

Community Restorative Justice Ireland Report of an inspection

June 2008





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Report of an inspection

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Presented to the Houses of Parliament by the Secretary
of State for Northern Ireland under Section 49(2) of the
Justice (Northern Ireland) Act 2002.

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List of abbreviations

CBRJ	Community Based Restorative Justice
CJI	Criminal Justice Inspection Northern Ireland
CRJI	Community Restorative Justice Ireland
NIO	Northern Ireland Office
PBNI	Probation Board for Northern Ireland
PPS	Public Prosecution Service for Northern Ireland
PSNI	Police Service of Northern Ireland



Chief Inspector's Foreword

In February 2007 Community Restorative Justice Ireland (CRJI) wrote to the Minister of State for Northern Ireland seeking accreditation in respect of community-based restorative justice schemes in Belfast and in Derry/Londonderry. The Minister asked Criminal Justice Inspection Northern Ireland (CJI) to inspect the schemes and to advise him on whether they were ready to be accredited.

CJI had conducted a pre-inspection of the schemes in May 2007, the report of which was published in October 2007¹. For convenience the conclusions and recommendations of the report are reproduced at Appendix 1.

The findings were broadly positive. Inspectors found that the schemes were engaged in work that was valued in their communities and that criticisms which had been made of them, whether or not they had been valid in the past, were no longer applicable. They were operating lawfully and non-coercively, were respecting human rights and were beginning to develop a constructive relationship with the Police Service of Northern Ireland (PSNI). There were improvements that needed to be made before the schemes would be ready to be accredited but, Inspectors were confident that they were moving in the right direction.

This report confirms that the necessary progress has been made and that the schemes can now be recommended for accreditation, subject to decisions by the Suitability Panel which is currently considering the suitability of the staff and volunteers who have been nominated to be the authorised practitioners for the schemes.

This is a short report, because it is unnecessary to repeat the discussion of the nature of the schemes and the arguments of principle for and against community-based restorative justice contained in our earlier report. It concentrates instead on examining the extent to which the schemes have addressed the areas for improvement flagged up in the pre-inspection report, and to what extent they are now operating in relation to the principles set out in the Government Protocol². The Protocol cannot come fully into operation until the schemes are accredited, but it was nevertheless important to examine how ready the schemes would be to function in accordance with the Protocol once they were accredited.

1 Although the report was submitted to the Minister in July, publication was delayed until October since CJI is unable to publish while Parliament is in recess. The report is available on the CJI website www.cjini.org.

2 The Government's Protocol for community-based restorative justice schemes can be found at www.nio.gov.uk/protocol_for_community_based_restorative_justice_scheme_5_February_2007.pdf



Fieldwork for this inspection was done in the week beginning 31 March 2008. Inspectors visited all the schemes, talked to staff and volunteers and examined recent case notes. They also spoke to the local police and other criminal justice agencies and to a number of other people who could offer a perspective on the work of the schemes, including a number of victims who had been assisted by them.

Kit Chivers

Chief Inspector of Criminal Justice
in Northern Ireland
June 2008

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Section



Inspection Report



CHAPTER 1:

Areas for improvement from the pre-inspection report

The four points identified in the concluding recommendation of the pre-inspection report, and the schemes' response to them, were as follows:

- *They should re-present themselves publicly to emphasise that they are a service to all sections of the community equally and would welcome volunteers and committee members from all parts of the community.*

Attempts have already been made to engage more widely. CRJI centrally has identified certain individuals who have indicated a willingness to be associated with the schemes once they are accredited who would help to give them a wider community base. A re-presentation of the schemes will be more effective once they can state that they are accredited and once they can point to this wider endorsement.

- *They should continue to move in the direction of distancing themselves from activities not supported by the PSNI that could be interpreted as 'alternative policing'.*

There has been steady progress on this recommendation. CRJI in Belfast has separated itself further from the Safer Neighbourhoods Project overlapping membership with which, was a source of confusion in the past. In Derry/Londonderry the schemes' activities are

co-ordinated with the police and involve nothing improper.

- *They should strengthen their ability (especially the North West schemes) to keep clear and explicit case records, which can be used as the basis for future inspection.*

Record keeping has improved in all areas, and is now adequate in Belfast. In the Derry/Londonderry schemes there is still some scope for improvement, as we note in Chapter 3. The reduction in the number of volunteers who are authorised to act as practitioners in relation to criminal cases and the additional training those practitioners will be undergoing will all help to raise standards of recording.

- *They should introduce proper procedures for recording and investigating complaints and publicise the availability of an independent external complaint mechanism if complainants are still dissatisfied.*

The schemes have an internal complaints procedure, though Inspectors found no evidence of any complaints being received. CRJI has appointed two external independent persons to whom complaints can be referred, both of whom will be available to hear complaints against any of the schemes in either district.



CHAPTER 2:

Compliance with the Government Protocol



Not all the provisions of the Government Protocol are yet applicable, because until the schemes are accredited, it will not be possible for the Public Prosecution Service (PPS) to consider the option of referring cases back to the schemes for restorative resolution. But in so far as the principles of the Protocol are already relevant our findings in relation to them are as follows:

- *Are the schemes triaging cases correctly and passing appropriate cases to the PSNI?*

In general, yes. Inspectors found a few cases where it was arguable that a case should have been treated as criminal and referred to the police, but there will always be cases at the margins. That is why it is important that records should be kept and regularly inspected by CJI to monitor the correctness of the decisions taken.

- *Are clients (victims of crime) properly informed at the outset about the role of CRJI and its obligations under the Protocol?*

Inspectors found that the practice was strict in Belfast but perhaps slightly less so in Derry/Londonderry. Even in Derry/Londonderry, however, it was clear that there had been a change, evidenced by the fact that the practice of telling clients that they would have to refer appropriate cases to the police, was having an effect on

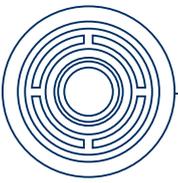
the level of business the schemes were doing and on the involvement of some volunteers.

- *Are human rights and the UN Principles on restorative justice observed?*

As we reported in the pre-inspection report, there is no indication that anyone's human rights are being infringed. There is no coercion and there are no 'trials' to determine guilt or innocence. Participation is entirely voluntary and clients are told that they can always have recourse to a solicitor if they wish. The schemes are not involved at present in the imposition of criminal sanctions: any restitution they negotiate is of a civil nature, e.g. payment of debts due, or compensation for shoddy workmanship.

- *Are they providing the police with all the details they require and indicating how they would deal with the case if it were referred back to them?*

Because the Protocol is not yet fully operative, the schemes are currently for the most part, just advising clients to report to the police direct. They are not a primary channel for conveying case information, though there is a good deal now being communicated informally. They are not yet bidding to handle cases which might be referred back to them by the PPS. However, Inspectors found about a dozen



cases where the police had informally referred clients back to the schemes for dispute resolution without involving the PPS.

- *Do they react correctly if other offences come to light while they are working with a client?*

Inspectors did not find an example of this, but the schemes were clear that they would refer any further offending they came across to the police exactly as they would if such offending was reported to them by a client.

- *Is the training of staff and volunteers adequate?*

We reported in the pre-inspection report on the extensive training which staff and volunteers were already required to undertake. In addition, all the designated practitioners whose names have been submitted to the Suitability Panel will be participating in the University of Ulster (Jordanstown) six-month course leading to a Certificate in Restorative Practice. Also important are the training events that have been arranged with agencies of the criminal justice system. The invitation extended by the PPS to its Belfast Chambers was particularly appreciated by the schemes, and it is hoped that a similar event can be arranged in the North West, covering the prosecution process, evidential standards and the use of bail. The police in Derry/Londonderry are thinking of a joint training day with their officers likewise.

- *Are offenders and victims given necessary personal support in the restorative justice process?*

Inspectors were impressed by the sympathetic and supportive approach adopted by staff and volunteers.

- *Do schemes have access to expert advice when necessary on matters of law and human rights?*

Yes, they have contact with a range of professionals to whom they could turn for advice if necessary.

- *Do they have proper arrangements for the independent handling of complaints?*

CRJI have put the necessary arrangements in place.

- *Are proper records kept, and are they stored securely?*

As already noted, the standard of record keeping has improved and is now adequate in Belfast though there is still some scope for improvement in Derry/Londonderry. Records are generally kept securely, though we came across one scheme where they were being taken home by a volunteer. That will be rectified when the schemes have the funding to improve their administrative arrangements. As the records become more detailed and more explicit, it will be increasingly important that they should be held securely.

CHAPTER 3:

Developments since the pre-inspection report



a. The pattern of work

Inspectors examined all the case notes kept by the schemes since roughly the time of the last inspection. Without attempting a detailed analysis, it appeared that in both areas there had been a slight reduction in the volume of cases handled, perhaps reflecting the fact that CRJI was now advising clients upfront of the rules which the schemes had to observe. In Belfast there was still a substantial element of criminal business, but in Derry/Londonderry the criminal content of the caseload seemed to have declined. In both locations criminal cases were being referred to the PSNI. The overwhelming majority of cases in the North West related to neighbour and family disputes, rubbish, nuisance, vandalism, dogs, debts, employment and landlord and tenant issues.

The schemes did not always record the lowest level of incidents in which they became involved. A feature of the schemes there is that the volunteers are often employed in other, related capacities, for example as community workers or youth workers, and it is often unclear in what capacity they have dealt with a case.

In Belfast, two of the schemes have been particularly hampered by the lack of funding, and that has had an impact on their work. Hopefully once accreditation is

achieved and funding becomes available, the 'planning blight' occasioned by the uncertainty over accreditation and about what the Protocol would mean in practice will be overcome and the schemes will regain their momentum.

Some examples of the work of the schemes:

In Twinbrook there was an ongoing feud between two Traveller families, which resulted in the murder of one and of the subsequent arrests of members of the other family in Derry/Londonderry. CRJI in Twinbrook have been working with members of both families to ensure that violence does not spread. They worked closely with PSNI to ensure discreet but effective policing of the funeral and through Colin Neighbourhood Partnership are working with the housing associations and Social Services to ensure that alternative acceptable accommodation can be found.

Another example from Twinbrook also relates to a feud between two well known families from the area. It started after a fight which resulted in one man having his ear bitten off. This was quickly followed by serious threats and attacks on each others' houses. Although the police did respond and



recorded as much information as possible, they then left despite the family's concerns that more violence would follow. CRJI were called in by one family, but their attempts to mediate were spurned by the other family. However, they were able to engage with the police and arrange for the two original protagonists to present themselves to the police station. This averted what would have to have been a robust arrest operation.

b. Relations with the police

In both Belfast and Derry/Londonderry relations with the police have improved steadily. Within Greater Belfast, the Colin/Twinbrook scheme has led the way in developing a strong personal relationship with police officers, which both parties have found extremely productive. A police officer in Lisburn told Inspectors, "*The schemes are behaving like good citizens*". Relations with the schemes in Belfast itself have been more restricted on both sides, with contacts passing through a limited number of officers, but there has been a steady increase in communication.

In Derry/Londonderry there have been an increasing number of contacts, with representatives of the schemes and police officers phoning each other several times a week, but the approach has been cautious and slightly arm's length. Inspectors are confident that once the schemes are accredited a wider range of police officers will feel comfortable about relating to the schemes. Staff and volunteers in the schemes generally have no difficulty about talking to the police now, but they are conscious that there is still a wide range of opinions within their communities and they

feel that they need to move carefully to avoid losing their local credibility. This can be seen by the police as the schemes '*picking and choosing*' the issues on which they want to engage, but the police understand that this is part of a process which the schemes have to manage.

Local police officers in all the three Police Districts concerned are broadly supportive of accreditation. They accept that the schemes are behaving correctly, and they find them valuable as a channel into the community in a variety of difficult situations – for example, when they are going to have to move in to an area in force to investigate a suspicious death or reconstruct a murder. They said that the schemes "*had opened doors and facilitated contacts*" they would not otherwise have had. They would like the schemes to be clearer and more explicit in reporting information to them, but they recognise that their appetite for information is limitless and that the practice will have to evolve over time. They are conscious that a number of young people in Republican areas are tending to identify with the dissidents, and they regard the schemes as allies on the side of law and order in that context.

Some quotes from CRJI practitioners illustrate how they see the relationship developing:

"When people come in with their problem and we tell them that they need to report it to the police it is almost like they are relieved to be hearing this advice from somebody in their community."



“We provide the reassurance to the community that it is OK to report crime to the police.”

“We are like a conduit for the community to report crimes to the police.”

“We make people comfortable in talking to the police.”

“We tell victims how we can make the police work for them.”

“Just telling them (victims) that it is OK to report a crime to the police is sometimes all that is needed.”

c. The dilemma posed by the Protocol

In the previous report we noted the problems that could be posed by the Criminal Law Act 1967, if it were applied strictly. There is a dilemma faced by the schemes in cases where the victim of a crime refuses to report it to the police. In Belfast the schemes are strict about having nothing to do with a case if a person refuses to agree to the police being involved. In Derry/Londonderry we found CRJI volunteers pressing clients to go to the police, but sometimes, if they refused, nevertheless intervening on compassionate grounds to do what they could to help.

It is understandable that at a time when people living in largely Republican areas are increasingly willing to go to the police the clients who go instead to CRJI tend to be those who are particularly reluctant to do so. The problem is that there are a variety of reasons why people may refuse to go to the police. Personal or political antipathy is not a valid reason. But

sometimes victims of crime are so fragile that they simply cannot face the hassle of engaging with the criminal justice system, which they know will take time and may make matters worse with their neighbours rather than improving the situation. These are situations in which judgment needs to be exercised within a framework of trust between the police and the schemes.

Two examples from Derry/Londonderry:

An elderly couple had been forced following a previous neighbour dispute to move into a new extension to their children’s home, in which they had invested a lot of effort. They had then had a chance encounter in the street with a local youth which had led to the young man throwing a bottle through the window of their new home. The couple were afraid that he would attack them again, and (though they had previously been in contact with the police) did not wish to go to the police again for fear of making matters worse. They did not even want CRJI to intervene with the young man. Nevertheless they greatly valued the psychological support which CRJI had provided, and they knew that if there was a recurrence CRJI would be there to advise them how best to handle it.

An elderly man had become involved in a family dispute around Christmas at which hard words were spoken when all concerned were in drink. Subsequently a young relation had attacked the man’s home. Petrol bombs had been thrown, though they had fallen short of the house, suggesting that they were only designed to scare. There had been leafleting of the nearby streets and





graffiti alleging that he was a paedophile. The police had visited to investigate the petrol bombs, but the man, who was in a fragile psychological state, did not want to make a statement. He was still extremely distressed when he spoke to the Inspector, three months later. Again CRJI's main role had been to provide psychological support and to encourage the man's neighbours to befriend him and to disregard the leaflets and graffiti.

What currently happens in some cases of uncertainty is that a scheme will ring up the police and put to them a hypothetical case, "*Suppose I had a client who was in such and such a situation*", but that is not entirely satisfactory.

It was recognised in the Protocol itself that its provisions would need to be reviewed in the light of experience. Inspectors accept that for the time being it is the standard that needs to be met, but they would suggest that in due course it should be modified to reflect the fact that decisions about what is criminal, and what is non-criminal, are not black and white, and that judgement needs to be exercised at every level of the criminal justice system and even by the schemes themselves, subject to inspection to ensure that judgement is being exercised appropriately.

Scope for further improvement



Record-keeping

- We would recommend that all case notes should record the full name and address of the client, and their age in the case of a child or a senior citizen.
- The forms which are used to record cases referred to the police need to be redesigned to make them suitable for transmission to the police. This would include a section for the scheme to say whether it was asking for the client to be referred back to them if the Public Prosecution Service (PPS) agreed it was a case suitable for restorative resolution.

Contacts with the police

- Both the schemes and the police need to develop a wider range of working level contacts with one another.
- There needs to be a procedure agreed with the police whereby if someone is referred to the police by a scheme that fact is recorded, so that there can be feedback to the scheme as to whether the person in question did in fact report to the police (if they agreed to do so), and what happened as a result.

Presentation

- We repeat the recommendation that the schemes should aim to re-present themselves to emphasise that they are not politically aligned. If they gain accreditation that will provide a good opportunity for such an initiative.

Supervision and complaints

- We repeat our recommendation to the NIO that the Inter-Agency Review Panel established to monitor the outcomes of cases referred to the schemes should be given a general responsibility for maintaining an oversight of their criminal justice related activities.
- We understand that the Probation Board for Northern Ireland (PBNI) will not now be able to provide the fully independent complaints service for the schemes, since it might be subject to a conflict of interest. It is important that, in addition to the independent complaints persons appointed by the schemes themselves, there should be a fully independent complaints body, appointed by and reporting to the Secretary of State, the existence of which should be duly publicised by the schemes.



Conclusion



The community-based restorative justice schemes on both sides, Loyalist and Republican, have long been an issue of contention at the political level. CJI has always seen the approach to them as a balance of risks and opportunities: risks if they were to behave improperly, but opportunities if they could be brought into a proper relationship with the police, and could help the police to reach out to communities which were formerly alienated and poorly served.

The past nine months have been in some ways a difficult period for the CRJI schemes. They have had to help both staff and volunteers to adjust to working within the framework of the Protocol, while not yet having the benefit of accreditation or access to funding to assist the transition. As a result, they have lost a little of their support and a little of their caseload, reducing its criminal content to a low level in the North West schemes.

Nevertheless, they have come through that period with the schemes still intact, with improved practice, improved recording of cases and steadily improving relations with the police. The Colin/Twinbrook scheme shows what is possible and provides a model for the others.

The role of the schemes will need to be kept under review as part of the community policing and community safety strategies for the areas which they serve. The schemes will continue to need to be monitored closely by the Inspectorate and supervised by the Inter-Agency Review Panel and a fully independent complaints mechanism needs to be put in place. But subject to those points, the balance between risks and opportunities has moved in favour of the schemes, and we **recommend** that they should now be accredited. Accreditation should cover the central offices of CRJI (the Headquarters in Belfast and the Derry Central Office) and the schemes in Andersonstown, Colin (Twinbrook), Falls, Upper Springfield, Ballymagroarty, Brandywell, Creggan and Shantallow.



Section



Appendices



Appendix 1: Conclusions and Recommendation of CJI 2007 pre-inspection report

Overview

CJI has always made clear that it regarded the question of licensing CBRJ schemes as a balance of risks and opportunities, in which rigorous inspection would be essential to ensuring that the risks were managed and the opportunities realised.

On the basis of their fieldwork Inspectors are inclined to the first of the two views described by the Independent Monitoring Commission³. The schemes are still in transition, but the direction of travel is positive. Contact with the police is still at an early stage and is not yet fully satisfactory but it is improving, and the Colin scheme for one is demonstrating the way forward. The schemes show a determination to implement the Protocol rigorously, despite the challenge it will pose and despite having misgivings about the impact it is likely to have on their business.

The fact that, for historical reasons, the schemes do not normally pass information to the police means that they are not at present operating in accordance with the Protocol. That apart, our finding is that the work of the schemes is lawful and that (though they are not without their critics) they make a positive contribution to the welfare of their communities. The police concur with that view. There is no reason to suppose that the schemes could not convert themselves into schemes which would meet the Government's requirements under the new Justice and Security (Northern Ireland) Act 2007.

We have noted above, however, at various points that the schemes will need interim funding to enable them to train their staff to work to the standard required by the Protocol and to improve their record-keeping and the secure storage of their files. We believe that they are now 'eligible schemes'⁴, but it will take a little while before they will be ready to certify that they are operating in accordance with the Protocol and can therefore be accredited.

Inspectors would suggest that the main need is for CRJI as a whole to take a clear strategic view of the business it wishes to be in, namely dispute resolution including restorative justice practice or mediation, working with victims and offenders, and to focus its energies on that. At the same time it should take every opportunity to emphasise that it is not aligned to any political group and to make its local management committees as inclusive as possible. Strengthening the governance arrangements, by bringing in people who can

³ Section 1.2 CJI pre-inspection report on CRJI, October 2007.

⁴ Section 1.4 (paragraph 1.10). CJI pre-inspection report on CRJI, October 2007.



provide honest criticism, and demonstrating public accountability are going to be essential. The schemes will also need to introduce proper procedures for recording and investigating complaints internally as well as publicising the availability of an independent external procedure⁵ if complainants are still not satisfied.

At the same time the Government will need to ensure that there are adequate arrangements for monitoring and supervision of the schemes to allay any public concerns about fairness, equality and human rights. The essence of the schemes is that they are community-based, and their voluntary character should be preserved, but that does not mean that any lesser standards are acceptable in those crucial respects.

We have recommended⁶ that if CBRJ is sanctioned it should be placed within a framework of close supervision and monitoring. CJI is ready to play its full part by providing independent inspection, but we suggest that in addition the inter-agency Review Panel established to monitor the outcomes of cases referred to the schemes should be given a general responsibility for maintaining an oversight of their criminal justice related activities.

The Belfast schemes

The Belfast schemes handle a wide range of business, which includes some serious crime and threats from dissident paramilitaries. They are well run, and great dedication is shown by the small team of staff members as well as by the volunteers. Inspectors were astonished at the commitment shown by many of those they interviewed, and there could be no question about their motivation being to help their communities, not in any sense to control them.

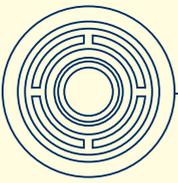
Training was good, and paid due attention to human rights and to child protection. Mediation practice was non-coercive, relying on the forces of social control within the community and the respect in which individual CRJI practitioners are held. Record-keeping was good by the standards of small voluntary organisations and little modification would be required to meet the requirements of Inspectors.

The Belfast schemes are not in the business of patrolling or providing a security presence. They have separated themselves from the Safer Neighbourhood projects, though there is still evidence of some members participating in both. Inspectors agree that CRJI is right to pursue a policy of separation, so that their role does not become confused.

The funding position is precarious, especially for Falls and Upper Springfield, and there is urgency about finding money to keep these offices open.

⁵ It is proposed that the PBNi will provide the external complaints mechanism.

⁶ Paragraph 2.17, CJI pre-inspection report on CRJI, October 2007.



The North West schemes

The schemes carry out an impressive range of activities aimed at keeping the peace in their communities and resolving disputes as quickly as possible without recourse to the law. They contribute to a network of community organisations, and their influence goes far wider than the activities which are specifically carried out in their name. The dedication of the volunteers has earned them a high reputation in the community. The schemes in the North West have few detractors.

Only a small proportion of the 'complaints' with which they deal involve criminal offences. The majority would be neighbour disputes and low-level anti-social behaviour. Nevertheless, they are involved in criminal cases, sometimes of a serious nature. They have not normally reported such offences to the police, though they regularly now advise the victims to go to the police themselves, and may accompany them if the victim wishes. They report cases of alleged sexual abuse direct to the police.

In order to operate the Protocol effectively the North West schemes would need to improve their record-keeping, and that would require paid staff, offices with secure storage for the files, and clarity about precisely which volunteers and staff were authorised to act as 'practitioners' for the schemes. It would be those practitioners who would be vetted by the suitability panel established by the Secretary of State.

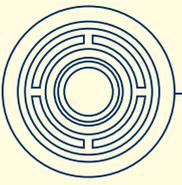
Inspectors would suggest that CRJI North West should follow CRJI Belfast in aiming to distance itself in general from security activities, which though lawful are liable to be interpreted as 'alternative policing'. An exception might reasonably be made in relation to Derry City FC, where the existing arrangement works well and is supported by the PSNI, who retain control at all times.



Recommendation

We **recommend** that the schemes of CRJI Belfast and CRJI North West should be considered for accreditation as soon as they are ready to declare that they are complying with the Protocol, on the understanding that:

- They will re-present themselves publicly to emphasise that they are a service to all sections of the community equally and would welcome volunteers and committee members from all parts of the community;
- They continue to move in the direction of distancing themselves from activities not supported by the PSNI that could be interpreted as ‘alternative policing’;
- They strengthen their ability (especially the North West schemes) to keep clear and explicit case records, which can be used as the basis for future inspection; and
- They introduce proper procedures for recording and investigating complaints and publicise the availability of an independent external complaint mechanism if complainants are still dissatisfied.









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