. What I witnessed in the conference though was startling. The harmed got to voice, in a safe environment, how they, their family, and friends had all been hurt by the harmer. The harmer saw the shame of their actions, and made a genuine apology. This enabled the harmed party not only to move on but, to my surprise, they also completely forgave the harmer. Criminologist John Braithwaite calls this process reintegrative shaming. Amazingly both parties then walked out together. Later I would see the harmed in the community looking really happy, and even giving lectures about their experience. I repeated this process with other restorative conferences, with equally startling positive outcomes, but why did this happen?

Criminologist Howard Zehr writes that when we are a victim of harm we suffer two things; a loss of self, and a loss of our personal autonomy. We suffer a violation of the self. Therefore on a psychological level we ask the one question; “Why me?” As human beings we need this question addressed in order to attain closure. If we then take the property of the conflict away from the harmed, how are we to ever deliver the quality service we wish to
provide? This is what restorative Justice does. It gives the harmed their voice, to ask “Why me?”, and uses reintegrative shaming to forgive allowing both parties to move forward.

Restorative Justice is used worldwide with no set practice or definition, but the most commonly used is Marshall’s.

*Restorative Justice is a process whereby parties with a stake in a specific offence resolve collectively how to deal with the aftermath of the offence and its implications for the future.*

*(Marshall, 1999)*

Therefore if we are to enhance the vertical justice route; we do so heading along a horizontal line too. This arguably is more emotionally demanding, and needs a greater deal of time, understanding and empathy. The rewards though are high, and I challenge anyone who joined our Constabulary to make a change to learn about Restorative Justice. Zehr devotes a whole chapter of his book ‘Changing Lenses’ to how we are on the edge of a paradigm shift in what our perception of justice is. We are on the front line of that shift, and you have the chance of making that difference.

“Restorative justice is most commonly defined by what it is an alternative to”

*(Braithwaite, 1999:4)*

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