

# **RESTORATIVE JUSTICE AND DOMESTIC VIOLENCE/ ABUSE**

**Summary of a report commissioned by HMP Cardiff**

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## **INTRODUCTION**

This report was commissioned by Cardiff Prison to look into increasing the effectiveness of their SORI programme with domestic violence perpetrators.

Victim Support in England & Wales has adopted the following definition of domestic violence/abuse:

Any incident of threatening behaviour, violence or abuse (psychological, physical, verbal, sexual, financial or emotional) between adults who are or have been intimate partners, or intimately related within a family or domestic setting, regardless of gender or sexuality. Domestic violence involves abuse of power and control by one person over another and typically escalates in frequency and severity over time.

(Victim Support 2003, updated 2006)

This definition focuses on partner violence/abuse, and excludes general family violence, such as cases often dealt with by Youth Offending Teams of young people assaulting their parents. It also excludes family mediation cases, where domestic abuse can be a factor but is not the focus of the intervention.

Many women's organisations believe that restorative justice has no application to domestic violence, and that victim-offender mediation can only be dangerous for victims, and this view is echoed by the British government. Nevertheless there are places in the world where restorative processes have worked successfully and been well received by victims. This report includes as many of these projects as the authors could find in a limited time.

In November 2009 the Home Office published 'Together We Can End Violence Against Women and Girls: A Strategy', proposing a coordinated approach to combating all forms of violence against women and girls. The three main elements are protection, provision and prevention.

## **SECTION 1: MAINSTREAM METHODS OF WORKING WITH DOMESTIC VIOLENCE/ABUSE**

In recent years there has been an increasing amount of focused work with domestic violence perpetrators, and some (though much less) with victims. These are the better-known ones:

### **The Freedom Programme for women**

This has been developing since 1999 and aims to provide an opportunity for women to develop ways of thinking and behaving to protect themselves, their children and others from harm, and to provide them with the knowledge they need to achieve this.

### **Probation: Integrated Domestic Abuse Programme (IDAP)**

The Integrated Domestic Abuse Programme (IDAP) is a Home Office Accredited, community-based, case management and group work programme designed to reduce re-offending by adult male domestic violence offenders against female partners (based on the Duluth Model). It is a carefully structured programme of 27 sessions. An essential part of the IDAP is the provision of a supportive infrastructure for women. The Women's Safety Worker liaises with partners of the men on the programme to obtain the victim perspective.

### **Prison Service: Healthy Relationships Programme**

This is run by the Prison Service and Probation Service. Men learn about their abusive behaviours and are taught alternative skills and behaviours to help them develop healthy, non-abusive relationships. The programme has six modules and lasts about 24 weeks.

### **Prison Service: Family Man**

Family Man is an intensive five-week programme (20 days), designed to challenge male prisoners' attitudes and behaviour associated with family problems, focused on the effects of a prison sentence on the family unit as a whole. Whilst not aimed primarily at domestic abuse/violence perpetrators, tutors often find themselves dealing with such issues throughout the course.

### **Other programmes**

There are some local schemes offering a variety of courses in domestic violence/abuse, for victims, perpetrators and children. Examples include the Hampton Trust (Hampshire), Somerset Change and a scheme in the Czech Republic.

### **Respect**

Respect is the UK membership association for domestic violence perpetrator programmes and associated support services. It has developed Standards of Accreditation.

### **Research**

Very few domestic violence incidents lead to conviction (about 5%). For some men, domestic violence perpetrator programmes have an effect, but a systematic review of 31 studies showed only small impacts. There is so far no conclusive research on the IDAP programmes, although there are some positive indicators.

## **SECTION 2: RESTORATIVE JUSTICE PROJECTS WORKING WITH DOMESTIC VIOLENCE/ABUSE**

### **Introduction**

There is little published material, apart from one book, *Restorative Justice and Family Violence* (Strang and Braithwaite 2002), and much of this is theoretical. But there are

several RJ projects which work, or have worked, with domestic violence cases. This section contains a summary of those we managed to find, by word of mouth, through conferences and from internet searches. The website *RJ Online* was particularly useful.

An article by Block and Lichti (2002) revisits Howard Zehr's comparison of retributive and restorative justice, and takes into account the power dynamics of domestic violence. An overview of research in domestic violence (Hoyle 2007) notes the potential of RJ to offer tailored responses for different situations. A feminist viewpoint from Van Wormer (2009) argues for RJ as a means of offering healing for women.

## **United Kingdom**

The Home Office publication *Best Practice Guidance for Restorative Practitioners* (2004) says: 'The use of restorative processes in domestic violence cases is not agreed; the government's forthcoming paper on domestic violence will address this issue.' This paper is still awaited. The general view of the government seems to be that RJ should not be used for domestic violence cases. Nevertheless, RJ has been used in a number of projects in the UK:

### ***Plymouth Mediation***

The scheme ran for six years 1994-2000, based at Plymouth Mediation, in partnership with Plymouth Probation Service. In 1995 it dealt with 300 referrals. It closed when funding ceased. In each case, both parties were interviewed, then the man was required to complete a perpetrator programme while the woman received counselling. After that, if both wanted to go ahead, mediation was arranged through Plymouth Mediation.

### ***The Daybreak Dove Project***

The project provides Family Group Conferences for families in Hampshire with at least one child, experiencing domestic abuse in its widest interpretation of physical, emotional, psychological, financial or sexual. A Family Group Conference acts against the secrecy of the abuse by increasing the number of people who know what has been happening. It draws on the strength of the extended family and friendship network, and brings together agencies which can offer professional resources. The meetings have two targets: to make all members of the family safer; and to promote the welfare of children.

### ***Victim Liaison Units***

These units are part of the National Probation Service in England and Wales, and provide information to victims of crimes where the perpetrator receives a prison sentence of one year or more for a sexual or violent offence. Many such cases either concern offences of domestic violence or include domestic violence even where the offence has a different label, e.g. criminal damage or assault. In a few VLUs, workers trained in mediation skills help parties to communicate, and occasionally to meet, to sort out the many issues involved before the perpetrator is released. These may then be reflected in the offender's licensing conditions.

## **Europe (apart from UK)**

### ***Austria***

Austria has one of the best-researched mediation programmes for domestic violence. Victim-offender mediation has been practised with juveniles since 1985 and adults since 1992. In cases of domestic violence, where the state prosecutor diverts a case from court to see if mediation can help, the mediators work in pairs, one man and one woman. They invite the couple to the Victim-Offender Mediation Centre and first speak with them separately: the male mediator talks to the man, the female mediator talks to the woman. These discussions are designed to ascertain how the two partners see their future relationship. However, certain preconditions are needed for mediation:

- The victim has to agree
- The violence has to stop
- The perpetrator has to take responsibility
- The perpetrator is the only one to blame – not the victim
- The process only goes ahead with the agreement of the victim

Mediation in cases of domestic violence was researched by Christa Pelikan (2000), with the conclusion that victim-offender mediation could help in a wide range of cases (though not all), in reinforcing empowerment and freedom from fear and violence within a relationship. Pelikan repeated this research in 2009 with similar results, and a shift towards acknowledgement that domestic violence is unacceptable. Mediation was important in increasing women's sense of empowerment and in helping some men make changes.

### ***Finland***

Since 2001, cases of domestic violence have been referred to mediation in Finland. Victims' motives for participating in mediation are:

- They do not want to go to court (e.g. shame)
- They do not see punishment as a solution of the problem
- They need the relationship to change
- They want to find out the reason for the domestic violence

A research project was carried out from 2001-3. In a total of 38 agreements made, most included apologies, commitments to a change of behaviour and promises to attend groups for violent men. These were followed up and 90% were fulfilled completely and 8% partially. Two thirds of participants were satisfied, both victims and offenders.

### ***Germany***

Die Waage Project, Hanover is an NGO which has provided victim-offender mediation in Hanover for many years. In recent years they have also worked with domestic violence cases, as part of a multi-agency network. Die Waage provides an impartial service. They first talk to the woman, and only contact the man if she wishes. After that, mediation may be the way forward, either indirect or face to face. The service uses a co-mediation model, with one woman and one man as mediators. The service handles 200 cases a year, including sudden escalation of violent behaviour, long-term violent relationships, and stalking by ex-partners.

Research from Germany (Bals 2008) considers whether victim-offender mediation is a suitable way of dealing with domestic violence, by comparing participants in DV cases with participants in other VOM cases. Bals concludes that VOM is as likely to

be suitable in cases of DV as in others, both where there is a continuing relationship and between ex-partners. In both cases, agreements were overwhelmingly kept.

### **United States**

In North Carolina, Carolina Dispute Settlement Services regularly mediates domestic violence cases that come to court. Both complainants and defendants have incentives to use mediation. Defendants avoid getting a criminal record and complainants can bring back the case to court if agreements are not kept. Research carried out in 2005 showed that mediation was more effective than the court process in preventing re-offending.

The Pono Kaulike programme ('equal rights and justice for all') in Hawaii provides a court-based service which includes restorative conferences, in which families and supporters all meet; also restorative sessions for parties who do not wish to meet, to work out a plan that takes all needs into account. Evaluation shows positive results.

### **Canada**

In Newfoundland and Labrador, Pennell and Burford developed a model of RJ (Family Group Conferencing) for domestic violence cases. Research showed a reduction in indicators of child maltreatment and domestic violence and other benefits, as compared with a control group. Although very successful, government funding ceased as it was seen as too expensive.

### **Australia**

There have been several projects in Western Australia to develop a communitarian model of RJ to fit in with indigenous family customs. These have included Circle Sentencing, a Restorative and Transformative Justice Project, and a family violence project.

### **South Africa**

In a large victim-offender conferencing project, covering three districts near Johannesburg, from 1999 to 2003, many of the cases concerned domestic violence. Research showed that restorative justice can be successfully used in domestic violence cases, and can result in lasting and meaningful change. Of course the necessary safeguards need to be in place: preparation, informed consent, training and impartiality for mediators. A more recent initiative in KwaZulu-Natal from 2007-9 showed similar satisfaction from victims and offenders, with high sense of feeling that justice had been done.

### **The Gambia**

A Canadian initiative in the Gambia in 2004 aimed to introduce a general Community Policing and Restorative Justice Project, including the possibility of domestic violence cases.

### **Jamaica**

The Police Mediation Unit was set up in 1994, as a response to the problem of domestic violence. It aimed to mediate disputes before they escalated to severe violence. The first 15 mediators handled 300 cases in the first four months of the unit's existence, of which 171 were resolved. In 2000, the Mediation Unit had grown to 49 trained mediators.

## **Colombia**

Colombia has developed a network of over 32 *Casas de Justicia* (Houses of Justice), bringing together services to respond to criminal and family violence. The use of alternatives to court proceedings has several benefits. The needs of victims are met quickly. Offenders are able to repair the damage they have caused while avoiding a prison sentence and its many negative impacts. Other Latin American countries are also developing *Casas de Justicia*.

## **CONCLUSION**

Work in the UK in domestic violence/abuse is almost all focused on perpetrator programmes, of which the best known is the Integrated Domestic Abuse Programme (IDAP). The UK government believes that restorative justice is contraindicated in these cases. However, restorative justice programmes have run successfully in the UK, and are available in several other countries. The successful ones include the following features:

- safeguards for victims
- procedures for checking voluntarism
- a multi-agency approach
- support services available
- sufficient staff resources
- rigorous training and supervision

## **REFERENCES**

Please see full report.